

**DATED 29 MARCH 2018**

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**RULES GOVERNING THE SUPERVISORY BOARD OF  
CURETIS N.V.**

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**Adopted by the Supervisory Board on 29 March 2018**

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## **RULES GOVERNING THE SUPERVISORY BOARD OF CURETIS N.V.**

These Rules were adopted by the Supervisory Board on 29 March 2018.

### **1. Definitions and interpretation**

1.1 In these Rules the following terms shall have the following meanings:

**"Annual Accounts"** means the annual accounts referred to in section 2:361 of the Dutch Civil Code (DCC);

**"Articles of Association"** means the articles of association of the Company;

**"Audit Committee"** means the audit committee of the Supervisory Board;

**"Code"** means the Dutch Corporate Governance Code (DCGC) of 8 December 2016 as published in the Dutch Government Gazette number 45259 dated 21 August 2017<sup>1</sup>;

**"Company"** means Curetis N.V., a public company under Dutch law, registered with the trade register under number 64302679;

**"Company Secretary"** means the company secretary of the Company;

**"Corporate Governance Statement"** means the corporate governance statement as referred to in section 2a in conjunction with sections 3 up to and including 3b of the Decree on the contents of the management report<sup>2</sup>;

**"Dependent Company"** means a dependent company of the Company as referred to in section 2:152 of the Dutch Civil Code;

**"General Meeting"** means the body of the Company consisting of the Shareholders, or a meeting of Shareholders;

**"Group Company"** means a legal person or partnership which is affiliated with the Company in a group as referred to in section 2:24b of the Dutch Civil Code;

**"Management Board"** means the management board of the Company;

**"Managing Director"** means a managing director of the Company;

**"Participating Interest"** means a participating interest as referred to in section 2:24c of the Dutch Civil Code;

**"Remuneration Committee"** means the remuneration committee of the Supervisory Board;

**"Rules"** means these rules governing the Supervisory Board;

**"Nomination and Appointment Committee"** means the nomination and appointment committee of the Supervisory Board;

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<sup>1</sup> Dutch listed companies will be required to report on compliance with the new Code in a management report relating to a financial year which commences on or after 1 January 2017.

<sup>2</sup> This decree enters into force on 1 January 2018 and applies to a management report relating to a financial year that commences on or after 1 January 2017.

**"Shareholder"** means a holder of one or more shares in the share capital of the Company;

**"Supervisory Board"** means the supervisory board of the Company;

**"Supervisory Board Report"** means the report of the supervisory board referred to in best practice provision 2.3.11 of the Code;

**"Supervisory Director"** means a supervisory director of the Company;

**"Works Council"** means the works council of the business of the Company.

- 1.2 In these Rules references to Clauses and Schedules are to respective clauses of and schedules to these Rules, unless otherwise specified.
- 1.3 The Schedules form part of these Rules.
- 1.4 Headings of clauses and other headings in these Supervisory Board Rules are inserted for ease of reference and do not form part of the Supervisory Board Rules concerned for the purpose of interpretation.

## **2. Composition and expertise of the Supervisory Board**

- 2.1 The Company shall have a Supervisory Board. The Supervisory Board shall consist of at least three members and match the Supervisory Board Profile. Their exact number is to be determined by the Supervisory Board. If the number of Supervisory Directors in office is less than three, the Supervisory Board shall immediately take measures to increase the number of Supervisory Directors with due observance of the relevant provisions of the Articles of Association and these Supervisory Board Rules.
- 2.2 The Supervisory Board shall be composed such that the requisite expertise, background, competencies and independence are available for it to carry out its duties properly.<sup>3</sup>
- 2.3 Each Supervisory Director shall have the specific expertise required for the fulfilment of his duties. Each Supervisory Director shall be capable of assessing the broad outline of the overall policy.<sup>4</sup>

## **3. Incompatibilities and independence of the Supervisory Board**

- 3.1 Supervisory Directors must be natural persons. The following persons cannot be elected Supervisory Director:
  - (a) persons employed by the Company;
  - (b) persons employed by a Dependent Company;
  - (c) managing directors and employees of an employees' organisation which is normally involved in establishing the terms and conditions of employment of the persons referred to under (a) and (b).<sup>5</sup>

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<sup>3</sup> Principle 2.1 DCGC.

<sup>4</sup> Best practice provision 2.1.4 DCGC.

<sup>5</sup> Sec. 2:160 DCC.

- 3.2 The Supervisory Board shall be composed such that the Supervisory Directors are able to operate independently and critically vis-à-vis one another, the Management Board and any particular interests involved.<sup>6</sup>
- 3.3 In order to safeguard its independence, the Supervisory Board shall be composed with due observance of the following:
- (a) any one or more of the criteria, referred to in Article 3.4. parts (a) up to and including (e), shall apply to not more than one Supervisory Director;
  - (b) the criteria, referred to in Article 3.4, shall apply to less than half of the aggregate number of Supervisory Directors;
  - (c) for each Shareholder, or group of affiliated Shareholders, holding directly or indirectly more than ten percent of the shares in the share capital of the Company, there shall be not more than one Supervisory Director who may be considered to be affiliated with him or representing him as referred to in Article 3.4. parts (f) and (g).<sup>7</sup>
- 3.4 A Supervisory Director shall not be independent if the Supervisory Director concerned or his spouse, registered partner or other life companion, foster child or relative by blood or marriage up to the second degree:
- (a) in the five years prior to the appointment has been an employee or managing director of the Company or a company affiliated with the Company as referred to in section 5:48 of the Financial Supervision Act;
  - (b) receives a personal financial compensation from the Company or from a company affiliated with the Company, other than the compensation received for the work performed as Supervisory Director and to the extent it is not appropriate in the ordinary course of business;
  - (c) in the year prior to the appointment has had an important business relationship with the Company or a company affiliated with the Company. This shall in any event include the situation where the Supervisory Director, or the firm of which he is a shareholder, partner, associate or adviser, has acted as consultant, external auditor, civil law notary or lawyer to the Company and the situation where the Supervisory Director is a managing director or an employee of a bank with which the Company has a lasting and significant relationship;
  - (d) is a managing director of a company in which a Managing Director who is subject to his supervision is a supervisory director;
  - (e) during the preceding twelve months has temporarily managed the Company while Managing Directors were failing or were prevented from acting;
  - (f) holds a parcel of shares in the share capital of the Company of at least ten per cent, including the shareholdings of natural persons and legal entities cooperating with him under an express or tacit, oral or written agreement;

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<sup>6</sup> Best practice provision 2.1.7 DCGC.

<sup>7</sup> Best practice provision 2.1.7 DCGC.

- (g) is a managing director or supervisory director or is a representative in any other way of a legal person which holds at least ten percent of the shares in the share capital of the Company, unless it concerns Group Companies.<sup>8</sup>

3.5 The chairman of the Supervisory Board may not be a former Managing Director and shall be independent within the meaning of Article 3.4.<sup>9</sup>

3.6 The Supervisory Board Report shall state that in the view of the Supervisory Board the independence requirements, referred to in the Articles 3.2 up to and including 3.5, are met. The Supervisory Board Report shall also indicate, if applicable, which Supervisory Director or Supervisory Directors the Supervisory Board considers not to be independent.<sup>10</sup>

#### **4. Profile of the Supervisory Board**

4.1 The Supervisory Board shall draw up a profile for its size and composition, taking into account the nature of the business, its activities and the requisite expertise, background, competencies and independence of the Supervisory Directors.<sup>11</sup>

4.2 The profile shall address:

- (a) the size of the Supervisory Board;
- (b) the independence of the Supervisory Directors;<sup>12</sup>
- (c) the requisite expertise and background of the Supervisory Directors;
- (d) the requisite diverse composition of the Supervisory Board, referred to in Article 5.1.

4.3 The Supervisory Board shall discuss the profile and any amendment thereto at the General Meeting and with the Works Council (if any).<sup>13</sup>

4.4 The profile of the Supervisory Board shall be published on the Company's website.<sup>14</sup>

4.5 The profile of the Supervisory Board currently reads as stated in Schedule 1.

#### **5. Diversity policy of the Supervisory Board**

5.1 The Supervisory Board shall formulate a diversity policy for the composition of the Management Board and the Supervisory Board. The policy shall include the specific targets relating to diversity and the aspects of diversity relevant to the Company, such as nationality, age, gender and background regarding education and professional experience.<sup>15</sup>

5.2 The Corporate Governance Statement shall describe the diversity policy and the implementation thereof. It shall also describe:

- (a) the objectives of the policy;
- (b) how the policy has been implemented;

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<sup>8</sup> Best practice provision 2.1.8 DCGC.

<sup>9</sup> Best practice provision 2.1.9 DCGC.

<sup>10</sup> Best practice provision 2.1.10 DCGC.

<sup>11</sup> Sec. 2:158 subsection 3 DCC and principle 2.1 DCGC.

<sup>12</sup> Best practice provision 2.1 DCGC.

<sup>13</sup> Section 2:158 subsection 3 DCC.

<sup>14</sup> Best practice provision 2.1.1 DCGC.

<sup>15</sup> Best practice provision 2.1.5 DCGC.

(c) the results of the policy in the preceding financial year.

