

## **CURRENT REPORT**

### **KOFOLA S.A.**

8<sup>th</sup> April 2010

Current report no. 7/2010

The subject: **The uniform text of the Articles of association of the Company**

The legal basis: Art. 56 paragraph 1 point 2 of the Act on Public Offering – current and periodic information

The Management Board of KOFOLA S.A. with its registered office in Warsaw („the Company”), acting on the basis of §38 paragraph 1 point 2 b of the Decree of the Minister of Finance of February 19, 2009 on current and periodic information published by issuers of securities (Journal of Laws of 2009, No. 33, item. 259), hereby informs that on 7<sup>th</sup> April 2010, the Supervisory Board of the Company adopted the uniform text of the Articles of association of the Company taking into account alterations of which the Company had informed through the current reports no. 26/2009 of 14 August 2009 and no. 3/2010 of 19 February 2010.

As appendix- the uniform text of the Articles of association of KOFOLA S.A.

### **The Articles of association of KOFOLA S.A.**

*(the uniform text)*

#### **Establishment of the Company**

##### **Par. 1**

KOFOLA S.A. (joint-stock company) is a company established following the transformation of HOOP INTERNATIONAL Sp. z o.o. (limited-liability company) into HOOP S.A. (joint-stock company) under Arts. 491-497 of the Commercial Code, and a subsequent merger of HOOP S.A. with Kofola SPV Sp. z o.o.

#### **Company's Name**

##### **Par. 2**

1. The Company shall operate under the name of KOFOLA Spółka Akcyjna.
2. The Company may use the abbreviated name of KOFOLA S.A.

## **Place of Business**

### **Par. 3**

The Company's principal place of business is Warsaw.

## **Duration of the Company and Scope of its Business Activities**

### **Par. 4**

1. The Company is incorporated for an unspecified period.
2. The Company may operate within the territory of the Republic of Poland and outside the Republic of Poland.
3. The Company may establish branches, plants, representative offices, and other organisational units.
4. The Company may participate and acquire shares and other equity interests in companies and other legal entities operating in and outside Poland, subject to the provisions of these Articles of Association.

## **Business Profile**

### **Par. 5**

1. The Company's business shall include:
  - a) manufacture of food products (PKD 10) and manufacture of beverages (PKD 11),
  - b) manufacture of chemicals and chemical products (PKD 20),
  - c) manufacture of plastic packing goods (PKD 22.22.Z) and manufacture of glass and glass products (PKD 23.1),
  - d) repair and maintenance of machinery (PKD 33.12.Z),
  - e) repair and maintenance of computers and peripheral equipment (PKD 95.11.Z),
  - f) software and IT consultancy activities and related activities (PKD 62.0),
  - g) information services (PKD 63),
  - h) publishing activities (PKD 58),
  - i) printing and activities related to printing (PKD 18.1),
  - j) advertising (PKD 73.1),
  - k) market research and public opinion polling (PKD 73.20.Z),

- l) activities of head offices; management consultancy (PKD 70),
  - m) other professional, scientific and technical activities (PKD 74),
  - n) activities related to the real estate market (PKD 68),
  - o) auxiliary activities related to cleaning and general maintenance of buildings (PKD 81.10.Z),
  - p) lease and rent (PKD 77),
  - q) construction work related to erection of buildings (PKD 41), work related to construction of civil engineering structures (PKD 42) and specialist construction work (PKD 43),
  - r) wholesale except for trading in motor vehicles (PKD 46),
  - s) retail trading except for retail trading in motor vehicles (PKD 47),
  - t) freight transport by road and removal services (PKD 49.4),
  - u) storage and support activities for transport (PKD 52),
  - v) extra-curricular forms of sports education and sports and recreation classes (PKD 85.51.Z) and sports, entertainment and recreation activities (PKD 93),
  - w) healthcare activities (PKD 86),
  - x) investigation and security activities (PKD 80),
  - y) cleaning of buildings (PKD 81.2).
2. Activities for which a licence is required shall be conducted by the Company after the relevant licence has been obtained.

