

# Association NetCOMM SUISSE

## *E-commerce & Digital Network*

Articles of Association of NetCOMM SUISSE, the Swiss association of operators in electronic commerce (e-commerce) and digital communication.

04/07/2012

## **Contents**

- A) GENERAL PROVISIONS
  - Art. 1 Company name and registered office
  - Art. 2 Purpose
  - Art. 3 Binding provisions
  
- B) MEMBERS
  - a) Categories and types of Members
    - Art. 4 Categories of Members
  - b) Acquisition and loss of membership
    - Art. 5 Membership
    - Art. 6 Cessation, resignation and exclusion
  - c) Effect of membership
    - Art. 7 Membership rights
  
- C) ORGANISATION
  - Art. 8 Governing bodies
    - a) General Meeting
      - Art. 9 Functions of the General Meeting
      - Art. 10 Ordinary General Meeting
      - Art. 11 Extraordinary General Meeting
      - Art. 12 Voting rights of Members
      - Art. 13 Adoption of resolutions
      - Art. 14 Entry into force of resolutions
    - b) Executive Committee
      - Art. 15 Composition, election and constitution
      - Art. 16 Representation and signature
      - Art. 17 Organisation
      - Art. 18 Duties and powers of the Executive Committee
    - c) Auditors
      - Art. 19 Functions
  
- D) FINANCES
  - Art. 20 Financial year and financial statements
  - Art. 21 Assets and liabilities of the Association

Art. 22 Liability

Art. 23 Membership fees

Art. 24 Invoicing and distribution

E) ARBITRATION

Art. 25 Arbitration

F) DISSOLUTION

Art.26 Cases

ENTRY INTO FORCE OF THE ARTICLES OF ASSOCIATION

## **A. GENERAL PROVISIONS**

### **Art. 1 Company name and registered office**

In accordance with Article 60 et seq of the Swiss Civil Code, the association “NetCOMM SUISSE” is hereby constituted.

### **Art. 2 Purpose**

The association has as its purpose to:

- a. Represent the super-corporate interests of Members and stimulate cooperation among enterprises operating in the electronic commerce (e-commerce) and digital communication sectors through the exchange of knowledge and experience among Members.
- b. Create and maintain favourable conditions in all sectors for associated enterprises.
- c. Promote, independently or in collaboration, all initiatives that can contribute to the knowledge and diffusion of topics, services and technologies related to e-commerce and digital communication in general.
- d. Work for the sector to develop digital market.
- e. Prepare and distribute to its Members and, if appropriate, to the public, programmes, videos, booklets, brochures and other hard copy documents or electronic media on electronic commerce and digital media in general.
- f. Disclose the results of public or private research (e.g., commissioned by the Association) related to e-commerce and other digital media.

The Association is a non-profit, politically and religiously neutral association. The Association may undertake securities, real estate and financial transactions related to the same in order to attain its object.

### **Art. 3 Binding provisions**

The Articles of Association, Regulations and Resolutions of the Association shall be binding for all Members.

## **B. MEMBERS**

### **a. Categories and types of Members**

#### **Art. 4 Categories of Members**

The Members of the Association fall into three (3) categories :

- a. Founding Members.
- b. Honorary Members.
- c. Ordinary or Associate Members.

#### **a. Founding Members**

The Founding Members are:

- Serse Bonvini
- Alessandro Marrarosa
- Carlo Terreni

#### **b. Honorary Members**

Legal persons that have made a distinguished contribution in favour of the Association may be appointed as Honorary Members. Honorary Members are appointed by the General Meeting on the proposal of the Executive Committee.

### ***c. Ordinary (or Associate) Members***

Legal entities and persons with an interest in the attainment of the purposes listed in Article 2 of these Articles of Association may be appointed as Ordinary Members.

## **b. Acquisition and loss of membership**

### **Art. 5 Membership**

Membership requests may be sent at any time to the Executive Committee in writing. The Executive Committee decides on acceptance by resolution.

