

**APPENDIX 1 – TERMS OF REFERENCE OF THE BOARD**

**THROMBOGENICS NV**

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## INTRODUCTION

These terms of reference are part of the CG Charter of the Company.

These terms of reference supplement the provisions relating to the Board and its members, as contained in the applicable legislation and regulations and in the articles of association of the Company.

The meaning of a number of terms used, whether capitalised or not, which have not been defined in these terms of reference are given the same meaning as in the list of terms in article 1 of the CG Charter.

### 1. COMPOSITION

#### 1.1 Composition

- (a) The Board has a maximum of twelve members. The Board must be composed of executive directors, independent directors and other non-executive directors. The actual number of members may vary depending on the needs of the Company.
- (b) At least half the Board must comprise non-executive directors.<sup>1</sup>
- (c) At least three directors must be independent directors.<sup>2</sup>

The decision to appoint the independent directors must state the reasons why the director is considered independent.

Independent of the decision of the shareholders, the Board decides which non-executive directors are to be regarded as independent. In assessing independence, the criteria set out in Appendix A of the CGC should be taken into account, as well as article 526ter of the Belgian Companies Code and any other relevant law or regulation.<sup>3</sup>

Any independent director who ceases to satisfy the requirements of independence must immediately inform the Board.<sup>4</sup>

- (d) A list of the members of the Board must be disclosed in the CG Statement. This list sets out which members are independent.<sup>5</sup>

#### 1.2 Appointment

- (a) The members of the Board are appointed by the general meeting. If a position of director becomes vacant, the remaining board members may provisionally fill the vacancy.
- (b) The Nomination and Remuneration Committee recommends one or several candidates, taking into account the needs of the Company and following the appointment procedure set out in the Terms of Reference of the Nomination and Remuneration Committee and the selection criteria drawn up by the Board for that purpose. The Board should then make proposals for appointment or re-election to the general shareholders' meeting<sup>6</sup>.

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<sup>1</sup> Provision 2.2 CGC

<sup>2</sup> Provision 2.2 CGC

<sup>3</sup> Provision 2.3 CGC

<sup>4</sup> Provision 2.3 CGC

<sup>5</sup> Provision 2.4 CGC

<sup>6</sup> Provision 4.2 CGC

- (c) The composition of the Board is determined based on gender diversity (in particular taking into account article 518bis BCC), diversity in general and complementary skills, experience and knowledge.<sup>7</sup>
- (d) Members of the Board are appointed for a period not exceeding four years.<sup>8</sup>

## **2. POWERS OF THE BOARD**

### **2.1 Role**

The Board is entrusted with the management of the Company with a view to ensuring the long-term success of the Company by providing entrepreneurial leadership and at the same time assessing and managing the risks of the Company.<sup>9</sup>

The Board accounts to the general meeting in this respect.<sup>10</sup> The Board fosters an effective dialogue with the shareholders and potential shareholders, based on a mutual understanding of the objectives and concerns.

The responsibility for the management of the Company rests with the Board as a collegial body.<sup>11</sup>

### **2.2 Duties**

In this respect, the main duties of the Board are as follows:

- The Board decides on the Company's strategy, its risk appetite, its values and key policies.<sup>12</sup>
- The Board ensures that the necessary leadership and financial and human resources are in place for the Company to meet its objectives.<sup>13</sup>
- When translating values and strategies into the key policies, the Board must pay attention to corporate social responsibility, gender diversity (taking into account article 518bis BCC) and diversity in general.<sup>14</sup>
- The Board approves a framework of internal control and risk management, set up by the Executive Team. Such a framework must be clear, define the meaning of 'internal control' and 'risk management' and help the executive management to put internal control and risk management systems in place. It reviews the implementation of the framework, taking into account the evaluation made by the Audit Committee. The Board will also describe the main features of these internal control and risk management systems of the Company and disclose them in the CG Statement.<sup>15</sup>
- The Board reviews the effectiveness of the Board's committees.
- The Board decides on the structure of the Executive Team of the Company, determines its powers and duties and reviews the Executive Team's performance.<sup>16</sup>

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<sup>7</sup> Provision 2.1 CGC and article 518bis BCC

<sup>8</sup> Provision 4.6 CGC

<sup>9</sup> Provision 1.1 CGC

<sup>10</sup> Provision 1.8 CGC

<sup>11</sup> Provision 1.1 CGC

<sup>12</sup> Provision 1.2 CGC

<sup>13</sup> Provision 1.2 CGC

<sup>14</sup> Provision 1.2 CGC

<sup>15</sup> Provision 1.3 CGC

<sup>16</sup> Provision 1.3 CGC and 1.4 CGC

- The Board is responsible for the quality and completeness of the disclosed financial notices. In particular the Board ensures the integrity and the timely disclosure of the financial statements and other material financial and non-financial information disclosed to the shareholders and potential shareholders.

