

# JOINT VENTURE AGREEMENT

*relating to Invest International B.V.*

*between*

**THE DUTCH STATE**

**NEDERLANDSE FINANCIERINGS-MAATSCHAPPIJ  
VOOR ONTWIKKELINGSLANDEN N.V.**

*and*

**INVEST INTERNATIONAL B.V.**

*Dated [●] 2020*

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## JOINT VENTURE AGREEMENT

THIS AGREEMENT IS DATED [●] 2020 AND MADE BETWEEN:

- (1) **THE DUTCH STATE REPRESENTED BY THE MINISTRY OF FINANCE**, a public body incorporated in the Netherlands, with address at Korte Voorhout 7, 2511 CW The Hague, the Netherlands, and trade register number 27365323 (the "**State**");
- (2) **NEDERLANDSE FINANCIERINGS-MAATSCHAPPIJ VOOR ONTWIKKELINGSLANDEN N.V.**, a limited liability company incorporated in the Netherlands, with corporate seat in The Hague and address at Anna van Saksenlaan 71, 2593 HW The Hague, the Netherlands, and trade register number 27078545 ("**FMO**"); and

the State and FMO are collectively referred to as the "**Shareholders**" and individually also as a "**Shareholder**", and

- (3) **INVEST INTERNATIONAL B.V.**, a private limited liability company incorporated in the Netherlands, with corporate seat in [●] and address at [●], [●], the Netherlands, and trade register number [●] (the "**Company**");

The State, FMO and the Company are collectively referred to as the "**Parties**" and individually as a "**Party**".

### BACKGROUND:

- (A) [The Shareholders wish to support international activities of companies and international projects which stimulate the Dutch economy, including international projects which provide solutions for global issues and anything that is connected and can be beneficial thereto.]
- (B) The Shareholders incorporated the Company for the purpose of implementing the [act of [●] 2020, comprising, among other things, the authorisation to incorporate the financing and development institution Invest International (*Wet machtiging oprichting Invest International*)], the "**Authorisation Act**") and with the aim of engaging the activities as described in Recital (A). In addition, the Parties shall enter into a contribution agreement regarding certain contributions by the Shareholders to the Company (the "**Contribution Agreement**"). After the contributions by the Shareholders, the Company shall enter into a sale and purchase agreement with FMO to acquire FMO's Portfolio (the "**Portfolio Purchase Agreement**").

- (C) The Company holds hundred per cent (100%) of the shares in each of Ontwikkel dochter [NewCo] B.V. (the "**Development Subsidiary**"), Investerings dochter [NewCo] B.V (the "**Investment Subsidiary**"), and Regelingendochter [NewCo] B.V. (the "**Regulations Subsidiary**"). These Subsidiaries of the Company, together with any of their (direct and indirect) Subsidiaries at any time and the Company, are referred to as the "**Group**" and each a "**Group Company**".
- (D) The Shareholders wish to record in this Agreement the terms of their relationship in respect of the Group. The Parties have agreed that the Group is to be owned, controlled, managed and financed on the terms set out in this Agreement.

**THE PARTIES AGREE AS FOLLOWS:**

**1 DEFINITIONS AND INTERPRETATION**

**1.1 Definitions and interpretation**

In this Agreement, unless the context requires otherwise, the definitions and provisions of Schedule 1 (*Definitions and Interpretation*) will apply.

**2 CAPITAL AND INITIAL FUNDING AND CONTRIBUTION**

**2.1 Share capital**

2.1.1 The share capital of the Company will at the date of this Agreement consist of:

- (a) Shares A, each with a nominal value of EUR 1 (one euro), with voting rights ("**Shares A**"); and
- (b) Shares B, each with a nominal value of EUR 1 (one euro), without voting rights ("**Shares B**").

2.1.2 At the date of this Agreement, the share capital of the Company will be held as set out in Schedule 2 (*Capital Structure*).

**2.2 Contribution into the Company and issuance of Shares A**

The Parties shall enter into the Contribution Agreement. FMO shall subscribe for, acquire and pay up a number of Shares A not exceeding 49% of the Shares A by way of contribution of FMO's NL Business into the Company. The State shall subscribe for, acquire and pay up a number of Shares A of at least 51% of

the Shares A by way of a capital contribution into the Company. The amount of the State's capital contribution into the Company shall be determined based on the value of FMO's contribution of its NL Business into the Company. Any contribution in excess of the nominal value of the Shares A shall be administered in the books of the Company as non-stipulated share premium and shall be added to the share premium reserved attached to the Shares A. A draft of the Contribution Agreement, including a draft deed of issue of Shares A, is attached hereto as Schedule 3 (Contribution Agreement).

### **2.3 Share premium contributions**

2.3.1 In addition to the State's capital contribution into the Company (as described in Clause 2.2 (*Contribution Agreement*)), the State shall make an investment [in the total amount of EUR [●] ([●] euro)] (the "**Investment Amount**") by way of share premium contributions (*agjostortingen*) on the Shares B. No new Shares B will be issued to the State in return, as long as the State holds hundred per cent (100%) of the Shares B. The State shall make these share premium contributions to the Company as follows [●].

2.3.2 Each share premium contribution on the Shares B as referred to in this Clause 2.3 (*Share premium contributions*) shall be administered in the books of the Company as non-stipulated share premium and shall be added to the share premium reserved attached to the Shares B.

### **2.4 Acquisition of FMO's Portfolio**

As soon as reasonably possible after the contribution of FMO's NL Business and the State's capital contribution into the Company, the Company shall enter into the Portfolio Purchase Agreement, with FMO to acquire FMO's Portfolio. FMO shall transfer its Portfolio to the Company and the Company shall accept such transfer and pay a purchase price for the Portfolio to FMO in accordance with Clause 10 (*Related Party Transactions*) and the Portfolio Purchase Agreement. [A draft of the Portfolio Purchase Agreement is attached hereto as Schedule 4 ([Portfolio Purchase Agreement]).]

## **3 GOVERNANCE**

### **3.1 Articles of Association**

3.1.1 The governing Articles of Association will be those attached hereto as Schedule 5 (Articles of Association) (as may be amended from time to time in accordance with this Agreement and the Articles of Association).

3.1.2 The Parties undertake to act in accordance with the governance rules set forth in this Agreement and to exercise, or refrain from exercising, as the case may

be, their powers and rights, including voting rights, so as to facilitate the application of, and allow the compliance with, such governance rules whether or not such rules are reflected in the Articles of Association or the articles of association of any other Group Company.

- 3.1.3 In case of a conflict between any provisions of this Agreement and the Articles of Association or the articles of association of any other Group Company, (i) the provisions of this Agreement will prevail to the extent permitted by Law, and (ii) the Shareholders shall take any action in their capacity as shareholders of the Company, and the Company shall cooperate with and take any such action, which may be necessary or appropriate to achieve what was intended in this Agreement or in order to amend the Articles of Association or the articles of association of any other Group Company to be in accordance with such other provisions of this Agreement, to the extent permitted by Law.
- 3.1.4 Each of the Shareholders and the Company (i) acknowledges that there may be certain differences between this Agreement and the Articles of Association which could result in a conflict between this Agreement and the Articles of Association, and (ii) hereby waives any claim they may have against any other Party relating to any provision of the Articles of Association to the extent it conflicts with this Agreement.

