

Unofficial translation of the articles of association of  
**Fortenova Group TopCo B.V.**  
in force as of 29 March 2019.

## **ARTICLES OF ASSOCIATION**

### **Article 1. Definitions**

- 1.1. For the purposes of these articles of association, the following terms have the following meaning:
- **Agrokor d.d.:** a company incorporated under the laws of Croatia, having its registered seat in Zagreb (Croatia), and registered with the Court Register of the Commercial Court of Zagreb (Croatia) under number (MBS) 080020970, Croatian ID number (OIB): 05937759187, which entered into extraordinary administration proceedings under the EA Act;
  - **Agrokor Group:** the EA Group and all of Agrokor d.d.'s direct and indirect solvent subsidiaries and affiliates;
  - **Amendment and Restatement Agreement:** the amendment and restatement agreement in respect of the SPFA, entered into or to be entered into, as the case may be, between (among others) Agrokor d.d., the Company, Fortenova Grupa and the SPFA Lenders;
  - **Articles of Association:** these articles of association (*statuten*);
  - **Company:** the private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*), which internal organisation is governed by the Articles of Association;
  - **Conflict of Interest** (*tegenstrijdig belang*): a direct or indirect personal interest that conflicts with the interest of the Company and its business;
  - **Contingent Claim Settlement:** the settlement by way of issuance of Convertible Bonds and Depositary Receipts of claims listed in Annex 35 (*Contingent Claims*) to the Settlement Plan, the debtor of which is a Non-Viable EA Croatian Subsidiary (as defined in the Settlement Plan), in accordance with the terms of the Settlement Plan;
  - **Convertible Bonds:** the euro-denominated (PIK) convertible bonds issued or to be issued by the Company;
  - **Custody Deed:** the custody deed relating to the Convertible Bonds and Depositary Receipts entered into or to be entered into, as the case may be, by the Company, the Foundation, the CB Custodian (as defined therein) as custodian in respect of the Convertible Bonds, the DR Custodian as custodian in respect of the Depositary Receipts, the CB Registrar (as defined therein) as registrar in respect of the Convertible

- Bonds, the DR Registrar as registrar in respect of the Depositary Receipts, Lucid Trustee Services Limited as trustee and Lucid Agency Services Limited as principal paying, transfer and conversion agent, as amended from time to time;
- **DCC:** the Dutch Civil Code (*Burgerlijk Wetboek*);
  - **Depositary Receipt:** a depositary receipt (*certificaat*) issued for shares in the capital of the Company;
  - **DR Custodian:** Lucid Issuer Services Limited, a private limited company, governed by the laws of England and Wales, registered with the Companies House, the Registrar of Companies for England and Wales under number 05098454, holding the Depositary Receipts for and on behalf of the beneficial Holders of Depositary Receipts, or any other person replacing such custodian, provided that the Holders of Depositary Receipts have been notified of such change in accordance with the Custody Deed;
  - **Dutch HoldCo:** Fortenova Group HoldCo B.V. (previously named: Aisle Dutch HoldCo B.V.) or otherwise renamed from time to time, a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*), with its corporate seat in Amsterdam (the Netherlands), registered with the Dutch trade register under number 71642412, a wholly owned direct Subsidiary;
  - **EA Act:** the Law on Extraordinary Administration Proceedings in Companies of Systemic Importance for the Republic of Croatia, enacted on the seventh day of April two thousand and seventeen (Official Gazette of the Republic of Croatia, no 32/2017);
  - **EA Group:** Agrokor d.d. and its direct and indirect subsidiaries and affiliates that are subjected to extraordinary administration proceedings under the EA Act;
  - **Financial Year:** has the meaning given in Article 16.4.a;
  - **Fortenova Group:** Fortenova Grupa and all Fortenova Subsidiaries;
  - **Fortenova Grupa:** Fortenova grupa d.d. (previously named: Aisle HoldCo d.d.) or otherwise renamed from time to time, a company incorporated under the laws of Croatia, having its registered seat in Zagreb (Croatia), and registered with the Court Register of the Commercial Court of Zagreb (Croatia) under number (MBS) 081179147, Croatian ID number (OIB): 88035992407;
  - **Fortenova Subsidiary:** any subsidiary company, either established under Dutch law or any other laws, in which Fortenova Grupa (i) holds, directly or indirectly, one or more shares representing more than fifty percent (50%) of the share capital or voting rights, or (ii) otherwise

- exercises directly or indirectly control over such subsidiary company;
- **Foundation:** Fortenova Group STAK Stichting (previously named: Aisle STAK Stichting) or otherwise renamed from time to time, a foundation (*stichting*) incorporated under the laws of the Netherlands, with its corporate seat in Amsterdam (the Netherlands), registered with the Dutch trade register under number 71631410;
  - **General Meeting:** the corporate body (*orgaan*) of the Company constituting the general meeting of the Company or a gathering of such corporate body;
  - **Holding Companies:** the Company and Dutch HoldCo, and each of them a **Holding Company**;
  - **Implementation Commencement Date:** the date on which the implementation of the restructuring measures envisaged by the Settlement Plan will commence, which date is announced on the Public Announcement Date (as defined in the Settlement Plan);
  - **Key Operating Subsidiaries:** Konzum plus d.o.o., Tisak plus d.o.o., Jamnica plus d.o.o., Sarajevski kiseljak d.d., Ledo plus d.o.o., Frikom d.o.o., Zvezda plus d.o.o., Dijamant a.d., Belje plus d.o.o., PIK Vrbovec – Mesna Industrija plus d.o.o., Velpro Centar plus d.o.o., Konzum d.o.o. Sarajevo, PIK Vinkovci plus d.o.o., and Vupik plus d.o.o., each as long as it is Subsidiary, and each of them a **Key Operating Subsidiary**;
  - **Limited Proxy Holder(s)** (*bijzondere procuratiehouder(s)*) means the person(s) appointed by the Management Board as proxy holder(s) in accordance with article 18.2;
  - **Lock-Up Agreement:** the lock-up agreement dated the first day of February two thousand and nineteen and effective as of the fourth day of February two thousand and nineteen, between Agrokor d.d., the Company and certain original participating SPFA Lenders;
  - **Management Board** (*bestuur*): the corporate body (*orgaan*) of the Company consisting of the Managing Director(s);
  - **Managing Director** (*bestuurder*): a managing director as referred to in Dutch law, and unless the contrary is apparent from the Articles of Association, this includes any Managing Director A and any Managing Director B;
  - **Managing Director A:** a Managing Director designated as managing director A in accordance with Article 12.1;
  - **Managing Director B:** a Managing Director designated as managing director B in accordance with Article 12.1;
  - **Meeting Rights** (*vergaderrechten*): the right to, either in person or by a holder of a Written power of attorney, attend a General Meeting and to

address such General Meeting;

