

# OPENRAIL ASSOCIATION

Abbreviated "OpenRail"

INTERNATIONAL NON-PROFIT ASSOCIATION OF BELGIAN LAW (AISBL)

Avenue des Arts 53 - 1000 Brussels, Belgium

## STATUTES

This public version of the OpenRail Statutes is the English translation of the official version in French, personal data exempted.

*This public version of the OpenRail Association's Statutes is the English translation of the official Statutes and deed of incorporation, personal data exempted. The original version of this document written and signed in French is available at the OpenRail Association (OpenRail Aisbl) upon request.*

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## PART I: CONSTITUTION – DENOMINATION – HEADQUARTERS - DURATION

### Article 1: Designation

An international non-profit association under Belgian law is hereby established under the name of “**OpenRail Association**”, in short “**OpenRail**”.

The full or abbreviated name may be used.

### Article 2: Headquarters and contact information

The OpenRail Association headquarters are domiciliated in the judicial district of the Brussels Capital Region, at 53 Avenue des Arts, 1000 Brussels.

The headquarters may be moved anywhere within Belgium upon decision by the Board of Directors, as long as this move does not require a change in the language of the Statutes. It may be transferred to another linguistic region within Belgium by a decision of the General Assembly.

Any transfer of the headquarters must be filed with the administration service of the commercial court and be published in the annexes to the Belgian Official Journal (Moniteur belge).

The electronic address of the association is [contact@openrailassociation.org](mailto:contact@openrailassociation.org).

The association’s website is available at <https://openrailassociation.org>.

### Article 3: Duration and language

The association is created for an unlimited period. It may be dissolved at any time by a decision of the General Assembly.

The official language of the association for official documents and interactions with Belgian authorities shall be French.

All documents requiring official publication in accordance with the AISBL Law shall be produced in French and shall be made available to the association’s members in English.

The working language of the association shall be English.

### Article 4: Unselfish purpose of the association and activities

The association’s objective is to contribute to the technical and scientific progress in railway transport through interoperability, thus enabling the operation of the rail system through digital open-source technologies.

To achieve this objective, the international association’s activities are as follows:

- Provide an open space to enable innovation and open-source software development for the use of the railway sector,

- Concentrate the effort made by natural persons and companies around the world to facilitate independence, sustainability, and a mastery of the railway information system,
- Contribute to the technical, technological, and scientific progress related to the transport and operation of the railway system,
- Contribute to developing digital technologies linked to the railway system in a collaborative and shared way by working in open-source projects,
- Host open-source projects for the benefit of the railway system,
- Create and lead a community around these open projects in compliance with the Competition Law,
- Set up cooperation with research and educational establishments,
- Promote specific skills within the framework of an open-source community,
- Implement initiatives that are likely to further the achievement of its purpose, in particular by fostering collaborative development to support the evolution of open-source projects,
- Manage intellectual property rights, if any, in accordance with the open principles governing the hosted projects,
- Organise and/or participate in conferences and events around the world, and manage sponsorship of these conferences and events,
- Cooperate with other charities, voluntary organisations and statutory authorities and exchange information,
- Employ and/or second personnel, while necessary, for the accomplishment of the necessary work.

The association will be able to carry out any other activity, in compliance with Belgian law, which may aid the achievement of the association's purpose, subject to *subsequent approval* by the General Assembly.

It can perform all activities that are directly or indirectly related to this purpose.

In particular, it may lend its support and take an interest in any activity similar to its own.

## **PART II: NUMBER OF MEMBERS - CATEGORIES - ADMISSION - TERMINATION - EXCLUSION**

### **Article 5: Number of members**

The number of possible members is not limited.

There shall be a minimum of two (full) members. The first members are the founders listed below.

## **Article 6: Four categories of membership**

The association has four (4) membership categories: Platinum, Gold, Silver, and Associate.

The Platinum, Gold and Silver categories are open to corporate members only.

The fourth membership category, which is Associate Member, is reserved for legal entities which are academic institutions and/or non-governmental organisations.

The membership category is chosen by the member when joining the OpenRail Association.

It can be changed at the end of each year of membership upon request, addressed to the Board of Directors which will give its opinion.

Mandates held by the member companies' representatives within the OpenRail Association shall be carried out *intuitu firmae* by natural persons in their quality as mandated representatives of the respective member companies.

The founding members are the initial Platinum members. As part of this, they have the same rights and obligations as all the other members of this category.

## **Article 7: Accession**

Applications for membership shall be submitted according to the conditions described hereafter in points 7.1 and 7.2.

One application for membership shall be submitted per legal entity. For a group of companies, the membership shall cover the parent company and its affiliated enterprises and/or subsidiaries.

### **7.1. Administrative conditions**

To become a member, the company needs to complete the following documents online:

- A generic accession form requiring the future member's commitment to respect the OpenRail Association's Statutes, Internal Regulations and/or any other internally binding document (if any).
- An information form containing information on the company wishing to accede.
- Applications will be submitted to the Board of Directors, which will give an answer within 90 days.

