

ALFEN N.V.

BY-LAWS SUPERVISORY BOARD

Adopted by the Supervisory Board on 22 March 2018

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INTRODUCTION

- 0.1 These By-Laws are established pursuant to article 22.6 of the Articles of Association and best practice provision 2.3.1 of the Dutch Corporate Governance Code, subject to any deviations provided for in the comply-or-explain statement of the Company.
- 0.2 These By-Laws are complementary to the provisions regarding the Supervisory Board and the Supervisory Board members as contained in applicable legislation and regulations, the Articles of Association and the rules pertaining to the relationship between Management Board and Supervisory Board as contained in the By-Laws of the Management Board (which have been approved by the Supervisory Board).
- 0.3 These By-Laws are posted on the Company's website.¹
- 0.4 The meaning of certain capitalised or uncapitalised terms used in these By-Laws is set forth in the List of Definitions attached as **Annex 1**.

CHAPTER I COMPOSITION OF THE SUPERVISORY BOARD; POSITIONS

1. SUPERVISORY BOARD PROFILE, SIZE, EXPERTISE AND INDEPENDENCE; DIVERSITY POLICY

- 1.1 The Supervisory Board shall prepare a profile of its size and composition, taking account of the nature of the Company and its affiliated enterprise (the **Supervisory Board Profile**). The Supervisory Board Profile shall address:²
 - (a) the desired expertise and background of the Supervisory Board members;
 - (b) the desired diverse composition of the Supervisory Board as expressed in the diversity policy;
 - (c) the size of the Supervisory Board; and
 - (d) the independence of the Supervisory Board members.

The current Supervisory Board Profile is attached as **Annex 2**.

- 1.2 The Supervisory Board shall draw up a diversity policy with regard to the composition of the Supervisory Board that addresses the concrete targets relating to diversity and the diversity aspects relevant to the Company, such as nationality, age, gender and background of education and professional experience.³
- 1.3 The number of Supervisory Board members is determined by the Supervisory Board after consultation with the CEO, and has a minimum of three members, and a maximum of 5.
- 1.4 The Supervisory Board shall endeavour to ensure, within the limits of its powers, that it is at all times composed so that:

¹ Dutch Corporate Governance Code, best practice provision 2.3.1.

² Dutch Corporate Governance Code, best practice provision 2.1.1.

³ Dutch Corporate Governance Code, best practice provision 2.1.5.

- (a) each Supervisory Board member has the specific expertise required to perform his duties within the framework of his role within the Supervisory Board Profile;⁴
- (b) each Supervisory Board member is capable of assessing the broad outline of the overall policy;⁵
- (c) the Supervisory Board as a whole matches the Supervisory Board Profile and that the composition of the Supervisory Board is such that the requisite expertise, background, competencies and independence are present, enabling the Supervisory Board to carry out its duties properly;⁶
- (d) at least one Supervisory Board member shall have competence in accounting and auditing;⁷
- (e) its members are able to act critically and independently of one another, the Management Board and any particular interests involved; in order to safeguard this the Supervisory Board is composed so that:⁸
 - (i) any one of the criteria referred to in Clause 1.5(a) to (e) inclusive are applicable to at most one Supervisory Board member; and
 - (ii) for each shareholder, or group of affiliated shareholders who directly or indirectly hold more than 10% of the shares in the Company, there is at most one Supervisory Board member who can be considered to be affiliated with or representing them as stipulated in Clause 1.5(f) and 1.5(g);⁹ and
- (f) all Supervisory Board members observe the restrictions regarding the nature and number of their other positions as set forth in Clause 21.

1.5 A Supervisory Board member is not independent if the following criteria of dependence apply to him. These criteria are that the Supervisory Board member concerned, his spouse, registered partner or other life companion, foster child or relative by blood or marriage up to the second degree:¹⁰

- (a) has been an employee or member of the Management Board of the Company or an affiliated company in the five years prior to their appointment as Supervisory Board member;
- (b) receives personal financial compensation from the Company, or an affiliated company, other than the compensation received for the work performed as a Supervisory Board member and in so far as this is not keeping with the ordinary business operations;
- (c) has had an important business relationship with the Company or an affiliated company in the year prior to the appointment;
- (d) is a member of the management board of a company in which a member of the Management Board is a supervisory board member;
- (e) has temporarily managed the Company during the previous twelve months due to vacant seats on the Management Board, or because Management Board members were unable to perform their duties;

⁴ Dutch Corporate Governance Code, best practice provision 2.1.4.

⁵ Dutch Corporate Governance Code, best practice provision 2.1.4.

⁶ Dutch Corporate Governance Code, Principle 2.1.

⁷ Audit Committee Decree 2016, section 2(3).

⁸ Dutch Corporate Governance Code, best practice provision 2.1.7.

⁹ The Company deviates from best practice provision 2.1.7 under (ii), being the total number of Supervisory Board members to whom the criteria referred to in Clause 1.5 are applicable shall account for less than half of the total number of Supervisory Board members.

¹⁰ Dutch Corporate Governance Code, best practice provision 2.1.8.

- (f) has a shareholding in the Company of at least 10%, taking into account the shareholding of natural persons or legal entities cooperating with him on the basis of an express or tacit, verbal or written agreement; or
- (g) is a member of the management board or supervisory board, or a representative in some other way, of a legal entity which holds at least ten per cent of the shares in the Company's capital, unless such entity is a member of the same group as the Company.

2. (RE)APPOINTMENT; TERM OF OFFICE; RESIGNATION

- 2.1 The members of the Supervisory Board are appointed by the General Meeting of Shareholders.
- 2.2 The Supervisory Board nominates one or more candidates for appointment, taking into account the diversity policy adopted by the Supervisory Board with regard to its composition.¹¹ Any nomination or recommendation by the Supervisory Board for appointment or reappointment of a Supervisory Board member must be in accordance with Clause 1, including the Supervisory Board Profile. On reappointment, account must be taken of the candidate's past performance as a Supervisory Board member.¹²
- 2.3 A nomination to the General Meeting of Shareholders to appoint a Supervisory Board member shall state the candidate's age, his profession, the amount and number of shares he holds in the Company's capital and the positions he holds or has held, insofar as these are relevant for the performance of the duties of a Supervisory Board member. Furthermore, the legal entities of whose supervisory boards he is also a member of must be listed; if those include legal entities which belong to the same group, reference to that group is sufficient. The recommendation or nomination for appointment or reappointment shall state the reasons on which it is based.¹³
- 2.4 A Supervisory Board member shall be appointed for a period of four years and may then be reappointed once for a period of four years. A Supervisory Board member may then subsequently be reappointed again for a period of two years, which appointment may be extended by at most two years. For a reappointment after an eight-year period, reasons must be provided in the Report of the Supervisory Board.¹⁴
- 2.5 A Supervisory Board member nominated for appointment shall attend the General Meeting of Shareholders at which votes will be cast on his appointment.¹⁵
- 2.6 Supervisory Board members shall retire periodically in accordance with a rotation plan to be drawn up by the Supervisory Board in order to avoid, as far as possible, a situation in which many Supervisory Board members retire at the same time.¹⁶ The current rotation plan is attached as **Annex 3**. The Supervisory Board may at any time amend the rotation plan. Amendments to the rotation plan, however, do not permit a sitting member of the Supervisory Board to remain in office for a longer period than appointed for, or do not allow that he be asked to retire before his term has expired.¹⁷
- 2.7 The Supervisory Board shall ensure that the Company has a sound plan in place for the succession of Supervisory Board members that is aimed at retaining the balance in the requisite expertise,

¹¹ Dutch Corporate Governance Code, best practice provision 2.1.5.

¹² Section 2:142 Dutch Civil Code.

¹³ Section 2:142 Dutch Civil Code.

¹⁴ Dutch Corporate Governance Code, best practice provision 2.2.2.

¹⁵ Dutch Corporate Governance Code, best practice provision 4.1.8.

¹⁶ Dutch Corporate Governance Code, best practice provision 2.2.4.

¹⁷ Dutch Corporate Governance Code, best practice provision.2.2.4.

experience, diversity and independence. Due regard must be given to the Supervisory Board Profile in drawing up that plan.¹⁸

- 2.8 A Supervisory Board member shall retire early in the event of inadequate functioning, structural incompatibility of interests, and in any other instances where deemed necessary by the Supervisory Board.¹⁹
- 2.9 A Supervisory Board member who is temporarily charged with the management of the Company when seats on the Management Board are vacant or Management Board members are unable to fulfil their duties, shall resign from the Supervisory Board.²⁰

3. CHAIRMAN AND VICE-CHAIRMAN

- 3.1 The Supervisory Board shall elect a Chairman and a Vice-Chairman from among its members. The Chairman shall not be a former member of the Management Board and shall be independent within the meaning of Clause 1.5.²¹
- 3.2 The Vice-Chairman replaces, and assumes the powers and duties of, the Chairman in the latter's absence. The Vice-Chairman acts as a contact for the individual members of the Supervisory Board and the Management Board on the performance of the Chairman.²²
- 3.3 The Chairman shall act as the spokesman of the Supervisory Board and is the main contact for the CEO, the Management Board as a whole and for the shareholders.²³ The CEO and the Chairman shall meet on a regular basis.²⁴ As a general rule, the Chairman presides over General Meetings of Shareholders.
- 3.4 Without prejudice to the generality of Clause 3.3, the Chairman in any case sees to it that:²⁵
- (a) Supervisory Board members, when appointed, follow the introduction programme and, as needed, additional education or training programmes;²⁶
 - (b) the Supervisory Board members receive all information necessary for the proper performance of their duties in a timely manner;
 - (c) there is sufficient time for deliberation and decision-making by the Supervisory Board;
 - (d) the Supervisory Board functions properly;
 - (e) the functioning of individual Management Board members and individual Supervisory Board members is assessed at least annually;
 - (f) the Supervisory Board elects a Vice-Chairman;
 - (g) the Supervisory Board has proper contact with the Management Board and the (Central) Works Council;
 - (h) the Management Board performs activities in respect of culture;

¹⁸ Dutch Corporate Governance Code, best practice provision 2.2.4 also in connection with best practice provision 2.1.1.