## 3.2 Governance structure

- 3.2.1 The Company will have the following governance structure:
- (a) a general meeting (*algemene vergadering van aandeelhouders*) (the "**General Meeting**");
  - (b) a supervisory board (*raad van commissarissen*) (the "**Supervisory Board**"); and
  - (c) a management board (*statutair bestuur*) (the "**Management Board**").
- 3.2.2 The Company shall, and the Shareholders shall procure that the Company shall, comply to the extent relevant with the provisions of the Dutch Corporate Governance Code and the participations policy (*Deelnemingenbeleid*) as applicable to governmental participations (and as may be amended from time to time) (the "**Participations Policy**").

## 3.3 Large company regime

The full large company regime (*structuurregime*) ex articles 2:268, excluding the last sentence of paragraph 2, through 2:274 BW will apply to the Company pursuant to the Law, for the avoidance of doubt including the Authorisation Act.



#### **4 GENERAL MEETING**

- 4.1** Each General Meeting must be held and conducted in accordance with the Articles of Association.
- 4.2** All resolutions of the General Meeting will be taken by simple majority of the votes validly cast, unless (i) the Articles of Association require a qualified majority and/or quorum, or (ii) the Law requires otherwise.

#### **5 SUPERVISORY BOARD**

##### **5.1 Composition of the Supervisory Board**

- 5.1.1** As of the date of this Agreement, the Supervisory Board will consist of three (3) up to five (5) members (the "**Supervisory Board Members**"). Supervisory Board Members shall qualify as 'independent' within the meaning of the Dutch Corporate Governance Code and article 2:270 BW.
- 5.1.2** The Shareholders shall discuss in good faith who will be recommended for appointment as Supervisory Board Members by the General Meeting based on a nomination by the Supervisory Board. The Supervisory Board Members shall be appointed, suspended and dismissed in accordance with the Articles of Association and the Law.

##### **5.2 Meetings of the Supervisory Board**

Each meeting of the Supervisory Board must be held and conducted in accordance with (i) the Articles of Association, and (ii) such Supervisory Board regulations as may be established by the Supervisory Board.

##### **5.3 Resolutions of the Supervisory Board**

In the event that the Supervisory Board fails to agree and is not able to validly adopt a resolution on a matter material to the Group's business after three (3) successive attempts, the Supervisory Board shall request the General Meeting to decide on such matter.

##### **5.4 Remuneration of Supervisory Board Members**

- 5.4.1** The remuneration policy of the Supervisory Board Members shall be adopted by the General Meeting at the proposal of the Supervisory Board in accordance with the Articles of Association and the Participations Policy.
- 5.4.2** The Supervisory Board Members will be entitled to a remuneration as determined by the General Meeting.

## **6 MANAGEMENT BOARD**

### **6.1 Composition of the Management Board**

6.1.1 The Management Board will consist of three (3) managing directors (*bestuurders*), who will be natural persons, (each such natural person, a "Management Board Member").

6.1.2 The Management Board Members shall be appointed, suspended and dismissed by the Supervisory Board in accordance with the Articles of Association.

### **6.2 Meetings of the Management Board**

Each meeting of the Management Board must be held and conducted in accordance with (i) the Articles of Association, and (ii) such board regulations as may be established by the Management Board after approval of the Supervisory Board, and, if applicable, with the approval of the General Meeting or Supervisory Board in accordance with Clause 8 (*Reserved Matters*).

### **6.3 Resolutions of the Management Board**

In the event that the Management Board fails to agree and is not able to validly adopt a resolution on a matter material to the Group's business after three (3) successive attempts, the Management Board shall request the Supervisory Board to decide on such matter.

### **6.4 Remuneration of Management Board Members and managing directors of Subsidiaries of the Company**

6.4.1 The remuneration policy of the Management Board Members shall be adopted by the General Meeting at the proposal of the Supervisory Board in accordance with the Articles of Association and the Participations Policy.

6.4.2 The Management Board Members will be entitled to a remuneration as determined by the Supervisory Board in accordance with the remuneration policy as referred to in Clause 6.4.1.

6.4.3 The Company shall procure that the remuneration policy of the managing directors of each of the Subsidiaries of the Company shall be adopted in accordance with the Participations Policy and the articles of association of the relevant Subsidiary of the Company.

## **7 WORKS COUNCIL**

The Company shall procure that a works council will be established at the level of the Company as soon as reasonably possible after the date of this Agreement.

## **8 RESERVED MATTERS**

### **8.1 Reserved Shareholders matters**

The Company shall not, and shall procure that its Subsidiaries shall not, take any action or decision to proceed with any of the matters in relation to each of the Group Companies which in accordance with the Articles of Association require the approval of the General Meeting (which is as the date of this Agreement specified in articles [16.7 and 16.8] of the Articles of Association).

### **8.2 Reserved Supervisory Board matters**

The Company shall not, and shall procure that its Subsidiaries shall not, take any action or decision to proceed with any of the matters in relation to the Group which in accordance with the Articles of Association and article 2:274 BW, require the approval of the Supervisory Board (which is as the date of this Agreement specified in article [16.9] of the Articles of Association).

## **9 COLLABORATION AND BUDGET**

### **9.1 Scope of Collaboration**

9.1.1 The Shareholders and the Company have agreed on the following scope of their collaboration in respect of the Group in a framework agreement in accordance with the objectives of the Company described in the Articles of Association: the Shareholders agree to closely cooperate with the Company in pursuing the goal described in article 3 of the Authorisation Act. The Company will be working additionally to FMO;

(b) the marketing approach of the Dutch corporate client market will be included in the Company's four year Strategy and subsequent annual Business Plans. All Parties will share expertise and have a regular dialogue on the market, sectors, target client groups, product scope, etc.; and

(c) with the aim of maximizing synergies, FMO and the Company will also share expertise and have regular dialogue on, amongst others, financial risk appetite, compliance matters, commercial, marketing, and environmental, social and governance policy. Synergies and

cooperation efforts will be included in the key performance indicator setting of both institutions,

(the "**Scope of Collaboration**").

9.1.2 The Shareholders and the Company may agree at any time on any amendments regarding the Scope of Collaboration.

9.1.3 Every [four (4)] years, at least one (1) quarter prior to the end of the [fourth (4<sup>th</sup>)] year, the Management Board shall adopt the strategy of the Group in accordance with the Articles of Association and the Scope of Collaboration after (i) consultation of the General Meeting and (ii) approval of the Supervisory Board (the "**Strategy**").

## **9.2 Initial Business Plan and Initial Budget**

9.2.1 The Business Plan for the period from [●] until [●] will be the Initial Business Plan. The Initial Business Plan is attached to this Agreement as Schedule 6 (*Initial Business Plan*).

9.2.2 The Budget for the period ending on [●] will be the Initial Budget. The Initial Budget is attached to this Agreement as Schedule 7 (*Initial Budget*).

9.2.3 Each of the Shareholders hereby agrees to and approves the Initial Business Plan and the Initial Budget and shall use reasonable efforts to have the Supervisory Board Members do the same in the first Supervisory Board meeting.

