



Informal translation of the Articles of Association  
of Mota-Engil Africa N.V. established in Amsterdam  
in force as of 16 December 2015.

## ARTICLES OF ASSOCIATION

### CHAPTER I

#### Definitions.

##### Article 1.

- 1.1. In these articles of association the following terms will be understood to mean the following:
- **AGM:** the General Meeting held for the purpose of adopting the Annual Accounts;
  - **Annual Accounts:** the balance sheet and the profit and loss account of the Company with the explanatory notes;
  - **Board:** the body charged with the management of the Company;
  - **Board Rules:** the rules as referred to in article 16.10;
  - **Company:** the legal entity to which the present articles of association relate;
  - **Conflict of Interest:** (*tegenstrijdig belang*) a direct or indirect personal interest that conflicts with the interest of the Company and its business;
  - **DCC:** the Dutch Civil Code;
  - **Deposit Shareholder:** a person holding book-entry rights representing a number of Deposit Shares through a deposit account with an Intermediary, in accordance with the Securities Giro Transactions Act;
  - **Deposit Shares:** (*girale aandelen*) Shares which are included in the deposit system of the Securities Giro Transactions Act;
  - **Depository Receipts:** registered depository receipts for Shares (*certificaten van Aandelen*) issued with the cooperation of the Company within the meaning of Dutch law;
  - **Depository Receipt Holders:** holders of Depository Receipts. Unless the contrary appears, this expression shall also include those persons who, as a result of a right of usufruct or a right of pledge on a Share, enjoy the rights, which, by virtue of Dutch law, accrue to holders of depository receipts issued with the cooperation of a company;
  - **Euroclear Nederland:** Nederlands Centraal Instituut voor Giraal Effectenverkeer B.V., trading under the name Euroclear Nederland, being the central depository as referred to in the Securities Giro Transactions Act (*Wet giraal effectenverkeer*);
  - **General Meeting:** the body of the Company (*orgaan*) consisting of the Shareholders with voting right and other persons with voting right and the gathering of the Shareholders and other persons with rights to attend and speak at such meeting;
  - **Group Company:** a legal entity or partnership as referred to in section 2:24b DCC;

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#### REGISTERED OFFICE

**NETHERLANDS**  
Prins Bernhardplein 200  
1097 JB Amsterdam  
Netherlands

#### HEADQUARTERS

**SOUTH AFRICA**  
Oxford Corner  
6th, 7th and 8th Floor  
32A Jellicoe Avenue West  
Rosebank 2196  
Johannesburg - South Africa

- **Intermediary:** an intermediary as referred to in the Securities Giro Transactions Act.
- **in writing** and **written** (*schriftelijk*): a readable and reproducible message sent by way of letter, fax, e-mail or any other means of electronic communication, unless otherwise stated in Dutch law or these articles of association;
- **Shares:** the parts in which the authorized capital of the Company has been divided in these articles of association;
- **Shareholders:** holders of one or more Shares;
- **Subsidiary:** a legal entity as referred to in section 2:24a DCC.

## **CHAPTER II**

### **Name. Registered office.**

#### **Article 2.**

- 2.1. The name of the Company is **Mota-Engil Africa N.V.**
- 2.2. The Company has its registered office in Amsterdam.

### **Objective.**

#### **Article 3.**

- 3.1. The objective of the Company is:
  - a. the incorporation of, the financing of, the participation in, the management of and the supervision of partnerships/companies and other enterprises conducting their business directly or indirectly on the African continent;
  - b. to obtain funds through bank loans, through the issuance of bonds and other debt instruments, or by taking out money loans in any other manner, the granting of money loans, the provision of guarantees and the granting of securities for debts of other parties or providing comfort for the performance thereof in any other manner, or binding itself severally beside or on behalf of others;
  - c. the acquisition, disposal, management, operation, development or commercialisation in any other manner of immovable property, securities and other property, including but not limited to patents, licences, copyrights, trademark rights, licences, secret processes or formulas, designs and other industrial and intellectual property rights;
  - d. the rendering of services in administrative, technical, financial, economic, commercial or managerial fields to partnerships/companies and other enterprises;
  - e. the rendering of consultancy services, technical advice and support, as well as education related to the civil building industry, design, observation, quality, environment, hygiene and safety on the job, including the supply of the required personnel and technical and substantial resources; and
  - f. the performance of any acts, whether or not in cooperation with others, that are directly or indirectly related to the objectives mentioned hereinbefore, everything in the broadest sense.

