

## **AUDIT COMMITTEE – TERMS OF REFERENCE**

These terms of reference (the *Terms of Reference*) of the audit committee (the *Audit Committee*) have been established by the supervisory board (the *Supervisory Board*) pursuant to article 21 paragraph 3 of the articles of association (the *Articles of Association*) of NOXXON Pharma N.V. (the *Company*) on 27 September 2016. These Terms of Reference are in accordance with and supplementary to the provisions concerning the Audit Committee as set forth in the rules of the Supervisory Board.

### **CHAPTER 1 COMPOSITION, EXPERTISE AND INDEPENDENCE**

#### **1.1 Appointment.**

Members of the Audit Committee shall be appointed and dismissed by the Supervisory Board. The Audit Committee shall be comprised of at least three members. Only members of the Supervisory Board shall qualify for membership of the Audit Committee. Members of the Audit Committee shall serve until the earlier of (a) the termination of their membership on the Supervisory Board, (b) the termination of their membership on the Audit Committee by the Supervisory Board or (c) their resignation from the Audit Committee.

#### **1.2 Independence.**

The Supervisory Board recognizes the importance that all members of the Audit Committee, with the exception of no more than one member, should be independent members of the Supervisory Board, within the meaning of the Netherlands Corporate Governance Code dated 10 December 2008 (the *Dutch Code*). However given the fact that the Company is a relatively young company and the continuity in the composition of the Board is of great importance, the Supervisory Board accepts that at this moment it is not possible to comply with the relevant provision. Once a stable framework has been established, the Supervisory Board shall take appropriate measures to comply (and subsequently update this paragraph of these Terms of Reference).

In the event that a member of the Audit Committee is or becomes aware of any circumstance which may reasonably impair or affect his or her independence or the perception of his or her independence, he or she shall inform the chairperson of the Audit Committee (or in the case of the chairperson, the other members of the Audit Committee) thereof promptly. The Audit Committee shall consult with the Supervisory Board in order to determine whether there is sufficient cause for resignation from, or termination of, the member's membership on the Audit Committee.

#### **1.3 Expertise.**

Each member of the Audit Committee shall be financially literate and at least one member of the Audit Committee shall be a financial expert with relevant knowledge and experience of financial administration and accounting for listed companies or other large legal entities. The Supervisory Board shall determine on the basis of all available facts and circumstances which member of the Audit Committee qualifies as such financial expert.

#### **1.4 Chairman.**

The Supervisory Board shall appoint one member of the Audit Committee to act as its chairperson. The Audit Committee may not be chaired by the chairperson of the Supervisory Board or by a former member of the Board of Directors. In the absence of the chairperson of the Audit Committee and/or an appointed deputy, the remaining members present shall elect one of themselves to chair the meeting.

#### **1.5 Self-Evaluation.**

The Audit Committee shall, at least once a year, review its own performance, composition and the Terms of Reference and recommend any changes it considers necessary to the Supervisory Board for approval.

### **CHAPTER 2 DUTIES AND RESPONSIBILITIES OF THE AUDIT COMMITTEE**

#### **2.1 Role and function.**

The Audit Committee shall be responsible for establishing methods and procedures for supervising, and where necessary requiring improvements of the financial reporting and organization of the Company for the purpose of making appropriate recommendations to the Supervisory Board in that regard. The Audit Committee's main function is to oversee the accounting and financial reporting processes, the audits of the financial statements and internal controls of the Company and its subsidiaries (collectively, the **Group**), and for maintaining an appropriate relationship with the external auditor of the Company.

#### **2.2 Duties and responsibilities.**

The Audit Committee assists the Supervisory Board in supervising the activities of the board of directors of the Company (the **Board of Directors**) with respect to, *inter alia*:

- (a) the operation of the internal risk-management and control systems for the Group, including compliance with applicable rules and regulations as well as supervising on the operation of any relevant code of conduct;
- (b) the provision of financial information by the Group, including the choice of accounting policies, application and assessment of the effects of new rules and the treatment of estimated items in the Company's (consolidated) annual accounts;
- (c) compliance with recommendations and observations of the Group's internal and external auditors;
- (d) the role and functioning of the Company's internal auditors;
- (e) the Company's tax planning policy;
- (f) the Company's relationship with its external auditor, including the independence and remuneration of the external auditor;
- (g) the financing of the Company; and

- (h) matters relating to information and communication technology.

### **2.3 Internal controls and risk-management systems.**

With regard to the operation of the internal risk-management and control systems for the Group, the Audit Committee shall in particular review:

- (a) the policies and process for identifying, assessing and managing business risks of the Group, including periodic reports on internal control, risk management issues and the effectiveness of corrective action taken by management;
- (b) regular assurance reports from management, internal audit, external audit and other reports on matters related to risk and control; and
- (c) reviewing and approving any related party transactions in compliance with the Company's policy.

