

**Santhera Pharmaceuticals Holding AG**

Hohenrainstrasse 24

4133 Pratteln

Schweiz

Phone +41 61 906 8950

Fax +41 61 906 8951

[www.santhera.com](http://www.santhera.com)

English convenience translation of the authoritative German version.

## **Invitation to the Annual General Meeting of Shareholders**

**Tuesday, May 28, 2019, 10:30 a.m.**

**Congress Center Basel, Hall Kairo, Messeplatz 21, 4058 Basel, Switzerland**

### **Agenda (Overview)**

- 1. Approval of the Annual Financial Statements and the Consolidated Financial Statements 2018**
- 2. Appropriation of the Annual Result and Allocation of Reserves**
- 3. Consultative Vote on the 2018 Compensation Report**
- 4. Discharge of the Members of the Board of Directors and of the Executive Management from Liability for the Financial Year 2018**
- 5. Amendments to the Articles of Incorporation with respect to the Conditional Capital**
- 6. Creation of Authorized Capital**
- 7. Cancellation of Article with respect to Opting-out**
- 8. Re-election of the Members of the Board of Directors and of the Chairman of the Board**
- 9. Re-election of the Members of the Compensation Committee**
- 10. Approval of the Compensation of the Members of the Board of Directors**
- 11. Approval of the Compensation of the Members of the Executive Management**
- 12. Re-election of the Auditors**
- 13. Re-election of the Independent Proxy**

## Agenda, Motions and Explanations

### 1. Approval of the Annual Financial Statements and the Consolidated Financial Statements 2018

#### Motion

The Board of Directors (**Board**) proposes to approve the Annual Financial Statements and the Consolidated Financial Statements for 2018.

### 2. Appropriation of the Annual Result and Allocation of Reserves

#### Motions

##### (a) Loss Carryforward

The Board proposes to carry forward the annual loss for 2018 of CHF 9,870,826 to the new account.

##### (b) Allocation of Reserves from Capital Contributions to Free Reserves

The Board proposes to allocate an amount of CHF 17,500,000 from the reserves from capital contributions and of CHF 3,000,000 from other capital reserves to the free reserves.

#### Explanations

##### (a) Loss Carryforward

*The net annual loss for 2018 amounted to CHF 9,870,826. The loss carryforward of the previous financial years amounts to CHF 13,751,583. After appropriation of the annual loss, the total loss carryforward will amount to CHF 23,622,409.*

In CHF	2018	2017
Loss carryforward of previous financial years	-13,751,583	-6,451,188
Annual loss	-9,870,826	-7,300,395
<b>Total loss carryforward</b>	<b>-23,622,409</b>	<b>-13,751,583</b>

##### (b) Allocation of Reserves from Capital Contributions to Free Reserves

*The Board proposes to re-allocate an amount of CHF 17,500,000 from the reserves from capital contributions that amount to CHF 17,581,192 and an amount of CHF 3,000,000 from other capital reserves that amount to CHF 6,165,107 to the free reserves. To the extent that the reserves from capital contributions could be used for tax-free distributions, this possibility would be eliminated by the allocation to the free reserves. As a result of such allocation, the free reserves would be increased from CHF 57'494'714 to CHF 77,994,714 and the reserves from capital contributions would be reduced to CHF 81,192 and the other capital reserves to CHF 3,165,107.*

### 3. Consultative Vote on the 2018 Compensation Report

#### Motion

The Board proposes to approve the 2018 Compensation Report in a non-binding consultative vote.

### Explanations

*The 2018 Compensation Report covers the fundamentals of the compensation for the members of the Board and of the Executive Management as well as the compensation paid to them during the financial year 2018. In compliance with Article 25 of the Articles of Incorporation and the recommendations of the Swiss Code of Best Practice for Corporate Governance, the Board submits the 2017 Compensation Report to the annual general meeting of shareholders (the **AGM**) for a non-binding consultative vote.*

## 4. Discharge of the Members of the Board of Directors and of the Executive Management from Liability for the Financial Year 2018

### Motions

#### (a) Discharge of the Members of the Board of Directors

The Board proposes to grant discharge to the members of the Board for their activities during the financial year 2018.

