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**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

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**Form F-3**  
**REGISTRATION STATEMENT**  
*UNDER*  
*THE SECURITIES ACT OF 1933*

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**ERYTECH Pharma S.A.**  
(Exact name of registrant as specified in its charter)

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**Not Applicable**  
(Translation of registrant's name into English)

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**France**  
(State or other jurisdiction of  
incorporation or organization)

**Not Applicable**  
(I.R.S. Employer  
Identification Number)

**60 Avenue Rockefeller**  
**69008 Lyon France**  
**Tel: +33 4 78 74 44 38**  
(Address and telephone number of registrant's principal executive offices)

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**ERYTECH Pharma, Inc.**  
**One Main Street, Suite 1150**  
**Cambridge, Massachusetts 02142**  
**+1 857 706 1585**  
(Name, address and telephone number of agent for service)

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*Copies of all communications, including communications sent to agent for service, should be sent to:*

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**APPROXIMATE DATE OF COMMENCEMENT OF PROPOSED SALE TO THE PUBLIC:** From time to time after the effective date of this registration statement.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. ☐

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box. ☒

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

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If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a registration statement pursuant to General Instruction I.C. or a post-effective amendment thereto that shall become effective on filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box. ☐

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.C. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box. ☐

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933.

Emerging growth company ☒

If an emerging growth company that prepares its financial statements in accordance with U.S. GAAP, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards† provided pursuant to Section 7(a)(2)(B) of the Securities Act. ☐

† The term “new or revised financial accounting standard” refers to any update issued by the Financial Accounting Standards Board to its Accounting Standards Codification after April 5, 2012.

### CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered	Proposed Maximum Aggregate Price per Unit	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee(1)
Ordinary shares, €0.10 nominal value per share(2)	(3)	(4)	(4)	—
Warrants	(3)	(4)	(4)	—
Total	(3)		\$100,000,000	\$12,120(5)

- (1) Calculated pursuant to Rule 457(o) under the Securities Act of 1933, as amended, or the Securities Act.
- (2) These ordinary shares are represented by American Depositary Shares, or ADSs, each of which represents one ordinary share of the registrant. ADSs issuable on deposit of the ordinary shares registered hereby have been registered pursuant to a separate registration statement on Form F-6 (File No. 333-201279).
- (3) There are being registered hereunder such indeterminate number of ordinary shares and such indeterminate number of warrants as may be sold by the registrant from time to time at indeterminate prices, in U.S. dollars or the equivalent thereof denominated in foreign currencies, with the maximum aggregate offering price not to exceed \$100,000,000. Any securities registered by this Registration Statement may be sold separately or in combination with other securities registered hereunder. The proposed maximum initial offering price per security will be determined, from time to time, by the registrant in connection with the sale of the securities registered hereunder. The securities registered also include such indeterminate amounts and numbers of ordinary shares as may be issued upon exercise of warrants. Pursuant to Rule 416 under the Securities Act, the ordinary shares represented by ADSs being registered hereunder include such indeterminate number of ordinary shares as may be issuable with respect to the ordinary shares being registered hereunder as a result of stock splits, stock dividends or similar transactions.
- (4) The proposed maximum aggregate offering price per class of security will be determined from time to time by the registrant in connection with the issuance by the registrant of the securities registered hereunder and is not specified as to each class of security pursuant to General Instruction II.C. of Form F-3 under the Securities Act.
- (5) On July 16, 2019, the registrant filed a shelf registration statement on Form F-3 (File No. 333-232669) (the “Prior Registration Statement”) to register securities with an aggregate maximum offering price of \$100,000,000, and paid a \$12,120 registration fee in connection therewith. As of the date of filing of this registration statement, no securities have been sold under the Prior Registration Statement. Pursuant to Rule 415(a)(6) under the Securities Act, the full amount of the registration fee previously paid in connection with the Prior Registration Statement will continue to be applied to such unsold securities in this registration statement, so no registration fee is required to be paid with this registration statement with respect to those securities because they constitute unsold securities being moved from the Prior Registration Statement to this replacement registration statement. Pursuant to Rule 415(a)(6) under the Securities Act, the offering of unsold securities under the Prior Registration Statement will be deemed terminated as of the date of effectiveness of this registration statement.

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

## EXPLANATORY NOTE

This Registration Statement of ERYTECH Pharma S.A. (the “Registrant”) contains two prospectuses:

- a base prospectus which covers the offering, issuance and sale by the Registrant of the securities identified above from time to time in one or more offerings, which together shall have an aggregate initial offering price not to exceed \$100,000,000; and
- a sales agreement prospectus covering the offering, issuance and sale by the Registrant of up to a maximum aggregate offering price of \$30,000,000 (which amount is included in the \$100,000,000 aggregate offering price set forth in the base prospectus) of the Registrant’s American Depositary Shares representing ordinary shares that may be issued and sold under the Sales Agreement, dated September 21, 2020, between the Registrant and Cowen and Company, LLC.

The base prospectus immediately follows this explanatory note. The specific terms of any securities to be offered pursuant to the base prospectus will be specified in one or more prospectus supplements to the base prospectus. The sales agreement prospectus immediately follows the base prospectus.

**The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.**

**SUBJECT TO COMPLETION, DATED SEPTEMBER 21, 2020**

**PROSPECTUS**



**\$100,000,000**

**Ordinary Shares  
American Depositary Shares representing Ordinary Shares  
Warrants to Purchase Ordinary Shares or American Depositary Shares**

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This prospectus will allow us to issue, from time to time at prices and on terms to be determined at or prior to the time of the offering, up to \$100,000,000 of our ordinary shares, including American Depositary Shares, or ADSs, representing ordinary shares, as well as warrants to purchase ordinary shares or ADSs. These securities may be offered individually or in any combination.

This prospectus describes the general terms of these securities and the general manner in which these securities will be offered. We will provide you with the specific terms of any offering in one or more supplements to this prospectus. The prospectus supplements will also describe the specific manner in which these securities will be offered and may also supplement, update or amend information contained in this document. You should read this prospectus and any prospectus supplement, as well as any documents incorporated by reference into this prospectus or any prospectus supplement, carefully before you invest.

Our securities may be sold directly by us to you, through agents designated from time to time or to or through underwriters or dealers. For additional information on the methods of sale, you should refer to the section titled "Plan of Distribution" in this prospectus and in the applicable prospectus supplement. If any underwriters or agents are involved in the sale of our securities with respect to which this prospectus is being delivered, the names of such underwriters or agents and any applicable fees or commissions and over-allotment options will be set forth in a prospectus supplement. The price to the public of such securities and the net proceeds that we expect to receive from such sale will also be set forth in a prospectus supplement.

Our ADSs are listed on the Nasdaq Global Select Market under the symbol "ERYP." On September 17, 2020, the last reported sale price of our ADSs on the Nasdaq Global Select Market was \$7.47 per ADS. The applicable prospectus supplement will contain information, where applicable, as to any other listing, if any, on the Nasdaq Global Select Market or any securities market or other securities exchange of the securities covered by the prospectus supplement. There is currently no market through which warrants may be sold and purchasers may not be able to resell warrants purchased under this prospectus. This may affect the pricing of any warrants in the secondary market, the transparency and availability of trading prices, the liquidity of the warrants and the extent of issuer regulation. Prospective purchasers of our securities are urged to obtain current information as to the market prices of our securities, where applicable.

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**Investing in our securities involves a high degree of risk. Before deciding whether to invest in our securities, you should consider carefully the risks that we have described on page 6 of this prospectus under the caption "[Risk Factors](#)" and under the caption "Risk Factors" in our most recent Annual Report on Form 20-F incorporated by reference in this prospectus. We may also include specific risk factors in supplements to this prospectus under the caption "Risk Factors." This prospectus may not be used to sell our securities unless accompanied by a prospectus supplement.**

**Owning our securities may subject you to tax consequences both in France and in the United States. This prospectus and any applicable prospectus supplement may not describe these tax consequences fully. You should read the tax discussion in this prospectus and any applicable prospectus supplement. In addition, your ability to enforce civil liabilities under U.S. federal securities laws may be affected adversely by the fact that we are incorporated under the laws of France, many of our officers and directors and experts named in this prospectus are residents of France or elsewhere outside of the United States, and a substantial portion of our assets and the assets of such persons are located outside the United States. See "Enforcement of Civil Liabilities."**

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.**

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**The date of this prospectus is \_\_\_\_\_, 2020.**

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## ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement on Form F-3 that we filed with the Securities and Exchange Commission, or SEC, utilizing a “shelf” registration process. Under this shelf registration process, we may offer ordinary shares, including ADSs representing our ordinary shares, and warrants to purchase ordinary shares or ADSs, either individually or in combination, in one or more offerings, with a total aggregate offering price of up to \$100,000,000. This prospectus provides you with a general description of the securities we may offer.

Each time we sell securities under this prospectus, we will provide a prospectus supplement that will contain specific information about the terms of that offering. We may also authorize one or more free writing prospectuses to be provided to you that may contain material information relating to these offerings. The prospectus supplement and any related free writing prospectus that we may authorize to be provided to you may also add, update or change information contained in this prospectus or in any documents that we have incorporated by reference into this prospectus. You should read this prospectus, any applicable prospectus supplement and any related free writing prospectus, together with the information incorporated herein by reference as described under the heading “Incorporation of Certain Information by Reference,” before investing in any of the securities offered.

### **THIS PROSPECTUS MAY NOT BE USED TO CONSUMMATE A SALE OF SECURITIES UNLESS IT IS ACCOMPANIED BY A PROSPECTUS SUPPLEMENT.**

Neither we, nor any agent, underwriter or dealer has authorized any person to give any information or to make any representation other than those contained or incorporated by reference in this prospectus, any applicable prospectus supplement or any related free writing prospectus prepared by or on behalf of us or to which we have referred you. This prospectus, any applicable supplement to this prospectus or any related free writing prospectus do not constitute an offer to sell or the solicitation of an offer to buy any securities other than the registered securities to which they relate, nor do this prospectus, any applicable supplement to this prospectus or any related free writing prospectus constitute an offer to sell or the solicitation of an offer to buy securities in any jurisdiction to any person to whom it is unlawful to make such offer or solicitation in such jurisdiction.

You should not assume that the information contained in this prospectus, any applicable prospectus supplement or any related free writing prospectus is accurate on any date subsequent to the date set forth on the front of the document or that any information we have incorporated by reference is correct on any date subsequent to the date of the document incorporated by reference, even though this prospectus, any applicable prospectus supplement or any related free writing prospectus is delivered, or securities are sold, on a later date.

This prospectus and the information incorporated herein by reference contains summaries of certain provisions contained in some of the documents described herein, but reference is made to the actual documents for complete information. All of the summaries are qualified in their entirety by the actual documents. Copies of some of the documents referred to herein have been filed, will be filed or will be incorporated by reference as exhibits to the registration statement of which this prospectus is a part, and you may obtain copies of those documents as described below under the heading “Where You Can Find More Information.”

Unless otherwise indicated in this prospectus, “ERYTECH,” “the company,” “our company,” “we,” “us” and “our” refer to ERYTECH Pharma S.A. and its consolidated subsidiary.

In this prospectus, references to “euro” or “€” are to the legal currency of the countries of the European Union, including the Republic of France, and references to “dollars,” “U.S. dollars” or “\$” are to the legal currency of the United States of America.

## PROSPECTUS SUMMARY

*The following summary highlights information contained elsewhere in this prospectus and does not contain all of the information that you need to consider in making your investment decision. We urge you to read this entire prospectus, including the more detailed consolidated financial statements, notes to the consolidated financial statements and other information incorporated by reference from our other filings with the SEC or included in any applicable prospectus supplement. Investing in our securities involves risks. Therefore, carefully consider the risk factors set forth in any prospectus supplements and in our most recent filings with the SEC including our Annual Reports on Form 20-F and reports on Form 6-K, as well as other information in this prospectus and any prospectus supplements and the documents incorporated by reference herein or therein, before purchasing our securities. Each of the risk factors could adversely affect our business, operating results and financial condition, as well as adversely affect the value of an investment in our securities.*

### Company Overview

We are a clinical-stage biopharmaceutical company developing innovative therapies for severe forms of cancer and orphan diseases. Leveraging our proprietary ERYCAPS platform, which uses a novel technology to encapsulate therapeutic drug substances inside erythrocytes, or red blood cells, we are developing a pipeline of product candidates for patients with high unmet medical needs. Our lead product candidate eryaspase, which we also refer to as GRASPA, targets the metabolism of cancer cells by depriving the cells of asparagine, an amino acid necessary for their survival and critical in maintaining the cells' rapid growth rate. We are currently developing eryaspase for the treatment of severe solid tumors, including pancreatic cancer and triple negative breast cancer, or TNBC.

In 2018, we initiated a pivotal Phase 3 clinical trial of eryaspase for the treatment of second-line pancreatic cancer patients. Patient enrollment in this trial, which we refer to as the TRYbeCA-1 trial, began in September 2018 in Europe. The U.S. Food and Drug Administration, or FDA, approved our Investigational New Drug, or IND, application in May 2019, and the TRYbeCA-1 trial opened for patient enrollment in the United States in October 2019. We plan to enroll approximately 500 patients at approximately 100 clinical sites in Europe and the United States (including approximately 20 sites in the United States). To date, we have obtained clinical trial authorizations in the United States and from 11 European countries and we are actively recruiting and open for patient enrollment at more than 70 clinical sites in Europe and in the United States. More than 90% of the approximately 500 patients to be enrolled in the trial have been enrolled and treated. Beginning in early April 2020, we observed a reduction in rate of patient enrollment as a result of the COVID-19 global pandemic. We currently expect to complete the targeted enrollment in the fourth quarter of 2020.

We expect to report interim data from the TRYbeCA-1 trial in the first quarter of 2021. The trial will either continue toward a final analysis, expected in the second half of 2021, or will be stopped for superiority if the primary endpoint is met by demonstrating a significant improvement in overall survival. In the event the primary endpoint is met at the time of the interim analysis, we intend to complete the full analysis of the trial results and proceed toward preparing both a Marketing Authorization Application, or MAA, and a Biologics License Application, or BLA, for eryaspase in Europe and the United States, respectively. In April 2020, the FDA granted Fast Track designation to eryaspase as a potential second-line treatment for patients with metastatic pancreatic cancer. The FDA's Fast Track program is designed to facilitate the expedited development and review of drug candidates to treat serious or life-threatening conditions for which there is a demonstration of the potential to address an unmet medical need.

We are supporting a proof-of-concept investigator-sponsored Phase 1 clinical trial evaluating the safety of eryaspase in combination with FOLFIRINOX for the treatment of first-line pancreatic cancer patients, as well as

in other indications of pancreatic cancer. The Georgetown Lombardi Comprehensive Cancer Center is the sponsor of the trial. We expect to enroll the first patient in this trial by the end of 2020.

We launched a proof-of-concept Phase 2 clinical trial in TNBC in Europe, which we refer to as the TRYbeCA-2 trial, in the fourth quarter of 2018. The trial is enrolling patients in three European countries. The primary endpoint is objective response rate. We expect to report final data from the TRYbeCA-2 trial in 2021.

We are also supporting a Phase 2 clinical trial initiated and sponsored by investigators of the Nordic Society of Pediatric Hematology and Oncology, or NOPHO. This trial is evaluating eryaspase in patients with acute lymphoblastic leukemia, or ALL, who experienced hypersensitivity reactions to pegylated L-asparaginase. We reported preliminary findings in June 2020 and expect final data from the NOPHO trial to be available by the end of 2020.

In addition to the encapsulation of L-asparaginase, we believe that our ERYCAPS platform has broad potential application and can be used to encapsulate a wide range of therapeutic agents for which long-circulating therapeutic activity or rapid and specific targeting is desired. For example, we developed erymethionase, a preclinical product candidate which encapsulates methionine-g-lyase in red blood cells and is designed to target the amino acid metabolism of cancer cells and induce tumor starvation. We intend to continue to work on the development of erymethionase as well as potential other therapeutic strategies based on methionine depletion, depending on financial resources and business strategy.

We have also developed two preclinical programs aimed at maximizing the value creation potential of our ERYCAPS program, which we believe may result in attractive partnering opportunities: enzyme replacement (ERYZYME) and immune modulation (ERYMMUNE). As part of our value creation strategy, in June 2019, we entered into a collaboration with SQZ Biotechnologies, a cell therapy company developing novel treatments in multiple therapeutic areas, to focus on the development of novel red blood cell-based therapeutics for the treatment of immuno-oncology and tolerance induction.

## Our Pipeline

Mode of action	Product Candidate or Program	Indication	Discovery	Preclinical	Phase 1	Phase 2	Phase 3/ Pivotal	Next Anticipated Milestone
Cancer metabolism Tumor starvation	eryaspase/GRASPA® (asparaginase)	Pancreatic Cancer 2L	TRYbeCA-1					Interim: Q1 2021 Final: 2H 2021
		Triple Negative Breast Cancer 1L	TRYbeCA-2					Final: 2021
		Acute Lymphoblastic Leukemia 2L	NOPHO IST					Final: YE 2020
		Pancreatic cancer 1L	IST					Launch: 2H 2020
	erymethionase (methionine-γ-lyase)	Solid tumors						
Immune modulation	Immune-oncology Tolerance induction	TBD*						
Enzyme replacement	Therapeutic enzymes	Metabolic diseases						

1L: First Line; 2L: Second Line; IST: Investigator Sponsored Trial; NOPHO: Nordic Society of Pediatric Hematology and Oncology

\* To be determined by SQZ Biotech



## Corporate Information

Our legal and commercial name is ERYTECH Pharma S.A. We were incorporated as a *société par actions simplifiée*, or S.A.S., under the laws of the French Republic on October 26, 2004 and became a *société anonyme*, or S.A., on September 29, 2005. We are registered at the Register of Commerce and Companies of Lyon (*Registre du commerce et des sociétés*) under the number 479 560 013. In April 2014, we incorporated our wholly-owned U.S. subsidiary, ERYTECH Pharma, Inc. Our ordinary shares are listed on Euronext Paris under the ticker symbol “ERYP” and our ADSs are listed on the Nasdaq Global Select Market under the symbol “ERYP.”

Our principal executive offices are located at 60 Avenue Rockefeller, 69008 Lyon, France. Our telephone number at our principal executive offices is +33 4 78 74 44 38. Our agent for service of process in the United States is ERYTECH Pharma, Inc. Our website address is [www.erytech.com](http://www.erytech.com). The reference to our website is an inactive textual reference only and information contained in, or that can be accessed through, our website or any other website cited herein is not part of this prospectus. The U.S. Securities and Exchange Commission maintains a website ([www.sec.gov](http://www.sec.gov)) that contains reports, proxy and information statements and other information regarding registrants, such as ERYTECH, that file electronically with the SEC.

“ERYTECH Pharma,” “ERYCAPS,” “GRASPA,” the ERYTECH logo and other trademarks or service marks of ERYTECH Pharma S.A. appearing in this prospectus are the property of ERYTECH Pharma S.A. or our subsidiary, ERYTECH Pharma, Inc. Solely for convenience, the trademarks, service marks and trade names referred to in this prospectus are listed without the ® and ™ symbols, but such references should not be construed as any indicator that their respective owners will not assert, to the fullest extent under applicable law, their right thereto. All other trademarks, trade names and service marks appearing in this prospectus are the property of their respective owners.

## Implications of Being an Emerging Growth Company and a Smaller Reporting Company

We qualify as an “emerging growth company” as defined in the U.S. Jumpstart Our Business Startups Act of 2012, or the JOBS Act. As an emerging growth company, we may take advantage of specified reduced disclosure and other requirements that are otherwise applicable generally to public companies. These provisions include:

- exemption from the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act of 2002; and
- to the extent that we no longer qualify as a foreign private issuer, (1) reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements and (2) exemptions from the requirements of holding a non-binding advisory vote on executive compensation, including golden parachute compensation.

We may take advantage of these provisions until December 31, 2022 or such earlier time that we no longer qualify as an emerging growth company. We would cease to be an emerging growth company if we have more than \$1.07 billion in total annual gross revenue, have more than \$700 million in market value of our capital stock held by non-affiliates or issue more than \$1.0 billion of non-convertible debt over a three-year period. We may choose to take advantage of some but not all of these reduced burdens. To the extent that we take advantage of these reduced burdens, the information that we provide stockholders may be different than you might obtain from other public companies in which you hold equity interests.

In addition, under the JOBS Act, emerging growth companies can delay adopting new or revised accounting standards until such time as those standards apply to private companies. Since International Financial Reporting Standards make no distinction between public and private companies for purposes of compliance with new or

revised accounting standards, the requirements for our compliance as a private company and as a public company are the same.

We are also a “smaller reporting company” under SEC rules, meaning that the market value of our shares held by non-affiliates is less than \$700 million and our annual revenue was less than \$100 million during our most recently completed fiscal year. We may continue to be a smaller reporting company if either (i) the market value of our shares held by non-affiliates is less than \$250 million or (ii) our annual revenue was less than \$100 million during the most recently completed fiscal year and the market value of our shares held by non-affiliates is less than \$700 million. If we are a smaller reporting company at the time we cease to be an emerging growth company, we may continue to rely on exemptions from certain disclosure requirements that are available to smaller reporting companies. Similar to emerging growth companies, smaller reporting companies have reduced disclosure obligations regarding executive compensation.

### **Implications of Being a Foreign Private Issuer**

We are also considered a “foreign private issuer” under U.S. securities laws. In our capacity as a foreign private issuer, we are exempt from certain rules under the U.S. Securities Exchange Act of 1934, as amended, or the Exchange Act, that impose certain disclosure obligations and procedural requirements for proxy solicitations under Section 14 of the Exchange Act. In addition, our officers, directors and principal shareholders are exempt from the reporting and “short-swing” profit recovery provisions of Section 16 of the Exchange Act and the rules under the Exchange Act with respect to their purchases and sales of our securities. Moreover, we are not required to file periodic reports and financial statements with the SEC as frequently or as promptly as U.S. companies whose securities are registered under the Exchange Act. In addition, we are not required to comply with Regulation FD, which restricts the selective disclosure of material information.

We may take advantage of these exemptions until such time as we are no longer a foreign private issuer. We will remain a foreign private issuer until such time that more than 50% of our outstanding voting securities are held by U.S. residents and any of the following three circumstances applies: (1) the majority of our executive officers or directors are U.S. citizens or residents; (2) more than 50% of our assets are located in the United States; or (3) our business is administered principally in the United States.

### **The Securities We May Offer**

Under this prospectus, we may offer ordinary shares, including ADSs representing our ordinary shares, and warrants to purchase ordinary shares or ADSs, either individually or in any combination, with a total aggregate offering price of up to \$100,000,000, from time to time at prices and on terms to be determined by market conditions at the time of the offering. This prospectus provides you with a general description of the securities we may offer. Each time we offer a type or series of securities under this prospectus, we will provide a prospectus supplement that will describe the specific amounts, prices and other important terms of the securities, including, to the extent applicable:

- designation or classification;
- aggregate principal amount or aggregate offering price;
- maturity, if applicable;
- rates and times of payment of interest or dividends, if any;
- redemption, conversion or sinking fund terms, if any;
- voting or other rights, if any; and
- conversion or exercise prices, if any.

The prospectus supplement also may add, update or change information contained in this prospectus or in documents we have incorporated by reference into this prospectus. However, no prospectus supplement will fundamentally change the terms that are set forth in this prospectus or offer a security that is not registered and described in this prospectus at the time of its effectiveness.

We may sell the securities directly to investors or to or through agents, underwriters or dealers. We, and our agents or underwriters, reserve the right to accept or reject all or part of any proposed purchase of securities. If we offer securities through agents or underwriters, we will include in the applicable prospectus supplement:

- the names of those agents or underwriters;
- applicable fees and commissions to be paid to them;
- details regarding over-allotment options, if any; and
- the net proceeds to us.

**This prospectus may not be used to consummate a sale of any securities unless it is accompanied by a prospectus supplement.**

## **RISK FACTORS**

Investing in our securities involves a high degree of risk. You should carefully review the risks and uncertainties described under the heading “Risk Factors” contained in the applicable prospectus supplement and any related free writing prospectus, and under similar headings in our Annual Report on Form 20-F for the year ended December 31, 2019 as updated by our subsequent filings, some of which are incorporated by reference into this prospectus, before deciding whether to purchase any of the securities being registered pursuant to the registration statement of which this prospectus is a part. Each of the risk factors could adversely affect our business, results of operations, financial condition and cash flows, as well as adversely affect the value of an investment in our securities, and the occurrence of any of these risks might cause you to lose all or part of your investment. Additional risks not presently known to us or that we currently believe are immaterial may also significantly impair our business operations.

## **SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS**

This prospectus and the documents incorporated by reference contain forward-looking statements. These are based on our management's current beliefs, expectations and assumptions about future events, conditions and results and on information currently available to us. Discussions containing these forward-looking statements may be found, among other places, in the sections titled "Information on the Company," "Risk Factors" and "Operating and Financial Review and Prospects" incorporated by reference from our most recent Annual Report on Form 20-F, as well as any amendments thereto, filed with the SEC.

Any statements in this prospectus, or incorporated herein, about our expectations, beliefs, plans, objectives, assumptions or future events or performance are not historical facts and are forward-looking statements. Within the meaning of Section 27A of the Securities Act and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act, these forward-looking statements include statements regarding:

- the development of our lead product candidate, eryaspase, which is also known under the trade name GRASPA in Europe and Israel;
- our ability to obtain and maintain regulatory approval of eryaspase in the indications for which we plan to develop, and any related restrictions, limitations or warnings in the label of an approved drug or therapy;
- the initiation, timing, progress and results of our preclinical studies and clinical trials of eryaspase and any other product candidates we may develop;
- our ability to successfully develop our ERYCAPS platform and advance our pipeline of product candidates;
- the size and growth potential of the markets for our product candidates, if approved, and the rate and degree of market acceptance of our product candidates, including reimbursement that may be received from payors;
- the timing of our regulatory filings for our product candidates, along with regulatory developments in the United States, European Union and other foreign countries;
- our ability to maintain and enter into and successfully complete collaborations, licensing arrangements or in-license or acquire rights to other products, product candidates or technologies;
- our reliance on third parties to manufacture and conduct the clinical trials of eryaspase, and any other product candidates we may develop, which could limit our commercialization efforts or delay or limit their future development or regulatory approval;
- our ability to develop sales, commercialization, marketing and manufacturing capabilities and strategy, including future hiring plans;
- our ability to produce adequate supplies of our product candidates for preclinical and clinical testing and to fulfill our contractual obligations to third-party distributors;
- the impact of the COVID-19 pandemic on our business, operations, strategy, goals and anticipated timelines;
- the effects of increased competition as well as innovations by new and existing competitors in our industry;
- our ability to obtain additional funding for our operations;
- the effects of additional financing activities;
- our ability to maintain, protect and enhance our intellectual property rights and proprietary technologies and to operate our business without infringing the intellectual property rights and proprietary technology of third parties;
- regulatory developments in the United States, Europe and other foreign countries;

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- our ability to attract and retain qualified employees and key personnel;
- our estimates regarding expenses, future revenues, capital requirements and needs for additional financing;
- our planned level of capital expenditures and our belief that our existing cash will be sufficient to fund our operating expenses and capital expenditure requirements until September 2021;
- the uncertainty of economic conditions in certain countries in Europe and Asia, such as those related to the United Kingdom's withdrawal from the European Union, commonly referred to as "Brexit," and general economic conditions; and
- whether or not we are classified as a passive foreign investment company, or PFIC, for current and future periods.

In some cases, you can identify forward-looking statements by terminology such as "anticipate," "believe," "could," "estimate," "expects," "intend," "may," "plan," "potential," "predict," "project," "should," "will," "would" or the negative or plural of those terms, and similar expressions intended to identify statements about the future, although not all forward-looking statements contain these words. These statements involve known and unknown risks, uncertainties and other factors that may cause our actual results, levels of activity, performance or achievements to be materially different from the information expressed or implied by these forward-looking statements.

You should refer to the "Risk Factors" section contained in the applicable prospectus supplement and any related free writing prospectus, and under similar headings in the other documents that are incorporated by reference into this prospectus, for a discussion of important factors that may cause our actual results to differ materially from those expressed or implied by our forward-looking statements. Given these risks, uncertainties and other factors, many of which are beyond our control, we cannot assure you that the forward-looking statements in this prospectus will prove to be accurate, and you should not place undue reliance on these forward-looking statements. Furthermore, if our forward-looking statements prove to be inaccurate, the inaccuracy may be material. In light of the significant uncertainties in these forward-looking statements, you should not regard these statements as a representation or warranty by us or any other person that we will achieve our objectives and plans in any specified time frame, or at all.

Except as required by law, we assume no obligation to update these forward-looking statements publicly, or to revise any forward-looking statements to reflect events or developments occurring after the date of this prospectus, even if new information becomes available in the future.

## **OFFER STATISTICS AND EXPECTED TIMETABLE**

We may sell from time to time pursuant to this prospectus (as may be detailed in a prospectus supplement) an indeterminate number of ordinary shares, including ADSs representing our ordinary shares, and warrants to purchase ordinary shares or ADSs, either individually or in combination, as shall have a maximum aggregate offering price of up to \$100,000,000. The actual price per share or per security of the securities that we will offer pursuant hereto will depend on a number of factors that may be relevant as of the time of offer. See “Plan of Distribution.”

**CAPITALIZATION**

The following table presents our total capitalization and cash and cash equivalents as of June 30, 2020. You should read the financial data in the following table in conjunction with our financial statements and related notes incorporated by reference into this prospectus.

	<b>As of June 30, 2020</b>
	<b>(in thousands)</b>
Cash and cash equivalents	€ 45,433
Conditional advances	€ 4,354
Other financial liabilities	38
Total debt	4,392
Equity attributable to shareholders:	
Ordinary shares, €0.10 nominal value per share, 17,956,115 shares issued and outstanding	1,796
Premiums related to share capital	108,315
Reserves	(25,368)
Translation reserve	1,328
Net loss for the period	(34,962)
Total shareholders' equity	51,109
Total capitalization	€ 55,501

The outstanding share information as of June 30, 2020 excludes:

- 1,575,511 Ordinary shares issuable upon the exercise of founder's share warrants (BSPCE), share purchase warrants (BSA), free shares and stock options granted but not exercised as of June 30, 2020 at a weighted average exercise price of €10.47 (\$11.77) per ordinary share based on the exchange rate in effect as of June 30, 2020 (this weighted average exercise price does not include the 533,575 ordinary shares issuable upon the vesting of outstanding free shares that may be issued for free with no exercise price paid);
- ordinary shares that may be issued from time to time upon conversion of convertible bonds (OCABSA) issued after June 30, 2020 or upon exercise of share warrants that may be issued with such convertible bonds;
- 900,000 ordinary shares reserved for future issuance under our share-based compensation plans and other delegations of authority from our shareholders as of June 30, 2020; and
- 20,000,000 ordinary shares reserved pursuant to a delegation of authority from our shareholders for share capital increases by us through rights issuances and public or private offerings as of June 30, 2020.



## **OFFER AND LISTING DETAILS**

We may sell from time to time pursuant to this prospectus (as may be detailed in a prospectus supplement) an indeterminate number of ordinary shares, including ADSs representing our ordinary shares, and warrants to purchase ordinary shares or ADSs, either individually or in combination, as shall have a maximum aggregate offering price of up to \$100,000,000. The actual price per share or per security of the securities that we will offer pursuant hereto will depend on a number of factors that may be relevant as of the time of offer. See “Plan of Distribution.”

Our ADSs have been listed on the Nasdaq Global Select Market under the symbol “ERYP” since November 10, 2017. Our ordinary shares have been listed on Euronext Paris under the symbol “ERYP” since May 7, 2013. Prior to that date, there was no public trading market for our ADSs or our ordinary shares.

There is currently no public trading market for our warrants.

## **USE OF PROCEEDS**

We will retain broad discretion over the use of the net proceeds from the sale of the securities offered hereby. Except as described in any applicable prospectus supplement or in any free writing prospectuses that we may authorize to be provided to you in connection with a specific offering, we currently intend to use the net proceeds from the sale of the securities offered hereby to fund the research and development of our product candidates, for working capital and for general corporate purposes. We may also use a portion of the net proceeds to invest in or acquire businesses or technologies that we believe are complementary to our own, although we have no current plans, commitments or agreements with respect to any acquisitions as of the date of this prospectus. We will set forth in the applicable prospectus supplement or free writing prospectus our intended use for the net proceeds received from the sale of any securities sold pursuant to the prospectus supplement or free writing prospectus. Pending these uses, we intend to invest the net proceeds in investment-grade, interest-bearing securities.

## PLAN OF DISTRIBUTION

We may offer securities under this prospectus from time to time pursuant to underwritten public offerings, negotiated transactions, block trades or a combination of these methods. We may sell the securities (1) through underwriters or dealers, (2) through agents or (3) directly to one or more purchasers, or through a combination of such methods. We may distribute the securities from time to time in one or more transactions, in accordance with applicable law and regulations and existing shareholders delegations of authority, at:

- a fixed price or prices, which may be changed from time to time;
- market prices prevailing at the time of sale;
- prices related to the prevailing market prices; or
- negotiated prices.

We may directly solicit offers to purchase the securities being offered by this prospectus. We may also designate agents to solicit offers to purchase the securities from time to time, and may enter into arrangements for “at-the-market,” equity line or similar transactions. We will name in a prospectus supplement any underwriter or agent involved in the offer or sale of the securities.

If we utilize a dealer in the sale of the securities being offered by this prospectus, we will sell the securities to the dealer, as principal. The dealer may then resell the securities to the public at varying prices to be determined by the dealer at the time of resale.

If we utilize an underwriter in the sale of the securities being offered by this prospectus, we will execute an underwriting agreement with the underwriter at the time of sale, and we will provide the name of any underwriter in the prospectus supplement which the underwriter will use to make resales of the securities to the public. In connection with the sale of the securities, we, or the purchasers of the securities for whom the underwriter may act as agent, may compensate the underwriter in the form of underwriting commissions. The underwriter may sell the securities to or through dealers, and the underwriter may compensate those dealers in the form of concessions or commissions.

With respect to underwritten public offerings, negotiated transactions and block trades, we will provide in the applicable prospectus supplement information regarding any compensation we pay to underwriters, dealers or agents in connection with the offering of the securities, and any concessions or commissions allowed by underwriters to participating dealers. Underwriters, dealers and agents participating in the distribution of the securities may be deemed to be underwriters within the meaning of the Securities Act, and any commissions received by them and any profit realized by them on resale of the securities may be deemed to be underwriting commissions. We may enter into agreements to indemnify underwriters, dealers and agents against civil liabilities, including liabilities under the Securities Act, or to contribute to payments they may be required to make in respect thereof.

If so indicated in the applicable prospectus supplement, we will authorize underwriters, dealers or other persons acting as our agents to solicit offers by certain institutions to purchase securities from us pursuant to delayed delivery contracts providing for payment and delivery on the date stated in each applicable prospectus supplement. Each contract will be for an amount not less than, and the aggregate amount of securities sold pursuant to such contracts shall not be less nor more than, the respective amounts stated in each applicable prospectus supplement. Institutions with whom the contracts, when authorized, may be made include commercial and savings banks, insurance companies, pension funds, investment companies, educational and charitable institutions and other institutions, but shall in all cases be subject to our approval. Delayed delivery contracts will not be subject to any conditions except that:

- the purchase by an institution of the securities covered under that contract shall not at the time of delivery be prohibited under the laws of the jurisdiction to which that institution is subject; and

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- if the securities are also being sold to underwriters acting as principals for their own account, the underwriters shall have purchased such securities not sold for delayed delivery. The underwriters and other persons acting as our agents will not have any responsibility in respect of the validity or performance of delayed delivery contracts.

One or more firms, referred to as “remarketing firms,” may also offer or sell the securities, if a prospectus supplement so indicates, in connection with a remarketing arrangement upon their purchase. Remarketing firms will act as principals for their own accounts or as our agents. These remarketing firms will offer or sell the securities in accordance with the terms of the securities. Each prospectus supplement will identify and describe any remarketing firm and the terms of its agreement, if any, with us and will describe the remarketing firm’s compensation. Remarketing firms may be deemed to be underwriters in connection with the securities they remarket. Remarketing firms may be entitled under agreements that may be entered into with us to indemnification by us against certain civil liabilities, including liabilities under the Securities Act, and may be customers of, engage in transactions with or perform services for us in the ordinary course of business.

Certain underwriters may use this prospectus and any accompanying prospectus supplement for offers and sales related to market-making transactions in the securities. These underwriters may act as principal or agent in these transactions, and the sales will be made at prices related to prevailing market prices at the time of sale. Any underwriters involved in the sale of the securities may qualify as “underwriters” within the meaning of Section 2(a)(11) of the Securities Act. In addition, the underwriters’ commissions or concessions may qualify as underwriters’ compensation under the Securities Act and the rules of the Financial Industry Regulatory Authority, Inc., or FINRA.

ADSs representing our ordinary shares sold, or reserved for issuance upon the exercise of warrants sold, pursuant to the registration statement of which this prospectus is a part will be authorized for listing and trading on the Nasdaq Global Select Market. The applicable prospectus supplement will contain information, where applicable, as to any other listing, if any, on the Nasdaq Global Select Market or any securities market or other securities exchange of the securities covered by the prospectus supplement. Underwriters may make a market in our ADSs, but will not be obligated to do so and may discontinue any market making at any time without notice. We can make no assurance as to the liquidity of or the existence, development or maintenance of trading markets for any of the securities.

In order to facilitate the offering of the securities, certain persons participating in the offering may engage in transactions that stabilize, maintain or otherwise affect the price of the securities. This may include over-allotments or short sales of the securities, which involve the sale by persons participating in the offering of more securities than we sold to them. In these circumstances, these persons would cover such over-allotments or short positions by making purchases in the open market or by exercising their over-allotment option. In addition, these persons may stabilize or maintain the price of the securities by bidding for or purchasing the applicable security in the open market or by imposing penalty bids, whereby selling concessions allowed to dealers participating in the offering may be reclaimed if the securities sold by them are repurchased in connection with stabilization transactions. The effect of these transactions may be to stabilize or maintain the market price of the securities at a level above that which might otherwise prevail in the open market. These transactions may be discontinued at any time.

The underwriters, dealers and agents may engage in other transactions with us, or perform other services for us, in the ordinary course of their business.

## DESCRIPTION OF SHARE CAPITAL

*The following description of our share capital summarizes certain provisions of our bylaws. Such summaries do not purport to be complete and are subject to, and are qualified in their entirety by reference to, all of the provisions of our bylaws, a copy of which has been filed as an exhibit to the registration statement of which this prospectus forms a part.*

### General

As of December 31, 2019, our outstanding share capital consisted of a total of 17,940,035 ordinary shares, with nominal value €0.10 per share. As of June 30, 2020, our outstanding share capital had increased to 17,956,115 ordinary shares. As of August 31, 2020, our outstanding share capital had increased to 18,301,621 ordinary shares. In general, each shareholder is entitled to one vote per share at any general shareholders' meeting. Pursuant to our bylaws, however, a double voting right is attached to each registered share which is held in the name of the same shareholder for at least two years.

Under French law, our bylaws set forth only our issued and outstanding share capital as of the date of the bylaws. Our fully diluted share capital represents all issued and outstanding shares, as well as all potential shares which may be issued upon exercise of outstanding founder's share warrants and share warrants, as approved by our shareholders and granted by our board of directors.

### Reconciliation of the Number of Ordinary Shares Outstanding through August 31, 2020

Shares outstanding at December 31, 2017	17,937,559
Number of ordinary shares issued in connection with the exercise of employee warrants, share options and non-employee warrants	2,476
Shares outstanding at December 31, 2018	17,940,035
Number of ordinary shares issued in connection with the exercise of employee warrants, share options and non-employee warrants	—
Shares outstanding at December 31, 2019	17,940,035
Number of ordinary shares issued in connection with the exercise of founder's share warrants (BSPCE)	16,080
Shares outstanding at June 30, 2020	17,956,115
Number of ordinary shares issued in connection with the conversion of convertible bonds	345,506
Shares outstanding at August 31, 2020	18,301,621

### Shareholder Authorizations Regarding Share Capital

At a combined general meeting of shareholders held on June 26, 2020, our board of directors received the following authorizations from shareholders:

- delegation of authority to implement a share buyback program within certain agreed-upon financial limits, whereby the Company can buy back up to 5% of the amount of equity capital existing on June 26, 2020;
- delegation of authority to reduce our share capital by canceling certain treasury shares held by the Company for a period of 26 months from June 26, 2020;
- delegations of authority to increase our share capital by issuing ordinary shares for the maximum duration permitted under French law (18 to 26 months depending of the delegations) within a maximum aggregate potential dilution of 20,000,000 ordinary shares for which delegations our shareholders waived their preferential subscription rights with respect to all such issuances (except when conducted through rights issues); and
- delegations of authority to grant warrants (*bons de souscription d'actions*, or BSAs), free shares (*actions gratuites*) and/or stock options (*options de souscription et/ou d'achat d'actions*), to our

employees, executive officers and directors and, for the BSAs, to our consultants for the maximum duration permitted under French law (18 to 38 months depending on the delegations) within a maximum aggregate potential dilution of 900,000 ordinary shares to which the BSAs, free shares and stock options issued shall grant, for which delegations our shareholders waived their preferential subscription rights with respect to all such grants.

## History of Securities Issuances

From January 1, 2017 through August 31, 2020, the following events have changed the number and classes of our issued and outstanding shares:

- On April 19, 2017, we issued an aggregate of 3,000,000 ordinary shares in a private placement at a purchase price of €23.50 per share.
- On November 14, 2017, we issued an aggregate of 6,180,137 ordinary shares in a global offering, including the full exercise of the underwriters' option to purchase additional shares. The global offering consisted of a U.S. initial public offering of 5,389,021 ADSs, each representing one ordinary share, and a concurrent private placement in Europe and other countries outside of the United States and Canada of 791,116 ordinary shares.
- In July 2020, we issued an aggregate of 125,728 ordinary shares in connection with the conversion of convertible bonds at a weighted average purchase price of €6.76 per share.
- In August 2020, we issued an aggregate of 219,778 ordinary shares in connection with the conversion of convertible bonds at a weighted average purchase price of €5.92 per share.
- From January 1, 2017 through August 31, 2020, founder's share warrants and share warrants were exercised at a weighted average exercise price of €9.43 per share. Pursuant to these exercises and to the definitive grant of 10,050 free shares during this period, we issued an aggregate of 43,330 ordinary shares.

## Key Provisions of Our Bylaws and French Law Affecting Our Ordinary Shares

*The description below reflects the terms of our bylaws and summarizes the material rights of holders of our ordinary shares under French law. Please note that this is only a summary and is not intended to be exhaustive. For further information, please refer to the full text of our bylaws, a copy of which has been filed as an exhibit to the registration statement of which this prospectus forms a part.*

### Corporate Purpose (Article 3 of the Bylaws)

Our corporate purpose in France and abroad includes the research, manufacturing, importation, distribution and marketing of investigational drugs, devices and medical equipment, and the provision of advisory services associated with these activities. We are authorized to engage in all financial, commercial, industrial, civil, property or security-related transactions that directly or indirectly relate to accomplishing the purposes stated above.

Our company may act directly or indirectly and do all these operations in all countries, for or on behalf of third parties, either alone or with partnership with third parties, association, group or creation of new companies, contribution, sponsorship, subscription, purchase of shares or rights, mergers, alliances, undeclared partnership or taking or giving in lease or in management of all property and rights or otherwise.

### Directors (Articles 17-22 of the Bylaws)

*Duties of the Board.* Except for powers given to our shareholders by law and within the limit of the corporate purpose, our board of directors is responsible for all matters relating to the successful operations of our company, including but not limited to, social and environmental issues associated with our company's activities, and, through its resolutions, governs matters involving the company.

***Appointment and Term.*** Our board of directors must be composed of at least three members, but may not exceed 18 members, subject to the dispensation established by law in the event of merger. In appointing and electing directors, we seek a balanced representation of women and men. The term of a director is 3 years, and directors may be re-elected at our annual ordinary share meetings; however, a director over the age of 75 may not be appointed if such appointment would result in the number of directors over the age of 75 constituting more than one-third of the board. The number of directors who are also our employees cannot exceed one-third of the board. Directors may be natural persons or legal entities except for the chairman of the board who must be a natural person. Legal entities appointed to the board must designate a permanent representative. If a director dies or resigns between annual meetings, the board may appoint a temporary director to fill the vacancy, subject to ratification at the next ordinary general meeting, or, if such vacancy results in a number of directors below three, the board must call an ordinary general meeting to fill the vacancy. If a director is absent at more than four consecutive meetings or placed with guardians, he or she will be deemed to have automatically resigned.

***Organization.*** The board must elect a chairman from among the board members. The chairman must be a natural person, age 75 or younger, and may be removed by the board at any time. The board may also elect a natural person as vice president to preside in the chairman's absence and may designate up to two non-voting board observers.

***Deliberations.*** At least half of the number of directors in office must be present to constitute a quorum. Decisions are made by a majority of the directors present or represented and, if there is a tie, the vote of the chairman will carry the decision. Meetings may be held as often as required; however, the chairman is required to call a meeting with a determined agenda upon the request of at least one-third of the directors if the board has not met for more than two months. French law and our charter and bylaws allow directors to attend meetings in person or, to the extent permitted by applicable law and with specified exceptions in our bylaws, by videoconference or other telecommunications arrangements. The board of directors can also make decisions by way of written consultation under the conditions provided by law.

***Directors' Voting Powers on Proposal, Arrangement or Contract in which any Director is Materially Interested.*** Under French law, any agreement entered into, directly or through an intermediary, between us and any director that is not entered into in the ordinary course of our business and upon standard market terms is subject to the prior authorization of the board of directors. The interested director cannot vote on such decision. The same provision applies to agreements between us and another company, except where such company is our wholly owned subsidiary, if one of our directors is the owner or a general partner, manager, director, general manager or member of the executive or supervisory board of the other company, as well as to agreements in which one of our directors has an indirect interest.

***Directors' Compensation.*** Director compensation for attendance at board meetings is determined at the annual ordinary general meeting. The general meeting may allocate an annual fixed sum and the board of directors allocates this sum among its members as it sees fit. In addition, the board of directors may allocate exceptional compensation (*rémunération exceptionnelle*) for missions or mandates entrusted to its members, for example as member or chair of one or more board committees, this remuneration is subject to the provisions regarding related-parties agreements. At our combined general meetings of shareholders held on June 27, 2017, June 28, 2018, June 21, 2019 and June 26, 2020, shareholders set the total annual attendance fees to be distributed among non-employee directors at €280 thousand for 2017 and 2018, €400 thousand for 2019 and €425 thousand for 2020.

***Board of Directors' Borrowing Powers.*** There are currently no limits imposed on the amounts of loans or borrowings that the board of directors may approve.

***Directors' Share Ownership Requirements.*** Our directors are not required to own any of our shares.

***Rights, Preferences and Restrictions Attaching to Ordinary Shares (Articles 9, 16, 30, 33 and 34 of the Bylaws)***

***Dividends.*** We may only distribute dividends out of our distributable profits, plus any amounts held in our reserves that the shareholders decide to make available for distribution, other than those reserves that are specifically required by law.

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*“Distributable Profits”* consist of our statutory net profit in each fiscal year, calculated in accordance with accounting standards applicable in France, as increased or reduced by any profit or loss carried forward from prior years, less any contributions to the reserve accounts pursuant to French law.

*Legal Reserve.* Pursuant to French law, we must allocate 5% of our statutory net profit for each year to our legal reserve fund before dividends may be paid with respect to that year. Funds must be allocated until the amount in the legal reserve is equal to 10% of the aggregate par value of the issued and outstanding share capital.

*Approval of Dividends.* Pursuant to French law, our board of directors may propose a dividend for approval by the shareholders at the annual ordinary general meeting.

Upon recommendation of our board of directors, our shareholders may decide to allocate all or part of any distributable profits to special or general reserves, to carry them forward to the next fiscal year as retained earnings or to allocate them to the shareholders as dividends. However, dividends may not be distributed when our net assets are or would become as a result of such distribution lower than the amount of the share capital plus the amount of the legal reserves which, under French law, may not be distributed to shareholders. The amount of our share capital plus the amount of our legal reserves which may not be distributed was equal to €1,795,611.50 at June 26, 2020.

Our board of directors may distribute interim dividends after the end of the fiscal year but before the approval of the financial statements for the relevant fiscal year when the interim balance sheet, established during such year and certified by an auditor, reflects that we have earned distributable profits since the close of the last financial year, after recognizing the necessary depreciation and provisions and after deducting prior losses, if any, and the sums to be allocated to reserves, as required by law or the bylaws, and including any retained earnings. The amount of such interim dividends may not exceed the amount of the profit so defined.

Pursuant to French legislation, if a dividend is declared we may be required to pay a dividend tax in an amount equal to 3% of the aggregate dividend paid by us. However, the European Court of Justice, or ECJ, has ruled that the 3% dividend tax may not be applied to redistribution of dividends we receive from our subsidiaries established in another Member State of the EU, in that it creates double taxation of profits made within the EU as prohibited by Article 9 of the Parent-Subsidiary directive (ECJ, 1<sup>st</sup> ch. May 17, 2017, case C-365/16 AFEP).

*Distribution of Dividends.* Dividends are distributed to shareholders *pro rata* according to their respective holdings of shares. In the case of interim dividends, distributions are made to shareholders on the date set by our board of directors during the meeting in which the distribution of interim dividends is approved. The actual dividend payment date is decided by the shareholders at an ordinary general shareholders’ meeting or by our board of directors in the absence of such a decision by the shareholders. Shareholders that own shares on the actual payment date are entitled to the dividend.

Shareholders may be granted an option to receive dividends in cash or in shares, in accordance with legal conditions. The conditions for payment of dividends in cash shall be set at the shareholders’ meeting or, failing this, by the board of directors.

*Timing of Payment.* Pursuant to French law, dividends must be paid within a maximum of nine months after the close of the relevant fiscal year, unless extended by court order. Dividends not claimed within five years after the payment date shall be deemed to expire and revert to the French state.

*Voting Rights.* Each share shall entitle its holder to vote and be represented in the shareholders’ meetings in accordance with the provisions of French law and of our bylaws. Ownership of one share implies, ipso jure, adherence to our bylaws and the decisions of the shareholders’ meeting.

In general, each shareholder is entitled to one vote per share at any general shareholders’ meeting. Pursuant to our bylaws, however, a double voting right is attached to each registered share which is held in the name of the same shareholder for at least two years. Under French law, ordinary bearer shares are not eligible for double



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voting rights. Purchasers of ADSs or of ordinary shares deposited with the depositary to receive ADSs, will be unlikely to meet the requirements to have double voting rights.

Under French law, treasury shares or shares held by entities controlled by us are not entitled to voting rights and do not count for quorum purposes.

*Rights to Share in Our Profit.* Each share entitles its holder to a portion of the corporate profits and assets proportional to the amount of share capital represented thereby.

*Rights to Share in the Surplus in the Event of Liquidation.* If we are liquidated, any assets remaining after payment of the debts, liquidation expenses and all of the remaining obligations will first be used to repay in full the par value of our shares. Any surplus will be distributed pro rata among shareholders in proportion to the number of shares respectively held by them, taking into account, where applicable, of the rights attached to shares of different classes.

*Repurchase and Redemption of Shares.* Under French law, we may acquire our own shares. Such acquisition may be challenged on the ground of market abuse regulations. However, Regulation (EU) No. 596/2014 of April 16, 2014 provides for safe harbor exemptions when the acquisition is made for one of the following purposes:

- to decrease our share capital, provided that such a decision is not driven by losses and that a purchase offer is made to all shareholders on a pro rata basis, with the approval of the shareholders at an extraordinary general meeting; in this case, the shares repurchased must be cancelled within one month from the expiry of the purchase offer;
- to meet obligations arising from debt securities that are exchangeable into equity instruments;
- to provide shares for distribution to employees or managers under a profit-sharing, free share or share option plan; in this case the shares repurchased must be distributed within 12 months from their repurchase failing which they must be cancelled; or
- we benefit from a simple exemption when the acquisition is made under a liquidity contract complying with the general regulations of, and market practices accepted by the French Financial Markets Authority (AMF).

All other purposes, and especially share buy-backs made for external growth operations in pursuance of Article L. 225-209 of the French Commercial Code, while not forbidden, must be pursued in strict compliance of market manipulation and insider dealing rules.

Under the Market Abuse Regulation 596/2014 of August 16, 2014 (MAR) and in accordance with the General Regulations of the AMF, a corporation shall report to the competent authority of the trading value on which the shares have been admitted to trading or are traded, no later than by the end of the seventh daily market session following the date of the execution of the transaction, all the transactions relating to the buy-back program, in a detailed form and in an aggregated form.

No such repurchase of shares may result in us holding, directly or through a person acting on our behalf, more than 10% of our issued share capital. Shares repurchased by us continue to be deemed “issued” under French law but are not entitled to dividends or voting rights so long as we hold them directly or indirectly, and we may not exercise the preemptive rights attached to them.

*Sinking Fund Provisions.* Our bylaws do not provide for any sinking fund provisions.

*Liability to Further Capital Calls.* Shareholders are liable for corporate liabilities only up to the par value of the shares they hold; they are not liable to further capital calls.

*Requirements for Holdings Exceeding Certain Percentages.* None, except as described below under the sections of this prospectus titled “Declaration of Crossing of Ownership Thresholds (Article 9 of the Bylaws)” and “Form, Holding and Transfer of Shares (Articles 13 and 15 of the Bylaws)—Ownership of Shares by Non-French Persons.”

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### *Actions Necessary to Modify Shareholders' Rights*

Shareholders' rights may be modified as allowed by French law. Only the extraordinary shareholders' meeting is authorized to amend any and all provisions of our bylaws. It may not, however, increase shareholder commitments without the prior approval of each shareholder.

### *Special Voting Rights of Warrant Holders*

Under French law, the holders of warrants of the same class (i.e., warrants that were issued at the same time and with the same rights), including founder's warrants, are entitled to vote as a separate class at a general meeting of that class of warrant holders under certain circumstances, principally in connection with any proposed modification of the terms and conditions of the class of warrants or any proposed issuance of preferred shares or any modification of the rights of any outstanding class or series of preferred shares.

### ***Rules for Admission to and Calling Annual Shareholders' Meetings and Extraordinary Shareholders' Meetings (Section IV of the Bylaws)***

*Access to, Participation in and Voting Rights at Shareholders' Meetings.* Shareholders' meetings are composed of all shareholders, regardless of the number of shares they hold. Each shareholder has the right to attend the meetings and participate in the discussions (1) personally; (2) by granting proxy to any individual or legal entity of his choosing; (3) by sending a proxy to the company without indication of the mandate; (4) by voting by correspondence; or (5) at the option of the board of directors at the time the meeting is called, by videoconference or another means of telecommunication, including internet, in accordance with applicable laws that allow identification. The board of directors organizes, in accordance with legal and regulatory requirements, the participation and vote of these shareholders at the meeting, assuring, in particular, the effectiveness of the means of identification.

Participation in shareholders' general meetings, in any form whatsoever, is subject to registration or registration of shares under the conditions and time limits provided for applicable laws.

The final date for returning voting ballots by correspondence is set by the board of directors and disclosed in the notice of meeting published in the French Journal of Mandatory Statutory Notices, or BALO (*Bulletin des Annonces Légales Obligatoires*). This date cannot be earlier than three days prior to the meeting unless otherwise provided in the bylaws. Our bylaws provide that the board of directors has the option to accept the voting ballots by correspondence beyond the limit set by applicable laws.

A shareholder who has voted by correspondence will no longer be able to participate directly in the meeting or to be represented. In the case of returning the proxy form and the voting by correspondence form, the proxy form is taken into account, subject to the votes cast in the voting by correspondence form.

A shareholder may be represented at meetings by any individual or legal entity by means of a proxy form which we send to such shareholder either at the shareholder's request or at our initiative. A shareholder's request for a proxy form must be received at the registered office at least five days before the date of the meeting. The proxy is only valid for a single meeting or for successive meetings convened with the same agenda. It can also be granted for two meetings, one ordinary, and the other extraordinary, held on the same day or within a period of fifteen days.

A shareholder may vote by correspondence by means of a voting form, which we send to such shareholder either at the shareholder's request or at our initiative, or which we include in an appendix to a proxy voting form under the conditions provided for by current laws and requirements. A shareholder's request for a voting form must be received at the registered office at least six days before the date of the meeting. The voting form is also available on our website at least 21 days before the date of the meeting. The voting form must be recorded by us

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three days prior to the shareholders' meeting, in order to be taken into consideration. The voting by correspondence form addressed by a shareholder is only valid for a single meeting or for successive meetings convened with the same agenda.

To better understand the voting rights of the ADSs, you should carefully read the section in this prospectus titled "Description of American Depositary Shares—Voting Rights."

*Notice of Annual Shareholders' Meetings.* Shareholders' meetings are convened by our board of directors, or, failing that, by the statutory auditors, or by a court appointed agent or liquidator in certain circumstances. Meetings are held at our registered offices or at any other location indicated in the meeting announcement (*avis de réunion*). A meeting announcement is published in the BALO at least 35 days prior to a meeting, as well as on our website at least 21 days prior to the meeting. In addition to the particulars relative to the company, it indicates, notably, the meeting's agenda and the draft resolutions that will be presented. The requests for recording of issues or draft resolutions on the agenda must be addressed to the company under the conditions provided for in the current legislation.

Subject to special legal provisions, the convening notice (*avis de convocation*) is sent out at least 15 days prior to the date of the meeting, by means of a notice inserted both in a legal announcement bulletin of the registered office department and in the BALO. Further, the holders of registered shares for at least a month at the time of the latest of the insertions of the convening notice shall be summoned individually, by regular letter (or by registered letter if they request it and include an advance of expenses) sent to their last known address. This notice may also be transmitted by electronic means of telecommunication, in lieu of any such mailing, to any shareholder requesting it beforehand by registered letter with acknowledgment of receipt in accordance with legal and regulatory requirements, specifying his e-mail address. The latter may at any time expressly request by registered letter to the Company with acknowledgment of receipt that the aforementioned means of telecommunication should be replaced in the future by a mailing.

The convening notice must also indicate the conditions under which the shareholders may vote by correspondence and the places and conditions in which they can obtain voting forms by mail.

The convening notice may be addressed, where appropriate, with a proxy form and a voting by correspondence form, under the conditions specified in our bylaws, or with a voting by correspondence form alone, under the conditions specified in our bylaws. When the shareholders' meeting cannot deliberate due to the lack of the required quorum, the second meeting must be called at least ten days in advance in the same manner as used for the first notice.

*Agenda and Conduct of Annual Shareholders' Meetings.* The agenda of the shareholders' meeting shall appear in the convening notice of the meeting and is set by the author of the notice. The shareholders' meeting may only deliberate on the items on the agenda except for the removal of directors and the appointment of their successors which may be put to vote by any shareholder during any shareholders' meeting. Pursuant to French law and our current share capital, one or more shareholders representing 5% of our share capital may request the inclusion of items or proposed resolutions on the agenda. Such request must be received at the latest on the 25<sup>th</sup> day preceding the date of the shareholders' meeting, and in any event no later than the 20<sup>th</sup> day following the date of the shareholders' meeting announcement.

Shareholders' meetings shall be chaired by the Chairman of the board of directors or, in his or her absence, by a Deputy Chairman or by a director elected for this purpose. Failing that, the meeting itself shall elect a Chairman. Vote counting shall be performed by the two members of the meeting who are present and accept such duties, who represent, either on their own behalf or as proxies, the greatest number of votes.

*Ordinary Shareholders' Meeting.* Ordinary shareholders' meetings are those meetings called to make any and all decisions that do not amend our bylaws. An ordinary meeting shall be convened at least once a year within six

months of the end of each fiscal year in order to approve the annual and consolidated accounts for the relevant fiscal year or, in case of postponement, within the period established by court order. Upon first notice, the meeting may validly deliberate only if the shareholders present or represented by proxy or voting by mail represent at least one-fifth of the shares entitled to vote. Upon second notice, no quorum is required. Decisions are made by a majority of the votes cast by the shareholders present, or represented by proxy, or voting by mail. Abstentions will have the same effect of a “no” vote. In addition, pursuant to a recent AMF recommendation, French listed companies may be required to conduct a consultation of the ordinary shareholders meeting prior to the disposal of the majority of their assets, under certain circumstances.

*Extraordinary Shareholders’ Meeting.* Our bylaws may only be amended by approval at an extraordinary shareholders’ meeting. Our bylaws may not, however, be amended to increase shareholder commitments without the approval of each shareholder. Subject to the legal provisions governing share capital increases from reserves, profits or share premiums, the resolutions of the extraordinary meeting shall be valid only if the shareholders present, represented by proxy or voting by mail represent at least one-fourth of all shares entitled to vote upon first notice, or one-fifth upon second notice. If the latter quorum is not reached, the second meeting may be postponed to a date no later than two months after the date for which it was initially called. Decisions are made by a two-thirds majority of the votes cast by the shareholders present, represented by proxy, or voting by mail. Abstentions will have the same effect of a “no” vote.

#### ***Provisions Having the Effect of Delaying, Deferring or Preventing a Change in Control of Our Company***

Provisions contained in our bylaws and French corporate law could make it more difficult for a third-party to acquire us, even if doing so might be beneficial to our shareholders. These provisions include the following:

- under French law, the owner of 90% of the share capital or voting rights of a public company listed on a regulated market in a Member State of the European Union or in a state party to the EEA Agreement, including from the main French Stock Exchange, has the right to force out minority shareholders following a tender offer made to all shareholders;
- under French law, a non-resident of France as well as any French entity controlled by non-residents of France may have to file a declaration for statistical purposes with the Bank of France (*Banque de France*) within 20 working days following the date of certain direct foreign investments in us, including any purchase of our ADSs. In particular, such filings are required in connection with investments exceeding €15,000,000 that lead to the acquisition of at least 10% of our share capital or voting rights or cross such 10% threshold. See “Limitations Affecting Shareholders of a French Company;”
- under French law, certain investments in a French company relating to certain strategic industries, including biotechnologies, by individuals or entities not residents in a Member State of the European Union are subject to prior authorization of the Ministry of Economy. See “Limitations Affecting Shareholders of a French Company;”
- a merger (i.e., in a French law context, a share for share exchange following which our company would be dissolved into the acquiring entity and our shareholders would become shareholders of the acquiring entity) of our company into a company incorporated in the European Union would require the approval of our board of directors as well as a two-thirds majority of the votes cast by the shareholders present, represented by proxy or voting by mail at the relevant meeting;
- a merger of our company into a company incorporated outside of the European Union would require 100% of our shareholders to approve it;
- under French law, a cash merger is treated as a share purchase and would require the consent of each participating shareholder;
- our shareholders have granted and may grant in the future our board of directors broad authorizations to increase our share capital or to issue additional ordinary shares or other securities, such as warrants,

to our shareholders, the public or qualified investors, including as a possible defense following the launching of a tender offer for our shares;

- our shareholders have preferential subscription rights on a *pro rata* basis on the issuance by us of any additional securities for cash or a set-off of cash debts, which rights may only be waived by the extraordinary general meeting (by a two-thirds majority vote) of our shareholders or on an individual basis by each shareholder;
- our board of directors has the right to appoint directors to fill a vacancy created by the resignation or death of a director, subject to the approval by the shareholders of such appointment at the next shareholders' meeting, which prevents shareholders from having the sole right to fill vacancies on our board of directors;
- our board of directors can be convened by our chairman or our managing director, if any, or, when no board meeting has been held for more than two consecutive months, by directors representing at least one third of the total number of directors;
- our board of directors meetings can only be regularly held if at least half of the directors attend either physically or by way of videoconference or teleconference enabling the directors' identification and ensuring their effective participation in the board's decisions;
- our shares are nominative or bearer, if the legislation so permits, according to the shareholder's choice;
- approval of at least a majority of the votes cast by shareholders present, represented by a proxy, or voting by mail at the relevant ordinary shareholders' general meeting is required to remove directors with or without cause;
- advance notice is required for nominations to the board of directors or for proposing matters to be acted upon at a shareholders' meeting, except that a vote to remove and replace a director can be proposed at any shareholders' meeting without notice;
- our bylaws can be changed in accordance with applicable laws;
- the crossing of certain thresholds has to be disclosed and can impose certain obligations; see the section of this prospectus titled "Declaration of Crossing of Ownership Thresholds (Article 9 of the Bylaws);"
- transfers of shares shall comply with applicable insider trading rules and regulations, and in particular with the Market Abuse Directive and Regulation dated April 16, 2014; and
- pursuant to French law, the sections of the bylaws relating to the number of directors and election and removal of a director from office may only be modified by a resolution adopted by two-thirds of the votes of our shareholders present, represented by a proxy or voting by mail at the meeting.

#### ***Declaration of Crossing of Ownership Thresholds (Article 9 of the Bylaws)***

*Set forth below is a summary of certain provisions of the French Commercial Code applicable to us. This summary is not intended to be a complete description of applicable rules under French law.*

Any individual or legal entity referred to in Articles L. 233-7, L. 233-9 and L. 233-10 of the French Commercial Code coming to directly or indirectly own, or cease to own, alone or in concert, a number of shares representing a fraction of the Company's capital or voting rights greater or equal to 5%, 10%, 15%, 20%, 25%, 30%, 33.33%, 50%, 66.66%, 90% and 95% shall inform the Company as well as the French Financial Market Authority (AMF) of the total number of shares and voting rights and of securities giving access to the capital or voting rights that it owns immediately or over time within a period of four trading days from the crossing of the said holding thresholds.

This obligation applies when crossing each of the above-mentioned thresholds in a downward direction.

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In case of failure to declare shares or voting rights exceeding the fraction that should have been declared, such shares shall be deprived of voting rights at General Meetings of Shareholders for any meeting that would be held until the expiry of a period of two years from the date of regularization of the notification in accordance with Article L. 233-14 of the French Commercial Code.

