

## **By-laws of mondoBIOTECH holding AG (the “Company”)**

mdHOLDING bylaws 06092008

### **1 General**

<sup>1</sup> These By-laws are adopted by the board of directors of the Company (the “**Board**”) pursuant to Article 716a and Article 716b of the Swiss code of Obligations (the “**CO**”) and Article 15 and 19 of the Company’s articles of incorporation (the “**Articles**”). They set out the duties and powers of the Directors, officers and bodies charged with managing the affairs of the Company.

<sup>2</sup> The By-Laws contain the rules on the functions and competences of the following corporate bodies and persons:

- the Board (and its members being the „**Directors**“, singular the “**Director**”);
- the chairman of the Board (the “**Chairman**”);
- the standing committees of the Board (the “**Committees**”);
- the delegate of the Board and chairman of the executive management committee (the “**CEO**”);
- the executive management committee (the “**Executive Committee**”)

### **2 Principles of governance**

#### **2.1 Principle of delegation**

<sup>1</sup> All executive bodies and officers shall delegate their duties and powers, save where law provisions, the Articles or these By-laws otherwise provide, to the hierarchically lowest possible units (including Group companies), officers or bodies that possess the knowledge and expertise necessary to make appropriate decisions concerning the performance of those duties.

<sup>2</sup> Notwithstanding paragraph 1 and above, all executive officers or bodies shall be entitled, at any time, either on an *ad hoc* basis or on the basis of a general reservation of powers, to intervene in the duties and powers of hierarchically subordinate bodies or officers and to take charge of affairs being conducted by such bodies or officers.

#### **2.2 Principle of competence**

Every business unit and every officer or body shall possess all powers necessary for taking appropriate decisions within the areas of responsibility assigned to them.

#### **2.3 Management of a group of companies**

If the Company, whether by majority vote or by contractual arrangement, should combine other companies under its control, thereby forming a group of companies (the “**Group**”), the executive bodies and officers of the Company or any other executive body or officer so designated by the Company shall concurrently exercise the function of management of the Group. Notwithstanding the foregoing, the management of the Group shall be carried out in accordance with the legal provisions applicable to each company in the Group.

### **3 The Board**

#### **3.1 Election and establishment**

The Board, the Chairman, the Vice-Chairman and the Secretary shall be elected and established pursuant to the law and the Articles.

### **3.2 Duties and powers**

<sup>1</sup> The Board shall be responsible for the overall governance of the Company and of the Group and for overseeing the management of their affairs.

<sup>2</sup> The Board shall have such duties which shall not be transferred or withdrawn as indicated in the Articles.

<sup>3</sup> The Board shall delegate all other management functions in the manner provided by these By-laws to the Chairman, the CEO, the Executive Committee or the members thereof, save where the law, the Articles or other provisions of these By-laws otherwise provide.

### **3.3 Right of information and reporting**

<sup>1</sup> Every Director shall be entitled to seek information on all the Company's affairs in accordance with the following provisions.

<sup>2</sup> At each meeting, the Board shall be briefed by the Chairman and by members of the Executive Committee designated by the Chairman on the Company's current business performance and on major events affecting the affairs of the Company or of the Group.

<sup>3</sup> Outside of meetings, every Director shall be entitled, subject to the Chairman's information and approval, to seek information from members of the Executive Committee concerning the business performance and on major events affecting the affairs of the Company or of the Group.

<sup>4</sup> To the extent necessary for the discharge of a duty incumbent on him, every Director shall be entitled to request permission from the Chairman to inspect Company records and books of account.

<sup>5</sup> If the Chairman turns down a Director's request for information and reporting, the matter shall be referred to the Board for decision.

### **3.4 Meetings**

<sup>1</sup> The Board shall be convened by the Chairman (or, in his absence or incapacity, by the Vice-Chairman) as often as the Company's affairs require.

<sup>2</sup> Every Director shall be entitled to require to the Chairman, in writing, the convene of a meeting by indicating the grounds for such request.

<sup>3</sup> The convening shall take place in writing, e-mailing, fax or communication by phone at least 10 days prior to the meeting. In urgent cases a meeting may be held on 48 hours notice. Section 3.5 is also applicable. All Directors shall hold updated their references in respect of address, e-mail, fax and phone number.

