



**SPYKER CARS N.V.**

**BY-LAWS MANAGEMENT BOARD**

**Adopted by the Management Board and  
approved by the Supervisory Board  
in their combined meeting  
on 12 November 2008**

## CONTENTS

	<b>Page</b>
<b>Introduction</b> .....	3
<b>Chapter I - Composition of the Management Board; Positions</b> .....	3
1. Composition; Division of Tasks.....	3
<b>Chapter II - Duties and Powers</b> .....	4
2. General Duties and Powers.....	4
3. Strategy and Risks .....	5
4. Financial Reporting; Annual Accounts and Annual Report .....	5
5. Relation with the External Auditor .....	6
6. Relation with the Shareholders .....	6
7. Relation with Analysts, the Financial Press and Institutional and Other Investors .....	7
8. Website of the Company .....	8
<b>Chapter III - Meetings of the Management Board; Decision-making</b> .....	8
9. Meetings of the Management Board .....	8
10. Decision-making within the Management Board .....	8
<b>Chapter IV - Other Provisions</b> .....	9
11. Conflicts of Interests of Management Board Members .....	9
12. Remuneration of Management Board Members.....	10
13. Outside Positions .....	11
14. Holding and Trading Securities .....	11
15. Confidentiality.....	11
16. Governing law and jurisdiction .....	12

<b>Annexes</b>	<b>Page</b>
1. List of Definitions .....	13
2. List of Items to be placed on the Company's Website .....	15
3. List of Approval Supervisory Board .....	16

## **INTRODUCTION**

- 0.1 These By-Laws are established pursuant to article 18.2 of the Company's articles of association.
- 0.2 These By-Laws are complementary to the provisions regarding the Supervisory Board and the Supervisory Board members as contained in applicable legislation and regulations, the articles of association of the Company and the rules pertaining to the relationship between Management Board and Supervisory Board as contained in the By-Laws of the Management Board (which have been approved by the Supervisory Board). Where these By-Laws are inconsistent with Dutch law, other applicable Dutch or EU regulations or the articles of association, the latter shall prevail. Where these By-Laws are consistent with the Company's articles of association but inconsistent with Dutch law or other applicable Dutch or EU regulations, the latter shall prevail.
- 0.3 These By-Laws are posted on the Company's website.
- 0.4 The meaning of certain capitalised or uncapitalized terms used in these By-Laws are set forth in the List of Definitions attached as **Annex 1**.

## **CHAPTER 1 COMPOSITION OF THE MANAGEMENT BOARD; POSITIONS**

### **1. Composition; Division of Tasks**

- 1.1 Individual members of the Management Board may be charged with specific parts of the managerial tasks, without prejudice to the collective responsibility of the Management Board as a whole. The Management Board remains collectively responsible for decisions, even if they are prepared by individual members of the Management Board. An individual member of the Management Board may only exercise such powers as are explicitly attributed or delegated to him and he may never exercise powers beyond those exercisable by the Management Board as a whole.
- 1.2 The Management Board will in particular be collectively charged with decisions on the following matters relating to the Company:
  - (a) matters requiring the approval of the Supervisory Board;
  - (b) the division of tasks between the Management Board members;
  - (c) pursuing the policy of the Company, including its strategy and annual budget.
- 1.3 The division of tasks within the Management Board is determined (and amended, if necessary) by the Management Board, subject to the approval of the Supervisory Board. Management Board members especially charged with particular managerial

tasks are primarily responsible for the risk control and monitoring of the managerial tasks concerned.

- 1.4 Each member of the Management Board must inform the other members of the Management Board in a clear and timely manner about the way in which he has used delegated powers and about major developments in the area of his responsibilities.
- 1.5 The Company Secretary may delegate his duties under these By-Laws, or parts thereof, to a deputy appointed by him in consultation with the CEO.
- 1.6 The Company Secretary also performs tasks for the Supervisory Board, as provided for in the By-Laws of the Supervisory Board.

