

ARTICLES OF ASSOCIATION

N.V. Nuon Energy

Unofficial translation continues text Articles

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CHAPTER 1.

Article 1. Definitions and Construction.

1.1 In these Articles of Association, the following terms shall have the following meanings:

Share means a share in the capital of the Company. Unless the contrary is apparent, this shall include both class A Shares and class B Shares.

Shareholder means a holder of one or more Shares. Unless the contrary is apparent, this shall include each holder of class A Shares as well as each holder of class B Shares.

Dependent Company means:

- (a) a legal entity to which the Company or one or more Dependent Companies, solely or jointly and for its or their own account, contribute at least one half of the issued capital;
- (b) a partnership having a business which is registered in the Commercial Register and for which the Company or a Dependent Company is fully liable as a partner towards third parties for all debts.

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

Completion Date means the first day of July two thousand and nine.

Supervisory Director means a member of the Supervisory Board. Unless the contrary is apparent, this shall include each Supervisory Director A as well as each Supervisory Director B.

Managing Director means a member of the Management Board.

Management Board means the management board of the Company.

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

Lock-up Period has the meaning ascribed to such term in Article 13.1.

Works Council means, without prejudice to Article 16.6, the works council of the Company's business or of the business of a Dependent

Company. If there is more than one works council, the powers of the works council under these Articles of Association shall be exercised by such works councils severally; however where it concerns a recommendation as referred to in Article 22.4, the powers of the works councils shall be exercised by the works councils jointly. If a central works council has been instituted for the business or businesses involved, the powers of the works council under these Articles of Association shall accrue to such central works council.

Supervisory Board means the supervisory board of the Company.

Distributable Equity means the part of the Company's equity which exceeds the aggregate of the issued capital and the reserves which must be maintained pursuant to the law.

Company means the company the internal organisation of which is governed by these Articles of Association.

Vattenfall means Vattenfall AB, a public company incorporated under the laws of Sweden, having its statutory seat in Stockholm, Sweden and its principal offices at Sturegatan 10, 162 87 Stockholm, registered in the Swedish Companies Register under number 556036-2138.

Affiliate means any subsidiary or ultimate holding company of Vattenfall and any other subsidiary of that ultimate holding company, provided that neither the Company nor any of its Subsidiaries shall be regarded as being an Affiliate of Vattenfall or a holding company of Vattenfall for the purposes of these Articles of Association.

1.2 A company is a subsidiary of Vattenfall, its holding company, if Vattenfall:

- (a) holds a majority of the voting rights in it;
- (b) has the right, either alone or pursuant to an agreement with other shareholders or members, to appoint or remove a majority of its management board or its supervisory board (if any);
- (c) is a shareholder or member of it and controls alone or together with other persons, pursuant to an agreement with other shareholders or members, a majority of the voting rights in it; or
- (d) is a subsidiary of a company which is itself a subsidiary of Vattenfall.

1.3 For the purposes of these Articles of Association, a company is a wholly-owned subsidiary of Vattenfall if it has no shareholders except Vattenfall and Vattenfall's wholly-owned subsidiaries or persons acting on behalf of Vattenfall or its wholly-owned subsidiaries.

1.4 A message **in writing** means a message transmitted by letter, by telecopier, by e-mail or by any other means of electronic communication

provided the relevant message or document is legible and reproducible, and the term **written** shall be construed accordingly.

- 1.5 The Management Board, the Supervisory Board, the General Meeting as well as the meeting of holders of Shares of a particular class of Shares shall each constitute a distinct body of the Company.
- 1.6 Wherever in these Articles of Association reference is made to the meeting of holders of Shares of a particular class this shall be understood to mean the body of the Company consisting of the holders of Shares of the relevant class or (as the case may be) a meeting of holders of Shares of the relevant class (or their representatives) and other persons entitled to attend such meetings.
- 1.7 References to **Articles** refer to articles which are part of these Articles of Association, except where expressly indicated otherwise.

CHAPTER 2. NAME, OFFICIAL SEAT AND OBJECTS.

Article 2. Name and Official Seat.

- 2.1 The Company's name is:
N.V. Nuon Energy
- 2.2 The official seat of the Company is in Amsterdam.

Article 3. Objects.

- 3.1 The objects of the Company are to establish or co-establish, to cooperate with, to participate in, to conduct or to co-conduct the management of, to have supervision of and to take over and finance other enterprises, provided that it in some form pertains to what is described in Article 3.2.
- 3.2 The objects of the Company are also to purchase, to sell, to develop, to realise, to manage and to exploit energy production facilities and to buy in, to store, to trade in, to distribute and to supply renewable and other energy, to explore and to extract oil, gas and hydrocarbons, to store gas, LNG and carbon dioxide, to build and exploit heat and cold networks, as well as to do everything related or conducive to the above objects, in the broadest sense.
- 3.3 The Company is authorised to conduct all acts that could be beneficial to the attainment of its objects, including to provide guarantees, to bind the company and to encumber assets of the company in favour of enterprises or companies with which the company is affiliated in a group and in favour of third parties, to lend, to borrow and to raise money including to issue bonds, debt instruments or other negotiable papers, as well as to enter into related agreements, to acquire, to manage, to exploit and to alienate registered property and asset values in general, including to invest in asset values, to exploit and to trade in patents, trademark rights, licences, know how, copyrights, databanks and other intellectual property

rights, to furnish advice and to provide services to enterprises and companies with which the company is affiliated in a group and to third parties as well as to do everything related or conducive to the above objects, in the broadest sense.

CHAPTER 3. AUTHORISED CAPITAL; REGISTER OF SHAREHOLDERS.

Article 4. Authorised Capital.

- 4.1 The authorised capital of the Company is one billion five hundred million euro (EUR 1,500,000,000).
- 4.2 The authorised capital of the Company is divided into three hundred million (300,000,000) Shares with a nominal value of five euro (EUR 5) each as follows:
- (i) one hundred and fifty million (150,000,000) class A Shares; and
 - (ii) one hundred and fifty million (150,000,000) class B Shares.
- 4.3 All Shares shall be registered. No share certificates shall be issued.

Article 5. Register of Shareholders.

- 5.1 The Management Board shall keep a register of Shareholders in which the names and addresses of all Shareholders are recorded, showing the date on which the Shares were acquired, the date of acknowledgement by or serving upon the Company, the nominal value paid-in on each Share and the class of Shares.
- 5.2 Section 2:85 of the Dutch Civil Code applies to the register of Shareholders.

CHAPTER 4. ISSUANCE OF SHARES.

Article 6. Resolution to Issue and Notarial Deed.

- 6.1 Shares may be issued pursuant to a resolution of the General Meeting or of another body of the Company designated for that purpose by 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, from time to time, for a period not exceeding five years. Unless the designation provides otherwise, it may not be withdrawn.
- 6.2 A resolution to issue Shares shall stipulate the issue price and the other conditions of issue.
- 6.3 A resolution of the General Meeting as contemplated in Article 6.1 can only be taken at the proposal of the Management Board, subject to the approval of the Supervisory Board.
- 6.4 The provisions of Articles 6.1, 6.2 and 6.3 shall apply by analogy to the granting of rights 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.

- 6.5 The issue of a Share shall furthermore require a notarial deed, to be executed for that purpose before a civil law notary registered in the Netherlands, to which deed those involved in the issuance shall be parties.

Article 7. Rights of Pre-emption.

