Nyxoah®

# The path to restful nights

Annual report 2020

# Annual report 2020

This Annual Report contains all required information as per the Belgian Code of Companies and Associations ("**CCA**"). It was approved by the Board of Director of Nyxoah SA on 8 April 2021.

In this Annual Report, Nyxoah SA and its affiliates will be collectively referred to as "the Company", "the Group", "Nyxoah", "we" or "us".

## Language of the annual report

The Company has prepared its Annual Report in English. The Company also provides a French translation of the Annual Report, in accordance with Belgian laws. Both the English version and the French version of the Annual Report are legally binding. Without prejudice to the responsibility of the Company for inconsistencies between the different language versions of the Annual Report, in case of discrepancies between the language versions, the English version shall prevail.

## Availability of the annual report

To obtain a copy of this Annual Report free of charge, please contact: ir@nyxoah.com.

An electronic version of this Annual Report is available on the Company website: investors.nyxoah.com/financials

## Forward looking statements

In addition to historical facts and statements of current condition, this Annual Report contains "forward-looking statements" within the meaning of the securities laws of certain jurisdictions. In some cases, these forward-looking statements can be identified by the use of forward-looking terminology, including the words "believes", "estimates", "anticipates", "expects", "intends", "may", "will", "plans", "continue", "ongoing", "potential", "predict", "project", "target", "seek" or "should" or, in each case, their negative or other variations or comparable terminology or by discussions of strategies, plans, objectives, targets, goals, future events or intentions. Forward-looking statements include statements regarding the Company's intentions, beliefs or current expectations concerning, among other things, its results of operations, prospects, growth, strategies and the industry in which it operates.

By their nature, forward-looking statements involve known and unknown risks and uncertainties because they relate to events and depend on circumstances that may or may not occur in the future. Forward-looking statements are not guarantees of future performance. No undue reliance should be placed on these forward-looking statements. Any forward-looking statements are made only as of the date of this Annual Report and the Company does not intend, and does not assume any obligation, to update forward-looking statements set forth in this Annual Report, unless required by law.

Many factors may cause the results of operations, financial condition, liquidity and the development of the industries in which the Company competes to differ materially from those expressed or implied by the forward-looking statements contained in this Annual Report. Factors that might cause such a difference include, but are not limited to, those discussed in the section "Risk Factors". The risks described under "Risk Factors" are not exhaustive. New risks can emerge from time to time, and it is not possible for the Company to predict all such risks, nor can it assess the impact of all such risks on the business or the extent to which any risks, or combination of risks and other factors, may cause actual results to differ materially from those contained in any forward-looking statements. Given these risks and uncertainties, forward-looking statements cannot be relied upon as a prediction of actual results.

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# Report of the Board of Directors

# Report of the Board of Directors to the Shareholders for the Financial Year Ending 31 December 2020

Dear Shareholders,

We are pleased to present to you the 2020 Annual Report relating to Nyxoah's consolidated financial statements as of 31 December 2020 prepared in accordance with International Financing Reporting Standards (IFRS) as endorsed by the European Union. The companies included in the consolidated financial statements are Nyxoah SA, Nyxoah Ltd, Nyxoah Pty Ltd and Nyxoah Inc.

## 1.1 Overview

The company is a medical technology company focused on the development and commercialization of innovative solutions to treat Obstructive Sleep Apnea ("OSA"). Our lead solution is the Genio® system, a CE-Marked, patient-centric, minimally invasive, next generation hypoglossal neurostimulation therapy for OSA. OSA is the world's most common sleep disordered breathing condition and is associated with increased mortality risk and comorbidities including cardiovascular diseases, depression and stroke.

The product is intended to be used as a second-line therapy to treat moderate-to-severe OSA patients who have failed conventional therapy, including Continuous Positive Airway Pressure ("CPAP"), which, despite its proven efficacy, has been associated with many limitations, making compliance a serious challenge. In addition, other second-line treatments, such as oral devices, are more suitable to treat mild to moderate OSA or are highly invasive.

Compared to other hypoglossal nerve stimulation technologies for the treatment of OSA, the Genio® system includes the world's first and only battery-free, minimally invasive and leadless neurostimulator implant and is capable of delivering bilateral hypoglossal nerve stimulation to keep the upper airway open. The Genio® system is a differentiating technology that targets a clear unmet medical need thanks to its minimally invasive and quick implantation technique, its external battery and its ability to stimulate the left and right branches of the hypoglossal nerve.

## 1.2 Highlights of 2020

In 2020, the Company continued to advance towards its goal of further expanding its footprint and giving access to the Genio® solution to more patients suffering from OSA, thereby addressing a significant current unmet medical need.

In respect of reimbursement in Germany, the German federal joint committee (G-BA) confirmed in March 2020 that the Genio® system is entitled to join the existing NUB for hypoglossal nerve stimulation ("HGNS") systems, at a similar reimbursement level as other neurostimulation-based OSA thera-

pies. As a result of this, the Company generated its first commercial revenue in 2020, albeit that such revenue was limited due to the NUB-specific negotiation path. As of 2021, the reimbursement will move away from NUB into a DRG system which should allow the Company to fully ramp up its German commercialization strategy.

From a manufacturing perspective, despite COVID-19, the Company was able to continue producing Genio® devices in sufficient quantities to meet the Company's needs.

### Clinical development

In November 2020, the Company completed enrolments in the BETTER SLEEP study, conducted in Australia. In total, 42 patients were enrolled in this pre-marketing study, designed to assess the safety and efficacy / performance of the Genio® system for the treatment of OSA in adult patients who either exhibit or do not exhibit a complete concentric collapse ("CCC") of the soft palate. The study is planned to have a 36-month follow-up and the end of the study is expected by the end of 2023. Six-month follow-up results are expected to be available in the second quarter of 2021.

When the primary endpoints of this study are reached, the Company should be able to obtain a therapy indication expansion allowing the treatment of CCC patients that are currently excluded from HGNS. In the meantime, the discussion with the European notified bodies has been initiated. The next step will be a regulatory pathway discussion with the FDA so as to leverage the clinical data in order to provide treatment opportunities for CCC patients in the US.

In 2020, enrolment continued, but was slowed down due to COVID-19, in the EliSA study, the Company's multicentre post-marketing study conducted throughout Europe which is designed to gather long-term safety and clinical data regarding the Genio® system in adult patients suffering from moderate-to-severe OSA. As per 31 December 2020, 15 patients out of the total intended 110 patients were enrolled in the study coming from five different countries (Germany, Switzerland, France, the Netherland, Belgium). The study is expected to be completed by mid-2027.