¹⁹ Dutch Corporate Governance Code, best practice provision 2.2.3.

²⁰ Dutch Corporate Governance Code, best practice provision 2.3.9.

²¹ Dutch Corporate Governance Code, best practice provision 2.1.9.

²² Dutch Corporate Governance Code, best practice provisions 2.3.7 and 2.4.3.

²³ Dutch Corporate Governance Code, best practice provision 2.4.3.

²⁴ Dutch Corporate Governance Code, best practice provision 2.3.6.

²⁵ Dutch Corporate Governance Code, best practice provision 2.3.6.

²⁶ Dutch Corporate Governance Code, best practice provision 2.4.5.

- (i) the Supervisory Board recognises signs from the enterprise affiliated with the Company and ensures that any (suspicion of) material misconduct and irregularities are reported to the Supervisory Board without delay;
- (j) the General Meeting of Shareholders proceeds in an orderly and efficient manner;
- (k) effective communication with shareholders is assured; and
- (l) the Supervisory Board is involved closely, and at an early stage, in any merger or takeover processes.

3.5 In addition, the Chairman is primarily responsible for:

- (a) ensuring the proper discharge by the Supervisory Board of its duties;
- (b) determining the agenda of Supervisory Board meetings and chairing such meetings;
- (c) consulting with external advisors appointed by the Supervisory Board;
- (d) addressing problems related to the performance of individual Supervisory Board members; and
- (e) addressing internal disputes and conflicts of interests concerning individual members of the Supervisory Board and the Management Board and the possible resignation of such members as a result.

4. COMMITTEES

- 4.1 The Supervisory Board may, and will do so when it consists of more than four members, appoint standing and/or ad hoc Committees from among its members, which are charged with tasks specified by the Supervisory Board. The composition of any Committee is determined by the Supervisory Board.²⁷
- 4.2 The Supervisory Board remains collectively responsible for decisions prepared by Committees from among its members.²⁸ The Supervisory Board may delegate powers to a Committee. A Committee may only exercise such powers as are explicitly delegated to it and may never exercise powers beyond those exercisable by the Supervisory Board as a whole. The Supervisory Board may, partial or in full, revoke any power delegated to a Committee.
- 4.3 Each Committee must inform the Supervisory Board in a clear and timely way of the manner in which it has used delegated authority and of any major development in the area of its responsibilities. All Supervisory Board members have unrestricted access to all Committee meetings and records. The Supervisory Board shall, within the term specified in the terms of reference of the Committee concerned, receive a report from each Committee of its deliberations and findings.²⁹
- 4.4 When establishing a Committee, the Supervisory Board shall also establish terms of reference for each Committee and may amend these at any time. The terms of reference shall indicate the role and responsibility of the Committee concerned, its composition and the manner in which it performs its duties.³⁰

²⁷ Dutch Corporate Governance Code, Principle 2.3 and best practice provision 2.3.2.

²⁸ Dutch Corporate Governance Code, best practice provision 2.3.2.

²⁹ Dutch Corporate Governance Code, best practice provision 2.3.5.

³⁰ Dutch Corporate Governance Code, best practice provision 2.3.3.

- 4.5 The Supervisory Board as a rule has no "delegated Supervisory Board member" (*gedelegeerd commissaris*). Under special circumstances, however, the Supervisory Board may resolve to appoint a "delegated Supervisory Board member", in which case best practice provision 2.3.8 of the Dutch Corporate Governance Code shall apply in full.

CHAPTER II DUTIES AND POWERS

5. GENERAL DUTIES AND POWERS; RELATIONSHIP WITH THE MANAGEMENT BOARD

- 5.1 The Supervisory Board supervises the manner in which the Management Board implements the long-term value creation strategy. The Supervisory Board regularly discusses the strategy, the implementation of the strategy and the principal risks associated with it.³¹
- 5.2 The Supervisory Board is charged with the supervision of the Management Board, the general course of affairs of the Company and the affiliated enterprise. The Supervisory Board assists the Management Board with advice. The responsibility for the proper performance of its duties is vested collectively in the Supervisory Board.³²
- 5.3 In performing its duties the Supervisory Board shall act in accordance with the interests of the Company and the affiliated enterprise, taking into consideration the interests of the stakeholders.³³
- 5.4 The Supervisory Board members shall externally express concurring views with respect to important affairs, matters of principle and matters of general interest, without jeopardising the responsibilities of individual Supervisory Board members.
- 5.5 If the Management Board works with an Executive Committee, the Supervisory Board ensures that the Management Board's expertise and responsibilities are safeguarded and that the Supervisory Board is informed adequately. In this respect the Supervisory Board pays specific attention to the dynamics and the relationship between the Management Board and the Executive Committee.³⁴
- 5.6 Notwithstanding the provisions of Clause 6.3 of these By-Laws and clause 9.4 of the By-Laws of the Management Board, the Supervisory Board and its individual members each have responsibility for obtaining all information from the Management Board, the internal audit function, if applicable, the External Auditor and if established the (central) Works Council needed to enable them to carry out their duties properly as a supervisory body. If deemed necessary by the Supervisory Board, it may obtain information from officers and external advisers of the Company. The Company shall provide the necessary means for this purpose. The Supervisory Board may require that certain officers and external advisers attend its meetings.³⁵
- 5.7 Each member of the Supervisory Board has access to the books, records and offices of the Company in so far as required or as is useful for the proper performance of his duties. The Supervisory Board member shall exercise this right in consultation with the Chairman, save where any applicable terms of reference of a Committee dictate otherwise.
- 5.8 The Supervisory Board promotes a culture of openness and accountability within the Supervisory Board.³⁶

³¹ Dutch Corporate Governance Code, best practice provision 1.1.3.

³² Section 2:140 (2) DCC.

³³ Section 2:140 (2) DCC and Dutch Corporate Governance Code, Principle 1.1.

³⁴ Dutch Corporate Governance Code, best practice provision 2.1.3.

³⁵ Dutch Corporate Governance Code, best practice provision 2.4.8 and 2.4.9.

³⁶ Dutch Corporate Governance Code, best practice provision 2.4.1.

6. DUTIES REGARDING THE ACTIVITIES OF THE MANAGEMENT BOARD

6.1 The supervision of the Management Board by the Supervisory Board shall include *inter alia*:

- (a) the long-term value creation of the Company and its affiliated enterprise and weighing of the interests of stakeholders involved;³⁷
- (b) activities of the Management Board regarding the creation of a culture aimed at long-term value creation of the Company and its affiliated enterprise;³⁸
- (c) the internal audit function, if applicable;³⁹
- (d) the effectiveness of the internal risk management and control systems;⁴⁰
- (e) the integrity and quality of the financial reporting;⁴¹
- (f) the information- and communication technology (ICT) systems of the Company and the managing of the risks associated with cyber security;⁴²
- (g) the safeguarding of the Management Board's expertise and responsibilities and process of providing information to the Supervisory Board;⁴³
- (h) the establishment and maintenance of internal procedures which ensure that all relevant information is known to the Management Board and the Supervisory Board in a timely fashion;⁴⁴
- (i) the risks associated with the remuneration structure for employees of the Company and its affiliated enterprise,⁴⁵ including the members of the Executive Committee who are not Management Board members; and
- (j) the relation with the shareholders of the Company,⁴⁶ and the compliance with laws and regulations.

6.2 The resolutions of the Management Board listed in **Annex 4 Part A and Part B** are subject to the approval of the Supervisory Board.

6.3 The Management Board shall provide the Supervisory Board with the following information in a timely manner:

- (a) a report with detailed information on, among other things, mergers and acquisitions, material investments, major organisational issues, regulatory developments and other relevant issues;
- (b) each quarter, a report with detailed information on the financial situation and development of the Company and its Subsidiaries; and
- (c) such information as the Supervisory Board deems necessary from time to time,

³⁷ Dutch Corporate Governance Code, Principle 1.1. and best practice provision 1.1.2.

³⁸ Dutch Corporate Governance Code, Principle 2.5.

³⁹ Dutch Corporate Governance Code, Principle 1.3.

⁴⁰ Dutch Corporate Governance Code, Principle 1.5.

⁴¹ Dutch Corporate Governance Code, Principle 1.5.

⁴² See clause 5.1(g) of the Management Board By-Laws.