- 7.1 Upon issuance of Shares, each Shareholder shall have a right of pre-emption in proportion to the aggregate nominal value of his Shares, with due observance of Section 2:96a of the Dutch Civil Code. Shareholders shall also have a right of pre-emption if rights are granted to subscribe for Shares.
- 7.2 In exercising the right of pre-emption, holders of Shares of the class of which Shares are to be issued shall have preference over the holders of Shares of the other class.
- 7.3 Prior to each single issuance of Shares, the right of pre-emption may be limited or excluded by a resolution of the General Meeting. The right of pre-emption may also be limited or excluded by the body of the Company designated pursuant to Article 6.1 hereof, if, by a resolution of the General Meeting, it was designated and authorised for a fixed period, not exceeding five years, to limit or exclude such right of pre-emption. The designation may be extended, from time to time, for a period not exceeding five years. Unless the designation provides otherwise, it may not be withdrawn. If less than one-half of the Company's issued capital is represented at the meeting, a majority of at least two-thirds of the votes cast shall be required for a resolution of the General Meeting to limit or exclude such right of pre-emption or to make such designation. The resolutions to limit or exclude the right of pre-emption, as contemplated in this Article 7.3, can only be taken at the proposal of the Management Board, subject to the approval of the Supervisory Board.
- 7.4 Shareholders shall have no right of pre-emption in respect of Shares which are issued to a person exercising a right to subscribe for Shares previously granted.
- 7.5 A right of pre-emption cannot be transferred separately.

Article 8. Payment for Shares.

- 8.1 Upon subscription of each Share, the full nominal value thereof must be paid up, and, in addition, if the Share is issued at a higher amount, the difference between such amounts.
- 8.2 Payment for a Share must be made in cash insofar as no non-cash contribution has been agreed upon. Payment in foreign currency may only

be made with the approval of the Company and with due observance of the provisions of Section 2:93a of the Dutch Civil Code.

CHAPTER 5. OWN SHARES; REDUCTION OF THE ISSUED CAPITAL.

Article 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-in Shares or depositary receipts thereof, with due observance of the limitations prescribed by law.
- 9.3 The Management Board shall require an authorisation from the General Meeting in order for the Company to acquire own Shares for consideration. Such authorisation shall be valid for not more than five years. 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.
A resolution of the General Meeting as contemplated in this Article 9.3 can only be taken at the proposal of the Management Board, subject to the approval of the Supervisory Board.
- 9.4 Shares or depositary receipts thereof held by the Company may be transferred pursuant to a resolution of the Management Board which must have been approved by the General Meeting. A resolution to transfer such Shares or depositary receipts thereof shall stipulate the conditions of transfer. The transfer of Shares held by the Company shall furthermore be subject to the provisions governing the pre-emption rights on an issue of Shares as contained in Article 7. The provisions of Articles 13 Section A, B and C shall not apply to a transfer of own Shares.
- 9.5 In the General Meeting, no voting rights may be exercised for any Share held by the Company or a Subsidiary, nor for any Share for which the Company or a Subsidiary holds the depositary receipts.
- 9.6 Shares held by the Company shall not be counted when calculating distributions on Shares.

Article 10. Financial Assistance.

- 10.1 The Company may not give security, guarantee the price, or in any other way answer to or bind itself either severally or jointly for 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. Financial assistance shall furthermore be subject to the provisions of Section 2:98c of the Dutch Civil Code.
- 10.2 The prohibition of Article 10.1 shall not apply to Shares or depositary receipts thereof subscribed or acquired by or for employees of the Company or of a group company as defined in Section 2:24b of the Dutch Civil Code.

Article 11. Reduction of the Issued Capital.

- 11.1 The General Meeting may resolve to reduce the Company's issued capital. A resolution of the General Meeting as contemplated in this Article 11.1 can only be taken at the proposal of the Management Board, subject to the approval of the Supervisory Board.
- 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 cancellation of all class A Shares or all class B Shares, in both cases with repayment; or
 - (c) by reducing the nominal value of Shares, to be effected by an amendment of these Articles of Association.
- 11.3 In the event of cancellation of all class A Shares, an amount shall be paid on each class A Share, which amount shall not exceed the computation basis meant in Article 34.2, as much as possible as repayment of the paid-up part of the nominal value and furthermore as much as possible to the debit of the Distributable Equity.
- 11.4 The amount to be distributed on the cancellation of class A Shares shall be increased by a dividend still due as referred to in Article 34.2, in such case to be computed over the period up to and including the distribution becomes payable, which dividend shall be paid to the debit of the Distributable Equity.
- 11.5 A decision to cancel the class A Shares shall not require the prior or simultaneous approval of the meeting of holders of class A Shares.
- 11.6 A reduction of the nominal value of Shares without repayment must be effected in proportion to all Shares of a same class. This principle may be deviated from with the consent of all holders of Shares of the class involved.
- 11.7 The notice convening a General Meeting of Shareholders at which a resolution to reduce the Company's issued capital will be proposed, 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.
- 11.8 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 6. TRANSFER OF SHARES.

Article 12. Transfer of Shares; Notarial Deed.

- 12.1 The transfer of a Share shall require a notarial deed, to be executed for that purpose before a civil law notary registered in the Netherlands, to which deed those involved in the transfer shall be parties.

12.2 Unless the Company itself is party to the legal act, the rights attributable to the Share can only be exercised after the Company has acknowledged said transfer or said deed has been served upon it in accordance with the relevant provisions of the law.

Article 13. Share Transfer Restrictions and Conversion.

Section A. Transfer of Shares during the Lock-up Period.

13.1 Unless:

- (i) all Shareholders have granted permission for the intended transfer in writing, which permission shall then be valid for a period of three months;
- (ii) the Shareholder concerned is obliged by law to transfer his Shares to a former Shareholder;
- (iii) with respect to a transfer of class A Shares to Vattenfall or a wholly-owned subsidiary of Vattenfall;
- (iv) with respect to a transfer made in accordance with Article 13.2; or
- (v) with respect to a sale and/or transfer of any of the Shares by a Shareholder who is subject to bankruptcy,

no Shareholder shall offer, sell, contract to sell, create any interest over, grant a pledge, grant any option to purchase or otherwise dispose of, any Shares (or securities convertible into or exchangeable for Shares) or enter into a transaction (including a derivative transaction) having an economic effect similar to that of a sale or publicly announce any intention to offer, sell, contract to sell, grant any option to purchase or otherwise dispose of any Shares (or securities, loan or loan convertible into or exchangeable for Shares) for the period from the Completion Date until the sixth anniversary of the Completion Date (the **Lock-up Period**).

13.2 Article 13.1 shall not apply to a transfer of class B Shares by Vattenfall to any one or more of its Affiliates or vice versa so long as with respect to a transfer by Vattenfall to any one or more of its Affiliates (i) Vattenfall will guarantee *vis-à-vis* the Company and the other Shareholders in the notarial deed(s) of transfer of such class B Shares the obligations of those Affiliates under the agreements that Vattenfall was a party to with respect to the relevant class B Shares and (ii) Vattenfall will guarantee *vis-à-vis* the Company and the other Shareholders in the notarial(s) deed of transfer of such class B Shares that any class B Shares transferred to an Affiliate are transferred back to Vattenfall as soon as that Affiliate ceases to be an Affiliate.

Section B. Transfer of Shares after the Lock-up Period.

13.3 Upon expiration of the Lock-up Period, the provisions of Article 13 Section B below are applicable to a transfer of one or more class A Shares,

unless (i) the class A Shares will be transferred to Vattenfall or a wholly-owned subsidiary of Vattenfall, or (ii) all Shareholders have granted permission for the intended transfer in writing, which permission shall then be valid for a period of three months, or (iii) the Shareholder concerned is obliged by law to transfer his Shares to a former Shareholder. Upon expiration of the Lock-up Period, class B Shares will be freely transferable and any guarantees given pursuant to and in accordance with Article 13.2 will terminate by operation of law.

13.4 A transfer of one or more class A Shares shall require the prior approval of the Supervisory Board. The relevant Shareholder (the **Applicant**) shall make the request for approval by means of a notification to the Management Board, stating the number of class A Shares he wishes to transfer and the person or persons to whom he wishes to transfer the class A Shares. The Management Board shall be obliged to forward the request without delay to the Supervisory Board.