In addition, any shareholder crossing, alone or acting in concert, the 10%, 15%, 20% or 25% threshold shall file a declaration with the AMF pursuant to which it shall expose its intention over the following 6 months, including notably whether it intends to continue acquiring shares of the company, it intends to acquire control over the company, its intended strategy for the company.

Further, and subject to certain exemptions, any shareholder crossing, alone or acting in concert, the 30% threshold shall file a mandatory public tender offer with the AMF. Also, any shareholder holding directly or indirectly a number between 30% and 50% of the capital or voting rights and who, in less than 12 consecutive months, increases his/her/its holding of capital or voting rights by at least 1% company's capital or voting rights, shall file a mandatory public tender offer.

### ***Changes in Share Capital***

*Increases in Share Capital (Article 10 of the Bylaws).* Pursuant to French law, our share capital may be increased only with shareholders' approval at an extraordinary general shareholders' meeting following the recommendation of our board of directors. The shareholders may delegate to our board of directors either the authority (*délégation de compétence*) or the power (*délégation de pouvoir*) to carry out any increase in share capital.

Increases in our share capital may be effected by:

- issuing additional shares;
- increasing the par value of existing shares;
- creating a new class of equity securities; and
- exercising the rights attached to securities giving access to the share capital.

Increases in share capital by issuing additional securities may be effected through one or a combination of the following:

- in consideration for cash;
- in consideration for assets contributed in kind;
- through an exchange offer;
- by conversion of previously issued debt instruments;
- by capitalization of profits, reserves or share premium; and
- subject to certain conditions, by way of offset against debt incurred by us.

Decisions to increase the share capital through the capitalization of reserves, profits and/or share premium require shareholders' approval at an extraordinary general shareholders' meeting, acting under the quorum and majority requirements applicable to ordinary shareholders' meetings. Increases effected by an increase in the par value of shares require unanimous approval of the shareholders, unless effected by capitalization of reserves, profits or share premium. All other capital increases require shareholders' approval at an extraordinary general shareholders' meeting acting under the regular quorum and majority requirements for such meetings.

*Reduction in Share Capital.* Pursuant to French law, any reduction in our share capital requires shareholders' approval at an extraordinary general shareholders' meeting following the recommendation of our board of

directors. The share capital may be reduced either by decreasing the par value of the outstanding shares or by reducing the number of outstanding shares. The number of outstanding shares may be reduced by the repurchase and cancellation of shares. Holders of each class of shares must be treated equally unless each affected shareholder agrees otherwise.

*Preferential Subscription Right.* According to French law, if we issue additional securities for cash, current shareholders will have preferential subscription rights to these securities on a *pro rata* basis. Preferential subscription rights entitle the individual or entity that holds them to subscribe *pro rata* based on the number of shares held by them to the issuance of any securities increasing, or that may result in an increase of, our share capital by means of a cash payment or a set-off of cash debts. The preferential subscription rights are transferable during the subscription period relating to a particular offering. Pursuant to recent legislation that went into effect on October 1, 2016, the preferential subscription rights will be transferable during a period starting two days prior to the opening of the subscription period and ending two days prior to the closing of the subscription period.

The preferential subscription rights with respect to any particular offering may be waived at an extraordinary general meeting by a two-thirds vote of our shareholders or individually by each shareholder. Our board of directors and our independent auditors are required by French law to present reports to the shareholders' meeting that specifically address any proposal to waive the preferential subscription rights.

In the future, to the extent permitted under French law, we may seek shareholder approval to waive preferential subscription rights at an extraordinary general shareholders' meeting in order to authorize the board of directors to issue additional shares and/or other securities convertible or exchangeable into shares.

### ***Form, Holding and Transfer of Shares (Articles 13 and 15 of the Bylaws)***

*Form of Shares.* The shares are in registered form, until their full payment. When they are fully paid up, they may be in registered form or bearer, at the option of the shareholders.

Further, in accordance with applicable laws, we may request at any time from the central depository responsible for holding our shares, or directly from one or several intermediaries listed in Article L. 211-3 of the French Monetary and Financial Code, the information concerning the owners of our shares and securities conferring immediate or long-term voting rights at our general meetings of shareholders as referred to in Article L. 228-2 of the French Commercial Code.

*Holding of Shares.* In accordance with French law concerning the "dematerialization" of securities, the ownership rights of shareholders are represented by book entries instead of share certificates. Shares issued are registered in individual accounts opened by us or any authorized intermediary, in the name of each shareholder and kept according to the terms and conditions laid down by the legal and regulatory provisions.

*Ownership of Shares by Non-French Persons.* Neither French law nor our bylaws limit the right of non-residents of France or non-French persons to own or, where applicable, to vote our securities. However, non-residents of France may have to file an administrative notice with the French authorities in connection with certain direct or indirect investments in us, including through ownership of ADSs. In addition, acquisitions of 10% of the share capital or voting rights of a French resident company or a non-French resident company by a non-French resident or by a French resident, respectively, are subject to statistical reporting requirements to the French National Bank.

Moreover, certain foreign investments in companies incorporated under French laws are subject to the prior authorization from the French Minister of the Economy, where all or part of the target's business and activity relate to a strategic sector.

The Decree (*arrêté*) of April 27, 2020 extended the list of sectors subject to prior approval to include biotechnologies now covered under article R. 151-3 III° 1° of the French Monetary and Financial Code, under

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which investments are defined as (i) the acquisition of control—within the meaning of Article L. 233-3 of the French Commercial Code—of a company that has its registered office in France, (ii) the acquisition of all or part of a line of business of a company that has its registered office in France, or (iii) the acquisition of more than 25% of the shares or voting rights of a company that has its registered office in France.

In the context of the ongoing COVID-19 pandemic, the Decree (*décret*) n°2020-892 dated July 22, 2020 has completed the 25% threshold with an additional temporary 10% threshold of the voting rights for the non-European investments in listed companies applicable, at the date of this prospectus, until December 31, 2020.

See “Limitations Affecting Shareholders of a French Company—Ownership of ADSs or Shares by Non-French Residents.”

*Assignment and Transfer of Shares.* Shares are freely negotiable, subject to applicable legal and regulatory provisions. French law notably provides for standstill obligations and prohibition of insider trading.

### Differences in Corporate Law

*We are a société anonyme, or S.A., incorporated under the laws of France. The laws applicable to French sociétés anonymes differ from laws applicable to U.S. corporations and their shareholders. Set forth below is a summary of certain differences between the provisions of the French Commercial Code applicable to us and the Delaware General Corporation Law relating to shareholders' rights and protections. This summary is not intended to be a complete discussion of the respective rights and it is qualified in its entirety by reference to Delaware law and French law.*

	FRANCE	DELAWARE
Number of Directors	Under French law, a <i>société anonyme</i> must have at least three and may have up to 18 directors. The number of directors is fixed by or in the manner provided in the bylaws. Since January 1, 2017, the number of directors of each gender may not be less than 40%. Any appointment made in violation of this limit that is not remedied will be null and void.	Under Delaware law, a corporation must have at least one director and the number of directors shall be fixed by or in the manner provided in the bylaws.
Director Qualifications	Under French law, a corporation may prescribe qualifications for directors under its bylaws. In addition, under French law, members of a board of directors of a corporation may be legal entities (with the exception of the chairman of the board), and such legal entities may designate an individual to represent them and to act on their behalf at meetings of the board of directors as well as the deliberations taken by the board member irregularly appointed.	Under Delaware law, a corporation may prescribe qualifications for directors under its certificate of incorporation or bylaws.



	FRANCE	DELAWARE
Removal of Directors	Under French law, directors may be removed from office, with or without cause, at any shareholders' meeting without notice or justification, by a simple majority vote.	Under Delaware law, unless otherwise provided in the certificate of incorporation, directors may be removed from office, with or without cause, by a majority stockholder vote, though in the case of a corporation whose board is classified, stockholders may effect such removal only for cause.
Vacancies on the Board of Directors	Under French law, vacancies on the board of directors resulting from death or a resignation, provided that at least three directors remain in office, may be filled by a majority of the remaining directors pending ratification by the shareholders by the next shareholders' meeting.	Under Delaware law, vacancies on a corporation's board of directors, including those caused by an increase in the number of directors, may be filled by a majority of the remaining directors.
Annual General Meeting	Under French law, the annual general meeting of shareholders shall be held at such place, on such date and at such time as decided each year by the board of directors and notified to the shareholders in the convening notice of the annual meeting, within six months after the close of the relevant fiscal year unless such period is extended by court order.	Under Delaware law, the annual meeting of stockholders shall be held at such place, on such date and at such time as may be designated from time to time by the board of directors or as provided in the certificate of incorporation or by the bylaws.
General Meeting	Under French law, general meetings of the shareholders may be called by the board of directors or, failing that, by the statutory auditors, or by a court appointed agent ( <i>mandataire ad hoc</i> ) or liquidator in certain circumstances, or by the majority shareholder in capital or voting rights following a public tender offer or exchange offer or the transfer of a controlling block on the date decided by the board of directors or the relevant person	Under Delaware law, special meetings of the stockholders may be called by the board of directors or by such person or persons as may be authorized by the certificate of incorporation or by the bylaws.
Notice of General Meetings	A meeting announcement is published in the French Journal of Mandatory Statutory Notices (BALO) at least 35 days prior to a meeting and made available on the website of the company at least 21	Under Delaware law, unless otherwise provided in the certificate of incorporation or bylaws, written notice of any meeting of the stockholders must be given to each stockholder

**FRANCE**

day prior to the meeting. Subject to limited exceptions provided by French law, additional convening notice is sent out at least 15 days prior to the date of the meeting, by means of a notice inserted both in a legal announcement bulletin of the registered office department and in the French Journal of Mandatory Statutory Notices (BALO). Further, shareholders holding registered shares for at least a month at the time latest insertions of the notices shall be summoned individually, by regular letter (or by registered letter if they request it and include an advance of expenses) sent to their last known address. This notice to registered shareholders may also be transmitted by electronic means of telecommunication, in lieu of any such mailing, to any shareholder requesting it beforehand by registered letter with acknowledgment of receipt in accordance with legal and regulatory requirements, specifying his e-mail address. When the shareholders' meeting cannot deliberate due to lack of required quorum, the second meeting must be called at least ten calendar days in advance in the same manner as used for the first notice.

The convening notice shall specify the name of the company, its legal form, share capital, registered office address, registration number with the French Registry of Commerce and Companies, the place, date, hour and agenda of the meeting and its nature (ordinary and/or extraordinary meeting). The convening notice must also indicate the conditions under which the shareholders may vote by correspondence and the places

**DELAWARE**

entitled to vote at the meeting not less than 10 nor more than 60 days before the date of the meeting and shall specify the place, date, hour, and purpose or purposes of the meeting.

	FRANCE	DELAWARE
Proxy	<p>and conditions in which they can obtain voting forms by mail and, as the case may be, the email address to which they may send written questions.</p> <p>Each shareholder has the right to attend the meetings and participate in the discussions (i) personally, or (ii) by granting proxy to his/her spouse, his/her partner with whom he/she has entered into a civil union or to another shareholder or to any individual or legal entity of his choosing; or (iii) by sending a proxy to the company without indication of the mandate (in this case, such proxy shall be cast in favor of the resolutions supported by the board of directors), or (iv) by voting by correspondence, or (v) by videoconference or another means of telecommunication in accordance with applicable laws that allow identification. The proxy is only valid for a single meeting or for successive meetings convened with the same agenda. It can also be granted for two meetings, one ordinary, and the other extraordinary, held on the same day or within a period of fifteen days.</p>	<p>Under Delaware law, at any meeting of stockholders, a stockholder may designate another person to act for such stockholder by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period.</p>
Shareholder Action by Written Consent	<p>Under French law, shareholders' action by written consent is not permitted in a <i>société anonyme</i>.</p>	<p>Under Delaware law, a corporation's certificate of incorporation (1) may permit stockholders to act by written consent if such action is signed by all stockholders, (2) may permit stockholders to act by written consent signed by stockholders having the minimum number of votes that would be necessary to take such action at a meeting or (3) may prohibit actions by written consent.</p>
Preemptive Rights	<p>Under French law, in case of issuance of additional shares or other securities for cash or set-off against cash debts, the existing shareholders have preferential</p>	<p>Under Delaware law, unless otherwise provided in a corporation's certificate of incorporation, a stockholder does not, by operation of law, possess</p>

	FRANCE	DELAWARE
	subscription rights to these securities on a pro rata basis unless such rights are waived by a two-thirds majority of the votes cast by the shareholders present at the extraordinary general meeting deciding or authorizing the capital increase, voting in person or represented by proxy or voting by mail. In case such rights have not been waived by the extraordinary general meeting, each shareholder may individually either exercise, assign or not exercise its preferential subscription rights. Preferential subscription rights may only be exercised during the subscription period. In accordance with French law, the exercise period shall not be less than five trading days. Preferential subscription rights are transferable during a period equivalent to the subscription period but starting two business days prior to the opening of the subscription period and ending two business days prior to the closing of the subscription period.	preemptive rights to subscribe to additional issuances of the corporation's stock.
Sources of Dividends	<p>Under French law, dividends may only be paid by a French <i>société anonyme</i> out of “<i>distributable profits</i>,” plus any distributable reserves and “<i>distributable premium</i>” that the shareholders decide to make available for distribution, other than those reserves that are specifically required by law.</p> <p>“<i>Distributable profits</i>” consist of the unconsolidated net profits of the relevant corporation for each fiscal year, as increased or reduced by any profit or loss carried forward from prior years.</p>	<p>Under Delaware law, dividends may be paid by a Delaware corporation either out of (1) surplus or (2) in case there is no surplus, out of its net profits for the fiscal year in which the dividend is declared and/or the preceding fiscal year, except when the capital is diminished by depreciation in the value of its property, or by losses, or otherwise, to an amount less than the aggregate amount of capital represented by issued and outstanding stock having a preference on the distribution of assets.</p>

	FRANCE	DELAWARE
	<p>“<i>Distributable premium</i>” refers to the contribution paid by the stockholders in addition to the par value of their shares for their subscription that the stockholders decide to make available for distribution.</p>	
	<p>Except in case of a share capital reduction, no distribution can be made to the stockholders when the net equity is, or would become, lower than the amount of the share capital plus the reserves which cannot be distributed in accordance with the law or the bylaws.</p>	
Repurchase of Shares	<p>Under French law, a corporation may acquire its own shares. Such acquisition may be challenged on the ground of market abuse regulations. However, the Market Abuse Regulation 596/2014 of April 16, 2014 (MAR) provides for safe harbor exemptions when the acquisition is made for the following purposes:</p> <ul style="list-style-type: none"><li>• to decrease its share capital with the approval of the shareholders at the extraordinary general meeting;</li><li>• to meet obligations arising from debt securities, that are exchangeable into equity instruments; or</li><li>• with a view to distributing the relevant shares to employees or managers under a profit-sharing, free share or share option plan.</li></ul> <p>All other purposes, and especially share buy-backs for external growth operations by virtue of Article L. 225-209 of the French Commercial Code, while not forbidden, must be pursued in</p>	<p>Under Delaware law, a corporation may generally redeem or repurchase shares of its stock unless the capital of the corporation is impaired or such redemption or repurchase would impair the capital of the corporation.</p>

	FRANCE	DELAWARE
	strict compliance of market manipulation and insider dealing rules.	
	<p>Under the Market Abuse Regulation 596/2014 of April 16, 2014 (MAR) and in accordance with the General Regulations of the French Financial Markets Authority, a corporation shall report to the competent authority of the trading venue on which the shares have been admitted to trading or are traded, no later than by the end of the seventh daily market session following the date of the execution of the transaction, all the transactions relating to the buy-back program, in a detailed form and in an aggregated form.</p> <p>No such repurchase of ordinary shares may result in the company holding, directly or through a person acting on its behalf, more than 10% of its issues share capital.</p>	
Liability of Directors and Officers	<p>Under French law, the bylaws may not include any provisions limiting the liability of directors. Civil liability of the directors may be sought for (1) an infringement of laws and regulations applicable to the company, (2) breach of the bylaws and (3) management failure.</p>	<p>Under Delaware law, a corporation's certificate of incorporation may include a provision eliminating or limiting the personal liability of a director to the corporation and its stockholders for damages arising from a breach of fiduciary duty as a director. However, no provision can limit the liability of a director for:</p> <ul style="list-style-type: none"><li>• any breach of the director's duty of loyalty to the corporation or its stockholders;</li><li>• acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;</li><li>• intentional or negligent payment of unlawful dividends or stock</li></ul>

	FRANCE	DELAWARE
Voting Rights	<p>French law provides that, unless otherwise provided in the bylaws, each shareholder is entitled to one vote for each share of capital stock held by such shareholder. As from April 2016, double voting rights are automatically granted to the shares being registered since more than two years, unless the bylaws are modified in order to provide otherwise.</p>	<p>purchases or redemptions; or</p> <ul style="list-style-type: none"><li>any transaction from which the director derives an improper personal benefit.</li></ul> <p>Delaware law provides that, unless otherwise provided in the certificate of incorporation, each stockholder is entitled to one vote for each share of capital stock held by such stockholder.</p>
Shareholder Vote on Certain Transactions	<p>Generally, under French law, completion of a merger, dissolution, sale, lease or exchange of all or substantially all of a corporation's assets requires:</p> <ul style="list-style-type: none"><li>the approval of the board of directors; and</li><li>approval by a two-thirds majority of the votes cast by the shareholders present, represented by proxy or voting by mail at the relevant meeting or, in the case of a merger with a non-EU company, approval of all shareholders of the corporation (by exception, the extraordinary general meeting of the acquiring company may delegate to the board authority to decide a merger-absorption or to</li></ul>	<p>Generally, under Delaware law, unless the certificate of incorporation provides for the vote of a larger portion of the stock, completion of a merger, consolidation, sale, lease or exchange of all or substantially all of a corporation's assets or dissolution requires:</p> <ul style="list-style-type: none"><li>the approval of the board of directors; and</li><li>approval by the vote of the holders of a majority of the outstanding stock or, if the certificate of incorporation provides for more or less than one vote per share, a majority of the votes of the outstanding stock of a corporation entitled to vote on the matter.</li></ul>

	FRANCE	DELAWARE
Dissent or Dissenters' Appraisal Rights	<p>determine the terms and conditions of the merger plan).</p> <p>French law does not provide for any such right but provides that a merger is subject to shareholders' approval by a two-thirds majority vote as stated above.</p>	<p>Under Delaware law, a holder of shares of any class or series has the right, in specified circumstances, to dissent from a merger or consolidation by demanding payment in cash for the stockholder's shares equal to the fair value of those shares, as determined by the Delaware Chancery Court in an action timely brought by the corporation or a dissenting stockholder. Delaware law grants these appraisal rights only in the case of mergers or consolidations and not in the case of a sale or transfer of assets or a purchase of assets for stock. Further, no appraisal rights are available for shares of any class or series that is listed on a national securities exchange or held of record by more than 2,000 stockholders, unless the agreement of merger or consolidation requires the holders to accept for their shares anything other than:</p> <ul style="list-style-type: none"><li>• shares of stock of the surviving corporation;</li><li>• shares of stock of another corporation that are either listed on a national securities exchange or held of record by more than 2,000 stockholders;</li><li>• cash in lieu of fractional shares of the stock described in the two preceding bullet points; or</li><li>• any combination of the above.</li></ul> <p>In addition, appraisal rights are not available to holders of shares of the surviving corporation in</p>



	FRANCE	DELAWARE
Standard of Conduct for Directors	French law does not contain specific provisions setting forth the standard of conduct of a director. However, directors have a duty to act without self-interest, on a well-informed basis and they cannot make any decision against a corporation's corporate interest ( <i>intérêt social</i> ). In addition, directors shall take into account social and environmental issues arising out of the company's activity.	specified mergers that do not require the vote of the stockholders of the surviving corporation. Delaware law does not contain specific provisions setting forth the standard of conduct of a director. The scope of the fiduciary duties of directors is generally determined by the courts of the State of Delaware. In general, directors have a duty to act without self-interest, on a well-informed basis and in a manner they reasonably believe to be in the best interest of the stockholders.
Shareholder Suits	<p>French law provides that a shareholder, or a group of shareholders, may initiate a legal action to seek indemnification from the directors of a corporation in the corporation's interest if it fails to bring such legal action itself. If so, any damages awarded by the court are paid to the corporation and any legal fees relating to such action may be borne by the relevant shareholder or the group of shareholders.</p> <p>The plaintiff must remain a shareholder through the duration of the legal action.</p> <p>There is no other case where shareholders may initiate a derivative action to enforce a right of a corporation.</p> <p>A shareholder may alternatively or cumulatively bring individual legal action against the directors, provided he has suffered distinct damages from those suffered by the corporation. In this case, any damages awarded by the court are paid to the relevant shareholder.</p>	<p>Under Delaware law, a stockholder may initiate a derivative action to enforce a right of a corporation if the corporation fails to enforce the right itself. The complaint must:</p> <ul style="list-style-type: none"><li>• state that the plaintiff was a stockholder at the time of the transaction of which the plaintiff complains or that the plaintiff's shares thereafter devolved on the plaintiff by operation of law; and</li><li>• allege with particularity the efforts made by the plaintiff to obtain the action the plaintiff desires from the directors and the reasons for the plaintiff's failure to obtain the action; or</li><li>• state the reasons for not making the effort.</li></ul> <p>Additionally, the plaintiff must remain a stockholder through the duration of the derivative suit. The action will not be dismissed or compromised without the approval of the Delaware Court of Chancery.</p>

Amendment of Bylaws

**FRANCE**

Under French law, only the extraordinary shareholders' meeting is authorized to adopt or amend the bylaws. However, the board of directors is authorized to (i) modify the bylaws as a result of a decision to move the company's registered office and (ii) to bring to the bylaws any modification rendered necessary by an amendment to an applicable law or regulation if the board of directors has been prior authorized by the extraordinary shareholders meeting for this purpose, and subject, in both cases, to ratification by the next extraordinary shareholders' meeting.

**DELAWARE**

Under Delaware law, the stockholders entitled to vote have the power to adopt, amend or repeal the bylaws of the corporation. A corporation may also confer, in its certificate of incorporation, that power upon the board of directors.

**Listing**

Our ADSs are listed on the Nasdaq Global Select Market under the symbol "ERYP." Our ordinary shares are listed on Euronext Paris under the symbol "ERYP."

**Transfer Agent and Registrar**

The transfer agent and registrar for our ADSs is The Bank of New York Mellon. Our share register for our ordinary shares is maintained by Société Générale. The share register reflects only record owners of our ordinary shares. Holders of our ADSs are not treated as our shareholders and their names are therefore not entered in our share register. The depositary, the custodian or their nominees are the holder of the shares underlying our ADSs. Holders of our ADSs have a right to receive the ordinary shares underlying their ADSs. For discussion on our ADSs and ADS holder rights, see "Description of American Depositary Shares" in this prospectus.

## LIMITATIONS AFFECTING SHAREHOLDERS OF A FRENCH COMPANY

### Ownership of ADSs or Shares by Non-French Residents

Neither the French Commercial Code nor our bylaws presently impose any restrictions on the right of non-French residents or non-French shareholders to own and vote shares. However, non-French residents must file a declaration for statistical purposes with the Bank of France (*Banque de France*) within twenty working days following the date of certain direct foreign investments in us, including any purchase of our ADSs. In particular such filings are required in connection with investments exceeding €15,000,000 that lead to the acquisition of at least 10% of the share capital or voting rights or cross such 10% threshold. Violation of this filing requirement may be sanctioned by five years' imprisonment and a fine up to twice the amount of the relevant investment. This amount may be increased fivefold if the violation is made by a legal entity. Moreover, certain foreign investments in companies incorporated under French laws are subject to the prior authorization from the French Minister of the Economy, where all or part of the target's business and activity relate to a strategic sector, such as energy, transportation, public health and telecommunications.

The Decree (*arrêté*) of April 27, 2020 extended the list of sectors subject to prior approval to include biotechnologies now covered under article R. 151-3 III° of the French Monetary and Financial Code, under which investments are defined as (i) the acquisition of control—within the meaning of Article L. 233-3 of the French Commercial Code—of a company that has its registered office in France, (ii) the acquisition of all or part of a line of business of a company that has its registered office in France, or (iii) the acquisition of more than 25% of the shares or voting rights of a company that has its registered office in France.

In the context of the ongoing COVID-19 pandemic, the Decree (*décret*) n°2020-892 dated July 22, 2020 has completed the 25% threshold with an additional temporary 10% threshold of the voting rights for the non-European investments in listed companies applicable, at the date of this prospectus, until December 31, 2020.

A fast-track procedure shall apply for any non-European investor exceeding this 10% threshold who will have to notify the Minister of Economy who will then have 10 days to decide whether or not the transaction should be subject to further examination.

In the absence of such authorization, the relevant investment shall be deemed null and void. The relevant investor may be found criminally liable and may be sanctioned with a fine not to exceed the greater of the following amounts: (i) twice the amount of the relevant investment, (ii) 10% of the annual turnover before tax of the target company or (iii) €5 million (for a company) or €1 million (for a natural person).

### Foreign Exchange Controls

Under current French foreign exchange control regulations there are no limitations on the amount of cash payments that we may remit to residents of foreign countries. Laws and regulations concerning foreign exchange controls do, however, require that all payments or transfers of funds made by a French resident to a non-resident such as dividend payments be handled by an accredited intermediary. All registered banks and substantially all credit institutions in France are accredited intermediaries.

### Availability of Preferential Subscription Rights

Our shareholders will have the preferential subscription rights described under “Description of Share Capital—Key Provisions of Our Bylaws and French Law Affecting Our Ordinary Shares—Changes in Share Capital—Preferential Subscription Right.” Under French law, shareholders have preferential rights to subscribe for cash issues of new shares or other securities giving rights to acquire additional shares on a pro rata basis. Holders of

our securities in the United States (which may be represented by ADSs) will not be able to exercise preferential subscription rights for their securities unless a registration statement under the Securities Act is effective with respect to such rights or an exemption from the registration requirements imposed by the Securities Act is available. We may, from time to time, issue new shares or other securities giving rights to acquire additional shares (such as warrants) at a time when no registration statement is in effect and no Securities Act exemption is available. If so, holders of our securities in the United States will be unable to exercise any preferential subscription rights and their interests will be diluted. We are under no obligation to file any registration statement in connection with any issuance of new shares or other securities. We intend to evaluate at the time of any rights offering the costs and potential liabilities associated with registering the rights, as well as the indirect benefits to us of enabling the exercise by holders of shares in the United States and ADS holders of the subscription rights, and any other factors we consider appropriate at the time, and then to make a decision as to whether to register the rights. We cannot assure you that we will file a registration statement.

For holders of our ordinary shares represented by ADSs, the depositary may make these rights or other distributions available to ADS holders. If the depositary does not make the rights available to ADS holders and determines that it is impractical to sell the rights, it may allow these rights to lapse. In that case, ADS holders will receive no value for them. The section of this prospectus titled “Description of American Depositary Shares—Dividends and Other Distributions” explains in detail the depositary’s responsibility in connection with a rights offering. See also “*Risk Factors—The right as a holder of ADSs to participate in any future preferential subscription rights or to elect to receive dividends in shares may be limited, which may cause dilution to the holders of our ADSs*” in our most recent Annual Report on Form 20-F.

## DESCRIPTION OF AMERICAN DEPOSITARY SHARES

The Bank of New York Mellon acts as the depositary for the American Depositary Shares. The Bank of New York Mellon's depositary offices are located at 240 Greenwich Street, New York, New York 10286. American Depositary Shares are frequently referred to as ADSs and represent ownership interests in securities that are on deposit with the depositary. ADSs may be evidenced by certificates that are commonly known as American Depositary Receipts, or ADRs. The depositary typically appoints a custodian to safekeep the securities on deposit. In this case, the custodian is Société Générale.

You may hold ADSs either (1) directly (a) by having an ADR, which is a certificate evidencing a specific number of ADSs, registered in your name, or (b) by having uncertificated ADSs registered in your name in the Direct Registration System, or DRS, or (2) indirectly by holding a security entitlement in ADSs through your broker or other financial institution that is a direct or indirect participant in the Depositary Trust Company, or DTC. If you hold ADSs directly, you are a registered ADS holder, also referred to as an ADS holder. This description assumes you are an ADS holder. If you hold the ADSs indirectly, you must rely on the procedures of your broker or other financial institution to assert the rights of ADS holders described in this section. You should consult with your broker or financial institution to find out what those procedures are.

DRS is a system administered by DTC pursuant to which the depositary may register the ownership of uncertificated ADSs, which ownership is confirmed by periodic statements sent by the depositary to the registered holders of uncertificated ADSs.

As an ADS holder, you will not be treated as one of our shareholders and you will not have shareholder rights. French law governs shareholder rights. The depositary will be the holder of the ordinary shares underlying your ADSs. As a holder of ADSs, you will have ADS holder rights. An amended and restated deposit agreement among us, the depositary and you, as an ADS holder, and all other persons directly and indirectly holding ADSs sets out ADS holder rights as well as the rights and obligations of the depositary. New York law governs the amended and restated deposit agreement and the ADRs. In the event of any discrepancy between the ADRs and the amended and restated deposit agreement, the amended and restated deposit agreement governs. A copy of the amended and restated deposit agreement is filed as an exhibit to the registration statement of which this prospectus forms a part.

The following is a summary of the material provisions of the amended and restated deposit agreement. For more complete information, you should read the entire amended and restated deposit agreement and the form of ADR. For directions on how to obtain copies of those documents, see the section of this prospectus titled "Where You Can Find More Information." Unless otherwise indicated or the context otherwise requires, references to "you" in this section refer to purchasers of ADSs in this offering.

### **Dividends and Other Distributions**

#### ***How will you receive dividends and other distributions on the ordinary shares?***

The depositary has agreed to pay or distribute to you the cash dividends or other distributions it or the custodian receives on ordinary shares or other deposited securities, after deducting its fees and expenses. You will receive these distributions in proportion to the number of ordinary shares your ADSs represent.

*Cash.* We do not expect to declare or pay any cash dividends or cash distributions on our ordinary shares for the foreseeable future. The depositary will convert any cash dividend or other cash distribution we pay on the ordinary shares or any net proceeds from the sale of any ordinary shares, rights, securities or other entitlements into U.S. dollars if it can do so on a reasonable basis, and can transfer the U.S. dollars to the United States. If that is not possible or if any government approval is needed and cannot be obtained, the amended and restated deposit agreement allows the depositary to distribute the foreign currency only to those ADS holders to whom it is

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possible to do so. It will hold the foreign currency it cannot convert for the account of the ADS holders who have not been paid. It will not invest the foreign currency and it will not be liable for any interest. Before making a distribution, any withholding taxes or other governmental charges, together with fees and expenses of the depositary that must be paid, will be deducted. See the section of our most recent Annual Report on Form 20-F titled "Taxation." It will distribute only whole U.S. dollars and cents and will round fractional cents to the nearest whole cent. *If the exchange rates fluctuate during a time when the depositary cannot convert the foreign currency, you may lose some or all of the value of the distribution.*

**Ordinary Shares.** The depositary may distribute additional ADSs representing any ordinary shares we distribute as a dividend or free distribution. The depositary will only distribute whole ADSs. It will sell ordinary shares which would require it to deliver a fractional ADS, or ADSs representing those ordinary shares, and distribute the net proceeds in the same way as it does with cash. If the depositary does not distribute additional ADSs, the outstanding ADSs will also represent the new ordinary shares. The depositary may sell a portion of the distributed ordinary shares, or ADSs representing those shares, sufficient to pay its fees and expenses in connection with that distribution.

**Rights to Purchase Additional Ordinary Shares.** If we offer holders of our securities any rights to subscribe for additional ordinary shares or any other rights, the depositary may (i) exercise those rights on behalf of ADS holders, (ii) distribute those rights to ADS holders or (iii) sell those rights and distribute the net proceeds to ADS holders, in each case after deduction or upon payment of its fees and expenses. To the extent the depositary does not do any of those things, it will allow the rights to lapse unexercised. *In that case, you will receive no value for them.*

The depositary will exercise or distribute rights only if we ask it to and provide satisfactory assurances to the depositary that it is legal to do so. If the depositary makes rights available to you, it will exercise the rights and purchase the ordinary shares on your behalf and in accordance with your instructions. The depositary will then deposit the ordinary shares and deliver ADSs to you. It will only exercise rights if you pay it the exercise price and any other charges the rights require you to pay and comply with other applicable instructions. U.S. securities laws may restrict the ability of the depositary to distribute rights or ADSs or other securities issued on exercise of rights to all or certain ADS holders, and the securities distributed may be subject to restrictions on transfer.

**Other Distributions.** The depositary will send to you anything else we distribute on deposited securities by any means it determines is legal, fair and practical. If it cannot make the distribution in that way, the depositary may adopt another method. It may decide to sell what we distributed and distribute the net proceeds, in the same way as it does with cash. Or, it may decide to hold what we distributed, in which case ADSs will also represent the newly distributed property. However, the depositary is not required to distribute any securities (other than ADSs) to ADS holders unless it receives satisfactory evidence from us that it is legal to make that distribution. In addition, the depositary may sell a portion of the distributed securities or property sufficient to pay its fees and expenses in connection with that distribution.

Neither we nor the depositary are responsible for any failure to determine that it may be lawful or feasible to make a distribution available to any ADS holders. We have no obligation to register ADSs, ordinary shares, rights or other securities under the Securities Act. We also have no obligation to take any other action to permit the distribution of ADSs, shares, rights or anything else to ADS holders. *This means that you may not receive the distributions we make on our ordinary shares or any value for them if it is illegal or impractical for us to make them available to you.*

## **Deposit, Withdrawal and Cancellation**

### ***How are ADSs issued?***

The depositary will deliver ADSs if you or your broker deposits ordinary shares or evidence of rights to receive ordinary shares with the custodian. Upon payment of its fees and expenses and of any taxes or charges, such as

stamp taxes or share transfer taxes or fees, the depositary will register the appropriate number of ADSs in the names you request and will deliver the ADSs to or upon the order of the person or persons that made the deposit.

#### ***How can ADS holders withdraw the deposited securities?***

You may surrender your ADSs at the depositary's office. Upon payment of its fees and expenses and of any taxes or governmental charges payable in connection with such surrender or withdrawal, the depositary will deliver the ordinary shares and any other deposited securities underlying the ADSs to you or a person designated by you at the office of the custodian or through a book-entry delivery. Alternatively, at your request, risk and expense, the depositary will, if feasible, deliver the amount of deposited securities represented by the surrendered ADSs for delivery at the depositary's office or to another address you may specify. The depositary may charge you a fee and its expenses for instructing the custodian regarding delivery of deposited securities.

#### ***How can ADS holders interchange between certificated ADSs and uncertificated ADSs?***

You may surrender your ADRs to the depositary for the purpose of exchanging your ADRs for uncertificated ADSs. The depositary will cancel the ADRs and will send you a statement confirming that you are the owner of uncertificated ADSs. Alternatively, upon receipt by the depositary of a proper instruction from a registered holder of uncertificated ADSs requesting the exchange of uncertificated ADSs for certificated ADSs, the depositary will execute and deliver to you an ADR evidencing those ADSs.

### **Voting Rights**

#### ***How do you vote?***

You may instruct the depositary to vote the number of whole deposited ordinary shares your ADSs represent. If we request the depositary to solicit your voting instructions (and we are not required to do so), the depositary will notify you of shareholders' meetings or other solicitations of consents and arrange to deliver our voting materials to you. Those materials will describe the matters to be voted on and explain how you may instruct the depositary how to vote. For instructions to be valid, they must reach the depositary by a date set by the depositary.

If the depositary timely receives voting instructions for you, it will endeavor, in so far as practicable, to vote or cause to be voted the amount of deposited ordinary shares represented by those ADSs in accordance with such voting instructions set forth in your request. If we do not request the depositary to solicit your voting instructions, you can still send voting instructions, and, in that case, the depositary may try to vote as you instruct, but it is not required to do so. In any event, the depositary will not exercise any discretion in voting deposited securities and it will only vote or attempt to vote as instructed or as described in the following sentence. If we timely asked the depositary to solicit your instructions but the depositary does not receive voting instructions from you by the specified date and we confirm to the depositary that (1) we wish to receive a proxy, (2) as of the instruction cutoff date we reasonably do not know of any substantial shareholder opposition to the particular question, and (3) the particular question would not be materially adverse to the interests of our shareholders, then the depositary will consider you to have authorized and directed it to give a proxy to a person designated by us to vote the number of deposited securities represented by your ADSs in favor of that question, but only if the question was endorsed by our board of directors.

We cannot assure you that you will receive the voting materials in time to ensure that you can instruct the depositary to vote your ordinary shares. In addition, the depositary and its agents are not responsible for failing to carry out voting instructions or for the manner of carrying out voting instructions. *This means that you may not be able to exercise your right to vote and there may be nothing you can do if your ordinary shares are not voted as you requested.*

In order to give you a reasonable opportunity to instruct the depositary as to the exercise of voting rights relating to deposited securities, if we request the depositary to act, we will give the depositary notice of any such meeting

and details concerning the matters to be voted upon at least 30 days in advance of the meeting date except where under French law the notice period for such meeting is less than 30 days.

*Except as described above, you will not be able to exercise your right to vote unless you withdraw the ordinary shares. However, you may not know about the shareholder meeting enough in advance to withdraw the ordinary shares.*

## Fees and Expenses

### *What fees and expenses will you be responsible for paying?*

Pursuant to the terms of the amended and restated deposit agreement, the holders of ADSs will be required to pay the following fees:

*Persons depositing or withdrawing ordinary shares or ADSs must pay:*

\$5.00 (or less) per 100 ADSs (or portion of 100 ADSs)

\$0.05 (or less) per ADS

A fee equivalent to the fee that would be payable if securities distributed to you had been ordinary shares and the shares had been deposited for issue of ADSs

\$0.05 (or less) per ADS per calendar year

Registration or transfer fees

Expenses of the depositary

Taxes and other governmental charges the depositary or the custodian have to pay on any ADS or share underlying an ADS, for example, share transfer taxes, stamp duty or withholding taxes

Any charges payable by the depositary, custodian or their agents in connection with the servicing of deposited securities

*For:*

- Issue of ADSs, including issues resulting from a distribution of ordinary shares or rights
- Cancellation of ADSs for the purpose of withdrawal, including if the amended and restated deposit agreement terminates
- Any cash distribution to you
- Distribution of securities distributed to holders of deposited securities which are distributed by the depositary to you
- Depositary services
- Transfer and registration of ordinary shares on our share register to or from the name of the depositary or its agent when you deposit or withdraw shares
- Cable (including SWIFT) and facsimile transmissions as expressly provided in the amended and restated deposit agreement
- Converting foreign currency to U.S. dollars
- As necessary
- As necessary

The depositary collects its fees for delivery and surrender of ADSs directly from investors depositing ordinary shares or surrendering ADSs for the purpose of withdrawal or from intermediaries acting for them. The depositary collects fees for making distributions to investors by deducting those fees from the amounts distributed or by selling a portion of distributable property to pay the fees. The depositary may collect its annual fee for depositary services by deduction from cash distributions or by directly billing investors or by charging the book-entry system accounts of participants acting for them. The depositary may collect any of its fees by deduction from any cash distribution payable to ADS holders that are obligated to pay those fees. The depositary may generally refuse to provide for-fee services until its fees for those services are paid.



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From time to time, the depositary may make payments to us to reimburse or share revenue from the fees collected from ADS holders, or waive fees and expenses for services provided, generally relating to costs and expenses arising out of establishment and maintenance of the ADS program. In performing its duties under the amended and restated deposit agreement, the depositary may use brokers, dealers, foreign currency or other service providers that are affiliates of the depositary and that may earn or share fees, spreads or commissions.

The depositary may convert foreign currency itself or through any of its affiliates and, in those cases, acts as principal for its own account and not as agent, advisor, broker or fiduciary on behalf of any other person and earns revenue, including, without limitation, transaction spreads, that it will retain for its own account. The revenue is based on, among other things, the difference between the exchange rate assigned to the currency conversion made under the amended and restated deposit agreement and the rate that the depositary or its affiliate receives when buying or selling foreign currency for its own account. The depositary makes no representation that the exchange rate used or obtained in any currency conversion under the amended and restated deposit agreement will be the most favorable rate that could be obtained at the time or that the method by which that rate will be determined will be the most favorable to holders of ADSs, subject to the depositary's obligations under the amended and restated deposit agreement. The methodology used to determine exchange rates used in currency conversions is available upon request.

### **Payment of Taxes**

You will be responsible for any taxes or other governmental charges payable on your ADSs or on the deposited securities represented by any of your ADSs. The depositary may refuse to register any transfer of your ADSs or allow you to withdraw the deposited securities represented by your ADSs until such taxes or other charges are paid. It may apply payments owed to you or sell deposited securities represented by your ADSs to pay any taxes owed and you will remain liable for any deficiency. If the depositary sells deposited securities, it will, if appropriate, reduce the number of ADSs registered in your name to reflect the sale and pay you any net proceeds, or send you any property, remaining after it has paid the taxes. Your obligation to pay taxes and indemnify us and the depositary against any tax claims will survive the transfer or surrender of your ADSs, the withdrawal of the deposited ordinary shares as well as the termination of the amended and restated deposit agreement.

### **Reclassifications, Recapitalizations and Mergers**

#### ***If we:***

- Change the nominal value of our ordinary shares
- Reclassify, split up or consolidate any of the deposited securities
- Distribute securities on the ordinary shares that are not distributed to you

#### ***Then:***

The cash, ordinary shares or other securities received by the depositary will become deposited securities.

Each ADS will automatically represent its equal share of the new deposited securities.

The depositary may also deliver new ADSs or ask you to surrender your outstanding ADRs in exchange for new ADRs identifying the new deposited securities. The depositary may also sell the new deposited securities and distribute the net proceeds if we are unable to assure the depositary that the distribution (a) does not require registration under the Securities Act or (b) is exempt from registration under the Securities Act.

***If we:***

- Recapitalize, reorganize, merge, liquidate, sell all or substantially all of our assets, or take any similar action

***Then:***

Any replacement securities received by the depositary shall be treated as newly deposited securities and either the existing ADSs or, if necessary, replacement ADSs distributed by the depositary will represent the replacement securities. The depositary may also sell the replacement securities and distribute the net proceeds if the replacement securities may not be lawfully distributed to all ADS holders.

**Amendment and Termination**

***How may the amended and restated deposit agreement be amended?***

We may agree with the depositary to amend the amended and restated deposit agreement and the ADRs without your consent for any reason. If an amendment adds or increases fees or charges, except for taxes and other governmental charges, registration fees, facsimile costs, delivery costs or other such expenses, or that would otherwise prejudice a substantial right of ADS holders, it will not become effective for outstanding ADSs until 30 days after the depositary notifies ADS holders of the amendment. *At the time an amendment becomes effective, you are considered, by continuing to hold your ADSs, to agree to the amendment and to be bound by the ADRs and the amended and restated deposit agreement as further amended.*

***How may the amended and restated deposit agreement be terminated?***

The depositary will terminate the amended and restated deposit agreement if we ask it to do so, in which case the depositary will give notice to you at least 90 days prior to termination. The depositary may also terminate the amended and restated deposit agreement if the depositary has told us that it would like to resign and we have not appointed a new depositary within 60 days. In such case, the depositary must notify you at least 90 days before termination. In addition, the depositary may initiate termination of the amended and restated deposit agreement if (i) we delist our shares from an exchange on which they were listed and do not list the shares on another exchange; (ii) we appear to be insolvent or enter insolvency proceedings; (iii) all or substantially all the value of the deposited securities has been distributed either in cash or in the form of securities; (iv) there are no deposited securities underlying the ADSs or the underlying deposited securities have become apparently worthless; or (v) there has been a replacement of deposited securities.

After termination, the depositary and its agents will do the following under the amended and restated deposit agreement but nothing else: collect dividends and other distributions on the deposited securities, sell rights and other property, and deliver ordinary shares and other deposited securities upon cancellation of ADSs. At any time after the termination date, the depositary may sell the deposited securities. After that, the depositary will hold the money it received on the sale, as well as any other cash it is holding under the amended and restated deposit agreement, unsegregated and without liability for interest, for the *pro rata* benefit of the ADS holders that have not surrendered their ADSs. Normally, the depositary will sell as soon as practicable after the termination date.

After the termination date and before the depositary sells, ADS holders can still surrender their ADSs and receive delivery of deposited securities, except that the depositary may refuse to accept a surrender for the purpose of withdrawing deposited securities if it would interfere with the selling process. The depositary may refuse to accept a surrender for the purpose of withdrawing sale proceeds until all the deposited securities have been sold. The depositary will continue to collect distributions on deposited securities, but, after the termination date, the depositary is not required to register any transfer of ADSs or distribute any dividends or other distributions on deposited securities to the ADS holder (until they surrender their ADSs) or give any notices or perform any other duties under the amended and restated deposit agreement except as described in this paragraph.

### **Limitations on Obligations and Liability**

The amended and restated deposit agreement expressly limits our obligations and the obligations of the depositary. It also limits our liability and the liability of the depositary to ADS holders. We and the depositary:

- are only obligated to take the actions specifically set forth in the amended and restated deposit agreement without negligence or bad faith;
- are not liable if either of us is prevented or delayed by law or circumstances beyond our control from performing our obligations under the amended and restated deposit agreement;
- are not liable if either of us exercises, or fails to exercise, discretion permitted under the amended and restated deposit agreement;
- are not liable for the inability of any holder of ADSs to benefit from any distribution on deposited securities that is not made available to holders of ADSs under the terms of the amended and restated deposit agreement, or for any special, consequential or punitive damages for any breach of the terms of the amended and restated deposit agreement;
- are not liable for any tax consequences to any holders of ADSs on account of their ownership of ADSs;
- have no obligation to become involved in a lawsuit or other proceeding related to the ADSs or the amended and restated deposit agreement on your behalf or on behalf of any other person;
- are not liable for the acts or omissions of any securities depositary, clearing agency or settlement system; and
- may rely upon any documents we believe in good faith to be genuine and to have been signed or presented by the proper person.

In the amended and restated deposit agreement, we and the depositary agree to indemnify each other under certain circumstances. Additionally, we, the depositary and each owner and holder waives the right to a jury trial in an action against us or the depositary arising out of or relating to the amended and restated deposit agreement.

### **Requirements for Depositary Actions**

Before the depositary will deliver or register a transfer of an ADS, make a distribution on an ADS, or permit withdrawal of ordinary shares, the depositary may require:

- payment of any tax or other governmental charges and any stock transfer or registration fees charged by third parties for the transfer of any ordinary shares or other deposited securities;
- satisfactory proof of the identity and genuineness of any signature or other information it deems necessary; and
- compliance with regulations it may establish, from time to time, consistent with the amended and restated deposit agreement, including presentation of transfer documents.

The depositary may refuse to deliver ADSs or register transfers of ADSs generally when the transfer books of the depositary or our transfer books are closed or at any time if the depositary or we think it advisable to do so.

### **Your Right to Receive the Ordinary Shares Underlying Your ADSs**

ADS holders have the right to cancel their ADSs and withdraw the underlying ordinary shares at any time except:

- when temporary delays arise because: (1) the depositary has closed its transfer books or we have closed our transfer books; (2) the transfer of ordinary shares is blocked to permit voting at a shareholders' meeting; or (3) we are paying a dividend on our ordinary shares;
- when you owe money to pay fees, taxes and similar charges; and

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- when it is necessary to prohibit withdrawals in order to comply with any U.S. or foreign laws or governmental regulations that apply to ADSs or to the withdrawal of ordinary shares or other deposited securities.

This right of withdrawal is not limited by any other provision of the amended and restated deposit agreement.

### **Direct Registration System**

In the amended and restated deposit agreement, all parties to the amended and restated deposit agreement acknowledge that the DRS and Profile Modification System, or Profile, will apply to ADSs upon acceptance thereof to DRS by DTC. DRS is the system administered by DTC under which the depositary may register the ownership of uncertificated ADSs and such ownership will be evidenced by periodic statements sent by the depositary to the registered holders of uncertificated ADSs. Profile is a required feature of DRS that allows a DTC participant, claiming to act on behalf of a registered holder of ADSs, to direct the depositary to register a transfer of those ADSs to DTC or its nominee and to deliver those ADSs to the DTC account of that DTC participant without receipt by the depositary of prior authorization from the ADS holder to register that transfer.

In connection with and in accordance with the arrangements and procedures relating to DRS/Profile, the parties to the amended and restated deposit agreement understand that the depositary will not determine whether the DTC participant that is claiming to be acting on behalf of an ADS holder in requesting registration of transfer and delivery as described above has the actual authority to act on behalf of the ADS holder (notwithstanding any requirements under the Uniform Commercial Code). In the amended and restated deposit agreement, the parties agree that the depositary's reliance on and compliance with instructions received by the depositary through the DRS/Profile System and in accordance with the amended and restated deposit agreement will not constitute negligence or bad faith on the part of the depositary.

### **Shareholder Communications; Inspection of Register of Holders of ADSs; ADS Holder Information**

The depositary will make available for your inspection at its office all communications that it receives from us as a holder of deposited securities that we make generally available to holders of deposited securities. The depositary will send you copies of those communications or otherwise make those communications available to you if we ask it to. You have a right to inspect the register of holders of ADSs, but not for the purpose of contacting those holders about a matter unrelated to our business or the ADSs.

Each holder of ADSs will be required to provide certain information, including proof of taxpayer status, residence and beneficial ownership (as applicable), from time to time and in a timely manner as we, the depositary or the custodian may deem necessary or proper to fulfill obligations under applicable law.

### **Jury Trial Waiver**

The deposit agreement provides that, to the extent permitted by law, ADS holders waive the right to a jury trial of any claim they may have against us or the depositary arising out of or relating to our shares, the ADSs or the deposit agreement, including any claim under the U.S. federal securities laws. If we or the depositary opposed a jury trial demand based on the waiver, the court would determine whether the waiver was enforceable in the facts and circumstances of that case in accordance with applicable case law. However, you will not be agreeing to the terms of the deposit agreement, be deemed to have waived our or the depositary's compliance with U.S. federal securities laws and the rules and regulations promulgated thereunder.

## DESCRIPTION OF WARRANTS

Warrants (*bons de souscription d'actions*) may be offered separately or together with ordinary shares or ADSs. Each series of warrants will be issued under any separate warrant agreement to be entered into between us and one or more purchasers of such warrants. The applicable prospectus supplement will include details of the warrant agreements and terms and conditions covering the warrants being offered.

The particular terms of each issue or series of warrants will be described in the related prospectus supplement. If warrants for the purchase of ordinary shares or ADSs are offered, the description will include, where applicable:

- the designation and aggregate number of warrants offered;
- the price at which the warrants will be offered;
- the currency or currency unit in which the warrants are denominated;
- the date on which the right to exercise the warrants will commence and the date on which the right will expire;
- the number of ordinary shares or ADSs that may be purchased upon exercise of each warrant and the price at which and currency or currencies in which that amount of ordinary shares or ADSs may be purchased upon exercise of each warrant;
- the date or dates, if any, on or after which the warrants and the related ordinary shares or ADSs will be transferable separately;
- the minimum or maximum amount, if any, of warrants that may be exercised at any one time;
- whether the warrants will be subject to redemption or call, and, if so, the terms of such redemption or call provisions; and
- any other terms, conditions and rights (or limitations on such rights) of the warrants.

We reserve the right to set forth in a prospectus supplement or applicable free writing prospectus specific terms of the warrants that are not within the options and parameters set forth in this prospectus. In addition, to the extent that any particular terms and conditions of the warrants described in a prospectus supplement or applicable free writing prospectus differ from any of the terms described in this prospectus, the description of such terms and conditions set forth in this prospectus shall be deemed to have been superseded or supplemented by the description of such differing terms and conditions set forth in such prospectus supplement or applicable free writing prospectus with respect to such warrants.

## **TAXATION**

The material U.S. federal income tax consequences relating to the purchase, ownership and disposition of any of the securities offered by this prospectus will be set forth in the prospectus supplement pertaining to those securities.

## **LEGAL MATTERS**

Unless the applicable prospectus supplement indicates otherwise, the validity of our ordinary shares, including ordinary shares in the form of the ADSs, and certain other matters governed by French law will be passed on for us by Gide Loyrette Nouel A.A.R.P.I. Unless otherwise indicated in any prospectus supplement, Cooley LLP, Boston, Massachusetts, will be representing us in regards to certain matters governed by U.S. law in connection with any offering. Additional legal matters may be passed upon for any underwriters, dealers or agents by counsel that we will name in the applicable prospectus supplement.

## **EXPERTS**

The consolidated financial statements of ERYTECH Pharma S.A. as of and for the years ended December 31, 2019, 2018 and 2017 appearing in our Annual Report on Form 20-F for the year ended December 31, 2019, have been audited by KPMG S.A., independent registered public accounting firm, as set forth in their report thereon, included therein, and incorporated herein by reference. Such consolidated financial statements are incorporated herein by reference in reliance upon such report given on the authority of such firm as experts in accounting and auditing. KPMG S.A.'s report dated March 17, 2020 refers to the change in Erytech Pharma S.A.'s method of accounting for leases on January 1, 2019, due to the adoption of IFRS 16 "Leases."

The offices of KPMG S.A. are located at Tour Egho, 2 avenue Gambetta, CS 60055, 92066 Paris la Défense Cedex.



## ENFORCEMENT OF CIVIL LIABILITIES

We are a corporation organized under the laws of France. Half of our directors are citizens and residents of countries other than the United States, and the majority of our assets are located outside of the United States. We have appointed an agent for service of process in the United States; however, it may be difficult for investors:

- to obtain jurisdiction over us or our non-U.S. resident officers and directors in U.S. courts in actions predicated on the civil liability provisions of the U.S. federal securities laws;
- to enforce in U.S. courts judgments obtained in such actions against us or our non-U.S. resident officers and directors;
- to bring an original action in a French court to enforce liabilities based upon the U.S. federal securities laws against us or our non-U.S. resident officers or directors; and
- to enforce against us or our directors in non-U.S. courts, including French courts, judgments of U.S. courts predicated upon the civil liability provisions of the U.S. federal securities laws.

Nevertheless, a final judgment for the payment of money rendered by any federal or state court in the United States based on civil liability, whether or not predicated solely upon the U.S. federal securities laws, would be recognized and enforced in France provided that a French judge considers that this judgment meets the French legal requirements concerning the recognition and the enforcement of foreign judgments and is capable of being immediately enforced in the United States. A French court is therefore likely to grant the enforcement of a foreign judgment without a review of the merits of the underlying claim, only if (1) that judgment is enforceable in the jurisdiction of the U.S. court which rendered it, (2) that judgement was rendered by a court having jurisdiction over the dispute (the condition will be met if the dispute is clearly connected to the jurisdiction of the U.S. court and French courts did not have exclusive jurisdiction over the matter), (3) that judgment does not contravene French international public order and public policy, including the right to due process and (4) the U.S. judgment is not tainted with fraud and is not incompatible with a judgment rendered by a French court in the same matter, or with an earlier judgment rendered by a foreign court in the same matter.

In addition, French law guarantees full compensation for the harm suffered but is limited to the actual damages, so that the victim does not suffer or benefit from the situation. Such system excludes damages such as, but not limited to, punitive and exemplary damages.

As a result, the enforcement, by U.S. investors, of any judgments obtained in U.S. courts in civil and commercial matters, including judgments under the U.S. federal securities law against us or members of our board of directors, officers or certain experts named herein who are residents of France or countries other than the United States would be subject to the above conditions.

Finally, there may be doubt as to whether a French court would impose civil liability on us, the members of our board of directors, our officers or certain experts named herein in an original action predicated solely upon the U.S. federal securities laws brought in a court of competent jurisdiction in France against us or such members, officers or experts, respectively.

## WHERE YOU CAN FIND MORE INFORMATION

We are subject to the reporting requirements of the Exchange Act that are applicable to a foreign private issuer. Under the Exchange Act, we file annual reports on Form 20-F and other information with the SEC. We also furnish to the SEC under cover of Form 6-K material information required to be made public in France, filed with and made public by any stock exchange on which we are listed or distributed by us to our shareholders. As a foreign private issuer, we are exempt from, among other things, the rules under the Exchange Act prescribing the furnishing and content of proxy statements and our officers, directors and principal shareholders are exempt from the reporting and short-swing profit recovery provisions contained in Section 16 of the Exchange Act.

The SEC maintains a web site that contains reports and information statements and other information about issuers, such as us, who file electronically with the SEC. The address of that website is [www.sec.gov](http://www.sec.gov).

This prospectus and any prospectus supplement are part of a registration statement on Form F-3 that we filed with the SEC and do not contain all of the information in the registration statement. The full registration statement may be obtained from the SEC or us, as provided below. Forms of the documents establishing the terms of the offered securities are or may be filed as exhibits to the registration statement of which this prospectus forms a part. Statements in this prospectus or any prospectus supplement about these documents are summaries and each statement is qualified in all respects by reference to the document to which it refers. You should refer to the actual documents for a more complete description of the relevant matters. You may inspect a copy of the registration statement through the SEC's website, as provided above.

We also maintain a website at [www.erytech.com](http://www.erytech.com) through which you can access our SEC filings. The information set forth on our website is not part of this prospectus.

## INCORPORATION OF DOCUMENTS BY REFERENCE

The SEC allows us to “incorporate by reference” information that we file with them. Incorporation by reference allows us to disclose important information to you by referring you to those other documents. The information incorporated by reference is an important part of this prospectus, and information that we file later with the SEC will automatically update and supersede this information. We filed a registration statement on Form F-3 under the Securities Act of 1933, as amended, with the SEC with respect to the securities we may offer pursuant to this prospectus. This prospectus omits certain information contained in the registration statement, as permitted by the SEC. You should refer to the registration statement, including the exhibits, for further information about us and the securities we may offer pursuant to this prospectus. Statements in this prospectus regarding the provisions of certain documents filed with, or incorporated by reference in, the registration statement are not necessarily complete and each statement is qualified in all respects by that reference. Copies of all or any part of the registration statement, including the documents incorporated by reference or the exhibits, may be obtained upon payment of the prescribed rates at the offices of the SEC listed above in “Where You Can Find More Information.” The documents we are incorporating by reference are:

- our Annual Report on [Form 20-F](#) for the year ended December 31, 2019, filed with the SEC on March 18, 2020;
- our Report on Form 6-K furnished to the SEC on [June 9, 2020](#), including exhibit 99.1 thereto; our Report on Form 6-K furnished to the SEC on [June 25, 2020](#), including exhibit 99.1 thereto; our Report on Form 6-K furnished to the SEC on [June 26, 2020](#), including exhibit 99.1 thereto; and our Report on Form 6-K furnished to the SEC on [September 21, 2020](#), including exhibit 99.1 thereto; and
- the description of ADSs representing our ordinary shares contained in our Registration Statement on [Form 8-A](#) filed with the SEC on November 7, 2017, including any amendments or reports filed for the purpose of updating such description.

We are also incorporating by reference all subsequent Annual Reports on Form 20-F that we file with the SEC and certain reports on Form 6-K that we furnish to the SEC after the date of this prospectus (if they state that they are incorporated by reference into this prospectus) prior to the termination of this offering. In all cases, you should rely on the later information over different information included in this prospectus or any accompanying prospectus supplement.

Unless expressly incorporated by reference, nothing in this prospectus shall be deemed to incorporate by reference information furnished to, but not filed with, the SEC. Copies of all documents incorporated by reference in this prospectus, other than exhibits to those documents unless such exhibits are specifically incorporated by reference in this prospectus, will be provided at no cost to each person, including any beneficial owner, who receives a copy of this prospectus on the written or oral request of that person made to:

ERYTECH Pharma S.A.  
60 Avenue Rockefeller  
69008 Lyon France  
+33 4 78 74 4438

You may also access these documents on our website, [www.erytech.com](http://www.erytech.com). The information contained on, or that can be accessed through, our website is not a part of this prospectus. We have included our website address in this prospectus solely as an inactive textual reference.

You should rely only on information contained in, or incorporated by reference into, this prospectus. We have not authorized anyone to provide you with information different from that contained in this prospectus or incorporated by reference in this prospectus. We are not making offers to sell the securities in any jurisdiction in which such an offer or solicitation is not authorized or in which the person making such offer or solicitation is not qualified to do so or to anyone to whom it is unlawful to make such offer or solicitation.

**EXPENSES ASSOCIATED WITH REGISTRATION**

The following is an estimate of the expenses (all of which are to be paid by us) that we may incur in connection with the securities being registered hereby.

SEC registration fee	\$ (1)
FINRA filing fee	(1)
Legal fees and expenses	(2)
Accounting fees and expenses	(2)
Printing expenses	(2)
Miscellaneous expenses	(2)
Total	<u>\$ (2)</u>

- (1) These fees were paid at the time of filing of the Prior Registration Statement. No further registration or filing fees are due upon the filing of this registration statement.
- (2) These fees will be determined and calculated at the time of each issuance of securities pursuant to this registration statement and accordingly cannot be estimated at this time.



**\$100,000,000**

**American Depositary Shares representing Ordinary Shares  
Warrants to Purchase Ordinary Shares or American Depositary Shares**

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**PROSPECTUS**

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, 2020

**The information in this prospectus is not complete and may be changed. We may not sell these securities or accept an offer to buy these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities, and it is not soliciting offers to buy these securities in any jurisdiction where such offer or sale is not permitted.**

**SUBJECT TO COMPLETION, DATED SEPTEMBER 21, 2020**

**PROSPECTUS**



**Up to \$30,000,000**

**American Depositary Shares representing Ordinary Shares**

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We have entered into a sales agreement, or the sales agreement, with Cowen and Company LLC, or Cowen, relating to the sale of American Depositary Shares, or ADSs, representing ordinary shares. In accordance with the terms of the sales agreement, we may offer and sell up to \$30,000,000 of our ADSs, from time to time through Cowen acting as sales agent.

Our ADSs are listed on the Nasdaq Global Select Market under the symbol “ERYP.” On September 17, 2020, the last reported sale price of our ADSs was \$7.47 per ADS.

Sales of our securities, if any, under this prospectus may be made by any method that is deemed to be an “at the market offering” as defined in Rule 415(a)(4) promulgated under the Securities Act of 1933, as amended, or the Securities Act. Cowen is not required to sell any specific number or dollar amount of securities, but will act as a sales agent using commercially reasonable efforts consistent with its normal trading and sales practices and applicable state and federal laws, rules and regulations and the rules of the Nasdaq Stock Market LLC, on mutually agreed terms between Cowen and us. There are no minimum sale requirements, and there is no arrangement for funds to be received in any escrow, trust or similar arrangement.

The compensation payable to Cowen for sales of securities sold pursuant to the sales agreement will be an amount equal to 3.0% of the gross proceeds of any ADSs sold under the sales agreement. See “Plan of Distribution” for additional information regarding compensation to be paid to Cowen. In connection with the sale of the ADSs on our behalf, Cowen will be deemed to be an “underwriter” within the meaning of the Securities Act and the compensation of Cowen will be deemed to be underwriting commissions or discounts. We have also agreed to provide indemnification and contribution to Cowen with respect to certain liabilities, including liabilities under the Securities Act or the Securities Exchange Act of 1934, as amended, or the Exchange Act.

Under the authority granted by our shareholders to conduct the offering, the ADSs that we are offering may only be purchased initially by (i) natural or legal entities, governed by French or foreign law, that invest on a regular basis in the pharmaceutical, biotechnological or medical technology sectors and (ii) companies, institutions or entities, whatever their form, governed by French or foreign law, that carry out a significant part of their activities in the pharmaceutical, cosmetic or chemical sectors or in medical devices and/or technology or in research in these sectors.

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**Investing in our securities involves a high degree of risk. You should review carefully the risks and uncertainties described under the heading “[Risk Factors](#)” on page S-6 of this prospectus and in the documents that are incorporated by reference into this prospectus.**

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**Neither the Securities and Exchange Commission nor any other regulatory body has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.**

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**Cowen**

**The date of this prospectus is , 2020.**

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## ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement on Form F-3 that we filed with the Securities and Exchange Commission, or SEC, utilizing a “shelf” registration process. Under this shelf registration process, we may from time to time sell ADSs representing our ordinary shares having an aggregate offering price of up to \$30.0 million under this prospectus at prices and on terms to be determined by market conditions at the time of the offering.

This prospectus and the documents incorporated into this prospectus by reference include important information about us, the securities being offered and other information you should know before investing in our securities. To the extent there is a conflict between the information contained in this prospectus, on the one hand, and the information contained in any document incorporated by reference into this prospectus that was filed with the SEC before the date of this prospectus, on the other hand, you should rely on the information in this prospectus. If any statement in one of these documents is inconsistent with a statement in another document having a later date (for example, a document incorporated by reference in this prospectus), the statement in the document having the later date modifies or supersedes the earlier statement. Any statement so modified or superseded will not be deemed, except as so modified or superseded, to constitute a part of this prospectus.

You should rely only on the information contained in or incorporated by reference in this prospectus and in any free writing prospectus that we authorized for use in connection with this offering. We have not, and the sales agent has not, authorized anyone to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. We are not, and the sales agent is not, making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information appearing in this prospectus, the documents incorporated by reference in this prospectus and in any free writing prospectus that we have authorized for use in connection with this offering, is accurate only as of the date of those respective documents. Our business, financial condition, results of operations and prospects may have changed since those dates. You should read this prospectus, the documents incorporated by reference in this prospectus, and any free writing prospectus that we have authorized for use in connection with this offering, in their entirety before making an investment decision.

We further note that the representations, warranties and covenants made by us in any agreement that is filed as an exhibit to any document that is incorporated by reference in this prospectus were made solely for the benefit of the parties to such agreement, including, in some cases, for the purpose of allocating risk among the parties to such agreements, and should not be deemed to be a representation, warranty or covenant to you. Moreover, such representations, warranties or covenants were accurate only as of the date when made. Accordingly, such representations, warranties and covenants should not be relied on as accurately representing the current state of our affairs.