⁴³ Dutch Corporate Governance Code, best practice provision 2.1.3.

⁴⁴ Dutch Corporate Governance Code, best practice provision 2.4.6.

⁴⁵ Dutch Corporate Governance Code, explanatory notes re Principle 1.2.

⁴⁶ Dutch Corporate Governance Code, best practice provision 4.1.1.

which will be drafted in the format agreed upon from time to time between the Management Board and the Supervisory Board.

7. DUTIES REGARDING THE (PERFORMANCE OF) MANAGEMENT BOARD MEMBERS AND SUPERVISORY BOARD MEMBERS

7.1 The duties of the Supervisory Board regarding the members of the Management Board specifically include:

- (a) the selection and nomination of members of the Management Board,⁴⁷ the submission of proposals for the remuneration policy for members of the Management Board to the General Meeting of Shareholders, the determination of the remuneration (in accordance with the adopted remuneration policy) and the contractual employment conditions of Management Board members;⁴⁸
- (b) determination of the number of Management Board members, the designation of the CEO⁴⁹, the approval (or proposal, where useful) of changes to the division of tasks within the Management Board or the By-Laws of the Management Board;⁵⁰
- (c) the assessment of the functioning of the Management Board and its individual members; the approval of additional positions of the Management Board to the extent required under the By-Laws of the Management Board;⁵¹ and
- (d) to address conflict of interest issues between the Company and members of the Management Board.⁵²

7.2 The duties of the Supervisory Board in relation to the members of the Supervisory Board specifically include:

- (a) the selection and nomination of members of the Supervisory Board and proposals to the General Meeting of Shareholders for the remuneration of members of the Supervisory Board;
- (b) the determination of the number of Supervisory Board members, the appointment of a Chairman and Vice-Chairman, the establishment of Committees and defining their role, the evaluation of the functioning of the Supervisory Board, its Committees, if established, and the individual members of the Supervisory Board (including an evaluation of the Supervisory Board Profile and the introduction, education and training programme); the approval of other positions of Supervisory Board members to the extent required under Clause 21; and
- (c) to address conflict of interest issues between the Company and members of the Supervisory Board (see also Clause 3.5(e)).⁵³

7.3 At least once a year the Supervisory Board shall, without the Management Board being present, evaluate its own functioning, the functioning of its Committees, if applicable, and that of the individual Supervisory Board members, and discuss the conclusions that must be drawn on the basis thereof. Attention shall be paid to:

⁴⁷ See also clause 1.1 of the Management Board By-Laws

⁴⁸ See also clause 12 of these By-Laws and clause 17 of the Management Board By-Laws.

⁴⁹ See the options in clause 2.1 of the Management Board By-Laws.

⁵⁰ See also clause 1 of the Management Board By-Laws.

⁵¹ See also clause 17 of the Management Board By-Laws.

⁵² See also clause 14 of the Management Board By-Laws; Dutch Corporate Governance Code, best practice provision 2.6.1.

⁵³ See also Clause 19 of these By-Laws.

- (a) substantive aspects (*inhoudelijke aspecten*), the process, the mutual interaction and the interaction with the Management Board;
- (b) events that occurred in practice from which lessons may be learned; and
- (c) the desired profile, the composition, competencies and expertise of the Supervisory Board.⁵⁴

7.4 At least once a year the Supervisory Board shall, without the Management Board being present, evaluate the functioning of the Management Board as a whole and the functioning of its individual members, and discuss the conclusions that must be drawn on the basis thereof, such also in light of the succession of Management Board members.⁵⁵

8. CERTAIN OTHER DUTIES OF THE SUPERVISORY BOARD

8.1 The other duties of the Supervisory Board include:

- (a) duties regarding the External Auditor as described in Clause 10;
- (b) the handling of complaints about actual (or suspected) misconduct regarding the functioning of members of the Management Board;⁵⁶
- (c) monitoring the operation of the procedure for reporting actual or suspected misconduct or irregularities, appropriate and independent investigations into signs of misconduct or irregularities, and, if misconduct or irregularity has been discovered, an adequate follow-up of any recommendations for remedial actions; in cases where the Management Board itself is involved, the Supervisory Board may initiate its own investigation into any signs of misconduct and irregularities, and coordinate this investigation;⁵⁷
- (d) the taking of measures for the temporary management of the Company if a member of the Management Board is absent or prevented from performing his duties;
- (e) other duties the Supervisory Board is charged with under legislation, the Articles of Association, these By-Laws, the terms of reference of a Committee, if applicable, or the By-Laws of the Management Board.

8.2 The Supervisory Board shall draw up a report to be included in the Report of the Management Board of the Company describing its activities in the financial year concerned and containing the specific statements and information listed in **Annex 5**.⁵⁸

8.3 The Supervisory Board and the Management Board are jointly responsible for the corporate governance structure of the Company, compliance with the Dutch Corporate Governance Code and any other applicable legislation and regulations.⁵⁹

9. SUPERVISION OF FINANCIAL REPORTING

9.1 The Supervisory Board supervises compliance with internal procedures established by the Management Board for the preparation and publication of the Report of the Management Board, the Annual Accounts, the interim figures and ad hoc financial information.⁶⁰

⁵⁴ Dutch Corporate Governance Code, best practice provision 2.2.6.

⁵⁵ Dutch Corporate Governance Code, best practice provision 2.2.7.

⁵⁶ See also clause 4.6 Management Board By-Laws; Dutch Corporate Governance Code, best practice provision 2.6.2.

⁵⁷ Dutch Corporate Governance Code, best practice provision 2.6.4.

⁵⁸ Dutch Corporate Governance Code, best practice provision 2.3.11.

⁵⁹ See Dutch Corporate Governance Code, part 'Compliance with the Code'.

⁶⁰ Dutch Corporate Governance Code 2009, best practice provision V.1.1.

- 9.2 The Supervisory Board shall discuss the Annual Accounts, and the interim figures. The Annual Accounts, the Report of the Management Board and the report of the Supervisory Board for the year just ended shall be discussed in a meeting of the Supervisory Board within four months of this year end. The interim figures of the Company for the respective period just ended shall be discussed in a meeting of the Supervisory Board within two months of the end of this period.⁶¹
- 9.3 The Supervisory Board shall at least discuss and deliberate on and report on the following topics:
- (a) the methods used to assess the effectiveness of the design and operation of the internal risk management and control systems;
 - (b) the methods used to assess the effectiveness of the internal and external audit processes;
 - (c) if there is no internal audit function, the Supervisory Board will assess annually whether adequate alternative measures have been taken and will consider whether it is necessary to establish an internal audit department. The Supervisory Board should include the conclusions, along with any resulting recommendations and alternative measures, in the report of the Supervisory Board;
 - (d) material considerations concerning the financial reporting; and
 - (e) the way material risks and uncertainties referred to in the Report of the Management Board have been analysed and discussed, along with a description of the most important findings of the Supervisory Board.⁶²
- 9.4 The External Auditor shall in any event attend the part of the meeting of the Supervisory Board at which the report of the External Auditor with respect to the audit of the Annual Accounts is discussed.⁶³ The Supervisory Board shall be permitted to examine the most important points of discussion arising between the External Auditor and the Management Board based on the draft management letter or the draft audit report.⁶⁴
- 9.5 The External Auditor shall inform the Supervisory Board without delay if, during the performance of his duties, he discovers or suspects misconduct or irregularities within the Company and its affiliated enterprise. If the actual (or suspected) misconduct or irregularity pertains to the functioning of a Management Board member, the External Auditor can report this directly to the Chairman.⁶⁵
- 9.6 The Supervisory Board sees to it that the recommendations made by the External Auditor are considered carefully by the Management Board and the Supervisory Board and, to the extent accepted, that they are actually carried out by the Management Board.⁶⁶
- 9.7 **Annex 6** contains further details on the information that should be included in the report of the External Auditor.

10. DUTIES REGARDING NOMINATION AND ASSESSMENT OF THE EXTERNAL AUDITOR

- 10.1 The External Auditor shall be appointed by the General Meeting of Shareholders.⁶⁷ The Supervisory Board nominates a candidate for this appointment to the General Meeting of Shareholders and may

⁶¹ See Section 5:25d Wft.

⁶² Dutch Corporate Governance Code, best practice provision 1.5.3 and 1.5.4.

⁶³ Dutch Corporate Governance Code, best practice provision 1.7.6.

⁶⁴ Dutch Corporate Governance Code, best practice provision 1.7.5.

⁶⁵ Dutch Corporate Governance Code, best practice provision 2.6.3.

⁶⁶ Dutch Corporate Governance Code, best practice provision 1.5.1(i).