If the composition of the Management Board and the Supervisory Board deviates from the objectives of the Company's diversity policy or from the target figure for the male-female ratio, if and to the extent provided for by or pursuant to the law, the Corporate Governance Statement shall also describe the status, the measures which are taken to achieve the intended situation and within what timeframe the intended situation will be achieved.<sup>16</sup>

## **6. Succession plan for Managing Directors and Supervisory Directors**

6.1 The Supervisory Board shall ensure that the Company has a sound plan for the succession of Managing Directors and Supervisory Directors, aiming at retaining the balance in the requisite expertise, experience and diversity. When drawing up the plan, the profile of the Supervisory Board, referred to in Article 4, shall be taken into account.<sup>17</sup>

6.2 When preparing the appointment or reappointment of a Managing Director or Supervisory Director, the objectives regarding diversity, referred to in Article 5.1, shall be taken into account.<sup>18</sup>

## **7. Appointment, retirement, suspension and dismissal of Supervisory Directors**

7.1 Supervisory Directors shall be appointed in accordance with the relevant provisions of the Articles of Association.

7.2 A Supervisory Director shall be appointed for a period of four years and shall subsequently be eligible for reappointed for one period of four years. The Supervisory Director shall subsequently be eligible for reappointed for one period of two years, which period may be extended by a period of not more than two years. In the event of reappointment after a period of eight years, the Supervisory Board Report shall state the reasons. Upon appointment or reappointment, the profile, referred to in Article 4, shall be taken into account.<sup>19</sup>

7.3 The Supervisory Board shall adopt a resignation schedule in order to prevent, to the greatest extent possible, Supervisory Directors retiring simultaneously. An amendment of the schedule may not require that a Supervisory Director shall resign against his will before the period for which he was appointed has expired. A Supervisory Director shall, however, retire no later than at the end time of the first General Meeting held in the last year of the period for which he has last been appointed.<sup>20</sup>

7.4 The resignation schedule of the Supervisory Board shall be published on the Company's website.<sup>21</sup>

7.5 The resignation schedule of the Supervisory Board currently reads as stated in Schedule 2.

7.6 A Supervisory Director shall retire early in the event of inadequate performance, structural incompatibility of interest or where retirement is otherwise required at the discretion of the

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<sup>16</sup> Best practice provision 2.1.6 DCGC.

<sup>17</sup> Best practice provision 2.2.4 DCGC.

<sup>18</sup> Best practice provision 2.2.1 DCGC.

<sup>19</sup> Best practice provision 2.2.2 DCGC.

<sup>20</sup> Best practice provision 2.2.4 DCGC.

<sup>21</sup> Best practice provision 2.2.4 DCGC.

Supervisory Board. In the event of early retirement of a Supervisory Director, the Company shall issue a press release mentioning the reasons for the departure.<sup>22</sup>

7.7 A Supervisory Director who is temporarily in charge of the management in the event that one or more Managing Directors are failing or are prevented from acting, shall resign from the Supervisory Board in order to perform the management task.<sup>23</sup>

7.8 The Supervisory Directors shall be suspended and dismissed in accordance with the relevant provisions of the Articles of Association.

## **8. Remuneration of Supervisory Directors**

8.1 The Supervisory Board shall submit to the General Meeting a detailed and comprehensible proposal for its own appropriate remuneration. The remuneration of Supervisory Directors shall enhance adequate performance of duties and shall not be dependent on the Company's results.<sup>24</sup>

8.2 The remuneration of the Supervisory Directors shall reflect the time spent and the responsibilities of the office.<sup>25</sup>

8.3 In deviation from the Code a Supervisory Director may be awarded shares or rights in respect of shares as part of his remuneration.<sup>26</sup>

8.4 A Supervisory Director may only hold shares in the share capital of the Company for the purpose of long-term investment.<sup>27</sup> The Company does not impose any limitation on the right of a Supervisory Director to hold and trade in securities of companies other than the Company, except that the Supervisory Director will be obliged towards the Company to comply with all statutory requirements concerning such holding or trading.

8.5 The remuneration of Supervisory Directors shall be determined by the General Meeting.

8.6 Apart from their remuneration, Supervisory Directors shall be reimbursed for all reasonable costs incurred in connection with their function, 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 if it concerns the Chairman by the Vice-Chairman).

8.7 The Company and its subsidiaries do not grant personal loans, guarantees or the like to Supervisory Directors, save as part of its usual business operations and on terms applicable to the personnel as a whole and after approval of the Supervisory Board. Loans are not remitted.<sup>28</sup>

## **9. Personal information and other positions of Supervisory Directors**

9.1 Each Supervisory Director shall in due time provide the chairman of the Supervisory Board with all necessary information about his:

- (a) gender;

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<sup>22</sup> Best practice provision 2.2.3 DCGC.

<sup>23</sup> Best practice provision 2.3.9 DCGC.

<sup>24</sup> Principle 3.3 DCGC.

<sup>25</sup> Best practice provision 3.3.1 DCGC.

<sup>26</sup> Best practice provision 3.3.2 DCGC.

<sup>27</sup> Best practice provision 3.3.3 DCGC.

<sup>28</sup> Best practice provision 2.7.6 DCGC.



- (b) age;
- (c) nationality;
- (d) principal position;
- (e) other positions, as far as relevant to the fulfilment of the duties as a Supervisory Director;
- (f) date of initial appointment;
- (g) current term of appointment.

This information shall be published in the Supervisory Board Report.<sup>29</sup>

- 9.2 Supervisory Directors shall report any other positions to the Supervisory Board in advance. The other positions of Managing Directors and Supervisory Directors shall be discussed in the meeting of the Supervisory Board at least once a year.<sup>30</sup>
- 9.3 The Company Secretary shall keep a list of the outside positions concerned of each Supervisory Director.

## **10. Duties, division of duties and responsibilities of the Supervisory Board**

- 10.1 Supervision of the policies of the Management Board and of the general course of affairs of the Company and the business connected with it shall be carried out by the Supervisory Board.<sup>31</sup> In doing so, the Supervisory Board shall also focus on the effectiveness of the Company's internal risk management and control systems and the integrity and quality of the financial reporting.<sup>32</sup> It shall support the Management Board with advice. In fulfilling their duties the Supervisory Directors shall serve the interests of the Company and the business connected with it.<sup>33</sup> The Supervisory Board shall ensure that it performs effectively.<sup>34</sup>
- 10.2 The duties of the Supervisory Board shall include, without limitation:
- (a) supervising and advising the Management Board on:
    - (i) the achievement of the Company's objects;
    - (ii) the strategic policies designed to achieve the Company's objects;
    - (iii) the Company's results;
    - (iv) the strategy designed to achieve the long-term value creation of the Company and the business connected with it;<sup>35</sup>
    - (v) the risks associated with the Company's strategy and activities;<sup>36</sup>
    - (vi) the internal audit function;<sup>37</sup>

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<sup>29</sup> Best practice provision 2.1.2 DCGC.

<sup>30</sup> Best practice provision 2.4.2 DCGC.

<sup>31</sup> Sec. 2:140 subsection 2 DCC.

<sup>32</sup> Principle 1.5 DCGC.

<sup>33</sup> Sec. 2:140 subsection 2 DCC.

<sup>34</sup> Best practice provision 2.3 DCGC.

<sup>35</sup> Best practice provision 1.1.3 DCGC.

<sup>36</sup> Principle 1.2 DCGC.

<sup>37</sup> Principle 1.3 DCGC.

- (vii) the setting up and implementation of internal procedures ensuring that the Management Board and the Supervisory Board are supplied in a timely manner with all relevant information;<sup>38</sup>
- (viii) the operation of the procedure for reporting actual or alleged misconduct and irregularities within the Company and the business connected with it, appropriate and independent investigations into signs of misconduct and irregularities and, if misconduct or an irregularity has been identified, an adequate follow-up of any recommendations for remedial actions;<sup>39</sup>
- (ix) the Company's financial reporting;
- (b) selecting and nominating candidates to the General Meeting for appointment as Managing Director;<sup>40</sup>
- (c) formulating the remuneration policy for Managing Directors and implementing the same after adoption by the General Meeting;<sup>41</sup>
- (d) determining the remuneration of the individual Managing Directors;<sup>42</sup>
- (e) selecting and nominating candidates to the General Meeting for appointment as Supervisory Director;<sup>43</sup>
- (f) submitting a proposal to the General Meeting for the remuneration of the Supervisory Directors;<sup>44</sup>
- (g) deciding on conflicts of interest between Managing Directors and Supervisory Directors on the one hand and the Company on the other hand;<sup>45</sup>
- (h) approving resolutions of the Management Board which by or pursuant to the Articles of Association are subjected to the approval of the Supervisory Board;
- (i) evaluating the performance of the Supervisory Board, the committees of the Supervisory Board and the individual Supervisory Directors;<sup>46</sup>
- (j) evaluating the performance of the Management Board and the individual Managing Directors;<sup>47</sup>
- (k) submitting the nomination to the General Meeting for appointment of the Company's external auditor;<sup>48</sup>
- (l) supervising the performance of the Company's external auditor;<sup>49</sup>

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<sup>38</sup> Best practice provision 2.4.7 DCGC.

<sup>39</sup> Best practice provision 2.6.4 DCGC.

<sup>40</sup> Secs. 2:162 and 2:155 DCC.

<sup>41</sup> Principle 3.1 DCGC and Best practice provision 3.1.1 DCGC.

<sup>42</sup> Principle 3.2 DCGC.

<sup>43</sup> Sec. 2:158 DCC.

<sup>44</sup> Principle 3.3 DCGC

<sup>45</sup> Best practice provision 2.7.3 DCGC.

<sup>46</sup> Best practice provision 2.2.6 DCGC.

<sup>47</sup> Best practice provision 2.2.6 DCGC.

<sup>48</sup> Principle 1.6 DCGC.

<sup>49</sup> Principle 1.6 DCGC.

- (m) on recommendation of the Audit Committee and after consultation with the Management Board, approve the remuneration of the external auditor;
  - (n) promoting good corporate governance of the Company;
  - (o) complying with the law, the Articles of Association, these Rules and the Code.
- 10.3 The Supervisory Board's supervision of the Management Board shall also include supervising the relationship with Shareholders.<sup>50</sup>
- 10.4 The Supervisory Board's division of duties currently reads as stated in Schedule 3.<sup>51</sup>
- 10.5 The Supervisory Board may appoint from among its members one or more delegated Supervisory Directors. A delegated Supervisory Director is a Supervisory Director who is charged with a special task. The delegated authority may not exceed the responsibilities of the Supervisory Board itself and shall not include managing the Company. It entails more intensive supervision and advice and more regular consultation with the Management Board. The delegation shall not affect the duties and powers of the Supervisory Board. The delegated Supervisory Directors shall report on their findings to the Supervisory Board. A Supervisory Director may only be temporarily appointed as delegated Supervisory Director. The offices of chairman or vice-chairman of the Supervisory Board and delegated Supervisory Director are compatible.<sup>52</sup>
- 10.6 The Supervisory Board may decide that one or more Supervisory Directors shall have access to all premises of the Company and shall be authorised to examine all of the Company's books, correspondence and other records and to be fully informed of all actions which have taken place, or the Supervisory Board may decide that one or more Supervisory Directors shall be authorised to exercise a portion of such powers.
- 10.7 The Supervisory Directors shall be collectively responsible for the supervision of the policies of the Management Board and of the general course of affairs of the Company and the business connected with it.
- 10.8 The Supervisory Board shall be responsible for stimulating openness and accountability within the Supervisory Board and between the Supervisory Board and the Management Board.<sup>53</sup>
- 10.9 The Supervisory Board and each individual Supervisory Director have their own responsibility for obtaining from the Management Board, the internal audit function, the external auditor and the Works Council (if any) the information which the Supervisory Board needs in order to be able to properly carry out its duties as a supervisory body.<sup>54</sup>
- 10.10 If the Supervisory Board considers it necessary, it may obtain information from officers and external advisers of the Company provided against a reasonable price agreed upon within the Supervisory Board and in consultation with the CEO. The Company shall provide the necessary means for this purpose. The Management Board may request to review the fees spent on advisers

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<sup>50</sup> Best practice provision 4.1.1. DCGC.