## **CHAPTER II DUTIES AND POWERS**

### **2. General Duties and Powers**

- 2.1 The Management Board is charged with the management of the Company, which means, among other things, that it is responsible for the setting and achieving of the Company's objectives, strategy and policies, as well as the ensuing delivery of results. The Management Board is accountable for these matters to the Supervisory Board and the General Meeting of Shareholders. The responsibility for the management of the Company is vested collectively in the Management Board.
- 2.2 The Management Board is responsible for compliance with all relevant laws and regulations, for managing the risks attached to the Company's activities and for financing the Company. The Management Board reports on these issues and discusses the internal risk management and control systems with the Supervisory Board and the Audit Committee of the Supervisory Board.
- 2.3 When discharging its duties the Management Board shall act in accordance with the interests of the Company and the business connected with it, taking into consideration the interests of the Company's stakeholders.
- 2.4 The Management Board is itself responsible for the quality of its performance.
- 2.5 The members of the Management Board 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 its individual members.
- 2.6 The Management Board is, together with the Supervisory Board, responsible for the corporate governance structure of the Company and compliance with the Dutch Corporate Governance Code.
- 2.7 The Management Board shall ensure that employees have the possibility of reporting alleged irregularities of a general, operational and financial nature in the Company to

the CEO or an official designated by him, without jeopardising their legal position. Alleged irregularities concerning the functioning of Management Board members are reported to the Chairman of the Supervisory Board. The whistleblowers' policy is posted on the Company's website.

- 2.8 All transactions between the Company and individuals or legal entities who hold at least 10% of the shares in the Company must be agreed on terms that are customary for arm's-length transactions in the branch of business in which the Company and its Subsidiaries operate. Decisions to enter into transactions in which there are conflicts of interest with such persons that are of material significance to the Company and/or to such persons require the approval of the Supervisory Board.
- 2.9 The Management Board shall perform its activities under the supervision of the Supervisory Board.

### **3. Strategy and Risks**

- 3.1 The Management Board shall formulate, record and submit to the Supervisory Board for approval: (i) the operational and financial objectives of the Company; (ii) the strategy designed to achieve the objectives; and (iii) the parameters to be applied in relation to the strategy, for example in respect of the financial ratios.
- 3.2 The Management Board shall be responsible for ensuring that the Company has internal risk management and control systems that are suitable for the Company. The Management Board shall in any event employ as instruments of the internal risk management and control systems:
- (a) risk analyses of the operational and financial objectives of the Company;
  - (b) a code of conduct, which is posted on the Company's website;
  - (c) guides for the layout of financial reports and the procedures to be followed in drawing up the reports; and
  - (d) a system of monitoring and reporting.

### **4. Financial Reporting; Annual Accounts and Annual Report**

- 4.1 The Management Board is responsible for the quality and completeness of publicly disclosed financial reports. The preparation and publication of the Annual Report, the Annual Accounts, the quarterly (insofar as required) and half-yearly figures and ad hoc financial information require careful internal procedures. The Management Board is responsible for establishing and maintaining internal procedures that ensure that all major financial information is known to the Management Board, so that the timeliness, completeness and accuracy of the external financial reporting are assured. For this purpose the Management Board shall ensure that financial information from business divisions and/or subsidiaries is reported directly to itself and that the integrity of that information is not compromised.
- 4.2 The internal audit department operates under the responsibility of the Management Board. The Management Board shall consult with the External Auditor and the Audit

Committee of the Supervisory Board in drawing up the work schedule of the internal audit department. The Management Board shall ensure that the Audit Committee of the Supervisory Board and the External Auditor take cognisance of material findings of the internal audit department.

## **5. Relation with the External Auditor**

- 5.1 The Management Board shall ensure that the External Auditor can properly perform his audit work, and it shall encourage both the External Auditor and the Company to properly perform and pursue the role and the policy of the Company regarding the External Auditor, as provided for by agreement with the External Auditor, these By-Laws, the By-Laws of the Supervisory Board and the terms of reference of the Audit Committee.
- 5.2 The Management Board shall annually, and on an interim basis if necessary, report to the Supervisory Board on its dealings with the External Auditor, particularly on his independence (including the desirability of rotation of the responsible partners of the External Auditor's firm and the desirability of non-audit work for the Company by the External Auditor who also performs the audit).
- 5.3 At least once every four years, the Management Board shall conduct a thorough assessment of the functioning of the External Auditor within the various entities and in the different capacities in which the External Auditor acts. The main conclusions of this assessment shall be communicated to the General Meeting of Shareholders for the purposes of assessing the nomination for the appointment of the External Auditor.