### **7.2. Financial conditions**

Membership is free of charges for Associate Members.

Platinum, Gold, and Silver Members shall pay the fee related to their membership category.

The annual fees shall be decided upon and revised each year by the Board of Directors, with approval by the General Assembly.

The fees shall be due from the 1 January of each year and payable within 3 months.

## **Article 8: Termination**

The members are free to withdraw their membership at any time by notifying the Board of Directors in writing.

The termination shall come into effect at the end of the month during which the notice was received and does not require any decision from the association.

The end of activity, the absence of payment nine (9) months after they are due, a change in activity, bankruptcy, judicial reorganisation proceedings or dissolution (voluntary or judicial) of the legal entity is treated as a termination as of the date of the aforementioned event.

The any fees already paid by a withdrawing member shall not be reimbursed.

All of the work documents produced for the association are the intellectual property of the association and shall be returned to the Board of Directors when terminating membership within a reasonable timeframe.

## **Article 9: Exclusion, contesting and suspension**

### **9.1. Exclusion**

A member of the association shall be excluded for failure to carry out one or several duties listed in Article 12 and/or in the association's internally binding documents (internal regulations, general compliance policy, code of conduct, etc.).

The decision to exclude a member is made by the General Assembly with a two thirds majority of the members (voting quorum).

Before announcing the exclusion of a member, the Board of Directors will contact the latter to clarify the situation and will then submit a recommendation to the General Assembly.

The member whose exclusion has been placed on the agenda of the General Assembly will then have the right to provide explanations before the General Assembly.

The decision to exclude a member is communicated to the General Assembly by the Board of Directors.

This is followed by the immediate suppression of all the member's access rights to the association's services and the suppression of all the rights associated with its membership category.

All of the work documents produced for the association are the intellectual property of the association and shall be returned to the Board of Directors in the case of a definitive exclusion (absence of appeal or confirmed after appeal).

### **9.2. Appeal**

The General Assembly's decision can be contested by the member within 90 days.

The appeal shall be addressed in writing to the Chair of the Board of Directors who will call



an extraordinary session of the General Assembly with the agenda item of confirming or overturning the exclusion of the member in question, after hearing the member's defence once again.

Should the excluded member be a Platinum member, the opinion of the Board of Directors is required.

Should the excluded member not contest the decision of the General Assembly, the exclusion becomes effective on the 91st day following the date the decision was made.

### 9.3. Suspension

A member can be suspended either upon its request or upon decision of the Board of Directors for one of the following reasons:

1. Non-compliance or inability to comply with the association's statutory provisions and/or internal regulations, with or without referral to arbitration or mediation.
2. Non-compliance or inability to comply with the association's applicable General Compliance and/or Antitrust Policy, Code of Conduct and/or Trademark Policy (if any).
3. If, through its actions and/or public statements, either by its own doing or as a result of an exceptional contextual situation that prevents it from respecting the provisions and documents listed in points 1 and 2, the member in question obstructs the activities of the association and/or represents an imminent threat to the continuation of its activities.
4. Non-payment of its financial obligations.

For operational reasons, the decision to suspend the member in question is effective and immediately. The direct consequence of this decision is the immediate removal of all the member's access rights to the association's services and the removal of all the rights associated with its membership category.

The decision to suspend a member will be submitted to the General Assembly for confirmation at its first ordinary meeting following the decision, unless the situation has evolved, and the suspension has been lifted in the meantime. In the latter case, the General Assembly shall be notified of this change.

In case of a suspension for the reasons listed in point 3, an extraordinary General Assembly may be convened to confirm the suspension and the conditions for it being lifted.

### **Article 10:**

The renewed accession of a former member of the association may be accepted in compliance with the rules for applying for membership given in Article 7. If the membership was terminated due to non-payment of membership fees, the member must first settle all outstanding debts, unless the General Assembly decides otherwise.

## **PART III: MEMBERS' RIGHTS AND DUTIES**

### **Article 11: Members' rights**

The members of the association have the following rights:

1. Take part in and be informed, by all the communication means employed by the association, about the association's activities, progress, work programmes, research direction, results, outputs, and their use.
2. In compliance with the rights related to their membership category, take part in the decision-making process of the association through the OpenRail Association's Board of Directors and General Assembly.

### **Article 12: Members' duties**

The members of the association have the following duties:

1. Respect the association's statutes, internal regulations (if any), terms of reference (if any), terms and conditions related to licenses for the use of the community outputs, as well as all the association's internally binding documents, such as its General Compliance and Antitrust Policy, Code of Conduct, Trademark Policy, etc.
2. Fulfil the financial obligations related to their membership category on time.
3. Fulfil the contributions related to their membership category on time.
4. Allow the OpenRail Association to use and display their names and logos on the OpenRail Association's website(s) and any other communication support where members' names and logos are similarly displayed, pursuant to the terms of the OpenRail Association Membership Accession Form.

### **Article 13: Monitoring members' rights and duties**

#### **13.1. Monitoring body**

The body in charge of monitoring that the members' respect their rights and obligations is the association's Board of Directors.

