

**ARTICLES OF INCORPORATION
OF
PAION AG**

A. General

Section 1

Name, registered office of the Company

- (1) The Company bears the name

PAION AG.

- (2) The Company's registered office is in Aachen.

Section 2

Object of the Company

- (1) The objects of the Company are research, development, production, sales and marketing of pharmaceutical and medical products.
- (2) The Company may do anything and engage in any business which it deems necessary and useful to achieve and realise its object as defined in paragraph (1). In particular, it may establish branch offices at home and abroad and found, acquire or invest in companies of the same or a similar nature, carve out parts of its business to associated companies including joint ventures with third parties, dispose of holdings in companies, enter into company agreements or restrict itself to managing investments.

Section 3

Publication of notices and information

- (1) Notifications by the Company will be published in the electronic Federal Gazette issued by the Federal Republic of Germany unless the law stipulates the disclosure of notifications in a different publication.
- (2) The Company may send shareholders information via remote data transmission, and via electronic media in particular, subject to their consent.

B. Capital stock and shares

Section 4

Capital stock

- (1) The Company has a capital stock of EUR 24,602,919.00 (in words: Twenty four million six hundred two thousand nine hundred nineteen euros).
- (2) The capital stock is divided into 24,602,919 shares with no par value (unit shares).
- (3) The Management Board is authorised to raise the capital stock of the Company with the approval of the Supervisory Board and up until 25 May 2014, by a total nominal amount of up to EUR 12,300,000.00 by one or several issuances of total 12,300,000 new bearer shares of no par value against payment in cash and/or kind (Approved Capital 2009). Only ordinary shares and/or non-voting preferred shares may be issued in each case. The Management Board is authorised to determine with the approval of the Supervisory Board the further details in respect of the share rights and conditions of issuance.

Subject to the following exceptions, the shareholders must be granted subscription rights. The shares can be taken over by a bank or bank syndicate who commit to offer them for sale to the shareholders of the Company to the extent that they are not offered directly to the shareholders.

- a. The Management Board is hereby authorised to exclude peak amounts from the shareholders' subscription rights, with the approval of the Supervisory Board.
- b. In the case of capital increases for the purpose of acquiring companies, participations in companies or parts of companies or for entering into or implementing cooperation agreements, the Management Board is further authorised to exclude shareholders' subscription rights with the approval of the Supervisory Board. This applies, in particular, to capital increases against contributions in kind.
- c. The Management Board is further authorised to exclude shareholders' subscription rights with the approval of the Supervisory Board if the issue price of the new shares is not substantially lower than the stock exchange listed price and if the shares issued against payment in cash and with subscription rights excluded pursuant to Section 186 para. 3 sent. 4 AktG do not exceed 10 percent in total of the capital stock with respect to the Approved Capital 2009 at the time of adopting this resolution.

The maximum cap of 10 percent of the capital stock is reduced by the proportionate amount of capital stock relating to such treasury stock as is sold by the Company during the term of this authorisation with subscription rights excluded pursuant to Section 186 para. 3 sent. 4 AktG. The maximum cap of 10 percent of the capital stock is further reduced by the proportionate amount of capital stock relating to such shares as are issuable or issued to service warrant-linked and/or convertible bonds provided that the bonds are issued during the term of this authorisation with subscription rights excluded pursuant to Section 186 para. 3 sent. 4 AktG.

- d. The Management Board is further authorised to exclude shareholders' subscription rights, with the approval of the Supervisory Board, to the extent necessary to be able to grant the holders of convertible bonds, convertible profit-participation rights or options as outlined in Section 221 AktG a subscription right such as they would be entitled to if they were to exercise their conversion or option rights or to fulfil their conversion obligations.
- (4) The capital stock can be conditionally increased by up to EUR 9,800,000 (Conditional Capital 2010 II). This conditional capital increase will not proceed unless:
- The holders [and/or creditors] of conversion rights or warrants linked to the convertible or warrant-linked bonds to be issued before 18 May 2015 by the Company or companies dependent on it or in which it holds a majority stake pursuant to the authorisation resolution adopted by the annual general meeting on 19 May 2010, exercise the conversion and/or option rights, or
 - Those holders [and/or creditors] of the convertible bonds to be issued by the Company or companies dependent on it or in which it holds a majority stake before 18 May 2015 pursuant to the authorisation resolution adopted by the annual general meeting on 19 May 2010, who are bound to convert meet their conversion obligations.

