

# BYLAWS OF EUSKALTEL, S.A.



## TITLE I GENERAL PROVISIONS

### **Article 1. Company name**

A commercial public limited company (*sociedad mercantil anónima*) is hereby formed with the name EUSKALTEL, S.A. (the “**Company**”), which shall be governed by the provisions of these bylaws (the “**Bylaws of the Company**”) and, to the extent not provided for herein, by the Companies Act (*Ley de Sociedades de Capital*) and other applicable law.

### **Article 2. Domicile**

The domicile of the Company shall be in Derio (Biscay), at Parque Tecnológico-Teknologi Elkartegia, Edificio 809.

The Board of Directors may approve the creation, elimination or transfer of branches, agencies, delegation offices, local offices or establishments, both within Spain and abroad.

### **Article 3. Corporate website**

The corporate website or electronic headquarters of the Company is [www.euskaltel.com](http://www.euskaltel.com). The Board of Directors may approve the modification, elimination and transfer of the Company’s website.

### **Article 4. Company object**

The object of the Company shall be the provision, management, development, implementation, exploitation and marketing of telecommunications networks and services in accordance with applicable law, as well as the marketing of assets to carry out said services.

The Company may engage in the activities included within its object either completely or partially and either directly or indirectly through the ownership of shares or interests in companies or businesses with the same or a similar object.

### **Article 5. Duration**

The Company commences its activities on the date of the deed of incorporation, and the duration thereof shall be indefinite.

## TITLE II SHARE CAPITAL AND SHARES

### **Article 6. Share capital**

The share capital is 455,536,080 shares, divided into 151,845,360 shares, each having a par value of 3 euros, of the same class and series, numbered consecutively from 1 to 151,845,360, inclusive, with the same political and economic rights, and which are fully subscribed and paid up.

## **Article 7. Representation of shares**

1. Shares are represented in book-entry form and are created as such by virtue of their inscription in the corresponding book-entry register. They shall be governed by the legal provisions applicable to the securities markets.
2. Standing to exercise shareholder rights, which entails a presumption of lawful ownership, is obtained by means of inscription in the book-entry register, and entitles the registered owner to demand that the Company recognise them as a shareholder. Said standing may be shown by presenting the appropriate certificates issued by the entity in charge of the relevant book-entry register.
3. If the Company provides any benefit to whomsoever appears as owner according to the book-entry register, it shall be released from the relevant obligation, even if the latter is not the actual owner of the share, provided that it does so in good faith and without gross negligence
4. If the person appearing as entitled to the shares in the entries of the book-entry register is entitled by way of a fiduciary or similar relationship, the Company may require such person to disclose the identity of the actual owners of the shares, as well as the transfers thereof and encumbrances thereon.

## **Article 8. Shareholder status**

1. A share gives the legitimate owner thereof the status of shareholder, and vests therein the rights and obligations provided by applicable law, which status entails full and complete adherence to the provisions of the Company's Bylaws and the resolutions validly adopted by the governing bodies of the Company, while at the same time allowing the owner to exercise the rights inherent to such status in accordance with the Company's Bylaws and with law.
2. As established by applicable legal provisions, and unless otherwise provided, each share gives the holder thereof at least the following rights:
  - (i) To participate in the distribution of company profits and in the assets resulting from liquidation.
  - (ii) To pre-emptively subscribe issues of new shares with a charge to cash contributions or of debentures convertible into shares.
  - (iii) To attend and vote in General Meetings upon the terms set forth in these Bylaws, and to challenge corporate resolutions.

Voting rights may not be exercised by shareholders who have defaulted on the payment of capital calls, or with respect to any non-voting shares.
  - (iv) Information, upon the terms set out in applicable legal provisions.
3. The Company shall afford equal treatment to all shareholders in the same situation.

### **Article 9. Joint ownership, beneficial ownership and pledge of shares**

1. Joint ownership, beneficial ownership (*usufructo*) and pledges of shares shall be governed by the legal provisions in effect from time to time.
2. Given that the shares are indivisible, joint owners of shares and joint owners of other rights thereon must designate a single person to exercise the corresponding rights and to give authenticated notice of their identity to the Company.

### **Article 10. Rules for the transfer of shares.**

Shares and the economic rights arising therefrom, including pre-emptive subscription rights, may be freely transferred by any of the means allowed by law.

### **Article 11. Capital calls**

1. If shares have not been fully paid up, this circumstance shall be reflected in the corresponding book entry.
2. Capital calls must be paid at the time fixed by the Board of Directors, within a period of five years from the date of the resolution approving the increase of capital. The form and other circumstances of the payment shall be governed by the provisions of the resolution approving the increase of capital, which may provide for cash as well as non-cash contributions.
3. Voting rights may not be exercised by shareholders who have defaulted on the payment of capital calls. They shall also not be entitled to receive dividends or to the pre-emptive subscription of new shares or of convertible debentures.
4. Once the amount of the capital call along with any interest due has been paid, the shareholder may request the payment of dividends that have not lapsed, but not the exercise of pre-emptive subscription rights if the period for the exercise thereof has already passed.

### **Article 12. Increase of capital**

1. Share capital may be increased by resolution of the shareholders acting at a General Shareholders' Meeting with the requirements established by applicable legal provisions and in accordance with the various terms and conditions authorised thereby. The increase may be implemented by means of the issue of new shares or by increasing the par value of existing shares, and the consideration for the increase may consist of cash or non-cash contributions to equity, including the set-off of loans to or claims against the Company, or by the conversion of reserves into share capital. The increase may be implemented in part with a charge to new contributions and in part with a charge to reserves.
2. Unless expressly provided otherwise in the resolution, if the increase of share capital is not fully subscribed within the period established for that purpose, the share capital shall be increased by the amount of subscriptions made.

### **Article 13. Authorised capital**

1. The shareholders acting at a General Shareholders' Meeting may, in accordance with the requirements established for amendment of the Bylaws of the Company and with

the limits and conditions determined by applicable legal provisions, authorise the Board of Directors, with any applicable powers of substitution, to approve an increase of share capital on one or more occasions. If the shareholders acting at a General Shareholders' Meeting delegate this power to the Board of Directors, they may also vest therein the power to exclude the right of pre-emptive subscription to the issues of shares covered by the delegation upon the terms and with the requirements established by applicable legal provisions and the Company's Bylaws, which in any case may not exceed twenty per cent (20%) of the capital at the time of the delegation.