⁶⁷ The External Auditor (the audit organisation) may be appointed for a term of maximum 10 years, see Section 17 EU-Regulation 537/2014 (change of responsible partner after 5 years, Section 24 Act on the Supervision of Audit Organisations)

recommend replacement of the External Auditor. The Supervisory Board shall prepare the selection of the External Auditor and will give due consideration to the Management Board observations and shall take this into account when deciding its nomination to the General Meeting of Shareholders for the appointment of an External Auditor. The main conclusions of the Supervisory Board regarding the External Auditor's nomination and the outcomes of the External Auditor selection process shall be communicated to the General Meeting of Shareholders. The Supervisory Board sees to it that the intended appointment will be notified to the AFM by the Company in accordance with the relevant provisions of law.⁶⁸

- 10.2 Annually, the Supervisory Board shall prepare a report on the functioning of, and the developments in, the relationship with the External Auditor. The Supervisory Board gives the External Auditor a general idea of the content of the reports relating to his functioning.⁶⁹ The Supervisory Board shall appoint or reappoint or dismiss the External Auditor.
- 10.3 The Supervisory Board resolves on the External Auditor's engagement to audit the Annual Accounts.⁷⁰ By way of implementation of the decision of the General Meeting of Shareholders, or as the case may be of the Supervisory Board or Management Board⁷¹, to appoint the External Auditor, the Supervisory Board will on behalf of the Company enter into an agreement to that effect with the External Auditor.
- 10.4 When appointed, the External Auditor is requested to state explicitly to the Company:
- (a) to comply and continue to comply with the requirements regarding independency as included in the Act on the Supervision of Audit Organisations and other applicable laws and regulations; and
 - (b) that he has been informed of all matters provided for in the Management Board By-Laws and these By-Laws, that he agrees with and will co-operate fully with their implementation.

11. REMUNERATION OF MANAGEMENT BOARD MEMBERS

- 11.1 The Supervisory Board shall be responsible for formulating the remuneration policy of the Management Board, and its implementation.⁷² The remuneration policy, including severance payment, shall be clear and understandable, shall focus on long-term value creation for the Company and its affiliated enterprise and take into account the internal pay ratios within the enterprise. The remuneration policy shall not encourage Management Board members to act in their own interest, nor to take risks that are not in line with the strategy formulated and the risk appetite that has been established.⁷³
- 11.2 The Supervisory Board shall determine the remuneration of the individual Management Board members, within the scope of the remuneration policy adopted by the General Meeting of Shareholders.⁷⁴
- 11.3 The Supervisory Board shall annually prepare a Remuneration Report, in which the Supervisory Board renders account of the implementation of the remuneration policy in a transparent manner.⁷⁵ This report shall in any event describe the matters mentioned in **Annex 8**.⁷⁶

⁶⁸ See Annex 6 of the Management Board By-Laws.

⁶⁹ Dutch Corporate Governance Code, best practice provision 1.6.2.

⁷⁰ Dutch Corporate Governance Code, best practice provision 1.6.4.

⁷¹ See Section 2:393(2) DCC.

⁷² Dutch Corporate Governance Code, best practice provision 3.1.1.

⁷³ Dutch Corporate Governance Code, Principle 3.1.

⁷⁴ Dutch Corporate Governance Code, Principle 3.2 and best practice provision 3.2.1; Section 2:135 Dutch Civil Code.

⁷⁵ Dutch Corporate Governance Code, Principle 3.4.

⁷⁶ Dutch Corporate Governance Code, best practice provision 3.4.1.

- 11.4 The Supervisory Board shall have the power to adjust upwards or downwards the value of a variable remuneration component conditionally awarded in a particular financial year if payment thereof is unacceptable according to standards of reasonableness and fairness.⁷⁷
- 11.5 The Supervisory Board shall have the power to claim back from a Management Board member the variable remuneration component in part or in whole, in so far as payments were made on the basis of inaccurate information about the realisation of targets, or circumstances that such remuneration was made conditional to, that underlie the variable remuneration (*claw back clause*).⁷⁸
- 11.6 The main features of the contract of a Management Board member with the Company shall, after its conclusion, be published on the Company's website at the latest at the date of the notice convening the General Meeting of Shareholders at which the appointment of the member of the Management Board concerned shall be proposed.⁷⁹

12. RELATION WITH THE SHAREHOLDERS

- 12.1 The Supervisory Board shall treat shareholders who are in similar circumstances the same when providing information.⁸⁰
- 12.2 The Management Board and the Supervisory Board shall ensure that the General Meeting of Shareholders is adequately provided with information.⁸¹ The Management Board and the Supervisory Board shall endeavour to procure that the General Meeting of Shareholders is provided with all requested information in time, unless this would be contrary to an overriding interest of the Company. If the Management Board or the Supervisory Board invoke an overriding interest, they must give reasons.⁸²
- 12.3 A proposal for approval or authorisation by the General Meeting of Shareholders shall be explained in writing. The Management Board and the Supervisory Board shall in this explanation state all the facts and circumstances that are relevant for the approval or authorisation to be granted. The explanation to the agenda shall be posted on the Company's website.⁸³
- 12.4 The Management Board and the Supervisory Board ensure that each substantial change in the corporate governance structure of the Company and in the compliance with the Dutch Corporate Governance Code will be dealt with as separate agenda items.⁸⁴
- 12.5 The Management Board and the Supervisory Board ensure compliance with all applicable legislation and regulations with respects to the rights of the General Meeting of Shareholders and the related rights of individual shareholders.
- 12.6 When a takeover bid for shares in the Company is being prepared, in the event of a private bid for a business unit or a participating interest, where the value of the bid exceeds the threshold referred to in Section 2:107a(1)(c) of the Dutch Civil Code, and/or in the event of other substantial changes in the structure of the organisation, the Management Board shall ensure that the Supervisory Board is involved in the takeover process and/or the change in structure closely and in a timely fashion.⁸⁵

⁷⁷ Section 2:135(6) Dutch Civil Code.

⁷⁸ Section 2:135(8) Dutch Civil Code.

⁷⁹ Dutch Corporate Governance Code, best practice provision 3.4.2.

⁸⁰ See also consideration 24 in the preamble of 17 Market Abuse Directive.

⁸¹ Dutch Corporate Governance Code, Principle 4.2.

⁸² Dutch Corporate Governance Code, best practice provision 4.2.1.

⁸³ Dutch Corporate Governance Code, best practice provision 4.1.4.

⁸⁴ Dutch Corporate Governance Code, best practice provision 4.1.3(vii).

⁸⁵ Dutch Corporate Governance Code, best practice provision 2.8.1.

- 12.7 If a takeover bid has been announced or made for shares in the Company and the Management Board receives a request from a third competing bidder for information regarding the Company, the Management Board shall discuss such request without delay with the Supervisory Board.⁸⁶
- 12.8 The members of the Supervisory Board shall be present at the General Meetings of Shareholders, unless they are unable to attend for important reasons. Under certain circumstances, a member of the Supervisory Board may attend the General Meeting of Shareholders through means of electronic communication.
- 12.9 The Supervisory Board sees to it that the responsible partner (certifying auditor) of the firm of the External Auditor is present at the General Meeting of Shareholders and that he can address the meeting. The External Auditor may be questioned by the General Meeting of Shareholders in relation to his report on the fairness of the Annual Accounts.⁸⁷
- 12.10 The General Meetings of Shareholders are presided over by the Chairman or, in his absence, the Vice-Chairman. The Supervisory Board may designate someone else to preside over the meeting.
- 12.11 The Supervisory Board shall endeavour that minutes on the proceedings of the General Meeting of Shareholders are made available to the shareholders of the Company by publication on the Company's website no later than three months after the end of the meeting, following which the shareholders have another three months in which to respond to the report. The report is then adopted in the manner provided for in the Articles of Association,⁸⁸ by the chairman and the secretary of the meeting. The provisions of this Clause 12.11 may be disregarded if a notarial deed is drawn up of the minutes of the proceedings. After adoption the report (or the minutes as laid down in a notarial deed of proceedings) is posted as soon as possible on the Company's website. Also, results of the voting in resolutions adopted by the General Meeting of Shareholders are posted on the Company's website as soon as possible after the meeting, where they are accessible for at least one year.⁸⁹
- 12.12 A resolution of the General Meeting of Shareholders may be disclosed externally through a statement from the Chairman or the Company Secretary, if appointed.

13. RELATION WITH THE WORKS COUNCIL

- 13.1 The Supervisory Board shall maintain the relationship with the (central) Works Council as provided for in Works Council Act (*Wet op de ondernemingsraden*)⁹⁰ and in other arrangements covenanted with the Works Council.
- 13.2 The conduct and culture in the Company and its affiliated enterprise shall be discussed in the consultations between the Management Board, the Supervisory Board and the (central) Works Council.⁹¹

CHAPTER III SUPERVISORY BOARD MEETINGS; DECISION-MAKING

14. FREQUENCY, NOTICE, AGENDA AND VENUE OF MEETINGS

- 14.1 The Supervisory Board shall meet as often as deemed necessary for the proper functioning of the Supervisory Board. The Supervisory Board shall meet at least four times a year. Meetings shall be

⁸⁶ Dutch Corporate Governance Code, best practice provision 2.8.2.

⁸⁷ Dutch Corporate Governance Code, best practice provision 4.1.9.

⁸⁸ Dutch Corporate Governance Code, best practice provision 4.1.10.

⁸⁹ See Section 5:25m paragraph 3 and 4 Wft.

⁹⁰ See Sections 24 paragraph 2; 25 paragraph 4; 27 paragraph 2 and 30 paragraph 3 of the Works Council Act.

⁹¹ Dutch Corporate Governance Code, best practice provision 2.5.3

scheduled annually as much as possible in advance. The Supervisory Board shall also meet earlier than scheduled if this is deemed necessary by the Chairman, two other members of the Supervisory Board, or the Management Board.