<sup>51</sup> Best practice provision 2.3.1 DCGC.

<sup>52</sup> Best practice provision 2.3.8 DCGC.

<sup>53</sup> Best practice provision 2.4.1 DCGC.

<sup>54</sup> Best practice provision 2.4.8 DCGC.

by the Supervisory Board on reasonableness. The Supervisory Board may require that certain officers and external advisers attend its meetings.<sup>55</sup>

- 10.11 The Supervisory Board shall have the power to adjust upwards or downwards the value of a variable remuneration conditionally awarded in a particular financial year if payment thereof is unacceptable according to standards of reasonableness and fairness<sup>56</sup> or if in its opinion such value produces an unfair result due to extraordinary circumstances in the period in which the performance criteria determined beforehand are or should be realised.
- 10.12 The Supervisory Board shall have the power to claim back from the individual Managing Directors 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).<sup>57</sup>
- 10.13 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 and that he can address the meeting. The external auditor may be questioned by the General Meeting in relation to his statement on the fairness of the annual accounts.<sup>58</sup>
- 10.14 The Supervisory Directors shall externally express concurring views with respect to important affairs, matters of principle and matters of general interest, with due observance of the responsibilities of the individual Supervisory Directors.
- 10.15 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. This supervision may be delegated to the Audit Committee.

## **11. Chairman and vice-chairman of the Supervisory Board**

- 11.1 The Supervisory Board shall appoint from among its members a chairman, with due observance of Article 3.5, as well as a vice-chairman.<sup>59</sup>
- 11.2 The duties of the chairman of the Supervisory Board shall include, without limitation:
  - (a) ensuring the proper performance of the Supervisory Board;<sup>60</sup>
  - (b) ensuring the proper performance of the committees of the Supervisory Board;<sup>61</sup>
  - (c) ensuring that a vice-chairman of the Supervisory Board is appointed;<sup>62</sup>
  - (d) ensuring that the Supervisory Directors are provided in a timely manner with all information required for the proper fulfilment of their duties;<sup>63</sup>

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<sup>55</sup> Best practice provision 2.4.9 DCGC.

<sup>56</sup> Section 2:135 subsection 6 DCC.

<sup>57</sup> Section 2:135 subsection 8 DCC.

<sup>58</sup> Best practice provision 4.1.9 DCGC.

<sup>59</sup> Best practice provision 2.1.9 DCGC.

<sup>60</sup> Best practice provision 2.3.6 DCGC.

<sup>61</sup> Best practice provision 2.3.6 DCGC.

<sup>62</sup> Best practice provision 2.3.6 DCGC.

<sup>63</sup> Best practice provision 2.3.6 NCGC.

- (e) ensuring that there is sufficient time for discussion and decision-making by the Supervisory Board;<sup>64</sup>
- (f) preparing decision-making by the Supervisory Board;
- (g) presiding over the meetings of the Supervisory Board;
- (h) receiving and deciding on reported conflicts of interest and potential conflicts of interest between Managing Directors and Supervisory Directors on the one hand and the Company on the other hand;<sup>65</sup>
- (i) ensuring that the Management Board performs activities in respect of culture;<sup>66</sup>
- (j) ensuring that an induction programme for Supervisory Directors is drawn up and that Supervisory Directors attend their induction programme;<sup>67</sup>
- (k) ensuring that an education and training programme for Supervisory Directors is drawn up and that Supervisory Directors attend their education and training programmes;<sup>68</sup>
- (l) ensuring that the performance of the Supervisory Board, the committees of the Supervisory Board and the individual Supervisory Directors is evaluated at least once a year;<sup>69</sup>
- (m) ensuring that the performance of the Management Board and the individual Managing Directors is evaluated at least once a year;<sup>70</sup>
- (n) ensuring that the Supervisory Board recognises signs from the business connected with the Company and ensuring that material actual or alleged misconduct and irregularities are forthwith reported to the Supervisory Board;<sup>71</sup>
- (o) receiving reports of material actual or alleged misconduct and irregularities within the Company and the business connected with it, to the extent such reports are to be addressed to the chairman of the Supervisory Board;<sup>72</sup>
- (p) ensuring that the Supervisory Board is timely and closely involved in a merger or takeover process;<sup>73</sup>
- (q) maintaining regular contact with the Management Board;
- (r) maintaining regular contact with the management boards of Group Companies;
- (s) maintaining regular contact with the Works Council (if any);
- (t) ensuring that the Supervisory Board maintains regular contact with the Company's internal audit function;

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<sup>64</sup> Best practice provision 2.3.6 DCGC.

<sup>65</sup> Best practice provision 2.7.3 DCGC.

<sup>66</sup> Best practice provision 2.3.6 DCGC.

<sup>67</sup> Best practice provision 2.3.6 DCGC.

<sup>68</sup> Best practice provision 2.3.6 DCGC.

<sup>69</sup> Best practice provision 2.3.6 DCGC.

<sup>70</sup> Best practice provision 2.3.6 DCGC.

<sup>71</sup> Best practice provision 2.3.6 DCGC.

<sup>72</sup> Best practice provision 2.3.6 DCGC.

<sup>73</sup> Best practice provision 2.3.6 DCGC.

- (u) ensuring that contacts of the Supervisory Board with the Management Board, the management boards of Group Companies, the Works Council and the Company's internal audit function proceed properly;<sup>74</sup>
  - (v) presiding over the General Meeting;
  - (w) ensuring that the General Meeting proceeds in an orderly and efficient manner;<sup>75</sup>
  - (x) ensuring that effective communication with Shareholders may take place.<sup>76</sup>
- 11.3 The chairman of the Supervisory Board shall consult regularly with the CEO.<sup>77</sup>
- 11.4 The duties of the vice-chairman of the Supervisory Board shall include, without limitation:
- (a) substituting the chairman of the Supervisory Board in his absence;
  - (b) receiving and deciding on reported conflicts of interest and potential conflicts of interest between the chairman of the Supervisory Board on the one hand and the Company on the other hand.<sup>78</sup>
- 11.5 The chairman of the Supervisory Board shall on behalf of the Supervisory Board be the main contact for the Management Board, Supervisory Directors and Shareholders regarding the performance of Managing Directors and Supervisory Directors. The vice-chairman of the Supervisory Board shall be a contact for individual Supervisory Directors and Managing Directors regarding the performance of the chairman of the Supervisory Board.<sup>79</sup>

## **12. Company Secretary**

- 12.1 The Company shall have a Company Secretary. The Company Secretary shall support the Management Board and the Supervisory Board, including its Committees. The Company Secretary shall be responsible for ensuring that proper procedures are complied with and that the law, the Articles of Association, the rules governing the Management Board and these Rules are duly observed.<sup>80</sup>
- 12.2 The Company Secretary shall, whether or not on the recommendation of the Supervisory Board, be appointed and dismissed by the Management Board. A resolution to appoint or dismiss the Company Secretary is subject to the approval of the Supervisory Board.<sup>81</sup>
- 12.3 The Company Secretary shall facilitate the provision of information to the Supervisory Board and shall support the chairman of the Supervisory Board and its Committees in organising their meetings.<sup>82</sup>

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<sup>74</sup> Best practice provision 2.3.6 DCGC.

<sup>75</sup> Best practice provision 2.3.6 DCGC.

<sup>76</sup> Best practice provision 2.3.6 DCGC.

<sup>77</sup> Best practice provision 2.3.6 DCGC.

<sup>78</sup> Best practice provision 2.7.3 DCGC.

<sup>79</sup> Best practice provision 2.4.3 DCGC.

<sup>80</sup> Best practice provision 2.3.10 DCGC.

<sup>81</sup> Best practice provision 2.3.10 DCGC.

<sup>82</sup> Best practice provision 2.3.10 DCGC.

- 12.4 If the Company Secretary notes that the interests of the Management Board and the Supervisory Board diverge, resulting in lack of clarity as to which interests the Company Secretary should represent, he shall report this to the chairman of the Supervisory Board.<sup>83</sup>
- 12.5 The Company Secretary may delegate his duties under these Supervisory Board Rules, or parts thereof, to a deputy appointed by him in consultation with the chairman of the Supervisory Board.