2. The shareholders acting at a General Shareholders' Meeting may also delegate to the Board of Directors, with any applicable powers of substitution, the power to implement a previously-approved resolution to increase the share capital within the periods provided by applicable legal provisions, indicating the date or dates of execution thereof and establishing the conditions for the increase as to all matters not provided for by the shareholders acting at the General Shareholders' Meeting. The Board of Directors may make use of such delegation in whole or in part, or may refrain from using it, in view of market conditions or the condition of the Company itself, or of particularly relevant facts or circumstances that justify such decision, and shall report thereon to the shareholders at the first General Shareholders' Meeting held after the end of the period provided for the use thereof.

#### **Article 14. Pre-emptive rights and exclusion thereof**

1. In increases of share capital with the issue of new shares, when appropriate in accordance with applicable legal provisions and the Bylaws of the Company, and within the period provided thereto for this purpose by the Board of Directors, which shall not be less than the minimum provided by law, the shareholders of the Company may exercise the right to subscribe a number of shares proportional to the par value of the shares they hold at such time.
2. The shareholders acting at a General Shareholders' Meeting, or the Board of Directors if applicable, may completely or partially exclude the right of pre-emptive subscription in the interests of the Company, in the cases and upon the terms provided by applicable legal provisions and these Bylaws.
3. There shall be no right to pre-emptive subscription if the increase of share capital is made with a charge to non-cash contributions or is due to the conversion of debentures into shares or the acquisition of another company or of all or part of the assets spun off from another company or is due to the set-off of loans or claims, provided that said resolutions have been adopted pursuant to the Bylaws of the Company then in effect.

#### **Article 15. Reduction of capital**

1. Pursuant to legally provided procedures and in accordance with the Bylaws of the Company, a reduction of share capital may be performed through a reduction in the par value of the shares, the retirement thereof or by grouping them together for exchange, and may in all events be intended to return contributions, forgive unpaid

capital calls, create or increase reserves, re-establish balance between the share capital and the equity of the Company reduced due to losses, or several of these purposes simultaneously.

2. In the case of a reduction of share capital due to a return of contributions, the payment to the shareholders may be made totally or partially in kind, provided that the assets or securities to be distributed are homogeneous, are admitted to trading on an official exchange at the time the resolution is made effective, or the Company duly guarantees the liquidity thereof within a maximum period of one (1) year, and they are not distributed for a lesser value than the value set forth for them in the balance sheet of the Company.
3. The shareholders acting at a General Shareholders' Meeting may, in accordance with the provisions of applicable legal provisions, approve a reduction of share capital to cancel a particular group of shares, provided that said group is defined based on substantive, homogeneous, objective and non-discriminatory criteria. In such case the measure must be approved by both a majority of the shares of the shareholders belonging to the affected group and a majority of the shares of the other shareholders remaining in the Company. The amount to be paid by the Company shall not be less than the arithmetic mean of the closing prices for shares of the Company on the Continuous Market of the Securities Exchanges during the month prior to the adoption of the resolution approving the reduction of share capital.

#### **Article 16. Issue of debentures**

1. The shareholders acting at a General Shareholders' Meeting may, upon the terms provided by law, delegate to the Board of Directors the power to issue non-convertible or exchangeable and/or convertible debentures, including the power to exclude pre-emptive rights, if applicable. The Board of Directors may make use of such delegation on one or more occasions for a maximum period of five (5) years.
2. The shareholders acting at a General Shareholders' Meeting may also authorise the Board of Directors to determine the time at which said issue should take place, and to set the other terms and conditions not provided for in the resolution of the shareholders.

#### **Article 17. Convertible and exchangeable debentures**

1. Convertible and/or exchangeable debentures may be issued with a set (determined or determinable), variable or mixed exchange rate.
2. The resolution approving the issue shall determine whether the power of conversion or exchange belongs to the debenture holder and/or to the Company or, if applicable, if the conversion or exchange will automatically occur at a particular time.
3. The provisions of article 14 above shall apply with respect to the pre-emptive subscription rights of the Company's shareholders and the exclusion thereof with respect to issues of debentures convertible into shares of the Company.

#### **Article 18. Other securities**

1. The Company may, by resolution of the shareholders acting at a General Shareholders' Meeting and in accordance with the Bylaws of the Company, issue

notes, preference shares or other negotiable securities other than those provided for in the preceding articles.

2. The shareholders acting at a General Shareholders' Meeting, in accordance with the Bylaws of the Company, may also delegate to the Board of Directors the power to issue such securities. The Board of Directors may make use of such delegation on one or more occasions for a maximum period of five (5) years.
3. The shareholders acting at a General Shareholders' Meeting may also authorise the Board of Directors to determine the time at which said issue should take place, and to set the other terms and conditions not provided for in the resolution of the shareholders in accordance with applicable legal provisions.
4. The Company, by resolution of the shareholders acting at a General Shareholders' Meeting in accordance with the Bylaws, or of the Board of Directors by delegation therefrom, may also guarantee the issue of securities by its subsidiaries.

### **TITLE III**

#### **GOVERNING BODIES OF THE COMPANY**

#### **Article 19. Governing bodies**

The Company shall be directed, governed and administered by:

- A) The shareholders acting at a General Shareholders' Meeting.
- B) The Board of Directors.

The governing bodies of the Company have the powers respectively vested therein by the Bylaws of the Company, which may be delegated in the manner and to the extent determined thereby.

Powers that have not been vested in the shareholders acting at a General Shareholders' Meeting by law or the Bylaws belong to the Board of Directors.

The legal and bylaw regulation of the aforementioned bodies shall be further developed and supplemented, respectively, through the Regulations for the General Shareholders' Meeting and the Regulations of the Board of Directors, the approval and amendment of which must be approved by a majority of the respective body.