- **Paying, Transfer and Conversion Agency Agreement:** the paying, transfer and conversion agency agreement entered into or to be entered into, as the case may be, by amongst others, the Company, the Foundation, Lucid Issuer Services Limited as custodian in respect of the Convertible Bonds, the DR Custodian as custodian in respect of the Depositary Receipts, the DR Registrar (as defined therein) as registrar in respect of the Depositary Receipts, Lucid Agency Services Limited as Principal Paying, Transfer and Conversion Agent (as defined therein) and Fortenova Grupa on or about the Implementation Commencement Date appointing the initial Paying, Transfer and Conversion Agent and the other Agents (both as defined therein) and any other agreement for the time being in force appointing any successor, as amended from time to time;
- **Person(s) with Meeting Rights** (*vergadergerechtigde(n)*): the shareholders (with or without voting rights) as well as the holders of a right of usufruct with voting rights;
- **Put Option Exercise Period:** the period in which the Sberbank Put Option may be exercised;
- **Sberbank of Russia:** a company incorporated in the Russian Federation with General Banking License No. 1481 dated the eleventh day of August two thousand and fifteen, issued by the Bank of Russia whose registered address is 19 Vavilova Street, 117997, Moscow (Russia);
- **Sberbank Put Option:** the put option granted to Sberbank of Russia relating to the transfer by Sberbank of Russia to the Company or Dutch HoldCo of up to one million one hundred twenty-eight thousand eight hundred three (1,128,803) ordinary shares in the capital of Poslovni Sistem Mercator d.d., against issuance of Convertible Bonds and Depositary Receipts, which terms are reflected in the Settlement Plan;
- **Scheme:** has the meaning given in Article 16.8.b;
- **Securities Escrow Deed:** the securities escrow deed entered into or to be entered into, as the case may be, by amongst others, the Company, the Foundation, Lucid Agency Services Limited as securities escrow agent, the DR Custodian as custodian in respect of the Depositary Receipts, Lucid Issuer Services Limited as custodian in respect of the Convertible Bonds, Lucid Issuer Services Limited as registrar in respect of the Depositary Receipts, Lucid Agency Services Limited as Principal Paying, Transfer and Conversion Agent (as defined therein) and Fortenova Grupa, as amended from time to time;
- **Settlement Plan:** the settlement plan submitted by the extraordinary

administrator pursuant to Article 43 of the EA Act on the twentieth day of June two thousand and eighteen, as amended and published on the twenty-sixth day of June two thousand and eighteen, and confirmed by the Commercial Court in Zagreb (Croatia) under business number St-1138/2017-2823 on the sixth day of July two thousand and eighteen, in accordance with the EA Act;

- **SPFA:** the super-priority term facilities agreement dated the eighth day of June two thousand and seventeen, as amended and restated from time to time, up to and including at the Implementation Commencement Date;
- **SPFA Lenders:** lenders under the SPFA;
- **SSFA:** has the meaning given in Article 16.8.b;
- **Subsidiary:** any subsidiary company, either established under Dutch law or any other laws, in which the Company (i) holds, directly or indirectly, one or more shares representing more than fifty percent (50%) of the share capital or voting rights, or (ii) otherwise exercises directly or indirectly control over such subsidiary company;
- **Unable to Act** (*belet*): a situation in which a Managing Director is not available to perform management acts, including but not limited to the following situations: (i) serious illness, and (ii) absence of any means of communication;
- **Written** (*schriftelijk*) and **in Writing:** a readable and reproducible notice or message sent by way of letter or e-mail.

Unless provided otherwise in the Articles of Association, the singular includes the plural and vice versa.

## **Article 2. Name and seat**

2.1. The name of the Company shall be:

**Fortenova Group TopCo B.V.**

2.2. The Company shall have its seat in Amsterdam (the Netherlands).

## **Article 3. Objects**

3.1. The objects of the Company shall be:

- to incorporate, to participate in and to finance companies or businesses;
- to collaborate with, to operate and to manage the affairs of and to provide advice and other services to companies and other businesses;
- to acquire, purchase, manage, dispose of and encumber registered claims arising out, or in connection with loans provided by a third party or by third parties and to exercise all rights attached to such claims;
- to issue and acquire assets and to sell or otherwise dispose of any and all assets of the Company or a part thereof;
- to borrow, lend and raise funds, including but not limited to the issuance

- of (convertible) bonds;
- to vest security rights on the assets of the Company through the establishment of mortgages, pledges or other security rights for the debts and other obligations of the Company, of other companies and businesses that are affiliated with the Company in a group and of third parties;
  - to reduce risks of interest rate fluctuations and other financial risks, *inter alia* by entering into derivative contracts, including but not limited to entering into swap agreements and option agreements and entering into other agreements related to the foregoing;
  - to provide guarantees, to grant sureties and to jointly and severally bind the Company or its assets for debts and other obligations of itself, of companies and businesses that are affiliated with it in a group and of third parties;
  - to acquire, to operate and to dispose of property, including registered property;
  - to acquire, to operate and to dispose of industrial and intellectual property rights; and
  - to assist in the restructuring of the Agrokor Group and to facilitate the execution of the settlement process pursuant to the Settlement Plan, by means of performance of any of the objects set out above,
- as well as to carry out all which is incidental or conducive to the above, in the broadest sense.

