



ARTICLES OF ASSOCIATION

NOTE ABOUT TRANSLATION:

This document is an English translation of a document prepared in Dutch. In preparing this document, an attempt has been made to translate as literally as possible without jeopardising the overall continuity of the text. Inevitably, however, differences may occur in translation and if they do, the Dutch text will govern by law. The definitions in article 1.1 of this document are listed in the English alphabetical order which may differ from the Dutch alphabetical order.

In this translation, Dutch legal concepts are expressed in English terms and not in their original Dutch terms. The concepts concerned may not be identical to concepts described by the English terms as such terms may be understood under the laws of other jurisdictions.

CHAPTER I

1 Definitions and interpretation

1.1 In these articles of association, the following terms shall have the following meanings:

“**Board**” means the board of directors of the Company.

“**CEO**” has the meaning attributed thereto in article 15.3.

“**CFO**” has the meaning attributed thereto in article 15.3.

“**Company**” means the company the internal organisation of which is governed by these articles of association.

“**Company Secretary**” means the person appointed to that position as referred to in article 22.

“**Director**” means a member of the Board. Unless the contrary is apparent, this shall include each Executive Director and each Non-Executive Director.

“**Distributable Equity**” means the part of the Company’s equity which exceeds the aggregate of the paid in and called up issued capital and the reserves which must be maintained pursuant to the laws of the Netherlands.

“**Euroclear Netherlands**” means Nederlands Centraal Instituut voor Giraal Effectenverkeer B.V., trading under the name Euroclear Nederland, being the central securities depository as referred to in the Dutch Securities Giro Act (*Wet giraal effectenverkeer*).

“**Executive Director**” means an executive Director.

“**General Meeting**” means the body of the Company consisting of the person or persons to whom, as a Shareholder or otherwise, voting rights attached to Shares accrue, or (as the case may be) a meeting of such persons (or their representatives) and other persons with Meeting Rights.

“**Group Company**” means a group company of the Company as referred to in Section 2:24b of the Dutch Civil Code.

“**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.

“**Meeting Rights**” means the right to, as a Shareholder or as a person to whom these rights have been attributed in accordance with article 13, be invited to and to attend General Meetings in person or by a proxy authorised in writing and to speak at such meetings and the other rights conferred by the laws of the Netherlands upon holders of depository receipts issued with a company’s cooperation for shares in its capital.

“**Non-Executive Director**” means a non-executive Director.

“**Record Date**” means the twenty-eighth day prior to the day of a General Meeting, or such other day as prescribed by the laws of the Netherlands.

“**Share**” means a share in the capital of the Company.

“**Shareholder**” means a holder of one or more Shares. Shareholders shall in any event be deemed to include (i) any person holding co-ownership rights with respect to Shares as included in the Statutory Giro System, and (ii) any person who is a shareholder under any applicable law pursuant to Book 10, Title 8, of the Dutch Civil Code.

“**Statutory Giro System**” means the giro system as referred to in the Dutch Securities Giro Act.

“**Subsidiary**” means a subsidiary of the Company as referred to in Section 2:24a of the Dutch Civil Code.

- 1.2 References to “articles” refer to articles that are part of these articles of association, except where expressly indicated otherwise.
- 1.3 References to one gender include all genders and references to the singular include the plural and vice versa.

CHAPTER II

NAME, OFFICIAL SEAT AND OBJECTS

2 Name and official seat

2.1 The Company’s name is:

Vivoryon Therapeutics N.V.

2.2 The Company has its official seat in Amsterdam, the Netherlands.

3 Objects

The objects of the Company are:

- (a) to research and develop and to test both pre-clinically and clinically, as well as to exploit and trade in, medical drugs;
- (a) to incorporate, to participate in any way whatsoever in, to manage, to supervise businesses and companies;
- (b) to finance businesses and companies;
- (c) to borrow, to lend and to raise funds, including the issue of bonds, debt instruments or other securities or evidence of indebtedness as well as to enter into agreements in connection with aforementioned activities;
- (d) to render advice and services to businesses and companies with which the Company forms a group and to third parties;
- (e) to grant guarantees, to bind the Company and to pledge its assets for obligations of businesses and companies with which it forms a group and on behalf of third parties;
- (f) to acquire, alienate, encumber, manage and exploit registered property and items of property in general;
- (g) to trade in currencies, securities and items of property in general;
- (h) to exploit and trade in patents, trade marks, licenses, knowhow, copyrights, data base rights and other intellectual property rights;
- (i) to perform any and all activities of an industrial, financial or commercial nature, and to do all that is connected therewith or may be conducive thereto, all to be interpreted in the broadest sense.

CHAPTER III

AUTHORISED CAPITAL; REGISTER OF SHAREHOLDERS

4 Authorised capital

4.1 The authorised capital (*maatschappelijk kapitaal*) of the Company is sixty million euro (EUR 60,000,000).

4.2 The authorised capital of the Company is divided into sixty million (60,000,000) Shares, with a nominal value of one euro (EUR 1) each, numbered 1 through 60,000,000.

5 **Bearer Shares, global Share certificate**

5.1 All Shares shall be bearer shares.

5.2 All bearer Shares are embodied in one (1) global Share certificate. This global Share certificate shall be given into the custody of Euroclear Netherlands or an intermediary (an *intermediair* as defined in the Dutch Securities Giro Act) or such other central securities depository as may be the case. Euroclear Netherlands or the relevant intermediary or the relevant other central securities depository, as applicable, shall (i) keep the global Share certificate for and on behalf of the title holders in a collective deposit, (ii) be irrevocably entrusted with the administration of the (global) Share certificate, and (iii) be irrevocably authorised to, on behalf of the Company, – in case of issuance of Shares - add any Shares to and – in case of cancellation of Shares - delete any Shares from the global Share certificate.