### **CHAPTER I**

#### **GENERAL SHAREHOLDERS' MEETING**

#### **Article 20. General Shareholders' Meeting**

The shareholders acting at a General Shareholders' Meeting that has been duly called and for which a valid quorum exists shall represent the Company, and the resolutions passed thereby pursuant to the Bylaws of the Company and in accordance with law shall bind all shareholders, including absent and dissenting shareholders, without prejudice to the rights of objection to which they are legally entitled.

The shareholders acting at a General Shareholders' Meeting shall be governed by applicable legal provisions, the Bylaws of the Company and the Regulations for the

General Shareholders' Meeting, which complete and further develop the legal and bylaw rules on matters regarding the call, preparation, holding and proceedings thereof, as well as the exercise of the shareholders' rights to information, attendance, proxy representation and voting. The Regulations for the General Shareholders' Meeting must be approved by the shareholders.

#### **Article 21. Types of General Shareholders' Meetings**

1. A General Shareholders' Meeting may be ordinary or extraordinary.
2. The shareholders acting at an ordinary General Shareholders' Meeting shall meet within the first six months of each financial year in order to approve the corporate management, approve the annual accounts and decide upon the allocation of profits or losses from such financial year, without prejudice to its power to consider and resolve upon any other matter appearing on the agenda. An ordinary General Shareholders' Meeting shall be valid even if called or held for this purpose after the deadline.
3. Any General Shareholders' Meeting not provided for in the preceding paragraph shall be deemed to be an extraordinary General Shareholders' Meeting.

#### **Article 22. Power to call a meeting**

The General Shareholders' Meeting shall be called by the Board of Directors or, if applicable, by the liquidators of the Company.

#### **Article 23. Duty to call a meeting**

The Board of Directors shall call the General Shareholders' Meeting whenever it so deems necessary or appropriate to the Company interest, and in any event on the dates or within the deadlines provided by law and the Bylaws of the Company.

#### **Article 24. Request by minority to call a meeting**

The Board of Directors shall also call a General Shareholders' Meeting if so requested by one or more shareholders representing at least three per cent (3%) of the share capital with a statement in the request of the matters to be considered. In such event, the General Shareholders' Meeting must be called to be held within two (2) months following the date on which the notarial request for the call has been made to the Board of Directors, and which must include on the agenda the matters covered by the request.

#### **Article 25. Court-ordered call**

If the ordinary General Shareholders' Meeting or any other General Shareholders' Meeting provided for in the Company's Bylaws is not called within the applicable legal time limit, they may be called by a Commercial Judge corresponding to the registered office upon the request of any shareholder after a hearing by the Board of Directors.

#### **Article 26. Supplement to the call**

Shareholders representing at least three per cent (3%) of the share capital may, within the periods and upon the terms and conditions established by law, request the publication of a supplement to the call to an ordinary General Shareholders' Meeting including one or more items on the agenda, provided such new items are accompanied by the rationale therefor or, if appropriate, by a duly substantiated proposal for a resolution, and submit reasoned

proposed resolutions on matters already included or that must be included on the agenda of a General Shareholders' Meeting that has already been called. The Company shall publish a supplement to the call to the meeting and the aforementioned reasoned proposed resolutions as provided by law.

#### **Article 27. Manner of calling the meeting**

The General Shareholders' Meeting shall be called by means of publication of an announcement in a widely circulated newspaper in Spain or in the Official Bulletin of the Commercial Registry (*Boletín Oficial del Registro Mercantil*) and on the Company's corporate website and the website of the National Securities Market Commission (*Comisión Nacional del Mercado de Valores*).

#### **Article 28. Content of the call**

Without prejudice to other legally required circumstances, the call to meeting shall in any event state the name of the Company, the date and time of the meeting, the agenda showing the matters to be considered, the position of the person or persons making the call, as well as the date on which shareholders must have shares registered in their name in order to be able to participate and vote at the General Meeting, the place and manner in which the full text of the documents and proposed resolutions can be obtained, and the website address of the Company where the information will be available.

#### **Article 29. Period for the call**

1. There must be a period of at least one (1) month between the call to meeting and the date provided for the holding of the General Shareholders' Meeting, without prejudice to the provisions governing the supplement to the call.

The announcement of the call to the General Shareholders' Meeting shall expressly state that any shareholder may obtain from the Company, immediately and without charge, the documents that must be submitted for the approval of the shareholders, as well as the management report and the auditor's report, if any.

2. If the Company offers to the shareholders the actual ability to vote by electronic means accessible to all of them, extraordinary General Meetings of the Company may be called at least fifteen days in advance, after a resolution adopted at the ordinary General Meeting upon applicable terms to such effect pursuant to the legal provisions applicable to the Company.

#### **Article 30. Second call**

The announcement of the call to meeting may also set forth the date on which the General Shareholders' Meeting shall proceed upon second call, if applicable.

There must be a period of at least twenty-four (24) hours between the first and second meeting.

If a duly called General Shareholders' Meeting, whatever the type thereof, cannot be held on first call and a date of the second call has not been provided in the announcement, the holding thereof must be announced with the same agenda and the same publication requirements as the first within fifteen (15) days following the date on which the General Shareholders' Meeting was not held and at least ten (10) days prior to the date set for the meeting.

**Article 31. Place of the Meeting, chair and secretary**

The General Shareholders' Meeting shall be held at the place indicated in the call to meeting within the municipal territory of the registered office or within the municipal territory of Bilbao.

The General Shareholders' Meeting shall be presided by the Chair of the Board of Directors, with the secretary thereof acting as secretary for the Meeting.

**Article 32. Right to attend and to proxy representation**

The shareholders of the Company, whatever the number of shares held thereby, shall have the right to attend the General Shareholders' Meeting.

The shareholders' rights to attend and to proxy representation with respect to the General Shareholders' Meeting shall be governed by the legal provisions from time to time applicable to the Company and by the provisions of the Regulations for the General Shareholders' Meeting.

The Chair of the General Shareholders' Meeting may authorise the attendance of officers, managers and technical personnel of the Company and other persons with an interest in the orderly conduct of corporate matters, and may invite any other persons that the Chair deems appropriate.

**Article 33. Minutes of the General Shareholders' Meeting**

All corporate resolutions must be recorded in minutes.

