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## BOARD REGULATIONS

of

[COMPANY]

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## BOARD REGULATIONS<sup>1</sup>

of

[Company name] AG  
([Company name] SA)  
([Company name] Ltd.)

with registered seat in [seat]

### 1. GENERAL MATTERS

The business of [Company name] AG (the "**Company**") shall be conducted in accordance with Swiss law, the articles of incorporation of the Company (the "**Articles**") and these board regulations (the "**Regulations**").

The Regulations have been adopted by the Board of Directors (the "**Board**", and each member a "**Director**") in accordance with art. 716b para. 2 of the Swiss Code of Obligations ("**CO**") and Articles [15] and [19] of the Articles.

The purpose of these Regulations is to govern the organization of the Board, to define the executive powers within the Company and to delegate part of the duties and powers of the Board to the [senior] management of the Company (the "**Management**").

### 2. EXECUTIVE BODIES

The Company has the following executive bodies:

1. the Board; and
2. the Management.

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*[Note: These board regulations need to be adapted to the special circumstances of the Company. Furthermore, the inclusion of additional specific language relating to the implementation of an internal control system and the risk evaluation procedure should be considered if the circumstances so require.]*

### 3. BOARD OF DIRECTORS

#### 3.1 Organization

The Board shall determine its own organization. It shall constitute separate committees [(e.g. audit committee, risk committee, compensation and nomination committee)] if and as the development and the particular needs of the Company may require. In such case special regulations may be issued.

The Board shall appoint its chairman (the "**Chairman**") [and, as the case may be, its vice-chairman (the "**Vice-Chairman**") for [one] year tenures. The Chairman has all duties and competencies conferred to him by law, the Articles and these Regulations.

The Chairman shall be [one of the Independent Directors (as defined in the Shareholders Agreement)] nominated [(acting jointly)] by the [Investor Directors(as defined in the Shareholders Agreement)].

The Board shall appoint a secretary[, who need not be a Director nor a shareholder].

#### 3.2 Duties and Powers

The Board has the following duties and powers which by law (art. 716a CO) are inalienable and may not be delegated:

1. to ultimately manage the Company and issue the necessary directives;
2. to determine the Company's organization;
3. to structure the accounting system, the financial controls as well as the financial planning, insofar as this is required for the management of the Company;
4. to appoint and remove the persons entrusted with the management and representation of the Company;
5. to exercise the ultimate supervision over the persons entrusted with the management, in particular with respect to compliance with the law and with the Articles, regulations and directives;
6. to prepare the business report as well as the general meeting of shareholders (the "**General Meeting of Shareholders**"), and to implement the latter's resolutions;
7. to pass resolutions regarding the subsequent payment of capital with respect to non-fully paid-in shares (art. 634a CO);
8. to pass resolutions confirming increases in share capital and amending the Articles in that respect (art. 651 al.4, 651a, 652g, 652h, 653g and 653h CO);
9. to inform the judge in case of insolvency or over-indebtedness;
10. any resolution pursuant to Section 3.5 below;

11. [other: e.g. actions or agreements involving rights, obligations or potential liabilities in excess of a certain amount]; and
12. to resolve on any other matter which is subject to Board resolution pursuant to the Articles or mandatory law.

### 3.3 Meetings

Meetings of the Board shall be convened by the Chairman or, if the Chairman is not available, by another Director as often as the business of the Company requires and whenever a Director, indicating the reasons therefore, requests, but at least [four] times a year.

The notice of any Board meeting shall be dispatched in writing by [courier, mail, fax or e-mail] not less than [ten] calendar days prior to the date of the meeting. Such advance notice may be reasonably shortened in case urgent matters require an earlier or immediate meeting.

The notice shall specify the place, date and time of the meeting as well as the agenda and, if at all possible, the proposed wording of the resolutions. Together with the notice, the Directors shall be provided with all information reasonably necessary for them to prepare for the meeting and make informed decisions on the agenda items. No resolutions shall be taken as to items which have not been announced in the agenda, unless all Directors are present and agree.

