

# **Business Organisation Regulations**

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**ESGTI AG**  
**November 2020**

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## TABLE OF CONTENTS

TABLE OF CONTENTS.....	1
1. PRELIMINARIES .....	2
2. PRINCIPLES OF GOVERNANCE .....	2
2.1. Principle of Delegation.....	2
2.2. Principle of Competence .....	2
2.3. Reservation of Powers .....	2
2.4. Duty of Care and Loyalty .....	3
2.5. Conflicts of Interest, External Mandates .....	3
2.6. Confidentiality .....	3
3. ORGANISATION OF THE BOARD OF DIRECTORS .....	3
3.1. Composition .....	3
3.2. Board Meetings.....	4
3.3. Decision Making.....	4
3.4. Circular Resolutions .....	4
3.5. Minutes.....	5
4. ORGANISATION OF THE COMPANY .....	5
4.1. Duties and Powers of the Board of Directors.....	5
4.2. Remuneration.....	6
4.3. Duties and Authorities of the Chairman of the Board.....	6
4.4. The Vice-Chairman of the Board .....	6
4.5. Committees of the Board of Directors .....	7
4.6. Chief Executive Officer ("CEO").....	9
4.7. The Executive Board .....	10
4.8. Members of the Executive Board.....	10
5. FURTHER EXECUTIVE OFFICERS AND BODIES .....	11
6. CONTROL OF DISCLOSURE OF CONFIDENTIAL .....	11
INFORMATION AND KNOW-HOW .....	11
7. BUSINESS YEAR .....	11

## 1. PRELIMINARIES

These Business Organisation Regulations ("**BoR**") are issued and based on the Articles 716 and 716b of the Swiss Code of Obligations (CO) and Article 18 of the Articles of Incorporation of ESGTI AG (the "**Company**").

The BoR define the powers and duties of the officers and bodies charged with the managing affairs of the Company.

The executive bodies of the Company are, if applicable:

- The Board of Directors ("**BoD**");
- The Chairman of the Board of Directors (the "**Chairman**");
- The Committees of the Board of Directors;
- Chief Executive Officer (the "**CEO**");
- The Delegate of the Board of Directors (the "**Delegate**");
- The Executive Board ("**ExB**");
- The individual members of the Executive Board;
- Further executive officers and bodies.

All references to functions in these BoR shall apply to both genders.

## 2. PRINCIPLES OF GOVERNANCE

### 2.1. Principle of Delegation

All executive bodies and officers shall have the right upon their own discretion to delegate their duties and powers, save where mandatory statutory provisions, the Articles of Incorporation or these BoR provide that an assignment of responsibilities is untransferable or inherent to a particular body or officer, to the hierarchically lowest possible business unit, officer or body that possess the knowledge and expertise necessary to make appropriate decisions concerning the performance of those duties.

### 2.2. Principle of Competence

Every business unit and every officer or body shall possess all powers necessary for taking appropriate decisions within the areas of responsibility assigned to them.

### 2.3. Reservation of Powers

All executive officers or bodies shall be entitled, notwithstanding Articles 2.1 and 2.2 above, at any time, either on an ad hoc basis or on the basis of a general reservation of powers, to intervene in the duties and powers of hierarchically subordinated bodies or officers and to take charge of affairs being conducted by such bodies or officers ("**Reserved Powers**").

## 2.4. Duty of Care and Loyalty

Each BoD member and ExB member shall carry out his duties with due care, and shall safeguard and further the interests of the Company.

As per Article 27 of the Articles of Incorporation, the members of the BoD may be active in the highest management or administrative bodies of up to 15 legal entities outside ESGTI, of which no more than 5 mandates shall be in listed companies. In order to ensure that such activities do not conflict with their duties as members of the BoD, each member shall report annually his ongoing outside engagements to the Chairman.

## 2.5. Conflicts of Interest, External Mandates

Each BoD member and each ExB member shall arrange her/his personal and business affairs so as to avoid a conflict of interest. Where the possibility of a conflict of interest arises, the person in question shall declare that possible conflict of interest to the Chairman or to the CEO.

Prior to accepting an external function as board or foundation board member, each BoD and ExB member has to ensure that such activity does not conflict with the interests of the Company. Should during the outside engagement a fundamental conflict with the interests of the Company arise, appropriate measures have to be taken in consultation with the approving body, including a potential resignation from the external function.

## 2.6. Confidentiality

Each BoD and ExB member shall keep confidential all non-public information relating to the Company, which the member has learnt during the exercise of his duties. The confidentiality obligations continue even after the term of office of the member has expired.

