

## International Licensing Platform Vegetable

### ARTICLES OF ASSOCIATION

fair English translation of the complete text of the articles of association, as they read after amendment to the articles of association, by a deed executed on 23 March 2015 before R. Verbeek, added civil law notary in Westland, the Netherlands

**Articles of association:****CHAPTER I****1 Definitions and interpretation**

1.1 In these articles of association, the following terms shall have the following meanings, except where expressly indicated otherwise:

“**Affiliate**” means, with respect to any legal entity, any other legal entity that, directly or indirectly, Controls, is Controlled by or is under common Control with such legal entity.

“**Association**” means the association the internal organisation of which is governed by these articles of association, named ‘International Licensing Platform (ILP)’.

“**Board**” means the board of the Association.

“**Board By-Laws**” has the meaning attributed thereto in article 14.2.

“**Board Member**” means a member of the Board.

“**Business Day**” means a day which is not a Saturday or Sunday or a bank or public holiday in Amsterdam, the Netherlands.

“**Change of Control**” means the event that a legal entity not being a Member or Member’s Affiliate already, acquires or otherwise becomes able to Control a Member.

“**Competitively Sensitive Information**” means information that may reduce uncertainty as to the strategic-commercial conduct of competitors, including but not limited to information pertaining to:

- (a) current or prospective pricing;
- (b) current or future costs;
- (c) current or future output levels;
- (d) current or future profit margins or profitability targets;
- (e) negotiations with, or sales efforts directed at, prospective customers;
- (f) marketing and (long-term) strategic plans;
- (g) plans to expand/reduce output or expand/close capacity;
- (h) current research and development projects, including details regarding the future launch of important products; and
- (i) transactional information relating to competitive elements of sales and input purchases.

“**Control**” shall mean that the relevant legal entity, whether directly or indirectly, with respect to another legal entity, (i) holds the majority of the shares in the capital of that other legal entity, or (ii) whether by the ownership of share capital, the possession of voting rights, contract or otherwise, has the power to elect and/or remove the majority of the members of the management board (*bestuur*), supervisory board (*raad van commissarissen*) or other governing body, or otherwise has the power to control the management and policies of that other legal entity. Terms derived from Control, such as “**Controlled**” etcetera, shall have a similar meaning to that of Control.

“**Corporate Body**” means a corporate body of the Association, as referred to in Sections 2:14 and 2:15 of the Dutch Civil Code.

“**Election Year**” means the period as of the day following the day on which the General Meeting has appointed a Board Member or Expert (as applicable) up to and including the day of the annual General Meeting of the subsequent financial year.

“**Expert**” means a member of the Expert Committee.

“**Expert Committee**” means the expert committee of the Association.

“**Expert Committee By-Laws**” has the meaning attributed thereto in article 20.2.

“**General Meeting**” means the body of the Association consisting of the Members, or (as the case may be) a meeting of Members (or their representatives) and other persons entitled to attend such meetings.

“**in writing**” means transmitted by letter, telecopier or e-mail, or any other electronic means of communication, provided the relevant message is legible and reproducible. Terms derived from in writing, such as “**written**” etcetera, shall have a similar meaning to that of in writing.

“**Internal Regulations**” has the meaning attributed thereto in article 9.1.

“**Large Member**” means a Member who jointly with its Affiliates has at least five hundred (500) employees, based on full-time-equivalent (fte) calculations.

“**Medium Member**” means a Member who jointly with its Affiliates has at least one hundred (100) employees but less than five hundred (500) employees, based on full-time-equivalent (fte) calculations.

“**Member**” means a member of the Association.

“**Members’ Agreement**” means the members’ agreement in respect of the Association dated on or about the thirteenth day of November two thousand and fourteen, as amended from time to time, which agreement (or relevant parts thereof) is/are deposited at the Association’s office.

“**Membership**” means, with respect to a Member, all rights and obligations of such Member towards the Association resulting from the relevant Member’s membership of the Association, these articles of association, the Internal Regulations, the Board By-Laws, the Expert Committee By-Laws, the Members’ Agreement and the Dutch Civil Code.

“**Party Application Form**” has the meaning attributed thereto in article 6.1.

“**Secretary**” has the meaning attributed thereto in article 15.1.

“**Small Member**” means a Member who jointly with its Affiliates has less than one hundred (100) employees, based on full-time-equivalent (fte) calculations.

- 1.2 References to “articles” refer to articles that are part of these articles of association, except where expressly indicated otherwise.
- 1.3 If in these articles of association or in the Internal Regulations reference is made to the adoption of resolutions by the General Meeting with a certain majority of the votes, for the determination if such majority is obtained, the aggregate number of votes that could have been cast if all Members entitled to vote would have casted their votes shall be decisive and not the actual number of votes cast by the Members present or represented.
- 1.4 All communication, including but not limited to resolutions and notices of Corporate Bodies, shall be in the English language and all meetings shall be conducted in the English language as well.
- 1.5 The Board shall be authorised to determine whether a Member qualifies as a Large Member, Medium Member or Small Member and each Member shall provide the Board with all data and documents as reasonably required for making such determination.