## **CHAPTER III**

### **Capital.**

#### **Article 4.**

- 4.1. The authorized capital of the Company amounts to two hundred million euros (€200,000,000) and is divided into two hundred million (200,000,000) Shares, each Share at a nominal amount of one euro (€1).
- 4.2. The Shares are ordinary shares, shall be registered and shall be numbered consecutively, starting at 1.
- 4.3. No Share certificates shall be issued by the Company.
- 4.4. At least one Share shall be held by another party than, and other than for the account of, the Company or one of its Subsidiaries.

### **Deposit Shares.**

#### **Article 5.**

- 5.1. A Share **becomes** a Deposit Share by transfer or issuance to Euroclear Nederland or to an Intermediary, recording in writing that the Share is a Deposit Share.  
The Deposit Share shall be recorded in the shareholders register of the Company in the name of Euroclear Nederland or the relevant Intermediary, stating in writing that it is a Deposit Share.
- 5.2. Deposit Shareholders are not recorded in the shareholders register of the Company.
- 5.3. Deposit Shares can only be delivered from a collective depot (*verzameldepot*) or giro depot (*girodepot*) with due observance of the related provisions of the Securities Giro Transactions Act.
- 5.4. The transfer by a Deposit Shareholder of its book-entry rights representing Deposit Shares shall be effected in accordance with the provisions of the Securities Giro Transactions Act. The same applies to the establishment of a right of pledge and the establishment or transfer of a usufruct on these book-entry rights.

### **Issuance of Shares.**

#### **Article 6.**

- 6.1. The General Meeting will be competent to adopt a resolution for the issuance of Shares and to determine the price of such Shares and other conditions of issuance.
- 6.2. The General Meeting may designate the Board as the body competent to adopt resolutions for the issuance of Shares and to determine the price and other conditions of issuance for a fixed period not exceeding five (5) years.  
In any such designation, the number of Shares that may be issued thereunder must be specified. A designation may not be withdrawn, unless otherwise provided in the resolution providing for the designation concerned.
- 6.3. The designation of the Board as the body competent to adopt resolutions for the issuance of Shares as referred to in paragraph 2 may be extended each time for a maximum period of five (5) years in a resolution of the General Meeting. In the extension resolution, the number of Shares that may

be issued thereunder shall be fixed.

An extension granted in a resolution of the General Meeting may not be withdrawn, unless otherwise provided in the resolution providing for the extension concerned.

- 6.4. The provisions of articles 6.1 through 6.3 inclusive shall apply similarly to the granting of rights to subscribe for Shares but shall not be applicable to the issuance of Shares to a person exercising a previously acquired right to subscribe for Shares.
- 6.5. Without prejudice to the provisions of section 2:80, subsection 2 DCC, Shares shall never be issued below par.
- 6.6. When a Share is issued, the nominal amount shall be paid on it and also, in the case the Share will be subscribed for at a higher issue price, the difference between such amounts, without prejudice to the provisions of section 2:80, subsection 2 DCC.
- 6.7. Payment on Shares shall be made in cash, insofar as no other contribution will have been agreed upon.
- 6.8. Payment in foreign currency will be permitted in the case the Company will consent to this.
- 6.9. The Board requires the prior approval of the General Meeting in order to enter into legal acts relating to the contribution on Shares other than in money and other legal acts mentioned in section 2:94, subsection 1 DCC.
- 6.10. The issuance of Shares shall take place with due regard to the requirements of law applicable thereto. The provisions of sections 2:96 and 2:97 DCC shall apply to the issuance of Shares, the conditions of issuance and the granting of rights to subscribe for Shares.
- 6.11. The provisions of sections 2:80, 2:80a, 2:80b and 2:94b DCC shall apply to the payment on Shares and the contribution on Shares other than in cash.

### **Pre-emptive right.**

#### **Article 7.**

- 7.1. In the case Shares will be issued against payment in cash, every Shareholder shall hold a pre-emptive right in proportion to the aggregate par value of its Shares, without prejudice to the other provisions of this article.  
In the case a Shareholder that holds such a pre-emptive right will not or will not fully exercise such right, the un-exercised part of the pre-emptive right will accrue to the other Shareholders.  
In the case such Shareholders will jointly not or not fully exercise the pre-emptive right, the corporate body that has the power to issue Shares, with respect to the un-exercised part, will be free to select the parties to which the Shares will be issued –at the same or a higher price.
- 7.2. No Shareholder holds a pre-emptive right with respect to Shares that will be issued against a contribution other than in cash or Shares that will be issued to employees of the Company or a Group Company of the Company or to a person exercising a previously granted right to subscribe for Shares.
- 7.3. Any pre-emptive right may be limited or excluded pursuant to a resolution to that effect adopted by

the General Meeting.