## **6. Relation with the Shareholders**

- 6.1 The Management Board shall provide the General Meeting of Shareholders with all information required to exercise its powers.
- 6.2 The Management Board shall provide the General Meeting of Shareholders with all requested information, unless this would be contrary to an overriding interest of the Company. If the Management Board invoke an overriding interest, it shall state the reasons.
- 6.3 If a right of approval is granted to the General Meeting of Shareholders by law or under the articles of association (e.g. in the case of option schemes, far-reaching decisions as referred to in Section 2:107a of the Dutch Civil Code), or the Management Board or the Supervisory Board requests a delegation of powers (e.g. issue of shares or authorisation for the repurchase of shares), the Management Board and the Supervisory Board shall inform the General Meeting of Shareholders by means of a shareholders' circular of all facts relevant to the approval, delegation or authorisation to be granted. The shareholders' circular shall in any event be posted on the Company's website as of the convening of the General Meeting of Shareholders at which the proposal concerned is discussed until the meeting has ended. This shareholders' circular may be in the format of explanatory notes to the agenda of the General Meeting of Shareholders.

- 6.4 The Management Board shall procure that each substantial change in the corporate governance structure of the Company or in the Company's compliance with the Dutch Corporate Governance Code is submitted to the General Meeting of Shareholders for discussion under a separate agenda item.
- 6.5 The policy of the Company on reserves and on dividends (the level and purpose of the reserves, the amount of the dividend and the type of dividend) and any changes to this policy shall be dealt with and explained as a separate agenda item at the General Meeting of Shareholders.
- 6.6 A proposal to distribute a dividend shall be dealt with as a separate agenda item at the General Meeting of Shareholders.
- 6.7 The Company shall determine a registration date for the exercise of the voting rights and the rights attached to meetings.
- 6.8 If a serious private bid is made for a business unit or a participating interest and the value of the bid exceeds the threshold referred to in Section 2:107a paragraph 1(c) of the Dutch Civil Code, and the bid is made public, the Management Board shall, at its earliest convenience, make public its position on the bid and the reasons for this position.

## **7. Relation with Analysts, the Financial Press and Institutional and Other Investors**

- 7.1 The Management Board or, where appropriate, the Supervisory Board shall inform all shareholders and other parties in the financial markets equally and simultaneously about matters that may affect the share price. The contacts between the Management Board on the one hand and press and financial analysts on the other shall be carefully handled and structured and the Company shall not engage in any acts that compromise the independence of analysts in relation to the Company and vice versa.
- 7.2 Meetings with and presentations to analysts, presentations to (institutional) investors and press conferences shall be announced in advance on the Company's website and by means of press releases.
- 7.3 The Company shall not in advance assess, comment on or correct (other than factually), analysts' reports and valuations.
- 7.4 The Company shall not pay any fee to any party for the carrying out of research for analysts' reports or for the production or publication of analysts' reports on the Company, with the exception of credit rating agencies.
- 7.5 Analysts' meetings, presentations to institutional or other investors and direct discussions with those investors shall not take place shortly before the publication of the regular financial information (quarterly – insofar as required -, half-yearly or annual reports).

## **8. Website of the Company**

The Management Board shall post and update all information that the Company is required to publish or deposit pursuant to the applicable provisions of company law or securities law and regulation on a separate part of the Company's website (i.e. separate from the commercial information of the Company) that is recognisable as such. A list of items that must be placed on the website is attached as **Annex 2**. It is sufficient for the Company to create a hyperlink to the website of the institutions that (also) publish the relevant information electronically due to statutory provisions or stock exchange regulations.