In June 2020, the U.S. Food and Drug Administration (FDA) approved the Company's Investigational Device Exemption (IDE) application for the Company's DREAM study in the US. This study aims to confirm the safety and effectiveness of the Genio® system and is designed to support marketing authorization of the Genio® system in the United States. The study will enroll 134 moderate to severe OSA patients who failed first line CPAP therapy. Up to 19 US sites in combination with 7 international sites have been selected to participate in the study. By the end of 2020, the first US and international implants took place.

### Research and development

Throughout 2020, the Company continued to invest in improving the Genio® system with a view to developing next generation products with improved features with respect to patient comfort, therapy efficacy, reliability and patient and market acceptance.

In particular, in 2020, the Company performed the Magnetic Resonance Imaging ("MRI") compatibility testing of the Genio® system, resulting in CE mark and FDA conditional MR labelling approval in early 2021.

In parallel, in 2020, the Company was finalizing a research collaboration agreement with Vanderbilt University (Nashville, TN, USA), resulting in an exclusive license agreement being signed in early 2021 giving the Company the opportunity to develop new innovative neurostimulation technologies to treat OSA patients.

### Financial highlights

In February 2020, the Company raised €25 million in a private financing round, whereby ResMed Inc. (NYSE:RMD; ASX:RMD), a world-leading digital health company in the OSA field, joined the Company as a new shareholder. All major shareholders at that time participated in this financing round onboarding ResMed Inc.

In September 2020, the Company raised €85 million ($100 million) as a result of the initial public offering ("IPO") of new shares of the Company on Euronext Brussels. The IPO was multiple times oversubscribed at the upper end of the price range of €17 per offered share, giving the Company an initial market capitalization of €375 million (taking into account the exercise in full of the over-allotment option in the framework of the IPO). All of the Company's shares were admitted to trading on the regulated market of Euronext Brussels under the symbol "NYXH".

## 1.3 Post balance sheet events

After closing of the financial year, the Company signed an exclusive license agreement with Vanderbilt University (Nashville, TN, USA). This agreement allows Nyxoah to develop new neurostimulation technologies for the treatment of sleep disordered breathing conditions based on inventions and patents owned by Vanderbilt University, which will potentially expand Nyxoah's future pipeline.

On 22 February 2021, the Company issued 10,000 shares pursuant to an exercise of 20 2013 ESOP Warrants (each giving right to 500 shares). Consequently, on the date of this Annual Report, the Company's registered capital amounts to EUR 3,797,765.64, represented by 22,107,609 shares.

The Company has restated its 2019 financial statements and the balance sheet as at 1 January 2019 to reflect the accounting for cash-settled share-based payment transactions that existed at those reporting dates. In the previous financial statements, the cash-settled share-based payment transactions were not accounted for in accordance with IFRS 2 (Share-based payments). See notes 5.2.3 and 5.13.

## 1.4 Financial review of the year ending 31 December 2020

### 1.4.1 Analysis of the consolidated income statement

The table below sets forth the Company's audited consolidated income statement, ending up with a KEUR 12,245 net loss for the year ended 31 December 2020, and comparative information for the year 2019. The year 2019 has been restated reflecting the accounting for cash settled share based payment arrangement with two consultants. See notes 5.2.3

| (in EUR 000) | For the year ended 31 December | |
|---|---|---|
| | **2020** | **2019 Restated*** |
| Revenue | 69 | - |
| Cost of goods sold | (30) | - |
| **Gross Profit** | **39** | **-** |
| General and administrative expenses | (7,522) | (4,226) |
| Research and development expenses | (473) | (630) |
| Clinical expenses | (1,053) | (848) |
| Manufacturing expenses | (460) | (489) |
| Quality assurance and regulatory expenses | (227) | (227) |
| Patents Fees & Related | (123) | (267) |
| Therapy Development expenses | (1,864) | (902) |
| Other operating income / (expenses) | 459 | (126) |
| **Operating loss for the period** | **(11,224)** | **(7,715)** |
| Financial income | 62 | 71 |
| Financial expense | (990) | (740) |
| **Loss for the period before taxes** | **(12,152)** | **(8,384)** |
| Taxes | (93) | (70) |
| **Loss for the period** | **(12,245)** | **(8,454)** |
| Basic and diluted Loss Per Share (in EUR) | (0.677) | (0.568) |

* The year 2019 has been restated to reflect the adjustments as explained in note 5.2.3

For the first time since its inception, the Company started generating revenue as of July 2020. The revenue for the amount of KEUR 69 was generated under the existing HGNS NUB coding in Germany. The total cost of goods sold is amount of KEUR 30.

The increase of operating loss from KEUR 7,715 in 2019 to KEUR 11,224 in 2020, or a change of by KEUR 3,509, is due to the increase of activities in all departments. The Company is currently conducting three clinical trials to continue gathering clinical data and obtain regulatory approvals. In June 2020 the Company obtained FDA approval to start the DREAM study in the US. In line with its strategy, the Company continues investing in research and development to improve and develop the next generation of the Genio® system and preparing for scaling-up of production capacities.

General and administrative expenses increased by 78% from KEUR 4,226 in 2019 to KEUR 7,522 in 2020. The increase is due to consulting expenses, staff and legal fees to support the Company growth.

The increase in consulting and contractors' fees includes variable compensations for an amount of KEUR 1,981 related to a cash-settled share based payment transaction (2019: KEUR 1,199). See note 5.13.3. The increase of KEUR 1,688 in staff costs is due to a higher number of FTE. The increase of KEUR 159 in legal fees is due to services and not to any ongoing disputes.