- 7.4. Any pre-emptive right may also be restricted or excluded by the Board if, by a resolution of the General Meeting, the Board was designated and authorised to restrict or exclude such pre-emptive right for a fixed period not exceeding five (5) years.

The designation of the Board to that effect may be extended, from time to time, for a period not exceeding five (5) years.

The designation of the Board as provided for in this article shall only be valid as long as the designation of the Board as referred to in article 6.2 is valid.

Unless the designation of the Board as provided for in this article provides otherwise, it may not be withdrawn.

- 7.5. The provisions of section 2:96a subsection 7 DCC shall apply to a resolution to limit or exclude pre-emptive rights.

#### **Publication of the resolution for the issue of Shares and for the designation.**

##### **Article 8.**

- 8.1. Within eight (8) days following the adoption of a resolution providing for the issuance of Shares, for the transfer of the power to issue Shares, for the restriction or exclusion of pre-emptive rights or for the transfer of the power to restrict or exclude pre-emptive rights, the Board shall file the full text of the resolution at the office of the Dutch trade register.
- 8.2. Within eight (8) days after the end of a quarter of the financial year, the Board shall notify the office of the Dutch trade register of any Share issue during the past quarter, stating the number of issued Shares.

#### **CHAPTER IV**

##### **Support prohibition.**

##### **Purchase of Shares held by the Company in its own capital.**

##### **Right of pledge on Shares held by the Company in its own capital.**

##### **Article 9.**

- 9.1. Neither the Company nor the Subsidiaries of the Company may provide security, give a price guarantee, warrant performance in any other manner or bind itself severally, or otherwise beside or on behalf of others with a view to the subscription for or acquisition by others of Shares or Depositary Receipts.

This prohibition in article 9.1 does not apply in the case the Shares or Depositary Receipts will be subscribed for or acquired by or on behalf of employees of the Company or of a Group Company of the Company.

- 9.2. Neither the Company nor the Subsidiaries of the Company may grant loans with a view to the subscription for or acquisition by others of Shares or Depositary Receipts, unless the Board resolves as such and the provisions stipulated in section 2:98c DCC are complied with.

This prohibition in article 9.2 does not apply in the case the Shares or Depositary Receipts will be subscribed for or acquired by or on behalf of employees of the Company or of a Group Company

of the Company.

#### **Article 10.**

- 10.1. Subject to authorisation by the General Meeting, the Company may acquire paid-up Shares if it does not pay any consideration therefore or in the case the Company's Shareholders equity, reduced by the price of acquisition, will not be smaller than the paid-up and claimed part of the Company's Shareholders capital, increased by the reserves that must be kept by Dutch law and these articles of association.
- 10.2. Decisive for the requirement under article 10.1 will be the amount of the Company's Shareholders equity as reflected in the most recently adopted balance sheet, reduced by the price of acquisition of Shares, the amount of the loans as referred to in article 9.1 and distributions from profits or reserves to others that the Company and its Subsidiaries made after the date of the balance sheet. The authorisation by the General Meeting shall be valid for a maximum of five (5) years. In the case a financial year will have lapsed for more than six (6) months without the Annual Accounts having been adopted, no acquisition in accordance with the provisions of article 10.1 will be permitted.
- 10.3. The Board may adopt a resolution for the disposal of Shares acquired by the Company itself.
- 10.4. For purposes of this article 10, the term Shares shall be deemed to include Depositary Receipts.

#### **Capital reduction.**

#### **Article 11.**

- 11.1. The General Meeting may adopt a resolution providing for the reduction of the Company's issued capital through the cancellation of Shares held by the Company or for which the Company holds Depositary Receipts or through the reduction of the nominal amount per Share pursuant to an amendment of these articles of association.
- 11.2. A reduction of the nominal amount of the Shares shall be effected through a proportional reduction of the nominal amount of all Shares of the same class. The requirement of proportionality may be deviated from with the consent of the Shareholders concerned.
- 11.3. The convening notice for the General Meeting in which a resolution providing for a capital reduction will be adopted, shall state the aim of the capital reduction and the manner of implementation. In the resolution for capital reduction, the Shares to which the resolution relates shall be identified and the implementation of the resolution shall have been laid down.
- 11.4. The provisions of sections 2:99 and 2:100 DCC shall apply to the reduction of the issued capital.