Meetings may also be held by telephone, video or computer conference or other means of direct communication.

The Chairman shall take the chair at the meetings of the Board. In the event that the Chairman is not present at a meeting, [the Vice-Chairman or] another Director designated at the meeting shall take the chair.

### 3.4 Quorum of Attendance<sup>2</sup>

[Upon first invitation, a]/[A] board meeting is validly constituted, if (i) [each]/[at least [number]] Investor Director[s] (as defined in the Shareholders Agreement) and (ii) at least [the majority of all] Directors are present (including by telephone, video or computer conference or other means of direct communication).

[If the quorum set forth in the preceding paragraph is not met upon first invitation, the Board meeting shall be postponed and called again with at least [five] calendar days prior written invitation and such second meeting shall take place at the same place and time and on the same weekday two weeks after the meeting date specified in the first invitation unless otherwise agreed by all Directors. In such second meeting, the Board meeting shall be validly constituted if at least [the majority of all] Directors are present (including by telephone, video or computer conference or other means of direct communication) and the Board may pass resolutions on

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<sup>2</sup> [Note: To be aligned to Section 6 of the Shareholders Agreement.]

the agenda items that have already been put on the agenda distributed to the Directors together with the first invitation, subject to the consent requirements pursuant to Section 3.5.]

No quorum requirement applies for meetings at which the Board merely confirms in front of a notary the execution of a capital increase and resolves on changes of the Articles in connection with a share capital increase resolved by the General Meeting of Shareholders and the Board (in particular art. 651 para. 4, 651a, 652e, 652g and 653g CO).

### 3.5 Resolutions<sup>3</sup>

[Except as set forth below,] Board resolutions are taken by the [simple majority] of the votes of the Directors present. In the event of equality of votes cast, the Chairman shall [not] have the casting vote.

[*Alternative 1:*] [In addition, any affirmative decision on any of the following resolutions (the "**Important Board Matters**") shall require the consent of at least [percentage]% of [all elected Directors]/[the Directors present at the meeting]:<sup>4</sup>

[*Alternative 2:*] [In addition, any affirmative decision on any of the following resolutions (the "**Important Board Matters**") shall require the consent of at least [number]<sup>5</sup> of [all elected Directors]/[the Directors present at the meeting]:<sup>4</sup>

1. [any acquisition of a business or any part thereof (whether a share or asset transaction);]
2. [the sale, disposal or transfer of all or substantially all of the Company's business and/or assets;]
3. [the proposal by the Board to the shareholders to approve a transfer of the Company's shares where the transfer of shares results in the acquirer holding, directly or indirectly, more than [number]% of the then issued share capital or voting rights in the Company;]
4. [the entering into any joint venture or partnership or any profit sharing agreement (other than routine arrangements wholly within the ordinary course of business);]

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<sup>3</sup> **[Note:** For background purposes, see explanatory drafting notes (re considerations to be made on how to implement qualified majority thresholds for important board matters) in the Shareholders Agreement of the SECA Model Documentation. Wording to be aligned to Section 6 of the Shareholders Agreement.]

<sup>4</sup> **[Note:** List of Important Board Matters to be duplicated from Part B of Annex 6 to the Shareholders Agreement.]

<sup>5</sup> **[Note:** Note that alternative 2 as set forth in Section 6 of the Shareholders Agreement reflects a purely contractual and indirect voting undertaking of Shareholders, meaning that the Directors nominated by Shareholders (other than the Investors) may not, subject only to their fiduciary duties, cast an affirmative vote with respect to any of the Important Board Matters, unless such Important Board Matter will be approved by the simple majority of the Directors present at the meeting and the agreed number of Investor Directors). Consequently and assuming adherence to the contractual and indirect voting undertaking, the other Directors will not cast their vote in favor of an Important Board Matter unless the contractual consent thresholds as agreed in the Shareholders Agreement will be met.]