13.5 If:

- (a) the Supervisory Board does not adopt a resolution regarding the request for approval within eight weeks of the request having been received by the Management Board; or
- (b) the approval has been refused without the Supervisory Board having informed the Applicant, at the same time as the refusal, of one or more interested parties who are prepared to purchase all the class A Shares to which the request for approval relates, against payment in cash (the **Interested Parties**),

the approval requested shall be considered to have been granted, in the event referred to under (a), on the final day of the eight week period referred to thereunder. The Company shall only be entitled to act as an Interested Party with the consent of the Applicant.

13.6 The price for which the class A Shares to which the request for approval relates can be purchased by the Interested Parties shall be set by the Applicant and the Interested Parties in joint consultation, or by one or more experts designated by them. If an agreement on the price or on the expert or experts, as the case may be, is not reached, the price shall be set by one or more independent experts to be designated, at the request of one or more of the parties concerned, by the chairperson of the Chamber of Commerce and Factories where the Company is registered in the Commercial Register. If an expert is designated, he shall be authorised to inspect all books and records of the Company and to obtain all such information as may be useful to him in setting the price.

- 13.7 Within one month of the set price having been notified to them, the Interested Parties must give notice to the Management Board of the number of the class A Shares to which the request for approval relates they wish to purchase; an Interested Party whose notice has not been received within said term shall no longer be regarded as an Interested Party. Once the notice referred to in the preceding sentence has been given, an Interested Party can only withdraw with the consent of the other Interested Parties.
- 13.8 The Applicant may withdraw up to one month from the day on which he is informed of the Interested Party or Parties to whom he can sell all the class A Shares to which the request for approval relates and at what price.
- 13.9 If the Supervisory Board grants the approval requested or it is established that not all of the class A Shares to which the request for approval relates are purchased against payment in cash by one or more Interested Parties, the Applicant may, within a period of three months, freely transfer all the class A Shares to which the request relates, but not part thereof, to the person or persons listed in the request.
- 13.10 All notifications and notices pursuant to this Article 13 are made in writing. Each time the Management Board receives such notification or notice, it shall immediately send a copy thereof to the Applicant and all Interested Parties (with the exception of the sender).
- 13.11 The costs incurred by the designation of the experts and their activities shall be borne by:
- (a) the Applicant if he withdraws;
 - (b) the Applicant, for one half of such costs, and the purchasers, for the other half, if the class A Shares have been purchased by one or more Interested Parties, provided that these costs are borne by the purchasers in proportion to the number of class A Shares purchased;
 - (c) the Company in the events other than those referred to under (a) or (b).
- 13.12 The provisions of Article 13 Sections A and B shall apply by analogy in the event of a partition of a joint property, with assignment of class A Shares to the joint owner through whom the class A Shares did not become part of the joint property.

Section C. Approval requirement regarding specific events during and after the Lock-up Period.

- 13.13 In the event of (i) suspension of payments or bankruptcy of a Shareholder, or (ii) a change of ownership of class A Shares as a result of a statutory merger or demerger, such Shareholder, or his successors in title, shall

require the approval of the Supervisory Board to keep his class A Shares. The foregoing provisions of Article 13 Section B shall apply by analogy, to the extent that Article 13.14 does not provide otherwise.

- 13.14 The request for approval must be made within three months of the occurrence of the relevant event and the request cannot be withdrawn. If the Supervisory Board has not timely designated one or more Interested Parties or it is established that not all of the class A Shares to which the request for approval relates are purchased against payment in cash by one or more Interested Parties, the Applicant, or his successors in title, may keep the class A Shares concerned. If the request for approval is not made within the period provided above, the Company shall have irrevocable power of attorney to make such request and, if all class A Shares to which such request relates are purchased, to transfer the class A Shares to the Interested Party or Parties. In that event, the Company shall pay the purchase price to the person entitled thereto, after deduction of the expenses chargeable to him.

Section D. Conversion during and after the Lock-up Period.

- 13.15 By transferring a class A Share to Vattenfall or a wholly-owned subsidiary of Vattenfall, the relevant class A Share shall convert into a class B Share.
- 13.16 By transferring a class B Share to a holder of one or more class A Shares, the relevant class B Share shall convert into a class A Share.
- 13.17 Conversion of A Shares into B Shares as referred in Article 13.15, or conversion of B Shares into A Shares, as referred in Article 13.16, shall be effectuated by execution of the notarial deed of transfer of such Shares. The Management Board shall report the conversion to the Commercial Register.

CHAPTER 7. PLEDGING OF SHARES AND USUFRUCT IN SHARES; DEPOSITARY RECEIPTS FOR SHARES.

Article 14. Pledging of Shares and Usufruct in Shares.

- 14.1 The provisions of Article 12 shall apply by analogy to the pledging of Shares and to the creation or transfer of a usufruct in Shares.
- 14.2 Shares can only be pledged upon expiration of the Lock-up Period. If a Share is pledged upon expiration of the Lock-up Period, the voting rights attributable to such Share may not be assigned to the pledgee. If a usufruct is created in a Share or transferred, the voting rights attributable to such Share may be assigned respectively transferred to the usufructuary but only if the assignment respectively transfer of the voting rights to the usufructuary is approved by the Supervisory Board, provided that no such approval is required, and hence the voting rights can be freely assigned

respectively transferred to the usufructuary when the relevant Shares could have been freely transferred to such usufructuary.

The pledgee or the usufructuary without voting rights shall not have the depositary receipt holders' rights. Depositary receipt holders' rights means the rights conferred by law upon holders of depositary receipts issued with a company's cooperation for shares in its capital, including but not limited to the right to attend general meetings of shareholders and to take the floor in such meetings.

In deviation from the provisions elsewhere in these Articles of Association, the usufructuary to whom the voting rights accrue and the Shareholder without voting rights shall have the depositary receipt holders' rights. If and so long as there are persons with depositary receipt holders' rights, no resolutions of Shareholders can be adopted without holding a meeting, such in deviation from the provisions of Article 43, and the Management Board shall record in the register of Shareholders which rights accrue to the usufructuary, such in addition to the provisions of Article 5.

Article 15. Depositary Receipts for Shares.

The Company shall not cooperate in the issuance of depositary receipts for Shares.

CHAPTER 8. THE MANAGEMENT BOARD.

Article 16. Managing Directors; Remuneration.

- 16.1 The Management Board shall consist of at least two Managing Directors. Subject to the provisions of the first sentence, the number of Managing Directors shall be determined by the Supervisory Board.
- 16.2 Managing Directors are appointed by the Supervisory Board. The Supervisory Board shall notify the General Meeting of an intended appointment of a Managing Director. The Supervisory Board shall appoint one of the Managing Directors chairperson of the Management Board (CEO) and one of the Managing Directors chief financial officer of the Management Board (CFO).
- 16.3 A Managing Director may be removed by the Supervisory Board. The Supervisory Board shall not remove a Managing Director until the General Meeting has been consulted on the intended removal.
- 16.4 Section 2:158, subsection 10, of the Dutch Civil Code shall apply by analogy to the powers of the General Meeting in respect of an intended appointment or an intended removal of a Managing Director.
- 16.5 A Managing Director may be suspended by the Supervisory Board at any time. 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.

- 16.6 The Company has a policy on the remuneration of the Management Board. The policy shall be proposed by the Supervisory Board and adopted by the General Meeting. The policy on remuneration shall in any case include the subjects referred to in Sections 2:383c up to and including 2:383e of the Dutch Civil Code, insofar as these relate to the Management Board. The policy on the remuneration shall be presented in writing to the Works Council as referred to in Section 2:135, subsection 2, of the Dutch Civil Code for its information simultaneously with the presentation to the General Meeting of Shareholders for adoption.
- 16.7 The authority to establish remuneration and other conditions of employment for Managing Directors is vested, with due observance of the policy referred to in Article 16.6, in the Supervisory Board. With respect to arrangements in the form of Shares or rights to subscribe for Shares, the Supervisory Board shall submit a proposal to the General Meeting for approval. The proposal must as a minimum state the number of Shares or rights to subscribe for Shares that can be granted to the Management Board and the conditions for granting or changing thereof.

Article 17. Duties, Decision-making Process and Allocation of Duties.