## **9.3 Subsequent Business Plans**

9.3.1 Each calendar year, at least [six (6) weeks] prior to the end of the Financial Year, the Management Board must prepare and submit to the Supervisory Board, for its consideration and approval, a draft of the new Business Plan in accordance with the Strategy.

9.3.2 The Business Plan must include:

- (a) the strategy for the period of the Business Plan in accordance with the Strategy;
- (b) a reasonably detailed business forecast including sufficient financial detail; and
- (c) such other information as the Supervisory Board may request.

#### **9.4 Subsequent Budgets**

9.4.1 Each calendar year, at least [six (6) weeks] prior to the end of the Financial Year, the Management Board must prepare and submit to the Supervisory Board, for its consideration and approval, a draft of the new Budget in accordance with the Strategy.

9.4.2 The Budget must include:

- (a) a profit and loss forecast for the Group for each month in that next Financial Year;
- (b) a balance sheet forecast for the Group for each month in that next Financial Year;
- (c) a cash flow forecast for the Group for each month in that next Financial Year;
- (d) capital expenditures forecast for the Group in that next Financial Year, stipulating individual investments and investment projects in excess of EUR [●] ([●] euro);
- (e) a forecast of key performance metrics for the Group for each month in that next Financial Year;
- (f) a summary report on the Group's performance during the current Financial Year; and
- (g) such other Budget-related information as the Supervisory Board may request.

#### **9.5 Approval of a Business Plan or Budget**

9.5.1 The draft Business Plan or Budget submitted to the Supervisory Board will not qualify as the (final) Business Plan or Budget, unless the Supervisory Board has approved such draft Business Plan or Budget.

9.5.2 The Parties agree that the Management Board and the Supervisory Board shall use their reasonable efforts to agree on the draft Business Plan and draft Budget within [four (4) weeks] after the relevant draft Business Plan or draft Budget has been submitted in accordance with Clause 9.3 (*Subsequent Business Plans*) and 9.4 (*Subsequent Budgets*), respectively.

9.5.3 If a draft Business Plan or draft Budget has not been approved in accordance with Clause 9.5.1 within [four (4) weeks] after it has been submitted in accordance with Clauses 9.3 (*Subsequent Business Plans*) and 9.4

(*Subsequent Budgets*), the Group shall continue to operate on the basis of the last approved Business Plan and/or Budget, until such last approved Business Plan or Budget (as applicable) has been replaced by a new Business Plan or Budget that has been approved by the Supervisory Board, in each case with such reasonable amendments as the Supervisory Board deems appropriate.

## **9.6 Payments or subsidies**

When preparing and adopting the Strategy, Business Plan or Budget in accordance with the Articles of Association and this Clause 9 (*Collaboration and Budget*), the Parties shall take into account the mandate granted by the Minister for Foreign Trade and Development Cooperation to the Regulations Subsidiary or any other Group Company in relation to the performance of subsidy arrangements, resolutions and related activities and any conditions which may apply to the Group as a consequence of a subsidy made to the Regulations Subsidiary or any other Group Company by the Dutch State.

## **10 RELATED PARTY TRANSACTIONS**

A Shareholder shall only enter into a transaction with a Group Company ("**Related Party Transaction**") in the ordinary course of business, at terms that are at Arms' Length, unless (i) each of the Shareholders approves the Related Party Transaction, or (ii) the Related Party Transaction is not in excess of EUR one million (1,000,000 euro) annual spend on an individual basis.

## **11 REPORTING REQUIREMENTS AND INFORMATION RIGHTS**

### **11.1 Accounting**

11.1.1 The Company shall prepare its annual accounts in accordance with the Articles of Association. The annual accounts of the Company shall be drawn up in accordance with IFRS.

11.1.2 The Parties will procure that the general meeting of each Subsidiary of the Company will adopt its annual accounts, whereby the arrangements with regard to the annual accounts of the Company, as included in the Articles of Association and Clause 11.1.1, will apply *mutatis mutandis*.

### **11.2 Specific information rights**

The Company shall give, and shall procure that each Group Company shall give, prompt notice to the Supervisory Board upon becoming aware of any threatened or actual breach of the material covenants by any Group Company under this Agreement.

### **11.3 Access to information**

The Company shall, upon a reasonable request by a Shareholder, provide such Shareholder as soon as reasonably possible with the requested information, with a complete copy to the other Shareholders, unless the Management Board determines that there is a compelling reason for the Company not to provide such information to specific Shareholders or all Shareholders.

## **12 DIVIDEND**

The Dividend policy of the Company will be determined by the General Meeting, on the proposal of the Management Board and only after approval of the Supervisory Board, taking into account:

- (a) any legal and contractual restrictions;
- (b) the Articles of Association;
- (c) the importance of the Company as being a financially sound company to safeguard the creditworthiness of the Company as a stand-alone company; and
- (d) the interests of the Company at the time, including sufficient latitude for investments and other funding required for the contemplated activities or business of the Group in accordance with the Strategy, Business Plan and Budget.

## **13 FINANCING OF THE BUSINESS**

### **13.1 No obligation to provide financing**

No Shareholder shall be obligated to contribute any funds (in cash or in kind) to any Group Company other than the Investment Amount (Clause 2.3 (*Share premium contributions*)), unless explicitly agreed otherwise in this Agreement or agreed in writing after the date of this Agreement.

### **13.2 Further funding**

13.2.1 The Company shall not, and shall procure that its Subsidiaries will not, issue debt instruments to individuals or institutional investors or seek any debt financing to fund the activities of the Group. Notwithstanding the previous sentence, the Company and its Subsidiaries may, solely in the context of partnerships or (funded or unfunded) risk participations with third parties, enter into arrangements that result in financial obligations, including debts and payment obligations, of Subsidiaries of the Company.

13.2.2 If the Company, the Development Subsidiary, Investment Subsidiary or Regulations Subsidiary, requires, or wishes to obtain (further) financing, the Management Board may, subject to the approval of the Supervisory Board, without prejudice to Clause 13.1 (*No obligation to provide financing*), seek further financing from the Shareholders, in the form of Shares A, Shares B, other Shareholder funding, or a combination thereof.

## 14 DEADLOCK

### 14.1 Deadlock Event

14.1.1 There is a deadlock if a resolution is proposed to the General Meeting, but such resolution is not adopted within two (2) sequential General Meetings, to be held within 3 (three) months from the moment such matter was first discussed in the General Meeting, as a result of (i) insufficient affirmative votes by the Shareholders, or (ii) the relevant quorum for a General Meeting not being present, resulting in a material adverse effect on the interest of the Group and its business, (a "**Deadlock Event**"). In the event that the Shareholders do not reach agreement on whether an event qualifies as a Deadlock Event, the Management Board shall determine whether a Deadlock Event has occurred. The provisions of Clauses 14.2 (*Deadlock Notice*) and 14.3 (*Cooling down procedure*) shall apply if a Deadlock Event is deemed to have occurred.

14.1.2 Each of the Parties shall use their reasonably best efforts and act in good faith to prevent a Deadlock Event.

### 14.2 Deadlock Notice

Upon occurrence of a Deadlock Event, each Shareholder is entitled to deliver a deadlock notice to the other Shareholder (the "**Deadlock Notice**") by sending a notice to that effect within ten (10) Business Days of the date on which the last General Meeting regarding the Deadlock Event called to deliberate thereon was held.