- 14.2 Meetings of the Supervisory Board are in principle called by the Company Secretary, if appointed, in consultation with the Chairman. If no Company Secretary is appointed the meetings shall be called by the Chairman. Save in urgent cases to be determined by the Chairman the agenda for a meeting shall be sent to all Supervisory Board members at least seven calendar days before the meeting. For each item on the agenda an explanation in writing shall be provided, where possible, and/or other related documentation will be attached. The Chairman shall in principle consult on the content of the agenda with the CEO prior to convening the meeting.
- 14.3 Each Supervisory Board member, the CEO, and the Management Board collectively, has the right to request that an item be placed on the agenda for a Supervisory Board meeting.
- 14.4 Supervisory Board meetings are generally held at the offices of the Company, but may also take place elsewhere. In addition, meetings of the Supervisory Board may be held by conference call, video conference or by any other means of communication, provided all participants can communicate with each other simultaneously.

15. ATTENDANCE OF AND ADMITTANCE TO MEETINGS

- 15.1 The CEO and CFO shall be requested to attend as many of the Supervisory Board meetings as possible, to the extent the Supervisory Board does not indicate that it wishes to meet in the absence of the CEO and CFO. If requested, other Management Board members also attend meetings of the Supervisory Board.
- 15.2 A Supervisory Board member may be represented at Supervisory Board meetings by another Supervisory Board member holding a proxy in writing. The existence of such authorisation must be proved satisfactorily to the chairman of the meeting.
- 15.3 If a Supervisory Board member is frequently absent from Supervisory Board meetings he shall be held to account on this by the Chairman.⁹²
- 15.4 The admittance to the meeting of persons other than Supervisory Board members, the Company Secretary, if appointed, and – if invited – members of the Management Board shall be decided by majority vote of the Supervisory Board members present at the meeting.

16. CHAIRMAN OF THE MEETING; REPORTS

- 16.1 Supervisory Board meetings are presided over by the Chairman or, in his absence, the Vice-Chairman. If both are absent, one of the other Supervisory Board members, designated by a majority of votes cast by the Supervisory Board members present at the meeting, shall preside.
- 16.2 The Company Secretary, if appointed, or any other person designated for such purpose by the chairman of the meeting shall draw up a report on the proceedings at the meeting. The report shall provide insight into the decision-making process at the meeting. The report shall be adopted by the Supervisory Board at the same meeting, or the next meeting.

17. DECISION-MAKING WITHIN THE SUPERVISORY BOARD

- 17.1 The Supervisory Board members shall endeavour to achieve that resolutions are, as much as possible, adopted unanimously.

⁹² Dutch Corporate Governance Code, best practice provision 2.4.4.

- 17.2 Each Supervisory Board member has the right to cast one vote.
- 17.3 Where unanimity cannot be reached and the law, the Articles of Association or these By-Laws do not prescribe a larger majority, all resolutions of the Supervisory Board are adopted by an absolute majority of the votes cast. In the event of a tie, the Chairman has the deciding vote if more than two Supervisory Board members are present or represented. At a meeting, the Supervisory Board may only pass resolutions if the majority of the Supervisory Board members then in office are present or represented.
- 17.4 Notwithstanding the provisions of Clause 17.3, the resolutions included in **Annex 4 Part B** are adopted with an absolute majority of the votes cast, which majority shall include the vote of the Independent Supervisory Director.
- 17.5 In general, resolutions of the Supervisory Board are adopted at a Supervisory Board meeting.
- 17.6 Supervisory Board resolutions may also be adopted in writing, provided the proposal concerned is submitted to all Supervisory Board members then in office and none of them objects to this form of adoption. Adoption of resolutions in writing shall be effected by statements in writing, which can also be issued through a proxy, from all the Supervisory Board members. A statement from a Supervisory Board member who wishes to abstain from voting on a particular resolution which is adopted in writing must reflect the fact that he does not object to this form of adoption.
- 17.7 The Supervisory Board may deviate from the provisions of Clauses 17.3 (last sentence), 17.5 and 17.6 if this is deemed necessary by the Chairman, considering the urgent nature and other circumstances of the case, provided that all Supervisory Board members are allowed the opportunity to participate in the decision-making process. The Chairman and the Company Secretary, if appointed, shall then prepare a report on a resolution so adopted, which shall be added to the documents for the next meeting of the Supervisory Board.
- 17.8 A resolution adopted by the Supervisory Board may be evidenced outside the Company through a statement from the Chairman or the Company Secretary, if appointed.

CHAPTER IV OTHER PROVISIONS

18. CONFLICTS OF INTERESTS OF SUPERVISORY BOARD MEMBERS

- 18.1 A Supervisory Board member is alert to conflicts of interests and shall in any case not:
- (a) enter into competition with the Company;
 - (b) demand or accept (substantial) gifts from the Company for himself or for his spouse, registered partner or other life companion, foster child or relative by blood or marriage up to the second degree;
 - (c) provide unjustified advantages to third parties to the detriment of the Company; or
 - (d) take advantage of business opportunities to which the Company is entitled for himself or for his spouse, registered partner or other life companion, foster child or relative by blood or marriage up to the second degree.⁹³

⁹³ Dutch Corporate Governance Code, best practice provision 2.7.1.

- 18.2 A conflict of interests may exist if the Company intends to enter into a transaction with a legal entity:
- (a) in which a member of the Supervisory Board personally has a material financial interest, or
 - (b) which has a member of the management board or the supervisory board who has a relationship under family law⁹⁴ with a Supervisory Board member.⁹⁵

The Supervisory Board may determine that any of the above mentioned situations does not constitute a conflict of interests to which Clause 18.4 applies if other circumstances in its opinion so entail.

- 18.3 A Supervisory Board member shall without delay report any conflict of interests or potential conflict of interest in a transaction that is of material significance to the Company and/or to him as a member of the Supervisory Board to the Chairman and shall provide all relevant information, including information concerning his spouse, registered partner or other life companion, foster child and relatives by blood or marriage up to the second degree. The Chairman of the Supervisory Board shall without delay report any conflict of interests or potential conflict of interests that he has to the Vice-Chairman. The Supervisory Board member concerned shall not take part in the assessment by the Supervisory Board of whether a conflict of interests exists.⁹⁶
- 18.4 A Supervisory Board member shall not take part in any deliberation and decision-making that involves a subject or transaction in relation to which he has a conflict of interest with the Company.⁹⁷
- 18.5 A Supervisory Board member who in connection with a (potential) conflict of interests does not exercise the duties and powers that he would otherwise have as a Supervisory Board member, will insofar be regarded as a Supervisory Board member who is unable to perform his duties (*belet*).
- 18.6 All transactions in which there are conflicts of interests with Supervisory Board members shall be agreed on terms that are customary in the market. Decisions to enter into transactions in which there are conflicts of interests with Supervisory Board members that are of material significance to the Company and/or to the relevant Supervisory Board members require the approval of the Supervisory Board.⁹⁸
- 18.7 The Supervisory Board is responsible for the decision-making on dealing with conflicts of interests regarding Management Board members, Supervisory Board members and majority shareholders in relation to the Company.⁹⁹

19. REMUNERATION OF SUPERVISORY BOARD MEMBERS

- 19.1 The remuneration of the Supervisory Board members is determined by the General Meeting of Shareholders. The Supervisory Board shall from time to time submit clear and understandable proposals on its remuneration to the General Meeting of Shareholders.¹⁰⁰ If a Supervisory Board member is required to charge VAT on his fees, this will be paid by the Company.
- 19.2 The remuneration of a Supervisory Board member may not depend on the results of the Company.¹⁰¹ A Supervisory Board member may not be awarded remuneration in the form of shares and/or rights to shares in the Company's capital.¹⁰²

⁹⁴ A relation under family-law consists between a child, his parents and their blood relatives (Section 1:197 Dutch Civil Code).

⁹⁵ Dutch Corporate Governance Code, best practice provision 2.7.3, first paragraph.

⁹⁶ Dutch Corporate Governance Code, best practice provision 2.7.3.

⁹⁷ Section 2:140(5) Dutch Civil Code.

⁹⁸ Dutch Corporate Governance Code, best practice provision 2.7.4.

⁹⁹ Dutch Corporate Governance Code, Principle 2.7.

¹⁰⁰ Dutch Corporate Governance Code, Principle 3.3.

¹⁰¹ Dutch Corporate Governance Code, Principle 3.3.

¹⁰² Dutch Corporate Governance Code, best practice provision 3.3.2.