The new shares are entitled to dividends from the start of the financial year in which they are created by exercising conversion and/or option rights or by performing conversion obligations, although the Management Board may stipulate, subject to the Supervisory Board's consent, that the new shares are entitled to dividends from the start of the financial year for which no resolution by the annual general meeting to apply the reported profits has been adopted at the time the conversion and/or option rights are exercised or conversion obligations performed. The Management Board is authorised to determine the further structure of the equity rights and the further details

relating to the execution of the conditional capital increase, with the approval of the Supervisory Board.

- (5) The Company's capital stock has been increased conditionally by up to EUR 858,121 by issuing an aggregate of up to 858,121 new bearer shares (Conditional Capital 2004 II). The Conditional Capital increase will only be implemented to the extent to which holders of option rights issued within the framework of the 2005 stock option plan exercise such option rights. The new shares participate in the profits from the beginning of the financial year onwards for which, at the time of exercising the subscription right, the annual general meeting has not adopted any resolutions in respect of the appropriation of the balance sheet profit. The Management Board is authorised to determine the further details of the implementation of the Conditional Capital increase with the approval of the Supervisory Board.
- (6) The capital stock of the Company is conditionally increased (Conditional Capital 2008 I) by up to EUR 760,235 additionally by issuing an aggregate 760,235 new bearer shares of no par value. The Conditional Capital increase will only be implemented to the extent to which holders of option rights issued within the framework of the 2008 stock option plan exercise such option rights. The new shares participate in the profits from the beginning of the financial year onwards for which, at the time of exercising the subscription right, the Annual General Meeting has not adopted any resolutions in respect of the appropriation of the retained earnings. The Management Board is authorised to determine the further details of the implementation of the Conditional Capital increase with the approval of the Supervisory Board.
- (7) The capital stock of the Company is conditionally increased (Conditional Capital 2010 I) by up to EUR 720,000 additionally by issuing an aggregate of up to 720,000 new bearer shares of no par value. The Conditional Capital increase will only be implemented to the extent to which holders of option rights issued within the framework of the 2010 stock option plan exercise such option rights. The new shares participate in the profits from the beginning of the financial year onwards for which, at the time of exercising the subscription right, the Annual General Meeting has not adopted any resolutions in respect of the appropriation of the retained earnings. The Management Board is authorised to determine the further details of the implementation of the Conditional Capital increase with the approval of the Supervisory Board.

Section 5

Shares

- (1) Unit shares are issued to the bearer.
- (2) Should any resolution to increase the Company's capital not specify whether the new shares are to be bearer or registered, they will be bearer.
- (3) If the capital stock is increased, dividend entitlements for new shares may be determined contrary to Section 60 para. 2 AktG.

Section 6

Share certificates, exclusion of certificate issuance

- (1) The Management Board determines the form and content of share certificates and dividend and renewal certificates, subject to the Supervisory Board's consent, likewise any other securities the Company issues.
- (2) Shareholders are not entitled to demand issuance of share certificates or any dividend or renewal coupons, unless they must be issued under the rules applicable on a stock exchange to which the shares are admitted for trading. The Company may issue share certificates representing individual shares (individual shares) or multiple shares (collective shares).

C. Constitution and management of the Company

Section 7

Executive bodies

The executive bodies of the company are as follows:

- - The Management Board
- - The Supervisory Board and
- - The Annual General Meeting

I. Management Board

Section 8 Composition

- (1) The Management Board consists of two or more people. The Supervisory Board determines the number of members on the Management Board.
- (2) The Supervisory Board may appoint a member of the Management Board as CEO and one member as vice-chairman. Deputy Management Board members may be appointed.

Section 9 Resolutions by the Management Board, rules of procedure

- (1) Votes on the Management Board are decided by a simple majority of the votes cast unless the Management Board's rules of procedure stipulate otherwise. Should a vote be tied, the chairman will have a casting vote. He is also responsible for convening Management Board meetings.
- (2) The Management Board may set its own rules of procedure by unanimous vote, subject to the Supervisory Board's consent, insofar as the Supervisory Board does not exercise its own right to define rules of procedure. Any rules of procedure agreed by the Management Board must be approved by the Supervisory Board.