### **CHAPTER IV**

#### **Share register.**

#### **Article 12.**

- 12.1. A Shareholders register shall be kept by or on behalf of the Company, which register shall be kept up-to-date regularly and which fully or partly may consist of several copies and may be kept at several locations, all of which shall be designated by the Board.
- 12.2. The Shareholders register will include the following detail with respect to each Shareholder: name



and (e-mail)address, as well as the other data that Dutch law requires to be included, and such additional data deemed desirable by the Board at the request of a Shareholder or otherwise.

- 12.3. The Board shall decide on the form and the contents of the Shareholders register with due observance of the provisions laid down in article 12.1 and 12.2.
- 12.4. Upon request, a Shareholder will free of charge be provided with a written statement of everything the register states with respect to the Shares registered in its name, which statement may be signed on behalf of the Company by a special attorney-in-fact designated for such purpose by the Board.
- 12.5. The provisions laid down in the preceding four paragraphs will apply mutatis mutandis to those parties holding a right of usufruct or a right of pledge on one or several Shares.
- 12.6. The provisions of section 2:85 DCC apply to the Shareholders register.
- 12.7. Deposit Shares may be recorded in the Shareholders register of the company in the name of the relevant Intermediary or Euroclear Nederland respectively, together with the date as per which they belong to the collective deposit or the book-entry deposit, the date of acknowledgement or service, as well the amount paid on each Share.

### **Transfer of Shares**

#### **Article 13.**

- 13.1. The transfer of a Share or the transfer of a right in rem thereon shall require a deed drawn up for that purpose in the presence of a civil-law notary officiating in the Netherlands, to which those involved are party.
- 13.2. Unless the Company itself is party to the legal act, the rights attached to the Share can only be exercised after the Company has acknowledged said legal act or said deed has been served on it in accordance with the relevant provisions of Dutch law.
- 13.3. The foregoing shall apply mutatis mutandis to the creation or transfer of a right of usufruct or a right of pledge on a Share.  
A right of pledge on Shares may also be created without acknowledgement or official service of notice to the Company. In such case, section 3:239 DCC shall apply mutatis mutandis, provided however that the communication referred to in subsection 3 of that section, shall then be replaced by acknowledgement by or official service on the Company.
- 13.4. The acknowledgement shall be signed by an executive member of the Board or another person authorised to do so by the Board.

### **Right of usufruct and right of pledge on Shares.**

#### **Article 14.**

- 14.1. The Shareholder will hold the voting right on the Shares on which a right of usufruct or a right of pledge has been created. In deviation from the provisions of the preceding sentence, the voting right will accrue to the usufructuary or the pledgee in the case this will have been so provided for upon the creation of the right of usufruct or the right of pledge.
- 14.2. The Shareholder not holding the voting right and the usufructuary or pledgee holding the voting

right on any Shares, will hold the rights granted by Dutch law to Depositary Receipt Holders.

- 14.3. The rights granted by Dutch law to Depositary Receipt Holders do not accrue to a usufructuary or pledgee not holding the voting right on Shares.

### **Depositary Receipts**

#### **Article 15.**

- 15.1. The Company may lend its cooperation to the issuance of depositary receipts.
- 15.2. The Board shall be authorised to make such arrangements as it deems fit in order to enable Shares to be represented by and exchanged for Depositary Receipts.

### **CHAPTER V**

#### **The Board.**

##### **Article 16.**

##### **Powers.**

- 16.1. The Company will be managed by a Board, with due observance of (a) Dutch law, (b) these articles of association, and (c) any Board Rules laid down by the Board as referred to in article 16.10.

##### **Composition.**

- 16.2. The Board will consist of one or more executive members and one or more non-executive members. Only natural persons may be appointed non-executive member of the Board. The General Meeting will determine the number of members of the Board. The appointment, the dismissal and the suspension of members of the Board shall take place in the manner as provided for in article 18 of these articles of association.
- 16.3. The chief executive officer (CEO) and the chief financial officer (CFO) of the Company will be appointed by the General Meeting from amongst the executive members of the Board.
- 16.4. The Board shall appoint a chairman of the Board from amongst the non-executive members of the Board, for a period to be determined by the Board. The chairman may be reappointed or dismissed prematurely in such capacity by the Board at all times.
- 16.5. The Board will appoint a non-executive member of the Board as senior independent non-executive member of the Board for such period as the Board may decide.
- 16.6. If no chairman has been appointed or if the chairman is absent to take the chair, a meeting of the Board shall be presided over by the senior independent non-executive member of the Board or in the event of his absence to take the chair, by a member of the Board or another person present designated for such purpose by the meeting.