#### (b) Discharge of the Members of the Executive Management

The Board proposes to grant discharge to the members of the Executive Management for their activities during the financial year 2018.

## 5. Amendments to the Articles of Incorporation with respect to the Conditional Capital

### Motion

The Board proposes to increase the conditional capital for financing from CHF 930,000 by CHF 1,570,000 to CHF 2,500,000 by an amendment to Article 3c of the Articles of Incorporation as per the separate enclosure.

### Explanations

*On February 10, 2017, the Company has issued a convertible bond of CHF 60 million. This bond is convertible into 925,920 Santhera shares. The current conditional capital (Article 3c of the Articles of Incorporation) only allows the issue of a maximum of 930,000 shares. The Board proposes to increase the conditional capital for financing from CHF 930,000 (8% of the share capital) to CHF 2,500,000 (22% of the share capital). This shall enable Santhera to raise new capital in a flexible way.*

## 6. Creation of Authorized Capital

### Motion

The Board proposes to create authorized capital of CHF 3,000,000, by introduction of a new Article 3a of the Articles of Incorporation as per the separate enclosure.

### Explanations

*At the beginning of 2019, the authorized capital amounted to CHF 500,000. On April 4, 2019, this capital was fully issued in a private placement. As a result, the respective Article 3a of the Articles of Incorporation was cancelled. The Board proposes creation of new authorized capital in an amount of CHF 3,000,000 (27%*

of the share capital).

## **7. Cancellation of Article with respect to Opting-out**

### **Motion**

The Board proposes to cancel the opting-out provision in Article 6a of the Articles of Incorporation.

### **Explanations**

*According to article 135 paragraph 1 of the Swiss Financial Market Infrastructure Act (FMIA), anyone who acquires more than 33⅓% of the equity securities of a target company, must make an offer to acquire all listed equity securities of the company. Target companies may raise this threshold to 49% or waive it entirely. Santhera has made use of the latter right in its Article 6a of the Articles of Incorporation. Because Santhera's shareholder base is broad and its largest shareholder holds merely 11.9% of all outstanding shares, the Board does not consider such Article to be in the best interest of the Company and therefore proposes the cancellation thereof. As a result of the cancellation, the statutory threshold of 33⅓% will apply to Santhera.*

## **8. Re-election of the Members of the Board of Directors and of the Chairman of the Board**

### **Motions**

#### **(a) Re-election of Elmar Schnee as Member of the Board**

The Board proposes to re-elect Elmar Schnee as a member of the Board until the end of the 2020 AGM.

#### **(b) Re-election of Martin Gertsch as Member of the Board**

The Board proposes to re-elect Martin Gertsch as a member of the Board until the end of the 2020 AGM.

#### **(c) Re-election of Philipp Gutzwiller as Member of the Board**

The Board proposes to re-elect Philipp Gutzwiller as a member of the Board until the end of the 2020 AGM.

#### **(d) Re-election of Thomas Meier as Member of the Board**

The Board proposes to re-elect Thomas Meier as a member of the Board until the end of the 2020 AGM.

#### **(e) Re-election of Patrick Vink as Member of the Board**

The Board proposes to re-elect Patrick Vink as a member of the Board until the end of the 2020 AGM.

#### **(f) Re-election of Elmar Schnee as Chairman of the Board**

The Board proposes to re-elect Elmar Schnee as chairman of the Board until the end of the 2020 AGM.

## Explanations

*The members and the chairman of the Board have to be elected individually. The terms of office of all members of the Board expire at the end of this year's AGM. All members of the Board are standing for re-election. In addition, Elmar Schnee stands for re-election as chairman of the Board.*

