

Dated 13 November 2014
Amended 23 March 2015
Amended 14 November 2016

International Licensing Platform Vegetable

EXPERT COMMITTEE BY-LAWS

established at incorporation of the International Licensing Platform Vegetable
on 13 November 2014, amended 23 March 2015 and 14 November 2016

INTRODUCTION

- These By-Laws are established pursuant to article 20.2 of the Articles of Association.
- These By-Laws are complementary to the provisions regarding the Expert Committee and the Experts contained in the Articles of Association and the Internal Regulations.
- The meaning of certain capitalised or uncapitalised terms used in these By-Laws are set forth in the list of definitions attached as Annex 1.

CHAPTER I

DUTIES

1 Duties

1.1 It shall be the duty of the Expert Committee, all in accordance with and/or as referred to in the Articles of Associations, the Internal Regulations and the Guidelines to the Expert Committee as described in Annex 2 to these By-Laws.

- to make the decisions in the Baseball Procedure in accordance with article 6 of the Internal Regulations;
- to objectively (re)assess whether a Committed Patent relates to a Normal Trait or a Special Trait in accordance with article 9 of the Internal Regulations;
- to verify if a Member has used reasonable efforts as referred to in articles 2.6 and 2.7 of the Internal Regulations;
- to determine the seed treatment costs (which are excluded from the Net Sales) in accordance with the following: only the actual costs for seed treatment are deductible but not the potential value. The costs of seed treatment will be determined as a fixed percentage of sales via a black box system based on the information provided by the Members and will be reviewed every five (5) years. Details (e.g. classes of seed care e.g., insecticide, insecticide plus fungicide, biological or chemical) will be worked out by the Expert Committee with the assistance of the Members; and
- upon request of a Member, to propose a revision of the definition of Regulated Trait if in consequence of a change of EU Directive 2001/18 certain traits may no longer have substantial liability risks, substantial deregulation costs, and substantial stewardship requirement and submit the proposal for approval to the General Meeting.

Furthermore, the Expert Committee shall perform all other tasks it deems to be reasonably necessary in connection with the duties determined therein and attributed to it pursuant to the Articles of Association, the Internal Regulations and/or these By-Laws (and, for the avoidance of doubt, the annexes attached to these respective documents).

1.2 The Expert Committee is itself responsible for the quality of its (including the Initial Board's of the Expert Committee and the Objection Board's of the Expert Committee) performance.

CHAPTER II

APPOINTMENT; INDEPENDENCE; POSITIONS

2 Appointment

- 2.1 The exact number of Experts shall be determined in accordance with article 19.1 of the Articles of Association.
- 2.2 Pursuant to article 19.2 of the Articles of Association, Experts are appointed by the General Meeting. The Board may make a recommendation to the General Meeting for the appointment of an Expert.
- 2.3 A resolution of the General Meeting to appoint an Expert in accordance with a recommendation by the Board shall be adopted by a majority of at least 2/3 of the votes. A resolution of the General Meeting to appoint an Expert other than in accordance with a recommendation by the Board shall require unanimous votes, or can be adopted in accordance with article 32.1 of the Articles of Association.
- 2.4 An Expert must have requisite knowledge in at least one of the following areas, such that in the Expert Committee each of these areas is represented:
 - (a) intellectual property rights;
 - (b) business economics;
 - (c) Vegetable seeds market; or
 - (d) plant sciences.

In addition to the above, the chairman of the Expert Committee (the “**Chairman**”) must have requisite managerial, secretarial and/or legal knowledge, and must be of irreproachable character.

3 Independence

- 3.1 The Experts and persons recommended to become an Expert should be independent. In any event for this purpose a person is considered not to be independent if such person:
 - (a) is, or has been, a Board Member in the previous five (5) years before his appointment; or
 - (b) has been a shareholder in or employee of a Vegetable breeding company (whether a Member or not) or has had any special interest in or relationship with a Vegetable breeding company (whether a Member or not) in any other way, in the previous five (5) years before his appointment.
- 3.2 At its appointment, an Expert shall declare to the Association to act independently from any other party, including but not limited to, the Members and their Affiliates, the Board Members and persons which have taken part in, have assisted on or have otherwise been involved in any arbitration as referred to in article 36 of the Articles of Association, article 11 of the Internal Regulations and/or article 5 of the Members’ Agreement.