### **2.4 Financial reporting.**

The Audit Committee shall review the Company's annual financial statements, the quarterly and/or half-yearly financial statements, preliminary results' announcements and any other announcements relating to the Group's financial performance or earnings guidance and analyse the fairness and adequacy of the contents and presentation of such financial statements or information. The Audit Committee shall report its findings to, and discuss such statements and information with, the Supervisory Board before these documents are signed by the Supervisory Board or issued by the Company.

In performing these reviews and reporting its findings to the Supervisory Board, the Audit Committee shall devote special attention to:

- (a) the consistency of, and any changes to, accounting and treasury policies and practices;
- (b) the provision of financial information by the Company, including:
  - (i) choice, application and assessment of accounting policies;
  - (ii) application and assessment of the effects of new rules;
  - (iii) information about the handling of estimated items in the financial statements; and
  - (iv) forecasts.
- (c) the detection of fraud and illegal acts;
- (d) the methods used to account for complex or unusual transactions or any "off balance sheet" arrangements, including certain guarantees, indemnification arrangements, or interests in unconsolidated or special purpose entities;
- (e) significant deviations between actual performance and planned performance;
- (f) significant operational risks;

- (g) the clarity of disclosure in the Company's financial reports and the context in which statements are made; and
- (h) all material information presented with the financial statements, such as the operating and financial review, the report of the Supervisory Board to be included in the annual financial statements and the corporate governance statement (insofar as it relates to the audit and risk management).

## **2.5 Internal Audit**

With regard to the internal audit, the Audit Committee shall in particular:

- (a) review and assess the annual internal audit plan and audit scope and the remit of the internal audit function in relation to adequate resources and appropriate access to information to enable it to perform its function effectively and in accordance with the relevant professional standards, and whether the function has adequate standing and is free from management or other restrictions;
- (b) review promptly all reports on the Group from the internal auditors;
- (c) review and monitor management's responsiveness to and compliance with the findings and recommendations of the internal auditor; and
- (d) discuss with a representative of the internal audit function his year-end report on internal control, the internal audit's remit and any issues arising from the internal audit reviews carried out and give the head of the internal audit function a right of direct access to the Audit Committee.

The internal auditor will have access to the external auditor and the chairperson of the Audit Committee.

## **2.6 External Audit**

With regard to the external audit, the Audit Committee shall in particular:

- (a) consider, supervise and make appropriate recommendations to the Supervisory Board, to be put to the annual general meeting of shareholders of the Company, in relation to the appointment, re-appointment, resignation or removal of the Group's external auditors and to investigate the issues leading to any such resignation and decide whether any action is required;
- (b) oversee the relationship with the external auditor, including (but not limited to):
  - (i) at least once every four years conduct, together with the Supervisory Board, a thorough assessment of the functioning of the external auditor in the different capacities in which he or she acts; the main conclusions of this assessment will be communicated to the general meeting of shareholders for the purposes of assessing the nomination for the appointment of the external auditor;
  - (ii) approval their remuneration, including fees for audit services, and that the level of fees is appropriate to enable an adequate audit to be conducted, and general approval of their terms of engagement;

- (iii) assessing, reviewing and monitoring on an annual basis their independence and objectivity taking into account relevant professional and regulatory requirements and the relationship with the external auditor as a whole; and
  - (iv) assessing annually their qualifications, expertise, resources and the effectiveness of the audit process, which shall include a report from the external auditor on their own internal quality procedures, and monitoring the auditor's compliance with relevant ethical and professional guidance; and
- (c) review and approve the annual audit plan and ensure that it is consistent with the scope of the audit engagement;
  - (d) review the findings of the audit with the external auditor, including but not limited to: (i) a discussion of any significant issues which arose during the audit; (ii) any accounting and audit judgements; (iii) the level of errors identified during the audit; (iv) the basis for the going concern assumption; and (v) their compliance with relevant financial reporting standards and relevant financial and governance reporting requirements;
  - (e) discuss any difficulties, reservations or other matters arising from the external auditors' audits;
  - (f) review any representation letter(s) requested by the external auditors before they are signed by management and the management letter and management's response to the external auditor's findings and recommendations; and
  - (g) determine how the external auditor should be involved in the content and publication of financial reports other than the financial statements;

The Company's external auditor shall communicate with and report his findings to the Audit Committee. The external auditor may request the chairperson of the Audit Committee for permission to attend a meeting of the Audit Committee.

The Audit Committee shall meet with the external auditor as often as it considers appropriate and at least once a year without the Board of Directors being present.

The Audit Committee shall ensure that the external auditor attends the meeting of the Supervisory Board at which his report with respect to the audit of the annual accounts is discussed and at which annual accounts are to be approved or adopted.

## **2.7 Reporting.**

The Audit Committee shall compile a report on its activities to be included in the report of the Supervisory Board for the annual report, which shall include a statement about the Audit Committee's composition, activities, the number of meetings held and the main items dealt with at these meetings.