## **Share Capital**

### **Par. 6**

1. The Company's share capital shall amount to PLN 26.172.602 (twenty-six million, one hundred and seventy-two thousand, six hundred and two zlotys) and shall be divided into 26.172.602 (twenty-six million, one hundred and seventy-two thousand, six hundred and two) shares at the nominal value of 1, - PLN (one zloty) per share, including:
- a) 447.680 Series A ordinary bearer shares,
  - b) 100.000 Series B ordinary bearer shares,
  - c) 82.856 Series C ordinary bearer shares,
  - d) 9.458.040 Series D ordinary bearer shares,
  - e) 3.000.000 Series E ordinary bearer shares,

- f) 13.083.342 Series F ordinary bearer shares,
  - g) 684 Series G ordinary bearer shares.
2. The Company may issue shares as either bearer or registered shares. Conversion of registered shares into bearer shares shall require a prior approval of the Supervisory Board.
  3. The Company shares may be issued as global certificates. At a reasonable request of a Shareholder, the Company is obliged to exchange the global certificate held by the Shareholder for global certificates for a smaller number of shares or certificates for single shares.
  4. The conditional share capital of the Company amounts not more than 1.090.526 PLN (say: one million ninety thousand five hundred and twenty six zlotys) and is divided into not more than 1.090.526 (say: one million ninety thousand five hundred and twenty six) ordinary bearer shares of H series at nominal value of 1, - PLN (say: one zloty) each share. The holders of the Subscription Warrants A, B, C and D series issued by the Company shall be entitled to subscribe for shares of H series. The right to subscribe for shares H series may be performed not earlier than after 12 months and no later than 3 years since the date of allocation of Warrants, but no later than until December 31<sup>st</sup> 2016.

### **Statutory Reserve Funds**

#### **Par. 7**

1. The Company shall create statutory reserve funds, to which 8% (eight per cent) of the Company's annual net profit shall be transferred until the statutory reserve funds are equal to no less than one-third of the share capital.
2. Other funds, from the sources referred to in Art. 396.2 and Art. 396.3 of the Commercial Companies Code, shall also be transferred to statutory reserve funds.
3. The General Shareholders Meeting shall determine the manner of employment of statutory reserve funds, subject to Art. 396.5 of the Commercial Companies Code.

### **Capital Reserve**

#### **Par. 8**

In order to cover special losses or expenses, the General Shareholders Meeting may create capital reserves.

### **Changes in the Share Capital**

## Par. 9

1. The share capital may be increased and reduced in accordance with the terms and conditions and in line with the procedure provided for in the Commercial Companies Code.
2. A share capital increase may be effected by issuing new shares or by increasing the par value of the existing shares.
3. Shares may be acquired for cash or non-cash contributions.
4. New shares may be acquired by way of private placement (i.e. the Company making an offer to and its acceptance by a specified investor), a closed subscription (i.e. offering shares exclusively to Shareholders with the pre-emptive rights) or an open subscription (i.e. offering shares by way of an announcement made pursuant to Art. 440.1 of the Commercial Companies Code to parties who do not have the pre-emptive rights). The procedure for acquiring new shares in the Company shall be chosen by the General Shareholders Meeting in a relevant resolution.
5. The existing Shareholders shall have the pre-emptive rights to acquire shares in the Company's increased share capital in proportion to the number of shares held ("**Pre-Emptive Rights**").
6. The Pre-Emptive Rights may be waived entirely or partly as provided for in Art. 433.2 of the Commercial Companies Code.
7. Subject to Art. 442.1 of the Commercial Companies Code, the General Shareholders Meeting may finance a share capital increase with the statutory reserve funds or capital reserves created from net profit ("**Share Capital Increase from Internally Generated Funds**").
8. The Shareholders shall be entitled to acquire new shares in the share capital increased from the internally generated funds (bonus shares) in the proportion to the number of shares held by them in the existing share capital.
9. Voting rights attached to the shares in the increased share capital shall accrue as of the day on which the increased share capital is registered, irrespective of whether the shares have been paid up in full or only in part prior to the registration of the share capital increase.

## Retirement of Shares

### Par. 10

1. Shares may be retired by way of share capital reduction.
2. Based on a resolution of the General Shareholders Meeting, the Company's registered shares and bearer shares may be retired, subject to the Shareholder's consent, through their acquisition by the Company ("**Voluntary Retirement**").
3. If shares are retired against consideration, such consideration may be paid in the form of a one-off payment or in instalments.

## **Acquiring Own Shares**

### **Par. 11**

The Company may acquire its own shares in the cases referred to in Art. 362 of the Commercial Companies Code following prior approval of such acquisition by the General Shareholders Meeting.