CHAPTER IV

ISSUANCE OF SHARES

6 **Resolution to issue and notarial deed**

6.1 Shares may be issued pursuant to a resolution of the General Meeting or of the Board if and insofar as the Board has been designated for that purpose pursuant to a resolution of the General Meeting for a fixed period, not exceeding five years. On such designation the number of Shares which may be issued must be specified. The designation may be extended, each time for a period not exceeding five years. Unless the designation provides otherwise, it may not be withdrawn. A resolution of the General Meeting to issue Shares or to designate the Board as the competent body to issue Shares can only be adopted at a proposal by the Board.

6.2 Within eight days after each resolution of the General Meeting to issue Shares or to designate the Board as the competent body to issue Shares, the full wording of the relevant resolution shall be deposited at the Dutch Trade Register of the Chamber of Commerce.

6.3 Within eight days after the end of each calendar quarter, each issuance of Shares in such calendar quarter shall be notified to the Dutch Trade Register of the Chamber of Commerce, stating the number of Shares issued.

6.4 A resolution to issue Shares shall stipulate the issue price and the other conditions of issue. The issue price shall not be less than par, without prejudice to the provisions laid down in Section 2:80, subsection 2, of the Dutch Civil Code.

6.5 The provisions of articles 6.1 and 6.4 shall apply by analogy to the granting of rights to subscribe for Shares (including but not limited to any options, warrants, or convertible loans or bonds entitling the holder thereof to subscribe for Shares) but do not apply to the issuance of Shares to a person exercising a right to subscribe for Shares previously granted.

7 **Pre-emptive rights**

7.1 Upon issuance of Shares, each Shareholder shall have a pre-emptive right in proportion to the aggregate nominal value of his Shares, subject to the provisions of articles 7.2 and 7.3. Shareholders shall have a similar pre-emptive right if rights are granted to subscribe for Shares.

7.2 Shareholders shall have no pre-emptive right in respect of Shares which are issued (i) against non-cash contributions; or (ii) to employees of the Company or of a Group Company; or (iii) to a person exercising a right to subscribe for Shares previously granted.

- 7.3** Prior to each single issuance of Shares, the pre-emptive right may be limited or excluded pursuant to a resolution of the General Meeting. The pre-emptive right may also be limited or excluded pursuant to a resolution of the Board if the Board has been designated as the competent body to issue Shares pursuant to article 6.1 and if, pursuant to a resolution of the General Meeting, it was designated for a fixed period, not exceeding five years, as authorised to limit or exclude such pre-emptive right. The designation may be extended, each time for a period not exceeding five years. Unless the designation provides otherwise, it may not be withdrawn. A resolution of the General Meeting to limit or exclude the pre-emptive right or to designate the Board as the competent body to limit or exclude such pre-emptive right can only be adopted by a majority of at least two-thirds of the votes cast if less than one-half of the Company's issued capital is represented at the meeting. A resolution of the General Meeting to limit or exclude the pre-emptive right or to designate the Board as the competent body to limit or exclude such pre-emptive right can only be adopted at a proposal by the Board.
- 7.4** Within eight days after each resolution of the General Meeting to designate the Board as the competent body to limit or exclude the pre-emptive right, the full wording of the relevant resolution shall be deposited at the Dutch Trade Register of the Chamber of Commerce.
- 7.5** The Company shall announce any issuance of Shares with pre-emptive rights and the period of time within which such pre-emptive rights may be exercised in such manner as shall be prescribed by applicable law and applicable stock exchange regulations, including but not limited to an announcement published by electronic means.

8 Payment for Shares

- 8.1** The nominal value of each Share must be paid upon subscription and, in addition, if the Share is subscribed for at a higher amount, the difference between such amounts. It can be stipulated that part of the nominal value, not exceeding three-quarters thereof, will only have to be paid after the Company has requested that such payment be made.
- 8.2** Payment for a Share must be made in cash insofar as no non-cash contribution has been agreed upon. Payment in a currency other than euro may only be made with the consent of the Company and with due observance of the provisions of Sections 2:80a, subsection 3, and 2:93a of the Dutch Civil Code.
- 8.3** Non-cash contributions on Shares are subject to the provisions of Section 2:94b of the Dutch Civil Code.
- 8.4** The Board shall be authorised to perform legal acts relating to non-cash contributions on Shares and other legal acts as referred to in Section 2:94 of the Dutch Civil Code, without prior approval of the General Meeting.

CHAPTER V

OWN SHARES; REDUCTION OF THE ISSUED CAPITAL

9 Own Shares

- 9.1** When issuing Shares, the Company may not subscribe for its own Shares.
- 9.2** The Company may acquire fully paid up Shares or depositary receipts thereof, provided either no valuable consideration is given, or:
- (a) the Distributable Equity is at least equal to the purchase price; and
 - (b) the nominal value of the Shares or depositary receipts thereof which the Company acquires, holds or keeps in pledge or which are held by a Subsidiary does not exceed one half of the Company's issued capital; and
 - (c) the Board has been authorised by the General Meeting thereto. Such authorisation shall be valid for not more than eighteen months. The General Meeting must specify in the authorisation the number of Shares which may be

acquired, the manner in which they may be acquired and the limits within which the price must be set.

