

# PAION AGM#2018

Invitation to the Annual General Meeting

PAION AG, Aachen

ISIN DE 000A0B65S3



# Invitation to the Annual General Meeting

We hereby invite our shareholders to attend the ordinary General Meeting  
2018 of PAION AG to be held on

**Wednesday, 23 May 2018, at 10:00 a.m. (CEST)**

**at forum M,**

**Buchkremerstrasse 1-7, 52062 Aachen, Germany**

**Convenience Translation**

**PLEASE NOTE:**

**THIS IS A CONVENIENCE TRANSLATION OF THE GERMAN  
INVITATION TO THE ANNUAL GENERAL MEETING OF PAION  
AG, WHICH IS PROVIDED TO SHAREHOLDERS FOR INFOR-  
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RESPECT THERETO.**

# I. Agenda

## **1. Presentation of the adopted annual financial statements and the consolidated financial statements approved by the Supervisory Board as of 31 December 2017, the Management Reports for the Company and the Group for the financial year 2017, including the Report of the Supervisory Board for the financial year 2017 and the Management Board's explanatory report on the information pursuant to Sections 289a paras. 1 and 315a para. 1 of the German Commercial Code (HGB) as of 31 December 2017**

The Supervisory Board has approved the annual financial statements and the consolidated financial statements prepared by the Management Board; the annual financial statements are thus adopted. A resolution of the Annual General Meeting regarding this agenda item 1 is therefore neither envisaged nor necessary. The documents described above only have to be made available to the Annual General Meeting and to be outlined by the Management Board or, in the case of the report of the Supervisory Board, by the Chairman of the Supervisory Board. The shareholders will have the opportunity to ask questions regarding the information presented, in accordance with their right to information.

These documents can be reviewed at [www.paion.com/media-and-investors/annual-general-meeting/](http://www.paion.com/media-and-investors/annual-general-meeting/). They will also be available for inspection at the Annual General Meeting and can also be sent to shareholders immediately and free of charge upon request.

## **2. Adoption of a resolution to formally approve the actions of the members of the Management Board for the financial year 2017**

The Supervisory and Management Boards propose that the actions of the members of the Management Board holding office in the financial year 2017 be formally approved for the financial year 2017.

## **3. Adoption of a resolution to formally approve the actions of the members of the Supervisory Board for the financial year 2017**

The Management and Supervisory Boards propose that the actions of the members of the Supervisory Board holding office in the financial year 2017 be formally approved for the financial year 2017.

#### **4. Adoption of a resolution on the appointment of the auditor and the Group auditor for the review of the abbreviated financial statements and the interim management report for additional interim financial information.**

The Supervisory Board, upon recommendation by its Audit committee, proposes that Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft, branch office Cologne, be elected

(a) as auditor and group auditor for the financial year 2018;

(b) as auditor for the review of the abbreviated financial statements and as auditor for the review of the interim management report (Section 115 paras. 5 und 117 no. 2 WpHG) for the first half year of the financial year 2018;

(c) as auditor for review of additional interim financial information (Section 115 para. 7 WpHG) for the first and/or third quarter of the financial year 2018 and/or as auditor for review for the first quarter of the financial year 2019.

#### **5. Election to the Supervisory Board**

Pursuant to Sections 95, 96 para. 1, Section 101 para. 1 of the German Stock Corporation Act as well as Section 12 para. 1 of the Articles of Association of PAION AG, the Supervisory Board of PAION AG is composed of five members.

The term of office of Dr. Karin Dorrepaal expires at the end of this 2018 General Meeting. Against this background, the Supervisory Board proposes before the Annual General Meeting that Dr. Karin Louise Dorrepaal, Dutch national, Non Executive Director on several statutory supervisory boards, as mentioned below, residing in Amsterdam/Netherlands be re-elected as shareholder representative with effect from the end of the 2018 General Meeting. The Annual General Meeting is not bound to election proposals.

The election is effective as of the end of this General Meeting until the end of the General Meeting adopting a resolution on the formal approval of actions for the fourth financial year after the commencement of the term of office. The financial year in which the term of office commences is not included in this count.

Dr. Karin Dorrepaal, born in 1961, is currently a non Executive Director on several statutory supervisory boards and comparable controlling boards:

- Almirall S.A., Barcelona/Spain, Member of the Board of Directors
- Gerresheimer AG, Dusseldorf/Germany, Member of the Supervisory Board

- Humedics GmbH, Berlin/Germany, Chairman of the Board
- Julius Clinical Research BV, Bunnik/The Netherlands, Member of the Supervisory Board
- Kerry Group plc, Tralee/Ireland, Non-executive director
- Triton Beteiligungsberatung GmbH, Frankfurt/Germany, Member of the Triton Industry Board

In the appraisal of the Supervisory Board, there stands no personal or business interests between Dr. Dorrepaal and PAION companies, its corporate bodies, or a shareholder of PAION AG holding directly or indirectly more than 10% of the voting shares.

The Supervisory Board has affirmed that Dr. Dorrepaal will be able to meet the expected time requirements. A CV from Dr. Dorrepaal, which provides relevant knowledge, skills, experiences, as well as Dr. Dorrepaal's essential tasks on the Supervisory Board disclosed by the Company, can be found at [www.paion.com/media-and-investors/annual-general-meeting](http://www.paion.com/media-and-investors/annual-general-meeting), and will also be available for inspection at the Annual General Meeting.

**6. Adoption of a resolution on the creation of an Authorised Capital 2018 with the possibility of excluding the subscription rights and on the cancellation of the existing authorised share capital as well as on the respective amendment of Section 4 para. 3 of the Articles of Incorporation**

The General Meeting adopted a resolution on 17 May 2017 authorising the Management Board, with the approval of the Supervisory Board, to increase the Company's share capital through 16 May 2022 by up to a total of EUR 29,098,058.00 by issuing new ordinary bearer shares in one or more tranches against contribution in cash and/or in kind (Authorised Capital 2017).

Based on the resolutions of the Management and Supervisory Boards, the Authorised Capital 2017 was partially utilised. With entry in the commercial register of the Company on 18 July 2017, the Company's registered share capital was increased by EUR 824,515.00 from EUR 58,196,117.00 to EUR 61,020,632.00 through the issue of 824,515 new bearer shares, excluding subscription rights against cash contributions pursuant to Section 186 para 3 sentence 4 of the German Stock Corporation Act. The Authorised Capital 2017 was accordingly reduced to EUR 26,273,543.00.

Going forward, in order for the Company to being able to comprehensively strengthen its equity when necessary - also under exclusion of the subscription right against cash contributions pursuant to Section 186 para. 3 sentence 4

of the German Stock Corporation Act - the Authorised Capital 2017 shall to the extent still available be cancelled, a new Authorised Capital 2018 shall be created and the Articles of Incorporation shall be amended accordingly.

The Management Board and the Supervisory Board therefore propose that the General Meeting approves the following resolution:

**a) Creation of an Authorised Capital 2018 with the possibility to exclude subscription rights**

The Management Board, with the approval of the Supervisory Board, is authorised to increase the Company's share capital by a total of up to EUR 30,560,023.00 by issuing up to 30,560,023 new bearer shares with no-par value (Stückaktien) in one or more tranches against contribution in cash and/or in kind through 22 May 2023 (Authorised Capital 2018).

The shareholders must generally be granted subscription rights. The shares may also be assumed by one or more banks with the obligation to offer these to shareholders of the Company for subscription (so-called indirect subscription rights), in accordance with Section 186 para. 5 of the German Stock Corporation Act ("**AktG**"). However, the Management Board, with the approval of the Supervisory Board, is entitled to exclude shareholders' subscription rights for one or more capital increases under the Authorised Capital 2018,

aa) in order to exclude fractional amounts from subscription rights;

bb) insofar as it is required in order to grant a subscription right to no-par value bearer shares in the Company to holders or creditors of convertible bonds (Wandelschuldverschreibungen), warrant-linked bonds (Options-schuldverschreibungen), profit participation rights (Genussrechten) and/or participating bonds (Gewinnschuldverschreibungen) (or any combination of those instruments) (hereinafter collectively "**Bonds**") with conversion or option rights (Wandlungs- oder Optionsrechten) or mandatory conversion or option features (Wandlungs- oder Optionspflichten) and which have been or are to be issued by the Company or a company which is dependent on the Company or in which the Company has a direct or indirect majority shareholding, to the extent the holders or creditors would be entitled to as shareholders after exercising the option or conversion rights, or after performance of a mandatory conversion or option;

cc) for the issuance of shares against cash contributions, if the issue price of new shares is not, within the meaning of Sections 203 paras. 1 and 2, 186

para. 3 sent. 4 AktG, substantially below the stock market price of shares already listed and the pro rata amount of the share capital attributable to the new shares issued under the exclusion of subscription rights in accordance with Section 186 para. 3 sent. 4 of the German Stock Corporation Act (“AktG”) does not exceed a total of 10% of the share capital, neither at the time at which this authorisation becomes effective nor at the time at which it is exercised. This limitation of 10% of the share capital shall include shares that have been or will be issued (on the basis of the conversion price at the time of the Management Board resolution implementing the Authorised Capital 2018) for the fulfilment of Bonds with conversion or option rights or mandatory conversion or option features, provided these Bonds were issued during the term of this authorisation under the exclusion of subscription rights (Section 186 para. 3 sent. 4 AktG accordingly). The limit of 10% of the share capital shall further include those own shares of the Company which were issued during the term of this authorization under exclusion of the shareholders’ subscription rights in accordance with Section 71 para. 1 no. 8 sent. 5 sub-sent. 2 in connection with Section 186 para. 3 sent. 4 AktG. Shares issued against cash contributions during the term of this authorisation under the exclusion of shareholders’ subscription rights pursuant to Section 186 para. 3 sent. 4 AktG (applied accordingly) on the basis of other corporate actions are likewise to be included in this limit of 10% of the share capital;

dd) insofar as is necessary to issue shares to persons who are or were in an employment relationship with the Company and/or its affiliated companies subject to the limitation that the proportionate share of the shares to be issued of the share capital must in total not exceed 5% of the share capital, neither at the time the authorisation is adopted nor at the time it is exercised. The limit of 5% of the share capital shall also include treasury shares of the Company as well as shares of the Company from conditional capital issued to employees or members of management bodies of the Company or its affiliated companies during the term of this authorisation;

ee) to issue shares against contributions in kind, particularly – but not limited to this – for the purpose of (also indirectly) acquiring companies, parts of companies, investments in companies or other assets, or for the fulfilment of Bonds which were issued against contributions in kind.

The above authorisations to exclude subscription rights in the event of capital increases against cash and/or in kind contributions are limited to a total amount not exceeding 20% of the share capital, neither at the time at which this authorisation becomes effective nor at the time at which it is exercised.

The above 20% limit is also to include treasury shares sold during the term of this authorisation under the exclusion of subscription rights as well as any shares issued or to be issued (on the basis of the conversion price at the time of the Management Board resolution implementing the Authorised Capital 2018) to satisfy Bonds with conversion or option rights or mandatory conversion or option features (or a combination of these instruments), insofar as the Bonds were issued or are to be issued under the exclusion of shareholders' subscription rights during the term of this authorisation pursuant to the authorisation stipulated in agenda item 7 of the Annual General Meeting of 23 May 2018. Shares issued against cash contributions under the exclusion of shareholders' subscription rights pursuant to Section 186 para. 3 sent. 4 AktG (applied accordingly) on the basis of other corporate actions during the term of this authorisation are likewise to be included in this limit of 20% of the share capital.

The Management Board is further authorised, with the approval of the Supervisory Board, to determine the other features of the shares and the terms for the issue of shares.

#### **b) Amendment of Section 4 para. 3 of the Articles of Association**

Section 4 para. 3 of the Company's Articles of Association shall be amended for the Authorised Capital 2018 as follows:

„(3) The Management Board, with the approval of the Supervisory Board, is authorised to increase the Company's share capital by a total of up to EUR 30,560,023.00 by issuing up to 30,560,023 new bearer shares with no-par value (Stückaktien) in one or more tranches against contribution in cash and/or in kind through 22 May 2023 (Authorised Capital 2018).

The shareholders must generally be granted subscription rights. The shares may also be assumed by one or more banks with the obligation to offer these to shareholders of the Company for subscription (so-called indirect subscription rights), in accordance with Section 186 para. 5 of the German Stock Corporation Act (“AktG”). However, the Management Board, with the approval of the Supervisory Board, is entitled to exclude shareholders' subscription rights for one or more capital increases under the Authorised Capital 2018,

a) in order to exclude fractional amounts from subscription rights;

b) insofar as it is required in order to grant a subscription right to no-par value bearer shares in the Company to holders or creditors of convertible



bonds (Wandelschuldverschreibungen), option bonds (Optionsschuldverschreibungen), profit participation rights (Genussrechten) and/or participating bonds (Gewinnschuldverschreibungen) (or any combination of those instruments) (in the following together “**Bonds**”) with conversion or option rights (Wandlungs- oder Optionsrechten) or mandatory conversion or option features (Wandlungs- oder Optionspflichten) and which have been or are to be issued by the Company or a company which is dependent on the Company or in which the Company has a direct or indirect majority shareholding, to the extent the holders or creditors would be entitled to as shareholders after exercising the option or conversion rights, or after performance of a mandatory conversion or option;

c) for the issuance of shares against cash contributions, if the issue price of new shares is not, within the meaning of Sections 203 paras. 1 and 2, 186 para. 3 sent. 4 AktG, substantially below the stock market price of shares already listed and the pro rata amount of the share capital attributable to the new shares issued under the exclusion of subscription rights in accordance with Section 186 para. 3 sent. 4 of the German Stock Corporation Act (AktG) does not exceed a total of 10% of the share capital, neither at the time at which this authorisation becomes effective nor at the time at which it is exercised. This limitation of 10% of the share capital shall include shares that have been or will be issued (on the basis of the conversion price at the time of the Management Board resolution implementing the Authorised Capital 2018) for the fulfilment of Bonds with conversion or option rights or mandatory conversion or option features, provided these Bonds were issued during the term of this authorisation under the exclusion of subscription rights (Section 186 para. 3 sent. 4 AktG accordingly). The limit of 10% of the share capital shall further include those own shares of the Company which were issued during the term of this authorization under exclusion of the shareholders’ subscription rights in accordance with Section 71 para. 1 no. 8 sent. 5 sub-sent. 2 in connection with Section 186 para. 3 sent. 4 AktG. Shares issued against cash contributions during the term of this authorisation pursuant to Section 186 para. 3 sent. 4 AktG (applied accordingly) on the basis of other corporate action and subject to the exclusion of shareholders’ subscription rights are likewise to be included in this 10% limit on the share capital;

d) insofar as is necessary to issue shares to persons who are or were in an employment relationship with the Company and/or its affiliated companies subject to the limitation that the proportionate share of the shares to be issued of the share capital must in total not exceed 5% of the share capital, neither at the time the authorisation is adopted nor at the time it is exer-

cised. The limit of 5% of the share capital shall also include treasury shares of the Company as well as shares of the Company from conditional capital which were issued to employees or members of management bodies of the Company or its affiliated companies during the term of this authorisation;

e) to issue shares against contributions in kind, particularly – but not limited to this – for the purpose of (also indirectly) acquiring companies, parts of companies, investments in companies or other assets, or for the fulfilment of Bonds which are issued against contributions in kind.