Each BoD and ExB member shall return to the secretary of the BoD (the "**Company Secretary**") or destroy, as appropriate, all confidential documents and records relating to the Company at the latest on expiry of his term of office.

# 3. ORGANISATION OF THE BOARD OF DIRECTORS

## 3.1. Composition

The BoD consists of two or more members (Article 16 of the Articles of Incorporation).

The term of office for each BoD member is one year (Article 15 para. 2 of the Articles of Incorporation).

The Chairman is elected by the annual general meeting (Article 15 para. 3 of the Articles of Incorporation). In case the position as Chairman becomes vacant, the BoD appoints a Chairman from amongst its members for the remaining term of office.

The members of the compensation committee ("**CC**") are elected by the annual general meeting. In case a seat in the CC becomes vacant, the BoD may appoint from amongst its members another member to the CC for the remaining term of office.

The BoD and the CC appoints its secretary, who does not need to be a member of the respective body.

## **3.2. Board Meetings**

### **3.2.1. Meeting Schedule**

The BoD shall meet as often as it is required by the business and affairs of the Company, at least four times per calendar year or upon the written request of one of its members.

Meetings are chaired by the Chairman or, if he is unable to do so, by another member of the BoD.

The Chairman decides on the participation of additional persons.

### **3.2.2. Convention of Meetings and Agenda**

Meetings of the BoD shall be convened by the Chairman or, if the latter is unable to do so for compelling reasons such as illness, accident or the like, by the Vice-President. Meetings of the BoD shall be convened by letter, email or telefax and, as a general rule, not less than ten (10) days in advance of the meeting. The notice of the meeting shall contain the date, time, place and the agenda. In case of urgent matters, the Chairman is authorised to convene a meeting of the BoD on shorter notice.

Each Director has the right to request at any time that a meeting of the BoD is convened. Such request shall be submitted to the Chairman in writing with copies to all other directors and shall indicate the purpose of the meeting. Upon receipt of such a written request, the Chairman shall convene a meeting within ten (10) days from receipt of such request and which shall take place not later than twenty-eight (28) days from receipt of the request.

The quorum for a meeting of the BoD or of a committee thereof shall be not less than the one half of all the appointed directors or members of such committee present.

The members of the BoD or of a committee may also attend a meeting by video or telephone conference, whereby all members, which are not physically present, must attend via the same video or telephone conference. If all members of the BoD are present at a meeting (regardless whether in person, by video or telephone conferencing) and if no objection is raised, a meeting of the BoD may be held without compliance of the foregoing rules and for all businesses, which are within the competence of the BoD.

## **3.3. Decision Making**

Unless otherwise stated, the decisions and resolutions of the BoD shall be taken with the consent of the simple majority of the Directors present in a meeting. Each director shall have one (1) vote and the Chairman shall have a second or casting vote in the event of a tie vote.

## **3.4. Circular Resolutions**

If it is not possible to convene the BoD at the same place and no director requests a personal meeting within three (3) days since the receipt of a respective request, the BoD may also pass its resolutions in writing by circular letter, which must be signed by all members of the BoD.

### **3.5. Minutes**

All resolutions of the BoD must be recorded in minutes. Resolutions passed by correspondence must be included in the minutes of the next meeting. The minutes must be signed by the Chairman and the Secretary and shall be distributed to each director. The minutes shall be approved by the BoD at the next meeting.

## **4. ORGANISATION OF THE COMPANY**

### **4.1. Duties and Powers of the Board of Directors**

#### **4.1.1. In General**

The BoD shall be responsible for the overall governance of the Company and for overseeing the management of their affairs.

The BoD shall have the non-assignable duties and powers provided by law (Article 716a CO) and Article 20 of the Articles of Incorporation of the Company.

If needed, the BoD will issue a signature regulation. The following transactions shall be subject to the approval by the BoD:

- Annual budget and annual planning as prepared by the CEO;
- Granting and revoking of power of attorney and general authorities to act and sign;
- Purchase and sale of participations in other companies;
- Entering into cooperations and alliances;
- Establishment of a branch office;
- Large investments and asset management decisions as long as these have not been delegated to the Chairman or the ExB;
- Contracts with relatives or relatives by marriage and any other contract or transaction, suspected to generate any evident conflict of interest;
- In any other particular case, upon decision of the BoD or the annual general meeting.

Acting upon recommendation from the Compensation Committee, the BoD decides on the award of any shares, options, securities to any employee, executive or other person.

The BoD otherwise assigns and delegates the management of the Company to the Chairman, the CEO, the Executive Board or the members thereof, save where the law, the Articles of Incorporation or other provisions of these BoR otherwise provide.