- 19.3 Apart from their remuneration, Supervisory Board members shall be reimbursed for all reasonable costs incurred in connection with their attendance of meetings, the reasonableness of such costs being assessed by the Chairman (costs incurred by the Chairman are assessed by the Vice-Chairman). Any other expenses are only reimbursed, in whole or in part, if incurred with the consent of the Chairman or the Company Secretary, if appointed, on his behalf (or if it concerns the Chairman, the Vice-Chairman or the Company Secretary, if appointed, on his behalf).
- 19.4 The Company and its Subsidiaries do not grant personal loans, guarantees or the like to Supervisory Board members, save as part of its usual business operations and after approval of the Supervisory Board. Pursuant to Clause 18.4, the relevant Supervisory Board member will not take part in the deliberations and decision-making within the Supervisory Board regarding this approval. Loans are not remitted.¹⁰³

20. INTRODUCTION PROGRAMME, ONGOING TRAINING AND EDUCATION

- 20.1 All Supervisory Board members shall follow a formal introduction programme geared to their role that covers general financial, social and legal affairs, financial reporting by the Company, any specific aspects unique to the Company and its business activities, the culture and the relationship with the (central) Works Council and the responsibilities of a Supervisory Board member.¹⁰⁴
- 20.2 The Supervisory Board shall conduct an annual review to identify any aspects with regard to which the Supervisory Board members require further training or education during their term of office.¹⁰⁵
- 20.3 The introduction course, training and education shall be facilitated and paid for by the Company.

21. OTHER POSITIONS

- 21.1 A Supervisory Board member shall report any other position he may have to the Supervisory Board in advance. The additional positions will be discussed at least annually at a meeting of the Supervisory Board.¹⁰⁶
- 21.2 A member of the Supervisory Board will hold no more than five supervisory memberships of boards of Dutch large companies or large foundations, with a chairmanship counted twice.¹⁰⁷
- 21.3 Supervisory Board members must inform the Chairman and the Company Secretary, if appointed, of their other positions which may be of importance to the Company or the performance of their duties before accepting such positions. If the Chairman determines that there is a risk of a conflict of interest, the matter shall be discussed by the Supervisory Board in accordance with Clause 18. If such conflict concerns the Chairman, he will inform the Vice-Chairman who then carries out the task of the Chairman as referred to in the previous sentence. The Company Secretary, if appointed, shall keep a list of the outside positions concerned of each Supervisory Board member. If the Company Secretary is not appointed, the Chairman shall keep such list.

22. HOLDING AND TRADING SECURITIES

- 22.1 Any shareholding in the Company by Supervisory Board members is for the purpose of long-term investment.¹⁰⁸

¹⁰³ Dutch Corporate Governance Code, best practice provision 2.7.6.

¹⁰⁴ Dutch Corporate Governance Code, best practice provision 2.4.5.

¹⁰⁵ Dutch Corporate Governance Code, best practice provision 2.4.6.

¹⁰⁶ Dutch Corporate Governance Code, best practice provision 2.4.2.

¹⁰⁷ Section 2:142a Dutch Civil Code contains detailed provisions.

¹⁰⁸ Dutch Corporate Governance Code, best practice provision 3.3.3.

- 22.2 Supervisory Board members are bound to the Regulations on Insider Trading of the Company regarding (securities of) the Company and other securities referred to in those regulations. The Regulations on Insider Trading are posted on the Company's website.

23. CONFIDENTIALITY

No Supervisory Board member shall, during his membership of the Supervisory Board or afterwards, disclose in any way whatsoever to anyone whomsoever any information of a confidential nature regarding the business of the Company and/or any companies in which it holds a stake, that came to his knowledge in the capacity of his work for the Company and any companies in which it holds a stake and which he knows or should know to be of a confidential nature, unless required by law. A Supervisory Board member is allowed to disclose the above information to Management Board members and Supervisory Board members as well as to staff members of the Company and companies in which the Company holds a stake who, in view of their activities for the Company and companies in which the Company holds a stake, should be informed of the information concerned. A Supervisory Board member shall not in any way whatsoever utilise the information referred to above for his personal benefit.

24. MISCELLANEOUS

- 24.1 **Acceptance by Supervisory Board members.** Anyone who is appointed as a Supervisory Board member must, upon assuming office, declare in writing to the Company that he accepts and agrees to the contents of these By-Laws and pledge to the Company that he will comply with the provisions of these By-Laws. These By-Laws are also applicable to anyone who is designated as a substitute member for a Supervisory Board member in absence or prevented from acting.
- 24.2 **Occasional non-compliance.** Subject to applicable law and regulation, the Supervisory Board may occasionally decide at its sole discretion not to comply with these By-Laws.
- 24.3 **Amendment.** These By-Laws may be amended by the Supervisory Board at its sole discretion without prior notification. Prior to amendment of these By-Laws the Management Board shall be consulted.
- 24.4 **Interpretation.** In case of uncertainty or difference of opinion on how a provision of these By-Laws should be interpreted, the opinion of the Chairman shall be decisive.
- 24.5 **Governing law and jurisdiction.** These By-Laws are governed by the laws of the Netherlands. The courts of the Netherlands have exclusive jurisdiction to settle any dispute arising from or in connection with these By-Laws (including any dispute regarding the existence, validity or termination of these rules).
- 24.6 **Complementarity to Dutch law and Articles of Association.** These By-Laws are complementary to the provisions governing the Supervisory Board as contained in Dutch law, other applicable Dutch, or EU regulations and the Articles of Association. Where these By-Laws are inconsistent with Dutch law, other applicable Dutch or EU rules and regulations or the Articles of Association, the latter shall prevail. Where these By-Laws are consistent with the Articles of Association but inconsistent with Dutch law or other applicable Dutch or EU rules and regulations, the latter shall prevail.
- 24.7 **Partial invalidity.** If one or more provisions of these By-Laws are or become invalid, this shall not affect the validity of the remaining provisions. The Supervisory Board may replace the invalid provisions by provisions which are valid and the effect of which, given the contents and purpose of these By-Laws is, to the greatest extent possible, similar to that of the invalid provisions.

* * * * *

ANNEX 1

LIST OF DEFINITIONS

1. In these By-Laws, the following terms have the following meanings:

affiliated company has the meaning attributed to it in Section 5:48 of the Financial Supervision Act (*Wet op het financieel toezicht*).

Annual Accounts means the annual accounts of the Company as referred to in Sections 2:101 and 2:361(1) of the Dutch Civil Code.

Articles of Association means the articles of association of the Company.

By-Laws means the By-Laws of the Management Board or the By-Laws of the Supervisory Board, depending on the context, including the annexes belonging thereto.

CEO means the chief executive officer, who is also the chairman of the Management Board of the Company.

CFO means the chief financial officer of the Company.

Chairman means the chairman of the Supervisory Board.

Committee means each committee of the Supervisory Board.

Company means Alfen N.V., and, where appropriate, the Subsidiaries and possible other group companies of the Company, whose financial information is incorporated in the consolidated Annual Accounts.

Company Secretary means the company secretary of the Company, if appointed.

External Auditor means the accounting and auditing firm that, in accordance with Section 2:393 of the Dutch Civil Code, is charged with the audit of the Annual Accounts.

Executive Committee means the executive committee of the Company, if applicable.

General Meeting of Shareholders means the general meeting of shareholders of the Company.

in writing means by letter, by telecopier, by e-mail, by WhatsApp or by message which is transmitted via any other current means of communication and which can be received in written form.

Independent Supervisory Director means a member of the Supervisory Board who is independent within the meaning of Clause 1.5.

Management Board means the management board of the Company.

Related Party Transaction has the meaning given to in Clause 1.1 of the Related Party Transaction policy as included in Annex 5 of the By-laws of the Management Board.

Remuneration Report means the remuneration report of the Supervisory Board drawn up by the Supervisory Board regarding the remuneration policy of the Company.

Report of the Management Board means the report of the Management Board drawn up by the Management Board, as referred to in Sections 2:101 and 2:391 of the Dutch Civil Code.

Report of the Supervisory Board means the report of the Supervisory Board drawn up by the Supervisory Board, as referred to in best practice provision 2.3.11 of the Dutch Corporate Governance Code.

Subsidiary has the meaning attributed to it in Section 2:24a of the Dutch Civil Code.

Supervisory Board means the supervisory board of the Company.

Supervisory Board Profile means the profile for the size and composition of the Supervisory Board, as designated in Clause 1.1.

Vice-Chairman means the vice-chairman of the Supervisory Board.

Works Council means the works council of the Company.

2. Save where the context dictates otherwise, in these By-Laws:
 - (a) unless a different intention clearly appears, a reference to a Clause or Annex is a reference to a clause or annex of these By-Laws;
 - (b) words and expressions expressed in the singular form also include the plural form, and vice versa;
 - (c) words and expressions expressed in the masculine form also include the feminine form; and
 - (d) a reference to a statutory provision counts as a reference to this statutory provision including all amendments, additions and replacing legislation that may apply from time to time.
3. Headings of clauses and other headings in these By-Laws are inserted for ease of reference and do not form part of these By-Laws for the purpose of interpretation.