5. [any investment, capital expenditure, sale of assets, incurrence of debt or any contract obligation by the Company in excess of CHF [*amount*] (whether by a single transaction or a series of related transactions) unless such expenditure has been specifically provided for in the budget and business plan;]
6. [the execution of any agreement providing for obligations in excess of CHF [*amount*] (whether by a single transaction or a series of related transactions), save as specifically set forth in the budget and business plan;]
7. [the appointment and removal of the Company's CEO and all other members of the management;]
8. [the approval of the budget and business plan, and any change thereto;]
9. [the approval of the Company's employee share option plan (ESOP), and any change thereto;]
10. [the listing of shares of the Company on any securities exchange or automated quotation system;]
11. [the issuance of shares or equity-related securities out of the Company's authorized or conditional share capital (including the determination of the issue price, the date for the entitlement for dividends and the type of contribution therefor), except [as contemplated under the Company's ESOP or] in respect to any shares issued in accordance with the anti-dilution provisions under the Shareholders Agreement;]
12. [the creation of any security interests upon any part of the Company's property or assets in any form whatsoever exceeding CHF [*amount*] in aggregate (whether by a single transaction or by a series of related transactions) save as set forth in the budget and business plan;]
13. [any related-party transactions or arrangements including variations thereof;]
14. [any transactions or arrangements other than on arm's-length terms and/or in the ordinary course of business;]
15. [the approval and amendment of any share option plan and option and/or share grants to the management[, except as set forth in the Company's ESOP];]
16. [any material change in accounting policies or principles save with the prior approval of the Company's auditors;]
17. [any purchase by the Company of any of its own shares or the exercise of a right of first refusal in combination with the designation of a third party acquirer;]

18. [any proposed Transfer (as defined in the Shareholders Agreement) of shares other than in accordance with Section 13 of the Shareholders Agreement;]
19. [*specify additional Important Board Matters as appropriate*]; and
20. any amendment or modification of these Regulations.

### **3.6 Circular Resolutions and Other Forms of Resolutions**

If a written proposal for a resolution has been submitted, the resolution may be taken by circular letter or telefax, unless a Director requests a discussion in a formal meeting (including by telephone, video or computer conference or other means of direct communication). A resolution by circular letter shall require the approval of all the Directors.

### **3.7 Minutes**

The meetings of the Board shall be minuted. Such minutes shall in particular contain the declarations made by any one Director with the request to be minuted as well as all the resolutions.

The minutes shall be signed by the Chairman of the meeting and the secretary, provided that circular resolutions shall be signed by all Directors.

### **3.8 Information**

Any Director may request information about all matters concerning the Company.

At meetings, all persons engaged in the management of the Company shall be required to provide the information requested. Outside meetings, each Director has the right to request information from the Management regarding the general business affairs and, with the approval of the Chairman, also regarding particular business transactions.

The Investor Directors (as defined in the Shareholders Agreement) shall be provided with all information relating to the business of the Company, and all persons involved in the management of the Company shall provide each of the Investor Directors with all information reasonably requested by each of them.

### **3.9 Remuneration**

The Board shall determine the remuneration of its members.

[Unless otherwise resolved by the Board from time to time, each [Independent] Director shall receive a net amount of CHF [*amount*] per annum (net of social security contributions, if any, payable by the relevant Director) as remuneration for his/her function as a Director throughout his/her term as a Director. [All other Directors shall not receive remuneration.]

Upon presentation of appropriate receipts, each Director shall be reimbursed by the Company for all business expenses (including travel costs and hotel accommodation) reasonably incurred by such Director in connection with his/her function as a Director.]

### **3.10 [Board Observers]**

[[*Name of a shareholder*] (being a shareholder not represented at the Board) shall have the right to appoint a person to attend all meetings of the Board in an observer role (the "**Board Observer**").

The Board Observer shall not have the right to vote at the Board meetings. The Board Observer may be excluded from any portion of a meeting of the Board if required by law (including to avoid antitrust issues) or the best interest of the Company and on a case by case basis if a majority of the Directors reasonably conclude that the Board Observer's presence would create a conflict of interest or a confidentiality issue.]