- 17.1 The Management Board shall be entrusted with the management of the Company.
- 17.2 The Management Board shall adopt a set of rules regarding its decision-making process and working methods. In this context, the Management Board may also determine the duties which each Managing Director shall be particularly responsible for. This set of rules and allocation of duties and any amendment thereto shall require the approval of the Supervisory Board.

Article 18. Representation; Conflicts of Interest.

- 18.1 The Company shall be represented by the Management Board. Each Managing Director shall also be authorised to represent the Company.
- 18.2 The Management 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 Management Board shall determine each officer's title. The authority of an officer thus appointed may not extend to any transaction where the Company has a conflict of interest with the officer concerned or with one or more Managing Directors.
- 18.3 In the event of a conflict of interest between the Company and a Managing Director, the provisions of Article 18.1 shall continue to apply unimpaired.

A resolution of the Management Board with respect to a matter involving a conflict of interest with a Managing Director in a private capacity shall be subject to the approval of the Supervisory Board, but the absence of such approval shall not affect the authority of the Management Board or the Managing Directors to represent the Company. The preceding provisions of this Article 18.3 shall not apply if the General Meeting has appointed one or more persons to represent the Company in the event of a conflict of interest between the Company and a Managing Director.

Article 19. Approval of Management Board Resolutions.

- 19.1 Resolutions of the Management 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 breaking off long-term cooperations 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 cooperation or termination is of major significance for the Company;
 - (c) acquiring or disposing of participating interests in the capital of a company worth at least five hundred million euro (EUR 500,000,000), or if lower, at least one-third of the sum of the assets of the Company as shown on its balance sheet plus explanatory notes or, if the Company prepares a consolidated balance sheet, its consolidated balance sheet plus explanatory notes according to the last adopted annual accounts of the Company, by the Company or a Subsidiary, or radically increase or reduce any such interest.
- 19.2 Without prejudice to any other applicable provisions of the law or these Articles of Association, a Management Board resolution to report bankruptcy shall be subject to the approval of the General Meeting.
- 19.3 Without prejudice to any other applicable provisions of the law or these Articles of Association, Management Board resolutions with respect to any one or more of the following matters shall be subject to the approval of the Supervisory Board:
- (a) to issue and acquire shares in and debt instruments issued by the Company, or of debt instruments issued by any limited partnership or general partnership in which the Company is a fully liable partner;
 - (b) an application for admission to trading of the instruments referred to in Article 19.3(a) on a regulated market or a multilateral trading

facility as referred to in Section 1:1 of the *Wet op het financieel toezicht* (Financial Supervision Act) or a system comparable to a regulated market or multilateral trading facility from a state which is not a member state or an application for withdrawal of such admission;

- (c) to enter into or cancel any long-term co-operative relationship between the Company or a Dependent Company and another legal entity or company, or in its capacity as a fully liable partner in a limited partnership or general partnership, if such cooperation or cancellation has a substantial impact on the Company;
- (d) to have the Company or a Dependent Company take or dispose of any interest in the share capital of another company worth no less than fifty million euros (EUR 50,000,000), or such other amount as the Supervisory Board may (annually) adopt and communicate in writing to the Management Board, subject to a minimum of fifty million euros (EUR 50,000,000) - or if lower, at least equal to one-fourth of the issued capital with reserves of the Company according to its balance sheet with explanatory notes - , or radically increase or reduce any such interest;
- (e) to make divestments in the Benelux involving an amount of at least fifty million euro (EUR 50,000,000) or if lower, at least equal to one-fourth of the issued capital with reserves of the Company according to its balance sheet with explanatory notes, and to make investments involving an amount of at least equal to one-fourth of the issued capital with reserves of the Company according to its balance sheet with explanatory notes;
- (f) agreeing to the creation of any mortgage, charge, debenture, pledge, lien or other encumbrance or security interest over any of the assets, property, undertaking or uncalled capital of the Company which involves or might involve an amount (including related costs) in excess of fifty million euros (EUR 50,000,000);
- (g) to report bankruptcy or apply for a suspension of payments;
- (h) to propose a reduction in the issued capital;
- (i) to acquire own Shares by the Company;
- (j) to annually adopt or amend an industrial plan and any subsequent industrial plan;
- (k) to change the nature of the business of the Company as set out in the industrial plan;
- (l) the contribution of assets other than as described in the Industrial Plan;

- (m) to enter into any transaction in excess of fifty million euro (EUR 50,000,000) outside the ordinary course of business which is not at arm's length basis or on market conforming conditions;
 - (n) related party transactions with an entity within the group of Vattenfall in excess of fifty million euro (EUR 50,000,000), except in the ordinary course of the trading and sourcing business;
 - (o) to close down material operations of the Company;
 - (p) to terminate the employment contracts of a substantial number of employees of the Company or a Dependent Company at the same time or within a short period of time;
 - (q) to implement radical changes in the working conditions of a substantial number of employees of the Company or a Dependent Company;
 - (r) to submit a proposal to amend the Articles of Association;
 - (s) to submit a proposal to dissolve the Company;
 - (t) to submit a proposal for a merger or demerger as defined in Title 7, Book 2 of the Dutch Civil Code.
- 19.4 For the application of the provisions of Article 19.3, except for the provisions of Article 19.3 under (h), (i), (r), (s) and (t) (the latter only with respect to mergers or demergers involving an amount of less than fifty million euro (EUR 50,000,000)), a resolution of the Management Board approving a resolution of any body of a company in which the Company participates shall be treated as a resolution of the Management Board to enter into a transaction, if the resolution to be approved would be subject to the prior express approval provided for in Article 19.3 if it were a resolution of the Management Board.
- 19.5 The Supervisory Board may require additional Management Board resolutions to be subject to its approval. The Management Board shall be notified in writing of such resolutions, which shall be clearly specified.
- 19.6 Without prejudice to any other applicable provisions of the law or these Articles of Association, Management Board resolutions to make investments and divestments in the Benelux involving an amount of at least two hundred and fifty million euro (EUR 250,000,000) shall be subject to the approval of the meeting of holders of class B Shares.
- 19.7 A resolution of the Supervisory Board relating to one or more of the items referred to in Article 19.3 under (a) (only in case of an issuance of Shares which materially affects the total proportion of issued class A and class B Shares in terms of voting rights), (b), (d) (the latter only in case of a disposal of an interest in a company that is located in the Benelux and only when the amount involved at least equals fifty million euro (EUR

50,000,000)) and (e) (only in case of divestments made in the Benelux), (f) up to and including (t), and 19.4 (relating to one or more of the items referred to in this sentence) can only be adopted with a majority of at least two third of the votes cast, which votes in favour will have to include the votes of two Supervisory Directors A (not being a Works Council nominee). A resolution of the Supervisory Board relating to one or more of the other items referred to in Articles 19.3 and 19.4 and a resolution as referred to in Article 19.5 can be adopted with a simple majority of the votes cast.

19.8 The absence of approval by the General Meeting of a resolution as referred to in Articles 19.1 and 19.2, or of the Supervisory Board of a resolution as referred to in Articles 19.3, 19.4 and 19.5, or of the meeting of holders of class B Shares of a resolution as referred to in Article 19.6 shall not affect the authority of the Management Board or the Managing Directors to represent the Company.

Article 20. Vacancy or Inability to Act.

If a seat on the Management Board is vacant (*'ontstentenis'*) or a Managing Director is unable to perform his duties (*'belet'*), the remaining Managing Directors or Managing Director shall be temporarily entrusted with the management of the Company. If all seats on the Management Board are vacant or all Managing Directors or the sole Managing Director, as the case may be, are unable to perform their duties, the management of the Company shall be temporarily entrusted to the Supervisory Board, with the authority to temporarily entrust the management of the Company to one or more Supervisory Directors and/or one or more other persons.

CHAPTER 9. THE SUPERVISORY BOARD.

Article 21. Supervisory Directors.