#### **Article 4. Shares**

- 4.1. The capital of the Company consists of shares, each having a nominal value of one eurocent (€0.01).
- 4.2. The shares shall be registered and shall be numbered consecutively, starting at 1.
- 4.3. No share certificates shall be issued by the Company.
- 4.4. If shares or the right to shares are jointly held, the joint shareholders may only be represented by a single person holding a Written proxy signed by them all.

#### **Article 5. Issue**

- 5.1. Shares shall be issued pursuant to a resolution adopted by the General Meeting. The resolution shall set out the price and other terms and conditions of issue. Subject to Section 2:191 paragraph 1 DCC, second sentence, the nominal value of each share must be paid up upon subscription.
- 5.2. Every shareholder shall have a pre-emptive right to any issue of shares on a basis *pro rata* to the aggregate number of shares held by the shareholder, unless:

- a. the shares are issued to employees of the Company or of a group company;
- b. the shares are issued against a contribution in kind;
- c. the shares are issued against the conversion of Convertible Bonds; or
- d. the shares are issued pursuant to the Contingent Claim Settlement.

A pre-emptive right is non-transferable.

For any single share issue the pre-emptive right may be limited or precluded by a resolution adopted by the General Meeting.

- 5.3. The provisions in the preceding paragraphs of this Article shall apply *mutatis mutandis* to the granting of a right to subscribe to shares.
- 5.4. The acceptance by the Management Board on behalf of the Company of any contribution in kind in respect of the issue of shares does not require the prior approval of the General Meeting.

#### **Article 6. Own shares**

- 6.1. On an issue of shares the Company is not able to subscribe to its own shares.
- 6.2. The Management Board resolves on the acquisition of shares in the capital of the Company. The acquisition by the Company of shares in its own capital when those shares have not been fully paid up shall be null and void.
- 6.3. The Company may not acquire its own fully paid-up shares if:
  - a. the Company's shareholders equity capital less the acquisition price is less than the reserves that should be maintained under Dutch law; or
  - b. the Management Board either knows or should reasonably foresee that the Company upon acquisition will not be able to continue paying its debts when they become due,unless such is done at no consideration.
- 6.4. If the Company is unable to continue to pay its short-term debts after an acquisition of its own shares the Managing Directors who at the time of the acquisition knew or should have reasonably foreseen this, are jointly and severally liable to the Company to compensate the shortfall caused by the acquisition plus statutory interest from the day of the acquisition. The remaining provisions of Section 2:207 paragraph 3 DCC are applicable to such situation.

The transferor of the shares who knew or should have reasonably foreseen that after the acquisition the Company would be unable to continue to pay its short-term debts, is jointly and severally liable to the Company to compensate the shortfall caused by the acquisition up to a maximum of the acquisition price of the shares transferred by him, plus statutory interest from the day of the acquisition. If the Managing Directors have paid the claim under the first sentence of this paragraph, the payment referred to in the preceding

sentence is to be paid to the Managing Directors, in proportion to the part that each of the Managing Directors has paid. The Managing Directors and the transferor shall not be entitled to set off their debt under this Article.

- 6.5. The preceding paragraphs do not apply to the Company's own shares acquired under universal title (*algemene titel*).
- 6.6. In Article 6.2 up to and including Article 6.5, 'shares' include Depositary Receipts.
- 6.7. After the acquisition of its own shares at least one (1) share with voting rights shall be held by and on behalf of someone other than the Company or one (1) of its Subsidiaries.

#### **Article 7. Reduction of capital**

- 7.1. The General Meeting may resolve to reduce the issued capital by cancelling shares or by amending the Articles of Association to reduce the nominal amount of the shares. Such resolution should not lead to repayment at the expense of reserves which should be maintained in accordance with Dutch law.
- 7.2. Dutch law applies to a resolution to reduce the issued capital and its implementation.
- 7.3. After the cancellation of shares at least one (1) share with voting rights should be held by and on behalf of someone other than the Company or one (1) of its Subsidiaries.
- 7.4. Article 20.1 up to and including Article 20.3 shall apply *mutatis mutandis* to a resolution to reduce the issued capital with repayment on shares.

#### **Article 8. Depositary Receipts for shares, pledging of shares and establishment of a right of usufruct over shares, Meeting Rights**

- 8.1. Meeting Rights are not attached to Depositary Receipts.
- 8.2. A right of pledge cannot be granted over shares.
- 8.3. A right of usufruct may be granted over shares. Voting rights shall not be vested in a holder of a right of usufruct. Notwithstanding the preceding sentence voting rights may be vested in a holder of a right of usufruct pursuant to the next-to-last sentence of Section 2:197 paragraph 3 DCC.
- 8.4. Shareholders without voting rights as a result of a right of usufruct as well as holders of a right of usufruct with voting rights have the rights conferred by Dutch law on Persons with Meeting Rights. Holders of a right of usufruct without voting rights do not have these rights.

#### **Article 9. Register of shareholders**

- 9.1. The Management Board shall keep a register recording the names and addresses of all shareholders, the date on which they acquired the shares, the date of acknowledgement by or service upon the Company and the amount paid up on each share. In addition, e-mail addresses may be



recorded in the register.

The names and addresses of those who have a right of usufruct in respect of shares shall also be recorded, stating the date on which they acquired the right, the date of acknowledgement by or service upon the Company, if and to the extent applicable which rights attached to the shares are vested in them.

- 9.2. Every shareholder and holder of a right of usufruct is obliged to ensure that the Company is notified of his information referred to in Article 9.1 above.
- 9.3. The register shall be regularly updated in accordance with Dutch law.
- 9.4. All entries in, copies of, or extracts from the register of shareholders shall be authenticated by a Managing Director.

#### **Article 10. Transfer of shares**

- 10.1. The issue and/or transfer of a share, or the transfer or waiver of a limited right to a share, requires a deed which has been executed before a civil-law notary practising in the Netherlands and to which all persons involved are a party.
- 10.2. The transfer of a share, or the transfer or waiver of a limited right to a share, in accordance with the provisions of Article 10.1 shall also, by operation of Dutch law, be legally binding on the Company. Except in the event that the Company itself is a party to the legal transaction, the rights accruing to the share may not be exercised until the Company has either acknowledged this legal transaction or has been served with the deed of transfer in accordance with Dutch law.