### **CHAPTER III MEETINGS OF THE MANAGEMENT BOARD; DECISION-MAKING**

## **9. Meetings of the Management Board**

- 9.1 The Management Board shall in principle meet once a month, or more often as deemed desirable or required for a proper functioning of the Management Board by any one or more Management Board members. Meetings of the Management Board can be called by any of the Management Board members. Save in urgent cases, to be determined by the CEO, the agenda for the meeting shall be sent prior to the meeting to all Management Board members. Whenever possible, an explanation in writing and/or other related documentation should be attached for each item on the agenda.
- 9.2 Management Board meetings are chaired by the CEO. If the CEO is absent, one of the other Management Board members, designated by a majority of votes cast by the Management Board members present and represented at the meeting, presides over the meeting.
- 9.3 A Management Board member may be represented at meetings by another Management Board member holding a proxy in writing. The existence of such proxy must be proved satisfactorily to the CEO or, in his absence, Management Board members present at the meeting.
- 9.4 The secretary or any other person designated for such purpose by the chairman of the meeting shall draw up minutes of the meeting. The minutes should provide insight into the decision-making process at the meeting. The minutes shall be adopted by the Management Board at the same meeting or the next meeting.

## **10. Decision-making within the Management Board**

- 10.1 The Management Board members shall endeavour to achieve that resolutions are as much as possible adopted unanimously.
- 10.2 Each Management Board member has the right to cast one vote.

- 10.3 Where unanimity cannot be reached and the law, the Company's articles of association or these By-Laws do not prescribe a larger majority, all resolutions of the Management Board are adopted by an absolute majority of the votes cast.
- 10.4 Management Board resolutions may also be adopted in writing, provided the proposal concerned is submitted to all Management Board members then in office and none of them objects to this form of adoption. Adoption of resolutions in writing shall be effected by statements in writing from all the Management Board members. A statement from a Management Board member who wishes to abstain from voting on a particular resolution which is adopted in writing must reflect the fact that he does not object to this form of adoption.
- 10.5 The Management Board may deviate from the provisions of clause 10.4 if this is deemed necessary by the CEO, considering the urgent nature and other circumstances of the case, provided that all Management Board members are allowed the opportunity to participate in the decision-making process. The CEO and the secretary shall then prepare a report on any resolution so adopted, which shall be added to the documents for the next meeting of the Management Board.
- 10.6 A resolution adopted by the Management Board may be evidenced outside the Company through a statement from the CEO and/or the secretary.
- 10.7 The following resolutions of the Management Board are subject to the approval of the Supervisory Board:
- (a) determining the operational and financial objectives of the Company;
  - (b) determining and amending the strategy designed to achieve the objectives;
  - (c) determining and amending the parameters to be applied in relation to the strategy (for example in respect of the financial ratios); and
  - (d) the resolutions listed in **Annex 3**.

## **CHAPTER IV OTHER PROVISIONS**

### **11. Conflicts of Interests of Management Board Members**

- 11.1 A Management Board member shall not:
- (a) enter into competition with the Company;
  - (b) demand or accept (substantial) gifts from the Company for himself or for his spouse, registered partner or other life companion, foster child or relative by blood or marriage up to the second degree;

- (c) provide unjustified advantages to third parties to the detriment of the Company; or
  - (d) take advantage of business opportunities to which the Company is entitled for himself or for his spouse, registered partner or other life companion, foster child or relative by blood or marriage up to the second degree.
- 11.2 A Management Board member shall immediately report any conflict of interest or potential conflict of interest that is of material significance to the Company and/or to the member concerned, to the Chairman of the Supervisory Board and to the other Management Board members and shall provide all relevant information, including information concerning his spouse, registered partner or other life companion, foster child and relatives by blood or marriage upon the second degree. The Supervisory Board shall decide, without the Management Board member concerned being present, whether there is a conflict of interest.
- 11.3 A conflict of interest exists, in any event, if the Company intends to enter into a transaction with a legal entity: (i) in which a Management Board member personally has a material financial interest; (ii) which has a management board member who has a relationship under family law with a Management Board member; or (iii) in which a Management Board member has a management or supervisory position.
- 11.4 A Management Board member shall not take part in any discussion or decision-making that involves a subject or transaction in relation to which he has a conflict of interest with the Company.
- 11.5 All transactions in which there are conflicts of interest with Management Board members shall be agreed on terms that are customary for arm's-length transactions in the branch of business in which the Company and its Subsidiaries operate. Decisions to enter into transactions in which there are conflicts of interest with Management Board members that are of material significance to the Company and/or the relevant Management Board members require the approval of the Supervisory Board.

