

New European Research Grouping for Fuel Cells and Hydrogen



Internal Rules

Final Version

**Adopted by the General Assembly
on the 9th of July 2014 in Brussels**

This document provides a regulatory framework for operation of the New European Research Grouping for Fuel Cells and Hydrogen (N.ERGHY, further referred to as Association) during phase two of the Joint Undertaking in the field of Fuel Cells and Hydrogen (FCH JU) for the years 2014-2020. The first phase of the FCH JU was launched under the Seventh Framework Programme in 2008-2013. The current regulation of Association builds on the experience and achievements of the first phase of the FCH JU.

This document, as indicated in the Article 24 of the Statutes of the Association, serves as a supplement¹ to the Statutes and defines Internal Rules (IRs) for day-to day management, tasks and duties of the Association with the aim to clarify the implementation provisions of the Statutes.

In case of conflict between the Statutes and the IRs, the provisions of the Statutes take precedence.

The present IRs were been adopted by the General Assembly of the Association on the 9th of July 2014 in accordance with Article 24 of the Statutes.

Article 1 – Name

Reference to the form of Association: *Association internationale sans but lucratif* (French for 'International not-for-profit Association'; often abbreviated AISBL) is the legal term used in Belgium for an internationally acting not-for-profit association based on Belgian law and located in Belgium. The so-called 'not- for-profit' (or non-profit) organization (also "NPO") uses surplus revenues to achieve its goals rather than distributing them as profit or dividends. While not-for-profit organizations are permitted to generate surplus revenues, they must be retained by the organization for its self-preservation, expansion, or plans.

Article 3 – Objective and scope of activities

One of the core objectives of the Association is to facilitate the interaction and cooperation of the FCH research community by promoting existing research competences, facilities and expertise and maintaining a respective knowledge base for its Members and third parties. In this context, it is in the responsibility of Members to provide information on FCH-related activities for dissemination within the Association as well as towards other FCH JU stakeholders. Members are expected to fill out and update a standardized "Activities" Form proposed by the Executive Board and confirmed by the Members in a dedicated task force.

In pursuing the activities of the Association, Members shall not seek to obtain direct financial advantage for themselves, nor shall it be the objective of the Association to procure direct financial advantage for the Members.

¹ **The structure of this document is fully aligned with the Statutes of N.ERGHY from 09.07.2014. The name and number of articles of two documents correspond accordingly; for the most complete picture, internal rules should be treated as a more detailed explanation to the articles of the main document – N.ERGHY Statutes and used along with it.**

Article 4 – Activity Plan

The Activity Plan shall contain outline of the general policy of the Association and any other activities carried out by the Association to pursue its objectives.

Article 5 – Membership

Members of the Association will benefit in particular from:

- Fulfilment of the eligibility criteria of Membership in the FCH JU Calls for proposals
- Participation in the FCH JU working groups, e.g on Multi-Annual Working Program 2014-2020 (hereinafter MAWP), Annual Working Programs (hereinafter AWP).
- Early (to the extent possible) access to information about the planning of priorities of the FCH JU Programme, including more specific annual call topics details
- Organisational and coordination support for joint events, workshops and conferences in the FCH sector
- Use of Association's information channels, especially Website and mailing lists for information dissemination
- Use of information services provided by the Secretariat
- Platform for networking with other research organizations as well as industrial partners with priority access to FCH JU events or those sponsored by it.

Article 6 – Admittance of new Members

Membership is open to any entity or organisation actively involved in FCH with seat and main administration in a Member State of the European Union, in a State Party to the European Economic Area Agreement (EEA), or in an Associated country² or Candidate country of the European Union, provided that the criteria listed in Article 5 of the Statutes are met.

Organisations shall name at least two contact persons, one for research and one for administrative issues, acting as representatives for them towards the Association. Each new Member should provide and update information about his /her organization by filling out a standardized information form approved by the General Assembly. The information form as well as instruction how to become a member shall be available for download at the Association website.