<sup>4</sup> Board Meetings may also be held by telephone conference to which all Directors were invited to attend, unless a Director demands an oral discussion or a meeting.

### **3.5 Agenda**

<sup>1</sup> The items on the agenda of the meetings of the Board (the "**Agenda**") shall be determined by the Chairman after consultation with the CEO.

<sup>2</sup> The Agenda shall be communicated to the Directors, together with the convening notice and shall be accompanied by the materials belonging to the items on the Agenda.

<sup>3</sup> Each Director is entitled to request that further items be added to the Agenda provided that such items are submitted to the Chairman not later than 5 days before the meeting. In such event, the Chairman shall communicate the additional items on the Agenda to the other Directors before the beginning of the meeting.

<sup>4</sup> No resolution shall be taken on items which were not on the Agenda, unless all Directors consent to putting additional items to the Agenda. Absent Directors can give such consent in writing also subsequently to the meeting.

### **3.6 Presence and Quorum**

<sup>1</sup> A meeting of the Board constitutes a quorum if more than half of the Directors are present. The presence of a Director only is sufficient in the event that the Board is to resolve on the certification of a capital increase or of supplementary contributions for shares not fully paid and the subsequent amendment of the Articles.

<sup>2</sup> The Directors may only vote in person, but not by proxy.

<sup>3</sup> The Chairman, in his absence the Vice-Chairman or another Director specifically designated by the majority of the other Directors present at the meeting (the “**Chairperson**”), shall direct the debate during the meeting and determine the persons who may attend the meeting as such or the deliberation of particular items on its Agenda as guests.

<sup>4</sup> The CEO shall be entitled to attend every meeting of the Board and to participate in its debates. However, he shall not be entitled to vote unless he is a Director.

### **3.7 Resolutions**

<sup>1</sup> Resolutions of the Board shall be passed by a simple majority of votes cast. In the event of a tied vote, the vote of the Chairperson shall count double.

<sup>2</sup> Resolutions on specific issues may also be passed by mail, e-mail or fax, unless a Director demands an oral discussion or a meeting. The validity of such a circular resolution is given with unanimous approval of all Directors, the approval being expressed by signature also on different exemplar of the resolution.

<sup>3</sup> Minutes shall be kept of the deliberations and resolutions of the Board. The minutes shall be signed by the Chairman or any other person chairing the meeting, and by the Secretary.

### **3.8 Compensation**

<sup>1</sup> The Board shall fix the amount of emoluments to be paid to the Directors within the meaning of article 20 of the Articles, but without prejudice to the following paragraphs 2 and 3.

<sup>2</sup> The remuneration of the Chairman shall be determined in accordance with existing contractual arrangements.

<sup>3</sup> The Chairman shall fix the special fees payable to Directors who carry out specific functions or who render services beyond the normal scope of their office.

## **4 The Chairman**

<sup>1</sup> The following duties and powers shall be vested in the Chairman:

- convening, preparing and chairing meetings of the Board;
- preparing and supervising the implementation of the resolutions passed by the Board, save where a committee shall have been established and the relevant functions delegated to it by the Chairman in accordance with section 6 of these By-laws or otherwise hereunder;
- exercising day-to-day supervision over the affairs of the Company and the Group and over the activities of the Executive Committee. For this purpose, the Chairman shall receive regular reports from the CEO, the member of the Executive Committee designated as Chief Financial Officer (the “**CFO**”) and the Audit and Finance Committee. The Chairman may also attend meetings of the Executive Committee in specific cases where this is deemed necessary for the discharge of his supervisory functions. He shall regularly be sent notices of meeting and copies of the minutes;
- ensuring that the Company and the Group possesses an appropriate management and organizational structure;
- exercising the powers reserved to the Board under paragraph 2 above;
- representing the overall interests of the Company and of the Group in dealings with third parties;
- appointing Executive Committee members to the boards of Group companies;

- determining the compensations pursuant to section 3.8 and 7.2 of these By-laws;
- coordinating the work of the standing committees of the Board and ensuring that the Board as a whole operates as an integrated, cohesive body. The Chairman shall be sent all notices of meeting and copies of the minutes of the standing committee meetings and shall be entitled to attend such meetings;
- such other duties and powers as may be specified in the Articles and in these By-laws

<sup>2</sup> In addition, the Chairman shall have decision-making authority in urgent matters which fall within the purview of the Board, but which because of pressure of time cannot await resolution by the Board. In such cases, the members of the Board shall be apprised of the matter as quickly as possible and the relevant decision shall be recorded in the minutes of the next following meeting of the Board.