21.1 The Company shall have a Supervisory Board consisting of eight Supervisory Directors. There shall be four Supervisory Directors A and four Supervisory Directors B. If the number of Supervisory Directors is less than eight, the Supervisory Board shall take measures forthwith to supplement the number of Supervisory Directors.

21.2 Only individuals may be Supervisory Directors.

21.3 The Supervisory Board shall adopt a profile on its size and composition, taking into account the character of the business, its activities and the desired expertise and background of the Supervisory Directors. The Supervisory Board shall discuss the profile in the General Meeting of Shareholders and with the Works Council, for the first time at the occasion of adoption and subsequently at each amendment thereof.

21.4 Supervisory Directors cannot be:

- (a) persons in the service of the Company;
- (b) persons in the service of a Dependent Company;
- (c) officials or persons in the service of a trade union which is usually involved in determining the terms of employment of the persons referred to under (a) and (b).

Article 22. Appointment of Supervisory Directors.

- 22.1 Notwithstanding the provision of Article 22.6, Supervisory Directors are appointed by the General Meeting on a nomination of the Supervisory Board. The Supervisory Board shall simultaneously inform the General Meeting and the Works Council of the nomination. The nomination will state the reasons on which it is based.
- 22.2 The General Meeting and the Works Council may recommend candidates to the Supervisory Board to be nominated as Supervisory Director. The Supervisory Board shall inform them in time, when and why and in accordance with what profile a vacancy has to be filled in its midst. If the special right of recommendation referred to in Article 22.4 applies, the Supervisory Board shall announce that as well.
- 22.3 A nomination or a recommendation as referred to in this Article 22 shall state the candidate's age, his profession, the number of the Shares he holds and the positions he holds or has held, in so far as these are relevant for the performance of the duties of a Supervisory Director. Furthermore, the names of the legal entities of which he is already a Supervisory Director shall be indicated; if those include legal entities which belong to a group, reference of that group will be sufficient. The recommendation and the nomination for appointment or re-appointment must be accounted for by giving reasons for it. In case of re-appointment, the performance in the past period of the candidate as a Supervisory Director shall be taken into account.
- 22.4 With regard to one third of the total number of Supervisory Directors, the Supervisory Board shall put a person recommended by the Works Council on the nomination, unless the Supervisory Board objects to the recommendation on the basis of the expectation that the recommended person shall be unqualified for the exercise of the duties of a Supervisory Director or that the Supervisory Board shall not be composed properly in case of appointment in accordance with the recommendation.
- 22.5 If the Supervisory Board objects to a recommendation as referred to in Article 22.4, it shall inform the Works Council of its objection stating its reasons. The Supervisory Board shall forthwith engage in consultation with the Works Council in order to reach agreement on the recommendation. If the Supervisory Board establishes that no agreement

can be reached, a representative of the Supervisory Board designated for that purpose shall request the Commercial Division of the Amsterdam Court of Appeal to declare the objection well-founded. The request shall not be filed before the lapse of four weeks after the consultation with the Works Council started. The Supervisory Board shall put the recommended person on the nomination if the Commercial Division of the Amsterdam Court of Appeal declares the objection unfounded. If the Commercial Division of the Amsterdam Court of Appeal declares the objection well-founded, the Works Council can make a new recommendation in accordance with the provision of Article 22.4.

- 22.6 The General Meeting can reject the nomination by an absolute majority of the votes cast, representing at least one third of the issued capital. If the General Meeting resolves by a simple majority of the votes cast to reject the nomination but this majority does not represent at least one third of the issued capital, a new meeting can be convened where the nomination can be rejected by a simple majority of the votes cast. The Supervisory Board shall then prepare a new nomination. The Articles 22.2 through 22.5 shall apply. If the General Meeting does not appoint the person nominated by the Supervisory Board and does not resolve to reject the nomination, the Supervisory Board shall appoint the person nominated.

Article 23. Decision-making Process regarding Appointment of Supervisory Directors in the General Meeting of Shareholders.

- 23.1 The making of a recommendation as referred to in Article 22.2 as well as the resolution to appoint or object, can be discussed in one and the same General Meeting of Shareholders, provided that the following provisions of this Article 23 are observed.
- 23.2 The agenda for the meeting shall at least contain the following points for discussion:
- (a) notice of the date and the reasons why the vacancy has arisen or will arise, the reason why and in accordance with which profile a vacancy is to be filled;
 - (b) opportunity for the General Meeting to make a recommendation;
 - (c) under the condition precedent that no recommendation of another person shall be made by the General Meeting: the announcement by the Supervisory Board of the name of the person it intends to nominate;
 - (d) under the condition precedent that no recommendation of another person shall be made by the General Meeting: the proposal to appoint the person nominated.

- 23.3 The name of the person whom the Supervisory Board intends to nominate and the information referred to in Article 22.3 must be provided in the notice of the General Meeting of Shareholders or in the agenda deposited at the Company's office, in which case the notice shall refer to the agenda.
- 23.4 Notice of this meeting may not be given unless it is certain:
- (a) that the Works Council has either made a recommendation as referred to in Article 22.2, or – if applicable – Article 22.4, or has given notice that it does not wish to do so, or that a reasonable period of time, to be determined by the Supervisory Board, has lapsed in which to make a recommendation; and
 - (b) if the Works Council has made a recommendation as referred to in Article 22.4 or – if applicable – Article 22.5, that the Supervisory Board has put the person recommended on the nomination.

Article 24. Retirement of Supervisory Directors.

- 24.1 A Supervisory Director shall retire not later than the day on which the first General Meeting of Shareholders is held after four years have elapsed since his appointment.
- 24.2 The Supervisory Directors shall retire periodically in accordance with a rotation plan to be drawn up by the Supervisory Board. Any alteration to the rotation plan cannot require a Supervisory Director to resign against his will before the term of his appointment has lapsed.

Article 25. All Seats on the Supervisory Board Vacant.

- 25.1 If all seats on the Supervisory Board are vacant, other than pursuant to Article 26.3, the appointment shall be made by the General Meeting.
- 25.2 The Works Council may recommend candidates for appointment to the Supervisory Board. The persons convening the General Meeting of Shareholders, shall notify the Works Council for that purpose in time that the appointment of a Supervisory Director shall form part of the business at the General Meeting of Shareholders, stating whether the appointment of a Supervisory Director shall take place in accordance with the right of recommendation of the Works Council pursuant to Article 22.4.
- 25.3 Articles 22.4 and 22.5 shall apply by analogy.

Article 26. Removal and Suspension of Supervisory Directors.

- 26.1 The Commercial Division of the Amsterdam Court of Appeal may upon a request to that effect remove a Supervisory Director for neglecting his duties, for other important reasons or for a fundamental change of circumstances on the basis of which in all reasonableness the Company cannot be required to keep him on as a Supervisory Director. A petition can be submitted by the Company, herein represented by the Supervisory

Board, as well as by a representative of the General Meeting or of the Works Council, designated for that purpose. Section 2:158, subsection 10, of the Dutch Civil Code shall apply by analogy.

- 26.2 A Supervisory Director can be suspended by the Supervisory Board; the suspension shall lapse by law, if the Company has not submitted a petition as referred to in Article 26.1 to the Commercial Division within one month after commencement of the suspension.
- 26.3 The General Meeting can resolve to abandon its trust (*'het vertrouwen opzeggen'*) in the entire Supervisory Board. Reasons for the resolution must be stated. The resolution cannot regard Supervisory Directors appointed by the Commercial Division of the Amsterdam Court of Appeal in accordance with Article 26.5.
- 26.4 A resolution as referred to in Article 26.3 shall not be passed until after the Management Board has notified the Works Council of the proposed resolution and the reasons therefore. The notification shall be made at least thirty days before the General Meeting where the proposal is discussed, is held. If the Works Council defines a position on the proposal, the Management Board shall inform the Supervisory Board and the General Meeting thereof. The Works Council can have its position explained in the General Meeting.
- 26.5 The resolution referred to in Article 26.3 shall result in the immediate resignation of the Supervisory Board. In that case the Management Board shall forthwith request the Commercial Division of the Amsterdam Court of Appeal to temporarily appoint one or more Supervisory Directors. The Commercial Division of the Amsterdam Court of Appeal shall determine the consequences of the appointment.
- 26.6 The Supervisory Board shall take action to the effect that, within the term stated by the Commercial Division of the Amsterdam Court of Appeal, a new Supervisory Board is composed in accordance with the provisions of Article 22.