Article 7 – End of Membership

7.1. – General

The Executive Board shall notify the end of Membership to the Member who does not anymore fulfil the criteria for Membership by sending a registered letter with return receipt to this Member. The end of Membership takes effect from the moment the conditions for Membership are not anymore fulfilled. This can be the decision of the General Assembly, the dissolution of the Member organization or the date requested to withdraw the Association indicated by the Member in compliance with Article 7.2

² For purposes of these Statutes, the term „Associated country“ shall have the same meaning as defined in the Article 2 of the Council Regulation COM(2011) 810 final 2011/0399 (COD) laying down the rules for the participation and dissemination in 'Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020)'

(a) of the Statutes. The Secretariat will seek to inform the Member with a registered letter as close as possible to the actual end of Membership.

7.3 – Exclusion

The non-payment of Membership fees for a period exceeding one year after they have become due shall be considered as serious breach leading to exclusion. Further precedents leading to exclusion of a Member from the Association may be the following:

- Refusal to incorporate and/or comply with the contractual clause referred to in Article 18 of the Statutes
- Failure to comply with the rules and regulations of Association and the criteria for membership (Article 5 of the Statutes) or any other criteria conflicting with the legitimate interest of Association

The decision on exclusion of a Member pursuant to Article 6 will be taken by the General Assembly and shall require a majority of at least three quarters of the votes cast, as indicated in the Article 10.3 of the Statutes. Prior to any vote on exclusion, the Member in question will have the right to explain itself to the General Assembly.

Article 8 – Organs and structure

The organs and structure of the Association are illustrated in the *Annex 2* of this document and are the following:

- The General Assembly
- The members of the Executive Board
- The members of the Coordination Group
- The Secretariat

Article 9 – General Assembly – powers, composition, meetings

The *General Assembly* is the highest organ of Association with the supreme power. It is composed of representatives of all Members, each of which has one vote, and is hereof a voice of European fuel cells research community. As mentioned in the Article 10 (2) of the Statutes, the decisions of the General Assembly shall be adopted by a simple majority of the votes cast, unless the Statutes require another majority. The list of decisions which require another majority such as at least three quarters of the votes cast or at least 50% of all Members and a majority of four fifths of the votes cast are specified in the Paragraphs 3 and 5 of Article 10 of the Statutes.

The General Assembly decides on delegation of power to the Executive Board and the Secretariat.

9.2. Rules for meetings

The chairperson of the General Assembly meeting shall be responsible for the process of minutes drafting and registration of all the decisions taken. These tasks shall be executed by the Secretariat. The draft minutes shall be sent to all Members for approval and after that finalised. The Executive Board will put the best effort to send the minutes to Members within 28 calendar days after the General Assembly. The final minutes need to be signed by the chairperson of the meeting and a representative of one of Members who is not an Executive Board Member. The copy of minutes shall be distributed to all Members of the Association. The original minutes shall be kept in a separate register at the official address of the Association.

Article 10 – Decisions of the General Assembly

In case a decision on an item listed in paragraphs (3) or (4) in the Article 10 of the Statutes is taken in the meeting of the General Assembly, the vote may be valid only if such decision was prepared and announced in advance. In accordance with Article 9.2 of the Statutes, the convocation to Members shall be made by the President of the Association by a letter, fax or email at least 28 calendar days before the date of the meeting. If all Members are represented in the respective meeting they may waive this formal requirement by unanimous vote.

The President of the Association shall record in writing the result of voting of the General Assembly and respectively inform all Members of the result. The record shall be kept at the official address of the Association in the same register as the minutes of the General Assemblies.

The General Assembly shall decide on payment and collection of project contributions. Such decision shall be binding upon the Members and be considered an internal rule as mentioned in Article 5, paragraph 3 of the Statutes. The decision of the General Assembly shall include a decision on the principle terms of implementation of the project contribution as well as the term of the related obligations by which the project contributions shall be implemented.