The Board selects the external auditor on recommendation of the Audit Committee and supervises its performance and is responsible for monitoring the Internal Auditor, taking into account the review made by the audit committee.<sup>17</sup>

- The Board is responsible for the Corporate Governance structure of the Company and compliance with the CGC provisions.
- The Board ensures that the Company's obligations to its shareholders are met, taking into account the interests of any parties having an interest in the Company.<sup>18</sup>

When performing its duties, the Board must act in accordance with the interests of the Company.

### **3. OPERATION OF THE BOARD**

#### **3.1 Meetings of the Board**

- (a) In principle, the Board meets every three months or as many times as is deemed necessary or advisable by one or several members of the Board for the proper functioning of the Board.

The number of Board meetings and individual percentage attendance records of directors are disclosed in the CG Statement.<sup>19</sup>

- (b) The non-executive directors must meet at least once a year without the CEO and the other executive directors.<sup>20</sup>
- (c) Board meetings must be convened in the manner laid down in the Company's articles of association.

Except where urgent issues have arisen, the agenda of the meeting will be sent to all members of the Board at least two working days prior to the meeting. Every agenda item is accompanied by as much written information as possible and any relevant documents are appended. The agenda items should state whether they will be discussed for information, deliberation or decision making purposes.<sup>21</sup>

- (d) Board meetings are chaired by the Chairman of the Board. In the absence of the Chairman of the Board, the meeting is chaired by another Board member designated by a majority of the votes cast by the Board members present or represented at the meeting.<sup>22</sup>
- (e) Each member of the Board is entitled to have another member of the Board represent him or her by proxy.<sup>23</sup> The powers of attorney must be submitted to the Chairman of the Board, or in his or her absence to the members of the Board present at the meeting.

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<sup>17</sup> Provision 1.3 CGC

<sup>18</sup> Provision 1.8 CGC

<sup>19</sup> Provision 2.7 CGC

<sup>20</sup> Provision 4.12 CGC

<sup>21</sup> Provision 2.6 CGC

<sup>22</sup> Art 16 and 17 of the Company's articles of association

<sup>23</sup> Art. 18 of the Company's articles of association

- (f) No individual or group of directors should dominate the board's decision-making. No one individual should have unfettered powers of decision-making<sup>24</sup>.
- (g) The members of the Board present or represented at the meeting decide by majority vote on the admission to the meeting of persons other than the members of the Board and the Secretary of the Company or his or her substitute.
- (h) The Secretary of the Company, or another person designated by the chairman of the meeting, draws up minutes of the deliberations of a meeting of the Board. The minutes must sum up the discussions, specify the decisions taken and state any reservations voiced by directors.<sup>25</sup> The minutes are approved by the Board in the same or at the next meeting.

### **3.2 Committees**

With a view to the efficient performance of its duties and responsibilities, the Board has set up specialised Committees to analyse specific issues and advise the Board on those issues.<sup>26</sup> Regardless of the right to set up other Committees, the Board has set up an Audit Committee and a Nomination and Remuneration Committee.<sup>27</sup>

These Committees merely have an advisory role, the actual decision-making remains with the Board, which remains collegially responsible.<sup>28</sup>

The Board must pay particular attention to the composition of each of the Committees. It must ensure that in appointing the members of each Committee, consideration is given to the specific knowledge and qualifications required for the optimal functioning of that Committee.<sup>29</sup>

The Board determines the terms of reference for the Committees. The Board also specifies the composition and operation of each Committee in the CG Statement.<sup>30</sup>

No executive committee referred to in article 524bis of the Belgian Company Code was established. However, the Company has an Executive Team, of which the composition, the role, the tasks, the duties and the operations are set out in the relevant terms of reference (see [Appendix 2](#)).

### **3.3 Secretary of the Company**

The Board must appoint a Company Secretary, who assists the Board, the Chairman, the Committee chairmen, the Executive Team and the members of the Board in the performance of their duties. All Board members have access to the Secretary of the Company for advice and services.<sup>31</sup>

The Secretary must ensure that the corporate bodies of the Company comply with the laws and with the articles of association, the CG Charter and the terms of reference of the Company. The Secretary reports to the Board.<sup>32</sup>

The Secretary of the Company assists the Chairman of the Board and the chairmen of the Committees in the organisation of matters relating to the Board and its Committees (preparing meetings, reporting on meetings, information, etc.).