## **12. Remuneration of Management Board Members**

- 12.1 The remuneration and contractual terms of employment of Management Board members are determined by the Supervisory Board in accordance with article 17 of the Company's articles of association and clause 10 of the By-Laws of the Supervisory Board, within the scope of the remuneration policy adopted by the General Meeting of Shareholders.
- 12.2 Management Board members shall not profit from the activities of the Company other than through remuneration as a Management Board member or through shares in the Company held for the purpose of long-term investment.
- 12.3 The Company and its Subsidiaries shall not grant personal loans, guarantees or the like to Management Board members except within the framework of its usual business operations, on conditions which apply to all employees and with the approval of the Supervisory Board. Loans are not remitted.

### **13. Outside Positions**

- 13.1 A Management Board member may not be a member of the supervisory board of more than two listed companies. Nor may a Management Board member serve as chairman of the supervisory board of a listed company. Membership of the supervisory board of affiliates of the Company does not count for this purpose.
- 13.2 The acceptance by a Management Board member of membership of the supervisory board of a listed company requires the approval of the Supervisory Board. Other important positions held by a Management Board member must be notified to the Supervisory Board.

### **14. Holding and Trading Securities**

- 14.1 Any shareholding in the Company by Management Board members is for the purpose of long-term investment.
- 14.2 Management Board members are bound to the Insider Trading Code of the Company regarding securities of the Company and other securities referred to in these rules.
- 14.3 The ownership of and transactions with securities by Management Board members other than as referred to in the Insider Trading Code of the Company is governed by regulations set by the Supervisory Board, as provided for in clause 19.3 of the By-Laws of the Supervisory Board.
- 14.4 A Management Board member shall regularly, at least once a quarter, report changes in his holding of securities related to Dutch listed companies to the compliance officer or, if no compliance officer was designated by the Company, to the chairman of the Supervisory Board. A Management Board member who only invests in listed investment funds or who has transferred the discretionary management of his securities portfolio to an independent third party by means of a mandate agreement in writing, is exempt from this provision.

### **15. Confidentiality**

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

## **16. Governing law and jurisdiction**

These By-Laws are governed by the laws of the Netherlands. The courts of the Netherlands have exclusive jurisdiction to settle any dispute arising from or in connection with these By-Laws (including any dispute regarding the existence, validity or termination of these By-Laws).

## ANNEX 1

### LIST OF DEFINITIONS

1. In the By-Laws of the Management Board and the Supervisory Board, the following terms have the following meanings:

**Audit Committee** means the Committee designated as such in clause 4 of the By-Laws of the Supervisory Board.

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

**Committee** means, as regards the Supervisory Board, each committee of the Supervisory Board as referred to in clause 4 of the By-Laws of the Supervisory Board.

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

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

**affiliated company** has the meaning attributed to it in Section 1 of the Disclosure of Major Holdings in Listed Companies Act 1996 (*Wet melding zeggenschap in ter beurze genoteerde vennootschappen 1996*).

**group company** has the meaning attributed to it in Section 2:24b of the Dutch Civil Code.

**Annual Accounts** means the annual accounts of the Company as referred to in Section 2:101 of the Dutch Civil Code.

**Annual Report** means the annual report of the Company drawn up by the Management Board, as referred to in Section 2:101 of the Dutch Civil Code.

**Supervisory Board Profile** means the profile for the size and composition of the Supervisory Board, as designated in clause 1.1 of the By-Laws of the Supervisory Board.

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

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

**Remuneration Committee** means the Committee designated as such in clause 4 of the By-Laws of the Supervisory Board.

**Management Board** means the management board of the Company.

**Supervisory Board** means the supervisory board of the Company.

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

**Nomination Committee** means the committee designated as such in clause 4 of the By-Laws of the Supervisory Board.

**Company** means Spyker Cars N.V., and, where appropriate, the subsidiaries and possible other group companies of the Company, whose financial information is incorporated in the consolidated annual accounts of the Company.

2. Save where the context dictates otherwise, in the By-Laws of the Management Board and the Supervisory Board:
  - (a) words and expressions expressed in the singular form also include the plural form, and vice versa;
  - (b) words and expressions expressed in the masculine form also include the feminine form; and
  - (c) a reference to a statutory provision counts as a reference to this statutory provision including all amendments, additions and replacing legislation that may apply from time to time.
3. Headings of articles and other headings in the By-Laws of the Management Board and the Supervisory Board are inserted for ease of reference and do not form part of the By-Laws concerned for the purpose of interpretation.