Research and development expenses consist of product development, engineering to develop and support our products, testing, consulting services and other costs associated with the next generation of the Genio® system that do not meet the development capitalization criteria. The Company continues to invest in improving the Genio® system to develop next generation products with improved features with respect to patient comfort, therapy efficacy, reliability and patient and market acceptance. These expenses primarily include employee compensation and outsourced development expenses. Before capitalization of KEUR 2,593 in 2020, Research and development expenses increased by 29% from KEUR 2,375 in 2019 to KEUR 3,066 in 2020 due to the increase of development costs of the Genio® system. See note 5.19

Clinical expenses consist primarily of clinical studies related to the development of our Genio® system, consulting services and other costs associated with clinical activities. These expenses include employee compensation, clinical trial management and monitoring, payments to clinical investigators, data management and travel expenses for our various clinical trials. Before capitalization of KEUR 3,263 in 2020, clinical expenses increased by 50% from KEUR 2,881 in 2019 to KEUR 4,316 in 2020. The increase in the expenses was mainly due to an increase in staff and consulting to support the completion of the Better Sleep study implantations, continuous recruitment for EliSA study and the launch of the new Dream IDE study in the US. See note 5.20

Manufacturing expenses consist primarily of employee compensation, acquisition costs of the components of the Genio® system, as well as distribution-related expenses such as logistics and shipping costs for non-commercial units of the Genio® system. Before capitalization of KEUR 3,342 in 2020, manufacturing expenses increased by 109% from KEUR 1,812 in 2019 to KEUR 3,802 in 2020. The increase in the expenses was mainly due to an increase in staff for production and engineering team to support capacity and yield improvement, and also due to purchasing raw materials to support increase in the production. See note 5.21

Quality assurance and regulatory expenses consist primarily of quality control, quality assurance and regulatory expenses for activities non-related to the production of commercial units of the Genio® system. These expenses include employee compensation, consulting, testing and travel expenses. Before capitalization of KEUR 1,247 in 2020, quality assurance and regulatory expenses increased by 58% from KEUR 928 in 2019 to KEUR 1,474 in 2020. The increase in the expenses was due to an increase in staff increase and QA & regulatory activities to support manufacturing scaling up process. See note 5.22

Therapy development expenses consist primarily of compensation for personnel, spending related to direct sale force, market access and reimbursement activities. Other therapy development expenses include training physicians, travel expenses, conferences, market research, advertising, and public relations. Therapy development expenses increased by 107% from KEUR 902 in 2019 to KEUR 1,864 in 2020. The increase in the expenses was due to an increase in staff and consulting, to support the commercialization in Europe. See note 5.23.

### 1.4.2 Analysis of the consolidated statements of financial position

The table below sets forth the Company's audited consolidated balance sheet for the year ended 31 December 2020, and comparative information as at 31 December 2019. The year 2019 has been re-stated reflecting the accounting for cash settled share based payment arrangement with two consultants. See note 5.2.3.

| (in EUR 000) | As of 31 December | |
|---|---|---|
| | 2020 | 2019 Restated* |
| **ASSETS** | | |
| **Non-current assets** | | |
| Property, plant and equipment | 713 | 322 |
| Intangible assets | 15,853 | 5,734 |
| Right of use assets | 3,283 | 1,066 |
| Deferred tax asset | 32 | 21 |
| Other long-term receivables | 91 | 78 |
| | **19,972** | **7,221** |
| **Current assets** | | |
| Inventory | 55 | - |
| Trade receivables | - | 60 |
| Other receivables | 1,644 | 2,048 |
| Other current assets | 109 | 11 |
| Cash and cash equivalents | 92,300 | 5,855 |
| | **94,108** | **7,974** |
| **Total assets** | **114,080** | **15,195** |

| (in EUR 000) | As of 31 December | |
|---|---|---|
| | 2020 | 2019 Restated* |
| **EQUITY AND LIABILITIES**<br>**Capital and reserves** | | |
| Capital | 3,796 | 2,481 |
| Share premium | 150,936 | 47,668 |
| Share based payment reserve | 2,650 | 420 |
| Currency translation reserve | 149 | 207 |
| Retained Earnings | (60,341) | (48,415) |
| **Total equity attributable to shareholders** | **97,190** | **2,361** |
| **LIABILITIES**<br>**Non-current liabilities** | | |
| Financial debt | 7,607 | 7,146 |
| Lease liability | 2,844 | 735 |
| Pension liability | 37 | 30 |
| Other payables | - | 547 |
| | **10,488** | **8,458** |
| **Current liabilities** | | |
| Financial debt | 616 | 378 |
| Lease liability | 473 | 340 |
| Trade payables | 1,190 | 1,385 |
| Other payables | 4,123 | 2,273 |
| | **6,402** | **4,376** |
| **Total liabilities** | **16,890** | **12,834** |
| **Total equity and liabilities** | **114,080** | **15,195** |

* The year 2019 has been restated to reflect the adjustments as explained in note 5.2.3

The Company started recognizing the development expenditure as an asset since March 2019 triggered by obtaining CE mark. Development costs primarily include employee compensation and outsourced development expenses. In 2020, the Company has capitalized developments costs for an amount of KEUR 9,874. The net book value of the capitalized development costs is KEUR 15,262. In addition, intangible assets include patents and licenses for an amount of KEUR 591, an increase of KEUR 256 in 2020 compared to 2019. See note 5.8.

Property, plant & equipment shows a total additional net book value of KEUR 391 at balance sheet date consequently to leasehold improvements in Company's offices in Belgium and Israel. See note 5.2.7

Right of use assets shows a total additional increase by KEUR 2,217 due to new leases signed in 2020. See note 5.9.

Cash and cash equivalents show a total additional increase KEUR 86,445 mainly due to capital increase for a total amount KEUR 103,583, net of transaction costs in February 2020 and in September 2020 (Initial Public Offering ("IPO")) compensated by cash used in the operating activities by KEUR 7,015 and cash used in the investing activities of KEUR 10,693.

The share capital and the share premium have increased by respectively KEUR 1,315 and KEUR 103,268 due to the capital increases in cash in 2020 for a total amount KEUR 103,583, net of transaction costs and capital increase in kind (conversion of loan in shares) of KEUR 1,000.

Lease liabilities shows a total additional increase of KEUR 2,242 due to new lease agreements in Belgium and Israel. See note 5.9.

Other non-current and current payables have increased by KEUR 1,303 from KEUR 2,820 to KEUR 4,123 mainly due to higher cash-settled share-based payment liability of KEUR 473, higher accrued expenses of KEUR 557 and higher payroll related payables of KEUR 134.

### 1.4.3 Analysis of the consolidated net cash burn rate

The net cash burn rate is the net amount of cash and cash equivalents which have decreased over the year. The net cash burn rate equals the change in the cash and cash equivalents between 31 December 2019 and 2020.

