

**APPENDIX 5 TO THE CORPORATE GOVERNANCE CHARTER**



**TERMS OF REFERENCE OF THE NOMINATION AND  
REMUNERATION COMMITTEE**

**Initial version approved by the Board of Directors on 4 October 2007.  
Current version approved by the Board of Directors on 6 February 2017.**

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## **Introduction**

These terms of reference form part of the CG Charter of the company.

In these terms of reference a number of terms are used, some printed in capitals, which are not defined in these terms of reference. These terms are defined in the glossary contained in article 1 of the CG Charter

The Nomination and Remuneration Committee has a strictly advisory function to the Board of Directors. The Nomination and Remuneration Committee consequently formulates recommendations, as detailed hereunder, to the Board of Directors which maintains the related decision power.

## **1. COMPOSITION**

**1.1** The members of the Nomination and Remuneration Committee are appointed and may at any time be dismissed by the Board of Directors. The nomination of the members of the Nomination and Remuneration Committee is based on:

- their specific competences and experience on top of the general competence requirements for members of the Board of Directors;
- the condition that at least one member of the Nomination and Remuneration Committee has a certificate of higher education and has at least three years' experience in personnel management or with respect to remuneration of directors and members of the board of directors at other companies; and
- the condition that the Nomination and Remuneration Committee as a group should hold the competence and experience that is required for fulfilling its tasks.

**1.2** The Nomination and Remuneration Committee must be composed of at least three directors and shall have the necessary expertise in the field of remuneration policy. All members of the Nomination and Remuneration Committee must be non-executive directors and a majority of them must be independent directors.

**1.3** The chairmanship of the Nomination and Remuneration Committee is fulfilled by one of the non-executive directors.

**1.4** The duration of the mandate of a member of the Nomination and Remuneration Committee may not exceed the duration of his or her mandate as a member of the Board of Directors.

**1.5** At the start of each meeting of the Nomination and Remuneration Committee, the Nomination and Remuneration Committee appoints a secretary of the meeting.

## **2. POWERS OF THE NOMINATION AND REMUNERATION COMMITTEE**

### **2.1 The role of the Nomination and Remuneration Committee**

The Nomination and Remuneration Committee makes recommendations to the Board of Directors on the appointment of the members of the Board of Directors, of the CEO and the other members of the Executive Committee as well as on the remuneration of the members of the Board of Directors, the members of the Executive Committee and other important managers.

### **2.2 Duties of the Nomination and Remuneration Committee**

The Nomination and Remuneration Committee will ensure, in general terms, that the appointment and reappointment process of the members of the Board of Directors, of the CEO and of the Executive Committee is objective and professional.

It has the following duties in particular:

**With regard to Nomination:**

- (a) It drafts the appointment procedures for the members of the Board of Directors and for the members of the Executive Committee.
- (b) It nominates the appropriate candidates for vacant mandates in the Board of Directors and submits them for approval to the Board of Directors.
- (c) It makes proposals for reappointments.
- (d) It periodically assesses the size and the composition of the Board of Directors and Committees and, if applicable, makes recommendations with regard to any changes.
- (e) It analyses the aspects relating to the succession of members of the Board of Directors.
- (f) It advises on proposals (e.g. of the management or of the shareholders) for appointment and dismissal of members of the Board of Directors as well as members of the Executive Committee.
- (g) It advises the CEO on appointment and dismissal of members of the Executive Committee; it evaluates potential candidates for a function in the Executive Committee and submits recommendations regarding the appointment or dismissal of members of the Executive Committee. For the appointment or dismissal of the CEO, the Nomination and Remuneration Committee bases its recommendation on a motivated proposal of the Board of Directors. For the appointment or dismissal from other members of the Executive Committee, it bases its recommendation on a motivated proposal that is drafted by the CEO in consultation with the Chairman of the Board of Directors.

**With regard to Remuneration:**

- (a) drafting, evaluating and making proposals to the Board of Directors on the remuneration policy for the directors, the members of the Executive Committee, the other managers (*leiders*) referred to in article 96, paragraph 3, final subparagraph of the Belgian Companies Code (*Wetboek van Vennootschappen*) and the persons charged with the day-to-day management as well as, where applicable, on the ensuing proposals which must be submitted to the shareholders by the Board of Directors.
- (b) drafting, evaluating and making proposals to the Board of Directors on the individual remuneration of the directors, the members of the Executive Committee, the other managers (*leiders*) referred to in article 96, paragraph 3, final subparagraph of the Belgian Companies Code (*Wetboek van Vennootschappen*) and the persons charged with the day-to-day management, also including variable remuneration and long-term rewards, stock related or otherwise, in the form of stock options or other financial instruments, and severance payments and, where applicable, on the ensuing proposals which must be submitted to the shareholders by the Board of Directors.
- (c) the proposals shall relate at least to:

- the main contractual terms, including the main features of the pension plans;
  - departure/termination arrangements;
  - the main remuneration components, including:
    - the relative importance of each component of the remuneration;
    - the performance criteria applicable to the variable components;
    - the fringe benefits.
- (c) making recommendations on the performance objectives for the CEO and the other members of the Executive Committee as well as for other key managers;
- (d) discussing, at least once a year, with the CEO the operation and performance of the Executive Committee. The CEO should not be present at the discussion of his or her own evaluation.
- (e) drafting recommendations with regard to granting bonuses and long term incentives for the CEO and the other members of the Executive Committee.
- (f) preparing the Remuneration Report that will be appended to the Corporate Governance Statement by the Board of Directors. The Board of Directors will share the Remuneration Report with the Works Council or, if no Works Council exists, with the employee representatives in the Committee for Prevention and Protection at Work (CPBW) or, if no such Committee exists, with the Union Delegation.
- (g) explaining the Remuneration Report at the Annual General Meeting of Shareholders.

### **3. SPECIFIC PROVISIONS ON REMUNERATION**

- (a) In the preparation of proposals concerning the remuneration of non-executive directors, the Nomination and Remuneration Committee will take account of the following provisions:
- The remuneration will be determined based on the responsibilities of and the time spent by the non-executive directors;
  - The non-executive director will receive a fixed remuneration, to the exclusion of performance-based remuneration such as bonuses, long-term share-based incentive programmes, benefits in kind or benefits connected to pension schemes;
  - If an agreement with a non-executive director of the Company provides for variable compensation, the specific provision on the variable compensation must, subject to nullity, be approved in advance by the next Ordinary General Meeting;
  - The Company and its Subsidiaries will not provide personal loans, guarantees and suchlike to member of the Board of Directors or the Executive Committee;
  - The Remuneration Report states the amount of the remuneration and other benefits granted to the non-executive directors by the Company and its Subsidiaries on an individual basis.

The provisions on the remuneration of non-executive directors apply equally to the executive directors in their capacity as director.

- (b) In the preparation of proposals concerning the remuneration of the members of the Executive Committee, the Nomination and Remuneration Committee will take account of the following provisions:
- the level and structure of the remuneration of the Executive Committee must be such that qualified and expert professionals can be recruited, retained and motivated, taking account of the nature and scope of their individual responsibilities;
  - an appropriate part of the remuneration package of the members of the Executive Committee must be linked to the performance of the Company and the member's individual performance, to the extent that the interests of the Executive Committee are matched to those of the Company and its shareholders;
  - if the members of the Executive Committee qualify for a bonus, the granting of the bonus must be dependent on relevant and objective performance criteria developed with a view to increasing the value of the Company;
  - obligations of the Company in the context of severance schemes will be investigated closely, so that rewards for bad performance are avoided;
  - If a member of the Executive Committee is also an executive director, his remuneration will also comprise the remuneration that he receives in this latter capacity and the Remuneration Report states the amount that he receives in this capacity.
- (c) When drafting advice in connection with the contract of the CEO and of the other members of the Executive Committee, the Nomination and Remuneration Committee takes account of the following provisions:
- Contracts concluded on or later than 1 July 2009 refer to the criteria taken into consideration when determining the variable remuneration; the contract includes specific provisions regarding a premature termination of the contract.
- (d) When drafting proposals with respect to severance pay the Nomination and Remuneration Committee takes account of the following provisions:
- every contractual arrangement that is negotiated on or later than 1 July 2009 with the Company or one of its Subsidiaries concerning the remuneration of the CEO or of any other member of the Executive Committee, shall clearly state that the severance pay in the event of a premature termination of the contract may not exceed a sum equivalent to 12 month's basic remuneration plus 12 month's variable remuneration;
  - On the recommendation of the Nomination and Remuneration Committee the Board of Directors may increase this severance pay to maximum 18 month's basic and variable remuneration. The contract shall state when such an increased severance pay can be granted. The Board of Directors accounts for such an increased severance pay in the Remuneration Report;
  - The contract shall clearly state that the total severance pay will not consider the variable remuneration nor exceed the 12 month's basic remuneration if the departing

CEO or the departing member of the Executive Committee has failed to comply with the performance criteria stated in the contract.

- (e) Long-term share-based incentive schemes, share options or other rights to acquire shares in the Company must be approved during the annual general meeting. This approval should relate to the system itself but not to the individual granting of share related payments under the plan.

#### **4. OPERATION**

##### **4.1 Meetings**

- (a) The Nomination and Remuneration Committee meets whenever a meeting is required for a proper operation of the Committee, but at least two times a year.

The Nomination and Remuneration Committee furthermore meets in the interim whenever changes are required in the composition of the Board of Directors, relating both to reappointments and new appointments.