Any member who feels that its rights have been infringed upon or that it has been the victim of treatment different from that accorded to all the members of the association, may refer to the Board of Directors.

In this situation, a communication in writing (letter, e-mail) shall be addressed to the Chair of the Board of Directors, explaining the situation, and asking for a decision.

The Board of Directors shall come to a decision within 45 days and give a written response within this timeframe.

### 13.2. Mediation and conflict resolution

Should the affected member not be satisfied with the decision made by the Board of Directors according to the steps described in Article 4.4.1 above, it can ask for its query to be submitted to the Commission for Mediation and Conflict Resolution.

This commission shall be established on ad-hoc basis, upon the request of a member, solely for the specific situation described above.

It shall be composed of:

- 3 members of the Board of Directors, including the association's Chair
- 3 members of the association's General Assembly from amongst all the members. One of these volunteers shall be from the same membership category as the member having requested the mediation and conflict resolution procedure

The Commission for Mediation and Conflict Resolution shall meet within 45 days from the date of the affected member's request. The latter shall attend this meeting in-person or remotely or be represented by a member of the same category in proxy.

In order to make decisions, the Commission shall vote with a simple majority, with each member of the Commission holding one vote. In the event of a tied vote, the Chair shall have the casting vote.

The decision of the Commission for Mediation and Conflict Resolution is final and irreversible, with immediate effect.

The member concerned shall be informed of the decision in writing, which shall then be released for the public consultation of all the members of the association, no later than 30 days following the date of the session.

## PART IV: GENERAL ASSEMBLY - COMPOSITION - MEETINGS- DELIBERATION

### Article 13: Description and composition

The General Assembly is the decision-making body of the association. Its decisions are binding for everyone, even absent or dissenting members.

All members of the association are represented in the General Assembly.

Each member shall have at least 1 (one) mandated representative, of whom the association has been notified, representing it at the General Assembly. The General Assembly is chaired by the Chair of the Board of Directors, or if absent, by another member of the Board of Directors.

### Article 14: Powers

It has the powers granted to it by law or by these Statutes.

In particular, it has the following powers and competencies:

- Approval of the Board of Directors' annual report, budget, and accounts
- Vote on releases of liability (disclaimers/full discharges)
- Elect members to the Board of Directors and decide on the content of their mandates (remuneration, duration, etc.)
- Determine the association's general policies to guide the Board of Directors, which include:
  - o Endorse the association's long and mid-term strategic plan
  - o Endorse the association's annual operational and financial action plan for the upcoming year, including budget and fees
- Exclude members
- Appoint and dismiss the statutory auditor and the fixing of their remuneration
- Set the annual membership fee on the basis of the proposals made by the Board of Directors
- Modify the statutes
- Voluntarily dissolve the association.

## **Article 15: Meetings**

### **15.1. Ordinary General Assemblies**

Each year, an ordinary general meeting is held during the month of June at the association's headquarters or at any other place indicated in the meeting invitation.

### **15.2. Extraordinary General Assemblies**

An extraordinary General Assembly may be held in one of the following cases:

- On the initiative of the Chair of the Board of Directors
- At the request of the Board of Directors or one of its members
- At the request of 1/5 of the members

### **15.3. Convening**

The Board of Directors convenes the General Assembly and decides on the agenda, the location, date, and time of the General Assembly.

However, if a request is made by at least one fifth (1/5) of the members, they may make up for the Board's "failure to act" (convening the meeting, setting the agenda, location, date, and time).

A written invitation, sent by normal post or by email addressed to each member, shall be sent at least 15 days before an ordinary GA meeting, and 7 days at the very latest before an extraordinary GA meeting.

The invitation shall include the agenda and any documents on which the assembly will be asked to vote (annual accounts, management reports, etc.).

The GA plenary meetings may be held in-person or remotely, via the technical and logistical means provided by the OpenRail Association. Any information related to the venue and/or connection details shall be provided along with the invitation and agenda of the meeting.

#### 15.4. Representation

Should a member be unable to attend, in-person or remotely, it will give proxy to a member of the same category. In the absence of a proxy for a given GA, the member in question shall be considered neither present, nor represented.

A member may accept up to 2 (two) proxies and thus represent up to 2 (two) members of its category, excluding itself. A proxy is only valid for a single session.

Minutes containing an exhaustive list of the issues discussed during the meeting and a record of decisions made for each item shall be written out. The final document shall be signed by the Chair and be addressed to all the members of the association within the 30 days following the meeting.

### Article 16: Deliberation

#### 16.1. Attendance quorum

The General Assembly is able to make decisions if at least two thirds of its full members attend or are represented.

#### 16.2. Voting quorum

Decisions shall be made with a simple majority of 51% of the attending and represented members. A majority of 2/3 of the attending and represented members is required for the situations listed below:

- Changes to the Statutes
- End of activity, dissolution, or liquidation

In the event of a tied vote for or against a proposal, the Chair of the Board of Directors shall have the casting vote.

#### 16.3. Deliberation rules

The General Assembly shall only deliberate on the items given in the agenda.