The minutes must include the list of attendees and must be approved by the shareholders at the end of the General Shareholders' Meeting, or otherwise within a period of fifteen (15) days by the chair of the General Shareholders' Meeting and two (2) shareholder inspectors, one on behalf of the majority and the other on behalf of the minority. The minutes shall have legal effect as from the date of approval thereof.

**Article 34. Notarial minutes**

The Board of Directors may require the presence of a Notary to prepare the minutes of the General Shareholders' Meeting, and must do so if so requested at least five (5) days prior to the date provided for holding the General Shareholders' Meeting by shareholders representing at least one per cent (1%) of the share capital. In this latter case, resolutions shall only be effective if they appear in the notarial minutes. The notarial minutes shall not be subject to an approval procedure, shall be considered the minutes of the General Shareholders' Meeting, and the resolutions reflected or contained therein may be implemented as from the date of closure thereof, with the notary fees being paid by the Company.

**Article 35. Right to information**

The shareholders' right to information relating to the General Meeting shall be governed by the legal provisions from time to time applicable to the Company and by the provisions of the Regulations for the General Shareholders' Meeting.

Prior to the General Meeting until the fifth day prior to the holding thereof, or verbally during the course thereof, shareholders may request the reports or clarifications that they deem appropriate regarding the matters included in the agenda.

The Board of Directors shall be required to so provide them to the shareholders (i) with respect to information requested prior to the holding of the General Shareholders' Meeting, in writing up to the preceding day, and (ii) with respect to information requested verbally or in writing at the General Shareholders' Meeting, if not possible at that time, in writing within seven (7) days following the completion of the General Shareholders' Meeting.

The information shall not be denied unless said information is unnecessary for the protection of shareholder rights, there are objective reasons to believe that it might be used for *ultra vires* purposes, or publication of the information might prejudice the company or companies related thereto. This exception shall not apply if the request is supported by shareholders representing at least twenty-five per cent (25%) of the share capital.

### **Article 36. Deliberation and adoption of resolutions**

1. The Chair shall submit the matters included in the agenda to the deliberation of the shareholders meeting at a General Meeting. For such purpose, the Chair shall have the appropriate powers of order and discipline in order for the meeting to be conducted in an orderly manner.
2. Each of the items on the agenda shall be voted on individually. In addition, the matters included within the same agenda that are substantially independent shall also be subject to an individual vote.
3. Once a matter has been sufficiently debated, the Chair shall submit it to a vote. The Chair shall set the voting system that the Chair considers most appropriate and direct the corresponding process, conforming to any rules provided in the Regulations for the General Shareholders' Meeting.
4. Each voting share that is represented in person or by proxy at the General Shareholders' Meeting shall give the right to one vote.

### **Article 37. Majorities**

#### **37.1 Ordinary voting majority**

All decisions of the shareholders at a General Shareholders' Meeting shall be adopted by simple majority of the votes of the shareholders represented in person or by proxy.

#### **37.2 Voting majority for Significant Decisions.**

Resolutions dealing with a matter that is a Significant Decision (as hereinafter defined) shall be adopted by the affirmative vote of shareholders represented in person or by proxy and representing at least seventy-five per cent (75%) of the share capital with voting rights.

#### **37.3 Significant Decisions of the shareholders acting at a General Shareholders' Meeting**

“**Significant Decisions of the shareholders acting at a General Shareholders' Meeting**” shall mean:

1. Amendment of the Bylaws of the Company affecting the registered office, company name, company object and rules for adopting resolutions by the shareholders acting at a General Shareholders' Meeting and by the Board of

Directors (unless intended to conform them to applicable law), including Significant Decisions of the shareholders acting at a General Shareholders' Meeting and of the Board of Directors, as well as a change in the "Euskaltel" brand for carrying out the activities of the Company with the Autonomous Community of the Basque Country.

2. Any resolution having the purpose or effect of not maintaining effective administration and management of the Company within the Autonomous Community of the Basque Country.

For purposes of clarification, a transfer of effective administration and management outside of the Autonomous Community of the Basque Country shall not be deemed to have occurred to the extent that (i) the General Shareholders' Meeting continues to be held within the territory of the Autonomous Community of the Basque Country, (ii) meetings of the Board of Directors are regularly held within the territory of the Autonomous Community of the Basque Country, and (iii) the Company maintains within the Autonomous Community of the Basque Country the human and material resources required to carry out its activities of telecommunications industry operator within the Autonomous Community of the Basque Country.

On the other hand, any resolution entailing the total or partial disposition of the network of physical infrastructure and equipment and facilities for the provision of the Company's provision of electronic communications and television services within the Autonomous Community of the Basque Country shall be deemed to have the effect of not maintaining effective administration and management of the Company within the Autonomous Community of the Basque Country unless the disposition results from the obsolescence of or improvements to the network. The resolution will thus be subject to the rules on majorities provided herein.

- 3.- Delegation to the Board of Directors of any of the foregoing resolutions, in the instances allowed by law.

### **Article 38. Absentee voting**

1. Shareholders with the right to attend may cast an absentee vote regarding proposals relating to the items included on the agenda for any type of General Shareholders' Meeting by post or any other means of remote communication that the Board of Directors may determine on occasion of the call to each General Shareholders' Meeting pursuant to the provisions of the Regulations for the General Shareholders' Meeting, and that duly assures the identity of the person exercising their right to vote.
2. A vote cast by remote means of communication shall only be valid if received by the Company before midnight (24:00) on the day immediately prior to the day set for the holding of the General Shareholders' Meeting upon first call. Otherwise, the vote shall be deemed to have not been cast.
3. Pursuant to the provisions of the Regulations for the General Shareholders' Meeting, the Board of Directors may expand upon the foregoing provisions, establishing state-of-the-art rules, means and procedures to implement voting and proxy-granting by

remote means of communication, conforming in each case to the legal provisions applicable for such purpose. The implementing rules adopted under the provisions of this section shall be published on the Company's website.

4. Personal attendance at the General Meeting by the shareholder or the proxy representative thereof shall have the effect of revoking the vote cast by post or other remote means of communication.