## CHAPTER II NAME, OFFICIAL SEAT, OBJECTS AND CORPORATE BODIES

### 2 Name and official seat

2.1 The Association's name is: **International Licensing Platform Vegetable**.

2.2 The Association has its official seat in The Hague, the Netherlands.

### 3 Objects

The objects of the Association are:

- (a) to guarantee access to patents covering biological material;
- (b) to safeguard that incentives to innovate which depend on the availability of patent protection, remain intact; and
- (c) to do all that is connected with the objects under (a) and (b) or may be conducive thereto, all to be interpreted in the broadest sense.

### 4 Incorporation, Corporate Bodies and regulations

4.1 The Association is incorporated (*bezit rechtspersoonlijkheid*) under the laws of the Netherlands.

4.2 The Corporate Bodies are:

- (a) the General Meeting;
- (b) the Board; and
- (c) the Expert Committee.

4.3 The regulations of the Association as referred to in Section 2:15, subsection 1 (c), and Section 2:35, subsection 3, of the Dutch Civil Code are:

- (a) the Internal Regulations;
- (b) the Members' Agreement;
- (c) the Board By-Laws; and
- (d) the Expert Committee By-Laws.

## CHAPTER III MEMBERSHIP; REGISTER OF MEMBERS

### 5 Membership and register of Members

5.1 With due observance of the provisions of this article 5, the Association shall be indiscriminately open for all legal entities who are interested in becoming a Member.

5.2 Only legal entities can be Members.

5.3 Only legal entities that become a party to the Members' Agreement can be admitted as Members provided that a legal entity cannot be admitted as a Member in the event that an Affiliate of this legal entity already is a Member.

5.4 Legal entities which, and which' Affiliates, do not own and/or control patents can nonetheless become a Member in accordance with the provisions of this article 5.

5.5 The Board shall keep a register of Members in which the names and addresses of all Members are recorded as well as the fact whether the relevant Member qualifies as a Large Member, Medium Member or Small Member.

5.6 On application by a Member, the Board shall furnish an extract from the register of

Members, free of charge, insofar as it relates to that Member's position.

- 5.7 The register of Members shall be kept accurate and up-to-date. All entries and notes in the register shall be signed by one or more persons authorised to represent the Association.
- 5.8 The Board shall make the register available at the Association's office for inspection by the Members, the Secretary and the Experts.

## **6 Admission; admission procedure**

- 6.1 A request for admission of a prospective Member shall be addressed to the Board by registered letter, accompanied by a form the contents of which are determined by the Board (the "**Party Application Form**"). The Party Application Form shall also be used for the admission as a party to the Members' Agreement.
- 6.2 The Party Application Form may be amended by the Board either at its own discretion after consultation with the Expert Committee or as reasonably requested by the Expert Committee.
- 6.3 The Board shall resolve on the admission as a Member of the relevant applicant within a period of one (1) month after the receipt of the relevant completed Party Application Form.
- 6.4 With due observance of the provisions of article 5.3, the Board may only reject an admission with due observance of relevant competition rules and regulations.

## **7 Transfer of Membership**

- 7.1 The Membership is not transferable and cannot be pledged nor can a right of usufruct be created in respect thereof.
- 7.2 Membership can as a result of a statutory merger be acquired under universal succession of title by an acquiring legal entity involved in the relevant merger. Upon the transfer under universal succession of title, the disappearing legal entity shall cease to be a Member and the acquiring legal entity shall be admitted as a Member by virtue of law and replace the disappearing entity as party to the Members' Agreement if and to the extent the acquiring legal entity itself is not already a Member and a party to the Members' Agreement.

## **8 Termination of Membership**

- 8.1 Membership ends, without prejudice to the provisions of article 7.2:
  - (a) upon the ceasing to exist of the legal entity other than as a result of a statutory merger;
  - (b) upon notice of termination of Membership by the Member;
  - (c) upon notice of termination of Membership by the Association in accordance with article 8.4; and
  - (d) by removal.
- 8.2 A Member must give notice by registered letter of termination of its Membership to the Board. Termination of Membership is only possible with effect as of the first day after the financial year following the financial year in which the Member has notified the Board of the termination of its Membership. However, Membership can be terminated immediately if (i) either the Member cannot reasonably be expected to continue the Membership, or (ii) in accordance with and pursuant to article 12.2.
- 8.3 Notice of termination of Membership by the Association shall be given by the Board by registered letter and shall have effect as per the moment stipulated in the notice.

- 8.4** The Association can terminate the Membership of a Member forthwith if:
- (a) the Member is no longer a party to the Members' Agreement;
  - (b) the Member acts in material breach of the Internal Regulations and/or the Members' Agreement;
  - (c) the Member does not fulfil its obligations towards the Association; or
  - (d) the Association cannot reasonably be expected to continue the Membership.
- 8.5** A removal as referred to in article 8.1(d) can only be ordered by the Board if a Member acts in material breach of these articles of association, the Internal Regulations, resolutions of the Corporate Bodies, the Members' Agreement, the Board By-Laws, the Expert Committee By-Laws or prejudices the Association in an unreasonable manner and such breach or prejudication has not been remedied within thirty (30) days as of the date that the Board has notified the relevant Member by registered letter of, and requested to remedy, such breach and/or prejudication.
- 8.6** Removal of a Member shall be effected by the Board.
- 8.7** Upon adoption of a resolution by the Board to remove a Member, the relevant Member shall have the right to appeal to the General Meeting within one (1) month after having received notice of the resolution to remove the relevant Member. The relevant Member will be notified by registered letter of the resolution and of the reasons on which it is based as soon as possible. During the term of appeal and pending the appeal the Member shall be suspended, provided that the suspended Member shall have the right to defend itself in the General Meeting, in which the appeal is decided upon.