## **Company Governing Bodies**

### **Par. 12**

The Company's governing bodies shall be:

- a) General Shareholders Meeting,
- b) Supervisory Board,
- c) Management Board.

## **General Shareholders Meeting**

### **Par. 13**

General Shareholders Meetings shall be held at the Company's registered office.

## **Convening of the General Shareholders Meeting**

### **Par. 14**

1. An Annual General Shareholders Meeting shall be convened annually by the Management Board, within six (6) months of the end of the Company's financial year.
2. An Extraordinary General Shareholders Meeting shall be convened by the Management Board on its own initiative, or on the motion of the Supervisory Board, or on the motion of Shareholders representing at least one-tenth (1/10) of the Company's share capital. The Meeting shall be convened within two (2) weeks of submitting the motion; the Meeting shall be convened: (i) in the case of a Meeting convened on the motion of the Shareholders, subject to the second sentence of Art. 400.1 of the Commercial Companies Code, for the date specified in the motion, and in the case of any material obstacles – for the earliest possible date when the Meeting is able to resolve the issues submitted for its consideration, and (ii) in any other case, the Meeting shall be convened for a date falling within six (6) weeks of submitting the motion.

3. If the General Shareholders Meeting is not convened by the Management Board within the prescribed timeframe, it may be convened by the parties that submitted the motion.
4. A motion for convening the General Shareholders Meeting shall specify the issues to be included in the agenda. The motion shall require justification.
5. The General Shareholders Meeting shall be convened for a day that is a business day in Poland.
6. The General Shareholders Meeting convened on the motion of the Shareholders may only be cancelled or its date changed upon the approval by the parties submitting the motion. In all other cases, the General Shareholders Meeting may be cancelled if there occur any extraordinary obstacles to its holding (*force majeure*) or when holding the Meeting would be obviously purposeless.
7. Any notices pertaining to the General Shareholders Meetings and minutes thereof shall be prepared in the Polish language. Similarly, the Meetings shall be conducted in the Polish language.

### **Adoption of Resolutions by the General Shareholders Meeting**

#### **Par. 15**

1. Subject to the provisions of Art. 404 of the Commercial Companies Code, the General Shareholders Meeting may adopt resolutions only on matters provided for in the Commercial Companies Code, these Articles of Association, and matters included in the agenda of the Meeting.
2. A resolution not to consider an issue included in the agenda of the meeting shall be adopted only for significant reasons. The relevant motion shall be justified in detail.
3. The General Shareholders Meeting shall be opened by the Chairperson of the Supervisory Board or by a person designated by the Chairperson, or – if there is not such a person – by the oldest Supervisory Board member present at the meeting. In the absence of such persons, the General Shareholders Meeting shall be opened by the President of the Management Board, a person designated by the Management Board, or the Shareholder representing the largest number of the Company shares. If there are two or more Shareholders representing the largest number of the Company shares, the General Shareholders Meeting shall be opened by the oldest of them.
4. The General Shareholders Meeting shall be valid and shall have the capacity to adopt effective resolutions if the attending shareholders represent no less than 50% (fifty) per cent of the share capital. If there is no quorum present at the first General Shareholders Meeting, the Management Board shall immediately convene another General Shareholders Meeting with the same agenda, on a date falling no sooner than after four weeks of the first General Shareholders Meeting, indicating that it is convened after an

earlier Meeting was adjourned and that it shall be valid regardless of the percentage of the share capital represented.

5. Subject to the mandatory provisions of the Commercial Companies Code and unless these Articles of Association provide otherwise, resolutions shall be adopted by a simple majority. As long as CED GROUP S. à r.l., a limited-liability company under the law of Great Duchy of Luxemburg, registered office in Luxembourg (“CED”) remains the Company’s shareholder with no less than 15% of shares in its share capital, the following matters shall require a resolution by the General Shareholders Meeting, adopted with the majority of 70% (seventy percent) of the votes cast in favour of the resolution:
  - a) payment of dividend to shareholders in the amount exceeding 75% (seventy-five percent) of the net profit generated by the Company in the preceding financial year;
  - b) appointment and removal of the independent member of the Supervisory Board;
  - c) removal or suspension of members of the Company’s Management Board.
6. The General Shareholders Meeting shall adopt Rules of Procedures for the General Shareholders Meeting, specifying in detail the manner of conducting the Meetings and adopting resolutions. In the event of a change to the Rules, the change shall become effective as of the next General Shareholders Meeting.