The table below summarizes the net cash burn rate of the Company for the year 2020.

| (in EUR 000) | For the year ended 31 December | |
|---|---|---|
| | 2020 | 2019 |
| Net cash used in operating activities | (7,015) | (5,965) |
| Net cash from investing activities | (10,693) | (5,795) |
| Net cash from financing activities | 104,176 | 733 |
| Effects of exchange rate changes | (23) | 77 |
| **Change in Cash and cash equivalents** | **86,445** | **(10,950)** |

The net cash burn rate for 2020 is a net cash inflow amounting to KEUR 86,445 compared to a net cash outflow of KEUR 10,950 for 2019.

The cash outflow resulting from operating activities amounted to KEUR 7,015 in 2020 compared to KEUR 5,965 in 2019. An increase of cash outflow of KEUR 1,050 due to KEUR 3,768 higher losses mainly from increased general and administrative expenses and therapy development expenses and higher interest and tax paid, net by KEUR 166, compensated by KEUR 2,421 higher non-operating cash adjustments (KEUR 2,202 higher share-based payment expense) and a positive variation in the working capital of KEUR 463.

Cash flow from investing activities represented a net cash outflow of KEUR 10,693 for 2020. An increase of KEUR 4,898 compared to 2019 mainly explained by higher capitalization of development expenses in 2020.

The increase in cash inflow from financing activities is primarily due to the IPO completed in September 2020 and the proceeds from the February 2020 capital raise.

## 1.5 Personnel

As at 31 December 2020, the Nyxoah Group employed 71.9 full-time equivalents, including white-collar employees and consultants. The following table presents a breakdown of the Company's full-time equivalents as at 31 December 2020.

| | |
|---|---|
| General & Administration | 9 |
| IP & Trademark | - |
| Research & Development | 10.8 |
| Clinical & Regulatory Affairs | 23.2 |
| Quality Assurance & Regulatory | 7.9 |
| Operations | 15 |
| Therapy Development (including the sales team) | 6 |
| **Total** | **71.9** |

As at 31 December 2020, the Nyxoah Group had 20.2 full-time equivalents located in Europe, 36.7 full-time equivalents located in Israel, 5 full-time equivalents located in Australia and 10 full-time equivalents located in the United States.

## 1.6 Environment

The Company is committed to providing a safe and healthy work environment for all its employees, contractors and visitors. This commitment also extends to ensuring that its operations do not place local communities or the environment at risk of injury, illness or damage. The Company has not been the subject of any significant environmental prosecutions for violating environmental regulations, licenses or other requirements in recent years.

## 1.7 Risks and uncertainties

Reference is made to section 2.9 ("Description of the principal risks associated to the activities of the Company").

## 1.8 Going concern

As at 31 December 2020, the Company had cash and cash equivalents of KEUR 92,300. Based on cash flow forecasts for the years 2021 and 2022, which include significant expenses and cash outflows in relation to -among others- the ongoing clinical trials, the continuation of research and development projects, and the scaling-up of the Company's manufacturing facilities, the Company believes that this cash position will be sufficient to meet the Company's capital requirements and fund its operations for at least 12 months as from the date of this Annual Report. The Company does not believe that COVID-19 will have an impact on the Company's going concern.

In view of the above, and notwithstanding a loss brought forward of KEUR 60,341 as of 31 December 2020, the Board of Directors has decided, after due consideration, that the application of the valuation rules in the assumption of a "going concern" is justified.

## 1.9 Events and circumstances that could have a significant impact on the future development of the Company

The Company has not identified any events or circumstances that could have a significant impact on the future development of the Company in addition to the potential impact of the exclusive license agreement with Vanderbilt University described in section 1.3 ("Post balance sheet events") and the risks described in section 2.9 ("Description of the principal risks associated to the activities of the Company").

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# Corporate Governance

# Corporate Governance

## 2.1 General

This section gives an overview of the rules and principles on the basis of which the corporate governance of the Company is organized pursuant to the Belgian CCA, the Company's Articles of Association and the Company's Corporate Governance Charter adopted in accordance with the Belgian Code on Corporate Governance published by the Belgian Corporate Governance Committee on 9 May 2019 (the "2020 Code").

The Articles of Association and the Corporate Governance Charter are available on the Company's website (www.nyxoah.com) under the Investors/Corporate Governance tab.

The text of the 2020 Code is available on the website of the Corporate Governance Committee at: https://www.corporategovernancecommittee.be/en/over-de-code-2020/2020-belgian-code-corporate-governance.

The Company is committed to following the ten corporate governance principles listed in the 2020 Code, but in view of the activities of the Company, its size and the specific circumstances in which it operates, the Board is of the opinion that the Company can justify its deviation from certain provisions of the 2020 Code. These deviations are further detailed in section 2.6.

## 2.2 Board of Directors

### 2.2.1 Composition of the Board of Directors

The Company has a "one tier" governance structure whereby the Board of Directors is the ultimate decision making body, with the overall responsibility for the management and control of the Company, and is authorized to carry out all actions that are considered necessary or useful to achieve the Company's purpose. The Board of Directors has all powers except for those reserved to the general shareholders' meeting by law or the Articles of Association. The Board of Directors acts as a collegiate body.

Pursuant to the Company's Corporate Governance Charter, the role of the Board of Directors is to pursue the long term success of the Company by providing entrepreneurial leadership and enabling risks to be assessed and managed. The Board of Directors decides on the Company's values and strategy, its risk appetite and key policies.

Pursuant to the Belgian CCA and the Articles of Association, the Board of Directors must consist of at least three directors. The Company's Corporate Governance Charter provides that the composition of the Board of Directors should ensure that decisions are made in the corporate interest. It should be determined on the basis of diversity, as well as complementary skills, experience and knowledge. Pursuant to the 2020 Code, a majority of the directors must be non-executive and at least three directors must be independent in accordance with the criteria set out in the 2020 Code. By 1 January 2026, at least one third of the members of the Board of Directors must be of the opposite gender.

The directors are elected by the Company's general shareholders' meeting. The term of the directors' mandates cannot exceed four years. Resigning directors can be re-elected for a new term. Proposals by the Board of Directors for the appointment or re-election of any director must be based on a recommendation by the nomination committee. In the event the office of a director becomes vacant, the remaining directors can appoint a successor temporarily filling the vacancy until the next general shareholders' meeting.

The general shareholders' meeting can dismiss the directors at any time.

The Board of Directors shall meet as frequently as the interest of the Company requires and at least four times per year, or at the request of two or more directors. The decisions of the Board of Directors are made by a simple majority of the votes cast. In case votes are tied, the chairperson of the Board of Directors will have a casting vote.