Members may appeal against the decision of the Executive Committee to the General Meeting within 30 days of receipt of the decision.

### **Art. 6 Cessation, resignation and exclusion**

Membership shall cease:

- a. upon written resignation tendered at least six months before the end of the calendar year to the Executive Committee;
- b. upon dissolution of the legal entity;
- c. upon exclusion ordered by the Executive Committee, e.g., for non-payment of annual fees.

Members may appeal against the decision of the Executive Committee to the General Meeting within 30 days of receipt of the decision.

Members who have resigned or who are excluded lose their status as Members of the Association and, consequently, have no rights to any part of the Association's assets. Such Members, and their successors and assigned, shall remain liable to the Association for all obligations deriving from their membership and for all current and overdue membership fees.

## **c. Effect of membership**

### **Art. 7 Membership rights**

All categories of Members enjoy full membership rights.

All Members have equal voting rights (one vote per Member). Voting rights in General Meetings may be exercised by all Members up to date with payments.

## **C. ORGANISATION**

### **Art. 8 Governing bodies**

The Association's governing bodies are:

- a. the General Meeting.
- b. the Executive Committee.
- c. the Auditors, in their capacity as internal control entities.

d. the Scientific Committee (if appointed and whose tasks are governed by the Association's Regulations).

#### **a. General Meeting**

#### **Art. 9 Functions of the General Meeting**

The General Meeting is the supreme body of the Association.

The Members meet in General Meetings, which may take the form of an Ordinary or Extraordinary General Meeting.

General Meetings are coordinated and moderated by one or more Members of the Executive Committee.

Voting takes place by a show of hands. The votes shall be counted by the Secretary (if appointed) and/or the Coordinator/s of the General Meeting.

General Meetings are called by the Executive Committee. The notice of call and timing are governed by the Association's Regulations.

Votes are **not** transferable among Members to another Member with voting rights.

#### **Art. 10 Ordinary General Meeting**

The Ordinary General Meeting shall take place every third Friday of May at 4:00 pm. The Executive Committee may change the date, provided it is within the first four months of the year.

The Ordinary General Meeting shall have the following irrevocable responsibilities:

- a. Appointing among the Members the two components of the Executive Committee who are not the Founding Members, since these latter are rightful Members.
- b. Appointing the Honorary Members.
- c. Appointing the Auditors.
- d. Approving the year-end financial statements and Auditors' Report.
- e. Determining changes to membership fees and any other contributions from Members.
- f. Deciding on matters placed on the agenda by the Executive Committee concerning the administration and operation of the Association.
- g. Deciding on appeals on the admission and exclusion of Members.

The Executive Committee shall draw up the items on the agenda, including the proposals of the Members. Any Member may request the inclusion of any item on the agenda for the General Meeting. Such request shall be made in writing, together with a brief explanation, four (4) weeks prior to the General Meeting.

An Ordinary General Meeting can never be converted into an Extraordinary General Meeting.

The items on the agenda of the Ordinary General Meeting may be modified with the agreement of three-quarters (3/4) of the Members on a proposal and the approval of at least two of the Founding Members.

#### **Art. 11 Extraordinary General Meeting**

The Extraordinary General Meeting shall have the following irrevocable responsibilities:

- a. Removing two Members of the Executive Committee that are not Founding Members.
- b. Removing Auditors and, if appropriate, appointing new ones.
- c. Drawing up and amending the Articles of Association.
- d. Dissolving and consequently liquidating the Association.
- e. Deciding on any other matters put forth by the Executive Committee.

The Executive Committee may call an Extraordinary General Meeting at any time if at least three (3) of its Members request it.

The Executive Committee shall call an Extraordinary General Meeting if one-fifth (1/5) of the Members request it in writing. The request shall specify the items to be put on the agenda and the reasons therefor. The names of the Members making the request shall also be specified.

The Extraordinary General Meeting shall take place within eight (8) weeks of the request. The place, date and items on the agenda shall be made known to the Members three (3) weeks prior to the Extraordinary General Meeting.