## **CHAPTER IV OBLIGATIONS**

### **9 Internal Regulations**

- 9.1** In implementation of and in addition to the provisions of these articles of association, the Association shall establish internal regulations (the "**Internal Regulations**"). The Internal Regulations shall be put in writing.
- 9.2** The initial Internal Regulations shall be established at incorporation of the Association without any resolution or involvement by any of the Corporate Bodies being required.
- 9.3** To the extent not provided otherwise in articles 9.13 and 10.3 of the Internal Regulations, an amendment of the Internal Regulations shall require a resolution of the General Meeting adopted with a majority of at least eighty per cent. (80%) of the votes, or adopted in accordance with article 32.1, provided that a resolution of the General Meeting to amend article 10.2 of the Internal Regulations and a resolution of the General Meeting as referred to in article 10.2 of the Internal Regulations shall require a resolution adopted with unanimous votes, or adopted in accordance with article 32.1. The notice convening the General Meeting must state that an amendment of the Internal Regulations will be proposed in that meeting.

### **10 Annual monetary contributions by the Members**

- 10.1** Ultimately on the first day of January of each financial year, the Members shall be obliged to pay an annual monetary contribution in order to pay for the operational costs of the Association for the relevant financial year on the basis of the (draft) annual budget prepared for that year by the Board. The amount of the contribution shall be annually determined by the General Meeting in the meeting as referred to in article 24.2 upon

proposal of the Board provided that the contribution of a Large Member shall be a multiple of three of the contribution of a Small Member and the contribution of a Medium Member shall be a multiple of two of the contribution of a Small Member. The situation as per the first day of the relevant financial year shall be decisive in assessing whether a Member qualifies as either a Small Member, Medium Member or Large Member unless the relevant Member was admitted as a Member after the first day of the relevant financial year, in which case the date of admittance shall be decisive.

**10.2** In accordance with the last full sentence of Section 2:36, subsection 3, of the Dutch Civil Code, a Member cannot terminate its Membership as a consequence of an increase of the annual monetary contribution as referred to in article 10.1.

**10.3** If the Membership ends in the course of a financial year, the annual monetary contribution shall nevertheless remain due in full.

## **11 Additional obligations Members**

Additional obligations may be imposed on Members by virtue of the Members' Agreement and/or the Internal Regulations.

## **12 Affiliates; Change of Control**

**12.1** A Member shall procure that their Affiliates shall comply with and be bound by the relevant provisions of these articles of association, the Internal Regulations, the Members' Agreement, the Board By-Laws and the Expert Committee By-Laws.

**12.2** Upon the occurrence of a Change of Control, the procurement as referred to in article 12.1 by the relevant Member under these articles of association with respect to its Affiliates shall also be with respect to the relevant legal entity acquiring Control over the relevant Member, unless the relevant Member terminates its Membership with immediate effect within a period of thirty (30) Business Days from the Change of Control occurring.

## **CHAPTER V THE BOARD**

### **13 Board Members**

**13.1** The Board shall consist of five Board Members. Only individuals can be Board Members. Experts cannot be appointed as Board Member. A Board Member must be an employee of, or have a contract for services with, a Member or any of its Affiliates.

**13.2** Board Members are appointed by the General Meeting. Board Members shall be appointed for a period of three Election Years and may be reappointed for subsequent periods of three Election Years.

**13.3** When a recommendation or proposal for appointment of a Board Member is made, only particulars of the candidate relevant for the performance of the duties as a Board Member shall be stated. Furthermore, the names of the legal entities of which he is already a managing director or supervisory director and of the Member or the Affiliate(s) of a Member by which he is employed or has a contract of services with, shall be indicated; if those include legal entities which belong to the same group, a reference to that group will be sufficient. The recommendation or proposal must state the reasons on which it is based. At reappointment the manner in which the candidate has fulfilled his duties as a Board Member will be taken into account.