#### **Article 11. No restriction on the transfer of shares**

- 11.1. No restriction as referred to in Section 2:195 paragraph 1 DCC is applicable on the transfer of shares in the capital of the Company.

#### **Article 12. Management Board**

- 12.1. The Company shall have a Management Board consisting of one (1) or more Managing Directors. If the Management Board consists of one (1) Managing Director, this Managing Director must reside in the Netherlands. If the Management Board consists of more than one (1) Managing Director, the Management Board shall consist of:
  - a. one (1) or more Managing Director(s) A; and
  - b. one (1) or more Managing Director(s) B, which number shall equal at least the number of Managing Directors A,whereby the Managing Directors B must reside in the Netherlands and the Managing Directors A can reside outside the Netherlands. The number of Managing Directors shall be determined by the General Meeting with due observance of the preceding sentences.
- 12.2. Managing Directors shall only be appointed by the General Meeting.
- 12.3. Managing Directors may be suspended or dismissed by the General Meeting at any time.

- 12.4. The total period of a suspension, including any extensions, may last no longer than three (3) months.
- 12.5. The remuneration and other terms and conditions for the appointment of each individual Managing Director shall be determined by the General Meeting.

**Article 13. Instruction rights and exercise of shareholder's rights**

- 13.1. The Management Board shall act in accordance with any instruction given by the General Meeting, unless these are contrary to the interests of the Company and its business.
- 13.2. Voting rights and all other rights of control in respect of shares in the capital of any direct Subsidiary shall be exercised by the Company with due observance of the law and the Articles of Association.

**Article 14. Board rules and regulations**

- 14.1. The Management Board may adopt board rules and regulations, allocating duties to one or more Managing Directors and regulating any such subjects as the Management Board deems necessary or appropriate. A resolution to adopt regulations shall be taken by the Management Board after obtaining the prior approval of the General Meeting.
- 14.2. The regulations shall not be inconsistent with Dutch law or the Articles of Association.
- 14.3. The Management Board may alter or cancel the regulations, taking into account the provisions of the second sentence of Article 14.1.

**Article 15. Adoption of resolutions by the Management Board**

- 15.1. A Managing Director that has a Conflict of Interest with respect to a proposed Management Board resolution shall immediately report this to the Management Board.
- 15.2. A Managing Director shall not participate in the deliberation and decision-making process if he has a Conflict of Interest. In the event that, as a consequence of the preceding sentence, a resolution cannot be adopted, the resolution will be adopted by the General Meeting, unless the General Meeting appoints one or more persons to adopt the resolution. In the latter case, also one or more Managing Directors having a Conflict of Interest can be appointed for this purpose by the General Meeting, in which case the first sentence of this paragraph shall not apply.
- 15.3. Meetings of the Management Board shall only be held in the Netherlands, at the request of any of the Managing Directors. The contemporaneous linking together by telephone conference or audio-visual communication facilities initiated in the Netherlands of all Managing Directors, shall be deemed to constitute a meeting of the Management Board for the duration of the connection, provided that at least half of the Managing Directors present or represented are participating the meeting of the Management Board from the

Netherlands. At least five (5) calendar days Written notice shall be given for each meeting of the Management Board and, where it is intended that substantial strategic items or other matters not arising in the ordinary course of business are due to be discussed, an agenda shall be circulated together with notice of the meeting stating the items which shall be discussed at such meeting, accompanied by supporting documents relating to such items, if any, in each case unless all Managing Directors - with the exception of any Managing Director that cannot cast a vote because of a Conflict of Interest - agree otherwise.

- 15.4. The Management Board shall adopt resolutions by a majority of the votes cast in a meeting of the Management Board, with due observance of Article 15.3.

If at least one (1) Managing Director A and at least one (1) Managing Director B are appointed, the Management Board can only adopt resolutions in a meeting provided that:

- a. at least one (1) Managing Director A is present or represented; and
- b. at least half of the Managing Directors present or represented are Managing Directors B.

In the event that in that meeting and in the second (2<sup>nd</sup>) convened meeting the required majority is not present or represented, five (5) calendar days after the date of the second (2<sup>nd</sup>) meeting a new meeting may be reconvened where the resolution may be adopted, irrespective of the number of Managing Directors represented, provided that the agenda for this third (3<sup>rd</sup>) meeting contains no other business than that which was on the agenda for that second (2<sup>nd</sup>) meeting.

- 15.5. Unless a Managing Director has a Conflict of Interest with regard to a proposed resolution, he can be represented in meetings of the Management Board. Such representation can only be made by another Managing Director who does not have a Conflict of Interest and pursuant to a Written power of attorney, whereby a Managing Director B can only be represented by another Managing Director B.
- 15.6. The Management Board may also adopt resolutions in written form without convening a meeting, provided that all Managing Directors have been consulted and none of them have raised an objection to adopt resolutions in this manner. To resolutions outside of a meeting Articles 15.1, 15.2, and 15.4 shall apply *mutatis mutandis*.

#### **Article 16. Reserved matters**

- 16.1. Subject to the prior approval of the General Meeting shall be all Management Board resolutions concerning the exercise of voting rights in the general meeting of Dutch HoldCo or any other action of or approval by the Company

in any capacity, in each case, on any proposed resolution relating to the incurrence of indebtedness (including but not limited to the signing of any capital lease or debt facility) or the granting of a guarantee or security by any Holding Company except for:

- a. the incurrence of non-recourse loans entered into solely for the purpose of funding the ordinary operating expenses of one or more Holding Companies or the Foundation and subject to an aggregate maximum amount in any financial year of three million euro (€ 3,000,000); or
- b. any intercompany loans from any Holding Company, the Foundation or Fortenova Grupa.

16.2. Subject to the prior approval of the General Meeting shall be all Management Board resolutions concerning the exercise of voting rights in the general meeting of Dutch HoldCo or any other action of or approval by the Company in any capacity, in each case, on any proposed resolution relating to the following matters:

- a. any amendment to the articles of association of any Holding Company or Fortenova Grupa, other than amendments effecting a reduction of the nominal value of shares in the capital of such Holding Company or Fortenova Grupa, as the case may be, for purposes of facilitating tax efficient distributions;
- b. dissolution of any Holding Company or Fortenova Grupa;
- c. conversion of any Holding Company or Fortenova Grupa into a different legal form except as required by law; and
- d. any change of the corporate seat or registered office or domicile, or any change to the legal form, of Fortenova Grupa.