### **Scope of Powers of the General Shareholders Meeting**

#### **Par. 16**

1. The powers of the General Shareholders Meeting shall include in particular:
  - a) reviewing and approving the Directors’ Report on the Company’s operations and the operations of the Company’s group and the financial statements of the Company and the Group for the preceding financial year;
  - b) adopting resolutions on the distribution of net profit in the form of dividend, or on the exclusion of the net profit from dividend payment, in whole or in part, and retaining it for the Company’s own purposes; adopting resolutions on coverage of loss;
  - c) approving the performance of duties by the members of the Company’s governing bodies;
  - d) selling or leasing the Company’s business or its organised part, and encumbering the business or its part with any limited property rights (*ograniczone prawo rzeczowe*);
  - e) changing the legal form of the Company and any deciding on any merger of the Company with another company or legal entity;



- f) adopting resolutions concerning claims for repair of damage inflicted in connection with Company's formation, its management or supervision;
  - g) amending the Articles of Association, increasing or reducing the Company's share capital;
  - h) issuing convertible bonds or bonds with the pre-emptive rights;
  - i) acquiring Company's own shares;
  - j) subject to Par. 17.1 below, appointing and removing Supervisory Board members, including the Chairperson of the Supervisory Board;
  - k) dissolving the Company;
  - l) defining the terms and conditions concerning the Supervisory Board's remuneration, including in particular payment dates and amounts;
  - m) adopting the Rules of Procedure for the General Shareholders Meeting;
  - n) determining the dividend record date, that is the date as at which the list of Shareholders entitled to dividend for the given financial year is determined, subject to the provisions of Art. 348.2 of the Commercial Companies Code, and determining the dividend payment date;
  - o) resolving the matters presented for consideration to the General Shareholders Meeting by the Management or the Supervisory Board;
  - p) other matters which fall within the scope of powers of the General Shareholders Meeting under mandatory laws and these Articles of Association.
2. Any reference made in this paragraph to the lease of the Company's business or its particular assets shall be understood to include any other agreement based on which a third party obtains the possibility of using the Company's business or its particular assets.

## **Supervisory Board**

### **Par. 17**

1. The Supervisory Board shall be composed of 5 (five) to 6 (six) members (including one independent member of the Supervisory Board) appointed and removed by the General Shareholders Meeting, except as provided below:
  - a) as long as KSM Investment S.A. of Luxembourg ("KSM") remains the Company's shareholder with no less than 35% of the Company's share capital, KSM shall appoint and remove 3 (three) members of the Supervisory Board, including the Chairperson of the Supervisory Board – the appointment and removal of a Supervisory Board member by KSM on the basis of this paragraph shall be made by way of a written statement submitted to the Company and the

person concerned and shall be effective as of the date of submission of the statement to the person concerned,

- b) as long as CED remains the Company's shareholder with no less than 15% of the Company's share capital, CED shall appoint and remove 2 (two) members of the Supervisory Board, including the Deputy Chairperson of the Supervisory Board – the appointment and removal of a Supervisory Board member by CED on the basis of this paragraph shall be made by way of a written statement submitted to the Company and the person concerned and shall be effective as of the date of submission of the statement to the person concerned.

2. A member of the Supervisory Board shall be deemed an independent member if he or she meets all of the following criteria:

- a) he or she does not hold and has not held in the last five years a position of a member of the Management Board or any other managerial position (irrespective of the legal basis of employment) at the Company, any company of its Group or its parent company;
- b) he or she is not and has not been in the last three years employed at the Company, any company of its Group, its parent company or its associated undertaking;
- c) he or she does not receive any additional remuneration or any other proprietary benefits from the Company, any company of its Group or its parent company, except for the remuneration payable on account of serving as a member of the Supervisory Board;
- d) he or she is not a Shareholder, or an officer, director or employee of a Shareholder holding 5% or more of the total vote at the Company's General Shareholders Meeting, or an officer, director or employee of a Shareholder holding such a number of shares that would allow such Shareholder to effectively control the Company;
- e) he or she does not have and did not have in the year preceding his or her appointment to the Supervisory Board any material commercial or business links with the Company, any company of its Group or its parent company which could materially compromise his or her independence;
- f) he or she is not and has not been in the last three years an auditor of the Company, or an employee, officer, director or partner/shareholder of an entity providing auditing services to the Company, any company of its Group or its parent company;
- g) he or she is not a member of the management board of another company in which a member of the Company's Management Board serves as a member of the supervisory board;
- h) he or she does not have any material connections with members of the Company's Management Board, for example by participating in other companies or holding positions in the governing bodies of other companies together with such members;

