

## BYLAWS OF CIOPORA

*as adopted by the Annual General Meeting in Stellenbosch on 2 April 2019*

### ARTICLE 1 NAME AND SEAT

1. The name of the association, founded in Geneva in 1961, is

in English:

**International Community of Breeders of Asexually Reproduced Horticultural Plants**

in French:

**Communauté Internationale des Obtenteurs de Plantes Horticoles à Reproduction Asexuée'**

In German:

**Internationale Gemeinschaft der Züchter vegetativ vermehrbarer gartenbaulicher Pflanzen**

In Spanish:

**Comunidad Internacional de Fitomejoradores de Plantas Hortícolas de Reproducción Asexuada**

In Italian:

**Comunità Internazionale di ottenitori di piante orticole a riproduzione asessuata**

The abbreviated name of the association is: **CIOPORA**

2. CIOPORA has its seat and registered office in Geneva, Switzerland. It is listed in the Trade Register.

3. The duration of the association shall be unlimited.

4. The association shall be governed by its Bylaws, which is subject to Swiss law, in particular Articles 60 through 79 of the Swiss Civil Code.
5. Its official language is English.

## **ARTICLE 2 GOALS AND OBJECTIVES**

2.1 The goals and objectives of CIOPORA are the following:

- a) to group the breeders of asexually reproduced horticultural varieties at an international level with a view to facilitating exchanges of ideas and of experiences gained in the field of protection of new plant varieties;
- b) to promote the understanding of the necessity of international protection of the Intellectual Property of said breeders and to encourage further development of the protection of said Intellectual Property;
- c) to defend and represent the said breeders' legitimate interests and particularly to work for the development, improvement and unification of national and international regulations for the protection of breeders' rights, whether by patents, plant patents or plant breeders' rights certificates, within the framework of the UPOV Convention and, more generally, of the laws and treaties concerning the protection of Intellectual Property, within the framework of the World Intellectual Property Organization (WIPO); with this purpose in view, to intervene with governments and international organizations, associations or other authorities that may have substantial concern with or influence on the scope and contents of the rights of said breeders on their plant creations;
- d) to work for the development and improvement of the laws for the enforcement of the Intellectual Property rights of said breeders and to promote such enforcement;

- e) to elaborate and transfer information about the laws on the protection of intellectual property, in particular about patent-law, plant patent-law, plant breeders rights-law and trademark-law and the enforcement of the rights, to its members;
  - f) to centralize, for the use of said breeders, documents or publications on the protection of new plant varieties that may inform them of the nature and the scope of their rights, as well as documents relating to the identification of new horticultural varieties;
  - g) to promote National or Regional Sections of CIOPORA in as many countries or regions as possible;
  - h) to assist its National or Regional Sections in carrying out objectives and purposes similar to the foregoing and to coordinate activities among them and more particularly to see to it that their interventions with national authorities are consistent with the policy of CIOPORA; to arbitrate the settlement of disputes, if any, among the said National or Regional Sections.
- 2.2 The association is a non-profit association and shall abstain from all political or religious actions, as well as from any activity that is lucrative or of private interest.
- 2.3 The Association shall pursue its objectives by, in particular, but not limited to:
- a) editing and distributing publications and other information internally and externally;
  - b) organizing congresses and other meetings and fora to address the objectives;
  - c) making representations to governments and intergovernmental bodies, as well as to national, regional and international organizations.

## **ARTICLE 3 MEMBERSHIP**

3.1 The association is composed of

- a) breeder members, being individuals, companies or corporate bodies in any country, that are actually engaged in the breeding of asexually reproduced horticultural varieties;
- b) title-holder-members, being individuals, companies or corporate bodies, holding at least one plant variety right, plant patent or patent for an asexually reproduced horticultural variety;
- c) affiliate members, being individuals, companies or corporate bodies, not falling in one of the other groups of members, which are active in the area of intellectual property protection for asexually reproduced horticultural plants and who are prepared to support and foster the objectives, purposes and policy of CIOPORA;
- d) association members, being associations of individuals, companies or corporate bodies, whose targets and statutes reasonably coincide with the ones of CIOPORA and who are prepared to support and foster the objectives, purposes and policy of CIOPORA.
- e) lawyer-members, being lawyers or law-firms specialized in the area of intellectual property protection for asexually reproduced horticultural plants;
- f) honorary members, being natural persons, having displayed outstanding merits in promoting the objectives of the association and having given exceptional service to the association.