### **13. Meetings of the Supervisory Board**

- 13.1 The Supervisory Board shall meet at least four times per year. Meetings shall be scheduled annually as much as possible in advance.
- 13.2 Each Supervisory Director shall be authorised to convene a meeting of the Supervisory Board. Notwithstanding Article 13.1, a meeting of the Supervisory Board shall be convened whenever a Supervisory Director considers appropriate. In addition, a meeting of the Supervisory Board shall be convened as soon as one or more Managing Directors so request the Supervisory Board. If in that event a Supervisory Director does not convene the meeting of the Supervisory Board such that it can be held within fourteen days of receipt of the request, any of the persons requesting the meeting shall be authorised to convene the same with due observance of the relevant provisions of this Article 13.
- 13.3 Supervisory Directors shall be given notice of the meeting of the Supervisory Board by the Company Secretary or a Supervisory Director. Notice of a meeting shall be given by letters or a readable and reproducible electronic communication at least seven calendar days before the meeting. The notice of meeting shall mention the matters to be discussed and the place and time of the meeting.
- 13.4 Meetings of the Supervisory Board shall be held at the offices of the Company. A meeting of the Supervisory Board may be held elsewhere, by telephone or video conference, provided that all Supervisory Directors have consented to the place and/or way of the meeting.
- 13.5 The meeting of the Supervisory Board shall be presided over by the chairman of the Supervisory Board or, in his absence, by the vice-chairman of the Supervisory Board. If both the chairman and the vice-chairman of the Supervisory Board are absent, the Supervisory Directors present at the meeting shall appoint one of them to be chairman. The Company Secretary shall keep minutes of the proceedings at the meeting. If the Company Secretary is absent, the chairman of the meeting shall designate the secretary. Minutes shall be adopted and in evidence of such adoption be signed by the chairman and the secretary of the meeting, provided that all Supervisory Directors agree to the contents thereof, or be adopted by the Supervisory Board in a subsequent meeting; in the latter case the minutes shall in evidence of their adoption be signed by the chairman and the secretary of the meeting in which they are adopted.
- 13.6 The Supervisory Directors as well as the persons who are admitted by the Supervisory Directors present shall be authorised to attend the meeting. Admittance shall be decided by a majority vote of the Supervisory Directors present (incl. by telephone or electronically) at the meeting.
- 13.7 Supervisory Directors shall attend meetings of the Supervisory Board and meetings of the committees of which they are members. If Supervisory Directors are frequently absent during

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<sup>83</sup> Best practice provision 2.3.10 DCGC.

such meetings, they shall be asked to explain their absence. The Supervisory Board Report shall state the rate of attendance of each Supervisory Director at meetings of the Supervisory Board and of the committees.<sup>84</sup>

- 13.8 A Supervisory Director may only be represented at a meeting by another Supervisory Director authorised in writing. The requirement of written form for the authorisation shall be met if the authorisation has been recorded electronically. The authorisation may only relate to the meeting specified therein. The existence of the authorisation must be proved satisfactorily to the chairman of the meeting of the Supervisory Board
- 13.9 The Company Secretary shall attend the meetings of the Supervisory Board, unless he is prevented from doing so on serious grounds or the Supervisory Board has expressed the wish to meet without the presence of the Company Secretary.
- 13.10 Each Supervisory Director may participate in a meeting by electronic means of communication, provided that all Supervisory Directors participating in the meeting can hear each other simultaneously. A Supervisory Director so participating shall be deemed to be present at the meeting.
- 13.11 Each Supervisory Director, the CEO and the Management Board have the right to request that an item be placed on the agenda for a meeting of the Supervisory Board.

#### **14. Decision-making of the Supervisory Board**

- 14.1 Each Supervisory Director shall have one vote. All resolutions shall be adopted by an absolute majority of votes cast at a meeting at which more than half of the Supervisory Directors are present or represented.
- 14.2 The chairman of the meeting of the Supervisory Board shall determine the manner of voting.
- 14.3 The Supervisory Directors shall endeavour to achieve that resolutions are, as much as possible, adopted unanimously. If in an election of persons an absolute majority of votes cast is not obtained, there shall be further votes until either one person obtains an absolute majority of votes cast or there is a tie in a vote between two persons. Such further voting shall be between the persons who obtained votes in the preceding vote, but with the exclusion of the person who obtained the smallest number of votes in the preceding vote. If more than one person obtained the smallest number of votes in the preceding vote, lots shall be drawn to decide which of those persons is to withdraw from the next vote. In the event of a tie in a vote between two persons, the chairman of the meeting shall decide. In the event of a tie vote concerning other matters, the proposal shall have been rejected.
- 14.4 In the event that one or more Supervisory Directors have a direct or indirect personal interest that conflicts with the interest of the Company and the business connected with it, they shall not be authorised to participate in the discussion and the decision-making process. In the event that all Supervisory Directors have or the only Supervisory Director has a direct or indirect personal interest that conflicts with the interest of the Company and the business connected with it, the resolution shall be adopted by the General Meeting.<sup>85</sup>

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<sup>84</sup> Best practice provision 2.4.4 DCGC.

<sup>85</sup> Sec. 2:150 subsection 5 DCC.



14.5 When determining to what extent the Supervisory Directors cast votes, are present or represented, no account shall be taken of Supervisory Directors who are not authorised to participate in the discussion and the decision-making process pursuant to Article 14.4

14.6 In principle, resolutions of the Supervisory Board shall be adopted at a meeting, but the Supervisory Board may also adopt resolutions without holding a meeting, provided that all Supervisory Directors have consented to this manner of adopting resolutions and the votes are cast in writing or by electronic means. Articles 14.1 and 14.3 up to and including and 14.5 shall apply by analogy to the adoption of resolutions by the Supervisory Board without holding a meeting.

## **15. Conflicts of interest**

15.1 Any form of conflict of interest between the Company and the Supervisory Directors shall be prevented.<sup>86</sup>

15.2 Supervisory Directors shall be alert to conflicts of interest and shall in any event refrain from:

- (a) competing with the Company;
- (b) demanding or accepting substantial gifts from the Company for themselves or their spouse, registered partner or other life companion, foster child or relative by blood or marriage up to the second degree;
- (c) providing unjustified advantages to third parties at the Company's expense;
- (d) taking advantage of business opportunities to which the Company is entitled for themselves or for their spouse, registered partner or other life companion, foster child or relative by blood or marriage up to the second degree.<sup>87</sup>

15.3 A conflict of interest may exist if the Company intends to enter into a transaction with a legal person:

- (a) in which a Supervisory Director personally has a material financial interest; or
- (b) which has a managing director or supervisory director who is related under family law to a Supervisory Director.<sup>88</sup>

15.4 A Supervisory Director shall forthwith report any potential conflict of interest in a transaction that is of material significance to the Company or to such Supervisory Director to the chairman of the Supervisory Board. The Supervisory Director shall provide all information relevant to the conflict of interest, including the information relevant to the situation concerning his spouse, registered partner or other life companion, foster children and relatives by blood or marriage up to the second degree. If the chairman of the Supervisory Board has a potential conflict of interest, he shall forthwith report such potential conflict of interest to the vice-chairman of the Supervisory Board.<sup>89</sup>

15.5 The Supervisory Board shall determine without the presence of the Supervisory Director concerned whether the reported potential conflict of interest qualifies as a direct or indirect

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<sup>86</sup> Principle 2.7 DCGC.

<sup>87</sup> Best practice provision 2.7.1 DCGC.

<sup>88</sup> Best practice provision 2.7.3 DCGC.

<sup>89</sup> Best practice provision 2.7.3 DCGC.

personal interest that conflicts with the interest of the Company and the business connected with it to which Article 14.4 applies.<sup>90</sup>

## **16. Committees**

- 16.1 The Supervisory Board may appoint from among its members such committees as it may reasonably deem necessary to the fulfilment of its duties. Any member of the respective committee shall be appointed and may be replaced at any time by the Supervisory Board. Each Supervisory Director shall be prepared to participate in the proceedings of a Supervisory Board committee. The Supervisory Board shall determine the composition, duties, powers and working procedures of the committees. All Supervisory Directors have unrestricted access to all committee meetings and records. Independent experts may be invited by the respective chairman to attend a meeting of the respective Committee.
- 16.2 If the Supervisory Board consists of more than four members, the Supervisory Board shall in any case appoint from among its members the following committees:
- (a) an Audit Committee;
  - (b) a Remuneration Committee;
  - (c) a Nomination and Appointment Committee.<sup>91</sup>
- 16.3 The duties of the Audit Committee, the Remuneration Committee and the Nomination and Appointment Committee shall be to prepare the decision-making by the Supervisory Board, without prejudice to the responsibility of the Supervisory Board.<sup>92</sup>
- 16.4 If and as long as no Audit Committee, Remuneration Committee or Nomination and Appointment Committee has been established, the provisions of these Rules relating to the relevant committee shall apply to the entire Supervisory Board.<sup>93</sup>
- 16.5 The Supervisory Board shall adopt rules governing the Audit Committee, the Remuneration Committee and the Nomination and Appointment Committee. The rules shall regulate the composition, duties, powers and working procedures of the relevant committee.<sup>94</sup> The Supervisory Board can at all times amend these rules or revoke any powers granted by it to a Committee.
- 16.6 The rules governing the Audit Committee currently read as stated in Schedule 4.
- 16.7 The rules governing the Remuneration Committee currently read as stated in Schedule 5.
- 16.8 The rules governing the Nomination and Appointment Committee currently read as stated in Schedule 6.
- 16.9 The rules governing the Audit Committee, the Remuneration Committee and the Nomination and Appointment Committee shall be published on the Company's website.<sup>95</sup>

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<sup>90</sup> Best practice provision 2.7.3 DCGC.

<sup>91</sup> Best practice provision 2.3.2 DCGC.

<sup>92</sup> Best practice provision 2.3.2 DCGC.

<sup>93</sup> Best practice provision 2.3.2 DCGC.

<sup>94</sup> Best practice provision 2.3.3 DCGC.

<sup>95</sup> Best practice provision 2.3.3 DCGC.

- 16.10 The Supervisory Board shall discuss the items reported on by the Audit Committee pursuant to best practice provision 1.5.3 of the Code.<sup>96</sup>
- 16.11 If there is no internal audit function, the Supervisory Board shall consider annually whether adequate alternative measures have been taken, also on the basis of a recommendation made by the Audit Committee, and shall consider whether there is a need for an internal audit function. The Supervisory Board shall include in the Supervisory Board Report the conclusions as well as any recommendations and alternative measures resulting therefrom.<sup>97</sup>
- 16.12 The Supervisory Board shall report in the Supervisory Board Report on the fulfilment of the duties of the Audit Committee, the Remuneration Committee and the Nomination and Appointment Committee in the past financial year. The Supervisory Board Report shall also mention the composition of the committees, the number of meetings of the committees and the most important matters discussed at the meetings.<sup>98</sup>
- 16.13 Each member of a Committee has access to all relevant books, records and offices of the Company and the authority to interview officers and employees of the Company to the extent necessary or useful for the proper performance of his duties. They shall exercise this right in consultation with the Chairman of the respective Committee.
- 16.14 Each Committee may, at the expense of the Company, seek the advice which it deems desirable for the correct performance of its duties, provided against a reasonable price and agreed upon within the respective Committee and in consultation with the CEO. The Management Board may request to review the fees spent on advisers by each Committee on reasonableness.