- (b) Meetings of the Nomination and Remuneration Committee are convened by the chairman of this Committee or at the request of two of its members.

Except when urgent issues arise (to be determined at the discretion of the chairman of the Nomination and Remuneration Committee), the agenda of the meeting will be sent to all members of this Committee at least 5 calendar days prior to the meeting. Every agenda item must be accompanied by as much written information as possible and relevant documents must be appended. Matters too delicate to be put in writing will be exhaustively discussed during the meetings.

The chairman of the Nomination and Remuneration Committee must ensure that all members of this Committee receive precise, complete and clear information. It is obligatory for the CEO to provide all information needed. Furthermore, the Nomination and Remuneration Committee can ask all clarifications that it wishes. Only the chairman of the Nomination and Remuneration Committee can communicate directly with the Executive Committee to ask for additional information. The other members of the Nomination and Remuneration Committee ask their questions via the chairman of the Nomination and Remuneration Committee.

If all members are present, the Nomination and Remuneration Committee can deliberate validly and compliance with the formalities for convening the meeting need not be verified.

- (c) The quorum is two members, attending the meeting in person or by means of telephone conferencing or some other communication medium.
- (d) Decisions must be taken by a majority of the votes cast by the members of the Nomination and Remuneration Committee. In the case of an equality of votes, the chairman of the Nomination and Remuneration Committee has a casting vote.
- (e) The Chairman of the Board of Directors has a standing invitation to attend the meetings of the Nomination and Remuneration Committee, if he is not a member of this Committee. The Chairman of the Board of Directors will however not attend the meetings of the Nomination and Remuneration Committee at which his or her own reappointment, dismissal or own remuneration is discussed.

- (f) The chairman of the Nomination and Remuneration Committee may invite at his or her discretion other persons to attend its meetings.
- (g) The chief representative of the executive directors, the chairman of the Executive Committee, the chief representative of the other managers referred to in article 96, paragraph 3, final subparagraph of the Belgian Companies Code or the chief representative of the persons charged with the day-to-day management shall participate in an advisory role in the meetings of the Nomination and Remuneration Committee when it deals with the remuneration of the other executive directors, the other members of the Executive Committee, the other managers referred to in article 96, paragraph 3, final subparagraph of the Belgian Companies Code or the persons charged with the day-to-day management.

None of the Directors will attend the meetings of the Nomination and Remuneration Committee at which his or her own remuneration is discussed and will not be involved in any decision with regard to his or her own remuneration.

- (h) Each member of the Nomination and Remuneration Committee must inform this Committee of:
  - any personal financial interest (except in his or her capacity as shareholder) in any matter on which the Nomination and Remuneration Committee decides or deliberates;
  - any possible conflict of interest which may arise as a consequence of any other mandates he or she holds.
- (i) The Nomination and Remuneration Committee may seek professional external advice at the expense of the Company on subjects that fall under the scope of its competence after the Chairman of the Board of Directors has been informed of this.

#### **4.2 Reporting to the Board of Directors**

- (a) The person who is appointed to this end by the chairman of the meeting makes a report including the motions for decisions of the Nomination and Remuneration Committee. He or she will send this report to all the members of the Board of Directors as soon as possible after the meeting.
- (b) The Nomination and Remuneration Committee must provide timely and clear information to the Board of Directors on important developments in the area of their responsibility.
- (c) The Nomination and Remuneration Committee presents the Board of Directors with a Remuneration Report. The content of this report is attached as Appendix 1 to these terms of reference of the Nomination and Remuneration Committee. The Remuneration Report is a specific part of the CG Statement.
- (d) If requested, the chairman of the Nomination and Remuneration Committee must provide more detailed information on the results of the discussion of the Nomination and Remuneration Committee during the meetings of the Board of Directors.
- (e) The chairman of the Nomination and Remuneration Committee (or any other members of this Committee) must be available during the annual general meeting to answer questions about the activities of the Nomination and Remuneration Committee.



- (f) The Nomination and Remuneration Committee exercises the utmost discretion when drawing up documents about its deliberations and recommendations. Matters too delicate to be put in writing will be exhaustively discussed during the meetings.
- (g) All members of the Board of Directors have unlimited access to all data of the Nomination and Remuneration Committee.

## **5. MISCELLANEOUS**

- 5.1** The Nomination and Remuneration Committee must annually check and review the adequacy of these terms of reference, report the results of this review to the Board of Directors and may recommend any necessary changes.
- 5.2** The Board of Directors may modify these terms of reference at all times and may revoke the powers granted to the Nomination and Remuneration Committee.
- 5.3** These terms of reference as well as the composition of the Nomination and Remuneration Committee must be posted on the website of the Company. The composition of the Nomination and Remuneration Committee must also be included each year in the CG Statement in the Company's Annual Report.