The number of affiliate members, association members, lawyer-members and honorary members must not exceed half of the number of the breeder members and title-holder-members. If this proportion is not kept, the Board shall do its utmost to restore the correct proportion.

- 3.2 Any application for admission implies the explicit acceptance by the new member of the Bylaws of the association and the agreement to pay membership fees and annual dues. Each application must have sponsorship by two current members of the association.
- 3.3 The Board shall decide upon the acceptance or rejection of applications for admission to the association.
- 3.4 Honorary members shall be appointed by the Annual General Meeting on submission of the Board. The Board may issue rules of procedure in regard of the honorary membership.
- 3.5 Membership entitles each member:
- a) to participate in the Annual General Meeting and to exercise the rights conferred there; and
  - b) to make use of all the arrangements of the association.

Only breeder members, title-holder members, association members and affiliate members have voting power in the association (voting members).

The Board may decide to suspend the use of all the arrangements of the association and the transmission of information to a member who falls behind paying his contribution.

In no event may a change in the object and purposes of the association be imposed on a member.

- 3.6 Membership shall terminate:
- a) upon the death of individuals or the dissolution of companies, corporations or associations;

- b) by resignation, which has to be notified to the association in writing. In this case the membership shall terminate at the end of the fiscal year during which the written notification has been received by the association, or
- c) by dismissal, as decided by the Board:
  - if the member ceases to qualify for membership,
  - for any action on the part of the member detrimental to the interests or the reputation of the association or for the failure to support and abide by the objectives and purposes of the association, or
  - for any other legitimate and serious reason.

In the case of dismissal, the membership shall terminate at the end of the day of the respective decision of the Board.

The intention of the Board to dismiss a member shall be communicated in writing to the member concerned not later than 30 days before the decision shall be made. The member shall have the opportunity to render comments.

- 3.7 In no event may a former member claim any property in any of the assets or funds of the association.

#### **ARTICLE 4 ANNUAL GENERAL MEETING**

- 4.1 The Annual General Meeting shall be composed of all members of the association. The Board may issue rules for limiting the number of delegates per member to participate in the Annual General Meeting.
- 4.2 The Annual General Meeting shall exercise the supreme power of the association and shall be entitled for decisions not delegated to the Board and in particular:

- a) Adoption of the Minutes of the preceding Annual General Meeting;
  - b) Election of the President and of the other members of the Board, as nominated by the Board;
  - c) Decision on proposals of the Board concerning the appointment of honorary members;
  - d) Approval and certification of account; appointment of auditors for the verification of accounts; discharge of the Board;
  - e) Setting the admission fee and the annual dues;
  - f) Vote on all resolutions that may be submitted to the Annual General Meeting by the Board or by the members;
  - g) Adoption and modification of the Bylaws of the association;
- 4.3 The Annual General Meeting shall be held at least once a year. The Board shall determine its date and venue. The members of the country in which the Annual General Meeting is to be held shall assist the administrative office of the association in the practical organization of the meeting.
- 4.4 Extraordinary General Meetings may also be convened on the proposals:
- a) of the Board, in case of any urgent and important matter; or
  - b) of at least one fifth of the breeder members of the association.
- If, in order to settle a specific important and urgent question, it is not practicable to convene an Extraordinary General Meeting, the Board may decide to call upon the members to vote by correspondence, including facsimile, e-mail and ordinary mail. In such a case, the Board must send the members a written report on the questions on which they are requested to make the decision. The Board must likewise specify on

each such occasion the formalities of voting by correspondence and must present the results of the vote to the next Annual General Meeting.