The ordinary decisions of the General Assembly (GA) are made with a show-of-hands vote if the meeting is in-person, or by electronic vote if the meeting is remote or hybrid. Each company shall have one (1) vote.

Irrespective of the type of General Assembly meeting being held, members may opt, upon the proposal of the Chair, to hold a secret ballot if the meeting is in-person, or an anonymous electronic vote if the meeting is remote or hybrid.

Any member may submit an item to be added to the agenda to the Board of Directors, who will add it at least 3 (three) days before the planned General Assembly.

If an item which was not on the agenda is raised during the session, it may be included in the agenda provided that at least three quarters (3/4) of the attending members speak in favour of this.

## **PART VI: ADMINISTRATION - COMPOSITION - POWERS - LEADERSHIP - MEETINGS - DELIBERATIONS - DAILY MANAGEMENT**

### **Article 17: Definition, composition, election**

#### 17.1. Definition

The Board of Directors is the executive body of the association, vested with this power by the association's General Assembly.

#### 17.2. Composition

It is composed of 13 (thirteen) seats shared between the different membership categories as follows:

- 7 (seven) seats for Platinum members
- 3 (three) seats for Gold members
- 1 (one) seat for Silver members
- 1 (one) seat for Associate members
- 1 (one) seat for the Chair of the Technical Committee

In accordance with Article 2:55 of the CSA, when a legal entity is appointed as a director, it must appoint a natural person as its permanent representative to carry out this mandate in the name and on behalf of the legal entity.

Should the number of members in a membership category be lower than the number of seats assigned to that category on the Board, the Board of Directors is entitled to act with the number of seats filled at the time.

The seats are filled as follows:

- If there are more members in a membership category than seats on the Board of Directors for the respective category, the members of the category in question elect, in compliance with Article 17.3, the members of the Board of Directors for their category according to the rules of director elections.
- If there are fewer or equal members in a membership category than seats for the category in question, each member of this category appoints a person to a seat on the Board of Directors.

The Chair of the Technical Committee, being ex-officio member of the Board, cannot hold a second director position, and thereby cannot represent their membership category on the Board.

The list of directors shall be regularly updated by the OpenRail Association and made available to all the members for consultation.

### 17.3. Election:

Each membership category appoints their candidate(s), to be put forward for the position of director(s) on the Board of Directors, within the limit of the number of seats allocated to it.

Elections are organised within the 3 months before the running mandate(s) end, or as soon as a seat becomes vacant, taking the number of seats available for each membership category into account.

Each membership category shall consequently elect its directors within a reasonable timeframe in order to avoid having empty seats on the Board, as follows:

- Platinum members: elections are held every 3 years or as soon as a seat becomes vacant
- Gold members: elections are held every 2 years or as soon as a seat becomes vacant
- Silver members: elections are held every year or as soon as the seat becomes vacant
- Associate members: elections are held every year or as soon as the seat becomes vacant

Each member has the right to apply for a director position in the membership category to which it belongs, subject to the conditions set in the call for applications. Candidates shall submit their applications to the Chair within the given deadline.

All the members of the same category are given information on the candidate(s) for the director position(s) in their membership category, as well as on the date and voting method. This information is released by the General Assembly at least 15 days before the election date.

When electing the directors, each member company has 1 (one) vote and can only vote for one seat, except for the membership categories (Platinum and Gold) in which several seats are available. In these latter cases, members may give one vote to one candidate for each seat within the membership category in question.

Voting can be carried out either in-person or remotely, by a show of hands or by secret ballot, following prior agreement between participants within the membership category in question.

The current BoD chaired by the Chair of the association shall count the votes in the presence of all the candidates having applied for a director's position. Should the vote be held remotely, the result of the vote shall be automatically displayed/shared with all the voting members. The election result shall be announced publicly to all the members of the association as soon as possible.

The composition of the Board of Directors shall be announced to all the members of the association as soon as possible.

## **Article 18: Conditions and the end of a director's mandate**

### **18.1. Mandate duration**

The length of a director of the Platinum category's mandate is 3 (three) years, renewable 3 (three) times, for a total duration of 9 (nine) years. A Platinum member can thus carry out three consecutive mandates. They will only be allowed to apply for a director position again at the end of a transition period of 3 (three) years.

The length of a director of the Gold category's mandate is 2 (two) years, renewable 4 (four) times, for a total duration of 8 (eight) years. A Gold member can thus carry out four consecutive mandates. They will only be allowed to apply for a director position again at the end of a transition period of 2 (two) years.

The length of a director of the Silver and/or Associate category's mandate is 1 (one) year, renewable 5 times, for a total duration of 5 (five) years. A Silver or Associate member can thus carry out five consecutive mandates. They will only be allowed to apply for the director position again at the end of a transition period of 1 (one) year.

### **18.2. End of the mandate**

A director's mandate shall end in one of the following situations:

- Natural coming to an end of the elected director's mandate
- Resignation of the person from the position
- Withdrawal of the mandate given to the person by the company they represent
- Resignation/exclusion of the company they represent from the OpenRail Association
- Dismissal by the General Assembly

## **Article 19: Powers**

In a general sense, the Board of Directors has the power to make all the decisions necessary for the association's smooth management and development of its activities.