##### **Duties, committees**

- 16.7. The Board shall be entrusted with the management of the Company and shall for such purpose have all the powers within the limits of Dutch law that are not granted to others by these articles of association.
- 16.8. The non-executive members of the Board shall supervise the policy of the Company and the fulfilment of duties by the members of the Board, as well as the general affairs of the Company. In



addition, the non-executive members of the Board shall be entrusted with such duties as are or and may be determined by or pursuant to these articles of association.

16.9. The Board may establish committees. A committee may consist of one or more members of the Board or of other persons to the extent such committee is only entrusted with an advisory task. The Board appoints the members of each committee and determines the tasks of each committee. The Board may at any time change the duties and the composition of each committee.

#### **Board Rules.**

16.10. With due observance of the relevant provisions of these articles of association and Dutch law, the Board may adopt Board Rules, containing rules with respect to the holding of meetings by and decision-taking process of the Board, delegations by the Board, division of tasks within the Board, the policy to be conducted by the Board and any other matters concerning the Board, the executive members of the Board, the non-executive members of the Board and the committees established by the Board.

#### **Absence or inability to attend**

16.11. In the case of absence or an inability to act of one or several members of the Board, the other members of the Board or the sole member of the Board will temporarily be charged with the management of the Company. In the event all members of the Board or the sole member of the Board will be absent or unable to attend, the General Meeting will make temporary arrangements to fill the vacancies on the Board.

#### **Remuneration**

16.12. The Company shall have a policy on remuneration of the Board. This policy shall be adopted by the General Meeting. The remuneration of the members of the Board shall be determined by the General Meeting with due observance of any applicable rules and regulations as applicable to the Company, including the remuneration policy of the Company and the claw back provisions as referred to in section 2:135 DCC.

#### **Indemnification.**

16.13. To the extent permissible by the rules and regulations as applicable to the Company, the following shall be reimbursed to current and former members of the Board:

- a. the reasonable costs of conducting a defence against claims for damages or of conducting defence in other legal proceedings;
- b. any damages payable by them;
- c. the reasonable costs of appearing in other legal proceedings in which they are involved as current or former members of the Board, with the exception of proceedings primarily aimed at pursuing a claim on their own behalf,

based on acts or failures to act in the exercise of their duties or any other duties currently or previously performed by them at the Company's request - in the latter situation only if and to the extent that these costs and damages are not reimbursed on account of these other duties.

- 16.14. There shall be no entitlement to reimbursement as referred to under article 16.13 and any person concerned will have to repay the reimbursed amount if and to the extent that:
- a Dutch court, or in the case of arbitration, an arbitrator, has established in a final and conclusive decision that the act or failure to act of the person concerned may be characterised as wilful (“*opzettelijk*”), intentionally reckless (“*bewust roekeloos*”) or seriously culpable (“*ernstig verwijtbaar*”) conduct, unless Dutch law provides otherwise or this would, in view of the circumstances of the case, be unacceptable according to standards of reasonableness and fairness;
  - the costs or damages directly relate to or arise from legal proceedings between a current or former member of the Board and the Company or its Group Companies, with the exception of legal proceedings that have been brought by one or more Shareholders, according to Dutch law or otherwise, on behalf of the Company; or
  - the costs or financial loss of the person concerned are covered by an insurance and the insurer has paid out the costs or financial loss.
- 16.15. The Company may, to the extent authorised from time to time by the General Meeting, take out liability insurance for the benefit of the current and former members of the Board, whether or not the Company would have the power to indemnify him against such liability under the provisions of articles 16.13 and 16.14.

**Prior approval.**

- 16.16. The prior approval of the General Meeting will be required for resolutions of the Board on a major change of the identity or the character of the Company or the business, including in any case:
- transfer of the business or substantially all of the business to a third party;
  - entry into or termination of a longterm cooperation of the Company or a Subsidiary of the Company with another legal entity or company or as fully liable partner in a general partnership, in the event the entry into or termination of such cooperation will or is likely to be of material importance to the Company; and
  - taking or disposing by the Company or a Subsidiary of the Company of a participation in the capital of a company worth at least one-third of the value of the assets of the Company in accordance with the balance sheet with explanatory notes or, in the event the Company will draw up a consolidated balance sheet, in accordance with the consolidated balance sheet with explanatory notes as laid down in the most recently adopted Annual Accounts.
- 16.17. The absence of the approval as required under this article 16.16 shall not affect the powers of the Board and the executive members of the Board to represent the Company as set forth in article 19.1.

**Adoption of resolutions by the Board and Conflicts of Interest.**

**Article 17.**

- 17.1. A member of the Board that has a Conflict of Interest with respect to a proposed Board resolution

shall immediately report this to the Board.