**Elmar Schnee** *Elmar Schnee is Board Secretary of Mindmaze SA, a neuro-technology company spun off from the Swiss Federal Institute of Technology in Lausanne (EPFL). Prior to that, he was chairman, CEO and board member of Cardiorientis in Zug, Switzerland. Previously, he was a general partner and member of the executive board of Merck KGaA, responsible for its worldwide pharmaceutical business. He also led the major restructuring of the business including the acquisition and integration of Serono. Prior to Merck, Mr. Schnee held senior roles as managing director and in marketing, licensing, strategy and business development with UCB Pharma, Sanofi-Synthelabo, Migliara Kaplan and Fisons. He currently serves on the board of directors of listed Jazz Pharmaceuticals and Stallergenes Greer as well as of several privately held life science companies.*

**Martin Gertsch** *became a member of the Board in 2006 and has been its vice-chairman since 2017. He is also chairman of the Audit Committee. Up to January 2014, he served as Chief Financial Officer of Acino Holding. Prior to this he was Vice President Head of Finance EMEA at Synthes and held Chief Financial Officer and Chief Operating Officer positions at Delenex Therapeutics and ESBAtech, two privately held biotech companies. From 2002 to the beginning of 2006, he was Chief Financial Officer of Straumann, which he had joined in 1997 as Head of Group Controlling and Reporting. Between 1986 and 1997, Martin was an Audit Engagement Manager at PricewaterhouseCoopers, Basel, Switzerland. Martin is a Swiss-certified fiduciary and Swiss-certified public accountant. He has also completed several executive-level development programs at IMD (the International Institute for Management Development) in Lausanne, Switzerland. He serves as a Board Member of Evolva Holding, and the University Center of Dentistry, Basel (UZB). He is also Chairman of two diagnostic start-up companies.*

**Philipp Gutzwiller** *has been a member of the Board since 2017. He is also a member of the Audit Committee. Philipp Gutzwiller is Managing Director at Lloyds Banking Group plc in London. He has accumulated over 15 years of experience as a banker to the broader healthcare industry, advising corporate and private equity clients on the assessment, financing and execution of acquisitions and capital market transactions. He started his career at Roche as a finance controller and later worked as an executive in Roche's corporate mergers and acquisitions team.*

**Thomas Meier, PhD,** *has been a member of the Board since 2017. He was appointed Chief Executive Officer of Santhera in October 2011, having served for 7 years as Chief Scientific Officer for the Company. Thomas Meier is the founder and was CEO of MyoContract, a Basel-based research company focused on orphan neuromuscular diseases. In 2004, Thomas Meier played a key role in the merger with Graffinity Pharmaceuticals (Heidelberg, Germany) forming today's Santhera. Thomas Meier received his PhD in biology from the University of Basel in 1992 and subsequently joined the University of Colorado Health Sciences Center, Denver, CO, USA. He has a distinguished scientific track record and has written several important publications in the field of neuromuscular research.*

**Patrick Vink, MD,** *has been a member of the Board since 2017 and is chairman of the Compensation Committee. He has over 25 years of life science industry experience. In his latest assignment, he was employed as Chief Operating Officer at Cubist Pharmaceuticals, overseeing all worldwide commercial and*

*technical operations as well as global alliance management. Previously, Patrick Vink held several senior management positions with Mylan Inc., Novartis Generics / Sandoz, Biogen and Sanofi-Synthelabo. He currently is chairman of privately held NMP Pharma and Acacia Pharma and a member of the board of directors of listed Concordia International Corp. and several privately held life science companies.*

## **9. Re-election of the Members of the Compensation Committee**

### **Motions**

#### **(a) Re-election of Elmar Schnee as Member of the Compensation Committee**

The Board proposes to re-elect Elmar Schnee as a member of the Compensation Committee until the end of the 2020 AGM.

#### **(b) Re-election of Patrick Vink as Member of the Compensation Committee**

The Board proposes to re-elect Patrick Vink as a member of the Compensation Committee until the end of the 2020 AGM.

### **Explanations**

*The members of the Compensation Committee will have to be elected individually. Only members of the Board are eligible. It is intended that Patrick Vink will be re-appointed as chairman of the Compensation Committee.*

## **10. Approval of the Compensation of the Members of the Board of Directors**

### **Motion**

The Board proposes to approve a maximum total amount of fixed compensation of the Board of CHF 1,001,000, i.e., an amount unchanged vis-à-vis the prior year, until the 2020 AGM.