The above authorisations to exclude subscription rights in the event of capital increases against cash and/or in kind contributions are limited to a total amount not exceeding 20% of the share capital, neither at the time at which this authorisation becomes effective nor at the time at which it is exercised. The above 20% limit is also to include treasury shares sold during the term of this authorisation under the exclusion of subscription rights as well as any shares issued or to be issued (on the basis of the conversion price at the time of the Management Board resolution implementing the Authorised Capital 2018) to satisfy Bonds with conversion or option rights or mandatory conversion or option features (or a combination of these instruments), insofar as the Bonds were issued or are to be issued under the exclusion of shareholders' subscription rights during the term of this authorisation pursuant to the authorisation stipulated in agenda item 7 of the Annual General Meeting of 23 May 2018. Shares issued against cash contributions during the term of this authorisation on the basis of other corporate actions under the exclusion of shareholders' subscription rights pursuant to Section 186 para. 3 sent. 4 AktG (applied accordingly) are likewise to be included in the aforementioned limit of 20% of the share capital.

The Management Board is further authorised, with the approval of the Supervisory Board, to determine the other features of the shares and the terms for the issue of shares.“

### **c) Cancellation of the existing authorised capital**

The currently existing authorisation to increase share capital under Section 4 para. 3 of the Articles of Association, that was created on 17 May 2017 and is valid through 16 May 2022, will be cancelled as of the effective date of the new Authorised Capital 2018.

#### **d) Filing for registration in the commercial register**

The Management Board is instructed to file the cancellation of the authorised capital under Section 4 para. 3 of the Articles of Association (adopted under Section c)) and the new Authorised Capital 2018 (adopted under Sections a) and b)) for registration in the commercial register under the provision that the cancellation is entered first, this however only if the new Authorised Capital 2018 is entered immediately thereafter.

The Management Board is authorised, subject to the preceding paragraph, to file for registration of the Authorised Capital 2018 in the commercial register independently of the other resolutions of the General Meeting.

#### **7. Adoption of a resolution to authorise the issue of convertible bonds, warrant-linked bonds, profit participation rights and/or participating bonds (or combinations thereof) with a nominal amount of up to EUR 125,000,000.00 with the possibility to exclude subscription rights, and to create a new Conditional Capital 2018 I while simultaneously cancelling the existing authorisation and the Conditional Capital 2017, and to amend Section 4 para. 4 of the Articles of Association accordingly**

By resolution of the Annual General Meeting on 17 May 2017, the Management Board was authorised to issue through 16 May 2022 convertible and/or warrant-linked bonds for a total par value of up to EUR 125,000,000.00 and with a maximum term of 20 years in one or more tranches, and to grant the holders of these conversion bonds and/or warrant-linked bonds conversion or option rights to up to 26,200,000 new shares of the Company with a proportionate share of the share capital of up to EUR 26,200,000.00 in total (hereinafter collectively “**Bonds 2017**”). In order to service these Bonds 2017, a conditional capital (Conditional Capital 2017) was created in an amount of EUR 26,200,000.00 (Section 4 para. 4 of the Articles of Association). The authorisation was not exercised; the Conditional Capital 2017 has therefore not been drawn down.

However, based on the Authorised Capital 2017, the Management Board and Supervisory Board have fully utilised the possibility to issue shares from authorised capital excluding subscription rights against cash contributions pursuant to Section 186 para. 3 sentence 4 AktG. As such utilizations from authorized capital excluding subscription rights against cash contributions pursuant to Section 186 para. 3 sentence 4 AktG have to be included in the 10% limit of the authorization to issue the Bonds 2017 against cash contributions pursuant to Section 186 para. 3 sentence 4 AktG, this authorisation can no longer be used in this way.

In order for the Company to be flexible to issue convertible (Wandelschuldverschreibungen) and/or warrant-linked bonds (Optionsschuldverschreibungen) and/or profit participation rights (Genussrechte) and/or participating bonds (Gewinnschuldverschreibungen) (or combinations of these instruments) (including an issue under the facilitated exclusion of subscription rights) and to underlay them with shares for the servicing of any resulting option or conversion rights also after the termination of the authorisation to issue the Bonds 2017 on 16 May 2022 – also excluding subscription rights against cash contributions in the permissible amount of up to 10% of the share capital pursuant to Section 186 para 3 sentence 4 of the German Stock Corporation Act - a new authorisation to issue bonds shall be given and the existing authorisation dated 17 May 2017 and Conditional Capital 2017 shall be cancelled and be replaced by a new conditional capital (Conditional Capital 2018 I).

The Management Board and Supervisory Board therefore propose to the Annual General Meeting to resolve:

**a) Authorisation to issue convertible bonds, warrant-linked bonds, profit participation rights and/or participating bonds (or combinations of these instruments) with the possibility to exclude subscription rights**

aa) Nominal amount, authorisation period, number of shares

With the approval of the Supervisory Board, the Management Board is authorised to issue bearer or registered convertible bonds, warrant-linked bonds, profit participation rights and/or participating bonds (or combinations thereof) (hereinafter collectively “**Bonds**”) in one or more tranches through 22 May 2023 with a nominal amount of up to EUR 125,000,000.00 with or without a limited maturity period and to grant the Bond creditors/holders conversion or option rights for shares in the Company with a proportionate amount of the share capital of up to EUR 26,200,000.00 subject to the respective more detailed conditions of the convertible, warrant-linked or participating bonds or the profit participation rights (hereinafter “**Conditions**”). These Conditions may also include mandatory conversions at the end of the maturity period or at other points in time, including the obligation to exercise the conversion or option right. Bonds may also be issued against contributions in kind.

Bonds may be issued in euros or in the legal currency of an OECD country, limited to the corresponding euro value. Bonds may also be issued by companies which are dependent on the Company or in which the Company has a direct or indirect majority shareholding; in this case, the Management Board is authorised to take on the guarantee for the Bonds in lieu of the dependent company

or company in which the Company has a majority shareholding and to grant the holders/creditors of such Bonds conversion or option rights to Company shares. When Bonds are issued, these can be/generally are divided into partial bonds bearing identical rights.

bb) Granting of subscription rights, exclusion of subscription rights

The shareholders must in principle be granted subscription rights to the Bonds. The Bonds may also be taken on by one or more banks subject to the obligation that they be indirectly offered to the Company's shareholders for subscription within the meaning of Section 186 para. 5 AktG (so-called indirect subscription rights). The Management Board is, however, authorised to exclude the shareholders' subscription rights to the Bonds with the approval of the Supervisory Board:

(1) to exclude fractional amounts from the subscription right;

(2) insofar as is necessary to grant the holders of Bonds already issued or to be issued by the Company, by a dependent company or by a company in which the Company directly or indirectly has a majority shareholding a subscription right in the same volume as said holders would be entitled to as shareholders upon exercising their option or conversion rights or fulfilling their conversion or option obligations;

(3) insofar as the Bonds are issued with conversion or option rights or mandatory conversion or option features against cash contributions and the issue price does not significantly undercut the theoretical value of the partial bonds within the meaning of Sections 221 para. 4 sent. 2 and 186 para. 3 sent. 4 AktG as calculated on the basis of recognised valuation techniques. However, this authorisation to exclude subscription rights only applies to Bonds with rights to shares to which no more than 10% of the share capital is apportioned, either at the time this authorisation becomes effective or at the time it is exercised. The sale of treasury shares is to be included in this limit insofar as they are sold during the term of this authorisation under the exclusion of the shareholders' subscription rights pursuant to Section 71 para. 1 no. 8 sent. 5 sub-sent. 2 in conjunction with Section 186 para. 3 sent. 4 AktG. Those shares issued from authorised capital under the exclusion of the shareholders' subscription rights pursuant to Section 203 para. 2 sent. 1 in conjunction with Section 186 para. 3 sent. 4 AktG during the term of this authorisation are likewise to be included in this limit;

(4) in the event that the Bonds are issued against contributions in kind, insofar as the value of the contribution in kind is commensurate to the fair value of the Bonds to be calculated pursuant to a) bb) (3) above.

The above authorisations to exclude subscription rights are limited to an amount not exceeding 20% of the share capital, neither at the time this authorisation becomes effective nor at the time it is exercised. The above 20% limit is also to include treasury shares sold during the term of this authorisation under the exclusion of subscription rights and any shares issued during the term of this authorisation under the exclusion of the shareholders' subscription rights pursuant to the authorisation stipulated in agenda item 6 of the Annual General Meeting of 23 May 2018. Shares issued against cash contributions under the exclusion of shareholders' subscription rights pursuant to Section 186 para. 3 sent. 4 AktG (applied accordingly) on the basis of other corporate actions during the term of this authorisation are likewise to be included in this limit of 20% of the share capital.

Insofar as profit participation rights or participating bonds are to be issued without conversion or option rights or obligations, the Management Board, with the approval of the Supervisory Board, is authorised to exclude shareholders' subscription rights if these profit participation rights or participating bonds have the characteristics of a bond, i.e. they do not warrant company membership rights, they do not grant a stake in the proceeds of liquidation and the interest is not calculated on the basis of the net income for the year, net profit or the dividend. Additionally, the interest rate and the issue amount for the profit participation rights or participating bonds must be in accordance with the current market conditions for comparable borrowings at the time of the issue.

#### cc) Conversion rights and option rights

If Bonds with conversion rights are issued, the creditors may, subject to the Conditions, convert their Bonds into Company shares. The conversion ratio is calculated by dividing the nominal amount of a partial bond by the stipulated conversion price per Company share. The conversion ratio can also be calculated by dividing the issue price of a partial bond, which is below its nominal amount, by the stipulated conversion price per Company share.

If warrant-linked bonds are issued, one or more warrants are attached to each partial bond, which entitle the holder to receive Company shares subject to the detailed Conditions to be determined by the Management Board. The option Conditions may also allow for the option price being paid wholly or in part by

the transfer of partial bonds. The subscription ratio is calculated by dividing the nominal amount of a partial bond by the option price per Company share. The subscription ratio may be rounded up or down to an integer; an additional cash payment may also be stipulated. The Conditions may also provide for fractional amounts being combined and/or settled in cash. The Conditions may also allow for a variable subscription ratio. The proportion of the share capital attributable to the shares received per partial bond may not exceed the nominal amount of each partial bond.

#### dd) Conversion rights and option obligations

The Conditions may also include a conversion or option obligation at the end of the maturity period or at some other point in time (both also “**Final Maturity Date**”) or may afford the company the right to grant bond holders Company shares as a full or partial replacement for the payment of the sum due at the Final Maturity Date. In such cases, the conversion or option price per share may equal the volume-weighted average closing price of the Company’s share in Xetra trading (or a comparable successor system) on the Frankfurt Stock Exchange during the ten (10) consecutive trading days in Frankfurt am Main prior to or following the Final Maturity Date, even if this is below the minimum price stipulated under a) ee) below.

The proportion of the share capital attributable to the shares issued per partial bond at the Final Maturity Date may not exceed the nominal amount of each partial bond. Section 9 para. 1 in conjunction with Section 199 para. 2 AktG is to be observed.

#### ee) Conversion or option price

With the exception of instances involving a mandatory option or conversion, the conversion or option price to be determined per share must equal either at least 80% of the volume-weighted average closing price of the Company’s share in Xetra trading (or a comparable successor system) on the Frankfurt Stock Exchange during the ten (10) consecutive trading days in Frankfurt am Main prior to the day on which the Management Board makes its final decision regarding the issuing of Bonds or regarding the Company’s acceptance or allocation in relation to the issuing of Bonds or – in the event that subscription rights are granted – to at least 80% of the volume-weighted average closing price of the Company’s share in Xetra trading (or a comparable successor system) on the Frankfurt Stock Exchange in the course of (i) the days on which the subscription rights are traded on the Frankfurt Stock Exchange, with the exception of the final two days of subscription rights trading, or (ii) the days from

the start of the subscription period through the date of the final determination of the subscription price. Sections 9 para. 1 and 199 AktG remain unaffected.

In the case of Bonds involving conversion or option rights or obligations, notwithstanding Section 9 para. 1 AktG, the conversion or option price may be reduced by virtue of an anti-dilution provision following more detailed specification of the Conditions if the Company increases the share capital during the conversion or option period while granting its shareholders subscription rights or if the Company issues other Bonds or grants or guarantees any other option rights without granting the holders of Bonds with conversion or option rights or obligations subscription rights in the same volume as said holders would be entitled to upon exercising their conversion or option rights or fulfilling their conversion or option obligations. Subject to the details of the Conditions, the option or conversion price may also be reduced by virtue of a cash payment when exercising the option or conversion right or fulfilling the conversion or option obligations. The Conditions may also allow for a value-preserving amendment to the conversion or option price in relation to other measures which may lead to the dilution of the value of the conversion or option rights (e.g. including the payment of a dividend). In any case, the proportion of the share capital attributable to the shares received per partial bond may not exceed the nominal amount of each partial bond.