Based on the decision of the General Assembly, the Executive Board shall have the right to decide more specifically on the scope and amount of the project contribution for Members on an annual basis in recognition of and compliance with the obligation to grow Association's membership as expressed by and in the FCH JU Regulation.

Article 7.2. b) of the Statutes shall be applicable mutatis mutandis to this decision or any of its modifications.

Article 11 – The Executive Board

The Association is administered by the Executive Board composed of four to eight members as mentioned in the Article 11.2 of the Statutes. The board members will be elected among the representatives of the members of the Association while aiming to

achieve high level of sector representativeness in terms of research institution size, geography, areas of expertise and representatives' gender.

The members of the Executive Board shall be duly authorized executives of their respective research organizations who are highly committed persons and are prepared to dedicate appropriate amount of effort, time and presence to the activities of Association.

The *Executive Board* Members shall have following responsibilities:

- One Board member shall be a President
- One Board member shall be a Treasurer and Vice-Chair
- One Board member shall be Transport Pillar Chair
- One Board member shall be Energy Pillar Chair
- One Board member shall be Cross-Cutting Research Activities Chair
- One Board member shall be External Affairs Chair

Where there is no candidacy for either of the Transport Chair, Energy Chair, Cross-Cutting Research Activities Chair or External Affairs Chair, the Board shall propose a candidate who shall be endorsed and so appointed to the Board by the General Assembly.

The Executive Board has the following responsibilities:

- Propose membership procedures for adoption of the General Assembly i.e. acceptance, suspension and access to documentation;
- Propose membership fee rules for the adoption of the General Assembly, i.e. fee inducements and value increase initiatives
- Propose project contribution procedures for the adoption of the General Assembly, i.e. applicable percentage, differentiation of contribution levels and collection mechanism;
- Organize, participate and plan FCH JU and other FCH Sector-related events to the benefits of Members;
- Decide on terms and conditions of the Secretariat's powers of representation;
- Propose annual strategic communication plans and decide on the implementation modalities of any decision in respect thereof;
- Decide on the establishment of new communication platforms with other fuel cells and hydrogen sector players;
- Proposes the modification and updating of the internal rules;
- Develop strategic vision for the longer term development and positioning of Association

The President is the main representative of the Association; he or she is in charge of the Executive Board and the Secretariat. He or she has the authority to call Board meetings and General Assemblies as necessary.

The following responsibilities pertain to this position:

- Prepare for, attend and vote on behalf of the Association at the FCH JU Governing Board meetings
- Review annual JTI status reports and provide updates to the Board
- Report to the Members of the Association on the progress achieved in the JTI and beyond, providing the Action Plan and Annual Report on Board activities at the General Assembly
- Maintain regular correspondence with Members and when necessary, contact and notify individual member institutions, particularly in cases foreseen in Art. 5 and 6 of the Statutes
- Participate in the dialogue with other FCH JU partners and relevant external stakeholders on behalf of Association
- Chair Executive Board meetings; work with the Secretariat prior to the meetings to establish agendas for the meetings
- Appoint Board members to any taskforces that may arise and ensure that assigned tasks are completed timely by the respective party
- Represent Association's position at the media level with official talking points and provide quotes if necessary. Talking points are developed in consultation with the Executive Board, Members and the Secretariat
- Represent the Association at European, national and/or other affiliate conferences
- Supervise legal acts of the Organization (Statutes and the IRs) and ensure the compliance of Members with the rules and procedures of the Association

The Vice-President, also fulfilling the function of Treasurer, carries out the President's duties in his absence, with acknowledgement of the Executive Board as being capable and suitable to do so. His main function as Vice-President is to provide support and assistance to the President in carrying out his responsibilities.