#### **4.1.2. Right of Information and Reporting**

Each member of the BoD shall be entitled to seek information on all the Company's affairs in accordance with the following provisions.

At each meeting the BoD shall be briefed by the Chairman, by the CEO and by members of the Executive Board designated by the Chairman or by the CEO on the Company's current business performance and on major events affecting the affairs of the Company. Any extraordinary developments that may arise shall be notified immediately to the members of the BoD in writing.

Outside of meetings, every member of the Board of Directors may request the CEO to provide information about the general course of business and, with the prior consent of the Chairman, also about specific business cases, or to inspect business documents. If the Chairman turns down a member's request for information, consultation or inspection of documents, the matter shall be referred to the BoD for decision.

#### **4.2. Remuneration**

The BoD shall fix the total amount of emoluments to be paid to its members and shall submit it to the annual general meeting for approval within the meaning of Art. 29 of the Articles of Incorporation, but without prejudice to the following articles of these BoR.

Within the limits of the total amount approved as per above article, the Chairman, in agreement with the Compensation Committee, shall fix special fees payable to members of the BoD, who carry out specific functions or who render services beyond the normal scope of their office.

#### **4.3. Duties and Authorities of the Chairman of the Board**

The Chairman shall be responsible for the organization including convention, preparation and chairing of the meetings of the BoD. The Chairman shall be authorized to delegate this duty from case to case or in general to the Company Secretary.

The Chairman shall prepare the implementation of the resolutions passed by the BoD, save where a Presidium of the BoD or a committee of the BoD shall have been established and the relevant functions delegated to it by these BoR.

The Chairman shall have the supervision over the affairs of the Company. For this purpose, the CEO and any other member of the Executive Board as requested by the Chairman shall report directly to the Chairman.

The Chairman shall ensure that the Company possesses an appropriate management and organization structure.

The Chairman or, in his absence, another director nominated by the BoD shall represent the Company in the shareholder's meeting and/or the board of directors of its affiliated entities.

The Chairman shall further have any other duties and powers as the BoD shall designate to him or which may be specified by the law, the Articles of Incorporation or in these BoR.

In addition, the Chairman shall have decision making authority in urgent matters which fall within the purview of the BoD, but which because of pressure of time cannot await resolution by the BoD. In such cases, the members of the BoD shall be apprised of the matter as quickly as possible and the relevant decision shall be recorded in the minutes of the next following meeting of the BoD.

#### **4.4. The Vice-Chairman of the Board**

The BoD shall elect one or two Vice-Chairmen from among its members.

If the Chairman is unavailable, his functions shall be carried out by the Vice-Chairman or in case of two Vice-Chairmen by the senior (longer-serving) Vice-Chairman.

The Vice-Chairman/senior (longer-serving) Vice-Chairman shall call for a meeting of the BoD to be held without the Chairman at the request of any member of the BoD. He may call such a meeting whenever he deems necessary to do so.

#### **4.5. Committees of the Board of Directors**

##### **4.5.1. Executive Committee**

The BoD can appoint for selected subjects, an Executive Committee, from time to time and at its own and sole discretion. If such Committee is appointed, it shall consist of at least 2 individuals.

The purpose of the Executive Committee is to manage the day-to-day activities of the Company's business through:

- a) developing and implementing strategy, operational plans, policies, procedures and budgets;
- b) driving and monitoring operating and financial performance;
- c) assessing and controlling risk;
- d) prioritising and allocating resources.

The Executive Committee is responsible for developing the Company's strategic as well as long-term business and financial plans. Key areas of responsibility also include the management and supervision of all areas of the business development on an operational basis, and approving investment decisions.

The Executive Committee shall assist the BoD in supervising the management of the Company, particularly with respect to organisational matters. In particular, the Committee shall review in an advisory/preparatory capacity:

- e) establish items for Board meeting agendas;
- f) strategic planning;
- g) monitoring and evaluating progress toward the company's strategic goals and initiatives;
- h) overseeing the daily implementation of board policies;
- i) overseeing company's policies and regulations and making sure that the board is establishing and maintaining good governance practices;
- j) forming and sunseting Board committees and task forces;
- k) managing high-level workplace issues of a serious nature;
- l) Board development, mentoring and conducting annual board member evaluations.

The Executive Committee shall submit its minutes to the full BoD and shall report to the BoD either orally or in writing, at regular intervals about the activities and findings of the Executive Committee. The Executive Committee shall be chaired by the Chairman of the BoD.