As at the date of this Annual Report, the Board of Directors consists of eight members, one of which is an executive director (the Chief Executive Officer) and seven of which are non-executive directors, including three independent directors, as detailed in the table below.

| Name | Position | Start of Term | End of Term |
|---|---|---|---|
| Robert Taub | Non-executive Director / Chairman of the Board of Directors | 2020 | Annual general shareholders' meeting of 2024 |
| Janke Dittmer | Non-executive Director / Vice-chairman of the Board of Directors | 2020 | Annual general shareholders' meeting of 2024 |
| Kevin Rakin | Independent Non-executive Director | 2020 | Annual general shareholders' meeting of 2024 |
| Donald Deyo | Independent Non-executive Director | 2020 | Annual general shareholders' meeting of 2024 |
| Jürgen Hambrecht | Independent Non-executive Director | 2020 | Annual general shareholders' meeting of 2024 |
| Pierre Gianello | Non-executive Director | 2020 | Annual general shareholders' meeting of 2024 |
| Jan Janssen | Non-executive Director | 2020 | Annual general shareholders' meeting of 2024 |
| Olivier Taelman | Executive Director / CEO | 2020 | Annual general shareholders' meeting of 2024 |

The following paragraphs contain brief biographies of each of the directors.

**Robert Taub** is an investor in several pharmaceutical and medical device companies. He gained an MBA at INSEAD and held various general management and sales and marketing positions with Monsanto, Baxter Travenol Laboratories and the Revlon Health Care Group. Mr. Taub later became an entreprenEUR in the pharmaceutical and medical fields. Prior to the Company he co-founded and co-managed Octapharma, a human plasma protein company for 12 years. He also founded and managed Omrix Biopharmaceuticals throughout a NASDAQ IPO and an acquisition by Johnson & Johnson. He was an early investor and chairman of Neuroderm, a Parkinson's disease pharmaceutical company, throughout its IPO on NASDAQ and later sale to Mitsibushi-Tanabe.

**Janke Dittmer** is a General Partner at Gilde Healthcare, a transatlantic healthcare fund based in Utrecht, the Netherlands and Cambridge, United States. He has led several investments in medtech, diagnostics and digital health companies including neurostimulation company Sapiens (acquired by Medtronic for $200m). Prior to joining Gilde, he was a Venture General Manager and Head of Busi-

ness Development & Strategy within Philips' Corporate Venturing unit in Healthcare. He also served as an Engagement Manager at McKinsey and cofounded a Nanotech company in the Silicon Valley. He earned a PhD in Physics from the University of Cambridge and was a Post-Doc in Nanotechnology at the University of California, Berkeley.

**Kevin Rakin** has been a member of our board of directors since 2016. Since October 2013, Mr. Rakin has been a co-founder and partner of HighCape Capital and he brings more than 30 years of experience as an executive and investor in the life sciences industry. Mr. Rakin also serves as chief executive officer and chairman of the board of HighCape Capital Acquisition Corp. He served as the president of Shire Regenerative Medicine from June 2011 to November 2012. Mr. Rakin was the chairman and chief executive officer of Advanced BioHealing from 2007 until its acquisition by Shire in 2011. Before that, he served as an executive-in-residence at Canaan Partners, a venture capital firm. Until its merger with Clinical Data in 2005, Mr. Rakin was the co-founder, president and chief executive officer of Genaissance, a pharmacogenomics company. He is currently on the boards of a number of private companies as well as Aziyo Biologics, Inc. (chairman) and Oramed Pharmaceuticals, Inc. Mr. Rakin received an MBA from Columbia University and a B.Com. (Hons) from the University of Cape Town, South Africa.

**Donald Deyo** is the President and CEO of LindaCare Inc. specialized in the developing and provid-ing advanced remote digital health solutions for chronic disease. Prior to this, Mr. Deyo served as President and CEO for Fempulse Corporation, involved in developing bioelectronic medicine (neuromodulation) therapies for women's health concerns, and Medallion Therapeutic, Inc. after a 3-decade career with Medtronic, Inc., the world's largest medical device company where he served in various executive leadership roles. While with Medtronic, Mr. Deyo was Vice President of Research & Development for Neuromodulation, Vice President of Product Development & Technology for Cardiac Rhythm Management and Vice President and General Manager for Medtronic Paceart. He also founded the executive consultancy MedTech Execs, which provides strategic and operational services to medical device and pharmaceutical companies through a global network of experienced executives. Mr. Deyo serves on the Board of Directors for LindaCare NV, where he is Chairman of the Board. He has previously served on the boards of TROD Medical and Sapiens (acquired by Medtronic for $200m). He has earned a B.Sc. in Computer Engineering and an MBA.

**Dr. Jürgen Hambrecht**, born 1946 in Reutlingen, Germany, is married and has four children. He obtained his doctorate in Chemistry in 1975 from the University of Tubingen, Germany. Hambrecht served BASF in various responsibilities around the world for almost 45 years, lastly as Chairman of the Supervisory Board from 2014 until 2020. Hambrecht is Chairman of the Supervisory Board of Trumpf GmbH & Co. KG and Member of the Supervisory Boards of Daimler AG and Daimler Truck AG as well as of Aya Gold & Silver Inc.

**Prof. Pierre Gianello** was awarded as Doctor in Medicine, Surgery and Obstetrics at the Université Catholique de Louvain (Belgium). He acquired his education in abdominal surgery at the Cliniques Universitaires Saint-Luc in Brussels and at the hospital de La Croix-Rousse de Lyon, France. He completed his post-doc training at the Massachusetts General Hospital, Harvard Medical School, Boston (United States) in the Transplant Biology Research Centre managed by Prof. David Sachs. In 1997, he became head of the Laboratory of Experimental Surgery and Transplantation at Université Catholique de Louvain and in 2005, he obtained the title of full Professor at Université Catholique de Louvain. He was then elected Dean of Research from 2006 to 2009 and Vice-Rector from 2009 up to 2011. He is today the general coordinator of Research of the Health Sciences Sector at the Université Catholique de Louvain, Brussels and Councilor of the vice-rector in the research and on the international stage at the Université Catholique de Louvain, Brussels. Professor Gianello is a prize-winner of about ten scientific prizes and is the author of more than 200 published manuscripts in peer reviewed scientific journals.