4 Chairman and Deputy Chairman

- 4.1 The Expert Committee shall elect from among its members the Chairman. The Expert Committee shall also elect a deputy Chairman (the “**Deputy Chairman**”) from among its members, who shall take over the duties and powers of the Chairman in the latter’s absence.
- 4.2 The Chairman is primarily responsible for the functioning of the Expert Committee. He shall act as the spokesman of the Expert Committee and is the main contact for the Expert Committee.
- 4.3 Without prejudice to the generality of article 4.2, the Chairman sees to it that:
- (a) the Experts receive all information necessary for the proper performance of their duties in a timely manner;
 - (b) there is sufficient time for consultation and decision-making by the Expert Committee;
 - (c) the Expert Committee elects a Deputy Chairman; and
 - (d) the Expert Committee has proper contact with the Board.
- 4.4 In addition, the Chairman is primarily responsible for:
- (a) determining the agenda of Expert Committee meetings and chairing such meetings;
 - (b) consulting with external advisors appointed by the Expert Committee;
 - (c) addressing problems related to the performance of individual Experts;
 - (d) addressing internal disputes and conflicts of interest concerning individual Experts and the possible resignation of such Experts as a result; and
 - (e) the tasks attributed to him in articles 10.1 and 11.1.

5 Expert Committee secretary

The Secretary shall act as a secretary of the Expert Committee, for the avoidance of doubt excluding the Initial Board of the Expert Committee and the Objection Board of the Expert Committee.

CHAPTER III

EXPERT COMMITTEE MEETINGS; DECISION-MAKING

6 Frequency, notice, agenda and venue of meetings

- 6.1 The Expert Committee shall meet as often as deemed necessary for the proper functioning of the Expert Committee. The Expert Committee shall also meet earlier than scheduled if this is deemed necessary by the Chairman or at least two other Experts.
- 6.2 Meetings of the Expert Committee are in principle called by the Chairman. Save in urgent cases to be determined by the Chairman, the agenda for a meeting shall be sent to all Experts at least five (5) calendar days before the meeting. For each item on the agenda an explanation in writing shall be provided, where possible, and/or other related documentation will be attached.

- 6.3 Each Expert has the right to request that an item be placed on the agenda for an Expert Committee meeting.
- 6.4 Expert Committee meetings are generally held at the offices of the Association, but may also take place elsewhere. In addition, meetings of the Expert Committee may be held by conference call, video conference or by any other means of communication, provided that all Experts participating in such meeting can communicate with each other simultaneously.

7 Attendance of and admittance to meetings

- 7.1 An Expert may be represented at Expert Committee meetings by another Expert authorised in writing. The existence of such authorisation must be proved satisfactorily to the chairman of the meeting.
- 7.2 If an Expert is frequently absent from Expert Committee meetings, he shall be called to account for this by the Chairman.
- 7.3 Except for the event that the Chairman decides that the Secretary may not attend a specific Expert Committee meeting and notifies the Secretary thereof at least one (1) calendar day prior to the date of this meeting, the Secretary may attend meetings of the Expert Committee. The admittance to the meeting of persons other than Experts shall be decided by majority vote of the Experts present at the meeting.

8 Chairman of the meeting; reports

- 8.1 Expert Committee meetings are presided over by the Chairman or, in his absence, the Deputy Chairman. If both are absent, one of the other Experts, designated by a majority of votes cast by the Experts present at the meeting, shall preside.
- 8.2 The Secretary or, if applicable, any other person designated for such purpose by the chairman of the meeting shall draw up a report on the proceedings at the meeting. The report should provide insight into the decision-making process at the meeting. The report shall be adopted by the Expert Committee at the same meeting, or the next meeting.

9 Decision-making within the Expert Committee

- 9.1 The Experts shall endeavour to achieve that resolutions are, as much as possible, adopted unanimously.
- 9.2 Each Expert has the right to cast one (1) vote.
- 9.3 All resolutions of the Expert Committee shall be adopted by a majority of at least two-thirds of the aggregate number of votes cast that could have been cast if all Experts entitled to vote (for the avoidance of doubt, irrespective whether these Experts are (re-)present(ed) or not) would have cast their votes.
- 9.4 In general, resolutions of the Expert Committee are adopted at an Expert Committee meeting.
- 9.5 Expert Committee resolutions may at all times be adopted in writing, provided the proposal concerned is submitted to all Experts then in office who are not conflicted, for example pursuant to article 12.4, and none of them objects to this manner to adopt a resolution, evidenced by written statements from all relevant Experts.

10 Initial Board of the Expert Committee

- 10.1 On a case by case basis, the Chairman shall appoint three (3) Experts in respect of whom no conflict of interest within the meaning of article 12.2 exists who shall jointly form the relevant initial board of the Expert Committee (the “**Initial Board of the Expert Committee**”). The Chairman may not form part of the Initial Board of the Expert Committee.
- 10.2 The Chairman acts as secretary of the Initial Board of the Expert Committee.
- 10.3 The provisions laid down in this Chapter III of these By-Laws with the exception of article 11, apply equally to the Initial Board of the Expert Committee, save that “Expert Committee” should read “Initial Board of the Expert Committee”, “Expert” refers to the relevant Experts that form part of the Initial Board of the Expert Committee and that at a meeting of the Initial Board of the Expert Committee resolutions can only be adopted if all relevant Experts are present or represented, and with due observance that a reference to the “Deputy Chairman” must be considered not to be written.
- 10.4 In addition to the last sentence of article 6.1, the Initial Board of the Expert Committee shall also meet if this is deemed necessary by at least one member of the Initial Board of the Expert Committee.