## **17. Induction program for Supervisory Directors**

Once appointed, each Supervisor Director shall follow an induction program tailored to his office. The induction program shall in any event address:

- (a) general financial, social and legal affairs;
- (b) financial reporting by the Company;
- (c) specific aspects that are unique to the Company and its business activities;
- (d) the Company's culture;
- (e) the relationship with the Works Council (if any);
- (f) the responsibilities of a Supervisory Director.<sup>99</sup>

## **18. Further training and education for Supervisory Directors**

The Supervisory Board shall carry out an annual review to identify any aspects in respect of which Supervisory Directors require further training and education during their term of appointment.<sup>100</sup>

## **19. Evaluation of the performance of the Supervisory Board and the Management Board**

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<sup>96</sup> Best practice provision 1.5.4 NCGC.

<sup>97</sup> Best practice provision 1.3.6 NCGC.

<sup>98</sup> Best practice provision 2.3.5 DCGC.

<sup>99</sup> Best practice provision 2.4.5 DCGC.

<sup>100</sup> Best practice provision 2.4.6 DCGC.

- 19.1 At least once a year, without the presence of the Management Board, the Supervisory Board shall evaluate its own performance, the performance of the individual committees of the Supervisory Board and that of the individual Supervisory Directors and shall discuss the results from the evaluation. In doing so, attention shall be given to:
- (a) substantive aspects, the mutual interaction and the interaction with the Management Board;
  - (b) events which occurred in practice from which lessons may be learned;
  - (c) the requisite profile, composition, competencies and expertise of the Supervisory Directors.<sup>101</sup>
- 19.2 At least once a year, without the presence of the Management Board, the Supervisory Board shall evaluate the performance of the Management Board as a whole and that of the individual Managing Directors and shall discuss the results from the evaluation, such also in light of the succession of Managing Directors.<sup>102</sup>
- 19.3 The Supervisory Board Report shall state:
- (a) how performance evaluation of the Supervisory Board, the individual committees and the individual Supervisory Directors has been conducted;
  - (b) how performance evaluation of the Management Board and the individual Managing Directors has been conducted;
  - (c) what has been or will be done with the results from the evaluations.<sup>103</sup>

## **20. Long-term value creation**

The Supervisory Board shall supervise the manner in which the Management Board implements the strategy for long-term value creation. The Supervisory Board shall regularly discuss the strategy, the implementation thereof and the principal risks associated with it. The Supervisory Board shall explain in the Supervisory Board Report how it was involved in the formulation of the strategy and the supervision of its implementation.<sup>104</sup>

## **21. Misconduct and irregularities**

- 21.1 The Supervisory Board shall be alert to indications of actual or alleged misconduct or irregularities within the Company and the business connected with it.<sup>105</sup>
- 21.2 In order to safeguard the independence of the investigation, in cases where the Management Board itself is involved, the Supervisory Board shall have the possibility to initiate its own investigation into signs of misconduct and irregularities and to coordinate such investigation.<sup>106</sup>

## **22. Takeover situations**

In the event of a takeover bid for the shares in the share capital of the Company or for depositary receipts thereof, in the event of a private bid for a business unit or a Participating Interest of the

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<sup>101</sup> Best practice provision 2.2.6 DCGC.

<sup>102</sup> Best practice provision 2.2.7 DCGC.

<sup>103</sup> Best practice provision 2.2.8 DCGC.

<sup>104</sup> Best practice provision 1.1.3 DCGC.

<sup>105</sup> Principle 2.6 DCGC.

<sup>106</sup> Best practice provision 2.6.4 DCGC.

Company the value of which exceeds the threshold referred to in section 2:107a subsection 1 part c of the Dutch Civil Code, or in the event of other far-reaching changes in the Company's structure, the Supervisory Board shall ensure that the stakeholder interests concerned are carefully weighed and that any conflict of interest for Supervisory Directors or Managing Directors is prevented. The Supervisory Board shall be guided in its actions by the interests of the Company and the business connected with it.<sup>107</sup>

### **23. Relationship with the Management Board**

If the Management Board invokes a response time as referred to in best practice provision 4.1.7 of the Code, the Supervisory Board shall ensure that:

- (a) this is a reasonable period not exceeding 180 days, calculated from the moment the Management Board is informed by one or more Shareholders of their intention to put an item on the agenda to the day of the General Meeting at which the item is to be discussed;
- (b) the Management Board uses the response time for further deliberation and constructive consultation, in any event with the relevant Shareholder or Shareholders, and explores the alternatives;
- (c) the Management Board reports on such consultation and exploration to the General Meeting.<sup>108</sup>

### **24. Relationship with the General Meeting**

- 24.1 The Supervisory Directors shall attend the General Meetings, unless they are prevented from doing so on serious grounds or the General Meeting has expressed the wish to meet without the presence of the Supervisory Board or one or more Supervisory Directors.
- 24.2 The Supervisory Board shall ensure that the General Meeting is adequately provided with information before and after each General Meeting.<sup>109</sup>
- 24.3 The Supervisory Board shall provide the General Meeting with all required information, unless this is incompatible with a major interest of the Company.<sup>110</sup> If the Supervisory Board is of the opinion that provision of information is incompatible with a major interest of the Company, the Supervisory Board shall notify this to the General Meeting, stating the reasons thereof.<sup>111</sup>
- 24.4 The Supervisory Board shall endeavour that a report of the General Meeting is 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,<sup>112</sup> by the chairman and the secretary of the meeting. The provisions of this clause 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, in any case before the end of the first next

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<sup>107</sup> Principle 2.8 DCGC.

<sup>108</sup> Best practice provision 4.1.7 DCGC.

<sup>109</sup> Principle 4.2 DCGC; Best practice provision 4.2.4 DCGC.

<sup>110</sup> Section 2:107 subsection. 2 DCC.

<sup>111</sup> Best practice provision 4.2.1. DCGC.

<sup>112</sup> Best practice provision 4.1.10 DCGC.

held General Meeting. Also, resolutions adopted by the General Meeting are posted on the Company's website as soon as possible after the meeting, in any event before the end of the first next held General Meeting.

## **25. Relationship with the Works Council**

- 25.1 Each year the Supervisory Board shall draw up a scheme for attendance by one or more Supervisory Directors of the consultation meetings of the Works Council to the extent such consultation meetings are to be attended by the Supervisory Directors or by one or more representatives from among them pursuant to the law or an agreement with the Works Council. In the consultation meetings the general course of affairs in the Company's business and any proposed resolutions as referred to in section 25 subsection 1 of the Dutch Works Councils Act shall be discussed at least twice a year.<sup>113</sup>
- 25.2 Each year the Supervisory Board shall draw up a list of Supervisory Directors who are available for attending meetings of the Works Council where their attendance is not required pursuant to the law or an agreement with the Works Council.
- 25.3 The chairman of the Supervisory Board shall be primarily responsible for maintaining and coordinating contacts with the Works Council. If another Supervisory Director than the chairman of the Supervisory Board is invited to attend a meeting of the Works Council, he shall accept the invitation only after consultation with the chairman of the Supervisory Board.
- 25.4 If a proposal of the Management Board requires both the approval of the Supervisory Board and the advice of the Works Council and the proposal is first submitted to the Supervisory Board for approval, the Supervisory Board shall only grant the approval subject to a positive or non-negative advice of the Works Council.

## **26. Supervisory Board Report**

Annually, after the end of the financial year, the Supervisory Board shall prepare a Supervisory Board Report. The Supervisory Board shall in the Supervisory Board Report account for the supervision conducted in the past financial year, reporting in any event on the matters, referred to in the Articles 3.6, 7.2, 9.1, 13.7, 16.10, 19.3 and 20. The Supervisory Board Report shall be added to the annual documents of the Company.<sup>114</sup>

## **27. Confidentiality**

Supervisory Directors shall treat all information and documentation acquired within the framework of their position as Supervisory Director with the necessary discretion and, in the case of classified information, with appropriate secrecy. Classified information shall not be disclosed outside the Supervisory Board, made public or otherwise made available to third parties, even after resignation from the Supervisory Board, unless it has been made public by the Company or it has been established that the information is already in the public domain. Staff members of the Company who have a need to know in view of their activities for the Company may be informed. A Supervisory Director shall not in any way whatsoever utilise the information referred to above for his personal benefit.

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<sup>113</sup> Section 24 DWCA.

<sup>114</sup> Best practice provision 2.3.1 DCGC.

## **28. Miscellaneous**

- 28.1 These Rules have been drawn up pursuant to article 26.2 of the Articles of Association and best practice provision 2.3.1. of the Code and are complementary to the rules and regulations from time to time applicable to the Supervisory Board and the Supervisory Directors under Dutch law, applicable EU regulations or the Articles of Association.
- 28.2 Where these Rules are inconsistent with Dutch law or the Articles of Association, Dutch law or the Articles of Association shall prevail and where these Rules are consistent with Dutch law but inconsistent with the Articles of Association, Dutch law shall prevail.
- 28.3 If one or more provisions of these Rules are or become invalid, this shall not affect the validity of the remaining provisions. The Supervisory Board shall replace the invalid provisions by those which are valid and the effect of which, given the contents and purpose of these Rules, is to the greatest extent possible similar to that of the invalid provisions.
- 28.4 On 29 March 2018 the Supervisory Directors confirmed in writing that they will comply with and be bound by the obligations arising from these Rules to the extent they apply to the Supervisory Board, including its Committees, and the Supervisory Directors.
- 28.5 Upon appointment of a new Supervisory Director the Supervisory Board will cause the Supervisory Director concerned to confirm in writing that he will comply with and be bound by the obligations arising from these Rules to the extent they apply to the Supervisory Board, including its Committees, and the Supervisory Directors.
- 28.6 The Supervisory Board may occasionally decide that one or more provisions of these Rules need not to be applied.
- 28.7 These Rules may only be amended by resolution of the Supervisory Board to that effect.
- 28.8 These Rules shall be published on the Company's website.<sup>115</sup>
- 28.9 In case of uncertainty or difference of opinion on how a provision of these Management Board Rules should be interpreted, the opinion of the Chairman shall be decisive.
- 28.10 These Rules shall be governed by and construed in accordance with Dutch law.
- 28.11 All disputes arising out of or in connection with these Rules, including disputes concerning the existence and validity thereof, shall be exclusively resolved by the competent courts in Amsterdam, the Netherlands, save for an appeal to the Supreme Court in The Hague, the Netherlands.