## **5 The Vice-Chairman**

If the Chairman is unavailable, his functions shall be carried out by the Vice-Chairman. At the request of any member of the Board, the Vice-Chairman shall call for a meeting of the Board.

## **6 The Presidium of the Board**

<sup>1</sup> Chairman and CEO shall together make up the Presidium of the Board, under the chairmanship of the Chairman.

<sup>2</sup> The Presidium of the Board shall be responsible for preparing resolutions of the Board and for overseeing the implementation of the same, save where this function is carried out directly by the Chairman, a Committee or by the Executive Committee through one of his members.

<sup>3</sup> The Presidium shall perform under consideration of section 7.2 the role of a nomination committee, in particular planning for the replacement of outgoing members and evaluating candidates for positions on the Board, on the Committees or on the Executive Committee.

<sup>4</sup> The Presidium shall also discharge other duties in the area of corporate governance, save where such duties are assigned to a Committee under these By-laws.

<sup>5</sup> The Presidium of the Board shall determine its own procedures.

## **7 Committees**

<sup>1</sup> The Board may appoint at any time one or more committees, each consisting of one or more Directors, who shall advise the Board or, as the case may be, the CEO and the Executive Committee, on specific matters relating to the functions of the Board, the CEO and the Executive Committee.

<sup>2</sup> The Board may also, on the basis of a special resolution or of an executive regulation issued by the Board, delegate to such Committees particular matters for decision, implementation or supervision.

<sup>3</sup> The Committees shall be:

- a committee dealing with the review of the internal control of the accounts, finances and risks of the Company and the Group (the “**Audit & Finance Committee (AC)**”);
- a committee dealing with all matters relating to the nomination and compensation of the executives of the Company and the Group (the “**Nomination and Compensation Committee (NCC)**”);
- a committee dealing with all matters relating to the science, search and development activities of the Company and the Group (the “**Scientific Committee (SC)**”).

Their functions and duties shall be as determined by the Board from time to time.

<sup>4</sup> The Committees shall be appointed by the Board and shall meet as often as necessary and report to the Board on their activities.

### **7.1 Audit & Finance Committee (AC)**

<sup>1</sup> The AC shall consist of one or more Directors, at least one of which having financial background, and shall advise the Board in the performance of its supervisory duties. In particular, the AC shall:

- **Financial reporting and external auditors:** review the financial reporting to shareholders and the general public as well as the relationship with the external auditors;
- **Financial risk management:** satisfy itself that the Company's financial risk management is of an appropriate standard
- **Internal controls:** satisfy itself that the Company's internal controls are of an appropriate standard;
- **Compliance with corporate governance:** (i) ensure that its activities are consistent and compliant with the organizational regulations; (ii) assess the adherence to the relevant 'Best practice' corporate governance provisions, to the extent such has effect on the activities and the functions of the AC;
- **Oversight of fraud prevention:** (i) satisfy itself that the Company's overall fraud prevention procedures are of an appropriate standard; (ii) ensure that appropriate procedures to enable employees to confidentially and anonymously submit their concerns regarding accounting, internal controls or auditing matters ('Whistleblower' provisions) are in place

<sup>2</sup> The AC shall submit a written report periodically, at least once a year, to the Board and shall report to the Chairman, either orally or in writing about its activities and findings.

<sup>3</sup> The AFC shall be authorized at any time but pursuant to Section 3.3 of these By-Laws, to inspect any documents which are relevant to the discharge of its duties (including external audit reports, management responses to such reports and follow-up documents), to request full and detailed information from any party within the Company or Group or from the external auditors and to require them to attend its meetings.

