

# Bit Market Services

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*Testo del comunicato*

Vedi allegato.

**TRANSLATION OF**  
**ARTICLES OF INCORPORATION**  
**OF**  
**BB Biotech AG**  
**(BB Biotech S.A.)**  
**(BB Biotech INC.)**

**I. Name, registered office, duration and purpose of the company**

**Art. 1**

Under the name BB Biotech AG (BB Biotech S.A., BB Biotech Inc.) a limited liability company is hereby incorporated with registered office in Schaffhausen / SH pursuant to Art. 620 ff OR (Swiss Code of Obligations). Its duration is indefinite.

**Art. 2**

The purpose of the company is joint capital investment in enterprises in the biotech and genetic engineering and pharmaceutical industry and allied branches with a view to achieving the highest possible yield on the investment. For the attainment of this purpose, the company may acquire and sell and administer participations both in Switzerland and in other countries. The company may engage in all types of business which are either directly or indirectly conducive to the attainment of this corporate purpose.

The company is authorized to buy, mortgage and sell real properties. Within the framework of its corporate purpose, the company may acquire participations in other enterprises both in Switzerland and in other countries, incorporate subsidiary companies and set up branch establishments in Switzerland and representations in other countries.

**II. Equity capital**

**Art. 3**

The equity capital of the company amounts to CHF 11,850,000.00

It is divided into 59,250,000 registered shares with a nominal value of CHF 0.20 each. The shares are fully paid in.

The shareholder may ask the company at any time to issue an attestation in respect of the shares which are owned by him. However, the shareholder is not entitled to have share certificates printed and delivered. On the other hand, the company may at any time print and deliver share certificates and, with the consent of the shareholder, cancel without replacement share certificates which have been issued and are returned to it.

If share certificates are printed, the company may issue certificates representing one or more shares. These certificates will bear the facsimile signature of the Chairman of the Board of Directors.

Shares which are not represented by a document and the resulting non-documented rights may be transferred by assignment only. To be valid, such assignment must be notified to the company.

Shares which are not represented by a document and the resulting asset rights can only be pledged in favor of the bank with which the shareholder arranges for his shares to be kept in an account by means of a written pledge agreement. Notification to the company is not necessary.

A register of registered shares is kept showing the owners and beneficiaries of usufruct in the shares with their surnames and first names, place of residence, address and nationality (in the case of legal entities also the registered office). In relation to the company, only the person whose name figures in the share register will be recognized as a shareholder or beneficiary of usufruct. Where shares are held by more than one person, these persons may be jointly registered as shareholders with voting rights, provided that they all make the declaration stipulated in paragraph 10.

If a shareholder changes his place of residence or registered office he must notify the new address to the company. Until such time as that has been done, all written notifications shall be legally valid if made to his address entered in the share register.

The transfer of ownership of, or usufruct in, a share must be approved in every case by the Board of Directors.

On request, persons who acquire registered shares shall be entered in the share register as shareholders with voting rights, provided that they specifically declare that they have acquired these shares in their own name and for their own account. If the purchaser is not willing to make such a declaration, the Board of Directors may decline to register him as having voting rights.

The limitation of registration pursuant to paragraph 10 likewise applies to shares which have been subscribed or acquired through derivative channels by exercising a subscription, option or conversion right.

After hearing the registered shareholder or nominees, the Board of Directors may delete entries in the share register as shareholders with voting rights with retroactive effect to the date of the entry if this was made by giving false information. The person concerned must be informed immediately of such deletion.

The Board of Directors establishes the principles for the registration of trustees/nominees and adopts the rules necessary for compliance with the above provisions.

Ownership of, or usufruct in, a share or share certificate and every exercise of shareholders' rights implies recognition of the articles of incorporation of the company in their currently valid edition.

By an amendment of the articles of incorporation, the general meeting may at any time convert bearer shares into registered shares and registered shares into bearer shares. Moreover, by an amendment to the articles of incorporation, shares may be divided into new shares with a lower nominal value or combined into new shares with a higher nominal value.

A person who acquires shares in the company is not required to make a public purchase offer pursuant to Articles 32 and 52 of the Federal act on stock markets and securities trading.

