

## **ARTICLE 1: THE ASSOCIATION**

### **Art. 1, Para 1. Legal form**

The association is being established as an entity with legal personality, more specifically as a not-for-profit association (hereinafter: “VZW”) in accordance with the Act of 27 June 1921 concerning not-for-profit associations and foundations, published in the Belgian Gazette on 1 July 1921 as amended by the Act of 2 May 2002 and the Act of 16 January 2003 (hereinafter, the “V&S Act”).

### **Art. 1, Para 2. Name**

1. The VZW will be called [OWASP Europe].
2. That name must appear in all deeds, invoices, announcements, publications, letters, orders and other documents issued by the association, immediately preceded or followed by the words “vereniging zonder winstoogmerk” (‘not-for-profit association’) or by the abbreviation “VZW”, with a **precise reference to the registered office address**.

### **Art. 1, Para 3. Registered offices**

1. The address of the registered offices of the VZW is [Leinstraat 104A, 9660 Oporbrakel, Belgium], situated in the court district of [Oudenaarde/Brakel].
2. The Board of Directors of the VZW is hereby empowered to move the registered offices to any other place within Belgium, subject to fulfilment of the legal requirements with respect to publication of the move.

### **Art. 1, Para 4. Duration**

The VZW is established for an indefinite period.

## **ARTICLE 2. AIMS AND ACTIVITIES**

### **Art. 2, Para 1. Aims**

The association has set itself the aim of improving the security of application software. The mission of the association is to make application security visible, so that people and organisations can make decisions concerning real software security risks. Every person is eligible to take part in the association and all OWASP materials are available under a free and open software licence.

### **Art. 2, Para 2. Activities**

The concrete activities that will be undertaken in order to achieve the aims of the VZW include, but are not limited to:

organising knowledge-sharing activities, such as meetings, conferences and training sessions; conducting research in conjunction with private parties, governments and academic institutions.

In addition, the VZW may undertake any activities that directly or indirectly contribute to the achievement of the aforementioned not-for-profit aims, including additional commercial and profitable activities within the limits of the law and for which any incomes will be allocated at all times for the achievement of the not-for-profit aims.

## **ARTICLE 3. MEMBERSHIP**

### **Art. 3. Section 1. Working Members**

1. There shall be at least [3] Working Members who shall have all rights as provided for members in the V&S Act.
2. [The following **founding members** are the first Working Members: Sebastien Deleersnyder(Leinstraat 104A, 9660 Oubraken, Belgium) – Eoin Keary (9 The Gardens, Fox Lodge Woods, Ratoath, Co Meath, Ireland) – Tom Brennan (6 Stone Ridge Ct., Rockaway NJ 07866, USA) ].
3. In addition, [any natural and/or legal person and/or organisation] can apply to become a Working Member, subject to the condition that such an applicant [support the mission of OWASP Europe].
4. Candidate Members should submit their application to the [Chair] of the [Board of Directors].
5. The [Board of Directors] shall decide on the application of the candidate Working Member at the first meeting following the application. At the meeting to consider applications, at least [2] members of [the board] must be present [or represented]. The decision concerning an application will be taken by a majority of the [votes cast] by the members of [the board] who are present [or represented].
6. The [choose: Board of Directors] can decide, at its own discretion and without the need for explanation, not to accept a candidate as a Working Member.
7. Working Members have all of the rights and obligations as set out in the V&S Act and these Articles of Association. They pay a membership dues in an amount to be set annually by [choose: Board of Directors] and that will amount to a maximum of [fifty euros (€50)].

### **Art. 3. Section 2. Non-Working Members**

1. Every natural or legal person or organisation that shares the aims of the VZW can apply [choose: in writing] to become a Non-Working Member.
2. The Board of Directors can decide, at its own discretion and without explanation, not to accept a candidate as a Working Member.

3. The rights and obligations of Non-Working Members are only the rights and obligations are set out in these articles of association.
4. Non-Working Members have [choose: voting rights concerning specific matters]

### **Art. 3. Section 3. Resignation**

1. Working Members can resign from the VZW at any time by formal letter [e.g. fax and/or normal letter and/or registered letter] addressed to [e.g. the Secretary of the Board]. The resignation shall take effect [e.g. one month] after the date of that written notification.
2. Non-Working Members can resign from the VZW by [e.g. a verbal or written notification] at any time. The resignation shall take effect [e.g. one month] after the date of that notification.
3. A Working or Non-Working Member who resigns remains liable to pay the membership dues and to participate in the costs that were approved for the year in which the resignation was submitted.