The Executive Committee shall be authorized at any time, to inspect any documents which are relevant to the discharge of its duties, to request full and detailed information from any party within the Company or from the external counsels and auditors and to require them to attend its meetings. The Executive Committee may employ the services of independent consultants as it deems appropriate.

The Executive Committee may conduct votes by mail ballot or telephone as well as at its meetings.

#### **4.5.2. Compensation Committee**

The Compensation Committee shall have discretionary authority over matters within its remit and shall consist of at least two members of the BoD elected by the annual general meeting. The Remuneration Committee organises itself.

Within the limits of the annual general meeting's binding approval on the total remuneration of the BoD and the Executive Board, the Compensation Committee shall decide on the remuneration of the Chairman (who must not be present at the time) and the CEO (who must not be present at the time). Furthermore, the Compensation Committee shall have the following non-transferable and inalienable duties:

- a) To develop, and periodically review, the compensation policy, compensation principles and performance benchmarks and targets of the Company and its subsidiaries (if any), and the implementation thereof, and to submit proposals and recommendations to the BoD on any such issue;
- b) To prepare any relevant decisions of the BoD in connection with the compensation of the members of the BoD, the management (and the advisory board, if any) and to submit proposals to the BoD regarding the type and the amount of the annual fixed compensation of the members of the BoD, the management (and the advisory board, if any) and to prepare proposals to the shareholders' meeting regarding the maximum aggregate compensation amount for each of the BoD, the management (and the advisory board, if any);
- c) To submit proposals to the BoD regarding the potential recipients, the amount as well as the form of any performance-based compensation;
- d) If applicable, to submit proposals to the BoD regarding the design of benefit plans governing the granting of shares, conversion rights, share options, loans, credits or pension benefits outside the scope of occupational pension schemes;
- e) To pass or to prepare resolutions in accordance with any applicable provision of law or the Articles of Incorporation.

Committee members recuse themselves from deliberations and decisions on matters that affect their interests.

The Compensation Committee shall meet at regular intervals and not less than once a year. It may conduct votes by mail ballot or telephone as well as at its meetings. The minutes of all Compensation Committee meetings shall be made available to the Board.

#### **4.5.3. Audit Committee**

The BoD can appoint for selected subjects, an Audit Committee, from time to time and at its own and sole discretion. If such Committee is appointed, it shall consist of at least 2 individuals.

The Audit Committee shall assist the BoD in supervising the management of the Company, particularly with respect to financial matters. In particular, the Committee shall review in an advisory/preparatory capacity:

- a) accounting systems and procedures;
- b) the organization and scope of financial controlling, including internal auditing;
- c) financial reporting to shareholders and the general public as well as the relationship with the external auditors;
- d) financial planning;

- e) investments of liquid assets and financial investments, including investments of assets by the Company's post-retirement benefit plans (investment principles and policies, funding status, investment instruments, diversification, return on investments, etc.);
- f) longer-term business plans and strategy and communication of same in the Company's annual reports;
- g) risk management, internal control systems, risk plans and risk assessment of the Executive Board.

The Audit Committee shall submit its minutes to the full BoD. The Chairman of the Audit Committee shall report to the Chairman of the BoD, either orally or in writing, at regular intervals about the activities and findings of the Audit Committee.

The Audit Committee shall be authorized at any time, after notifying the Chairman of the BoD, to inspect any documents which are relevant to the discharge of its duties (including internal and external audit reports, management responses to such reports and follow-up documents), to request full and detailed information from any party within the Company or from the external auditors and to require them to attend its meetings. The Audit Committee may employ the services of independent consultants as it deems appropriate.

The Audit Committee may conduct votes by mail ballot or telephone as well as at its meetings.

#### **4.5.4. Corporate Governance and Sustainability Committee**

The BoD can appoint for selected subjects, a Corporate Governance and Sustainability Committee, from time to time and at its own and sole discretion. If such Committee is appointed, it shall consist of at least 2 individuals and shall act on selectively assigned subjects from the below.

The Corporate Governance and Sustainability Committee shall assist the BoD in matters relating to corporate governance, compliance and in promoting sustainable management of the Company's activities. The Corporate Governance and Sustainability Committee shall supervise compliance with internal business principles and principles of behaviour with respect to legal as well as safety and environmental matters. It shall act in an advisory/preparatory capacity.

The Corporate Governance and Sustainability Committee shall submit its minutes to the full BoD. The Chairman of the Corporate Governance and Sustainability Committee shall report to the Chairman of the BoD, either orally or in writing, at regular intervals about the activities and findings of the Corporate Governance and Sustainability Committee.

The Corporate Governance and Sustainability Committee may conduct votes by mail ballot or telephone as well as at its meetings.