ANNEX 2

SUPERVISORY BOARD PROFILE

1. Description of the nature and activities of the Company and its affiliated enterprise

Under Clause 1.1 of these By-Laws the nature and size of the Company and its affiliated enterprise must be taken into account when determining the activities and composition of the Supervisory Board. Relevant factors are:

- (a) the nature, culture and activities of the business of the Company and its Subsidiaries
- (b) the stock exchanges where the Company is listed
- (c) the specific role of the Company within the group it heads
- (d) the organisational structure of the Company and its Subsidiaries
- (e) the "business principles" and the "code of ethics" of the Company and its Subsidiaries
- (f) the number of employees of the Company and its Subsidiaries
- (g) the applicability or non-applicability to the Company of the statutory two-tier regime
- (h) the composition (nationalities, number of shareholders, presence of absence of controlling shareholders, etc.) of the General Meeting of Shareholders
- (i) the geographical location of the Subsidiaries
- (j) the composition and size of the Management Board

2. Description of the desired composition of the Supervisory Board

Factors which may play a part in the description of the desired composition of the Supervisory Board as a whole are:

- (a) responsible performance of the duties attributed to the Supervisory Board by legislation, the Dutch Corporate Governance Code and other regulations and code of conduct
- (b) balance between nationalities, gender, age, experience and background of each of the members of the Supervisory Board
- (c) the Supervisory Board Profile will set out the aspects of diversity in the composition of the Supervisory Board (Section 2:166 DCC, at least 30% women and at least 30% men) that are relevant to the Company as well as the current aim applied by the Supervisory Board in respect of diversity
- (d) balance between and experience and affinity with the nature and culture of the business of the Company and its Subsidiaries
- (e) the organisational structure of the Company and its Subsidiaries
- (f) the social policy of the Company and its Subsidiaries

- (g) the role of the Company in society
- (h) political and cultural knowledge of the countries where the Company and its Subsidiaries operate
- (i) (international) knowledge of and experience in financial, legal, economic, commercial, social and marketing areas

3. Description of the desired expertise and background of the individual members of the Supervisory Board

Factors which may play a role in the description of the desired expertise and background of the individual members of the Supervisory Board are:

- (a) knowledge of and experience in financial, legal, economic, commercial, social and marketing areas
- (b) experience with (the management or supervision of the management of) a listed company
- (c) national and international experience with groups of companies
- (d) experience with corporate governance
- (e) experience with organisational processes
- (f) knowledge of and experience and affinity with the business of the Company and its Subsidiaries
- (g) knowledge of information and communication technology systems (ICT) and related cyber security risks (disruption, failure or abuse of ICT)
- (h) expertise on the field of technological innovation
- (i) expertise on the field of new business models
- (j) to be able, also by having a sufficient amount of available time, to supervise and promote the policy of the Management Board and the general course of affairs within the Company timely and adequately and to assist the Management Board with the preparation and implementation of its policy
- (k) to be able to operate independently and critically in relation to the other members of the Management Board and the Supervisory Board and to take measures in the absence of the Management Board to provide for the management of the Company
- (l) to be prepared to do an introduction, education or training programme
- (m) to be prepared to approve of these By-Laws
- (n) not to have a conflict of interest at the time of appointment
- (o) to be prepared and able to act as Chairman and/or Vice-Chairman
- (p) to be prepared and able to lead the General Meeting of Shareholders

- (q) to be prepared and able to temporarily manage the Company if one or more members of the Management Board are absent or unable to perform their duties
- (r) to be a team player
- (s) to match with the composition of the Supervisory Board at the time of appointment

4. Diversity policy of the Supervisory Board

The Supervisory Board shall draw up a diversity policy with regard to the composition of the Supervisory Board that addresses the diversity aspects relevant to the Company, such as nationality, age, gender, and education and work background.¹⁰⁹

5. Size and composition of the Supervisory Board

- (a) Point of departure at all times is that the size of the Supervisory Board must be such that the Supervisory Board as a whole can perform its duties effectively and responsibly and that each individual member of the Supervisory Board is able to make a contribution by his specific qualities.
- (b) Without prejudice to the provisions of Clause 5(a) above, the Supervisory Board endeavours to achieve that it consists of at least three members.
- (c) The Supervisory Board must at all times be so composed that Clause 1.4 of these By-Laws is complied with as much as possible.

6. Miscellaneous

- (a) The Supervisory Board discusses at least once a year, without the Management Board being present, the composition and competence of the Supervisory Board.¹¹⁰
- (b) Each change to the Supervisory Board Profile will be discussed at the General Meeting of Shareholders and with the Works Council.¹¹¹
- (c) This Supervisory Board Profile must be taken into account on each (re)appointment of members of the Supervisory Board.¹¹²
- (d) This Supervisory Board Profile is posted on the Company's website.¹¹³

¹⁰⁹ Dutch Corporate Governance Code, best practice provision 2.1.5

¹¹⁰ Dutch Corporate Governance Code, best practice provision 2.2.6.

¹¹¹ Section 2:158 Dutch Civil Code.

¹¹² Dutch Corporate Governance Code, Principe 2.2.

¹¹³ Dutch Corporate Governance Code, best practice provision 2.1.1.

ANNEX 3

ROTATION PLAN SUPERVISORY BOARD

Name	Position	First appointed	Start and end of current term
H. ten Hove	Chairman	March 2018	March 2018 - AGM 2022
E.Q. van der Arend	Vice-Chairman	March 2018	March 2018 - AGM 2022
D.W.E. Riefel	Member	March 2018	March 2018 - AGM 2022

ANNEX 4

LIST OF APPROVAL SUPERVISORY BOARD

PART A

The approval of the Supervisory Board is required for:

- (a) the allocation of duties of the Management Board to individual members of the Management Board;¹¹⁴
- (b) the establishment of an Executive Committee;
- (c) the appointment and dismissal of the senior internal auditor;¹¹⁵
- (d) the internal audit plan;¹¹⁶
- (e) entering into agreements, whereby the Company is granted credit by a bank;
- (f) lending and borrowing money, with the exception of acquiring money under a credit already granted to the Company by a bank;
- (g) direct or indirect participation in the capital of another company and changing the size of such a participation;
- (h) creating a right of pledge on property rights and moveable property, as well as the creating of a rights of pledge on shares in affiliated companies of the Company;
- (i) entering into agreements by which the Company binds itself as guarantor or as severally-liable co debtor, or otherwise guarantees or agrees to bind itself as security for a debt of a third party;
- (j) approving the annual budget;
- (k) being a party to legal proceedings, including conducting arbitration proceedings, with the exception of taking legal measures that cannot be delayed;
- (l) all other acts that require the approval by legislation, the Articles of Association, the By-Laws of the Management Board, the By-Laws of the Supervisory Board, the Dutch Corporate Governance Code or any other applicable legislation; and
- (m) entering into legal acts that do not fall under the scope of one of the items mentioned in this Annex 4, but which exceed the annual maximum amount determined by the Supervisory Board and notified to the Management Board in writing.

PART B

The approval of the Supervisory Board is required for the following resolutions, which approval shall include the vote of the Independent Supervisory Director:

- (n) all Related Party Transactions;

¹¹⁴ Management Board By-Laws, clause 1.8.

¹¹⁵ Management Board By-Laws, clause 6.2.

¹¹⁶ Management Board By-Laws, clause 6.5.

- (o) all transactions in which there are conflicts of interest with Management Board members that are of material significance to the Company and/or the relevant Management Board members;¹¹⁷
- (p) all transactions in which there are conflicts of interest with Supervisory Board members that are of material significance to the Company and/or the relevant Supervisory Board members;¹¹⁸
- (q) grant approval to granting of personal loans, guarantees or the like to Management Board members or Supervisory Board members;
- (r) grant approval to resolution of the Management Board to issue and acquisition of Shares and debentures at the expense of the Company or of debentures at the expense of a limited partnership or general partnership in respect of which the Company is a partner with full liability;
- (s) grant approval to resolution of the Management Board to issue depositary receipts for Shares;
- (t) grant approval to proposal of the Management Board to reduce the Company's issued capital;
- (u) grant approval to resolution of the Management Board to enter into or terminate a long term cooperation of the Company or a Group Company with another legal entity or company or, as a partner with full liability, in a limited partnership or general partnership if such cooperation or termination is of fundamental importance for the Company;
- (v) grant approval to resolution of the Management Board to participate by the Company or a Group Company in the capital of another company if the value of such participation is at least one quarter of the amount of the issued capital plus reserves of the Company according to its balance sheet and explanatory notes, as well as significantly increasing or reducing such participation;
- (w) grant approval to resolutions of the Management Board to investments or divestments requiring an amount equal to at least one quarter of the issued capital plus reserves of the Company according to its balance sheet and explanatory notes;
- (x) establishing pension plans and granting pension rights in excess of those arising from existing arrangements;
- (y) grant approval to resolution of the Management Board to terminate the employment of a considerable number of employees of the Company or of a Group Company simultaneously or within a short period of time;
- (z) grant approval to resolution of the Management Board to radically change the employment conditions of a considerable number of the employees of the Company or of a Group Company; and
- (aa) granting bonuses to employees which exceeds the annual maximum amount determined by the Supervisory Board and notified to the Management Board in writing;
- (bb) entering into and changing employment or management agreements, whereby remuneration is granted, which exceeds the annual maximum amount determined by the Supervisory Board and notified to the Management Board in writing;
- (cc) grant approval to proposal of the Management Board to amend the articles of association of the Company;
- (dd) grant approval to resolution of the Management Board to file for petition for bankruptcy or a request

¹¹⁷ Management Board By-Laws, clause 15.6.

¹¹⁸ Supervisory Board By-Laws, Clause 18.6.

for suspension of payments (*surseance van betaling*); and

- (ee) grant approval to proposal of the Management Board to dissolve the Company.