As Treasurer, he acts as information and reference point for financial issues towards the Board and Association Members. His main duty is to safeguard the organization's finances by fulfilling the following tasks:

- Oversee the development and observation of Association's financial trends, be knowledgeable about organization's funds, any outstanding bills or debts owed and other financial implications
- Develop the annual budget and compare actual revenues and expenses incurred against the budget, including financial forecasts for the year to come and report them to the General Assembly.
- Prepare accounts for approval by the General Assembly, audit and for liaising with the auditor if required
- Maintain Association's bank accounts
- Keep the Board regularly informed on key financial events and concerns, outline the current financial status when needed and retrieve relevant foreseen

and present budgets, accounts and financial statements documentation, in addition to completing required financial reporting forms in a timely fashion and making these forms available to the Board

Even if the Treasurer carries out much of the financial work, his full responsibility rests with financial transactions only. The financial decisions of the Association will be discussed and approved by the Executive Board and the responsibility for such will rest with the Executive Board as a whole.

The *Transport, Energy and Cross-Cutting Research Activities Chairs* are key experts in their respective research areas and provide coordination, reporting and representation of Members' joint position within the FCH JU. They shall be the main contact points for Members according to their expertise within the Association. The Cross-Cutting Research Activities Chair will be in charge of education and training issues, technical assessment (Technology Readiness Level - TRL implementation), dissemination and communication in and outside the FCH JU, links with other FCH JU partners and stakeholders, including scientific committee, program review work, brokerage events, scientific and technical workshops, etc.

The *External Affairs Chair* will be in charge of links with other parts of Horizon 2020, including long-term research, relevant platforms and communities, stakeholders, international cooperation. In the course of Membership / FCH JU commitment, he will be in charge of the efficient organisation, management, compliance and progress review of FCH JU activities and requirements.

All the Executive Board Chairs will have the following responsibilities:

- Work jointly with Association Members and Vice-Chairs in working groups on developing a common stand and united strategy in their area of expertise
- Ensure regular cooperation with JTI partners, namely NEW-IG and Programme Office
- Participate in Board meetings on the regular basis, support the President in decision-making process and conduct the best course of action for the Association

Article 14 – Coordination Group

Each member of the Coordination Group (Vice-Chair) shall be appointed to support a specific Member of the Board. In establishing connection between individual working groups' activities, input and progress review to and with individual Executive Board members, the Vice-Chairs will connect to their respective Executive Board members (Transport Chair, Energy Chair, Cross-Cutting Research Activities Chair).

Vice-Chairs shall be appointed by the General Assembly according to the same voting procedure and at the same time as Executive Board Members. The Board Member and his Vice-Chair shall cooperate in close coordination, define and

delegate tasks and responsibilities between themselves in the frame of the role according to the Statutes. The mandate of Vice-Chairs will last two years with the unlimited right to be elected for the next term. The respective Board Member and his attributed/ assigned Vice-Chair cannot be members of the same organization.

The key responsibilities of Vice-Chairs will include:

- Coordinate members' input in FCH JU
- To advocate the interests of Association at all levels in related activities
- Coordinate definition and amendments of the Multi-Annual Working Plan 2014-2020 (MAWP) and Annual Working Plans (AWPs).
- Support the respective Chair in any other external tasks, such as links with other relevant platforms and technologies
- Report regularly to the Executive Board on the progress of work

The Executive Board and the Vice-chairs shall meet in person with possible use of electronic communications at least two times each year.

Article 15 – Support of the Executive Board (Secretariat)

The *Secretariat* is established to support and facilitate the activities of the Association and Executive Board. The Secretariat reports to the General Assembly and Executive Board of the Association.