## **4. MANAGEMENT**

### **4.1 Function**

The management of the Company shall be delegated to the Management in accordance with article [19] of the Articles to the extent a certain duty is not by law, the Articles or these Regulations reserved to the Board. Without limiting the generality of the foregoing, the Management shall implement the business policies of the Company, establish the business plan under the Board's supervision and control, and manage the day-to-day business of the Company.

### **4.2 Composition**

The Management shall be composed of the following members:

1. Chief Executive Officer (CEO);
2. [Chief Financial Officer (CFO);]
3. [*others*]

and any other officers as the Board may determine from time to time.

### **4.3 Organization**

The Management shall be headed by the CEO. The CEO shall be responsible for the management of the Company, and each member of the Management shall report directly to the CEO.

### **4.4 Meetings**

The Management shall meet [at least monthly] and whenever a meeting is requested by one of its members. Meetings may also be held by video or telephone conference unless a member requests a discussion in a physical meeting.



#### **4.5 Reporting**

The members of Management shall, as a rule, report to the CEO.

At each meeting of the Board, the CEO, or, if so required by the Board, any member of the Management, shall inform the Board on the state of affairs of the Company so as to allow the Board to comply with its statutory duty to ultimately manage and supervise the Company. If deemed necessary or appropriate, the CEO or the Board may request the participation of other officers.

At any time, the CEO shall report without delay to the Board all significant changes, developments and events affecting the business of the Company.

#### **5. SIGNING AUTHORITY**

The Board appoints the persons authorized to sign on behalf of the Company and determines their signing authority. [Unless otherwise resolved by the Board, each Director [and each of the CEO and CFO] shall have joint signatory power by two (*Kollektivzeichnungsberechtigung zu Zweien; signature collective à deux*).]

#### **6. [CONFIDENTIALITY]**

[Each Director[, Board Observer] and member of the Management shall be obliged to keep the facts concerning the Company of which he/she may become aware during the performance of his/her duties confidential as far as they have not been published by the Company or have become public otherwise with the approval of the Company. For the avoidance of doubt, subject only to (i) his/her duties of care and loyalty under applicable law and (ii) the conflict of interest rules, nothing herein shall restrict any Director [or Board Observer] appointed by a shareholder of the Company from disclosing information available to him/her in his/her capacity as Director [or Board Observer] to the shareholder that appointed him/her.

The duty of confidentiality shall continue to be in effect after the termination of the mandate. Records containing information subject to the duty of confidentiality shall be returned to the Company upon termination of the mandate/employment at the latest or shall be destroyed.]

#### **7. [CONFLICT OF INTEREST]**

[Directors[, Board Observers] and members of the Management shall arrange their personal and business affairs so as to avoid any situations where they may become subject to a conflict of interest (*i.e.*, any personal interest, or the interest of a closely related individual or entity, that a Director[, Board Observer] or member of the Management might have in a particular matter or transaction which conflicts with the interests of the Company).

Directors and members of the Management shall abstain from voting on matters or transactions in which they have a conflict of interest. In case of a permanent conflict of interest, Directors[, Board Observers] and members of the Management shall resign from their position as Directors[, Board Observers] or members of the Management.

Each Director[, Board Observer] and member of the Management shall disclose to the Board any (potential) conflict of interest as soon as he/she becomes aware of such (potential) conflict of interest's existence. In the event that the Chairman is (or might be) affected by a conflict of interest, he/she shall inform [the Vice-Chairman]/[the Board].

The Chairman shall make a proposal to the Board commensurate with the relevant circumstances, and the Board shall decide (without the affected person participating in such decision) whether there is a conflict of interest precluding the respective Director or member of the Management from voting on the relevant matter or transaction. The Board shall further decide on any other appropriate measures.]

**8. MISCELLANEOUS**

**8.1 Effectiveness**

These Regulations shall become effective as of the day hereof.

**8.2 Modifications and Amendments**

Modifications and amendments of these Regulations require a resolution by the Board [to be adopted by a qualified majority of the Directors as set forth in Section 3.5 above].

\* \* \* \* \*

[Place], [Date]

Chairman of the  
Board of Directors:

Secretary of the  
Board of Directors:

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\_\_\_\_\_