- 13.4** A resolution of the General Meeting to appoint a Board Member shall be adopted by a majority of at least two-thirds of the votes, or can be adopted in accordance with article 32.1.
- 13.5** A Board Member may be suspended or removed by the General Meeting at any time. A resolution of the General Meeting to suspend or remove a Board Member shall require a majority of at least two-thirds of the votes, or can be adopted in accordance with article 32.1.
- 13.6** Any suspension may be extended one or more times, but may not last longer than three months in the aggregate. If, at the end of that period, no decision has been taken on termination of the suspension or on removal, the suspension shall end.
- 13.7** In the event that a Board Member is no longer an employee of, or does not have a contract for services with, a Member or any of its Affiliates as referred to in the fourth full sentence of article 13.1, the relevant Board Member shall notify the Association and the other Board Members as soon as possible thereof by registered letter. The Board shall procure that the agenda of the next meeting of the General Meeting following the notification as referred to in the preceding full sentence contains the proposal to dismiss the relevant Board Member.
- 13.8** The Board Members shall not be granted remuneration, disbursement or other compensation in connection with their duties as referred to in these articles of association, the Internal Regulations, the Member's Agreement and/or the Board By-Laws.
- 14 Duties, working methods and decision-making process**
- 14.1** The Board shall be accountable for the management of the Association.
- 14.2** The Board shall establish rules regarding its working methods and decision-making process (the "**Board By-Laws**") in a meeting in which all Board Members then in office (irrespective of there being a conflict of interest or not) are present or represented or in writing provided the proposal concerned is submitted to all Board Members then in office (irrespective of there being a conflict of interest or not) and none of them objects to this manner to adopt a resolution, evidenced by written statements from all relevant Board Members. In this context, the Board may also determine the duties which a Board Member shall be particularly responsible for. Such rules shall be put in writing.
- 14.3** The initial Board By-Laws shall be established at incorporation of the Association without any resolution or involvement by any of the Corporate Bodies being required.
- 14.4** The Board By-Laws may be amended by:
- (a) the Board in a meeting in which all Board Members then in office (irrespective of there being a conflict of interest or not) are present or represented, or in writing, provided that the proposal concerned is submitted to all Board Members then in office (irrespective of there being a conflict of interest or not) and none of them objects to this manner to adopt a resolution, evidenced by written statements from all relevant Board Members. The amendment of the Board By-Laws as referred to in the preceding full sentence shall require the approval of the General Meeting adopted by a resolution with a majority of at least eighty per cent (80%) of the votes, or which approval is adopted in accordance with article 32.1; and
  - (b) the General Meeting. The amendment of the Board By-Laws by the General Meeting shall require a resolution thereto adopted with a majority of at least eighty per cent (80%) of the votes, or adopted in accordance with article 32.1.
- 14.5** Each financial year, at least three months prior to the beginning of a financial year



subsequent to the relevant financial year, the Board shall present to the General Meeting for its consultation and approval (i) the annual budget and (ii) the amounts as referred to in article 10.1 for this subsequent financial year. The annual budget shall be resolved upon by the General Meeting in the first General Meeting after the annual budget has been presented for its consultation and approval, or earlier in accordance with article 32.1.

- 14.6** Subject to the prior approval of the General Meeting, the Board shall be authorised to resolve to enter into agreements to acquire, alienate or encumber registered property and to enter into agreements whereby the Association binds itself as surety or joint and several co-debtor, makes an effort on behalf of a third party or binds itself for the security of a debt of a third party and to represent (which, for the avoidance of doubt, is subject to the same approval of the General Meeting) the Association in such transactions. The absence of such approval shall make the Board and the Board Members unauthorised to represent the Association in respect of the transactions referred to in the preceding full sentence.

## **15 Secretary**

- 15.1** Except for the first Secretary who shall be appointed at incorporation of the Association without an appointment by the Board being required, the Board shall appoint, not from among its members, an independent secretary who shall act by order of the Board (the “**Secretary**”). The Board shall be collectively responsible for the exercise by the Secretary of the duties allocated to him. The Secretary may be removed by the Board at any time.
- 15.2** With due observance of the provisions laid down in the Board By-Laws, the Secretary shall be entrusted with the daily management of the Association.

## **16 Chairman and secretary**

- 16.1** The General Meeting shall appoint one of the Board Members as chairman. If the General Meeting has not appointed a chairman, the Board shall appoint a chairman itself from among its members. The Board may also appoint a deputy chairman from among its members, who shall take over the duties and powers of the chairman in the latter’s absence. The foregoing provisions of this article 16.1 need not be complied with if only one Board Member is in office.
- 16.2** The Secretary shall act as secretary of the Board.

## **17 Representation; conflict of interest**

- 17.1** The Association shall be represented by the Board or by any two Board Members acting jointly, with due observance of the provisions of article 14.6.
- 17.2** The Board may appoint officers with general or limited power to represent the Association with due observance of the provisions of article 14.6. Each officer shall be competent to represent the Association, subject to the restrictions imposed on him. The Board shall determine each officer’s title. The authority of an officer thus appointed may not extend to any transaction where the Association has a conflict of interest with the officer concerned or with a Board Member.
- 17.3** In the event of a conflict of interest between the Association and a Board Member, the provisions of article 17.1 shall continue to apply unimpaired unless the General Meeting has designated one or more persons to represent the Association in the case at hand or in general in the event of such a conflict. A resolution of the Board with respect to a matter involving a conflict of interest with a Board Member in his private capacity shall be subject

to the approval of the General Meeting, but the absence of such approval shall not affect the authority of the Board or the Board Members to represent the Association.

## **18 Vacancy or inability to act**

If a seat on the Board is vacant or a Board Member is unable to perform his duties, the remaining Board Members shall be temporarily entrusted with the management of the Association, provided that at least one Board Member is in office and able to perform its duties. If all seats on the Board are vacant or all Board Members are unable to perform their duties, one or more persons to be designated for that purpose by the General Meeting shall be temporarily entrusted with the management of the Association. Until such designation takes place, the Secretary shall be temporarily entrusted with the management of the Association.