Section 10 Representing the Company

- (1) The Company is represented by two members of the Management Board together or by a member of the Management Board together with a *Prokurist* (authorised agent).
- (2) The Supervisory Board may release one or all members of the Management Board from the limitations of multiple representation (Section 181 option 2 of the Civil Code (*Bürgerliches Gesetzbuch*, BGB)), without prejudice to the provisions of Section 112 AktG.

Section 11

Management

- (1) The Management Board is responsible for managing the Company and its business in accordance with the law, articles of incorporation and rules of procedure. It is bound towards the Company to observe the limitations which the articles of incorporation or Supervisory Board impose on its powers of management or which derive from resolutions by the annual general meeting pursuant to Section 119 para. 2 AktG.
- (2) The Management Board's rules of procedure stipulate those acts of management that require the Supervisory Board's consent.
- (3) The Management Board is obliged to keep the Supervisory Board informed on an ongoing basis to the extent required by law. Further reporting obligations may be laid down in the Management Board's rules of procedure.

II. Supervisory Board

Section 12 Composition

- (1) The Supervisory Board consists of three members.
- (2) Supervisory Board members are appointed until the end of the annual general meeting which adopts a resolution to formally approve the actions of the Supervisory Board in the fourth financial year following commencement of their term of office begins, unless the resolution appointing them specifies a shorter term of office. The financial year in which office is assumed is not counted. Should a Supervisory Board member depart before completion of the term of office, a successor will be appointed for the remainder of the term of office, unless the annual general meeting resolves to appoint them for a longer term.
- (3) Ex-members of the Company's Management Board may not be members of the Supervisory Board if two Supervisory Board members are already ex-members of the Management Board. Supervisory Board members may not be directors of publicly listed companies or already hold five Supervisory Board appointments in publicly listed companies outside the group, or hold executive or advisory positions with major competitors of the Company, without prejudice to the provisions of Section 100 para. 4 AktG.

- (4) The annual general meeting may appoint one or more replacement members for all Supervisory Board members who will become members of the Supervisory Board in the order in which they are appointed as soon as any Supervisory Board member retires from the Supervisory Board before their term of office ends, unless the annual general meeting appoints a successor before a Supervisory Board member retires. The term of office of replacement members succeeding to the Supervisory Board ends at the end of the annual general meeting at which a successor to the departed Supervisory Board member is appointed or when the departed Supervisory Board member's term of office ends, whichever is the sooner.
- (5) Any Supervisory Board member may resign their office for no particular reason by giving the chairman of the Supervisory Board and the Management Board at least one month's notice in writing. This period of notice may be waived if the chairman of the Supervisory Board consents. They may resign their office with immediate effect for pertinent cause.

Section 13

Chairing the Supervisory Board

- (1) The Supervisory Board will appoint a chairman and vice-chairman from amongst its numbers.
- (2) The chairman and vice-chairman will be elected at the first Supervisory Board meeting after the annual general meeting has confirmed the appointment of the Supervisory Board members.
- (3) Should no simple majority be obtained when electing the chairman or his deputy in the first round of voting, a more limited election will be held between the two applicants who obtained the most votes. Should the second round vote be tied, the vote of the oldest member of the Supervisory Board will count twice.
- (4) Should the chairman leave office before his term of office ends, this will not affect his deputy's term of office, and vice versa. Should the chairman or deputy leave office before their term of office ends, the Supervisory Board will elect a new chairman or vice-chairman for the departing member's remaining term of office.
- (5) The chairman of the Supervisory Board, or, his deputy should he be incapacitated, chairs Supervisory Board meetings, and decides the order of the agenda and the voting rules. The chairman, or his deputy should he be incapacitated, issues declarations by the

Supervisory Board and its committees on the Supervisory Board's behalf. The chairman and his deputy may also receive notices intended for the Supervisory Board.

Section 14

Rules of procedure

The Supervisory Board may stipulate its own rules of procedure to the extent permitted by law and these articles of incorporation.

Section 15

Supervisory Board meetings

- (1) The Supervisory Board should meet every calendar quarter and must meet twice in any calendar half-year.
- (2) Supervisory Board meetings are convened by the chairman, or by his deputy if he is incapacitated. They may be convened in writing, by fax, telephone or e-mail, at 14 days' notice, not including the date on which the notice of meeting is sent and the date of the meeting itself. The chairman may give less notice in an emergency if the notice of meeting has demonstrably reached all Supervisory Board members. The chairman may suspend or defer meetings once called.
- (3) Notices of meetings must be accompanied by details of the agenda. Applications for resolutions must be submitted in good time and in a form that permits written voting.
- (4) No amendments or additions may be made to the agenda once the notice period for convening a meeting ends unless none of the Supervisory Board members object.
- (5) The Supervisory Board is quorate if not less than half its members, and not less than three members, including the chairman or deputy, participate in the adoption of resolutions. Members are deemed to participate in the adoption of resolutions even if they abstain from voting. If Supervisory Board members are absent, they may participate in the adoption of resolutions by the Supervisory Board by submitting written votes through other Supervisory Board members.