**Jan Janssen** is the Chief Technology Officer at Cochlear Limited, global market and technology leader in implantable hearing devices. Member of the executive leadership team at Cochlear, Mr. Janssen is accountable for Research & Development, Quality, Regulatory and Business Development and is leading a team of over 500 team members. As part of his R&D accountability he leads a global team of highly qualified engineers and scientists who implement the Research and Development strategy, which encompasses identifying and developing cutting-edge technologies and commercial products. Mr. Janssen joined Cochlear in 2000 as Head of the Cochlear Technology Centre based in Belgium, having previously worked with Philips Electronics where he was involved in Research and Development in the fields of high-tech electronics and cochlear implants. Mr. Janssen was promoted to Senior Vice President, Design and Development in 2005 and appointed Cochlear Chief Technology Officer in 2017 with added responsibility for Business Development. In 2019 his role expanded to include executive level accountability for Quality and Regulatory Affairs at Cochlear. He has earned a M.Sc. in Micro-Electronics Engineering from KIHA and a M.Sc. in Telecommunication Engineering from KU Leuven.

**Olivier Taelman** joined the Company in July 2019 as chief operating and commercial officer and was subsequently appointed as the Company's CEO in November 2019. He holds 15+ years of experience in Medical Device Industry and seven years in the Pharmaceutical Industry working for global leading companies such as Eli Lilly and Sanofi Aventis leading specific business units. Prior to joining the Company, Mr. Taelman was responsible as Vice President Europe for market access and commercialization of SPG Neuromodulation at Autonomic Technologies treating patients with severe headache. Other important tasks in this role were the development of Key Opinion Leaders & Investor Relations management. Mr. Taelman was also part, as Business Director Neuromodulation, of the development of the European commercial structure at Nevro, a Silicon Valley Neuromodulation company active in Spinal Cord Stimulation going through a successful NASDAQ IPO, becoming a $ 1.8 billion company. Prior to Nevro, Mr. Taelman built his Med Tech career during 9 years at Medtronic, leading seven Western European countries. Mr. Taelman holds an executive MBA from the Wharton University and won several sales awards such as Presidents club member at Medtronic and Eli Lilly.

### 2.2.2 Director Independence

In accordance with article 7:87 of the Belgian CCA, a director of a listed company is considered as independent if he does not entertain a relation with the Company or an important shareholder of the Company the nature of which could put his independence at risk. If the director is a legal entity, the independence must be assessed both in respect of the legal entity and its permanent representative. In order to verify if a candidate director fulfils those conditions, the independence criteria set out in provision 3.5 of the 2020 Code are applied, which can be summarized as follows:

a. Not be an executive, or exercising a function as a person entrusted with the daily management of the company or a related company or person, and not have been in such a position for the previous three years before their appointment. Alternatively, no longer enjoying stock options of the company related to this position.
b. Not have served for a total term of more than twelve years as a non-executive board member.
c. Not be an employee of the senior management (as defined in article 19,2° of the law of 20 September 1948 regarding the organization of the business industry) of the company or a related company or person, and not have been in such a position for the previous three years before their appointment. Alternatively, no longer enjoying stock options of the company related to this position.
d. Not be receiving, or having received during their mandate or for a period of three years prior to their appointment, any significant remuneration or any other significant advantage of a patrimonial nature from the company or a related company or person, apart from any fee they receive or have received as a non-executive board member.
e. Not hold shares, either directly or indirectly, either alone or in concert, representing globally one tenth or more of the company's capital or one tenth or more of the voting rights in the company at the moment of appointment.

f. Not having been nominated, in any circumstances, by a shareholder fulfilling the conditions covered under e).
g. Not maintain, nor have maintained in the past year before their appointment, a significant business relationship with the company or a related company or person, either directly or as partner, shareholder, board member, member of the senior management (as defined in article 19, 2° of the law of 20 September 1948 regarding the organization of the business industry) of a company or person who maintains such a relationship.
h. Not be or have been within the last three years before their appointment, a partner or member of the audit team of the company or person who is, or has been within the last three years before their appointment, the external auditor of the company or a related company or person.
i. Not be an executive of another company in which an executive of the company is a non-executive board member, and not have other significant links with executive board members of the company through involvement in other companies or bodies.
j. Not have, in the company or a related company or person, a spouse, legal partner or close family member to the second degree, exercising a function as board member or executive or person entrusted with the daily management or employee of the senior management (as defined in article 19, 2° of the law of 20 September 1948 regarding the organization of the business industry), or falling in one of the other cases referred to in a) to i) above, and as far as point b) is concerned, up to three years after the date on which the relevant relative has terminated their last term.

Kevin Rakin, Donald Deyo and Jürgen Hambrecht are the Company's independent directors.

The Company is of the view that the independent directors comply with each of the criteria of the Belgian CCA and 2020 Code.

The Company is indeed of the opinion that, for the purposes of assessing the independence of Donald Deyo, the fees paid on a yearly basis to MedTech Execs LLC (director until closing of the IPO, permanently represented by Donald Deyo) for its membership in the project steering committee of Cochlear do not constitute a significant remuneration within the meaning of the independence criteria mentioned under d) above.

### 2.2.3 Committees within the Board of Directors

With effect as of the closing of the IPO, the Board of Directors has established four board committees, which are responsible for assisting the Board of Directors and making recommendations in specific fields: (a) the audit committee (in accordance with article 7:99 of the Belgian CCA and provisions 4.10 and following of the 2020 Code), (b) the remuneration committee (in accordance with article 7:100 of the Belgian CCA and provisions 4.17 and following of the 2020 Code), (c) the nomination committee (in accordance with provisions 4.19 and following of the 2020 Code) and (d) the science & technology committee. The terms of reference of these board committees are primarily set out in the Company's Corporate Governance Charter.

#### Audit committee

The audit committee consists of three directors. According to the Belgian CCA, all members of the audit committee must be non-executive directors, and at least one member must be independent within the meaning of provision 3.5 of the 2020 Code. The 2020 Code requires that a majority of the members of the audit committee are independent.

The following directors are the members of the audit committee: Kevin Rakin (chairman), Donald Deyo and Jürgen Hambrecht, all independent non-executive directors.

The members of the audit committee must have a collective competence in the business activities of the Company as well as in accounting, auditing and finance, and at least one member of the audit

committee must have the necessary competence in accounting and auditing. According to the Board of Directors, the members of the audit committee satisfy this requirement, as evidenced by the different senior management and director mandates that they have held in the past and currently hold.