16.3. Subject to the prior approval of the General Meeting shall be all Management Board resolutions concerning the exercise of voting rights in the general meeting of Dutch HoldCo or any other action of or approval by the Company in any capacity, in each case, on any proposed resolution relating to the following matters:

- a. any acquisition of shares or business(es) by any Holding Company, except for any acquisition specifically provided for under the Settlement Plan or referenced therein;
- b. the disposal or issue (other than wholly intra-group) and capital reduction by any Holding Company of shares, other than where:
  - (i) such shares are issued by the Company pursuant to (a) the exercise of the Sberbank Put Option on the terms as prescribed by the Settlement Plan and/or (b) the implementation of the Settlement Plan;
  - (ii) the nominal value of such shares is reduced by way of amendment

- to the articles of association of any Holding Company;
  - (iii) such shares have been acquired by the Company pursuant to the implementation of the Settlement Plan and are to be cancelled; or
  - (iv) such shares are Shares, which are issued by the Company pursuant to the Contingent Claim Settlement;
  - c. the disposal of assets by any Holding Company other than:
    - (i) any shares as referred to in Article 16.3.b; or
    - (ii) any individual asset where the relevant consideration is less than one hundred thousand euro (€100,000);
  - d. save as permitted by Article 16.4.e and Article 16.4.f, the grant of any loan, guarantee or security by any Holding Company, the Foundation or Fortenova Grupa other than:
    - (i) the grant of any loan, guarantee or security to another Holding Company, the Foundation or Fortenova Grupa; or
    - (ii) any guarantee or security (including but not limited to any pledge) provided under Article 16.8.a;
  - e. the equity element of any management incentive plan of any Holding Company (other than issuances in accordance with a previously approved plan);
  - f. any solvent reorganisation or merger or demerger or amalgamation of any Holding Company or Fortenova Grupa;
  - g. appointment, dismissal and suspension of managing directors of any Holding Company or Fortenova Grupa, and determination of their remuneration;
  - h. an initial public offering of any Holding Company or any of their respective subsidiaries;
  - i. any contribution to any joint venture by any Holding Company;
  - j. to authorise the adoption of the annual accounts and/or the consolidated annual accounts, as the case may be, of Fortenova Grupa;
  - k. to approve the appointment of an auditor for Fortenova Grupa; and
  - l. exercise by the Company of any termination or amendment rights (other than for non-material amendments) in respect of the Custody Deed, the Paying, Transfer and Conversion Agency Agreement or Securities Escrow Deed, or the appointment of or approval of any appointment of an administrative party under any of those agreements, or the exercise by the Company of any right to terminate the appointment of any of the administrative parties appointed under those agreements.
- 16.4. Subject to the prior approval of the General Meeting shall be all Management Board resolutions concerning the exercise of voting rights in the general meeting of Dutch HoldCo, Fortenova Grupa and any Fortenova Subsidiary or

any other action of or approval by the Company in any capacity, in each case, on any proposed resolution relating to the following matters:

- a. any acquisition of shares or business(es) by Fortenova Grupa or any Fortenova Subsidiary in the aggregate consideration of such acquisitions in any financial year of the Fortenova Group (each a "**Financial Year**") amounts in excess of (on a consolidated Fortenova Group-wide basis):
  - (i) thirty million euro (€30,000,000) in any Financial Year for the first two complete Financial Years following the Implementation Commencement Date; and
  - (ii) fifty million euro (€50,000,000) in any Financial Year thereafter, except for any acquisition specifically provided for under the Settlement Plan or referenced therein;
- b. the disposal of any shares held by Fortenova Grupa or any Fortenova Subsidiary in the capital of any member of the Fortenova Group other than where such shares subject to disposal to a third party are non-core assets (as determined by the board of Fortenova Grupa);
- c. the disposal of assets (other than any shares as referred to in Article 16.4.b) by Fortenova Grupa or any Fortenova Subsidiary if the aggregate consideration of such disposals in any Financial Year amounts in excess of fifty million euro (€50,000,000) (on a consolidated Fortenova Group-wide basis), other than:
  - (i) the disposal of any non-core assets (as determined by the board of Fortenova Grupa);
  - (ii) the disposal of an individual asset where the relevant consideration is less than one hundred thousand euro (€100,000); and
  - (iii) a disposal in the ordinary course of the trading business of the relevant member of the Fortenova Group;
- d. the entry into of any agreement to incur indebtedness by Fortenova Grupa or any Fortenova Subsidiary (including but not limited to the signing of any capital lease or debt facility) (and the grant of any related guarantee or security), if in aggregate, in excess of an amount of fifty million euro (€50,000,000) in each Financial Year (on a consolidated Fortenova Group-wide basis), other than:
  - (i) any intercompany loans to or from Fortenova Grupa;
  - (ii) in respect of any indebtedness incurred in the ordinary course of business that will not be outstanding for more than ninety (90) calendar days; or
  - (iii) a deed of indemnity entered into or to be entered into, as the case may be, by Fortenova Grupa, Lucid Trustee Services Limited, Lucid Agency Services Limited and Lucid Issuer Services Limited, and any