- 4.5 In order to act validly, the Annual General Meeting must have been convened no later than four weeks before the meeting date.
- 4.6 The agenda of the Annual General Meeting shall be determined by the Board. In the case of Article 4.4 b), the members, who have asked for the Extraordinary General Meeting, shall be also entitled to propose the respective agenda of the meeting.

At the request of at least one fifth of the members the Board shall insert an item in the agenda. Any such request shall be presented to the Board at least three months before the Annual General Meeting.

The Board is entitled to add to the agenda any item of urgency.

The agenda shall be sent to the members at least four weeks before the meeting. If possible, any proposed resolution shall be sent together with the agenda.

Questions that have not been entered in the agenda of the Annual General Meeting may be discussed during the meeting but may not be the subject of a decision.

- 4.7 All voting members are entitled to one vote each. A written proxy shall be required from any member that cannot attend but desires to be represented at the Annual General Meeting. Such a proxy may be granted only to another member of the association.

All votes shall be taken by simple majority. The Annual General Meeting shall decide on the method of vote (secret ballot or show hands). In case of a tie, a second ballot shall be taken. In the event it is still impossible to reach a decision, the President shall, after consultation with the Board, settle the issue.

A member shall be deprived of the right to vote in decisions concerning any litigation on the part of the association if he, his wife, parents, relatives or his company are a



party to the case or if the Board judges that there is another conflict of interest whatsoever.

Any decision that bears on the fundamentals of the protection of the rights and interests of the breeders of asexually reproduced plants shall, in order to be validly made by the General Meeting, require the absolute majority of the breeder members present or represented.

- 4.8 The Annual General Meeting shall be presided over by the President of the association or, in the absence of the President, by one of the Vice-Presidents.
- 4.9 The Minutes of the Annual General Meeting shall be distributed to the members of the association not later than three months after the date of the meeting. A copy of the minutes jointly signed by the President and the Vice-Presidents shall be sent to the registered office of the association for the official records of the association and other formalities.
- 4.10 Any legal action by a member against a decision of a General Meeting deemed by said member not to be consistent with these Bylaws or with the governing law must be instituted not later than one month from the date he has been notified of the decision concerned.

## **ARTICLE 5 THE BOARD AND THE EXECUTIVE COMMITTEE**

- 5.1 The control of the affairs and property of the association shall be vested by the Annual General Meeting in the Board, which shall direct the association and pursue its objectives.

The Board shall be, among others, in charge of the implementation of the decisions of the Annual General Meeting. It shall make all necessary recommendations on the policy of the association for the defense of breeders' rights and the promotion of adequate legislative measures and shall undertake continual coordination and study of the role, goals, activities and needs of the association, its sections, committees,

working groups and its National and Regional Sections. The Board shall also be in charge of all other duties assigned to it by these Bylaws.

- 5.2 The Board shall be composed of at least eight (8) and no more than eleven (11) members of the association including the President. At least three quarters of the members of the Board shall be Breeder members.

The President and the other members of the Board shall be nominated for election by the Board and elected by secret ballot of the Annual General Meeting for a term of three years. A member of the Board shall be eligible for re-election for up to four (4) consecutive three-year terms, after which he must rotate off the Board for at least one three-year term before being eligible to serve again on the Board. Board members, who are in office at the date of this change of these Bylaws, may serve for a maximum of two additional terms following the adoption of this change. In the case where there are not sufficient candidates to fill all available number of seats on the Board, this limitation shall be waived.

The President may not be re-elected to succeed himself more than once.

To the extent permitted by circumstances, the members of the Board shall represent the widest possible cross-section of the countries and plant species covered by the association.