### 14.3 Cooling down procedure

14.3.1 In the event that a Deadlock Notice has been delivered, the chief executive officer of FMO and [the Director of Financing (*Directeur Financieringen*)] of the State shall meet within ten (10) Business Days of the delivery date of the Deadlock Notice, whereby:

- (a) FMO shall procure the presence of the chief executive officer of FMO;  
and



- (b) the State shall procure the presence of [the Director of Financing (*Directeur Financieringen*)], at the date of this Agreement [Mr Vossers], of the State.

14.3.2 At such meeting and for twenty (20) Business Days thereafter (the "**Cooling Down Term**"), the persons referred to in Clause 14.3.1 shall negotiate in good faith with a view to resolving their differences regarding the Deadlock Event.

14.3.3 If within the Cooling Down Term the persons referred to in Clause 14.3.1 have not procured:

- (a) withdrawal of the relevant proposal in writing; or
  - (b) that the General Meeting has, as the case may be, validly adopted the relevant proposal,
- (i) FMO may exercise the Put Option in accordance with Clause 15 (*Deadlock Put Option*) and (ii) the State may exercise the Call Option in accordance with Clause 16 (*Deadlock Call Option*), each at their sole discretion.

## 15 DEADLOCK PUT OPTION

### 15.1 Put Option exercise

15.1.1 FMO has the right to require the State to purchase all of FMO's Shares (and not only some) (the "**Put Option**") against payment of the purchase price in cash for these Shares as determined in accordance with this Clause 15 (*Deadlock Put Option*) (the "**Put Exercise Price**"). The Put Option may be exercised by delivering a written notice to that effect to the State and the Company (such a notice, the "**Put Exercise Notice**"), until three (3) months after the persons referred to in Clause 14.3.1 have not procured (i) withdrawal of the relevant proposal in writing, or (ii) that the General Meeting has validly adopted the relevant proposal, in accordance with Clause 14.3.3, and the Cooling Down Term has lapsed.

15.1.2 Upon exercise of the Put Option, the Shareholders shall attempt in good faith to reach agreement on the Put Exercise Price. If no such agreement is reached within twenty (20) Business Days after the delivery of the Put Exercise Notice, the Shareholders shall, as soon as practically possible, but within ten (10) Business Days after expiry of said twenty (20) Business Days period, each appoint one Appraiser for purposes of determination of the fair market value of hundred per cent (100%) of the Shares in the Company as at the date of the Put Exercise Notice (the "**Company's Fair Market Value**") which shall be determined on the basis of (i) the Group carrying out its business as a going

concern, and (ii) a sale at Arm's Length between a willing seller and a willing buyer.

- 15.1.3 The Shareholders shall procure that the two appointed Appraisers shall use all reasonable efforts to simultaneously inform each other, and the Shareholders, about the Company's Fair Market Value within twenty (20) Business Days after the appointments of both Appraisers. If the difference between the respective valuations is twenty per cent (20%) or less of the highest valuation, the average of the respective valuations shall be considered as the Company's Fair Market Value (which shall be final and binding on the Shareholders, except in the event of a manifest error in which case the matter will be remitted to the Appraiser(s) for correction). If the difference between the respective valuations is more than twenty per cent (20%) of the highest valuation, the two appointed Appraisers shall jointly appoint, as soon as practically possible, but within three (3) weeks after the exchange of their valuations, a third Appraiser, which the Shareholders shall procure uses all reasonable efforts to subsequently determine the Company's Fair Market Value, and notify such determined the Company's Fair Market Value to the Shareholders and the first two Appraisers, within twenty (20) Business Days after its appointment, provided that if the Company's Fair Market Value determined by such third Appraiser is higher than the highest valuation or lower than the lowest valuation of the first two Appraisers, the Company's Fair Market Value will be equal to the average of all three valuations. This Company's Fair Market Value shall be final and binding on the Shareholders, except in the event of a manifest error in which case the matter will be remitted to the Appraiser(s) for correction.
- 15.1.4 FMO may withdraw its Put Exercise Notice (in respect of which the Company's Fair Market Value needs to be determined) at any time before the Appraisers are appointed in accordance with Clause 15.1.2.
- 15.1.5 The Put Exercise Price for the Shares held by FMO shall be equal to (i) the Shareholders' agreement on such price, or (ii) the Company's Fair Market Value (in case of determination of the Put Exercise Price by the Appraisers), as the case may be, multiplied by the aggregate number of Shares held by FMO, divided by the aggregate number of Shares.
- 15.1.6 The Company shall procure that each Appraiser is provided with all information and access to books and records which it reasonably requires for the purposes of its determination. Each Appraiser shall act as an expert (*bindend adviseur*) and not as an arbitrator.
- 15.1.7 The Company shall bear the costs of the Appraiser(s) in connection with the determination of the Company's Fair Market Value.

## 15.2 Effect of Put Option exercise

The transfer of FMO's Shares following the exercise of the Put Option pursuant to Clause 15.1 (*Put Option exercise*) shall occur as soon as reasonably possible after the Put Exercise Price has been determined in accordance with Clause 15.1 (*Put Option exercise*).

## 16 DEADLOCK CALL OPTION

### 16.1 Call Option exercise

The State has a right to require FMO to sell and transfer to the State all of its Shares (and not only some) (the "**Call Option**") against payment of the purchase price in cash for these Shares as determined in accordance with Clause 15.1 (*Put Option exercise*), which shall apply *mutatis mutandis* (the "**Call Exercise Price**"). The State may exercise its Call Option until three (3) months after:

- (a) the persons referred to in Clause 14.3.1 have not procured (i) withdrawal of the relevant proposal in writing, or (ii) the General Meeting has validly adopted the relevant proposal, in accordance with Clause 14.3.3; and
- (b) the Cooling Down Term has lapsed,

by delivering a written notice to that effect to FMO and the Company (such a notice, the "**Call Exercise Notice**").

### 16.2 Effect of Call Option exercise

The transfer of FMO's Shares following the exercise of the Call Option shall occur as soon as reasonably possible after the Call Exercise Price has been determined in accordance with Clause 15.1 (*Put Option exercise*) and this Clause 16 (*Deadlock Call Option*).

## 17 RESTRICTIONS ON THE DISPOSAL OF SHARES

### 17.1 General

Each Shareholder:

- (a) acknowledges and agrees that the purpose of this Clause 17 (*Restrictions on the Disposal of shares*) is to maintain the closely held nature of the Company by restricting the way in which Shareholders may Dispose their Shares; and

- (b) shall not enter into or cooperate with any arrangement, structuring device or other transaction which is designed to, directly or indirectly, circumvent or avoid the provisions of this Clause 17 (*Restrictions on the Disposal of shares*).

#### **17.2 Permitted Disposal of Shares**

Each Shareholder may only Dispose part or all of its Shares A, and the State may only Dispose part or all of its Shares B, if:

- (a) the transferee meets the requirements listed in article [5] of the Articles of Association, or the Shares are still held in accordance with the requirements referred to in this subparagraph (a); and
- (b) the General Meeting approves such Disposal in accordance with the Articles of Association.