Unless otherwise indicated, all references in this prospectus to “ERYTECH,” “the company,” “our company,” “we,” “us” and “our” refer to ERYTECH Pharma S.A. and its consolidated subsidiary.



## **PRESENTATION OF FINANCIAL AND OTHER INFORMATION**

We present our consolidated financial statements in euros and in accordance with IFRS. None of the financial statements incorporated by reference into this prospectus were prepared in accordance with generally accepted accounting principles in the United States.

Unless otherwise specified, all monetary amounts are in euros. All references in this prospectus to “\$,” “US\$,” “U.S.,” “U.S. dollars,” “dollars” and “USD” mean U.S. dollars and all references to “€” and “euros,” mean euros, unless otherwise noted. Throughout this prospectus, references to ADSs mean ADSs or ordinary shares represented by such ADSs, as the case may be.

We have made rounding adjustments to some of the figures included in this prospectus. Accordingly, numerical figures shown as totals in some tables may not be an arithmetic aggregation of the figures that preceded them.

## PROSPECTUS SUMMARY

*This summary highlights certain information about us, this offering and selected information contained elsewhere in or incorporated by reference into this prospectus, and does not contain all of the information that you need to consider in making your investment decision. For a more complete understanding of our business and this offering, you should carefully read the entire prospectus and the documents incorporated by reference herein, including our historical financial statements and the notes thereto, which are incorporated herein by reference. You should read section titled “Risk Factors” beginning on page S-6 of this prospectus and Item 3D. “Risk Factors” in our Annual Report on Form 20-F for the year ended December 31, 2019, for more information about important risks that you should consider before making a decision to invest in our securities.*

### Company Overview

We are a clinical-stage biopharmaceutical company developing innovative therapies for severe forms of cancer and orphan diseases. Leveraging our proprietary ERYCAPS platform, which uses a novel technology to encapsulate therapeutic drug substances inside erythrocytes, or red blood cells, we are developing a pipeline of product candidates for patients with high unmet medical needs. Our lead product candidate eryaspase, which we also refer to as GRASPA, targets the metabolism of cancer cells by depriving the cells of asparagine, an amino acid necessary for their survival and critical in maintaining the cells’ rapid growth rate. We are currently developing eryaspase for the treatment of severe solid tumors, including pancreatic cancer and triple negative breast cancer, or TNBC.

In 2018, we initiated a pivotal Phase 3 clinical trial of eryaspase for the treatment of second-line pancreatic cancer patients. Patient enrollment in this trial, which we refer to as the TRYbeCA-1 trial, began in September 2018 in Europe. The U.S. Food and Drug Administration, or FDA, approved our Investigational New Drug, or IND, application in May 2019, and the TRYbeCA-1 trial opened for patient enrollment in the United States in October 2019. We plan to enroll approximately 500 patients at approximately 100 clinical sites in Europe and the United States (including approximately 20 sites in the United States). To date, we have obtained clinical trial authorizations in the United States and from 11 European countries and we are actively recruiting and open for patient enrollment at more than 70 clinical sites in Europe and in the United States. More than 90% of the approximately 500 patients to be enrolled in the trial have been enrolled and treated. Beginning in early April 2020, we observed a reduction in rate of patient enrollment as a result of the COVID-19 global pandemic. We currently expect to complete the targeted enrollment in the fourth quarter of 2020.

We expect to report interim data from the TRYbeCA-1 trial in the first quarter of 2021. The trial will either continue toward a final analysis, expected in the second half of 2021, or will be stopped for superiority if the primary endpoint is met by demonstrating a significant improvement in overall survival. In the event the primary endpoint is met at the time of the interim analysis, we intend to complete the full analysis of the trial results and proceed toward preparing both a Marketing Authorization Application, or MAA, and a Biologics License Application, or BLA, for eryaspase in Europe and the United States, respectively. In April 2020, the FDA granted Fast Track designation to eryaspase as a potential second-line treatment for patients with metastatic pancreatic cancer. The FDA’s Fast Track program is designed to facilitate the expedited development and review of drug candidates to treat serious or life-threatening conditions for which there is a demonstration of the potential to address an unmet medical need.

We are supporting a proof-of-concept investigator-sponsored Phase 1 clinical trial evaluating the safety of eryaspase in combination with FOLFIRINOX for the treatment of first-line pancreatic cancer patients, as well as in other indications of pancreatic cancer. The Georgetown Lombardi Comprehensive Cancer Center is the sponsor of the trial. We expect to enroll the first patient in this trial by the end of 2020.

We launched a proof-of-concept Phase 2 clinical trial in TNBC in Europe, which we refer to as the TRYbeCA-2 trial, in the fourth quarter of 2018. The trial is enrolling patients in three European countries. The primary endpoint is objective response rate. We expect to report final data from the TRYbeCA-2 trial in 2021.

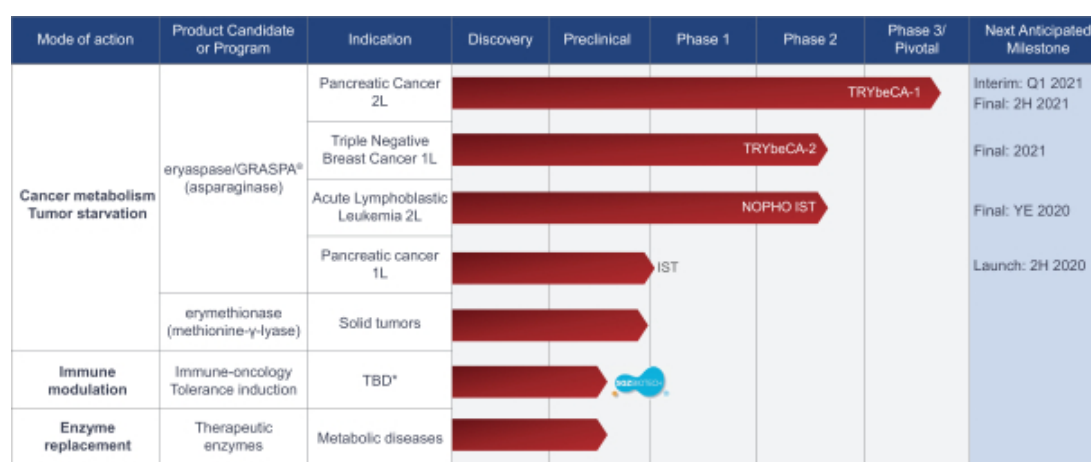
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We are also supporting a Phase 2 clinical trial initiated and sponsored by investigators of the Nordic Society of Pediatric Hematology and Oncology, or NOPHO. This trial is evaluating eryaspase in patients with acute lymphoblastic leukemia, or ALL, who experienced hypersensitivity reactions to pegylated L-asparaginase. We reported preliminary findings in June 2020 and expect final data from the NOPHO trial to be available by the end of 2020.

In addition to the encapsulation of L-asparaginase, we believe that our ERYCAPS platform has broad potential application and can be used to encapsulate a wide range of therapeutic agents for which long-circulating therapeutic activity or rapid and specific targeting is desired. For example, we developed erymethionase, a preclinical product candidate which encapsulates methionine-g-lyase in red blood cells and is designed to target the amino acid metabolism of cancer cells and induce tumor starvation. We intend to continue to work on the development of erymethionase as well as potential other therapeutic strategies based on methionine depletion, depending on financial resources and business strategy.

We have also developed two preclinical programs aimed at maximizing the value creation potential of our ERYCAPS program, which we believe may result in attractive partnering opportunities: enzyme replacement (ERYZYME) and immune modulation (ERYMMUNE). As part of our value creation strategy, in June 2019, we entered into a collaboration with SQZ Biotechnologies, a cell therapy company developing novel treatments in multiple therapeutic areas, to focus on the development of novel red blood cell-based therapeutics for the treatment of immuno-oncology and tolerance induction.

## Our Pipeline



1L: First Line; 2L: Second Line; IST: Investigator Sponsored Trial; NOPHO: Nordic Society of Pediatric Hematology and Oncology

\* To be determined by SQZ Biotech

## Corporate Information

Our legal and commercial name is ERYTECH Pharma S.A. We were incorporated as a *société par actions simplifiée*, or S.A.S., under the laws of the French Republic on October 26, 2004 and became a *société anonyme*, or S.A., on September 29, 2005. We are registered at the Register of Commerce and Companies of Lyon (*Registre du commerce et des sociétés*) under the number 479 560 013. In April 2014, we incorporated our wholly-owned U.S. subsidiary, ERYTECH Pharma, Inc. Our ordinary shares are listed on Euronext Paris under the ticker symbol “ERYP” and our ADSs are listed on the Nasdaq Global Select Market under the symbol “ERYP.”

Our principal executive offices are located at 60 Avenue Rockefeller, 69008 Lyon, France. Our telephone number at our principal executive offices is +33 4 78 74 44 38. Our agent for service of process in the United

States is ERYTECH Pharma, Inc. Our website address is [www.erytech.com](http://www.erytech.com). The reference to our website is an inactive textual reference only and information contained in, or that can be accessed through, our website or any other website cited herein is not part of this prospectus. The U.S. Securities and Exchange Commission maintains a website ([www.sec.gov](http://www.sec.gov)) that contains reports, proxy and information statements and other information regarding registrants, such as ERYTECH, that file electronically with the SEC.

“ERYTECH Pharma,” “ERYCAPS,” “GRASPA,” the ERYTECH logo and other trademarks or service marks of ERYTECH Pharma S.A. appearing in this prospectus are the property of ERYTECH Pharma S.A. or our subsidiary, ERYTECH Pharma, Inc. Solely for convenience, the trademarks, service marks and trade names referred to in this prospectus are listed without the ® and ™ symbols, but such references should not be construed as any indicator that their respective owners will not assert, to the fullest extent under applicable law, their right thereto. All other trademarks, trade names and service marks appearing in this prospectus are the property of their respective owners.

### **Implications of Being an Emerging Growth Company and a Smaller Reporting Company**

We qualify as an “emerging growth company” as defined in the U.S. Jumpstart Our Business Startups Act of 2012, or the JOBS Act. As an emerging growth company, we may take advantage of specified reduced disclosure and other requirements that are otherwise applicable generally to public companies. These provisions include:

- exemption from the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act of 2002; and
- to the extent that we no longer qualify as a foreign private issuer, (1) reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements and (2) exemptions from the requirements of holding a non-binding advisory vote on executive compensation, including golden parachute compensation.

We may take advantage of these provisions until December 31, 2022 or such earlier time that we no longer qualify as an emerging growth company. We would cease to be an emerging growth company if we have more than \$1.07 billion in total annual gross revenue, have more than \$700 million in market value of our capital stock held by non-affiliates or issue more than \$1.0 billion of non-convertible debt over a three-year period. We may choose to take advantage of some but not all of these reduced burdens. To the extent that we take advantage of these reduced burdens, the information that we provide stockholders may be different than you might obtain from other public companies in which you hold equity interests.

In addition, under the JOBS Act, emerging growth companies can delay adopting new or revised accounting standards until such time as those standards apply to private companies. Since International Financial Reporting Standards make no distinction between public and private companies for purposes of compliance with new or revised accounting standards, the requirements for our compliance as a private company and as a public company are the same.

We are also a “smaller reporting company” under SEC rules, meaning that the market value of our shares held by non-affiliates is less than \$700 million and our annual revenue was less than \$100 million during our most recently completed fiscal year. We may continue to be a smaller reporting company if either (i) the market value of our shares held by non-affiliates is less than \$250 million or (ii) our annual revenue was less than \$100 million during the most recently completed fiscal year and the market value of our shares held by non-affiliates is less than \$700 million. If we are a smaller reporting company at the time we cease to be an emerging growth company, we may continue to rely on exemptions from certain disclosure requirements that are available to smaller reporting companies. Similar to emerging growth companies, smaller reporting companies have reduced disclosure obligations regarding executive compensation.

### **Implications of Being a Foreign Private Issuer**

We are also considered a “foreign private issuer” under U.S. securities laws. In our capacity as a foreign private issuer, we are exempt from certain rules under the U.S. Securities Exchange Act of 1934, as amended, or the Exchange Act, that impose certain disclosure obligations and procedural requirements for proxy solicitations under Section 14 of the Exchange Act. In addition, our officers, directors and principal shareholders are exempt from the reporting and “short-swing” profit recovery provisions of Section 16 of the Exchange Act and the rules under the Exchange Act with respect to their purchases and sales of our securities. Moreover, we are not required to file periodic reports and financial statements with the SEC as frequently or as promptly as U.S. companies whose securities are registered under the Exchange Act. In addition, we are not required to comply with Regulation FD, which restricts the selective disclosure of material information.

We may take advantage of these exemptions until such time as we are no longer a foreign private issuer. We will remain a foreign private issuer until such time that more than 50% of our outstanding voting securities are held by U.S. residents and any of the following three circumstances applies: (1) the majority of our executive officers or directors are U.S. citizens or residents; (2) more than 50% of our assets are located in the United States; or (3) our business is administered principally in the United States.

## THE OFFERING

Securities offered by us	ADSs representing our ordinary shares, having an aggregate offering price of up to \$30,000,000 and representing, together with all the other shares which have been admitted to trading on Euronext Paris, on a 12-month rolling basis less than 20% of the total number of the Company's securities admitted to trading on Euronext Paris.
Manner of offering	"At the market offering" that may be made from time to time through our sales agent, Cowen and Company, LLC. See "Plan of Distribution" on page S-27 of this prospectus.
Purchaser restrictions	Under the authority granted by our shareholders, the ADSs may only be purchased initially by (i) natural or legal entities, governed by French or foreign law, that invest on a regular basis in the pharmaceutical, biotechnological or medical technology sectors and (ii) companies, institutions or entities, whatever their form, governed by French or foreign law, that carry out a significant part of their activities in the pharmaceutical, cosmetic or chemical sectors or in medical devices and/or technology or in research in these sectors. In order to purchase ADSs in the offering, you will be required to execute and provide to Cowen an investor letter representing that you satisfy the foregoing investor criteria.
The ADSs	Each ADS represents one ordinary share, nominal value €0.10 per share. The offered ADSs may be evidenced by American Depositary Receipts, or ADRs.
Depository	The Bank of New York Mellon
Use of proceeds	We currently intend to use the net proceeds from this offering primarily to fund the research and development of our product candidates, for working capital and for general corporate purposes. We may also use a portion of the net proceeds to acquire or invest in businesses, products or technologies that we believe are complementary to our own, although we have no current plans, commitments or agreements with respect to any acquisitions as of the date of this prospectus. See "Use of Proceeds" on page S-14 of this prospectus.
Risk factors	Investing in our securities involves significant risks. See "Risk Factors" on page S-6 of this prospectus, and in documents incorporated by reference into this prospectus.
Nasdaq Global Select Market symbol	"ERYP"

## RISK FACTORS

*Investing in our securities involves a high degree of risk. You should carefully review the risks and uncertainties described below and under the heading “Risk Factors” in our Annual Report on Form 20-F for the year ended December 31, 2019 as updated by our subsequent filings, some of which are incorporated by reference into this prospectus, before deciding whether to purchase any of the securities being registered pursuant to the registration statement of which this prospectus is a part. Each of the risk factors could adversely affect our business, results of operations, financial condition and cash flows, as well as adversely affect the value of an investment in our securities, and the occurrence of any of these risks might cause you to lose all or part of your investment. Additional risks not presently known to us or that we currently believe are immaterial may also significantly impair our business operations. Please also read carefully the section below titled “Special Note Regarding Forward-Looking Statements.”*

***You may experience immediate and substantial dilution in the net tangible book value per ADS of your investment.***

The offering price per ADS in this offering may exceed the net tangible book value per ADS outstanding prior to this offering. After giving effect to the sale of ADSs in the aggregate amount of \$30.0 million at an assumed offering price of \$7.47 per ADS, the last reported sale price of our ADSs on September 17, 2020 on the Nasdaq Global Select Market, and after deducting commissions and estimated offering expenses, our as adjusted net tangible book value as of June 30, 2020 would have been \$85.3 million, or \$3.88 per ADS. You will experience additional dilution at the end of the vesting period for our free shares that we have granted, and upon exercise of any outstanding warrants or options to purchase ordinary shares, or if we otherwise issue additional ordinary shares or ADSs below the offering price. See the section titled “Dilution” below for a more detailed illustration of the dilution you would incur if you participate in this offering. Because the sales of the securities offered hereby will be made directly into the market or in negotiated transactions, the prices at which we sell these securities will vary and these variations may be significant. Purchasers of the securities we sell, as well as our existing shareholders, will experience significant dilution if we sell the securities at prices significantly below the price at which they invested.

***Raising additional capital, including as a result of this offering, may cause dilution to our shareholders, restrict our operations or require us to relinquish rights to our product candidates.***

Until such time, if ever, as we can generate substantial revenue from the sale of our product candidates, we expect to finance our cash needs through a combination of equity offerings, debt financing, collaborations, strategic alliances and licensing arrangements. To the extent that we raise additional capital through the sale of equity securities, including from this offering, or convertible debt securities, your ownership interest will be diluted, and the terms of these securities may include liquidation or other preferences that adversely affect your rights as a shareholder. Debt financing and preferred equity financing, if available, may involve agreements that include covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, making capital expenditures or declaring dividends.

If we raise additional funds through collaborations, strategic alliances or marketing, distribution or licensing arrangements with third parties, we may be required to relinquish valuable rights to our research programs or product candidates or grant licenses on terms that may not be favorable to us. If we are unable to raise additional funds through equity or debt financings or other arrangements with third parties when needed, we may be required to delay, limit, reduce or terminate our drug development or future commercialization efforts or grant rights to third parties to develop and market product candidates that we would otherwise prefer to develop and market ourselves.

***We have broad discretion in the use of the net proceeds from this offering and may use them in ways with which you do not agree and in ways that may not increase the value of your investment.***

Our management will have broad discretion in the application of the net proceeds that we receive from this offering. We may spend or invest these proceeds in a way with which our shareholders and ADS holders disagree. The failure by our management to apply these funds effectively could harm our business and financial condition. Pending their use, we may invest the net proceeds from this offering in a manner that does not produce income or that loses value. These investments may not yield a favorable return to our investors.

***You may not be able to exercise your right to vote the ordinary shares underlying your ADSs.***

Holders of ADSs may exercise voting rights with respect to the ordinary shares represented by the ADSs only in accordance with the provisions of the amended and restated deposit agreement. The amended and restated deposit agreement provides that, upon receipt of notice of any meeting of holders of our ordinary shares, the depositary will fix a record date for the determination of ADS holders who shall be entitled to give instructions for the exercise of voting rights. Upon timely receipt of notice from us, if we so request, the depositary shall distribute to the holders as of the record date (1) the notice of the meeting or solicitation of consent or proxy sent by us and (2) a statement as to the manner in which instructions may be given by the holders.

Purchasers of ADSs in the offering may instruct the depositary of their ADSs to vote the ordinary shares underlying their ADSs. Otherwise, purchasers of ADSs in the offering will not be able to exercise voting rights unless they withdraw the ordinary shares underlying the ADSs they hold. However, a holder of ADSs may not know about the meeting far enough in advance to withdraw those ordinary shares. If we ask for a holder of ADSs' instructions, the depositary, upon timely notice from us, will notify him or her of the upcoming vote and arrange to deliver our voting materials to him or her. We cannot guarantee to any holder of ADSs that he or she will receive the voting materials in time to ensure that he or she can instruct the depositary to vote his or her ordinary shares or to withdraw his or her ordinary shares so that he or she can vote them. If the depositary does not receive timely voting instructions from a holder of ADSs, it may give a proxy to a person designated by us to vote the ordinary shares underlying his or her ADSs. In addition, the depositary and its agents are not responsible for failing to carry out voting instructions or for the manner of carrying out voting instructions. This means that a holder of ADSs may not be able to exercise his or her right to vote, and there may be nothing he or she can do if the ordinary shares underlying his or her ADSs are not voted as he or she requested.

***Purchasers of ADSs in the offering may not be directly holding our ordinary shares.***

A holder of ADSs will not be treated as one of our shareholders and will not have direct shareholder rights. French law governs our shareholder rights. The depositary will be the holder of the ordinary shares underlying ADSs held by purchasers of ADSs in the offering. Purchasers of ADSs in the offering will have ADS holder rights. The amended and restated deposit agreement among us, the depositary and purchasers of ADSs in the offering, as an ADS holder, and all other persons directly and indirectly holding ADSs, sets out ADS holder rights, as well as the rights and obligations of the depositary.

***The right as a holder of ADSs to participate in any future preferential subscription rights or to elect to receive dividends in shares may be limited, which may cause dilution to the holdings of purchasers of ADSs in the offering.***

According to French law, if we issue additional securities for cash, current shareholders will have preferential subscription rights for these securities on a pro rata basis unless they waive those rights at an extraordinary meeting of our shareholders (by a two-thirds majority vote) or individually by each shareholder. However, our ADS holders in the United States will not be entitled to exercise or sell such rights unless we register the rights and the securities to which the rights relate under the Securities Act or an exemption from the registration requirements is available. In addition, the amended and restated deposit agreement provides that the depositary



will not make rights available to purchasers of ADSs in the offering unless the distribution to ADS holders of both the rights and any related securities are either registered under the Securities Act or exempted from registration under the Securities Act. Further, if we offer holders of our ordinary shares the option to receive dividends in either cash or shares, under the amended and restated deposit agreement the depositary may require satisfactory assurances from us that extending the offer to holders of ADSs does not require registration of any securities under the Securities Act before making the option available to holders of ADSs. We are under no obligation to file a registration statement with respect to any such rights or securities or to endeavor to cause such a registration statement to be declared effective. Moreover, we may not be able to establish an exemption from registration under the Securities Act. Accordingly, ADS holders may be unable to participate in our rights offerings or to elect to receive dividends in shares and may experience dilution in their holdings. In addition, if the depositary is unable to sell rights that are not exercised or not distributed or if the sale is not lawful or reasonably practicable, it will allow the rights to lapse, in which case you will receive no value for these rights.

***Purchasers of ADSs in the offering may be subject to limitations on the transfer of their ADSs and the withdrawal of the underlying ordinary shares.***

ADSs, which may be evidenced by ADRs, are transferable on the books of the depositary. However, the depositary may close its books at any time or from time to time when it deems expedient in connection with the performance of its duties. The depositary may refuse to deliver, transfer or register transfers of ADSs generally when our books or the books of the depositary are closed, or at any time if we or the depositary think it is advisable to do so because of any requirement of law, government or governmental body, or under any provision of the amended and restated deposit agreement, or for any other reason subject to a holder of ADSs' right to cancel his or her ADSs and withdraw the underlying ordinary shares. Temporary delays in the cancellation of ADSs and withdrawal of the underlying ordinary shares may arise because the depositary has closed its transfer books or we have closed our transfer books, the transfer of ordinary shares is blocked to permit voting at a shareholders' meeting or we are paying a dividend on our ordinary shares. In addition, a holder of ADSs may not be able to cancel his or her ADSs and withdraw the underlying ordinary shares when he or she owes money for fees, taxes and similar charges and when it is necessary to prohibit withdrawals in order to comply with any laws or governmental regulations that apply to ADSs or to the withdrawal of ordinary shares or other deposited securities. See the section of this prospectus titled "Description of American Depositary Shares."

***U.S. holders of ADSs may suffer adverse tax consequences if we are characterized as a passive foreign investment company.***

Based on the composition of our gross income, assets, activities and market capitalization in 2019, the nature of our business and due to fluctuations in our stock price, we believe that we were characterized as a passive foreign investment company, or PFIC, for our taxable year ended December 31, 2019. Based on the expected nature and composition of our gross income, assets, activities and market capitalization for our taxable year ending December 31, 2020, we may be characterized as a PFIC for the taxable year ending December 31, 2020. Because the calculation of the value of our assets may be based in part on the value of our ADSs, the value of which may fluctuate considerably, our PFIC status is difficult to predict. There can be no assurance that we will not be considered a PFIC for the current year or any future taxable year. A separate determination must be made after the close of each taxable year as to whether we are a PFIC for that year. As a result, our PFIC status may change from year to year. Our status as a PFIC will depend on the composition of our income (including whether we receive certain non-refundable grants or subsidies and whether such amounts and reimbursements of certain refundable research tax credits will constitute gross income for purposes of the PFIC income test) and the composition and value of our assets, which may be determined in large part by reference to the market value of the ADSs and our ordinary shares, which may be volatile, from time to time. Our status may also depend, in part, on how quickly we utilize the cash proceeds from this offering in our business. Our U.S. counsel expresses no opinion regarding our conclusions or our expectations regarding our PFIC status.

Generally, if, for any taxable year, at least 75% of our gross income is passive income, or at least 50% of the value of our assets is attributable to assets that produce passive income or are held for the production of passive

income, including cash, we will be characterized as a PFIC for U.S. federal income tax purposes. For purposes of these tests, passive income includes dividends, interest, and gains from the sale or exchange of investment property and rents and royalties other than rents and royalties which are received from unrelated parties in connection with the active conduct of a trade or business. If we are characterized as a PFIC, U.S. holders of the ADSs may suffer adverse tax consequences, including having gains realized on the sale of the ADSs treated as ordinary income, rather than capital gain, the loss of the preferential rate applicable to dividends received on the ADSs by individuals who are U.S. holders, and having interest charges apply to distributions by us and the proceeds of sales of the ADSs. See “Material United States Federal Income and French Tax Considerations—Material U.S. Federal Income Tax Considerations—Passive Foreign Investment Company Considerations.”

***If a United States person is treated as owning at least 10% of our ordinary shares, such United States person may be subject to adverse U.S. federal income tax consequences.***

If a U.S. holder (as defined below under “Material United States Federal Income and French Tax Considerations”) is treated as owning (directly, indirectly or constructively) at least 10% of the value or voting power of our ordinary shares, such U.S. holder will be treated as a “United States shareholder” with respect to each “controlled foreign corporation” in our group (if any). Because our group includes at least one U.S. subsidiary (ERYTECH Pharma, Inc.), if we were to form or acquire any non-U.S. subsidiaries in the future, they will be treated as controlled foreign corporations. A United States shareholder of a controlled foreign corporation will be required to annually report and include in its U.S. taxable income its pro rata share of “subpart F income” and investments in U.S. property by the controlled foreign corporations and its “global intangible low-taxed income,” regardless of whether we make any distributions. An individual that is a United States shareholder with respect to a controlled foreign corporation generally will not be allowed certain tax deductions or foreign tax credits that are available to a United States shareholder that is a domestic corporation. We cannot provide any assurance that we will furnish to any United States shareholder the information required to comply with the reporting and tax-paying obligations discussed above. Failure to comply with such reporting obligations may subject a U.S. holder that is a United States shareholder to significant monetary penalties and may prevent the statute of limitations with respect to your U.S. federal income tax return for the year for which reporting was due from starting. U.S. holders should consult their tax advisors regarding the potential application of these rules to their investment in our ADSs.

***Future changes to tax laws could materially adversely affect our company and reduce net returns to our shareholders.***

Our tax treatment is subject to the enactment of, or changes in, tax laws, regulations and treaties, or the interpretation thereof, tax policy initiatives and reforms under consideration and the practices of tax authorities in jurisdictions in which we operate, including those related to the Organization for Economic Co-Operation and Development’s Base Erosion and Profit Shifting Project, the European Commission’s state aid investigations and other initiatives. Such changes may include (but are not limited to) the taxation of operating income, investment income, dividends received or (in the specific context of withholding tax) dividends paid. We are unable to predict what tax reform may be proposed or enacted in the future or what effect such changes would have on our business, but such changes, to the extent they are brought into tax legislation, regulations, policies or practices, could affect our financial position and overall or effective tax rates in the future in countries where we have operations, reduce post-tax returns to our shareholders, and increase the complexity, burden and cost of tax compliance.

***Tax authorities may disagree with our positions and conclusions regarding certain tax positions, resulting in unanticipated costs, taxes or non-realization of expected benefits.***

A tax authority may disagree with tax positions that we have taken, which could result in increased tax liabilities. For example, the U.S. Internal Revenue Service or another tax authority could challenge our allocation of income by tax jurisdiction and the amounts paid between our affiliated companies pursuant to our intercompany arrangements and transfer pricing policies, including amounts paid with respect to our intellectual property

development. Similarly, a tax authority could assert that we are subject to tax in a jurisdiction where we believe we have not established a taxable connection, often referred to as a “permanent establishment” under international tax treaties, and such an assertion, if successful, could increase our expected tax liability in one or more jurisdictions. A tax authority may take the position that material income tax liabilities, interest and penalties are payable by us, in which case, we expect that we might contest such assessment. Contesting such an assessment may be lengthy and costly and if we were unsuccessful in disputing the assessment, the implications could increase our anticipated effective tax rate, where applicable.

***Changes in European regulations may limit our ability to attract and obtain additional financing sources outside France.***

As a result of the implementation of Regulation (EU) 2019/452 of the European Parliament and of the Council of March 19, 2019 establishing a framework for the screening of foreign direct investments into the European Union, the list of sectors of activity, which are the subject of a control by the French authorities, has been extended to cover foreign investments in additional economic sectors. Prior authorization of the Minister of Economy is required for investments in: (i) businesses participating, even occasionally, under the exercise of French official authority, (ii) businesses that would be liable to negatively impact public order, public security or the national defense interest, as well as (iii) business focused on research and development activities relating to critical technologies.

A foreign direct investment will be subject to authorization where there is an (i) acquisition of control, under article L.233-3 of the French Commercial Code, of an entity subject to French law, (ii) where a party acquires all or part of a branch of an entity subject to French law, (iii) or where a party crosses directly or indirectly, and acting alone or in concert, the 25% voting rights threshold of an entity subject to French law.

The French government has adapted the foreign investment control procedure in France within the context of the ongoing COVID-19 pandemic in two ways: (i) the inclusion, by a ministerial order of April 27, 2020, of biotechnologies in the list of critical technologies and (ii) the addition, by a decree of July 22, 2020, of the threshold of 10% of voting rights of a company subject to French law whose securities are listed on a stock exchange as triggering the control procedure.

The Decree of July 22, 2020 currently provides that this new 10% threshold will be effective until December 31, 2020 and a rapid review procedure for foreign investments exceeding this threshold.

If an investment in the company subject to prior authorization is realized without this authorization having been granted, the Minister will be able to order the investor, subject to a fine for non-performance, to: (i) file an authorization application, (ii) restore the previous situation, or (iii) amend the investment and, if he considers that the conditions for the authorization have not been met, the Minister may also revoke the authorization or order the investor, subject to a fine for non-performance, to comply with the authorization. In both cases, he may also take protective measures.

Furthermore, an investor who has carried out a transaction without prior authorization or has not complied with the orders or measures set by the French Minister of Economy will be liable to a fine of up to the greater of the following amounts: (i) double the amount of the irregular investment, (ii) 10% of the turnover (excluding taxes) of the company, (iii) five million euros for legal entities, and (iv) one million euros for individuals.

Inclusion of biotechnologies in the list of critical technologies subject to foreign investment control procedure is a risk for the Company in that it constitutes a potential disincentive for foreign investors and could therefore limit access to foreign sources of funding. These recent changes apply from the date of their entry into force and therefore do not have an impact on investments exceeding the 10% voting rights threshold realized by foreign investors before the date of July 22, 2020.

***We have entered into a note and warrant consisting of tranches of convertible bonds with warrants attached (OCABSA) and may encounter adverse effects as a result thereof.***

On June 24, 2020, we signed an agreement with the Luxembourg-based European High Growth Opportunities Securitization Fund represented by its asset manager, European High Growth Opportunities Manco SA for the issuance of convertible notes whereby the investor committed to subscribe up to a maximum of €60 million in the event of conversion of all the notes, subject to the regulatory limit of 20% dilution, currently representing approximately €48 million, including the two tranches issued in July and August 2020, unless further authorized. The notes come with share warrants representing 10% of the nominal amount of the issued notes whose exercise price will reflect a 20% premium over the lowest volume-weighted average daily price of the share over the reference period preceding the issue of the first tranche.

By using this financing program, we may encounter the following adverse effects:

- The rapid and frequent sale of the new shares resulting from the conversion of the convertible notes and the exercise of the share warrants by the investor may adversely impact our share price;
- The total amount of issuances of convertible notes and share warrants may depend on certain regulatory approvals making the financing amount uncertain;
- As our share price has an impact on the number of shares issued upon the conversion of the convertible notes and the exercise of the share warrants, the number of shares issued upon the conversion of the convertible notes and the exercise of the share warrants is uncertain and may significantly fluctuate during the lifetime of the financing program; and
- Conversion into ordinary shares of all or part of the convertible notes and the exercise of all or part of the share warrants could have a potentially significant dilutive effect for our shareholders.

## **SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS**

This prospectus and the documents incorporated by reference contain forward-looking statements. These are based on our management's current beliefs, expectations and assumptions about future events, conditions and results and on information currently available to us. Discussions containing these forward-looking statements may be found, among other places, in the sections titled "Information on the Company," "Risk Factors" and "Operating and Financial Review and Prospects" incorporated by reference from our most recent Annual Report on Form 20-F, as well as any amendments thereto, filed with the SEC.

In some cases, you can identify forward-looking statements by terminology such as "anticipate," "believe," "could," "estimate," "expects," "intend," "may," "might," "plan," "potential," "predict," "project," "should," "will," "would" or the negative or plural of those terms, and similar expressions intended to identify statements about the future, although not all forward-looking statements contain these words. These statements involve known and unknown risks, uncertainties and other factors that may cause our actual results, levels of activity, performance or achievements to be materially different from the information expressed or implied by these forward-looking statements.

Any statements in this prospectus or incorporated herein by reference, about our expectations, beliefs, plans, objectives, assumptions or future events or performance are not historical facts and are forward-looking statements. Within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act, these forward-looking statements include statements regarding:

- the development of our lead product candidate, eryaspase, which is also known under the trade name GRASPA in Europe and Israel,
- our ability to obtain and maintain regulatory approval of eryaspase in the indications for which we plan to develop, and any related restrictions, limitations or warnings in the label of an approved drug or therapy;
- the initiation, timing, progress and results of our preclinical studies and clinical trials of eryaspase and any other product candidates we may develop;
- our ability to successfully develop our ERYCAPS platform and advance our pipeline of product candidates;
- the size and growth potential of the markets for our product candidates, if approved, and the rate and degree of market acceptance of our product candidates, including reimbursement that may be received from payors;
- the timing of our regulatory filings for our product candidates, along with regulatory developments in the United States, European Union and other foreign countries;
- our ability to maintain and enter into and successfully complete collaborations, licensing arrangements or in-license or acquire rights to other products, product candidates or technologies;
- our reliance on third parties to manufacture and conduct the clinical trials of eryaspase, and any other product candidates we may develop, which could limit our commercialization efforts or delay or limit their future development or regulatory approval;
- our ability to develop sales, commercialization, marketing and manufacturing capabilities and strategy, including future hiring plans;
- our ability to produce adequate supplies of our product candidates for preclinical and clinical testing and to fulfill our contractual obligations to third-party distributors;
- the impact of the COVID-19 pandemic on our business, operations, strategy, goals and anticipated timelines;
- the effects of increased competition as well as innovations by new and existing competitors in our industry;

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- our ability to obtain additional funding for our operations;
- the effects of additional financing activities;
- our ability to maintain, protect and enhance our intellectual property rights and propriety technologies and to operate our business without infringing the intellectual property rights and proprietary technology of third parties;
- regulatory developments in the United States, Europe and other foreign countries;
- our ability to attract and retain qualified employees and key personnel;
- our estimates regarding expenses, future revenues, capital requirements and needs for additional financing;
- our planned level of capital expenditures and our belief that our existing cash will be sufficient to fund our operating expenses and capital expenditure requirements until September 2021;
- the uncertainty of economic conditions in certain countries in Europe and Asia, such as those related to the United Kingdom's withdrawal from the European Union, commonly referred to as "Brexit," and general economic conditions; and
- whether or not we are classified as a passive foreign investment company, or PFIC, for current and future periods.

You should refer to the "Risk Factors" section contained in this prospectus and any related free writing prospectus, and in the documents that are incorporated by reference into this prospectus, for a discussion of important factors that may cause our actual results to differ materially from those expressed or implied by our forward-looking statements. Given these risks, uncertainties and other factors, many of which are beyond our control, we cannot assure you that the forward-looking statements in this prospectus will prove to be accurate, and you should not place undue reliance on these forward-looking statements. Furthermore, if our forward-looking statements prove to be inaccurate, the inaccuracy may be material. In light of the significant uncertainties in these forward-looking statements, you should not regard these statements as a representation or warranty by us or any other person that we will achieve our objectives and plans in any specified time frame, or at all.

Except as required by law, we assume no obligation to update these forward-looking statements publicly, or to revise any forward-looking statements to reflect events or developments occurring after the date of this prospectus, even if new information becomes available in the future.

## **USE OF PROCEEDS**

We may issue and sell our ADSs representing our ordinary shares, having aggregate sales proceeds of up to \$30.0 million from time to time. Because there is no minimum offering amount required as a condition to close this offering, the actual total public offering amount, commissions and proceeds to us, if any, are not determinable at this time. There can be no assurance that we will sell any shares under or fully utilize the sales agreement with Cowen as a source of financing.

We currently intend to use the net proceeds from this offering primarily to fund the research and development of our product candidates, for working capital and for general corporate purposes. We may also use a portion of the net proceeds to acquire or invest in businesses, products or technologies that we believe are complementary to our own, although we have no current plans, commitments or agreements with respect to any acquisitions as of the date of this prospectus. Pending the use of net proceeds, we intend to invest the net proceeds in short-term, investment-grade, interest bearing obligations, certificates of deposit or direct or guaranteed obligations of the United States government.

## DILUTION

Our net tangible book value as of June 30, 2020 was €50.4 million (\$56.7 million, with this and all other convenience translations presented in this section, “Dilution,” based on the noon buying rate of the Federal Reserve Bank of New York in effect as of June 30, 2020, of €1.00 = \$1.1237), or €2.81 per ordinary share (equivalent to \$3.16 per ADS). Net tangible book value per ordinary share is determined by dividing (1) our total assets less our intangible assets and our total liabilities by (2) 17,956,115 ordinary shares outstanding as of June 30, 2020.

After giving effect to the sale of our ADSs in the aggregate amount of \$30.0 million at an assumed offering price of \$7.47 per ADS, the last reported sale price of our ADSs on the Nasdaq Global Select Market on September 17, 2020, and after deducting estimated commissions and offering expenses payable by us, our as adjusted net tangible book value as of June 30, 2020 would have been €75.9 million, or €3.45 per ordinary share, equivalent to \$3.88 per ordinary share and per ADS. This represents an immediate increase in net tangible book value of \$0.72 per ordinary share and ADS to existing shareholders and an immediate decrease in net tangible book value of \$3.59 per ordinary share and ADSs to investors purchasing in this offering.

The following table illustrates this calculation on a per ADS basis. The information is illustrative only and will adjust based on the actual prices at which ADSs are sold, the actual number of ADSs sold and other terms of the offering determined at the time our ADSs are sold pursuant to this prospectus.

Assumed public offering price per ADS	\$7.47
Net tangible book value per ADS as of June 30, 2020	\$3.16
Increase in net tangible book value per ADS attributable to this offering	<u>\$0.72</u>
As adjusted net tangible book value per ADS as of June 30, 2020, after giving effect to this offering	\$3.88
Decrease in net tangible book value per ADSs to investors purchasing in this offering	<u>\$3.59</u>

The number of ordinary shares (including ordinary shares in the form of ADSs) outstanding as of June 30, 2020 was 17,956,115, which excludes:

- 1,575,511 ordinary shares issuable upon the exercise of founder’s share warrants (BSPCE), share purchase warrants (BSA), free shares and stock options granted but not exercised as of June 30, 2020 at a weighted average exercise price of €10.47 (\$11.77) per ordinary share (this weighted average exercise price does not include the 533,575 ordinary shares issuable upon the vesting of outstanding free shares that may be issued for free with no exercise price paid);
- ordinary shares that may be issued from time to time upon conversion of convertible bonds (OCABSA) issued after June 30, 2020 or upon exercise of shares warrants that may be issued with such convertible bonds;
- 900,000 ordinary shares reserved for future issuance under our share-based compensation plans and other delegations of authority from our shareholders as of June 30, 2020; and
- 20,000,000 ordinary shares reserved pursuant to a delegation of authority from our shareholders for share capital increases by us through rights issuances and public or private offerings as of June 30, 2020.

The ADSs subject to the sales agreement with Cowen will be sold from time to time at various prices. An increase of \$1.00 per ADS in the price at which the ADSs are sold from the assumed offering price of \$7.47 per ADS shown in the table above, assuming all of our securities in the aggregate amount of \$30.0 million during the term of the sales agreement with Cowen are sold at that price, would increase our as adjusted net tangible book value per ADS after the offering to \$3.97 per ADS, which would represent a decrease in net tangible book value per ADS to new investors in this offering of \$4.50 per ADS, after deducting commissions and estimated offering expenses payable by us. A decrease of \$1.00 per ADS in the price at which the ADSs are sold from the assumed offering price of \$7.47 per ADS shown in the table above, assuming all of our securities in the aggregate amount



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of \$30.0 million during the term of the sales agreement with Cowen are sold at that price, would decrease our as adjusted net tangible book value per ADS after the offering to \$3.77 per ADS, which would represent a decrease in net tangible book value per ADS to new investors in this offering of \$2.70 per ADS, after deducting commissions and estimated offering expenses payable by us. This information is supplied for illustrative purposes only.

## MATERIAL UNITED STATES FEDERAL INCOME AND FRENCH TAX CONSIDERATIONS

The following describes material U.S. federal income tax and French tax considerations relating to the acquisition, ownership and disposition of ADSs by a U.S. holder (as defined below). This summary does not address all U.S. federal income tax and French tax matters that may be relevant to a particular U.S. holder. This summary does not address tax considerations applicable to a holder of ADSs that may be subject to special tax rules including, without limitation, the following:

- banks, financial institutions or insurance companies;
- brokers, dealers or traders in securities, currencies, commodities, or notional principal contracts;
- tax-exempt entities or organizations, including an “individual retirement account” or “Roth IRA” as defined in Section 408 or 408A of the Code (as defined below), respectively;
- real estate investment trusts, regulated investment companies or grantor trusts;
- persons that hold the ADSs as part of a “hedging,” “integrated,” “wash sale” or “conversion” transaction or as a position in a “straddle” for U.S. federal income tax purposes;
- S corporations;
- persons acquiring ADSs in connection with a trade or business conducted outside of the United States, including a permanent establishment in France;
- persons subject to Section 451(b) of the Code;
- holders that own directly, indirectly, or through attribution 10% or more of the voting power or value of our ADSs and shares or, in the case of the discussion of French tax consequences, 5% or more of the voting stock or our share capital; and
- holders that have a “functional currency” other than the U.S. dollar.

For the purposes of this description, a “U.S. holder” is a beneficial owner of ADSs that is (or is treated as), for U.S. federal income tax purposes:

- an individual who is a citizen or resident of the United States;
- a domestic corporation;
- an estate, the income of which is subject to U.S. federal income taxation regardless of its source; or
- a trust, if a court within the United States is able to exercise primary supervision over its administration and one or more U.S. persons have the authority to control all of the substantial decisions of such trust, or if such trust has a valid election in effect under applicable U.S. Treasury Regulations to be treated as a U.S. person.

If a partnership (or any other entity treated as a partnership for U.S. federal income tax purposes) holds ADSs, the U.S. federal income tax consequences relating to an investment in the ADSs will depend in part upon the status of the partner and the activities of the partnership. Such a partner or partnership should consult its tax advisor regarding the U.S. federal income tax considerations of acquiring, owning and disposing of the ADSs in its particular circumstances.

The discussion in this section is based in part upon the representations of the depositary and the assumption that each obligation in the amended and restated deposit agreement and any related agreement will be performed in accordance with its terms.

**Persons considering an investment in the ADSs should consult their own tax advisors as to the particular tax consequences applicable to them relating to the acquisition, ownership and disposition of the ADSs, including the applicability of U.S. federal, state and local tax laws, French tax laws and other non-U.S. tax laws.**

## **Material French Tax Considerations**

The following describes the material French income tax consequences to U.S. holders of purchasing, owning and disposing of our ADSs and, unless otherwise noted, this discussion is the opinion of Gide Loyrette Nouel A.A.R.P.I, our French tax counsel, insofar as it relates to matters of French tax law and legal conclusions with respect to those matters.

This discussion does not purport to be a complete analysis or listing of all potential tax effects of the acquisition, ownership or disposition of our ADSs to any particular investor, and does not discuss tax considerations that arise from rules of general application or that are generally assumed to be known by investors. All of the following is subject to change. Such changes could apply retroactively and could affect the consequences described below.

The description of the French income tax and wealth tax consequences set forth below is based on the Convention Between the Government of the United States of America and the Government of the French Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital of August 31, 1994, or the Treaty, which came into force on December 30, 1995 (as amended by any subsequent protocols, including the protocol of January 13, 2009), and the tax guidelines issued by the French tax authorities in force as of the date of this prospectus supplement.

This discussion applies only to investors that are entitled to Treaty benefits under the “Limitation on Benefits” provision contained in the Treaty.

France has recently introduced a comprehensive set of new tax rules applicable to French assets that are held by or in foreign trusts. These rules provide inter alia for the inclusion of trust assets in the settlor’s net assets for the purpose of applying the French real estate wealth tax, for the application of French gift and death duties to French assets held in trust, for a specific tax on capital on the French assets of foreign trusts not already subject to the French real estate wealth tax and for a number of French tax reporting and disclosure obligations. The following discussion does not address the French tax consequences applicable to securities (including ADSs) held in trusts. If ADSs are held in trust, the grantor, trustee and beneficiary are urged to consult their own tax advisor regarding the specific tax consequences of acquiring, owning and disposing of securities (including ADSs).

U.S. holders are urged to consult their own tax advisors regarding the tax consequences of the purchase, ownership and disposition of securities in light of their particular circumstances, especially with regard to the “Limitations on Benefits” provision.

### ***Estate and Gift Taxes and Transfer Taxes***

In general, a transfer of securities by gift or by reason of death of a U.S. holder that would otherwise be subject to French gift or inheritance tax, respectively, will not be subject to such French tax by reason of the Convention between the Government of the United States of America and the Government of the French Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Estates, Inheritances and Gifts, dated November 24, 1978 (as amended by the protocol of December 8, 2004), unless (i) the donor or the transferor is domiciled in France at the time of making the gift or at the time of his or her death, or (ii) the securities were used in, or held for use in, the conduct of a business through a permanent establishment or a fixed base in France.

Pursuant to Article 235 ter ZD of the *Code général des impôts* (French Tax Code, or FTC), purchases of shares or ADSs of a French company listed on a regulated market of the European Union or on a foreign regulated market formally acknowledged by the French Financial Market Authority (AMF) are subject to a 0.3% French tax on financial transactions provided that the issuer’s market capitalization exceeds 1 billion euros as of December 1 of

the year preceding the taxation year pursuant to Regulations BOI-ANX-000467-20181217 issued on December 17, 2018. The Nasdaq Global Select Market is not currently acknowledged by the French AMF but this may change in the future. A list of French relevant companies whose market capitalization exceeds 1 billion euros as of December 1 of the year preceding the taxation year is published annually and at least once a year, by the French State. As at December 1, 2019, our market capitalization did not exceed 1 billion euros.

Following the global offering, purchases of our securities may be subject to such tax provided that its market capitalization exceeds 1 billion euros and that the Nasdaq Global Select Market is acknowledged by the French AMF.

In the case where Article 235 ter ZD of the FTC is not applicable, transfers of shares issued by a French company, which is listed on a regulated or organized market within the meaning of the French Financial and Monetary Code, are subject to uncapped registration duties at the rate of 0.1% if the transfer is evidenced by a written statement (“*acte*”) executed either in France or outside France. Although there is no case law or official guidelines published by the French tax authorities on this point, transfers of ADSs should remain outside of the scope of the aforementioned 0.1% registration duties.

### ***Tax on Sale or Other Disposition***

As a matter of principle, under French tax law, a U.S. holder should not be subject to any French tax on any capital gain from the sale, exchange, repurchase or redemption by us of ordinary shares or ADSs, provided such U.S. holder is not a French tax resident for French tax purposes and has not held more than 25% of our dividend rights, known as “*droits aux benefices sociaux*,” at any time during the preceding five years, either directly or indirectly, and, as relates to individuals, alone or with relatives (as an exception, a U.S. holder resident, established or incorporated in a non-cooperative State or territory as defined in Article 238-0 A of the FTC other than those States or territories mentioned in 2° of 2 bis of the same Article 238-0 A should be subject to a 75% withholding tax in France on any such capital gain, regardless of the fraction of the dividend rights it holds).

Under application of the Treaty, a U.S. holder who is a U.S. resident for purposes of the Treaty and entitled to Treaty benefit will not be subject to French tax on any such capital gain unless the ordinary shares or the ADSs form part of the business property of a permanent establishment or fixed base that the U.S. holder has in France. U.S. holders who own ordinary shares or ADSs through U.S. partnerships that are not resident for Treaty purposes are advised to consult their own tax advisors regarding their French tax treatment and their eligibility for Treaty benefits in light of their own particular circumstances. A U.S. holder that is not a U.S. resident for Treaty purposes or is not entitled to Treaty benefit (and in both cases is not resident, established or incorporated in a non-cooperative State or territory as defined in Article 238-0 A of the FTC other than those States or territories mentioned in 2° of 2 bis of the same Article 238-0 A) and has held more than 25% of our dividend rights, known as “*droits aux benefices sociaux*,” at any time during the preceding five years, either directly or indirectly, and, as relates to individuals, alone or with relatives will be subject to a levy in France at the rate of 12.8% if such U.S. holder is an individual or 28% for corporate bodies or other legal entities (as from January 1, 2020, to be progressively reduced to 25% by 2022). Special rules apply to U.S. holders who are residents of more than one country.

### ***Taxation of Dividends***

Dividends paid by a French corporation to non-residents of France are generally subject to French withholding tax at a rate of 12.8% when the recipient is an individual and 28% otherwise (the 28% rate for legal entities will be progressively reduced to 25% by 2022). Dividends paid by a French corporation in a non-cooperative State or territory, as defined in Article 238-0 A of the FTC other than those States or territories mentioned in 2° of 2 bis of the same Article 238-0 A, may be subject to French withholding tax at a rate of 75%. However, eligible U.S. holders, other than individuals subject to the French withholding tax at a rate of 12.8%, entitled to Treaty benefits under the “Limitation on Benefits” provision contained in the Treaty who are U.S. residents, as defined pursuant

to the provisions of the Treaty, will not be subject to this 28% or 75% withholding tax rate, but may be subject to the withholding tax at a reduced rate (as described below).

Under the Treaty, the rate of French withholding tax on dividends paid to an eligible U.S. holder who is a U.S. resident as defined pursuant to the provisions of the Treaty and whose ownership of the ordinary shares or ADSs is not effectively connected with a permanent establishment or fixed base that such U.S. holder has in France, may be reduced to 15%, or to 5% if such U.S. holder is a corporation and owns directly or indirectly at least 10% of the share capital of the issuer; such U.S. holder may claim a refund from the French tax authorities of the amount withheld in excess of the Treaty rates of 15% or 5%, if any.

For U.S. holders that are not individuals but are U.S. residents, as defined pursuant to the provisions of the Treaty, the requirements for eligibility for Treaty benefits, including the reduced 5% or 15% withholding tax rates contained in the “Limitation on Benefits” provision of the Treaty, are complex, and certain technical changes were made to these requirements by the protocol of January 13, 2009. U.S. holders are advised to consult their own tax advisors regarding their eligibility for Treaty benefits in light of their own particular circumstances. Dividends paid to an eligible U.S. holder may immediately be subject to the reduced rates of 5% or 15% provided that:

- such holder establishes before the date of payment that it is a U.S. resident under the Treaty by completing and providing the depository with a treaty form (Form 5000) in accordance with the French guidelines (BOI-INT-DG-20-20-20-20120912); or
- the depository or other financial institution managing the securities account in the United States of such holder provides the French paying agent with a document listing certain information about the U.S. holder and its ordinary shares or ADSs and a certificate whereby the financial institution managing the U.S. holder’s securities account in the United States takes full responsibility for the accuracy of the information provided in the document.

Otherwise, dividends paid to a U.S. holder, other than individuals subject to the French withholding tax at a rate of 12.8%, will be subject to French withholding tax at the rate of 28%, or 75% if paid in a non-cooperative State or territory (as defined in Article 238-0 A of the FTC, other than those States or territories mentioned in 2° of 2 bis of the same Article 238-0 A), and then reduced at a later date to 5% or 15%, provided that such holder duly completes and provides the French tax authorities with the treaty forms Form 5000 and Form 5001 before December 31 of the second calendar year following the year during which the dividend is paid.

Certain qualifying pension funds and certain other tax-exempt entities are subject to the same general filing requirements as other U.S. holders except that they may have to supply additional documentation evidencing their entitlement to these benefits.

Form 5000 and Form 5001, together with instructions, will be provided by the depository to all U.S. holders registered with the depository. The depository will arrange for the filing with the French tax authorities of all such forms properly completed and executed by U.S. holders of ordinary shares or ADSs and returned to the depository in sufficient time so that they may be filed with the French tax authorities before the distribution in order to immediately obtain a reduced withholding tax rate. Otherwise, the depository must withhold tax at the full rate of 28% or 75% as applicable. In that case, the U.S. holders may claim a refund from the French tax authorities of the excess withholding tax.

Since the withholding tax rate applicable under French domestic law to U.S. holders who are individuals does not exceed the cap provided in the Treaty (i.e. 15%), the 12.8% rate shall apply, without any reduction provided under the Treaty.

### ***Real Estate Wealth Tax***

On January 1, 2018, the French wealth tax was replaced with a real estate wealth tax (“*impôt sur la fortune immobilière*”, or IFI). Individuals holding directly or indirectly through one or more legal entities real estate

assets or rights with a value exceeding €1,300,000 may fall within the scope of the IFI. A general exclusion applies to real estate assets owned by companies carrying out a commercial or industrial activity when the taxpayer (together with the members of his/her household) holds directly or indirectly less than 10% of the share capital or voting rights of the company. ADSs owned by a U.S. holder should not fall within the scope of the IFI provided that such U.S. holder does not own (together with the members of his/her household) directly or indirectly a shareholding exceeding 10% of the financial rights and voting rights of our share capital. U.S. holders holding directly or indirectly a shareholding exceeding 10% of the financial rights and voting rights of our share capital should seek additional advice.

### **Material U.S. Federal Income Tax Considerations**

This section discusses the material U.S. federal income tax considerations relating to the acquisition, ownership and disposition of ADSs by a U.S. holder who acquires its ADSs pursuant to this offering and holds the ADSs as a capital asset. This description does not address the U.S. federal estate, gift, or alternative minimum tax considerations, or any U.S. state, local, or non-U.S. tax considerations of the acquisition, ownership and disposition of the ADSs.

This description is based on the U.S. Internal Revenue Code of 1986, as amended, or the Code, existing, proposed and temporary U.S. Treasury Regulations promulgated thereunder and administrative and judicial interpretations thereof, in each case as in effect and available on the date hereof. All the foregoing is subject to change, which change could apply retroactively, and to differing interpretations, all of which could affect the tax considerations described below. There can be no assurances that the U.S. Internal Revenue Service, or the IRS, will not take a position different from what is described below concerning the tax consequences of the acquisition, ownership and disposition of the ADSs or that such a position would not be sustained by a court. U.S. holders should consult their own tax advisers concerning the U.S. federal, state, local and non-U.S. tax consequences of acquiring, owning and disposing of the ADSs in their particular circumstances.

In general, and taking into account the earlier assumptions, for U.S. federal income and French tax purposes, a U.S. holder holding ADRs evidencing ADSs will be treated as the owner of the shares presented by the ADRs. Exchanges of shares for ADRs, and ADRs for shares, generally will not be subject to U.S. federal income or to French tax.

**Passive Foreign Investment Company Considerations.** Based on the composition of our gross income, assets, activities and market capitalization in 2019, the nature of our business and due to fluctuations in our stock price, we believe that we were characterized as a PFIC for our taxable year ending December 31, 2019. Based on the expected nature and composition of our gross income, assets, activities and market capitalization for our taxable year ending December 31, 2020, we may be characterized as a PFIC for the taxable year ending December 31, 2020. Because the calculation of the value of our assets may be based in part on the value of our ADSs, the value of which may fluctuate considerably, our PFIC status may change from year to year and is difficult to predict. There can be no assurance that we will not be considered a PFIC for the current year or any future taxable year. A separate determination must be made after the close of each taxable year as to whether we are a PFIC for that year. As a result, our PFIC status may change from year to year and we have not yet made any determination as to our expected PFIC status for the current year. Our U.S. counsel expresses no opinion regarding our conclusions or our expectations regarding our PFIC status.

If we are classified as a PFIC, a U.S. holder will be subject to special rules discussed below. If we are classified as a PFIC in any year with respect to which a U.S. holder owns the ADSs, we will continue to be treated as a PFIC with respect to the ADSs and such U.S. holder in all succeeding years during which the U.S. holder owns the ADSs, regardless of whether we continue to meet the PFIC tests described below.

We will be classified as a PFIC for U.S. federal income tax purposes in any taxable year in which, after applying certain look-through rules with respect to the income and assets of our subsidiaries, either: (i) at least 75% of the

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gross income is “passive income” or (ii) at least 50% of the average quarterly value of our total gross assets (which would generally be measured by fair market value of our assets, and for which purpose the total value of our assets may be determined in part by the market value of the ADSs and our ordinary shares, which are subject to change) is attributable to assets that produce “passive income” or are held for the production of “passive income.”

Passive income for this purpose generally includes dividends, allocations of income with respect to any partnership interest, interest, royalties, rents, gains from commodities and securities transactions, the excess of gains over losses from the disposition of assets which produce passive income, and includes amounts derived by reason of the temporary investment of funds raised in offerings of the ADSs. If a non-U.S. corporation owns directly or indirectly at least 25% by value of the stock of another corporation or the partnership interests in a partnership, the non-U.S. corporation is treated for purposes of the PFIC tests as owning its proportionate share of the assets of the other corporation or partnership and as receiving directly its proportionate share of the other corporation’s or partnership’s income.

The market value of our assets may be determined in large part by reference to the market price of the ADSs and our ordinary shares, which is likely to fluctuate. In addition, the composition of our income and assets will be affected by how, and how quickly, we use the cash proceeds from this offering in our business. Whether we are a PFIC for any taxable year will depend on our assets and income (including whether we receive certain non-refundable grants or subsidies and whether such amounts and reimbursements of certain refundable research tax credits will constitute gross income for purposes of the PFIC income test) in each year, and because this is a factual determination made annually after the end of each taxable year, there can be no assurance that we will not be considered a PFIC in any taxable year.

If we are a PFIC, and you are a U.S. holder that does not make one of the elections described below, a special tax regime will apply to both (a) any “excess distribution” by us to you (generally, your ratable portion of distributions in any year which are greater than 125% of the average annual distribution received by you in the shorter of the three preceding years or your holding period for the ADSs) and (b) any gain realized on the sale or other disposition of the ADSs. Under this regime, any excess distribution and realized gain will be treated as ordinary income and will be subject to tax as if (i) the excess distribution or gain had been realized ratably over your holding period, (ii) the amount deemed realized in each year had been subject to tax in each year of that holding period at the highest marginal rate for such year (other than income allocated to the current period or any taxable period before we became a PFIC, which would be subject to tax at the U.S. holder’s regular ordinary income rate for the current year and would not be subject to the interest charge discussed below), and (iii) the interest charge generally applicable to underpayments of tax had been imposed on the taxes deemed to have been payable in those years. In addition, dividend distributions made to you will not qualify for the lower rates of taxation applicable to qualified dividends discussed above under “Distributions.”

Certain elections may alleviate some of the adverse consequences of PFIC status and would result in an alternative treatment of the ADSs. If a U.S. holder makes a mark-to-market election, the U.S. holder generally will recognize as ordinary income any excess of the fair market value of the ADSs at the end of each taxable year over their adjusted tax basis, and will recognize an ordinary loss in respect of any excess of the adjusted tax basis of the ADSs over their fair market value at the end of the taxable year (but only to the extent of the net amount of income previously included as a result of the mark-to-market election). If a U.S. holder makes the election, the U.S. holder’s tax basis in the ADSs will be adjusted to reflect these income or loss amounts. Any gain recognized on the sale or other disposition of ADSs in a year when we are a PFIC will be treated as ordinary income and any loss will be treated as an ordinary loss (but only to the extent of the net amount of income previously included as a result of the mark-to-market election). The mark-to-market election is available only if we are a PFIC and the ADSs are “regularly traded” on a “qualified exchange.” The ADSs will be treated as “regularly traded” in any calendar year in which more than a de minimis quantity of the ADSs are traded on a qualified exchange on at least 15 days during each calendar quarter (subject to the rule that trades that have as one of their principal purposes the meeting of the trading requirement as disregarded). The Nasdaq Global Select Market is a qualified

exchange for this purpose and, consequently, if the ADSs are regularly traded, the mark-to-market election will be available to a U.S. holder.

If we are a PFIC, we expect to provide investors, upon request, a “PFIC Annual Information Statement” with the information required to allow investors to make a “qualified electing fund election” or “QEF Election” for United States federal income tax purposes. U.S. holders should consult their tax advisors to determine whether any of these elections would be available and if so, what the consequences of the alternative treatments would be in their particular circumstances.

If a U.S. holder makes a QEF Election with respect to a PFIC, in lieu of the tax consequences described below, the U.S. holder will be subject to current taxation on its pro rata share of the PFIC’s ordinary earnings and net capital gain for each taxable year that the entity is classified as a PFIC. If a U.S. holder makes a QEF Election with respect to us, any distributions paid by us out of our earnings and profits that were previously included in the U.S. holder’s income under the QEF Election will not be taxable to the holder. A U.S. holder will increase its tax basis in its ADSs by an amount equal to any income included under the QEF Election and will decrease its tax basis by any amount distributed on the ADSs that is not included in the holder’s income. In addition, a U.S. holder will recognize capital gain or loss on the disposition of ADSs in an amount equal to the difference between the amount realized and the holder’s adjusted tax basis in the ADSs. U.S. holders should note that if they make QEF Elections with respect to us and lower-tier PFICs, they may be required to pay U.S. federal income tax with respect to their ADSs for any taxable year significantly in excess of any cash distributions (which are expected to be zero) received on the ADSs for such taxable year. U.S. holders should consult their tax advisors regarding making QEF Elections in their particular circumstances. If a U.S. holder does not make and maintains a QEF election for the U.S. holder’s entire holding period for our ADSs by making the election for the first year in which the U.S. holder owns our ADSs pursuant to this offering, the U.S. holder will be subject to the adverse PFIC rules discussed above unless the U.S. holder can properly make a “purging election” with respect to our ADSs in connection with the U.S. Shareholder’s QEF Election. A purging election may require the U.S. holder to recognize taxable gain on the U.S. holder’s ADSs. No purging election is necessary for a U.S. holder that timely makes a QEF election for the first year in which the U.S. holder acquired our ADSs.

If we are determined to be a PFIC, the general tax treatment for U.S. holders described in this section will apply to indirect distributions and gains deemed to be realized by U.S. holders in respect of any of our subsidiaries that also may be determined to be PFICs.

If a U.S. holder owns ADSs during any taxable year in which we are a PFIC, the U.S. holder generally will be required to file an IRS Form 8621 (Information Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund) with respect to the company, generally with the U.S. holder’s federal income tax return for that year. If our company is a PFIC for a given taxable year, then you should consult your tax advisor concerning your annual filing requirements.

**The U.S. federal income tax rules relating to PFICs are complex. Prospective U.S. investors are urged to consult their own tax advisers with respect to the acquisition, ownership and disposition of the ADSs, the consequences to them of an investment in a PFIC, any elections available with respect to the ADSs and the IRS information reporting obligations with respect to the acquisition, ownership and disposition of the ADSs.**

***U.S. Federal Income Tax Consequences If We Are Not a PFIC.*** The description of the U.S. federal income tax consequences of the receipt of distributions and the sale or other taxable exchange of our ADSs, described in the following two sections “—Distributions” and “—Sale, Exchange or Other Taxable Disposition of the ADSs,” apply only if we are not a PFIC in the relevant year and our stock is not subject to the rules described above under “—Passive Foreign Investment Company Considerations” because we were a PFIC with respect to a U.S. holder and its ADSs in a prior year.



**Distributions.** We do not expect to make any distribution in respect of our ADSs. If we are not treated as a PFIC under the rules described above under “—*Passive Foreign Investment Company Considerations*” and made any distribution in respect of our ADSs, the gross amount of the distribution (including any amount of foreign tax withheld in respect of such distribution) actually or constructively received by a U.S. holder with respect to ADSs will be taxable to the U.S. holder as a dividend to the extent of the U.S. holder’s pro rata share of our current and accumulated earnings and profits as determined under U.S. federal income tax principles. Distributions in excess of earnings and profits will be non-taxable to the U.S. holder to the extent of, and will be applied against and reduce, the U.S. holder’s adjusted tax basis in the ADSs. Distributions in excess of earnings and profits and such adjusted tax basis will generally be taxable to the U.S. holder as either long-term or short-term capital gain depending upon whether the U.S. holder’s holding period exceeds one year as of the time such distribution is received. However, since we do not calculate our earnings and profits under U.S. federal income tax principles, it is expected that any distribution will be reported as a dividend, even if that distribution would otherwise be treated as a non-taxable return of capital or as capital gain under the rules described above. Non-corporate U.S. holders may qualify for the preferential rates of taxation with respect to dividends on ADSs applicable to long-term capital gains (i.e., gains from the sale of capital assets held for more than one year) applicable to qualified dividend income (as discussed below) if we are a “qualified foreign corporation” and certain other requirements (discussed below) are met. A non-U.S. corporation (other than a corporation that is classified as a PFIC for the taxable year in which the dividend is paid or the preceding taxable year) generally will be considered to be a qualified foreign corporation (a) if it is eligible for the benefits of a comprehensive tax treaty with the United States which the Secretary of Treasury of the United States determines is satisfactory for purposes of this provision and which includes an exchange of information provision, or (b) with respect to any dividend it pays on ADSs which are readily tradable on an established securities market in the United States. Our ADSs are currently listed on the Nasdaq Global Select Market, which is an established securities market in the United States, and we expect the ADSs to be readily tradable on the Nasdaq Global Select Market. However, there can be no assurance that the ADSs will be considered readily tradable on an established securities market in the United States in later years. The Company, which is incorporated under the laws of France, believes that it qualifies as a resident of France for purposes of, and is eligible for the benefits of, the Convention between the Government of the United States of America and the Government of the French Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, signed on August 31, 1994, as amended and currently in force, or the U.S.-France Tax Treaty, although there can be no assurance in this regard. Further, the IRS has determined that the U.S.-France Tax Treaty is satisfactory for purposes of the qualified dividend rules and that it includes an exchange-of-information program. Therefore, subject to the discussion under “—*Passive Foreign Investment Company Considerations*” above, such dividends will generally be “qualified dividend income” in the hands of individual U.S. holders, provided that a holding period requirement (more than 60 days of ownership, without protection from the risk of loss, during the 121-day period beginning 60 days before the ex-dividend date) and certain other requirements are met. The dividends will not be eligible for the dividends-received deduction generally allowed to corporate U.S. holders.

