

## **BY-LAWS**

### **Article 1 - Name**

A Consortium with external activity is hereby founded and named:

"CONSORZIO TOPIX

TORINO E PIEMONTE EXCHANGE POINT"

### **Article 2 - Registered headquarters**

The headquarters of the Consortium are in Turin, at no. 9 via Bogino.

Branches or representative offices may be opened.

### **Article 3 - Aims**

The Consortium is a non-profit organization.

Its aims are:

a) - to develop and manage one or more sites where Internet operators can exchange "Internet Protocol (IP)" traffic according to uniform and public rules of "peering" defined by the Consortium according to the common principles applied at an international level; to manage service infrastructures designed to obtain the aims of the Consortium, providing services deemed useful to the members, divulging and promoting the adoption of innovative technologies which serve to improve the diffusion of the Internet service on broadband and the use of multimedia applications (Big Internet), implementing infrastructural and organizational initiatives designed to facilitate the exchange of data traffic among the member operators, and promoting agreements

with other NAPs or "exchange-points" for the supply of additional "peering" services to the members of the Consortium; to develop initiatives which will enable the members of the Consortium to have access to favourable conditions as regards transportation services for the lines of connection for the development of high-level traffic exchange;

b) - to promote and develop pilot Innovation Projects with a view to promoting activities of cooperation nationally and internationally, organizing activities inherent to Innovation Projects also through groups of several members;

c) - to promote and divulge, among the members as well as outside the Consortium, the knowledge and use of broadband Internet technology and, for this purpose, to organize conferences, workshops, meetings even annually, locally, nationally or internationally, editing publications (not daily) on the subject, also with a view to publicising the schedule and programs of the events organised;

d) - to provide services, technical support, maintenance and anything else that may be necessary for the exchange of data, especially:

d.1 - to inform the members on the aspects of innovation of interest to them;

d.2 - to make available information and services with regard to statistics and monitoring, as needed and useful for the better flow of

data traffic exchanged;

d.3 - to manage the sites and relative basic infrastructures, telecommunications equipment, statistical analysis tools and other services deemed useful to the members of the Consortium;

d.4 - to develop and update the Consortium website, in particular with measurement of the traffic and all communications towards members of the Consortium and the public;

d.5 - to implement every initiative of a technical and organizational nature in order to guarantee and improve the services provided, acquiring where necessary supplies from third parties;

d.6 - to provide first level assistance twenty-four hours a day;

d.7 - to provide information to new applicants;

e) - to participate in projects, stipulate agreements and conventions with other consortia, associations and organizations of a similar or complementary kind, or having aims which can be integrated with the institutional aims of the Consortium, in particular with organizations which are directly or indirectly connected with the administrative level of the government, which have, among their aims, the development of scientific and technological research and/or the promotion and development of the Internet in Italy and Europe.

Direct sale of Internet services to third parties is strictly excluded.

Only if instrumental to the Consortium's aims, and without modifying

them, and not as a main activity, the Consortium may perform all commercial, financial and industrial activities having as their subject both property and real estate, deemed by its Board of Directors as necessary or useful for the attainment of the aims of the consortium, and may purchase, sell, issue guarantees and own directly or indirectly, interests and shareholdings in the share capital of other enterprises or corporations or consortia with the same or similar or related aims, never, however, towards the public.

All the activities outlined in laws 385/1995 and 58/1998 are strictly excluded.

The Consortium may also operate in association with other private parties or enterprises, as an associating or associated element.

#### **Article 4 - Expiration**

The Consortium will expire on December 31, 2012 and may be extended, or it may be terminated in advance by resolution of the special meeting of its members.

#### **Article 5 - Requisites for membership**

The Consortium shall be open to all operators in the sector of Internet access/service supply both in Italy and also internationally, in particular suppliers or promoters of technologies for the spread of Internet service, if they dispose of their own autonomous system.

The members may be, in addition to large entrepreneurial

organizations, also small- and medium- sized enterprises which engage in one of the activities described in article 2195 of the civil code or small businesses as described in law no. 443 of August 8, 1985, or other consortia having the requisites of entrepreneurship indicated in the aforementioned article 2195, or also consortia or government agencies.

Industrial or commercial enterprises which comply with the requisites indicated in the laws on the subject of actions in support of consortia for foreign trading are considered small and medium.

The Board of Directors shall first ascertain, with a special resolution, the applicable laws and parameters.

The number of members of the Consortium is unlimited.

#### **Article 6 – Categories of members**

Members are divided into the following two categories:

##### INSTITUTIONAL members

INSTITUTIONAL members are public offices, public consortia, universities and organizations with majority public ownership, if non-profit, and compliant with the requisites for membership (article 5 of these By-Laws).