#### **17.3 Deed of Adherence**

Notwithstanding any other limitations on the Disposal of Shares included in this Agreement, no Shareholder shall directly Dispose of any Shares to any Person unless:

- (a) such Person has become a party to this Agreement by signing a Deed of Adherence, save for (i) a Disposal of Shares to another Shareholder who is already a party or the Company, and (ii) a Disposal whereby a third party acquires and accepts all Shares; or
- (b) an amended version of this Agreement has been executed by all Shareholders including the transferee.

#### **17.4 Rights of new Shareholders**

If a Shareholder Disposes of or intends to Dispose any Shares to a third party in accordance with this Agreement, the Shareholders shall cooperate in good faith for the purpose of amending this Agreement and agreeing on the necessary changes to this Agreement to reflect the new shareholding structure.

### **18 TERMINATION**

#### **18.1 Term**

This Agreement remains in full force and effect until terminated in accordance with Clause 18.2 (*Termination*).

#### **18.2 Termination**

This Agreement terminates:

- (a) [in respect of the rights and obligations of all Parties (other than any obligations for a prior breach of this Agreement) on the date on which:
  - (i) the Shareholders explicitly agree in writing to terminate this Agreement;
  - (ii) [a Shareholder terminates this Agreement in accordance with Clause 20.5 (*Notices*), at its sole discretion, in the event such Shareholder determines that there is material underperformance of the Company, which will occur in, but is not limited to, the event that the Company does not generate at a minimum the [return], which the Shareholders have set as a minimum [return] (as may be amended from time to time), for at least three (3) sequential years after the first three (3) years after incorporation of the Company;
  - (iii) the State terminates this Agreement in accordance with Clause 20.5 (*Notices*), at its sole discretion, in the event of a FMO Insolvency Event occurs;
  - (iv) the State terminates this Agreement in accordance with Clause 20.5 (*Notices*), at its sole discretion, in the event FMO ceases to exist as a result of a legal merger (*juridische fusie*);
  - (v) the State terminates this Agreement in accordance with Clause 20.5 (*Notices*), at its sole discretion, in the event of a legal demerger (*juridische splitsing*) of FMO [as a result of which FMO no longer holds any Shares]; or
  - (vi) the State terminates this Agreement in accordance with Clause 20.5 (*Notices*), at its sole discretion, in the event any of FMO's assets are seized, except if such seizure is lifted within [•] ([•]) Business Days after FMO's assets are seized,] or]
- (b) in respect of the rights and obligations of all Parties (other than any obligations for a prior breach of this Agreement):
  - (i) if a material non-attributable breach of this Agreement by a Shareholder occurs, one hundred eighty (180) Business Days after such a breach is notified (in accordance with Clause 20.5 (*Notices*)) to, but not remedied by, the other Shareholder;
- (c) in respect of the rights and obligations of a Shareholder (other than any

obligations for a prior breach of this Agreement), on the date on which that Shareholder ceases to hold any Shares; or

- (d) with immediate effect, on the day (but after the moment when) one Shareholder holds all Shares.]

### **18.3 Effect of termination**

If this Agreement is terminated in respect of a Party pursuant to Clause 18.2 (*Termination*):

- (a) each of the Parties shall cooperate in good faith in the settlement of the collaboration between the Parties in relation to the subject matter of this Agreement, including, if applicable, the transfer of any Shares based on Clause 15 (*Deadlock Put Option*) or 16 (*Deadlock Call Option*) of this Agreement;
- (b) all rights and obligations of that Party under this Agreement terminate, except for Clauses 1 (*Definitions and interpretation*), 18 (*Termination*), 19 (*Confidentiality*) and 20 (*Miscellaneous*), which will remain in full force and effect; and
- (c) a Party is not relieved from liability for a breach that occurred prior to termination of this Agreement.

## **19 CONFIDENTIALITY**

### **19.1 Confidentiality**

19.1.1 Subject to Clauses 19.1.2 and 19.2 (*Permitted disclosures*), each Shareholder shall keep confidential:

- (a) all information made available to it by, or on behalf of, the Company which relates to the (past, present or future) business, operations or affairs of any Group Company; and
- (b) all information made available to it by, or on behalf of, a Shareholder in connection with the arrangements contemplated by the Contribution Agreement, Portfolio Purchase Agreement or this Agreement,

and must not disclose such information to any Person or use such information for any purpose other than exercising its rights or performing its obligations under this Agreement or any ancillary agreement thereto provided that (i) such disclosure is made on a 'reasonably need to know'-basis and (ii) such Persons are bound by appropriate confidentiality obligations.

19.1.2 Clause 19.1.1 does not apply to information which:

- (a) is or becomes publicly available, other than through a breach of Clause 19.1.1 or any other confidentiality obligation;
- (b) is or becomes available to a Party from a third party and other than in breach of a confidentiality obligation applicable to such third party; or
- (c) is independently acquired or developed by a Party (other than the Group).

## **19.2 Permitted disclosures**

19.2.1 Clause 19.1.1 does not apply, if and to the extent that:

- (a) disclosure is permitted by this Agreement;
- (b) disclosure is required by Law;
- (c) disclosure is made to any court, any securities exchange or regulatory or governmental body, as required or reasonably necessary in connection with the relevant Party's dealings with a Governmental Authority;
- (d) disclosure is made to a Party's respective adviser or auditor;
- (e) disclosure is necessary to enforce this Agreement; or
- (f) the other relevant Party has given its written consent to disclosure.

In the event of disclosure of information pursuant to Clause 19.2.1(b) or 19.2.1(c), the disclosing Party must – to the extent reasonably practicable and permitted – consult with the other relevant Party as to the contents, form and timing of the disclosure to be made.

19.2.2 For the avoidance of doubt, Clause 19.1.1 does not apply to the existence, terms and subject matter of, and the negotiations relating to, the Contribution Agreement, Portfolio Purchase Agreement or this Agreement, and any amendments thereto.

19.2.3 Clause 19.1.1 does not prevent a Party from disclosing information to its representatives, if such disclosure is made to enable that such Person to exercise its rights or perform its obligations under the Contribution Agreement, Portfolio Purchase Agreement or this Agreement provided that (i) such disclosure is made on a 'reasonably need to know'-basis and (ii) – before

disclosure is made – such Persons are informed of the disclosing Party's obligations under this Clause 19 (*Confidentiality*).

### **19.3 Disclosure to potential transferees of Shares**

The Shareholders may disclose information relating to the Group (including this Agreement) to any Person to whom the relevant Shareholder considers or proposes to transfer its Shares in the Company to or as otherwise may be reasonably required in accordance with this Agreement, provided that before any information is disclosed the recipient enters into an appropriate confidentiality undertaking.

## **20 MISCELLANEOUS**

### **20.1 Company exclusion**

20.1.1 The Company shall take all such action as is necessary and permitted by Law to allow the Shareholders to exercise their rights and perform their obligations under this Agreement. The Company is [not] entitled to claim performance by the Shareholders of any of the Shareholders' obligations under this Agreement.

20.1.2 The Company shall cooperate with any reasonable amendments to this Agreement as requested by the Shareholders.

### **20.2 Costs relating to this Agreement**

20.2.1 Unless this Agreement provides otherwise, (i) all costs which a Party has incurred in connection with the incorporation of the Company and the preparation and conclusion of this Agreement, and (ii) the fees of the Notary in connection therewith, will be paid from the initial public budget earmarked for the incorporation of the Company.