- 17.2. A member of the Board shall not participate in the deliberation and decision-making process if he has a Conflict of Interest. In the event that, as a consequence of the preceding sentence, a resolution cannot be adopted, the resolution will be adopted by the General Meeting, unless the General Meeting appoints one or more persons to adopt the resolution. In the latter case, one or more members of the Board having a Conflict of Interest can also be appointed for this purpose by the General Meeting, in which case the first sentence of this paragraph shall not apply.
- 17.3. The Board shall adopt resolutions by a majority of the votes cast in a meeting of the Board.
- 17.4. With due consideration of article 17.2, each member of the Board shall be entitled to cast one vote in meetings of the Board.
- 17.5. Unless a member of the Board has a Conflict of Interest with regard to a proposed resolution, he can be represented in meetings of the Board. Such representation can only be made by another member of the Board who does not have a Conflict of Interest and shall be based on a written power of attorney.
- 17.6. The Board may also adopt resolutions without convening a meeting, provided that all members of the Board - with the exception of the members of the Board that have reported a Conflict of Interest pursuant to article 17.1, unless all members of the Board have a Conflict of Interest - have been consulted and none of them have raised an objection to adopt resolutions in this manner. To resolutions outside of a meeting, article 17.1 up to and including 17.4 shall apply.

#### **Appointment, dismissal and suspension of the members of the Board.**

##### **Article 18.**

- 18.1. With due observance of the provisions of article 16.2, the members of the Board will be appointed by the General Meeting. At such appointment the General Meeting shall determine whether a member of the Board is appointed as executive or non-executive member of the Board. Board members are appointed for a period of time to be determined by the General Meeting, ending not sooner than on the AGM held in the first year after the year of their appointment and not later than on the AGM held in the fourth year after the year of their appointment.  
A member of the Board may be reappointed with due observance of the rules and regulations as applicable to the Company.
- 18.2. The membership of the Board ends with respect to a person in the event the person resigns from office in a notification delivered at the address of the Company in accordance with these articles of association or presented in a meeting of the Board.  
A member of the Board shall resign his position immediately when one of the following events occurs:
  - a. the person loses free control of the person's property; or
  - b. the person is forbidden to act as a managing director under the law, rules or regulations as applicable to the Company.

- 18.3. Any member of the Board may at all times be suspended and dismissed by the General Meeting. Executive members of the Board may at all times be suspended by the Board.

### **Representation of the Company**

#### **Article 19.**

- 19.1. The Company will be represented by:
- a. either the Board; or
  - b. by two executive members of the Board acting jointly.
- 19.2. With due observance of the relevant provisions of Dutch law, these articles of association or any Board Rules, the Board may appoint a legal entity or natural person as attorney-in-fact of the Company (including the right of substitution) for such reasons and with such competence, authority and power of decision (which shall not exceed its own powers or the powers to be exercised by it) and for such periods and under such conditions and stipulations as the Board may determine at its discretion, and each such power of attorney may include such provisions relating to the protection of and interest of persons acting with such attorneys and of the attorneys at the discretion of the Board. Their titles will be fixed by the Board.

### **Company secretary**

#### **Article 20.**

- 20.1. The Company may have a secretary, to be referred to as the Company secretary, who shall as such also act as the secretary of the Board. The Company secretary shall not be a member of the Board. The Company secretary shall be appointed by resolution of the Board.
- 20.2. The Company secretary may be dismissed at any time by resolution of the Board.
- 20.3. The Company secretary shall have the duties and powers expressly conferred upon him or her as determined by the Board.
- 20.4. If the Company secretary is absent, his or her duties and powers shall be assumed by his or her deputy, to be designated by the Board.

## **CHAPTER VI**

### **Financial year. Annual statements of account.**

#### **Article 21.**

- 21.1. The financial year of the Company shall run concurrent with the calendar year.
- 21.2. Within five (5) months after the end of the financial year, the Board shall compile the Annual Accounts.
- 21.3. The Annual Accounts shall be signed by all members of the Board; in the event any signature is lacking, the reason thereof shall be stated.
- 21.4. The Company shall make the Annual Accounts, the annual report, the declaration issued by the auditor as well as the other financial accounting documents that the Company must make available pursuant to statutory regulations, available in the manner and within the periods prescribed by the laws, rules and regulations as applicable to the Company.

21.5. Adoption of the Annual Accounts shall be done by the General Meeting.

**Auditor.**

**Article 22.**

22.1. The Company may grant an auditor as referred to in section 2:393 DCC the assignment to audit the Annual Accounts compiled by the Board in accordance with the provisions of subsection 3 of such section of Dutch law, if the Company is required Dutch law to do so. In the event Dutch law does not prescribe the appointment of an auditor, the Company may grant the assignment referred to in the preceding sentence to an expert other than an auditor.