In order to be elected to the Board a member must have received a majority of the votes cast. In the case that more candidates have achieved a majority of votes cast than there are seats available, those members with the most votes will prevail. Should there be two or more candidates receiving the same number of votes for the last available seat or seats, a second round of voting shall take place among only those candidates. The candidate or candidates receiving the largest majority of votes shall prevail for the remaining seat or seats. In the case where the second round of voting results in a tie among two or more candidates for the remaining seat or seats, the tied candidates shall draw straws. The candidate or candidates drawing the longest straw or straws shall prevail for the remaining seat or seats.

Given the requirement that a minimum of three quarters of the board be Breeder members, in the case where there are both Breeder and non-Breeder candidates, the process set forth above shall be conducted such that this requirement is met. To this end, Breeder member candidates receiving the largest majority of votes shall be elected to the board until this requirement is met, even if one or more Breeder member candidates has received a lower majority of votes than a non-Breeder member. Once this three quarters requirement is met, any other open board seats shall be filled by the candidate or candidates with the next highest majority of votes.

- 5.3 The immediate Past-President of the association, if not re-elected as a member of the Board, is entitled to attend and take part in the meetings of the Board in an advisory capacity. The Board may invite the Presidents of the National and Regional Sections and the Chairmen of the Crops Sections to the meetings, too.
- 5.4 The members of the Board will choose among themselves two Vice-Presidents and a Treasurer whose duties may be defined in more detail in Bylaws established by the Board.
- 5.5 Decisions of the Board shall be adopted by simple majority of members present. In the event of a tie, the President shall have the casting vote. The presence of an absolute majority of the members of the Board is required for its decisions to be valid.

All official decisions of the Board shall be signed and implemented by the President or the Vice-Presidents, on behalf of the Board.

- 5.6 The Board shall meet at least twice a year or at the special request of at least two thirds of its members.

Whenever possible, the meetings of the Board shall be convened one month ahead of the proposed date.

- 5.7 Any Board member who fails to attend two (2) consecutive meetings on grounds not considered valid by the Board shall be deemed as having resigned from the Board.



- 5.8 In the event of death or resignation of any member of the Board or of his inability to further perform his duties, the President, after consultation with the Board shall have power to appoint a temporary successor to serve out his term. The powers of the temporary successor shall cease at the first Annual General Meeting following his appointment. At this Annual General Meeting the successor of the resigned board member shall be elected by the members.
- 5.9 The control of the day-to-day course of business of the association shall be vested by the Board in the Executive Committee, composed of the President, the Vice-Presidents and the Treasurer. The Executive Committee shall also be in charge of all other duties assigned to it by these Bylaws. The Executive Committee shall report at each Board meeting to the Board about its work and decisions.
- 5.10 The Board and the Executive Committee may issue their own rules of procedure.
- 5.11 The President shall invite the chairpersons of the Sections to the Board meetings as observers.

## **ARTICLE 6 LEGAL REPRESENTATION**

The association shall be formally and legally represented by the President, the Vice-Presidents and the Treasurer, whereas each two of them must act jointly. For the case of being prevented for a longer period, each of the representatives shall authorize another board member in writing to act on his behalf. A duplicate of the written authorization shall be kept in the administrative office. In the exercise of their power the representatives shall be guided by the decisions adopted by the Board.

## **ARTICLE 7 EXECUTIVE REPRESENTATION**

- 7.1 The Board shall designate a person who shall act on behalf of the association and who shall implement its decisions. In particular, this representative shall be entrusted with the correspondence and contacts with the ad hoc national, international or

supranational authorities in charge of the protection of breeders' rights as well as with any authority, administration, body or association having an activity that may influence or affect the protection of the rights of breeders as well as the objectives and purposes of the association according to the directions of the Board and the Executive Committee. This representative shall also be entrusted with handling the accounts and administrative matters of the association.