20.2.2 As of the date of this Agreement the reasonable costs for amendments of this agreement will be incurred by the company.

### **20.3 Data Protection**

Personal data within the meaning of art. 4 No. 1 EU General Data Protection Regulation ("**GDPR**") collected in connection with this Agreement may only be processed in compliance with applicable data protection laws, in particular under the GDPR and other national laws implementing or supplementing the GDPR, such as the Dutch *Uitvoeringswet Algemene verordening gegevensbescherming* (UAVG).



#### **20.4 Survival of rights**

In case of conversion of the legal form of the Company, or merger, demerger or partial merger, the provisions of this Agreement will be extended to shares, securities and other rights accorded to the Shareholders in exchange for the Shares.

#### **20.5 Notices**

20.5.1 Any notice, request, consent, claim, demand or other communication between the Parties in connection with this Agreement must be in writing and be given and be deemed to have been duly given if written in the Dutch or English language and:

- (a) delivered personally;
- (b) delivered by registered post, with a copy by email, which copy does not constitute a notice;
- (c) sent by an internationally recognised overnight courier service such as Federal Express, with a copy by email, which copy does not constitute a notice; or
- (d) sent by email (following confirmation of receipt).

20.5.2 The notices under this Agreement shall be deemed to be:

- (a) in the case of notices delivered personally, sent and received on the date of receipt;
- (a) in the case of notices delivered by registered post, sent at the date of collection shown on the monitoring document produced by the post and received on upon confirmation of receipt;
- (b) in the case of notices sent by internationally recognised overnight courier service, sent at the date of collection shown on the monitoring document produced by the international courier service and received on the third (3<sup>rd</sup>) Business Day following the day of sending;
- (c) in the case of notices sent by e-mails sent before 17:00 p.m., sent the day of sending and received the day of sending (or the next Business Day if the day of sending is not a Business Day); and
- (d) in the case of notices sent by e-mails sent after 17:00 p.m., sent and received the Business Day following the day of sending.

20.5.3 All notices must be sent to the Persons and at the addresses set out in Schedule 9 (Details for notices), or such other Persons or addresses as notified to the other Party from time to time.

**20.6 Further assurances**

Each Party shall at its own costs and expenses from time to time execute such documents and perform such acts and things as the other Party may reasonably require to effect the transactions described in this Agreement and to give the Parties the full benefit of this Agreement.

**20.7 Entire agreement**

This Agreement contains the entire agreement between the Parties relating to the subject matter of this Agreement, to the exclusion of any terms implied by Law which may be excluded by contract, and supersedes any previous written or oral agreement between the Parties to this Agreement in relation to the matters dealt with in this Agreement.

**20.8 No assignment**

No Party may assign this Agreement or assign or encumber any of their rights under this Agreement to any other Person, without the consent of the other Parties.

**20.9 Invalidity**

If any provision in this Agreement is held to be illegal, invalid or unenforceable, in whole or in part, under any Law, then:

- (a) such provision or part shall to that extent be deemed not to form part of this Agreement but the legality, validity or enforceability of the remainder of this Agreement shall not be affected; and
- (b) the Parties shall use reasonable efforts to agree a replacement provision that is legal, valid and enforceable to achieve so far as possible the intended effect of the illegal, invalid or unenforceable provision.

**20.10 Counterparts**

This Agreement may be entered into in any number of counterparts, all of which taken together shall constitute one and the same instrument. The Parties may enter into this Agreement by signing any such counterpart.

#### **20.11 Waiver**

No waiver of any provision of this Agreement shall be effective unless such waiver is in writing and signed by or on behalf of the Party entitled to make such waiver.

#### **20.12 Amendment**

No amendment of this Agreement shall be effective unless such amendment is in writing and signed by or on behalf of each Party, provided that such consent from the Company is only required if and to the extent the envisaged amendment would disproportionately and adversely affect the rights of the Company. The Company shall reasonably cooperate with any amendments of this Agreement.

#### **20.13 Third party rights**

20.13.1 Save as expressly stated otherwise, this Agreement does not contain any stipulation in favour of a third party (*derdenbeding*). In the event that any stipulation in favour of a third party (*derdenbeding*) contained in this Agreement is accepted by any third party, such third party will not become a party to this Agreement.

20.13.2 The provision of Clause 19 (*Confidentiality*) is also for the benefit of, and will be enforceable by, the Group Companies, each of their successors and permitted assigns, as third party stipulations (*onherroepelijk derdenbeding*) and apply *mutatis mutandis* to any claim made by a third party under a third party stipulation included in this Agreement.

#### **20.14 No rescission or nullification**

Each Party waives its right to rescind (*ontbinden*) this Agreement, in whole or in part, on the basis of article 6:265 BW. Furthermore, a Party in error (*dwalig*) shall bear the risk of that error in making this Agreement and waives its right to nullify (*vernietigen*) this Agreement or to request a competent court to amend this Agreement on the basis of article 6:230(2) BW.

#### **20.15 Consents and approvals**

20.15.1 A consent or approval under, or in connection with, this Agreement is only valid, if given in writing.

20.15.2 Unless otherwise provided in this Agreement, a Party may give or withhold its consent to, or approval of, any matter referred to in this Agreement in its absolute discretion.

**20.16 Governing law and jurisdiction**

20.16.1 This Agreement (including Clause 20.16.2) and any contractual or non-contractual obligations arising out of or in connection with it are governed and construed by the laws of the Netherlands.

20.16.2 The Parties irrevocably agree that all disputes which may arise out of or in connection with this Agreement and the documents to be entered into pursuant to it, including disputes concerning the existence and validity thereof, will be resolved in first instance in the The Hague District Court.

*[SIGNATURE PAGE FOLLOWS]*

DRAFT DATED 11 JUNE 2020  
PRIVILEGED AND CONFIDENTIAL

**SIGNATURES:**

This Agreement has been signed by the Parties (or their duly authorised representatives) on the date stated at the beginning.

**THE DUTCH STATE REPRESENTED BY THE MINISTRY OF FINANCE**

Name:

Title:

**NEDERLANDSE FINANCIERINGS-MAATSCHAPPIJ  
VOOR ONTWIKKELINGSLANDEN N.V.**

Name:

Title:

Name:

Title:

**INVEST INTERNATIONAL B.V.**

Name:

Title:

Name:

Title:

## Schedule 1 Definitions and Interpretation

### 1 Definitions

Capitalised terms used in this Agreement shall have the following meaning:

"**Agreement**" means this joint venture agreement, including all Schedules;

"**Appraiser**" means a respected international valuator of shares, such as PwC, KPMG, Deloitte, EY or an international valuator of equal reputation and standing;

"**Arm's Length**" means the conditions which would be obtained between comparable, independent and *bona fide* Persons in comparable transactions, provided that any transfer to a *bona fide* third party is considered Arm's Length;

"**Articles of Association**" means the articles of association (*statuten*) of the Company (as may be amended from time to time);

"**Authorisation Act**" has the meaning given in Recital (B);