## **CHAPTER VI THE EXPERT COMMITTEE**

### **19 The Expert Committee**

- 19.1** The Association shall establish an Expert Committee consisting of at least seven independent members.
- 19.2** Experts are appointed by the General Meeting. The Board may make a recommendation to the General Meeting for the appointment of an Expert. Only individuals can be Experts. Board Members, employees of a Member or any of its Affiliates and persons having a contract for services with a Member or any of its Affiliates cannot be appointed as Experts. Experts shall be appointed for a period of three Election Years and may be reappointed for subsequent periods of three Election Years.
- 19.3** When a recommendation for appointment of an Expert is made, only particulars of the candidate relevant for the performance of the duties as an Expert shall be stated. The recommendation or proposal must state the reasons on which it is based.
- 19.4** A resolution of the General Meeting to appoint an Expert in accordance with a recommendation by the Board shall be adopted by a majority of at least two-thirds of the votes or can be adopted in accordance with article 32.1. A resolution of the General Meeting to appoint an Expert other than in accordance with a recommendation by the Board shall require unanimous votes, or can be adopted in accordance with article 32.1.
- 19.5** An Expert may be suspended or removed by the General Meeting at any time. A resolution of the General Meeting to suspend or remove an Expert in accordance with a recommendation by the Board shall be adopted by a majority of at least two-thirds of the votes, or can be adopted in accordance with article 32.1. A resolution of the General Meeting to suspend or remove an Expert other than in accordance with a recommendation by the Board shall require unanimous votes, or can be adopted in accordance with article 32.1.
- 19.6** Any suspension may be extended one or more times, but may not last longer than three months in the aggregate. If, at the end of that period, no decision has been taken on termination of the suspension or on removal, the suspension shall end.
- 19.7** The authority to establish remuneration for Experts is vested in the General Meeting upon a proposal of the Board.

### **20 Duties**

- 20.1** It shall be the duty of the Expert Committee to perform the acts as described in the Expert Committee By-Laws, all in accordance with and/or as referred to in the Expert Committee By-Laws.
- 20.2** The Association shall establish rules regarding the Expert Committee's working methods and decision-making process (the "**Expert Committee By-Laws**"). Such rules shall be put in writing.
- 20.3** The initial Expert Committee By-Laws shall be established at incorporation of the Association without any resolution or involvement by any of the Corporate Bodies being required.
- 20.4** The Expert Committee By-Laws may be amended by:
- (a) the Expert Committee in a meeting in which all Experts then in office (irrespective of there being a conflict of interest or not) are present or represented, or in writing, provided that the proposal concerned is submitted to all Experts then in office (irrespective of there being a conflict of interest or not) and none of them objects to this manner to adopt a resolution, evidenced by written statements from all relevant Experts. The amendment of the Expert Committee By-Laws by the Expert Committee as referred to in the preceding sentence shall require the approval of the General Meeting adopted by a resolution with a majority of at least eighty per cent (80%) of the votes, or which approval is adopted in accordance with article 32.1; and
  - (b) the General Meeting. The amendment of the Expert Committee By-Laws by the General Meeting shall require a resolution thereto adopted with a majority of eighty per cent. (80%) of the votes, or adopted in accordance with article 32.1.

## **CHAPTER VII**

### **FINANCIAL YEAR AND ANNUAL ACCOUNTS**

#### **21 Financial year and annual accounts**

- 21.1** The Association's financial year shall be the calendar year.
- 21.2** Annually, not later than six months after the end of the financial year, save where this period is extended by the General Meeting by not more than five months by reason of special circumstances, the Board shall prepare annual accounts, and shall deposit the same for inspection by the Members at the Association's office.
- 21.3** Within the same period, the Board shall also deposit the annual report for inspection by the Members, unless Section 2:396, subsection 7, or Section 2:403 of the Dutch Civil Code applies to the Association.
- 21.4** The annual accounts shall consist of a balance sheet, a profit and loss account and explanatory notes.
- 21.5** The annual accounts shall be signed by the Board Members. If the signature of one or more of them is missing, this shall be stated and reasons for this omission shall be given.
- 21.6** The Association shall appoint an auditor to audit the annual accounts. Such appointment shall be made by the General Meeting. If it does not proceed thereto, then the Board shall be authorised. The appointment may be revoked by the General Meeting as well as, in case the appointment was made by the Board, by the Board. The appointment may be revoked for sound reasons only; such reasons shall not include a difference in opinion with regard to reporting methods or audit activities. The auditor shall report on his audit to the

Board. The auditor shall set out the results of his audit in a certificate as to whether the annual accounts give a true and fair view, as referred to in Section 2:393, subsection 5, of the Dutch Civil Code. The auditor's certificate will be made available to the Members in accordance with article 21.7. The provisions of Section 2:393 of the Dutch Civil Code shall apply accordingly to the extent possible.

**21.7** The Association shall ensure that the annual accounts and, insofar as required, the annual report and the information to be added by virtue of the laws of the Netherlands are kept at its office as from the day on which notice of the General Meeting is given in which the annual accounts and the annual report shall be discussed and in which the adoption of the annual accounts shall be resolved upon. Members may inspect the documents at that place and obtain a copy free of charge.