- 9.3** The validity of the acquisition shall be decided on the basis of the amount of equity appearing from the last adopted balance sheet, less the aggregate of the purchase price for Shares or depositary receipts thereof, the amount of loans as referred to in article 10.2 and any distribution of profits or at the expense of reserves to others which have become due by the Company and its Subsidiaries after the balance sheet date. An acquisition in accordance with article 9.2 shall not be permitted, if more than six (6) months have elapsed after the end of a financial year without the annual accounts having been adopted.
- 9.4** The authorisation as referred to in article 9.2(c) is not required to the extent the Company acquires Shares or depositary receipts thereof which are quoted in the listing of any stock exchange in order to transfer them to employees of the Company or of a Group Company pursuant to a scheme applicable to such employees.
- 9.5** The foregoing provisions of this article 9 shall not apply to Shares or depositary receipts thereof which the Company acquires by universal succession of title.
- 9.6** The acquisition of Shares or depositary receipts thereof by a Subsidiary shall be subject to the provisions of Section 2:98d of the Dutch Civil Code.
- 9.7** The Board is authorised to alienate Shares or depositary receipts thereof held by the Company.
- 10 Financial assistance**
- 10.1** The Company may not give security, guarantee the price, in any other way warrant performance by third parties or bind itself, either severally or jointly, in addition to or on behalf of third parties, with a view to a subscription for or an acquisition of Shares or depositary receipts thereof by others. This prohibition also applies to Subsidiaries.
- 10.2** The Company and its Subsidiaries may not grant loans with a view to a subscription for or an acquisition of Shares or depositary receipts thereof by others, unless so in compliance with Section 2:98c of the Dutch Civil Code.
- 10.3** The provisions of article 10.1 and article 10.2 shall not apply to Shares or depositary receipts thereof subscribed or acquired by or for employees of the Company or of a Group Company.
- 11 Reduction of the issued capital**
- 11.1** The General Meeting may, but only at the proposal of the Board, resolve to reduce the Company's issued capital. A resolution of the General Meeting to reduce the Company's issued capital can only be adopted by a majority of at least two-thirds of the votes cast, if less than half of the Company's issued capital is present or represented at the meeting.
- 11.2** A reduction of the Company's issued capital may be effected:
- (a) by cancellation of Shares held by the Company or for which the Company holds the depositary receipts; or
 - (b) by reducing the nominal value of Shares, to be effected by an amendment of these articles of association.
- 11.3** A reduction of the nominal value of Shares without repayment must be effected in proportion to all Shares. This principle may be deviated from with the consent of all Shareholders concerned.
- 11.4** The notice convening a General Meeting at which a proposal to reduce the Company's issued capital will be made, shall state the purpose of the capital reduction and the manner in which it is to be achieved. The provisions in these articles of association relevant to a proposal to amend the articles of association shall apply by analogy.
- 11.5** A reduction of the Company's issued capital shall furthermore be subject to the provisions of Sections 2:99 and 2:100 of the Dutch Civil Code.

CHAPTER VI

TRANSFER OF SHARES

12 Transfer of Shares

12.1 The transfer of rights a Shareholder holds with regard to Shares included in the Statutory Giro System must take place in accordance with the provisions of the Dutch Securities Giro Act.

12.2 A transfer of Shares from the Statutory Giro System is subject to restrictions of the Dutch Securities Giro Act and is subject to approval of the Board.

CHAPTER VII

PLEDGING OF SHARES AND USUFRUCT ON SHARES; DEPOSITARY RECEIPTS FOR SHARES

13 Pledging of Shares and usufruct on Shares

13.1 Upon the creation of a right of pledge on a Share and upon the creation or transfer of a usufruct on a Share, the voting rights attached to such Share may be assigned to the pledgee or the usufructuary, with due observance of the relevant provisions of the laws of the Netherlands.

13.2 Both the Shareholder without voting rights and the pledgee or the usufructuary with voting rights shall have the Meeting Rights. The pledgee or the usufructuary without voting rights shall not have the Meeting Rights.

14 Depositary receipts for Shares

The Company shall not cooperate in the issuance of depositary receipts for Shares. Accordingly, holders of depositary receipts for Shares do not have the Meeting Rights.

CHAPTER VIII

THE BOARD

15 Directors

15.1 The Board shall consist of one or more Executive Directors and one or more Non-Executive Directors. The number of Non-Executive Directors must always exceed the number of Executive Directors. Only individuals can be Directors.

15.2 Directors are appointed by the General Meeting as an Executive Director or a Non-Executive Director. Subject to article 15.1 the number of Executive Directors and Non-Executive Directors is determined by the Board.

15.3 The Board shall grant one of the Executive Directors the title of Chief Executive Officer (“**CEO**”) and may grant one of the Executive Directors (including the CEO who shall then have two titles) the title of Chief Financial Officer (“**CFO**”). The Board shall appoint one of the Non-Executive Directors as chairman of the Board.

15.4 If a Director is to be appointed, the Board shall make a binding nomination. The General Meeting may at all times set aside such binding nomination by a resolution adopted by a majority of at least two-thirds of the votes cast, such majority representing more than one-half of the issued capital of the Company. A second meeting as referred to in Section 2:120, subsection 3, of the Dutch Civil Code cannot be convened. If the General Meeting sets aside the binding nomination, the Board shall make a new binding nomination. The nomination shall be included in the notice of the General Meeting at which the appointment shall be considered. The Executive Directors shall not take part in the discussions and decision-making by the Board in relation to nominations for the appointment of Directors.