### **Art. 3. Section 4. Suspension of Working Members**

1. The membership of Working Members who have not paid their membership dues for the current year within the period set [choose: by the Board of Directors] will be suspended following a [e.g. first written notice] to remedy the arrears within [e.g. 1 month] of the notification.
2. Working Members who have not paid their membership dues after the remedy period can be considered to be in a condition of resignation.

### **Art. 3. Section 5. Termination of Membership**

1. If a Working Member acts in conflict with the aims of the VZW, his/her membership can be terminated – at the proposal of the Board or at the request of at least 1/5 of all Working Members – by extraordinary decision of the General Meeting. To be valid, the extraordinary decision must be taken at a meeting at which at least [e.g. 1/3] of all Working Members are present [and e.g. also: or represented] and the motion to terminate the membership must be passed by at least a 2/3 majority of votes cast by the Working Members present or represented.
2. The Working Member whose membership has been proposed for termination has the right to be heard.
3. Non-Working Members who act in conflict with the aims of the VZW can be excluded from membership by unilateral decision of the Board of Directors.

### **Art. 3. Section 6. Rights**

1. No Member can enforce or exercise any claim on the assets of the VZW solely on the basis of Membership.
2. This exclusion of rights to the assets is permanently in effect: during membership, upon termination of the membership for any reason whatsoever, upon the dissolution of the VZW, etc.

## **ARTICLE 4. THE GENERAL MEETING**

### **Art. 4. Section 1. The General Meeting**

1. The General Meeting consists of the Working Members.
2. All of the Working Members have [equal] voting rights. Each Working Member has [one] vote.

### **Art. 4. Section 2. Observers**

Observers may attend the General Meeting and, with the permission of the Chair, may address the General Meeting.

### **Art. 4. Section 3. Competencies**

The following competencies are the exclusive domain of the General Meeting:

1. amending the articles of association;
2. appointing and dismissing the directors;
3. appointing and dismissing the external auditor and setting the external auditor's remuneration;
4. discharging the directors and the external auditors;
5. approving the budget and the accounts;
6. the dissolution of the association;
7. exclusion of a member;
8. converting the association into a limited liability company with a social aim.

[all matters where the articles of association so require,] such as, for example:]

1. approving an extraordinary working report by the Chair;
2. approving the action programme drawn up by the Board of Directors;
3. accepting new Working Members;
4. setting the annual membership dues;
5. electing the Chair, the Deputy Chairs, the Treasurer and the Secretary.

#### Art. 4. Section 4. Meetings

1. The annual meetings of the Ordinary General Meeting will be held during [e.g. the second quarter of the calendar year] at [e.g. the registered offices or a place named in the invitation]. The invitation shall be sent to all Working Members **at least** [e.g. 30 days] prior to the date of the General Meeting [e.g. by fax and/or by e-mail and/or by normal post and/or by registered letter to the fax number, e-mail address, postal address or correspondence address, as appropriate, that the Working Member most recently provided to e.g. the Secretary].
2. The meetings will be called by [e.g. the Chair of the Board of Directors or by at least 2 directors acting together]. A draft agenda will be enclosed with the invitation, with each point that was proposed by [e.g. at least 2 directors] or by at least 1/20 of the Working Members [e.g. at least 10 days prior to the meeting] will be placed on the agenda.
3. Special meetings may be called as Extraordinary General Meetings [e.g. by the Chair and/or at the request of at least 2 directors] and at the request of at least 1/5 of all Working Members. The invitation shall be sent to all Working Members at least [e.g. 20 days] prior to the date of the General Meeting [e.g. by fax and/or by e-mail and/or by normal post and/or by registered letter to the fax number, e-mail address, postal address or correspondence address, as appropriate, that the Working Member most recently provided].