The role of the audit committee is to:

- inform the Board of Directors of the result of the audit of the financial statements and the manner in which the audit has contributed to the integrity of the financial reporting and the role that the audit committee has played in that process;
- monitor the financial reporting process, and to make recommendations or proposals to ensure the integrity of the process;
- monitor the effectiveness of the internal control and risk management systems, and the Company's internal audit process and its effectiveness;
- monitor the audit of the financial statements, including the follow-up questions and recommendations by the statutory auditor;
- assess and monitor the independence of the statutory auditor, in particular with respect to the appropriateness of the provision of additional services to the Company. More specifically, the audit committee analyses, together with the statutory auditor, the threats for the statutory auditor's independence and the security measures taken to limit these threats, when the total amount of fees exceeds the criteria specified in article 4 §3 of Regulation (EU) No 537/2014; and
- make recommendations to the Board of Directors on the selection, appointment and remuneration of the statutory auditor of the Company in accordance with article 16 §2 of Regulation (EU) No 537/2014.

The audit committee meets at least four times a year.

### Remuneration committee

The remuneration committee consists of at least three directors. In line with the Belgian CCA and the 2020 Code (i) all members of the remuneration committee are non-executive directors, (ii) the remuneration committee consists of a majority of independent directors and (iii) the remuneration committee is chaired by the chairperson of the Board of Directors or another non-executive director appointed by the committee.

The following directors are the members of the remuneration committee: Robert Taub (non-executive director, chairman of the Board of Directors), Donald Deyo (independent non-executive director) and Jürgen Hambrecht (independent non-executive director).

Pursuant to the Belgian CCA, the remuneration committee must have the necessary expertise in terms of remuneration policy, which is evidenced by the experience and previous roles of its current members.

The role of the remuneration committee is to make recommendations to the Board of Directors with regard to the remuneration of directors and members of the executive management and, in particular, to:

- make proposals to the Board of Directors on the remuneration policy of directors, the persons in charge of the management, and the persons in charge of the daily management, as well as, where applicable, the resulting proposals that the Board of Directors must submit to the general shareholders' meeting;
- make proposals to the Board of Directors on the individual remuneration of the directors, the other persons in charge of the management, and the persons in charge of day-to-day management, including variable remuneration and long-term performance premiums, whether or not tied to shares, in the form of stock options or other financial instruments, and of severance payments, and where applicable, the resulting proposals that the Board of Directors must submit to the general shareholders' meeting;

- prepare the remuneration report; and
- explain the remuneration report at the annual general shareholders' meeting.

The remuneration committee meets at least twice a year.

### Nomination committee

The nomination committee consists of at least three directors. In line with the 2020 Code (i) the nomination committee consists of a majority of independent directors and (ii) the nomination committee is chaired by the chairperson of the Board of Directors or another non-executive director appointed by the committee.

The following directors are the members of the nomination committee: Janke Dittmer (non-executive director, vice-chairman of the Board of Directors), Donald Deyo (independent non-executive director) and Jürgen Hambrecht (independent non-executive director).

The role of the nomination committee is to:

- make recommendations to the Board of Directors with regard to the appointment of directors and members of the executive management;
- make recommendations to the Board in relation to the assignment of responsibilities to the executives;
- prepare plans for the orderly succession of board members;
- lead the re-appointment process of board members;
- ensure that sufficient and regular attention is paid to the succession of executives;
- ensure that appropriate talent development programs and programs to promote diversity in leadership are in place.

The nomination committee meets at least twice a year.

### Science & technology committee

The science & technology committee consists of at least three directors.

The following directors are the members of the science & technology committee: Jan Janssen, Janke Dittmer, Donald Deyo and Pierre Gianello.

The role of science & technology committee is to assist the Board in all matters:

- relating to strategic direction of the Company's technology, research and product development programs;
- relating to monitoring and evaluating existing and future trends in technology that may affect the Company's strategic plans, including monitoring of overall industry trends;
- relating to the innovation and technology acquisition process to assure ongoing business growth;
- relating to IT risk management and cyber security strategy;
- relating to measurement and tracking systems in place to monitor the performance of the Company's technology in support of overall business strategy and to achieve successful innovation.

The science & technology committee meets at least twice a year.

### 2.2.4 Meetings of the Board and the committees

#### Meetings of the Board of Directors

In 2020, the Board of Directors held 10 meetings.

| Board members | 7/02/20 | 14/02/20 | 3/03/20 | 7/04/20 | 29/05/20 | 30/06/20 | 26/08/20 | 15/09/20 | 4/12/20 | 29/12/20 |
|---|---|---|---|---|---|---|---|---|---|---|
| Robert Taub | Present | Present | Present | Present | Present | Present | Present | Present | Present | Present |
| Janke Dittmer | Present | Present | Present | Present | Present | Present | Present | Present | Present | Present |
| Pierre Gianello | Present | Present | Present | Present | Present | Present | Present | Present | Present | Present |
| Jan Janssen | Present | Present | Present | Present | Present | Present | Present | Present | Present | Present |
| Kevin Rakin | Present | Present | Present | Present | Present | Present | Present | Present | Present | Present |
| MedTech Execs LLC (1) | Present | Present | Present | Present | Present | Present | Present | Present | N/A | N/A |
| Donald Deyo (2) | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | Present | Present |
| Jürgen Hambrecht (2) | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | Present | Present |
| Olivier Taelman (2) | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | Present | Present |

(1) permanently represented by Donald Deyo; board member until 21 September 2020
(2) board member as of 21 September 2020

#### Meetings of the Board committees

In 2020, the audit committee held 1 meeting.

| Audit committee members | 15/12/2020 |
|---|---|
| Kevin Rakin | Present |
| Donald Deyo | Present |
| Jürgen Hambrecht | Present |

The other committees did not meet in 2020.

## 2.3 Executive Management

The executive management is charged with running the Company in accordance with the values, strategies, policies, plans and budgets endorsed by the Board. The executive management has all powers except for the determination of the Company's strategy, the supervision of the executive management, and the powers reserved to the Board of Directors and the general shareholders' meeting by law, the Articles of Association and the Company's Corporate Governance Charter.

The executive management shall meet at least once a month.

The executive management of the Company consists of the following members:

| Name | Position |
|---|---|
| Olivier Taelman | CEO |
| Fabian Suarez Gonzalez* | CFO |

* Acting via ActuaRisk Consulting SRL.