It has been vested with all of the prerogatives which have not been legally or statutorily given to the General Assembly.

This includes being able to:

- Convene the General Assembly, Technical Committee and Commission for Mediation and Conflict Resolution, when needed
- Make appropriate decisions to ensure the smooth management and functioning of the association, including the admission of new members and exclusion of existing members
- Establish and review the annual fees, subject to endorsement by the General Assembly
- Prepare decisions and/or recommendations to be approved by the General Assembly
- Decide on whether proposals for projects to be hosted by the OpenRail Association will be implemented as a new *OpenRail Project*

Aside from the powers listed above, the directors also have the following responsibilities while carrying out their mandates:

- Regularly, and at least once a year, take part in the board meetings. If a director is not able to attend these meetings, they can give a proxy for representation to another director belonging to the same membership category or, should they be the only representative of this category, to the Chair of the association
- Take part to the decision-making process within the Board
- Keep the topics discussed within the Board confidential
- Ensure that the association's purposes and objectives are correctly monitored and accomplished through the actions undertaken

## **Article 20: The Chair**

### **20.1. Definition**

The Chair and Vice-Chair (if the position is filled), as well as 2 (two) other directors, appointed by the Chair on a voluntary basis shall represent the association in dealings with third parties.

### **20.2. Designation**

The Chair is elected by the members of the Board of Directors (BoD) via a formal vote to be held with  $\frac{2}{3}$  of the BoD members present and/or represented. The result of this election is then communicated to the members as soon as possible and submitted to the General Assembly for endorsement during its next meeting.

### 20.3. Mandate length

The length of the Chair's mandate is 3 (three) years, renewable once, for a maximum duration of 6 (six) years.

### 20.4. Exclusive prerogatives during the mandate

The Chair's powers are as follows:

- Guarantee that decision-making within the association is based on correct information, transmitted in a top-down and bottom-up manner and is in compliance with these statutes, thus enabling transparency and close cooperation between the members of the association
- Give regular information to the members of the association
- As mandated by the Board of Directors, implement and follow-up any task and/or project required to ensure the association's survival, safeguard its legitimate interests, material and immaterial assets and legacy, if any, in full respect of the Belgian law and the rules of ethical governance and ethical business.

## **Article 21: Meetings**

### 21.1. Ordinary and extraordinary sessions

The Board of Directors shall meet, when necessary (extraordinary sessions), but at least 4 (four), times a year/once per quarter (ordinary sessions).

### 21.2. Convening

The Board of Directors is called to meet in an ordinary session via a written invitation sent out by the Chair, or if absent another director, 15 (fifteen) days before the date of the meeting. The meeting agenda shall be sent within the same timeframe.

For extraordinary sessions, the invitation may be sent out up to 24 hours before the meeting. The Chair shall address it to all the directors and send by e-mail with "read receipts" turned on.

### 21.3. Representation

Should a director not be able to attend in-person or remotely, they will give a proxy to another member of the Board from the same category to represent them. In the absence of a proxy, the director in question shall be considered not present, nor represented.

A member of the Board may accept up to 2 (two) proxies and thus represent up to 2 (two) members of their category, excluding themselves. A proxy vote is only valid for a single session.

## Article 22: Deliberations

### 22.1. Minimum attendance for quorum

To ensure that deliberations are thorough, meetings of the Board of Directors must be attended by at least half of the directors, either present or represented.

### 22.2. Voting quorums (ordinary and extraordinary)

The quorum needed for decision-making in current business is 50% + 1 of the directors.

A special quorum of 2/3 (two thirds) of the directors is needed to endorse and/or arbitrate one of the following issues to be brought in front of the General Assembly for formal endorsement:

- Exclusion of a member
- Changes to the statutes
- End of activity, dissolution, or liquidation of the association

### 22.3. Deliberation rules

Decisions are made by the Board of Directors via a vote, with each director holding 1 (one) vote.

Current operational decisions are made on a consensual basis. If a consensus is not reached, a vote by show of hands may be organised. The result of this vote shall be determined by a simple majority.

In the event of a tied vote (50%-50%), the Chair shall have the casting vote.

However, for decision making for the matters mentioned in point 22.2, paragraph 2, the vote by show of hands may be replaced by a closed ballot if the Chair of the Board of Directors considers it necessary.

Exceptionally, if there are fewer than 7 (seven) board members in the Platinum membership category, and all Platinum board members vote for the same option, their votes are counted as 7 (seven) votes. This exception becomes null and void once the 7 seats reserved for Platinum members have been filled.

## Article 23: Delegation of day-to-day management

The Board of Directors has all the executive, administrative and decision-making powers except for those powers reserved exclusively to the General Assembly.

It may delegate the day-to-day management of the association to its Chair, with the exception of drawing up the budget.

It may also, at its own discretion, confer special and specific powers on one or more persons.