<sup>4</sup> The AC may conduct votes by mail ballot or telephone as well as at its meetings.

### **7.2 Nomination and Compensation Committee (NCC)**

<sup>1</sup> The NCC shall consist of the Chairman and one or more Directors, and shall advise the Board in the performance of its supervisory duties. In particular, the NCC shall:

- plan for ensuring best possible leadership and management talent for the Company and the Group;
- determine compensation policies, including share-based incentive programs and specific compensation packages for the top management;
- determine the composition of the Board and identify Board candidates with the necessary skills and expertise for submission to the shareholders' meeting;
- determine the emoluments of the Directors

<sup>2</sup> The NCC may conduct votes by mail ballot or telephone as well as at its meetings.

### **7.3 Scientific Committee (SC)**

<sup>1</sup> The SC shall consist of one or more Directors and shall assist the Board in the performance of its supervisory duties, with particular regard to the scientific issues deriving from the search and development fields in which the Company and the Group are performing their business. In particular, the SC shall:

- obtain subject-specific advice from third parties (high standing profiles in the fields of biology, chemistry and medicine) with no other ties to the Company and to invite such parties to its meetings;
- evaluate scientific perspectives of the Company's and Group search and development strategy and review the Company's search and development portfolio and submit its conclusions and recommendations to the Board

<sup>2</sup> The SC shall submit a written report periodically, at least once a year, to the Board and shall report to the Chairman, either orally or in writing about its activities and findings.

<sup>3</sup> The SC may conduct votes by mail ballot or telephone as well as at its meetings.

## **8 The CEO**

<sup>1</sup> The duties of the CEO shall, subject to the powers reserved to the higher-ranking executive bodies and in addition to the management of the Area for which he is directly responsible, in particular include the following:

- the implementation of the strategic objectives, the setting of operating priorities and the allocation of the necessary human and material resources;
- the management, supervision and coordination of the other members of the Executive Committee;
- the convening, preparation and chairing of meetings of the Executive Committee;
- briefing the Chairman on the Company's and Group affairs. The CEO may also delegate this task to other members of the Executive Committee;
- setting the annual salary and wage parameters for employees, which shall be coordinated within the parameters set by the Chairman (section 4) and the NCC (section 7.2);
- taking decisions on matters in which divisions, functions and/or Group companies have overlapping interests

## **9 The Executive Committee**

### **9.1 Composition and demarcation of areas of responsibility**

<sup>1</sup> The Executive Committee shall be appointed by the Board or pursuant to contractual arrangement. Each member of the Executive Committee shall be responsible for the division, functional area or whatever unit the organization of the Company and the Group stipulate (the "**Area**"), assigned to them.

<sup>2</sup> Notwithstanding the foregoing, responsibilities may be assigned directly to members of the Executive Committee under these By-laws.

### **9.2 Specific duties**

<sup>1</sup> In particular, the individual members of the Executive Committee shall have the following duties:

- to attain the prescribed strategic, operating and quantitative objectives within their Area;
- preparing and assuming responsibility for the yearly and five-year plans budget for their Area;
- establishing and overseeing a management and organizational structure adequate to the needs of their Area, in accordance with the principles of delegation and competence;
- overseeing global business performance within their Area and issuing the necessary instructions and directives, in particular as regards compliance with the statutory obligations relevant to their Area;
- representing the interests of their Area in relation to other Areas and in relation to higher-ranking executive bodies or officers;
- regular reporting on performance to the CEO

<sup>2</sup> The member of the Executive Committee designated as CFO shall be responsible for implementing and overseeing the execution of the Company and Group policies and guidelines relating to financial planning, accounting and financial controlling issued by the Board pursuant to Section 3 and in particular for the establishment proper financing Group structure, the necessary control mechanisms and the adequate investment of liquid assets.

### **9.3 Further executive officers and bodies**

The delegation of executive duties and powers to subordinate bodies and officers shall be effected by means of instructions issued within their respective Areas by the relevant Executive Committee members.

## **10 Entry into force of the By-laws**

These By-laws were approved by the Board at its meeting of December 2, 2008 and will become effective immediately.

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