"**Budget**" means the budget of the Group for a Financial Year, approved in accordance with Clause 9.5 (*Approval of a Business Plan or Budget*);

"**Business Day**" means any day (other than a Saturday, Sunday or public holiday) on which banks are open for normal business (other than internet banking services only) in Amsterdam, the Netherlands;

"**Business Plan**" means the business plan of the Group for the rolling period set out therein (which will be [no less than [two (2)], but no more than] five (5) Financial Years), approved in accordance with Clause 9.5 (*Approval of a Business Plan or Budget*);

"**BW**" means Burgerlijk Wetboek (*Dutch Civil Code*);

"**Call Exercise Notice**" has the meaning given in Clause 16.1 (*Call Option exercise*);

"**Call Exercise Price**" has the meaning given in Clause 16.1 (*Call Option exercise*);

"**Call Option**" has the meaning given in Clause 16.1 (*Call Option exercise*);

"**Company**" has the meaning given in the introduction of this Agreement;

"**Company's Fair Market Value**" has the meaning given in Clause 15.1.2;

"**Contribution Agreement**" has the meaning given in Recital (B);

"**Control**" means, in relation to any Person, that it, whether directly or indirectly, *de jure* or *de facto* (i) holds more than fifty percent (50%) of the shares in the capital of a legal entity, or (ii) whether by the ownership of share capital, the possession of voting rights, contract or otherwise, has the power to appoint or remove the majority of the members of the management board, supervisory board or other governing body of such legal entity, or (iii) otherwise has the power to direct or cause direction of the management and policies of Person, whether through ownership of voting interests, by contract or otherwise (in such respect, a limited partnership shall be deemed to be Controlled by its general partner);

"**Cooling Down Term**" has the meaning given in Clause 14.3.2;

"**Deadlock Event**" has the meaning given in Clause 14.1 (*Deadlock Event*);

"**Deadlock Notice**" has the meaning given in Clause 14.2 (*Deadlock Notice*);

"**Deed of Adherence**" means a deed by which a new Shareholder agrees to adhere to the terms and conditions in this Agreement, substantially in the form set out in Schedule 8 (*Deed of Adherence*);

"**Development Subsidiary**" has the meaning given in Recital (C);

"**Dispose**" means, in relation to any Shares,

- (a) to directly or indirectly sell, transfer, assign or otherwise dispose of any legal or beneficial interest in, or transfer Control of any Shares;
- (b) to directly or indirectly grant any Encumbrance over any Shares;
- (c) any arrangement, structuring device or other transaction having a similar economic or legal effect to the transactions referred to under (a) or (b) above;

and the term **Disposal** has a corresponding meaning.

"**Dividend**" means any dividend or other distribution (in cash or in kind);

"**Encumbrance**" means any charge, option, power of sale, hypothecation, mortgage, pledge, lien, retention of title, right of first refusal or other restriction on transfer or voting, usufruct, leasehold, tenancy, right of way, right of superficies or any other third party right or security interest of any kind or any agreement to create any of the foregoing;

"**EUR**", "**euro**" or "**€**" means the official currency of the Netherlands on the date of this Agreement, except that, if such currency is no longer the official currency of the

Netherlands when an amount is due and payable under, or in connection with, the Contribution Agreement, Portfolio Purchase Agreement or this Agreement, "EUR", "euro" or "€" is deemed to be the official currency of the Netherlands at such time;

"**Financial Year**" means the financial year of the Company, which ends on 31 December of each calendar year;

"**FMO**" has the meaning given in the introduction of this Agreement;

"**FMO's Portfolio**" means [●];

"**FMO Insolvency Event**" means:

- (a) the entry by FMO into any insolvency, winding up, liquidation, administration, creditor protection or analogous process;
- (b) the application by FMO for any insolvency, winding up, liquidation, administration, creditor protection or analogous process; or
- (c) the making by FMO of any arrangement, composition or compromise with its creditors and including in particular in relation to the Company, without limitation thereto bankruptcy (*faillissement*), suspension of payments (*surseance van betaling*) or other insolvency, voluntary or judicial liquidation, in particular the appointment of a trustee in bankruptcy (*curator*), administrator (*bewindvoerder*) or other similar officer;

"**GDPR**" has the meaning given in Clause 20.3 (*Data Protection*);

"**General Meeting**" has the meaning given in Clause 3.2.1(a);

"**Governmental Authority**" means any supranational, national, provincial, municipal or other governmental authority or court of a relevant jurisdiction (including any subdivision thereof) or any quasi-governmental or private body exercising any regulatory, taxing, importing or other governmental or quasi-governmental authority, including the European Union, in each case to the extent such authority has jurisdiction in respect of the relevant matter;

"**Group**" has the meaning given in Recital (C);

"**Group Company**" has the meaning given in Recital (C);

"**IFRS**" means international financing reporting standards as issued by the International Accounting Standards Board (IASB), as adopted for use in the European Union further to the IAS Regulation (EC 1616/2002), including the official interpretation thereof by the IFRS Interpretations Committee;

"**Initial Budget**" means the initial budget of the Group as attached as Schedule 7 (*Initial Budget*)



"**Initial Business Plan**" means the initial business plan of the Group as attached as Schedule 6 (*Initial Business Plan*);

"**Investment Amount**" has the meaning given in Clause 2.3 (*Share premium contributions*);

"**Investment Subsidiary**" has the meaning given in Recital (C);

"**Law**" any applicable statute, law, directive, rule, (executive or other) order, code, judgment, injunction decree or other binding requirement of any Governmental Authority, in each as may be in force from time to time;

"**Management Board**" has the meaning given in Clause 3.2.1(c);

"**Management Board Member**" has the meaning given in Clause 6.1.1;

"**NL Business**" means [●];

"**Notary**" means Mr C.A. Voogt, or any other civil law notary of De Brauw Blackstone Westbroek N.V., or the notary's legal substitute;

"**Participations Policy**" has the meaning given in Clause 3.2.2;

"**Party**" has the meaning given in the introduction of this Agreement;

"**Person**" means an individual, a company or corporation, a partnership, a limited liability company, a trust, an association, a foundation or other legal entity or unincorporated organisation, including any Governmental Authority;

"**Portfolio Purchase Agreement**" has the meaning given in Recital (B);

"**Put Exercise Notice**" has the meaning given in Clause 15.1.1;

"**Put Exercise Price**" has the meaning given in Clause 15.1.1;

"**Put Option**" has the meaning given in Clause 15.1.1;

"**Regulations Subsidiary**" has the meaning given in Recital (C);

"**Related Party Transaction**" has the meaning given in Clause 10 (*Related Party Transactions*);

"**Scope of Collaboration**" has the meaning given in Clause 9.1.1;

"**Securities**" means any shares of any class or series or any securities (including debt securities) convertible into or exercisable or exchangeable for shares of any

class or series of share capital of the Company (or which are convertible into or exercisable or exchangeable for another security which is, in turn, convertible into or exercisable or exchangeable for shares or any class or series of share capital of the Company), whether now authorised or not;

"**Shareholder**" has the meaning given in the introduction of this Agreement;

"**Shares**" means each and every issued share in the capital of the Company, including Shares A and Shares B, and, where the context requires, any Shares to be issued;

"**Shares A**" has the meaning given in Clause 2.1.1(a);

"**Shares B**" has the meaning given in Clause 2.1.1(b);

"**State**" has the meaning given in the introduction of this Agreement;

"**Strategy**" has the meaning given in Clause 9.1.2;

"**Subsidiary**" means, with respect to any Person (other than a natural person) any other Person of which (a) the first mentioned Person or any Subsidiary thereof is a general partner, (b) the voting power to elect a majority of the board or others performing similar functions with respect to such other Person is held by the first mentioned Person and/or by any one or more of its Subsidiaries, or (c) at least 50% of the equity interests of such other Person is, directly or indirectly, owned or controlled by such first mentioned Person and/or by any one or more of its Subsidiaries. For purposes of this definition, the term "control" (including the correlative meanings of the terms "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities or by contract or otherwise;

"**Supervisory Board**" has the meaning given in Clause 3.2.1(b);

"**Supervisory Board Member**" has the meaning given in Clause 5.1.1;

## **1 References to Parties**

Any reference in this Agreement to Parties is a reference to the Parties to this Agreement at the relevant time.