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<sup>24</sup> Provision 2.2 CGC

<sup>25</sup> Provision 2.9 CGC

<sup>26</sup> Provision 5.1 CGC

<sup>27</sup> Provision 5.2, 5.3 and 5.4 CGC

<sup>28</sup> Provision 5.1 CGC

<sup>29</sup> Provision 5.5 CGC

<sup>30</sup> Provision 5.1 CGC

<sup>31</sup> Provision 2.9 CGC

<sup>32</sup> Provision 2.9 CGC

The Secretary ensures a good information flow within the Board and its Committees and between the Executive Team and the non-executive directors. The Secretary facilitates the initial induction and assists with professional development as required.<sup>33</sup>

The Secretary reports regularly to the Board, under the direction of the Chairman of the Board, on how procedures, rules and regulations of the Board are being followed and complied with.<sup>34</sup>

The Secretary of the Company may delegate his or her duties arising under the CG Charter, or parts thereof, to a substitute appointed by him or her following consultation with the Chairman of the Board.

## **4. CHAIRMAN OF THE BOARD**

### **4.1 Appointment**

The Board appoints one of its members as Chairman of the Board.

The Board appoints its chairman on the basis of his or her knowledge, skills, experience and mediation strengths. If the Board envisages appointing the former CEO as chairman, it must carefully consider the positive and negative aspects in favour of such a decision and disclose in the CG Statement why such appointment is in the best interest of the Company.<sup>35</sup>

### **4.2 Role of the Chairman**

The Chairman is responsible for the leadership of the Board and for the effectiveness of the Board in all aspects.

The Chairman must take the necessary measures to develop a climate of trust within the Board which promotes open discussion, constructive dissent and support for the Board's decisions.<sup>36</sup>

### **4.3 Duties of the Chairman**

Within the Board, the Chairman is primarily responsible for:

- setting the agenda of the Board meetings, after consultation with the CEO;<sup>37</sup>
- ensuring that procedures relating to preparatory work, deliberations, passing of resolutions and implementation of decisions are properly complied with;<sup>38</sup>
- ensuring that the directors receive accurate, timely and clear information before the meetings and, where necessary, between meetings, and that all directors receive the same information;<sup>39</sup>
- chairing the meetings of the Board and ensuring that the Board operates and takes decisions as a collegial body;
- ensuring a regular assessment of the corporate structure and the corporate governance of the Company and assessing whether their operation is satisfactory;
- ensuring that newly appointed directors receive an appropriate induction;<sup>40</sup>

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<sup>33</sup> Guideline 2.9 CGC

<sup>34</sup> Guideline 2.9 CGC

<sup>35</sup> Provision 4.7 CGC

<sup>36</sup> Provision 2.4 CGC

<sup>37</sup> Provision 2.6 CGC

<sup>38</sup> Provision 2.6 CGC

<sup>39</sup> Provision 2.7 CGC

<sup>40</sup> Provision 4.8 CGC

- leading the nomination process of directors<sup>41</sup>, in consultation with the Nomination and Remuneration Committee, and ensuring that the Board appoints Committee members and chairmen;<sup>42</sup>
- being accessible to the Executive Team and the head of the internal audit function to discuss issues relating to the management of the Company.

The Board may decide to entrust the Chairman of the Board with additional responsibilities.

With regard to shareholders and third parties, the Chairman is mainly responsible for:

- chairing the general meeting and ensuring that relevant questions from shareholders are answered;<sup>43</sup>
- upon request of the Board, representing the Company at meetings with analysts, professional organisations, socio-economic groups, the government, etc.

## **5. PROFESSIONAL DEVELOPMENT OF THE BOARD**

### **5.1 Training and professional development**

- (a) Newly appointed directors should receive an appropriate induction after joining the Board.<sup>44</sup> The purpose of the induction process is:
- (i) to help the new directors grasp the fundamentals of the Company, including its governance, strategy, key policies, financial and business challenges;<sup>45</sup>
  - (ii) to advise the new directors on their rights and duties as directors.

If a newly appointed director is also a member of a Committee, the induction will include a description of the operation and objectives of that Committee, including a description of the specific role and duties of the Committee.<sup>46</sup>

The Chairman of the Board prepares a general induction programme with the help of the Secretary of the Company. The purpose of this programme is to provide each new director with a general induction, as stated above, to ensure their early contribution to the Board.<sup>47</sup>

- (b) The directors are individually responsible for developing and updating the knowledge and qualifications that are required to perform their duties in the Board and in the Committees of which they are members. For that purpose, the Company makes the necessary (financial) resources available.<sup>48</sup>

### **5.2 Advice**

Directors are entitled to seek external professional advice, at the Company's expense, about issues that fall within their powers<sup>49</sup>, having first obtained the permission of the Chairman of the Board.