#### **4.6. Chief Executive Officer ("CEO")**

The Board of Directors can appoint a CEO and in such case shall define his executive functions.

The duties of the CEO shall, subject to the powers reserved to the higher-ranking executive bodies and in addition to the management of the business units for which he is directly responsible, in particular include the following:

- a) The development and implementation of the strategy, the setting of operating priorities and the allocation of the necessary human and material resources;
- b) The management, supervision and coordination of the other members of the Executive Board;

- c) The convening, preparation and chairing of meetings of the Executive Board;
- d) Briefing the Chairman or the BoD on the Company's affairs. The CEO may also delegate this task to other members of the Executive Board;
- e) Management development for the Company;
- f) Taking decisions on matters in which divisions, functions and/or group companies have overlapping interests;
- g) Appointing all directors and managers of subsidiaries, unless otherwise stated.

#### **4.7. The Executive Board**

##### **4.7.1. Composition**

The members of the Executive Board shall be appointed by the BoD upon proposal by the CEO.

##### **4.7.2. Duties and Powers**

The scope of the duties and powers of the Executive Board shall comprise the following specific matters:

- a) Investments, leasing transactions or divestments between CHF 100,000.00 up to CHF 500,000.00 and submitting proposals in respect of investments in or divestments of property, plant or equipment having a total value in excess of CHF 500,001.00;
- b) Operating transactions, including transactions concerning intellectual property rights, with a commercial value in excess of CHF 100,000.00;
- c) Drawing up the five-year plans and the budgets of the various divisions and functions;
- d) Setting the annual salary and wage parameters for employees.

#### **4.8. Members of the Executive Board**

##### **4.8.1. Demarcation of Areas of Responsibility**

The Chief Executive Officer shall define the precise scope of the area of responsibility for each member of the Executive Board.

Notwithstanding the foregoing, responsibilities may be assigned directly to members of the Executive Board under these BoR.

##### **4.8.2. Specific Duties of Members**

The members of the Executive Board shall be individually responsible for the business areas (divisions or functions) assigned to them.

In particular, the individual members of the Executive Board shall have the following duties:

- a) To attain the prescribed strategic, operating and quantitative objectives within their division/function and in the individual business units comprising same;
- b) Preparing and assuming responsibility for the budget for their area;
- c) Establishing and overseeing a management and organizational structure adequate to the needs of their area, in accordance with the principles of delegation and competence;

- d) Responsibility for the wages and salaries of the employees in their area within the parameters set by the Executive Board, subject to the salary-setting powers of the Compensation Committee;
- e) Overseeing global business performance within their area and issuing the necessary instructions and directives, in particular as regards compliance with the statutory obligations relevant to their area;
- f) Representing the interests of their area and the business units comprised within it in relation to other divisions/functions and in relation to higher ranking executive bodies or officers;
- g) Regular reporting on business performance to the CEO and reporting important matters immediately and simultaneously to the Chairman and the CEO.

The member of the Executive Board designated as Chief Financial Officer ("**CFO**") shall be responsible for implementing and overseeing the execution of the Company and Group policies and guidelines relating to financial planning, accounting and financial controlling issued by the Board of Directors pursuant to these BoR and in particular for the investment of liquid assets, the proper financing of the Group and the Group companies and the establishment of the necessary control mechanisms.

## **5. FURTHER EXECUTIVE OFFICERS AND BODIES**

The delegation of executive duties and powers to subordinate bodies and officers shall be effected by means of instructions issued within their respective divisions and functions by the relevant Executive Board members.

## **6. CONTROL OF DISCLOSURE OF CONFIDENTIAL INFORMATION AND KNOW-HOW**

Any and all confidential and non-public information of the Company including know-how etc. shall be kept strictly confidential by all members of the BoD, officers, employees, agents and representatives of the Company and may be made available to the shareholders of the Company or third parties only subject to the approval of the BoD. The BoD shall have the authority to implement special rules governing the type of information which may be released to the shareholders or officers or employees of the Company.

## **7. BUSINESS YEAR**

The business year of the Company begins on the 1<sup>st</sup> of January and ends on the 31<sup>st</sup> of December.

This Regulation was adopted of the Board of Directors of the Company on 15 October 2020. It shall be effective as of 1 November 2020.

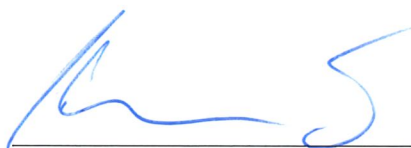
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Andreas R. Bührer

Chairman of the Board of Directors



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Wolfgang H. Werlé

Member of the Board of Directors