A U.S. holder generally may claim the amount of any French withholding tax as either a deduction from gross income or a credit against its U.S. federal income tax liability, subject to generally applicable limitations. Generally, the credit is determined separately for different categories of income and cannot exceed the proportionate share of a U.S. holder’s U.S. federal income tax liability that such U.S. holder’s taxable income from foreign sources bears to such U.S. holder’s worldwide taxable income. For foreign tax credit limitation purposes, dividend distributions with respect to our ADSs generally will be treated as passive category income from foreign sources. The amount of a distribution with respect to the ADSs that is treated as a “dividend” may be lower for U.S. federal income tax purposes than it is for French income tax purposes, potentially resulting in a reduced foreign tax credit for the U.S. holder. Each U.S. holder should consult its own tax advisors regarding the foreign tax credit rules.

In general, the amount of a distribution paid to a U.S. holder in a foreign currency will be the dollar value of the foreign currency calculated by reference to the spot exchange rate on the day the Depositary receives the distribution, regardless of whether the foreign currency is converted into U.S. dollars at that time. Any foreign

currency gain or loss a U.S. holder realizes on a subsequent conversion of foreign currency into U.S. dollars will be U.S. source ordinary income or loss. If dividends received in a foreign currency are converted into U.S. dollars on the day they are received, a U.S. holder should not be required to recognize foreign currency gain or loss in respect of the dividend.

***Sale, Exchange or Other Taxable Disposition of the ADSs.*** A U.S. holder will generally recognize gain or loss for U.S. federal income tax purposes upon the sale, exchange or other taxable disposition of ADSs in an amount equal to the difference between the U.S. dollar value of the amount realized from such sale or exchange and the U.S. holder's tax basis in those ADSs, determined in U.S. dollars. Subject to the discussion under "*Passive Foreign Investment Company Considerations*" above, this gain or loss will generally be a capital gain or loss. The adjusted tax basis in the ADSs generally will be equal to the cost of such ADSs. Capital gain from the sale, exchange or other taxable disposition of ADSs of a non-corporate U.S. holder is generally eligible for a preferential rate of taxation applicable to capital gains, if the non-corporate U.S. holder's holding period determined at the time of such sale, exchange or other taxable disposition for such ADSs exceeds one year (i.e., such gain is long-term taxable gain). The deductibility of capital losses for U.S. federal income tax purposes is subject to limitations. Any such gain or loss that a U.S. holder recognizes generally will be treated as U.S. source gain or loss for foreign tax credit limitation purposes.

For a cash basis taxpayer, units of foreign currency paid or received are translated into U.S. dollars at the spot rate on the settlement date of the purchase or sale. In that case, no foreign currency exchange gain or loss will result from currency fluctuations between the trade date and the settlement date of such a purchase or sale. An accrual basis taxpayer, however, may elect the same treatment required of cash basis taxpayers with respect to purchases and sales of the ADSs that are traded on an established securities market, provided the election is applied consistently from year to year. Such election may not be changed without the consent of the IRS. For an accrual basis taxpayer who does not make such election, units of foreign currency paid or received are translated into U.S. dollars at the spot rate on the trade date of the purchase or sale. Such an accrual basis taxpayer may recognize exchange gain or loss based on currency fluctuations between the trade date and the settlement date. Any foreign currency gain or loss a U.S. Holder realizes will be U.S. source ordinary income or loss.

***Medicare Tax.*** Certain U.S. holders that are individuals, estates or trusts are subject to a 3.8% tax on all or a portion of their "net investment income," which may include all or a portion of their dividend income and net gains from the disposition of ADSs. Each U.S. holder that is an individual, estate or trust is urged to consult its tax advisors regarding the applicability of the Medicare tax to its income and gains in respect of its investment in the ADSs.

***Backup Withholding and Information Reporting.*** U.S. holders generally will be subject to information reporting requirements with respect to dividends on ADSs and on the proceeds from the sale, exchange or disposition of ADSs that are paid within the United States or through U.S.-related financial intermediaries, unless the U.S. holder is an "exempt recipient." In addition, U.S. holders may be subject to backup withholding on such payments, unless the U.S. holder provides a taxpayer identification number and a duly executed IRS Form W-9 or otherwise establishes an exemption. Backup withholding is not an additional tax, and the amount of any backup withholding will be allowed as a credit against a U.S. holder's U.S. federal income tax liability and may entitle such holder to a refund, provided that the required information is timely furnished to the IRS.

***Foreign Asset Reporting.*** Certain individual U.S. holders are required to report information relating to an interest in the ADSs, subject to certain exceptions (including an exception for shares held in accounts maintained by U.S. financial institutions) by filing IRS Form 8938 (Statement of Specified Foreign Financial Assets) with their federal income tax return. U.S. holders are urged to consult their tax advisors regarding their information reporting obligations, if any, with respect to their ownership and disposition of the ADSs.

**THE DISCUSSION ABOVE IS A SUMMARY OF THE MATERIAL FRENCH AND U.S. FEDERAL INCOME TAX CONSEQUENCES OF AN INVESTMENT IN OUR ADSs OR ORDINARY SHARES AND IS BASED UPON LAWS AND RELEVANT INTERPRETATIONS THEREOF IN EFFECT AS OF THE DATE OF THIS PROSPECTUS, ALL OF WHICH ARE SUBJECT TO CHANGE, POSSIBLY WITH RETROACTIVE EFFECT. EACH PROSPECTIVE INVESTOR IS URGED TO CONSULT ITS OWN TAX ADVISOR ABOUT THE TAX CONSEQUENCES TO IT OF AN INVESTMENT IN ADSs OR ORDINARY SHARES IN LIGHT OF THE INVESTOR'S OWN CIRCUMSTANCES.**

## PLAN OF DISTRIBUTION

We have entered into a sales agreement with Cowen, under which we may issue and sell from time to time up to \$30,000,000 of our ADSs representing ordinary shares through Cowen as our sales agent. Sales of our ADSs, if any, will be made at market prices by any method that is deemed to be an “at the market offering” as defined in Rule 415(a)(4) under the Securities Act, including sales made directly on the Nasdaq Global Select Market or any other trading market for our ADSs. If authorized by us in writing, Cowen may purchase our ADSs as principal.

Under the authority granted by our shareholders, the ADSs may only be purchased initially by (i) natural or legal entities, governed by French or foreign law, that invest on a regular basis in the pharmaceutical, biotechnological or medical technology sectors and (ii) companies, institutions or entities, whatever their form, governed by French or foreign law, that carry out a significant part of their activities in the pharmaceutical, cosmetic or chemical sectors or in medical devices and/or technology or in research in these sectors. In order to purchase ADSs in the offering, you will be required to execute and provide to Cowen an investor letter representing that you satisfy the foregoing investor criteria.

Cowen will offer our ADSs subject to the terms and conditions of the sales agreement on a daily basis or as otherwise agreed upon by us and Cowen. We will designate the maximum amount of securities to be sold through Cowen on a daily basis or otherwise determine such maximum amount together with Cowen. Subject to the terms and conditions of the sales agreement, Cowen will use its commercially reasonable efforts to sell on our behalf all of the ADSs requested to be sold by us. We may instruct Cowen not to sell ADSs if the sales cannot be effected at or above the price designated by us in any such instruction. Cowen or we may suspend the offering of our ADSs being made through Cowen under the sales agreement upon proper notice to the other party. Cowen and we each have the right, by giving written notice as specified in the sales agreement, to terminate the sales agreement in each party’s sole discretion at any time.

The aggregate compensation payable to Cowen as sales agent equals 3.0% of the gross sales price of the ADSs sold through it pursuant to the sales agreement. We have also agreed to reimburse Cowen for Cowen’s actual outside legal expenses incurred in connection with this offering in an amount not to exceed \$100,000 without our prior written consent, and for certain other expenses, including Cowen’s FINRA counsel fees in an amount up to \$20,000. In accordance with FINRA Rule 5110, these reimbursed fees and expenses are deemed sales compensation to Cowen in connection with this offering. We estimate that the total expenses of the offering payable by us, excluding commissions payable to Cowen under the sales agreement, will be approximately \$500,000.

The remaining sales proceeds, after deducting any expenses payable by us and any transaction fees imposed by any governmental, regulatory, or self-regulatory organization in connection with the sales, will equal our net proceeds for the sale of such ADSs.

Cowen will provide written confirmation to us following the close of trading on the Nasdaq Global Select Market on each day in which ADSs are sold through it as sales agent under the sales agreement. Each confirmation will include the number of ADSs sold through it as sales agent on that day, the price of the ADSs sold, the net proceeds to us and copies of such documents as required by French law and the limits and other conditions set forth in our corporate authorizations.

We will report at least quarterly the number of ADSs sold through Cowen under the sales agreement, the net proceeds to us and the compensation paid by us to Cowen in connection with the sales of ADSs.

Settlement for sales of ADSs will occur, unless the parties agree otherwise or otherwise required by law, on the second business day that is also a trading day following the date on which any sales were made in return for payment of the net proceeds to us. There is no arrangement for funds to be received in an escrow, trust or similar arrangement.

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In connection with the sales of our ADSs on our behalf, Cowen will be deemed to be an “underwriter” within the meaning of the Securities Act, and the compensation paid to Cowen will be deemed to be underwriting commissions or discounts. We have agreed in the sales agreement to provide indemnification and contribution to Cowen against certain liabilities, including liabilities under the Securities Act. As sales agent, Cowen will not engage in any transactions that stabilize our securities.

Our ADSs are listed on the Nasdaq Global Select Market under the symbol “ERYP.” The transfer agent and registrar for our ADSs is The Bank of New York Mellon.

Cowen and/or its affiliates have provided, and may in the future provide, various investment banking and other financial services for us for which services they have received and, may in the future receive, customary fees.

The address of Cowen is 599 Lexington Avenue, New York, New York 10022.

## **MATERIAL CHANGES**

Except as described above or otherwise described in our Annual Report on Form 20-F for the fiscal year ended December 31, 2019 and in our Reports on Form 6-K incorporated by reference into this prospectus, no reportable material changes have occurred since December 31, 2019.

## **ENFORCEMENT OF JUDGMENTS**

We are a corporation organized under the laws of France. Half of our directors are citizens and residents of countries other than the United States, and the majority of our assets are located outside of the United States. We have appointed an agent for service of process in the United States; however, it may be difficult for investors:

- to obtain jurisdiction over us or our non-U.S. resident officers and directors in U.S. courts in actions predicated on the civil liability provisions of the U.S. federal securities laws;
- to enforce in U.S. courts judgments obtained in such actions against us or our non-U.S. resident officers and directors;
- to bring an original action in a French court to enforce liabilities based upon the U.S. federal securities laws against us or our non-U.S. resident officers or directors; and
- to enforce against us or our directors in non-U.S. courts, including French courts, judgments of U.S. courts predicated upon the civil liability provisions of the U.S. federal securities laws.

Nevertheless, a final judgment for the payment of money rendered by any federal or state court in the United States based on civil liability, whether or not predicated solely upon the U.S. federal securities laws, would be recognized and enforced in France provided that a French judge considers that this judgment meets the French legal requirements concerning the recognition and the enforcement of foreign judgments and is capable of being immediately enforced in the United States. A French court is therefore likely to grant the enforcement of a foreign judgment without a review of the merits of the underlying claim, only if (1) that judgment is enforceable in the jurisdiction of the U.S. court which rendered it, (2) that judgement was rendered by a court having jurisdiction over the dispute (the condition will be met if the dispute is clearly connected to the jurisdiction of the U.S. court and French courts did not have exclusive jurisdiction over the matter), (3) that judgment does not contravene French international public order and public policy, including the right to due process and (4) the U.S. judgment is not tainted with fraud and is not incompatible with a judgment rendered by a French court in the same matter, or with an earlier judgment rendered by a foreign court in the same matter.

In addition, French law guarantees full compensation for the harm suffered but is limited to the actual damages, so that the victim does not suffer or benefit from the situation. Such system excludes damages such as, but not limited to, punitive and exemplary damages.

As a result, the enforcement, by U.S. investors, of any judgments obtained in U.S. courts in civil and commercial matters, including judgments under the U.S. federal securities law against us or members of our board of directors, officers or certain experts named herein who are residents of France or countries other than the United States would be subject to the above conditions.

Finally, there may be doubt as to whether a French court would impose civil liability on us, the members of our board of directors, our officers or certain experts named herein in an original action predicated solely upon the U.S. federal securities laws brought in a court of competent jurisdiction in France against us or such members, officers or experts, respectively.

## **LEGAL MATTERS**

The validity of our ordinary shares, including ordinary shares represented by ADSs offered by this prospectus and certain other matters governed by French law will be passed on for us by Gide Loyrette Nouel A.A.R.P.I. Cooley LLP, Boston, Massachusetts, will be representing us in regards to certain matters governed by U.S. law in connection with this offering. Covington & Burling LLP, New York, New York, is acting as counsel for Cowen in connection with this offering with respect to U.S. law and Linklaters LLP is acting as counsel for Cowen in connection with this offering with respect to French law.

## **EXPERTS**

The consolidated financial statements of the Company as of December 31, 2019, 2018 and 2017 and for each of the years in the three year period ended December 31, 2019, incorporated in this prospectus by reference from the Company's Annual Report on Form 20-F, have been audited by KPMG S.A., independent registered public accounting firm, as stated in their report, which is also incorporated herein by reference from the Company's Annual Report on Form 20-F. Such consolidated financial statements have been so incorporated in reliance upon the report of such firm given upon their authority as experts in accounting and auditing. KPMG S.A.'s report dated March 17, 2020 refers to the change in Erytech Pharma S.A.'s method of accounting for leases on January 1, 2019, due to the adoption of IFRS 16 "Leases."

## WHERE YOU CAN FIND MORE INFORMATION

This prospectus is part of a registration statement we filed with the SEC. This prospectus does not contain all of the information set forth in the registration statement and the exhibits to the registration statement. For further information with respect to us and the securities we are offering under this prospectus, we refer you to the registration statement and the exhibits and schedules filed as a part of the registration statement. You should rely only on the information contained in this prospectus or incorporated by reference herein. We have not authorized anyone else to provide you with different information. We are not making an offer of these securities in any state where the offer is not permitted. You should not assume that the information in this prospectus is accurate as of any date other than the date on the front page of this prospectus, regardless of the time of delivery of this prospectus or any sale of the securities offered by this prospectus.

We are subject to the reporting requirements of the Exchange Act that are applicable to a foreign private issuer. Under the Exchange Act, we file annual reports on Form 20-F and other information with the SEC. We also furnish to the SEC under cover of Form 6-K material information required to be made public in France, filed with and made public by any stock exchange on which we are listed or distributed by us to our shareholders. As a foreign private issuer, we are exempt from, among other things, the rules under the Exchange Act prescribing the furnishing and content of proxy statements and our officers, directors and principal shareholders are exempt from the reporting and short-swing profit recovery provisions contained in Section 16 of the Exchange Act. The SEC maintains a website that contains reports, proxy and information statements and other information regarding issuers, such as us, that file electronically with the SEC. The address of the SEC website is [www.sec.gov](http://www.sec.gov).

We maintain a website at [www.erytech.com](http://www.erytech.com). Information contained in or accessible through our website does not constitute a part of this prospectus.



## INCORPORATION OF CERTAIN INFORMATION BY REFERENCE

The SEC allows us to incorporate by reference much of the information we file with the SEC, which means that we can disclose important information to you by referring you to those publicly available documents. The information that we incorporate by reference in this prospectus is considered to be part of this prospectus. Any statement contained in this prospectus or a previously filed document incorporated by reference will be deemed to be modified or superseded for purposes of this prospectus to the extent that a statement contained in this prospectus or a subsequently filed document incorporated by reference modifies or replaces that statement. The SEC file number for the documents incorporated by reference in this prospectus is 001-38281.

The following documents are incorporated by reference into this document:

- our Annual Report on [Form 20-F](#) for the year ended December 31, 2019, filed with the SEC on March 18, 2020;
- our Report on Form 6-K furnished to the SEC on [June 9, 2020](#), including exhibit 99.1 thereto; our Report on Form 6-K furnished to the SEC on [June 25, 2020](#), including exhibit 99.1 thereto; our Report on Form 6-K furnished to the SEC on [June 26, 2020](#), including exhibit 99.1 thereto; and our Report on Form 6-K furnished to the SEC on [September 21, 2020](#), including exhibit 99.1 thereto; and
- the description of ADSs representing our ordinary shares contained in our Registration Statement on [Form 8-A](#) filed with the SEC on November 7, 2017, including any amendments or reports filed for the purpose of updating such description.

We are also incorporating by reference all subsequent Annual Reports on Form 20-F that we file with the SEC and certain reports on Form 6-K that we furnish to the SEC after the date of this prospectus (if they state that they are incorporated by reference into this prospectus) prior to the termination of this offering. In all cases, you should rely on the later information over different information included in this prospectus.

Notwithstanding the statements in the preceding paragraphs, no document, report or exhibit (or portion of any of the foregoing) or any other information that we have “furnished” to the SEC pursuant to the Exchange Act shall be incorporated by reference into this prospectus.

We will provide to each person, including any beneficial owner, to whom a prospectus is delivered, without charge upon written or oral request, a copy of any or all of the documents that are incorporated by reference into this prospectus but not delivered with the prospectus, including exhibits that are specifically incorporated by reference into such documents. You should direct any requests for documents to ERYTECH Pharma S.A., 60 Avenue Rockefeller, 69008 Lyon France; telephone: +33 4 78 74 4438.



**Up to \$30,000,000**

**American Depositary Shares representing Ordinary Shares**

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**PROSPECTUS**

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**Cowen**

, 2020

**PART II**  
**INFORMATION NOT REQUIRED IN PROSPECTUS**

**Item 8. Indemnification of Directors and Officers.**

Under French law, provisions of bylaws that limit the liability of directors are prohibited. However, French law allows *sociétés anonymes* to contract for and maintain liability insurance against civil liabilities incurred by any of their directors and officers involved in a third-party action, provided that they acted in good faith and within their capacities as directors or officers of the company. Criminal liability cannot be indemnified under French law, whether directly by the company or through liability insurance.

We have liability insurance for our directors and officers, and we also have coverage for insurance against liability under the Securities Act. We have entered into agreements with our directors and executive officers to provide contractual indemnification. With certain exceptions and subject to limitations on indemnification under French law, these agreements provide for indemnification for damages and expenses including, among other things, attorneys' fees, judgments and settlement amounts incurred by any of these individuals in any action or proceeding arising out of his or her actions in that capacity.

These agreements may discourage shareholders from bringing a lawsuit against our directors and executive officers for breach of their fiduciary duty. These provisions also may have the effect of reducing the likelihood of derivative litigation against directors and executive officers, even though such an action, if successful, might otherwise benefit us and our shareholders. Furthermore, a shareholder's investment may be adversely affected to the extent we pay the costs of settlement and damage awards against directors and officers pursuant to these insurance agreements.

**Item 9. Exhibits.**

The following exhibits are filed with this registration statement or are incorporated herein by reference.

<u>Exhibit Number</u>	<u>Exhibit Description</u>	<u>Filed Herewith</u>	<u>Incorporated by Reference herein from Form or Schedule</u>	<u>Filing Date</u>	<u>SEC File/Reg. Number</u>
1.1*	Form of Underwriting Agreement.				
1.2	<a href="#">Sales Agreement, dated September 21, 2020, by and between the Registrant and Cowen and Company, LLC.</a>	X			
4.1	<a href="#">Bylaws (statuts) of the registrant (English translation).</a>	X			
4.2	<a href="#">Amended and Restated Deposit Agreement.</a>	X			
4.3	<a href="#">Form of American Depositary Receipt (included in Exhibit 4.2).</a>	X			
4.4*	Form of Warrant.				
5.1	<a href="#">Opinion of Gide Loyrette Nouel A.A.R.P.I.</a>	X			
5.2	<a href="#">Opinion of Gide Loyrette Nouel A.A.R.P.I.</a>	X			
23.1	<a href="#">Consent of KPMG S.A.</a>	X			
23.2	<a href="#">Consent of Gide Loyrette Nouel A.A.R.P.I. (included in the opinion filed as Exhibit 5.1).</a>	X			
24.1	<a href="#">Powers of Attorney (included on the signature page of this registration statement).</a>	X			

\* To be subsequently filed, if applicable, by an amendment to this registration statement or as an exhibit to a report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, including any Report on Form 6-K, and incorporated herein by reference.

**Item 10. Undertakings.**

(a) The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

*provided, however*, that paragraphs (a)(1)(i), (a)(1)(ii), and (a)(1)(iii) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the registrant pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is a part of the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) To file a post-effective amendment to the registration statement to include any financial statements required by Item 8.A of Form 20-F at the start of any delayed offering or throughout a continuous offering. Financial statements and information otherwise required by Section 10(a)(3) of the Securities Act of 1933 need not be furnished, provided, that the registrant includes in the prospectus, by means of a post-effective amendment, financial statements required pursuant to this paragraph (a)(4) and other information necessary to ensure that all other information in the prospectus is at least as current as the date of those financial statements. Notwithstanding the foregoing, with respect to registration statements on Form F-3, a post-effective amendment need not be filed to include financial statements and information required by Section 10(a)(3) of the Securities Act of 1933, or Item 8.A of Form 20-F if such financial statements and information are contained in periodic reports filed with or furnished to the Commission by the registrant pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the Form F-3.

(5) That, for the purpose of determining liability under the Securities Act of 1933 to any purchaser:

(i) Each prospectus filed by the registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and

(ii) Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii), or (x) for the

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purpose of providing the information required by section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof. *Provided, however,* that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.

(6) That, for the purpose of determining liability of the registrant under the Securities Act of 1933 to any purchaser in the initial distribution of the securities:

The undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

- (i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;
- (ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;
- (iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and
- (iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

(7) That, for purposes of determining any liability under the Securities Act of 1933, each filing of the Registrant's Annual Report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's Annual Report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(9) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form F-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in Lyon, France on September 21, 2020.

**ERYTECH PHARMA S.A.**

By: /s/ Gil Beyen  
Name: Gil Beyen  
Title: Chief Executive Officer

**POWER OF ATTORNEY AND SIGNATURES**

We, the undersigned officers and directors of ERYTECH Pharma S.A. hereby severally constitute and appoint Gil Beyen and Eric Soyer, and each of them singly, our true and lawful attorneys with full power to any of them, and to each of them singly, to sign for us and in our names in the capacities indicated below the Registration Statement on Form F-3 filed herewith and any and all amendments (including post-effective amendments) to said Registration Statement, and any registration statement filed pursuant to Rule 462 under the Securities Act of 1933, as amended, in connection with said Registration Statement, and to file or cause to be filed the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, and generally to do all such things in our name and on our behalf in our capacities as officers and directors to enable ERYTECH Pharma S.A. to comply with the provisions of the Securities Act of 1933, as amended, and all requirements of the Securities and Exchange Commission, hereby ratifying and confirming all that said attorneys, and each of them, or their substitute or substitutes, shall do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Name</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Gil Beyen</u> Gil Beyen	Chief Executive Officer and Director ( <i>Principal Executive Officer</i> )	September 21, 2020
<u>/s/ Eric Soyer</u> Eric Soyer	Chief Financial Officer, Chief Operating Officer and Deputy General Manager ( <i>Principal Financial Officer and Principal Accounting Officer</i> )	September 21, 2020
<u>/s/ Jean-Paul Kress</u> Jean-Paul Kress, M.D.	Chairman of the Board of Directors	September 21, 2020
<u>/s/ Sven Andréasson</u> Sven Andréasson	Director	September 21, 2020
<u>/s/ Philippe Archinard</u> Philippe Archinard, Ph.D.	Director	September 21, 2020
<u>/s/ Luc Dochez</u> Luc Dochez, Pharm.D.	Director	September 21, 2020
<u>/s/ Martine Ortin George</u> Martine Ortin George, M.D.	Director	September 21, 2020
<u>/s/ Melanie Rolli</u> Melanie Rolli	Director	September 21, 2020
<u>/s/ Hilde Windels</u> Hilde Windels	Director	September 21, 2020

**SIGNATURE OF AUTHORIZED U.S. REPRESENTATIVE**

Pursuant to the Securities Act of 1933, as amended, the undersigned, the duly authorized representative in the United States of ERYTECH Pharma S.A., has signed this registration statement on September 21, 2020.

**ERYTECH PHARMA, INC.**

By:           /s/ Gil Beyen          

Name: Gil Beyen

Title: President



ERYTECH PHARMA S.A.  
 \$30,000,000  
 AMERICAN DEPOSITARY SHARES  
 each representing one (1) Ordinary Share  
SALES AGREEMENT

September 21, 2020

Cowen and Company, LLC  
 599 Lexington Avenue  
 New York, NY 10022

Ladies and Gentlemen:

ERYTECH Pharma S.A., a *société anonyme* organized under the laws of France and registered with the Register of Commerce and Companies (*Registre du Commerce et des Sociétés*) of Lyon under number 479 560 013 (the “Company”), confirms its agreement (this “Agreement”) with Cowen and Company, LLC (“Cowen”), as follows:

1. Issuance and Sale of Shares. The Company agrees that, from time to time during the term of this Agreement, on the terms and subject to the conditions set forth herein, it may issue and sell through Cowen, acting as agent and/or principal, American Depositary Shares of the Company (“ADSs”) each representing one (1) fully paid ordinary share, €0.10 nominal value per share (the “Ordinary Shares”) to be issued by the Company, (i) with such ADSs having an aggregate offering price of up to \$30,000,000, and (ii) with the number of Ordinary Shares underlying such ADSs (the “Underlying Ordinary Shares”) issued over a 12-month rolling period representing, once issued together with all the other Ordinary Shares which have been admitted to trading on the regulated market of Euronext in Paris (“Euronext”) over the same 12-month period, being less than 20% of the total number of the Company’s securities already admitted to trading on Euronext on the date the admission to trading of the Underlying Ordinary Shares is requested. Notwithstanding anything to the contrary contained herein, the parties hereto agree that compliance with the limitation set forth in this Section 1 on the number or dollar amount of ADSs issued and sold under this Agreement shall be the sole responsibility of the Company, and Cowen shall have no obligation in connection with such compliance. The issuance and sale of ADSs through Cowen will be effected pursuant to the Registration Statement (as defined below) filed by the Company and declared effective by the Securities and Exchange Commission (the “Commission”), although nothing in this Agreement shall be construed as requiring the Company to use the Registration Statement (as defined below) to issue the ADSs. The ADSs may be evidenced by American depositary receipts (the “ADRs”) to be issued pursuant to the Amended and Restated Deposit Agreement, dated May 14, 2018 among the Company, The Bank of New York Mellon, as depositary (the “Depositary”) and all owners and holders of the ADRs evidencing ADSs issued thereunder (as the same may be amended, the “Deposit Agreement”).

Each of the Company and Cowen acknowledges that the Placement Shares (as defined in Section 2. below) may only be sold in compliance with applicable French or foreign law and the limits and other conditions set forth in the corporate authorizations of the Company applicable at the time of issuance of the Placement Shares.

The Company has prepared and will file, in accordance with the provisions of the Securities Act of 1933, as amended, and the rules and regulations thereunder (collectively, the “**Securities Act**”), with the Commission a shelf registration statement on Form F-3, including a base prospectus, relating to certain securities, including the ADSs, to be issued from time to time by the Company, and which incorporates by reference documents that the Company has filed or will file in accordance with the provisions of the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder (collectively, the “**Exchange Act**”). The Company has prepared a prospectus or prospectus supplement specifically relating to the ADSs (the “**Prospectus Supplement**”) to the base prospectus included as part of such registration statement. The Company has furnished to Cowen, for use by Cowen, copies of the prospectus included as part of such registration statement, as supplemented by the Prospectus Supplement, relating to the ADSs. Except where the context otherwise requires, such registration statement, as amended when it becomes or became effective, including all documents filed as part thereof or incorporated by reference therein, and including any information contained in a Prospectus (as defined below) subsequently filed with the Commission pursuant to Rule 424(b) under the Securities Act or deemed to be a part of such registration statement pursuant to Rule 430B or 462(b) of the Securities Act, is herein called the “**Registration Statement**.” The Company has prepared and filed with the Commission post-effective amendments to its registration statement on Form F-6 (File No. 333-201279) filed with the Commission on December 29, 2014, relating to the ADSs. Such registration statement, as amended, including the exhibits thereto, in the form in which it became effective under the Securities Act is called the “**F-6 Registration Statement**.” The base prospectus, including all documents incorporated therein by reference, included in the Registration Statement, as it may be supplemented by the Prospectus Supplement, in the form in which such prospectus and/or Prospectus Supplement have most recently been filed by the Company with the Commission pursuant to Rule 424(b) under the Securities Act, together with any “issuer free writing prospectus,” as defined in Rule 433 of the Securities Act regulations (“**Rule 433**”), relating to the ADSs and Ordinary Shares that (i) is required to be filed with the Commission by the Company or (ii) is exempt from filing pursuant to Rule 433(d)(5)(i), in each case in the form filed or required to be filed with the Commission or, if not required to be filed, in the form retained in the Company’s records pursuant to Rule 433(g), is herein called the “**Prospectus**.” Any reference herein to the Registration Statement, the Prospectus or any amendment or supplement thereto shall be deemed to refer to and include the documents incorporated by reference therein, and any reference herein to the terms “amend,” “amendment” or “supplement” with respect to the Registration Statement or the Prospectus shall be deemed to refer to and include the filing after the execution hereof of any document with the Commission deemed to be incorporated by reference therein. For the purposes of this Agreement, all references to the Registration Statement, the Prospectus or to any amendment or supplement thereto shall be deemed to include any copy filed with the Commission pursuant to the Electronic Data Gathering Analysis and Retrieval system (“**EDGAR**”).

To the extent, as provided above, that the total number of Underlying Ordinary Shares issued pursuant to this Agreement over a 12-month rolling period represents, once issued and together with all the other Ordinary Shares which have been admitted to trading on Euronext over the same 12 month period, less than 20% of the total number of Ordinary Shares admitted to trading on Euronext on the date the admission to trading of the Underlying Ordinary Shares is requested, no prospectus is required for such admission to trading pursuant to Regulation (EU) 2017/1129 of the European Parliament and of the Council dated June 14, 2017.

2. **Placements.** Each time that the Company wishes to issue and sell the ADSs hereunder (each, a “**Placement**”), it will notify Cowen by email notice (or other method mutually agreed to in writing by the parties) (a “**Placement Notice**”) containing the parameters in accordance with which it desires the ADSs to be sold, which shall at a minimum include the number or dollar amount of ADSs to be sold (the “**Placement Shares**”), the time period during which sales are requested to be made, any minimum price below which sales may not be made, and any limitations or conditions required by French law and/or set forth in the corporate authorization of the Company, a form of which containing such minimum sales parameters necessary is attached hereto as **Schedule 1**. Each investor in a Placement will have provided to the Company, no later than the Settlement Date (as defined in **Section 5(b)** below), such documents as required by French law and the limits and other conditions set forth in the corporate authorizations of the Company in a form acceptable by the Company (including the executed investor letter), which form will be sent to Cowen with each Placement Notice. The Placement Notice shall originate from any of the individuals from the Company set forth on **Schedule 2** (with a copy to each of the other individuals from the Company listed on such schedule), and shall be addressed to each of the individuals from Cowen set forth on **Schedule 2**, as such **Schedule 2** may be amended from time to time. The Placement Notice shall be effective upon receipt by Cowen unless and until (i) in accordance with the notice requirements set forth in **Section 4**, Cowen declines to accept the terms contained therein for any reason, in its sole discretion, which declination must occur within two (2) Business Days of the receipt of the Placement Notice, (ii) the entire amount of the ADSs that may be issued and sold through Cowen under the Placement Notice have been sold or the maximum amount of Underlying Ordinary Shares that can be issued over a given rolling 12-month period, as set out in **Section 1(i)** above, would be exceeded, (iii) in accordance with the notice requirements set forth in **Section 4**, the Company suspends or terminates the Placement Notice, (iv) the Company issues a subsequent Placement Notice with parameters superseding or amending those on the earlier dated Placement Notice, or (v) this Agreement has been terminated under the provisions of **Section 11**. The amount of any commission or other compensation to be paid by the Company to Cowen in connection with the sale of the Placement Shares shall be calculated in accordance with the terms set forth in **Schedule 3**. It is expressly acknowledged and agreed that neither the Company nor Cowen will have any obligation whatsoever with respect to a Placement or any Placement Shares unless and until the Company delivers a Placement Notice to Cowen and Cowen does not decline such Placement Notice pursuant to the terms set forth above, and then only upon the terms specified therein and herein. In the event of a conflict between the terms of this Agreement and the terms of a Placement Notice, the terms of the Placement Notice will control.

3. **Sale of Placement Shares by Cowen.** Subject to the terms and conditions herein set forth, upon the Company’s delivery of a Placement Notice, and unless the sale of the Placement Shares described therein has been declined, suspended, or otherwise terminated in accordance with the terms of this Agreement, Cowen, for the period specified in the Placement Notice, will use its commercially reasonable efforts consistent with its normal trading and sales

practices and applicable state and federal laws, rules and regulations and the rules of the Nasdaq Stock Market, Inc. to sell such Placement Shares up to the amount specified, and otherwise in accordance with the terms of such Placement Notice. Cowen will provide (i) written confirmation to the Company (including by email correspondence to each of the individuals of the Company set forth on Schedule 2, if receipt of such correspondence is actually acknowledged by any of the individuals to whom the notice is sent, other than via auto-reply) no later than the opening of the Trading Day (as defined below) immediately following the Trading Day on which it has made sales of the Placement Shares hereunder setting forth the number of Placement Shares to be sold on such day, the price of the Placement Shares sold, and the Net Proceeds (as defined below) payable to the Company and (ii) copies of such documents as required by French law and the limits and other conditions set forth in the corporate authorizations of the Company in a form acceptable by the Company, including the relevant investors letters of each prospective investor, a form of which is attached hereto in **Exhibit A of Schedule 1**. Cowen may sell on behalf of the Company the Placement Shares by any method permitted by law deemed to be an “at the market offering” as defined in Rule 415(a)(4) of the Securities Act, including without limitation sales made on or through The Nasdaq Global Select Market (“**Nasdaq**”), on any other existing trading market for the ADSs; provided, that, such sales are made in compliance with French law and within the limits and conditions set forth by the corporate authorizations of the Company, which shall be specified in the Placement Notice. If expressly authorized by the Company in a Placement Notice, Cowen may sell Placement Shares in negotiated transactions. Notwithstanding the provisions of **Section 6(aaa)**, Cowen shall not purchase Placement Shares for its own account as principal unless expressly authorized to do so by the Company in a Placement Notice. The Company acknowledges and agrees that (i) there can be no assurance that Cowen will be successful in selling Placement Shares, and (ii) Cowen will incur no liability or obligation to the Company or any other person or entity if it does not sell Placement Shares for any reason other than a failure by Cowen to use its commercially reasonable efforts consistent with its normal trading and sales practices to sell such Placement Shares as required under this **Section 3**. For the purposes hereof, “**Trading Day**” means any day on which the Company’s ADSs are purchased and sold on Nasdaq.

#### 4. **Suspension of Sales.**

(a) The Company or Cowen may, upon notice to the other party in writing (including by email correspondence to each of the individuals of the other party set forth on **Schedule 2**, if receipt of such correspondence is actually acknowledged by any of the individuals to whom the notice is sent, other than via auto-reply) or by telephone (confirmed immediately by verifiable facsimile transmission or email correspondence to each of the individuals of the other party set forth on **Schedule 2**), suspend any proposed sale of Placement Shares; *provided, however*, that such suspension shall not affect or impair either party’s obligations with respect to any Placement Shares sold hereunder prior to the receipt of such notice. While a suspension is in effect any obligation under section 7(m), 7(n) and 7(o) with respect to delivery of certificates, opinion, or comfort letters to Cowen, shall be waived. Each of the parties agrees that no such notice under this **Section 4** shall be effective against the other unless it is made to one of the individuals named on **Schedule 2** hereto, as such schedule may be amended from time to time.

(b) Notwithstanding any other provision of this Agreement, during any period in which the Company is in possession of material non-public information, the Company and Cowen agree that (i) no sale of Placement Shares will take place, (ii) the Company shall not request the sale of any Placement Shares, and (iii) Cowen shall not be obligated to sell or offer to sell any Placement Shares.

(c) If either Cowen or the Company has reason to believe that the exemptive provisions set forth in Rule 101(c)(1) of Regulation M under the Exchange Act are not satisfied with respect to the ADSs, it shall promptly notify the other party, and Cowen may, at its sole discretion, suspend proposed sales of the Placement Shares under this Agreement; provided that, it is acknowledged and agreed by the parties hereto that the exemptive provisions set forth in Rule 101(c)(1) of Regulation M under the Exchange Act are not satisfied with respect to the ADSs as of the date of this Agreement.

(d) Notwithstanding any other provision of this Agreement, during any period in which the Registration Statement is no longer effective under the Securities Act, the Company shall promptly notify Cowen, the Company shall not request the sale of any Placement Shares, and Cowen shall not be obligated to offer to sell any Placement Shares.

#### 5. Settlement.

(a) **Purchase Price:** For each Placement, the Placement Shares (and the Underlying Ordinary Shares) to be sold will be issued as part of a single capital increase at an identical price in USD (and its equivalent in EUR), as decided by the Chief Executive Officer (the “**Purchase Price**”). The USD - EUR parity will be decided by the Chief Executive Officer based upon the exchange rate as in effect on the date of the Placement, exclusive of the commissions set forth in paragraph (d) below and section 7(g).

(b) **Payment and Settlement of Placement Shares.** For each Placement, unless otherwise specified in the applicable Placement Notice, settlement for sales of Placement Shares will occur on the second (2<sup>nd</sup>) Trading Day (or such earlier day as is industry practice for regular-way trading) following the date on which such sales are made (each, a “**Settlement Date**” and the first such settlement date, the “**First Delivery Date**”). Payment of the Purchase Price of the Placement Shares (and the Underlying Ordinary Shares) shall be made in USD on or prior to 04:00 p.m. C.E.T. on the date prior to the Settlement Date or at such other time on the same or such other date, not later than the fifth business day thereafter, as may be agreed upon between the Company and Cowen, to the account or accounts designated by the Company in the Placement Notice, which account shall be held at Société Générale Securities Services, as transfer agent and registrar of the Company, or such other transfer agent and registrar as the Company may specify in a Placement Notice (the “**Registrar**”). No later than 11:00 am C.E.T. on a Settlement Date, the Registrar shall then issue the depositary certificate (*certificat du dépositaire*) in accordance with Article L. 225-146 of the French Commercial Code, relating to the capital increase of the Company resulting from the issuance of the Underlying Ordinary Shares, and shall deliver two originals of such certificate to the Company. At least one full business day prior to a Settlement Date, the Company shall have taken all actions and provided the Registrar with all notices, documents, corporate authorizations or other instruments necessary or required to effectuate the issuance of the *certificat du dépositaire* referred herein.

(c) Delivery of Placement Shares. On each Settlement Date, immediately after issuing the *certificat du dépositaire*, (i) the Registrar shall (x) send to Euroclear France, in the name and on behalf of the Company, a *lettre comptable* for the creation of the Underlying Ordinary Shares and for credit thereof no later than on the Settlement Date in a securities account opened in the name and on behalf of the Company in the books of the Registrar; and (y) deliver the Underlying Ordinary Shares to the custodian for the Depositary, and (ii) the Company will, or will cause the Depositary or its transfer agent (if applicable) to, electronically transfer the Placement Shares being sold by crediting the purchaser's account at The Depositary Trust Company ("**DTC**") through its Deposit and Withdrawal at Custodian System or by such other means of delivery as may be mutually agreed upon by the parties hereto which in all cases shall be freely tradeable, transferable, registered shares in good deliverable form.

(d) Commissions. As compensation for Cowen's commitments, the Company shall pay on each Settlement Date, or cause the Registrar to pay, to Cowen for purposes of settlement and delivery of the Placement Shares, (i) a commission or other compensation for such sales payable by the Company pursuant to Section 2 hereof, (ii) any other amounts due and payable by the Company to Cowen hereunder pursuant to Section 7(g) (Expenses) hereof, and (iii) any transaction fees imposed by any governmental or self-regulatory organization in respect of such sales. The aforementioned amounts shall be deducted from the gross proceeds payable to the Company on a Settlement Date and shall be paid on such date by the Registrar to Cowen as soon as possible after issuance of the *certificat du dépositaire* (the "**Net Proceeds**").

6. Representations and Warranties of the Company. The Company represents and warrants to, and agrees with, Cowen that as of the date of this Agreement, each Representation Date (as defined in Section 7(m)), each date on which a Placement Notice is given, and any date on which Placement Shares are sold hereunder:

(a) Compliance with Registration Requirements. The Registration Statement and the F-6 Registration Statement have each become, or will be, effective under the Securities Act prior to the issuance of any Placement Notices by the Company. The Company has complied, or will comply, to the Commission's satisfaction, with all requests of the Commission for additional or supplemental information, if any. No stop order suspending the effectiveness of the Registration Statement or the F-6 Registration Statement is in effect and no proceedings for such purpose have been instituted or are pending or, to the knowledge of the Company, are contemplated or threatened by the Commission. The Company is a "foreign private issuer" within the meaning of Rule 405 under the Securities Act. The Company meets the requirements for use of Form F-3 under the Securities Act. The sale of the Placement Shares hereunder meets the requirements or General Instruction I.B.1. of Form F-3.

Each of the Registration Statement and any post-effective amendment thereto, at the time of its effectiveness and at each deemed effective date with respect to Cowen pursuant to Rule 430B(f)(2) under the rules and regulations of the Commission under the Securities Act, complied or will comply in all material respects with the requirements of the Securities Act and the Securities Act regulations. The Prospectus and any amendment or supplement thereto, at the time each is filed with the Commission, complied or will comply in all material respects with the requirements of the Securities Act and the Securities Act regulations. The Prospectus was or will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

The documents incorporated or deemed to be incorporated by reference in the Registration Statement and the Prospectus, when they became effective or at the time they were or hereafter are filed with the Commission, complied or will comply in all material respects with the requirements of the Exchange Act and the rules and regulations of the Commission under the Exchange Act.

**(b) Disclosure.** The Prospectus when filed complied or will comply and, as amended and supplemented, if applicable, will comply in all material respects with the Securities Act. Each of the Registration Statement and any post-effective amendment thereto and the F-6 Registration Statement and any post-effective amendment thereto, at the time it became or becomes effective, complied and as of each of the Settlement Dates, if any, complied or will comply in all material respects with the Securities Act and did not and, as of each Settlement Date, if any, did not and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading. Neither the Prospectus nor any amendment or supplement thereto (including any prospectus wrapper), as of its date, at the time of any filing with the Commission pursuant to Rule 424(b), or at any Settlement Date, included, includes or will include an untrue statement of a material fact or omitted, omits or will omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The documents incorporated or deemed to be incorporated by reference in the Registration Statement and the Prospectus, at the time the Registration Statement became effective or when such documents incorporated by reference were filed with the Commission, as the case may be, when read together with the other information in the Registration Statement or the Prospectus, as the case may be, did not and will not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading. The representations and warranties set forth in the four immediately preceding sentences do not apply to statements in or omissions from the Registration Statement or any post-effective amendment thereto, the F-6 Registration Statement or any post-effective amendment thereto, or the Prospectus, or any amendments or supplements thereto, made in reliance upon and in conformity with written information relating to Cowen furnished to the Company in writing by Cowen expressly for use therein, it being understood and agreed that the only such information consists of the Agent's Information (as defined below). There are no contracts or other documents required to be described in the Prospectus or to be filed as an exhibit to the Registration Statement or the F-6 Registration Statement which have not been described or filed as required.

**(c) Free Writing Prospectuses; Not an Ineligible Issuer.** The Company currently is not an "ineligible issuer," as defined in Rule 405 of the rules and regulation of the Commission. The Company agrees to notify Cowen promptly upon the Company becoming an "ineligible issuer." Each free writing prospectus that the Company is required to file pursuant to Rule 433(d) under the Securities Act has been, or will be, filed with the Commission in accordance with the requirements of the Securities Act. Each free writing prospectus that the Company has filed, or is required to file, pursuant to Rule 433(d) under the Securities Act or that was prepared by or on behalf of or used or referred to by the Company complies or will comply in all material respects with the requirements of Rule 433 under the Securities Act, including timely filing with the Commission or retention where required and legending, each such free writing prospectus, as of its issue date and at all subsequent times through the completion of the public offer and sale of

the Placement Shares did not, does not and will not include any information that conflicted, conflicts or will conflict with the information contained in the Registration Statement, the Prospectus or any preliminary prospectus and not superseded or modified, and each such free writing prospectus, when considered together with the Prospectus, did not, as of the date of its first use, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. The Company has not prepared, used or referred to, and will not prepare, use or refer to, any free writing prospectus, without your prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

**(d) Distribution of Offering Material by the Company.** The Company has not distributed and will not distribute, prior to the completion of Cowen's distribution of the Placement Shares, any offering material in connection with the offering and sale of the Placement Shares other than the Prospectus, the Registration Statement, and the F-6 Registration Statement.

**(e) The Sales Agreement.** This Agreement has been duly authorized, executed and delivered by the Company.

**(f) Authorization of the Placement Shares.** On each Settlement Date, the Company will have the power and authority to allot and issue the Underlying Ordinary Shares on such Settlement Date pursuant to this Agreement without further sanction or consent by any securityholder of the Company. The Underlying Ordinary Shares and the Placement Shares have been duly authorized for issuance and sale pursuant to this Agreement and, when issued and delivered against payment therefor pursuant to this Agreement, and upon delivery of the depositary certificate (*certificat du dépositaire*) in accordance with Article L. 225-146 of the French Commercial Code, will be validly issued, fully paid and non-assessable and, on each Settlement Date, the issuance and sale of the Underlying Ordinary Shares and the Placement Shares will not be subject to any preemptive rights, rights of first refusal or other similar rights to subscribe for or purchase the Underlying Ordinary Shares and the Placement Shares which have not been duly excluded, waived or satisfied. The Underlying Ordinary Shares and the Ordinary Shares may be freely deposited by the Company with the Depositary or its nominee against issuance of ADRs evidencing the ADSs, as contemplated by the Deposit Agreement. Upon the sale and delivery of the Placement Shares, and payment therefor, Cowen or the purchasers thereof, as the case may be, will acquire good, marketable and valid title to such Placement Shares, free and clear of all pledges, liens, security interests, charges, claims or encumbrances.

**(g) No Applicable Registration or Other Similar Rights.** Except as described in the Registration Statement and the Prospectus, there are no persons with registration or other similar rights to have any equity or debt securities registered for sale under the Registration Statement or the F-6 Registration Statement or included in the offering contemplated by this Agreement, except for such rights as have been duly excluded, waived or satisfied.

**(h) No Material Adverse Change.** Except as otherwise disclosed in the Registration Statement and the Prospectus, subsequent to the respective dates as of which information is given in the Registration Statement and the Prospectus: (i) there has been no material adverse change or any development that would reasonably be expected to result in a material adverse change, in the condition, financial or otherwise, or in the earnings, shareholders' equity, business, properties, operations, assets, liabilities or prospects,



whether or not arising from transactions in the ordinary course of business, of the Company and its subsidiaries, considered as one entity (any such change being referred to herein as a “**Material Adverse Change**”); (ii) the Company and its subsidiaries, considered as one entity, have not incurred any material liability or obligation, indirect, direct or contingent, including without limitation any losses or interference with its business from fire, explosion, flood, earthquakes, accident or other calamity, whether or not covered by insurance, or from any strike, labor dispute or court or governmental action, order or decree, that are material, individually or in the aggregate, to the Company and its subsidiaries, considered as one entity, or has entered into any material transactions not in the ordinary course of business; and (iii) there has not been any material decrease in the share capital or any material increase in any short-term or long-term indebtedness of the Company or its subsidiaries and there has been no dividend or distribution of any kind declared, paid or made by the Company or, except for dividends paid to the Company or other subsidiaries, by any of the Company’s subsidiaries on any class of share capital, or any repurchase or redemption by the Company or any of its subsidiaries of any class of share capital.

(i) The Deposit Agreement; ADRs; Ordinary Shares. The Deposit Agreement has been duly authorized, executed and delivered by the Company and, assuming due authorization, execution and delivery by the Depositary, constitutes a valid and legally binding obligation of the Company, enforceable in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or affecting creditors’ rights generally or by general equitable principles. Upon due issuance by the Depositary of the ADRs evidencing the ADSs against the deposit of the Underlying Ordinary Shares in respect thereof in accordance with the provisions of the Deposit Agreement and upon payment by Cowen for the Placement Shares evidenced thereby in accordance with the provisions of this Agreement, such ADRs will be duly and validly issued and the persons in whose names the ADRs are registered will be entitled to the respective rights specified therein and in the Deposit Agreement. On each Settlement Date, the issuance and sale of the ADSs respectively by the Depositary and by the Company and the deposit of the Underlying Ordinary Shares with the Depositary and the issuance of the ADRs evidencing the ADSs as contemplated by this Agreement and the Deposit Agreement will neither (i) cause any holder of any Ordinary Shares or ADSs, securities convertible into or exchangeable or exercisable for Ordinary Shares or ADSs or options, warrants or other rights to purchase any Ordinary Shares or ADSs or any other securities of the Company to have any right to acquire any shares of preferred stock of the Company nor (ii) trigger any anti-dilution rights of any such holder with respect to such Underlying Ordinary Shares, ADRs, securities, options, warrants or rights. The Deposit Agreement and the ADRs conform in all material respects to each description thereof in the Prospectus. Each holder of ADRs issued pursuant to the Deposit Agreement shall be entitled, subject to the Deposit Agreement, to seek enforcement of its rights through the Depositary or its nominee registered as a representative of the holders of the ADRs in a direct suit, action or proceeding against the Company.

(j) Independent Accountants. KPMG S.A., which has expressed its opinion with respect to the consolidated financial statements (which term as used in this Agreement includes the related notes thereto) filed with the Commission and incorporated by reference in the Registration Statement and the Prospectus, is (i) an independent registered public accounting firm as required by the Securities Act, the Exchange Act and the rules of the Public Company Accounting Oversight Board (“**PCAOB**”) whose registration has not been suspended or revoked and who has not requested such registration to be withdrawn and (ii) in compliance with the applicable requirements relating to the qualification of accountants under Rule 2-01 of Regulation S-X under the Securities Act.

**(k) Financial Statements.** The financial statements filed with the Commission as a part of, or incorporated by reference in, the Registration Statement and the Prospectus present fairly, in all material respects, the consolidated financial position of the Company and its subsidiaries as of the dates indicated and the results of their operations, changes in shareholders' equity and cash flows for the periods specified. Such financial statements have been prepared in conformity with International Financial Reporting Standards ("**IFRS**") as issued by the International Accounting Standards Board ("**IASB**") applied on a consistent basis throughout the periods involved, except as may be expressly stated in the related notes thereto or as otherwise disclosed therein. The unaudited interim condensed consolidated financial statements incorporated by reference in the Registration Statement and the Prospectus have been prepared in accordance with IAS 34, the standard of IFRS applicable to interim financial statements. No other financial statements or supporting schedules are required under applicable laws or regulations to be included in, or incorporated by reference in, the Registration Statement and the Prospectus. The financial data set forth in, or incorporated by reference in, the Registration Statement and the Prospectus, as the case may be, under the captions "Capitalization" and "Selected Financial Data," fairly present, in all material respects, the information set forth therein on a basis consistent with that of the audited financial statements or unaudited condensed consolidated financial statements contained in or incorporated by reference in the Registration Statement and the Prospectus. All disclosures contained in or incorporated by reference in the Registration Statement, the Prospectus and any free writing prospectus that constitute non-GAAP financial measures (as defined by the rules and regulations under the Securities Act and the Exchange Act) comply in all material respects with Regulation G under the Exchange Act and Item 10 of Regulation S-K under the Securities Act, as applicable. To the Company's knowledge, no person who has been suspended or barred from being associated with a registered public accounting firm, or who has failed to comply with any sanction pursuant to Rule 5300 promulgated by the PCAOB, has participated in or otherwise aided the preparation of, or audited, the financial statements or other financial data filed with the Commission as a part of or incorporated by reference in the Registration Statement and the Prospectus. The interactive data in eXtensible Business Reporting Language included or incorporated by reference in the Registration Statement fairly presents the information called for in all material respects and has been prepared in accordance with the Commission's rules and guidelines applicable thereto.

**(l) Company's Accounting System.** The Company and each of its subsidiaries make and keep accurate books and records and maintain a system of internal accounting controls sufficient to provide reasonable assurance that: (i) transactions are executed in accordance with management's general or specific authorization; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with IFRS and to maintain accountability for assets; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

**(m) Disclosure Controls and Procedures; Deficiencies in or Changes to Internal Control Over Financial Reporting.** The Company has established and maintains disclosure controls and procedures (as defined in Rules 13a-15 and 15d-15 under the Exchange Act), which (i) are designed to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to the Company's principal executive officer and its principal financial officer by others within those entities and (ii) are effective in all material respects to perform the functions for which they were established. Except as disclosed in the Registration Statement and the Prospectus, since the end of the Company's most recent audited fiscal year, there have been no significant deficiencies or material weakness in the Company's internal control over financial reporting (whether or not remediated) and no change in the Company's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting. The Company is not aware of any change in its internal control over financial reporting that has occurred during its most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

**(n) Incorporation and Power of the Company.** The Company is duly constituted and is validly existing as a *société anonyme* under the laws of France and has the corporate power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement and the Prospectus and to enter into and perform its obligations under this Agreement. The Company is duly qualified as a foreign corporation to transact business and is in good standing (where such concept exists) in each other jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure to so qualify or to be in good standing outside of France would not reasonably be expected, individually or in the aggregate, to have a material adverse effect on the condition (financial or otherwise), earnings, business, properties, operations, assets, liabilities or prospects of the Company and its subsidiaries, considered as one entity (a "**Material Adverse Effect**"). Each member of the corporate bodies of the Company has been duly elected or appointed in such capacity and exercises his or her functions in accordance with applicable laws and regulations and the Company's by-laws and internal regulations.

**(o) Subsidiaries.** Each of the Company's "subsidiaries" (for purposes of this Agreement, as defined in Rule 405 under the Securities Act) has been duly incorporated or organized, as the case may be, and is validly existing as a corporation, partnership or limited liability company, as applicable, in good standing (where such concept exists) under the laws of the jurisdiction of its incorporation or organization, as the case may be, and has the power and authority (corporate or other) to own, lease and operate its properties and to conduct its business as described in the Registration Statement and the Prospectus. Each of the Company's subsidiaries is duly qualified as a foreign corporation, partnership or limited liability company, as applicable, to transact business and is in good standing (where such concept exists) in each jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure to so qualify or to be in good standing would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. All of the issued and outstanding share capital or other equity or ownership interests of each of the Company's subsidiaries has been duly authorized and validly issued, is fully paid and non-assessable and is owned by the Company, directly or through subsidiaries, free and clear of any security interest, mortgage, pledge, lien, encumbrance, charge or adverse claim. The Company does not own or control, directly or indirectly, any corporation, partnership, limited liability company, association or other entity other than the subsidiaries listed in or included as an exhibit to the Company's most recent Annual Report on Form 20-F.

**(p) Capitalization and Other Share Capital Matters.** The authorized, issued and outstanding share capital of the Company is as set forth in the Registration Statement and the Prospectus under the caption “Capitalization” (other than for subsequent issuances, if any, pursuant to employee benefit plans, free shares or upon the exercise of outstanding options or warrants (including founder’s share warrants (BSPCE) and share warrants (BSA)), in each case referred to in the Registration Statement and the Prospectus). The share capital of the Company, including the Placement Shares, conforms in all material respects to each description thereof contained in the Prospectus. All of the issued and outstanding Ordinary Shares and any outstanding ADSs have been duly authorized and validly issued (by the Depositary in the case of ADRs), are fully paid and non-assessable and freely negotiable and have been issued in compliance with French law and, to the extent applicable, all United States federal, state and local securities laws. None of the outstanding Ordinary Shares or ADSs were issued in violation of any preemptive rights, rights of first refusal or other similar rights to subscribe for or purchase securities of the Company that have not been duly excluded, waived or satisfied. There are no authorized or outstanding options, warrants, preemptive rights, rights of first refusal or other rights to purchase, or equity or debt securities convertible into or exchangeable or exercisable for, any share capital of the Company or any of its subsidiaries other than those described or disclosed in the Registration Statement and the Prospectus. The descriptions of the Company’s (i) stock option, stock bonus and other stock plans or arrangements, and the options or other rights granted thereunder, and (ii) founder’s share warrants (BSPCE), share warrants (BSA) and free shares, and the rights granted thereunder set forth in the Registration Statement and the Prospectus accurately and fairly present, in all material respects, the information required to be shown under applicable laws and regulations with respect to such plans, arrangements, options and rights. The ADRs evidencing the ADSs are in due and proper form.

**(q) Total number of Underlying Ordinary Shares to be issued.** As of the date of each Placement Notice and as of each Settlement Date, the maximum number of Underlying Ordinary Shares that can be issued over a given rolling 12-months period, pursuant to Section 1(i) above, has not been exceeded, except if, at these dates, an admission prospectus has been filed with the Financial markets authority in France (AMF), in compliance with French law requirements.

**(r) Stock Exchange Listing.** The ADSs are registered pursuant to Section 12(b) or Section 12(g) of the Exchange Act and are listed on Nasdaq, and the Company has taken no action designed to, or reasonably likely to have the effect of, terminating the registration of the ADSs under the Exchange Act or delisting the ADSs from the Exchange, nor has the Company received any notification that the Commission or Nasdaq is contemplating terminating such registration or listing.

**(s) Non-Contravention of Existing Instruments; No Further Authorizations or Approvals Required.** Neither the Company nor any of its subsidiaries is in violation of its articles of association or by-laws, partnership agreement or operating agreement or similar organizational documents, as applicable, or is in default (or, with the giving of notice or lapse of time, would be in default) (“**Default**”) under any indenture, loan, credit agreement, note, lease, license agreement, contract, franchise or other instrument (including, without limitation, any pledge agreement, security agreement, mortgage or other instrument or agreement evidencing, guaranteeing, securing or relating to indebtedness) to which the Company or any of its subsidiaries is a party or by which it or any of them may be bound, or to which any of their respective properties or assets are subject (each, an “**Existing Instrument**”), except for such Defaults as would not reasonably be expected, individually or in the aggregate, to have a

Material Adverse Effect. The Company's execution, delivery and performance of this Agreement, consummation of the transactions contemplated hereby, by the Deposit Agreement and by the Registration Statement, the F-6 Registration Statement and the Prospectus, the issuance of the Underlying Ordinary Shares and the issuance and sale of the Placement Shares (including the use of proceeds from the sale of the Placement Shares as described in the Registration Statement and the Prospectus under the caption "Use of Proceeds") (i) have been duly authorized by all necessary corporate action and will not result in any violation of the provisions of the articles of association or by-laws, partnership agreement or operating agreement or similar organizational documents, as applicable, of the Company or any subsidiary, (ii) will not conflict with or constitute a breach of, or Default or a Debt Repayment Triggering Event (as defined below) under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any of its subsidiaries pursuant to, or require the consent of any other party to, any Existing Instrument, and (iii) will not result in any violation of any law, administrative regulation or administrative or court decree applicable to the Company or any of its subsidiaries, except for such violations, conflicts, breaches, Defaults, Debt Repayment Triggering Event, lien, charge or encumbrance specified in clauses (ii) and (iii) above as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. No consent, approval, authorization or other order of, or registration or filing with, any court or other governmental or regulatory authority or agency, is required for, or in connection with, the Company's execution, delivery and performance of this Agreement and consummation of the transactions contemplated hereby, by the Deposit Agreement and by the Registration Statement, the F-6 Registration Statement and the Prospectus, except for the publication by Euronext of a notice (*avis*) with respect to the listing of the Underlying Ordinary Shares and such as have been obtained or made by the Company and are in full force and effect under the Securities Act and such as may be required under applicable state securities or blue sky laws or the Financial Industry Regulatory Authority, Inc. ("**FINRA**") or Nasdaq. As used herein, a "**Debt Repayment Triggering Event**" means any event or condition which gives, or with the giving of notice or lapse of time would give, the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder's behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by the Company or any of its subsidiaries.

(t) **Compliance with Laws.** The Company and its subsidiaries have been and are in compliance with all applicable laws, rules and regulations, except where failure to be so in compliance would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

(u) **No Material Actions or Proceedings.** There is no action, suit, proceeding, inquiry or investigation brought by or before any governmental entity now pending or, to the knowledge of the Company, threatened, against or affecting the Company or any of its subsidiaries, which would reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect or materially and adversely affect the consummation of the transactions contemplated by this Agreement or the Deposit Agreement or the performance by the Company of its obligations hereunder or thereunder; and the aggregate of all pending legal or governmental proceedings to which the Company or any of its subsidiaries is a party or of which any of their respective properties or assets is the subject, including ordinary routine litigation incidental to the business, if determined adversely to the Company or such subsidiaries, would not reasonably be expected

to have a Material Adverse Effect. No labor dispute with the employees of the Company or any of its subsidiaries, or with the employees of any principal supplier, manufacturer, customer or contractor of the Company, exists or, to the knowledge of the Company, is threatened or imminent, which could reasonably be expected to result in a Material Adverse Effect.

**(v) Intellectual Property Rights.** The Company and its subsidiaries own, or have obtained valid and enforceable licenses for, the inventions, patent applications, patents, trademarks, trade names, service names, copyrights, trade secrets and other intellectual property described in the Registration Statement and the Prospectus as being owned or licensed by them or which are necessary for the conduct of their respective businesses as currently conducted or as currently proposed to be conducted (collectively, “**Intellectual Property**”). To the Company’s knowledge: (i) there are no third parties who have rights to any Intellectual Property, except for customary reversionary rights of third-party licensors with respect to Intellectual Property that is disclosed in the Registration Statement and the Prospectus as licensed to the Company or one or more of its subsidiaries; and (ii) there is no infringement by third parties of any Intellectual Property. There is no pending or, to the Company’s knowledge, threatened action, suit, proceeding or claim by others challenging the Company’s rights in or to any Intellectual Property, challenging the validity, enforceability or scope of any Intellectual Property or asserting that the Company or any of its subsidiaries infringes or otherwise violates, or would, upon the commercialization of any product or service described in the Registration Statement, and the Prospectus as under development, infringe or violate, any patent, trademark, trade name, service name, copyright, trade secret or other proprietary rights of others; the Company is unaware of any facts which would form a reasonable basis for any of the foregoing actions, suits, proceedings or claims. To the Company’s knowledge, the Company and its subsidiaries have complied with the material terms of each agreement pursuant to which Intellectual Property has been licensed to the Company or any subsidiary, and all such agreements are in full force and effect. The product candidates described in the Registration Statement and the Prospectus as under development by the Company or any subsidiary fall within the scope of the claims of one or more patents owned by, or exclusively licensed to, the Company or any subsidiary.

**(w) All Necessary Permits, etc.** The Company and its subsidiaries possess such valid and current certificates, authorizations or permits required by French, United States (state or federal) or other foreign regulatory agencies or bodies to conduct their respective businesses as currently conducted and as described in the Registration Statement and the Prospectus (“**Permits**”), except where failure to so possess would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, neither the Company nor any of its subsidiaries is in violation of, or in default under, any of the Permits or has received any notice of proceedings relating to the revocation or modification of, or non-compliance with, any such Permit.

**(x) Title to Properties.** The Company and its subsidiaries have good and marketable title to all of the real and personal property and other assets reflected as owned in the financial statements referred to in Section 6(k) above (or elsewhere in the Registration Statement and the Prospectus), in each case free and clear of any security interests, mortgages, liens, encumbrances, equities, adverse claims and other defects, except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. The real property,

improvements, equipment and personal property material to its business held under lease by the Company or any of its subsidiaries are held under valid and enforceable leases, with such exceptions as are not material and do not materially interfere with the use made or proposed to be made of such real property, improvements, equipment or personal property by the Company or such subsidiary.