Article 27. Remuneration.

The General Meeting shall establish the remuneration for each Supervisory Director.

Article 28. Duties and Powers.

- 28.1 It shall be the duty of the Supervisory Board to supervise the management of the Management Board and the general course of affairs of the Company and the business connected with it. The Supervisory Board shall assist the Management Board by giving advice. In performing their duties, the Supervisory Directors shall act in accordance with the interests of the Company and the business connected with it.

- 28.2 The Management Board shall supply the Supervisory Board in due time with the information required for the performance of its duties.
- 28.3 At least once a year, the Management Board shall inform the Supervisory Board in writing of the main aspects of the strategic policy, the general and financial risks and the Company's management and auditing systems.
- 28.4 The Supervisory Board may request assistance from experts. The costs of such assistance shall be for the account of the Company.
- 28.5 The Supervisory Board may decide that one or more Supervisory Directors and/or experts shall have access to the office and the other buildings and premises of the Company and that such persons shall be authorised to inspect the books and records of the Company.
- 28.6 The Supervisory Board shall establish rules regarding its decision-making process and working methods, in addition to the relevant provisions of these Articles of Association.
- 28.7 The Supervisory Board may, without prejudice to its responsibilities, designate an audit committee and a remuneration committee from among its members, who shall be entrusted with the tasks specified by the Supervisory Board.
- 28.8 The composition of any such committee shall be determined by the Supervisory Board.
- 28.9 The General Meeting may additionally remunerate the members of the committee(s) for their services.
- 28.10 The Supervisory Board shall draw up rules for each committee concerning the working methods and the method of decisions-making.

Article 29. Chairperson and Secretary.

- 29.1 The Supervisory Board shall appoint one of the Supervisory Directors B as chairperson of the Supervisory Board (the **Chairperson**). The Supervisory Board may also appoint a vice-chairperson from among its members (the **Vice-Chairperson**), who shall take over the duties and powers of the Chairperson in the latter's absence.
- 29.2 The Supervisory Board shall also appoint a secretary of the Supervisory Board, from among its members or not, and make arrangements for his substitution in case of absence.

Article 30. Meetings.

- 30.1 The Supervisory Board shall meet whenever a Supervisory Director or the Management Board deems necessary, notwithstanding the rules as referred to in Article 28.6.
- 30.2 A Supervisory Director may be represented at a meeting by another Supervisory Director authorised in writing.

- 30.3 The meetings of the Supervisory Board shall be presided over by its Chairperson or the Vice-Chairperson. In their absence, the chairperson of the meeting shall be appointed by a majority of the votes cast by the Supervisory Directors present at the meeting.
- 30.4 The chairperson of the meeting shall appoint a secretary for the meeting.
- 30.5 The secretary of a meeting of the Supervisory Board shall keep minutes of the proceedings at the meeting. The minutes shall be adopted by the Supervisory Board, in the same meeting or the next. Evidencing their adoption, the minutes shall be signed by the chairperson and the secretary of the meeting in which the minutes are adopted.
- 30.6 The Supervisory Board shall meet with the Management Board as often as the Supervisory Board or the Management Board deems necessary.

Article 31. Decision-making Process.

- 31.1 When making Supervisory Board resolutions, each Supervisory Director may cast one vote.
- 31.2 Unless these Articles of Association explicitly provide otherwise, resolutions of the Supervisory Board shall be adopted by a simple majority of the votes cast. If there is a tie in votes, the Chairperson of the Supervisory Board shall have a casting vote.
- 31.3 Unless these Articles of Association explicitly provide otherwise, the Supervisory Board may only pass valid resolutions if the majority of the Supervisory Directors, including at least two Supervisory Directors A then in office are present or represented. If no such quorum is present, a second meeting shall be called at which resolutions may be adopted about the issues listed on the first meeting, regardless the number of and/or class of Supervisory Directors present.

**CHAPTER 10. FINANCIAL YEAR AND ANNUAL ACCOUNTS;
PROFITS AND DISTRIBUTIONS.**

Article 32. Financial Year and Annual Accounts.

- 32.1 The Company's financial year shall be the calendar year.
- 32.2 Annually, not later than five months after the end of the financial year, save where this period is extended by the General Meeting by not more than six months by reason of special circumstances, the Management Board shall prepare annual accounts, and shall deposit the same for inspection by the Shareholders at the Company's office. The Management Board shall send the annual accounts to the Works Council as well.
- 32.3 Within the same period, the Management Board shall also deposit the annual report for inspection by the Shareholders.

- 32.4 The annual accounts shall be signed by the Managing Directors and the Supervisory Directors. If the signature of one or more of them is missing, this shall be stated and reasons for this omission shall be given.
- 32.5 Annually, the Supervisory Board shall prepare a report, which shall be enclosed with the annual accounts and the annual report. The provisions of Article 32.2 shall apply by analogy.
- 32.6 The Company shall appoint an accountant to audit the annual accounts. Such appointment shall be made by the General Meeting.
- 32.7 The Company shall ensure that the annual accounts and, insofar as required, the annual report, the report of the Supervisory Board and the information to be added by virtue of the law are kept at its office as from the day on which notice of the annual General Meeting of Shareholders is given. Shareholders may inspect the documents at that place and obtain a copy free of charge.
- 32.8 The annual accounts, the annual report, the information to be added by virtue of the law and the audit by an accountant, as well as deposition of documents at the Commercial Register, shall furthermore be subject to the provisions of Book 2, Title 9, of the Dutch Civil Code.

Article 33. Adoption of the Annual Accounts and Release from Liability.

- 33.1 The General Meeting shall adopt the annual accounts.
- 33.2 At the General Meeting of Shareholders at which it is resolved to adopt the annual accounts, a proposal concerning release of the Managing Directors from liability for the management pursued and a proposal concerning release of the Supervisory Directors from liability for the supervision, 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 separately for discussion.

Article 34. Profits and Distributions.

- 34.1 Subject to the approval of the Supervisory Board, the Management Board shall decide annually what portion of the distributable profit -the positive balance of the profit and loss account- shall be retained with due observation of a dividend policy, to be discussed with the General Meeting.
- 34.2 Any unretained profit shall be available to the General Meeting. In case the General Meeting decides to a distribution of profits, a dividend shall be distributed insofar as possible on the class A Shares, the percentage of which, to be computed on the computation basis set out below, shall be two per cent (2%).

The basis for the computation of the dividend on the class A Shares amounts to seventy-two point one zero four two six two six euro (EUR 72.1042626) per class A Share.

34.3 If, for any financial year, the distributions on the class A Shares cannot be effected or cannot be fully effected because the profit after reservation does not suffice, the deficit shall be distributed to the debit of the following financial years, without prejudice to the provisions of Article 34.6.

In that case, each time as much as possible, the overdue dividend, augmented by the dividend for the last expired financial year, shall be distributed on the class A Shares according to Article 34.2.

34.4 The remaining profit shall be put at the disposal of the General Meeting provided that no further dividend shall be distributed on the class A Shares.

34.5 Distribution of profits shall be made after adoption of the annual accounts if permissible under the law given the contents of the annual accounts.

34.6 The Management Board may, subject to the approval of the Supervisory Board, decide to distribute an interim dividend. The General Meeting may, at the proposal of the Management Board that has been approved by the Supervisory Board, decide to make distributions at the expense of any reserve of the Company. However, distributions at the expense of any reserve of the Company on class B Shares cannot be made as long as class A Shares are issued and outstanding.