#### ff) Other possible arrangements

The Conditions may stipulate that, in the event of conversion or the exercising of an option or in the event that the option and conversion obligations are fulfilled, treasury shares, shares from the Company's authorised capital or other consideration can also be granted. The Conditions may additionally stipulate that, in the event of conversion or the exercising of an option or in the event that the option and conversion obligations are fulfilled, instead of granting Company shares, the Company may pay the bond holders the equivalent sum in cash or may grant them the listed shares of another company.

The Conditions may also grant the Company the right to grant the Bond holders Company shares or the listed shares of another company as a full or partial replacement for the payment of the sum due upon maturity of the Bonds.

The Conditions may also stipulate that the number of shares received upon exercising the conversion or option rights or upon fulfilling the conversion or option obligations is variable and/or that the conversion or option price may be amended during the maturity period within a range stipulated by the



Management Board dependent on the share price developments or as a result of anti-dilution provisions.

gg) Authorisation to stipulate additional conditions

The Management Board is authorised, with the approval of the Supervisory Board, to stipulate the additional details of the issuance and features of the Bonds, in particular the interest rate, issue price, maturity period and denomination, conversion or option price and conversion or option period, or to do so in agreement with the management bodies of the dependent company or company in which the Company directly or indirectly has a majority shareholding.

## **b) Creation of a new Conditional Capital 2018 I**

The share capital is conditionally increased by up to EUR 26,200,000.00 through the issue of up to 26,200,000 new no-par value bearer shares with participation rights (Gewinnberechtigung) (Conditional Capital 2018 I). The conditional capital increase serves the purpose of granting shares to the holders or creditors of convertible bonds (Wandelschuldverschreibungen), warrant-linked bonds (Optionsschuldverschreibungen), profit participation rights (Genussrechten) and/or participating bonds (Gewinnschuldverschreibungen) (or combinations of these instruments) (hereinafter collectively (“**Bonds**”) issued under the aforementioned authorisation resolution in the event of the exercise of conversion or option rights or the fulfilment of conversion or option obligations.

The new shares are issued at the conversion or option price to be determined in each case pursuant to the aforementioned authorisation. The conditional capital increase shall only be effected insofar as the holders/creditors of Bonds issued or guaranteed by the Company, by a dependent company or by a company in which the Company directly or indirectly has a majority shareholding, under the aforementioned authorisation resolution of the Annual General Meeting exercise their conversion or option rights or fulfil the conversion or option obligations inherent to such Bonds, or insofar as the Company grants Company shares as a replacement for the payment of the sum due and insofar as the conversion or option rights or obligations are not satisfied by treasury shares, shares from authorised capital or other consideration.

The new shares bear dividend rights from the beginning of the financial year in which they are created due to the exercising of conversion or option rights, the fulfilling of conversion or option obligations or their granting in replacement of the payment of the sum due and continue to do so in the financial years that

follow; by way of derogation, with the approval of the Supervisory Board and to the extent legally permissible, the Management Board may stipulate that the new shares shall bear dividend rights from the beginning of the financial year for which no resolution of the Annual General Meeting regarding the appropriation of the net profit had been passed at the time at which the conversion or option rights were exercised, the conversion or option obligations were fulfilled or the shares were granted in replacement of the sum due.

With the approval of the Supervisory Board, the Management Board is authorised to stipulate the further details of effecting the conditional capital increase.

### **c) Cancellation of the Authorisation of 17 May 2017 and of the Conditional Capital 2017**

Upon registration of the amendment to the Articles of Association proposed under agenda item 7 d), the existing authorisation of 17 May 2017 and the Conditional Capital 2017, which was created by resolution of the General Meeting of 17 May 2017, shall be cancelled.

### **d) Amendment of Section 4 para. 4 of the Articles of Association**

Section 4 para. 4 of the Articles of Association shall be amended as follows:

„(4) The share capital is conditionally increased by up to EUR 26,200,000.00 through the issue of up to 26,200,000 new no-par value bearer shares with participation rights (Gewinnberechtigung) (Conditional Capital 2018 I). The conditional capital increase serves the purpose of granting shares to the holders or creditors of convertible bonds (Wandelschuldverschreibungen), warrant-linked bonds (Optionsschuldverschreibungen), profit participation rights (Genussrechten) and/or participating bonds (Gewinnschuldverschreibungen) (or combinations of these instruments) (hereinafter collectively (“**Bonds**”) issued under the aforementioned authorisation resolution of 23 May 2018 in the event of the exercise of conversion or option rights or the fulfilment of conversion of option obligations.

The new shares are issued at the conversion or option price to be determined in each case pursuant to the aforementioned authorisation. The conditional capital increase shall only be effected insofar as the holders/creditors of Bonds issued or guaranteed by the Company, by a dependent company or by a company in which the Company directly or indirectly has a majority shareholding, under the aforementioned authorisation resolution

of the Annual General Meeting exercise their conversion or option rights or fulfil the conversion or option obligations inherent to such Bonds, or insofar as the Company grants Company shares as a replacement for the payment of the sum due and insofar as the conversion or option rights or obligations are not satisfied by treasury shares, shares from authorised capital or other consideration.

The new shares bear dividend rights from the beginning of the financial year in which they are created due to the exercising of conversion or option rights, the fulfilling of conversion or option obligations or their granting in replacement of the payment of the sum due and continue to do so in the financial years that follow; by way of derogation, with the approval of the Supervisory Board and to the extent legally permissible, the Management Board may stipulate that the new shares shall bear dividend rights from the beginning of the financial year for which no resolution of the Annual General Meeting regarding the appropriation of the net profit had been passed at the time at which the conversion or option rights were exercised, the conversion or option obligations were fulfilled or the shares were granted in replacement of the sum due.

With the approval of the Supervisory Board, the Management Board is authorised to stipulate the further details of effecting the conditional capital increase.”

#### **e) Filing for registration in the commercial register**

The Management Board is instructed to file the cancellation of the Conditional Capital 2017 under Section 4 para. 4 of the Articles of Association (adopted under Section c)) and the new Conditional Capital 2018 I (adopted under Sections b) and d)) for registration in the commercial register under the provision that the cancellation of the Conditional Capital 2017 is entered first, this however only if the entry of the new Conditional Capital 2018 I follows immediately thereafter.

The Management Board is authorised, subject to the preceding paragraph, to file for registration of the Conditional Capital 2018 I in the commercial register independently of the other resolutions of the General Meeting.

**8. Adoption of a resolution (i) to authorise the implementation of a Stock Option Plan 2018 to issue stock options with subscription rights to shares of PAION AG to members of the Management Board of PAION AG and to members of the management bodies of domestic and foreign affiliated companies as well as to such employees of PAION AG or its group companies as are considered critical for the development and success of the Company, (ii) creation of a new Conditional Capital 2018 II to fulfil the Stock Option Plan 2018, and (iii) to amend the Articles of Incorporation of PAION AG accordingly**

To safeguard the future of the PAION Group the definition and successful implementation of long-term strategic corporate goals is considered crucial. Those individuals whose decisions are closely linked to the development and/or success of the Company are of utmost importance. The granting of stock options aims to strengthen the interest of these individuals in enhancing the value of the Company over the long term by establishing a competitive remuneration component.

In order to establish a fit-for-purpose stock option, it is suggested to create a new Stock Option Plan 2018.

It is therefore proposed to the Annual General Meeting to create a Conditional Capital 2018 II in order to enable the creation of shares from conditional capital in fulfilment of the stock options from the Stock Option Plan 2018.

The Management and Supervisory Boards therefore propose that the Annual General Meeting adopts the following resolutions:

**a) Authorization to issue stock options with subscription rights to shares of PAION AG**

The Management Board is authorised, with the approval of the Supervisory Board, subject to the following provisions to issue up to 900,000 stock options with subscription rights to shares of PAION AG with a term of 10 (ten) years from the date of issue under the Stock Option Plan 2018 until 22 May 2023, subject to the provision that each stock option grants the right to subscribe to one share of PAION AG. The stock options may only be subscribed by members of the Management Board of PAION AG, members of the management bodies of domestic and foreign affiliated companies and by key members of staff of PAION AG or one of its Group companies. This authorisation only applies to the Supervisory Board in respect of the granting of stock options to members of the Management Board.

Shareholders' subscription rights are excluded.

The following key items apply to the issuance of stock options under the Stock Option Plan 2018:

(1) Subscription entitlements, aggregate volume and distribution of the same

Under the Stock Option Plan 2018, stock options may only be granted to a) members of the Management Board of PAION AG („Group 1“) and b) members of the management of domestic and foreign affiliated companies of PAION AG as well as key members of staff of PAION AG or one of its Group companies („Group 2“). „Group companies“ are (i) companies in which PAION AG holds more than 50% of the shares directly or indirectly, (ii) companies in which PAION AG, directly or indirectly holds more than 50% of the voting rights, and (iii) companies of which PAION AG is the direct or indirect controlling Company on the basis of a domination agreement or a similar corporate agreement. In consultation with the respective boards that are responsible for the remuneration of the beneficiaries, the Management Board of PAION AG will determine the exact group of beneficiaries and the scope of the stock options to be offered to each of them for subscription. To the extent that members of the Management Board of PAION AG shall be granted stock options, these decisions and the issuance of the stock options are the sole responsibility of the Supervisory Board of PAION AG.

Under the Stock Option Plan 2018, a maximum aggregate of 900,000 stock options may be granted to the beneficiaries. Maximum 405,000 stock options in total (equivalent to max. 45% of the total stock options) can be issued to Group 1 beneficiaries; maximum 495,000 stock options in total (equivalent to maximum 55% of the total stock options) can be issued to Group 2 beneficiaries. Beneficiaries belonging to both groups can only be granted stock options if these are deducted from the Group 1 quota.

(2) Issue period and term

The stock options can be issued to beneficiaries in the period between entering the Conditional Capital 2018 II in the Commercial Register and 22 May 2023. Within this timeframe, but not for a period of 30 days prior to the publication of the Group quarterly interim statement or quarterly report, the half-yearly report of PAION AG or the consolidated financial statements of PAION AG on the company's website, the granting of stock options may be decided upon by the competent bodies, subject to the provisions set out

below for beneficiaries who sign a service or employment contract with the Company or a Group Company for the first time.

Beneficiaries who sign a service or employment contract with the Company or a Group Company for the first time may also be granted stock options within a period of three months after commencement of service or employment; in such cases, the relevant boards can also adopt such resolutions outside the timeframe stipulated in the Section above. The commitment to grant stock options can, in these cases, form part of the service or employment contract. If the Company or a Group Company purchases or acquires an enterprise or part of an enterprise (by way of a share or asset deal), stock options can be issued to a person who thus becomes a beneficiary within three months from the purchase or acquisition; the commitment to grant stock options may in this case be given even before the purchase or acquisition on condition that it does not take effect until the purchase or acquisition.

Stock options granted to beneficiaries in Group 1 will be issued (“day of issue”) one month after the day on which the Supervisory Board of the Company adopts such resolution, to beneficiaries in Group 2 one month after the day on which the Management Board adopts such resolution in consultation with the respective boards that are responsible for the remuneration of the beneficiaries, and in those cases where stock options are issued to beneficiaries within three months of commencement of a service or employment contract on the day on which the beneficiary commences service or employment as defined in the employment contract unless the aforementioned rules in this Section result in a later day of issue.

The options are issued against signature by the relevant beneficiary of a declaration relating to the subscription of stock options, in which the beneficiary accepts the subscription offer submitted by PAION AG and declares his or her agreement to comply with the terms and conditions of the stock option plan.

The term of the stock options commences on the day of issue and expires at the end of ten years.

### (3) Exercise lock-up periods

The stock options may not be exercised during the following „exercise lock-up periods“: a) in each case during a period of 30 (thirty) days prior to the publication of the Consolidated Quarterly Release or Report, Half-Year

Financial Statements of PAION AG relating to that quarter or the Consolidated Financial Statements of PAION AG on the Company's website; however, this lock-up period does not apply to option holders who at the beginning of this 30-day period are no longer in an employment or service relationship with the Company or a Group company; b) from the day on which PAION AG publishes an offer to its shareholders to subscribe to new shares or bonds or other securities with conversion or option rights in the Federal Gazette (Bundesanzeiger) up until the day on which the Company's shares with subscription rights are listed for the first time „ex subscription rights“ on the Frankfurt Stock Exchange; c) from the day on which PAION AG publishes the payment of a dividend in the Federal Gazette (Bundesanzeiger) up until the day on which the Company's shares with dividend rights are listed for the first time „ex dividend“ on the Frankfurt Stock Exchange.

#### (4) Waiting period and vesting period of the stock options

The stock options may only be exercised following expiry of a waiting period of 4 (four) years from the day of issue. In the case of Group 1 participants the Supervisory Board, and in the case of Group 2 participants the Management Board in consultation with the respective boards that are responsible for the remuneration of the beneficiaries, may define a waiting period longer than four years. The provision that the stock options may only be exercised outside of specific exercise lock-up periods and only if all other conditions for exercise are met remains unaffected by the expiry of the waiting period.

Subject to certain restrictions that are outlined below in Sections 9 (Lapse of the stock options) and 12 (Adjustments), stock options become non-forfeitable after a vesting period of 2 (two) years from the date of issue (“Vesting Period”). In the case of Group 1 participants the Supervisory Board, and in the case of Group 2 participants the Management Board, may in consultation with the respective boards that are responsible for the remuneration of the beneficiaries, define a vesting period that is longer than two years.