##### PRIVATE members

PRIVATE members are large business organizations, small- and medium- sized enterprises that engage in one of the activities

described in article 2195 of the civil code or small businesses as described in law 443 of August 8, 1985, or other consortia having the requisites of entrepreneurship indicated in the aforementioned article 2195, to fulfil the requirements for membership (article 5 of these By-Laws).

**Article 7 - Means of admission. Dues**

Any organization wishing to become a member of the Consortium shall submit a written application to the Board of Directors declaring that it has the requisites for membership and knows and accepts without reservation the rules of the articles of association, the By-Laws and internal regulations, if any.

The Board of Directors shall resolve on the admission, after determining the interest of the Consortium and ascertaining that the applicant possesses the necessary requisites for membership.

New members are required to pay the following contributions:

- Joining Fee (once only), to be paid at the time of joining. This fee is defined as the membership fee and is proportional to the level to which the new member is represented within the meeting.

The unit of measurement used is the Joining Fee Unit (JFU) and the Joining Fee is defined as a whole multiple of the JFU:

$$\text{Joining Fee} = N \times \text{JFU}$$

where the value of the JFU is the maximum value of N (Nmax, that is,

the maximum number of shares of representation, distinguishing between the type of new Members as either INSTITUTIONAL members or PRIVATE members) decided annually by the meeting on the occasion of the closure of the business year, at the time of approving the end-year financial statements.

Members are free to pay a number of JFU inferior to  $N_{max}$ , if necessary, reserving the right to complete the contribution (with relative recognition in terms of representation in the meeting) subsequent to joining.

- Membership Dues (annual), to be paid in two instalments (1st January and 1st June of every year) and defined as a contribution for affiliation to the Consortium.

The amount of the Membership Dues - equal for all members - is decided annually by the meeting at the time of closure of the business year, and approval of the end-year financial statements.

At the time of joining, the Membership Dues owed by the new member for the year in progress are calculated as the fraction (in twelfths) of the annual amount applicable to the residual period, or number of months until the end of the year, including the month of joining.

- Service Fee (annual), to be paid in two instalments (1st January and 1st June of every year), considered as the annual fee for the services linked to the services requested by the member.

The amount of this fee is decided annually by the meeting at the time of closure of the business year, and approval of the end-year financial statements.

At the time of joining, the Service Fee owed by the new member for the year in progress are calculated as the fraction (in twelfths) of the annual amount applicable to the residual period, or number of months until the end of the year, including the month in which of joining.

- Development Program Fee (annual)

The meeting of the members may determine an annual fee, deciding the amount, which will contribute to the start of Development Programs (Development Program Fee).

Underwriting the Development Program Fee is optional for each member. Underwriting the Development Program Fee means contributing to the Development Program, it is binding for three years and is tacitly renewed on expiration, unless the member notifies the Consortium otherwise at least three months prior to expiration of the three-year period.

Every member may contribute to a variable number of Development Program Fees, from a minimum of two to Nmax.

Payment of the Development Program Fee must be made before the end of January of every year. If a member decides to contribute to the Development Program during the year, the member is required to pay

the annual fee for the residual period, as a fraction (in twelfths) of the total amount, unless the Board of Directors decides otherwise and motivates its decision.

### **Article 8 – Membership obligations**

In addition to the terms of the previous article, members are also required:

- to send the Board of Directors all technical data and information requested by it and pertaining to the Consortium's aims, and in any case information relative to any transfer or termination of business by the member;
- to reimburse expenses authorized by the member on its behalf and to reimburse the Consortium for any damages ascertained and losses sustained and attributable to the member;
- to submit to all technical controls ordered by the Board of Directors for the purpose of ascertaining perfect compliance with membership obligations;
- to behave in the most correct way in any business relations stipulated with the Consortium;
- to respect the By-Laws, any internal regulations and resolutions of the Consortium offices;
- to favour the interests of the Consortium.

### **Article 9 - Resignation**

Members may resign from the Consortium.

The intention to resign shall be communicated to the Consortium by registered letter with return receipt at least (2) months before the end of the year.

Resignation becomes effective as of the date of year-end closure or, if the resignation is not communicated within the term indicated in the preceding clause, as of the date of the following year-end closure.

If the member has undertaken commitments continuing even after its resignation, these must in any case be regularly fulfilled.

### **Article 10 - Transfer of the member company**

In case of transfer for any reason of the member company, the purchasing party replaces the member in the Consortium.

However, if there is just cause, in case of transfer of the company by deed among living persons, the other members may resolve, within one month of notice of the transfer, to exclude the buyer from membership.