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<sup>115</sup> Best practice provision 2.3.1 DCGC.

## SCHEDULE 1

### PROFILE OF THE SUPERVISORY BOARD

#### 1. Definitions

Terms used in this profile shall have the meanings ascribed thereto in the rules governing the supervisory board, of which this profile is a schedule.

#### 2. Size of the Supervisory Board

Taking into account the nature of the business, its activities and the requisite expertise, background, competencies and independence of the Supervisory Directors, the Supervisory Board shall consist of at least three members. Each Supervisory Director shall be prepared to participate in the proceedings of a Supervisory Board committee.

#### 3. Independence of the Supervisory Directors

In order to safeguard its independence, the Supervisory Board shall be composed with due observance of the following:

- (a) any one or more of the criteria, referred to in article 3.4. parts (a) up to and including (e), of the rules governing the Supervisory Board shall apply to not more than one Supervisory Director;
- (b) the criteria, referred to in article 3.4 of the rules governing the Supervisory Board, shall apply to less than half of the aggregate number of Supervisory Directors;
- (c) for each Shareholder, or group of affiliated Shareholders, holding directly or indirectly more than ten percent of the shares in the share capital of the Company, there shall be not more than one Supervisory Director who may be considered to be affiliated with him or representing him as referred to in article 3.4. parts (f) and (g) of the rules governing the Supervisory Board.<sup>116</sup>

#### 4. Requisite expertise and background of the Supervisory Directors

- 4.1 Each Supervisory Director shall have the specific expertise required for the fulfilment of his duties. Each Supervisory Director shall be capable of assessing the broad outline of the overall policy.<sup>117</sup>
- 4.2 At least one Supervisory Director shall have specific expertise in the field of technological innovation and new business models.<sup>118</sup>
- 4.3 At least one Supervisory Director shall be a financial expert, which means that such Supervisory Director has gained relevant knowledge and experience in the field of financial administration and accounting at listed companies or other large legal persons.

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<sup>116</sup> Best practice provision 2.1.7 DCGC.

<sup>117</sup> Best practice provision 2.1.4 DCGC.

<sup>118</sup> Best practice provision 2.1.4 DCGC.



4.4 The Company is a young, dynamic and creative molecular diagnostics company specialised in simple and rapid solutions for the diagnosis of severe infectious diseases in hospitalized patients.

Given the highly specialised nature of the Company's business activities, certain members of the Supervisory Board should preferably have a broad and in-depth knowledge of its business activities and the environment in which it operates. Taking the above into account, the Supervisory Board is considered to be adequately composed if it meets the following criteria:

- (a) among its members, there is a proper dispersal of: (i) specific know-how with respect to the various aspects of the business and corporate policy of the Company with regard to the various social and economic connections of the Company in which it is engaged, (ii) corporate, political and social experience and (iii) the capabilities to take measures to manage the Company in the absence of the Management Board;
- (b) its members have an open eye for and are capable to evaluate (international) social, economic, political and other developments relevant to the Company;
- (c) its members are deemed (or, in the case of a reappointment, have proven) to be capable to operate as members of the Supervisory Board as a collegiate body and not as advocates of any specific person, group of persons or party concerned with the Company;
- (d) its members do not have (perceived) conflicts of interest with the Company;
- (e) its members comprise the basic requirements governing each current and future Supervisory Director, including independence, objectivity, integrity, prudence, availability, contractibility and commitment.

4.3 In general, the criteria referred to in the preceding clause can be met if the following areas of competence are specifically reflected in the composition of the Supervisory Board:

- (a) knowledge of and experience in financial, legal, economic, commercial, social and marketing areas;
- (b) experience with the management of 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; and
- (f) knowledge of and experience and affinity with the business of the Company and its Subsidiaries.

## **5. Requisite diverse composition of the Supervisory Board**

5.1 In the selection of Supervisory Directors the Supervisory Board aims for a balance in nationality, gender, age, experience and active or retired background. In addition, there will be a balance in the experience and affinity with the nature and culture of the business of the Company and its Subsidiaries. The Supervisory Board strives to realise a diverse composition of the Supervisory Board in the nomination and appointment process for vacancies of its members, while taking into account the overall profile and selection criteria for appointments of suitable candidates to

the Supervisory Board. The qualifications of a particular candidate and the requirements for the position in the Supervisory Board to be filled shall always prevail when filling in a position of the Supervisory Board.

- 5.2 The Supervisory Board shall consist of a mix of persons with executive experience, preferably gained in the private sector, experience in corporate governance of (large) stock-listed companies and experience in the political and social environment in which such companies operate.

**6. Miscellaneous**

This profile has been drawn up pursuant to article 24.2 of the Articles of Association and article 4.1 of the rules governing the Supervisory Board.

## SCHEDULE 2

### RESIGNATION SCHEDULE OF THE SUPERVISORY BOARD

Terms used in this resignation schedule shall have the meanings ascribed thereto in the rules governing the supervisory board, of which this resignation schedule is a schedule.

<b>Name</b>	<b>Date of first appointment</b>	<b>End of first term</b>	<b>Date of most recent reappointment</b>	<b>End of recent term</b>	<b>No. of reappointment</b>
Mr. William E. Rhodes, III	10 NOV 2015	AGM 2019	-	-	-
Mr. Mario Crovetto	10 NOV 2015	AGM 2019	-	-	-
Dr. Werner Schaefer	10 NOV 2015	21 JUN 2018	-	-	-
Dr. Rudy Dekeyser	10 NOV 2015	16 JUN 2016	23 June 2017	21 JUN 2018	2
Dr. Holger Reithinger	10 NOV 2015	16 JUN 2016	23 June 2017	21 JUN 2018	2
Ms. Prabhavathi Fernandes, Ph.D.	16 JUN 2016	AGM 2019	-	-	-
Dr. Nils Clausnitzer	23 JUN 2017	AGM 2020	-	-	-

A Supervisory Director shall retire no later than at the end time of the annual General Meeting held in the last year of the term for which he was last appointed, unless the Supervisory Director is reappointed.

This resignation schedule has been drawn up pursuant to article 24.5 of the Articles of Association and article 7.3 of the rules governing the Supervisory Board.

### SCHEDULE 3

#### DIVISION OF DUTIES OF THE SUPERVISORY BOARD

The division of duties within the Supervisory Board shall be as follows:

<b>Name</b>	<b>Position</b>
Mr. William E. Rhodes, III	Chairman of the Supervisory Board and Chairman of the Remuneration Committee
Mr. Mario Crovetto	Member of the Supervisory Board and Chairman of the Audit Committee
Dr. Werner Schaefer	Vice Chairman of the Supervisory Board and Chairman of the Nomination and Appointment Committee
Dr. Rudy Dekeyser	Supervisory Director
Dr. Holger Reithinger	Supervisory Director
Ms. Prabhavathi Fernandes, Ph.D.	Supervisory Director
Dr. Nils Clausnitzer	Supervisory Director

## SCHEDULE 4

### RULES GOVERNING THE AUDIT COMMITTEE

#### 1. Definitions and interpretation

- 1.1 Terms used in these rules shall have the meanings ascribed thereto in the rules governing the supervisory board, of which these rules are a schedule.
- 1.2 In these rules references to Articles are to articles of these rules, unless otherwise specified.
- 1.3 The Exhibits 1 to 4 form part of these Rules.

#### 2. Composition, expertise and independence of the Audit Committee

- 2.1 The Supervisory Board shall have an Audit Committee. The Audit Committee shall be composed of at least two Supervisory Directors.
- 2.2 When composing the Audit Committee, account shall be taken of the requisite expertise of the members of the Audit Committee as a whole relevant to the sector in which the Company operates.<sup>119</sup>
- 2.3 At least one member of the Audit Committee shall have expertise in financial reporting or auditing the Annual Accounts.<sup>120</sup>
- 2.4 More than half of the members of the Audit Committee, including the chairman, shall be independent within the meaning of article 3.4 of the rules governing the Supervisory Board.<sup>121</sup>
- 2.5 The chairmanship of the Audit Committee shall not be held by the chairman of the Supervisory Board, nor by a former Managing Director.<sup>122</sup>

#### 3. Duties and responsibilities of the Audit Committee

- 3.1 The duties of the Audit Committee shall include:
  - (a) informing the Management Board or the Supervisory Board of the outcome of the statutory audit and explaining how the statutory audit contributed to the integrity of the financial reporting of the Company and what the role of the Audit Committee was in that process;
  - (b) monitoring the financial reporting process and submitting proposals to ensure its integrity;
  - (c) monitoring the effectiveness of the internal control system, the internal audit system and the risk management system regarding the financial reporting of the Company;
  - (d) monitoring the statutory audit of the Annual Accounts and the consolidated Annual Accounts, in particular, its performance, taking into account the assessment of the Dutch

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<sup>119</sup> Section 2 subsection 3 Decree on the establishment of an audit committee.

<sup>120</sup> Section 2 subsection 3 Decree on the establishment of an audit committee.

<sup>121</sup> Best practice provision 2.3.4 DCGC and section 2 subsection 3 Decree on the establishment of an audit committee.

<sup>122</sup> Best practice provision 2.3.4 DCGC.

Authority for the Financial Markets in accordance with section 26 subsection 6 of the EU Directive no 537/2014 of 16 April 2014;

- (e) assessing and monitoring the independence of the external auditor or the audit firm, specifically taking into account the provision of ancillary services to the Company;
- (f) determining the procedure for the selection of the external auditor or the audit firm and the nomination for the assignment to carry out the statutory audit in accordance with section 16 of the EU Directive no 537/2014 of 16 April 2014;<sup>123</sup>
- (g) advising the Management Board on the appointment and the dismissal of the executive internal auditor;<sup>124</sup>
- (h) supervising the performance of the internal audit function;<sup>125</sup>
- (i) advising the internal audit function on the drawing up of an audit plan.<sup>126</sup>

3.2 The Audit Committee shall prepare the decision-making by the Supervisory Board regarding the supervision on the integrity and quality of the financial reporting by the Company and the effectiveness of the internal risk management and control systems of the Company. The Audit Committee shall focus, amongst other things, on the supervision of the Management Board with regard to:

- (a) the relationship and compliance with recommendations and follow up on comments of the internal auditor and the external auditor;
- (b) the financing of the Company;
- (c) the application of information and communication technology by the Company, including risks relating to cybersecurity;
- (d) the Company's tax policy.<sup>127</sup>

3.3 The Audit Committee shall regularly, and in any event as soon as possible, provide the Supervisory Board with reports on the annual report, the annual accounts, and the quarterly and half-yearly figures, which will then be discussed at a meeting of the Supervisory Board. The annual accounts and the annual report for the year just ended shall be discussed in a meeting with the Supervisory Board within four months of this year's end. The half-yearly and quarterly accounts of the Company for the respective period just ended shall be discussed in a meeting of the Management Board with the Supervisory Board within two months of the end of this period. These meetings shall be prepared by the Audit Committee.

