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**INVESTMENT AND SUBSCRIPTION AGREEMENT**

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**dated 28<sup>th</sup> February 2023**

**between**

**Targovax ASA  
as Company**

**and**

**Atlas Special Opportunities, LLC  
as Investor**

**THIS INVESTMENT AND SUBSCRIPTION AGREEMENT** (the "**Agreement**") is made between:

- (1) **Targovax ASA**, a Norwegian public limited liability company with registration number 996 162 095 (the "**Company**"); and
- (2) **Atlas Special Opportunities, LLC**, an investment entity with registered address at Maples Corporate Services LTD, P.O. Box 309, Ugland House, Grand Cayman, KY1 – 1104, Cayman Islands (the "**Investor**").

**WHEREAS**

- (A) The Investor is an investment entity specialised in providing flexible equity-linked financings.
- (B) The Company, which shares are listed on the Oslo Stock Exchange under ticker TRVX, wishes to finance its working capital (the "**Purpose**").
- (C) On 10 November 2022, the Company entered into a term sheet with the Investor reflecting the main terms and conditions of the issuance, by the Company, of convertible bonds (the "**Convertible Bonds**") in a maximum aggregate amount up to NOK 300,000,000.
- (D) The effectiveness of this Agreement is subject to approval by the general meeting of the Company.
- (E) The terms and conditions of the Convertible Bonds are set out in a separate bond terms agreement set out in Schedule 1 to this Agreement (the "**Convertible Bond Terms**").
- (F) The Convertible Bonds will be issued in up to 12 tranches as provided for in this Agreement. The Convertible Bonds are convertible into ordinary shares of the Company (the "**Shares**").
- (G) The parties have entered into this Agreement to set out their rights and obligations with respect to the subscription and issuance of the Convertible Bonds.

**NOW IT IS HEREBY AGREED** as follows:

**1 Definitions**

In this Agreement the following terms have the following meaning:

"**Affiliate**" has the meaning set out in the Convertible Bond Terms.

"**Approval**" means the approval of the Company's shareholders in a general meeting of the Company to issue the Convertible Bonds.

"**Approved Affiliate**" means the following entities:

- (a) Atlas Special Opportunities, LLC;
- (b) Atlas Special Opportunities II, LLC;
- (c) Arena SPV manager, LLC;
- (d) Arena Structured Private Investments (Cayman), LLC;
- (e) Pelham Bay, LLC;

(f) Atlas Capital Markets; and

(g) Atlas Capital Markets, LLC.

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks in the City of London and Oslo are open for general business.

"**Conversion Price**" has the meaning set out in the Convertible Bond Terms.

"**Conversion Shares**" means the Shares issued upon conversion of the Convertible Bonds pursuant to this Agreement and the Convertible Bond Terms.

"**CSD**" means Verdipapirsentralen ASA, the central securities register for the Convertible Bonds and the Shares.

"**Issue Date**" means any date on which a Tranche is issued by the Company pursuant to this Agreement.

"**Long Stop Date**" means the date falling 36 months after the date of the issuance of the first Tranche.

"**Principal Market**" means Oslo Stock Exchange (*Oslo Børs*).

"**Sanctions**" means any laws or regulations or restrictive measures relating to economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by a Sanctions Authority.

"**Trading Day**" means any day on which the Shares are open for trading on the Principal Market.

"**Tranche**" means each tranche of Convertible Bonds issued under the terms and conditions of this Agreement.

## 2 The Convertible Bonds

### 2.1 Structure

(a) The Convertible Bonds shall each have a nominal value of NOK 2,500,000 (the "**Nominal Amount**").

(b) The maximum total aggregate Nominal Amount of the Convertible Bonds is NOK 300,000,000.

(c) The Company may issue Convertible Bonds up to a total aggregate Nominal Amount of NOK 300,000,000 as follows: Subject to Clause 3(c),

(i) the first Tranche will amount to NOK 37,500,000;

(ii) the second Tranche will amount to NOK 30,000,000;

(iii) each of the third Tranche and all subsequent Tranches until and including the 11<sup>th</sup> Tranche will amount to NOK 25,000,000; and

(iv) the 12<sup>th</sup> Tranche will amount to NOK 7,500,000.