It is notably responsible for:

1. Monitoring the association's activities in response to the statutory objectives
2. Preparing the topics to be addressed in the General Assembly
3. Preparing the agenda for the General Assembly
4. Implementing decisions made by the General Assembly
5. Deciding upon fundamental or highly important issues raised between two General Assemblies, where the decision does not fall to the General Assembly
6. Managing the organisation's assets
7. Managing communication with members and keeping them informed
8. Designate working groups to carry out specifically delegated tasks with certain deadlines

## **PART VII: WORKING BODIES - INCUBATION PROCESS/PROJECTS - INTELLECTUAL PROPERTY RIGHTS**

### **Article 21: Working bodies**

#### **21.1. Common provisions**

Working bodies are created according to the needs of the association. Their creation and dissolution are subject to the endorsement of the Board of Directors.

The Technical Committee (TC) is a permanent and statutory working body of the association.

#### **21.2. Technical Committee (TC)**

The Technical Committee (TC) is the working body in charge of the management and monitoring of the project portfolios, in accordance with the open-source governing and operating principles and best practices.

The Technical Committee decides on its decision-making process and reports to the Board of Directors.

The Technical Committee has the following powers and responsibilities:

- Develop and lead an open-source community around the OpenRail Association, ensure that the association grants and provides equal access to all contributors, proportional to their contributions, merits, and achievements and independent of the membership status and/or category of their organisation
- Manage this community through the association's projects, establish and formalise internal regulations where needed, respecting the OpenRail Association's values and goals, set out criteria for the inclusion of projects into the association's portfolio, and consequently formalise and run processes

- Represent the community which actively contributes the projects hosted by the association
- Appoint a Chair of the Technical Committee, who also becomes an ex-officio member of the Board of Directors. The appointment process and the exact power and responsibilities of the Chair of the TC are defined in the TC Internal Regulations, which are approved by the Board of Directors
- Guarantee the efficient management of the OpenRail Association project portfolio according to the established rules and criteria, monitor them regularly in terms of cost-time-quality indicators, and report to the Board of Directors (BoD) and General Assembly (GA)
- Maintain a framework for project life cycles, providing a way to incubate projects, and to make the maturity of a project clear
- Evaluate the proposals for projects to be hosted by the OpenRail Association and prepare recommendations for the Board of Directors' decisions regarding the implementation of these as a new OpenRail Project or not.

In accordance with the principles laid down in these statutes, the Technical Committee shall determine its internal organisation and functioning processes once it has been created.

These shall be communicated to all the members of the association after the internal regulations have been formally approved by the Board of Directors and General Assembly.

### 21.3. Other working bodies

By request from the members, by recommendation from the Technical Committee, and/or according to the association's needs, the Board of Directors can decide to create working bodies related to specific issues.

Their tasks, purpose, composition, and functioning rules shall be formalised and regularly updated, with information provided to all of the association's members at least once a year during the General Assembly.

### Article 22: Incubation process/projects/project termination

All members or third parties may initiate a project by presenting a project proposal to the Technical Committee or the Board of Directors. A proposal may be based on an existing software project to be transferred to the OpenRail Association or be entirely new.

The Technical Committee will evaluate the project proposal and prepare a decision for the Board of Directors, e.g., with a feasibility assessment and/or analysis of the existing software project.

The Board of Directors will then decide whether the proposal will be accepted as a new OpenRail Project and, in the case of a positive decision, appoint a person or a group of persons who will be responsible for the implementation of the project in accordance with

these Statutes, the principles of the OpenRail Association and the specifications of the project proposal approved by the Board of Directors (e.g., project scope) (maintainer).

Projects to be hosted within the association shall comply with the Open-Source Initiative<sup>2</sup> (OSI) definition and be licensed under open-source license (outbound license) approved by OSI. Access to all outputs will be made available to all members and the public free of charge. The Technical Committee will propose, and the Board of Directors will decide on the licensing terms applicable to each individual project.

The Board of Directors can decide that the OpenRail Association shall no longer host a project if it is no longer compatible with these statutes, or the principles and/or scope of the OpenRail Association.

The contributors and third parties of the project in question are free to continue working on it outside of the OpenRail Association, without claiming any cost reimbursement, compensation and/or restitution of any of the rights for the part(s) of the project developed when it was hosted by the association.

## **Article 23: Intellectual property rights (IPRs)**

### **23.1. Contributions and outputs**

Every contributor contributing to a project or output shall contribute under a license compatible with the outbound license of the project.

If a contributor owns a trademark or trademarks that they use for a contribution or output, they shall transfer such trademark(s), or grant an exclusive, perpetual, sub-licensable and unlimited license (with respect to duration, scope, and territory), to the OpenRail Association. Exceptions can be granted by the Board of Directors at the maintainer's request. The maintainer of the project shall be responsible for ensuring that all contributors – members or non-members – comply with these terms and that no contribution is accepted and/or added to an output if these terms are not met.

### **23.2. OpenRail trademarks**

The OpenRail trademark is a trademark registered by UIC. UIC shall contractually transfer the registered trademark to the association.