- i) he or she is not and has not been in the last three years a spouse, a cohabitating partner or a relative through blood or marriage of a member of the Company's Management Board or an employee holding at the Company a position directly subordinate to the Company's Management Board or directly subordinate to a member of the Company's Management Board.
3. If a Supervisory Board member is removed from office, the General Shareholders Meeting shall be obliged to simultaneously appoint a new member of the Supervisory Board if the number of the Supervisory Board members would otherwise be lower than five.
4. A resigning member of the Supervisory Board shall be obliged to advise the Management Board of his or her resignation in writing.
5. If the term of office of a Supervisory Board member appointed by the General Shareholders Meeting expires, the Management Board shall be obliged to convene a General Shareholders Meeting at such time and in accordance with such rules as provided for in Par. 14 of these Articles of Association, and to include in the Meeting's agenda the appointment of a new Supervisory Board member elected by the General Shareholders Meeting.
6. The term of office of the Supervisory Board shall be five years. The members of the Supervisory Board shall be appointed for a joint term of office, with the proviso that as long as CED remains the Company's shareholder with no less than 15% of the Company's share capital, each member of the Supervisory Board shall be appointed for an individual term of office.
7. The terms of office of the Supervisory Board members shall expire as of the date of the Annual General Shareholders Meeting which approves the Company's financial statements for the last full year of the Supervisory Board members' tenure. If the Supervisory Board members were appointed for a joint term of office and during that period some new members were appointed to fill in a vacancy or supplement the composition of the Supervisory Board, the term of office of such members shall expire at the same time as those of the other Supervisory Board members.

### **Resolutions by the Supervisory Board**

#### **Par. 18**

1. The Supervisory Board shall adopt its Rules of Procedure.
2. A Supervisory Board meeting shall be valid if all the Supervisory Board members have been properly invited to the meeting and at least half of the Supervisory Board members (including the Chairperson or Deputy Chairperson of the Supervisory Board) are present. Upon consent of all the members, a Supervisory Board meeting may be held without formal convocation.
3. A Supervisory Board meeting may be convened by (i) the Chairperson of the Supervisory Board or (ii) the Deputy Chairperson of the Supervisory Board – acting on their own initiative or at the request of the Company's Management Board or at least two members of the Company's Supervisory Board. The meeting should be convened within 2 (two) weeks from the date when a relevant request is submitted by an authorised person, and the

meeting should be scheduled for a date falling within 4 (four) weeks from the date of submitting the request. Supervisory Board meetings shall be convened by registered mail, electronic mail or fax sent at least 2 (two) weeks before the planned date of the meeting.

4. The Supervisory Board shall hold at least 1 (one) meeting every quarter. The meetings shall be held at the Company's registered office or – upon consent of all the Board members – at another venue.
5. Subject to Arts. 388.2 and 388.4 of the Commercial Companies Code, the Supervisory Board members may take part in adopting resolutions by casting a vote in writing through the intermediation of another member of the Supervisory Board.
6. Subject to Art. 388.4 of the Commercial Companies Code, the Supervisory Board may adopt resolutions by casting votes in writing or using means of remote communication. Any such resolution shall be valid if all members of the Supervisory Board have been notified of the contents of the draft resolution.
7. Subject to Par. 18.8 below, the Supervisory Board shall adopt resolutions by a simple majority of the votes of its members present at the meeting. In the case of a voting tie, the Chairperson of the Supervisory Board shall have the casting vote.
8. As long as CED remains the Company's shareholder with at least 15% of its share capital, the following issues shall require that the resolutions be adopted by the Supervisory Board with the majority of 80% of the votes of the members present at the meeting:
  - a) approval of the consolidated budget of the Group prepared by the Company's Management Board, changing the format used for preparing the Company's budget;
  - b) approving the Company's long-term operating plans developed by the Management Board;
  - c) approving any acquisition, purchase or disposal of shares in other entities, as well as joining any commercial-law company or civil-law partnership, by the Company or any company of its Group, where such transactions are not provided for in the budget and their value exceeds EUR 8,000,000.00 or an equivalent of that amount;
  - d) approving any share capital increase, sale of a business or an organised part of a business, a demerger, merger or transformation of any company of the Company's Group if the value of assets subject to such transactions exceeds 15% of the Company's assets disclosed in the financial statements for the preceding financial year, where such transactions are not provided for in the budget;
  - e) approving the execution of an agreement (by the Company or any company of its Group) which was not provided for in the budget and under which the Company or a company of its Group would assume a liability whose value exceeds:
    - EUR 30,000,000.00 or an equivalent of that amount – with respect to activities conducted as part of the ordinary course of business;