**21.8** The annual accounts, the annual report, the information to be added by virtue of the laws of the Netherlands and the audit by an auditor, as well as deposit of documents at the Dutch Trade Register, shall furthermore be subject to the provisions of Book 2, Title 9, of the Dutch Civil Code.

## **22 Adoption of the annual accounts and release from liability**

**22.1** The General Meeting shall adopt the annual accounts.

**22.2** At the General Meeting at which it is resolved to adopt the annual accounts, a proposal concerning release of the Board Members from liability for the management pursued, insofar as the exercise of their duties is reflected in the annual accounts or otherwise disclosed to the General Meeting prior to the adoption of the annual accounts, shall be brought up for discussion separately.

## **CHAPTER VIII**

### **THE GENERAL MEETING**

#### **23 Powers of the General Meeting**

All powers in the Association that have not been transferred to the Board or the Expert Committee by the laws of the Netherlands or pursuant to these articles of association or the Internal Regulations shall be vested in the General Meeting.

#### **24 Annual General Meeting**

**24.1** The annual General Meeting shall be held within six months after the end of the financial year or if this period is extended by the General Meeting in accordance with the provisions of article 21.2 ultimately one month after the end of the period as referred to in article 21.2.

**24.2** The agenda for this annual General Meeting shall among other things contain the following business to be discussed:

- (a) discussion of the annual report (unless Section 2:396, subsection 7, or Section 2:403 of the Dutch Civil Code applies to the Association);
- (b) discussion and adoption of the annual accounts;
- (c) discussion on the amounts as referred to in article 10.1;
- (d) allocation of profits or discharging of losses;
- (e) release from liability of the Board Members; and
- (f) other business presented for discussion by the Board or Members taking into account the provisions of these articles of association and announced with due observance of the provisions of article 26.

**25 Other General Meetings**

- 25.1** Other General Meetings shall be held as often as the Board deems necessary.
- 25.2** Members alone or jointly representing in the aggregate at least one-tenth of the total number of votes that may be cast in a General Meeting may request the Board in writing to convene a General Meeting, stating specifically the business to be discussed. If the Board has not given proper notice of a General Meeting such that the meeting can be held within four weeks after receipt of the request, the applicants shall be authorised to convene a meeting themselves.

**26 Notice, agenda and venue of meetings**

- 26.1** Notice of General Meetings shall be given by the Board, without prejudice to the provisions of article 25.2.
- 26.2** Notice of the meeting shall be given no later than on the seventh day prior to the day of the meeting.
- 26.3** The notice convening the meeting shall specify the business to be discussed. Other business not specified in such notice may be announced at a later date, with due observance of the term referred to in article 26.2.
- 26.4** Items, for which a written request has been filed to discuss them, by one or more Members alone or jointly representing at least one-tenth of the total number of votes that may be cast in a General Meeting, shall be included in the notice or announced in the same manner, provided that the Association received the request no later than on the thirtieth day before the date of the meeting and provided that no important interests of the Association dictate otherwise.
- 26.5** The notice convening the meeting shall be sent to the addresses of the Members shown in the register of Members. With the consent of a Member, notice of the meeting may also be given by a legible and reproducible message sent through electronic means of communication to the address provided for the purposes hereof by the Member to the Association.
- 26.6** General Meetings are held in the municipality in which, according to these articles of association, the Association has its official seat or at Schiphol airport (municipality of Haarlemmermeer, the Netherlands) or Amsterdam, the Netherlands. General Meetings may also be held in such other place in or outside the Netherlands as indicated in the notice convening the meeting.

**27 Admittance and rights at meetings**

- 27.1** Each Member shall be entitled to attend the General Meetings, to address the meeting and to exercise his voting rights. Although Members shall endeavour to be physically present in meetings, Members may be represented in a meeting by another Member, authorised thereto by means of a written power of attorney. Suspended Members, subject to the provisions of article 8.7, shall not be admitted.
- 27.2** The Board may determine that the rights in respect of attending meetings referred to in article 27.1 may be exercised by electronic means of communication, either in person or by a proxy authorised in writing. In order to do so, a person entitled to attend the meeting must, through the electronic means of communication, be identifiable, be able to directly observe the proceedings at the meeting, be able to participate in the discussions and be

able to exercise his voting rights. The Board may attach conditions to the use of the electronic means of communication, which conditions shall be announced with the notice of the meeting.

**27.3** At a meeting, each Member present or his proxy authorised in writing, must sign the attendance list. The chairman of the meeting may decide that the attendance list must also be signed by other persons present at the meeting. The names of the persons who participate in the meeting pursuant to article 27.2 or who have cast their votes in the manner as referred to in article 31.2 shall be added to the attendance list.

**27.4** The Board Members shall have the right to give advice in the General Meetings.

**27.5** The chairman of the meeting shall decide on the admittance of other persons to the meeting.

## **28 Chairman and secretary of the meeting**

**28.1** The General Meeting shall be presided over by the chairman of the Board. In his absence, the other Board Members present at the meeting shall appoint a chairman of the meeting from among their midst. If also in this manner the chairmanship cannot be provided for, the chairman shall be appointed by the Members present or represented at the meeting. Until such appointment is made, a Board Member shall act as chairman, or, if no Board Member is present at the meeting, the eldest person present at the meeting shall act as chairman.