#### Art. 4. Section 5. Quorum and voting

1. To be able to deliberate validly, at least [e.g. 1/3 of the Working Members and at least 1/5 of the nationalities of the Working Members must be present or represented]. Decisions are taken by [e.g. simple majority of the votes cast by the members present or represented], except where the V&S Act or the Articles of Association stipulate otherwise.
2. Amending the Articles of Association requires deliberation in a meeting that has a quorum of [2/3 of the Working Members that are present or represented].<sup>1</sup> **If less than 2/3 of the members are present or represented at a first meeting, a second meeting can be called that can deliberate and decide validly and adopt the amendments with the majority set out below, regardless of the number of members present or represented. The second meeting may not be held within 15 days of the first meeting.** The decision is considered to have been approved when a motion to adopt has been accepted by **2/3 of the votes of the Working Members present or represented**. Only if the amendment to the articles of association concerns the aim or the objectives for which the association was established, is a majority of **4/5 of the votes cast by the Working Members present or represented** required.
3. Members who are unable to attend the meeting may be represented by other Members [possibly: or by a third party who is not a Working Member]. Each Member can have a maximum of [e.g. 2 proxies].

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<sup>1</sup> Translator's note: I believe this sentence would make more sense as '2/3 of the Working Members being present or represented', but that is not what the source text says, so I translated it as shown above.

4. Voting can be done by voice vote, by a show of hands, or, if requested by [e.g. at least 1/3] of the Working Members who are present or represented, by secret ballot.
5. In the event of a tie, [select: the motion to adopt will be considered to have been rejected OR the vote of the Chair will decide].
6. Minutes will be taken and stored in a minutes register which is available for perusal by the Working Members who exercise their right of perusal in accordance with the modalities set out in Article 9 of the Royal Decree of 27 June 2003.

## ARTICLE 5. MANAGEMENT AND REPRESENTATION

### Art. 5. Section 1. Composition of the Board of Directors

1. The VZW will be governed by a Board of Directors consisting of at least three and at most [five] directors, who may or may not be members of the VZW. In all events, the number of directors must be fewer than the number of persons who are Working Members of the association. If the VZW only has the legally stipulated minimum of three Working Members, the Board of Directors may consist of only two directors. On the day that a fourth Working Member is accepted, a General Meeting (Ordinary or Extraordinary) shall appoint a third director.
2. The **directors** are appointed by a General Meeting, by a simple majority of votes cast by the members present or represented. The appointment is for a period of [four] years. The appointment ends at the closing of the annual meeting at the end of their appointment period.<sup>2</sup> [choose: There is no limit to how often a] **Director** can be reappointed.
3. The Board of Directors elects a Chair, Secretary and Treasurer from among its members. The directors elected to those positions shall fulfil tasks associated with those positions as described in these articles of association and at the time of their election.
4. The **directors** can be dismissed by the General Meeting at any time. The General Meeting shall pass a motion to dismiss by simple majority of the votes cast by the members present or represented. Each member of the Board of Directors can also resign by written notification sent to [e.g., the Chair of the Board of Directors]. Following his notification of resignation, a **director** is required to continue to fulfil his mandate as a director until such reasonable time as a replacement can be appointed.
5. In principle, **directors** receive no remuneration. They will be reimbursed for the expenses they incur in the course of fulfilling their directors' mandates.

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<sup>2</sup> Vertalersnoot: Als ik dit goed begrijp, dan betekent het dat de Raad van Bestuur zij het voor een paar minuten uit meer dan het toegestaan aantal zou kunnen bestaan. Dit zou gebeuren als de nieuwe leden benoemd worden *tijdens de vergadering* terwijl de oude bestuurders nog bestuurder zijn tot *het einde van de vergadering*. Zou dat enige consequenties hebben voor de geldigheid van besluiten die in die tussentijdse periode worden genomen?