- 7.2 This representative shall bear the title "Secretary General of CIOPORA".
- 7.3 The Board shall provide the Secretary General with the powers and resources necessary to fulfil his duties and shall see to it that the Secretary General in the exercise of his powers is bound by the decisions adopted by the Board.
- 7.4 Additionally, the Board shall designate a person at the place of the registered seat of the association entrusted with the handling of the local accounts and administrative matters and receiving his/her instructions from the Board or the Executive Committee.
- 7.5 The guidance and control of the work of the Secretary General and the entrusted person at the place of the registered seat of the association shall be the responsibility of the Executive Committee.

## **ARTICLE 8 NATIONAL AND REGIONAL SECTIONS**

- 8.1 Subject to the conditions specified hereinafter, members of the association who are the residents of one and the same country or region may group together and form a National or Regional Section of the association in order to better promote the objectives and purposes of the association in the said country or region. Each National or Regional Section shall be identified as "CIOPORA" followed by the appropriate country or region designation (CIOPORA Belgium, CIOPORA Germany, CIOPORA Scandinavia etc...). A National or Regional Section of the association is not itself a member of CIOPORA.
- 8.2 Only one Section may be recognized for a particular country or region.

8.3 The Board shall decide on the recognition or withdrawal of recognition of a National or Regional Section.

8.4 Each National or Regional Section may be separately registered under the relevant national legislation on associations. The Statutes, Bylaws or other Regulations of the National and Regional Sections shall be established by the Sections themselves and shall be consistent with these Bylaws and amending Regulations of CIOPORA.

Before consideration by the Board of a request for recognition by a National or Regional Section, the proposed Statutes, Bylaws or Regulations of the National or Regional Section shall be submitted to the Board for appraisal.

Any later changes to the Statutes, Bylaws or Regulations of a National or Regional Section shall also be submitted to the Board for appraisal.

8.5 Each National and Regional Section is entitled to use the name of CIOPORA and, on behalf of the latter, to represent and support the views of the association with its national government authorities in charge of the protection of plant breeders' rights.

8.6 Each National and Regional Section of the association shall have the following specific obligations:

- a) to maintain its purposes and governing laws at all times in conformity with those of CIOPORA and to contribute in achieving the objectives of CIOPORA;
- b) to promote and enhance membership in CIOPORA;
- c) to incorporate provisions into its Statutes, Bylaws or Regulations, according to which:
  - only such members of the National or Regional Section as are also members of CIOPORA shall be entitled to vote, within the framework of the Section, on matters directly relating to the protection of plant breeders' rights;

- only such members of the National or Regional Section as are also members of CIOPORA shall be entitled to be members of the board of the Section;
  - any decision that bears on the fundamentals of the protection of the rights and interests of the breeders of asexually reproduced plants shall, in order to be validly made by the General Meeting, require the absolute majority of the breeder members present or represented.
- d) to submit to the Board any resolution or official position paper concerning the protection of plant breeders' rights or of industrial property in order to maintain unity of views and action with CIOPORA;
- e) to report in writing to each Annual General Meeting on the Section's activities and to contribute regularly by appropriate information on any relevant matter to the circular letters and other publications issued by CIOPORA;
- f) to be duly represented at each Annual General Meeting of CIOPORA.

8.7 In case of conflict between a National or a Regional Section and CIOPORA concerning the policy to be followed on matters relating to the protection of plant breeders' rights and where such a conflict cannot be resolved in an amicable way, the National or Regional Section – after the withdrawal of recognition by the Board - shall immediately cease any and all use of the name “CIOPORA” as well as of any documents or logo device reproducing the name of CIOPORA or names confusingly similar to that of CIOPORA.

## **ARTICLE 9                      SECTIONS, COMMITTEES, WORKING GROUPS**

9.1 To implement the objectives of the association, the Board may appoint Sections, Committees and Working groups (hereinafter also named “Subgroup”).