**(y) Tax Law Compliance.** The Company and its subsidiaries have timely filed when due all necessary United States federal, state, local, and French and foreign income, franchise and other material tax returns required to be filed through the date hereof, or have properly requested extensions thereof and have paid all taxes required to be paid by any of them through the date hereof and, if due and payable, any related or similar assessment, fine or penalty levied against any of them except as may be being contested in good faith and by appropriate proceedings or except where the failure to file a tax return or the failure to pay any tax would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. None of the Company or its subsidiaries is under audit by governmental authorities, and none of them has received written notice of any such audit other than with respect to routine tax audits which the Company does not reasonably believe would have a Material Adverse Effect. The Company has made adequate charges, accruals and reserves in the applicable financial statements referred to in Section 6(k) above in respect of all unpaid United States federal, state, local, and French and foreign income, franchise and other material taxes except for such taxes as could not reasonably be expected to result in a Material Adverse Effect. Assuming that Cowen is not otherwise subject to taxation in France due to French tax residence or the existence of a permanent establishment in France, except as described in the Registration Statement or the Prospectus, no transaction, documentary, stamp, capital or other issuance, registration, transaction, transfer or withholding tax or duty (including, for the avoidance of doubt, financial transaction tax as set out in Article 235 ter ZD of the *Code général des impôts*) is payable in France by or on behalf of Cowen to any taxing authority in connection with (i) the issuance, sale and delivery of the Placement Shares by the Company, the issuance of the ADSs by the Depositary; (ii) the purchase from the Company, and the initial sale and delivery by Cowen of the Placement Shares to purchasers thereof; (iii) the holding or transfer of the Placement Shares; (iv) the deposit of the Ordinary Shares with the Depositary and the issuance and delivery by the Depositary of the ADRs evidencing the ADSs; or (v) the execution and delivery of this Agreement or the Deposit Agreement or any other document to be furnished hereunder.

**(z) Insurance.** Each of the Company and its subsidiaries are insured by recognized, financially sound and reputable institutions with policies in such amounts and with such deductibles and covering such risks as are generally deemed adequate and customary for their businesses including, but not limited to, policies covering real and personal property owned or leased by the Company and its subsidiaries against theft, damage, destruction, acts of vandalism and earthquakes and policies covering the Company and its subsidiaries for product liability claims and clinical trial liability claims. The Company has no reason to believe that it or any of its subsidiaries will not be able (i) to renew its existing insurance coverage as and when such policies expire or (ii) to obtain comparable coverage from similar institutions as may be necessary or appropriate to conduct its business as now conducted and at a cost that would not reasonably be expected to have a Material Adverse Effect. Neither the Company nor any of its subsidiaries has been denied any insurance coverage which it has sought or for which it has applied.

**(aa) Compliance with Environmental Laws.** Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect: (i) neither the Company nor any of its subsidiaries is in violation of any French, United States (federal or state)

or other foreign statute, law, rule, regulation, ordinance, code, policy or rule of common law or any judicial or administrative interpretation thereof, including any judicial or administrative order, consent, decree or judgment, relating to pollution or protection of human health, the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata) or wildlife, including, without limitation, laws and regulations relating to the release or threatened release of chemicals, pollutants, contaminants, wastes, toxic substances, hazardous substances, petroleum or petroleum products (collectively, "**Hazardous Materials**") or to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials (collectively, "**Environmental Laws**"); (ii) the Company and its subsidiaries have all permits, authorizations and approvals required under any applicable Environmental Law and are each in compliance with their requirements; (iii) there are no pending or, to the Company's knowledge, threatened administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigation or proceedings relating to any Environmental Law against the Company or any of its subsidiaries; and (iv) to the Company's knowledge, there are no events or circumstances existing as of the date hereof that would reasonably be expected to form the basis of an order for clean-up or remediation, or an action, suit or proceeding by any private party or governmental body or agency, against or affecting the Company or any of its subsidiaries relating to Hazardous Materials or any Environmental Laws.

**(bb) Benefit Plans Compliance.** Each benefit, pension and compensation plan, agreement, policy and arrangement that is maintained, administered or contributed to by the Company or any of its subsidiaries for current or former employees or directors of the Company or any of its subsidiaries, or with respect to which any of such entities could reasonably be expected to have any current, future or contingent liability or responsibility, has been maintained in compliance with its terms and the requirements of any applicable statutes, orders, rules and regulations, except as would not individually or in the aggregate be expected to have a Material Adverse Effect and except with respect to matters over which none of the Company or its subsidiaries have control; the Company and each of its subsidiaries have complied with all applicable statutes, orders, rules and regulations in regard to such plans, agreements, policies and arrangements, except as would not individually or in the aggregate be expected to have Material Adverse Effect; and the fair market value of the assets of each such plan, agreement, policy and arrangement which is required or intended to be funded (excluding for these purposes accrued but unpaid contributions) exceeds the present value of all benefits accrued or earned or payments due under such plan, agreement, policy or arrangement determined using reasonable actuarial assumptions. The liabilities reflected on the relevant entity's financial statements with respect to each such plan, agreement, policy and arrangement which is not required or intended to be funded accurately reflects the present value of all benefits earned or accrued or payments due under such plan, agreement, policy or arrangement determined using reasonable actuarial assumptions.

**(cc) Compliance with the Sarbanes-Oxley Act.** There is and has been no failure on the part of the Company and any of the Company's directors or officers, in their capacities as such, to comply with any provision of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith (the "**Sarbanes-Oxley Act**") to which it is or has been subject, including Section 402 relating to loans.



**(dd) Company Not an “Investment Company.”** The Company is not, and will not be, either after receipt of payment for the Placement Shares or after the application of the proceeds therefrom as described under the caption “Use of Proceeds” in the Registration Statement, or the Prospectus, required to register as an “investment company” under the Investment Company Act of 1940, as amended (the “**Investment Company Act**”).

**(ee) No Price Stabilization or Manipulation; Compliance with Regulation M.** Neither the Company nor any of its subsidiaries has taken, directly or indirectly (without giving effect to the activities by Cowen), any action designed to or that would reasonably be expected to cause or result in stabilization or manipulation of the price of the Placement Shares or of any “reference security” (as defined in Rule 100 of Regulation M under the Exchange Act) with respect to the Placement Shares, whether to facilitate the sale or resale of the Placement Shares or otherwise, and has taken no action which would directly or indirectly violate Regulation M under the Exchange Act. Neither the Company, nor any of its subsidiaries, has taken, directly or indirectly, any action designed to cause or to result in, or that has constituted or that might reasonably be expected to cause or result in, the stabilization of the Placement Shares in violation of applicable European Union and French laws or manipulation of the price of any security of the Company to facilitate the sale or resale of the Placement Shares.

**(ff) No Market Abuse.** The Company has complied and complies with any and all applicable rules relating to market abuse (including insider trading) and has taken adequate measures and has adequate procedures in place in order to ensure such compliance, and none of the allotment of the Placement Shares, the sale of the Placement Shares and the consummation of the transactions contemplated by this Agreement will constitute a violation by the Company of any applicable “insider dealing,” “insider trading” or similar legislation and no person acting on its behalf has done any act or engaged in any course of conduct constituting such violation.

**(gg) Related-Party Transactions.** There are no business relationships or related-party transactions, including *conventions réglementées* under Article L. 225-38 *et seq.* of the French Commercial Code, involving the Company or any of its subsidiaries or any other person required to be described in the Registration Statement or the Prospectus that have not been described as required. All related party transactions described therein have been duly authorized and executed by the Company or one of its subsidiaries, as the case may be. Neither the Company nor any of its subsidiaries is engaged in any material transaction with their respective directors, officers, management shareholders or any other person, including persons formerly holding such positions, on terms that are not available from or to other parties on an arm’s-length basis.

**(hh) FINRA Matters.** All of the information provided to Cowen or to counsels for Cowen by the Company, its counsels, its officers and directors and the holders of any securities (debt or equity) or options to acquire any securities of the Company in connection with the offering of the Placement Shares is true, complete, correct and compliant with FINRA’s rules in all material respects and any letters, filings or other supplemental information provided to FINRA by the Company pursuant to FINRA Rules or NASD Conduct Rules is true, complete and correct in all material respects.

**(ii) [Reserved.]**

**(jj) Statistical and Market-Related Data.** All statistical, demographic and market-related data included in or incorporated by reference in the Registration Statement or the Prospectus are based on or derived from sources that the Company believes, after reasonable inquiry, to be reliable and accurate in all material respects. To the extent required, the Company has obtained a written consent permitting the use of such data from such sources.

**(kk) No Unlawful Contributions or Other Payments.** Neither the Company nor any of its subsidiaries nor, to the Company's knowledge, any employee or agent of the Company or any subsidiary, has made any contribution or other payment to any official of, or candidate for, any federal, state or foreign office in violation of any law or of the character required to be disclosed in the Registration Statement or the Prospectus.

**(ll) Foreign Corrupt Practices Act and Anti-Bribery Laws.** Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee, affiliate or other person acting on behalf of the Company or any of its subsidiaries has, in the course of its actions for, or on behalf of, the Company or any of its subsidiaries (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expenses relating to political activity; (ii) made any direct or indirect unlawful payment to any domestic government official, "foreign official" (as defined in the U.S. Foreign Corrupt Practices Act of 1977, as amended) (the "**FCPA**"), employee, political party, political party official, or candidate for political office, from corporate funds; (iii) violated or is in violation of any applicable provision of the FCPA or the English common law offence of bribery, the U.K. Bribery Act 2010, Articles 432-11 *et seq.*, 433-1 and 433-2, 433-22 to 433-25, 435-1 *et seq.* and 445-1 *et seq.* of the French Criminal Code, or any applicable anti-corruption laws, rules, or regulations of the European Union or any other jurisdiction in which the Company conducts business (collectively, the "**Anti-Bribery Laws**"); or (iv) made any unlawful bribe, rebate, payoff, influence payment, kickback or other unlawful payment to any domestic government official, "foreign official" as defined in the FCPA, employee, political party, political party official, or candidate for political office. The Company and its subsidiaries and, to the knowledge of the Company, the Company's affiliates have conducted their respective businesses in compliance with all Anti-Bribery Laws, and have instituted and maintain, policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

**(mm) Money Laundering Laws.** The operations of the Company and its subsidiaries are, and have been conducted at all times, in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all applicable jurisdictions, the rules and regulations thereunder and any related or similar applicable rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the "**Money Laundering Laws**") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened.

**(nn) OFAC and other Sanctions Regimes.** Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, after due inquiry, any director, officer, agent, employee, affiliate or person acting on behalf of the Company (except for Cowen, in respect of which the Company makes no representation) or any of its subsidiaries is (i) a person, or is owned or controlled by a person that is, designated in the most current version of the Specially

Designated Nationals and Blocked Persons List or the List of Foreign Financial Institutions Subject to Part 561, which are both maintained by the Office of Foreign Assets Control of the U.S. Treasury Department (“**OFAC**”), or any applicable prohibited party list maintained by any U.S. government agency, French government agency, the European Union, or Her Majesty’s Treasury, or (ii) currently subject to any sanctions administered by OFAC, the United Nations Security Council, the European Union, Her Majesty’s Treasury, or any French government agency (collectively, the “**Relevant Sanctions Authorities**”). The Company will not directly or indirectly use the proceeds of this offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, any joint venture partner or other person or entity, for the purpose of financing the activities of or business with any person, or in any country or territory, that currently is subject to any sanctions administered by the Relevant Sanctions Authorities, or in any other manner that will result in a violation by any person (including any person participating in the transaction whether as a sales agent, advisor, investor or otherwise) of sanctions administered by the Relevant Sanctions Authorities.

(oo) **Brokers.** Except pursuant to this Agreement, there is no broker, finder or other party that is entitled to receive from the Company any brokerage or finder’s fee or other fee or commission as a result of the transactions contemplated by this Agreement.

(pp) **Submission to Jurisdiction.** The Company has the power to submit, and pursuant to Section 16 of this Agreement, has legally, validly, effectively and irrevocably submitted, to the personal jurisdiction of each United States federal court and New York state court located in the Borough of Manhattan, in the City of New York, New York, U.S.A. (each, a “**New York Court**”), and the Company has the power to designate, appoint and authorize, and pursuant to Section 16 of this Agreement, has legally, validly, effectively and irrevocably designated, appointed and authorized an agent for service of process in any action arising out of or relating to this Agreement or the ADSs in any New York Court, and service of process effected on such authorized agent will be effective to confer valid personal jurisdiction over the Company as provided in Section 16 hereof.

(qq) **No Rights of Immunity.** Except as provided by laws or statutes generally applicable to transactions of the type described in this Agreement, neither the Company nor any of its properties, assets or revenues has any right of immunity under French, New York or United States law, from any legal action, suit or proceeding, from the giving of any relief in any such legal action, suit or proceeding, from set-off or counterclaim, from the jurisdiction of any French, New York or United States federal court, from service of process, attachment upon or prior judgment, or attachment in aid of execution of judgment, or from execution of a judgment, or other legal process or proceeding for the giving of any relief or for the enforcement of a judgment, in any such court, with respect to its obligations, liabilities or any other matter under or arising out of or in connection with this Agreement or the Deposit Agreement. To the extent that the Company or any of its properties, assets or revenues may have or may hereafter become entitled to any such right of immunity in any such court in which proceedings may at any time be commenced, the Company waives or will waive such right to the extent permitted by law and has consented to such relief and enforcement as provided in Section 16 of this Agreement.

**(rr) Forward-Looking Statements.** Each financial or operational projection or other “forward-looking statement” (as defined by Section 27A of the Securities Act or Section 21E of the Exchange Act) contained in the Registration Statement or the Prospectus (i) was so included by the Company in good faith and with reasonable basis after due consideration by the Company of the underlying assumptions, estimates and other applicable facts and circumstances and (ii) is accompanied by meaningful cautionary statements identifying those factors that could cause actual results to differ materially from those in such forward-looking statement. No such statement was made with the knowledge of an executive officer or director of the Company that it was false or misleading.

**(ss) Emerging Growth Company Status.** As of the date of this Agreement, the Company is an “emerging growth company,” as defined in Section 2(a) of the Securities Act. The Company agrees to notify Cowen promptly upon the Company ceasing to be an emerging growth company.

**(tt) [Reserved.]**

**(uu) Clinical Data and Regulatory Compliance.** The preclinical tests and clinical trials, and other studies (collectively, “**studies**”) being conducted by or sponsored by the Company that are described or disclosed in, or the results of which are referred to in, the Registration Statement or the Prospectus were and, if still pending, are being conducted in all material respects in accordance with the experimental protocols, procedures and controls designed and approved for such studies and with accepted standard medical and scientific research procedures; each description or disclosure of the results of such studies contained in the Registration Statement or the Prospectus is accurate and complete in all material respects and fairly presents the data derived from such studies, and the Company and its subsidiaries have no knowledge of any other studies the results of which are inconsistent with, or otherwise call into question, the results described or referred to in the Registration Statement or the Prospectus when viewed in the context in which such results are described and the state of development; the Company and its subsidiaries have made all such filings and obtained all such approvals as may be required by the Food and Drug Administration of the U.S. Department of Health and Human Services or any committee thereof or from any other U.S. or foreign government or drug or medical device regulatory agency (including the *Agence Nationale de Sécurité du Médicament et des Produits*), or health care facility Institutional Review Board (collectively, the “**Regulatory Agencies**”) to conduct their respective businesses as currently conducted and as described in the Registration Statement or the Prospectus; except as disclosed in the Registration Statement or the Prospectus, neither the Company nor any of its subsidiaries has received any notice of, or correspondence from, any Regulatory Agency requiring the termination, suspension or modification of any clinical trials conducted by or on behalf of the Company, other than ordinary course communications with respect to modifications in connection with the design and implementation of such trials; and the Company and its subsidiaries have each operated and currently are in compliance in all material respects with all applicable rules, regulations and policies of the Regulatory Agencies.

**(vv) No Contract Terminations.** Neither the Company nor any of its subsidiaries has sent or received any communication regarding termination of, or intent not to renew, any of the contracts or agreements referred to or described in the Prospectus, or any free writing prospectus, or referred to or described in, or filed as an exhibit to, the Registration Statement or the F-6 Registration Statement, or any document incorporated by reference therein, and no such termination or non-renewal has been threatened by the Company or any of its subsidiaries or, to the Company’s knowledge, any other party to any such contract or agreement, which threat of termination or non-renewal has not been rescinded as of the date hereof, except as described or contemplated by the Registration Statement, the Prospectus or where such termination or non-renewal would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

**(ww) Dividend Restrictions.** Other than as prohibited or restricted by law, no subsidiary of the Company is prohibited or restricted, directly or indirectly, from paying dividends to the Company, or from making any other distribution with respect to such subsidiary's equity securities or from repaying to the Company or any other subsidiary of the Company any amounts that may from time to time become due under any loans or advances to such subsidiary from the Company or from transferring any property or assets to the Company or to any other subsidiary.

**(xx) Privacy Laws.** The Company and each of its subsidiaries are, and, at all prior times within the past five years, were, in material compliance with all applicable data privacy and security laws and regulations, including, without limitation, the Health Insurance Portability and Accountability Act ("**HIPAA**"), as amended by the Health Information Technology for Economic and Clinical Health Act (42 U.S.C. Section 17921 et seq.); and the Company and each of its subsidiaries have taken all reasonable actions to comply in all material respects with the European Union General Data Protection Regulation ("**GDPR**") (EU 2016/679) (collectively, "**Privacy Laws**"). In a manner reasonably designed to comply with the Privacy Laws, the Company and each of its subsidiaries have in place, comply with, and take appropriate steps reasonably designed to comply in all material respects with their policies and procedures relating to data privacy and security and the collection, storage, use, disclosure, handling and analysis of Personal Data (the "**Policies**"). The Company provides materially accurate notice of its Policies when and to the extent required by Privacy Laws to its customers, employees, third party vendors and representatives. The Policies provide accurate and legally sufficient notice of the Company's then-current privacy practices relating to its subject matter and such Policies do not contain any material omissions of the Company's then-current privacy practices. "**Personal Data**" means (i) a natural persons' name, street address, telephone number, email address, photograph, social security number, bank information, or customer or account number; (ii) any information which would qualify as "personally identifying information" under the Federal Trade Commission Act, as amended; (iii) Protected Health Information as defined by HIPAA; (iv) "personal data" as defined by GDPR; and (v) any other piece of information that reasonably allows the identification of such natural person, or permits the collection or analysis of any data related to an identified person's health or sexual orientation. None of such disclosures made or contained in any of the Policies have been inaccurate, misleading, deceptive or in violation of any Privacy Laws in any material respect. The execution, delivery and performance of this Agreement or any other agreement referred to in this Agreement will not result in a breach of any Privacy Laws or Policies. Neither the Company nor any of its subsidiaries, (i) has received notice of any actual or potential liability under, or actual or potential violation of, any of the Privacy Laws, and has no knowledge of any event or condition that would reasonably be expected to result in any such notice; (ii) is currently conducting or paying for, in whole or in part, any investigation, remediation or other corrective action pursuant to any Privacy Law arising from any allegations of noncompliance with any of the Privacy Laws made by a person, governmental authority or competent supervisory authority in the European Union; or (iii) is a party to any governmental order or decree, or agreement with a governmental authority or competent supervisory authority in the European Union, that imposed any obligation or liability under any Privacy Law.

**(yy) IT Systems.** (i)(x) Within the past five years, there has been no security breach or attack or other compromise of or relating to any of the Company's and its subsidiaries' information technology and computer systems, networks, hardware, software, Personal Data (including the Personal Data of their respective customers, employees, suppliers, vendors and any third party data maintained by or on behalf of them), equipment or technology ("**IT Systems and Data**") that involved unauthorized access to, or malicious disruption of IT Systems and Data or other incidents involving the unauthorized access, acquisition, use or disclosure of any Personal Data within the Company's or its subsidiaries' possession, custody, or control, and (y) the Company and its subsidiaries have not received notice of, and have no knowledge of any event or condition that would reasonably be expected to result in any security breach, attack or compromise to their IT Systems and Data which would, in the case of clauses (x) and (y), reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (ii) within the past five years, the Company and each of its subsidiaries have complied, and are presently in compliance in all material respects with, all applicable laws, statutes or any judgment, order, rule or regulation of any court or arbitrator or governmental or regulatory authority that are binding on Company or its subsidiaries, and all applicable industry guidelines or standards that Company or its subsidiaries have contractually agreed to follow, internal policies and contractual obligations relating to the privacy and security of IT Systems and Data and to the protection of such IT Systems and Data from unauthorized use, access, misappropriation or modification and (iii) the Company and each of its subsidiaries have implemented backup and disaster recovery technology.

(zz) No Reliance. The Company has not relied upon Cowen or legal counsel for Cowen for any legal, tax or accounting advice in connection with the offering and sale of the Placement Shares.

(aaa) Cowen Purchases. The Company acknowledges and agrees that Cowen has informed the Company that Cowen may, to the extent permitted under the Securities Act and the Exchange Act, purchase and sell ADSs for its own account while this Agreement is in effect, provided, that (i) no such purchase or sales shall take place while a Placement Notice is in effect (except to the extent Cowen may engage in sales of Placement Shares purchased or deemed purchased from the Company as a “riskless principal” or in a similar capacity) and (ii) the Company shall not be deemed to have authorized or consented to any such purchases or sales by Cowen.

Any certificate signed by an officer of the Company and delivered to Cowen or to counsel for Cowen shall be deemed to be a representation and warranty by the Company to Cowen as to the matters set forth therein.

The Company acknowledges that Cowen and, for purposes of the opinions to be delivered pursuant to Section 7 hereof, counsel to the Company and counsel to Cowen, will rely upon the accuracy and truthfulness of the foregoing representations and hereby consents to such reliance.

## 7. Covenants

7.1. Covenants of the Company. The Company covenants and agrees with Cowen that:

(a) Registration Statement Amendments. After the date of this Agreement and during any period in which a Prospectus relating to any Placement Shares is required to be delivered by Cowen under the Securities Act (including in circumstances where such requirement may be satisfied pursuant to Rule 172 under the Securities Act), (i) the Company will notify Cowen promptly of the time when any subsequent amendment to the Registration Statement, other than documents incorporated by reference, has been filed with the Commission and/or has become

effective or any subsequent supplement to the Prospectus has been filed and of any request by the Commission for any amendment or supplement to the Registration Statement or Prospectus or for additional information, (ii) the Company will prepare and file with the Commission, promptly upon Cowen's request, any amendments or supplements to the Registration Statement or Prospectus that, in Cowen's reasonable opinion, may be necessary or advisable in connection with the distribution of the Placement Shares by Cowen (*provided, however*, that the failure of Cowen to make such request shall not relieve the Company of any obligation or liability hereunder, or affect Cowen's right to rely on the representations and warranties made by the Company in this Agreement); (iii) the Company will not file any amendment or supplement to the Registration Statement or Prospectus, other than documents incorporated by reference, relating to the Placement Shares or a security convertible into the Placement Shares unless a copy thereof has been submitted to Cowen within a reasonable period of time before the filing and Cowen has not reasonably objected thereto (*provided, however*, that the failure of Cowen to make such objection shall not relieve the Company of any obligation or liability hereunder, or affect Cowen's right to rely on the representations and warranties made by the Company in this Agreement) and the Company will furnish to Cowen at the time of filing thereof a copy of any document that upon filing is deemed to be incorporated by reference into the Registration Statement or Prospectus, except for those documents available via EDGAR; (iv) the Company will cause each amendment or supplement to the Prospectus, other than documents incorporated by reference, to be filed with the Commission as required pursuant to the applicable paragraph of Rule 424(b) of the Securities Act, and (v) during the term of this Agreement, the Company will notify Cowen if at any time the Registration Statement shall no longer be effective as a result of the passage of time pursuant to Rule 415 under the Securities Act or otherwise. Prior to the initial sale of any Placement Shares, the Company shall file a final Prospectus Supplement pursuant to Rule 424(b) relating to the Placement Shares.

(b) Notice of Commission Stop Orders. The Company will advise Cowen, promptly after it receives notice or obtains knowledge thereof, of the issuance or threatened issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement, of the suspension of the qualification of the Placement Shares for offering or sale in any jurisdiction, or of the initiation or threatening of any proceeding for any such purpose; and it will promptly use its commercially reasonable efforts to prevent the issuance of any stop order or to obtain its withdrawal if such a stop order should be issued.

(c) Delivery of Prospectus; Subsequent Changes. During any period in which a Prospectus relating to the Placement Shares is required to be delivered by Cowen under the Securities Act with respect to a pending sale of the Placement Shares, (including in circumstances where such requirement may be satisfied pursuant to Rule 172 under the Securities Act), the Company will comply with all requirements imposed upon it by the Securities Act, as from time to time in force, and to file on or before their respective due dates (taking into account any extensions available under the Exchange Act) all reports and any definitive proxy or information statements required to be filed by the Company with the Commission pursuant to Sections 13(a), 13(c), 14, 15(d) or any other provision of or under the Exchange Act. If during such period any event occurs as a result of which the Prospectus as then amended or supplemented would include an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances then existing, not misleading, or if during such period it is necessary to amend or supplement

the Registration Statement or Prospectus to comply with the Securities Act, the Company will as promptly as practicable notify Cowen to suspend the offering of Placement Shares during such period and the Company will promptly amend or supplement the Registration Statement or Prospectus (at the expense of the Company) so as to correct such statement or omission or effect such compliance; provided, that, the Company may delay the filing of any amendment or supplement, if in the judgment of the Company, it is in the best interest of the Company, during which time of delay Cowen shall be under no obligation to make any sales of Placement Shares hereunder.

(d) Listing of Placement Shares. During any period in which the Prospectus relating to the Placement Shares is required to be delivered by Cowen under the Securities Act with respect to a pending sale of the Placement Shares (including in circumstances where such requirement may be satisfied pursuant to Rule 172 under the Securities Act), the Company will use its commercially reasonable efforts to cause the Placement Shares to be listed on Nasdaq and to qualify the Placement Shares for sale under the securities laws of such jurisdictions as Cowen reasonably designates and to continue such qualifications in effect so long as required for the distribution of the Placement Shares; *provided, however*, that the Company shall not be required in connection therewith to qualify as a foreign corporation or dealer in securities or file a general consent to service of process in any jurisdiction.

(e) Delivery of Registration Statement and Prospectus. The Company will furnish to Cowen and its counsel (at the expense of the Company) copies of the Registration Statement, the Prospectus (including all documents incorporated by reference therein) and all amendments and supplements to the Registration Statement or Prospectus that are filed with the Commission during any period in which a Prospectus relating to the Placement Shares is required to be delivered under the Securities Act (including all documents filed with the Commission during such period that are deemed to be incorporated by reference therein), in each case as soon as reasonably practicable and in such quantities as Cowen may from time to time reasonably request and, at Cowen's request, will also furnish copies of the Prospectus to each exchange or market on which sales of the Placement Shares may be made; *provided, however*, that the Company shall not be required to furnish any document (other than the Prospectus) to Cowen to the extent such document is available on EDGAR.

(f) Earnings Statement. The Company will make generally available to its security holders as soon as practicable, but in any event not later than 15 months after the end of the Company's current fiscal quarter, an earnings statement covering a 12-month period that satisfies the provisions of Section 11(a) and Rule 158 of the Securities Act.

(g) Expenses. The Company, whether or not the transactions contemplated hereunder are consummated or this Agreement is terminated, in accordance with the provisions of Section 11 hereunder, will pay the following expenses all incident to the performance of its obligations hereunder, including, but not limited to, expenses relating to (i) the preparation, printing and filing of the Registration Statement and each amendment and supplement thereto, of each Prospectus and of each amendment and supplement thereto, (ii) the preparation, issuance and Placement Shares, (iii) the qualification of the Placement Shares under securities laws in accordance with the provisions of Section 7(d) of this Agreement, including filing fees (provided, however, that any fees or disbursements of counsel for Cowen in connection therewith shall be paid by Cowen except as set forth in (vii) below), (iv) the printing and



delivery to Cowen of copies of the Prospectus and any amendments or supplements thereto, and of this Agreement, (v) the fees and expenses incurred in connection with the listing or qualification of the Placement Shares for trading on Nasdaq, (vi) the filing fees and expenses, if any, of the Commission, (vii) the filing fees and associated legal expenses of Cowen's outside counsel for filings with the FINRA Corporate Financing Department, such legal expense reimbursement not to exceed \$20,000 and (viii) the reasonable fees and disbursements of Cowen's counsel in an amount not to exceed \$100,000 without the prior written consent of the Company, provided, however, in no event shall the total compensation paid to Cowen exceed 8.0% of the gross proceeds to the Company from the sale of the Placement Shares.

(h) Use of Proceeds. The Company will use the Net Proceeds as described in the Prospectus in the section entitled "Use of Proceeds."

(i) Notice of Other Sales. During the pendency of any Placement Notice given hereunder, and for 5 Trading Days following the termination of any Placement Notice given hereunder, the Company shall provide Cowen notice as promptly as reasonably possible before it offers to sell, contracts to sell, sells, grants any option to sell or otherwise disposes of any Ordinary Shares or ADSs (other than Placement Shares offered pursuant to the provisions of this Agreement) or securities convertible into or exchangeable for Ordinary Shares or ADSs, warrants or any rights to purchase or acquire Ordinary Shares or ADSs; *provided*, that such notice shall not be required in connection with the (i) issuance, grant or sale of Ordinary Shares or ADSs, options to purchase Ordinary Shares or ADSs or Ordinary Shares or ADSs issuable upon the exercise of options or warrants, including founder's share warrants (BSPCE) and share warrants (BSA), other equity awards pursuant to any share option, share bonus or other share plan or arrangement described in the Prospectus, (ii) the issuance of securities in connection with an acquisition, merger or sale or purchase of assets, (iii) the issuance or sale of Ordinary Shares or ADSs pursuant to any dividend reinvestment plan that the Company may adopt from time to time provided the implementation of such is disclosed to Cowen in advance, (iv) any Ordinary Shares or ADSs issuable upon the exchange, conversion or redemption of securities or the exercise of warrants (including founder's share warrants (BSPCE) and share warrants (BSA), options, free shares or other rights in effect or outstanding or (v) Ordinary Shares or ADSs or securities convertible into or exercisable for Ordinary Shares or ADSs, offered and sold in a privately negotiated transaction to vendors, customers, strategic partners or potential strategic partners and otherwise conducted in a manner so as not to be integrated with the offering of the Ordinary Shares or ADSs hereby, which includes, for the avoidance of doubt, the issuance of any securities in the context of the convertible bond financing entered into between the Company and Alpha Blue Ocean in June 2020.

(j) Change of Circumstances. The Company will, at any time during the pendency of a Placement Notice, advise Cowen promptly after it shall have received notice or obtained knowledge thereof, of any information or fact that would alter or affect in any material respect any opinion, certificate, letter or other document provided to Cowen pursuant to this Agreement.

(k) Due Diligence Cooperation. The Company will cooperate with any reasonable due diligence review conducted by Cowen or its agents in connection with the transactions contemplated hereby, including, without limitation, providing information and making available documents and senior corporate officers, during regular business hours and at the Company's principal offices, or such other location mutually agreeable by the parties, as Cowen may reasonably request.

(l) Required Filings Relating to Placement of Placement Shares. The Company agrees that on such dates as the Securities Act shall require, the Company will (i) file a prospectus supplement with the Commission under the applicable paragraph of Rule 424(b) under the Securities Act (each and every filing under Rule 424(b), a "**Filing Date**"), which prospectus supplement will set forth, within the relevant period, the amount of Placement Shares sold through or to Cowen, the Net Proceeds to the Company and the compensation payable by the Company to Cowen with respect to such Placement Shares, and (ii) deliver such number of copies of each such prospectus supplement to each exchange or market on which such sales were effected as may be required by the rules or regulations of such exchange or market.

(m) Representation Dates; Certificate. On or prior to the First Delivery Date and each time the Company (i) amends or supplements the Registration Statement or the Prospectus relating to the Placement Shares (other than a prospectus supplement filed in accordance with Section 7(l) of this Agreement) by means of a post-effective amendment, sticker, or supplement but not by means of incorporation of document(s) by reference to the Registration Statement or the Prospectus relating to the Placement Shares; (ii) files an annual report on Form 20-F under the Exchange Act; (iii) files its reports on Form 6-K under the Exchange Act containing financial information for its fiscal quarters or fiscal half, as applicable; or (iv) files a report on Form 6-K containing amended financial information (other than an earnings release) under the Exchange Act (each date of filing of one or more of the documents referred to in clauses (i) through (iv) shall be a "**Representation Date**"); the Company shall furnish Cowen with a certificate, in the form attached hereto as Exhibit 7(m), within three (3) Trading Days of any Representation Date if requested by Cowen. The requirement to provide a certificate under this Section 7(m), shall be waived for any Representation Date occurring at a time at which no Placement Notice is pending, which waiver shall continue until the earlier to occur of the date the Company delivers a Placement Notice hereunder (which for such calendar quarter shall be considered a Representation Date) and the next occurring Representation Date. Notwithstanding the foregoing, if the Company subsequently decides to sell Placement Shares following a Representation Date when the Company relied on such waiver and did not provide Cowen with a certificate under this Section 7(m), then before the Company delivers the Placement Notice or Cowen sells any Placement Shares, the Company shall provide Cowen with a certificate, in the form attached hereto as Exhibit 7(m), dated the date of the Placement Notice.

(n) Legal Opinions. On or prior to the First Delivery Date and within three (3) Trading Days of each Representation Date with respect to which the Company is obligated to deliver a certificate in the form attached hereto as Exhibit 7(m) for which no waiver is applicable, the Company shall cause to be furnished to Cowen a written opinion of (i) Cooley LLP, U.S. counsel for the Company ("**U.S. Company Counsel**"), (ii) Gide Loyrette Nouel

A.A.R.P.I., counsel for the Company as to certain matters of French law (“**French Company Counsel**”) prior to the First Delivery Date only and if a Representation Date is after the next general meeting of the shareholders of the Company, and (iii) the in-house counsel for the Company (“**In-house Company Counsel**”), or other counsel satisfactory to Cowen, each in form and substance satisfactory to Cowen and its counsel, dated the date that the opinions are required to be delivered; *provided, however*, that in lieu of such opinions for subsequent Representation Dates, counsel may furnish Cowen with a letter (a “**Reliance Letter**”) to the effect that Cowen may rely on a prior opinion delivered under this Section 7(n) to the same extent as if it were dated the date of such letter (except that statements in such prior opinion shall be deemed to relate to the Registration Statement and the Prospectus as amended or supplemented at such Representation Date).

(o) **Comfort Letter.** On or prior to the First Delivery Date and within three (3) Trading Days of each Representation Date with respect to which the Company is obligated to deliver a certificate in the form attached hereto as Exhibit 7(m) for which no waiver is applicable, the Company shall cause its independent accountants to furnish Cowen letters (the “**Comfort Letters**”), dated the date the Comfort Letter is delivered, in form and substance satisfactory to Cowen, (i) confirming that they are an independent registered public accounting firm within the meaning of the Securities Act and the PCAOB, (ii) stating, as of such date, the conclusions and findings of such firm with respect to the financial information and other matters ordinarily covered by accountants’ “comfort letters” to Cowen in connection with registered public offerings (the first such letter, the “**Initial Comfort Letter**”) and (iii) updating the Initial Comfort Letter with any information that would have been included in the Initial Comfort Letter had it been given on such date and modified as necessary to relate to the Registration Statement and the Prospectus, as amended and supplemented to the date of such letter.

(p) **Authorization.** Upon delivery of each Placement Notice, the Company will ensure that the Chief Executive Officer of the Company is duly authorized by the general meeting of the Company and the board of directors to decide on the issue of the Underlying Ordinary Shares covered by the Placement Notice subject to the conditions set forth therein and that any relevant pre-emption rights will have been disappplied in relation to the issue of those Underlying Ordinary Shares. Upon each Settlement Date, the Underlying Ordinary Shares to be allotted on that Settlement Date will be duly authorized by the Company.

(q) **Market Activities.** The Company will not, directly or indirectly, (i) take any action designed to cause or result in, or that constitutes or would reasonably be expected to constitute, the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the ADSs or (ii) sell, bid for, or purchase the ADSs to be issued and sold pursuant to this Agreement, or pay anyone any compensation for soliciting purchases of the ADSs other than Cowen; provided, however, that the Company may bid for and purchase its Ordinary Shares or ADSs in accordance with Rule 10b-18 under the Exchange Act.

(r) **Insurance.** The Company and its subsidiaries shall maintain, or cause to be maintained, insurance in such amounts and covering such risks as is reasonable and customary for the business for which it is engaged.

(s) Compliance with Laws. The Company and each of its subsidiaries shall maintain, or cause to be maintained, all material environmental permits, licenses and other authorizations required by federal, state and local law in order to conduct their businesses as described in the Prospectus, and the Company and each of its subsidiaries shall conduct their businesses, or cause their businesses to be conducted, in substantial compliance with such permits, licenses and authorizations and with applicable environmental laws, except where the failure to maintain or be in compliance with such permits, licenses and authorizations would not reasonably be expected to result in a Material Adverse Change.

(t) Investment Company Act. The Company will conduct its affairs in such a manner so as to reasonably ensure that neither it nor its subsidiaries will be or become, at any time prior to the termination of this Agreement, an “investment company,” as such term is defined in the Investment Company Act, assuming no change in the Commission’s current interpretation as to entities that are not considered an investment company.

(u) Securities Act and Exchange Act. The Company will use its best efforts to comply with all requirements imposed upon it by the Securities Act and the Exchange Act as from time to time in force, so far as necessary to permit the continuance of sales of, or dealings in, the Placement Shares as contemplated by the provisions hereof and the Prospectus.

(v) No Offer to Sell. Other than a free writing prospectus (as defined in Rule 405 under the Securities Act) approved in advance by the Company and Cowen in its capacity as principal or agent hereunder, neither Cowen nor the Company (including its agents and representatives, other than Cowen in its capacity as such) will make, use, prepare, authorize, approve or refer to any written communication (as defined in Rule 405 under the Securities Act), required to be filed with the Commission, that constitutes an offer to sell or solicitation of an offer to buy Placement Shares hereunder.

(w) Sarbanes-Oxley Act. The Company and its subsidiaries will use their best efforts to comply with all effective applicable provisions of the Sarbanes-Oxley Act.

7.2. Covenants of Cowen: Cowen covenants and agrees with the Company that:

(a) Investor Documents. Prior to each Settlement Date, Cowen shall have received such documents as required by French law and the limits and other conditions set forth in the corporate authorizations of the Company in a form acceptable by the Company duly executed and such documents shall be in full force and effect, including the investors letters of each prospective investor, a form of which is attached hereto in Exhibit A of Schedule 1.

8. Conditions to Cowen’s Obligations. The obligations of Cowen hereunder with respect to a Placement will be subject to the continuing accuracy and completeness of the representations and warranties made by the Company herein, to the due performance by the Company of its obligations hereunder, to the completion by Cowen of a due diligence review satisfactory to Cowen in its reasonable judgment, and to the continuing satisfaction (or waiver by Cowen in its sole discretion) of the following additional conditions:

(a) Registration Statement Effective. The Registration Statement shall be effective and shall be available for the sale of all Placement Shares contemplated to be issued by any Placement Notice.

(b) No Material Notices. None of the following events shall have occurred and be continuing: (i) receipt by the Company or any of its subsidiaries of any request for additional information from the Commission or any other federal or state governmental authority during the period of effectiveness of the Registration Statement, the response to which would require any post-effective amendments or supplements to the Registration Statement or the Prospectus; (ii) the issuance by the Commission or any other federal or state governmental authority of any stop order suspending the effectiveness of the Registration Statement or the initiation of any proceedings for that purpose; (iii) receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Placement Shares for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose; or (iv) the occurrence of any event that makes any material statement made in the Registration Statement or the Prospectus or any material document incorporated or deemed to be incorporated therein by reference untrue in any material respect or that requires the making of any changes in the Registration Statement, the related Prospectus or such documents so that, in the case of the Registration Statement, it will not contain any materially untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading and, that in the case of the Prospectus, it will not contain any materially untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(c) No Misstatement or Material Omission. Cowen shall not have advised the Company that the Registration Statement or Prospectus, or any amendment or supplement thereto, contains an untrue statement of fact that in Cowen's reasonable opinion, in consultation with outside counsel, is material, or omits to state a fact that in Cowen's opinion is material and is required to be stated therein or is necessary to make the statements therein not misleading.

(d) Material Changes. Except as contemplated in the Prospectus, or disclosed in the Company's reports filed with the Commission, there shall not have been any Material Adverse Change, on a consolidated basis, in the capitalization of the Company or any Material Adverse Change or any development that would reasonably be expected to result in a Material Adverse Change, or any downgrading in or withdrawal of the rating assigned to any of the Company's securities (other than asset backed securities) by any rating organization or a public announcement by any rating organization that it has under surveillance or review its rating of any of the Company's securities (other than asset backed securities), the effect of which, in the case of any such action by a rating organization described above, in the reasonable judgment of Cowen (without relieving the Company of any obligation or liability it may otherwise have), is so material as to make it impracticable or inadvisable to proceed with the offering of the Placement Shares on the terms and in the manner contemplated in the Prospectus.

(e) Company Counsel Legal Opinions. Cowen shall have received the opinions of U.S. Company Counsel, French Company Counsel and In-house Company Counsel required to be delivered pursuant to Section 7(n) on or before the date on which such delivery of such opinion is required pursuant to Section 7(n).

(f) Cowen Counsel Legal Opinions. Cowen shall have received from Covington & Burling LLP, U.S. counsel for Cowen, and Linklaters LLP, French counsel for Cowen, such opinion or opinions, on or before the date on which the delivery of the U.S. Company Counsel, French Company Counsel and In-house Company Counsel legal opinions are respectively required pursuant to Section 7(n), with respect to such matters as Cowen may reasonably require, and the Company shall have furnished to such counsel such documents as they request for enabling them to pass upon such matters.

(g) Depository's Counsel Legal Opinion. Cowen shall have received from Emmet, Marvin & Martin, LLP, counsel for the Depository, an opinion, on or prior to the First Delivery Date, dated as of such date, in form and substance satisfactory to Cowen and its counsel.

(h) Comfort Letter. Cowen shall have received the Comfort Letter required to be delivered pursuant to Section 7(o) on or before the date on which such delivery of such Comfort Letter is required pursuant to Section 7(o).

(i) Certificate of Chief Financial Officer. Cowen shall have received a certificate of the Chief Financial Officer on or before the day on which the delivery of the Comfort letter is required pursuant to Section 7(o), in form and substance satisfactory to Cowen and its counsel.

(j) Representation Certificate. Cowen shall have received the certificate required to be delivered pursuant to Section 7(m) on or before the date on which delivery of such certificate is required pursuant to Section 7(m).

(k) Secretary's Certificate. On or prior to the First Delivery Date, Cowen shall have received a certificate, signed on behalf of the Company by its corporate Secretary, in form and substance satisfactory to Cowen and its counsel.

(l) No Suspension. Trading in the ADSs shall not have been suspended on Nasdaq.

(m) Other Materials. On each date on which the Company is required to deliver a certificate pursuant to Section 7(m), the Company shall have furnished to Cowen such appropriate further information, certificates and documents as Cowen may have reasonably requested. All such opinions, certificates, letters and other documents shall have been in compliance with the provisions hereof. The Company will furnish Cowen with such conformed copies of such opinions (other than any opinion contemplated by Section 8(f)), certificates, letters and other documents as Cowen shall have reasonably requested.

(n) Securities Act Filings Made. All filings with the Commission required by Rule 424 under the Securities Act to have been filed prior to the issuance of any Placement Notice hereunder shall have been made within the applicable time period prescribed for such filing by Rule 424.

(o) Approval for Listing. The Placement Shares shall either have been (i) approved for listing on Nasdaq, subject only to notice of issuance, or (ii) the Company shall have filed an application for listing of the Placement Shares on Nasdaq at, or prior to, the issuance of any Placement Notice and, on the relevant Settlement Date, the Underlying Ordinary Shares underlying the Placement Shares shall have been approved for listing on Euronext, subject to official notice of issuance.

(p) Certificat du dépositaire. On a Settlement Date, once it has received the funds corresponding to the subscription of the applicable Underlying Ordinary Shares, for purposes of settlement and delivery of the Underlying Ordinary Shares, the Registrar shall issue the depositary certificate (*certificat du dépositaire*) provided for by Article L. 225-146 of the French Commercial Code, relating to the capital increase of the Company resulting from the subscription of the Underlying Ordinary Shares and the corresponding Placement Shares and shall send a copy thereof to the Company and Cowen.

(q) Deposit of Ordinary Shares. The Underlying Ordinary Shares will, at the relevant Settlement Date, be issued to, and deposited with, the Depositary in accordance with the provisions of the Deposit Agreement and otherwise comply with the Deposit Agreement so that ADSs representing such Ordinary Shares will be issued by the Depositary against receipt of such Ordinary Shares.

(r) No Termination Event. There shall not have occurred any event that would permit Cowen to terminate this Agreement pursuant to Section 11(a).

#### 9. Indemnification and Contribution.

(a) Company Indemnification. The Company agrees to indemnify and hold harmless Cowen, the directors, officers, partners, employees and agents of Cowen and each person, if any, who (i) controls Cowen within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, or (ii) is controlled by or is under common control with Cowen (a "**Cowen Affiliate**") from and against any and all losses, claims, liabilities, expenses and damages (including, but not limited to, any and all reasonable and documented investigative, legal and other expenses incurred in connection with, and any and all amounts paid in settlement (in accordance with Section 9(c)) of, any action, suit or proceeding between any of the indemnified parties and any indemnifying parties or between any indemnified party and any third party, or otherwise, or any claim asserted), within 30 days of the written receipt of the documented expenses by the indemnifying party, to which Cowen, or any such person, may become subject under the Securities Act, the Exchange Act or other federal or state statutory law or regulation, at common law or otherwise, insofar as such losses, claims, liabilities, expenses or damages arise out of or are based, directly or indirectly, on (x) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement or the Prospectus or any amendment or supplement to the Registration Statement or the Prospectus or in any free writing prospectus, or (y) the omission or alleged omission to state in any such document a material fact required to be stated in it or necessary to make the statements in it not misleading; *provided, however*, that this indemnity agreement shall not apply to the extent that such loss, claim, liability, expense or damage arises from the sale of the Placement Shares pursuant to this Agreement and is caused directly or indirectly by an untrue statement or omission made in reliance upon and in conformity with the Agent's Information. This indemnity agreement will be in addition to any liability that the Company might otherwise have.

(b) Cowen Indemnification. Cowen agrees to indemnify and hold harmless the Company and its directors and each officer of the Company that signed the Registration Statement, and each person, if any, who (i) controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act or (ii) is controlled by or is under common control with the Company (a “**Company Affiliate**”) against any and all loss, liability, claim, damage and expense described in the indemnity contained in Section 9(a), as incurred, but only with respect to untrue statements or omissions, or alleged untrue statements or omissions, made in the Registration Statement (or any amendments thereto) or the Prospectus (or any amendment or supplement thereto) in reliance upon and in conformity with the Agent’s Information.

(c) Procedure. Any party that proposes to assert the right to be indemnified under this Section 9 will, promptly after receipt of notice of commencement of any action against such party in respect of which a claim is to be made against an indemnifying party or parties under this Section 9, notify each such indemnifying party of the commencement of such action, enclosing a copy of all papers served, but the omission so to notify such indemnifying party will not relieve the indemnifying party from (i) any liability that it might have to any indemnified party otherwise than under this Section 9 and (ii) any liability that it may have to any indemnified party under the foregoing provision of this Section 9 unless, and only to the extent that, such omission results in the forfeiture of substantive rights or defenses by the indemnifying party. If any such action is brought against any indemnified party and it notifies the indemnifying party of its commencement, the indemnifying party will be entitled to participate in and, to the extent that it elects by delivering written notice to the indemnified party promptly after receiving notice of the commencement of the action from the indemnified party, jointly with any other indemnifying party similarly notified, to assume the defense of the action, with counsel reasonably satisfactory to the indemnified party, and after notice from the indemnifying party to the indemnified party of its election to assume the defense, the indemnifying party will not be liable to the indemnified party for any legal or other expenses except as provided below and except for the reasonable and documented costs of investigation subsequently incurred by the indemnified party in connection with the defense. The indemnified party will have the right to employ its own counsel in any such action, but the reasonable and documented fees, expenses and other charges of such counsel will be at the expense of such indemnified party unless (1) the employment of counsel by the indemnified party has been authorized in writing by the indemnifying party, (2) the indemnified party has reasonably concluded (based on advice of counsel) that there may be legal defenses available to it or other indemnified parties that are different from or in addition to those available to the indemnifying party, (3) a conflict or potential conflict exists (based on advice of counsel to the indemnified party) between the indemnified party and the indemnifying party (in which case the indemnifying party will not have the right to direct the defense of such action on behalf of the indemnified party) or (4) the indemnifying party has not in fact employed counsel to assume the defense of such action within a reasonable time after receiving notice of the commencement of the action, in each of which cases the reasonable and documented fees, disbursements and other charges of counsel will be at the expense of the indemnifying party or parties. It is understood that the indemnifying party or parties shall not, in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the reasonable fees, disbursements and other charges of more than one separate firm admitted to practice in such jurisdiction at any one time for all such indemnified party or parties. All such fees,



disbursements and other charges will be reimbursed by the indemnifying party within 30 days of the written receipt of the documented expenses by the indemnifying party. An indemnifying party will not, in any event, be liable for any settlement of any action or claim effected without its written consent. No indemnifying party shall, without the prior written consent of each indemnified party, settle or compromise or consent to the entry of any judgment in any pending or threatened claim, action or proceeding relating to the matters contemplated by this Section 9 (whether or not any indemnified party is a party thereto), unless such settlement, compromise or consent includes an unconditional release of each indemnified party from all liability arising or that may arise out of such claim, action or proceeding.

(d) Contribution. In order to provide for just and equitable contribution in circumstances in which the indemnification provided for in the foregoing paragraphs of this Section 9 is applicable in accordance with its terms but for any reason is held to be unavailable from the Company or Cowen, the Company and Cowen will contribute to the total losses, claims, liabilities, expenses and damages (including any investigative, legal and other expenses reasonably incurred in connection with, and any amount paid in settlement of, any action, suit or proceeding or any claim asserted, but after deducting any contribution received by the Company from persons other than Cowen, such as persons who control the Company within the meaning of the Securities Act, officers of the Company who signed the Registration Statement and directors of the Company, who also may be liable for contribution) to which the Company and Cowen may be subject in such proportion as shall be appropriate to reflect the relative benefits received by the Company on the one hand and Cowen on the other. The relative benefits received by the Company on the one hand and Cowen on the other hand shall be deemed to be in the same proportion as the total Net Proceeds from the sale of the Placement Shares (before deducting expenses) received by the Company bear to the total compensation received by Cowen from the sale of Placement Shares on behalf of the Company. If, but only if, the allocation provided by the foregoing sentence is not permitted by applicable law, the allocation of contribution shall be made in such proportion as is appropriate to reflect not only the relative benefits referred to in the foregoing sentence but also the relative fault of the Company, on the one hand, and Cowen, on the other, with respect to the statements or omission that resulted in such loss, claim, liability, expense or damage, or action in respect thereof, as well as any other relevant equitable considerations with respect to such offering. Such relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company or Cowen, the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and Cowen agree that it would not be just and equitable if contributions pursuant to this Section 9(d) were to be determined by pro rata allocation or by any other method of allocation that does not take into account the equitable considerations referred to herein. The amount paid or payable by an indemnified party as a result of the loss, claim, liability, expense, or damage, or action in respect thereof, referred to above in this Section 9(d) shall be deemed to include, for the purpose of this Section 9(d), any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim to the extent consistent with Section 9(c) hereof. Notwithstanding the foregoing provisions of this Section 9(d), Cowen shall not be required to contribute any amount in excess of the commissions received by it under this Agreement and no person found guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of

the Securities Act) will be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this Section 9(d), any person who controls a party to this Agreement within the meaning of the Securities Act, and any officers, directors, partners, employees or agents of Cowen, will have the same rights to contribution as that party, and each director of the Company and each officer of the Company who signed the Registration Statement will have the same rights to contribution as the Company, subject in each case to the provisions hereof. Any party entitled to contribution, promptly after receipt of notice of commencement of any action against such party in respect of which a claim for contribution may be made under this Section 9(d), will notify any such party or parties from whom contribution may be sought, but the omission to so notify will not relieve that party or parties from whom contribution may be sought from any other obligation it or they may have under this Section 9(d) except to the extent that the failure to so notify such other party materially prejudiced the substantive rights or defenses of the party from whom contribution is sought. Except for a settlement entered into pursuant to the last sentence of Section 9(c) hereof, no party will be liable for contribution with respect to any action or claim settled without its written consent if such consent is required pursuant to Section 9(c) hereof.

10. Representations and Agreements to Survive Delivery. The indemnity and contribution agreements contained in Section 9 of this Agreement and all representations and warranties of the Company herein or in certificates delivered pursuant hereto shall survive, as of their respective dates, regardless of (i) any investigation made by or on behalf of Cowen, any controlling persons, or the Company (or any of their respective officers, directors or controlling persons), (ii) delivery and acceptance of the Placement Shares and payment therefor or (iii) any termination of this Agreement.

11. Termination.

(a) Cowen shall have the right by giving notice as hereinafter specified at any time to terminate this Agreement if (i) any Material Adverse Change, or any development that could reasonably be expected to result in a Material Adverse Change has occurred that, in the reasonable judgment of Cowen, may materially impair the ability of Cowen to sell the Placement Shares hereunder, (ii) the Company shall have failed, refused or been unable to perform any agreement on its part to be performed hereunder; *provided, however*, in the case of any failure of the Company to deliver (or cause another person to deliver) any certification, opinion, or letter required under Sections 7(m), 7(n), or 7(o), Cowen's right to terminate shall not arise unless such failure to deliver (or cause to be delivered) continues for more than thirty (30) days from the date such delivery was required; or (iii) any other condition of Cowen's obligations hereunder is not fulfilled, or (iv), any suspension or limitation of trading in the Placement Shares or in securities generally on Nasdaq shall have occurred. Any such termination shall be without liability of any party to any other party except that the provisions of Section 7(g) (Expenses), Section 9 (Indemnification and Contribution), Section 10 (Representations and Agreements to Survive Delivery), Section 16 (Governing Law Provisions; Currency Provisions) and Section 17 (Waiver of Jury Trial) hereof shall remain in full force and effect notwithstanding such termination. If Cowen elects to terminate this Agreement as provided in this Section 11(a), Cowen shall provide the required notice as specified in Section 12 (Notices).

(b) The Company shall have the right, by giving ten (10) days' notice as hereinafter specified to terminate this Agreement in its sole discretion at any time after the date of this Agreement. Any such termination shall be without liability of any party to any other party except that the provisions of Section 7(g), Section 9, Section 10, Section 16 and Section 17 hereof shall remain in full force and effect notwithstanding such termination.

(c) Cowen shall have the right, by giving ten (10) days' notice as hereinafter specified to terminate this Agreement in its sole discretion at any time after the date of this Agreement. Any such termination shall be without liability of any party to any other party except that the provisions of Section 7(g), Section 9, Section 10, Section 16 and Section 17 hereof shall remain in full force and effect notwithstanding such termination.

(d) Unless earlier terminated pursuant to this Section 11, this Agreement shall automatically terminate upon the issuance and sale of all of the Placement Shares on the terms and subject to the conditions set forth herein; *provided* that the provisions of Section 7(g), Section 9, Section 10, Section 16 and Section 17 hereof shall remain in full force and effect notwithstanding such termination.

(e) This Agreement shall remain in full force and effect unless terminated pursuant to Sections 11(a), (b), (c), or (d) above or otherwise by mutual agreement of the parties; *provided, however*, that any such termination by mutual agreement shall in all cases be deemed to provide that Section 7(g), Section 9, Section 10, Section 16 and Section 17 shall remain in full force and effect.

(f) Any termination of this Agreement shall be effective on the date specified in such notice of termination; *provided, however*, that such termination shall not be effective until the close of business on the date of receipt of such notice by Cowen or the Company, as the case may be. If such termination shall occur prior to the Settlement Date for any sale of Placement Shares, such Placement Shares shall settle in accordance with the provisions of this Agreement.

12. Notices. All notices or other communications required or permitted to be given by any party to any other party pursuant to the terms of this Agreement shall be in writing, unless otherwise specified in this Agreement, and if sent to Cowen, shall be delivered to Cowen at Cowen and Company, LLC, 599 Lexington Avenue, New York, NY 10022, fax no. +1 646-562-1124, Attention: General Counsel with copies to Covington & Burling LLP, 620 Eighth Avenue, New York, NY 10018, Attention: Brian K. Rosenzweig and to Linklaters LLP, 25 rue de Marignan 75008 Paris, France, Attention: Bertrand Sénéchal; or if sent to the Company, shall be delivered to ERYTECH Pharma S.A., Bâtiment Adénine, 60 Avenue Rockefeller 69008 Lyon France, fax no. +33 4 78 75 56 29, Attention: Gil Beyen with copies to Cooley LLP, 500 Boylston Street, Boston, MA 02116-3736, fax no. +1 617-937-2400, Attention: Marc Recht and to Gide Loyrette Nouel A.A.R.P.I., 15 rue de Laborde 75008 Paris, France, Attention: Arnaud Duhamel. Each party to this Agreement may change such address for notices by sending to the parties to this Agreement written notice of a new address for such purpose. Each such notice or other communication shall be deemed given (i) when delivered personally or by verifiable facsimile transmission (with an original to follow) on or before 4:30 p.m., New York City time, on a Business Day (as defined below), or, if such day is not a Business Day on the next succeeding Business Day, (ii) on the next Business Day after timely delivery to a nationally-recognized overnight courier and (iii) on the Business Day actually received if deposited in the U.S. mail (certified or registered mail,

return receipt requested, postage prepaid). For purposes of this Agreement, “**Business Day**” shall mean any day on which the Nasdaq and commercial banks in the City of New York are open for business. An electronic communication (“**Electronic Notice**”) shall be deemed written notice for purposes of this Section 12 if sent to the electronic mail address specified by the receiving party under separate cover and confirmed by such receiving party in writing (including via email or fax). Any party receiving Electronic Notice may request and shall be entitled to receive the notice on paper, in a nonelectronic form (“**Nonelectronic Notice**”) which shall be sent to the requesting party within ten (10) days of receipt of the written request for Nonelectronic Notice.

13. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Company and Cowen and their respective successors and the affiliates, controlling persons, officers and directors referred to in Section 9 hereof. References to any of the parties contained in this Agreement shall be deemed to include the successors and permitted assigns of such party. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and permitted assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement. Neither party may assign its rights or obligations under this Agreement without the prior written consent of the other party; *provided, however*, that Cowen may assign its rights and obligations hereunder to an affiliate of Cowen without obtaining the Company’s consent.

14. Adjustments for Share Splits. The parties acknowledge and agree that all share-related numbers contained in this Agreement shall be adjusted to take into account any share split, share dividend or similar event effected with respect to the Ordinary Shares or ADSs.

15. Entire Agreement; Amendment; Severability. This Agreement (including all schedules and exhibits attached hereto and Placement Notices issued pursuant hereto) constitutes the entire agreement and supersedes all other prior and contemporaneous agreements and undertakings, both written and oral, among the parties hereto with regard to the subject matter hereof. Neither this Agreement nor any term hereof may be amended except pursuant to a written instrument executed by the Company and Cowen. In the event that any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable as written by a court of competent jurisdiction, then such provision shall be given full force and effect to the fullest possible extent that it is valid, legal and enforceable, and the remainder of the terms and provisions herein shall be construed as if such invalid, illegal or unenforceable term or provision was not contained herein, but only to the extent that giving effect to such provision and the remainder of the terms and provisions hereof shall be in accordance with the intent of the parties as reflected in this Agreement.

16. Governing Law Provisions; Currency Provisions. This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York applicable to agreements made and to be performed in such state. Any legal suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated hereby (“**Related Proceedings**”) may be instituted in the federal courts of the United States of America located in the Borough of Manhattan in the City of New York or the courts of the State of New York in each case located in the Borough of Manhattan in the City of New York (collectively, the “**Specified Courts**”), and each party irrevocably submits to the exclusive jurisdiction (except for proceedings instituted in regard to the enforcement of a judgment of any such court (a “**Related Judgment**”), as to which such jurisdiction is non-exclusive) of such courts in any such

suit, action or proceeding. Service of any process, summons, notice or document by mail to such party's address set forth above shall be effective service of process for any suit, action or other proceeding brought in any such court. The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action or other proceeding in the Specified Courts and irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such suit, action or other proceeding brought in any such court has been brought in an inconvenient forum. The Company and each other party not located in the United States has irrevocably appointed COGENCY GLOBAL INC., which currently maintains an office at 122 East 42nd Street, 18th Floor, New York, NY 10168, as its agent to receive service of process or other legal summons for purposes of any such suit, action or proceeding that may be instituted in any state or federal court in the Borough of Manhattan in the City of New York, United States of America.

With respect to any Related Proceeding, each party irrevocably waives, to the fullest extent permitted by applicable law, all immunity (whether on the basis of sovereignty or otherwise) from jurisdiction, service of process, attachment (both before and after judgment) and execution to which it might otherwise be entitled in the Specified Courts, and with respect to any Related Judgment, each party waives any such immunity in the Specified Courts or any other court of competent jurisdiction, and will not raise or claim or cause to be pleaded any such immunity at or in respect of any such Related Proceeding or Related Judgment, including, without limitation, any immunity pursuant to the United States Foreign Sovereign Immunities Act of 1976, as amended.

The obligations of the Company pursuant to this Agreement in respect of any sum due to Cowen shall, notwithstanding any judgment in a currency other than United States dollars, not be discharged until the first business day, following receipt by Cowen of any sum adjudged to be so due in such other currency, on which Cowen may in accordance with normal banking procedures purchase United States dollars with such other currency. If the United States dollars so purchased are less than the sum originally due to Cowen in United States dollars hereunder, the Company agrees as a separate obligation and notwithstanding any such judgment, to indemnify Cowen against such loss. If the United States dollars so purchased are greater than the sum originally due to Cowen hereunder, Cowen agrees to pay to the Company an amount equal to the excess of the dollars so purchased over the sum originally due to Cowen hereunder.

All payments made by the Company under this Agreement, if any, will be made without withholding or deduction for or on account of any present or future taxes, duties, assessments or governmental charges of whatever nature (other than taxes on net income) imposed or levied by or on behalf of any taxing authority unless the Company is or becomes required by law to withhold or deduct such taxes, duties, assessments or other governmental charges. In such event, the Company will pay such additional amounts as will result, after such withholding or deduction, in the receipt by Cowen and each person controlling Cowen, as the case may be, of the amounts that would have been receivable in respect thereof if no withholding or deduction had been made; provided however, that no additional amounts shall be payable hereunder to the extent Cowen, in good faith, determines that any withheld or deducted taxes will result in a tax credit or similar tax benefit that substantially offsets the impact of such withholding or deduction (for the avoidance of doubt none of Cowen or its affiliates shall have any obligation pursuant to this Section 16 to share tax returns or tax information with the Company). If any such taxes, duties, assessments or charges are required to be withheld or deducted, the Company will promptly (and in any event within the specified time limit) pay to the relevant tax authority the amount so withheld or deducted and provide Cowen with evidence of such payment.

17. Waiver of Jury Trial. The Company and Cowen each hereby irrevocably waives any right it may have to a trial by jury in respect of any claim based upon or arising out of this Agreement or any transaction contemplated hereby.

18. Absence of Fiduciary Relationship. The Company acknowledges and agrees that:

(a) Cowen has been retained solely to act as sales agent in connection with the sale of the ADSs and that no fiduciary, advisory or agency relationship between the Company and Cowen has been created in respect of any of the transactions contemplated by this Agreement, irrespective of whether Cowen has advised or is advising the Company on other matters;

(b) the Company is capable of evaluating and understanding and understands and accepts the terms, risks and conditions of the transactions contemplated by this Agreement;

(c) the Company has been advised that Cowen and its affiliates are engaged in a broad range of transactions which may involve interests that differ from those of the Company and that Cowen has no obligation to disclose such interests and transactions to the Company by virtue of any fiduciary, advisory or agency relationship; and

(d) the Company waives, to the fullest extent permitted by law, any claims it may have against Cowen, for breach of fiduciary duty or alleged breach of fiduciary duty and agrees that Cowen shall have no liability (whether direct or indirect) to the Company in respect of such a fiduciary claim or to any person asserting a fiduciary duty claim on behalf of or in right of the Company, including shareholders, partners, employees or creditors of the Company.

19. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of an executed Agreement by one party to the other may be made by facsimile transmission or by electronic delivery of a portable document format (PDF) file (including any electronic signature covered by the U.S. federal ESIGN Act of 2000, Uniform Electronic Transactions Act, the Electronic Signatures and Records Act or other applicable law, e.g., [www.docusign.com](http://www.docusign.com)).

20. Definitions. As used in this Agreement, the following term has the meaning set forth below:

(a) “*Agent’s Information*” means, solely the following information in the Prospectus: the third sentence in the ninth paragraph under the caption “Plan of Distribution” in the Prospectus.

**[Remainder of Page Intentionally Blank]**

If the foregoing correctly sets forth the understanding between the Company and Cowen, please so indicate in the space provided below for that purpose, whereupon this letter shall constitute a binding agreement between the Company and Cowen.

Very truly yours,

**COWEN AND COMPANY, LLC**

By: /s/ E. James Streator, III

Name: E. James Streator, III

Title: Managing Director

**ACCEPTED as of the date first-above written:**

**ERYTECH PHARMA S.A.**

By: /s/ Gil Beyen

Name: Gil Beyen

Title: Chief Executive Officer

**FORM OF PLACEMENT NOTICE**

From: [            ]  
Cc: [            ]  
To: [            ]  
Date: [            ]

Subject: Cowen at the Market Offering—Placement Notice

Gentlemen:

Pursuant to the terms and subject to the conditions contained in the Sales Agreement between ERYTECH Pharma S.A. (the “Company”), and Cowen and Company, LLC (“Cowen”) dated September 21, 2020 (the “Agreement”), I hereby request on behalf of the Company that Cowen sell up to [ ADSs] [\$\_\_\_\_\_ of ADSs] of the Company, [at a minimum price of \$\_\_\_\_\_ per ADS, being specified that each ADSs will be sold at the same price]. Sales should begin on the date of this Notice and shall continue until [DATE] [all ADSs are sold] [the aggregate sales price of the ADSs reached \$[ ]].