### **Explanations**

*The proposed maximum total fixed compensation of the Board is expected to consist of:*

- a fixed annual cash fee in the maximum amount of CHF 500,500, including employer's social security contributions; and*
- a grant of Share Appreciation Rights (SAR) with a maximum market value of CHF 500,500, including employer's social security contributions. The number of SAR to be granted to the members of the Board will be calculated on the first trading day at grant on the basis of this amount, applying the Hull-White model.*

*Including social security contributions, the compensation of the chairman of the Board is expected to amount to CHF 286,000, the compensation of the vice chairman of the Board to CHF 242,000 and the compensation of the other members of the Board to CHF 198,000 each. The CEO of the Company, Thomas Meier, will not receive additional compensation for his Board membership. The chairman of the Audit Committee is expected to receive an additional amount of CHF 33,000; and the chairman of the Compensation Committee an additional CHF 22,000. The members of the Audit Committee and of the Compensation Committee are expected to receive an additional amount of CHF 11,000 each.*

*The table below sets out the approved maximum compensation for the Board for the period from the 2018 AGM to the 2019 AGM, the estimated actual compensation for the same period and the proposed*

maximum compensation for the period from the 2019 AGM to the 2020 AGM. The expected total compensation and grants for the period of the 2018 AGM to the 2019 AGM amounts to CHF 998,471. This amount is lower than the maximum amount approved by the 2018 AGM of CHF 1,001,000.

	Approved April 13, 2018 – May 28, 2019	Remunerated (estimation) April 13, 2018 – May 28, 2019	Proposal for May 29, 2019 – 2020 AGM
Fixed compensation* (CHF)	500,500	500,288	500,500
Share Appreciation Rights* (CHF)	500,500	498,183	500,500
<b>Total (CHF)</b>	<b>1,001,000</b>	<b>998,471</b>	<b>1,001,000</b>

\* All numbers include employer's social security contributions

## 11. Approval of the Compensation of the Members of the Executive Management

### Motions

#### (a) Fixed Compensation of the Members of the Executive Management for 2020

The Board proposes to approve a maximum total amount of fixed compensation of the members of the Executive Management for the period from January 1, 2020 to December 31, 2020 of CHF 3,000,000.

#### (b) Variable Compensation of the Members of the Executive Management for 2018

The Board proposes to approve a maximum total amount of variable compensation of the members of the Executive Management for the period from January 1, 2018 to December 31, 2018 of CHF 1,836,000.

### Explanations

According to Art. 25 of the Articles of Incorporation, the maximum total amount of fixed compensation for the Executive Management is to be approved for the following year, i.e. for the period from January 1 to December 31, 2020. In addition, the Board has to submit the variable compensation of the Executive Management of the preceding year, i.e. the period from January 1 to December 31, 2018, for approval.

#### (a) Fixed Compensation of the Members of the Executive Management for 2020

The fixed compensation for the Executive Management includes the base salary, the employer's social security contributions and contributions to the Company's pension fund. The estimated social security and pension fund contributions amount to approximately 28% of the base salary in aggregate.

At the 2017 AGM, the shareholders approved a maximum amount of CHF 3,200,000 as fixed compensation for the Executive Management for 2018. The actual compensation of the members of the Executive Management in 2018 amounted to CHF 2,420,707 which was – inter alia – the result of Giovanni Stropoli's departure from the Executive Management.

The maximum total amount of fixed compensation 2019 for the members of the Executive Management, amounting to CHF 3,200,000, was already approved by the 2018 AGM.