### **Article 11 - Expulsion of member**

Aside from the provisions of the preceding article, the Board of Directors may resolve to expel members from the Consortium in the following cases:

- if the member has lost the requisites for membership in the

Consortium;

- if the member is placed in liquidation, declared bankrupt or subject to other bankruptcy proceedings;
- if the member does not pay the required dues and fees (article 7 of these By-Laws);
- if the member has committed actions constituting serious violations of the provisions of these By-Laws, the internal regulations or resolutions of the Consortium offices;
- if the member has caused the Consortium judicially ascertained damages;
- if the member is unable to participate any longer in the pursuit of the Consortium's aims.

The Chairman of the Consortium shall communicate expulsion to the member within fifteen days of the resolution passed by the Board of Directors by registered letter with return receipt.

Any member who has been expelled by the Board of Directors for one of the last three reasons indicated may, within fifteen days of notice of expulsion, make a motivated request to the Board of Directors by registered letter with return receipt, that the expulsion be voted by the ordinary meeting of members to be convened within one month of the request.

### **Article 12 - Consequences of resignation or expulsion**

In case of resignation or expulsion, nothing is owed to the member by the Consortium and its share is distributed proportionally among the other members.

### **Article 13 - Non-transferability of membership**

Membership in the Consortium is not transferable either by deed among living persons or in succession, aside from the provisions of article 10 of these By-Laws.

### **Article 14 - Consortium fund**

The consortium fund consists of the Joining Fees.

In the pursuit of its aims the Consortium also uses other sums consisting of:

- the annual fees (Membership Dues, Service Fee and Development Program Fee) paid by each member;
- any voluntary contributions by members;
- contributions made by public organizations, physical or juridical persons for the conventional performance of its activities;
- donations, endowments and contributions by third parties;
- property purchased by the Consortium with its contributions.

In addition, any residual budgeted amounts are assigned to the Consortium fund unless they are allocated by the ordinary meeting of the members to specific reserve funds.

The Consortium fund and the reserve funds are indivisible and may not be distributed during the lifetime of the Consortium.

#### **Article 15 - Consortium business year**

The business year ends December 31 of every year.

At the end of every year the Board of Directors drafts the financial statements of the Consortium consisting of the balance sheet, profit and loss account and explanatory notes.

#### **Article 16 - Approval of the financial statements**

The meeting is convened to approve the financial statement within two months of the end of the business year.

It is strictly prohibited to distribute any residual budgeted amounts of any kind and in any form to the members.

#### **Article 17 - Consortium Offices**

The Consortium has the following constituents:

- the Meeting of Members;
- the Board of Directors;
- the Chairman and Vice-Chairman;
- the General Manager;
- the Program Development Committee, if appointed;
- the Board of Auditors, if appointed.

#### **Article 18 - Meetings of members**

In the meeting, every member has the right to one vote for every

Joining Fee Unit paid and one vote for every Development Program Fee paid. The meeting is convened at the Consortium headquarters, or elsewhere, but only in an Italian provincial capital, by the Chairman, when deemed advisable or when there is a request made by at least one third of the members, or in the other cases foreseen by these by-laws or the law, with notice of convocation to be sent at least ten days prior to the date set for the meeting by registered letter with return receipt or fax.

For the purposes of the preceding clause, the fax number to which the meeting convocation can be sent is the one which each member is required to communicate to the Consortium by registered letter with return receipt. Any change in the fax number must be communicated to the Consortium by registered letter with return receipt.

In the notice of convocation, members shall be informed of the agenda, the date and time established for the first and second convocation, and the place of the meeting.

The meeting may not be held in the second convocation on the same day as the date set for the first.

In case of urgency, notice of convocation can be sent no less than five (5) days prior to the date set for the meeting.

In the absence of the above formalities, meetings are considered valid when all the members are present, as well as all the members of the

Board of Directors and Board of Auditors, if appointed.

The Chairman of the Consortium presides over the meeting or, if absent or unable, the Vice-Chairman; if also the latter is absent or unable to preside, the meeting appoints its own Chairman.

Minutes shall be taken of the meetings, signed by the Chairman of the meeting and the secretary appointed by the Chairman.

Meetings may be ordinary or special.

#### **Article 19 - Ordinary meeting**

The ordinary meeting:

- decides annually, on the proposal of the Board of Directors, the amount of the Joining Fee Unit, the Membership Dues, the Service Fee and, every three years, the Development Program Fee and value of  $N_{\max}$  distinguishing between member types;
- approves the Consortium's financial statements;
- decides the number of members of the Board of Directors and elects the members in the manner described in article 22 of these By-Laws;
- may appoint a Board of Auditors;
- approves any internal regulations as outlined in article 28 of these By-Laws;
- imparts the general directives governing Consortium action and resolves on the other matters relative to management reserved to it by the by-laws or by the law and on the other matters submitted to it by

the Board of Directors;

- resolves on the expulsion of members in the cases contemplated by the third clause of article 11.