- a) A Section is a group, constituted by members of CIOPORA which primarily deal with the same crop or in the same field of activity (e.g.: cut roses, garden roses, carnations, bedding plants, fruits etc.). Membership in a Section shall be open to all members of CIOPORA who meet the objective criteria in regard to the respective crop.
- b) A Committee is a group built up by members of the Board, which primarily deals with an internal matter of the association, which has been identified by the Board to be of special interest (e.g. review of the statutes, fee structure etc.).
- c) A Working group is a group build up by members of CIOPORA and – if necessary - external experts appointed by the Board. The Working group shall work on a topic which has been identified by the Board to be of special interest for the association and its members. Membership in a Working Group shall be open to all members of CIOPORA.

9.2 Only one Section, Committee or Working group may be established for a particular crop or topic. The Board shall decide on the set up or closing of any such Subgroup.

9.3 The President and the Secretary General are permanent members of any Subgroup.

9.4 The Board shall issue rules for proceedings for each of the Subgroups.

9.5 Sections may issue their own rules, which shall be consistent with this Bylaws and the rules for proceedings issued by the Board according to Article 9.4. Before issuing the rules, they shall be submitted to the Board for approval.

## **ARTICLE 10 SUPPORTERS**

Natural persons or companies prepared to support and foster the objectives, purposes and policy of the association, who do not fulfill the requirements for membership in the association, may promote the association as supporter. The Board may issue rules for their rights and obligations.



## **ARTICLE 11 FINANCIALS**

11.1 The income of the association shall consist of:

- admission fees paid by each applicant upon the time of his admission,
- annual dues,
- fees for conferences, seminars and other activities organized by the association,
- financial contribution from supporters.

The association is authorized to accept donations and subsidies.

11.2 The annual budget of the association shall be determined by the Board who, accordingly, shall propose admission fees and dues to the Annual General Meeting for final decision. The terms of payment as well as the structure of dues shall be fixed by the Board.

11.3 In the event of the resignation or dismissal of a member, such member shall continue to be liable for his dues for the entire fiscal year of the association in which he resigns or is dismissed. Such Member shall further remain liable, until the end of the said year and in proportion to his share in the total yearly dues, for any deficit of the association in conformity with the relevant rules and provisions of the Swiss Civil Code.

11.4 The fiscal year of the association shall be the calendar year and accounts shall be closed on December 31 of each year.

## **ARTICLE 12 AMENDMENTS OF THE BYLAWS**

This Bylaws may be amended, upon the proposal of the Board or of one-tenth of the member of which the association is then composed, by a resolution of an Annual General Meeting passed with a majority of not less than two thirds of the votes cast, provided the proposed

amendment or the substance thereof shall have been presented in writing to all members at least 60 days prior to the Annual General Meeting at which it is adopted.

### **ARTICLE 13 DISSOLUTION AND LIQUIDATION**

- 13.1 An Extraordinary General Meeting alone may decide on the dissolution of the association. In the event of dissolution, any resolution to that effect shall require the presence or due representation of an aggregate number of not less than one-half plus one of the members of which the association is then composed. The decision of dissolution shall be taken with a majority of not less than three-fourths of the vote cast.
- 13.2 The association shall be dissolved if it shall become insolvent or if the Board can no longer be constituted statutorily.
- 13.3 After the dissolution has been passed, the Annual General Meeting shall decide, with simple majority, on the utilization of the assets and funds of the association. No part of the assets and funds of the association shall be distributed to the members. The assets and funds of the association shall be transferred to one or more legal entities which pursue objectives are similar to those of CIOPORA and whose statutes also forbid the distribution of their income, assets and funds to their members. If no such entity exists, the assets and funds shall be transferred to a charity organization in Geneva. If, at the time of dissolution, the liabilities of the association exceed its assets, the amount of the excess shall be appointed among its members and shall be paid by them in proportion to the share of their dues in the total yearly dues in conformity with the relevant rules and provisions of the Swiss Civil Code.

### **ARTICLE 14 MISCELLANEOUS**

- 14.1 Geneva is the place of the execution of these Bylaws.
- 14.2 The Courts of Geneva alone shall be competent for any proceedings between the association and its members.



14.3 In the event of a difference of meaning between various translations of these Bylaws, the English text shall govern.

End of the Bylaws