*For the period between January 1, 2020 and December 31, 2020, the Board proposes a maximum total amount of fixed compensation for the Executive Management of CHF 3,000,000. This amount is planned for the current five members of Executive Management and an additional member who is to replace Giovanni Stropoli.*

**(b) Variable Compensation of the Members of the Executive Management for 2018**

*The proposed maximum total amount of variable compensation of the members of the Executive Management for the period from January 1, 2018, to December 31, 2018, of CHF 1,836,000 (2017: CHF 2,150,000) is based on an average corporate target achievement of 57.5% and individual goal achievements of the members of the Executive Management between 90% and 100%. The total amount mentioned consists of an amount of a maximum of CHF 550,000 for the payment of a cash bonus and of an amount of a maximum of CHF 1,286,000 for the allocation of Share Appreciation rights (SAR). The SAR shall provide a positive incentive to ensure the long-term motivation and retention of Santhera's Executive Management.*

*Within the above limitations, the Board shall – at its entire discretion – determine the amount of cash bonus and the amount to calculate the number of SAR on the basis of the balance sheet, the income and the cash flow statements as at, or for periods ending at, the time of determination.*

*To calculate the number of SAR to be allocated, the total CHF amount for the SAR, as determined by the Board within the above limitations, will be divided by the fair market value of one SAR. Such value is calculated by applying the Hull-White model. The total number of SAR to be allocated to all Board members, members of Executive Management and other employees of Santhera must not exceed 7.2% of the ordinary share capital (i.e. the share capital disregarding authorized capital and conditional capital) so that the dilutive effect is not higher than in the previous year. Should the number of SAR exceed this threshold, the number of SAR to be actually allocated would be reduced by the part exceeding such threshold.*

## **12. Re-election of Auditors**

**Motion**

The Board proposes to re-elect Ernst & Young AG, Basel, as auditors for another one-year term until the end of the 2020 AGM.

**Explanations**

*According to Article 22 para. 2 of the Articles of Incorporation, the general meeting of shareholders shall elect the auditors for a term until the next AGM.*

## **13. Re-election of the Independent Proxy**

**Motion**

The Board proposes to re-elect Dr. Balthasar Settelen, Basel, as independent proxy until the end of the 2020 AGM.



### Explanations

According to Article 13a of the Articles of Incorporation, the independent proxy is elected annually for a term until the end of the next AGM.

Pratteln, April 29, 2019

For the Board of Directors

Elmar Schnee

Chairman

## Organizational Remarks

### Documents

The 2018 Annual Report (in English) can be downloaded from [www.santhera.com/reports](http://www.santhera.com/reports) and is available for inspection at the Company's new headquarters at Hohenrainstrasse 24, 4133 Pratteln, Switzerland. Shareholders who wish to receive a printed copy of the Annual Report are kindly requested to tick the corresponding box on the reply form.

### Admission cards/voting materials

Shareholders registered in the share register with the right to vote as of April 29, 2019, at 5:00 p.m. CEST, will receive the invitation to the AGM and – upon request – the admission card and the voting materials. Shareholders selling their shares before the AGM will not be entitled to participate in the AGM.

### Book closure period

The Company's share register will close on May 20, 2019, at 5:00 p.m. CEST, and will reopen on May 29, 2019, at 7:00 a.m. CEST.

### Powers of attorney

Shareholders may give proxy to the independent proxy (*unabhängiger Stimmrechtsvertreter*), **Dr. Balthasar Settelen**, attorney-at-law, Centralbahnstrasse 7, P.O. Box 206, 4010 Basel, Switzerland, or to another shareholder entitled to vote. Proxy may be given by completing and returning the registration form for the admission card and voting material or by filling in the respective proxy form on the admission card. In the absence of specific instructions given to the independent proxy, the proxy form will provide that the independent proxy will be deemed to be instructed to vote in favor of the proposals of the Board.

### Electronic remote votes by proxy and voting instructions to the independent proxy (Netvote)

Shareholders may participate in the votes and elections by giving instructions to the independent proxy electronically via [www.netvote.ch/santhera](http://www.netvote.ch/santhera). The required login information will be sent to shareholders together with the written documents for the Annual General Meeting. Changes to the electronically transferred instructions can be made until May 24, 2019, 11:59 a.m. (CEST).

If you would like to receive the invitation to the general meeting of shareholders by e-mail in the future, you

can select the option "select dispatch method" on [www.netvote.ch/santhera](http://www.netvote.ch/santhera). The login details are printed on the enclosed reply form. You may change the dispatch method on [www.netvote.ch/santhera](http://www.netvote.ch/santhera) at any time.