15.5 If no nomination has been made for the appointment of a Director, this shall be stated in the notice of the General Meeting at which the appointment shall be considered and the General Meeting shall then be free to appoint a Director at its discretion. A resolution to appoint a Director that was not nominated by the Board can only be adopted by a majority of at least two-thirds of the votes cast, such majority representing more than one-half of the issued capital of the Company. A second

meeting as referred to in Section 2:120, subsection 3, of the Dutch Civil Code cannot be convened.

- 15.6 Executive Directors will be appointed for a maximum term of four years and can be re-appointed for a maximum term of four years each time.
- 15.7 Non-Executive Directors will be appointed for a term of four years and may be reappointed for one additional term of four years and subsequently for a term of two years, which term of two years may be extended by at most two years.
- 15.8 A Director may be suspended or removed by the General Meeting at any time. A resolution to suspend or remove a Director can only be adopted by a majority of at least two-thirds of the votes cast, such majority representing more than one-half of the issued capital of the Company, unless the proposal to suspend or remove the relevant Director was made by the Board, in which case the resolution can be adopted by a simple majority of the votes cast. A second meeting as referred to in Section 2:120, subsection 3, of the Dutch Civil Code cannot be convened.
- 15.9 An Executive Director may also be suspended by the Board. A suspension by the Board may at any time be discontinued by the General Meeting.
- 15.10 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.

16 Remuneration

- 16.1 The Company has a policy on the remuneration of the Board. The policy shall be adopted by the General Meeting at the proposal of the Board. The policy on remuneration shall in any case include the subjects referred to in Section 2:135a, subsection 6, of the Dutch Civil Code. A resolution by the General Meeting to adopt the remuneration policy shall be adopted by a simple majority of the votes cast, without a quorum being required.
- 16.2 With due observance of the policy referred to in article 16.1 the authority to establish remuneration and other conditions of employment for Executive Directors is vested in the Board. The Executive Directors shall not take part in the discussions and decision-making by the Board in relation to the establishment of the remuneration and other conditions of employment of the Executive Directors.
- 16.3 With due observance of the policy referred to in article 16.1 the authority to establish remuneration and other conditions of employment for Non-Executive Directors is vested in the General Meeting.
- 16.4 A proposal concerning remuneration in the form of Share awards or Share options shall be submitted by the Board to the General Meeting for approval. Such proposal must, at a minimum, state the number of Shares or Share options that may be granted to the Board and the criteria that apply to the making or amending of such grant of Shares or Share options.

17 Duties and working methods of the Board

- 17.1 The Board shall be entrusted with the management of the Company. In performing their duties, the Directors shall act in accordance with the interests of the Company and the business connected with it.
- 17.2 The Board may establish rules regarding its working methods and decision-making process. In this context the Board may also determine the duties which a Director shall be particularly responsible for, which may also include a delegation of resolution-making power of the Board, provided that the Executive Directors shall conduct the day-to-day business of the Company and that the supervision of conducting the day-to-day business by the Executive Directors may not be taken away from the Non-Executive Directors. Such rules and allocation of duties shall be put in writing.

17.3 The Board may establish such committees as it may deem necessary, which committees may consist of one or more Non-Executive Directors. 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. The Board may establish rules regarding the working methods and decision-making process of each committee. Such rules and allocation of duties shall be put in writing.

18 Decision-making process of the Board; conflict of interest

18.1 Meetings of the Board shall be held as often as a Director or the Board deems necessary.

18.2 The meetings of the Board shall be presided over by its chairman or his deputy. The chairman of the meeting shall appoint a secretary for the meeting.

18.3 The secretary of a meeting of the Board shall keep minutes of the proceedings at the meeting. The minutes shall be adopted by the Board, in the same meeting or the next. Evidencing their adoption, the minutes shall be signed by the chairman and the secretary of the meeting in which the minutes are adopted.

18.4 Meetings of the Board may be held by means of an assembly of the Directors in person at a formal meeting or by conference call, video conference or by any other means of communication, provided that all Directors participating in such meeting are able to communicate with each other simultaneously. Participation in a meeting held in any of the above ways shall constitute presence at such meeting.

18.5 In the Board, each Director may cast one vote. If there is a tie in voting, the proposal shall be deemed to have been rejected.

18.6 All resolutions of the Board shall be adopted by a simple majority of the votes cast. However, the Board may determine that certain resolutions of the Board require the consenting vote of a majority of the Non-Executive Directors. Such resolutions must be clearly specified and laid down in writing.

18.7 The Board can only adopt valid resolutions in a meeting where the majority of the Directors then in office is present or represented. However, the Board may designate resolutions of the Board which are subject to a different requirement. Such resolutions and the nature of the difference must be clearly specified and laid down in writing. A Director may be represented in a meeting by another Director authorised in writing.

18.8 Board resolutions may at all times be adopted in writing, provided the proposal concerned is submitted to all Directors then in office in respect of whom no conflict of interest within the meaning of article 18.9 exists and none of them objects to this manner of adopting resolutions, evidenced by written statements from all relevant Directors then in office.

18.9 A Director shall not take part in the discussions and decision-making by the Board if he has a direct or indirect personal interest therein that conflicts with the interests of the Company or the business connected with it. The provision of the first full sentence shall not apply if as a result no resolution can be adopted.

18.10 When determining how many votes are cast by Directors or how many Directors are present or represented, no account shall be taken of Directors that are not allowed to take part in the discussions and decision-making by the Board pursuant to the laws of the Netherlands, these articles of association or written rules as referred to in article 17.2.

19 Representation

19.1 The Company shall be represented by the Board. The CEO acting individually, as well as any two Executive Directors acting jointly, shall also be authorised to represent the Company.