- amendment to it;
- e. the grant of any loan, guarantee or security by Fortenova Grupa or any Fortenova Subsidiary to any third party (not being the Foundation, a Holding Company or a member of the Fortenova Group) other than:
    - (i) in the ordinary course of business not exceeding thirty million euro (€30,000,000) (when aggregated with all other loans, guarantees or security then granted or made by members of the Fortenova Group) in each Financial Year; or
    - (ii) ordinary course of business trade credit;
  - f. the grant or incurrence of any loan, guarantee or security by any Subsidiary to the Foundation or any Holding Company or between members of the Fortenova Group other than:
    - (i) any intercompany loans made to or from Fortenova Grupa; or
    - (ii) ordinary course supplier relationships, except for those which are not repayable within ninety (90) calendar days and which have a value in excess of fifty thousand euro (€50,000) per contractual arrangement;
  - g. a material change to the nature or scope of business purpose of Fortenova Grupa or any Fortenova Subsidiary that represents three percent (3%) or more of the Fortenova Group's earnings before interest, taxes, depreciation and amortisation (EBITDA) over the last twelve (12) months by reference to the last reported period;
  - h. the equity element of any management incentive plan of Fortenova Grupa or any Fortenova Subsidiary (other than issuances in accordance with a previously approved plan);
  - i. an initial public offering of Fortenova Grupa or any Fortenova Subsidiary;
  - j. any joint venture(s) where Fortenova Grupa or any Fortenova Subsidiary makes a contribution of cash and/or assets to any joint venture(s) amounting in excess of thirty million euro (€30,000,000) on a consolidated Fortenova Group-wide basis in any Financial Year, calculated in the aggregate for joint venture(s);
  - k. any merger, demerger or amalgamation of any Fortenova Subsidiary;
  - l. any amendment to the articles of association of any Fortenova Subsidiary to remove, replace or alter any requirement for shareholder approval for any matter listed in this Article 16 or any other matter reserved for shareholder approval or board approval in such articles of association;
  - m. any solvent reorganisation of Fortenova Grupa or any Fortenova Subsidiary in accordance with applicable law; and
  - n. any issuance of shares by any Fortenova Subsidiary.

- 16.5. Subject to the prior approval of the General Meeting shall be all Management Board resolutions concerning such other legal acts as are determined and clearly defined by the General Meeting and brought to the attention of the Management Board in Writing.
- 16.6. The absence of any approval as defined in this Article 16 shall not affect the powers of the Management Board or of the Managing Directors to represent the Company.
- 16.7. This Article 16 shall not apply to the extent such matter is already approved pursuant to and in accordance with the Settlement Plan (including but not limited to any of the matters listed in Clauses 17.2 and 19.2.2 of the Settlement Plan) or referenced therein.
- 16.8. This Article 16 shall not apply to:
- a. the granting of any related guarantee or security (including but not limited to any pledge), or the entry into or amendment of any other document, in each case in relation to the SPFA;
  - b. any transactions related to the debt incurrence in each case on the terms as prescribed by the Settlement Plan, including the entry into of the Amendment and Restatement Agreement pursuant to which the SPFA will be amended, restated and novated on the terms of a new senior secured facilities agreement (as annexed to the Lock-Up Agreement, the "**SSFA**"), which is to be effected by way of an English law scheme of arrangement (the "**Scheme**"); or
  - c. any transaction associated with any of the foregoing (including, but not limited to, any transaction associated with the Amendment and Restatement Agreement, the SSFA and the Scheme), but excluding any refinancing of the SSFA.

**Article 17. Unavailability or inability to act of a Managing Director**

- 17.1. If the Management Board consists of one (1) Managing Director and this Managing Director is not available or Unable to Act, the management of the Company shall be temporarily vested in a person appointed for that purpose by the General Meeting, provided that such temporary manager must reside in the Netherlands.
- 17.2. If the Management Board consists of more than one (1) Managing Director and the Managing Directors A are not available or Unable to Act, the management of the Company shall be temporarily vested in the Managing Director(s) B or, as the case may be, the person(s) designated pursuant to Article 17.3, together with an equal or lower number of temporary managers A appointed for this purpose by the General Meeting.
- 17.3. If the Management Board consists of more than one (1) Managing Director and the Managing Directors B are not available or Unable to Act, the



management of the Company shall be temporarily vested in the Managing Director(s) A or, as the case may be, the person(s) designated pursuant to Article 17.2, together with an equal or higher number of temporary managers B appointed for this purpose by the General Meeting, provided that such temporary managers B must reside in the Netherlands.

- 17.4. The provisions in the Articles of Association regarding the Management Board and the Managing Directors shall, to the extent possible, apply *mutatis mutandis* to any person(s) designated pursuant to Article 17.1, Article 17.2 or Article 17.3.

#### **Article 18. Representation of the Company**

- 18.1. The authority to represent the Company shall vest exclusively in:
- the Management Board; or
  - any Managing Director A acting jointly with any Managing Director B.
- 18.2. The Management Board may appoint one or more limited proxy holder(s) (*bijzondere procuratiehouders*) ("**Limited Proxy Holder(s)**") and determine the limited scope of the proxy of each Limited Proxy Holder.

#### **Article 19. Financial year, annual accounts and management report**

- 19.1. The Company's financial year shall be concurrent with the calendar year.
- 19.2. The Management Board shall prepare the annual accounts and/or the consolidated annual accounts, as the case may be, which shall consist of the balance sheet and the profit and loss statement with explanatory notes. The annual accounts shall be prepared within five (5) months of the end of each financial year, unless the General Meeting grants an extension to a maximum of five (5) months in special circumstances. The annual accounts require the signatures of all the Managing Directors. The absence of a signature, and the reason for that, shall be expressly stated. As far as required by law, the Management Board shall also prepare a management report within the above-mentioned period.
- 19.3. If, and to the extent that, any relevant provision of Dutch law is applicable to the Company, the General Meeting shall retain a registered accountant or a firm of registered accountants, as defined in Section 2:393 paragraph 1 DCC, to examine the annual accounts and, if prepared, the management report prepared by the Management Board, in order to write a report and to provide a statement thereon.
- 19.4. The annual accounts shall be adopted by the General Meeting. Adoption of the annual accounts shall not serve to grant discharge to a Managing Director.

If each shareholder is also a Managing Director of the Company, the signing of the annual accounts by all Managing Directors does not, in deviation from Section 2:210 paragraph 5 DCC, serve as the adoption of the annual

accounts.

- 19.5. If, and to the extent that, it is required under Dutch law, the Company is obliged to make the annual accounts publicly available at the trade register.