3.4 The following exhibits to these rules governing the Audit Committee contain further details on some of the duties of the Audit Committee described above:

- (a) Exhibit 1 – Supervision of External and Internal Auditor;
- (b) Exhibit 2 – Supervision of financial reporting and publications;

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<sup>123</sup> Section 2 subsection 2 Decree on the establishment of an audit committee.

<sup>124</sup> Best practice provision 1.3.1 DCGC.

<sup>125</sup> Best practice provision 1.3.2 DCGC.

<sup>126</sup> Best practice provision 1.3.3 DCGC.

<sup>127</sup> Best practice provision 1.5.1 DCGC.

- (c) Exhibit 3 – Supervision of compliance with legislation and regulations;
- (d) Exhibit 4 – Supervision of financing and finance-related strategies.

#### **4. Chairman of the Audit Committee**

- 4.1 The Supervisory Board shall appoint from among its members a chairman, with due observance of Article 2.4.<sup>128</sup>
- 4.2 The duties of the chairman of the Audit Committee shall particularly include ensuring the proper performance of the Audit Committee. In addition, the duties of the chairman of the Audit Committee shall include receiving reports from the external auditor of actual or alleged misconduct and irregularities during the carrying out of his assignment.<sup>129</sup>
- 4.3 The chairman of the Audit Committee shall act as the main contact for the Supervisory Board and the external auditor.

#### **5. Meetings and decision-making of the Audit Committee**

- 5.1 The Audit Committee shall meet as often as required for a proper functioning of the Audit Committee. It shall meet at least four times per year and furthermore whenever a member of the Audit Committee considers appropriate. The Audit Committee shall meet at least once a year with the external auditor without the Management Board being present. The meetings are as much as possible scheduled annually in advance and are held as far as possible shortly before the meetings of the Supervisory Board.
- 5.2 The Managing Director responsible for financial affairs, the internal auditor and the external auditor shall attend the meetings of the Audit Committee, unless the Audit Committee decides otherwise. The Audit Committee shall decide if and when the CEO shall attend its meetings.<sup>130</sup>
- 5.3 The Audit Committee may require any officer or employee of the Company, its external legal advisers or the External Auditor to attend a meeting of the Audit Committee or to consult with members or advisers of the Audit Committee
- 5.4 Articles 13 and 14 of the rules governing the Supervisory Board shall apply by analogy to the meetings and the decision-making of the Audit Committee, without prejudice to Articles 5.1 and 5.2.

#### **6. The external auditor**

- 6.1 The Audit Committee shall report annually to the Supervisory Board on the performance of and the developments in the relationship with the external auditor. The Audit Committee shall advise the Supervisory Board with regard to the nomination for the appointment or reappointment or dismissal of the external auditor and shall prepare the selection of the external auditor.<sup>131</sup> When carrying out the aforementioned duties, the Audit Committee shall take into account the observations of the Management Board.

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<sup>128</sup> Section 2 subsection 2 Decree on the establishment of an audit committee.

<sup>129</sup> Best practice provision 2.6.3 DCGC.

<sup>130</sup> Best practice provision 1.5.2 DCGC.

<sup>131</sup> Best practice provision 1.6.1 DCGC.

- 6.2 The Audit Committee shall submit a proposal to the Supervisory Board for the external auditor's assignment to audit the Annual Accounts. When formulating the terms of assignment, the scope of the audit, the materiality to be used and the remuneration for the audit shall be considered.<sup>132</sup>
- 6.3 The Audit Committee shall discuss the audit plan and the findings of the external auditor from the work undertaken by him with the external auditor.<sup>133</sup>
- 6.4 Annually, after the external accountant has discussed the draft audit plan with the Management Board, the Audit Committee shall discuss with the external auditor:
- (a) the scope and materiality of the audit plan and the principal risks of the annual reporting identified by the external auditor in the audit plan;
  - (b) also on the basis of the documents underlying the audit plan, the findings and the results of the audit procedures in respect of the Annual Accounts and the management letter.<sup>134</sup>
- 6.5 The Audit Committee shall determine whether, and if so, in which manner the external auditor will be involved in the content and publication of the financial reports other than the Annual Accounts.<sup>135</sup>
- 6.6 The Audit Committee shall consult with the external auditor whenever it considers necessary, but at least once a year without the presence of the Management Board.<sup>136</sup>
- 7. Report of the Audit Committee**
- 7.1 The Audit Committee shall report in a clear and timely manner to the Supervisory Board on its discussions and findings. This report shall in any event state:
- (a) how the effectiveness of the design and the operation of the internal risk management and control systems, referred to in best practice provisions 1.2.1 up to and including 1.2.3 of the Code, has been assessed;
  - (b) how the effectiveness of the internal and external audit process has been assessed;
  - (c) material considerations regarding the financial reporting process;
  - (d) how the material risks and uncertainties, referred to in best practice provision 1.4.3 of the Code, have been analysed and discussed and the significant findings of the Audit Committee.
- 7.2 If requested, the Chairman of the Audit Committee shall at meetings of the Supervisory Board provide the Supervisory Board with further information on the outcome of the discussions of the Audit Committee.
- 7.3 Every Supervisory Director has unrestricted access to all records of the Audit Committee. A Supervisory Director shall exercise this right in consultation with the Chairman of the Audit Committee and the Company Secretary.

## **8. Miscellaneous**

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<sup>132</sup> Best practice provision 1.6.3 DCGC.

<sup>133</sup> Principle 1.7 DCGC.

<sup>134</sup> Best practice provision 1.7.2 DCGC.

<sup>135</sup> Best practice provision 1.7.3 DCGC.

<sup>136</sup> Best practice provision 1.7.4 DCGC.



These rules have been drawn up pursuant to 16.5 of the rules governing the Supervisory Board and article 26.4 of the Articles of Association.

#### **EXHIBIT 1 - SUPERVISION OF EXTERNAL AUDITOR AND INTERNAL AUDITOR**

- (A) The Audit Committee shall assess and evaluate the External Auditor and the lead partner of the audit team of the External Auditor.
- (B) The Audit Committee shall obtain and review a report from the External Auditor (at least annually) regarding (i) the External Auditor's internal quality control procedures, (ii) any material issues raised by the most recent internal quality control review, or peer review, of the firm, or by any inquiry or investigation by governmental or professional authorities within the preceding five months with respect to one or more independent audits carried out by the firm, (iii) any steps taken to deal with any such issues and (iv) all relationships between the External Auditor and the Company. The Audit Committee shall evaluate the qualifications, performance and independence of the External Auditor, including considering whether the External Auditor's quality controls are adequate, and taking into account the opinions of the Management Board.
- (C) The Audit Committee shall ensure the rotation of the lead (or co-ordinating) audit partner having primary responsibility for the audit and the audit partner responsible for reviewing the audit as well as the other members of the External Auditor, as required by law, regulation or the Company's policy regarding the independent external auditor.
- (D) The Audit Committee shall meet with the External Auditor prior to the audit to discuss the planning, scope and staffing of the audit.

#### **EXHIBIT 2 - SUPERVISION OF FINANCIAL REPORTING AND PUBLICATIONS**

- (A) The Audit Committee shall review and discuss with the Management Board and the External Auditor the annual audited financial statements, including disclosures made in management interviews, analyses and the like.
- (B) The Audit Committee shall review and discuss with the Management Board and the External Auditor the interim financial statements prior to their release, including the results of any review by the External Auditors of the interim financial statements.
- (C) The Audit Committee shall discuss with the Management Board and the External Auditor significant financial reporting issues and judgements made in connection with the preparation of the Company's financial statements, including the quality of earnings, significant deviations between planned and actual performance, any significant changes in the Company's selection or application of accounting principles, any issues as to the adequacy of the Company's internal controls and any special steps adopted in light of control deficiencies.
- (D) The Audit Committee shall review and discuss reports of the External Auditor on:
  - (1) all major elements of the accounting policies and the methods used;
  - (2) all alternative treatments of financial information within generally accepted accounting principles that have been discussed with the Management Board or any

member thereof, ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the External Auditor; and

- (3) other important written communications between the External Auditor and the Management Board or one of its members, e.g. management letters.
- (E) The Audit Committee shall discuss with the Management Board the Company's (i) earnings press releases, including the use of non-GAAP information and (ii) plans and policies of the Company with respect to comments on financial information and earnings guidance given by analysts and rating agencies.
- (F) The Audit Committee shall discuss with the Management Board and the External Auditor the consequences of legislative or regulatory initiatives as well as of off-balance structures for the financial reporting by the Company.
- (G) The Audit Committee shall discuss with the Management Board the Company's major financial risk exposures and the steps the Management Board has taken to monitor and control such exposures, including the Company's risk assessment and risk management policies.

### **EXHIBIT 3 - SUPERVISION OF COMPLIANCE WITH LEGISLATION AND REGULATIONS**

- (A) The Audit Committee shall obtain reports from the Management Board and the External Auditor to the effect that the Company and its Subsidiaries comply with the applicable legislation and regulations and the internal rules of the Company. The Audit Committee shall review reports on and intended disclosures on insider and affiliated party transactions. The Audit Committee shall advise the Supervisory Board on policy and procedures of the Company for compliance with applicable legislation and regulations.
- (B) The Audit Committee shall discuss with the Management Board and the External Auditor any correspondence with supervisory authorities, market authorities or governmental agencies and any published reports which raise material issues regarding the Company's financial statements or accounting policies.
- (C) The Audit Committee shall discuss with the relevant persons of the legal and compliance department of the Company the legal or compliance related issues that may materially affect the financial reports or the policy of the Company regarding its compliance with legislation and regulations.