34.7 Distributions may be made only up to an amount which does not exceed the amount of the Distributable Equity and, if it concerns an interim distribution, the compliance with this requirement is 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 office of the Commercial Register within eight days after the day on which the resolution to make the distribution is published.

34.8 A claim of a Shareholder for payment of a distribution shall be barred after five years have elapsed.

CHAPTER 11. THE GENERAL MEETING.

Article 35. Annual General Meeting of Shareholders.

35.1 The annual General Meeting of Shareholders shall be held within six months after the end of the financial year.

35.2 The agenda for this annual General Meeting of Shareholders shall at least contain the following matters of business to be discussed:

(a) discussion of the annual report;

- (b) discussion and adoption of the annual accounts;
- (c) release from liability of Managing Directors;
- (d) release from liability of Supervisory Directors;
- (e) allocation of profits; and
- (f) other business presented for discussion by the Management Board, the Supervisory Board or by Shareholders taking into account these Articles of Association and announced with due observance of Article 37.

Article 36. Other General Meetings of Shareholders.

- 36.1 Other General Meetings of Shareholders shall be held as often as the Management Board or the Supervisory Board deems such necessary, without prejudice to the provisions of this Article 36.
- 36.2 Shareholders representing in the aggregate at least one-tenth of the Company's issued capital may request the Management Board or the Supervisory Board to convene a General Meeting of Shareholders, stating specifically the business to be discussed. If the Management Board or the Supervisory Board has not given proper notice of a General Meeting of Shareholders within four weeks following receipt of such request such that the meeting can be held within six weeks after receipt of the request, the applicants shall be authorised to convene a meeting themselves.
- 36.3 Within three months of it becoming apparent to the Management Board that the equity of the Company has decreased to an amount equal to or lower than half of the paid-up part of the capital, a General Meeting of Shareholders shall be held to discuss any requisite measures.

Article 37. Notice, Agenda and Venue of Meetings.

- 37.1 Notice of General Meetings of Shareholders shall be given by the Management Board or the Supervisory Board, without prejudice to the provisions of Article 36.2.
- 37.2 Notice of the meeting shall be given no later than on the fifteenth day prior to the day of the meeting.
- 37.3 The notice of the meeting shall specify the business to be discussed. Other business not specified in such notice may be announced at a later date, with due observance of the term referred to in Article 37.2.
- 37.4 Items, for which a written request has been filed to discuss them, by one or more holders of Shares, alone or jointly representing at least one hundredth of the issued capital, shall be included in the notice or announced in the same manner, provided that the Company received the request no later than on the sixtieth day before the date of the meeting.
- 37.5 The notice of the meeting shall be sent to the addresses of the Shareholders shown in the register of Shareholders. However if a

Shareholder has provided the Company with another address for the purpose of receiving such notice, the notice may alternatively be sent to such other address.

- 37.6 General Meetings of Shareholders are held in the municipality in which, according to these Articles of Association, the Company has its official seat. General Meetings of Shareholders 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 is represented.

Article 38. Admittance and Rights at Meetings.

- 38.1 Each Shareholder shall be entitled to attend the General Meetings of Shareholders, to address the meeting and, to the extent he is entitled to do so, to exercise his voting rights. Shareholders may be represented in a meeting by a proxy authorised in writing.
- 38.2 Shareholders may attend and address the meeting, and exercise their voting rights therein, using any appropriate means of electronic communication, if that possibility is expressly provided in the notice of the meeting or accepted by the chairman of the meeting. The means of electronic communication used must be such that the Shareholder can be identified through it to the satisfaction of the chairman of the meeting. The notice of the meeting may contain further details and the chairman of the meeting may give further requirements with respect to the permitted means of electronic communication and its use.
- 38.3 At a meeting, each person present with voting rights must sign the attendance list. The chairperson of the meeting may decide that the attendance list must also be signed by other persons present at the meeting.
- 38.4 The Managing Directors and the Supervisory Directors shall, as such, have the right to give advice in the General Meetings of Shareholders.
- 38.5 The chairperson of the meeting shall decide on the admittance of other persons to the meeting.

Article 39. Chairperson and Secretary of the Meeting.

- 39.1 The General Meetings of Shareholders shall be presided over by the Chairperson of the Supervisory Board or, in his absence, by the Vice-Chairperson of the Supervisory Board. The Supervisory Board may appoint a different chairperson for a General Meeting of Shareholders.
- 39.2 If the chairmanship of a meeting is not provided in accordance with Article 39.1, the chairperson of the meeting shall be appointed by a majority of the votes cast by the persons with voting rights present at the meeting. Until such appointment is made, a Managing Director shall act as chairperson, or, if no Managing Director is present at the meeting, the eldest person at the meeting shall act as chairperson.

39.3 The chairperson of the meeting shall appoint a secretary for the meeting.

Article 40. Minutes; Recording of Shareholders' Resolutions.

40.1 The secretary of a General Meeting of Shareholders shall keep minutes of the proceedings at the meeting. The minutes shall be adopted by the chairperson and the secretary of the meeting and as evidence thereof shall be signed by them.

40.2 The chairperson of the meeting or those who convened the meeting may determine that a notarial report must be prepared of the proceedings at the meeting. The notarial report shall be co signed by the chairperson of the meeting.

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

Article 41. Adoption of Resolutions in a Meeting.

41.1 Each Share confers the right to cast one vote.

41.2 To the extent that the law 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, and which simple majority has to include all votes cast on class B Shares. However, the resolutions of the General Meeting as referred to in Articles 6 (unless such issuance does not materially affect the total proportion of issued class A and class B Shares in terms of voting rights), 7, 9, 11, 19.1, 19.2, 45, 46 and 47 can only be adopted with a majority of eighty percent (80%) of the votes cast. The resolution of the General Meeting to abandon its trust in the entire Supervisory Board as referred to in Article 26.3 can only be adopted with a majority of eighty percent (80%) of the votes cast, representing at least one third of the issued capital.

41.3 If there is a tie in voting, the proposal shall be deemed to have been rejected, without prejudice to the provisions of Article 42.3.

41.4 If the formalities for convening and holding of General Meetings of Shareholders, as prescribed by law 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 is represented and such resolution is carried by unanimous vote.

- 41.5 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 law or these Articles of Association.

Article 42. Voting.

- 42.1 All voting shall take place orally. The chairperson is, however, entitled to decide that votes be cast by a secret ballot. If it concerns the holding of a vote on persons, anyone present at the meeting with voting rights may demand a vote by a secret ballot. Votes by secret ballot shall be cast by means of secret, unsigned ballot papers.
- 42.2 Blank and invalid votes shall not be counted as votes.
- 42.3 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.
- 42.4 Resolutions may be adopted by acclamation if none of the persons with voting rights present at the meeting objects.
- 42.5 The chairperson'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 at the meeting or, where the original vote was not taken by roll call or in writing, any person with voting rights present at the meeting, so demands. The legal consequences of the original vote shall be made null and void by the new vote.

Article 43. Adoption of Resolutions without holding Meetings.

- 43.1 Shareholders may adopt resolutions of the General Meeting in writing without holding a meeting, provided they are adopted by the unanimous vote of all Shareholders entitled to vote. The provisions of Article 38.4 shall apply by analogy.

43.2 Each Shareholder must ensure that the Management Board is informed of the resolutions thus adopted as soon as possible in writing. The Management Board shall keep record of the resolutions adopted and it shall add such records to those referred to in Article 40.3.

Article 44. Meetings of Holders of Shares of a Class.

44.1 Meetings of holders of Shares of a class are held as often as the Management Board or the Supervisory Board deems such necessary. Holders of Shares of a class representing in the aggregate at least one tenth of the capital issued in the form of Shares of the relevant class may request the Management Board to convene a meeting of holders of Shares of such class. This right does not accrue to other Shareholders.

44.2 The provisions in these Articles of Association with respect General Meetings of Shareholders – including but not limited to the provisions with respect to resolutions of the General Meeting of Shareholders – shall apply by analogy to meetings of holders of Shares of a class, insofar as no different regulation is contained in Article 44.1. The provisions of Article 43 shall apply by analogy also.