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<sup>41</sup> Provision 4.2 CGC

<sup>42</sup> Provision 5.5 CGC

<sup>43</sup> Provision 8.10 CGC

<sup>44</sup> Provision 4.8 CGC

<sup>45</sup> Provision 4.8 CGC

<sup>46</sup> Provision 4.9 CGC

<sup>47</sup> Provision 4.8 CGC

<sup>48</sup> Provision 4.10 CGC

<sup>49</sup> Provision 2.7 CGC

### 5.3 Evaluation

- (a) The Board is responsible for a periodic assessment of its own effectiveness with a view to ensuring continuous improvement in the governance of the Company.<sup>50</sup>

In this respect, every three years, under the lead of its Chairman, the Board must assess the size, composition, operation of the Board and its Committees and the interaction with the Executive Team. This evaluation has four objectives:

- (i) assessing the operation of the Board and the Committees;
- (ii) verifying whether the important issues are thoroughly prepared and discussed;
- (iii) evaluating the actual contribution of each director to the operation of the Board, his or her attendance at the Board and Committee meetings and his or her constructive involvement in discussions and decision-making;
- (iv) verifying the current composition of the Board and its Committees against their desired composition.<sup>51</sup>

There should be a periodic evaluation of the contribution of each director aimed at adapting the composition of the Board to take account of changing circumstances. When dealing with re-election, the director's commitment and effectiveness should be evaluated in accordance with a pre-established and transparent procedure.<sup>52</sup>

The Board should act on the results of the performance evaluation by recognising its strengths and addressing its weaknesses. Where appropriate, this will involve proposing new members for appointment, proposing not to re-elect existing members or taking any measure deemed appropriate for the effective operation of the board.<sup>53</sup>

- (b) In order to make a periodic individual evaluation possible, the directors must give their full assistance to the Nomination and Remuneration Committee and any other persons, whether internal or external to the Company, entrusted with the evaluation of the directors.<sup>54</sup>
- (c) The non-executive directors must assess their interaction with the Executive Team annually.<sup>55</sup>
- (d) The CG Statement discloses information on the main features of the evaluation process of the Board, its committees and its individual directors.<sup>56</sup>

## 6. REMUNERATION POLICY

The Nomination and Remuneration Committee, set up by the Board, is responsible for outlining a remuneration policy for the executive and non-executive directors.

The Company's current remuneration policy for the executive and non-executive directors is set out in [Appendix 5](#).

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<sup>50</sup> Provision 4.11 CGC

<sup>51</sup> Provision 4.11 CGC

<sup>52</sup> Provision 4.13 CGC

<sup>53</sup> Provision 4.14 CGC

<sup>54</sup> Provision 4.11 CGC

<sup>55</sup> Provision 4.12 CGC

<sup>56</sup> Provision 4.15 CGC

## 7. CODE OF CONDUCT

- (a) Each member of the Board of the Company is expected to perform his or her duties in an honest, ethical and justified manner.

The first priority of all directors is to protect the interests of the Company. Independence of judgement is required in the decisions of all directors, executive and non-executive alike, irrespective of whether they are independent.<sup>57</sup>

- (b) All members of the Board are expected to commit themselves appropriately to the performance of their duties.

The directors must ensure that they receive detailed and accurate information, which they must study carefully so as to acquire and maintain a strong command of the key issues relating to the Company's business. They seek clarification whenever they deem it necessary.<sup>58</sup>

- (c) Each member of the Board undertakes, both during his or her membership of the Board and afterwards, not to disclose to anyone in any manner any confidential information relating to the business of the Company or companies in which the Company has an interest that came to his or her knowledge within the normal scope of his or her activities for the Company and that he or she knows is, or should know is, confidential, unless he or she has a legal obligation to disclose that information.

However, a member of the Board may disclose the information described above to staff members of the Company, or of companies in which the Company has an interest, who need to be informed of such information in view of their activities for the Company or for the companies in which the Company has an interest.

No member of the Board may use the information described above to his or her own advantage.<sup>59</sup>

- (d) Each member of the Board undertakes not to develop, either directly or indirectly, during the term of his or her mandate, any activities nor perform any actions that conflict with the activities of the Company or its subsidiaries. In this respect, the directors must abstain from the following actions in all territories where the Company operates:

- attempting to encourage staff members of the Company or its subsidiaries to terminate their relationship with the Company or its subsidiaries;
- attempting to encourage a buyer, customer, supplier, agent, franchisee, network supplier or any other contracting party to terminate a relationship with the Company or its subsidiaries or to change the terms of any such relationship in a way that is detrimental to the Company or its subsidiaries.

- (e) Each member of the Board must comply with the policy relating to transactions and other contractual relationships between the Company and its Board members, as included in Appendix 3.

- (f) The above code of conduct also applies to the Secretary of the Company.

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<sup>57</sup> Provision 3.1 CGC

<sup>58</sup> Provision 3.2 CGC

<sup>59</sup> Provision 3.4 CGC