### **EXHIBIT 4 – SUPERVISION OF FINANCING AND FINANCE-RELATED STRATEGIES**

- (A) The Audit Committee shall review and discuss with the Management Board at least once a year the general financial strategy of the Company.
- (B) The Audit Committee shall review and discuss with the Management Board the financial policy and financial procedures of the Company, including its currency, policies and procedures.

- (C) The discussions between the Audit Committee and the Management Board on the above issues shall take place prior to the discussions on these issues between the Supervisory Board and the Management Board.

## SCHEDULE 5

### RULES GOVERNING THE REMUNERATION COMMITTEE

#### 1. Definitions and interpretation

- 1.1 Terms used in these rules shall have the meanings ascribed thereto in the rules governing the supervisory board, of which these rules are a schedule.
- 1.2 In these rules references to Articles are to articles of these rules, unless otherwise specified.

#### 2. Composition and independence of the Remuneration Committee

- 2.1 The Supervisory Board shall have a Remuneration Committee. The Remuneration Committee is composed of at least two Supervisory Directors.
- 2.2 More than half of the members of the Audit Committee shall be independent within the meaning of article 3.4 of the rules governing the Supervisory Board.<sup>137</sup>
- 2.3 The chairmanship of the Remuneration Committee shall not be held by the chairman of the Supervisory Board, nor by a former Managing Director.<sup>138</sup>

#### 3. Duties and responsibilities of the Remuneration Committee

The Remuneration Committee shall:

- 3.1 submit a clear and comprehensible proposal to the Supervisory Board concerning the remuneration policy for the Management Board to be conducted. Inadequate performance of duties shall not be rewarded.<sup>139</sup>
- 3.2 prepare the decision-making by the Supervisory Board regarding the determination of the remuneration of the individual Managing Directors and shall report to the Supervisory Board on its discussions and findings.<sup>140</sup>

#### 4. Chairman of the Remuneration Committee

- 4.1 The Supervisory Board shall appoint from among its members a chairman, with due observance of Article 2.3.
- 4.2 The duties of the chairman of the Remuneration Committee shall particularly include ensuring the proper performance of the Remuneration Committee.
- 4.3 The chairman of the Remuneration Committee shall act as the main contact for the Supervisory Board.

#### 5. Meetings and decision-making of the Remuneration Committee

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<sup>137</sup> Best practice provision 2.3.4 DCGC.

<sup>138</sup> Best practice provision 2.3.4 DCGC.

<sup>139</sup> Best practice provision 3.1.1 DCGC.

<sup>140</sup> Principle 3.2 DCGC and best practice provision 2.3.2 DCGC.

5.1 The Remuneration Committee shall meet as often as required for a proper functioning of the Remuneration Committee but at least three times per year and furthermore whenever a member of the Remuneration Committee considers appropriate.

5.2 Articles 13 and 14 of the rules governing the Supervisory Board shall apply by analogy to the meetings and decision-making of the Remuneration Committee, without prejudice to Article 5.1.

## **6. Remuneration policy for the Management Board**

6.1 The remuneration policy for Managing Directors shall be clear and comprehensible, shall focus on long-term value creation for the Company and the business connected with it and shall take into account the internal pay ratios within the business. The remuneration policy shall not encourage Managing Directors to act in their own interest, nor to take risks which are not in line with the formulated strategy and the risk acceptance that has been determined.<sup>141</sup>

6.2 The remuneration policy shall at least include the matters described in sections 2:383c up to and including 2:383e of the Dutch Civil Code, as far as they apply to the Management Board.<sup>142</sup>

6.3 When formulating the remuneration policy, the following aspects shall in any event be taken into account:

- (a) the objectives for the strategy for the implementation of long-term value creation as referred to in best practice provision 1.1.1 of the Code;
- (b) the scenario analyses performed in advance;
- (c) the pay ratios within the Company and the business connected to it;
- (d) the development of the market price of the shares;
- (e) an appropriate ratio between the variable and fixed remuneration components. The variable remuneration component shall be linked to measurable performance criteria determined in advance, which are predominantly long-term in nature;
- (f) if shares are awarded, the conditions applicable to the granting of the awards. Shares shall be retained for at least five years from the date they were awarded;
- (g) if options are awarded, the conditions applicable to the granting of the awards and the conditions applicable to the subsequent exercise of the awards. Options may not be exercised during the first three years following the date they were awarded.<sup>143</sup>

6.4 The Remuneration Committee shall submit a proposal to the Supervisory Board with regard to the remuneration of individual Managing Directors, which remuneration will be submitted to the General Meeting for adoption. The proposal shall be drawn up in accordance with the remuneration policy and shall in any event include the remuneration structure, the amount of the fixed and variable remuneration components, the performance criteria applied, the scenario analyses performed and the pay ratios within the Company and the business connected with it.<sup>144</sup> The main elements of the agreement of a Managing Director with the Company should be

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<sup>141</sup> Principle 3.1 DCGC.

<sup>142</sup> Section 2:135 subsection 1 DCC.

<sup>143</sup> Best practice provision 3.1.2 DCGC.

<sup>144</sup> Best practice provision 3.2.1 DCGC.

published on Company's website in a transparent overview after the agreement has been concluded, and in any event no later than the date of the notice calling the General Meeting where the appointment of the Managing Director will be proposed. The features disclosed are in any event the amount of the fixed salary, the structure and amount of the variable remuneration, any redundancy scheme or severance pay agreed, any conditions of a change of control clause in the contract with the Managing Director concerned and any other remuneration promised to the Managing Director, pension arrangements and performance criteria to be applied.<sup>145</sup>

- 6.5 When formulating the proposal for the remuneration of Managing Directors, the Remuneration Committee shall take note of the views of the individual Managing Directors with regard to the amount and structure of their own remuneration. The Remuneration Committee shall request the Managing Directors to consider the aspects, referred to in Article 6.3, when giving their views.<sup>146</sup>
- 6.6 Severance payments shall not exceed one annual salary, whereby annual salary shall mean the fixed part of the remuneration. No severance payment shall be made in case of early termination of the agreement at the initiative of the Managing Director or in the event of grossly culpable or negligent conduct on the part of the Managing Director.<sup>147</sup>

## **7. Remuneration report**

The Remuneration Committee shall prepare and post on the Company's website the remuneration report. In addition to the matters required by law, this report shall in any event address in a comprehensible manner:

- (a) how the remuneration policy has been implemented in the past financial year;
- (b) how the implementation of the remuneration policy contributes to long-term value creation;
- (c) that scenario analyses have been taken into consideration;
- (d) the pay ratios within the Company and the business connected to it and, if applicable, any changes in such ratios in comparison with the preceding financial year;
- (e) if a Managing Director receives a variable remuneration, how such remuneration contributes to long-term value creation, the measurable performance criteria determined in advance to which the variable remuneration is subject and the relationship between the remuneration and the performance;
- (f) if a Managing Director or former Managing Director receives a severance payment, the reason for such payment.<sup>148</sup>

## **8. Miscellaneous**

These rules have been drawn up pursuant to 16.5 of the rules governing the Supervisory Board.

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<sup>145</sup> Best practice provision 3.4.2 DCGC.

<sup>146</sup> Best practice provision 3.2.2 DCGC.

<sup>147</sup> Best practice provision 3.2.3 DCGC.

<sup>148</sup> Best practice provision 3.4.1 DCGC.

## SCHEDULE 6

### RULES GOVERNING THE NOMINATION AND APPOINTMENT COMMITTEE

#### **1. Definitions and interpretation**

- 1.1 Terms used in these rules shall have the meanings ascribed thereto in the rules governing the supervisory board, of which these rules are a schedule.
- 1.2 In these rules references to Articles are to articles of these rules, unless otherwise specified.

#### **2. Composition and independence of the Nomination and Appointment Committee**

The Supervisory Board shall have a Nomination and Appointment Committee. The Nomination and Appointment Committee shall be composed of at least two Supervisory Directors.

#### **3. Duties and responsibilities of the Nomination and Appointment Committee**

- 3.1 The duties of the **Nomination** and Appointment Committee shall include:
- (a) drawing up selection criteria and appointment procedures for Managing Directors and Supervisory Directors;
  - (b) regularly assessing the size and composition of the Management Board and the Supervisory Board and making a proposal for a profile of the Supervisory Board;
  - (c) regularly assessing the performance of individual Managing Directors and Supervisory Directors and reporting on this to the Supervisory Board;
  - (d) drawing up a plan for the succession of Managing Directors and Supervisory Directors;
  - (e) making proposals for appointments and reappointments of Managing Directors and Supervisory Directors;
  - (f) supervising the policies of the Management Board regarding the selection criteria and appointment procedures for senior management.<sup>149</sup>
- 3.2 The Nomination and Appointment Committee shall prepare the decision-making by the Supervisory Board shall report to the Supervisory Board on their discussions and findings.<sup>150</sup>

#### **4. Chairman of the Nomination and Appointment Committee**

- 4.1 The Nomination and Appointment Committee shall appoint from among its members a chairman.
- 4.2 The duties of the chairman of the Nomination and Appointment Committee shall particularly include ensuring the proper performance of the Nomination and Appointment Committee.
- 4.3 The chairman of the Nomination and Appointment Committee shall act as the main contact for the Supervisory Board.

#### **5. Meetings and decision-making of the Nomination and Appointment Committee**

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<sup>149</sup> Best practice provision 2.2.5 DCGC.

<sup>150</sup> Best practice provision 2.2.5 DCGC.

- 5.1 The Nomination and Appointment Committee shall meet whenever a candidate has to be selected for appointment as Managing Director or Supervisory Director, but at least once a year. Furthermore, whenever a member of the Nomination and Appointment Committee considers appropriate.
- 5.2 Articles 13 and 14 of the rules governing the Supervisory Board shall apply by analogy to the meetings and decision-making of the Nomination and Appointment Committee, without prejudice to Article 5.1.

**6. Miscellaneous**

These rules have been drawn up pursuant to 16.5 of the rules governing the Supervisory Board.