Section 16
Resolutions by the Supervisory Board

- (1) Supervisory Board resolutions are generally adopted at meetings. Resolutions on items not included in the agenda as communicated with notices of meetings cannot be adopted unless no members object. In that event, any members who are absent must be given an opportunity of objecting to the adoption of a resolution retrospectively within such a reasonable period of time as the chairman may decide; the resolution will then only be binding if no absent member objects to it within the time allowed.
- (2) Outside meetings, resolutions may be adopted in writing, by telephone, fax or e-mail if the chairman so rules in each case. Supervisory Board members voting by telephone must confirm their votes in writing or by fax immediately. The chairman will record resolutions adopted outside meetings in writing and communicate them to all Supervisory Board members.
- (3) Resolutions by the Supervisory Board require a simple majority of the votes cast unless another majority is required by law. This also applies to elections. Abstentions count as votes against.

Section 17
Minuting Supervisory Board meetings and resolutions

- (1) Minutes must be produced of Supervisory Board meetings and signed by the chairman, stating where and when the meeting was held, who was present, items on the agenda, the essence of the proceedings and the resolutions adopted by the Supervisory Board. The chairman, or, if he is incapacitated, his deputy, must send signed copies of the minutes out to all Supervisory Board members.
- (2) Where Supervisory Board resolutions are adopted outside meetings, the provisions of para. (1) apply *mutatis mutandis*, except that the minutes must also state the means by which the resolution was adopted.

Section 18
Duties of the Supervisory Board

- (1) The Supervisory Board has all the duties and rights assigned to it by law, these articles of incorporation and otherwise. Supervisory Board members are not bound by orders or instructions.

- (2) The Supervisory Board may stipulate rules of procedure for the Management Board stating that its consent is required for certain acts of business relating to the Company or its subsidiaries, especially such acts of business that fundamentally change the Company's assets, financial condition or results of earnings or risk exposure. Should the Management Board issue its own results of procedure pursuant to Section 9 para. (2), the Supervisory Board may not consent to this unless it includes a list of transactions for which consent is required pursuant to (1) above. The Supervisory Board may also resolve to make other transactions subject to its consent.
- (3) The Supervisory Board may resolve amendments to the articles of incorporation that only affect the wording.

Section 19 Committees

- (1) The Supervisory Board may form committees from amongst its numbers and define their powers in its rules of procedure, and may delegate its executive powers to such committees insofar as the law allows (executive committees).
- (2) Committees must report to the Supervisory Board regularly on their work.
- (3) Internally, committees are subject to the provisions of Sections 15, 16 and 17 paras. (1) and (2) *mutatis mutandis*.

Section 20 Confidentiality

- (1) Supervisory Board members may not disclose any confidential information and secrets which become known to them through being on the Supervisory Board, even once they leave office. Should a Supervisory Board member intend to disclose information to third parties where it cannot be ruled out with any certainty that such information is confidential or represents Company secrets, they must inform the chairman first and allow him opportunity to comment.
- (2) Departing Supervisory Board members must return all confidential documents relating to the Company in their possession to the chairman of the Supervisory Board.

Section 21

Remuneration of the Supervisory Board

- (1) In addition to the reimbursement of their expenses, each member of the Supervisory Board is entitled to remuneration of EUR 20 000 per financial year. Any member of the Supervisory Board, who does not perform Supervisory Board duties for the Company for the entire financial year, can only claim pro rata remuneration in a ratio equivalent to his or her actual term of duty relative to the entire financial year. In addition, the members of the Supervisory Board shall receive EUR 1,500 for each Supervisory Board meeting that they attend personally (attendance fee), but for a maximum of six meetings each year. Members of the Supervisory Board who are resident in a country outside Europe shall receive an attendance fee of EUR 3,000 for each physical attendance at a Supervisory Board meeting, albeit for a maximum of six meetings each year. The Chairman receives twice, the Vice-Chairman 1.5 times these amounts.
- (2) Supervisory Board members will also receive reimbursement of any value added tax they incur on their disbursements and/or Supervisory Board remunerations insofar as they are entitled to charge the company VAT separately and exercise that right.
- (3) The company will insure the members of its Supervisory Board against financial loss liability as part of a D&O insurance policy taken out by the Company in its own interests for its executive bodies and certain directors, and will pay the premiums on such insurance.