ANNEX 5

INFORMATION TO BE INCLUDED IN THE REPORT OF THE SUPERVISORY BOARD¹¹⁹

The Report of the Supervisory Board shall in any case contain the following information:

- (a) an account of the involvement of the Supervisory Board in the establishment of the strategy, and the way in which the Supervisory Board monitors its implementation;¹²⁰
- (b) if there is no internal audit function, the conclusions and any recommendations regarding the need for an internal audit function and assessment of alternative measures;¹²¹
- (c) the absenteeism rate at Supervisory Board meetings and Committee meetings (if applicable) of each Supervisory Board member;¹²²
- (d) a statement that in the opinion of the Supervisory Board Clause 1.4(e), 1.5 and 3.1 of these By-Laws have been complied with and which member or members of the Supervisory Board, if any, shall not be deemed independent;¹²³
- (e) a reference as to how the evaluation of the Supervisory Board, the Committees and the individual members of the Supervisory Board described in Clause 7.3 of these By-Laws has been carried out and what has been of will be done with the conclusions from the evaluations;¹²⁴
- (f) a reference as to how the evaluation of the Management Board and the individual members of the Management Board described in Clause 7.4 of these By-Laws has been carried out and what has been or will be done with the conclusions from the evaluations;¹²⁵
- (g) the arguments for reappointment of a member of the Supervisory Board after a period of eight years;¹²⁶
- (h) a reference to the Supervisory Board resolutions pursuant to Clauses 24.2 and 24.3 of these By-Laws, to the extent of material significance;
- (i) for each Committee: a report on how it has performed its duties in the financial year; details of its existence, its composition, number of meetings and the main issues discussed;¹²⁷
- (j) the following information on each Supervisory Board member:¹²⁸ (i) gender; (ii) age; (iii) nationality; (iv) chief position; (v) other positions to the extent relevant for the performance of his duties as member of the Supervisory Board; (vi) date of initial appointment and term of appointment of relevant member of Supervisory Board.

¹¹⁹ Dutch Corporate Governance Code, best practice provision 2.3.11.

¹²⁰ Dutch Corporate Governance Code, best practice provision 1.1.3.

¹²¹ Dutch Corporate Governance Code, best practice provision 1.3.6.

¹²² Dutch Corporate Governance Code, best practice provision 2.4.4.

¹²³ Dutch Corporate Governance Code, best practice provision 2.1.10.

¹²⁴ Dutch Corporate Governance Code, best practice provision 2.2.8(i) en (iii).

¹²⁵ Dutch Corporate Governance Code, best practice provision 2.2.8(ii) en (iii).

¹²⁶ Dutch Corporate Governance Code, best practice provision 2.2.2.

¹²⁷ Dutch Corporate Governance Code, best practice provision 2.3.5.

¹²⁸ Dutch Corporate Governance Code, best practice provision 2.1.2.

ANNEX 6

LIST OF INFORMATION TO BE INCLUDED IN THE REPORT OF THE EXTERNAL AUDITOR

Pursuant to Section 2:393, subsection 4 of the Dutch Civil Code, the report of the External Auditor shall contain the matters which the External Auditor wishes to bring to the attention of the Management Board and the Supervisory Board in relation to its audit of the Annual Accounts and the related audits.

The following examples can be given:

(A) With regard to the audit:

- information about matters of importance to the assessment of the independence of the External Auditor;
- information about the course of events during the audit and co-operation with internal auditors and/or any other external auditors, matters for discussion with the Management Board, a list of corrections that have not been made, etc.

(B) With regard to the financial figures:

- analyses of changes in shareholders' equity and results which do not appear in the information to be published and which, in the view of the External Auditor, contribute to an understanding of the financial position and results of the Company;
- comments regarding the processing of one-off items, the effects of estimates and the manner in which they have been arrived at, the choice of accounting policies when other choices were possible, and particular effects of such policies;
- comments on the quality of forecasts and budgets.

(C) With regard to the operation of the internal risk management and control systems (including the reliability and continuity of automated data processing) and the quality of the internal provision of information:

- points for improvement, gaps and quality assessments;
- comments about threats and risks to the Company and the manner in which they should be reported in the particulars to be published;
- compliance with articles of association, instructions, regulations, loan covenants, requirements of external supervisors, etc.

ANNEX 7

EXTERNAL AUDITOR INDEPENDENCE POLICY

The policy set out below was adopted by the Supervisory Board on 26 March 2018, after consultation with the Management Board.

1. Policy

The Company and its Subsidiaries use the services of the External Auditor to the extent this does not prejudice the independence of the External Auditor.

2. Terms of Reference

The External Auditor must be independent within the meaning of EU Regulation 537/2014 on specific requirements regarding statutory audit of public-interest entities, the Act supervision audit firms (*Wet toezicht accountantsorganisaties* (Wta)) and the Regulation on the independence of auditors with respect to assurance assignment (*Verordening inzake de onafhankelijkheid van accountants bij assurance-opdrachten* (ViO)) of the Royal Dutch Professional Organisation of Auditors (*Koninklijk Nederlandse Beroepsorganisatie van Accountants*).

The Supervisory Board sees to it that the external auditor complies with the relevant recommendations, provisions and statutory provisions, and may request more detailed explanations and written confirmations from the external auditor that these provisions are followed.

3. Audit Services

In addition to complying with section 5 paragraph 1 of the EU Regulation, the firm of the External Auditor that conducts the statutory audit of a public-interest entity shall not render any other services to this entity in addition to the audit services.¹²⁹

The External Auditor or any other member of the network to which the external auditor or its firm belongs, may directly or indirectly only render auditing services to the Company and the enterprises its controls during:

- (a) the period between the beginning of the period audited and the issuing of the audit report; and
- (b) the financial year immediately preceding the period referred to in point (a) in relation to non-audit services.¹³⁰

Audit services is the audit of the annual financial reports of the Company, the assessment of interim financial reports that are disclosed, services that are traditionally provided by the external auditor and that are related to filings and obligations under legislation or regulations, and services that only the external auditor as such can reasonably provide.

The External Auditor does not need to go through a tender process for each individual engagement.

¹²⁹ Section 24b par 2 Act supervision audit firms (*Wet toezicht accountantsorganisaties* (Wta)). This provision also applies to other parts of a network of which the external auditor's firm is a part of, as set out in more detail in Section 24b par 2 Wta.

¹³⁰ Section 5 EU Regulation 537/2014.

4. Rotation of the External Auditor and Partners responsible for Audit Services

In order to prevent that the External Auditor and the Company become too close, the number of years a firm of an external auditor may be engaged and a certain person may be part of the audit team of the External Auditor, is capped.

The External Auditor charged with the statutory audit must be replaced after a maximum period of ten years after the start of their involvement. The External Auditor is not allowed to work on a new assignment for the Company until at least four years have expired from the date of its replacement.¹³¹

Partners in the audit team of the External Auditor who are charged with essential audit tasks must be replaced after a maximum period of five years after the start of their involvement.¹³²

The Supervisory Board shall also supervise the risks of dependency of other members of the audit team of the External Auditor who are involved with the audit for a significant period. The Supervisory Board shall consult the responsible partner of the External Auditor regularly on safeguards set up by the External Auditor to assess the risk of dependency and to reduce it to an acceptable minimum level.

5. Appointment of the External Auditor

The External Auditor shall be appointed in accordance with Clause 10 of these By-Laws. If the decision is taken to call in the services of another External Auditor, the tender process approved by the Supervisory Board shall be followed.

6. Staff transfer restrictions

The Company and the External Auditor shall agree on a policy regarding the restriction of staff transfers from the Company and its group to the organisation of the External Auditor and vice versa, taking into account all relevant legislation and regulations.¹³³ This policy is subject to the approval of the Supervisory Board.

¹³¹ Section 17 EU Regulation 537/2014.

¹³² Section 24 Wta.

¹³³ Like art. 42 of the Regulation on the independence of auditors with respect to assurance assignment (*Verordening inzake de onafhankelijkheid van accountants bij assurance-opdrachten (ViO)*) of the Royal Dutch Professional Organisation of Auditors (*Koninklijke Nederlandse Beroepsorganisatie van Accountants*).

ANNEX 8

INFORMATION TO BE INCLUDED IN THE REMUNERATION REPORT

The Remuneration Report shall contain an account of the manner in which the remuneration policy has been implemented in the past financial year, as well as an overview of the remuneration policy planned by the Supervisory Board for the next financial year and subsequent years.¹³⁴

The report shall furthermore, in any event, describe in a transparent manner:¹³⁵

- (a) how the implementation of the remuneration policy contributes to long-term value creation;
- (b) that scenario analyses have been taken into consideration;
- (c) the pay ratios within the Company and its affiliated enterprise and, if applicable, any changes in these ratios in comparison with the previous financial year;
- (d) in the event a Management Board member receives variable remuneration: how this remuneration contributes to long-term value creation, the measurable performance criteria determined in advance upon which the variable remuneration depends and the relationship between the remuneration and performance; and
- (e) in the event that a current or former Management Board member receives a severance payment, the reason for this payment.

¹³⁴ Dutch Corporate Governance Code, best practice provision 3.4.1 (i).

¹³⁵ Dutch Corporate Governance Code, best practice provision 3.4.1 (ii), (iii), (iv), (v) and (vi).