The number of ordinary shares underlying such ADSs (the “Underlying Ordinary Shares”) issued over a 12-month rolling period represents, once issued together with all the other ordinary shares which have been admitted to trading on the regulated market of Euronext in Paris (“Euronext”) over the same 12-month period, less than 20% of the total number of the Company’s securities already admitted to trading on Euronext on the date the admission to trading of the Underlying Ordinary Shares is requested.

The Placement is only open to investors falling within one of the following categories and the investor will certify prior to the Settlement Date its belonging to one of them by signing an investor letter attached hereto as Exhibit A in accordance with the Sales Agreement:

- (i) natural or legal entities, including companies, trusts or investment funds or other investment vehicles whatever their form, governed by French or foreign law, that invest on a regular basis in the pharmaceutical, biotechnological or medical technology sectors, and/or
- (ii) companies, institutions or entities, whatever their form, governed by French or foreign law, that carry out a significant part of their activities in the pharmaceutical, cosmetic or chemical sectors or in medical devices and/or technology or in research in these sectors.

The Settlement Date for sales of the ADSs shall be [the second (2nd) Trading Day] following the date on which sales of such ADSs are made.

The funds corresponding to a share capital increase shall be transferred to the Company’s account held at [Société Générale Securities Services]/[ ], as transfer agent and registrar of the Company on or before the Settlement Date, details of which are provided below:



**FORM OF INVESTOR LETTER**

**ERYTECH PHARMA S.A.**

Bâtiment Adénine  
60 avenue Rockefeller  
69008 Lyon  
France

**COWEN AND COMPANY, LLC**

599 Lexington Avenue  
New York, New York 10022  
United States of America

[DATE]

**RE: Erytech Pharma S.A.**

Dear Sirs,

In connection with its proposed commitment to subscribe for ordinary shares, nominal value €0.10 per share (the “**Ordinary Shares**”), of Erytech Pharma S.A., a *société anonyme* organized under the laws of France (the “**Company**”), to be delivered in the form of American Depositary Shares (the “**ADSs**”), in the context of an issuance by the Company without preferential subscription rights of up to [ ] Ordinary Shares in the form of ADSs reserved to specified categories of investors (the “**Placement**”), the undersigned (the “**Investor**”) hereby represents and warrants that, as at the date hereof and until the completion of the Placement, it belongs and will belong, or is acting on behalf of or advising an investor who belongs and will belong, to one of the following categories:

- (1) natural or legal entities, including companies, trusts or investment funds or other investment vehicles whatever their form, governed by French or foreign law that invest on a regular basis in the pharmaceutical, biotechnological or medical technology sectors, or
- (2) companies, institutions or entities, whatever their form, governed by French or foreign law, that carry out a significant part of their activities in the pharmaceutical, cosmetic or chemical sectors or in medical devices and/or technology or in research in these sectors,

provided that, if the Investor is acting on behalf of investment funds or other legal entities managed or advised by it, such representation shall also apply to each such funds or legal entities and the Investor shall further ensure compliance thereof by each such funds or entities in connection with the initial distribution of the ADSs.

Sincerely yours,

On behalf of \_\_\_\_\_

By: \_\_\_\_\_

Name:

Title:

**Company**

Gil Beyen, Chief Executive Officer (gil.beyen@erytech.com)

**Cowen**

Michael Murphy, Managing Director (Michael.Murphy@cowen.com)

William Follis, Managing Director (William.follis@cowen.com)

**Compensation**

Cowen shall be paid compensation equal to 3.0% of the gross proceeds from the sales of ADSs pursuant to the terms of this Agreement.

**FORM OF OFFICER CERTIFICATE**

The undersigned, the duly qualified and elected \_\_\_\_\_, of ERYTECH Pharma S.A. ("**Company**"), a *société anonyme* organized under the laws of France and registered with the Register of Commerce and Companies (*Registre du Commerce et des Sociétés*) of Lyon under number 479 560 013, does hereby certify in such capacity and on behalf of the Company, pursuant to Section 7(m) of the Sales Agreement dated September 21, 2020 (the "**Sales Agreement**") between the Company and Cowen and Company, LLC, that to the best of the knowledge of the undersigned.

(i) The representations and warranties of the Company in Section 6 of the Sales Agreement (A) to the extent such representations and warranties are subject to qualifications and exceptions contained therein relating to materiality or Material Adverse Change, are true and correct on and as of the date hereof with the same force and effect as if expressly made on and as of the date hereof, except for those representations and warranties that speak solely as of a specific date and which were true and correct as of such date, and (B) to the extent such representations and warranties are not subject to any qualifications or exceptions, are true and correct in all material respects as of the date hereof as if made on and as of the date hereof with the same force and effect as if expressly made on and as of the date hereof except for those representations and warranties that speak solely as of a specific date and which were true and correct as of such date; and

(ii) The Company has complied with all agreements and satisfied all conditions on its part to be performed or satisfied pursuant to the Sales Agreement at or prior to the date hereof.

By: \_\_\_\_\_  
 Name:  
 Title:

Date: \_\_\_\_\_

**ERYTECH PHARMA**

Corporation with a board of directors and a capital of 1.830.162,10 Euros  
Head office: 60 avenue Rockefeller (69008) LYON  
479 560 013 Lyon Trade and Companies Register

**BYLAWS**

**Updated on August 31, 2020**

True copy certified by the Chief Executive Officer

*Gil BEYEN*

DocuSigned by:  
  
8585A8F116524FB.

## SECTION I

### FORM - NAME - CORPORATE PURPOSE HEAD OFFICE - DURATION

#### ARTICLE 1. FORM

The Company was established in the form of a French simplified limited company, by way of a private deed in Lyon on October 26, 2004.

The company was transformed into a corporation by decision of the Extraordinary General Meeting of September 29, 2005.

It exists and is shared between the owners of shares created after this date and all future shareholders, and is governed by laws and regulations in force, as well as by the present articles of incorporation.

#### ARTICLE 2. NAME

The Company's name is:

### ERYTECH PHARMA

In all deeds and documents created by the Company and intended for third parties, its name shall be immediately preceded or followed by the words "Société Anonyme" or the abbreviation "SA" and a declaration of its capital stock, head office, and registration number in the trade and companies register.

#### ARTICLE 3. CORPORATE PURPOSE

The Company has the purpose, in France and in any country, of:

- The research, manufacture, import, distribution, and marketing of experimental drugs, drugs, devices, and medical equipment;
- the provision of all advisory services associated therewith;

and generally, all financial, commercial, industrial, civil, property, or security-related transactions, such as may directly or indirectly relate to one of the purposes specified or such as may facilitate their fulfillment.

The Company may act directly or indirectly and perform all these operations in any country, on its own behalf and on behalf of third parties, either alone or with third parties in a joint venture, association, grouping, or company, through the creation of new companies, contributions, partnerships, subscription, purchase of company securities or rights, merger, alliance, joint venture companies, or the obtaining or provision, under lease or management, of any assets and rights or other items.

#### ARTICLE 4. HEAD OFFICE - BRANCHES

*The Company's head office is located at: 60, avenue Rockefeller (69008) LYON.*

It may be transferred to any location within the same French département or to a neighboring département by way of a simple decision of the Board of Directors, subject to the ratification this decision by the next ordinary general meeting, and to any other location by virtue of a decision by an extraordinary general meeting, subject to legal provisions in force.

In the event of a transfer decided on by the Board of Directors in conformity with the law, the Board is authorized to modify the articles of incorporation accordingly.

#### ARTICLE 5. DURATION - FINANCIAL YEAR

The Company's duration is set at 99 years from the date of its registration in the Trade and Companies Register, save in the event of extension or early dissolution.

The financial year begins on January 1 and ends on December 31.

**SECTION II**  
**CAPITAL - SHARES**

**ARTICLE 6. ESTABLISHMENT OF THE CAPITAL**

All the original shares constituting the initial capital represent cash contributions and have been fully paid up, as showing on the certificate issued by the Banque Populaire Loire et Lyonnais – Agence Lyon Monplaisir, custodian of the funds.

The total amount paid by the shareholders, i.e., thirty-nine thousand, two hundred and sixteen (39,216) Euros, has been deposited into an account in the Company's name at this bank.

In accordance with a resolution by the Combined General Meeting of December 31, 2004, the capital stock was increased to 41,770 Euros through the creation and issue of 2,554 new shares paid up in cash, for a nominal amount of 1 Euro each, fully paid up upon subscription.

In accordance with a resolution by the Extraordinary General Meeting of September 29, 2005, the capital stock was increased to 51,020 Euros through the creation and issue (i) of 6,266 new shares pursuant to share subscription warrants with a nominal value of 1 Euro each, which was fully paid up upon subscription, and (ii) 2,984 new shares paid up in cash, for a nominal value of 1 Euro each, fully paid up upon subscription.

In accordance with an Executive Board decision of October 3, 2006, the Company's capital stock was increased by 13,127 Euros through the issue of 13,127 class "P" shares with a nominal value of 1 Euro, fully paid up upon subscription.

In accordance with an Executive Board decision of December 21, 2006, the Company's capital stock was increased by 17,353 Euros through the issue of 17,353 class "O" shares with a nominal value of 1 Euro, fully paid up upon subscription.

In accordance with a resolution by the Combined General Meeting of December 22, 2006, the Company's capital stock was increased by 54,333 Euros, through the issue of 54,333 class "A" shares with a nominal value of 1 Euro, fully paid up upon subscription.

In accordance with an Executive Board decision of January 23, 2008, the Company's capital stock was increased by an amount of 54,333 Euros, through the creation of 54,333 new class A shares with a nominal value of 1 Euro, fully paid up upon subscription.

In accordance with an Executive Board decision of January 15, 2009, the Company's capital stock was increased by an amount of 54,333 Euros, through the creation of 54,333 new class A shares with a nominal value of 1 Euro, fully paid up upon subscription.

In accordance with an Executive Board decision of July 16, 2010, the Company's capital stock was increased by an amount of 63,283 Euros, through the creation of 63,283 new class A shares with a nominal value of 1 Euro, fully paid up upon subscription.

In accordance with an Executive Board decision of July 29, 2010, the Company's capital stock was increased by an amount of 7,573 Euros, through the creation of 7,573 new class A shares with a nominal value of 1 Euro, fully paid up upon subscription.

In accordance with a resolution by the Combined General Meeting of April 2, 2013, all the share classes were canceled and the existing preferential shares were all converted into common shares. As such, the Company's shares are all common shares.

In this same meeting, the nominal value of the Company's shares was divided by 10.

In accordance with Executive Board decisions of April 30, 2013 recognizing the listing of the Company's shares on the market NYSE Euronext Paris, the convertible bonds issued by the Company were converted into new shares. The Company's capital stock was increased by an amount of 86,206.80 Euros, from 315,355 Euros to 401,561.80 Euros through the issue of 862,068 shares with a nominal value of 0.10 Euro.

In accordance with resolutions of the Combined General Meeting of April 2, 2013 granting delegations of power to the Executive Board, and in accordance with Executive Board decisions of April 4, 2013, April 12, 2013, and April 30, 2013 making use of these delegations, the capital stock was increased by an amount of 152,433.40 Euros, from 401,561.80 Euros to 553,995.20 Euros, through the issue of 1,524,334 shares with a nominal value of 0.10 Euro.

In accordance with resolutions of the Combined General Meeting of May 21, 2012 granting delegations of power to the Executive Board/Board of Directors, and in accordance with Board of Directors' decisions of July 18, 2013 making use of these delegations, the capital stock was increased by an amount of 816 Euros, from 553,995.20 Euros to 554,811.20 Euros, through the issue of 8,160 shares with a nominal value of 0.10 Euro.

In accordance with resolutions of the Combined General Meeting of May 21, 2012 granting delegations of power to the Executive Board/Board of Directors, and in accordance with Board of Directors' decisions of December 3, 2013 making use of these delegations, the capital stock was increased by an amount of 1,084 Euros, from 554,811.20 Euros to 555,895.20 Euros, through the issue of 10,840 shares with a nominal value of 0.10 Euro.

In accordance with resolutions of the Combined General Meeting of May 21, 2012 granting delegations of power to the Executive Board/Board of Directors, and in accordance with Board of Directors' decisions of May 5, 2014 making use of these delegations, the capital stock was increased by an amount of 762 Euros, from 555,895.20 Euros to 556,657.20 Euros, through the issue of 7,620 shares with a nominal value of 0.10 Euro.

In accordance with resolutions of the Extraordinary General Meeting of May 21, 2012 and the Combined General Meeting of June 17, 2014 granting delegations of power to the Executive Board/Board of Directors, and in accordance with the Board of Directors' decisions of December 4, 2014 making use of these delegations, the capital stock was increased by an amount of 131,618.90 Euros, from 556,657.20 Euros to 688,276.10 Euros, through the issue of 1,316,189 shares with a nominal value of 0.10 Euro.

In accordance with resolutions of the Extraordinary General Meeting of May 21, 2012 granting delegations of power to the Executive Board/Board of Directors, and in accordance with the Board of Directors' decisions of June 23<sup>rd</sup>, 2015 making use of these delegations, the capital stock was increased by an amount of 653.00 Euros, from 688,276.10 Euros to 688,929.10 Euros, through the issue of 6,530 shares with a nominal value of 0.10 Euro.

In accordance with resolutions of the Combined General Meeting of May 21, 2012 and the Extraordinary General Meeting of April 2<sup>nd</sup>, 2013 granting delegations of power to the Executive Board/Board of Directors, and in accordance with the Board of Directors' decisions of December 2<sup>nd</sup>, 2015 making use of these delegations, the capital stock was increased by an amount of 1,375 Euros, from 688,929.10 Euros to 690,304.10 Euros, through the issue of 13,750 shares with a nominal value of 0.10 Euro.

In accordance with resolutions of the Combined General Meeting of May 21, 2012 and the Extraordinary General Meeting of April 2<sup>nd</sup>, 2013 granting delegations of power to the Executive Board/Board of Directors, and in accordance with the Board of Directors' decisions of December 2<sup>nd</sup>, 2015 making use of these delegations, the capital stock was increased by an amount of 649 Euros, from 690,304.10 Euros to 690,953.10 Euros, through the issue of 6,490 shares with a nominal value of 0.10 Euro.

In accordance with resolutions of the Combined General Meeting of June 23, 2015 granting delegations of power to the Board of Directors and in accordance with the Board of Directors' decisions of December 2<sup>nd</sup>, 2015 and with the Chief Executive Officer's decisions of December 3<sup>rd</sup>, 2015 making use of these delegations, the capital stock was increased by an amount of 94,000 Euros, from 690,953.10 Euros to 784,953.10 Euros, through the issue of 940,000 shares with a nominal value of 0.10 Euro.

In accordance with resolutions of the Combined General Meeting of May 21, 2012 granting delegations of power to the Executive Board/Board of Directors and in accordance with the Board of Directors' decisions of January 10, 2016 making use of these delegations, the capital stock was increased by an amount of 7,508 Euros, from 784,953.10 Euros to 792,461.10 Euros, through the issue of 75,080 shares with a nominal value of 0.10 Euro.

In accordance with resolutions of the Combined General Meeting of May 21, 2012 and the General Meeting of April 2<sup>nd</sup>, 2013 granting delegations of power to the Executive Board/Board of Directors and in accordance with the Board of Directors' decisions of December 6, 2016 making use of these delegations, the capital stock was increased by an amount of 1,416 Euros, from 792,461.10 Euros to 793,877.10 Euros, through the issue of 14,160 shares with a nominal value of 0.10 Euro.

In accordance with resolutions of the Combined General Meeting of June 24, 2016 granting delegations of power to the Executive Board/Board of Directors and in accordance with the Board of Directors' decisions of January 8, 2017 making use of these delegations, the capital stock was increased by an amount of 79,387.70 Euros, from 793,877.10 Euros to 873,264.80 Euros, through the issue of 793,877 shares with a nominal value of 0.10 Euro.



In accordance with resolutions of the Combined General Meeting of May 21, 2012 and the General Meeting of April 2<sup>nd</sup>, 2013 granting delegations of power to the Executive Board/Board of Directors and in accordance with the Board of Directors' decisions of April 12, 2017 making use of these delegations, the capital stock was increased by an amount of 800 Euros, from 873,264.80 Euros to 874,064.80 Euros, through the issue of 8,000 shares with a nominal value of 0.10 Euro.

In accordance with resolutions of the Combined General Meeting of June 24, 2016 granting delegations of power to the Executive Board/Board of Directors and in accordance with the Chief Executive Officer's decision of April 19, 2017 making use of these delegations, the capital stock was increased by an amount of 300,000 Euros, from 874,064.80 Euros to 1,174,064.80 Euros, through the issue of 3,000,000 shares with a nominal value of 0.10 Euro.

In accordance with resolutions of the Extraordinary General Meeting of April 2, 2013 granting delegations of power to the Executive Board/Board of Directors, and in accordance with the decision of the Board of Directors of November 6, 2017 making use of these delegations, the capital stock was increased by an amount of 500 Euros, from 1,174,064.80 Euros to 1,174,564.80 Euros through the issue of 5,000 shares with a nominal value of 0.10 Euro.

In accordance with the resolutions of the Combined General Meeting of April 2, 2013 and June 24, 2016 granting delegations of authority to the Board of Directors, and pursuant to the decision of the Board of Directors on November 6, 2017 making use of these delegations, the capital stock was increased by an amount of 877.4 Euros from 1,174,564.80 Euros to 1,175,442.20 Euros, through the issue of 8,774 shares with a nominal value of 0.10 Euros.

In accordance with resolutions of the Combined General Meeting of June 27, 2017 granting delegations of power to the Board of Directors and in accordance with the Chief Executive Officer's decision of November 14, 2017 making use of these delegations, the capital stock was increased by an amount of 537,403.30 Euros, from 1,175,442.20 Euros to 1,712,845.50 Euros, through the issue of 5,374,033 shares with a nominal value of 0.10 Euro.

In accordance with resolutions of the Combined General Meeting of June 27, 2017 granting delegations of power to the Board of Directors and in accordance with the Board of Directors' decision of November 27, 2017 making use of these delegations, the capital stock was increased by an amount of 80,610.40 Euros, from 1,712,845.50 Euros to 1,793,455.90 Euros, through the issue of 806,104 shares with a nominal value of 0.10 Euro.

In accordance with resolutions of the Extraordinary General Meeting of April 2, 2013 granting delegations of power to the Executive Board/Board of Directors, and in accordance with the decision of the Board of Directors of January 7, 2018 making use of these delegations the capital stock was increased by an amount of 300 Euros, from 1,793,455.90 Euros to 1,793,755.90 Euros, through the issue of 3,000 shares with a nominal value of 0.10 Euro.

In accordance with resolutions of the Extraordinary General Meeting of June 24, 2016 granting delegations of power to the Executive Board/Board of Directors and in accordance with the decision of the Board of Directors of March 9, 2018 making use of these delegations the capital stock was increased by an amount of 247,60 Euros, from 1,793,755.90 Euros to 1,794,003.50 Euros, through the issue of 2,476 shares with a nominal value of 0.10 Euro.

## **ARTICLE 7. CAPITAL STOCK**

The capital stock is set at an amount of one million, eight hundred and thirty thousand, one hundred sixty-two Euros and ten Euro cents (€1,830,162.10).

It is divided into eighteen million, three hundred one thousand six hundred twenty-one (18,301,621) shares with a nominal value of ten Eurocents (0.10) each, all in the same category and fully paid up.

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## **ARTICLE 8. IDENTIFICATION OF SHAREHOLDERS**

The Company remains informed on the composition of its shareholding structure in accordance with the conditions established by law. To this end, it may make use of established legal provisions on the identification of bearers of securities such as grant an immediate or future voting right in general shareholders' meetings.

## **ARTICLE 9. CROSSING OF THRESHOLDS**

All shareholders who come to hold or cease to hold, directly or indirectly, alone or jointly with another person, a number of shares or similar securities representing a portion of the capital or voting rights established by law must inform the Company of this, in accordance with the conditions established by the law and regulations.

Shareholders who have not respected these provisions shall be deprived of the voting rights attached to the shares exceeding the portion that should have been declared. The loss of voting rights shall apply to all shareholders' meetings held up to the expiry of a two-year period following the date on which the declaration was normalized.

## **ARTICLE 10. INCREASES IN SHARE CAPITAL**

The share capital shall be increased by any means and according to any methods established by law. An extraordinary general meeting, acting on a report by the Board of Directors, is the sole entity with competency to decide on a capital increase. It may delegate such competency or powers to the Board of Directors.

The shareholders have, proportionately to the amount of their shares, a preferential right to the subscription of shares issued by way of a cash contribution to perform a capital increase, a right that they may waive individually. An extraordinary general meeting may decide to withdraw this preferential subscription right under legally established conditions.

The right to the assignment of new shares to shareholders, following an incorporation of reserves, income, or issue premiums into the capital, belongs to the bare owner, without prejudice to the rights of the usufructuary.

## **ARTICLE 11. PAYMENT OF SHARES**

All the original shares constituting the initial capital and representing cash contributions must be paid up in the amount of at least half their nominal value at the time of their subscription.

Shares subscribed during a cash-based capital increase must be paid up in the amount of at least one quarter of their nominal value at the time of their subscription and, where applicable, the entirety of the issue premium.

Payment of the remainder must take place on one or more occasions on the decision of the Board of Directors within a period of five years, i.e., this period starting on the day of registration in the Trade and Companies Register or, for a capital increase, on the day on which the capital increase became final. Calls for funds shall be brought to the knowledge of subscribers by registered letter with confirmation of receipt sent at least fifteen days prior to the date established for each payment. Payments shall be made either at the head office or at any other location indicated to this end.

Any delays in the payment of sums owing on the share amount not paid up shall result, duly and without the need to proceed with any formalities whatsoever, in the payment of interest at the legal rate, starting on the due date, without prejudice to any personal action that the Company may exercise against the defaulting shareholder and the enforcement measures established by law.

## **ARTICLE 12. REDUCTION - AMORTIZATION OF THE SHARE CAPITAL**

A reduction of the capital may be authorized or decided on in an extraordinary general meeting, which may delegate to the Board of Directors all powers to perform such reduction. In no case shall this harm the equal treatment of the shareholders.

A reduction in share capital for an amount below the legal minimum can only be decided pursuant to the suspensive condition of a capital increase intended to return the share capital to an amount at least equal to this minimum amount, except where the Company is transformed into another form of company.

In the event of non-compliance with these provisions, any interested parties may seek dissolution of the Company through the courts.

Nevertheless, the court cannot order its dissolution where, on the date on which it rules based on grounds, the situation has been normalized.

The capital may be liquidated in conformity with legal provisions. Liquidation of the capital may be decided in an extraordinary general meeting and must be performed using sums distributable in accordance with Article L. 232-11 of the Code of Commerce, by way of an equal reimbursement on each share of the same class. It shall not result in a reduction of the capital. Shares fully or partially liquidated shall lose the right to reimbursement at their nominal value, up to the amount of this liquidation. They shall retain all their other rights.

### **ARTICLE 13. SHARE TYPES**

The shares are nominal, up to their full payment. When they are fully paid up, they may be nominal or bearer, as decided by the shareholders.

They shall give rise to the registration of an account opened pursuant to the conditions and methods established under current legal and regulatory provisions, by the issuing company or by a financial broker mentioned on paragraphs 2° to 7° of Article L.542-1 of the *Code Monétaire et Financier*.

### **ARTICLE 14. INDIVISIBILITY OF THE SHARES – BARE OWNERSHIP – USUFRUCT**

Shares are indivisible in the eyes of the company. Indivisible co-owners of shares shall be represented in general meetings by one of the co-owners or by a joint representative of their choice. In default of an agreement between them on the choice of a representative, this representative shall be designated by order of the president of the commercial court, ruling in an interim order on the application of the co-owner first making such request.

The voting right attached to a share belongs to the usufructuary for ordinary general meetings and to the bare owner for extraordinary general meetings. However, the shareholders may agree amongst themselves on any other distribution for the exercise of a voting right in general meetings. In this case, they must bring their agreement to the knowledge of the Company by registered letter sent to the head office, the Company being required to respect this agreement for any general meetings held after the expiry of a one-month period following mailing of the registered letter, the postmark being considered proof of the mailing date.

The shareholder's right to obtain the communication of company documents or to consult these documents may likewise be exercised by each co-owner of an undivided share, by the usufructuary, and the bare owner of shares.

### **ARTICLE 15. ASSIGNMENT AND TRANSFER OF SHARES**

Shares can be freely traded, without prejudice to legal and regulatory provisions.

The ownership of shares issued in registered form shall result from their registration in the name of the owners on the registers held to this end. Shares that are designated as registered shares may only be traded on the market where they have first been placed in a management account with an authorized broker.

Shares that are not registered as necessarily being nominal may only be traded on the market where they are converted to bearer shares.

Ownership of bearer shares shall result from their registration in a bearer account with an authorized financial broker.

The assignment of nominal or bearer shares shall take place, with regard to third parties and the company, by an account-to-account transfer into the accounts of the issuing company or those of the authorized financial broker.

The transfer of shares, free or charge or following a death, shall likewise take place by an account-to-account transfer upon the provision of evidence supporting the change in legal conditions.

## **ARTICLE 16. RIGHTS AND OBLIGATIONS ATTACHED TO THE SHARES**

Each share gives right to the profits, the company assets in a share proportional to the proportion of capital that it represents.

Except where the law or the articles of incorporation stipulate otherwise, each share confers on its owner a vote in the shareholders' General Meetings.

All shareholders shall have the right to be informed of the Company's performance and to obtain the communication of certain company documents at the times and in accordance with the conditions established by the law and regulations.

Shareholders shall only sustain losses up to the amount of their contributions.

The possession of a share requires due adherence to the decisions of general meetings and the present articles of incorporation. Assignment shall include all dividends matured and not paid or maturing in future, as well as any share in the reserve funds, save where provisions to the contrary are disclosed to the Company.

Whenever it is necessary to hold a certain number of shares to exercise a right, in the event of an exchange, regrouping, or assignment of title, or at the time of a capital increase or reduction, a merger, or any other operation, the shareholders holding a number of shares less than that required can only exercise these rights on the condition that they personally arrange to obtain the number of shares required.

## **SECTION III ADMINISTRATION AND CONTROL OF THE COMPANY**

### **ARTICLE 17. BOARD OF DIRECTORS**

#### *I. Appointment/removal of directors*

The Company is governed by a Board of Directors composed of at least three members and at most eighteen members, without prejudice to the derogation established by law in the event of merger. The Board of Directors is composed by seeking a balanced representation of women and men.

During the life of the Company, directors shall be appointed, renewed, or removed in ordinary general meetings. They may always be re-elected.

The duration of a director position is three (3) years; this position ends at the end of the Ordinary General Meeting called to rule on the annual financial statements for the year just ended and held during the year in which their term of office expires.

A person cannot be appointed as director where, having surpassed seventy-five years of age, this person's appointment has the effect of bringing the number of Board members having surpassed this age to more than one-third of the number of directors. Where this limit has been exceeded, the oldest director shall be deemed as having duly resigned. A Director placed under administration shall also be deemed as having duly resigned.

Directors can be shareholders or non-shareholders of the Company.

A Company employee cannot be appointed director where his/her employment contract corresponds to an effective job. The number of directors tied to the Company by way of an employment contract cannot exceed one third of the directors in office.

#### *II. Directors as legal persons*

Directors may be natural persons or legal persons. In the latter case, upon its appointment, the legal person is required to designate a permanent representative, who is subject to the same conditions and obligations and who incurs the same civil and criminal liability as if this person was a director in his/her own name, without prejudice to the joint and several liability of the legal person that he/she represents. The permanent representative of a director as a legal entity is subject to the age conditions pertaining to directors as natural persons.

The term of office of the permanent representative designated by the legal person appointed as director is given to him/her for the duration of the latter's term of office.

Where the legal person revokes the term of office of its permanent representative, the legal person is required to provide the Company, without delay and by registered letter, this revocation as well as the identify of its new permanent representative. The same is applicable in the event of the death or resignation of the permanent representative.

Designation of the permanent representative and discontinuation of his/her term of office are subject to the same publication formalities applicable as if he/she had been a director in his/her own name.

### *III. Vacancy, death, resignation*

In the event of a vacancy, due to death or resignation, of one or more director positions, the Board of Directors may, between two general meetings, proceed with temporary appointments.

Where the number of directors has become lower than the legal minimum, the remaining directors shall immediately call an Ordinary General Meeting with a view to supplementing the Board's numbers.

Temporary appointments made by the Board are subject to ratification at the next ordinary general meeting. In default of such ratification, the resolutions made and acts performed by the Board prior to this meeting shall no longer be considered valid.

In the event of absence of a director at more than four consecutive Board of Directors' meetings, this director shall be considered as having duly resigned.

## **ARTICLE 18. ORGANIZATION OF THE BOARD**

The Board of Directors shall elect a chairman from among its members, the chairman being a natural person, on penalty of invalidity of this appointment. It shall determine the chairman's remuneration.

Any person older than seventy-five years of age may not be appointed chairman. Where the chairman in office comes to surpass this age, he/she shall be deemed as having duly resigned. The Chairman placed under administration shall also be deemed as having duly resigned.

The chairman is appointed for a duration that cannot exceed that of his/her director mandate. He/she may be re-elected. The Board of Directors may remove the chairman at any time.

The Board may likewise appoint a Vice President from among its members who are natural persons, and he/she shall preside over Board meetings in the Chairman's absence.

The Board may designate, within a maximum limit of two, one or more observers who are natural persons, directors or otherwise, and who are 65 years of age at most at the day of their appointment. These observers are appointed for a duration of two years.

These observer positions shall be fulfilled free of charge. The observers shall be summoned to all meetings of the Board of Directors, and shall take part in deliberations for consultation purposes only. In its relations with the Board of Directors, the observers shall perform a general mission of consultation and supervision.

## **ARTICLE 19. BOARD DELIBERATIONS**

The Board of Directors shall meet as often as the Company's interests so require, upon summons by its chairman or the managing director. Where the Board has not met for more than two months, at least one third of the directors may request that the chairman, who is bound by this request, call a Board of Directors' meeting on a specific agenda.

Summonses shall be given by any means, including verbally.

Meetings shall take place either at the headquarters or at any other location indicated in the summons.

The Board may only validly deliberate where half of its directors are present.

Decisions shall be made by the majority of members present or represented.

In the event of a tie, the meeting Chairman's vote shall carry the decision.

Pursuant to the provisions of internal rules established by the Board of Directors, for calculation of the quorum and the majority, the directors participating in a Board meeting by videoconference or other means of telecommunications allowing for identification of the participants and guaranteeing their effective participation shall be deemed present, in compliance with current regulations.

This provision is not applicable for decisions on the annual financial statements, the consolidated financial statements, and preparation of the annual report and the group's annual report.

The Board of Directors can also make decisions by written consultation of the Directors in accordance with the conditions established by law.

## **ARTICLE 20. POWERS OF THE BOARD OF DIRECTORS**

The Board of Directors determines the orientations of the Company's activities and oversees their implementation, in accordance with its corporate interest and taking into consideration social and environmental issues of its activity. Without prejudice to the powers expressly assigned by law to the shareholders and within the limit of the corporate purpose, the Board of Directors is responsible for all matters relating to the successful operation of the Company and governs matters concerning the Company, through its resolutions.

In relations with third parties, the Company is committed by the actions of the Board of Directors including where not pertaining to the corporate object, except where it can prove that the third party knew that such action fell outside this purpose or that it could not be ignorant of such fact, given the circumstances, mere publication of the articles of incorporation not being sufficient to constitute such proof.

The Board of Directors shall perform the controls and verifications that it deems appropriate. Each director may arrange for the communication to him/her of all documents and information necessary to the fulfillment of his/her mission.

The Board of Directors may decide on the creation of a study committee responsible for studying matters that the Board of Directors or its Chairman submits to it.

## **ARTICLE 21. SENIOR MANAGEMENT**

### 1 - Operating methods

General management is provided under its responsibility, by a natural person appointed by the Board of Directors and holding the title of managing director. This natural person may be the chairman of the Board of Directors.

The Board of Directors chooses between two operating methods for the Senior Management.

The Board resolution relative to the choice of operating method for the executive division shall be carried by the majority of directors present or represented. Shareholders and third parties shall be informed of this choice in accordance with the conditions established under current regulations.

### 2 - Senior Management

The Chief Executive Officer shall be a natural person selected from among the directors or elsewhere. The duration of the managing director's term of office is determined by the Board at the time of his/her appointment. However, where the managing director is a director, the duration of his/her term of office cannot exceed that of the director mandate.

Any person older than seventy years of age cannot be appointed as managing director. Where the managing director reaches this age limit, he/she shall be deemed as having duly resigned. A managing Director placed under administration shall also be deemed as having duly resigned.

The managing director may be removed by the Board of Directors at any time. Where the removal is decided without just cause, it may result in the payment of damages, save where the managing director holds the position of chairman of the Board of Directors.

The managing director is vested with the broadest of powers to act in all circumstances in the name of the Company. He shall exercise his powers within the limits of the corporate object and without prejudice to the powers that the law expressly assigns to the shareholders and to the Board of Directors.

He represents the Company in its relations with third parties. The Company is committed by the actions of the managing director including where not pertaining to the corporate object, save where it can prove that the third party knew that such action fell outside this object or that it could not be ignorant of such fact, given the circumstances, mere publication of the articles of incorporation not being sufficient to constitute such proof.

The Board of Directors may limit the powers of the Chief Executive Officer, but these limitations are not binding against third parties.

### 3 - Deputy Managing Director

Upon the proposal of the Chief Executive Officer that this position be assumed by the Chairman of the Board of Directors or by another person, the Board of Directors may appoint one or more natural persons assigned to assist the Chief Executive Officer, with the title of Deputy Managing Director.

The Board of Directors may choose the Deputy Managing Directors from among the directors or elsewhere and cannot appoint more than five (5) persons.

The age limit is set at seventy (70) years of age. Where a deputy managing director reaches this age limit, he/she shall be deemed as having duly resigned. A deputy managing director placed under administration is also be deemed as having duly resigned.

The deputy managing directors may be removed at any time by the Board of Directors, upon such proposal by the managing director. Where such removal is decided on without just cause, it may result in the payment of damages.

Where the Chief Executive Officer ceases or is unable to perform his/her duties, the Deputy Managing Directors shall retain, except where decided otherwise by the Board, their duties and powers until the appointment of a new Chief Executive Officer.

In accordance with the managing director, the Board of Directors shall determine the extent and duration of powers granted to the deputy managing directors. The deputy managing directors shall have, in relation to third parties, the same powers as the managing director.

## **ARTICLE 22. REMUNERATION OF DIRECTORS**

1 - A general meeting may allocate to the directors, in remuneration for their activity a fixed annual sum, the amount of which shall be reported under operating expenses and shall be maintained until a decision is made to the contrary. Its distribution among the directors shall be determined by the Board of Directors.

2 - The Board of Directors shall determine the remuneration for the chairman of the Board of Directors, the managing director, and the deputy managing directors. This remuneration may be fixed and/or proportional.

## **ARTICLE 23. PLURALITY OF TERMS OF OFFICE**

The limitation on the plurality of terms of office as director and Chief Executive Officer applies in accordance with the conditions and subject to the derogations established by law.

## **ARTICLE 24. REGULATED AGREEMENTS**

All regulated agreements taking place, directly or through a third party, between the Company and one of its directors, its managing director, one of its deputy managing directors, one of its shareholders holding a portion of the voting rights greater than 10% or, where relating to a shareholder company, the company controlling it as defined under Article L. 233-3 of the Code of Commerce, must be submitted for the prior authorization of the Board of Directors.

The same is likewise applicable for agreements in which one of the persons outlined in the previous paragraph has an indirect interest, and for agreements taking place between the Company and another company, where the managing director, one of the deputy managing directors, or one of the Company's directors is the owner, shareholder with unlimited liability, manager, director, member of the supervisory board, or generally any director of this company.

The prior authorization of the Board of Directors shall be supported by reasons justifying the Company's interests in stipulating the agreement, and shall notably specify the financial conditions associated with this agreement.

Agreements stipulated and authorized during previous financial years, the fulfillment of which was continued into the last financial year, shall be examined each year by the Board of Directors and disclosed to the external auditors as established under the law.

The provisions of the preceding paragraphs shall not be applicable either to agreements relating to day-to-day operations stipulated under normal conditions or to agreements stipulated between two companies where one of these companies directly or indirectly holds the entirety of the other's capital, where applicable after deducting the minimum number of shares required to satisfy the requirements of Article 1832 of the Civil Code and Articles L. 225-1 and L. 226-1 of the Code of Commerce.

The report outlined under the last paragraph of Article L. 225-37 of the Code of Commerce mentions, save where these are agreements relating to day-to-day operations stipulated under normal conditions, agreements reached directly or through a third party and between, on one part one of the corporate officers or one of the shareholders holding a portion of voting rights greater than 10% of the Company's capital and, on the other part, another company controlled by the first one under article L.233-3.

## **ARTICLE 25. STATUTORY AUDITORS**

One or more statutory auditors shall be appointed in accordance with article L.823-1 of the Commercial code and shall perform their audit assignment in conformity with the law. Their permanent assignment, to the exclusion of any involvement in the Company's management, is to review the Company's books and financial figures and to verify the accuracy and fairness of the corporate financial statements.

## **SECTION IV**

### **SHAREHOLDERS' MEETINGS**

## **ARTICLE 26. NATURE OF THE MEETINGS**

Shareholder decisions shall be made in General Meetings.

Ordinary General Meetings are those that are called to make all decisions that do not modify the articles of incorporation.

Extraordinary General Meetings are those called to decide on or authorize direct or indirect modifications to the articles of incorporation.

The resolutions of General Meetings create an obligation on all shareholders, including those who are absent, dissenting, or incompetent.

## **ARTICLE 27. SUMMONSES AND MEETINGS OF THE GENERAL SHAREHOLDERS**

All shareholders have the right to participate in General Meetings or to arrange for their representation in accordance with the conditions established by law.

General Meetings are called either by the Board of Directors or by the statutory auditors, or by a representative designated by the President of the Commercial Court in an interim ruling on the application of one or more shareholders constituting at least 5% of the capital or, in an emergency, on the application of the participative Management Committee.

Where the Company's shares are admitted for trading on a regulated market or where all its shares are not nominal, it is required, at least thirty-five (35) days prior to any meeting, to publish in the French Bulletin des Annonces Légales Obligatoires (BALO) a meeting notice containing the information outlined in current regulations.

The summons to a General Meeting is made by a notice in a newspaper authorized to publish legal notices in the French département where the headquarters is located, and a notice, furthermore, in the Bulletin des Annonces Légales et Obligatoires (BALO).

Nevertheless, the notices outlined in the previous paragraph may be replaced by a summons made, at the Company's expense, by simple or registered letter sent to each shareholder. This summons may likewise be sent by a means of electronic telecommunications implemented in accordance with regulatory conditions.

Meetings shall take place at the headquarters or at any other location indicated in the notice of summons.

General Meetings shall be composed of all the shareholders, whatever the number of shares they hold. Participation in the General Meetings, in any form whatsoever, is subject to the registration or recording of shares in accordance with the conditions and timelines established under current regulations.

A shareholder may arrange for his/her representation at general meetings by any natural or legal person of his/her choice, in conformity with legal provisions. Shareholders who are legal persons shall participate in meetings through their legal representatives or through any representative designated to this end.

Shareholders may likewise vote remotely in accordance with the methods established by the law and regulations, sending their remote voting form either in paper format or, on the decision of the Board of Directors, by a means of telecommunications.

The Board of Directors has the right to decide, at the time a meeting is called, whether the shareholders may participate and vote in any meetings by video conference or any other means of telecommunications or electronic transmission (including via the internet), in accordance with the conditions established by the law and regulations applicable at the time of its utilization. This decision shall be communicated in the meeting notice and the notice of summons published in the Bulletin des annonces légales obligatoires (BALO).



Shareholders who use, to this end and within the required time lines, the electronic voting form offered on the web site arranged by the coordinator of the shareholders' meeting shall be considered equivalent to the shareholders present or represented. The submission and signature of the electronic form may be directly performed on this site through any process approved by the Board of Directors and meeting the conditions defined under the paragraph two, sentence one, Article 1316-4 of the French Civil Code, i.e., the usage of a reliable identification process guaranteeing a link with the form, notably such as consists of an identifier and a password.

The proxy or vote, thus expressed prior to the shareholders' meeting by any means of telecommunications or electronic transmission, and the confirmation of receipt given therefor, shall be considered a submission irrevocable and binding on all parties, it being specified that, in the event of an assignment of shares taking place prior to the second (2nd) business day preceding the shareholders' meeting, local Paris time, the Company shall consequently invalidate or modify, as applicable, the proxy or vote expressed prior to the meeting by any means of telecommunications.

## **ARTICLE 28. AGENDA**

The agenda for Meetings is provided by the person issuing the summons.

One or more shareholders, representing at least the portion of share capital required and acting in accordance with the conditions and timeframes established by law, have the right to request, by registered letter with acknowledgment of receipt or by electronic telecommunications, the inclusion of points or draft resolutions on a Meeting agenda.

The participative management committee may likewise request that draft resolutions be included on a Meeting agenda.

Shareholders' meetings cannot deliberate on a matter that is not included on the agenda, which cannot be modified in the event of a second summons. Such meetings may nevertheless, in all circumstances, remove one or more members of the Board of Directors and proceed with their replacement.

## **ARTICLE 29. HOLDING OF MEETINGS - CHAIR COMMITTEE - MINUTES**

Meetings shall be presided over by the chairman of the Board of Directors or, in his absence, by a deputy chairman or by a director specially deputy to this end by the Board. Failing this, the shareholders' meeting shall itself designate a meeting chairman.

In the event of a summons by a statutory auditor or by an agent appointed by the court, the Meeting shall be presided over by the person issuing the summons.

The two shareholders, present and accepting such duties, representing, both for themselves and as representatives, the largest number of votes shall act as scrutineers and vote counters.

The committee thus established shall designate a secretary, who may be taken from outside the members of the Meeting.

An attendance sheet shall be kept, in accordance with the conditions established by law.

Deliberations and resolutions of the General Meetings are recorded in minutes signed by the committee members and kept in a special register, in accordance with the law. Copies and extracts of these minutes shall be validly certified in accordance with the conditions established by law.

## **ARTICLE 30. QUORUM - VOTE**

General Meetings, whether they are ordinary, extraordinary, or mixed, shall deliberate in accordance with the conditions for a quorum and majority as established in the provisions governing them, and shall exercise the powers assigned to them by the law.

The voting right attached to capital or dividend shares is proportional to the portion of capital that they represent. Each share gives the right to one vote.

A double voting right is nevertheless assigned, in accordance with legal conditions, to all shares fully paid up for which evidence is provided of nominal registration for at least two years in the name of the same shareholder, or in the name of a person holding such rights following a succession, a sharing of the community of property between spouses, or an inter vivos gift granted by a shareholder to his/her spouse or to a relative in the direct line of succession, or following a transfer resulting from a merger or a division of a shareholder company.

In the event of a capital increase through the incorporation of reserves, income, or issue premiums, the double voting right is granted, upon their issue, to nominal shares assigned free of charge to replace the previous shares already receiving such benefit.

The double voting right shall be duly withdrawn from any share having been converted to a bearer share or been subject to a transfer of ownership, except where this transfer results from a succession, a sharing of the community of property between spouses, or an inter vivos gift granted by a shareholder to his/her spouse or to a relative in the direct line of succession, or following a transfer resulting from a merger or a division of a shareholder company.

## **SECTION V**

### **CORPORATE FINANCIAL YEAR - CORPORATE FINANCIAL STATEMENTS - ALLOCATION AND DISTRIBUTION OF PROFITS**

#### **ARTICLE 31. CORPORATE FINANCIAL YEAR**

The corporate financial year is defined under Article 5.

#### **ARTICLE 32. INVENTORY - ANNUAL FINANCIAL STATEMENTS - STATEMENT OF FINANCIAL POSITION**

Regular accounts of Company operations shall be kept, in conformity with the law and commercial practices.

At the end of each financial year, the Board of Directors shall conduct an inventory of all the assets and liabilities. It shall also prepare the annual financial statements in conformity with the provisions of Part II, Book 1 of the Commercial Code.

It shall attach to the statement of financial position a statement of sureties, endorsements, and guarantees given by the Company and a statement of collateral pledged by it.

It shall prepare an annual report containing the information required by law.

The annual report shall include, where applicable, the Group's annual report where the Company must prepare and publish consolidated financial statements as required law.

Where applicable, the Board of Directors shall prepare accounting estimates as required by the law and regulations.

All these documents shall be provided to the auditor in accordance with legal and regulatory conditions.

#### **ARTICLE 33. ALLOCATION AND DISTRIBUTION OF PROFITS**

Amounts required by law for allocation to reserves shall be firstly withdrawn on the profits of each financial year, where applicable, decreased by prior losses.

As such, 5% of profits shall be allocated to establish the legal reserve; this allocation is no longer obligatory when this fund reaches ten percent of the capital stock; it shall resume its obligatory status where, for any reason, the legal reserve falls below this proportion.

The distributable profits are composed of the annual profits, less any prior losses and amounts allocated to reserves in application of the law or articles of incorporation, and increased by any profits carried forward.

From these profits, general meetings shall determine the portion assignable to shareholders in the form of a dividend, and may allocate any amounts such as it sees fit, to any funds whether optional, ordinary, or extraordinary, or to be carried forward.

However, in the event of a reduction in the capital, no distribution may be made to shareholders where the shareholders' equity is or becomes, following such capital reduction, lower than the amount of the capital, increased by any reserves for which the law and the articles of incorporation prohibit distribution.

General meetings may decide on the distribution of amounts withdrawn from optional reserves, either to provide or to supplement a dividend, or by way of an exceptional distribution; in this case, the meeting's decision shall expressly indicate the reserve items from which such withdrawal shall be made. However, dividends shall be given priority distribution over any distributable profits from the financial year.

Where existing and upon approval of the financial statements by the general meeting, losses shall be recorded in a special account to be offset by any profits in future financial years, until such losses have been completely discharged.

#### **ARTICLE 34. PAYMENT OF DIVIDENDS**

For all or part of a regularly distributed dividend or interim dividends, general meetings may grant shareholders an option between payment in cash or in shares, in accordance with legal conditions. The methods for payment of dividends in cash shall be set by the general meeting or, failing this, by the Board of Directors.

#### **ARTICLE 35. SHAREHOLDERS' EQUITY AT LESS THAN HALF THE CAPITAL STOCK**

Where, due to losses identified in the accounting documents, the shareholders' equity in the Company falls below half the capital stock, the Board of Directors is required, within four months following approval of the financial statements showing these losses, to call an extraordinary general meeting for the purpose of deciding whether early dissolution of the Company should take place.

Where dissolution is not decided on, the Company is required, at the latest by the end of the second financial year following that in which identification of the losses took place and subject to the provisions of Article L. 224-2 of the Commercial Code, to reduce its capital by an amount at least equal to that of the losses that could not be allocated to the reserves where, within this period, the shareholders' equity has not been reestablished up to a value at least equal to half of the capital stock. In the event of non-fulfillment of these requirements, any interested party may seek dissolution of the Company through legal measures. However, the courts may not hand down a dissolution decision where, at the date on which the courts rule on the basis of substance, the situation has been regularized.

### **SECTION VI**

#### **DISSOLUTION - DISPUTES**

#### **ARTICLE 36. DISSOLUTION**

Upon expiry of the Company's established duration or in the event of early dissolution, a general meeting shall decide on the liquidation methods and appoint one or more liquidators, whose powers it shall determine, and who shall perform their duties in compliance with the law.

#### **ARTICLE 37. DISPUTES**

All disputes such as may arise within the duration of the Company or after its dissolution during liquidation operations, either between the shareholders and the Company's management and control bodies, or between the shareholders themselves, relative to business affairs or to the fulfillment of provisions of the articles of incorporation shall be decided on in conformity with the law and submitted to the jurisdiction of the competent courts.

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ERYTECH PHARMA S.A.

AND

THE BANK OF NEW YORK MELLON

As Depositary

AND

OWNERS AND HOLDERS OF AMERICAN DEPOSITARY SHARES

Amended and Restated Deposit Agreement

Dated as of May 14, 2018

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## AMENDED AND RESTATED DEPOSIT AGREEMENT

AMENDED AND RESTATED DEPOSIT AGREEMENT dated as of May 14, 2018 among ERYTECH PHARMA S.A., a company incorporated under the laws of France (herein called the Company), THE BANK OF NEW YORK MELLON, a New York banking corporation (herein called the Depositary), and all Owners and Holders (each as hereinafter defined) from time to time of American Depositary Shares issued hereunder.

### WITNESSETH:

WHEREAS, the Company and the Depositary entered into a deposit agreement dated as of January 9, 2015 for the purposes stated in that agreement;

WHEREAS, the Company and the Depositary entered into an amended and restated deposit agreement dated as of November 9, 2017 (the “Prior Deposit Agreement”) for the purposes stated in that agreement;

WHEREAS, the Company and the Depositary now wish to amend and restate the Prior Deposit Agreement pursuant to Section 6.1 of the Prior Deposit Agreement with respect to voting procedures described in Section 4.7 in the form of this Amended and Restated Deposit Agreement; and

WHEREAS, the Company desires to provide, as set forth in this Amended and Restated Deposit Agreement (herein called this Deposit Agreement), for the deposit of Shares (as hereinafter defined) of the Company from time to time with the Depositary or with the Custodian (as hereinafter defined) under this Deposit Agreement, for the creation of American Depositary Shares representing the Shares so deposited and for the execution and delivery of American Depositary Receipts evidencing the American Depositary Shares; and

WHEREAS, the American Depositary Receipts are to be substantially in the form of Exhibit A annexed to this Deposit Agreement, with appropriate insertions, modifications and omissions, as set forth in this Deposit Agreement;

NOW, THEREFORE, in consideration of the premises, it is agreed by and between the parties hereto that the Prior Deposit Agreement is hereby amended and restated as follows:

#### ARTICLE 1. DEFINITIONS

The following definitions shall for all purposes, unless otherwise clearly indicated, apply to the respective terms used in this Deposit Agreement:



#### SECTION 1.1. American Depositary Shares.

The term “American Depositary Shares” shall mean the securities created under this Deposit Agreement representing rights with respect to the Deposited Securities. American Depositary Shares may be certificated securities evidenced by Receipts or uncertificated securities. The form of Receipt annexed as Exhibit A to this Deposit Agreement shall be the prospectus required under the Securities Act of 1933 for sales of both certificated and uncertificated American Depositary Shares. Except for those provisions of this Deposit Agreement that refer specifically to Receipts, all the provisions of this Deposit Agreement shall apply to both certificated and uncertificated American Depositary Shares.

Each American Depositary Share shall represent the number of Shares specified in Exhibit A to this Deposit Agreement, except that, if there is a distribution upon Deposited Securities covered by Section 4.3, a change in Deposited Securities covered by Section 4.8 with respect to which additional American Depositary Shares are not delivered or a sale of Deposited Securities under Section 3.2 or 4.8, each American Depositary Share shall thereafter represent the amount of Shares or other Deposited Securities that are then on deposit per American Depositary Share after giving effect to that distribution, change or sale.

#### SECTION 1.2. Commission.

The term “Commission” shall mean the Securities and Exchange Commission of the United States or any successor governmental agency in the United States.

#### SECTION 1.3. Company.

The term “Company” shall mean ERYTECH Pharma S.A., a company incorporated under the laws of France, and its successors.

#### SECTION 1.4. Custodian.

The term “Custodian” shall mean Société Générale, as custodian for the Depositary in Paris for the purposes of this Deposit Agreement, and any other firm or corporation the Depositary appoints under Section 5.5 as a substitute or additional custodian under this Deposit Agreement, and shall also mean all of them collectively.

#### SECTION 1.5. Delisting Event.

A “Delisting Event” occurs if the American Depositary Shares are delisted from a securities exchange on which the American Depositary Shares were listed and the Company has not listed or applied to list the American Depositary Shares on any other securities exchange.

SECTION 1.6. Deliver; Surrender.

(a) The term “deliver”, or its noun form, when used with respect to Shares or other Deposited Securities, shall mean (i) book-entry transfer of those Shares or other Deposited Securities to an account maintained by an institution authorized under applicable law to effect transfers of such securities designated by the person entitled to that delivery or (ii) physical transfer of certificates evidencing those Shares or other Deposited Securities registered in the name of, or duly endorsed or accompanied by proper instruments of transfer to, the person entitled to that delivery.

(b) The term “deliver”, or its noun form, when used with respect to American Depositary Shares, shall mean (i) registration of those American Depositary Shares in the name of DTC or its nominee and book-entry transfer of those American Depositary Shares to an account at DTC designated by the person entitled to that delivery, (ii) registration of those American Depositary Shares not evidenced by a Receipt on the books of the Depositary in the name requested by the person entitled to that delivery and mailing to that person of a statement confirming that registration or (iii) if requested by the person entitled to that delivery, execution and delivery at the Depositary’s Office to the person entitled to that delivery of one or more Receipts evidencing those American Depositary Shares registered in the name requested by that person.

(c) The term “surrender”, when used with respect to American Depositary Shares, shall mean (i) one or more book-entry transfers of American Depositary Shares to the DTC account of the Depositary, (ii) delivery to the Depositary at its Office of an instruction to surrender American Depositary Shares not evidenced by a Receipt or (iii) surrender to the Depositary at its Office of one or more Receipts evidencing American Depositary Shares.

SECTION 1.7. Deposit Agreement.

The term “Deposit Agreement” shall mean this Amended and Restated Deposit Agreement, as it may be amended from time to time in accordance with the provisions hereof.

SECTION 1.8. Depositary; Depositary’s Office.

The term “Depositary” shall mean The Bank of New York Mellon, a New York banking corporation, and any successor as depositary under this Deposit Agreement. The term “Office”, when used with respect to the Depositary, shall mean the office at which its depositary receipts business is administered, which, at the date of this Deposit Agreement, is located at 101 Barclay Street, New York, New York 10286.

SECTION 1.9. Deposited Securities.

The term “Deposited Securities” as of any time shall mean Shares at such time deposited or deemed to be deposited under this Deposit Agreement, including without limitation, Shares that have not been successfully delivered upon surrender of American Depositary Shares, and any and all other securities, property and cash received by the Depositary or the Custodian in respect of Deposited Securities and at that time held under this Deposit Agreement.

SECTION 1.10. Disseminate.

The term “Disseminate,” when referring to a notice or other information to be sent by the Depositary to Owners, shall mean (i) sending that information to Owners in paper form by mail or another means or (ii) with the consent of Owners, another procedure that has the effect of making the information available to Owners, which may include (A) sending the information by electronic mail or electronic messaging or (B) sending in paper form or by electronic mail or messaging a statement that the information is available and may be accessed by the Owner on an Internet website and that it will be sent in paper form upon request by the Owner, when that information is so available and is sent in paper form as promptly as practicable upon request.

SECTION 1.11. Dollars.

The term “Dollars” shall mean United States dollars.

SECTION 1.12. DTC.

The term “DTC” shall mean The Depositary Trust Company or its successor.

SECTION 1.13. Foreign Registrar.

The term “Foreign Registrar” shall mean the entity that carries out the duties of registrar for the Shares and any other agent of the Company for the transfer and registration of Shares, including, without limitation, any securities depository for the Shares.

SECTION 1.14. Holder.

The term “Holder” shall mean any person holding a Receipt or a security entitlement or other interest in American Depositary Shares, whether for its own account or for the account of another person, but that is not the Owner of that Receipt or those American Depositary Shares.

#### SECTION 1.15. Insolvency Event

An “Insolvency Event” occurs if the Company institutes proceedings to be adjudicated as bankrupt or insolvent, consents to the institution of bankruptcy or insolvency proceedings against it, files a petition or answer or consent seeking reorganization or relief under any applicable law in respect of bankruptcy or insolvency, consents to the filing of any petition of that kind or to the appointment of a receiver, liquidator, assignee, trustee, custodian or sequestrator (or other similar official) of it or any substantial part of its property or makes an assignment for the benefit of creditors, or if information becomes publicly available indicating that unsecured claims against the Company are not expected to be paid.

#### SECTION 1.16. Owner

The term “Owner” shall mean the person in whose name American Depositary Shares are registered on the books of the Depositary maintained for that purpose.

#### SECTION 1.17. Receipts

The term “Receipts” shall mean the American Depositary Receipts issued under this Deposit Agreement evidencing certificated American Depositary Shares, as the same may be amended from time to time in accordance with the provisions of this Deposit Agreement.

#### SECTION 1.18. Registrar

The term “Registrar” shall mean any corporation or other entity that is appointed by the Depositary to register American Depositary Shares and transfers of American Depositary Shares as provided in this Deposit Agreement.

#### SECTION 1.19. Replacement

The term “Replacement” shall have the meaning assigned to it in Section 4.8.

#### SECTION 1.20. Restricted Securities

The term “Restricted Securities” shall mean Shares that (i) are “restricted securities,” as defined in Rule 144 under the Securities Act of 1933, except for Shares that could be resold in reliance on Rule 144 without any conditions, (ii) are beneficially owned by an officer, director (or person performing similar functions) or other affiliate of the Company, (iii) otherwise would require registration under the Securities Act of 1933 in connection with the public offer and sale thereof in the United States or (iv) are subject to other restrictions on sale or deposit under the laws of France, a shareholder agreement or the articles of association or similar document of the Company.

SECTION 1.21. Securities Act of 1933.

The term “Securities Act of 1933” shall mean the United States Securities Act of 1933, as from time to time amended.

SECTION 1.22. Shares.

The term “Shares” shall mean ordinary shares of the Company that are validly issued and outstanding, fully paid and nonassessable and that were not issued in violation of any pre-emptive or similar rights of the holders of outstanding securities of the Company; provided, however, that, if there shall occur any change in nominal or par value, a split-up or consolidation or any other reclassification or, upon the occurrence of an event described in Section 4.8, an exchange or conversion in respect of the Shares of the Company, the term “Shares” shall thereafter also mean the successor securities resulting from such change in nominal value, split-up or consolidation or such other reclassification or such exchange or conversion.

SECTION 1.23. SWIFT.

The term “SWIFT” shall mean the financial messaging network operated by the Society for Worldwide Interbank Financial Telecommunication, or its successor.

SECTION 1.24. Termination Option Event.

The term “Termination Option Event” shall mean an event of a kind defined as such in Section 4.1, 4.2 or 4.8.

ARTICLE 2. FORM OF RECEIPTS, DEPOSIT OF SHARES, DELIVERY, TRANSFER AND SURRENDER OF AMERICAN DEPOSITARY SHARES

SECTION 2.1. Form of Receipts; Registration and Transferability of American Depositary Shares.

Definitive Receipts shall be substantially in the form set forth in Exhibit A to this Deposit Agreement, with appropriate insertions, modifications and omissions, as permitted under this Deposit Agreement. No Receipt shall be entitled to any benefits under this Deposit Agreement or be valid or obligatory for any purpose, unless that Receipt has been (i) executed by the Depositary by the manual signature of a duly authorized officer of the Depositary or (ii) executed by the facsimile signature of a duly authorized officer of the Depositary and countersigned by the manual signature of a duly authorized signatory of the Depositary or the Registrar or a co-registrar. The Depositary shall maintain books on which (x) each Receipt so executed and delivered as provided in this Deposit Agreement

and each transfer of that Receipt and (y) all American Depositary Shares delivered as provided in this Deposit Agreement and all registrations of transfer of American Depositary Shares, shall be registered. A Receipt bearing the facsimile signature of a person that was at any time a proper officer of the Depositary shall, subject to the other provisions of this paragraph, bind the Depositary, even if that person was not a proper officer of the Depositary on the date of issuance of that Receipt.

The Receipts and statements confirming registration of American Depositary Shares may have incorporated in or attached to them such legends or recitals or modifications not inconsistent with the provisions of this Deposit Agreement as may be required by the Depositary or required to comply with any applicable law or regulations thereunder or with the rules and regulations of any securities exchange upon which American Depositary Shares may be listed or to conform with any usage with respect thereto, or to indicate any special limitations or restrictions to which any particular Receipts and American Depositary Shares are subject by reason of the date of issuance of the underlying Deposited Securities or otherwise.

American Depositary Shares evidenced by a Receipt, when the Receipt is properly endorsed or accompanied by proper instruments of transfer, shall be transferable as certificated registered securities under the laws of the State of New York. American Depositary Shares not evidenced by Receipts shall be transferable as uncertificated registered securities under the laws of the State of New York. The Depositary, notwithstanding any notice to the contrary, may treat the Owner of American Depositary Shares as the absolute owner thereof for the purpose of determining the person entitled to distribution of dividends or other distributions or to any notice provided for in this Deposit Agreement and for all other purposes, and neither the Depositary nor the Company shall have any obligation or be subject to any liability under this Deposit Agreement to any Holder of American Depositary Shares (but only to the Owner of those American Depositary Shares).

#### SECTION 2.2. Deposit of Shares.

Subject to the terms and conditions of this Deposit Agreement, Shares or evidence of rights to receive Shares may be deposited under this Deposit Agreement by delivery thereof to any Custodian, accompanied by any appropriate instruments or instructions for transfer, or endorsement, in form satisfactory to the Custodian.

As conditions of accepting Shares for deposit, the Depositary may require (i) any certification required by the Depositary or the Custodian in accordance with the provisions of this Deposit Agreement, (ii) a written order directing the Depositary to deliver to, or upon the written order of, the person or persons stated in that order American Depositary Shares representing those deposited Shares, (iii) evidence satisfactory to the Depositary that those Shares have been re-registered in the books of the Company or the Foreign Registrar in the name of the Depositary, a Custodian or a nominee of the Depositary or a Custodian, (iv) evidence satisfactory to the Depositary that any necessary

approval has been granted by any governmental body in each applicable jurisdiction and (v) an agreement or assignment, or other instrument satisfactory to the Depositary, that provides for the prompt transfer to the Custodian of any dividend, or right to subscribe for additional Shares or to receive other property, that any person in whose name those Shares are or have been recorded may thereafter receive upon or in respect of those Shares, or, in lieu thereof, such agreement of indemnity or other agreement as shall be satisfactory to the Depositary.

At the request and risk and expense of a person proposing to deposit Shares, and for the account of that person, the Depositary may receive certificates for Shares to be deposited, together with the other instruments specified in this Section, for the purpose of forwarding those Share certificates to the Custodian for deposit under this Deposit Agreement.

The Depositary shall instruct each Custodian that, upon each delivery to a Custodian of a certificate or certificates for Shares to be deposited under this Deposit Agreement, together with the other documents specified in this Section, that Custodian shall, as soon as transfer and recordation can be accomplished, present that certificate or those certificates to the Company or the Foreign Registrar, if applicable, for transfer and recordation of the Shares being deposited in the name of the Depositary or its nominee or that Custodian or its nominee.

Deposited Securities shall be held by the Depositary or by a Custodian for the account and to the order of the Depositary or at such other place or places as the Depositary shall determine.

### SECTION 2.3. Delivery of American Depositary Shares.

The Depositary shall instruct each Custodian that, upon receipt by that Custodian of any deposit pursuant to Section 2.2, together with the other documents or evidence required under that Section, that Custodian shall notify the Depositary of that deposit and the person or persons to whom or upon whose written order American Depositary Shares are deliverable in respect thereof. Upon receiving a notice of a deposit from a Custodian, or upon the receipt of Shares or evidence of the right to receive Shares by the Depositary, the Depositary, subject to the terms and conditions of this Deposit Agreement, shall deliver, to or upon the order of the person or persons entitled thereto, the number of American Depositary Shares issuable in respect of that deposit, but only upon payment to the Depositary of the fees and expenses of the Depositary for the delivery of those American Depositary Shares as provided in Section 5.9, and of all taxes and governmental charges and fees payable in connection with that deposit and the transfer of the deposited Shares. However, the Depositary shall deliver only whole numbers of American Depositary Shares.

SECTION 2.4. Registration of Transfer of American Depositary Shares; Combination and Split-up of Receipts; Interchange of Certificated and Uncertificated American Depositary Shares.

The Depositary, subject to the terms and conditions of this Deposit Agreement, shall register a transfer of American Depositary Shares on its transfer books upon (i) in the case of certificated American Depositary Shares, surrender of the Receipt evidencing those American Depositary Shares, by the Owner or by a duly authorized attorney, properly endorsed or accompanied by proper instruments of transfer or (ii) in the case of uncertificated American Depositary Shares, receipt from the Owner of a proper instruction (including, for the avoidance of doubt, instructions through DRS and Profile as provided in Section 2.10), and, in either case, duly stamped as may be required by the laws of the State of New York and of the United States of America. Upon registration of a transfer, the Depositary shall deliver the transferred American Depositary Shares to or upon the order of the person entitled thereto.

The Depositary, subject to the terms and conditions of this Deposit Agreement, shall upon surrender of a Receipt or Receipts for the purpose of effecting a split-up or combination of such Receipt or Receipts, execute and deliver a new Receipt or Receipts for any authorized number of American Depositary Shares requested, evidencing the same aggregate number of American Depositary Shares as the Receipt or Receipts surrendered.

The Depositary, upon surrender of certificated American Depositary Shares for the purpose of exchanging for uncertificated American Depositary Shares, shall cancel the Receipt evidencing those certificated American Depositary Shares and send the Owner a statement confirming that the Owner is the owner of the same number of uncertificated American Depositary Shares. The Depositary, upon receipt of a proper instruction (including, for the avoidance of doubt, instructions through DRS and Profile as provided in Section 2.10) from the Owner of uncertificated American Depositary Shares for the purpose of exchanging for certificated American Depositary Shares, shall cancel those uncertificated American Depositary Shares and register and deliver to the Owner a Receipt evidencing the same number of certificated American Depositary Shares.