The responsibilities of Secretariat shall include:

- Facilitate practical day-to-day administrative work, networking, coordination and development aiming to achieve the overall objectives regarding knowledge transfer and information exchange between Members
- Regular coordination with other JTI partners, including the Industry Grouping (New-IG), and the FCH JU Program Office
- Plan and implement internal and external communication strategy of the Association, particularly maintain the Association web representation
- Organize General Assembly, Executive Board and other meetings relevant to the aims of the Association, including official invitations to the meetings, contact with speakers, preparation of agendas, registration forms, background documents, minutes and press releases of the meetings
- Together with the President, oversee the proper recording of the proceedings of meetings and ensuring that decisions taken are implemented by the Executive Board, the Members and the President.
- Ensure that accurate membership records are maintained
- Establish an open dialogue with the EU and other stakeholders
- Monitor relevant political and general legal developments of the FCH Sector, particularly at the European Union level, e.g. existing and planned regulation acts of the European Union relevant for the FCH sector
- Support and facilitate recruitment of new members
- Monitor and prepare budget account statements and manage the process of membership fees payments

- If required, observe and assist to the Executive Board at all relevant meetings of the Association on behalf of the Executive Board, including the FCH JU Governing Board.

In order to manage the growing volume of work and ensure efficient operation of the Association, the Secretariat is empowered for a broad range of representation and information activities. In particular, it has an internal and external communication mandate which includes the possibility to attend various meetings, including the FCH JU Governing Board as observer, and report on them to the Executive Board. It is also entitled to accompany the Board Members and Vice-Chairs in all the activities and events if deemed necessary and provide the required support.

Article 16 – Working groups and advisory bodies

Working Groups will have a consultative, supporting and contributing role towards the Executive Board. They represent and gather Members' feedback and opinion concerning the content of the FCH JU programme. The Executive Board shall take into account Working Groups' views and proposals when developing its decisions. The working groups will be chaired by the Coordination Group of Vice-Chairs. The following permanent Working Groups shall be established:

- Working Group on Energy Innovation Pillar: Energy to Hydrogen
- Working Group on Energy Innovation Pillar: Fuel Cells to Energy
- Working Group on Transport Innovation Pillar
- Working Group on Cross-Cutting Research Activities
- Working Group on General and External Issues

Other working groups (permanent or temporary) may further be established along with arising tasks e.g. in order to modify the Statutes of the organization and define legal or any other requirements. Members may have up to one representative per each group. One person may be a representative of his/her organization in more than one group.

The Executive Board shall propose, for adoption by the General Assembly, internal rules governing the proper operation and functioning of the Working Groups.

The role of working groups shall be to:

- Provide a structured regular exchange between members
- Submit views and proposals to the Executive Board
- Prepare statements/documents for specific FCH relevant tasks
- Develop and submit on an annual basis input for the FCH JU AWP and MAWP
- Consider and address issues which span the scope and operation of several or all of the Working Groups
- Report to the General Assembly on the progress made in the Working Group

activities and submit a brief description thereof for inclusion in the Board's annual report.

Although a working group may not take strategic decisions on its own, it can report to the Board on the results and interests in respective fields and make recommendations. The action points to be proposed by the working group should be internally agreed, preferably as a matter of consensus.

The permanent working groups dealing with innovation pillars and cross-cutting research activities according to the JTI structure will be responsible for drafting and updating programme documents such as MAWP and AWP which establish the targets to be accomplished across the projects. The structure of the working groups shall take into consideration the structure of the Multi-Annual Implementation Plan, once being adopted by the FCH JU Governing Board.

Upon the request of Vice-Chairs, the Secretariat may provide administrative assistance in organization of Working Group meetings and activities.

Article 21 – Annual Report and Annual Accounts

The Annual Report is to be presented after the end of a financial year, as specified in the Article 21 of the Statutes.

It will include:

- Report on the status of implementation of the Activity Plan and management of the Association in the past year
- Annual Accounts, comprising a balance sheet and a profit and loss account for approval by the General Assembly

Furthermore, the Report may include other available documents for the record of activities done by the Executive Board, Coordination Group of Vice-Chairs, working groups, etc. that were carried out in the past year.