If the employment or service relationship, on which the issue and/or continued validity of stock options is based, is suspended between a beneficiary and a PAION Group Company by virtue of an agreement between the beneficiary and this Company or a unilateral decision made by the beneficiary, the expiry of the waiting period and vesting period is postponed for the duration of this suspension.

If a controlling interest in PAION AG is acquired as defined by the German Securities Acquisition and Takeover Act (WpÜG), (i) in principle the waiting

period is not affected, unless a waiting period of more than four years has been defined, in this case, the waiting period ends on the day the controlling acquisition comes into effect, provided that four years of the waiting period have already expired; (ii) the entitlement to subscribe to shares on the basis of stock options which were issued less than four years previously is converted upon the acquisition of the controlling interest into an entitlement to a corresponding cash settlement based on the share price on the day the controlling acquisition comes into effect; the respective stock options lapse. The Company may choose to grant listed shares in the acquiring Company instead of the cash settlement, the details of which may be determined by the responsible boards.

#### (5) Subscription ratio and exercise of subscription rights

Each stock option entitles the holder to purchase one share from the Conditional Capital 2018 II created for this purpose against payment of the exercise price. 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.

Instead of issuing shares from the Conditional Capital 2018 II created for this purpose, the beneficiaries can alternatively be offered the option of purchasing treasury stock or receiving cash compensation, especially if no further shares are available from this Conditional Capital 2018 II. In case of Group 2 beneficiaries, the Management Board with approval by the Supervisory Board and in consultation with the respective boards responsible for the remuneration of the beneficiaries determines which alternatives should be offered to the beneficiaries in each instance; in case of Group 1 beneficiaries the Supervisory Board makes this determination. The determining boards must be solely guided by the best interests of the Company and its shareholders. The amount of cash compensation should be equivalent to the difference between the exercise price and the closing share price in Xetra trading (or a comparable successor system that replaces the functions of the Xetra system) on the day before the exercise.

#### (6) Exercise price

The exercise price corresponds to the unweighted average closing price of PAION AG shares in Xetra trading (or a comparable successor system) on the fourth to eighth Xetra trading days following the publication of the most current Consolidated Quarterly Statement or Report, Half-Year or



Consolidated Financial Statements of PAION AG on the Company's website prior to the issuance. Where stock options are issued to beneficiaries within three months from commencing service or employment, the exercise price corresponds to the unweighted average closing price of PAION AG shares in Xetra trading (or a comparable successor system) on the fourth to eighth Xetra trading days following the publication of the most current Consolidated Quarterly Statement or Report, Half-Year or Consolidated Financial Statements of PAION AG on the Company's website prior to the issuance and prior to the employment of the relevant beneficiary. The exercise price must be adjusted, if necessary (for more details, see 12 (Adjustments) below).

#### (7) Performance target

Stock options may only be exercised if the closing share price in Xetra trading (or a comparable successor system) on the day prior to exercise exceeds the exercise price by at least the so-called „Necessary Share Price Increase“. The Necessary Share Price Increase is a linear increase of 5% p.a. of the exercise price from the day of issue throughout the entire term of the stock option. The necessary share price increase is 1/240 (in writing: one-two hundred fortieth) of the exercise price for each completed month following the day of issue, in accordance with Section 187 para. 1 of the German Civil Code (BGB).

#### (8) Exercising the stock options

Stock options may be exercised by submission of a written declaration to PAION AG („Confirmation of Exercise“). Subject to the provisions of the following sentence, the day of exercise is the day on which the Company receives the Confirmation of Exercise. Without incurring an extension of the term of the stock options, Confirmations of Exercise received by the Company prior to expiry of the waiting period or during an exercise lock-up period are deemed to have been received on the first day following the expiry of the waiting period respectively the lock-up period if the Company has not received written revocation of the Confirmation of Exercise by the latest at 10:00 a.m. on the last bank working day at the Company's registered office prior to this date.

The Company may determine a facilitated or amended form and delivery of the Confirmation of Exercise and settlement of the transactions including internet-based settlement or settlement by third parties.

## (9) Lapse of the stock options

Stock options that have not or cannot be exercised prior to the end of their respective terms shall lapse at the end of their term without any right to recourse and/or compensation without the Company having to issue a corresponding agreement or declaration that the options have lapsed.

Stock options held by Group 2 beneficiaries whose vesting period has not expired lapse without recourse and compensation on the day the employment relationship between the beneficiary and the Company or a Group Company effectively ends, irrespective of the reasons for this termination, including disability, retirement or death. The same applies if a Group Company with which the beneficiary has entered into an employment relationship or an operative unit thereof no longer forms a part of the PAION Group.

In case a Group 2 beneficiary no longer performs his tasks and no longer belongs to the beneficiaries in Group 2 after issue of the stock options but prior to expiry of the vesting period, a certain portion of his stock options that is calculated using a formula to be determined and taking account of any waiting period that has already expired lapses without recourse and compensation on the day on which he no longer performs the aforementioned tasks.

In case a Group 2 beneficiary reduces his standard weekly working hours (i.e. part-time work) after issue of the stock options but prior to expiry of the vesting period, a certain portion of his or her stock options that is calculated using a further formula to be determined and taking account of any vesting period that has already expired lapses without recourse and compensation on the day on which the reduced standard weekly working hours take effect.

All stock options not exercised by Group 2 beneficiaries lapse – even if the vesting period has already expired – without recourse and compensation if the Company or a Group Company terminates the employment of the beneficiary for cause, effective on the day the termination comes into effect.

A portion of the stock options held by Group 1 beneficiaries where the vesting period has not yet expired lapses without recourse and compensation on the day the appointment as member of the Company's Management Board finally ends without reappointment because that member has reached the end of his or her term, resigned, died or for any other reasons, unless such appointment is revoked. In line with this aforementioned sentence and taking account of any vesting period that has already expired,

a certain part of the affected Group 1 beneficiaries' stock options that is calculated using a to be determined formula lapses without recourse and compensation on the day on which the beneficiary's appointment as a member of the Company's Management Board ends.

In the case of valid revocation of an appointment as member of the Management Board pursuant to Section 84 para. 3 of the German Stock Corporation Act (AktG), all of the affected Group 1 beneficiaries' stock options that have not been exercised at the time of valid revocation shall lapse without recourse and compensation, even if the vesting period has already expired.

If the appointment as a member of the Management Board – in the case of Group 1 beneficiaries – or the employment relationship – in the case of Group 2 beneficiaries – ends following the death of the beneficiary, stock options for which the waiting period has expired may be exercised, in compliance with the terms and conditions of the stock option plan 2018, and further including the aforementioned provisions, whereby exercise lock-up periods postpone the expiry of the period accordingly.

If the time of death falls within a period of between eight and ten years after the issue of the stock options, the heirs and/or legatees of the deceased beneficiaries are entitled to vest the stock options within a further period of 24 months from the first trading day on the Frankfurt stock exchange following the death, where the exercise of the transferred stock options is possible. In the case of joint heirs and/or legatees, only a single authorised representative of all heirs/legatees may exercise their rights arising from the inherited or bequeathed stock options vis-à-vis the Company.

To avoid undue hardship, especially in the case of exclusion from the PAION Group of a Group Company or a part of a Group Company where the beneficiary is employed or in the case of redundancies or the termination of service or employment contracts or upon expiry of the appointment to the Management Board, in the case of Group 1 beneficiaries, or termination of the employment relationship, in the case of Group 2 beneficiaries, as a result of the death of the beneficiary during the vesting period, the Management Board, with the approval of the Supervisory Board and in consultation with the respective boards that are responsible for the remuneration of the beneficiaries – in the case of Group 2 beneficiaries – and the Supervisory Board – in the case of Group 1 beneficiaries – may approve special dispensatory agreements in individual cases.

#### (10) Transferability

The stock options granted to the beneficiaries are not transferable. Stock options may not be disposed of in any way, sub-participations in stock options may not be granted, they may not be pledged nor may fiduciary authority over the stock options be awarded. The same applies to legal transactions that constitute a sale of or charge on the stock options in a commercial sense. If a beneficiary disposes of his or her stock options in contradiction of these rules, the stock options lapse without recourse and compensation. This does not apply to dispositions by virtue of death in favour of the spouse, registered partner under a Civil Union or children of a beneficiary, nor to dispositions in favour of the aforementioned dependents aimed at executing legacies or satisfying a community of heirs. Transferability by succession is excluded unless the beneficiary bequeaths his or her estate to the spouse, registered partner or children.

#### (11) Authorisation to define details

The additional provisions for granting stock options and the additional terms and conditions of exercise are determined by the Supervisory Board if members of the Management Board are affected.

Otherwise the Company's Management Board shall be responsible for defining the "details" and shall determine, where stipulated by law, with the agreement of those Group Company's boards responsible for the remuneration of said beneficiaries.

Aforementioned "details" for determination shall include in particular the selection of individual beneficiaries from the relevant group of beneficiaries, the grant of stock options to individual beneficiaries, the definition of the organisation and process for granting and exercising stock options and issuing shares and further rules for dealing with stock options in special cases.

#### (12) Adjustments

If the number of shares issued by the Company changes over the term of the stock options without such change relating to an inflow or outflow of funds (e.g. based on a capital increase from the Company's funds, a capital reduction or a redistribution of the share capital), the number of shares to which each stock option gives the right of subscription changes in the same ratio as the aggregate number of shares prior to the change to the aggregate

number of shares following the change. In these cases, the exercise price per share changes in the same ratio inversely.

In the case of capital increases against deposits with direct or indirect shareholders' subscription rights, the issuance of convertible or warrant-linked bonds respectively other securities with conversion or option rights, each with direct or indirect shareholders' subscription rights, or the payment of special or bonus dividends but not normal dividends to shareholders, the exercise price and subscription ratio shall be adjusted and, as such, redefined, pursuant to Section 317 of the German Civil Code (BGB), by the Company or by an accountant appointed by the Company and acting as arbitrator, at their discretion and taking into account the relevant rules of Deutsche Börse AG that apply to such a measure. The adjustment and redefinition must be performed in such a way as to ensure that the aggregate value of any beneficiary's stock option entitlement is equal to the value prior to the measure being implemented. An adjustment and redefinition will not be performed if it involves less than 5% of the exercise price.

In the case that measures implemented by the Company and/or the stock exchanges on which the Company's shares are listed result in the shares no longer being admitted for trading, the Company reserves the right by means of unilateral declaration to the beneficiaries to revoke any stock options granted under this Stock Option Plan 2018 that have not yet been exercised, irrespective of whether such stock options are exercisable or not. In this case, the relevant stock options lapse without recourse upon receipt by the relevant beneficiary of the declaration of revocation („revocation date“). To the extent that issued stock options are revoked on the revocation date, the Company is obliged to compensate the relevant beneficiary for the affected stock options by offering either comparable rights or an entitlement to cash settlement, at the Company's discretion, with the aim of compensating the relevant beneficiary for the ensuing economic disadvantage suffered by the beneficiary as a result of the revocation of the exercisable stock options on the revocation date, where legally possible and commercially justifiable for the Company. The effectiveness of the revocation is independent of any agreement concerning the type and amount of compensation and of the introduction of any other employee participation plans.

The aforementioned rules apply accordingly in cases where the Company or a Group Company is merged into an acquiring legal entity, carved up or out, converted into a different legal form or incorporated into an acquiring legal entity following the issue of stock options under this Stock Option Plan 2018. In these cases, the compensation may also take the form of subscrip-

tion rights to shares in an acquiring legal entity or other rights relating to an acquiring legal entity. If the pertinent legal conditions for comparable employee participation plans change during the term of this Stock Option Plan 2018, the Company shall be entitled to adjust the terms and conditions of the plan accordingly, taking reasonable account of the economic interests of the holders of the stock options, even if the existing plans do not have to be adjusted for legal reasons.

In the course of controlling the adequacy of remuneration, the Supervisory Board – in respect of stock options that have already been issued to Group 1 members – and the Management Board – in respect of stock options that have already been issued to Group 2 members – shall have the option of placing a restriction on the earnings generated from exercising the stock options in the event of unusual circumstances (e.g. acquisition of the Company, sale of parts of the Company, reversal of hidden reserves or external influences). This restriction can be implemented by adjusting the exercise price accordingly. In the event that such discretion as referred to above is exercised, the Supervisory and/or Management Board shall consider that, in the case of a biotechnology Company such as PAION, the earning potential inherent in stock options represents a crucial element acting as an incentive to the beneficiaries. A gain of up to 200% (two hundred per cent) compared to the exercise price does therefore not constitute unusual circumstances that could be used as grounds for implementing such a restriction.

#### (13) Reporting obligations, taxes and transaction costs

The Management Board shall report each financial year in the annual report on the drawdown of the Stock Option Plan 2018, the stock options granted to the beneficiaries, and the stock options that have been exercised.

The taxes and social security contributions levied in connection with the granting and exercise of the stock options and the transaction costs incurred by any exercise of the stock options must be borne by the relevant beneficiaries.

### **b) Creation of new Conditional Capital 2018 II**

The share capital of the Company shall be conditionally increased (Conditional Capital 2018 II) by an amount of up to €900,000 by issuing an aggregate of up to 900,000 new bearer shares with no par value. The Conditional Capital 2018 II serves to secure the subscription rights arising from stock options that can be issued by PAION AG under the Stock Option Plan 2018 in the period between

entering the Conditional Capital 2018 II in the Commercial Register up until 22 May 2023 based on the authorisation granted by the Annual General Meeting of PAION AG on 23 May 2018. The conditional capital increase shall only be implemented to the extent to which holders of option rights issued within the framework of the Stock Option Plan 2018 exercise such option rights. The shares from the Conditional Capital 2018 II shall be issued at the exercise price defined in lit. a) no. (a)(6) of item 8 of the Agenda for the General Meeting on 23 May 2018. The new shares shall participate in the profits from the beginning of the financial year 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 a Conditional Capital increase with the approval of the Supervisory Board.