The Depositary may appoint one or more co-transfer agents for the purpose of effecting registration of transfers of American Depositary Shares and combinations and split-ups of Receipts at designated transfer offices on behalf of the Depositary, and the Depositary shall notify the Company of any such appointment. In carrying out its functions, a co-transfer agent may require evidence of authority and compliance with applicable laws and other requirements by Owners or persons entitled to American Depositary Shares and will be entitled to protection and indemnity to the same extent as the Depositary.



SECTION 2.5. Surrender of American Depositary Shares and Withdrawal of Deposited Securities.

Upon surrender at the Depositary's Office of American Depositary Shares for the purpose of withdrawal of the Deposited Securities represented thereby and payment of the fee of the Depositary for the surrender of American Depositary Shares as provided in Section 5.9 and payment of all taxes and governmental charges payable in connection with that surrender and withdrawal of the Deposited Securities, and subject to the terms and conditions of this Deposit Agreement, the Owner of those American Depositary Shares shall be entitled to delivery (to the extent delivery can then be lawfully and practicably made), to or as instructed by that Owner, of the amount of Deposited Securities at the time represented by those American Depositary Shares, but not any money or other property as to which a record date for distribution to Owners has passed. That delivery shall be made, as provided in this Section, without unreasonable delay.

As a condition of accepting a surrender of American Depositary Shares for the purpose of withdrawal of Deposited Securities, the Depositary may require (i) that each surrendered Receipt be properly endorsed in blank or accompanied by proper instruments of transfer in blank and (ii) that the surrendering Owner execute and deliver to the Depositary a written order directing the Depositary to cause the Deposited Securities being withdrawn to be delivered to or upon the written order of a person or persons designated in that order.

Thereupon, the Depositary shall direct the Custodian to deliver, subject to Sections 2.6, 3.1 and 3.2, the other terms and conditions of this Deposit Agreement and local market rules and practices, to the surrendering Owner or to or upon the written order of the person or persons designated in the order delivered to the Depositary as above provided, the amount of Deposited Securities represented by the surrendered American Depositary Shares.

At the request, risk and expense of an Owner surrendering American Depositary Shares for withdrawal of Deposited Securities, and for the account of that Owner, the Depositary shall direct the Custodian to forward any cash or other property comprising, and forward a certificate or certificates, if applicable, and other proper documents of title, if any, for, the Deposited Securities represented by the surrendered American Depositary Shares to the Depositary for delivery at the Depositary's Office or to another address specified in the order received from the surrendering Owner.

The Depositary shall direct the Custodian to make delivery of Deposited Securities and may charge the surrendering Owner a fee and the Depositary's expenses for doing so.

SECTION 2.6. Limitations on Delivery, Transfer and Surrender of American Depositary Shares.

As a condition precedent to the delivery, registration of transfer or surrender of any American Depositary Shares or split-up or combination of any Receipt or withdrawal of any Deposited Securities, the Depositary, Custodian or Registrar may require payment from the depositor of Shares or the presenter of the Receipt or instruction for registration of transfer or surrender of American Depositary Shares not evidenced by a Receipt of a sum sufficient to reimburse it for any tax or other governmental charge and any stock transfer or registration fee with respect thereto (including any such tax or charge and fee with respect to Shares being deposited or withdrawn) and payment of any applicable fees as provided in this Deposit Agreement, may require the production of proof satisfactory to it as to the identity and genuineness of any signature and may also require compliance with any regulations the Depositary may establish consistent with the provisions of this Deposit Agreement, including, without limitation, this Section 2.6.

The delivery of American Depositary Shares against deposit of Shares generally or against deposit of particular Shares may be suspended, or the registration of transfer of American Depositary Shares in particular instances may be refused, or the registration of transfer of outstanding American Depositary Shares generally may be suspended, during any period when the transfer books of the Depositary are closed, or if any such action is deemed necessary or advisable by the Depositary or the Company at any time or from time to time because of any requirement of law or of any government or governmental body or commission, or under any provision of this Deposit Agreement, or for any other reason. Notwithstanding anything to the contrary in this Deposit Agreement, the surrender of outstanding American Depositary Shares and withdrawal of Deposited Securities may not be suspended, subject only to (i) temporary delays caused by closing the transfer books of the Depositary or the Company or the Foreign Registrar, if applicable, or the deposit of Shares in connection with voting at a shareholders' meeting, or the payment of dividends, (ii) the payment of fees, taxes and similar charges, and (iii) compliance with any U.S. or foreign laws or governmental regulations relating to the American Depositary Shares or to the withdrawal of the Deposited Securities; in each case, the Depositary shall notify the Company as promptly as practicable of any such suspension or delay that is outside the ordinary course of business.

The Depositary shall not knowingly accept for deposit under this Deposit Agreement any Shares that, at the time of deposit, are Restricted Securities.

SECTION 2.7. Lost Receipts, etc.

If a Receipt is mutilated, destroyed, lost or stolen, the Depositary shall deliver to the Owner the American Depositary Shares evidenced by that Receipt in uncertificated form or, if requested by the Owner, execute and deliver a new Receipt of like tenor in exchange and substitution for such mutilated Receipt, upon surrender and cancellation of that mutilated Receipt, or in lieu of and in substitution for that destroyed,

lost or stolen Receipt. However, before the Depositary will deliver American Depositary Shares in uncertificated form or execute and deliver a new Receipt, in substitution for a destroyed, lost or stolen Receipt, the Owner must (a) file with the Depositary (i) a request for that replacement before the Depositary has notice that the Receipt has been acquired by a bona fide purchaser and (ii) a sufficient indemnity bond and (b) satisfy any other reasonable requirements imposed by the Depositary.

#### SECTION 2.8. Cancellation and Destruction of Surrendered Receipts.

The Depositary shall cancel all Receipts surrendered to it and is authorized to destroy Receipts so cancelled.

#### SECTION 2.9. Pre-Release of American Depositary Shares.

Notwithstanding Section 2.3, and unless otherwise instructed in writing by the Company, the Depositary may deliver American Depositary Shares prior to the receipt of Shares pursuant to Section 2.2 (a “Pre-Release”). The Depositary may, pursuant to Section 2.5, deliver Shares upon the surrender of American Depositary Shares that have been Pre-Released, whether or not that surrender is prior to the termination of that Pre-Release or the Depositary knows that those American Depositary Shares have been Pre-Released. The Depositary may receive American Depositary Shares in lieu of Shares in satisfaction of a Pre-Release. Each Pre-Release must be (a) preceded or accompanied by a written representation from the person to whom American Depositary Shares or Shares are to be delivered, that such person, or its customer, owns the Shares or American Depositary Shares to be remitted, as the case may be, (b) at all times fully collateralized with cash or such other collateral as the Depositary deems appropriate, (c) terminable by the Depositary on not more than five (5) business days’ notice, and (d) subject to all indemnities and credit regulations that the Depositary deems appropriate. The number of American Depositary Shares outstanding at any time as a result of Pre-Release will not normally exceed thirty percent (30%) of all American Depositary Shares outstanding; provided, however, that the Depositary reserves the right to change or disregard that limit from time to time as it deems appropriate.

The Depositary may retain for its own account any compensation received by it in connection with Pre-Release.

#### SECTION 2.10. DTC Direct Registration System and Profile Modification System.

(a) Notwithstanding the provisions of Section 2.4, the parties acknowledge that DTC’s Direct Registration System (“DRS”) and Profile Modification System (“Profile”) apply to the American Depositary Shares upon acceptance thereof to DRS by DTC. DRS is the system administered by DTC that facilitates interchange between registered holding of uncertificated securities and holding of security entitlements in those securities through DTC and a DTC participant. Profile is a required feature of DRS that

allows a DTC participant, claiming to act on behalf of an Owner of American Depositary Shares, to direct the Depositary to register a transfer of those American Depositary Shares to DTC or its nominee and to deliver those American Depositary Shares to the DTC account of that DTC participant without receipt by the Depositary of prior authorization from the Owner to register that transfer.

(b) In connection with DRS/Profile, the parties acknowledge that the Depositary will not determine whether the DTC participant that is claiming to be acting on behalf of an Owner in requesting a registration of transfer and delivery as described in paragraph (a) above has the actual authority to act on behalf of that Owner (notwithstanding any requirements under the Uniform Commercial Code). For the avoidance of doubt, the provisions of Sections 5.3 and 5.8 apply to the matters arising from the use of the DRS/Profile. The parties agree that the Depositary's reliance on and compliance with instructions received by the Depositary through the DRS/Profile system and otherwise in accordance with this Deposit Agreement shall not constitute negligence or bad faith on the part of the Depositary.

### ARTICLE 3. CERTAIN OBLIGATIONS OF OWNERS AND HOLDERS OF AMERICAN DEPOSITARY SHARES

#### SECTION 3.1. Filing Proofs, Certificates and Other Information.

Any person presenting Shares for deposit or any Owner or Holder may be required from time to time to file with the Depositary or the Custodian such proof of citizenship or residence, exchange control approval, or such information relating to the registration on the books of the Company or the Foreign Registrar, if applicable, to execute such certificates and to make such representations and warranties, as the Depositary may deem necessary or proper. The Depositary may withhold the delivery or registration of transfer of American Depositary Shares, the distribution of any dividend or other distribution or of the proceeds thereof or the delivery of any Deposited Securities until that proof or other information is filed or those certificates are executed or those representations and warranties are made.

Each Holder and Owner agrees to comply with requests from the Company pursuant to applicable law and regulations, the rules and requirements of the Euronext Paris stock exchange, the Nasdaq Global Market and of any other stock exchange on which the Shares or American Depositary Shares are, or may be, registered, traded or listed and any book-entry settlement system or the articles of association or similar document of the Company, which are made to provide information, inter alia, as to the capacity in which such Holder or Owner owns American Depositary Shares (and Shares, as the case may be) and regarding the identity of any other person(s) interested in such American Depositary Shares and the nature of such interest and various other matters, whether or not they are Holders or Owners at the time of such request. The Depositary agrees to use its reasonable efforts to forward, upon the request of the Company and at the Company's expense (unless otherwise agreed between the Company and the Depositary), any such request from the Company to the Owners and to forward to the Company any such responses to such requests received by the Depositary, to the extent that disclosure is permitted under applicable law.

Holders and Owners of American Depositary Shares may be required from time to time, and in a timely manner, to file such proof of taxpayer status, residence and beneficial ownership (as applicable), to execute such certificates and to make such representations and warranties, or to provide any other information or documents, as the Company, the Depositary or the Custodian may deem necessary or proper to fulfill the Company's, the Depositary's or the Custodian's obligations under applicable law.

### SECTION 3.2. Liability of Owner for Taxes.

If any tax or other governmental charge shall become payable by the Company, the Custodian or the Depositary with respect to or in connection with any American Depositary Shares or any Deposited Securities represented by any American Depositary Shares or in connection with a transaction to which Section 4.8 applies, that tax or other governmental charge shall be payable by the Owner of those American Depositary Shares to the Company or the Depositary (for further payment to the Custodian if applicable). The Depositary may refuse to register any transfer of those American Depositary Shares or any withdrawal of Deposited Securities represented by those American Depositary Shares until that payment is made, and may withhold any dividends or other distributions or the proceeds thereof, or may sell for the account of the Owner any part or all of the Deposited Securities represented by those American Depositary Shares and apply those dividends or other distributions or the net proceeds of any sale of that kind in payment of that tax or other governmental charge but, even after a sale of that kind, the Owner of those American Depositary Shares shall remain liable for any deficiency. The Depositary shall distribute any net proceeds of a sale made under this Section that are not used to pay taxes or governmental charges to the Owners entitled to them in accordance with Section 4.1. If the number of Shares represented by each American Depositary Share decreases as a result of a sale of Deposited Securities under this Section, the Depositary may call for surrender of the American Depositary Shares to be exchanged on a mandatory basis for a lesser number of American Depositary Shares and may sell American Depositary Shares to the extent necessary to avoid distributing fractions of American Depositary Shares in that exchange and distribute the net proceeds of that sale to the Owners entitled to them.

Every Holder and Owner agrees to indemnify the Depositary, the Company, the Custodian, and any of their respective agents, directors, officers, employees and affiliates (as such term is defined in Regulation C under the Securities Act of 1933) for, and to hold each of them harmless from, any claims by any governmental authority or any other entity or person with respect to taxes, additions to tax, penalties or interest arising out of any refund of taxes, reduced rate of withholding at source or other tax benefit obtained. The obligations of Holders and Owners of American Depositary Shares under this Section 3.2 of the Deposit Agreement shall survive any transfer of American Depositary Shares, any surrender of American Depositary Shares and withdrawal of Deposited Securities, as well as the termination of the Deposit Agreement.

### SECTION 3.3. Warranties on Deposit of Shares.

Every person depositing Shares under this Deposit Agreement shall be deemed thereby to represent and warrant that those Shares and each certificate therefor, if applicable, are validly issued, fully paid and nonassessable and were not issued in violation of any preemptive or similar rights of the holders of outstanding securities of the Company and that the person making that deposit is duly authorized so to do. Every depositing person shall also be deemed to represent that the Shares, at the time of deposit, are not Restricted Securities. All representations and warranties deemed made under this Section shall survive the deposit of Shares and delivery of American Depositary Shares.

### SECTION 3.4. Disclosure of Interests.

In order to comply with applicable laws and regulations or the articles of association or similar document of the Company, the Company may from time to time request each Owner and Holder to provide to the Depositary information relating to: (a) the capacity in which it holds American Depositary Shares, (b) the identity of any Holders or other persons or entities then or previously interested in those American Depositary Shares and the nature of those interests and (c) any other matter where disclosure of such matter is required for that compliance. Each Owner and Holder agrees to provide all information known to it in response to a request made pursuant to this Section. Each Holder consents to the disclosure by the Owner or any other Holder through which it holds American Depositary Shares, directly or indirectly, of all information responsive to a request made pursuant to this Section relating to that Holder that is known to that Owner or other Holder. The Depositary agrees to use reasonable efforts, at the Company's expense (unless otherwise agreed between the Company and the Depositary), to comply with written instructions requesting that the Depositary forward any request authorized under this Section to the Owners and to forward to the Company any responses it receives in response to that request.

Each Owner and Holder of American Depositary Shares further agrees to comply with the laws and regulations of the United States and the Republic of France (if and to the extent applicable) with respect to the disclosure requirements regarding beneficial ownership of Shares, all as if the American Depositary Shares were the Shares represented thereby, which is deemed to include, inter alia, requirements to make notifications and filings within the required timeframes to the Company, to the Commission, to the French Autorité des Marchés Financiers and any other authorities in the United States or in the Republic of France. The Company reserves the right to instruct Holders to deliver their American Depositary Shares for cancellation and withdrawal of the Deposited Securities so as to permit the Company to deal directly with the Holder thereof as a holder of Shares and Holders agree to comply with such instructions. The Depositary agrees to cooperate with the Company in its efforts to inform Holders of the Company's exercise of its rights under this paragraph and agrees to consult with, and provide reasonable assistance without risk, liability or expense on the part of the Depositary, to the Company on the manner or manners in which it may enforce such rights with respect to any Holder.

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ARTICLE 4. THE DEPOSITED SECURITIES

SECTION 4.1. Cash Distributions.

Whenever the Depositary receives any cash dividend or other cash distribution on Deposited Securities, the Depositary shall, subject to the provisions of Section 4.5, convert that dividend or other distribution into Dollars and distribute the amount thus received (net of the fees and expenses of the Depositary as provided in Section 5.9) to the Owners entitled thereto, in proportion to the number of American Depositary Shares representing those Deposited Securities held by them respectively; provided, however, that if the Custodian or the Depositary shall be required to withhold and does withhold from that cash dividend or other cash distribution an amount on account of taxes or other governmental charges, the amount distributed to the Owners of the American Depositary Shares representing those Deposited Securities shall be reduced accordingly. However, the depositary will not pay any Owner a fraction of one cent, but will round each Owner's entitlement to the nearest whole cent.

The Company or its agent will remit to the appropriate governmental agency in each applicable jurisdiction all amounts withheld and owing to such agency. The Depositary will forward to the Company or its agent such information from its records as the Company may reasonably request to enable the Company or its agent to file necessary reports with governmental agencies.

If a cash distribution would represent a return of all or substantially all the value of the Deposited Securities underlying American Depositary Shares, the Depositary may require surrender of those American Depositary Shares and may require payment of or deduct the fee for surrender of American Depositary Shares (whether or not it is also requiring surrender of American Depositary Shares) as a condition of making that cash distribution. A distribution of that kind shall be a Termination Option Event.

SECTION 4.2. Distributions Other Than Cash, Shares or Rights.

Subject to the provisions of Sections 4.11 and 5.9, whenever the Depositary receives any distribution other than a distribution described in Section 4.1, 4.3 or 4.4 on Deposited Securities (but not in exchange for or in conversion or in lieu of Deposited Securities), the Depositary shall cause the securities or property received by it to be distributed to the Owners entitled thereto, after deduction or upon payment of any fees and

expenses of the Depositary and any taxes or other governmental charges, in proportion to the number of American Depositary Shares representing such Deposited Securities held by them respectively, in any manner that the Depositary deems equitable and practicable for accomplishing that distribution (which may be a distribution of depositary shares representing the securities received); provided, however, that if in the opinion of the Depositary such distribution cannot be made proportionately among the Owners entitled thereto, or if for any other reason (including, but not limited to, any requirement that the Company or the Depositary withhold an amount on account of taxes or other governmental charges or that securities received must be registered under the Securities Act of 1933 in order to be distributed to Owners or Holders) the Depositary, after consultation with the Company to the extent practicable, deems such distribution not to be lawful and feasible, the Depositary may adopt such other method as it may deem equitable and practicable for the purpose of effecting such distribution, including, but not limited to, the public or private sale of the securities or property thus received, or any part thereof, and distribution of the net proceeds of any such sale (net of the fees and expenses of the Depositary as provided in Section 5.9) to the Owners entitled thereto, all in the manner and subject to the conditions set forth in Section 4.1. The Depositary may withhold any distribution of securities under this Section 4.2 if it has not received satisfactory assurances from the Company that the distribution does not require registration under the Securities Act of 1933. The Depositary may sell, by public or private sale, an amount of securities or other property it would otherwise distribute under this Section 4.2 that is sufficient to pay its fees and expenses in respect of that distribution.

If a distribution under this Section 4.2 would represent a return of all or substantially all the value of the Deposited Securities underlying American Depositary Shares, the Depositary may require surrender of those American Depositary Shares and may require payment of or deduct the fee for surrender of American Depositary Shares (whether or not it is also requiring surrender of American Depositary Shares) as a condition of making that distribution. A distribution of that kind shall be a Termination Option Event.

#### SECTION 4.3. Distributions in Shares.

Whenever the Depositary receives any distribution on Deposited Securities consisting of a dividend in, or free distribution of, Shares, the Depositary may deliver to the Owners entitled thereto, in proportion to the number of American Depositary Shares representing those Deposited Securities held by them respectively, an aggregate number of American Depositary Shares representing the amount of Shares received as that dividend or free distribution, subject to the terms and conditions of the Deposit Agreement with respect to the deposit of Shares and issuance of American Depositary Shares, including withholding of any tax or governmental charge as provided in Section 4.11 and payment of the fees and expenses of the Depositary as provided in Section 5.9 (and the Depositary may sell, by public or private sale, an amount of the Shares received (or American Depositary Shares representing those Shares) sufficient to pay its fees and expenses in



respect of that distribution). In lieu of delivering fractional American Depositary Shares, the Depositary may sell the amount of Shares represented by the aggregate of those fractions (or American Depositary Shares representing those Shares) and distribute the net proceeds, all in the manner and subject to the conditions described in Section 4.1. If and to the extent that additional American Depositary Shares are not so delivered and Shares or American Depositary Shares are not so sold, each American Depositary Share shall thenceforth also represent the additional Shares distributed on the Deposited Securities represented thereby.

If the Company declares a distribution in which holders of Deposited Securities have a right to elect whether to receive cash, Shares or other securities or a combination of those things, or a right to elect to have a distribution sold on their behalf, the Depositary may, after consultation with the Company, make that right of election available for exercise by Owners in any manner the Depositary considers to be lawful and practical. As a condition of making a distribution election right available to Owners, the Depositary may require satisfactory assurances from the Company that doing so does not require registration of any securities under the Securities Act of 1933.

#### SECTION 4.4. Rights.

(a) If rights are granted to the Depositary in respect of deposited Shares to purchase additional Shares or other securities, the Company and the Depositary shall endeavor to consult as to the actions, if any, the Depositary should take in connection with that grant of rights. The Depositary may, to the extent deemed by it to be lawful and practical (i) if requested in writing by the Company, grant to all or certain Owners rights to instruct the Depositary to purchase the securities to which the rights relate and deliver those securities or American Depositary Shares representing those securities to Owners, (ii) if requested in writing by the Company, deliver the rights to or to the order of certain Owners, or (iii) sell the rights to the extent practicable and distribute the net proceeds of that sale to Owners entitled to those proceeds. To the extent rights are not exercised, delivered or disposed of under (i), (ii) or (iii) above, the Depositary shall permit the rights to lapse unexercised.

(b) If the Depositary will act under (a)(i) above, the Company and the Depositary will enter into a separate agreement setting forth the conditions and procedures applicable to the particular offering. Upon instruction from an applicable Owner in the form the Depositary specified and upon payment by that Owner to the Depositary of an amount equal to the purchase price of the securities to be received upon the exercise of the rights, the Depositary shall, on behalf of that Owner, exercise the rights and purchase the securities. The purchased securities shall be delivered to, or as instructed by, the Depositary. The Depositary shall (i) deposit the purchased Shares under this Deposit Agreement and deliver American Depositary Shares representing those Shares to that Owner or (ii) deliver or cause the purchased Shares or other securities to be delivered to or to the order of that Owner. The Depositary will not act under (a)(i) above unless the offer and sale of the securities to which the rights relate are registered under the Securities Act of 1933 or the Depositary has received an opinion of United States counsel that is satisfactory to it to the effect that those securities may be sold and delivered to the applicable Owners without registration under the Securities Act of 1933.

(c) If the Depositary will act under (a)(ii) above, the Company and the Depositary will enter into a separate agreement setting forth the conditions and procedures applicable to the particular offering. Upon (i) the request of an applicable Owner to deliver the rights allocable to the American Depositary Shares of that Owner to an account specified by that Owner to which the rights can be delivered and (ii) receipt of such documents as the Company and the Depositary agreed to require to comply with applicable law, the Depositary will deliver those rights as requested by that Owner.

(d) If the Depositary will act under (a)(iii) above, the Depositary will use reasonable efforts to sell the rights in proportion to the number of American Depositary Shares held by the applicable Owners and pay the net proceeds to the Owners otherwise entitled to the rights that were sold, upon an averaged or other practical basis without regard to any distinctions among such Owners because of exchange restrictions or the date of delivery of any American Depositary Shares or otherwise.

(e) Payment or deduction of the fees of the Depositary as provided in Section 5.9 and payment or deduction of the expenses of the Depositary and any applicable taxes or other governmental charges shall be conditions of any delivery of securities or payment of cash proceeds under this Section 4.4.

(f) The Depositary shall not be responsible for any failure to determine that it may be lawful or feasible to make rights available to or exercise rights on behalf of Owners in general or any Owner in particular, or to sell rights.

#### SECTION 4.5. Conversion of Foreign Currency.

Whenever the Depositary or the Custodian receives foreign currency, by way of dividends or other distributions or the net proceeds from the sale of securities, property or rights, and if at the time of the receipt thereof the foreign currency so received can in the judgment of the Depositary be converted on a reasonable basis into Dollars and the resulting Dollars transferred to the United States, the Depositary shall convert or cause to be converted by sale or in any other manner that it may determine that foreign currency into Dollars, and those Dollars shall be distributed to the Owners entitled thereto. A cash distribution may be made upon an averaged or other practicable basis without regard to any distinctions among Owners based on exchange restrictions, the date of delivery of any American Depositary Shares or otherwise and shall be net of any expenses of conversion into Dollars incurred by the Depositary as provided in Section 5.9.

If a conversion of foreign currency or the repatriation or distribution of Dollars can be effected only with the approval or license of any government or agency thereof, the Depositary may, but will not be required to, file an application for that approval or license.

If the Depositary, after consultation with the Company to the extent practicable, determines that in its judgment any foreign currency received by the Depositary or the Custodian is not convertible on a reasonable basis into Dollars transferable to the United States, or if any approval or license of any government or agency thereof that is required for such conversion is not filed or sought by the Depositary, or if any required approval or license is not obtained within a reasonable period as determined by the Depositary, the Depositary may distribute the foreign currency received by the Depositary to, or in its discretion may hold such foreign currency uninvested and without liability for interest thereon for the respective accounts of, the Owners entitled to receive the same.

If any conversion of foreign currency, in whole or in part, cannot be effected for distribution to some of the Owners entitled thereto, the Depositary may in its discretion make that conversion and distribution in Dollars to the extent practicable and permissible to the Owners entitled thereto and may distribute the balance of the foreign currency received by the Depositary to, or hold that balance uninvested and without liability for interest thereon for the account of, the Owners entitled thereto.

The Depositary may convert currency itself or through any of its affiliates and, in those cases, acts as principal for its own account and not as agent, advisor, broker or fiduciary on behalf of any other person and earns revenue, including, without limitation, transaction spreads, that it will retain for its own account. The revenue is based on, among other things, the difference between the exchange rate assigned to the currency conversion made under this Deposit Agreement and the rate that the Depositary or its affiliate receives when buying or selling foreign currency for its own account. The Depositary makes no representation that the exchange rate used or obtained in any currency conversion under this Deposit Agreement will be the most favorable rate that could be obtained at the time or that the method by which that rate will be determined will be the most favorable to Owners, subject to the Depositary's obligations under Section 5.3. The methodology used to determine exchange rates used in currency conversions is available upon request.

#### SECTION 4.6. Fixing of Record Date.

Whenever a cash dividend, cash distribution or any other distribution is made on Deposited Securities or rights to purchase Shares or other securities are issued with respect to Deposited Securities (which rights will be delivered to or exercised or sold on behalf of Owners in accordance with Section 4.4) or the Depositary receives notice that a distribution or issuance of that kind will be made, or whenever the Depositary receives notice that a meeting of holders of Shares will be held in respect of which the Company has requested the Depositary to send a notice under Section 4.7, or whenever the Depositary will assess a fee or charge against the Owners, or whenever the Depositary causes a change in the number of Shares that are represented by each American Depositary

Share, or whenever the Depositary otherwise finds it necessary or convenient, the Depositary shall fix a record date, which shall be the same as, or as near as practicable to, any corresponding record date set by the Company with respect to Shares, (a) for the determination of the Owners (i) who shall be entitled to receive the benefit of that dividend or other distribution or those rights, (ii) who shall be entitled to give instructions for the exercise of voting rights at that meeting or (iii) who shall be responsible for that fee or charge or (iv) for any other purpose for which the record date was set, or (b) on or after which each American Depositary Share will represent the changed number of Shares. Subject to the provisions of Sections 4.1 through 4.5 and to the other terms and conditions of this Deposit Agreement, the Owners on a record date fixed by the Depositary shall be entitled to receive the amount distributable by the Depositary with respect to such dividend or other distribution or such rights or the net proceeds of sale thereof in proportion to the number of American Depositary Shares held by them respectively, to give voting instructions or to act in respect of the other matter for which that record date was fixed, or be responsible for that fee or charge, as the case may be.

#### SECTION 4.7. Voting of Deposited Shares.

(a) Upon receipt of notice of any meeting of holders of Shares at which holders of Shares will be entitled to vote, if requested in writing by the Company, the Depositary shall, as soon as practicable thereafter, Disseminate to the Owners a notice, the form of which shall be in the sole discretion of the Depositary, that shall contain (i) the information contained in the notice of meeting received by the Depositary, (ii) a statement that the Owners as of the close of business on a specified record date will be entitled, subject to any applicable provision of French law and of the articles of association or similar documents of the Company, to instruct the Depositary as to the exercise of the voting rights pertaining to the amount of Shares represented by their respective American Depositary Shares (iii) a statement as to the manner in which those instructions may be given in accordance with paragraph (b) below, including an express indication that instructions may be given or deemed given, to the Depositary to give a proxy to a person designated by the Company in accordance with applicable laws, and (iv) the last date on which the Depositary will accept instructions (the "Instruction Cutoff Date").

(b) Upon the written request of an Owner of American Depositary Shares, as of the date of the request or, if a record date was specified by the Depositary, as of that record date, received on or before any Instruction Cutoff Date established by the Depositary, the Depositary may, and if the Depositary sent a notice under the preceding paragraph shall, endeavor, in so far as practicable, to vote or cause to be voted the amount of deposited Shares represented by those American Depositary Shares in accordance with the instructions set forth in that request. The Depositary shall not vote or attempt to exercise the right to vote that attaches to the deposited Shares other than in accordance with instructions given by Owners and timely received by the Depositary on or before the Instruction Cutoff Date or as provided in the following sentence. If:

(i) the Company instructed the Depositary to Disseminate a notice under paragraph (a) above and complied with paragraph (d) below,

(ii) the voting instructions from an Owner of American Depositary Shares fail to specify the manner in which the Depositary is to vote as to a matter or no instructions are received by the Depositary from the Owner as to a matter on or before the Instruction Cutoff Date and

(iii) the Depositary has received from the Company, by the Instruction Cutoff Date, a written confirmation that (x) the Company wishes a proxy to be given under this sentence, (y) the Company reasonably does not know of any substantial opposition to the matter and (z) in the reasonable opinion of the Company's management the matter is not materially adverse to the interests of shareholders, then, the Depositary shall deem that Owner to have instructed the Depositary to give, and the Depositary shall give, a proxy to a person designated by the Company in accordance with applicable laws to vote or cause to be voted the number of Shares underlying those American Depositary Shares in favor of that matter if, but only if, that matter is endorsed by the Board of Directors of the Company.

(c) There can be no assurance that Owners generally or any Owner in particular will receive the notice described in paragraph (a) above in time to enable Owners to give instructions to the Depositary prior to the Instruction Cutoff Date.

(d) In order to give Owners a reasonable opportunity to instruct the Depositary as to the exercise of voting rights relating to Shares, if the Company will request the Depositary to Disseminate a notice under paragraph (a) above, the Company shall give the Depositary notice of the meeting, details concerning the matters to be voted upon and copies of materials to be made available to holders of Shares in connection with the meeting not less than 30 days prior to the meeting date.

Notwithstanding anything in this Section 4.7 to the contrary, the Depositary and the Company may modify, amend or adopt additional procedures from time to time as they determine may be necessary or appropriate.

Without prejudice to the Depositary's rights under Section 2.9, the Depositary will take no action to impair the ability of the Custodian to vote the number of Shares (including the Shares held by the Depositary in registered form) necessary to carry out the instructions of all Owners under this Section 4.7.

#### SECTION 4.8. Tender and Exchange Offers; Redemption, Replacement or Cancellation of Deposited Securities.

(a) The Depositary shall not tender any Deposited Securities in response to any voluntary cash tender offer, exchange offer or similar offer made to holders of Deposited Securities (a "Voluntary Offer") except when instructed in writing to do so by an Owner surrendering American Depositary Shares and subject to any conditions or procedures the Depositary may require.

(b) If the Depositary receives a written notice that Deposited Securities have been redeemed for cash or otherwise purchased for cash in a transaction that is mandatory and binding on the Depositary as a holder of those Deposited Securities (a "Redemption"), the Depositary, at the expense of the Company (unless otherwise agreed between the Company and the Depositary), shall (i) if required, surrender Deposited Securities that have been redeemed to the issuer of those securities or its agent on the redemption date, (ii) Disseminate a notice to Owners (A) notifying them of that Redemption, (B) calling for surrender of a corresponding number of American Depositary Shares and (C) notifying them that the called American Depositary Shares have been converted into a right only to receive the money received by the Depositary upon that Redemption and those net proceeds shall be the Deposited Securities to which Owners of those converted American Depositary Shares shall be entitled upon surrenders of those American Depositary Shares in accordance with Section 2.5 or 6.2 and (iii) distribute the money received upon that Redemption to the Owners entitled to it upon surrender by them of called American Depositary Shares in accordance with Section 2.5 (and, for the avoidance of doubt, Owners shall not be entitled to receive that money under Section 4.1 or 4.2). If the Redemption affects less than all the Deposited Securities, the Depositary shall call for surrender a corresponding portion of the outstanding American Depositary Shares and only those American Depositary Shares will automatically be converted into a right to receive the net proceeds of the Redemption. The Depositary shall allocate the American Depositary Shares converted under the preceding sentence among the Owners pro-rata to their respective holdings of American Depositary Shares immediately prior to the Redemption, except that the allocations may be adjusted so that no fraction of a converted American Depositary Share is allocated to any Owner. A Redemption of all or substantially all of the Deposited Securities shall be a Termination Option Event.

(c) If the Depositary is notified of or there occurs any change in nominal value or any subdivision, combination or any other reclassification of the Deposited Securities or any recapitalization, reorganization, sale of assets substantially as an entirety, merger or consolidation affecting the issuer of the Deposited Securities or to which it is a party that is mandatory and binding on the Depositary as a holder of Deposited Securities and as a result securities or other property have been or will be delivered in exchange, conversion, replacement or in lieu of, Deposited Securities (a "Replacement"), then (i) the Depositary shall, if required surrender the old Deposited Securities affected by that Replacement of Shares and hold, as new Deposited Securities under this Deposit Agreement, the new securities or other property delivered to it in that Replacement. However, the Depositary may elect to sell those new Deposited Securities if in the opinion of the Depositary, after consultation with the Company or its successor entity to the extent practicable, it is not lawful or not practical for it to hold those new Deposited Securities under this Deposit Agreement because those new Deposited Securities may not be distributed to Owners without registration under the Securities Act of 1933 or for any other reason, at public or private sale, at such places and on such terms as it deems proper and proceed as if those new Deposited Securities had been Redeemed under paragraph (b) above. A Replacement shall be a Termination Option Event.

(d) In the case of a Replacement where the new Deposited Securities will continue to be held under this Deposit Agreement, the Depositary may call for the surrender of outstanding Receipts to be exchanged for new Receipts specifically describing the new Deposited Securities and the number of those new Deposited Securities represented by each American Depositary Share. If the number of Shares represented by each American Depositary Share decreases as a result of a Replacement, the Depositary may, after consultation with the Company to the extent practicable, call for surrender of the American Depositary Shares to be exchanged on a mandatory basis for a lesser number of American Depositary Shares and may sell American Depositary Shares to the extent necessary to avoid distributing fractions of American Depositary Shares in that exchange and distribute the net proceeds of that sale to the Owners entitled to them.

(e) If there are no Deposited Securities with respect to American Depositary Shares, including if the Deposited Securities are cancelled, or the Deposited Securities with respect to American Depositary Shares have become apparently worthless, the Depositary may call for surrender of those American Depositary Shares or may cancel those American Depositary Shares, upon notice to Owners, and a Termination Option Event occurs.

#### SECTION 4.9. Reports.

The Depositary shall make available for inspection by Owners at its Office any reports and communications, including any proxy solicitation material, received from the Company which are both (a) received by the Depositary as the holder of the Deposited Securities and (b) made generally available to the holders of those Deposited Securities by the Company. The Company shall furnish reports and communications, including any proxy soliciting material to which this Section applies, to the Depositary in English, to the extent those materials are required to be translated into English pursuant to any regulations of the Commission.

#### SECTION 4.10. Lists of Owners.

Upon written request by the Company, the Depositary shall, at the expense of the Company (unless otherwise agreed between the Company and the Depositary), furnish to it a list, as of a recent date, of the names, addresses and American Depositary Share holdings of all Owners.

SECTION 4.11. Withholding.

In the event that the Depositary determines that any distribution received or to be made by the Depositary (including Shares and rights to subscribe therefor) is subject to any tax or other governmental charge that the Depositary is obligated to withhold, the Depositary may sell, by public or private sale, all or a portion of the distributed property (including Shares and rights to subscribe therefor) in the amounts and manner the Depositary deems necessary and practicable to pay those taxes or charges, and the Depositary shall distribute the net proceeds of that sale, after deduction of those taxes or charges, to the Owners entitled thereto in proportion to the number of American Depositary Shares held by them respectively.

None of the Company, the Depositary or the Custodian shall be liable for the failure by any Holder or Owner to obtain the benefits of credits on the basis of any tax withheld or paid against such Holder's or Owner's tax liability.

ARTICLE 5. THE DEPOSITARY, THE CUSTODIANS AND THE COMPANY

SECTION 5.1. Maintenance of Office and Transfer Books by the Depositary.

Until termination of this Deposit Agreement in accordance with its terms, the Depositary shall maintain facilities for the execution and delivery, registration, registration of transfers and surrender of American Depositary Shares in accordance with the provisions of this Deposit Agreement.

The Depositary shall keep books for the registration of American Depositary Shares, which shall be open for inspection by the Owners at the Depositary's Office during regular business hours, provided that such inspection is not for the purpose of communicating with Owners in the interest of a business or object other than the business of the Company or a matter related to this Deposit Agreement or the American Depositary Shares.

The Depositary may close the transfer books, at any time or from time to time, when deemed expedient by it in connection with the performance of its duties under this Deposit Agreement (whereupon it shall notify the Company as promptly as practicable of any closure that is outside the ordinary course of business).

Subject to the provisions of Section 5.4, if the Company lists any American Depositary Shares on one or more stock exchanges in the United States, the Depositary shall act as Registrar or appoint a Registrar or one or more co-registrars for registry of those American Depositary Shares in accordance with any requirements of that exchange or those exchanges. The Depositary shall notify the Company of any such appointment.



## SECTION 5.2. Prevention or Delay in Performance by the Depositary or the Company.

Neither the Depositary nor the Company nor any of their respective directors, employees, agents or affiliates shall incur any liability to any Owner or Holder (i) if by reason of any provision of any present or future law or regulation of the United States or any other country, or of any governmental or regulatory authority or stock exchange, or by reason of any provision, present or future, of the articles of association or similar document of the Company, or by reason of any provision of any securities issued or distributed by the Company, or any offering or distribution thereof, or by reason of any act of God or war or terrorism or other circumstances beyond its control, the Depositary or the Company is prevented from, forbidden to or delayed in, or could be subject to any civil or criminal penalty on account of doing or performing and therefore does not do or perform, any act or thing that, by the terms of this Deposit Agreement or the Deposited Securities, it is provided shall be done or performed, (ii) by reason of any exercise of, or failure to exercise, any discretion provided for in this Deposit Agreement (including any determination by the Depositary to take, or not take, any action that this Deposit Agreement provides the Depositary may take), (iii) for the inability of any Owner or Holder to benefit from any distribution, offering, right or other benefit that is made available to holders of Deposited Securities but is not, under the terms of this Deposit Agreement, made available to Owners or Holders, or (iv) for any special, consequential, indirect or punitive damages for any breach of the terms of this Deposit Agreement. Where, by the terms of a distribution to which Section 4.1, 4.2 or 4.3 applies, or an offering to which Section 4.4 applies, or for any other reason, that distribution or offering may not be made available to Owners, and the Depositary may not dispose of that distribution or offering on behalf of Owners and make the net proceeds available to Owners, then the Depositary shall not make that distribution or offering available to Owners, and shall allow any rights, if applicable, to lapse.

## SECTION 5.3. Obligations of the Depositary and the Company.

The Company assumes no obligation nor shall it be subject to any liability under this Deposit Agreement to any Owner or Holder or any other persons (other than the Depositary), except that the Company agrees to perform its obligations specifically set forth in this Deposit Agreement without negligence or bad faith.

The Depositary assumes no obligation nor shall it be subject to any liability under this Deposit Agreement to any Owner or Holder (including, without limitation, liability with respect to the validity or worth of the Deposited Securities), except that the Depositary agrees to perform its obligations specifically set forth in this Deposit Agreement without negligence or bad faith.

Neither the Depositary nor the Company shall be under any obligation to appear in, prosecute or defend any action, suit or other proceeding in respect of any Deposited Securities or in respect of the American Depositary Shares on behalf of any Owner or Holder or any other person.

Each of the Depositary and the Company may rely, and shall be protected in relying upon, any written notice, request, direction or other document believed by it to be genuine and to have been signed or presented by the proper party or parties.

Neither the Depositary nor the Company, nor any of their respective affiliates (as such term is defined in Regulation C under the Securities Act of 1933) or agents, shall be liable for any action or non-action by it in reliance upon the advice of or information from legal counsel, accountants, any person presenting Shares for deposit, any Owner or any other person believed by it in good faith to be competent to give such advice or information.

The Depositary shall not be liable for any acts or omissions made by a successor depositary whether in connection with a previous act or omission of the Depositary or in connection with any matter arising wholly after the removal or resignation of the Depositary, provided that in connection with the issue out of which such potential liability arises the Depositary performed its obligations without negligence or bad faith while it acted as Depositary.

The Depositary shall not be liable for the acts or omissions of any securities depository, clearing agency or settlement system in connection with or arising out of book-entry settlement of American Depositary Shares or Deposited Securities or otherwise.

In the absence of bad faith on its part, the Depositary shall not be responsible for any failure to carry out any instructions to vote any of the Deposited Securities, or for the manner in which any such vote is cast or the effect of any such vote.

Neither the Company nor the Depositary shall have any duty to make any determination or provide any information as to the tax status of the Company or any liability for any tax consequences that may be incurred by Owners or Holders as a result of owning or holding American Depositary Shares, including without limitation, tax consequences resulting from the Company (or any of its subsidiaries) being treated as a "Passive Foreign Investment Company" ("PFIC") (in each case as defined in the U.S. Internal Revenue Code and the regulations issued thereunder) or otherwise. The Company may have been in the past and may be in the future a PFIC for U.S. Federal income tax purposes. Owners must consult their own tax advisers as to the potential application of the PFIC rules.

No disclaimer of liability under the Securities Act of 1933 is intended by any provision of this Deposit Agreement.

#### SECTION 5.4. Resignation and Removal of the Depositary.

The Depositary may at any time resign as Depositary hereunder by written notice of its election so to do delivered to the Company, to become effective upon the appointment of a successor depositary and its acceptance of that appointment as provided in this Section. The effect of resignation if a successor depositary is not appointed is provided for in Section 6.2.

The Depositary may at any time be removed by the Company by 120 days' prior written notice of that removal, to become effective upon the later of (i) the 120th day after delivery of the notice to the Depositary and (ii) the appointment of a successor depositary and its acceptance of its appointment as provided in this Section.

In case at any time the Depositary acting hereunder shall resign or be removed, the Company shall use its best efforts to appoint a successor depositary, which shall be a bank or trust company having an office in the Borough of Manhattan, The City of New York. Every successor depositary shall execute and deliver to its predecessor and to the Company an instrument in writing accepting its appointment hereunder, and thereupon such successor depositary, without any further act or deed, shall become fully vested with all the rights, powers, duties and obligations of its predecessor; but such predecessor, nevertheless, upon payment of all sums due it and on the written request of the Company shall execute and deliver an instrument transferring to such successor all rights and powers of such predecessor hereunder, shall duly assign, transfer and deliver all right, title and interest in the Deposited Securities to such successor and shall deliver to such successor a list of the Owners of all outstanding American Depositary Shares. Any such successor depositary shall promptly mail notice of its appointment to the Owners.

Any corporation or other entity into or with which the Depositary may be merged or consolidated shall be the successor of the Depositary without the execution or filing of any document or any further act.

#### SECTION 5.5. The Custodians.

The Custodian shall be subject at all times and in all respects to the directions of the Depositary and shall be responsible solely to it. The Depositary in its discretion may at any time appoint a substitute or additional custodian or custodians, each of which shall thereafter be one of the Custodians under this Deposit Agreement. If the Depositary receives notice that a Custodian is resigning and, upon the effectiveness of that resignation there would be no Custodian acting under this Deposit Agreement, the Depositary shall, as promptly as practicable after receiving that notice, appoint a substitute custodian or custodians, each of which shall thereafter be a Custodian under this Deposit Agreement. The Depositary shall require any Custodian that resigns or is removed to deliver all Deposited Securities held by it to another Custodian.

#### SECTION 5.6. Notices and Reports.

On or before the first date on which the Company gives notice, by publication or otherwise, of any meeting of holders of Shares or other Deposited Securities, or of any adjourned meeting of those holders, or of the taking of any action in respect of any cash or other distributions or the granting of any rights, the Company agrees to transmit to the Depositary and the Custodian a copy of the notice thereof in English but otherwise in the form given or to be given to holders of Shares or other Deposited Securities.

The Company will arrange for the translation into English, if not already in English, to the extent required pursuant to any regulations of the Commission, and the prompt transmittal by the Company to the Depositary and the Custodian of all notices and any other reports and communications which are made generally available by the Company to holders of its Shares. If requested in writing by the Company, the Depositary will Disseminate, at the Company's expense unless otherwise agreed between the Company and the Depositary, those notices, reports and communications to all Owners or otherwise make them available to Owners in a manner that the Company specifies as substantially equivalent to the manner in which those communications are made available to holders of Shares and compliant with the requirements of any securities exchange on which the American Depositary Shares are listed. The Company will timely provide the Depositary with the quantity of such notices, reports, and communications, as requested by the Depositary from time to time, in order for the Depositary to effect that Dissemination.

The Company represents that as of the date of this Deposit Agreement, the statements in Article 11 of the Receipt with respect to the Company's obligation to file periodic reports under the United States Securities Exchange Act of 1934, as amended, are true and correct. The Company agrees to promptly notify the Depositary upon becoming aware of any change in the truth of any of those statements.

#### SECTION 5.7. Distribution of Additional Shares, Rights, etc.

If the Company or any affiliate of the Company determines to make any issuance or distribution of (1) additional Shares, (2) rights to subscribe for Shares, (3) securities convertible into Shares, or (4) rights to subscribe for such securities (each a "Distribution"), the Company shall notify the Depositary in writing in English as promptly as practicable and in any event before the Distribution starts and, if requested in writing by the Depositary, the Company shall promptly furnish to the Depositary either (i) evidence satisfactory to the Depositary that the Distribution is registered under the Securities Act of 1933 or (ii) a written opinion from U.S. counsel for the Company that is reasonably satisfactory to the Depositary, stating that the Distribution does not require, or, if made in the United States, would not require, registration under the Securities Act of 1933.

The Company agrees with the Depositary that neither the Company nor any company controlled by, controlling or under common control with the Company will at any time deposit any Shares that, at the time of deposit, are Restricted Securities.

#### SECTION 5.8. Indemnification.

The Company agrees to indemnify the Depositary, its directors, employees, agents and affiliates and each Custodian against, and hold each of them harmless from, any liability or expense (including, but not limited to any reasonable fees and expenses incurred in seeking, enforcing or collecting such indemnity and the fees and expenses of counsel) which may arise out of or in connection with (a) any registration with the Commission of American Depositary Shares or Deposited Securities or the offer or sale thereof in the

United States or (b) acts performed or omitted, pursuant to the provisions of or in connection with this Deposit Agreement and the American Depositary Shares, as the same may be amended, modified or supplemented from time to time, (i) by either the Depositary or a Custodian or their respective directors, employees, agents and affiliates, except for any liability or expense arising out of the negligence or bad faith of either of them, or (ii) by the Company or any of its directors, employees, agents and affiliates.

The Depositary agrees to indemnify the Company, its directors, officers, employees, agents and affiliates and hold them harmless from any liability or expense (including, but not limited to, the reasonable fees and expenses of counsel) which may arise out of acts performed or omitted by the Depositary or any Custodian or their respective directors, employees, agents and affiliates due to their negligence or bad faith.

The obligations set forth in this Section 5.8 shall survive the termination of this Deposit Agreement and the succession or substitution of any party hereto.

Any person seeking indemnification hereunder (an “indemnified person”) shall notify the person from whom it is seeking indemnification (the “indemnifying person”) of the commencement of any indemnifiable action or claim promptly after such indemnified person becomes aware of such commencement (provided that the failure to make such notification shall not affect such indemnified person’s rights to seek indemnification except to the extent the indemnifying person is materially prejudiced by such failure) and shall consult in good faith with the indemnifying person as to the conduct of the defense of such action or claim that may give rise to an indemnity hereunder, which defense shall be reasonable in the circumstances. No indemnified person shall compromise or settle any action or claim that may give rise to an indemnity hereunder without the consent of the indemnifying person, which consent shall not be unreasonably withheld.

#### SECTION 5.9. Charges of Depositary.

The Company agrees to pay the fees and out-of-pocket expenses of the Depositary and those of any Registrar only in accordance with agreements in writing entered into between the Depositary and the Company from time to time or to the extent that the Company is a depositor of Shares or an Owner.

The following charges shall be incurred by any party depositing or withdrawing Shares or by any party surrendering American Depositary Shares or to whom American Depositary Shares are issued (including, without limitation, issuance pursuant to a stock dividend or stock split declared by the Company or an exchange of stock regarding the American Depositary Shares or Deposited Securities or a delivery of American Depositary Shares pursuant to Section 4.3), or by Owners, as applicable: (1) taxes and other governmental charges, (2) such registration fees as may from time to time be in effect for the registration of transfers of Shares generally on the Share register of the Company or Foreign Registrar and applicable to transfers of Shares to or from the name of the Depositary or its nominee or the Custodian or its nominee on the making of deposits or

withdrawals hereunder, (3) such cable (including SWIFT) and facsimile transmission fees and expenses as are expressly provided in this Deposit Agreement, (4) such expenses as are incurred by the Depositary in the conversion of foreign currency pursuant to Section 4.5, (5) a fee of \$5.00 or less per 100 American Depositary Shares (or portion thereof) for the delivery of American Depositary Shares pursuant to Section 2.3, 4.3 or 4.4 and the surrender of American Depositary Shares pursuant to Section 2.5 or 6.2, (6) a fee of \$.05 or less per American Depositary Share (or portion thereof) for any cash distribution made pursuant to this Deposit Agreement, including, but not limited to Sections 4.1 through 4.4 and Section 4.8, (7) a fee for the distribution of securities pursuant to Section 4.2 or of rights pursuant to Section 4.4 (where the Depositary will not exercise or sell those rights on behalf of Owners), such fee being in an amount equal to the fee for the execution and delivery of American Depositary Shares referred to above which would have been charged as a result of the deposit of such securities under this Deposit Agreement (for purposes of this item 7 treating all such securities as if they were Shares) but which securities are instead distributed by the Depositary to Owners, (8) in addition to any fee charged under item 6 above, a fee of \$.05 or less per American Depositary Share (or portion thereof) per annum for depositary services, which will be payable as provided in item 9 below, and (9) any other charges payable by the Depositary or the Custodian, any of the Depositary's or Custodian's agents or the agents of the Depositary's or Custodian's agents, in connection with the servicing of Shares or other Deposited Securities (which charges shall be assessed against Owners as of the date or dates set by the Depositary in accordance with Section 4.6 and shall be payable at the sole discretion of the Depositary by billing those Owners for those charges or by deducting those charges from one or more cash dividends or other cash distributions).

The Depositary may collect any of its fees by deduction from any cash distribution payable, or by selling a portion of any securities to be distributed, to Owners that are obligated to pay those fees.

In performing its duties under this Deposit Agreement, the Depositary may use brokers, dealers, foreign currency dealers or other service providers that are owned by or affiliated with the Depositary and that may earn or share fees, spreads or commissions.

The Depositary, subject to Section 2.9, may own and deal in any class of securities of the Company and its affiliates and in American Depositary Shares.

#### SECTION 5.10. Retention of Depositary Documents.

The Depositary is authorized to destroy those documents, records, bills and other data compiled during the term of this Deposit Agreement at the times permitted by the laws or regulations governing the Depositary.

SECTION 5.11. Exclusivity.

Without prejudice to the Company's rights under Section 5.4, the Company agrees not to appoint any other depositary for issuance of depositary shares, depositary receipts or any similar securities or instruments (for the avoidance of doubt, other than instruments or securities issued directly by the Company) in the United States so long as The Bank of New York Mellon is acting as Depositary under this Deposit Agreement.

ARTICLE 6. AMENDMENT AND TERMINATION

SECTION 6.1. Amendment.

The form of the Receipts and any provisions of this Deposit Agreement may at any time and from time to time be amended by agreement between the Company and the Depositary without the consent of Owners or Holders in any respect that they may deem necessary or desirable. Any amendment that would impose or increase any fees or charges (other than taxes and other governmental charges, registration fees, cable, telex or facsimile transmission costs, delivery costs or other such expenses), or that would otherwise prejudice any substantial existing right of Owners, shall, however, not become effective as to outstanding American Depositary Shares until the expiration of 30 days after notice of that amendment has been Disseminated to the Owners of outstanding American Depositary Shares. Every Owner and Holder, at the time any amendment so becomes effective, shall be deemed, by continuing to hold American Depositary Shares or any interest therein, to consent and agree to that amendment and to be bound by the Deposit Agreement as amended thereby. Upon the effectiveness of an amendment to the form of Receipt, including a change in the number of Shares represented by each American Depositary Share, the Depositary may call for surrender of Receipts to be replaced with new Receipts in the amended form or call for surrender of American Depositary Shares to effect that change of ratio. In no event shall any amendment impair the right of the Owner to surrender American Depositary Shares and receive delivery of the Deposited Securities represented thereby, except in order to comply with mandatory provisions of applicable law.

SECTION 6.2. Termination.

(a) The Company may terminate this Deposit Agreement by notice to the Depositary. The Depositary may terminate this Deposit Agreement if (i) at any time 60 days shall have expired after the Depositary delivered to the Company a written resignation notice and a successor depositary has not been appointed and accepted its appointment as provided in Section 5.4, (ii) an Insolvency Event or Delisting Event occurs with respect to the Company or (iii) a Termination Option Event has occurred or will occur. If a termination of the Deposit Agreement has been initiated by the Company or the Depositary, the Depositary shall Disseminate a notice of termination to the Owners of all American Depositary Shares then outstanding setting a date for termination (the "Termination Date"), which shall be at least 90 days after the date of that notice, and this Deposit Agreement shall terminate on that Termination Date.

(b) After the Termination Date, the Company shall be discharged from all obligations under this Deposit Agreement except for its obligations to the Depositary under Sections 5.8 and 5.9.

(c) At any time after the Termination Date, the Depositary may sell the Deposited Securities then held under this Deposit Agreement and may thereafter hold uninvested the net proceeds of any such sale, together with any other cash then held by it hereunder, unsegregated and without liability for interest, for the pro rata benefit of the Owners of American Depositary Shares that remain outstanding, and those Owners will become general creditors of the Depositary with respect to those net proceeds. After making that sale, the Depositary shall be discharged from all obligations under this Deposit Agreement, except (i) to account for the net proceeds and other cash (after deducting, in each case, the fee of the Depositary for the surrender of American Depositary Shares, any expenses for the account of the Owner of such American Depositary Shares in accordance with the terms and conditions of this Deposit Agreement and any applicable taxes or governmental charges) and (ii) for its obligations under Section 5.8 and (iii) to act as provided in the paragraph (d) below.

(d) After the Termination Date, the Depositary shall continue to receive dividends and other distributions pertaining to Deposited Securities (that have not been sold), may sell rights and other property as provided in this Deposit Agreement and shall deliver Deposited Securities (or sale proceeds) upon surrender of American Depositary Shares (after payment or upon deduction, in each case, of the fee of the Depositary for the surrender of American Depositary Shares, any expenses for the account of the Owner of those American Depositary Shares in accordance with the terms and conditions of this Deposit Agreement and any applicable taxes or governmental charges). However, after the Termination Date, (i) the Depositary may refuse to accept surrenders of American Depositary Shares for the purpose of withdrawal of Deposited Securities (that have not been sold) if in its judgment the requested withdrawal would interfere with its efforts to sell the Deposited Securities, (ii) the Depositary will not be required to deliver cash proceeds of the sale of Deposited Securities until all Deposited Securities have been sold and (iii) the Depositary may discontinue the registration of transfers of American Depositary Shares and suspend the distribution of dividends and other distributions on Deposited Securities to the Owners and need not give any further notices or perform any further acts under this Deposit Agreement except as provided in this Section.

## ARTICLE 7. MISCELLANEOUS

### SECTION 7.1. Counterparts; Signatures.

This Deposit Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of those counterparts shall constitute one and the same instrument. Copies of this Deposit Agreement shall be filed with the Depositary and the Custodians and shall be open to inspection by any Owner or Holder during regular business hours.



Any manual signature on this Deposit Agreement that is faxed, scanned or photocopied, and any electronic signature valid under the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001, *et. seq.*, shall for all purposes have the same validity, legal effect and admissibility in evidence as an original manual signature, and the parties hereby waive any objection to the contrary.

SECTION 7.2. No Third Party Beneficiaries.

This Deposit Agreement is for the exclusive benefit of the parties and shall not be deemed to give any legal or equitable right, remedy or claim whatsoever to any other person.

SECTION 7.3. Severability.

In case any one or more of the provisions contained in this Deposit Agreement or in a Receipt should be or become invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in this Deposit Agreement or that Receipt shall in no way be affected, prejudiced or disturbed thereby.

SECTION 7.4. Owners and Holders as Parties; Binding Effect.

The Owners and Holders from time to time shall be parties to this Deposit Agreement and shall be bound by all of the terms and conditions of this Deposit Agreement and of the Receipts by acceptance of American Depositary Shares or any interest therein.

SECTION 7.5. Notices.

Any and all notices to be given to the Company shall be in writing and shall be deemed to have been duly given if personally delivered or sent by domestic first class or international air mail or air courier or sent by facsimile transmission or email attaching a pdf or similar bit-mapped image of a signed writing, provided that receipt of the facsimile transmission or email has been confirmed by the recipient, addressed to ERYTECH Pharma S.A., 60 avenue Rockefeller, Bâtiment Adénine, 4ème étage, 69008 Lyon, France, Attention: Gil Beyen, or any other place to which the Company may have transferred its principal office with notice to the Depositary.

Any and all notices to be given to the Depositary shall be in writing and shall be deemed to have been duly given if in English and personally delivered or sent by first class domestic or international air mail or air courier or sent by facsimile transmission or email attaching a pdf or similar bit-mapped image of a signed writing, addressed to The Bank of New York Mellon, 101 Barclay Street, New York, New York 10286, Attention: Depositary Receipt Administration, or any other place to which the Depositary may have transferred its Office with notice to the Company.

Delivery of a notice to the Company or Depositary by mail or air courier shall be deemed effected when deposited, postage prepaid, in a post-office letter box or received by an air courier service. Delivery of a notice to the Company or Depositary sent by facsimile transmission or email shall be deemed effected when the recipient acknowledges receipt of that notice.

A notice to be given to an Owner shall be deemed to have been duly given when Disseminated to that Owner. Dissemination in paper form will be effective when personally delivered or sent by first class domestic or international air mail or air courier, addressed to that Owner at the address of that Owner as it appears on the transfer books for American Depositary Shares of the Depositary, or, if that Owner has filed with the Depositary a written request that notices intended for that Owner be mailed to some other address, at the address designated in that request. Dissemination in electronic form will be effective when sent in the manner consented to by the Owner to the electronic address most recently provided by the Owner for that purpose.

**SECTION 7.6. Appointment of Agent for Service of Process; Submission to Jurisdiction; Jury Trial Waiver.**

The Company hereby (i) designates and appoints the person named in Exhibit A to this Deposit Agreement, located in the United States, as the Company's U.S. registered agent upon which process may be served in any suit or proceeding arising out of or relating to the Shares or Deposited Securities, the American Depositary Shares, the Receipts or this Deposit Agreement (a "Proceeding"), (ii) consents and submits to the jurisdiction of any state or federal court in the State of New York in which any Proceeding may be instituted and (iii) agrees that service of process upon said U.S. registered agent shall be deemed in every respect effective service of process upon the Company in any Proceeding. The Company agrees to deliver to the Depositary, upon the execution and delivery of this Deposit Agreement, a written acceptance by the above-named agent of its appointment as process agent. The Company further agrees to take any and all action, including the filing of any and all such documents and instruments, as may be necessary to continue that designation and appointment in full force and effect, or to appoint and maintain the appointment of another process agent located in the United States as required above, and to deliver to the Depositary a written acceptance by that agent of that appointment, for so long as any American Depositary Shares or Receipts remain outstanding or this Deposit Agreement remains in force. In the event the Company fails to maintain the designation and appointment of a process agent in the United States in full force and effect, the Company hereby waives personal service of process upon it and consents that a service of process in connection with a Proceeding may be made by certified or registered mail, return receipt requested, directed to the Company at its address last specified for notices under this Deposit Agreement, and service so made shall be deemed completed five (5) days after the same shall have been so mailed.

EACH PARTY TO THIS DEPOSIT AGREEMENT (INCLUDING, FOR AVOIDANCE OF DOUBT, EACH OWNER AND HOLDER) HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING AGAINST THE COMPANY AND/OR THE DEPOSITARY DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THE SHARES OR OTHER DEPOSITED SECURITIES, THE AMERICAN DEPOSITARY SHARES OR THE RECEIPTS, THIS DEPOSIT AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREIN OR THEREIN, OR THE BREACH HEREOF OR THEREOF, INCLUDING, WITHOUT LIMITATION, ANY QUESTION REGARDING EXISTENCE, VALIDITY OR TERMINATION (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY).

SECTION 7.7. Waiver of Immunities.

To the extent that the Company or any of its properties, assets or revenues may have or may hereafter become entitled to, or have attributed to it, any right of immunity, on the grounds of sovereignty or otherwise, from any legal action, suit or proceeding, from the giving of any relief in any respect thereof, from setoff or counterclaim, from the jurisdiction of any court, from service of process, from attachment upon or prior to judgment, from attachment in aid of execution or judgment, or from execution of judgment, or other legal process or proceeding for the giving of any relief or for the enforcement of any judgment, in any jurisdiction in which proceedings may at any time be commenced, with respect to its obligations, liabilities or any other matter under or arising out of or in connection with the Shares or Deposited Securities, the American Depositary Shares, the Receipts or this Deposit Agreement, the Company, to the fullest extent permitted by law, hereby irrevocably and unconditionally waives, and agrees not to plead or claim, any immunity of that kind and consents to relief and enforcement as provided above.

SECTION 7.8. Governing Law.

This Deposit Agreement and the Receipts shall be interpreted in accordance with and all rights hereunder and thereunder and provisions hereof and thereof shall be governed by the laws of the State of New York.

Title: Managing Director

EXHIBIT A

AMERICAN DEPOSITARY SHARES  
(Each American Depositary Share represents  
one deposited Share)

THE BANK OF NEW YORK MELLON  
AMERICAN DEPOSITARY RECEIPT  
FOR ORDINARY SHARES OF  
ERYTECH PHARMA S.A.  
(INCORPORATED UNDER THE LAWS OF FRANCE)

The Bank of New York Mellon, as depositary (hereinafter called the “Depositary”), hereby certifies  
that \_\_\_\_\_, or registered assigns IS THE OWNER OF \_\_\_\_\_

AMERICAN DEPOSITARY SHARES

representing deposited ordinary shares (herein called “Shares”) of ERYTECH Pharma S.A., incorporated under the laws of France (herein called the “Company”). At the date hereof, each American Depositary Share represents one Share deposited or subject to deposit under the Deposit Agreement (as such term is hereinafter defined) with a custodian for the Depositary (herein called the “Custodian”) that, as of the date of the Deposit Agreement, was Société Générale located in Paris. The Depositary’s Office is located at a different address than its principal executive office. Its Office is located at 101 Barclay Street, New York, N.Y. 10286, and its principal executive office is located at 225 Liberty Street, New York, N.Y. 10286.

THE DEPOSITARY’S OFFICE ADDRESS IS  
101 BARCLAY STREET, NEW YORK, N.Y. 10286

## 1. THE DEPOSIT AGREEMENT.

This American Depositary Receipt is one of an issue (herein called “Receipts”), all issued and to be issued upon the terms and conditions set forth in the Amended and Restated Deposit Agreement dated as of May 14, 2018 (herein called the “Deposit Agreement”) among the Company, the Depositary, and all Owners and Holders from time to time of American Depositary Shares issued thereunder, each of whom by accepting American Depositary Shares agrees to become a party thereto and become bound by all the terms and conditions thereof. The Deposit Agreement sets forth the rights of Owners and Holders and the rights and duties of the Depositary in respect of the Shares deposited thereunder and any and all other securities, property and cash from time to time received in respect of those Shares and held thereunder (those Shares, securities, property, and cash are herein called “Deposited Securities”). Copies of the Deposit Agreement are on file at the Depositary’s Office in New York City and at the office of the Custodian.

The statements made on the face and reverse of this Receipt are summaries of certain provisions of the Deposit Agreement and are qualified by and subject to the detailed provisions of the Deposit Agreement, to which reference is hereby made. Capitalized terms defined in the Deposit Agreement and not defined herein shall have the meanings set forth in the Deposit Agreement.

## 2. SURRENDER OF RECEIPTS AND WITHDRAWAL OF SHARES.

Upon surrender at the Depositary’s Office of American Depositary Shares for the purpose of withdrawal of the Deposited Securities represented thereby and payment of the fee of the Depositary for the surrender of American Depositary Shares as provided in Section 5.9 of the Deposit Agreement and payment of all taxes and governmental charges payable in connection with that surrender and withdrawal of the Deposited Securities, and subject to the terms and conditions of this Deposit Agreement, the Owner of those American Depositary Shares shall be entitled to delivery (to the extent delivery can then be lawfully and practicably made), to or as instructed by that Owner, of the amount of Deposited Securities at the time represented by those American Depositary Shares. That delivery will be made, at the office of the Custodian, except that, at the request, risk and expense of the surrendering Owner, and for the account of that Owner, the Depositary shall direct the Custodian to forward any cash or other property comprising, and forward a certificate or certificates, if applicable, and other proper documents of title, if any, for, the Deposited Securities represented by the surrendered American Depositary Shares to the Depositary for delivery at the Depositary’s Office or to another address specified in the order received from the surrendering Owner. The Depositary shall direct the Custodian with respect to delivery of Deposited Securities and may charge the surrendering Owner a fee and its expenses for doing so.