(d) The Company shall observe a cool-down period of 3 months, or such shorter cool-down period as agreed from time to time between the Company and the Investor (the "**Cool Down Period**"), between the issuance of each Tranche of Convertible Bonds.

- (e) The Company may only issue Convertible Bonds before the immediately preceding Business Day falling prior to the Long Stop Date, and the Investor is only obliged to subscribe for Convertible Bonds that are issued before such date.

## 2.2 Subscription

- (a) Subject to the terms and conditions of this Agreement, the Investor shall subscribe for all the Convertible Bonds. The Company shall not issue the Convertible Bonds to any other party than the Investor.
- (b) At least ten (10) Business Days prior to an Issue Date, the Company shall send to the Investor a notice of its intention to issue a Tranche substantially in the form as set out in Schedule 2 (the "**Notification of Exercise**").
- (c) Subject to the Cool Down Period, and the other conditions set out in this Agreement, and satisfaction (or waiver) of the conditions set forth in Clause 3 (*Conditions Precedent*) below, the Investor agrees at the latest five (5) Business Days following the Notification of Exercise to, on each Issue Date, fully subscribe and pay for the relevant number of Convertible Bonds issued in accordance with the provisions of this Agreement.
- (d) The Investor shall pay the Company a subscription price in cash equal to 92% of the Nominal Amount for each Convertible Bond (the "**Subscription Price**"). The Subscription Price will be fully paid up by way of payment in cash by bank transfer in immediately available and freely transferable funds in NOK to a bank account notified to the Investor by the Company.
- (e) The Investor shall subscribe for Convertible Bonds by executing and delivering to the Company a subscription document in the form attached as Schedule 3 (the "**Subscription Document**").

## 2.3 Assignment of Convertible Bonds

While the Bonds will generally be assignable in accordance with their terms, the Investor undertakes not to transfer the Convertible Bonds to any third party without the prior written consent of the Company. The Investor may freely transfer the Convertible Bonds to any of the Approved Affiliates, subject to notification to the Company which will in turn update the CSD.

## 3 Conditions Precedent

- (a) This Agreement shall only become effective upon the Company having obtained the Approval, and no party shall have any rights or obligations under this Agreement before the Approval has been obtained.
- (b) The Investor's obligation to subscribe and pay for the Convertible Bonds on each Issue Date, is subject to satisfaction of the following conditions precedent:
  - (i) the representations and warranties of the Company being true, accurate and correct at, and as if made on, the relevant Issue Date;
  - (ii) the relevant conditions precedent of the Bond Terms having been satisfied, it being agreed that as part of the settlement process the Investor will prepay the required subscription amount for any Convertible Bonds to be issued;

- (iii) the Company having performed all of its obligations and being in compliance with the undertakings made under Clause 5 (*Undertakings*) to be performed on or before any such date;
  - (iv) on or before the Issue Date for the first Tranche, the Company having delivered to the Investor a copy of:
    - (A) the Company's certificate of registration (to be no older than one week);
    - (B) the Company's articles of association; and
    - (C) the Approval;
  - (v) there having been, at any Issue Date and since the time of the execution of this Agreement in the opinion of the Company, no Material Adverse Effect;
  - (vi) there having been, at any Issue Date and since the time of the execution of this Agreement, no Change of Control Event nor any Event of Default which is continuing;
  - (vii) the Shares (A) are listed on the Principal Market and (B) have not been suspended or threatened to be suspended as of such Issue Date due to non-compliance with the listing rules or continuing obligations of the Principal Market;
  - (viii) fifteen (15) Trading Days prior to an Issue Date, the market capitalisation of the Company (i.e. the volume of all Shares multiplied by the price quoted by the Principal Market) amounts to at least NOK 50,000,000;
  - (ix) the accumulated daily trading value of the Shares on the Trading Days of the last calendar month prior to the delivery of the Notification of Exercise is at least NOK 9,000,000;
  - (x) there being no prospectus pending approval from the Norwegian Financial Supervisory Authority (the "**NFSA**") in respect of the listing of any Conversion Shares; and
  - (xi) the relevant Issue Date occurs before the Long Stop Date.
- (c) If any one of the conditions in paragraph (b) above are not satisfied on or before an Issue Date, the Investor will have no obligation to subscribe for the Convertible Bonds on the proposed Issue Date, and may have the right to request that the total aggregate amount of the respective Tranche shall be lower than provided for in Clause 2.1(c). If the Company remedies the situation and the conditions in paragraph (b) above are satisfied at a later point in time, the Company may deliver a Notification of Exercise to the Investor in the full amount of the respective Tranches as stipulated in Clause 2.1(c) again.
- (d) The Investor may waive any of the conditions precedent in paragraph (b) above in its sole discretion.