The ordinary meeting shall be convened at least once a year within the term indicated in article 15 of these By-Laws.

The meeting is valid, in the first convocation, when half plus one of the Joining Fee Units paid are present or represented and, in the second convocation, whatever number is present.

Resolutions, in both the first and second convocation, are passed with a majority of the votes validly expressed by those present.

#### **Article 20 - Special meeting**

The special meeting resolves on amendments to these By-Laws, on the extension and possible advance termination of the Consortium, on the appointment of the liquidators and their power, and on any other matter reserved to it expressly by the law or these By-Laws.

The special meeting resolves, in the first convocation, with at least 65% of votes in favour and, in the second convocation, with at least 50% of votes in favour. However, even in the second convocation, it is necessary to obtain at least 65% of votes in favour for resolutions relative to amendments to these By-Laws and to advance termination of the Consortium.

The resolving quorums indicated above are to be calculated with

reference to the votes validly expressed by those present.

#### **Article 21 - Proxies for meetings**

Members may be represented by other members, with written proxies to be kept on file by the Consortium.

#### **Article 22 - Board of Directors**

The Board of Directors consists of at least nine and no more than fifteen members including the chairman (the number is decided by the meeting at the proposal of the Chairman), who remain in office for three years, or any lesser period established by the meeting at the time of appointment, and may be re-elected in any case.

Every member has the right to present a list of two candidates.

The ordinary meeting shall appoint the board members selected from among the candidates proposed by the members unless the number of candidates proposed is fewer than the number it has decided to appoint, in which case, of course, the meeting can appoint as many members as are needed to reach the desired number of members of the board, even selecting among persons not proposed by members.

The list shall be deposited care of the Consortium headquarters at least three days prior to the date set for the meeting.

Every member can express four preferences; for each candidate a score will be assigned based on the voting rights of the electors expressing their preference.

The candidates with the highest score will be elected, until the number of members decided by the meeting has been reached.

If the entire Board of Directors is not appointed following the first vote, a second vote will be taken to appoint the missing members.

The Board of Directors is endowed with all the powers and attributes for the management of the Consortium that are not reserved, by law or by-laws, to the Meeting of Members.

Among other things, the Board of Directors:

- elects the Chairman and Vice-Chairman;
- prepares the draft financial statements with a report on management to be presented to the ordinary meeting for approval, proposing a draft program for the following year;
- propose the amount of the Joining Fee Unit, the Membership Dues, the Service Fee, the Development Program Fee and the value of  $N_{\max}$  to the annual meeting, discriminating between the types of members;
- resolve on the admission of new members;
- propose any internal regulations to the meeting of members, as well as any amendments to the by-laws and internal regulations;
- appoint the General Manager;
- appoint directors, proxies *ad negotia* for specific actions or categories of actions;
- resolve all other administrative business.

The Board of Directors is endowed with the broadest powers for the ordinary and extraordinary management of the Consortium, without exception, and has the faculty to perform all those actions that it deems advisable for the implementation and attainment of the Consortium's aims, excluding only those with the law or these By-Laws reserves for the meeting of members.

The Board may delegate all or part of its powers to one or more Managing Directors.

The Board of Directors meets at the Consortium headquarters or elsewhere, but only in an Italian provincial capital.

The Board of Directors is convened by the Chairman or, if absent or unable, by the Vice-Chairman, whenever he deems it advisable. It is also convened at the request of at least three Board members.

Convocation is made by letter or fax containing the indication of the day, place and time of the meeting and the list of items on the agenda, to be sent at least seven days prior to the date of the meeting or, in case of urgency, three days prior.

For the purposes of the preceding clause, the fax number to which notice of convocation of meetings will be sent is the one that every member is required to communicate to the Consortium at the time of appointment by registered letter with return receipt.

Changes to the fax numbers must likewise be reported to the

Consortium by registered letter with return receipt.

Meetings of the Board of Directors are presided over by the Chairman of the Consortium and, if absent or unable to preside, by the Vice-Chairman or, if the latter is also absent or unable, by the most senior Board member present.

Resolutions of the Board are valid if passed by a majority of the members present at the meeting; in case of ties the vote of the Chairman of the meeting prevails.

Minutes of the meeting are taken by a Secretary, who needs not be a member of the Board of Directors, appointed in each case by the Chairman, and shall be signed by the person taking them and by the Chairman.