## ANNEX 2

### LIST OF ITEMS TO BE PLACED ON THE COMPANY'S WEBSITE

II.1.3 CG Code	A code of conduct.
III.1.6 CG Code	Whistleblower Policy.
II.2.13 CG Code	The Remuneration Report of the Supervisory Board.
III.1.1 CG Code	By-Laws of the Supervisory Board containing regulations concerning ownership of and transactions in securities by Management Board members, other than securities issued by the Company itself.
III.1.1. CG Code	By-Laws of the Supervisory Board.
III.3.1 CG Code	Supervisory Board Profile.
III.3.6 CG Code	Rotation Plan of the Supervisory Board.
III.5.1 CG Code	Terms of reference and composition of the Committees.
IV.3.1 CG Code	Announcement in advance of meetings of analysts, presentations to analysts, presentations to (institutional) investors and press conferences.
IV.3.6 CG Code	The Company shall place and update all information which it is required to publish or deposit pursuant to the provisions of company law and securities law and regulation applicable to it, on a separate part of the Company's website – which means separate of the commercial information on the Company – that is recognisable as such. It is sufficient to create a hyperlink to the website of the institutions that (also) publish the relevant information electronically due to statutory provisions or stock exchange regulations.
IV.3.7 CG Code	Shareholders circulars drawn up by the Company.  The By-Laws of the Management Board.  Essential elements immediately upon conclusion of contract with Management Board member.  The Insider Trading Code of the Company.

## ANNEX 3

### LIST OF APPROVAL SUPERVISORY BOARD

The approval of the Supervisory Board is required for the following resolutions:

- (a) the allocation of duties of the Management Board to individual members of the Management Board;
- (b) all transactions between the Company and natural or legal persons who hold at least 10% of the shares in the Company that are of material significance to the Company and/or such persons;
- (c) a resolution on the operational and financial aims of the Company, the strategy designed to achieve the aims, and the parameters to be applied in relation to the strategy;
- (d) all transactions in which there are conflicts of interest with Management Board members that are of material significance to the Company and/or the relevant Management Board members;
- (e) all transactions in which there are conflicts of interest with Supervisory Board members that are of material significance to the Company and/or the relevant Supervisory Board members;
- (f) the appointment and removal of the Company secretary;
- (g) to enter into agreements under which the Company receives a bank credit for a principal sum that exceeds the sum of EUR 1,000,000;
- (h) continuing direct or indirect co-operation with another enterprise and the breaking off of such co-operation insofar as each co-operation exceeds the sum of EUR 1,000,000;
- (i) direct or indirect participation in the capital of another enterprise and the alteration of the scope of this participation insofar as each participation exceeds the sum of EUR 500,000;
- (j) to make investments not allowed for in the annual budget of the Company which jointly in any financial year exceed the sum of EUR 500,000;
- (k) to make divestments with respect to the Company for more than EUR 500,000 a year;
- (l) to enter into agreements whereby the Company binds itself as surety or several co-debtor, warrants performance by a third party or binds itself for the security of a debt of a third party for a sum that exceeds the sum of EUR 1,000,000 per annum;
- (m) to conclude or alter employment agreements whereby remuneration is awarded in excess of the sum of EUR 150,000 per annum;

- (n) to set up pension schemes and to grant pension rights that exceed the existing schemes and that exceed the sum of EUR 50,000 per person per annum or that exceed a sum of EUR 250,000 per annum in aggregate;
- (o) to exercise voting rights to shares in subsidiary companies;
- (p) to propose a legal merger or division within the meaning of Title 7 Book 2 of the Dutch Civil Code, with the exception of a legal merger as referred to in Section 2:333 paragraphs 1 and 2 of the Dutch Civil Code and with the exception of a legal division as referred to in Section 2:334ff paragraphs 1 and 2 of the Dutch Civil Code;
- (q) the approval of the annual budget;
- (r) all other acts that require the approval by legislation, the Company's articles of association, the By-Laws of the Management Board, the By-Laws of the Supervisory Board, the Dutch Corporate Governance Code or any other applicable legislation.

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