The OpenRail and/or OpenRail Association logo(s) and/or any other graphical representation visually identifying the association shall be registered as complementary to the trademark.

The OpenRail Association shall own all trademarks of the hosted projects. Any new project or output trademarks will be registered and maintained at the sole discretion of the Board of Directors, acting on behalf of the OpenRail Association.

Exceptions can be granted through the specific agreement of the Board of Directors.

Policy related to the use of the association's trademark shall be established by the Board of Directors. In any case, the OpenRail trademark shall be used to promote the OpenRail Association, its initiatives, hosted projects, and open-source community.

## **PART VIII: MONITORING**

### **Article 24: Audits**

If the General Assembly deems it useful, or if it is legally required to do so, two auditors and one substitute auditor shall be appointed by the General Assembly for the first time when it is first asked. The auditors are then elected by the General Assembly at each triennial member of the Board of Directors' election, for a three-year term.

The auditors shall check the association's accounts at regular intervals.

They will submit an audit report to the Board of Directors for the previous financial year at least six weeks before the ordinary session of the General Assembly.

The report shall include proposals for releasing the members of the Board of Directors from any liability.

The auditor(s) fees are set by the General Assembly during their nomination.

Incumbent auditors are eligible for re-election.

## **PART IX: BUSINESS YEARS**

### **Article 25: Business year, annual accounts, and annual budget**

The business year begins on the 1 January and finishes the 31 December each year.

The accounts of the previous financial year and the following years' budget are to be submitted annually to the ordinary session of the General Assembly for approval.

They are kept and deposited with the courts administration service of the company's regional competent court and, where applicable, with the National Bank in accordance with the legal provisions.

## **PART X: AMENDMENTS TO THE STATUTES**

### **Article 26: Amendments to the Statutes**

Any member of the Association may request a modification(s) to the statutes by adding an item to the agenda of the next General Assembly, by written request addressed to the Chair, and/or by request during a meeting of the Board of Directors.

The request will be examined at the next meeting of the Board of Directors, with a response being given to the applicant within 1 month (30 days). The response will either be sent by written letter to the applicant or appear in the minutes of the Board meeting.

In the event of a favourable decision by the Board, the request(s) to amend the statutes shall be placed on the agenda of the next General Assembly meeting.

For these modifications to be considered valid, they shall be approved by at least two thirds of the members during an extraordinary General Assembly session.

## **PART XI: DISSOLUTION - LIQUIDATION**

### **Article 27: Dissolution of the association**

The association may be dissolved by:

1. A General Assembly decision, regarding “dissolution”
2. Ipso jure, following a fact or event defined by law or the statutes
3. Court order

#### **27.1. Voluntary dissolution**

An extraordinary dissolution session of the General Assembly shall be convened to deliberate on the dissolution proposal, put forward by the Board of Directors.

The decision to dissolve the association shall be made with a three quarters (3/4) majority of the members present.

If the dissolution proposal is approved, the General Assembly will name one or more liquidators and will determine their competencies.

These nominations shall be passed by simple majority in the General Assembly.

In the cases provided for by the Companies and Associations Code, the appointment of the liquidator(s) must be submitted to the court’s presiding judge for confirmation.

The liquidators have the authority to carry out all of the actions necessary or required for the liquidation, in accordance with Articles 2:121 à 2:122 of the Companies and Associations Code.

In the event of dissolution, members or third parties who have made assets available to the association by agreement are entitled to recover them.

All decisions made regarding the dissolution, the conditions of liquidation, the appointment and termination of the liquidator(s), the conclusion of the liquidation and the allocation of the net assets shall be filed with the courts administration service of the company's local court and then published.



## 27.2. Dissolution as of right, following an occurrence or event defined by the law or in the Statutes

The association will be dissolved as of right in one of the following circumstances:

- End or accomplishment of the objective(s) which were the purpose of the association, or if the association is no longer capable of pursuing this purpose. This shall be duly recorded by the General Assembly and stated in the minutes of the GA meeting in question
- Merger with another legal entity, in which case the merging conditions shall also be submitted for approval the General Assembly
- Division of the association into several legal entities, in which case, the conditions of the division shall also be submitted for approval by the General Assembly

## 27.3. Legal dissolution

The court may, at the request of a member, an interested third party or the public prosecutor, dissolve the association provided that it:

1. Is unable to fulfil its contractual obligations
2. Has used its assets or the income from them for a purpose other than those for which it was set up
3. Has violated the provision forbidding the distribution or receipt of any direct or indirect pecuniary benefit as referred to in Article 1:2 of the Companies and Associations Code, or has contravened this Code or public policy, or seriously breached the Statutes
4. has not complied with the requirement to file the annual accounts in accordance with Article 2:9, Section 1, Subsection 8, or Article 2:10, Section 1, Subsection 8 of the Companies and Associations Code respectively, unless the missing annual accounts are filed before the close of the proceedings
5. Has less than two members

## 27.4. Provisions concerning the association's assets in case of dissolution

In case of the association's dissolution, the assets and legacy of the latter, including the association's existing intellectual property rights (IPRs) and assets shall all be bequeathed to a similar non-profit association with a similar scope, in accordance with the Companies and Associations Code (Code des sociétés et des associations).