## **4 Representations and Warranties of the Company**

### **4.1 Pre-emptive rights**

The issue of the Convertible Bonds and the Conversion Shares will not be subject to any pre-emptive or similar rights.

#### **4.2 Pari passu obligations**

The Convertible Bonds will constitute direct, unconditional, unsubordinated and unsecured obligations of the Company, ranking equally between themselves and (with the exception of the mandatory provisions of Norwegian law) equally with all other present or future unsubordinated and unsecured obligations of the Company.

#### **4.3 Conversion Shares**

The Conversion Shares, when allotted, issued and delivered in accordance with this Agreement and the Convertible Bond Terms:

- (a) will be duly and validly allotted and issued and fully paid up;
- (b) will carry the same rights and privileges in all respects as the Shares and will be entitled to all dividends and other distributions declared, paid or made thereon; and
- (c) will be freely transferable, free and clear from any charge, lien, encumbrances or claim and from any third-party rights as of the date of delivery or issuance, as the case may be.

#### **4.4 No public offer**

The issue of the Convertible Bonds and the Conversion Shares will not constitute a public offer requiring a prospectus or other similar offering document to be prepared. However, the parties are aware that the Company may otherwise be required to file a prospectus in respect of the listing of any Conversion Shares in certain circumstances. Provided that the Company has taken all reasonable steps to ensure that the approval of any prospectus is obtained as soon practically possible, a delay in the procedure to issue freely tradeable Conversion Shares due to a requirement to prepare a listing prospectus shall not constitute a breach of the representation and warranty given in this Clause 4.4.

#### **4.5 Non-public price sensitive information**

- (a) Neither the Company nor any of its directors or officers shall unreasonably retain any non-public price sensitive information that relates, directly or indirectly, to the Company or its securities and which, if made public, will have a significant influence on the market price of the Convertible Bonds, the Shares and/or the business of the Company in infringement of Regulation (EU) No 596/2014 (Market Abuse Regulation).
- (b) The Company hereby expressly declares and warrants that neither it nor, to its knowledge, any of its representatives, agents or employees has provided the Investor with non-public price sensitive information in the possession of the Company (or any of its representatives, agents or employee) which, if made public, could be expected to have a significant effect upon the market price of the Convertible Bonds, the Shares and/or the business of the Company.
- (c) The above provisions shall not apply to the information that the parties have entered into negotiations of this Agreement to the extent this information constitutes non-public price-sensitive information.

negligence, bad faith or wilful misconduct of the Company.

## 5 Undertakings

### 5.1 The Company's undertakings

The Company undertakes and guarantees to the Investor that:

- (a) it will bear and pay (i) any stamp or other duties or taxes payable by it pursuant to Clause **Error! Reference source not found.**, and (ii) any value added, turnover or similar tax payable in connection with any amount payable by it under this Agreement or otherwise in connection with its obligations envisaged by this Agreement;
- (b) during the term of this Agreement and as long as any Convertible Bonds are outstanding, subject to prior approval by the Investor, it shall not, and shall procure that none of its subsidiaries, shall take any action which would be reasonably expected to result in the delisting or suspension of the Shares on the Principal Market or any other securities exchange and automated quotation system, and it shall comply at all times with the regulations of any such system;
- (c) unless a listing prospectus is required, it will cause its registrar to list all Conversion Shares issued from time to time no later than 72 hours after it has received a Conversion Notice, and that all Conversion Shares, subject to the listing of the Shares already in issue remaining effective as of the issue date of such new Shares, be listed no later than 72 hours after it has received a Conversion Notice;
- (d) if a listing prospectus is required for the listing of any Conversion Shares, it will take all steps reasonably required to ensure that the listing prospectus is prepared and approved as soon as practically possible, including preparing drafts prior to conversion taking place and ensuring that any prospectus being prepared also includes the issuance of future Conversion Shares to the extent possible, and that the relevant Conversion Shares are listed promptly after the listing prospectus has been approved;
- (e) it will prepare and file for approval with the NFSA a registration document (*Nw. Registreringsdokument*) in a timely manner to ensure issuance and listing of Conversion Shares without delay.
- (f) after the approval by the NFSA of the initial registration document, it will procure that a validly approved registration document is registered with the NFSA at all times for as long as any Convertible Bonds remain outstanding;
- (g) the Conversion Shares will be freely tradeable and admitted to listing as soon as practically possible;
- (h) the share capital increase maximum thresholds authorised by the Company's shareholders' meeting in respect of the Convertible Bonds will not be crossed;
- (i) it shall not without the prior written consent of the Investor issue any debt instruments that are convertible into Shares for as long as any Convertible Bonds are outstanding. The Investor shall not unreasonably withhold its consent if the Company undertakes to irrevocably exercise its call option of the Convertible Bond Terms no later than at the issue date of such new debt instruments;
- (j) if an Event of Default has occurred under the Convertible Bond Terms, it shall use its best efforts to remedy such Event of Default as soon as possible; and
- (k) it will use the Subscription Price for the Purpose only.

## 5.2 The Investor's undertakings

The Investor undertakes and guarantees to the Company that:

- (a) it will not, and will procure that its subsidiaries and Affiliates will not, take any short positions in the Shares, except for Shares sold by the Investor in the period between a Conversion Date and the Investor receiving Conversion Shares on its CSD account (assumed to be no more than three Business Days); and
- (b) it will not, and will procure that its subsidiaries and Affiliates will not, in aggregate sell Shares during any trading week corresponding to more than 25% of the total aggregate volume of Shares traded in that same week.

The undertaking in this Clause 5.2 (b) above, does not apply upon the occurrence of an Event of Default which is (i) continuing and (ii) not capable of being remedied or waived or which has not been remedied within the remedy period.

If the Investor (including Shares sold by its subsidiaries and Affiliates) breaches its undertaking in Clause 5.2 (b) above, it shall remedy such breach by purchasing sufficient Shares to ensure that the aggregate number of Shares sold falls below 25% (when deducting the number of Shares purchased after the breach).

## 6 Termination

### 6.1 Termination by the Company

Each of the following events shall constitute a right of the Company to terminate this Agreement (a “**Company Termination Event**”):

- (a) a material adverse effect, in particular an insolvency, or a change of control in respect of the Investor has occurred;
- (b) the Investor fails to comply with any undertaking pursuant to Clause 5.2 or fails to perform any other material obligation pursuant to this Agreement; or
- (c) the Company has redeemed all outstanding Convertible Bonds in accordance with the terms of this Agreement and the Convertible Bond Terms.

## 7 Assignment

The Investor shall not assign or transfer its rights and obligations under this Agreement to any third-party (Approved Affiliates are not considered third-parties) without the prior written consent of the Company.

The Company shall not assign or transfer its rights and obligations under this Agreement to any party without the prior written consent of the Investor.

## 8 Law and Jurisdiction

This Agreement is governed by Norwegian law. The Company and the Investor agree that the courts of Norway have jurisdiction to settle any disputes in connection with this Agreement and accordingly submits to the non-exclusive jurisdiction of the Oslo District Court (*Oslo tingrett*).