### **III. Official bodies of the company**

#### **Art. 4**

The official bodies of the company are:

- A. The General Meeting
- B. The Board of Directors
- C. The Compensation Committee
- D. The Auditors

#### **A. The General Meeting**

#### **Art. 5**

The General Meeting is the supreme body of the company. It has the following exclusive powers:

- a) adoption and amendment of the articles of incorporation;
- b) election of the members of the Board of Directors, the Chairman of the Board of Directors, the members of the Compensation Committee, the Auditors and the independent voting rights representative;
- c) approval of the management report, the consolidated financial statements and the annual financial statements as well as the decision on the appropriation of the profit stated on the balance sheet;
- d) approval of the compensation of the Board of Directors and of the executive management pursuant to Article 19 of these articles of incorporation;
- e) granting of a release to the Board of Directors;
- f) decisions on matters which are reserved either by law or by the articles of incorporation for the General Meeting or which are placed before it by the Board of Directors.

#### **Art. 6**

The Ordinary General Meeting is held each year within four months of the close of the financial year; Extraordinary General Meetings are convened whenever the need arises, in particular in the cases stipulated by law. The convening of a General meeting may likewise be requested in writing by one or more shareholders who together represent not less than one-tenth of the equity capital, stating the purpose of the meeting.

**Art. 7**

The General Meeting is convened by the Board of Directors and, if necessary, by the Auditors. The liquidators are likewise entitled to convene a meeting.

The General Meeting must be convened not less than twenty days before the date on which it is due to be held by publication in the Swiss Official Commercial Gazette (SHAB). The invitation to attend must indicate the matters to be discussed, together with the motions of the Board of Directors and those of the shareholders who have asked for a General Meeting to be held or for a particular matter to be placed on the agenda.

Shareholders who, alone or together, either hold shares with a par value of at least CHF 1,000,000 or represent at least 10% of the share capital may request that items be included on the agenda. Such request must be made in writing at least 45 days prior to the General Meeting, indicating the items to be discussed and the motions of the shareholders.

Subject to the provisions on a universal meeting, no decisions may be taken on matters which have not been announced in this manner, save on a motion to convene an Extraordinary General Meeting or to perform a special audit.

On the other hand, no prior announcement is needed to table motions relating to the matters placed on the agenda and to hold discussions which are not followed by a decision.

The owners or representatives of all the shares may, if there is no objection, hold a General meeting without complying with the formal requirements for it to be convened (Universal Meeting). At such a meeting, valid discussions may be held and decisions taken on all matters which fall within the terms of reference of the General Meeting, provided that the owners or representatives of all the shares are present.

No later than twenty days before the Ordinary General Meeting, the business report, the compensation report and the Auditors' reports must be laid open for scrutiny by the shareholders at the registered office of the company.

Attention must be called to this fact in the invitation to attend the General Meeting.

**Art. 8**

Each share carries one vote at the General Meeting.

The Board of Directors shall establish the procedural rules regarding participation in and representation at the General Meeting and determine the requirements regarding proxies and voting instructions.

Each shareholder may arrange to be represented at the General Meeting by the independent voting rights representative or, with written authority, another shareholder.

The independent voting rights representative shall be elected by the General Meeting for a term of office extending until completion of the next Ordinary General Meeting. Re-election is possible at any time. If the company does not have an independent voting rights representative, the independent voting rights representative shall be appointed by the Board of Directors for the next General Meeting.

The General Meeting takes its decisions and determines elections by an absolute majority of the votes carried by the shares which are represented, save where otherwise required by law or by the articles of incorporation.

In the case of elections, if the choice is not made on the first ballot a relative majority will suffice on the second ballot.

The Chairman does not have a casting vote.

#### **Art. 9**

The General Meeting shall be chaired by the Chairman of the Board of Directors, if he is unable to attend by the Vice-Chairman and if the latter is likewise unable to attend by the longest serving member of the Board of Directors who is present.

At the request of a shareholder, a chairman of the day may be elected in every case.

The Chairman designates the teller and the secretary to write the minutes who need not themselves be shareholders of the company. The minutes will be signed by the Chairman and by the secretary.

#### **Art. 10**

Votes are taken and elections held in public at the General Meeting unless the Chairman orders otherwise or the General Meeting resolves otherwise.

### **B. The Board of Directors**

#### **Art. 11**

The Board of Directors shall have between three and seven members. The General Meeting shall individually elect the members and the Chairman for a term of office extending until completion of the next Ordinary General Meeting, subject to prior resignation or dismissal.

Re-election is possible at any time.

#### **Art. 12**

Except for the election of the Chairman of the Board of Directors and the members of the Compensation Committee by the General Meeting, the Board of Directors shall constitute itself. It shall designate the Vice-Chairman and, if necessary, the secretary who need not himself be a member of the Board of Directors.