## APPENDIX 1

### CONTENT OF THE REMUNERATION REPORT

In accordance with the provisions in article 96, paragraph 3 of the Belgian Companies Code (*Wetboek van Vennootschappen*), the Remuneration Report will contain at least the following information:

- (1) a description of the procedure followed during the financial year to which the Annual Report relates in order to (i) develop a remuneration policy for the directors, the members of the Executive Committee, the other managers and the persons charged with the day-to-day management of the Company, and (ii) determine the remuneration of individual directors, members of the Executive Committee, other managers and persons charged with the day-to-day management of the Company;
- (2) a statement on the remuneration policy applied during the financial year to which the Annual Report relates with respect to the directors, the members of the Executive Committee, the other managers and the persons charged with the day-to-day management of the Company, containing at least the following information:
  - a) the principles on which the remuneration was based, with an indication of the relationship between remuneration and performance;
  - b) the relative importance of the various components of the compensation;
  - c) the features of performance rewards in stocks, options or other rights to acquire stocks;
  - d) information on the remuneration policy for the next two financial years.If the remuneration policy is substantially amended compared with the financial year to which the Annual Report relates, this must be specifically and clearly stated;
- (3) on an individual basis, the amount of the remuneration and other benefits granted either directly or indirectly by the Company or a company within the consolidation scope of the Company, to the non-executive directors;
- (4) if certain members of the Executive Committee, certain other managers or certain persons charged with the day-to-day management are also members of the Board of Directors, information on the amount of remuneration that they receive in that capacity;
- (5) in the event that the executive directors, the members of the Executive Committee, the other managers or the persons charged with the day-to-day management qualify for compensation or rewards based on the performance of the Company or a company within the consolidation scope of the Company, on the performance of the business unit or on the performance of the person concerned, the criteria for evaluating the performance relative to the targets, the statement of the evaluation period and the description of the methods used to assess whether these performance criteria have been met. These data must be stated in such a way that no confidential information regarding the Company's strategy is disclosed;
- (6) the amount of the remuneration and other benefits that were granted either directly or indirectly by the Company or a company within the consolidation scope of the Company, to the chief representative of the executive directors, to the chairman of the Executive Committee, to the chief representative of the other managers or to the chief representative of the persons charged with the day-to-day management. This information must be provided with a breakdown between:

- (a) the base salary;
- (b) the variable remuneration: all additional emoluments linked to performance criteria, stating the form in which this variable remuneration was paid;
- (c) pension: the sums paid during the financial year to which the Annual Report relates or the costs of the services that were provided during the financial year to which the Annual Report relates, according to the type of pension plan, including an explanation of the applicable pension plan;
- (d) the other components of the remuneration, such as the costs or values of insurance policies and other fringe benefits, including an explanation of the details of the main items.

If this remuneration is substantially amended compared with the financial year to which the Annual Report relates, this must be specifically and clearly stated;

- (7) in broad terms, the amount of the remuneration and other benefits granted either directly or indirectly by the Company or a company within the consolidation scope of the Company, to the other executive directors, members of the Executive Committee, other managers and persons charged with the day-to-day management. This information must be provided with a breakdown between:

- (a) the base salary;
- (b) the variable remuneration: all additional emoluments linked to performance criteria, stating the form in which this variable remuneration was paid;
- (c) pension: the sums paid during the financial year to which the Annual Report relates or the costs of the services that were provided during the financial year to which the Annual Report relates, according to the type of pension plan, including an explanation of the applicable pension plan;
- (d) the other components of the remuneration, such as the costs or values of insurance policies and other fringe benefits, including an explanation of the details of the main items.

If this remuneration is substantially amended compared with the financial year to which the Annual Report relates, this must be specifically and clearly stated;

- (8) for the executive directors, the members of the Executive Committee, the other managers and the persons charged with the day-to-day management, on an individual basis, the number and the principal features of the stocks, the stock options or all other rights to acquire stocks that were granted or exercised or that lapsed during the financial year to which the Annual Report relates;

- (9) for the executive directors, the members of the Executive Committee, the other managers and the persons charged with the day-to-day management, on an individual basis, the provisions regarding severance payments;

- (10) in the event of departure/termination of the employment of the executive directors, the members of the Executive Committee, the other managers or the persons charged with the day-to-day management, the explanation and the decision by the Board of Directors, on the recommendation of the Remuneration Committee, as to whether the persons concerned qualify for the severance payment, and the basis for calculation of such payment;

- (11) for the executive directors, the members of the Executive Committee, the other managers and the persons charged with the day-to-day management, the extent to which provision is made for a right of recovery, or clawback, in respect of the variable remuneration that is awarded based on incorrect financial data, for the benefit of the Company.

For the purposes of the above, "other managers" is understood to refer to the members of each committee in which the general management of the Company is discussed and

that is organised outside the scope of the provision in article 524a of the Belgian Companies Code.