**Article 20. Appropriation of profits, distributions to shareholders**

- 20.1. The Management Board is authorised to appropriate the profits which have been determined by adopting the annual accounts, and to determine distributions, to the extent the equity of the Company exceeds the reserves which must be maintained under Dutch law. A resolution for a distribution shall only be adopted by Management Board if it knows or reasonably ought to foresee that the Company after the distribution, shall be able to continue to pay its short-term debts.
- 20.2. If the Company is unable to continue to pay its short-term debts after a distribution, the Managing Directors who, at the time of the distribution knew or should have reasonably foreseen this, are jointly and severally liable to the Company to compensate the shortfall caused by the distribution plus statutory interest from the day of the distribution. A Managing Director is not liable if he proves that he cannot be blamed for the Company making the distribution, and that he was not negligent in taking measures to avoid its adverse effects.
- 20.3. The beneficiary of the distribution who knew or should have reasonably foreseen that after the distribution the Company would be unable to continue to pay its short-term debts is jointly and severally liable to the Company to compensate the shortfall caused by the distribution, each beneficiary up to a maximum amount or value of the distribution received by such beneficiary, plus statutory interest from the day of the distribution. If the Managing Directors have paid the claim referred to under the first sentence of Article 20.2, the payment referred to in the preceding sentence is paid to the Managing Directors, in proportion to the part that each of the Managing Directors has paid. In respect of the debt referred to in the first sentence of Article 20.2 or the first sentence of this Article 20.3, the debtor is not entitled to a set off.
- 20.4. In calculating each distribution, the shares held by the Company in its own capital shall be disregarded.
- 20.5. In calculating the amount that will be distributed on each share, only the amount of the mandatory payment on the nominal amount of the shares is eligible. Deviation from the preceding sentence is possible with the consent of all shareholders.
- 20.6. The right to receive a distribution shall expire five years from the day on which such a distribution became payable.

**Article 21. General Meetings**

- 21.1. The competence of the General Meeting shall include adopting the following

matters and such other matters as are provided for Dutch law:

- a. amendment of the Articles of Association in accordance with Article 24.1 and Article 24.2;
  - b. merger, demerger and dissolution of the Company in accordance with Article 24.1;
  - c. conversion of the Company into a different legal form;
  - d. issue of shares in accordance with Article 5.1;
  - e. reduction of the Company's share capital in accordance with Article 7;
  - f. appointment of Managing Directors in accordance with Article 12.2;
  - g. to determine the number of Managing Directors in accordance with Article 12.1;
  - h. suspension and dismissal of Managing Directors in accordance with Article 12.3;
  - i. remuneration and other terms and conditions for the appointment of each individual Managing Director in accordance with Article 12.5;
  - j. granting of discharge from liability to the Managing Directors in accordance with Article 21.2;
  - k. appointment of any temporary manager in accordance with Article 17;
  - l. appointment of the Company's registered accountant or a firm of registered accountants in accordance with Article 19.3; and
  - m. adoption of the annual accounts and/or the consolidated annual accounts, as the case may be, in accordance with Article 19.4.
- 21.2. During every financial year at least one General Meeting shall be held or at least once the General Meeting shall resolve in the manner provided for in Article 23.1 In this meeting or resolution the following shall, in any case, be brought up for consideration:
- the management report, as far as required by Dutch law;
  - the adoption of the annual accounts;
  - the granting of discharge from liability to the Managing Directors for actions in respect of their management during the preceding financial year; and
  - if required by Dutch law, the instruction of an expert as referred to in Section 2:393 DCC.
- 21.3. If one or more Persons with Meeting Rights representing, jointly or severally, at least one percent (1%) of the issued capital, have asked in Writing to add one or more items to the agenda of a General Meeting, such item(s) will be incorporated in the notice convening the General Meeting, provided that:
- a. the Company has received the request no later than on the thirtieth (30<sup>th</sup>) calendar day before the day of the General Meeting; and
  - b. addressing the items at the meeting will not be contrary to the substantial

interests of the Company.

- 21.4. The General Meeting shall be held in the municipality where the Company has its registered seat or in Rotterdam or at Schiphol Airport (municipality of Haarlemmermeer).
- 21.5. Notice of the convening of a General Meeting shall be issued by the Management Board or by one of the Managing Directors or a Person with Meeting Rights by means of Written notices or - provided that the Persons with Meeting Rights consent to this - by means of readable and reproducible notices which are electronically sent ("**Notice**"), which Notice is to be dispatched to the Persons with Meeting Rights and Managing Directors no later than the eighth (8<sup>th</sup>) calendar day before the date of the meeting. One or more Persons with Meeting Rights representing, jointly or severally, at least one percent (1%) of the issued capital can request the Management Board, in Writing with a detailed statement of the topics to address, to convene a General Meeting. The Management Board shall take the necessary measures to ensure that the General Meeting can be held within four (4) weeks of the request, unless convening the meeting will be contrary to the substantial interests of the Company.
- 21.6. The Notices shall set out the place, date and time of the General Meeting and the matters to be considered. Written notices shall be dispatched to the addresses recorded in the shareholder register. Electronic notices are to be sent to the addresses that have been made available for this purpose to the Company by the Persons with Meeting Rights. The failure of one or more of the Notices dispatched in accordance with the stipulations set out above to reach the destination shall not affect the validity of the General Meeting or the resolutions adopted thereby.
- 21.7. The General Meeting shall appoint its own chairman.
- 21.8. Minutes shall be taken of the matters dealt with in a General Meeting unless a notarial record of the proceedings is drawn up. The minutes shall be entered into a register maintained for that purpose and require the adoption and signature of the chairman of the meeting and the secretary of the meeting, who shall be appointed by the chairman at the commencement of the meeting. The minutes or the notarial record of the proceedings shall serve as evidence of the resolutions adopted in the General Meeting.

#### **Article 22. Adoption of resolutions in a General Meeting**

- 22.1. All Persons with Meeting Rights, either in person or by means of a person holding a Written proxy, shall be entitled to attend a General Meeting and to address that meeting. The Managing Director or Managing Directors shall have, in this capacity, a right to render advice in the General Meeting.
- 22.2. In order to be able to participate in the voting at the General Meeting,

Persons with Meeting Rights having voting rights or their representatives must sign the attendance book, recording the number of shares represented by them.