#### **Art. 5. Section 2. Board of Directors: meetings, deliberations and decisions**

1. The Board of Directors meets when called by the Chair as often as the interests of the VZW require, and [e.g. within 14 days of a request for a meeting by two directors or by the managing director OR...].
2. The meetings of the board will be chaired by the Chair or, if he is absent, [e.g. by the Deputy Chair<sup>3</sup> or by the oldest in years of the directors in attendance]. The meetings will be held at the registered offices of the VZW or at any other location in Belgium as stated in the letter to call the meeting.
3. The Board of Directors may only deliberate and decide if at least [the majority of its members are present at the meeting]. The decisions are taken [by simple majority of the votes cast by the members present]. In the event of a tie vote, [choose: the Chair or the director who is chairing the meeting, will have the decisive vote].
4. Minutes will be taken and signed by the [e.g. Chair and the Secretary] and stored in a minutes register which is available for perusal by the Working Members who exercise their right of perusal in accordance with the modalities set out in Article 9 of the Royal Decree of 27 June 2003.
5. In exceptional cases, where urgent necessity dictates and the interests of the VZW so require, the decisions of the Board of Directors can be taken by unanimous written approval of the **directors**. For that purpose, unanimous agreement by the directors to adopt the decision-making in writing procedure is required. Implementing the decision-making in writing procedure always requires prior deliberation by e-mail, video-conference or telephone conference.

#### **Art. 5. Section 3. Conflicts of interest**

1. If a director has a direct or indirect ownership interest that conflicts with a decision or a transaction that falls under the competence of the Board of Directors, the director with the conflict must inform the other directors before the Board of Directors takes a decision on that matter.
2. The director with the conflict of interest will absent himself/herself from the meeting and not participate in the deliberations and the voting on the matter concerned.
3. This procedure does not apply to normal transactions that take place under the conditions and with the guarantees that are normal in the market for similar transactions.

#### **Art. 5. Section 4. Internal management - Limitations**

1. The Board of Directors is competent to carry out all actions related to internal **management** that are necessary or beneficial to the achievement of the aims of the VZW, with the exception of those actions that are assigned exclusively to the General Meeting by Section 4 of the V&S Act.

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<sup>3</sup> Vertalersnoot: de ondervoorzitter is tot dusver niet ter sprake gekomen.

2. Without prejudice to the obligations arising from collegial management, and especially consultant and oversight, the directors may distribute the management tasks among themselves. **Such a distribution of tasks is not enforceable against third parties, even after they have been made public.** Failure to comply does place the internal liability of the **director(s)** concerned at risk.
3. The Board of Directors can delegate part of its management competence to one or more third parties who are not directors, without such a delegation being capable of having an effect on the general policy of the VZW or the overall management competence of the Board of Directors.
4. Without the consent of the General Meeting, the **directors** are not authorised to take decisions related to [a choice, e.g.: the purchase or sale of real property for or belonging to the VZW, respectively, and/or taking out a mortgage, etc. ] **Those competences cannot be enforced against third parties, even after they have been made public.** Failure to comply does place the internal liability of the **director(s)** concerned at risk.

#### **Art. 5. Section 5. Authority to represent the VZW externally**

1. The Board of Directors represents the VZW as a college in all legal and extra-legal transactions. It represents the association by the authority of the majority of its members.
2. Without prejudice to the general representative competence of the Board of Directors as a college, the VZW is also represented in legal and extra-legal affairs by:

Alison Shrader, Kate Hartmann

Contrary to Section 13 of the V&S Act, without the consent of the General Meeting, the **directors** are not authorised to take decisions related representing the VZW with regard to [a choice, e.g.: the purchase or sale of real property for or belonging to the VZW, respectively, and/or taking out a mortgage, etc. ] **Those competences cannot be enforced against third parties, even after they have been made public.** Failure to comply does place the internal liability of the representatives concerned at risk.

1. The Board of Directors or the **directors** who are representing the VZW can appoint mandate-holders of the VZW. Only special and limited mandates for a specific individual or a specific series of legal actions are permitted. The mandate holders bind the VZW within the limitations of the mandate granted, the limits of which are enforceable against third parties in accordance with the mandate.

#### **Art. 5. Section 6. Notification requirements**

The appointment of the members of the Board of Directors and the end of their period of office will be announced publicly through **deposition in the association dossier with the clerk of the commercial court**, and of an extract thereof intended for publication in the Annexes to the Belgian Gazette. **Those documents must in any event show whether the persons who represent the VZW bind the VZW individually, collectively or as a college, as well as the scope of their competence.**