Section 4 of the Articles of Incorporation shall be amended to contain the following para. 10:

„(10) The share capital of the Company shall be conditionally increased (Conditional Capital 2018 II) by up to EUR 900,000.00 additionally by issuing an aggregate 900,000 new bearer shares of no par value. The conditional capital increase shall only be implemented to the extent to which holders of option rights issued within the framework of the Stock Option Plan 2018 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 shall be authorised to determine the further details of the implementation of the conditional capital increase with the approval of the Supervisory Board.“

The Supervisory Board shall be authorised to amend Section 4 para. 10 of the Articles of Incorporation to reflect the relevant drawdown of the Conditional Capital 2018 II.

## II. Reports by the Management Board

### **1. Report by the Management Board on agenda item 6 (Adoption of a resolution on the creation of an Authorised Capital 2018 with the possibility of excluding the subscription rights and on the cancellation of the existing authorised share capital as well as on the respective amendment of Section 4 para. 3 of the Articles of Association)**

Regarding agenda item 6 of the Annual General Meeting on 23 May 2018, the Management Board and Supervisory Board propose that the existing authorised capital is cancelled and replaced by a new authorised capital (Authorised Capital 2018). In accordance with Section 203 para. 2 sent. 2 in connection with Section 186 para. 4 sent. 2 AktG, the Management Board submits the following report for agenda item 6 of the General Meeting on 23 May 2018 concerning the reasons for the authorisation of an exclusion of shareholder subscription rights in the issuing of new shares:

Based on the resolutions of the Management and Supervisory Boards, the Authorised Capital 2017 was partially utilised. With entry in the commercial register of the Company on 18 July 2017, the Company's registered share capital was increased by EUR 2,824,515.00 from EUR 58,196,117.00 to EUR 61,020,632.00 through the issue of 2,824,515 new bearer shares, excluding subscription rights against cash contributions pursuant to Section 186 para 3 sentence 4 of the German Stock Corporation Act. The Authorised Capital 2017 was reduced accordingly to EUR 26,273,543.00.

In order for the Company to remain flexible in the future to comprehensively strengthen its equity when necessary (also by excluding subscription rights against cash contributions pursuant to Section 186 para. 3 sentence 4 AktG) the existing authorised capital 2017 in its existing amount shall be cancelled, a new authorised capital 2018 shall be created and the Articles of Association shall be amended accordingly.

The new authorised capital (Authorised Capital 2018) proposed under agenda item 6 a) of the General Meeting on 23 May 2018 shall authorise the Management Board, with the approval of the Supervisory Board, to increase the share capital by up to EUR 30,560,023.00 by issuing up to 30,560,023 new no-par value bearer shares in one or more tranches against contributions in cash and/or in kind through 22 May 2023 (Authorised Capital 2018).

The authorised capital will allow the Company to continue to raise the capital required for the further development of the Company on capital markets



through the issuing of new shares at short notice and have the flexibility to quickly take advantage of a favourable market environment in order to meet future financing needs. Since decisions on the covering of a future capital requirement must usually be made quickly, it is important that the Company is not dependent on the rhythm of the Annual General Meetings or the long notice period for convening an Extraordinary General Meeting. The legislator has taken these circumstances into account with the „authorised capital“ instrument.

In the utilisation of the Authorised Capital 2018 to issue shares against cash contributions, the shareholders are generally granted subscription rights (Section 203 para. 1 sent. 1 in conjunction with Section 186 para. 1 AktG), whereby an indirect subscription right within the meaning of Section 186 para. 5 AktG is also sufficient. The issue of shares with the granting of such indirect subscription rights is not deemed an exclusion of subscription rights by the law. Shareholders are granted the same subscription rights as they would have in case of a direct subscription. For technical settlement reasons only one or more banks are involved in the settlement.

However, the Management Board shall, with the approval of the Supervisory Board, be permitted to exclude subscription rights in certain circumstances.

a) With the approval of the Supervisory Board, the Management Board shall be able to exclude fractional amounts from the subscription right. This exclusion of subscription rights aims to facilitate the handling of an issuing of shares which is subject to a general subscription right in order to arrive at a technically feasible subscription ratio. The value of fractional amounts per shareholder is normally low. Therefore, the possible dilution effect may also be considered low. On the other hand, the expenditure for an issuing without such an exclusion is considerably higher. The exclusion therefore serves to make issuing more practicable and easily implementable. The new shares excluded as fractions from the shareholders' subscription rights will be used as is best for the Company either through sale on the stock market or in some other way. For these reasons, the Management Board and Supervisory Board consider the possible exclusion of the subscription right to be objectively justified and appropriate taking into consideration the interests of the shareholders.

b) In addition, the Management Board, with the approval of the Supervisory Board, shall be able to exclude the subscription right insofar as this is necessary to give the holders or creditors of convertible bonds, warrant-linked bonds, profit participation rights and/or participating bonds (or

combinations of these instruments) (hereinafter collectively “**Bonds**”) a subscription right to new shares. Bonds with conversion or option rights or mandatory conversion or option features regularly provide for a protection against dilution in their issuing conditions, which grants the holders or creditors a subscription right to new shares in subsequent issuances of shares or certain other measures. They are treated as if they were already shareholders. The shareholders’ subscription rights to these shares must be excluded in order to be able to feature bonds with such a protection against dilution. This serves to facilitate the placement of Bonds and therefore the interests of the shareholders in the Company’s optimal financial structure. In addition, the exclusion of subscription rights in favour of holders or creditors of Bonds has the advantage that in case the authorisation is used, the option or conversion price need not be reduced for the holders or creditors of existing Bonds in accordance with the particular conditions of the Bonds. This allows a greater inflow of funds and is therefore in the interests of the Company and its shareholders.

c) The subscription rights may also be excluded in case of capital increases by cash contributions if the shares are issued at an amount that is not substantially below the stock market price and such a capital increase does not exceed 10% of the share capital (facilitated exclusion of subscription rights pursuant to Section 186 para. 3 sent. 4 AktG).

The authorisation will enable the Company to flexibly react to promising situations on the capital market and to place shares also at very short notice, i.e. without the need for a subscription offer lasting at least two weeks. The exclusion of subscription rights allows very quick actions and placements close to the stock market value, i.e. without the usual discount on an issuing with subscription rights. This builds the ground to achieve the highest possible sale amount and a maximum strengthening of the Company’s equity. The authorisation to facilitate the exclusion of subscription rights can be objectively justified not least by the fact that a greater cash inflow can be generated.

Such a capital increase may not exceed 10% of the share capital that exists as of the effective date of the authorisation and also at the time of its exercise. The proposed resolution also includes a deduction clause. The maximum 10% of the share capital, which the exclusion of subscription rights relates to, shall include shares that have been or will be issued (on the basis of the conversion price at the time of the Management Board resolution implementing the Authorised Capital 2018) for the fulfilment of Bonds with conversion or option rights or mandatory conversion or option

features during the term of this authorisation provided these Bonds were or are to be issued during the term of this authorisation under the exclusion of subscription rights according to Section 186, para. 3 sent. 4 AktG if these Bonds had been issued during the term of this authorisation under the exclusion of subscription rights in accordance with Section 221 para. 4 sent. 2 in conjunction with Section 186, para. 3 sent. 4 AktG. Further, the sale of own shares must be taken into account, provided that such a sale takes place during the term of this authorisation under the exclusion of subscription rights in accordance with Section 71 para. 1 no. 8 sent. 5 sub-sent. 2 in connection with Section 186 para. 3 sent. 4 AktG. Shares issued against cash contributions during the term of this authorisation under the exclusion of shareholders' subscription rights pursuant to Section 186 para. 3 sent. 4 AktG (applied accordingly) on the basis of other corporate actions are likewise to be included in this limit of 10% of the share capital.

The facilitated exclusion of subscription rights mandates that the issue price of the new shares is not substantially lower than the stock market price. Any discount on the current stock market price or a volume-weighted stock market price during an appropriate number of trading days prior to the final determination of the issue price is expected to be no more than approximately 5% of the respective stock market price, subject to special circumstances of the individual cases. This also takes into account the need to protect shareholders from a value-based dilution of their investment. Setting the issue price close to the stock market price ensures that the value of any subscription rights for new shares would be very low. The shareholders have the opportunity to keep their relative investment by purchasing additional shares via the stock exchange.

d) Subscription rights to shares may also be excluded in order to issue shares to the employees of the Company and/or affiliated companies subject to the limitation that the proportionate share of the shares to be issued of the share capital must in total not exceed 5% of the share capital, neither at the time the authorisation is adopted nor at the time it is exercised. Issuing employee shares shall allow the employees to participate in the Company and its success. This strengthens the employees' bond to the Company. The shares issued under this authorisation may – together with treasury shares of the Company or Company shares from conditional capital which are issued to employees or members of management bodies of the Company or affiliated companies – not exceed a proportionate share of 5% of the share capital, neither at the time this authorisation is adopted by the General Meeting nor at the time it is exercised.

e) The subscription right can be excluded in the event of capital increases against contributions in kind. The Company shall continue to be able to acquire companies, parts of companies, shareholdings or other assets or to react to offers for acquisitions or mergers in order to strengthen its competitiveness, profitability and corporate value. Furthermore, the exclusion of subscription rights is intended to conversion or option rights or obligations from Bonds that are issued against contributions in kind. Experience shows that shareholders of attractive acquisition targets often have a strong interest in acquiring the Company's ordinary shares (with voting rights) as compensation, for example to maintain some influence over the subject of the contribution in kind. From the perspective of an optimum financing structure, the possibility of providing compensation not just in the form of cash contributions but also or exclusively as shares is favourable, to the extent that new shares can be used as acquisition currency, the Company's liquidity is protected, foreign capital acquisition is avoided and the seller(s) also benefit from the future price potential. This leads to an improvement in the competitive position of the Company with regard to acquisitions.

The possibility of using some shares as acquisition currency thereby gives the Company the necessary flexibility to quickly and flexibly take advantage of such acquisition opportunities and enables it to acquire even large units in exchange for shares. In some circumstances it might also be possible to acquire other assets in exchange for shares. In both cases it is necessary to exclude the subscription right of shareholders. Because such acquisitions frequently have to occur at short notice, it is important that they do not need to be decided upon at the General Meeting, which only takes place once a year. There is a necessity for authorised capital that the Management Board, subject to approval of the Supervisory Board, can quickly access.

This is also relevant to the servicing of conversion or option rights or obligations from Bonds, which are also issued for the purpose of the acquisition of companies, parts of companies or participations in companies or other assets pursuant to the authorisation under agenda item 7 of the General Meeting on 23 May 2018 under the exclusion of shareholder subscription rights. The issuing of new shares occurs in exchange for contributions in kind, either in the form of a bond to be contributed or in the form of contributions in kind achieved on the Bond. This leads to an increase in the Company's flexibility in the servicing of conversion or option rights or obligations. Offering Bonds instead of or alongside granting shares or cash contributions may constitute an attractive alternative that increases the Company's competitive opportunities for its additional flexibility. The shareholders are protected by the subscription right they are granted when Bonds are issued

with conversion or option rights or obligations. Cases under which the subscription right to Bonds with conversion or option rights or obligations may be excluded are described in the report on agenda item 7.

If an opportunity presents itself for a merger with another Company or the acquisition of companies, Company units or participations in companies or other assets, the Management Board will in each case carefully consider whether or not to make use of the authorisation to increase capital through the issue of new shares. This particularly concerns an examination of the valuation ratio between the Company and the acquired Company participation or other assets and the fixing of the issue price of the new shares as well as further conditions relating to the issuing of shares. The Management Board will utilise the authorised capital only if it is convinced that the merger or acquisition of a Company, part of a Company or Company participation against new shares is in the best interest of the Company and its shareholders. The Supervisory Board will only give its necessary consent if it has reached the same conclusion.

The authorisations described in the preceding paragraphs to exclude subscription rights are limited to a total amount not exceeding 20% of the share capital, neither at the time at which this authorisation becomes effective nor at the time at which it is exercised. The above 20% limit is also to include treasury shares sold during the term of this authorisation under the exclusion of subscription rights as well as any shares issued to satisfy Bonds with conversion or option rights or mandatory conversion or option features (or a combination of these instruments), insofar as the Bonds were issued under the exclusion of shareholders' subscription rights during the term of this authorisation pursuant to the authorisation stipulated in agenda item 9 of the Annual General Meeting of 23 May 2018. Shares issued against cash contributions under the exclusion of shareholders' subscription rights pursuant to Section 186 para. 3 sent. 4 AktG (applied accordingly) on the basis of other corporate actions during the term of this authorisation are likewise to be included in this limit of 20% of the share capital. At the same time, this cap limits a potential voting rights dilution of the shareholders excluded from subscription rights. Within the limits previously outlined, the aforementioned authorisations pertaining to the exclusion of subscription rights are affordable, appropriate and in the interests of the Company.

If the Management Board uses one of the above authorisations to exclude subscription rights within the framework of a capital increase from the Authorised Capital 2018, it will report on this in the following General Meeting.