- 22.3. Every share entitles its holder to cast one (1) vote.
- 22.4. In a General Meeting, neither votes may be cast for shares held by the Company or by any Subsidiary thereof, nor may votes be cast for a share for which either of them holds a Depositary Receipt.
- 22.5. Holders of a right of usufruct with respect to shares which are held by the Company or its Subsidiary are nevertheless not precluded from the right to vote if the right of usufruct was established before the share was held by the Company or Subsidiary.  
The Company or any Subsidiary thereof may not cast votes for a share for which it has a right of usufruct.
- 22.6. The sum of the shares for which no voting rights may be exercised according to Dutch law shall be disregarded in determining the extent to which the shareholders are entitled to vote, are present or represented, or to which extent the share capital is provided or represented.
- 22.7. Resolutions passed in a General Meeting shall be adopted by a majority of the votes cast. Blank votes shall be deemed not to have been cast.
- 22.8. The votes shall be cast orally at the General Meeting, unless the chairman of the meeting decides otherwise.
- 22.9. In case of a tie in the vote, the proposal shall be deemed to have been rejected.
- 22.10. In a General Meeting valid resolutions can be adopted, even if the requirements in respect of the convening and holding of meetings have not been complied with, provided that:
  - a. all Persons with Meeting Rights have declared to consent that adoption of resolutions shall take place; and
  - b. the Managing Director(s) has (have) had the opportunity to provide advice prior to the adoption of resolutions.
- 22.11. The Management Board shall keep a record of the adopted resolutions. This record shall be made available at the Company's office for inspection by the Persons with Meeting Rights. Each Person with Meeting Rights shall, upon request, be provided with a copy of or extract from this record at no more than the actual costs.

### **Article 23. Adoption of resolutions outside a General Meeting**

- 23.1. Shareholders may also adopt resolutions without convening a General Meeting, provided that all Persons with Meeting Rights have declared in written form to be in favour of this manner of adopting resolutions. The first sentence of Article 22.7 and Article 22.9 apply accordingly. Votes are cast in

Writing. The requirement that votes are cast in Writing shall also be met if the resolution is recorded in written form, specifying the manner in which each of the shareholders has voted. The Managing Director(s) shall be given the opportunity to provide advice prior to the adoption of resolutions.

**Article 24. Merger, demerger, amendment to the Articles of Association, dissolution**

- 24.1. The General Meeting may resolve to merge the Company, or to demerge the Company, as well as to amend the Articles of Association or to dissolve the Company.
- 24.2. Those who convene a General Meeting in which a proposal is made to adopt a resolution to amend the Articles of Association must deposit a copy of the proposal, stating the verbatim text of the proposed amendment, at the offices of the Company for inspection by Persons with Meeting Rights. The proposal must be deposited at the same time as the notice of the meeting and kept there until after the close of the meeting. Persons with Meeting Rights must be given the opportunity to obtain a copy of the proposal described in the preceding sentence from the day on which the convening notice for that meeting is dispatched until the day of the General Meeting. Such copies shall be provided free of charge.
- 24.3. In the event that a resolution to dissolve the Company is adopted, the liquidation shall be arranged by the Management Board or by one or more persons appointed by the General Meeting, unless the court should appoint another liquidator or other liquidators. If a resolution to liquidate the Company is passed, a resolution regarding the remuneration to be paid to the liquidator, or the joint liquidators, must be passed at the same time.
- 24.4. The Articles of Association shall, as far as possible, remain effective during the process of liquidation.
- 24.5. The liquidation surplus shall be distributed to shareholders and other parties entitled thereto in proportion to their respective rights.
- 24.6. After the liquidation has been completed, the books and records of the dissolved Company shall remain in the custody of a person to be appointed for that purpose by the General Meeting for a period of seven (7) years.

**Article 25. Information rights**

- 25.1. The Company shall provide to the shareholders on Written request such financial and performance information relating to the Company and its Subsidiaries as the shareholders shall require including but not limited to:
  - a. consolidated profit and loss, cash flow statements, balance sheet (including management accounts for each quarter, semi-annual reviewed accounts and audited annual accounts) for at least the Key Operating Subsidiaries;

- b. working capital position (to include, without limitation, payables, receivables and inventory) for the Key Operating Subsidiaries;
  - c. profit and loss, cash flow statements, balance sheet for the Key Operating Subsidiaries (including management accounts for each quarter and audited annual accounts);
  - d. a commentary on the actual performance of the Key Operating Subsidiaries;
  - e. overview of any sale of assets (both core and non-core (as determined by the board of Fortenova Grupa)), if any during the relevant period; and
  - f. reporting on the viability plan (analyses of the targeted and actual and performance) until financial year end two thousand and twenty-two (or by reference to any subsequent business plan and / or budget approved by the Management Board).
- 25.2. The Company shall comply with instructions by the General Meeting in respect of the provision of a liquidity and performance outlook for the following twelve (12) months for each Key Operating Subsidiary and on a consolidated basis and a report on the budget performance (analyses of the budgeted figures versus the actual figures).
- 25.3. The Company shall comply with instructions by the General Meeting in respect of the provision of its consolidated annual accounts and to instruct each of its Subsidiaries to provide its stand-alone annual financial statements, as soon as reasonably possible after these have been compiled, but in any event no later than within six (6) months after the respective reporting period.

**Article 26. Transitional provisions I**

- 26.1. Article 16 shall not apply to the extent such matter relates to the Contingent Claim Settlement and the implementation of thereof.
- 26.2. This Article shall lapse after the Contingent Claim Settlement has been implemented to the greatest extent possible under the terms as reflected in the Settlement Plan, and it has become apparent that no further implementation is possible.

**Article 27. Transitional provisions II**

- 27.1. Article 16 shall not apply to the extent such matter relates to the Sberbank Put Option.
- 27.2. This Article shall lapse:
- a. after the expiry of the Put Option Exercise Period, if the Sberbank Put Option has not been exercised during the Put Option Exercise Period;
  - b. if the Sberbank Put Option has been exercised during the Put Option Exercise Period, immediately after implementation of the Sberbank Put Option.

March 29, 2019