The Extraordinary General Meeting shall always be moderated by at least one of the Founding Members.

The items on the agenda of the Extraordinary General Meeting cannot be modified.

#### **Art. 12 Voting rights of Members**

All Members in attendance have the same voting rights. The transfer of voting rights is not permitted.

In the case of a resolution on the approval of the actions of Members, a juridical act or a dispute between a Member and the Association, the Member in question shall be excluded from the right to vote.

#### **Art. 13 Adoption of resolutions**

At the Ordinary General Meeting each Member (Founding, Honorary and Ordinary) is entitled to one vote; in first call, decisions shall be taken by simple majority (50% + 1 of those present), provided at least 30% of those entitled to vote are in attendance.

In second call, the Ordinary General Meeting shall be validly constituted irrespective of the number of those in attendance and entitled to vote. Decisions shall be taken by simple majority (50% + 1 of those present).

The Extraordinary General Meeting in first call shall be validly constituted with the presence of as many Members as represent at least two-thirds (2/3) of the total votes. In second call, the Extraordinary General Meeting shall be validly constituted irrespective of the number of those in attendance.

For voting purposes, decisions shall be taken with the favourable vote of three-quarters (3/4) of the voters attending the Extraordinary General Meeting.

Decisions concerning amendments to the Articles of Association shall be valid with the approval of four-fifths (4/5) of those entitled to vote and the favourable vote of at least two Founding Members.

#### **Art. 14 Entry into force of resolutions**

Resolutions of the General Meeting shall enter into force for the Members 30 days after the decision of the General Meeting, unless this latter decides on a different date for entry into force.

#### **b. Executive Committee**

#### **Art. 15 Composition, election and constitution**

The Executive Committee is the executive body of the Association. It shall be comprised of the three Founding Members and may be expanded to include 2 (two) additional Members elected by the General Meeting. The Executive Committee manages, coordinates and puts into operation the activities of the Association in pursuit of this latter's purpose. The Executive Committee is granted powers of ordinary and extraordinary management of the Association, with the power to issue powers of attorney and engagements to third parties (even non-Members) for certain acts or categories of acts.

The Founding Members are rightful Members of the Executive Committee and are automatically eligible for re-election. The duration of office for the two additional Members of the Executive Committee shall be five years commencing at the conclusion of the General Meeting at which they were elected. These Members are eligible for re-election, but not automatically.

#### **Art. 16 Representation and signature**

Within the scope of external relations, the Association is normally represented by the Chairman of the Association and the Vice-Chairman (if appointed).

The Members of the Executive Committee have the power of joint signature. The Executive Committee may issue different regulations concerning signatures in specific cases.

#### **Art. 17 Organisation**

The Executive Committee shall be called at the request of the Chairman or two other Members of the Executive Committee, of whom at least one must be a Founding Member. The Executive Committee shall be validly constituted with the presence of the majority of its Members. Invitations calling for the Members to convene shall be sent two (2) weeks prior to the Meeting.

Resolutions passed by circulation of documents are permitted.

At the first Meeting after its constitution, the Executive Committee shall choose among one of its Members to be its Chairman, who shall be one of the three Founding Members. A Vice-Chairman may also be elected to replace the Chairman in the event that this latter is unable to serve. The Vice-Chairman shall be elected among the Members of the Executive Committee. The Chairman and the Vice-Chairman, if any, shall be elected with the simple majority of the Members of the Executive Committee (3 Members). The Executive Committee may delegate all or part of its duties and powers to the Chairman, establishing the duties and limits. The duration of the Chairman's office shall be established by a specific Regulation.

#### **Art. 18 Duties and powers of the Executive Committee**

The Executive Committee may exercise all the powers that are not reserved to the General Meeting or to other bodies under the law or the Articles of Association.