- EUR 3,000,000.00 or an equivalent of that amount – with respect to activities conducted outside the ordinary course of business;
- f) approving the execution of a loan agreement (or another similar agreement concerning financial debt) by the Company or any company of its Group acting as the lender, where such an agreement was not provided for in the budget and its value exceeds EUR 2,000,000.00 or an equivalent of that amount, except for trade credit granted in the ordinary course of business;
- g) approving the issue of any sureties (or other forms of assuming responsibility for third-party liabilities) by the Company or any company of its Group, where they are not provided for in the budget and their value exceeds EUR 2,000,000.00 or an equivalent of that amount;
- h) approving acquisition or disposal by the Company or any company of its Group of real property, a perpetual usufruct right or an interest in real property (or in a perpetual usufruct right), where such transactions are not provided for in the Company's budget and their value exceeds EUR 5,000,000.00 or an equivalent of that amount;
- i) approving the disposal of any intellectual property rights of the Company or any company of its Group – where the actual market value of such rights exceeds EUR 1,000,000.00 or an equivalent of that amount and no such disposal is provided for in the budget;
- j) approving the disposal, by the Company or any company of its Group, of assets whose value exceeds 15% of the Company's net assets (or 15% of the net assets of a given Group member) disclosed in the financial statements for the preceding financial year, if no such disposal is provided for in the budget;
- k) approving the liquidation of any company of the Company's Group, where the value of such company's assets exceeds 15% of the Company's assets disclosed in the financial statements for the preceding financial year;
- l) defining the terms and conditions of remuneration of members of the Company's Management Board as well as members of the management and supervisory boards of companies of the Company's Group, where the total annual remuneration of a given person (including any bonuses, awards, severance pays and other similar benefits) were to exceed the following limits:
  - for members of the Company's Management Board – PLN 700,000.00;
  - for members of the management boards of companies of the Company's Group, other than the Company – PLN 700,000.00;
  - for members of the supervisory boards of companies of the Company's Group, other than the Company – PLN 100,000.00;
- m) suspending, for important reasons, individual or all members of the Management Board and delegating members of the Supervisory Board to temporarily perform the functions of members of the Management Board, in accordance with the

rules and at or for such time as specified by the provisions of the Commercial Companies Code;

- n) approving the rules of procedure for the Company's Management Board and as well as any changes to those rules;
- o) approving the rules of procedure for the Company's Supervisory Board as well as any changes to those rules;
- p) appointing an auditor to audit the financial statements of the Company and the companies of its Group;
- q) approving the execution, by the Company or any company in its Group, of an agreement concerning a transaction with a party related to (i) the Company, (ii) any company of its Group, or (iii) a shareholder or a member of the Supervisory Board or Management Board of the Company or of any company of the Company's Group;
- r) as of the day when Mr Janis Samaras ceases to serve as President of the Company's Management Board: appointing and removing another person serving as President of the Company's Management Board;
- s) appointing and removing the Chief Financial Officer – Member of the Company's Management Board;
- t) appointing members of the Company's Management Board other than the President of the Management Board and the Chief Financial Officer – Member of the Company's Management Board;
- u) approving the appointment of Local Directors General (i.e. members of the Company's senior management staff who, however, do not serve on its Management Board – one such member is appointed in each country where the Company operates directly or through its subsidiaries) or the execution of contracts with Local Directors General by the Company or companies of its Group;
- v) after the date of the fourth removal – since November 26th 2008 – of (i) a member of the Company's Management Board other than the President or the Chief Financial Officer – Member of the Company's Management Board or (ii) a Local Director General: removing members of the Company's Management Board other than the President or the Chief Financial Officer – Member of the Company's Management Board;
- w) after the date of the fourth removal – since November 26th 2008 – of (i) a member of the Company's Management Board other than the President of the Management Board or the Chief Financial Officer – Member of the Company's Management Board or (ii) a Local Director General: approving the removal of Local Directors General or the termination of contractual relationship with Local Directors General by the Company or by companies of its Group.
- z) adopting resolutions in connection with the adoption, change, implementation or termination of the Motivating Program for the members of the authorities and

management of the Company, adopted by the General Meeting in 2009, including identifying the persons entitled to participate in the Motivating Program.