III. Annual general meeting

Section 22

Venue of the annual general meeting

Annual general meetings of the Company are held at the Company's registered office, in a German city with a population over 100,000 or at a German stock exchange.

Section 23

Convening annual general meetings

- (1) Annual general meetings are convened by the Management Board and by the Supervisory Board where required by law.
- (2) The Annual General Meeting must be convened at least 30 days prior to the date of the meeting. The notice period must be extended to include the days of the registration period (Section 24 para. 1). Statutory provisions apply to the calculation of this period.

Section 24

Attendance at the annual general meeting

- (1) Shareholders are entitled to attend the Annual General Meeting and to exercise their voting rights if they have registered to attend the Annual General Meeting and have provided evidence of their share ownership to the Company. The evidence of share ownership must be provided in the shape of a certificate in text form in German or English that is issued by the custodian and refers to the start of the 21st day prior to the Annual General Meeting. The registration and proof of share ownership must be received by the Company at least six days prior to the Annual General Meeting at the address indicated for this purpose in the invitation. Statutory provisions apply to the calculation of this period.
- (2) Votes may be cast by a proxy. If and to the extent that the assignment of proxy is not subject to the application of Section 135 AktG, the assignment, revocation and proof of proxy must be provided to the Company in text form. In the event that the Company authorises designated voting proxies, the invitation may also define a simplified procedure for assigning and revoking proxy. Proof of proxy can also be transmitted to the Company using a means of electronic communication to be defined in more detail by the Management Board.
- (3) Subject to corresponding notification in the invitation to the Annual General Meeting, the chairman of the meeting may permit the full or partial video and audio transmission of the annual general meeting in a form to be determined in more detail by the chairman of the meeting.
- (4) Subject to prior notification in the invitation to the Annual General Meeting, the Management Board may permit shareholders to participate without actually attending the Annual General Meeting or appointing a proxy, and may further permit them to exercise in part or in whole some or all of their rights using electronic means of communication.

Section 25
Voting rights

Each share carries one vote at the annual general meeting.

Section 26
Chairing annual general meetings

- (1) Annual general meetings are chaired by the chairman of the Supervisory Board or another Supervisory Board member he nominates. Should neither the chairman nor another Supervisory Board member nominated for this purpose by the chairman be present or prepared to chair the annual general meeting, the Supervisory Board will appoint the chairman of the meeting.
- (2) The chairman chairs the meeting and determines the order of consultation and voting procedures. The chairman of the meeting may limit shareholders' rights to ask questions and speak to a reasonable time. In particular, he may set a reasonable timeframe for the proceedings of the meeting as a whole, individual items on the agenda and individual times for speaking and asking questions at the start of the annual general meeting or while it is in progress.

Section 27
Adoption of resolutions

- (1) Resolutions by the annual general meeting are adopted by a simple majority of the votes cast, and, where a majority of the capital is required, by a simple majority of the capital represented at the adoption of the resolution, unless otherwise stipulated by the law or these articles of incorporation. To the extent legally permissible, a simple majority is also required for amendments to the articles and capital increases or decreases.
- (2) Should the first round of voting not produce a majority for the purposes of para. (1), a second round will be held as a spot vote between the two candidates which obtained the most votes in the first round. Should the second round be tied between the applicants, the matter will be decided by the chairman drawing lots.

D. Preparation of accounts and application of profits

Section 28 Financial year

The financial year is the calendar year.

Section 29 Preparation of accounts and application of profits

Each year, the Management Board must produce the annual financial statements, consolidated financial statements and management report for the financial year just ended and present them to the auditors within the time allowed by law. It must also submit these documents to the Supervisory Board, together with the proposals it wishes to make to the annual general meeting in respect of the balance sheet profit.

E. Miscellaneous

Section 30 Incorporation costs

The Company will bear the costs and disbursements incurred in incorporating the Company and entering it in the commercial register (notary public, commercial register, publications, consultants, etc.). These incorporation costs are estimated at EUR 5,000.00 in total.