19.2 The Board may appoint officers with general or limited power to represent the Company. Each officer shall be competent to represent the Company, subject to the restrictions imposed on him. The Board shall determine each officer's title.

20 Approval of Board resolutions

20.1 Resolutions of the Board entailing a significant change in the identity or character of the Company or its business are subject to the approval of the General Meeting, including in any case:

- (a) the transfer of (nearly) the entire business of the Company to a third party;
- (b) entering into or terminating long-term co-operations of the Company or a Subsidiary with an other legal entity or company or as fully liable partner in a limited partnership or general partnership, if this co-operation or termination is of major significance for the Company;
- (c) acquiring or disposing by the Company or a Subsidiary of participating interests in the capital of a company, with a value equal to at least one-third of the sum of the assets of the Company as shown on its balance sheet with explanatory notes or, if the Company prepares a consolidated balance sheet, its consolidated balance sheet with explanatory notes according to the last adopted annual accounts of the Company.

Resolutions of the Board regarding the entering into or termination by the Company or a Subsidiary of any license agreement in respect of any medicals drugs developed by the Company or a Subsidiary will however not (be deemed to) be subject to approval of the General Meeting pursuant to article 20.1(b), as the entering into or termination of such license agreement will not entail a significant change in the identity or character of the Company or its the business.

20.2 The absence of approval of the General Meeting of a resolution as referred to in article 20.1 shall not affect the authority of the Board or the Executive Directors to represent the Company.

21 Vacancy or inability to act

If a seat on the Board is vacant or one or more Directors are unable to perform their duties, the remaining Directors or Director shall be temporarily entrusted with the management of the Company, without prejudice to the right of the Board to appoint a person to temporarily replace the Director(s) concerned. If all seats on the Board are vacant or all Executive Directors or all Non-Executive Directors, as the case may be, 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 exercise of the duties and authorities of the Board.

22 Company Secretary

The Board may, but is not required to, appoint a Company Secretary and will in such case be authorised to replace the Company Secretary at any time. The Company Secretary will have the powers afforded to the Company Secretary pursuant to these articles of association or a resolution of the Board. In the absence of the Company Secretary the duties and powers of the Company Secretary will be exercised by a deputy, to be designated by the Board.

CHAPTER IX INDEMNITY

23 Indemnification of Directors and insurance

23.1 Unless otherwise provided by the laws of the Netherlands, current and former Directors are indemnified, held harmless and reimbursed by the Company for:

- (a) reasonable costs of conducting a defence against claims (including investigations of potential claims) 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 request of the Company;
- (b) any costs, financial losses, damages, compensation or financial penalties payable by them as a result of an act or failure to act as referred to under (a);
- (c) any amounts payable by them under settlements they have reasonably entered into in connection with an act or failure to act as referred to under (a);
- (d) reasonable costs of appearing in other legal proceedings or investigations in which they are involved as current or former Directors, with the exception of proceedings primarily aimed at pursuing a claim on their own behalf; and
- (e) tax damage due to reimbursements in accordance with this article 23.

23.2 An indemnified person is not entitled to the indemnification and reimbursement referred to in article 23.1 if and to the extent that:

- (a) a Dutch court or, in the event of arbitration, an arbitrator has established in a final and conclusive decision that (i) the act or failure to act of the relevant current or former Director may be characterised as wilful (*opzettelijk*), intentionally reckless (*bewust roekeloos*) or seriously culpable (*ernstig verwijtbaar*) conduct, unless the laws of the Netherlands provide otherwise or this would, in view of the circumstances of the case, be unacceptable according to standards of reasonableness and fairness; or
- (b) the costs, financial losses, damages, compensation or financial penalties payable by the indemnified person are covered by insurance and the insurer has paid out these costs, financial losses, damages, compensation or financial penalties.

If and to the extent that it has been established by a Dutch court or, in the event of arbitration, an arbitrator in a final and conclusive decision that the relevant current or former Director is not entitled to reimbursement as referred to under article 23.1, he shall immediately repay the amount reimbursed by the Company.

23.3 The Company may take out liability insurance for the benefit of the indemnified persons.

CHAPTER X

FINANCIAL YEAR AND ANNUAL ACCOUNTS; PROFITS AND DISTRIBUTIONS

24 Financial year and annual accounts

24.1 The Company's financial year shall be the calendar year.

24.2 Annually, not later than four months after the end of the financial year, the Board shall prepare annual accounts, and shall deposit the same for inspection by the Shareholders and the persons with Meeting Rights at the Company's office.

24.3 Within the same period, the Board shall also deposit the management report for inspection by the Shareholders and the persons with Meeting Rights.

24.4 The annual accounts shall be signed by the Directors. If the signature of one or more of them is missing, this shall be stated and reasons for this omission shall be given.

24.5 The annual accounts and the management report shall be prepared in the English language.

24.6 The Company shall appoint an organisation in which certified public accountants cooperate, as referred to in Section 2:393, subsection 1, of the Dutch Civil Code, to

audit the annual accounts. Such appointment shall be made by the General Meeting, at a proposal by the Board. If the General Meeting does not proceed thereto, then the Board shall make the appointment. The appointment may be revoked by the General Meeting as well as by the Board, if the Board made the appointment. 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 Executive Directors shall not take part in the discussions and decision-making by the Board in relation to the appointment of an organisation in which certified public accountants cooperate, as referred to in Section 2:393, subsection 1, of the Dutch Civil Code, to audit the annual accounts, if the General Meeting has not proceeded thereto.