**2. Report by the Management Board on agenda item 7 (Adoption of a resolution to authorise the issue of convertible bonds, warrant-linked bonds, profit participation rights and/or participating bonds (or combinations thereof) with a nominal amount of up to EUR 125,000,000.00 with the possibility to exclude subscription rights, and to create a new Conditional Capital 2018 I while simultaneously cancelling the existing authorisation and Conditional Capital 2017, and to amend Section 4 para. 4 of the Articles of Association accordingly)**

With regard to agenda item 7 of the Annual General Meeting held on 23 May 2018, the Management Board and Supervisory Board propose to grant a new authorisation to issue convertible and/or warrant-linked bonds as well as profit participation rights and/or participating bonds with conversion or option rights in an amount of up to EUR 125,000,000.00 with the possibility to exclude subscription rights, to create a new Conditional Capital 2018 I and to simultaneously cancel Conditional Capital 2017. Pursuant to Section 221 para. 4 sent. 2 in conjunction with Section 186 para. 4 sent. 2 AktG, the Management Board gives the following report in respect of agenda item 7 of the Annual General Meeting on the reasons for authorising the exclusion of shareholders' subscription rights when new Bonds are issued:

By resolution of the Annual General Meeting of 17 May 2017, the Management Board was authorised to issue through 16 May 2022, with the approval of the Supervisory Board, convertible and/or warrant-linked bonds for a total par value of up to EUR 125,000,000.00 and with a maximum term of 20 years in one or more tranches, and to grant the holders of these conversion bonds and/or warrant-linked bonds conversion or option rights to up to 26,200,000 new shares of the Company with a proportionate share of the share capital of up to EUR 26,200,000.00 in total (hereinafter collectively "**Bonds 2017**"). In order to service these Bonds 2017, a conditional capital (Conditional Capital 2017) was created in an amount of EUR 26,200,000.00 (Section 4 para. 4 of the Articles of Association). The authorisation was not exercised; the Conditional Capital 2017 has therefore not been drawn down.

However, based on the Authorised Capital 2017, the Management Board and Supervisory Board have partially utilised the possibility to issue shares from authorised capital excluding subscription rights against cash contributions pursuant to Section 186 para. 3 sentence 4 AktG. As such utilizations from authorized capital excluding subscription rights against cash contributions pursuant to Section 186 para. 3 sentence 4 AktG have to be included in the 10% limit of the authorization to issue the Bonds 2017 against cash contribu-

tions pursuant to Section 186 para. 3 sentence 4 AktG, this authorisation can only be partially used in this manner.

In order for the Company to be flexible to issue convertible (Wandelschuldverschreibungen) and/or warrant-linked bonds (Optionsschuldverschreibungen) and/or profit participation rights (Genussrechte) and/or participating bonds (Gewinnschuldverschreibungen) (or combinations of these instruments) (including an issue under the facilitated exclusion of subscription rights) and to underlay them with shares for the servicing of any resulting option or conversion rights also after the termination of the authorisation to issue the Bonds 2017 on 16 May 2022 – previously excluding subscription rights against cash contributions in the permissible amount of up to 10% of the share capital pursuant to Section 186 para 3 sentence 4 of the German Stock Corporation Act - a new authorisation to issue bonds shall be given and the existing authorisation dated 17 May 2017 and Conditional Capital 2017 shall be cancelled and be replaced by a new conditional capital (Conditional Capital 2018 I).

To be able to make use of the array of possible market instruments to securitise the conversion and option rights, it is considered to be appropriate to set the permissible issue volume at EUR 125,000,000.00 in the authorisation. The conditional capital for the purpose of fulfilling the conversion and option rights is supposed to total EUR 26,200,000.00. This conditional capital ensures that the issue volume authorisation scope can fully be used. The number of shares required to satisfy conversion or option rights or obligations or to grant shares in lieu of the cash sum due on a bond with a specific issue volume generally depends on the stock market price of the Company's share at the time at which the bond is issued. If sufficient conditional capital is available, the possibility of making full use of the scope of the authorisation for the issue of bonds is guaranteed.

An appropriate capital base is essential for the Company's development. Depending on the market situation, by issuing convertible and warrant bonds, the Company can make use of attractive financing options in order to generate low-interest capital inflows for the Company. By issuing profit participation rights with conversion or option rights, the rate of return can also be based on, for example, the Company's current dividend. The Company benefits from the conversion and option premiums generated by the issue. Practice has shown that a number of financial instruments cannot be placed until option and conversion rights are granted.

The shareholders must in principle be granted subscription rights for the Bonds when Bonds are issued (Section 221 para. 4 in conjunction with Section

186 para. 1 AktG). The Management Board has the option of issuing Bonds to one or more banks subject to the obligation that the Bonds are offered to the shareholders in accordance with their subscription rights (so-called indirect subscription rights pursuant to Section 186 para. 5 AktG). This does not constitute a limitation of the shareholders' subscription rights; the shareholders are awarded the same subscription rights as with a direct subscription. For technical reasons, just one or more banks will be involved in the handling of this.

However, the Management Board shall be authorised to exclude the shareholders' subscription rights to the Bonds with the approval of the Supervisory Board:

a) With the approval of the Supervisory Board, the Management Board shall be able to exclude fractional amounts from the subscription right. The purpose of this subscription rights exclusion is to facilitate an issuance fundamentally involving shareholder subscription rights, as it results in a subscription ratio which is technically feasible. The value of each shareholder's fractional amount is generally low and as such their potential dilutive effect is also deemed to be low. In contrast, the cost of an issue without such an exclusion is considerably higher. The exclusion therefore makes the issue more practicable and easier to implement. The Management Board and Supervisory Board consider the potential exclusion of subscription rights for these reasons to be objectively justified and, weighed against the interests of the shareholders, to also be appropriate.

b) The Management Board shall also be authorised, with the approval of the Supervisory Board, to exclude shareholders' subscription rights in order to grant Bond holders/creditors subscription rights in the same volume as said holders would be entitled to upon exercising their conversion or option rights or fulfilling their conversion or option obligations. This allows subscription rights to be granted to holders/creditors of Bonds already issued or to be issued as an anti-dilution measure in lieu of a reduction in the option or conversion price. Incorporating such anti-dilution measures into Bonds is standard market procedure.

c) The Management Board shall, in accordance with Section 186 para. 3 sent. 4 AktG (applied accordingly), also be authorised, with the approval of the Supervisory Board, to exclude subscription rights when issuing Bonds against cash contributions if the issue price of the Bonds is not significantly below their fair value. This can be expedient to exploit favourable stock market situations at short notice and to be able to place a Bond in the market quickly and flexibly with attractive conditions. As the stock markets can



be volatile, achieving as advantageous an issue result as possible is often heavily dependent on whether it is possible to respond to market developments at short notice. Favourable conditions that are as market-oriented as possible can in principle only be set if the Company is not bound by them for an overly long offer period. In the case of subscription right issues, a considerable margin of safety is generally required in order to safeguard the chances of success of the issue for the entire offer period. Section 186 para. 2 AktG does permit the subscription price (and in the case of warrant and convertible bonds, therefore, also the bond conditions) to be publicised up to the third day before the end of the subscription period. However, in view of the volatility of the stock markets, this still results in market risk lasting a number of days, resulting in margins of safety being applied when determining the bond conditions. Furthermore, if subscription rights are granted, placement with third parties is made more difficult/involves additional effort due to the uncertainty of their exercise (subscription behaviour). After all, if subscription rights are granted, the Company is unable to react at short notice to changes in the market conditions due to the length of the subscription period, and this can lead to less favourable capital procurement for the Company.

The shareholders' interests are protected by the Bonds not being issued significantly below their fair value. The fair value is to be calculated on the basis of recognised valuation principles. When setting the price while taking into account the capital market situation in question, the Management Board will keep the discount on the fair value as low as possible. This results in the accounting par value of the subscription rights being so low that the shareholders are not subject to any significant economic disadvantage as a result of the exclusion of subscription rights.

The market-oriented setting of the conditions and thus the avoidance of any significant value dilution can also be achieved if the Management Board effects a bookbuild. This process involves the investors being requested to submit purchase orders on the basis of preliminary bond conditions and to specify what they consider to be, for example, the market-oriented interest rate and/or other economic components. At the end of the bookbuilding period, the conditions not yet fixed, such as the interest rate, are set in accordance with supply and demand as determined on the basis of the purchase orders submitted by the investors. In this way, the Bonds' total value is determined in a market-based manner. A bookbuild allows the Management Board to ensure that no significant dilution of the value of the shares will be caused by the exclusion of subscription rights.

The shareholders additionally have the opportunity to maintain their share of the Company's share capital by effecting stock market acquisitions at almost identical conditions. This appropriately protects their property interests. The authorisation to exclude subscription rights pursuant to Section 221 para. 4 sent. 2 in conjunction with Section 186 para. 3 sent. 4 AktG only applies to Bonds with rights to shares to which no more than 10% of the share capital is apportioned, neither at the time at which this authorisation becomes effective nor at the time at which it is exercised.

The sale of treasury shares is to be included in this cap insofar as they are sold during the term of this authorisation under the exclusion of shareholders' subscription rights pursuant to Section 71 para. 1 no. 8 sent. 5 sub-sent. 2 in conjunction with Section 186 para. 3 sent. 4 AktG. Those shares issued from authorised capital pursuant to Section 203 para. 2 sent. 1 in conjunction with Section 186 para. 3 sent. 4 AktG during the term of this authorisation under the exclusion of shareholders' subscription rights are likewise to be included in this cap. This inclusion serves the purpose of protecting the shareholders' interests in having their investments be diluted as little as possible.

d) Bonds may also be issued against contributions in kind insofar as this is in the interests of the Company. In this case, the Management Board is authorised, with the approval of the Supervisory Board, to exclude the shareholders' subscription rights insofar as the value of the contribution in kind is commensurate to the theoretical fair value of the Bonds as determined on the basis of recognised valuation principles. This makes it possible to also use Bonds as an acquisition currency in suitable individual cases, e.g. in conjunction with the acquisition of companies, company investments or other assets. Practice has shown that it is frequently necessary in negotiations to provide a consideration not only in cash, but also or exclusively in some other form. The possibility of offering Bonds as a consideration results in an advantage in the competition for interesting acquisition targets and offers the necessary scope for exploiting available opportunities to acquire companies (even large companies), company investments and other assets without impacting heavily on liquidity. This can also be prudent from the point of view of an optimum financing structure. In each individual case, the Management Board will carefully consider whether to exercise its authorisation to issue Bonds with conversion or option rights or obligations against contributions in kind under the exclusion of subscription rights. It will only do so if this is in the interests of the Company and therefore also of its shareholders.

The above authorisations to exclude subscription rights are limited to an amount not exceeding 20% of the share capital, neither at the time this authorisation becomes effective nor at the time it is exercised. The above 20% limit is also to include treasury shares sold during the term of this authorisation under the exclusion of subscription rights and any shares issued during the term of this authorisation under the exclusion of the shareholders' subscription rights pursuant to the authorisation stipulated in agenda item 6 of the Annual General Meeting of 23 May 2018. Shares issued against cash contributions under the exclusion of shareholders' subscription rights pursuant to Section 186 para. 3 sent. 4 AktG (applied accordingly) on the basis of other corporate actions during the term of this authorisation are likewise to be included in this limit of 20% of the share capital. This restriction also limits the potential dilution of the voting rights of the shareholders in relation to whom subscription rights have been excluded. With all of these circumstances having been considered, the authorisation to exclude subscription rights within the limits outlined is necessary, suitable, appropriate and in the interests of the Company.

Insofar as profit participation rights or participating bonds are to be issued without conversion or option rights or obligations, the Management Board, with the approval of the Supervisory Board, is authorised to exclude shareholders' subscription rights if these profit participation rights or participating bonds have the characteristics of a bond, i.e. they do not warrant company membership rights, they do not grant a stake in the proceeds of liquidation and the interest is not calculated on the basis of the net income for the year, net profit or the dividend. Additionally, the interest rate and the issue amount for the profit participation rights or participating bonds must be in accordance with the current market conditions for comparable borrowings at the time of the issue. If the above-mentioned conditions are met, the exclusion of subscription rights will not result in any disadvantages for the shareholders, as the profit participation rights or participating bonds do not warrant membership rights and do not grant the shareholders any stake in liquidation proceeds or in any company profit. While it is possible for interest to be dependent on the existence of a positive net income for the year, a net profit or a dividend, it would not be permissible to have an arrangement in which a higher net income for the year, a higher net profit or higher dividends would lead to higher interests. The issue of such profit participation rights or participating bonds therefore does not change or dilute voting rights or the shareholders' stakes in the Company and its profits. Additionally, based on the market-oriented issue conditions which are obligatorily stipulated for this case of subscription rights exclusion, there is no significant subscription right value.

The intended conditional capital serves to fulfil the conversion or option rights or obligations for Company shares relating to issued Bonds or to grant the creditors/holders of Bonds shares in the Company in lieu of payment of the cash sum due. It is also intended that conversion or option rights or obligations can instead be satisfied by means of the provision of treasury shares or shares from authorised capital or by means of other consideration.

Insofar as the Management Board exercises one of the aforementioned authorisations to exclude subscription rights in relation to the issue of Bonds during a financial year, it shall report on this in the subsequent Annual General Meeting.

### **3. Report on the partial utilisation of the Authorised Capital 2017 against cash contribution under the exclusion of the subscription right in July 2017**

On 17 July 2017, the Management Board decided with the approval of the Supervisory Board to issue 2,824,515 no-par value bearer shares from the Authorised Capital 2017 under the exclusion of the shareholders' subscription right by way of a private placement to two U.S. institutional investors ("**first tranche**").

At the time of the capital increase, the share capital of the first tranche entered in the commercial register amounted to EUR 58,196,117.00. The capital increase was recorded in the commercial register of the first tranche on 18 July 2017. PAION AG issued the 2,824,515 new shares of the first tranche at a price of EUR 2.8444 per share. The offer price corresponds to the volume weighted average Xetra price on 14 July 2017 minus a discount of 5%.

The proceeds from the private placement of EUR 8.0 million from the first tranche were mainly used to accelerate the preparation of the remimazolam EU Phase III development program in general anesthesia. In determining the price, the price requirements pursuant to Sections 203 para. 1 and 186 para. 3 sent. 4 AktG were met, compliance of which is required by the Authorised Capital 2017 for capital increases against cash contributions with a volume of up to 10% of the share capital for which subscription rights are being excluded. In accordance therewith, the price for the new shares may not be considerably below the stock price of the Company's shares.

By exclusion of the shareholders' subscription rights, the Company applied an option provided under Sections 203 para. 1 and 186 para. 3 sent. 4 AktG for the exclusion of subscription rights in cash capital increases of listed

companies. Such an exclusion of the subscription rights was necessary in the present case in order to create the new shares needed for the investment of the U.S. institutional investors.