#### **Article 39. Certification of resolutions**

Resolutions adopted at the General Shareholders' Meeting shall be certified by means of certificates issued by the Secretary and, where appropriate, by the Deputy Secretary of the Board of Directors, with the approval of the Chair or, where appropriate, the Vice Chair of the Board of Directors.

#### **Article 40. Implementation of resolutions adopted**

Upon adoption of the resolutions in the manner indicated, the shareholders acting at the General Shareholders' Meeting may freely designate any member of the board for the implementation thereof.

In the absence of such designation, the resolutions of the shareholders shall be implemented either by the Chair or the Secretary of the Board of Directors.

All of the foregoing is without prejudice to the implementation being entrusted to a person given powers of representation, including general powers, granted for such purpose.

#### **Article 41. Establishment of a quorum for the General Shareholders' Meeting, challenge of resolutions, and reference to law**

As for the establishment of the General Shareholders' Meeting, in regard to the quorum, list of attendees and right to information, challenge of resolutions, and all other matters not provided for in the Company's Bylaws and the Regulations for the General Shareholders' Meeting, the General Shareholders' Meeting shall be governed by the provisions of law.

## **CHAPTER II THE BOARD OF DIRECTORS**

#### **Article 42. Board of Directors**

The Company shall be administered by a Board of Directors.

The Board of Directors shall be governed by applicable legal provisions and by these Bylaws of the Company. The Board of Directors shall further develop and complete these provisions through the appropriate Regulations of the Board of Directors, the approval of which shall be reported to the shareholders at the General Shareholders' Meeting.

#### **Article 43. Powers of the Board of Directors**

1. The Board of Directors has the power to adopt resolutions regarding all matters not vested by law or the Company's By-Laws in the shareholders acting at a General Shareholders' Meeting.
2. The Board of Directors, which has the broadest powers to manage, direct, administer and represent the Company, may entrust the day-to-day management of the Company to the delegated management bodies, and in such case shall concentrate its

activity on the general duty of supervision and on the consideration of those matters of particular importance to the Company.

#### **Article 44. Composition of the Board of Directors**

1. The Board of Directors shall consist of a minimum of five (5) directors and a maximum of fifteen (15) directors, to be appointed by the shareholders acting at a General Shareholders' Meeting, and who may be individuals or legal entities, shareholders or non-shareholders.
2. The number of directors is established by the shareholders acting at a General Shareholders' Meeting. It shall for this purpose proceed directly to setting this number by express resolution or indirectly by filling vacancies or appointing new directors, within the maximum limit established in the preceding section.
3. In the exercise of its powers to propose appointments to the shareholders at a General Shareholders' Meeting and to fill vacancies by interim appointment, the Board of Directors must ensure that, to the extent possible, there is a majority of external or non-executive directors over executive directors within the body, ensuring that the number of independent directors represents at least half of all members of the Board of Directors. Furthermore, the number of executive directors should be the minimum necessary, considering the complexity of the corporate group and the percentage interest of the executive directors in the capital of the Company.
4. The definitions of the different types of directors shall be those established in the legal provisions applicable from time to time applicable to the Company.
5. The nature of each director must be explained by the Board of Directors at the General Shareholders' Meeting whereat the shareholders must make or ratify their appointment. If an external director cannot be deemed proprietary or independent, the Company shall explain this circumstance and their relationships, either to the company, its officers, or its shareholders.

#### **Article 45. Chair, Vice Chair, Secretary and Deputy Secretary**

1. The Board of Directors shall appoint from its members, following a report from the Appointments and Remuneration Committee, a Chair and a Vice Chair, as well as a non-director Secretary and, if appropriate, a non-director Deputy Secretary.
2. The Vice Chair and any Deputy Secretary shall act by order thereof in cases of physical or legal inability to perform the positions they supplement.

#### **Article 46. Corporate director**

If a legal entity is appointed as director, it must designate a single individual for the permanent exercise of the duties of the position.

The revocation of the representative by the corporate director shall not take effect until the representative's replacement is designated. Said designation shall be recorded with the Commercial Registry as legally required.

#### **Article 47. Effective date of appointment**

The appointment of members of the Board of Directors shall take effect upon their acceptance of the appointment.

#### **Article 48. Expiry of office**

Once the term thereof has ended, the appointment of directors shall expire upon the holding of the next General Shareholders' Meeting or the passage of legal period for holding the General Shareholders' Meeting whereat a decision must be made to approve the accounts for the prior financial year.

#### **Article 49. Renewal or re-election**

Renewals or re-elections shall occur to the extent of cessations in office or the expiry of appointments.

#### **Article 50. Removal**

Directors may be removed from their position at any time by the shareholders acting at a General Shareholders' Meeting, even if said removal does not appear on the agenda.

#### **Article 51. Prohibitions**

Unemancipated minors, legally incompetent persons, persons ineligible under the Bankruptcy Act until they have completed the period of ineligibility established by the bankruptcy ruling, and those convicted of crimes against liberty, against property, against the economic order, against the collective safety, against the administration of justice or any kind of falsehood, and those who by reason of their office may not engage in commerce, and officials in the service of the government administration with duties that relate to the activities of the Company, judges or magistrates, and other persons affected by a legal disqualification, may not be directors.

The prohibitions against using the Company's name, using one's status as director, exploiting business opportunities, conflicts of interest, and against competition shall be governed by the provisions of law.

In particular, individuals representing a corporate director, domestic or foreign companies in the telecommunications or other sectors that compete with the Company ("**Competitor Companies**"), and the shareholders, directors and senior officers thereof, and persons who may be proposed by Competitor Companies in their capacity as shareholders of the Company, may not be appointed as directors.

#### **Article 52. Term of director's office**

The term of appointment as director shall be four (4) years. They may be re-elected to the office on one or more occasions for equal maximum terms.

#### **Article 53. Meetings of the Board of Directors**

##### **53.1 Form and period of the call to meeting**

The Board of Directors shall meet whenever called by the Chair and at least six (6) times per year, and at least one meeting must be held each calendar quarter.

Directors comprising at least one third of the members of the board may call a meeting, stating the agenda, to be held at the registered office, if a request has previously been submitted to the Chair and the Chair has unjustifiably failed to call the meeting within a period of one month.

The meeting shall be called by notice via fax, email or letter to each of the directors at least ten (10) business days prior to the date set for the meeting.