22.2. The power to grant the assignment shall lie with the General Meeting. In the event said meeting shall not proceed to do so, the relevant power shall lie with the Board. The assignment granted to the auditor may be withdrawn by the General Meeting or by the party who granted the assignment in accordance with section 2:393 subsection 2 DCC.

22.3. The auditor shall report with respect to its audit to the Board and shall state the findings of its audit in a certificate with respect to the reliability of the Annual Accounts.

**CHAPTER VII**

**General Meeting: time and place.**

**Article 23.**

23.1. Within six (6) months after the end of the financial year, the AGM shall be held.

23.2. The agenda for said meeting will in any case include the following items:

- a. review of the annual report;
- b. adoption of the Annual Accounts;
- c. discharge from liability to the non-executive members of the Board for their duties conducted in the past year;
- d. discharge from liability to the executive members of the Board for their duties conducted in the past year.

23.3. Extraordinary General Meetings will be held whenever deemed desirable by the Board or pursuant to an authorisation of a judge in preliminary relief proceedings (*voorzieningenrechter*) at the request of one or more Shareholders or Depositary Receipt Holders representing at least one-tenth of the issued share capital.

23.4. General Meetings will be held in Amsterdam, Rotterdam, The Hague or in Haarlemmermeer (Schiphol Airport). In a meeting held elsewhere, valid resolutions may only be adopted in the case the entire issued capital is represented.

**General Meeting: convening notice.**

**Article 24.**

24.1. The General Meeting will be called by the Board subject to the notice periods and rules prescribed by the laws and regulations applicable to the Company.

24.2. The convening notice will state the subjects to be considered.

In the event one or more Shareholders or Depositary Receipt Holders representing at least three percent (3%) of the issued capital will have made a written request for a subject to be considered, said subject will be included in the convening notice in the case a reasoned request or a proposal for a resolution will have been received by the Board no later than on the sixtieth day prior to the date of the General Meeting.

- 24.3. The convening notice will also state:
- a. the place, date and time of the General Meeting; and
  - b. the procedure for the participation in the General Meeting for representatives authorized in writing.

**General Meeting: chairman and decision-taking process.**

**Article 25.**

- 25.1. The General Meeting will be presided over by the chairman of the Board. In the case of absence of the chairman of the Board, the General Meeting will be presided over by a senior independent non-executive member of the Board. In the case no senior independent non-executive member of the Board is present either, the General Meeting itself will appoint its chairman. The chairman of the meeting will designate the secretary of such meeting.
- 25.2. Unless a notarial record will be drawn up of the proceedings at the meeting, minutes of the proceedings will be kept. The minutes will be confirmed and in evidence thereof will be signed by the chairman and the secretary of the relevant meeting or will be confirmed by a subsequent meeting; in the latter case, the minutes will be signed by the chairman and the secretary of such subsequent meeting in evidence of confirmation.
- 25.3. The chairman of the meeting or each member of the Board may at any time grant the assignment for a notarial record to be drawn up for the account of the Company.

**Article 26.**

- 26.1. All Shareholders and other parties holding the right to cast votes and to attend the meeting will hold the right to attend the General Meeting, to address said meeting and to cast votes. Every other party holding the right to attend the meetings but not entitled to cast votes will also hold the right to attend the General Meeting and to address said meeting, but will not hold the right to cast votes.
- 26.2. In order to be able to participate in the voting at the General Meeting of Shareholders, the shareholders or their representatives must sign the attendance book, recording the number of shares represented by them.

**Article 27.**

- 27.1. Shareholders and other parties holding the right to attend meetings may have themselves represented by means of a written power of attorney, which power of attorney shall be presented in order to be admitted.
- 27.2. The chairman of the relevant meeting will decide on all matters relating to the admission to the General Meeting, exercise of the voting rights and all other matters relating to the General Meeting.



#### **Article 28.**

- 28.1. In the General Meeting, every Share will carry the right to cast one vote. Abstentions and invalid votes will be regarded as votes not cast.
- 28.2. In the General Meeting, no votes may be cast for Shares held by the Company or by any Subsidiary thereof, nor may votes be cast for a Share for which either of them holds a Depositary Receipt.
- 28.3. To the extent that Dutch law or these articles of association do not prescribe a larger majority, all resolutions of the General Meeting are adopted by an absolute majority of the votes cast.
- 28.4. The chairman of the meeting will decide on the manner of voting and also on the possibility of voting by acclamation, subject to the proviso that, in the case so desired by one of the parties present and holding the right to vote, votes on appointment, suspension and dismissal of persons will be cast by sealed unsigned ballot papers.
- 28.5. In the case votes will be tied in a ballot, the proposal will have been rejected.
- 28.6. The members of the Board will hold the right to attend the General Meetings and as such will hold an advisory vote in the General Meetings.