3. REGISTRATION OF TRANSFER OF AMERICAN DEPOSITARY SHARES; COMBINATION AND SPLIT-UP OF RECEIPTS; INTERCHANGE OF CERTIFICATED AND UNCERTIFICATED AMERICAN DEPOSITARY SHARES.

The Depositary, subject to the terms and conditions of the Deposit Agreement, shall register a transfer of American Depositary Shares on its transfer books upon (i) in the case of certificated American Depositary Shares, surrender of the Receipt evidencing those American Depositary Shares, by the Owner or by a duly authorized attorney, properly endorsed or accompanied by proper instruments of transfer or (ii) in the case of uncertificated American Depositary Shares, receipt from the Owner of a proper instruction (including, for the avoidance of doubt, instructions through DRS and Profile as provided in Section 2.10 of that Agreement), and, in either case, duly stamped as may be required by the laws of the State of New York and of the United States of America. Upon registration of a transfer, the Depositary shall deliver the transferred American Depositary Shares to or upon the order of the person entitled thereto.

The Depositary, subject to the terms and conditions of the Deposit Agreement, shall upon surrender of a Receipt or Receipts for the purpose of effecting a split-up or combination of such Receipt or Receipts, execute and deliver a new Receipt or Receipts for any authorized number of American Depositary Shares requested, evidencing the same aggregate number of American Depositary Shares as the Receipt or Receipts surrendered.

The Depositary, upon surrender of certificated American Depositary Shares for the purpose of exchanging for uncertificated American Depositary Shares, shall cancel the Receipt evidencing those certificated American Depositary Shares and send the Owner a statement confirming that the Owner is the owner of the same number of uncertificated American Depositary Shares. The Depositary, upon receipt of a proper instruction (including, for the avoidance of doubt, instructions through DRS and Profile as provided in Section 2.10 of the Deposit Agreement) from the Owner of uncertificated American Depositary Shares for the purpose of exchanging for certificated American Depositary Shares, shall cancel those uncertificated American Depositary Shares and register and deliver to the Owner a Receipt evidencing the same number of certificated American Depositary Shares.

As a condition precedent to the delivery, registration of transfer, or surrender of any American Depositary Shares or split-up or combination of any Receipt or withdrawal of any Deposited Securities, the Depositary, the Custodian, or Registrar may require payment from the depositor of the Shares or the presenter of the Receipt or instruction for registration of transfer or surrender of American Depositary Shares not evidenced by a Receipt of a sum sufficient to reimburse it for any tax or other governmental charge and any stock transfer or registration fee with respect thereto (including any such tax or charge and fee with respect to Shares being deposited or withdrawn) and payment of any applicable fees as provided in the Deposit Agreement, may require the production of proof satisfactory to it as to the identity and genuineness of any signature and may also require compliance with any regulations the Depositary may establish consistent with the provisions of the Deposit Agreement.

The delivery of American Depositary Shares against deposit of Shares generally or against deposit of particular Shares may be suspended, or the registration of transfer of American Depositary Shares in particular instances may be refused, or the registration of transfer of outstanding American Depositary Shares generally may be suspended, during any period when the transfer books of the Depositary are closed, or if any such action is deemed necessary or advisable by the Depositary or the Company at any time or from time to time because of any requirement of law or of any government or governmental body or commission, or under any provision of the Deposit Agreement, or for any other reason. Notwithstanding anything to the contrary in the Deposit Agreement or this Receipt, the surrender of outstanding American Depositary Shares and withdrawal of Deposited Securities may not be suspended subject only to (i) temporary delays caused by closing the transfer books of the Depositary or the Company or the Foreign Registrar, if applicable, or the deposit of Shares in connection with voting at a shareholders' meeting, or the payment of dividends, (ii) the payment of fees, taxes and similar charges, and (iii) compliance with any U.S. or foreign laws or governmental regulations relating to the American Depositary Shares or to the withdrawal of the Deposited Securities; in each case, the Depositary shall notify the Company as promptly as practicable of any such suspension or delay that is outside the ordinary course of business.

The Depositary shall not knowingly accept for deposit under the Deposit Agreement any Shares that, at the time of deposit, are Restricted Securities.

#### 4. LIABILITY OF OWNER FOR TAXES.

If any tax or other governmental charge shall become payable with respect to or in connection with any American Depositary Shares or any Deposited Securities represented by any American Depositary Shares or in connection with a transaction to which Section 4.8 of the Deposit Agreement applies, that tax or other governmental charge shall be payable by the Owner to the Company or the Depositary (for further payment to the Custodian if applicable). The Depositary may refuse to register any transfer of those American Depositary Shares or any withdrawal of Deposited Securities represented by those American Depositary Shares until that payment is made, and may withhold any dividends or other distributions or the proceeds thereof, or may sell for the account of the Owner any part or all of the Deposited Securities represented by those American Depositary Shares, and may apply those dividends or other distributions or the net proceeds of any sale of that kind in payment of that tax or other governmental charge but, even after a sale of that kind, the Owner shall remain liable for any deficiency. The Depositary shall distribute any net proceeds of a sale made under Section 3.2 of the Deposit Agreement that are not used to pay taxes or governmental charges to the Owners entitled to them in accordance with Section 4.1 of the Deposit Agreement. If the number of Shares represented by each American Depositary Share decreases as a result of a sale of Deposited



Securities under Section 3.2 of the Deposit Agreement, the Depositary may call for surrender of the American Depositary Shares to be exchanged on a mandatory basis for a lesser number of American Depositary Shares and may sell American Depositary Shares to the extent necessary to avoid distributing fractions of American Depositary Shares in that exchange and distribute the net proceeds of that sale to the Owners entitled to them.

Every Holder and Owner agrees to indemnify the Depositary, the Company, the Custodian, and any of their respective agents, directors, officers, employees and affiliates (as such term is defined in Regulation C under the Securities Act of 1933) for, and to hold each of them harmless from, any claims by any governmental authority or any other entity or person with respect to taxes, additions to tax, penalties or interest arising out of any refund of taxes, reduced rate of withholding at source or other tax benefit obtained. The obligations of Holders and Owners of American Depositary Shares under Section 3.2 of the Deposit Agreement shall survive any transfer of American Depositary Shares, any surrender of American Depositary Shares and withdrawal of Deposited Securities, as well as the termination of the Deposit Agreement

5. WARRANTIES ON DEPOSIT OF SHARES.

Every person depositing Shares under the Deposit Agreement shall be deemed thereby to represent and warrant, that those Shares and each certificate therefor, if applicable, are validly issued, fully paid and nonassessable and were not issued in violation of any preemptive or similar rights of the holders of outstanding securities of the Company and that the person making that deposit is duly authorized so to do. Every depositing person shall also be deemed to represent that the Shares, at the time of deposit, are not Restricted Securities. All representations and warranties deemed made under Section 3.3 of the Deposit Agreement shall survive the deposit of Shares and delivery of American Depositary Shares.

6. FILING PROOFS, CERTIFICATES, AND OTHER INFORMATION.

Any person presenting Shares for deposit or any Owner or Holder may be required from time to time to file with the Depositary or the Custodian such proof of citizenship or residence, exchange control approval, or such information relating to the registration on the books of the Company or the Foreign Registrar, if applicable, to execute such certificates and to make such representations and warranties, as the Depositary may deem necessary or proper. The Depositary may withhold the delivery or registration of transfer of any American Depositary Shares, the distribution of any dividend or other distribution or of the proceeds thereof or the delivery of any Deposited Securities until that proof or other information is filed or those certificates are executed or those representations and warranties are made. Each Holder and Owner agrees to comply with requests from the Company pursuant to applicable law and regulations, the rules and requirements of the Euronext Paris stock exchange, the Nasdaq Global Market and of any other stock exchange on which the Shares or American Depositary Shares are, or may be, registered, traded or listed and any book-entry settlement system or the articles of association or similar

document of the Company, which are made to provide information, inter alia, as to the capacity in which such Holder or Owner owns American Depositary Shares (and Shares, as the case may be) and regarding the identity of any other person(s) interested in such American Depositary Shares and the nature of such interest and various other matters, whether or not they are Holders or Owners at the time of such request. The Depositary agrees to use its reasonable efforts to forward, upon the request of the Company and at the Company's expense (unless otherwise agreed between the Company and the Depositary), any such request from the Company to the Owners and to forward to the Company any such responses to such requests received by the Depositary, to the extent that disclosure is permitted under applicable law.

Holders and Owners of American Depositary Shares may be required from time to time, and in a timely manner, to file such proof of taxpayer status, residence and beneficial ownership (as applicable), to execute such certificates and to make such representations and warranties, or to provide any other information or documents, as the Company, the Depositary or the Custodian may deem necessary or proper to fulfill the Company's, the Depositary's or the Custodian's obligations under applicable law.

As conditions of accepting Shares for deposit, the Depositary may require (i) any certification required by the Depositary or the Custodian in accordance with the provisions of the Deposit Agreement, (ii) a written order directing the Depositary to deliver to, or upon the written order of, the person or persons stated in that order, the number of American Depositary Shares representing those Deposited Shares (iii) evidence satisfactory to the Depositary that those Shares have been re-registered in the books of the Company or the Foreign Registrar in the name of the Depositary, a Custodian or a nominee of the Depositary or a Custodian, (iv) evidence satisfactory to the Depositary that any necessary approval has been granted by any governmental body in each applicable jurisdiction and (v) an agreement or assignment, or other instrument satisfactory to the Depositary, that provides for the prompt transfer to the Custodian of any dividend, or right to subscribe for additional Shares or to receive other property, that any person in whose name those Shares are or have been recorded may thereafter receive upon or in respect of those Shares, or, in lieu thereof, such agreement of indemnity or other agreement as shall be satisfactory to the Depositary.

#### 7. CHARGES OF DEPOSITARY.

The following charges shall be incurred by any party depositing or withdrawing Shares or by any party surrendering American Depositary Shares or to whom American Depositary Shares are issued (including, without limitation, issuance pursuant to a stock dividend or stock split declared by the Company or an exchange of stock regarding the American Depositary Shares or Deposited Securities or a delivery of American Depositary Shares pursuant to Section 4.3 of the Deposit Agreement), or by Owners, as applicable: (1) taxes and other governmental charges, (2) such registration fees as may from time to time be in effect for the registration of transfers of Shares generally on the Share register

of the Company or Foreign Registrar and applicable to transfers of Shares to or from the name of the Depositary or its nominee or the Custodian or its nominee on the making of deposits or withdrawals hereunder, (3) such cable (including SWIFT) and facsimile transmission fees and expenses as are expressly provided in the Deposit Agreement, (4) such expenses as are incurred by the Depositary in the conversion of foreign currency pursuant to Section 4.5 of the Deposit Agreement, (5) a fee of \$5.00 or less per 100 American Depositary Shares (or portion thereof) for the delivery of American Depositary Shares pursuant to Section 2.3, 4.3 or 4.4 of the Deposit Agreement and the surrender of American Depositary Shares pursuant to Section 2.5 or 6.2 of the Deposit Agreement, (6) a fee of \$.05 or less per American Depositary Share (or portion thereof) for any cash distribution made pursuant to the Deposit Agreement, including, but not limited to Sections 4.1 through 4.4 and 4.8 of the Deposit Agreement, (7) a fee for the distribution of securities pursuant to Section 4.2 of the Deposit Agreement or of rights pursuant to Section 4.4 of that Agreement (where the Depositary will not exercise or sell those rights on behalf of Owners), such fee being in an amount equal to the fee for the execution and delivery of American Depositary Shares referred to above which would have been charged as a result of the deposit of such securities under the Deposit Agreement (for purposes of this item 7 treating all such securities as if they were Shares) but which securities are instead distributed by the Depositary to Owners, (8) in addition to any fee charged under item 6, a fee of \$.05 or less per American Depositary Share (or portion thereof) per annum for depositary services, which will be payable as provided in item 9 below, and (9) any other charges payable by the Depositary or the Custodian, any of the Depositary's or Custodian's agents or the agents of the Depositary's or Custodian's agents, in connection with the servicing of Shares or other Deposited Securities (which charges shall be assessed against Owners as of the date or dates set by the Depositary in accordance with Section 4.6 of the Deposit Agreement and shall be payable at the sole discretion of the Depositary by billing those Owners for those charges or by deducting those charges from one or more cash dividends or other cash distributions).

The Depositary may collect any of its fees by deduction from any cash distribution payable, or by selling a portion of any securities to be distributed, to Owners that are obligated to pay those fees.

In performing its duties under this Deposit Agreement, the Depositary may use brokers, dealers, foreign currency dealers or other service providers that are owned by or affiliated with the Depositary and that may earn or share fees, spreads or commissions.

The Depositary, subject to Article 8 hereof, may own and deal in any class of securities of the Company and its affiliates and in American Depositary Shares.

From time to time, the Depositary may make payments to the Company to reimburse the Company for costs and expenses generally arising out of establishment and maintenance of the American Depositary Shares program, waive fees and expenses for services provided by the Depositary or share revenue from the fees collected from Owners or Holders. In performing its duties under the Deposit Agreement, the Depositary may use brokers, dealers or other service providers that are affiliates of the Depositary and that may earn or share fees and commissions.

8. PRE-RELEASE OF RECEIPTS.

Notwithstanding Section 2.3 of the Deposit Agreement, and unless otherwise instructed in writing by the Company, the Depositary may deliver American Depositary Shares prior to the receipt of Shares pursuant to Section 2.2 of the Deposit Agreement (a “Pre-Release”). The Depositary may, pursuant to Section 2.5 of the Deposit Agreement, deliver Shares upon the surrender of American Depositary Shares that have been Pre-Released, whether or not that surrender is prior to the termination of that Pre-Release or the Depositary knows that those American Depositary Shares have been Pre-Released. The Depositary may receive American Depositary Shares in lieu of Shares in satisfaction of a Pre-Release. Each Pre-Release must be (a) preceded or accompanied by a written representation from the person to whom American Depositary Shares or Shares are to be delivered, that such person, or its customer, owns the Shares or American Depositary Shares to be remitted, as the case may be, (b) at all times fully collateralized with cash or such other collateral as the Depositary deems appropriate, (c) terminable by the Depositary on not more than five (5) business days’ notice, and (d) subject to all indemnities and credit regulations that the Depositary deems appropriate. The number of American Depositary Shares outstanding at any time as a result of Pre-Release will not normally exceed thirty percent (30%) of all American Depositary Shares outstanding; provided, however, that the Depositary reserves the right to change or disregard that limit from time to time as it deems appropriate.

The Depositary may retain for its own account any compensation received by it in connection with Pre-Release.

9. TITLE TO AMERICAN DEPOSITARY SHARES.

It is a condition of the American Depositary Shares, and every successive Owner and Holder of American Depositary Shares, by accepting or holding the same consents and agrees that American Depositary Shares evidenced by a Receipt, when the Receipt is properly endorsed or accompanied by proper instruments of transfer, shall be transferable as certificated registered securities under the laws of the State of New York, and that American Depositary Shares not evidenced by Receipts shall be transferable as uncertificated registered securities under the laws of the State of New York. The Depositary, notwithstanding any notice to the contrary, may treat the Owner of American Depositary Shares as the absolute owner thereof for the purpose of determining the person entitled to distribution of dividends or other distributions or to any notice provided for in the Deposit Agreement and for all other purposes, and neither the Depositary nor the Company shall have any obligation or be subject to any liability under the Deposit Agreement to any Holder of American Depositary Shares, but only to the Owner.

#### 10. VALIDITY OF RECEIPT.

This Receipt shall not be entitled to any benefits under the Deposit Agreement or be valid or obligatory for any purpose, unless this Receipt shall have been (i) executed by the Depositary by the manual signature of a duly authorized officer of the Depositary or (ii) executed by the facsimile signature of a duly authorized officer of the Depositary and countersigned by the manual signature of a duly authorized signatory of the Depositary or the Registrar or a co-registrar.

#### 11. REPORTS; INSPECTION OF TRANSFER BOOKS.

The Company is subject to the periodic reporting requirements of the Securities Exchange Act of 1934 and, accordingly, files certain reports with the Securities and Exchange Commission. Those reports will be available for inspection and copying through the Commission's EDGAR system or at public reference facilities maintained by the Commission in Washington, D.C.

The Depositary will make available for inspection by Owners at its Office any reports, notices and other communications, including any proxy soliciting material, received from the Company which are both (a) received by the Depositary as the holder of the Deposited Securities and (b) made generally available to the holders of those Deposited Securities by the Company. The Company shall furnish reports and communications, including any proxy soliciting material to which Section 4.9 of the Deposit Agreement applies, to the Depositary in English, to the extent such materials are required to be translated into English pursuant to any regulations of the Commission.

The Depositary will keep books for the registration of American Depositary Shares and transfers of American Depositary Shares, which shall be open for inspection by the Owners at the Depositary's Office during regular business hours, provided that such inspection shall not be for the purpose of communicating with Owners in the interest of a business or object other than the business of the Company or a matter related to the Deposit Agreement or the American Depositary Shares.

#### 12. DIVIDENDS AND DISTRIBUTIONS.

Whenever the Depositary receives any cash dividend or other cash distribution on Deposited Securities, the Depositary will, if at the time of receipt thereof any amounts received in a foreign currency can in the judgment of the Depositary be converted on a reasonable basis into Dollars transferable to the United States, and subject to the Deposit Agreement, convert that dividend or other cash distribution into Dollars and distribute the amount thus received (net of the fees and expenses of the Depositary as provided in Article 7 hereof and Section 5.9 of the Deposit Agreement) to the Owners entitled thereto; provided, however, that if the Custodian or the Depositary is required to withhold and does withhold from that cash dividend or other cash distribution an amount on account of taxes or other governmental charges, the amount distributed to the Owners of the American

Depository Shares representing those Deposited Securities shall be reduced accordingly. If a cash distribution would represent a return of all or substantially all the value of the Deposited Securities underlying American Depositary Shares, the Depositary may require surrender of those American Depositary Shares and may require payment of or deduct the fee for surrender of American Depositary Shares (whether or not it is also requiring surrender of American Depositary Shares) as a condition of making that cash distribution. A distribution of that kind shall be a Termination Option Event.

Subject to the provisions of Section 4.11 and 5.9 of the Deposit Agreement, whenever the Depositary receives any distribution other than a distribution described in Section 4.1, 4.3 or 4.4 of the Deposit Agreement on Deposited Securities (but not in exchange for or in conversion or in lieu of Deposited Securities), the Depositary will cause the securities or property received by it to be distributed to the Owners entitled thereto, after deduction or upon payment of any fees and expenses of the Depositary and any taxes or other governmental charges, in any manner that the Depositary deems equitable and practicable for accomplishing that distribution (which may be a distribution of depository shares representing the securities received); provided, however, that if in the opinion of the Depositary such distribution cannot be made proportionately among the Owners of Receipts entitled thereto, or if for any other reason the Depositary, after consultation with the Company to the extent practicable, deems such distribution not to be lawful and feasible, the Depositary may adopt such other method as it may deem equitable and practicable for the purpose of effecting such distribution, including, but not limited to, the public or private sale of the securities or property thus received, or any part thereof, and distribution of the net proceeds of any such sale (net of the fees and expenses of the Depositary as provided in Article 7 hereof and Section 5.9 of the Deposit Agreement) to the Owners entitled thereto all in the manner and subject to the conditions set forth in Section 4.1 of the Deposit Agreement. The Depositary may withhold any distribution of securities under Section 4.2 of the Deposit Agreement if it has not received satisfactory assurances from the Company that the distribution does not require registration under the Securities Act of 1933. The Depositary may sell, by public or private sale, an amount of securities or other property it would otherwise distribute under this Article that is sufficient to pay its fees and expenses in respect of that distribution. If a distribution under Section 4.2 of the Deposit Agreement would represent a return of all of substantially all the value of the Deposited Securities underlying American Depositary Shares, the Depositary may require surrender of those American Depositary Shares and may require payment of or deduct the fee for surrender of American Depositary Shares (whether or not it is also requiring surrender of American Depositary Shares) as a condition of making that distribution. A distribution of that kind shall be a Termination Option Event.

Whenever the Depositary receives any distribution consisting of a dividend in, or free distribution of, Shares, the Depositary may deliver to the Owners entitled thereto, an aggregate number of American Depositary Shares representing the amount of Shares received as that dividend or free distribution, subject to the terms and conditions of the Deposit Agreement with respect to the deposit of Shares and after deduction or upon

issuance of American Depositary Shares, including the withholding of any tax or other governmental charge as provided in Section 4.11 of the Deposit Agreement and the payment of the fees and expenses of the Depositary as provided in Article 7 hereof and Section 5.9 of the Deposit Agreement (and the Depositary may sell, by public or private sale, an amount of Shares received (or American Depositary Shares representing those Shares) sufficient to pay its fees and expenses in respect of that distribution). In lieu of delivering fractional American Depositary Shares, the Depositary may sell the amount of Shares represented by the aggregate of those fractions (or American Depositary Shares representing those Shares) and distribute the net proceeds, all in the manner and subject to the conditions described in Section 4.1 of the Deposit Agreement. If and to the extent that additional American Depositary Shares are not so delivered and Shares or American Depositary Shares are not sold, each American Depositary Share shall thenceforth also represent the additional Shares distributed on the Deposited Securities represented thereby.

If the Company declares a distribution in which holders of Deposited Securities have a right to elect whether to receive cash, Shares or other securities or a combination of those things, or a right to elect to have a distribution sold on their behalf, the Depositary may, after consultation with the Company, make that right of election available for exercise by Owners any manner the Depositary considers to be lawful and practical. As a condition of making a distribution election right available to Owners, the Depositary may require satisfactory assurances from the Company that doing so does not require registration of any securities under the Securities Act of 1933.

In the event that the Depositary determines that any distribution received or to be made by the Depositary (including Shares and rights to subscribe therefor) is subject to any tax or other governmental charge that the Depositary is obligated to withhold, the Depositary may sell, by public or private sale, all or a portion of the distributed property (including Shares and rights to subscribe therefor) in the amounts and manner the Depositary deems necessary and practicable to pay any those taxes or charges, and the Depositary shall distribute the net proceeds of that sale, after deduction of those taxes or charges, to the Owners entitled thereto in proportion to the number of American Depositary Shares held by them respectively.

None of the Company, the Depositary or the Custodian shall be liable for the failure by any Holder or Owner to obtain the benefits of credits on the basis of any tax withheld or paid against such Holder's or Owner's tax liability.

### 13. RIGHTS.

(a) If rights are granted to the Depositary in respect of deposited Shares to purchase additional Shares or other securities, the Company and the Depositary shall endeavor to consult as to the actions, if any, the Depositary should take in connection with that grant of rights. The Depositary may, to the extent deemed by it to be lawful and practical (i) if requested in writing by the Company, grant to all or certain Owners rights to instruct the Depositary to purchase the securities to which the rights relate and deliver

those securities or American Depositary Shares representing those securities to Owners, (ii) if requested in writing by the Company, deliver the rights to or to the order of certain Owners, or (iii) sell the rights to the extent practicable and distribute the net proceeds of that sale to Owners entitled to those proceeds. To the extent rights are not exercised, delivered or disposed of under (i), (ii) or (iii) above, the Depositary shall permit the rights to lapse unexercised.

(b) If the Depositary will act under (a)(i) above, the Company and the Depositary will enter into a separate agreement setting forth the conditions and procedures applicable to the particular offering. Upon instruction from an applicable Owner in the form the Depositary specified and upon payment by that Owner to the Depositary of an amount equal to the purchase price of the securities to be received upon the exercise of the rights, the Depositary shall, on behalf of that Owner, exercise the rights and purchase the securities. The purchased securities shall be delivered to, or as instructed by, the Depositary. The Depositary shall (i) deposit the purchased Shares under the Deposit Agreement and deliver American Depositary Shares representing those Shares to that Owner or (ii) deliver or cause the purchased Shares or other securities to be delivered to or to the order of that Owner. The Depositary will not act under (a)(i) above unless the offer and sale of the securities to which the rights relate are registered under the Securities Act of 1933 or the Depositary has received an opinion of United States counsel that is satisfactory to it to the effect that those securities may be sold and delivered to the applicable Owners without registration under the Securities Act of 1933.

(c) If the Depositary will act under (a)(ii) above, the Company and the Depositary will enter into a separate agreement setting forth the conditions and procedures applicable to the particular offering. Upon (i) the request of an applicable Owner to deliver the rights allocable to the American Depositary Shares of that Owner to an account specified by that Owner to which the rights can be delivered and (ii) receipt of such documents as the Company and the Depositary agreed to require to comply with applicable law, the Depositary will deliver those rights as requested by that Owner.

(d) If the Depositary will act under (a)(iii) above, the Depositary will use reasonable efforts to sell the rights in proportion to the number of American Depositary Shares held by the applicable Owners and pay the net proceeds to the Owners otherwise entitled to the rights that were sold, upon an averaged or other practical basis without regard to any distinctions among such Owners because of exchange restrictions or the date of delivery of any American Depositary Shares or otherwise.

(e) Payment or deduction of the fee of the Depositary as provided in Section 5.9 of the Deposit Agreement and payment or deduction of the expenses of the Depositary and any applicable taxes or other governmental charges shall be conditions of any delivery of securities or payment of cash proceeds under Section 4.4 of that Agreement.



(f) The Depositary shall not be responsible for any failure to determine that it may be lawful or feasible to make rights available to or exercise rights on behalf of Owners in general or any Owner in particular, or to sell rights.

#### 14. CONVERSION OF FOREIGN CURRENCY.

Whenever the Depositary or the Custodian receives foreign currency, by way of dividends or other distributions or the net proceeds from the sale of securities, property or rights, and if at the time of the receipt thereof the foreign currency so received can in the judgment of the Depositary be converted on a reasonable basis into Dollars and the resulting Dollars transferred to the United States, the Depositary shall convert or cause to be converted by sale or in any other manner that it may determine that foreign currency into Dollars, and those Dollars shall be distributed to the Owners entitled thereto. A cash distribution may be made upon an averaged or other practicable basis without regard to any distinctions among Owners based on exchange restrictions, the date of delivery of any American Depositary Shares or otherwise and shall be net of any expenses of conversion into Dollars incurred by the Depositary as provided in Section 5.9 of the Deposit Agreement.

If a conversion of foreign currency or the repatriation or distribution of Dollars can be effected only with the approval or license of any government or agency thereof, the Depositary may, but will not be required to, file an application for that approval or license.

If the Depositary, after consultation with the Company to the extent practicable, determines that in its judgment any foreign currency received by the Depositary or the Custodian is not convertible on a reasonable basis into Dollars transferable to the United States, or if any approval or license of any government or agency thereof that is required for such conversion is not filed or sought by the Depositary, or if any required approval or license is not obtained within a reasonable period as determined by the Depositary, the Depositary may distribute the foreign currency received by the Depositary to, or in its discretion may hold such foreign currency uninvested and without liability for interest thereon for the respective accounts of, the Owners entitled to receive the same.

If any conversion of foreign currency, in whole or in part, cannot be effected for distribution to some of the Owners entitled thereto, the Depositary may in its discretion make that conversion and distribution in Dollars to the extent practicable and permissible to the Owners entitled thereto and may distribute the balance of the foreign currency received by the Depositary to, or hold that balance uninvested and without liability for interest thereon for the account of, the Owners entitled thereto.

The Depositary may convert currency itself or through any of its affiliates and, in those cases, acts as principal for its own account and not as agent, advisor, broker or fiduciary on behalf of any other person and earns revenue, including, without limitation, transaction spreads, that it will retain for its own account. The revenue is based on, among other things, the difference between the exchange rate assigned to the currency conversion

made under this Deposit Agreement and the rate that the Depositary or its affiliate receives when buying or selling foreign currency for its own account. The Depositary makes no representation that the exchange rate used or obtained in any currency conversion under this Deposit Agreement will be the most favorable rate that could be obtained at the time or that the method by which that rate will be determined will be the most favorable to Owners, subject to the Depositary's obligations under Section 5.3. The methodology used to determine exchange rates used in currency conversions is available upon request.

#### 15. RECORD DATES.

Whenever a cash dividend, cash distribution or any other distribution is made on Deposited Securities or rights to purchase Shares or other securities are issued with respect to Deposited Securities (which rights will be delivered to or exercised or sold on behalf of Owners in accordance with Section 4.4 of the Deposit Agreement) or the Depositary receives notice that a distribution or issuance of that kind will be made, or whenever the Depositary receives notice that a meeting of holders of Shares will be held in respect of which the Company has requested the Depositary to send a notice under Section 4.7 of the Deposit Agreement, or whenever the Depositary will assess a fee or charge against the Owners, or whenever for any reason the Depositary causes a change in the number of Shares that are represented by each American Depositary Share, or whenever the Depositary otherwise finds it necessary or convenient, the Depositary shall fix a record date, which shall be the same as, or as near as practicable to, any corresponding record date set by the Company with respect to Shares, (a) for the determination of the Owners (i) who shall be entitled to receive the benefit of that dividend or other distribution or those rights, (ii) who shall be entitled to give instructions for the exercise of voting rights at that meeting, (iii) who shall be responsible for that fee or charge or (iv) for any other purpose for which the record date was set, or (b) on or after which each American Depositary Share will represent the changed number of Shares. Subject to the provisions of Sections 4.1 through 4.5 of the Deposit Agreement and to the other terms and conditions of the Deposit Agreement, the Owners on a record date fixed by the Depositary shall be entitled to receive the amount distributable by the Depositary with respect to that dividend or other distribution or those rights or the net proceeds of sale thereof in proportion to the number of American Depositary Shares held by them respectively, to give voting instructions or to act in respect of the other matter for which that record date was fixed, or be responsible for that fee or charge, as the case may be.

#### 16. VOTING OF DEPOSITED SHARES.

(a) Upon receipt of notice of any meeting of holders of Shares at which holders of Shares will be entitled to vote, if requested in writing by the Company, the Depositary shall, as soon as practicable thereafter, Disseminate to the Owners a notice, the form of which shall be in the sole discretion of the Depositary, that shall contain (i) the information contained in the notice of meeting received by the Depositary, (ii) a statement that the Owners as of the close of business on a specified record date will be entitled, subject to

any applicable provision of French law and of the articles of association or similar documents of the Company, to instruct the Depositary as to the exercise of the voting rights pertaining to the amount of Shares represented by their respective American Depositary Shares (iii) a statement as to the manner in which those instructions may be given in accordance with paragraph (b) below, including an express indication that instructions may be given or deemed given, to the Depositary to give a proxy to a person designated by the Company in accordance with applicable laws, and (iv) the last date on which the Depositary will accept instructions (the "Instruction Cutoff Date").

(b) Upon the written request of an Owner of American Depositary Shares, as of the date of the request or, if a record date was specified by the Depositary, as of that record date, received on or before any Instruction Cutoff Date established by the Depositary, the Depositary may, and if the Depositary sent a notice under the preceding paragraph shall, endeavor, in so far as practicable, to vote or cause to be voted the amount of deposited Shares represented by those American Depositary Shares in accordance with the instructions set forth in that request. The Depositary shall not vote or attempt to exercise the right to vote that attaches to the deposited Shares other than in accordance with instructions given by Owners and timely received by the Depositary on or before the Instruction Cutoff Date or as provided in the following sentence. If:

(i) the Company instructed the Depositary to Disseminate a notice under paragraph (a) above and complied with paragraph (d) below,

(ii) the voting instructions from an Owner of American Depositary Shares fail to specify the manner in which the Depositary is to vote as to a matter or no instructions are received by the Depositary from the Owner as to a matter on or before the Instruction Cutoff Date and

(iii) the Depositary has received from the Company, by the Instruction Cutoff Date, a written confirmation that (x) the Company wishes a proxy to be given under this sentence, (y) the Company reasonably does not know of any substantial opposition to the matter and (z) in the reasonable opinion of the Company's management the matter is not materially adverse to the interests of shareholders, then, the Depositary shall deem that Owner to have instructed the Depositary to give, and the Depositary shall give, a proxy to a person designated by the Company in accordance with applicable laws to vote or cause to be voted the number of Shares underlying those American Depositary Shares in favor of that matter if, but only if, that matter is endorsed by the Board of Directors of the Company.

(c) There can be no assurance that Owners generally or any Owner in particular will receive the notice described in paragraph (a) above in time to enable Owners to give instructions to the Depositary prior to the Instruction Cutoff Date.

(d) In order to give Owners a reasonable opportunity to instruct the Depositary as to the exercise of voting rights relating to Shares, if the Company will request the Depositary to Disseminate a notice under paragraph (a) above, the Company shall give the Depositary notice of the meeting, details concerning the matters to be voted upon and copies of materials to be made available to holders of Shares in connection with the meeting not less than 30 days prior to the meeting date.

Notwithstanding anything in Section 4.7 of the Deposit Agreement to the contrary, the Depositary and the Company may modify, amend or adopt additional procedures from time to time as they determine may be necessary or appropriate.

Without prejudice to the Depositary's rights under Section 2.9 of the Deposit Agreement, the Depositary will take no action to impair the ability of the Custodian to vote the number of Shares (including the Shares held by the Depositary in registered form) necessary to carry out the instructions of all Owners under Section 4.7 of the Deposit Agreement.

17. TENDER AND EXCHANGE OFFERS; REDEMPTION, REPLACEMENT OR CANCELLATION OF DEPOSITED SECURITIES.

(a) The Depositary shall not tender any Deposited Securities in response to any voluntary cash tender offer, exchange offer or similar offer made to holders of Deposited Securities (a "Voluntary Offer") except (i) when instructed in writing to do so by an Owner surrendering American Depositary Shares and subject to any conditions or procedures the Depositary may require.

(b) If the Depositary receives a written notice that Deposited Securities have been redeemed for cash or otherwise purchased for cash in a transaction that is mandatory and binding on the Depositary as a holder of those Deposited Securities (a "Redemption"), the Depositary, at the expense of the Company (unless otherwise agreed between the Company and the Depositary), shall (i) if required, surrender Deposited Securities that have been redeemed to the issuer of those securities or its agent on the redemption date, (ii) Disseminate a notice to Owners (A) notifying them of that Redemption, (B) calling for surrender of a corresponding number of American Depositary Shares and (C) notifying them that the called American Depositary Shares have been converted into a right only to receive the money received by the Depositary upon that Redemption and those net proceeds shall be the Deposited Securities to which Owners of those converted American Depositary Shares shall be entitled upon surrenders of those American Depositary Shares in accordance with Section 2.5 or 6.2 of the Deposit Agreement and (iii) distribute the money received upon that Redemption to the Owners entitled to it upon surrender by them of called American Depositary Shares in accordance with Section 2.5 of that Agreement (and, for the avoidance of doubt, Owners shall not be entitled to receive that money or other property under Section 4.1 or 4.2 of that Agreement). If the Redemption affects less than all the Deposited Securities, the Depositary shall call for surrender a corresponding portion of the outstanding American Depositary Shares and only those American Depositary Shares will automatically be converted into a right to receive the net proceeds of the Redemption. The Depositary shall allocate the American Depositary Shares converted under the preceding sentence among the Owners pro-rata to their respective holdings of

American Depositary Shares immediately prior to the Redemption, except that the allocations may be adjusted so that no fraction of a converted American Depositary Share is allocated to any Owner. A Redemption of all or substantially all of the Deposited Securities shall be a Termination Option Event.

(c) If the Depositary is notified of or there occurs any change in nominal value or any subdivision, combination or any other reclassification of the Deposited Securities or any recapitalization, reorganization, sale of assets substantially as an entirety, merger or consolidation affecting the issuer of the Deposited Securities or to which it is a party that is mandatory and binding on the Depositary as a holder of Deposited Securities and as a result securities or other property have been or will be delivered in exchange, conversion, replacement or in lieu of, Deposited Securities (a "Replacement"), then (i) the Depositary shall, if required surrender the old Deposited Securities affected by that Replacement of Shares and hold, as new Deposited Securities under the Deposit Agreement, the new securities or other property delivered to it in that Replacement. However, the Depositary may elect to sell those new Deposited Securities if in the opinion of the Depositary, after consultation with the Company or its successor entity to the extent practicable, it is not lawful or not practical for it to hold those new Deposited Securities under the Deposit Agreement because those new Deposited Securities may not be distributed to Owners without registration under the Securities Act of 1933 or for any other reason, at public or private sale, at such places and on such terms as it deems proper and proceed as if those new Deposited Securities had been Redeemed under paragraph (b) above. A Replacement shall be a Termination Option Event.

(d) In the case of a Replacement where the new Deposited Securities will continue to be held under the Deposit Agreement, the Depositary may call for the surrender of outstanding Receipts to be exchanged for new Receipts specifically describing the new Deposited Securities and the number of those new Deposited Securities represented by each American Depositary Share. If the number of Shares represented by each American Depositary Share decreases as a result of a Replacement, the Depositary may, after consultation with the Company to the extent practicable, call for surrender of the American Depositary Shares to be exchanged on a mandatory basis for a lesser number of American Depositary and may sell American Depositary Shares to the extent necessary to avoid distributing fractions of American Depositary Shares in that exchange and distribute the net proceeds of that sale to the Owners entitled to them.

(e) If there are no Deposited Securities with respect to American Depositary Shares, including if the Deposited Securities are cancelled, or the Deposited Securities with respect to American Depositary Shares become apparently worthless, the Depositary may call for surrender of those American Depositary Shares or may cancel those American Depositary Shares, upon notice to Owners, and a Termination Option Event occurs.

## 18. LIABILITY OF THE COMPANY AND DEPOSITARY.

Neither the Depositary nor the Company nor any of their respective directors, employees, agents or affiliates shall incur any liability to any Owner or Holder, (i) if by reason of any provision of any present or future law or regulation of the United States or any other country, or of any governmental or regulatory authority, or by reason of any provision, present or future, of the articles of association or any similar document of the Company, or by reason of any provision of any securities issued or distributed by the Company, or any offering or distribution thereof, or by reason of any act of God or war or terrorism or other circumstances beyond its control, the Depositary or the Company is prevented from, forbidden to or delayed in, or could be subject to any civil or criminal penalty on account of doing or performing and therefore does not do or perform, any act or thing that, by the terms of the Deposit Agreement or Deposited Securities, it is provided shall be done or performed, (ii) by reason of any exercise of, or failure to exercise, any discretion provided for in the Deposit Agreement (including any determination by the Depositary to take, or not take, any action that the Deposit Agreement provides the Depositary may take), (iii) for the inability of any Owner or Holder to benefit from any distribution, offering, right or other benefit that is made available to holders of Deposited Securities but is not, under the terms of the Deposit Agreement, made available to Owners or Holders, or (iv) for any special, consequential, indirect or punitive damages for any breach of the terms of the Deposit Agreement. Where, by the terms of a distribution to which Section 4.1, 4.2 or 4.3 of the Deposit Agreement applies, or an offering to which Section 4.4 of the Deposit Agreement applies, that distribution or offering may not be made available to Owners of Receipts, and the Depositary may not dispose of that distribution or offering on behalf of such Owners and make the net proceeds available to Owners, then the Depositary shall not make that distribution or offering available to Owners, and shall allow any rights, if applicable, to lapse.

Neither the Company nor the Depositary assumes any obligation or shall be subject to any liability under the Deposit Agreement to Owners or Holders, except that they agree to perform their obligations specifically set forth in the Deposit Agreement without negligence or bad faith. The Depositary shall not be subject to any liability with respect to the validity or worth of the Deposited Securities. Neither the Depositary nor the Company shall be under any obligation to appear in, prosecute or defend any action, suit, or other proceeding in respect of any Deposited Securities or in respect of the American Depositary Shares, on behalf of any Owner or Holder or other person. Each of the Depositary and the Company may rely, and shall be protected in relying upon, any written notice, request, direction or other document believed by it to be genuine and to have been signed or presented by the proper party or parties. Neither the Depositary nor the Company, nor any of their respective affiliates (as such term is defined in Regulation C under the Securities Act of 1933) or agents, shall be liable for any action or non-action by it in reliance upon the advice of or information from legal counsel, accountants, any person presenting Shares for deposit, any Owner or Holder, or any other person believed by it in good faith to be competent to give such advice or information. The Depositary shall not be liable for any acts or omissions made by a successor depositary whether in connection with a previous act or omission of the Depositary or in connection with a matter arising wholly after the

removal or resignation of the Depositary, provided that in connection with the issue out of which such potential liability arises, the Depositary performed its obligations without negligence or bad faith while it acted as Depositary. The Depositary shall not be liable for the acts or omissions of any securities depository, clearing agency or settlement system in connection with or arising out of book-entry settlement of American Depositary Shares or Deposited Securities or otherwise. In the absence of bad faith on its part, the Depositary shall not be responsible for any failure to carry out any instructions to vote any of the Deposited Securities or for the manner in which any such vote is cast or the effect of any such vote. Each of the Depositary and the Company may rely, and shall be protected in acting upon, any written notice, request, direction or other document believed by it to be genuine and to have been signed or presented by the proper party or parties. Neither the Company nor the Depositary shall have any duty to make any determination or provide any information as to the tax status of the Company or any liability for any tax consequences that may be incurred by Owners or Holders as a result of owning or holding American Depositary Shares, including without limitation, tax consequences resulting from the Company (or any of its subsidiaries) being treated as a "Passive Foreign Investment Company" ("PFIC") (in each case as defined in the U.S. Internal Revenue Code and the regulations issued thereunder) or otherwise. The Company may have been in the past and may be in the future a PFIC for U.S. Federal income tax purposes. Owners must consult their own tax advisers as to the potential application of the PFIC rules. No disclaimer of liability under the Securities Act of 1933 is intended by any provision of the Deposit Agreement.

19. RESIGNATION AND REMOVAL OF THE DEPOSITARY; APPOINTMENT OF SUCCESSOR CUSTODIAN.

The Depositary may at any time resign as Depositary under the Deposit Agreement by written notice of its election so to do delivered to the Company, to become effective upon the appointment of a successor depository and its acceptance of such appointment as provided in the Deposit Agreement. The Depositary may at any time be removed by the Company by 120 days' prior written notice of that removal, to become effective upon the later of (i) the 120th day after delivery of the notice to the Depositary and (ii) the appointment of a successor depository and its acceptance of its appointment as provided in the Deposit Agreement. The Depositary in its discretion may at any time appoint a substitute or additional custodian or custodians.

20. AMENDMENT.

The form of the Receipts and any provisions of the Deposit Agreement may at any time and from time to time be amended by agreement between the Company and the Depositary without the consent of Owners or Holders in any respect which they may deem necessary or desirable. Any amendment that would shall impose or increase any fees or charges (other than taxes and other governmental charges, registration fees, cable, telex or facsimile transmission costs, delivery costs or other such expenses), or that would

otherwise prejudice any substantial existing right of Owners, shall, however, not become effective as to outstanding American Depositary Shares until the expiration of 30 days after notice of that amendment has been Disseminated to the Owners of outstanding American Depositary Shares. Every Owner and Holder, at the time any amendment so becomes effective, shall be deemed, by continuing to hold American Depositary Shares or any interest therein, to consent and agree to that amendment and to be bound by the Deposit Agreement as amended thereby. Upon the effectiveness of an amendment to the form of Receipt, including a change in the number of Shares represented by each American Depositary Share, the Depositary may call for surrender of Receipts to be replaced with new Receipts in the amended form or call for surrender of American Depositary Shares to effect that change of ratio. In no event shall any amendment impair the right of the Owner to surrender American Depositary Shares and receive delivery of the Deposited Securities represented thereby, except in order to comply with mandatory provisions of applicable law.

## 21. TERMINATION OF DEPOSIT AGREEMENT.

(a) The Company may terminate the Deposit Agreement by notice to the Depositary. The Depositary may terminate this Deposit Agreement if (i) at any time 60 days shall have expired after the Depositary delivered to the Company a written resignation notice and a successor depositary has not been appointed and accepted its appointment as provided in Section 5.4 of that Agreement, (ii) an Insolvency Event or Delisting Event occurs with respect to the Company or (iii) a Termination Option Event has occurred or will occur. If a termination of the Deposit Agreement has been initiated by the Company or the Depositary, the Depositary shall Disseminate a notice of termination to the Owners of all American Depositary Shares then outstanding setting a date for termination (the “Termination Date”), which shall be at least 90 days after the date of that notice, and the Deposit Agreement shall terminate on that Termination Date.

(b) After the Termination Date, the Company shall be discharged from all obligations under the Deposit Agreement except for its obligations to the Depositary under Sections 5.8 and 5.9 of that Agreement.

(c) At any time after the Termination Date, the Depositary may sell the Deposited Securities then held under the Deposit Agreement and may thereafter hold uninvested the net proceeds of any such sale, together with any other cash then held by it hereunder, unsegregated and without liability for interest, for the pro rata benefit of the Owners of American Depositary Shares that remain outstanding, and those Owners will become general creditors of the Depositary with respect to those net proceeds. After making that sale, the Depositary shall be discharged from all obligations under the Deposit Agreement, except (i) to account for the net proceeds and other cash (after deducting, in each case, the fee of the Depositary for the surrender of American Depositary Shares, any expenses for the account of the Owner of such American Depositary Shares in accordance with the terms and conditions of the Deposit Agreement and any applicable taxes or governmental charges) and (ii) for its obligations under Section 5.8 of that Agreement and (iii) to act as provided in the paragraph (d) below.



(d) After the Termination Date, the Depositary shall continue to receive dividends and other distributions pertaining to Deposited Securities (that have not been sold), may sell rights and other property as provided in the Deposit Agreement and shall deliver Deposited Securities (or sale proceeds) upon surrender of American Depositary Shares (after payment or upon deduction, in each case, of the fee of the Depositary for the surrender of American Depositary Shares, any expenses for the account of the Owner of those American Depositary Shares in accordance with the terms and conditions of the Deposit Agreement and any applicable taxes or governmental charges). However, after the Termination Date, (i) the Depositary may refuse to accept surrenders of American Depositary Shares for the purpose of withdrawal of Deposited Securities (that have not been sold) if in its judgment the requested withdrawal would interfere with its efforts to sell the Deposited Securities, (ii) the Depositary will not be required to deliver cash proceeds of the sale of Deposited Securities until all Deposited Securities have been sold and (iii) the Depositary may discontinue the registration of transfers of American Depositary Shares and suspend the distribution of dividends and other distributions on Deposited Securities to the Owners and need not give any further notices or perform any further acts under the Deposit Agreement except as provided in Section 6.2 of that Agreement.

## 22. DTC DIRECT REGISTRATION SYSTEM AND PROFILE MODIFICATION SYSTEM.

(a) Notwithstanding the provisions of Section 2.4 of the Deposit Agreement, the parties acknowledge that DTC's Direct Registration System ("DRS") and Profile Modification System ("Profile") apply to the American Depositary Shares upon acceptance thereof to DRS by DTC. DRS is the system administered by DTC that facilitates interchange between registered holding of uncertificated securities and holding of security entitlements in those securities through DTC and a DTC participant. Profile is a required feature of DRS that allows a DTC participant, claiming to act on behalf of an Owner of American Depositary Shares, to direct the Depositary to register a transfer of those American Depositary Shares to DTC or its nominee and to deliver those American Depositary Shares to the DTC account of that DTC participant without receipt by the Depositary of prior authorization from the Owner to register that transfer.

(b) In connection with DRS/Profile, the parties acknowledge that the Depositary will not determine whether the DTC participant that is claiming to be acting on behalf of an Owner in requesting registration of transfer and delivery described in paragraph (a) above has the actual authority to act on behalf of that Owner (notwithstanding any requirements under the Uniform Commercial Code). For the avoidance of doubt, the provisions of Sections 5.3 and 5.8 of the Deposit Agreement apply to the matters arising from the use of the DRS/Profile. The parties agree that the Depositary's reliance on and compliance with instructions received by the Depositary through the DRS/Profile system and otherwise in accordance with the Deposit Agreement, shall not constitute negligence or bad faith on the part of the Depositary.

23. APPOINTMENT OF AGENT FOR SERVICE OF PROCESS; SUBMISSION TO JURISDICTION; JURY TRIAL WAIVER; WAIVER OF IMMUNITIES.

The Company has (i) appointed CorpoMax, Inc., 2915 Ogletown Road, Newark, DE 19713, as the Company's U.S. registered agent upon which process may be served in any suit or proceeding arising out of or relating to the Shares or Deposited Securities, the American Depositary Shares, the Receipts or this Agreement, (ii) consented and submitted to the jurisdiction of any state or federal court in the State of New York in which any such suit or proceeding may be instituted, and (iii) agreed that service of process upon said U.S. registered agent shall be deemed in every respect effective service of process upon the Company in any such suit or proceeding.

EACH PARTY TO THE DEPOSIT AGREEMENT (INCLUDING, FOR AVOIDANCE OF DOUBT, EACH OWNER AND HOLDER) THEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING AGAINST THE COMPANY AND/OR THE DEPOSITARY DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THE SHARES OR OTHER DEPOSITED SECURITIES, THE AMERICAN DEPOSITARY SHARES OR THE RECEIPTS, THE DEPOSIT AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREIN OR THEREIN, OR THE BREACH HEREOF OR THEREOF, INCLUDING WITHOUT LIMITATION ANY QUESTION REGARDING EXISTENCE, VALIDITY OR TERMINATION (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY).

To the extent that the Company or any of its properties, assets or revenues may have or hereafter become entitled to, or have attributed to it, any right of immunity, on the grounds of sovereignty or otherwise, from any legal action, suit or proceeding, from the giving of any relief in any respect thereof, from setoff or counterclaim, from the jurisdiction of any court, from service of process, from attachment upon or prior to judgment, from attachment in aid of execution or judgment, or other legal process or proceeding for the giving of any relief or for the enforcement of any judgment, in any jurisdiction in which proceedings may at any time be commenced, with respect to its obligations, liabilities or any other matter under or arising out of or in connection with the Shares or Deposited Securities, the American Depositary Shares, the Receipts or the Deposit Agreement, the Company, to the fullest extent permitted by law, hereby irrevocably and unconditionally waives, and agrees not to plead or claim, any such immunity and consents to such relief and enforcement.

#### 24. DISCLOSURE OF INTERESTS.

In order to comply with applicable laws and regulations or the articles of association or similar document of the Company, the Company may from time to time request each Owner and Holder to provide to the Depositary information relating to: (a) the capacity in which it holds American Depositary Shares, (b) the identity of any Holders or other persons or entities then or previously interested in those American Depositary Shares and the nature of those interests and (c) any other matter where disclosure of such matter is required for that compliance. Each Owner and Holder agrees to provide all information known to it in response to a request made pursuant to this Section. Each Holder consents to the disclosure by the Owner or other Holder through which it holds American Depositary Shares, directly or indirectly, of all information responsive to a request made pursuant to this Section relating to that Holder that is known to that Owner or other Holder. The Depositary agrees to use reasonable efforts, at the Company's expense (unless otherwise agreed between the Company and the Depositary), to comply with written instructions requesting that the Depositary forward any request authorized under this Section to the Owners and to forward to the Company any responses it receives in response to that request.

Each Owner and Holder of American Depositary Shares further agrees to comply with the laws and regulations of the United States and the Republic of France (if and to the extent applicable) with respect to the disclosure requirements regarding beneficial ownership of Shares, all as if the American Depositary Shares were the Shares represented thereby, which is deemed to include, inter alia, requirements to make notifications and filings within the required timeframes to the Company, to the Commission, to the French Autorité des Marchés Financiers and any other authorities in the United States or in the Republic of France. The Company reserves the right to instruct Holders to deliver their American Depositary Shares for cancellation and withdrawal of the Deposited Securities so as to permit the Company to deal directly with the Holder thereof as a holder of Shares and Holders agree to comply with such instructions. The Depositary agrees to cooperate with the Company in its efforts to inform Holders of the Company's exercise of its rights under this paragraph and agrees to consult with, and provide reasonable assistance without risk, liability or expense on the part of the Depositary, to the Company on the manner or manners in which it may enforce such rights with respect to any Holder.



September 21, 2020

ERYTECH Pharma S.A.  
60 Avenue Rockefeller  
69008 Lyon  
France

Re: Registration Statement on Form F-3 of ERYTECH Pharma S.A.

Ladies and Gentlemen:

We are acting as special French counsel for ERYTECH Pharma S.A. (the “**Company**”), a French société anonyme, in connection with the filing by the Company with the U.S. Securities and Exchange Commission (the “**Commission**”) of a Form F-3 Registration Statement (the “**Registration Statement**”) under the Securities Act of 1933, as amended (the “**Securities Act**”). The Company has provided us with a prospectus (the “**Base Prospectus**”), which forms part of the Registration Statement. The Base Prospectus may be amended from time to time in connection with any further post-effective amendments to the Registration Statement, and the Base Prospectus provides that it will be supplemented in the future by one or more prospectus supplements (each, a “**Prospectus Supplement**”). The Registration Statement, as amended from time to time, including the Base Prospectus (as supplemented from time to time by one or more Prospectus Supplements), provides for the registration by the Company of an indeterminate amount of (i) the Company’s ordinary shares, €0.10 nominal value per share (the “**Ordinary Shares**”), including Ordinary Shares that may be issued in the form of American Depositary Shares (the “**ADSs**”) and (ii) warrants (*bons de souscription d’actions*) to purchase Ordinary Shares, including in the form of ADSs (the “**Warrants**,” and, together with the Ordinary Shares and the ADSs, the “**Securities**”), with the maximum aggregate public offering price of all such securities to be issued by the Company under the Registration Statement not to exceed \$100,000,000, as further described in the Registration Statement. The Securities are being registered for offering and sale from time to time pursuant to Rule 415 under the Securities Act.

In rendering the opinion expressed below, we have examined and relied on originals or copies, certified or otherwise identified to our satisfaction, of such agreements, documents and records of the Company, and such instruments and certificates of officers and other representatives of the Company and public officials, as we have deemed necessary as the basis for such opinion, and have made such investigations of law as we have deemed necessary or appropriate as a basis for such opinion.

We have assumed that (i) the Registration Statement, and any amendments thereto, will have become effective under the Securities Act (and will remain effective at the time of issuance of any Securities thereunder); (ii) a Prospectus Supplement to the extent required by applicable law and the relevant rules and regulations of the Commission will be timely filed with the Commission; (iii) the resolutions authorizing the Company to issue, offer and sell the Securities as adopted by the extraordinary shareholders’ meeting and/or the Board of Directors of the Company (the “**Board**”) and/or the chief executive officer (*directeur général*), as applicable, will be in full force and effect at all times at which the Securities are issued, offered or sold by the Company, (iv) the definitive terms of the Securities will have been established in accordance with the authorizing resolutions adopted by the extraordinary shareholders’ meeting and/or the Board and/or the chief executive officer (*directeur général*), as applicable, the Company’s bylaws and applicable law, and (v) the Company will issue and deliver the Securities in the manner contemplated in the Registration Statement and the amount of Securities will remain within the limits of the then authorized but unissued amounts of Securities, (vi) all Securities will be issued in compliance with applicable securities and corporate law and (vii) any purchase, underwriting, placement or similar agreement will constitute a valid and binding obligation of each party thereto other than the Company. As to any facts material to the opinion expressed herein which we have not independently established or verified, we have relied upon statements and representations of the Company and its officers and other representatives and of public officials.

**GIDE LOYRETTE NOUËL A.A.R.P.I.**

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Based upon the foregoing, and subject to the assumptions, exceptions, qualifications and limitations stated herein, we are of the opinion that (1) the Ordinary Shares, when (a) the extraordinary shareholders' meeting of the Company and, if applicable, the Board and/or the chief executive officer (*directeur général*), have taken all necessary corporate action to authorize the issuance of, and establish the terms of, the offering of the Ordinary Shares and related matters and (b) issued, sold and delivered in the manner and for the consideration stated in the applicable definitive purchase, underwriting, placement or similar agreement approved by the Board and/or the chief executive officer (*directeur général*), as the case may be, upon payment of the consideration provided therein to the Company and issuance of the depositary certificate (*certificat du dépositaire*) in respect thereof, will be validly issued, fully paid and non-assessable and (2) the Warrants, when (a) the extraordinary shareholders' meeting of the Company and, if applicable, the Board and/or the chief executive officer (*directeur général*) of the Company, have taken all necessary corporate action to authorize the issuance of and establish the terms and conditions of such Warrants and the terms of the offering of the Warrants and related matters, and (b) issued, sold and delivered in the manner and for the consideration stated in the applicable definitive subscription, purchase, underwriting, placement or similar agreement approved by the Board and/or the chief executive officer as the case may be, and upon payment of the consideration provided therein, the Warrants will be validly issued.

The term "non-assessable", which has no recognized meaning in French law, for the purposes of this opinion means that no present or future holder of ordinary shares will be subject to personal liability, by reason of being such a holder, for additional payments or calls for further funds by the Company or any other person after the issuance of the ordinary shares.

We do not undertake or accept any obligation to update this opinion to reflect subsequent changes in French law or factual matters arising after the date of effectiveness of the Registration Statement.

This opinion is subject to any limitation arising from ad hoc mandate (*mandat ad hoc*), conciliation (*conciliation*), accelerated safeguard (*sauvegarde accélérée*), accelerated financial safeguard (*sauvegarde financière accélérée*), safeguard (*sauvegarde*), judicial reorganisation (*redressement judiciaire*), judicial liquidation (*liquidation judiciaire*) (including a provision that creditors' proofs of debts denominated in foreign currencies would be converted into euros at the rate applicable on the date of the court decision instituting the accelerated safeguard (*sauvegarde accélérée*), the accelerated financial safeguard (*sauvegarde financière accélérée*), the safeguard (*sauvegarde*), the judicial reorganisation (*redressement judiciaire*) and the judicial liquidation (*liquidation judiciaire*) proceedings), insolvency, moratorium and other laws of general application affecting the rights of creditors.

We are members of the Paris bar and this opinion is limited to the laws of the Republic of France. This opinion is subject to the sovereign power of the French courts to interpret agreements and assess the facts and circumstances of any adjudication. This opinion is given on the basis that it is to be governed by, and construed in accordance with, the laws of the Republic of France.

This opinion is addressed to you solely for your benefit in connection with the Registration Statement. It is not to be transmitted to anyone else nor is it to be relied upon by anyone else or for any other purpose, or quoted or referred to in any public document (other than the Registration Statement) or filed with anyone without our prior written express consent.

We hereby consent to the filing with the Commission of this opinion as Exhibit 5.1 to the Registration Statement and to the reference to Gide Loyrette Nouel A.A.R.P.I. under the caption "Legal Matters" in the Registration Statement. In giving such consent, we do not thereby admit that we are included in the category of persons whose consent is required under Section 7 of the Securities Act, or the rules and regulations of the Commission promulgated thereunder.

Very truly yours,

/s/ Gide Loyrette Nouel A.A.R.P.I.



September 21, 2020

ERYTECH Pharma S.A.  
60 Avenue Rockefeller  
69008 Lyon  
France

Re: Securities Registered Under Registration Statement on Form F-3 of ERYTECH Pharma S.A.

Ladies and Gentlemen:

We are acting as special French counsel for ERYTECH Pharma S.A. (the “**Company**”), a French *société anonyme*, in connection with the filing of a registration statement on Form F-3 filed on September 21, 2020 (the “**Registration Statement**”) with the U.S. Securities and Exchange Commission (the “**Commission**”) relating to the registration of the offering by Company of up to \$100,000,000 of any combination of securities of the types specified therein, including a sales agreement prospectus (the “**Sales Agreement Prospectus**”) contained in the Registration Statement relating to the issuance and sale by the Company, through Cowen & Company, LLC (the “**Agent**”) pursuant to the Sales Agreement dated September 21, 2020 (the “**Sales Agreement**”), by and between the Company and the Agent, of ordinary shares, €0.10 nominal value per share (the “**Ordinary Shares**”), including Ordinary Shares that may be issued in the form of American Depositary Shares (the “**ADSs**”) having a maximum aggregate price of up to \$30,000,000 (the “**Sales Agreement Shares**”), covered by the Registration Statement. The Sales Agreement Shares are being offered and sold by the Agent pursuant to the terms of the Sales Agreement.

In rendering the opinion expressed below, we have examined and relied on originals or copies, certified or otherwise identified to our satisfaction, of such agreements, documents and records of the Company, and such instruments and certificates of officers and other representatives of the Company and public officials, as we have deemed necessary as the basis for such opinion, and have made such investigations of law as we have deemed necessary or appropriate as a basis for such opinion.

We have assumed that (i) the resolutions authorizing the Company to issue, offer and sell the Sales Agreement Shares as adopted by the extraordinary shareholders’ meeting and/or the Board of Directors of the Company (the “**Board**”) and/or the chief executive officer (*directeur général*), will be validly adopted and in full force and effect at all times at which the Sales Agreement Shares are issued, offered or sold by the Company, (ii) the outstanding share capital of the Company will be validly issued and fully paid up at the time of the decisions of the Board and/or of the decisions of the Company to issue the Sales Agreement Shares, (iii) the issue of the Sales Agreement Shares will fall within the limits set forth by the corporate authorizations referred above in (i), (iv) the definitive terms of the Sales Agreement Shares will have been established in accordance with the authorizing resolutions adopted by the extraordinary shareholders’ meeting, the Board and, if applicable, the chief executive officer (*directeur général*), the Company’s bylaws and applicable law, (v) the Sales Agreement Shares will be offered by way of a private placement to, and subscribed by, investors pertaining to, the categories of investors as defined by the extraordinary shareholders’ meeting of the Company and in accordance with article L. 225-138 of the French commercial code, (vi) the Company will issue and deliver the Sales Agreement Shares in the manner contemplated in the Registration Statement and the Sales Agreement Prospectus, (vii) all Sales Agreement Shares will be issued in compliance with applicable securities and corporate law and (viii) any purchase, placement or similar agreement will constitute a valid and binding obligation of each party thereto other than the Company. As to any facts material to the opinion expressed herein which we have not independently established or verified, we have relied upon statements and representations of the Company and its officers and other representatives and of public officials.

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**GIDE LOYRETTE NOUEL A.A.R.P.I.**

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Based upon the foregoing, and subject to the assumptions, exceptions, qualifications and limitations stated herein, we are of the opinion that the Ordinary Shares, when (a) the extraordinary shareholders' meeting of the Company, the Board and, if applicable, the chief executive officer (*directeur général*), have taken all necessary corporate action to authorize and/or decide the issuance of, and establish the terms of, the offering of the Sales Agreement Shares and related matters and (b) issued, sold and delivered in the manner and for the consideration stated in the applicable definitive purchase, sales, placement, subscription or similar agreement authorized by the Board and/or the chief executive officer (*directeur général*), as the case may be, upon payment of the consideration provided therein to the Company and issuance of the depositary certificate (*certificat du dépositaire*) in respect thereof, will be validly issued, fully paid and non-assessable.

The term "non-assessable", which has no recognized meaning in French law, for the purposes of this opinion means that no present or future holder of ordinary shares will be subject to personal liability, by reason of being such a holder, for additional payments or calls for further funds by the Company or any other person after the issuance of the ordinary shares.

We do not undertake or accept any obligation to update this opinion to reflect subsequent changes in French law or factual matters arising after the date of effectiveness of the Registration Statement.

This opinion is subject to any limitation arising from ad hoc mandate (*mandat ad hoc*), conciliation (*conciliation*), accelerated safeguard (*sauvegarde accélérée*), accelerated financial safeguard (*sauvegarde financière accélérée*), safeguard (*sauvegarde*), judicial reorganisation (*redressement judiciaire*), judicial liquidation (*liquidation judiciaire*) (including a provision that creditors' proofs of debts denominated in foreign currencies would be converted into euros at the rate applicable on the date of the court decision instituting the accelerated safeguard (*sauvegarde accélérée*), the accelerated financial safeguard (*sauvegarde financière accélérée*), the safeguard (*sauvegarde*), the judicial reorganisation (*redressement judiciaire*) and the judicial liquidation (*liquidation judiciaire*) proceedings), insolvency, moratorium and other laws of general application affecting the rights of creditors.

We are members of the Paris bar and this opinion is limited to the laws of the Republic of France. This opinion is subject to the sovereign power of the French courts to interpret agreements and assess the facts and circumstances of any adjudication. This opinion is given on the basis that it is to be governed by, and construed in accordance with, the laws of the Republic of France.

We hereby consent to the filing with the Commission of this opinion as Exhibit 5.2 to the Registration Statement, and to the reference to Gide Loyrette Nouel A.A.R.P.I. under the caption "Legal Matters" in the Registration Statement. In giving such consent, we do not thereby admit that we are included in the category of persons whose consent is required under Section 7 of the Securities Act, or the rules and regulations of the Commission promulgated thereunder.

Very truly yours,

/s/ Gide Loyrette Nouel A.A.R.P.I.



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### Consent of Independent Registered Public Accounting Firm

The Board of Directors  
 ERYTECH Pharma S.A.

We consent to the incorporation by reference in this registration statement on Form F-3 of ERYTECH Pharma S.A. of our report dated March 17, 2020, with respect to the consolidated statements of financial position of ERYTECH Pharma S.A. and its subsidiary as of December 31, 2019, 2018 and 2017, and the related consolidated statements of income (loss), comprehensive income (loss), changes in shareholders' equity, and cash flows for each of the years in the three-year period ended December 31, 2019, and the related notes, which report appears in the Annual Report on Form 20-F of ERYTECH Pharma S.A for the year ended December 31, 2019 filed with the US. Securities and Exchange Commission on March 18, 2020, and to the references to our firm under the headings "Experts" in this registration statement.

Our report dated March 17, 2020 refers to the change in ERYTECH Pharma S.A.'s method of accounting for leases on January 1, 2019, due to the adoption of IFRS 16 "Leases".

Lyon, September 21, 2020

KPMG Audit  
*Department of KPMG S.A.*

/s/ Stéphane Devin

Stéphane Devin  
*Partner*

KPMG S.A.,  
 société française membre du réseau KPMG  
 constitué de cabinets indépendants adhérents de  
 KPMG International Cooperative, une entité de  
 droit suisse.

Société anonyme d'expertise  
 comptable et de commissariat  
 aux comptes à directoire et  
 conseil de surveillance.  
 Inscrite au Tableau de l'Ordre  
 à Paris sous le n° 14-30080101  
 et à la Compagnie Régionale  
 des Commissaires aux Comptes  
 de Versailles.

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