11 Objection Board of the Expert Committee

- 11.1 In case the Chairman has appointed three (3) Experts in accordance with article 10.1 to form part of the Initial Board of the Expert Committee, he shall appoint from the remaining Experts three (3) Experts who are not conflicted pursuant to article 12.4 who shall jointly form the relevant objection board of the Expert Committee (the “**Objection Board of the Expert Committee**”) in that same case. The Chairman may not form part of the Objection Board of the Expert Committee.
- 11.2 The Chairman acts as secretary of the Objection Board of the Expert Committee.
- 11.3 The provisions laid down in this Chapter III of these By-Laws, with the exception of article 10, apply equally to the Objection Board of the Expert Committee, save that “Expert Committee” should read “Objection Board of the Expert Committee”, “Expert” refers to the relevant Experts that form part of the Objection Board of the Expert Committee and that at a meeting of the Objection Board of the Expert Committee resolutions can only be adopted if all relevant Experts are present or represented, and with due observance that a reference to the “Deputy Chairman” must be considered not to be written.
- 11.4 In addition to the last sentence of article 6.1, the Objection Board of the Expert Committee shall also meet if this is deemed necessary by at least one member of the Objection Board of the Expert Committee.

CHAPTER IV

OTHER PROVISIONS

12 Conflicts of interests of Experts

- 12.1 An Expert shall not:

- (a) demand or accept (extra-ordinary) gifts from the Association for himself or for his spouse, registered partner or other life companion, foster child or relative by blood or marriage up to the second degree;
- (b) provide unjustified advantages to third parties to the detriment of the Association; and
- (c) conduct any activity or act which would violate the Foreign Corrupt Practices Act (FCPA), the UK Bribery Act, and/or similar laws and regulations.

12.2 An Expert shall immediately report any conflict of interest or potential conflict of interest that is of material significance to the Association and/or to the member concerned, to the Chairman (or if the conflict of interest or potential conflict of interest concerns the Chairman, the Deputy Chairman or, in his absence, the firstborn Expert) and shall provide all relevant information, including information concerning his spouse, registered partner or other life companion, foster child and relatives by blood or marriage upon the second degree. The Expert Committee shall decide, without the Expert concerned being present, whether there is a conflict of interest.

12.3 A conflict of interest exists with respect to an Expert, in any event, if the Expert Committee is involved with a party: (i) in which such Expert personally has a material financial interest; (ii) which has a management board member who has a relationship under family law with an Expert; or (iii) in which an Expert has a managerial or supervisory position.

12.4 An Expert shall not take part in the discussions and decision-making by the Expert Committee if and to the extent he has a conflict of interest with respect to the relevant matter pursuant to article 12.2 or article 12.3.

13 Remuneration of Experts

13.1 Pursuant to article 19.7 of the Articles of Association the authority to establish remuneration for the Experts is vested with the General Meeting upon a proposal of the Board.

13.2 Experts shall not profit from the activities of the Association other than through remuneration as an Expert.

13.3 The Association shall not grant personal loans, guarantees or the like to Experts.

13.4 Apart from their remuneration, Experts shall be reimbursed for all reasonable costs incurred in connection with their attendance of meetings, the reasonableness of such costs being assessed by the Chairman (costs incurred by the Chairman are assessed by the Deputy Chairman). Any other expenses are only reimbursed, in whole or in part, if incurred with the consent of the Chairman (or if it concerns the Chairman, the Deputy Chairman).

14 Confidentiality

Unless explicitly specified otherwise in the Articles of Association and/or the Internal Regulations, no Expert shall, during his membership of the Expert Committee or afterwards, disclose in any way whatsoever to anyone whomsoever any information of a confidential nature regarding the business of the Association, that came to his knowledge in the capacity of Expert and which he knows or should know to be of a confidential nature, unless required by law. An Expert is allowed to disclose the above information to the Secretary under confidentiality as well as to staff members of the Association, who, in view of their activities for the Association, should be informed of the information

concerned. An Expert shall not in any way whatsoever utilise the information referred to above for his personal benefit.