## **2 References to persons**

References to a person include any Person, whether or not having separate legal personality and wherever incorporated or registered.

### **3 Headings and references to Clauses, Schedules and Paragraphs**

**3.1** Headings have been inserted for convenience of reference only and do not affect the interpretation of any of the provisions of this Agreement.

**3.2** A reference in this Agreement to:

- (a) a Clause is to the relevant Clause of this Agreement;
- (b) a Schedule is to the relevant schedule to this Agreement; and
- (c) a Paragraph is to the relevant paragraph of the relevant Schedule.

**3.3** All recitals, annexes, exhibits and schedules hereto, represent an integral part of this Agreement and references to this Agreement includes this Agreement and the schedules as a whole.

### **4 References to liabilities and obligations**

Any reference in this Agreement to a liability or obligation of a Party shall be deemed to incorporate references to obligations on the part of such Party to procure that the relevant liability is discharged or obligation is performed by such Party, on the terms of and subject to the conditions set out in this Agreement.

### **5 Information**

References to books, records or other information include books, records or other information stored in any form including paper, magnetic media, films, microfilms, electronic storage devices and any other data carriers.

### **6 Legal terms**

In respect of any jurisdiction other than the Netherlands, a reference to any Netherlands legal term shall be construed as a reference to the term or concept which most nearly corresponds to it in that jurisdiction.

### **7 Other references**

**7.1** Whenever used in this Agreement, the words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation".

**7.2** Whenever used in this Agreement, the words "as of" shall be deemed to include the day or moment in time specified thereafter.

**7.3** Whenever used in this Agreement, the term "third party" means any person or entity other than the Parties and their Controlling ultimate shareholders, or one of their respective subsidiaries.

**7.4** Any reference in this Agreement to any gender shall include all genders, and words importing the singular shall include the plural and vice versa.

**8 No presumption against drafting Party**

The Parties agree that they have been represented by counsel during the negotiation and execution of this Agreement and, therefore, waive the application of any Law or rule of construction providing that ambiguities in an agreement or other document will be construed against the Party drafting such agreement or document.

## **Schedule 2** Capital Structure

*[attached separately]*

**Schedule 3** Contribution Agreement

*[attached separately]*

DRAFT DATED 11 JUNE 2020  
PRIVILEGED AND CONFIDENTIAL

**Schedule 4** [Portfolio Purchase Agreement]

*[attached separately]*

**Schedule 5** Articles of Association

*[attached separately]*



**Schedule 6** Initial Business Plan

*[attached separately]*

**Schedule 7** Initial Budget

*[attached separately]*

## Schedule 8 Deed of Adherence

**THIS DEED** is made on [●]

**BETWEEN:**

- (1) [●] of [●] (the "**New Shareholder**");
- (2) [●] (the "**Original Shareholder[s]**");
- (3) [●] (the "**Continuing Shareholder[s]**"); and
- (4) Invest International B.V. (the "**Company**")

**WHEREAS:**

- (A) The Original Shareholder[s][, the Continuing Shareholder[s]] and the Company are parties to a joint venture agreement dated [●] (the "**Agreement**").
- (B) The New Shareholder proposes to [purchase/subscribe for] [●] Shares of [●] each in the capital of the Company [from the Original Shareholder].
- (C) This Deed is made by the New Shareholder in compliance with Clause [●] of the Agreement.

**IT IS AGREED** as follows:

1. The New Shareholder confirms that it has been supplied with a copy of the Agreement.
2. [The New Shareholder hereby subscribes for [●] Shares of [●] each in the capital of the Company at a subscription price of EUR [●] ([●] euro) per share and agrees to hold the shares subject to the Articles of Association.]
3. The New Shareholder undertakes to the Continuing Shareholder[s] to be bound by the Agreement in all respects as if the New Shareholder was a Party to the Agreement and named in it as Shareholder and to observe and perform all the provisions and obligations of the Agreement applicable to or binding on a Shareholder under the Agreement insofar as they fall to be observed or performed on or after the date of this Deed.
4. The Continuing Shareholder[s] and the Company undertake to the New Shareholder to observe and perform all the provisions and obligations of the Agreement applicable to or binding on a Shareholder or a Party under the Agreement and acknowledge[s] that the New Shareholder shall be entitled to the rights and benefits of the Agreement as if the New Shareholder were

named in the Agreement as a Shareholder or a Party with effect from the date of this Deed.

5. This Deed is made for the benefit of (a) the Parties to the Agreement and (b) every other person who after the date of the Agreement (and whether before or after the execution of this deed) assumes any rights or obligations under the Agreement or adheres to it.
6. The contact details of the New Shareholder for the purposes of Clause [●] of the Agreement are as follows:

Attn: \_\_\_\_\_  
E-mail: \_\_\_\_\_  
Address: \_\_\_\_\_

7. The confidentiality undertakings and the provisions regarding announcements in the Agreement shall apply to this Deed.
8. This Deed shall be governed by and construed in accordance with the laws of the Netherlands. Any dispute arising out of, or in connection with, this Deed shall be resolved in accordance with the provisions of the Agreement.

**IN WITNESS WHEREOF** this Deed has been executed and has been delivered on the date which appears first on page 1 of this Deed.

**[New Shareholder]**

\_\_\_\_\_  
By:  
Its:

**[Original Shareholder[s]]**

\_\_\_\_\_  
By:  
Its:

**[Continuing Shareholder[s]]**

DRAFT DATED 11 JUNE 2020  
PRIVILEGED AND CONFIDENTIAL

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By:  
Its:

**INVEST INTERNATIONAL B.V.**

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By:  
Its:

**Schedule 9** Details for notices

<b>THE DUTCH STATE</b>	
Address:	[•]
Attention:	[•]
E-mail:	[•]
With copy to:	[•]
<b>NEDERLANDSE FINANCIERINGS-MAATSCHAPPIJ VOOR ONTWIKKELINGSLANDEN N.V.</b>	
Address:	[•]
Attention:	[•]
E-mail:	[•]
With copy to:	[•]
<b>INVEST INTERNATIONAL B.V.</b>	
Address:	[•]
Attention:	[•]
E-mail:	[•]
With copy to:	[•]