**28.2** The Secretary, or in the Secretary's absence a person appointed by the chairman of the meeting, shall act as secretary for the meeting.

## **29 Minutes; recording of Members' resolutions**

**29.1** The secretary of a General Meeting shall keep minutes of the proceedings at the meeting. The minutes shall be adopted by the chairman and the secretary of the meeting and as evidence thereof shall be signed by them.

**29.2** The chairman of the meeting or those who convened the meeting may determine that a notarial record must be prepared of the proceedings at the meeting. The notarial record shall be co-signed by the chairman of the meeting.

**29.3** The Board shall keep record of all resolutions adopted by the General Meeting. If the Board is not represented at a meeting, the chairman of the meeting shall ensure that the Board is provided with a transcript of the resolutions adopted, as soon as possible after the meeting. The records shall be deposited at the Association's office for inspection by the Members. On application, each of them shall be provided with a copy of or an extract from the records, at not more than cost price.

## **30 Adoption of resolutions in a meeting**

**30.1** Each Large Member and each Medium Member who is not suspended shall have the right to cast two votes. Each Small Member who is not suspended shall have the right to cast one vote. The situation as per the first day of the financial year in which the relevant General Meeting is held shall be decisive in assessing whether a Member qualifies as either a Small Member, Medium Member or Large Member for all General Meetings held during that financial year unless the relevant Member was admitted as a Member after the first day of the relevant financial year, in which case the date of admittance shall be decisive.

**30.2** To the extent that the laws of the Netherlands or these articles of association do not

provide otherwise, all resolutions of the General Meeting shall be adopted by a simple majority of the votes.

- 30.3** If there is a tie in voting, the proposal shall be deemed to have been rejected.
- 30.4** If the formalities for convening and holding of General Meetings, as prescribed by the laws of the Netherlands or these articles of association, have not been complied with, valid resolutions of the General Meeting may only be adopted in a meeting, if in such meeting all Members are present or represented and such resolutions are carried by unanimous vote.
- 30.5** When determining how many votes are cast by Members, or how many Members are present or represented, no account shall be taken of Members who are not entitled to vote pursuant to the laws of the Netherlands or these articles of association.

### **31 Voting**

- 31.1** All voting shall take place orally. The chairman is, however, entitled to decide that votes be cast by a secret ballot. If it concerns the holding of a vote on persons, each Member present or represented at the meeting may demand a vote by a secret ballot. Votes by secret ballot shall be cast by means of secret, unsigned ballot papers.
- 31.2** The Board may determine that votes cast by electronic means of communication prior to the General Meeting shall be treated equally to votes cast during the meeting. The Board shall determine the period of time during which votes may be cast in the manner provided in the preceding full sentence; this period of time may not commence any earlier than on the thirtieth day before the date of the meeting.
- 31.3** Blank and invalid votes shall not be counted as votes.
- 31.4** Resolutions may be adopted by acclamation if none of the Members present or represented at the meeting objects.
- 31.5** The chairman's decision at the meeting on the result of a vote shall be final and conclusive. The same shall apply to the contents of an adopted resolution if a vote is taken on an unwritten proposal. However, if the correctness of such decision is challenged immediately after it is pronounced, a new vote shall be taken if either the majority of the Members present or represented at the meeting or, where the original vote was not taken by roll call or in writing, any Member present or represented at the meeting, so demands. The legal consequences of the original vote shall be made null and void by the new vote.

### **32 Adoption of resolutions without holding a meeting**

- 32.1** Members may adopt resolutions of the General Meeting in writing without holding a meeting, provided they are adopted with unanimous votes and with the prior knowledge of the Board. The provisions of article 27.4 shall apply by analogy.
- 32.2** Each Member must ensure that the Board is informed of the resolutions thus adopted as soon as possible in writing. The Board shall keep record of the resolutions adopted and it shall add such records to those referred to in article 29.3.

## **CHAPTER IX**

### **AMENDMENT OF THE ARTICLES OF ASSOCIATION; DISSOLUTION AND LIQUIDATION**

#### **33 Amendment of the articles of association**

- 33.1** With the exception of articles 9.3, 10 and 11, these articles of association may be amended

only by a resolution of the General Meeting adopted with a majority of at least eighty per cent. (80%) of the votes, or adopted in accordance with article 32.1. Article 9.3, article 10 or article 11 and (to the extent the amendment relates to article 9.3, article 10 or article 11) this article 33.1 may be amended only by a resolution of the General Meeting adopted with unanimous votes, or adopted in accordance with article 32.1. The notice convening the General Meeting must state that an amendment of these articles of association will be proposed in that meeting.

**33.2** Those who have convened the General Meeting to discuss a proposal to amend these articles of association shall, at least five days before the meeting, deposit a copy of such proposal containing the verbatim text of the proposed amendment, at a place appropriate for that purpose for inspection by the Members, until the end of the day on which the meeting is held.

**33.3** An amendment of these articles of association shall be laid down in a notarial deed. A notarial deed pursuant to which such amendment shall take effect may not be executed earlier than the day following the lapse of a period of one (1) month as of the date of the resolution to amend one or more articles of these articles of association.