15 Miscellaneous

- 15.1 *Acceptance by Experts.* Anyone who is appointed as an Expert must, upon assuming office, declare in writing to the Association that he accepts and agrees the intention and purpose of the Association and that he accepts and agrees to the contents of these By-Laws and pledge to the Association that he will comply with the provisions of these By-Laws.
- 15.2 *Amendment.* Pursuant to article 20.4 of the Articles of Association, these By-Laws may be amended by:
- (a) the Expert Committee in a meeting in which all Experts then in office (irrespective of there being a conflict of interest or not) are present or represented, or in writing, provided that the proposal concerned is submitted to all Experts then in office (irrespective of there being a conflict of interest or not) and none of them objects to this manner to adopt a resolution, evidenced by written statements from all relevant Experts. The amendment of these By-Laws by the Expert Committee as referred to in the preceding sentence shall require the approval of the General Meeting adopted by a resolution with a majority of at least eighty per cent. (80%) of the votes, or which approval is adopted in accordance with article 32.1 of the Articles of Association; and
 - (b) the General Meeting. The amendment of these By-Laws by the General Meeting shall require a resolution thereto adopted with a majority of at least eighty per cent. (80%) of the votes, or can be adopted in accordance with article 32.1 of the Articles of Association.
- 15.3 *Voting of the General Meeting.* If in these By-Laws reference is made to the adoption of resolutions by the General Meeting with a certain majority of the votes, article 1.3 of the Articles of Association applies *mutatis mutandis* to the adoption of these resolutions by the General Meeting.
- 15.4 *Language.* All communication under these By-Laws, including but not limited to resolutions and notices, shall be in the English language and all meetings shall be conducted in the English language as well.
- 15.5 *Governing law and jurisdiction.* These By-Laws are governed by the laws of the Netherlands. Any dispute arising from or in connection with these By-Laws (including any dispute regarding the existence, validity or termination of these By-Laws) shall be settled in accordance with article 36 of the Articles of Association.
- 15.6 *Complementarity to Articles of Association and Internal Regulations.* These By-Laws are complementary to the provisions governing the Expert Committee, the Initial Board of the Expert Committee and the Objection Board of the Expert Committee as contained in Dutch law, other applicable Dutch regulations, the Articles of Association and the Internal Regulations. Where these By-Laws are inconsistent with Dutch law, other applicable Dutch regulations, the Articles of Association and/or the Internal Regulations, the latter shall prevail.
- 15.7 *Partial invalidity.* If one or more provisions of these By-Laws are or become invalid, this shall not affect the validity of the remaining provisions. The Expert Committee, subject to the prior approval of the General Meeting, may replace the invalid provisions by provisions which are valid and the effect of which, given the contents and purpose of these By-Laws is, to the greatest extent possible, similar to that of the invalid provisions.

Annex 1

List of definitions

1. In the By-Laws, the following terms have the following meanings:

Save as otherwise set out below or otherwise in this Annex, words and expressions defined in the Articles of Association and the Internal Regulations have the same meaning in these By-Laws.

“Articles of Association” means the articles of association (*statuten*) of the Association, as amended from time to time.

“Association” means International Licensing Platform Vegetable, an association incorporated under the laws of the Netherlands (*vereniging*) and having its official seat (*statutaire zetel*) in The Hague, the Netherlands.

“By-Laws” means the by-laws of the Expert Committee, including the annexes attached thereto.

“Chairman” has the meaning attributed thereto in article 2.4.

“Deputy Chairman” has the meaning attributed thereto in article 4.1.

2. Save where the context dictates otherwise, in the Expert Committee By-Laws:

- (a) words and expressions expressed in the singular form also include the plural form, and vice versa;
- (b) words and expressions expressed in the masculine form also include the feminine form; and
- (c) a reference to a statutory provision counts as a reference to this statutory provision including all amendments, additions and replacing legislation that may apply from time to time.

3. Headings of articles and other headings in the Expert Committee By-Laws are inserted for ease of reference and do not form part of these By-laws for the purpose of interpretation.

Annex 2

Guidelines to the Expert Committee

Starting point of the International Licensing Platform is bilateral agreement on the Remuneration by the Patentee Member and the Requesting Member.

In case the two Members involved fail to agree on the Remuneration the Expert Committee will be requested to decide on the Remuneration pursuant to article 6 of the Internal Regulations.

In order to make the right decision between the two proposals for the Remuneration that will be submitted by the Members involved, the Expert Committee will act independently and base its professional judgment on its knowledge and experience and in accordance with the following principles:

1. The leading principle of the Remuneration is that both the Patentee Member and the Requesting Member are able to obtain a reasonable benefit (win-win). Added value of the invention and customary license rates in the industry should be used as guiding principles.
2. The Expert Committee will only consider a correction of the MFN Percentage under article 6.12 of the Internal Regulations as substantial if the correction is relatively speaking (i.e. as a percentage of the existing MFN) or absolutely speaking (i.e. the absolute number of the difference of the existing and proposed adjustment of the MFN) substantial.