If the Chair believes there are urgent reasons for such purpose, it shall be sufficient if the call is made three (3) business days in advance, subject to the provisions of the preceding paragraph regarding the form of making the call.

The Board of Directors must be called by the Chair upon written request, containing the agenda, from at least two (2) directors. If a meeting of the Board of Directors is not called by the Chair upon request of the above directors, the Vice Chair or, if there are several, any of the Vice Chairs is expressly authorized to call the respective meeting of the Board of Directors. Said meeting must be called to be held within ten (10) business days of receipt of the request for the call. A call to meeting shall not be necessary if all the directors meet and unanimously agree to hold the meeting.

If a lead independent director (*consejero coordinador*) has been appointed, the lead independent director shall have the power to request the Chair of the Board of Directors to call a meeting of the Board of Directors whenever said director deems appropriate.

### **53.2 Holding of meetings of the Board of Directors. Adoption of resolutions in writing without a meeting.**

Generally, meetings of the Board of Directors shall take place at the registered office, with the physical attendance of the directors or their proxy representatives.

Without prejudice to the foregoing, meetings of the Board of Directors may be held in several places connected by systems that permit recognition and identification of the attendees, permanent communication among the attendees regardless of their location, and participation and the casting of votes, all in real time. Attendees at any of these places shall be deemed as attendees at the same individual meeting for all purposes relating to the meeting of the Board of Directors. The meeting shall be deemed to be held where the greatest number of directors is located, and if in equal numbers, where the Chair of the Board of Directors or whomever chairs the meeting in the absence thereof is located.

Voting by the Board of Directors may occur in writing without a meeting provided that no director objects thereto. In this instance, the directors may submit to the secretary of the Board of Directors, or whoever assumes the duties thereof, their votes and the considerations they wish to appear in the minutes, using any means that allows for receipt thereof. Resolutions adopted using this procedure shall be recorded in minutes prepared pursuant to the provisions of applicable law.

### **Article 54. Ordinary quorum and voting majority**

A valid quorum for a meeting of the Board of Directors shall require the attendance in person or by proxy of one half plus one of its members.

Resolutions regarding a matter that is not a Significant Decision of the Board of Directors (as defined below) shall be adopted with the favourable vote of an absolute majority of the directors present in person or by proxy, with the Chair having the tie-breaking vote.

### **Article 55. Quorum and majority voting for Significant Decisions**

A valid quorum for a meeting of the Board of Directors held to adopt Significant Decisions of the Board of Directors shall require the attendance in person or by proxy of four fifths (4/5) of its members.

Resolutions regarding a matter that is a Significant Decision of the Board of Directors (as defined below) shall be adopted with the favourable vote of at least four fifths (4/5) of the members present in person or by proxy.

### **Article 56. Significant Decisions of the Board of Directors**

For purposes of the preceding Article, the following shall be considered “**Significant Decisions of the Board of Directors**”, which cannot be delegated to a Chief Executive Officer (*Consejero Delegado*) and/or to an Executive Committee and which must be decided by the Board of Directors:

- 1.- Closure of any work centre of the Company at any time within Autonomous Community of the Basque Country, unless said closure is documented with due justification for reasons of efficiency in carrying out the business activity of the Company.
- 2.- Proposing any decision to the shareholders acting at a General Shareholders’ Meeting that is intended to have the effect of not maintaining effective administration and management of the Company within the Autonomous Community of the Basque Country or within any other Autonomous Community in which the effective administration and management of a subsidiary or minority-owned company is located. The clarifications set out in section 2 of article 37.3 shall apply for these purposes.
- 3.- Proposing to the shareholders acting at a General Shareholders’ Meeting a change in the “Euskaltel” brand for carrying out the activities of the Company in the Autonomous Community of the Basque Country.
- 4.- Decision regarding the direction of the Company’s vote in its capacity as member or shareholder (and the vote of its representatives on management bodies) at any subsidiaries or minority-owned companies regarding any resolution deemed to be Significant Decisions of the Board of Directors for purposes of this section.
- 5.- Resolutions to implement the delegations made by the shareholders acting at a General Shareholders’ Meeting regarding the above matters.

### **Article 57. Grant of proxy representation and vote**

Any director may grant their proxy and vote to any other director, giving notice thereof by letter addressed to the Chair. The proxy must be in writing and must be particular for each meeting.

### **Article 58. Minute book**

The discussions and resolutions of the Board of Directors shall be kept in a minute book. The minutes shall be approved at the end of the meeting or at the following meeting and shall be signed by the Secretary with the approval of the Chair.

### **Article 59. Implementation of resolutions**

Implementation of the resolutions of the Board of Directors may be entrusted to any of its members, as well as to the non-Director Secretary and any non-Director Deputy Secretary. In the absence of an express designation, they shall be implemented by the Chair or the Secretary.

All of the foregoing is deemed to be without prejudice to the powers of representation, even those of a general nature, that the Board of Directors may give to any person for said implementation.

### **Article 60. Scope of power of representation**

Representation of the Board of Directors shall cover all of the acts within the company object set out in the Bylaws of the Company and by law.

### **Article 61. Director liability**

In all matters relating to the liability of the directors, suits for liability and to challenge resolutions of the Board of Directors shall be governed by the provisions of law.

### **Article 62. Director remuneration**

1. The directors shall be entitled to receive remuneration for the performance of the duties corresponding thereto by virtue of their membership on the Board of Directors as a collective decision-making body of the Company.
2. The remuneration of the directors as such referred to in the preceding section shall have two components: (a) a fixed annual allocation; and (b) potential commitments of the Company to pay amounts as insurance premiums in favour of the directors, in this latter case with a maximum annual limit of eight thousand euros (€8,000) per director.

The total amount of the remuneration that the Company may pay to all of its Directors for the items set out in the preceding paragraphs shall not exceed the amount determined for such purpose by the shareholders at the General Shareholders' Meeting. The amount thus established by the shareholders shall be maintained until it is modified by a new resolution of the shareholders at a General Shareholders' Meeting, pursuant to the provisions of applicable law.