## ARTICLE 6. DAILY MANAGEMENT

1. The daily management of the VZW, both internally and with respect to the external representation with regard to the daily management can be delegated by [the Board of Directors] to one or more persons. Financial transactions can be performed by Alison Shrader or Kate Hartmann together with at least 1 director.
2. If this possibility is used, the appointment must specify whether those persons are competent to act individually, collectively or as a college both with respect to the internal daily management and the external representation competence with respect to that daily management.
3. Contrary to Section 13bis of the V&S Act, the persons charged with the daily management may not, without the consent of [one director] make decisions [or] carry out legal acts related to representing the VZW in the context of the daily management in transactions [that exceed €10,000... ]. **This competence limitation cannot be enforced against third parties, even after they have been made public.** Failure to comply does place the internal liability of the representatives concerned at risk.
4. **Given the absence of a legal definition of what ‘daily management’ consists of, the acts of daily management include all actions that must be carried out on a day to day basis to ensure the normal progress of affairs of the VZW and, either because they are less important or because of the necessity of taking a decision immediately, that do not require action by the Board of Directors or make such action desirable.**
5. The appointment of the persons charged with the daily management and the end of their period of office will be announced publicly through **deposition in the association dossier with the clerk of the commercial court**, and of an extract thereof intended for publication in the Annexes to the Belgian Gazette. **Those documents must in any event show whether the persons who represent the VZW with respect to daily management bind the VZW individually, collectively or as a college.**

## ARTICLE 7. LIABILITY OF THE DIRECTOR AND DAILY MANAGER

1. The **directors and daily managers** are not personally bound by the undertakings of the VZW.
2. With respect to the VZW and third parties, their responsibility is limited to fulfilling the mandate they have been granted in accordance with common law, statute law and the articles of association and they are liable for the shortcomings in their **(daily) management**.

## ARTICLE 8. OVERSIGHT BY AN EXTERNAL AUDITOR

1. Until such time as the VZW exceeds the threshold amounts stated in Section 17, §5 of the V&S Act for the most recently concluded financial year, the VZW is not required to appoint an external auditor.

2. As soon as the VZW exceeds the threshold amounts, control over the financial condition, the annual account and the regularity of the transactions will be delegated to an external auditor to be appointed by the general meeting from among the members of the Institute for External Auditors (het Instituut der Bedrijfsrevisoren) for a period of [three] years. The general meeting will also set the remuneration for the external auditor.

## ARTICLE 9. FINANCING AND BOOKKEEPING

### Art. 9, Para 1. Financing

1. The association will be financed *inter alia* by subsidies, allowances, gifts, contributions, legacies and other facilities in last wills and testaments both granted to support the general aims of the association and to support specific projects.
2. In addition, the association may raise funds in any other legal way.

### Art. 9, Para 2. Bookkeeping

1. The financial year commences on 1 January and ends on 31 December.
2. **The bookkeeping shall be done in accordance with the provisions of Section 17 of the V&S Act and the relevant implementing decrees.**
3. **The annual accounts will be deposited in the dossier held by the clerk of the commercial court in accordance with the provisions of Section 26novies of the V&S Act. Where applicable, the annual account will also be deposited with the National Bank in accordance with the provisions of Section 17, §6 of the V&S Act and the relevant implementing decrees.**
4. The Board of Directors submits the annual account for the preceding financial year, as well as a proposed budget to the annual General Meeting for approval.

## ARTICLE 10. DISSOLUTION

1. The General Meeting shall be called to discuss proposals with respect to the dissolution submitted by the Board of Directors or by a minimum of 1/5 of all of the members. The call to the meeting and the agenda will be done as set out in Art. 4, para 4 of these articles of association.
2. The deliberation and decision concerning the dissolution will respect the quorum and majority provisions stated in Art. 4, para 5 of these Articles of Association. **From the moment that the decision has been taken to dissolve, the VZW will refer to itself as "VZW in liquidation", in accordance with Section 23 of the V&S Act.**
3. If the proposal to dissolve is approved, the General Meeting will appoint [one] liquidator(s), whose brief the General Meeting will define.

4. In the event of dissolution and liquidation, the [Board of Directors] will decide on the disposition of the assets of the VZW that must be assigned to [another not-for-profit association with a similar or related aim].
5. All decisions concerning the dissolution, the terms of liquidation, the appointment and the end of the appointment period of the liquidators, the closure of the liquidation and the disposition of the assets will be **deposited with the clerk and published in the Annexes to the Belgian Gazette in accordance with the provisions of Sections 23 and 26novies of the V&S Act and the relevant implementing decrees.**