Annex 1. Project Contribution

Project contributions shall be due to N.ERGHY in order to cover the additional part of the contribution of N.ERGHY to the running cost of the FCH JU incurred by the Programme Office, NEW-IG or N.ERGHY while delivering FCH JU activities in line with the FCH JU Regulation.

The project contribution level shall be set up as a percentage based on the total amount of grants to be received by project consortium partners under FCH JU projects pursuant to the FCH JU Regulation. The project contribution shall be used towards funding the additional part of the annual contribution of Association to the running cost of the FCH JU in line with the principles and governance rules jointly agreed by NEW-IG and N.ERGHY in the project contribution agreement.

The Executive Board shall decide on the relevant percentage applicable to project contributions on a per call basis. The Executive Board shall have the right to set differentiated project fee levels, in recognition of and compliance with the obligation to grow N.ERGHYs membership as expressed by and in the FCH JU Regulation.

Each project contribution shall be imposed and collectable and collected by means of a contractual clause to that effect in the consortium agreement relating to the specific FCH JU project.

The contractual clause for the relevant FCH JU project shall be incorporated in the relevant consortium agreement. No such clause shall provide for payment of the contribution to the project contribution prior to the first payment instalment received by the members-beneficiaries under the relevant FCH JU project. Each such clause shall provide for payment of the project contribution from and under the first payment instalment received by the member beneficiaries under the relevant FCH JU project.

Each member who is the beneficiary of a grant under a specific FCH JU project shall be under the obligation to adhere to and comply with the contractual clause and contribute to the payment and/or collection and/or transmittance of the project contribution in accordance with the contractual clause for the relevant FCH JU project and incorporated in the consortium agreement for that project.

The obligation of the member to pay his part of the project contribution shall survive his membership termination or exclusion.

The obligations of the member-coordinator resulting from and under the contractual clause shall survive his membership termination or exclusion.

The collection of project contribution can be delegated to the outside source. Currently it is managed by the FCH JU industrial partner NEW-IG (as specified in Article 3 of the Statutes). The Association will support the executor in achieving the goals of the procedure.

In case of failure by a member or former member to pay his part of the project contribution in accordance with the provisions of the contractual clause, NEW-IG shall immediately upon that failure and automatically have a direct claim by way of invoicing against that member or former member for the payment of his part of the project contribution.

In case of the failure by the member-coordinator or former member-coordinator to collect one or more other payments toward the project contribution in accordance with the provisions of the contractual clause, NEW-IG shall immediately and automatically have a direct claim upon that failure by way of invoicing against those members beneficiaries or former member beneficiaries of the relevant FCH JU project for the payment of their uncollected part of the project contribution.

In case of the failure by the member-coordinator or former member- coordinator to transmit collected payments toward the project contribution in accordance with the

provisions of the contractual clause, NEW-IG shall immediately and automatically have a direct claim by way of invoicing against that member-coordinator or former member-coordinator for the payment of the collected and non-transmitted parts of the project contribution.

In case of the failure by the member-coordinator to incorporate the contractual clause into the consortium agreement or to render it binding vis-à-vis one or more other members beneficiaries, NEW-IG shall immediately upon that failure and automatically have a direct claim by way of invoicing against all members beneficiaries or the relevant members beneficiaries of the FCH JU project for the payment of their part of the project contribution. Collection of the project contribution in this way shall not, however, occur prior to the first payment instalment received by the (relevant) members-beneficiaries under the relevant FCH JU project.

Should the Executive Board of Association consider that the circumstances surrounding a specific FCH JU project are such that collection of the project contribution by means of the contractual clause and its incorporation into the consortium agreement is unfeasible, or if it transpires that these circumstances have made the incorporation of the contractual clause impossible, the Association shall have a direct claim by way of invoicing against all members beneficiaries of the relevant project for the payment of their part of the project contribution. Collection of the project contribution in this way shall not, however, occur prior to the first payment instalment received by the members-beneficiaries under the relevant FCH JU project.

Annex 2: Organization Structure