24.7 The Company shall ensure that the annual accounts, the management 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 management report shall be discussed and in which the adoption of the annual accounts shall be resolved upon. Shareholders and persons with Meeting Rights may inspect the documents at that place and obtain a copy free of charge.

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

25 Adoption of the annual accounts and release from liability

25.1 The General Meeting shall adopt the annual accounts.

25.2 At the General Meeting at which it is resolved to adopt the annual accounts, a proposal concerning release of the Directors from liability for the exercise of their duties, 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.

26 Profits and distributions

26.1 The Board shall determine the amount of the profits accrued in a financial year that shall be added to the reserves of the Company.

26.2 The allocation of the remaining profits shall be determined by the General Meeting. The Board shall make a proposal for that purpose.

26.3 Distribution of profits shall be made after adoption of the annual accounts if permissible under the laws of the Netherlands given the contents of the annual accounts.

26.4 The Board may resolve to make interim distributions and/or to make distributions at the expense of any reserve of the Company.

26.5 Distributions on Shares payable in cash shall be paid in euro, unless the Board determines that payment shall be made in another currency.

26.6 The Board may decide that a distribution on Shares shall not take place as a payment in cash but in the form of Shares, or decide that the Shareholders shall have the option to receive a distribution as payment in cash and/or in the form of Shares, out of the profit and/or at the expense of reserves, provided that the Board has been designated by the General Meeting as the competent body to issue Shares and to limit or exclude the pre-emptive right. The Board shall determine the conditions applicable to the aforementioned choices.

26.7 Distributions on Shares may be made only up to an amount which does not exceed the amount of the Distributable Equity. If it concerns an interim distribution, the compliance with this requirement must be evidenced by an interim statement of assets and liabilities as referred to in Section 2:105, subsection 4, of the Dutch Civil Code. The Company shall deposit the statement of assets and liabilities at the Dutch Trade

Register of the Chamber of Commerce within eight days after the day on which the resolution to make the distribution is published.

- 26.8** The date of payment of a distribution on Shares shall be determined by the Board. A claim of a Shareholder for payment of a distribution on Shares shall be barred after five years have elapsed.
- 26.9** For all distributions in respect of Shares included in the Statutory Giro System, the Company will be discharged from all obligations towards the relevant Shareholders by placing those distributions at the disposal of, or in accordance with the applicable regulations of, Euroclear Netherlands or such other central securities depository as may be the case.
- 26.10** No distributions shall be made on Shares held by the Company in its own capital, unless these Shares have been pledged or a usufruct has been created on these Shares and the authority to collect distributions or the right to receive distributions respectively accrues to the pledgee or the usufructuary respectively. For the computation of distributions, the Shares on which no distributions shall be made pursuant to this article 26.10, shall not be taken into account.

CHAPTER XI

THE GENERAL MEETING

27 Annual General Meeting

- 27.1** The annual General Meeting shall be held within six months after the end of the financial year.
- 27.2** The agenda for this annual General Meeting shall in any case contain the following business to be discussed:
- (a) discussion of the management report;
 - (b) discussion and submission for advisory vote of the remuneration report as referred to in Section 2:135b of the Dutch Civil Code;
 - (c) discussion and adoption of the annual accounts;
 - (d) discussion of the reservation and dividend policy;
 - (e) allocation of profits; and
 - (f) release from liability of Directors.

The agenda shall furthermore contain other business presented for discussion by the Board or by Shareholders and/or persons with Meeting Rights taking into account the provisions of these articles of association and announced with due observance of the provisions of article 29.

28 Other General Meetings

- 28.1** Other General Meetings may be convened by the Board as often as the Board deems necessary.
- 28.2** Shareholders and/or persons with Meeting Rights alone or jointly representing in the aggregate at least one-tenth of the Company's issued capital 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 within two weeks following receipt of such request such that the meeting can be held within eight weeks after receipt of the request, the applicants can at their request be authorised by the preliminary relief judge of the district court to convene a meeting.
- 28.3** Within three months of it becoming apparent to the Board that the equity of the Company has decreased to an amount equal to or lower than one-half of the paid in and called up part of the capital, a General Meeting shall be held to discuss any requisite measures.

29 Notice, agenda and venue of meetings

- 29.1** Notice of General Meetings shall be given by those convening a General Meeting pursuant to article 28.