#### **34 Dissolution and liquidation**

**34.1** The Association may be dissolved pursuant to a resolution to that effect by the General Meeting. The provisions of article 33.1 shall apply by analogy.

**34.2** If the Association is dissolved pursuant to a resolution of the General Meeting, the Board Members shall become liquidators of the dissolved Association's property, unless the General Meeting resolves to appoint one or more other persons as liquidator.

**34.3** During liquidation, the provisions of these articles of association shall remain in force to the extent possible.

**34.4** After the end of the liquidation, the books, records and other data carriers of the dissolved Association shall remain in the custody of the person designated for that purpose by the liquidators, for a period as prescribed by the laws of the Netherlands.

**34.5** In addition, the liquidation shall be subject to the relevant provisions of Book 2, Title 1, of the Dutch Civil Code.

### **CHAPTER X**

#### **CONFIDENTIAL INFORMATION**

##### **35 Confidential information**

**35.1** A Member or one or more of its Affiliates shall not disclose Competitively Sensitive Information to any other Member or one or more of such Member's Affiliates. Moreover, the Corporate Bodies shall not – to the extent that they will receive Competitively Sensitive Information of one or more Members – grant access to such information to other Members or other Affiliates. If a Member must disclose Competitively Sensitive Information to another Member in the context of the resolution of disputes, such disclosure will only occur if this is necessary to ensure that the dispute resolution mechanisms as set forth in these articles of association, the Internal Regulations, the Members' Agreement, the Board By-Laws and the Expert Committee By-Laws are compliant with fundamental procedural principles, including the right to be heard and plea one's case, and will only take place in accordance with the provisions of this article 35.



- 35.2** If in connection with and for the purpose of these articles of association, the Internal Regulations, the Members Agreement, the Board By-Laws and/or the Expert Committee By-Laws, a Member or one of its Affiliates must disclose certain Competitively Sensitive Information to another Member or one or more of its Affiliates, this Member or one of its Affiliates may only disclose such Competitively Sensitive Information to the other Member's, or the other Member's Affiliate's, external advisors who are bound to confidentiality by virtue of their profession or by an adequate confidentiality agreement entered into between such external advisors and the relevant Member or such Member's Affiliate who must disclose the Competitively Sensitive Information. Any further material or information or part thereof, including but not limited to documents, statements, reports, binding advices and/or arbitral awards, the content of which is based on or in which reference is made to Competitively Sensitive Information is also deemed to be Competitively Sensitive Information and may only be disclosed to the aforementioned external advisors. Such material or information, or part thereof, must also contain the mention "CONFIDENTIAL INFORMATION". For the avoidance of doubt, disclosure of the content of any part of such material or information that is not based on or in which no reference is made to Competitively Sensitive Information is not restricted.
- 35.3** The mention "CONFIDENTIAL INFORMATION" shall be placed on top of each page containing the Competitively Sensitive Information that is disclosed to any of the Corporate Bodies, any of the Members, any of the Member's Affiliates or any Members', or Members' Affiliates', external advisors.

## **CHAPTER XI DISPUTES**

### **36 Disputes**

- 36.1** All disputes under, arising out of or in connection with these articles of association, the Internal Regulations, the resolutions of the Corporate Bodies, the Members' Agreement, the Board By-Laws, the Expert Committee By-Laws or further agreements resulting therefrom, except for disputes under, arising out of or in connection with the Internal Regulations, the Members' Agreement, the Board By-Laws, the Expert Committee By-Laws or further agreements resulting therefrom to which a separate dispute resolution provision applies, shall be referred to and finally determined by arbitration in accordance with the WIPO Arbitration Rules and, in deviation from article 52 of the WIPO Arbitration Rules, with due observance of article 35. The arbitral tribunal shall consist of three arbitrators. The place of arbitration shall be Amsterdam, the Netherlands. The language to be used in the arbitral proceedings shall be English. The relevant tribunal shall decide the substance of the dispute in accordance with the laws of the Netherlands.
- 36.2** At least one of the arbitrators must at least have a degree equivalent to a masters degree in Dutch law, with this respect that the degree must at all times be a degree in Dutch law obtained at a Dutch university.
- 36.3** The arbitral tribunal may only share Competitively Sensitive Information with persons as referred to in article 35.2 and the case managers and legal counsels of the WIPO Arbitration and Mediation Center.
- 36.4** In addition to article 62 of the WIPO Arbitration Rules, the arbitral award shall on top of each page of the arbitral award where Competitively Sensitive Information is quoted or referred to contain the mention "CONFIDENTIAL INFORMATION". In deviation from article 62 under (f) of the WIPO Arbitration Rules, these parts of the arbitral award shall only be

provided to persons as referred to in article 35.2.

**36.5** Consolidation of the arbitral proceedings pursuant to this article 36 with other arbitral proceedings pending in or outside the Netherlands is excluded.

**36.6** Notwithstanding article 75 of the WIPO Arbitration Rules, parties involved in arbitration shall make any arbitral awards rendered pursuant to this article 36 available to the Expert Committee.

**37 Final provision**

**37.1** The first financial year of the Association shall end on the thirty-first day of December two thousand and fourteen.

**37.2** This article 37, including its heading, expires after the expiry of the first financial year.

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