## PART XII: GENERAL PROVISIONS - INTERNAL REGULATIONS - CHOICE OF DOMICILE - COMMON LAW

### Article 28: Internal regulations

The Board of Directors will write a set of internal regulations.

These internal regulations may not contain any provisions which:

1. Run contrary to mandatory legal provisions or the Statutes
2. Relate to matters for which the CSA requires a statutory provision
3. Impinge upon the members' rights, the bodies' or organisation's power and on the functioning of the General Assembly

The internal regulations and any modification thereof shall be communicated to the members in accordance with Article 2.32 of the Companies and Associations Code. The statutes shall refer to the latest approved version of the internal regulations. The Board of Directors may modify this reference in the Statutes and publish them.

### **Article 29: Choice of domicile**

In order to carry out these Statutes, any member, direction, authorised representative, or liquidator domiciled abroad shall elect to move their domicile to Belgium. Failing this, they will be deemed to have elected to domicile at the headquarters of the association.

### **Article 30: Reference to common law**

For anything not given in these Statutes, the legal provisions should be referred to.

## **FINAL PROVISIONS**

The founders, present or represented as stated above, shall unanimously implement the following decisions, which will come into force as soon as the association is a legal entity:

### **1. First financial year**

The first financial year begins on the date that the association becomes a legal entity and finishes on the thirty first of December two thousand twenty-three.

The first General Assembly will therefore be held in two thousand twenty-four.

### **2. Beginning of activities**

The association's activities begin on the day of the royal decree which recognises it.

### **3. Nomination of the first directors**

The initial number of directors shall be 4 (four).

Ad initio, the persons authorised to act on behalf of the OpenRail AISBL and to represent it in dealings with third parties are representatives of the founding members.

The following are hereby appointed to the aforementioned positions:

- Nicole GÖBEL, named
- Jochen DECKER, named
- Frédéric NOVELLO, named
- François DAVENNE, named

Unless re-elected, the directors' terms of office will expire at the end of the ordinary General Assembly of 2026.

The director positions are not paid.

#### **4. Audits**

No auditor was appointed as the association did not meet the criteria of Article 3:47 of the Companies and Associations Code for the first financial year.

#### **5. Powers**

Any third party is appointed as the association's ad hoc agent, in order to sign all documents and carry out the formalities required by the authorities with a view to register with the Central Company Database (Banque-Carrefour des Entreprises).

For the above purposes, the ad hoc agent will have the power to enter into any commitments on behalf of the association, make any declarations that may be required, sign any documents, and in general do anything that may be useful or necessary for the execution of the mandate entrusted to them.

#### **6. Commitments made on behalf of the association under formation**

In accordance with Article 2:2 of the Companies and Associations Code, the Board of Directors hereby ratifies all transactions carried out by one or more founders on behalf of the association under formation since the 1<sup>st</sup> of July 2023 into the first financial year of the association.

The Board of Directors releases the persons named above from any liability for transactions carried out in their capacity to promote this association under formation.

## GLOSSARY

For the purpose of these Statutes, the following definitions shall apply:

“**Academia**” refers to the people or organisations concerned with the pursuit of research, education, and scholarship.

“**Code (IT)**” is a text listing of commands to be compiled or assembled into an executable computer programme.

“**Contributions**” are additions to the outputs of projects.

“**Contributors**” can be individuals or organisations, irrespective of if they are members or non-members of the OpenRail Association.

“**Developer**” is a natural person with at least one of the following qualifications:  
(1) technical management experience; (2) software development skills; (3) systems integration skills; (4) testing skills; or (5) documentation skills.

“**IPR**” means Intellectual Property Rights

“**Intuitu firmae**” means on behalf of a company, in a company’s name.

“**Maintainer**” means a person or a group of persons who are responsible for the implementation of a project in accordance with these statutes, the principles of the OpenRail Association and the specifications of the project proposal approved by the Board of Directors (e.g., project scope).

“**Output**” means all code, documentation, specifications, translations and/or any other deliverable produced during the course of a project or contributed to a project hosted by the OpenRail Association.

“**Projects**” in the context of the OpenRail Association, mean one or multiple interconnected open-source repositories governed within the framework and principles set by the Technical Committee, producing outputs. Projects are facilitated by the OpenRail Association by providing infrastructure and governance framework, this is also referred to as being “**hosted**” by the OpenRail Association. See Article 22 - Incubation Process

“**Attendance quorum**” means the minimum number of members, present or represented (by a proxy, which must be in writing), so that a board of directors or a general assembly may regularly make decisions.

“**Voting quorum**” means the number of votes from members, present or represented, so that a proposal submitted for deliberation may be approved by the board of directors or a general assembly (in the form of a resolution)

“**Rail sector**” refers to people and companies whose business is being operators, infrastructure managers, developers, service providers etc. for the benefit of the railway sector.