#### **Decision-taking process outside meetings.**

##### **Article 29.**

- 29.1. The General Meeting may also adopt resolutions without a meeting having been held, provided the members of the Board have been granted the opportunity to render advice on the proposal. Such manner of adopting resolutions is not possible in the case there are Depositary Receipts issued. A resolution adopted outside a meeting shall only be valid in the case it has been adopted in writing and by a unanimous vote of all Shareholders holding the right to vote.
- 29.2. Those who have adopted a resolution outside a meeting shall forthwith notify the Board of the resolution.

#### **Profits and distribution of profits.**

##### **Article 30.**

- 30.1. The profits of the Company shall be available to the General Meeting.
- 30.2. The Company may only make distributions of profits to Shareholders and other parties entitled to the profits susceptible to distribution, insofar as the Company's Shareholders equity exceeds the paid and claimed part of the capital increased by the reserves that must be kept pursuant to these articles of association or Dutch law.
- 30.3. Profits will be distributed after confirmation of the Annual Accounts, evidencing this to be permissible.
- 30.4. The Company may only make interim (profit-)distributions, to the extent that the provisions as set out in article 30.2 have been complied with as evidenced by an interim specification of assets and liabilities. Such interim specification of assets and liabilities will relate to the position of the equity of the Company at the earliest as at the first day of the third month prior to the month in which the resolution providing for payment is announced. It will be drawn up with due observance of valuation

methods deemed acceptable under generally accepted standards. The specification of assets and liabilities will include the amounts to be allocated to the reserves in accordance with Dutch law or these articles of association. It shall be signed by the members of the Board; in the case the signature(s) of one or several of them is missing, the reason thereof shall be stated. The Company shall file the specification of assets and liabilities with the office of the Dutch trade register within eight (8) days after the resolution to make payment available is announced.

- 30.5. With due observance of the provisions of article 30.2, the General Meeting, on a proposal of the Board, may adopt a resolution for distributions to the charge of the Company's reserves that do not need to be kept pursuant to these articles of association or Dutch law.
- 30.6. The claim of a Shareholder for distribution shall cease to exist upon expiry of a period of five (5) years.

#### **Availability for payment.**

##### **Article 31.**

- 31.1. Dividend and other distributions on Shares shall be made payable on a date to be fixed by the Board within four weeks after said amounts will have been fixed.
- 31.2. The Board may fix the manner of payment with respect to distributions on Shares in cash.
- 31.3. The party entitled to dividends and other payments on a Share will be the party in whose name the Share will have been registered at the date to be fixed by the Board with respect to each payment for the various classes of Shares.
- 31.4. Payments in cash not collected within five (5) years and two (2) days after having become payable will revert to the Company.
- 31.5. In the case of a distribution in the form of Shares, the Shares not claimed within a period to be fixed by the Board will be sold for the account of the parties entitled thereto but which will not have claimed the Shares. Afterwards the net proceeds of such sale will continue to be available to the parties entitled thereto in proportion to the rights of each of them; however, the right to the proceeds will expire in the case and insofar the proceeds will not have been claimed within thirty (30) years after the date on which the payment became payable.
- 31.6. In the case of a distribution on Shares in the form of Shares, said Shares shall also be entered in the Shareholders register.
- 31.7. The provisions in article 31.3 will apply mutatis mutandis to distributions – including pre-emptive rights in the case of Shares being issued – subject to the provisions of section 2:96a DCC.

#### **Amendment of the articles of association. Merger. Division. Dissolution. Liquidation.**

##### **Article 32.**

- 32.1. A resolution providing for the amendment of these articles of association, merger, division or dissolution of the Company shall be adopted by the General Meeting on the basis of a specific proposal to that effect of the Board.
- 32.2. In the case of dissolution of the Company, the Company will be liquidated by the members of the

Board, unless the General Meeting will designate other persons for such purpose.

- 32.3. During the liquidation, the provisions of these articles of association will continue to be effective as much as possible.
- 32.4. The balance remaining after payment of the Company's debts shall be distributed to the Shareholders in proportion to the holdings of Shares of each of them.
- 32.5. The accounting records, documents and other data carriers of the Company shall be kept for a period of seven (7) years by the person who will have been designated for such purpose by the General Meeting.

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