### **Scope of Powers of the Supervisory Board**

#### **Par. 19**

The Supervisory Board shall exercise day-to-day supervision over the Company's activities in all areas of its business. The powers of the Supervisory Board shall include in particular:

- a) reviewing the Company's financial statements and the Directors' Report on the Company's operations, in terms of their conformity with the accounting books and documents and with the actual state of affairs, and the Management Board's recommendations concerning the distribution of profit or coverage of loss, and submitting annual written reports on the findings of the review to the General Shareholders Meeting,
- b) reviewing the financial statements of the Company's Group and the Directors' Report on the operations of the Company's Group, and submitting annual written reports on the findings of the review to the General Shareholders Meeting,
- c) supervising the performance of budgets,
- d) approving the payment of interim dividend,
- e) approving the grant of power of proxy or general power of attorney,
- f) issuing opinions on matters to be discussed during the General Shareholders Meeting,
- g) issues referred to in Par. 18.8 of the Articles of Association.

### **Management Board**

#### **Par. 20**

1. The Management Board shall be composed of 5 to 8 members appointed and removed from office by the Supervisory Board. Members of the Company's Management Board may hold the following positions:
  - a) President of the Company's Management Board,
  - b) Chief Financial Officer – Member of the Company's Management Board,
  - c) Chief Operating Officer – Member of the Company's Management Board,

- d) Chief Sales Officer – Member of the Company’s Management Board,
  - e) Chief Marketing Officer – Member of the Company’s Management Board,
  - f) Chief HR and Services Officer – Member of the Company’s Management Board,
  - g) Chief Development Officer – Member of the Company’s Management Board,
  - h) Managing Director – Member of the Company’s Management Board.
2. Subject to the provisions of Par. 18.8. r)–v) above, resolutions on appointment or removal from office of all or any particular members of the Management Board, including the President of the Management Board, shall be adopted by a simple majority of the votes.
  3. If the Supervisory Board removes from office any member or members of the Management Board, as a result of which the number of the Management Board members falls below five, the Supervisory Board shall be obliged to appoint at least one new member of the Management Board during the same meeting of the Supervisory Board.
  4. If the term of office of any member or members of the Management Board expires due to reasons other than their removal from office and, as a result, the number of the Management Board members falls below five, the Supervisory Board shall be obliged to appoint at least one new member of the Management Board during the next meeting of the Supervisory Board.
  5. A resigning Management Board member shall be obliged to advise the Supervisory Board and the remaining members of the Management Board of his or her resignation in writing.
  6. The term of office of the Management Board shall be five years. The members of the Management Board may be re-appointed for next terms of office. Members of the Management Board are appointed for a joint term of office.
  7. The tenure of the Management Board members shall expire as provided for in Art. 369.4 of the Commercial Companies Code. If new members were appointed to fill a vacancy or supplement the composition of the Management Board during its term of office, the term of office of the newly-appointed Management Board member shall expire at the same time as the terms of office of the other Management Board members.

### **Resolutions by the Management Board**

#### **Par. 21**

1. The Management Board shall adopt its decisions in the form of resolutions passed at meetings, which shall be convened as the need arises. Resolutions shall be passed by a simple majority of votes. In the event of a voting tie, the President of the Management Board shall have the casting vote.
2. The following matters shall require the adoption of a resolution by the Management Board:



- a) adopting the budget,
  - b) approving subscription, acquisition or disposal of shares in other entities and approving joining a company under commercial law or a civil-law partnership by the Company or any company of its Group,
  - c) approving a share capital increase, sale of a business or an organised part of a business, a demerger, merger or transformation of the Company or any company of its Group,
  - d) approving acquisition or disposal by the Company or any company of its Group of real property, a perpetual usufruct right or an interest in real property,
  - e) approving the assumption of a liability or the disposal of assets by the Company or any company of its Group in a transaction other than executed in the ordinary course of business of the Company or any company of the Company's Group, where such transaction has not been provided for in the budget of the Company or any company of its Group and its value – based on one or more related legal transactions – exceeds PLN 1,000,000 (one million zloty),
  - f) approving the liquidation of any company of the Company's Group,
  - g) defining the terms and conditions of remuneration of the management boards and supervisory boards of the companies of the Company's Group,
  - h) approving amendments of the articles of association and approving the rules of procedure for supervisory and management boards of the companies of the Company's Group,
  - i) issuing sureties by the Company or the companies of its Group or creating security on the assets of the Company or the companies of its Group, with a view to securing performance of obligations/discharge of liabilities by entities other than the Company's subsidiaries.
3. The Management Board shall adopt its Rules of Procedure, which shall be subsequently approved by the Supervisory Board.
4. Subject to the provisions of Par. 18.8.h) and Par. 21.2.d), the powers of the Management Board shall include approval of acquisition or disposal by the Company or any company of its Group of real property, a perpetual usufruct right or an interest in real property (Art. 393.4) of the Commercial Companies Code shall not apply).

## **Representation of the Company and Responsibilities of the Management Board**

### **Par. 22**

1. The Management Board shall represent the Company in relations with third parties and make decisions on all matters which are not reserved – under these Articles of Association or the mandatory legal provisions – for any other governing body of the Company.

2. Declarations of will on behalf of the Company shall be made by two members of the Management Board, acting jointly.
3. The Management Board shall present the budget for the next financial year to the Supervisory Board no later than two months prior to the beginning of each following financial year of the Company.
4. If the Supervisory Board does not approve the budget, the Management Board shall conduct activities based on the most recent approved annual budget.
5. The Management Board shall be obliged to prepare and present to the Supervisory Board monthly reports on the performance of the Company's consolidated budget within twenty (20) days of the end of each month.

### **Employment of Management Board Members**

#### **Par. 23**

The Company may enter into a contract of employment with persons appointed to the Management Board. If the Supervisory Board finds it appropriate, the Management Board members may also receive remuneration for performing their duties beyond the employment relationship.

### **Financial Year**

#### **Par. 24**

The Company's financial year is the calendar year.

### **Distribution of Profit**

#### **Par. 25**

1. The Shareholders are entitled to participate in the distribution of profit disclosed in the audited financial statements and allocated for payment to the Shareholders by the General Shareholders Meeting.
2. Decisions on profit distribution to the Shareholders, on exclusion of profit from distribution, and on coverage of loss, shall be adopted by the General Shareholders Meeting pursuant to Par. 16.1.b) of these Articles of Association. The relevant draft resolutions shall be presented by the Management Board.
3. The profit excluded from distribution to Shareholders may be allocated to the statutory reserve fund or other capital reserves.

4. If the profit or any part of the profit is allocated for distribution to the Shareholders, the Shareholders shall participate in the distribution in proportion to the number of shares held.

#### **Par. 26**

1. The Company may pay out an interim dividend if it disclosed profit in its approved financial statements for the preceding financial year. The interim dividend shall not exceed one-half of the profit generated since the end of the preceding financial year, as shown in the audited financial statements, increased by the amount of the capital reserves created from profit which are available for payment of interim dividend by the Management Board, and reduced by the value of any uncovered losses and treasury shares.
2. If the Management Board has adopted a resolution on payment of interim dividend, each Shareholder shall be entitled to receive an interim dividend in proportion to the number of shares held.
3. The resolution adopted by the Management Board shall specify the amount appropriated to interim dividend payment, in accordance with the provisions of Art. 349.2 of the Commercial Companies Code.
4. The Management Board may pay interim dividend upon approval by the Supervisory Board.

#### **Final Provisions**

##### **Par. 27**

1. Rights awarded under these Articles of Association specifically to CED, valid as long as CED holds at least 15% of the Company's share capital, that is the following provisions: Par. 15.5, Par. 17.1.b), Par. 17.6 and Par. 18.8, shall expire if CED's share in the Company's share capital falls below 15%. These provisions, following the expiry thereof in accordance with the first sentence of this Par. 27.1, shall not reapply after CED regains or exceeds the 15% share in the Company's share capital.
2. All amounts expressed in the euro shall be translated using the mid exchange rate quoted in the National Bank of Poland's table of mid exchange rates effective for the first business day of the given calendar year.
3. Relevant provisions of the Commercial Companies Code and of other applicable laws shall apply with respect to any issues not provided for in these Articles of Association.