If the office of the Chairman of the Board of Directors is vacant, the Board of Directors shall appoint a Chairman from among its members for a term of office extending until completion of the next Ordinary General Meeting.

The Board of Directors meets at least once every six months.

**Art. 13**

The Board of Directors is responsible for the strategic management of the company and for supervising the management of the business. It is responsible for all matters which are not reserved for a different official body of the company by law, the terms of the articles of incorporation or a regulation.

The Board of Directors may entrust the management of business or specific parts thereof to one or more persons, members of the Board of Directors or third parties who need not themselves be shareholders. It adopts the organizational regulation and determines the appropriate contractual relationships.

Its non-transferable and inalienable tasks include in particular:

- a) determination of the business policy and strategic management of the company;
- b) organization of the accounting system, financial control and financial planning;
- c) preparation of the business report and the compensation report as well as of the General Meeting including the presentation of the annual financial statements and management report, together with the Auditors' reports; implementation of the decisions taken by the General Meeting;
- d) appointment and dismissal of the persons entrusted with the management of business and with representation;
- e) determination of authority to sign;
- f) high level supervision of the persons entrusted with management of the business, in particular with regard to compliance with the laws, articles of incorporation, regulations and instructions;
- g) decisions on the subsequent subscription to shares which have not been fully paid in;
- h) decisions establishing capital increases and the accompanying amendments to the articles of incorporation.

**Art. 14**

The Board of Directors has a quorum if a majority of its members take part in the decision-making. In the case of decisions establishing facts as prescribed by the Swiss Code of Obligations (Art. 652g, 653g OR), the participation of one single member will suffice.

Minutes of the proceedings are to be written. These minutes must be signed by the Chairman and by the secretary.

**Art. 15**

Decisions are taken by an absolute majority of the votes of the members who are present. In the event of a tied vote the Chairman shall have the casting vote.

Decisions on a motion which has been tabled may be taken by written declaration (including fax, telegram or telex) or by telephone if no member of the Board of Directors expresses opposition to this procedure. Such decisions must be taken unanimously and recorded in the next minutes.

### **C. The Compensation Committee**

#### **Art. 16**

The Compensation Committee shall consist of at least one member of the Board of Directors.

The General Meeting shall individually elect the member(s) of the Compensation Committee for a term of office extending until completion of the next Ordinary General Meeting. Re-election is possible at any time.

If there are vacancies on the Compensation Committee, the Board of Directors shall appoint one or several members for a term of office extending until completion of the next Ordinary General Meeting.

The Compensation Committee shall constitute itself. It shall elect a chairman from among its members. The Board of Directors shall further establish a regulation regarding the organization and the decision-making process of the Compensation Committee.

#### **Art. 17**

The Compensation Committee shall support the Board of Directors in establishing and reviewing the compensation strategy and guidelines and the performance criteria as well as in preparing the proposals to the General Meeting regarding the compensation of the Board of Directors and of the executive management, and may submit proposals to the Board of Directors in other compensation-related issues.

The Board of Directors shall determine in a regulation for which positions of the Board of Directors and of the executive management the Compensation Committee shall submit proposals for the performance metrics, target values and the compensation, and for which positions it shall itself determine, in accordance with the articles of incorporation and the compensation guidelines established by the Board of Directors, the performance criteria, target values and the compensation.

The Board of Directors may delegate further tasks to the Compensation Committee.

### **D. The Auditors**

#### **Art. 18**

The General Meeting shall elect the Auditors for a term of office extending until completion of the next Ordinary General Meeting. Re-election is possible at any time.

The Auditors shall perform their auditing and reporting obligations in accordance with applicable laws.



#### **IV. Compensation of the members of the Board of Directors and executive management**

##### **Art. 19**

The General Meeting shall approve the proposals of the Board of Directors in relation to:

- (i) the maximum aggregate amount of fixed compensation of the Board of Directors for the following financial year;
- (ii) the aggregate amount of variable compensation of the Board of Directors for the past financial year;
- (iii) the maximum aggregate amount of fixed compensation of the executive management for the following financial year;
- (iv) the aggregate amount of variable compensation of the executive management for the past financial year.

The Board of Directors may submit to the General Meeting deviating or additional proposals in relation to the same or different periods.

In the event the General Meeting does not approve a proposal of the Board of Directors, the Board of Directors shall determine, taking into account all relevant factors, the respective (maximum) aggregate amount or several (maximum) partial amounts, and submit this or these amounts to the General Meeting for approval.