The chairperson of the Audit Committee shall attend the annual general meeting of shareholders prepared to respond to any shareholder questions on the Audit Committee's activities.

## **CHAPTER 3 MEETINGS OF THE AUDIT COMMITTEE**

### **3.1 Frequency.**

The Audit Committee shall meet at least two times per year, held to coincide with key dates in the financial reporting and audit cycle, at such times and places as determined by the chairperson of the Audit Committee, or whenever one or more of its members have requested a meeting.

Furthermore, the chairperson of the Supervisory Board, the Company's chief executive officer (the *CEO*), the Company's chief financial officer (the *CFO*), if appointed, and the external or internal auditors may request the chairperson of the Audit Committee to call a meeting of the Audit Committee.

### **3.2 Attendance.**

Only members of the Audit Committee have the right to attend Audit Committee meetings. The Audit Committee shall have the right to decide whether, and, if so, when the CEO, CFO, if appointed, the external auditor and/or internal auditor, should attend its meetings. The Audit Committee may also invite other individuals to attend all or part of any Audit Committee meeting.

When the need arises, the external auditor may request the chairperson of the Audit Committee for leave to attend the meeting of the Audit Committee. The external auditor shall in any event attend the meeting of the Supervisory Board, in which the report of the external auditor with respect to the audit of the financial statements shall be discussed, and the financial statements shall be adopted or approved. The external auditor shall receive the financial information underlying the adoption of the quarterly and/or half-yearly figures and other interim financial reports and shall be given the opportunity to respond to all information.

### **3.3 Convocation. Notice.**

Unless otherwise agreed by a majority of the Audit Committee members, notice of each meeting, confirming the venue, the time and date, any dial-in details and the agenda shall be sent to each member of the Audit Committee, any other person required to attend as soon as practicable and in any event no later than five business days before the date of the meeting. In urgent matters, the chairperson of the Audit Committee may determine that agenda-items and/or documents may be submitted to the members of the Audit Committee after the day referred to in the previous sentence but prior to or at the meeting.

### **3.4 Quorum.**

The quorum necessary for the transaction of business shall be a majority of the members who may attend the meeting in person or by telephone or videoconferencing.

A duly convened meeting of the Audit Committee at which a quorum is present shall be competent to exercise any and all of the authorities, powers and discretions vested in or exercisable by the Audit Committee.

### **3.5 Decision-making.**

Decisions must be taken by a simple majority of the members present or represented. In case of an tie vote, the chairperson of the Audit Committee has the casting vote.

Decisions may at all times be taken in a manner other than at a meeting, in writing or otherwise, provided the proposal concerned is submitted to all members of the Audit Committee in respect of whom no conflict of interest exists and none of them objects to the relevant manner of adopting resolutions. Decisions of the Audit Committee adopted outside a meeting must be recorded separately or included in the minutes of the next meeting of the Audit Committee.

### **3.6 Minutes.**

Minutes must be kept of the proceedings at the Audit Committee meetings. The minutes of Audit Committee meetings will state the time and place of the meeting, list the persons attending the meeting, state the existence of any conflict of interest, summarize matters discussed and important accounting and internal control matters questioned in the meeting. The Audit Committee may be assisted by a secretary who shall be appointed and may be dismissed at any time by the Audit Committee. The secretary shall not be a member of the Audit Committee. The secretary of the Audit Committee may keep minutes of each meeting of the Audit Committee. The minutes of Audit Committee meetings shall be signed by the chairperson of the Audit Committee or in its absence, those members of the Audit Committee attending the meeting.

Minutes of Audit Committee meetings shall be circulated promptly to all members of the Audit Committee and, once agreed, to all members of the Supervisory Board, unless a conflict of interest exists.

## **CHAPTER 4 MISCELLANEOUS**

### **4.1 Other Matters.**

The Audit Committee shall have access to sufficient resources in order to carry out its duties and be authorised to seek any information that it requires from any employee of the Group in order to perform its duties.

The Audit Committee may in its sole discretion involve external experts and other advisors as it deems necessary to carry out its duties.

Any and all expenses incurred by the Audit Committee, including any fees for external experts and advisors shall be borne by the Company.

### **4.2 Amendment of the Terms of Reference**

These Terms of Reference may be amended at any time by the Supervisory Board and any such amendment shall be effective as of such date determined by the Supervisory Board. The Supervisory Board may incidentally decide by a resolution not to apply one or more provisions of these Terms of Reference. Such a resolution shall be mentioned in the report of the Audit Committee.

### **4.3 Final provision**

These Terms of Reference is not intended to increase the liability or responsibility of the Supervisory Board or any of its members. Neither these Terms of Reference nor any activity of the Audit Committee shall release the Board of Directors and the external auditors from their duties and responsibilities. In carrying out its function, the Audit Committee is not providing any expert or special assurance as to the Company's financial statements or compliance with laws and regulations, or any professional certification as to the external auditors work.

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