The specific amount corresponding to the above items for each of the directors shall be determined by the Board of Directors in accordance with the director remuneration policy. For such purpose, it shall take into account, amongst other issues, the positions held by each director within the collective body itself, their membership on and attendance at the various committees, and the classification of the director as executive, independent or proprietary.

3. Directors who perform executive duties shall also be entitled to receive remuneration for the performance of said duties provided for in the contract signed to that end between the director and the Company.

Said contract shall conform to the director remuneration policy to be approved by the shareholders at the General Shareholders' Meeting, including the parameters for the accrual of their remuneration, as well as possible severance payments for termination of the contract, provided that the termination of employment is not due to a breach of

their duties as director, and any commitments of the Company to pay insurance premiums or contributions to savings or social welfare systems.

If appropriate, the Board of Directors shall establish the remuneration of the directors for the performance of executive duties and approve, with the legally required majority, the executive directors' contracts with the Company, which must conform to the remuneration policy approved by shareholders at the General Meeting.

4. The director remuneration policy shall conform as appropriate to the remuneration system provided for in the Company's Bylaws, shall have the scope provided by law, and shall be submitted by the Board of Directors for the approval of the shareholders acting at a General Shareholders' Meeting with the frequency provided by law.
5. The Company shall purchase a civil liability policy for its directors upon customary terms and proportional to the circumstances of the Company.

#### **Article 63. Executive and consultative committees of the Board of Directors**

1. Without prejudice to the powers of representation that it may grant to any person, the Board of Directors may create an Executive Committee made up of a minimum of three (3) and a maximum of six (6) members and may also appoint one (1) or more Managing Directors (*Consejeros Delegados*) upon a proposal of the Chair of the Board of Directors, and may totally or partially delegate thereto, either temporarily or permanently, all of the powers that are not non-delegable under applicable legal provisions. The validity of the delegation and designation of the members of the Board of Directors to hold said offices shall require the favourable vote of four fifths (4/5) of the members of the Board of Directors, and shall not take effect until the registration thereof with the Commercial Registry.
2. The Board must create an Audit and Control Committee and an Appointments and Remuneration Committee with the information, supervisory, advisory and proposal-making powers on matters within their purview as specified in these Bylaws and which may be further developed in the Regulations of the Board of Directors and in the internal regulations of each committee.
3. The Board may also create other committees with consultative or advisory duties, without prejudice to the vesting therein of particular decision-making powers.

#### **Article 64. Audit and Control Committee**

1. The Board of Directors shall create a permanent Audit Committee, an internal informational and consultative body, without executive functions, with information, advisory and proposal-making powers within its scope of action as set forth in section 3 of this Article. The Audit and Control Committee shall be composed of a minimum of three (3) and a maximum of five (5) directors appointed by the Board of Directors itself and who must be external directors. A majority of the members of the Audit and Control Committee shall be independent and shall be appointed, particularly as regards its chair, taking into account their knowledge and experience in accounting, auditing or risk management. The Audit and Control Committee shall also appoint its Chair from among the independent directors forming part of said Committee. The position of Secretary of the Audit and Control Committee may be

held by one of the members of the Committee or by the Secretary or the Deputy Secretary of the Board of Directors.

2. Directors forming part of the Audit and Control Committee shall hold office for so long as their appointment as directors of the Company remains in effect, unless the Board of Directors decides otherwise. The renewal, re-election and removal of directors sitting on the Committee shall be governed by resolution of the Board of Directors.

The position of Chair shall be held for a maximum term of four (4) years, after which they may not be re-elected as such until the passage of one (1) year from ceasing to act as such, without prejudice to the continuance or re-election thereof as a member of the Committee.

3. Without prejudice to any other tasks that may be assigned thereto from time to time by the Board of Directors, the Audit and Control Committee shall have the following basic duties:
  - a) Report to the shareholders at the General Shareholders' Meeting on the issues raised by the shareholders that are within its purview.
  - b) Monitor the effectiveness of the internal control of the Company and of its Group, as well as the systems for managing risks, including tax risks.
  - c) Together with the auditors, analyse significant weaknesses in the internal control system detected during the audit.
  - d) Supervise the process of preparing and presenting regulated financial information.
  - e) Propose to the Board of Directors, for submission to the shareholders at the General Shareholders' Meeting, the appointment, re-election or replacement of the auditors in accordance with applicable legal provisions, as well as the terms of engagement thereof, and regularly collect information therefrom on the audit plan and the implementation thereof, in addition to preserving its independence in the performance of its duties.
  - f) Supervise the internal audit activity of the Company.
  - g) Establish appropriate relations with the auditors to receive information on those issues that might risk the independence thereof, for examination by the Audit Committee, and any others related to the audit process, as well as such other communications as are provided for in the laws on auditing and in other auditing rules. In any case, it must annually receive from the auditors written confirmation of their independence from the Company or entities directly or indirectly related thereto, as well as information on additional services of any kind provided to these entities by the auditors or by persons or entities related thereto, in accordance with laws on auditing of accounts.
  - h) On an annual basis, and prior to the audit report, issue a report expressing an opinion on the independence of the auditor.. This report must in all cases make a pronouncement regarding the provision of the additional services referred to in the preceding paragraph, considered individually and as a whole, other than

the legal audit, and in relation to the rules on independence or the legal provisions governing auditing.

- i) Provide an advance report to the Board of Directors on all of the matters provided by law, the Company's Bylaws and the Regulations of the Board of Directors, and particularly regarding: (i) the financial information that the Company must periodically publish; (ii) the creation or acquisition of interests in special purpose entities or entities domiciled in territories or countries considered to be tax havens; and (iii) related-party transactions.
  - j) Any others assigned thereto by the Board of Directors in its corresponding Regulations or in the Regulations of the Audit Committee.
4. The Audit and Control Committee shall ordinarily meet two (2) to four (4) times per year in order to review the periodic financial information to be submitted to the securities authorities, as well as the information that the Board of Directors must approve and include within its annual public documentation. It shall also meet at the request of one third (1/3) of its members and whenever called by its Chair, who must do so whenever the Board of Directors or the Chair thereof requests the issuance of a report or the adoption of proposals and, in any case, whenever appropriate for the proper performance of the duties thereof. A valid quorum shall be formed with the presence in person or by proxy of one half plus one of the directors forming part of the Committee, and shall adopt its resolutions by an absolute majority of votes. In case of a tie, the Chair shall have the tie-breaking vote.
5. The Board of Directors may further develop all of the above rules in its corresponding Regulations and/or in the Regulations of the Appointments and Remuneration Committee.