In particular, the Executive Committee shall have the following powers:



- a. Managing the Association and issuing the necessary instructions.
- b. Defining the organisation.
- c. Appointing the Chairman.
- d. Instituting a Secretariat, if necessary, supervising its actions, and issuing Regulations on its organisation.
- e. Deciding in first instance on the admission and exclusion of Members.
- f. Preparing the General Meeting and, more specifically, presenting the annual report on the financial statements and the annual draft financial statements.
- g. Constituting, if necessary, a Scientific Committee, commissions and permanent and ad hoc work groups, electing their respective Chairmen, and issuing Regulations on their organisation.

### **c. Auditors**

#### **Art. 19 Functions**

The General Meeting shall appoint the Auditors (at least 2). The Auditors, in their capacity as internal control entities, shall verify the final financial statements drawn up and approved by the Executive Committee, and shall prepare a report to be submitted to the General Meeting. The Auditors shall be appointed for three (3) years. The Auditors may be re-elected and remunerated.

## **D. FINANCES**

#### **Art. 20 Financial year and financial statements**

The Association's financial year coincides with the calendar year.

The Executive Committee shall be responsible for drawing up the annual year-end financial statements.

#### **Art. 21 Assets and liabilities of the Association**

The Association is a non-profit organisation that does not pursue financial interests.

The Association's expenses are covered by membership fees, financing and loans from sponsors, supporters, other proceeds, and subsidies of every kind.

The revenues and expenditures of the Association shall be kept balanced during the financial year. The future fulfilment of major commitments must be guaranteed through the establishment of reserves.

#### **Art. 22 Liability**

Only the assets of the Association are liable for its debts. The personal liability of the Members is expressly excluded.

#### **Art. 23 Membership fees**

All Members shall pay an annual membership fee. The Association's Honorary and Founding Members shall be exempt from paying full membership fees.

Membership fees shall be paid on 1 January of each year. Members joining during the year shall pay the entire membership fee within 30 days of joining.

The amount of the membership fee shall be established by the Executive Committee upon constitution. Any changes to the membership fees shall be defined by the Executive Committee.

#### **Art. 24 Invoicing and distribution**

Invoicing and the collection of all membership fees shall be entrusted to the Association's Secretariat (if appointed) or the Executive Committee.

### **E. ARBITRATION**

#### **Art. 25 Arbitration**

Any disputes, divergences of opinions or claims among Members arising from the Articles of Association, the Regulations or resolutions of the Executive Committee or of other bodies, or in any case related thereto, including those concerning the validity, nullity, violation or the purpose of such deeds, shall be referred to arbitration in compliance with the provisions contained in the Swiss Code of Civil Procedure (CPC) and in the Swiss Federal Act of Private International Law (LDIP).

The arbitration tribunal shall be comprised of three arbitrators (one of whom among the Association's Founding Members). The place of arbitration shall be the Association's registered office. The language of arbitration shall be Italian. In proceedings between Members from different linguistic regions, translation shall be provided.

### **F. DISSOLUTION AND AMENDMENTS TO THE ARTICLES OF ASSOCIATION**

#### **Art. 26 Cases**

The dissolution of the Association may be decided with the consent of 80% of the membership and the favourable vote of at least two Founding Members convened for an Extraordinary General Meeting.

Upon dissolution of the Association, the assets of the Association shall be transferred to an institution that pursues the same or a similar aim.

Any circumstances not envisaged in these Articles of Association shall be decided and regulated by the Founding Members.

## **ENTRY INTO FORCE OF THE ARTICLES OF ASSOCIATION**

These Articles of Association have been approved by the Ordinary General Meeting of 4 July 2012 and entered into force on said date.

The Founding Members:

.....  
***Serse Bonvini***

.....  
***Alessandro Marrarosa***

.....  
***Carlo Terreni***

## ENTRY INTO FORCE OF THE ARTICLES OF ASSOCIATION

These Articles of Association have been approved by the Ordinary Constituent General Meeting of 4 July 2012 and entered into force on said date.

The Founding Members:

*signature*

.....

**Serse Bonvini**

*signature*

.....

**Alessandro Marrarosa**

*signature*

.....

**Carlo Terreni**