The company or companies controlled by it may pay out compensation prior to approval by the General Meeting subject to subsequent approval.

##### **Art. 20**

The company or companies controlled by it shall be authorized to pay to each person who becomes a member or is being promoted within the executive management after the General Meeting has approved the compensation a supplementary amount during the compensation period(s) already approved if the compensation already approved is not sufficient to cover his compensation. The supplementary amount per each compensation period and member shall not exceed 40% of the maximum aggregate amount of compensation of the executive management last approved.

##### **Art. 21**

In addition to a fixed compensation, members of the Board of Directors and of the executive management may be paid a variable compensation, depending on the achievement of certain performance criteria.

The performance criteria may include individual targets, targets of the company or parts thereof and targets in relation to the market, indexes, other companies or comparable benchmarks, taking into account position and level of responsibility of the recipient of the variable compensation. The Board of Directors or, to the extent delegated to it, the Compensation Committee shall determine the relative weight of the performance criteria and the respective target values.

Compensation may be paid in the form of cash, shares, options, comparable instruments or units, or in the form of other types of benefits. The Board of Directors or, to the extent

delegated to it, the Compensation Committee shall determine grant, vesting, exercise and forfeiture conditions; they may provide for continuation, acceleration or removal of vesting, exercise or forfeiture conditions, for payment of compensation based upon assumed target achievement, or for forfeiture of compensation, in each case in the event of pre-determined events such as a change-of-control or termination of an employment or mandate agreement. The company may procure any required shares through purchases in the market or by using conditional share capital.

Compensation may be paid by the company or companies controlled by it.

## **V. Agreements with members of the Board of Directors or executive management**

### **Art. 22**

The company or companies controlled by it may enter into agreements for an indefinite term or for a fixed term with members of the Board of Directors relating to their compensation. Duration and termination shall comply with the term of office and the law.

The company or companies controlled by it may enter into employment agreements for an indefinite term or for a fixed term with members of the executive management. Employment agreements for a fixed term may have a maximum duration of one year; renewal is possible. Employment agreements for an indefinite term may have a termination notice period of maximum twelve months.

## **VI. Mandates outside the group**

### **Art. 23**

No member of the Board of Directors may hold more than ten additional mandates of which no more than four may be in listed companies.

No member of the executive management may hold more than five mandates of which no more than one may be in listed companies.

Not subject to these limitations are:

- (a) mandates in companies which are controlled by the company or which control the company;
- (b) mandates that a member of the Board of Directors or executive management holds at the request of the company or companies controlled by it. No member of the Board of Directors or executive management may hold more than ten such mandates; and
- (c) mandates in associations, charitable organizations, foundations, trusts and employee welfare foundations. No member of the Board of Directors or executive management may hold more than ten such mandates.

Mandates shall mean mandates in the supreme governing body of a legal entity which is required to be registered in the commercial register or a comparable foreign register. Mandates in different legal entities that are under joint control or same beneficial ownership are deemed one mandate.

## **VII. Annual financial statements and appropriation of the profit**

### **Art. 24**

The financial year of the company runs from 1 January to 31 December of a particular year. The first financial year ends on 31 December 1994.

### **Art. 25**

The annual financial statements, comprising the income statement, the balance sheet and the notes, will be drawn up in compliance with the provisions of the Swiss Code of Obligations, in particular Art. 958 ff OR and in accordance with generally acknowledged commercial principles and those which are usual in the branch.

### **Art. 26**

Subject to the statutory provisions on the appropriation of the profit, in particular Art. 671 ff. OR, the balance sheet profit shall be placed at the free disposal of the General Meeting.

## **VIII. Winding up and liquidation**

### **Art. 27**

The General Meeting may at any time resolve to wind up and liquidate the company in compliance with the statutory requirements and those of the articles of incorporation and arrange for liquidation to be performed by the Board of Directors or by third parties.

The liquidation of the company shall be effected in compliance with Art. 742 ff OR. The liquidators are authorized to sell the assets, including real properties, by private treaty.

Once the debts have been settled, the assets will be distributed to the shareholders in proportion to the amounts paid in by them.

## **IX. Notices and announcements**

### **Art. 28**

Announcements by the company to the shareholders and creditors will be made in the Swiss Official Commercial Gazette (SHAB) which is the organ for publications of the company.

Invitations to attend meetings and notices to shareholders shall be sent by letter to the last known addresses appearing in the share register.

Schaffhausen, 17 March 2016

Fine Comunicato n.0472-23

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