The volume of the capital increase of the first tranche equals a proportionate share of approximately 4.8 % of the Company's share capital as calculated on the basis of the Company's share capital at the time at which the Authorised Capital 2017 became effective, i.e. on 12 June 2017 and based on the Company's share capital at the time at which the Authorised Capital 2017 was used, i.e. on 17 July 2017. The volume limit for shares issued against cash contributions under the exclusion of subscription rights as stipulated in the Authorised Capital 2017 was therefore complied with.

For the aforementioned reasons, an exclusion of the subscription right was in the interest of the Company. Given the fact that the price was determined based on the volume-weighted average share price of the previous five days, the placement price was not significantly below the share price of the existing shares of the Company and given that the volume of the shares issued in exclusion of the subscription rights were limited to 4.8% of the share capital existing at the time at which the Authorised Capital 2017 became effective, the interests of the shareholders were adequately protected. This is a consequence of the fact that the shareholders thereby have, with regard to the liquid stock trading, the opportunity to maintain their proportional shareholding in the Company by way of an additional purchase via the stock exchange at comparable conditions. By issuing the new shares at the current stock market price, it was furthermore ensured that the holdings of the shareholders were not significantly diluted by the capital increase.

From the foregoing considerations, the exclusion of the subscription rights within the capital increase from the first tranche was overall objectively justified in light of the requirements of the Authorised Capital 2017.

Furthermore, with the approval of the Supervisory Board of PAION AG, the Management Board of PAION AG resolved on 17 July 2017, to issue up to 2,824,515 no-par-value bearer shares with a pro rata amount of EUR 1.00 in common stock, using the Authorized Capital 2017, with full entitlement to issue from 1 January 2017 („**second tranche**“).

One of the U.S. institutional investors who acquired shares in the first tranche has the right under certain conditions to acquire these additional new shares of up to 2,824,515 shares in up to two transactions until 30 April 2018. If the U.S. investor does not acquire at least 912,258 new shares until 30 April 2018,

PAION AG may under certain conditions be exempted from the U.S. investor to demand this minimum investment of 0.9 million new shares („**minimum investment**“) from the second tranche.

At the time of convening this Annual General Meeting, no capital increase has been consummated in connection with the second tranche and no shares were issued as a result of the Management Board's decision on the utilization of authorized capital in connection with the second tranche. At the time of the convening, PAION AG has no information on the acquisition of shares from the second tranche planned by the investor within the remaining time frame, nor is the Management Board currently planning to demand the minimum investment from the US investor.

The subscription price for the further new 2,824,515 shares from the second tranche was set at 95% of the arithmetic mean of the volume weighted average price („VWAP“) of the company's share price (XETRA) during the ten trading days prior to the exercise date or the VWAP on Date of exercise of the right or duty of the U.S. institutional investor.

The price requirements pursuant to Sections 203 para. 1 and 186 para. 3 sent. 4 AktG were met, with which the Authorized Capital 2017 prescribes for the exclusion of subscription rights in the event of a capital increase against cash contributions of up to 10% of the share capital. Accordingly, the price of the new shares may not be significantly lower than the stock exchange price of the company's share.

By exclusion of the shareholders' subscription rights, the Company applied an option provided under Sections 203 para. 1 and 186 para. 3 sent. 4 AktG for the exclusion of subscription rights in cash capital increases of listed companies. In the present case, such exclusion of subscription rights was necessary in order to facilitate the overall transaction of the capital increase of 2,824,515 new shares on 17 July 2017 in connection with the second tranche and the resultant investment opportunity or obligation of the US institutional investor.

The volume of the capital increase of the second tranche also corresponds to a proportionate amount of the Company's share capital of approximately 4.8% of the share capital in relation to the company's share capital at the time the Authorized Capital 2017 became effective, i.e. on 12 June 2017 and based on the Company's share capital at the time at which the Authorised Capital 2017 was used, i.e. on 17 July 2017. Based on the resolutions of 17 July 2017, a maximum of 9.6% of the share capital of the company or of the share capital at the time of the effective date of the Authorized Capital 2017 on 12 June

2017, could be generated from the first tranche and the second tranche of the Authorized Capital 2017 on 17 July 2017 of the existing share capital of the Company. The volume limit for shares issued against cash contributions under the exclusion of subscription rights as stipulated in the Authorised Capital 2017 was therefore complied with.

For the aforementioned reasons, an exclusion of the subscription right was in the interest of the Company. also in relation to the second tranche. By fixing 95% of the VWAP of the Company's share price (XETRA) during the ten trading days prior to the exercise date or the VWAP on the day the U.S. institutional investor exercised the right or obligation, the subscription price was set below the then valid stock exchange price of the existing share of the Company is not material and limited to approximately 4.8% (or in total of the first and second tranches 9.6%) of the share capital existing at the time the Authorized Capital 2017 becomes effective on the other hand, the interests of the shareholders were also adequately safeguarded. This is a consequence of the fact that the shareholders thereby have, with regard to the liquid stock trading, the opportunity to maintain their proportional shareholding in the Company by way of an additional purchase via the stock exchange at comparable conditions. By issuing the new shares at the current stock market price, it was furthermore ensured that the holdings of the shareholders were not significantly diluted by the capital increase.

From the foregoing considerations, the exclusion of subscription rights in compliance with the requirements of the Authorized Capital 2017 when making use of was overall objectively justified, also in connection with the second tranche or overall with respect to the resolution of the Executive Board on 17 July 2017.

#### **4. Report by the Management Board on agenda item 8**

Regarding item 8 of the Annual General Meeting on 23 May 2018, the Management Board and Supervisory Board propose (i) to authorise the implementation of a Stock Option Plan 2018 to issue stock options with subscription rights to shares of PAION AG to members of the Management Board of PAION AG and to the members of the management of domestic and foreign affiliated companies as well as to such employees of PAION AG or its group companies as are particularly important for the development and success of the Company, and (ii) creation of a new Conditional Capital 2018 II to service the Stock Option Plan 2018, and (iii) to amend the Articles of Incorporation accordingly. The Management Board submits the following report for item 8 of the General Meeting agenda:

The commercial success of the PAION Group is largely dependent on its ability to attract and retain qualified staff. This applies, in particular, to highly qualified executives and employees who are courted across national borders and industry sectors with attractive remuneration systems. Allowing members of the Management Board, members of the management of domestic and foreign affiliated companies, and key members of staff to participate in the Company's capital and, as such, in the commercial risks and successes of the Company is an integral part of common international remuneration systems. Granting stock options has been possible in Germany for years and is now common practice. The stock option plan does not merely serve as an incentive to the beneficiaries and to strengthen the focus of the corporate strategy on increasing the value of the Company over the long term in line with the interests of shareholders. It further strengthens the financial markets' trust in that the Company's management is sufficiently motivated and thus offers further incentives for investing in the Company.

PAION AG has in the past already made use of the legal options and recommendations of the German Corporate Governance Code to allow employees' and executives' participation in the Company.

In order to have an optimal and contemporary stock option plan that can best achieve its defined aims, a new Stock Option Plan 2018 should be created.

Stock options can only be granted to members of the Management Board of PAION AG, members of the management of domestic and foreign affiliated companies and to key employees at PAION AG or one of its Group companies who contribute substantially to the development and results of PAION AG. On this basis, the Management Board of PAION AG determines the individual beneficiaries and the scope of the stock options to be offered to each of them for subscription in consultation with the respective boards that are responsible for the remuneration of the beneficiaries. To the extent that members of the Management Board of PAION AG are granted stock options, these decisions and the issuance of the stock options are the sole responsibility of the Supervisory Board of PAION AG.

Each stock option issued under the Stock Option Plan 2018 entitles the holder to purchase one share in PAION AG. 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 proposal for resolution does not, however, contain any restrictions concerning new shares created through capital increases, but rather allows treasury stock



or cash settlements to be offered as alternatives to beneficiaries who exercise their subscription rights. A maximum aggregate of 900,000 stock options can be issued. The authorisation to issue stock options is limited until 22 May 2023.

The incentive for the beneficiaries is largely defined by the price they have to pay upon exercising the stock option. The proposal for resolution is based on an exercise price that corresponds to the unweighted average closing price of PAION AG shares in Xetra trading (or a comparable successor system) on the fourth to eighth Xetra trading days following the publication of the most current Consolidated Quarterly Release or Report, Half-Year or Consolidated Financial Statements of PAION AG on the Company's website prior to the issuance. Where stock options are issued to beneficiaries within three months from commencing service or employment, the exercise price corresponds to the unweighted average closing price of PAION AG shares in Xetra trading (or a comparable successor system) on the fourth to eighth Xetra trading days following the publication of the most current Consolidated Quarterly Release or Report, Half-Year or Consolidated Financial Statements of PAION AG or the Consolidated Financial Statements of the Company on the Company's website following the commence of the service of employment relationship of the relevant beneficiary as defined in the employment contract. In addition, stock options may only be exercised if the closing share price in Xetra trading (or a comparable successor system) ("stock exchange price") on the day prior to exercise exceeds the exercise price by at least the so-called "necessary share price increase". The necessary share price increase is a linear increase of 5% p.a. of the exercise price from the day of issue onwards throughout the entire term of the stock option. The necessary share price increase is 1/240 (in writing: one-two hundred fortieth) of the exercise price for each completed month following the day of issue, in accordance with Section 187 para. 1 of the German Civil Code (BGB).

The stock options may only be issued at specific times in order to avoid, above all, the risk of insider knowledge being exploited. The option of being able to offer participation in an attractive remuneration system by virtue of the stock option plan is extremely helpful in the search for highly qualified employees and – to the extent that this should become necessary in the future – members of the Management Board of PAION AG. The proposal therefore includes a provision that stock options may also be issued to such new employees respectively members of the Management Board within three months of the commencement of their service or employment. In such cases, the agreement to issue stock options may form part of the service or employment contract. If the Company or a Group Company purchases or acquires an enterprise or part

of an enterprise by way of a share or an asset deal, a person who thus becomes a beneficiary may also acquire stock options within three months from the purchase or acquisition; the commitment to grant stock options may in this case be given even before the purchase or acquisition on condition that it does not take effect until after the purchase or acquisition.

In order to provide the beneficiaries with a long-term incentive to increase the value of the Company in the interest of all shareholders, the proposal includes waiting periods prior to the first exercise of the subscription rights. For participants in Group 1, the Supervisory Board, and for participants in Group 2, the Management Board, may define a waiting period of more than four years in consultation with the respective boards that are responsible for the remuneration of said beneficiaries. The limitation to exercise the stock options only outside of specific lock-up periods and only provided all other conditions are met, remains unaffected by the expiry of the vesting period. Subject to certain restrictions, stock options become non-forfeitable for all beneficiaries 2 (two) years after the day of issue ("vesting period"). In the case of Group 1 participants the Supervisory Board, and in the case of Group 2 participants the Management Board, may – in consultation with the respective boards that are responsible for the remuneration of the beneficiaries – define a vesting period that is longer than two years. Part of the granted stock options shall lapse in the event that, prior to the expiry of the vesting period, (x) the appointment of a Group 1 participant to the Management Board finally ends on grounds other than revocation without re-appointment and/or (y) a Group 2 participant (i) no longer performs the task originally assigned to him although his employment continues, and therefore no longer classifies as a beneficiary, or (ii) reduces his weekly working hours. The right to exercise subscription rights (term) shall expire at the end of ten years from the day of issue. Stock options that have not been or cannot be exercised up to the end of their term shall lapse at the end of their term without recourse and compensation.

The proposed resolution shall also exclude in principle the transferability of the stock options granted to the beneficiaries. This aims to provide the necessary personal incentives which forms the cornerstone of the stock option plan. Finally, the proposed resolution determines that the Supervisory Board is authorised to define the additional provisions for granting stock options and the additional terms and conditions of exercise where members of the Company's Management Board are affected; otherwise the Company's Management Board is responsible for defining the details and will make its decision, where stipulated by law, with the agreement of those Group Company boards which are responsible for the remuneration of the beneficiaries. These details include in particular the selection of individual beneficiaries from the relevant

group of beneficiaries, the grant of stock options to individual beneficiaries, the definition of the organisation and process for granting and exercising stock options and issuing shares, and further the rules for dealing with stock options in special cases.

The creation of new conditional capital in an amount of EUR 900,000.00, equivalent to 900,000 shares, serves primarily to service the rights of the beneficiaries to purchase shares. In order to increase flexibility with regard to the exercise of the subscription rights, the proposed resolution entitles the Company to alternatively offer treasury stock or cash compensation to service the beneficiaries' entitlements.

### III. Further information regarding the convention of the General Meeting

#### 1. Requirements for participating in the General Meeting and exercising voting rights

Only shareholders who have registered prior to the deadline may attend the General Meeting and exercise their voting rights. Such registration must reach the Company by Wednesday, 16 May 2018, 24:00 (CEST), at the latest, at the following address:

PAION AG  
c/o BADER & HUBL GmbH  
Wilhelmshofstrasse 67  
D-74321 Bietigheim-Bissingen  
Fax: +49 (0)7142 788667-55

or by E-Mail to:

[hauptversammlung@baderhubl.de](mailto:hauptversammlung@baderhubl.de)

Shareholders must also submit separate proof of their share ownership to the Company, stating that they were shareholders on Wednesday, 02 May 2018, at 0:00 (CEST) (effective date for provision of proof). To prove share ownership, a separate proof of share ownership issued by the custodian bank is sufficient.

Much like the registration, the proof of share ownership must be reach the Company at the above address by Wednesday, 16 May 2018, 24:00 (CEST), at the latest. The registration and proof of share ownership must be in written form (Section 126 b of the German Civil Code (BGB)) and in German or English.

Additional information regarding the registration procedure can be found on the website at

[www.paion.com/media-and-investors/annual-general-meeting/](http://www.paion.com/media-and-investors/annual-general-meeting/).