- 29.2** Notice of a General Meeting shall be given no later than on the forty-second day prior to the day of the meeting, or such other day as prescribed by the laws of the Netherlands.
- 29.3** The notice convening the meeting shall state at least:
- (a) the business to be discussed;
 - (b) the place, date and time of the meeting;
 - (c) the procedure to attend the General Meeting by written proxy; and
 - (d) the Record Date and the manner in which persons with Meeting Rights can have themselves registered as well as the manner in which they can exercise their rights;
 - (e) the procedure for participation in the General Meeting and the exercise of voting rights by electronic means of communication, if such right can be exercised pursuant to article 30.5; and
 - (f) the Company's website;
- and such other information as may be required by the laws of the Netherlands.
- 29.4** Items, for which a written request has been filed to discuss them, by one or more Shareholders and/or persons with Meeting Rights, alone or jointly representing at least three-hundredth of the Company's issued capital, shall be included in the notice or announced in the same manner, provided that the Company received the substantiated request or a proposal for a resolution no later than on the sixtieth day before the date of the meeting.
- 29.5** A General Meeting shall be convened by an announcement made public by electronic means of communication which is directly and permanently accessible until the meeting and furthermore in such manner as may be required to comply with any applicable rules of any stock exchange where Shares or depositary receipts for Shares are listed.
- 29.6** General Meetings are held in the municipality in which, according to these articles of association, the Company has its official seat or at Schiphol airport (municipality of Haarlemmermeer, the Netherlands). General Meetings may also be held elsewhere, in which case valid resolutions of the General Meeting may only be adopted if all of the Company's issued capital and all persons with Meeting Rights are present or represented.
- 30 Admittance to and rights at meetings**
- 30.1** Each Shareholder and each person with Meeting Rights shall be entitled to attend the General Meetings, to address the meeting and, if the voting rights accrue to him, to exercise the voting rights, provided that the Board has been notified in writing of the intention to attend the meeting. Such notice must be received by the Board not later than on the date specified in the notice of the meeting.
- 30.2** The right to participate in the meeting in accordance with the provisions of article 30.1 may be exercised by a proxy authorised in writing, provided that the power of attorney has been received by the Board not later than on the date specified in the notice of the meeting. The requirement that the proxy must be in writing is complied with if the proxy is recorded electronically, in such manner and form as to be determined by the Board. The power of attorney may be provided to the Board by electronic means of communication.
- 30.3** If the voting right attributable to a Share accrues to the usufructuary or the pledgee of Shares, instead of to the Shareholder, the Shareholder shall likewise be authorised to attend the General Meeting and to address such meeting, provided that the Board has been notified of the intention to attend the meeting in accordance with the provisions of article 30.1. The provisions of article 30.2 shall apply correspondingly.

- 30.4** For the purpose of articles 30.1, 30.2, 30.3 and 30.5 those persons will be regarded as the persons to whom the voting rights on Shares or the Meeting Rights accrue who, on the Record Date, have those rights and have been registered as such in a register designated for that purpose by the Board, regardless of who are entitled to the Shares at the time of that General Meeting.
- 30.5** The Board may determine that the rights in respect of attending meetings referred to in article 30.1 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 with Meeting Rights, or his proxy authorised in writing, must, through the electronic means of communication, be identifiable, be able to directly observe the proceedings at the meeting and, if the voting rights accrue to him, be able to exercise the voting rights. The Board may also determine that the electronic means of communication used must allow each person with Meeting Rights or his proxy authorised in writing to participate in the discussions. The Board may attach further conditions to the use of the electronic means of communication, provided such conditions are reasonable and necessary for the identification of persons with Meeting Rights and the reliability and safety of the communication. Such conditions shall be announced with the notice of the meeting.
- 30.6** At a meeting, each person present with voting rights, 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 30.5 or who have cast their votes in the manner as referred to in article 34.3 shall be added to the attendance list.
- 30.7** The Directors shall have the right to cast an advisory vote in the General Meetings.
- 30.8** The chairman of the meeting shall decide on the admittance of other persons to the meeting.
- 31 Chairman and secretary of the meeting**
- 31.1** The General Meetings shall be presided over by the chairman of the Board or his deputy. In their absence, the Non-Executive Directors present at the meeting shall appoint a chairman of the meeting from among their midst. The Board may appoint a different chairman of a General Meeting.
- 31.2** If the chairmanship of a meeting is not provided in accordance with article 31.1, the chairman of the meeting shall be appointed by the persons with voting rights present or represented at the meeting, by a simple majority of the votes cast. Until such appointment is made, a Director shall act as chairman, or, if no Director is present at the meeting, the eldest person present at the meeting shall act as chairman.
- 31.3** The chairman of the meeting shall appoint a secretary for the meeting.
- 32 Order of the meeting; minutes; recording of Shareholders' resolutions**
- 32.1** The chairman of the meeting shall determine the order of proceedings at a General Meeting with due observance of the agenda and he may restrict the speaking time or take other measures to ensure orderly progress of the meeting.
- 32.2** All issues concerning proceedings at the meeting shall be decided by the chairman of the meeting.
- 32.3** General Meetings shall be conducted in the English language, unless the chairman of the meeting resolves otherwise.
- 32.4** The secretary of the meeting shall keep minutes of the proceedings at the General Meeting. The minutes shall be adopted by the chairman and the secretary of the meeting and as evidence thereof shall be signed by them.
- 32.5** The chairman of the meeting may determine that a notarial record must be prepared of the proceedings at the General Meeting. The notarial record shall be co-signed by the chairman of the meeting.

32.6 A certificate signed by the chairman of the meeting and the secretary of the meeting confirming that the General Meeting has adopted a particular resolution shall constitute evidence of such resolution vis-à-vis third parties.

33 Adoption of resolutions in a meeting

33.1 Each Share confers the right to cast one vote.

33.2 In the General Meeting, no voting rights may be exercised for Shares held by the Company or a Subsidiary, nor for Shares for which the Company or a Subsidiary holds the depositary receipts. However, pledgees or usufructuaries of Shares owned by the Company or a Subsidiary are not excluded from exercising voting rights if the right of pledge or the usufruct was created before the Share was owned by the Company or such Subsidiary. The Company or a Subsidiary may not exercise voting rights for a Share in which it holds a right of pledge or a usufruct.

33.3 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 cast, without a quorum being required.

33.4 If there is a tie in voting, the proposal shall be deemed to have been rejected, without prejudice to the provisions of article 34.5.

33.5 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 of the Company's issued capital and all persons with Meeting Rights are present or represented and such resolutions are carried by unanimous vote.

33.6 When determining how many votes are cast by Shareholders, how many Shareholders are present or represented, or what portion of the Company's issued capital is represented, no account shall be taken of Shares for which no vote can be cast pursuant to the laws of the Netherlands or these articles of association.