CHAPTER 12. AMENDMENT OF THE ARTICLES OF ASSOCIATION; CHANGE OF CORPORATE FORM; STATUTORY MERGER AND STATUTORY DEMERGER; DISSOLUTION AND LIQUIDATION.

Article 45. Amendment of the Articles of Association; Change of Corporate Form.

45.1 The General Meeting may resolve to amend these Articles of Association without prejudice to the provisions of Section 2:158 subsection 12 of the Dutch Civil Code. A resolution of the General Meeting as contemplated in Article 45.1 can only be taken at the proposal of the Management Board, subject to the approval of the Supervisory Board.

45.2 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, until the conclusion of the meeting. From the day of deposit until the day of the meeting, a Shareholder 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.

45.3 The Company may change its corporate form into a different legal form. 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.

Article 46. Statutory Merger and Statutory Demerger.

- 46.1 The Company may enter into a statutory merger with one or more other legal entities. A merger resolution may only be adopted on the basis of a merger proposal prepared by the management boards of the merging legal entities. A merger proposal shall be subject to approval of the Supervisory Board. Within the Company, the merger resolution shall be adopted by the General Meeting.
- 46.2 The Company may be a party in a statutory demerger. The term demerger shall include both split-up and spin-off. A demerger resolution may only be adopted on the basis of a demerger proposal to be prepared by the management boards of the parties to the demerger. A demerger proposal shall be subject to approval of the Supervisory Board. Within the Company, the demerger resolution shall be adopted by the General Meeting.
- 46.3 Resolutions to a statutory merger or demerger shall require a resolution of the General Meeting, regardless of whether the Company is the acquiring party.
- 46.4 Statutory mergers and statutory demergers shall furthermore be subject to the relevant provisions of Book 2, Title 7, of the Dutch Civil Code.

Article 47. Dissolution and Liquidation.

- 47.1 The Company may be dissolved pursuant to a resolution to that effect by the General Meeting. A resolution of the General Meeting as contemplated in Article 47.1 can only be taken at the proposal of the Management Board, subject to the approval of the Supervisory Board.
- 47.2 When a proposal by the Management Board to dissolve the Company is to be made to the General Meeting, this must be stated in the notice convening the General Meeting. A proposal to dissolve the Company shall be subject to approval of the Supervisory Board.
- 47.3 If the Company is dissolved pursuant to a resolution of the General Meeting, the Managing Directors shall become liquidators of the dissolved Company's property, unless the General Meeting resolves to appoint one or more other persons as liquidator.
- 47.4 During liquidation, the provisions of these Articles of Association shall remain in force to the extent possible.
- 47.5 From whatever remains after payment of debts, the following payments shall be made to the holders of class A Shares:

- (a) any dividend still due as meant in Article 34.2, in that case to be calculated over the period up to the date the liquidation distribution becomes payable; and
- (b) an amount per class A Share, equal to the computation basis meant in Article 34.2.

If the balance is not sufficient for that purpose, the payments shall be made in proportion to the nominal amount of those class A Shares.

- 47.6 The remainder shall be paid to the holders of class B Shares in proportion to the joint nominal amount of the class B Shares of such holders.
- 47.7 In addition, the liquidation shall be subject to the relevant provisions of Book 2, Title 1, of the Dutch Civil Code.

Article 48. Transitory Provision I.

- 48.1 The text of paragraphs 19.7, 21.1, 26.3 and 41.2 of the Articles of Association shall no longer apply if and when sixty-seven percent (67%) or more of the total issued and outstanding share capital of the Company consists of B Shares, and shall be replaced by the following text:

19.7 A resolution of the Supervisory Board relating to one or more of the items referred to in Article 19.3 under (a) (only in case of an issuance of Shares which materially affects the total proportion of issued class A and class B Shares in terms of voting rights), (b), (d) (the latter only in case of a disposal of an interest in a company that is located in the Benelux and only when the amount involved at least equals fifty million euro (EUR 50,000,000)) and (e) (only in case of divestments made in the Benelux), (f), (g), (h) and (k) up to and including (t) , and 19.4 (relating to one or more of the items referred to in this sentence) can only be adopted with a majority of at least two third of the votes cast, which votes in favour will have to include the votes of two Supervisory Directors A.

A resolution of the Supervisory Board relating to one or more of the other items referred to in Articles 19.3 and 19.4 and a resolution as referred to in Article 19.5 can be adopted with a simple majority of the votes cast.

- 21.1 The Company shall have a Supervisory Board consisting of eight Supervisory Directors. There shall be three Supervisory Directors A and five Supervisory Directors B. If the number of Supervisory Directors is less than eight, the Supervisory Board shall take measures forthwith to supplement the number of Supervisory Directors.
- 26.3 The General Meeting can, by an absolute majority of the votes cast, representing at least one third of the issued capital, resolve to

abandon its trust (*'het vertrouwen opzeggen'*) in the entire Supervisory Board. Reasons for the resolution must be stated. The resolution cannot regard Supervisory Directors appointed by the Commercial Division of the Amsterdam Court of Appeal in accordance with Article 26.5.

41.2 To the extent that the law 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. However, the resolutions of the General Meeting as referred to in Articles 6 (unless such issuance does not materially affect the total proportion of issued class A and class B Shares in terms of voting rights), 7, 9, 11, 19.2, 45, 46 and 47 can only be adopted with a majority of eighty percent (80%) of the votes cast.

48.2 As soon as sixty-seven percent (67%) or more of the total issued and outstanding share capital of the Company consists of B Shares, the Management Board of the Company shall file a notice thereto at the Commercial Register. In this notification the Management Board shall also state that this Article 48 is applicable.

Article 49. Transitory Provision II.

49.1 The term “Supervisory Director” and its meaning in Article 1.1 of the Articles of Association shall no longer apply if and when eighty percent (80%) or more of the total issued and outstanding share capital of the Company consists of B Shares, and shall be replaced by the following text: **Supervisory Director** means a member of the Supervisory Board.

49.2 Furthermore the text of paragraphs 19.7, 21.1, 29.1, 31.3 and 41.2 of the Articles of Association shall no longer apply if and when eighty percent (80%) or more of the total issued and outstanding share capital of the Company consists of B Shares, and shall be replaced by the following text:

19.7 A resolution of the Supervisory Board relating to one or more of the items referred to in Articles 19.3 and 19.4 and a resolution as referred to in Article 19.5 can be adopted with a simple majority of the votes cast.

21.1 The Company shall have a Supervisory Board consisting of eight Supervisory Directors. If the number of Supervisory Directors is less than eight, the Supervisory Board shall take measures forthwith to supplement the number of Supervisory Directors.

29.1 The Supervisory Board shall appoint one of the Supervisory Directors as chairperson of the Supervisory Board (the **Chairperson**). The Supervisory Board may also appoint a deputy

chairperson from among its members (the **Vice-Chairperson**), who shall take over the duties and powers of the Chairperson in the latter's absence.

- 31.3 Unless these Articles of Association explicitly provide otherwise, the Supervisory Board may only pass valid resolutions if the majority of the Supervisory Directors then in office are present or represented. If no such quorum is present, a second meeting shall be called at which resolutions may be adopted about the issues listed on the first meeting, regardless the number of Supervisory Directors present.
- 41.2 To the extent that the law 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. However, the resolution of the General Meeting as referred to in Article 7, as well as a resolution of the General Meeting to amend this Article 41.2 to the extent it relates to the requirements for adopting a resolution of the General Meeting as referred to in Article 7, can only be adopted with a majority of ninety-five percent (95%) of the votes cast.
- 49.3 As soon as eighty percent (80%) or more of the total issued and outstanding share capital of the Company consists of B Shares, the Management Board of the Company shall file a notice thereto at the Commercial Register. In this notification the Management Board shall also state that Article 48 is no longer applicable and that this Article 49 is applicable.