#### 2. Importance of the Effective Date for Provision of Proof

In order to be recognized as a shareholder by the Company, and to have the right to attend the General Meeting and exercise voting rights, separate proof of share ownership must be provided. The right of attendance and the scope of voting rights are dictated solely by the number of shares owned on the effective date. The effective date does not imply a temporary ban on the sale of the shareholdings. Even if the shareholdings are sold in part or in whole

after the effective date, attendance and the scope of voting rights are dictated solely by the shareholders' share ownership as of the effective date; meaning, the sale of shares after the effective date does not impact the right to attend nor the scope of voting rights. The same applies to any shares acquired after the effective date. Individuals who do not own shares on the effective date and only subsequently become shareholders are entitled to attend and exercise the voting rights conveyed by the shares they own only if they obtain power of attorney to do so from the seller pursuant to the following paragraphs or are otherwise authorised to exercise this right. The record date has no bearing on dividend rights.

### **3. Proxy voting rights**

After having granted such power of attorney, shareholders may also exercise their votes in the General Meeting by voting proxy (e.g. a financial institution, a shareholder association or other third parties). In the case of proxy voting, registration of the shareholder prior to the deadline and proof of share ownership in due time as described above are required as well.

If neither a financial institution nor a shareholder association or equivalent persons, institutes, companies or associations pursuant to Section 135 para. 8 or Section 135 para. 10 in conjunction with Section 125 para. 5 AktG are authorised to exercise a shareholder's voting rights by proxy, the granting of the power of attorney, its revocation and evidence of power of attorney must be in writing (Textform) (see address details below).

No evidence in writing is required if proxy voting rights are awarded to financial institution, shareholder associations or equivalent persons, institutes, companies or associations pursuant to Section 135 para. 8 and Section 135 para. 10 in conjunction with Section 125 para. 5 AktG, but the authorised representative must be in possession of a verifiable letter of authority. Said letter must also be complete and may only contain declarations relating to the exercise of voting rights. We therefore ask that shareholders wishing to grant proxy voting rights to a bank, a shareholder association or equivalent persons, institutes, companies or associations pursuant to Section 135 para. 8 and Section 135 para. 10 in conjunction with Section 125 para. 5 AktG coordinate with their authorised representative on the form in which they grant power of attorney. The admission card for shareholders will include a form for such voting proxy.

If a shareholder appoints more than one person as their authorised representative, the Company may reject one or more of said persons.

Shareholders wishing to grant power of attorney to a representative are asked to use the form provided by the Company. The form will be provided together with the entrance ticket after registration. Furthermore, we will also provide this proxy form to our shareholders on the internet at

[www.paion.com/media-and-investors/annual-general-meeting/](http://www.paion.com/media-and-investors/annual-general-meeting/).

In addition, we give our shareholders the option of representation at the General Meeting by voting proxies who are appointed by the Company and bound to adhere to instructions.

The authorisations can be transmitted in writing, by facsimile, e-mail or otherwise in writing (see address details below). In the event they are transmitted via e-mail, please attach the completed authorisation and instruction form that was enclosed with the admission card. The form may only be sent in electronic format as an attachment ("PDF" or "TIF"). The authorisation and instruction form can also be downloaded at

[www.paion.com/media-and-investors/annual-general-meeting/](http://www.paion.com/media-and-investors/annual-general-meeting/).

Even if you choose to authorise the voting proxies, registration and submission of proof of share ownership must still be provided prior to the deadline, as described above.

If the voting proxies appointed by the Company are to be authorised, the shareholder must issue clear instructions as to how his or her vote should be exercised for each of the items on the agenda. If no specific or contradictory or unclear instructions have been issued, the voting proxies appointed by the Company will refrain from voting on the respective agenda item. The voting proxies appointed by the Company are bound to vote in accordance with your instructions and are authorised to appoint substitute proxies. Neither prior to nor during the General Shareholders Meeting will the voting proxies appointed by the Company accept instructions to submit a request to address the Annual General Meeting, record objections to the Annual General Meeting or ask questions or put forward motions.

Shareholders who would like to avail themselves of this option and issue authorisation to the voting proxies appointed by the Company require an authorisation form for this purpose, which they can also use to give instructions. This form will be included with the admission card sent to the shareholders. If shareholders would like to issue an authorisation to the voting proxies appointed by the Company, such shareholders must complete an authorisation

and instruction form, and has to return it to the Company by Tuesday, 22 May 2018, 24:00 (CEST) by mail, facsimile, e-mail or otherwise to the following address, with receipt being decisive:

PAION AG  
c/o BADER & HUBL GmbH  
Wilhelmshofstrasse 67  
74321 Bietigheim-Bissingen  
Germany  
Fax: +49 (0)7142 788667-55  
E-Mail: [hauptversammlung@baderhubl.de](mailto:hauptversammlung@baderhubl.de)

Furthermore, information relating to the General Meeting and to the authorisation of the voting proxy appointed by the Company can be found on the internet at

[www.paion.com/media-and-investors/annual-general-meeting/](http://www.paion.com/media-and-investors/annual-general-meeting/).

#### **4. Requests for additions to the agenda pursuant to Section 122 para. 2 AktG**

Shareholders whose aggregate share ownership equates to a twentieth, or the proportionate amount of EUR 500,000.00 (i.e. equivalent to 500,000 shares) of the share capital, may demand the inclusion of items on the agenda and the publication thereof. Each requested agenda addition must be accompanied by a justification or proposed resolution.

Such an amendment demand must be addressed to the Management Board in writing and must be submitted to the Company at least 30 days in advance of the meeting; the date of receipt and the date of the meeting are not to be included in this calculation. The deadline for the receipt of such demands is therefore 24:00 (CEST) on Sunday, 22 April 2018. Amendment demands received later than this shall not be considered.

Persons submitting a motion must prove that they have held the shares for at least 90 days before the date the motion is received and that they hold the shares until the Management Board decides on the motion, with Section 70 AktG being applicable when calculating the time for which the shares have been held. A shift from a Sunday, Saturday or a public holiday to a preceding or subsequent business day shall not be possible. Sections 187 to 193 German Civil Code (BGB) shall not be applied accordingly.

We ask any amendment demands to be sent to the following address:

PAION AG  
Vorstand  
Martinstrasse 10-12  
52062 Aachen  
Germany  
Facsimile: +49 (0)241 4453-120

Additions to the agenda that must be announced will – insofar as they have not been announced by the time the General Meeting is convened – be announced in the Federal Gazette (Bundesanzeiger) immediately upon receipt. They will also be published without delay on the internet at

[www.paion.com/media-and-investors/annual-general-meeting/](http://www.paion.com/media-and-investors/annual-general-meeting/).

#### **5. Countermotions and election proposals by shareholders pursuant to Sections 126 para. 1 and 127 AktG**

Every shareholder has the right to file countermotions to the proposals submitted by the Management Board and/or Supervisory Boards regarding particular agenda items and to propose alternative candidates for election as auditor (agenda item 4) and for the election as member of the Supervisory Board (agenda item 5). Countermotions must be submitted with a justification; election proposals need not include a justification.

Countermotions and election proposals received by the Company at the address below at least 14 days prior to the General Meeting, with the day of receipt and the date of the meeting not being included in this calculation, in other words by 24:00 (CEST) on Tuesday, 8 May 2018 at the latest, shall be published without delay on the Company's website at

[www.paion.com/media-and-investors/annual-general-meeting/](http://www.paion.com/media-and-investors/annual-general-meeting/).

Information on countermotions and election proposals pursuant to Sections 126 and 127 AktG as well as any statements of the administration may also be found at

[www.paion.com/media-and-investors/annual-general-meeting/](http://www.paion.com/media-and-investors/annual-general-meeting/).

Countermotions will be made available together with the shareholder's name and their justification.

Sections 126 para. 2 AktG or Section 127 sent. 1 in conjunction with Section 126 para. 2 AktG stipulate reasons that might warrant a countermotion and



its justification or an election proposal not being published on the Company's website. A justification can, in particular, be excluded from publication if it is more than 5,000 characters long. Moreover, shareholders' election proposals need not be published if they do not include the name, the occupation held, and the place of residence of the proposed candidate. Section 127 sent. 3 in conjunction with Section 125 para. 1 sent. 5 AktG stipulates further reasons that might warrant election proposals not being published on the Company's website.

Counter motions and election proposals shall be sent to the following address:

PAION AG  
Investor Relations Department  
Martinstrasse 10-12  
52062 Aachen  
Germany  
Facsimile: +49 (0)241 4453-120

Counter motions and election proposals sent to any other address will not be published.

The right of every shareholder to file counter motions regarding the various items of the agenda, to propose alternative candidates for election as auditor (agenda item 4) and for the election as member of the Supervisory Board (agenda item 5) during the Annual General Meeting without submitting these to the Company in advance within a stipulated deadline remains unaffected. Please note that counter motions, even if they have been sent to the Company in advance in due time, will only be considered in the General Shareholders Meeting, if they are submitted verbally at the meeting.

## **6. Shareholder's right to information pursuant to Section 131 para. 1 AktG**

Pursuant to Section 131 para. 1 AktG, the Management Board must, upon request, provide any shareholder with information at the Annual General Meeting regarding the Company's affairs insofar as such information is necessary for the proper assessment of an item of the agenda. This obligation to provide information on the part of the Management Board applies equally to the Company's legal and business relations with an affiliated company, the Group's situation and the companies included in the consolidated financial statements. Under certain circumstances outlined in Section 131 para. 3 AktG, the Management Board may refuse to disclose information.

Pursuant to Section 26 para. 2 of the Articles of Association, the chairman of the meeting is authorised to place time restrictions on the right of shareholders to speak and ask questions; in particular, he is authorised to define a reasonable period of time for the entire General Meeting, for individual items on the agenda and for individual contributions and questions, either at the start or during the course of the General Meeting.

## **7. Publications on the website**

The following documents in particular will be available on the Company's website at

[www.paion.com/media-and-investors/annual-general-meeting/](http://www.paion.com/media-and-investors/annual-general-meeting/)

together with this invitation to the Annual General Meeting from the time at which the meeting is convened:

Regarding agenda item 1:

- The adopted annual financial statements and the consolidated financial statements approved by the Supervisory Board as of 31 December 2017, the Management Reports for the Company and the Group for the financial year 2017, including the Report of the Supervisory Board for the financial year 2017 and the Management Board's explanatory report on the information pursuant to Sections 289a para. 1 and 315a para. 1 HGB as of 31 December 2017.

Regarding agenda item 6:

- Management Board's report according to Section 203 para. 2 sent. 2 in conjunction with Section 186 para. 4 sent. 2 AktG.

Regarding agenda item 7:

- Management Board's report according to Section 221 para. 4 sent. 2 in conjunction with Section 186 para. 4 sent. 2 AktG.

Regarding agenda item 8:

- Management Board’s report about the resolution to authorise the implementation of a Stock Option Plan 2018 to issue stock options with subscription rights to shares of PAION AG to members of the Management Board of PAION AG and to members of the management bodies of domestic and foreign affiliated companies as well as to such employees of PAION AG or its group companies as are considered critical for the development and success of the Company

In addition:

- Management Board’s report on the partial utilisation of the Authorised Capital 2017 against cash contribution under the exclusion of subscription rights in July 2017.

The aforementioned documents as well as other legally required documents will also be available during the Annual General Meeting on Wednesday, 23 May 2018. The legal obligation is met by the documents being made available at the Company’s website.

Any shareholders’ counter motions, election proposals or amendment demands subject to mandatory publication and received by the Company within the deadlines stated above shall likewise be published on the above-mentioned website

This invitation to the Annual General Meeting was published in the Federal Gazette (Bundesanzeiger) on Thursday, 12 April 2018. On the same day, it was forwarded to such media outlets for publication that may be expected to publish the information throughout the European Union.

## **8. Total number of shares and voting rights at the time the General Meeting was convened**

At the time the General Meeting was convened, the share capital of the Company amounted to EUR 61,120,046.00, divided into 61,120,046 shares. Each ordinary share carries one vote at the General Meeting. The total number of shares and voting rights at the time the General Meeting was convened was 61,120,046. The Company did not hold any treasury stock at the time the meeting was convened.

PAION AG has not been notified of any participation in the Company by a financial institution that would require notification pursuant to Section 33 of the Securities Trading Act (WpHG).

Aachen, April 2018  
PAION AG  
**Management Board**

Notes

Notes

## Directions to the Annual General Meeting Location

Location: forum M, Buchkremerstrasse 1–7, 52062 Aachen, Germany  
(see map on last page)

### Approach by car

1. Approaching Aachen from Belgium, Dusseldorf or Cologne:

Use the motorway A4 (E40) or A44 (E40) until you reach the “Kreuz Aachen” junction. Continue on the A4 (E314) towards “Heerlen/Aachen Zentrum/Eindhoven/Antwerpen”.

Approaching from the Netherlands:

On passing the border, the motorway from the Netherlands will change into the German A4 (E 314).

2. Leave the motorway at the next exit (exit no. 3, “Aachen Zentrum/Würselen”) and turn right in direction Aachen “Krefelder Strasse, B 57”.
3. Continue straight on for approx. 3 km. Coming down from the hilltop there is a crossroad with traffic lights. Turn left into “Monheimsallee”.
4. At the next large crossroad with traffic lights turn right into “Peterstrasse”. After approx. 450 m turn right into “Ursulinerstrasse”, then turn right into “Buchkremerstrasse”. The main entrance of “forum M” is on the right-hand side.
5. Turning right at the next corner you will find a public parking deck “Parkhaus Büchel”.

### Approach by train

Take a taxi from the main railway station. It will take approx. 10 minutes to get to “forum M”.

Travel expenses and parking fees will not be covered by the company.

## Welcome!

# Annual General Meeting PAION AG

forum M, Buchkramerstrasse 1–7, 52062 Aachen, Germany



PAION AG

Martinstrasse 10–12

52062 Aachen (Germany)

Phone +49 241 4453-0 Fax +49 241 4453-100

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