Proxies are not allowed, even to another member of the Board.

Meetings of the Board may be held by video and conference call on condition that all the participants can be identified and can follow the discussion and participate in real time in the handling of the subjects; in this case the Board meeting is considered held where the Chairman is located, while the Secretary must be in the same location in order for both to sign the minutes in the relative book.

If, during the year, one or more Board members should become unavailable, but not the majority of the members, the others shall provide to replace them with a specific resolution.

Members co-opted in this way remain in office until the next meeting of members which shall provide to appoint the Board members as indicated in the previous clauses of this article.

If the majority of the Board should become unavailable, those remaining in office shall convene the meeting of members to replace the missing members, who shall expire from office with those in office at the time of their appointment.

If all the Members of the Board resign, the meeting of the members to appoint a new Board may be convened by a single member.

The offices of Chairman, Vice-Chairman and Board member are not remunerated, except for reimbursement of expenses.

### **Article 23 - Chairman**

The Consortium Chairman remains in office for three years or such lesser period established by the meeting at the time of appointment of the Board of Directors. The Chairman may be re-elected.

The Chairman:

- convenes and presides over meetings of the members and meetings of the Board of Directors;
- issues the appropriate directives for implementation of resolutions;
- performs the duties expressly conferred on him by the meeting of members or the Board of Directors;
- watches over the keeping and conservation of the documents of the

Consortium and minutes of the meetings of members and the Board of Directors;

- ascertains that they operate in conformity with the interests of the Consortium.

In case of tie votes in Board meetings, the vote of the Chairman breaks the tie.

#### **Article 24 - Legal representative**

The legal representative of the Consortium before third parties and in court is the Chairman.

The Chairman, the Vice-Chairman and the Board members endowed with proxies also have the power of company signature and represent the Consortium for the carrying out of the resolutions of the Board and in the sphere and for the exercise of the powers attributed to them.

The Consortium may also be represented before third parties, within the limits of the powers assigned and on the strength of a proxy, by the General Manager.

#### **Article 25 - General Manager**

The Board of Directors may appoint a General Manager.

The General Manager, collaborating with the Chairman, coordinates and directs the activities of the Consortium, employs/dismisses, directs and administers the employees, prepares the draft financial statements and budgets, participates in meetings of the Board of

Directors and expresses opinions in the form of consultation, which are not binding, and performs all the duties and functions assigned by the Board and by the Chairman.

The Board of Directors decides the term of office and decides the qualifications and retribution.

### **Article 26 - Program Development Committee**

The meeting of members, with the vote of only those members who have paid the Development Program Fee, can resolve to establish a Program Development Committee which remains in office three years and consists of:

- the General Manager, who presides;
- one representative for every 20 (twenty) shares of the Development Program fee, even if paid by the same member;
- 1 member appointed jointly by the members who have paid less than 20 (twenty) shares of the Development Program fee and belong to the academic and research sector;
- 1 member as representative of the Service/Application/Content Providers who have paid less than 20 (twenty) shares of the Development Program fee.

The Development Program Committee is charged with promoting new opportunities for the development of innovation projects, expressing opinions, compulsory but not binding, on the strategic plan for the

Consortium, approving the topics to discuss and the annual Conference program, approving the topics to discuss in the workshops and performing all those activities which may be assigned to it by the meeting of members on the occasion of its creation or later.

The Development Program Committee is convened by the General Manager and may adopt its own regulations to govern its meetings and activities.

#### **Article 27 - Supporting Organisations**

The public and private organisations which intend to support the activities of the Consortium in the pursuit of its aims may belong to a special Association, the creation of which will be promoted by the Consortium and will be registered, at their request and with the approving resolution of the Board of Directors, in a special ledger of Supporting Organisations kept by the Consortium.

The Consortium may accept contributions from these organizations.

The Supporting Organisations do not have, in any case, the right to demand the results of the activities of the Consortium.

These organizations may participate, without the right to vote, in the meetings of members.

#### **Article 28 - Liquidation**

If the Consortium is liquidated, the special meeting will provide for appointment of a liquidator and determine the relative powers.

After liquidation, the remaining funds of the Consortium shall be divided among the members in proportion to their share of the Joining fee paid.

**Article 29 - Internal rules**

Ordinary meetings may approve internal regulations for the application of these By-Laws and for anything necessary to ensure the best operation of the Consortium.

**Article 30 - Applicable and compatible regulations**

For anything not foreseen by these By-Laws, reference is made to the provisions of the civil code on the subject of consortia.

Read for insertion and filing.

Turin, (date)