34 Voting

34.1 All voting shall take place orally. The chairman is, however, entitled to decide that votes be cast by a secret ballot. Votes by secret ballot shall be cast by means of secret, unsigned ballot papers.

34.2 Any vote on a person at a General Meeting can only be made if the name of that person was placed on the agenda for that meeting at the time the notice for that meeting is given.

34.3 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. These votes cannot be cast prior to the Record Date.

34.4 Blank and invalid votes shall not be counted as votes.

34.5 If a majority of the votes cast is not obtained in an election of persons, a second free vote shall be taken. If a majority is not obtained again, further votes shall be taken until either one person obtains a majority of the votes cast or the election is between two persons only, both of whom receive an equal number of votes. In the event of such further elections (not including the second free vote), each election shall be between the candidates in the preceding election, with the exclusion of the person who received the smallest number of votes in such preceding election. If in the preceding election more than one person has received the smallest number of votes, it shall be decided which candidate should not participate in the new election by randomly choosing a name. If votes are equal in an election between two persons, it shall be decided who is elected by randomly choosing a name.

34.6 Resolutions may be adopted by acclamation if none of the persons with voting rights present or represented at the meeting objects.

- 34.7** 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 persons with voting rights present or represented at the meeting or, where the original vote was not taken by roll call or in writing, any person with voting rights 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.

CHAPTER XII

AMENDMENT OF THE ARTICLES OF ASSOCIATION; CHANGE OF CORPORATE FORM; STATUTORY MERGER AND STATUTORY DEMERGER; DISSOLUTION AND LIQUIDATION

35 Amendment of the articles of association

The General Meeting may resolve to amend these articles of association at the proposal of the Board. When a proposal to amend these articles of association is to be made to the General Meeting, the notice convening the General Meeting must state so and a copy of the proposal, including the verbatim text thereof, shall be deposited and kept available at the Company's office for inspection by the Shareholders and the persons with Meeting Rights, until the conclusion of the meeting. From the day of deposit until the day of the meeting, a Shareholder or a person with Meeting Rights shall, on application, be provided with a copy of the proposal free of charge. An amendment of these articles of association shall be laid down in a notarial deed.

36 Change of corporate form

The Company may change its corporate form into a different legal form at the proposal of the Board. A change of the corporate form shall require a resolution to change the corporate form adopted by the General Meeting, and a resolution to amend these articles of association. A change of the corporate form shall furthermore be subject to the relevant provisions of Book 2 of the Dutch Civil Code. A change of the corporate form shall not terminate the existence of the legal entity.

37 Statutory merger and statutory demerger

37.1 The Company may enter into a statutory merger with one or more other legal entities. A resolution to effect a merger may only be adopted on the basis of a merger proposal prepared by the management boards of the merging legal entities. Within the Company, the resolution to effect a merger shall be adopted by the General Meeting. However, in the cases referred to in Section 2:331 of the Dutch Civil Code, the resolution to effect a merger may be adopted by the Board.

37.2 The Company may be a party to a statutory demerger. The term "demerger" shall include both split-up and spin-off. A resolution to effect a demerger may only be adopted on the basis of a demerger proposal prepared by the management boards of the parties to the demerger. Within the Company, the resolution to effect a demerger shall be adopted by the General Meeting. However, in the cases referred to in Section 2:334ff of the Dutch Civil Code, the resolution to effect a demerger may be adopted by the Board.

37.3 Statutory mergers and statutory demergers shall furthermore be subject to the relevant provisions of Book 2, Title 7, of the Dutch Civil Code.

38 Dissolution and liquidation

38.1 The Company may be dissolved pursuant to a resolution to that effect by the General Meeting at the proposal of the Board. When a proposal to dissolve the Company is to be made to the General Meeting, this must be stated in the notice convening the General Meeting.

- 38.2** If the Company is dissolved pursuant to a resolution of the General Meeting, the Directors shall become liquidators of the dissolved Company's assets, unless the General Meeting resolves to appoint one or more other persons as liquidator.
- 38.3** During liquidation, the provisions of these articles of association shall remain in force to the extent possible.
- 38.4** The balance remaining after payment of the debts of the dissolved Company shall be transferred to the Shareholders in proportion to the aggregate nominal value of the Shares held by each.
- 38.5** After the end of the liquidation, the books, records and other data carriers of the dissolved Company shall remain in the custody of the person designated for that purpose by the General Meeting, and in the absence thereof the person designated for that purpose by the liquidators, for a period as prescribed by the laws of the Netherlands.
- 38.6** In addition, the liquidation shall be subject to the relevant provisions of Book 2, Title 1, of the Dutch Civil Code.

CHAPTER XIII

39 Transitory provision

- 39.1** In deviation from the provisions of articles 6 and 7, the Board is hereby designated as the body of the Company authorised to (i) issue Shares and grant rights to subscribe for Shares (including but not limited to any options, warrants, or convertible loans or bonds entitling the holder thereof to subscribe for Shares), in accordance with the provisions of article 6, and (ii) to limit or exclude pre-emptive rights upon issuance of Shares, in accordance with the provisions of article 7, and furthermore with due observance of the following:
- (a) the designation will be valid for a period of five years and will end on *[insert date five years after date amendment articles of association]*;
 - (b) the designation may be extended by the General Meeting, each time for a period not exceeding five years; and
 - (c) the designation applies to one hundred percent of the Shares of the Company's authorised capital as this reads or will read from time to time.
- 39.2** This Chapter XIII will expire on *[insert date five years after date amendment articles of association]*.