#### Venue

The Congress Center Basel, Hall Kairo, Messeplatz 21, 4058 Basel, Switzerland, is located about 15 minutes from Basel SBB railway station and about a half an hour from Basel Airport (EuroAirport).

#### Admission

On the day of the meeting, the admission desk will be open from 10:00 a.m. CEST. The language of the meeting will be German.

### Proposed Amendments to the Articles of Incorporation (convenience translation)

#### New Article 3a

##### Authorized Capital

The Board of Directors shall be authorized, at any time until May 27, 2021, to increase the share capital in an amount not to exceed CHF 3,000,000 through the issuance of up to 3,000,000 fully paid registered shares with a nominal value of CHF 1 each. An increase in partial amounts shall be permitted. The Board of Directors shall determine the issue price, the type of payment, the date of issue of new shares, the conditions for the exercise of pre-emptive rights and the beginning date for dividend entitlement. In this regard, the Board of Directors may issue new shares by means of a firm underwriting through a banking institution, a syndicate or another third party with a subsequent offer of these shares to the current shareholders or (if unless the pre-emptive rights of current shareholders are excluded or have not been validly exercised), to third parties. The Board of Directors is then entitled to restrict or deny any trade with pre-emptive rights. The Board of Directors may permit preferential subscription rights that have not been exercised to expire or it may place these rights and/or shares as to which preferential subscription rights have been granted but not exercised, at market conditions or use them for other purposes in the interest of the Company.

The subscription and acquisition of the new shares, as well as each subsequent transfer of the shares, shall be subject to the restrictions of Article 5 of the Articles of Incorporation.

The Board of Directors is authorized to restrict or exclude the pre-emptive rights of shareholders and allocate such rights to third parties if the shares are to be used:

- a) for the acquisition of an enterprise, parts of an enterprise or participations, or products, intellectual property or licenses, or for new investments including product development programs, or, in case of a share placement, for the financing or refinancing of such transactions, or for investments through a share placement with one or several investors; or
- b) for the purpose of the participation of strategic partners (including in the event of a public tender offer) or for the purpose of an expansion of the shareholder constituency in certain financial or investor markets or in connection with the listing of shares on domestic or foreign stock exchanges, including in connection with the grant of an over-allotment option to the banks involved; or
- c) for the participation or compensation of persons or companies performing services for the

benefit of the Company or any of its subsidiaries; or

- d) if the issue price of the new shares is determined taking into consideration the market price; or
- e) for the purpose of a flexible capital raising through a placement of shares which, were the subscription rights preserved, would be difficult or possible only under significantly worse conditions; or
- f) for the defense of an actual, threatened or potential takeover bid, in relation to which the Board of Directors, upon consultation with an independent financial adviser retained by it, has not recommended to the shareholders for acceptance on the basis that the Board of Directors has not found the takeover bid to be financially fair to the shareholders.

Article 3c (current)	Article 3c (proposed)
<p><b>Conditional Share Capital for financing and mergers &amp; acquisitions</b></p> <p>The share capital of the Company shall be increased by a maximum aggregate amount of CHF 930,000 through the issuance of a maximum of 930,000 registered shares, which shall be fully paid-in, with a par value of CHF 1 per share by the exercise or mandatory exercise of option and/or conversion rights which are granted in connection with the issue of bonds, loans, similar obligations or other financial instruments by or contractual obligations of the Company or another group company, and/or by the exercise of options which are granted by the Company or another group company (hereinafter, collectively, the Financial Instruments)</p> <p>[...]</p>	<p><b>Conditional Share Capital for financing and mergers &amp; acquisitions</b></p> <p>The share capital of the Company shall be increased by a maximum aggregate amount of CHF 3,000,000 through the issuance of a maximum of 3,000,000 registered shares, which shall be fully paid-in, with a par value of CHF 1 per share by the exercise or mandatory exercise of option and/or conversion rights which are granted in connection with the issue of bonds, loans, similar obligations or other financial instruments by or contractual obligations of the Company or another group company, and/or by the exercise of options which are granted by the Company or another group company (hereinafter, collectively, the Financial Instruments)</p> <p>[...]</p>