#### **Article 65. Appointments and Remuneration Committee**

1. The Board of Directors shall create a permanent Appointments and Remuneration Committee, an internal informational and consultative body, without executive functions, with information, advisory and proposal-making powers within its scope of action as set forth in section 3 of this Article. The Appointments and Remuneration Committee shall be composed of a minimum of three (3) and a maximum of five (5) directors appointed by the Board of Directors itself upon a proposal of the Chair of the Board, and who must be external directors. A majority of the members of the Appointments and Remuneration Committee shall be independent directors and shall be appointed while endeavouring to ensure that they have the knowledge, skill and experience appropriate for the duties they are called upon to perform. The Appointments and Remuneration Committee shall also appoint its Chair from among the independent directors forming part of said Committee. The position of Secretary of the Appointments and Remuneration Committee may be held by one of the members of the Committee or by the Secretary or the Deputy Secretary of the Board of Directors.
2. Directors forming part of the Appointments and Remuneration Committee shall hold office for so long as their appointment as directors of the Company remains in effect, unless the Board of Directors decides otherwise. The renewal, re-election and

removal of directors sitting on the Committee shall be governed by resolution of the Board of Directors.

The position of Chair shall be held for a maximum term of four (4) years, after which they may not be re-elected as such until the passage of one (1) year from ceasing to act as such, without prejudice to the continuance or re-election thereof as a member of the Committee.

3. Without prejudice to any other tasks that may be assigned thereto from time to time by the Board of Directors, the Appointments and Remuneration Committee shall have the following basic duties:
  - (i) Evaluate the skills, knowledge and experience needed on the Board of Directors. For these purposes, it shall define the functions and skills necessary in the candidates to fill each vacancy and shall evaluate the time and dedication required for them to effectively perform their duties.
  - (ii) Establish a goal for representation of the less represented gender on the Board of Directors and prepare guidelines on how to achieve this goal.
  - (iii) Submit to the Board of Directors proposals for the appointment of independent directors on an interim basis or for submission to a decision of the shareholders at a General Shareholders' Meeting, as well as proposals for the re-election or removal of said directors by the shareholders.
  - (iii) Report on proposals for the appointment of the other directors on an interim basis or for submission to a decision of the shareholders at a General Shareholders' Meeting, as well as proposals for the re-election or removal thereof by the shareholders.
  - (v) Report on proposals for the appointment and removal of senior officers and the basic terms of their contracts.
  - (vi) Examine and organise the succession of the chair of the Board of Directors and the chief executive of the Company and, if applicable, make proposals to the Board of Directors so that said succession occurs in an orderly and planned manner.
  - (vii) Propose to the Board of Directors the remuneration policy for directors and general managers or whomsoever performs the duties of senior management reporting directly to the Board, as well as the individual remuneration and other contractual conditions for the executive directors, ensuring compliance therewith.
4. The Appointments and Remuneration Committee shall ordinarily meet two (2) to four (4) times per year in order to review the status of the matters within its purview. It shall also meet at the request of one third (1/3) of its members and whenever called by its Chair, who must do so whenever the Board of Directors or the Chair thereof requests the issuance of a report or the adoption of proposals and, in any case, whenever appropriate for the proper performance of the duties thereof. A valid quorum shall be formed with the presence in person or by proxy of one half plus one of the directors forming part of the Committee, and shall adopt its resolutions by an absolute majority of votes. In case of a tie, the Chair shall have the tie-breaking vote.

5. The Board of Directors may further develop all of the above rules in its corresponding Regulations and/or in the Regulations of the Audit Committee.

#### **TITLE IV**

#### **BALANCE SHEET AND PROFITS**

##### **Article 66. Financial years**

The financial years of the Company shall coincide with the calendar year.

##### **Article 67. Annual accounts**

The annual accounts, management report and proposed application of results as well as any consolidated accounts and management report as of 31 December of the respective year shall be prepared by the Board of Directors within the legal deadlines.

The annual accounts and the management report must be signed by all of the directors. The absence of the signature of any of them shall be indicated in each of the documents in which it is missing, with an express statement of the reasons.

The annual accounts shall include the balance sheet, the income statement, a statement reflecting changes in equity for the year, a cash flow statement, and the notes. These documents form a unified whole, must be drafted clearly, and must faithfully reflect the assets, financial position and results of the Company in accordance with applicable law.

The auditing of the annual accounts shall be governed by the provisions of law.

##### **Article 68. Distribution of dividends**

Without prejudice to compliance with the legal provisions on the distribution of profits and the obligatory creation of reserves, the dividend policy of the Company must allow for the interests of the shareholders to be properly met, taking into account the Company's financing needs, and complying with all applicable legal and contractual provisions.

#### **TITLE V**

#### **DISSOLUTION AND LIQUIDATION**

##### **Article 69. Dissolution**

The Company shall be dissolved due to any of the reasons provided by law.

##### **Article 70. Liquidation**

Once the dissolution is approved, an odd number of liquidators shall be appointed. The liquidation may be validly implemented by the members of the Board of Directors. If there is an even number thereof, one of them, chosen by majority or otherwise chosen by lot, shall cease to act as such.

The rules provided by law shall be observed throughout the liquidation process.

## **TITLE VI FORUM**

### **Article 71. Forum**

The shareholders, waiving any forum to which they may be entitled, expressly and personally submit to the jurisdiction of the Courts and Tribunals of Bilbao for the resolution of disputes deriving from the Bylaws of the Company.

The provisions of the preceding paragraph shall be deemed to be without prejudice to the rules on challenge procedures and other rules of a mandatory nature, which shall not in any case be affected by the foregoing.

## **TITLE VI TERMS AND PERIODS**

### **Article 72. Calculation of periods**

For purposes of the Bylaws, all days of the calendar year other than Saturdays, Sundays and any holidays in the city of Bilbao shall be calculated as business days.