The Chief Executive Officer is responsible for the day-to-day management of the Company. He may be granted additional well-defined powers by the Board of Directors. He has direct operational responsibility for the Company and oversees the organization and day-to-day management of subsidiaries, affiliates and joint ventures. The Chief Executive Officer is responsible for the execution and management of the outcome of all decisions of the Board of Directors.

The Chief Executive Officer leads the executive management within the framework established by the Board of Directors and under its ultimate supervision. The Chief Executive Officer is appointed and removed by the Board of Directors and reports directly to it.

The following paragraphs contain brief biographies of the current members of the executive management or in case of a legal entity being a member of executive management, its permanent representative.

**Olivier Taelman** – Reference is made to section 2.2.1.

**Fabian Suarez Gonzalez** (acting via ActuaRisk Consulting SRL) joined the Company in 2014 to take the leadership of the finance department and the responsibility for other functions, such as legal, infrastructure management, IT, human resources and payroll, administration and some operational responsibilities. Fabian is an experienced executive, having held senior roles in several private equity firms between 2005 and 2014 (as a manager and/or board member), mainly in the renewable energy sector. For five years he was CFO of TTR Energy, an investment vehicle which managed, in collaboration with Degroof Petercam, several private equity funds for which he supervised due diligence processes related to acquisitions and asset sales. Prior to this, he served as consultant for major financial conglomerates in matters related to risk and asset management. He holds a double MSc. in Physics and Actuarial Sciences and an MBA from Solvay Brussels School of Economics and Management.

## 2.4 Conflicts of Interest

Directors and members of executive management are expected to arrange their personal and business affairs so as to avoid conflicts of interest with the Company. Any director with a conflicting financial interest (as contemplated by article 7:96 of the Belgian CCA) on any matter before the Board of Directors must bring it to the attention of the fellow directors, and take no part in any deliberation or voting related thereto. The Corporate Governance Charter contains the procedure for transactions between the Company and directors or members of executive management which are not covered by the legal provisions on conflicts of interest.

In 2020, certain directors declared a conflict of interest. The following declarations were made in that respect.

**Extract from the minutes of the board meeting of 26 August 2020:**

"Mr. Robert Taub, Mr. Kevin Rakin, Mr. Donald Deyo, Mr. Janke Dittmer and Mr. Jan Janssen made the statement that they, or the shareholders that they represent on the board (i.e., Gilde with respect to Mr. Janke Dittmer, and Cochlear with respect to Mr. Jan Janssen), intend to (i) pre-commit to subscribe to new shares in the Offering (as defined below) and enter into a Subscription Commitment with the Company in this respect, and (ii) sign-up to the Lock-up and Standstill agreement to be entered into between the Company, certain securities holders and the Bank Degroof Petercam NV/SA and Belfius Bank NV/SA. Furthermore, Mr. Robert Taub stated that he will commit to lend certain of his shares in the Company to Belfius Bank NV/SA within the framework of the contemplated IPO in order to allow over-allotments of shares in the IPO and this in accordance with the provisions of a Stock Lending Agreement to be entered into between him and Belfius Bank NV/SA.

As a result, with respect to the resolutions to be taken by the board of directors, in particular in relation to the approval of the Subscription Commitment template and delegations of powers in this respect (i) Mr. Robert Taub, Mr. Kevin Rakin, and Mr. Donald Deyo, have a financial interest that is conflicting, and (ii) Mr. Janke Dittmer and Mr. Jan Janssen may have a functional and/or (indirect) financial interest that is conflicting.

They are, however, of the opinion that the contemplated resolutions in connection with the IPO (including in relation to the Subscription Commitment) are in the interest of the Company, as the resolutions will allow the Company to (i) further enlarge its shareholder base, which is in the interest of the further stability of the Company and its shareholder structure; (ii) to attract additional institutional financial and strategic investors which could possibly contribute to the further development and growth of the Company's business; (iii) to attract additional international investors, which could further enhance the international profile of the Company and contribute to the further development and growth of the Company's business; and (iv) allow the Company to increase the chances of success of the IPO taking into account the Subscription Commitment.

In accordance with article 7:96 of the Belgian Code of Companies, Mr. Robert Taub, Mr. Kevin Rakin, MedTech Execs LLC(represented by its permanent representative Mr. Donald Deyo), Mr. Jan Janssen and Mr. Janke Dittmer will not participate in the deliberation and vote on the resolutions regarding the approval of the template of the Subscription Commitment and the delegation of powers in this respect.

The aforementioned directors will each inform the statutory auditor of the Company of the foregoing, as far as needed and applicable in accordance with the provisions of article 7:96 of the Belgian Code of Companies and Associations. The aforementioned declarations will be included in the annual report of the Company, as far as needed and applicable."

## 2.5 Related Party Transactions

In 2020, no announcements were made pursuant to article 7:97, §4/1 of the Belgian CCA in respect of related party transactions.

## 2.6 Deviations from the Belgian Code on Corporate Governance

The Company applies the ten corporate governance principles contained in the 2020 Code and complies with the corporate governance provisions set forth in the 2020 Code, except in relation to the following:

1 In deviation of provision 4.14 of the 2020 Code, no independent internal audit function has been established. This deviation is explained by the size of the Company. The Audit Committee will regularly assess the need for the creation of an independent internal audit function and, where appropriate, will call upon external persons to conduct specific internal audit assignments and will inform the Board of Directors of their outcome.

2 On the date of this Annual Report, share options have been granted to non-executive directors and the Company does not exclude to award share-based incentives to the non-executive directors, upon advice of the remuneration committee, in the future. This is contrary to provision 7.6 of the 2020 Code that provides that no stock options should be granted to non-executive board members. The Company believes that this provision of the 2020 Code is not appropriate and adapted to take into account the realities of companies in the biotech and life sciences industry that are still in a development phase. Notably, the ability to remunerate non-executive directors with share options allows the Company to limit the portion of remuneration in cash that the Company would otherwise need to pay to attract or retain renowned experts with the most relevant skills, knowledge and expertise. The Company is of the opinion that granting non-executive directors the opportunity to be remunerated in part in share-based incentives rather than all in cash enables the non-executive directors to link their effective remuneration to the performance of the Company and to strengthen the alignment of their interests with the interests of the Company's shareholders. This is in the interest of the Company and its stakeholders. Furthermore, this is customary for directors active in companies in the life sciences industry. In any event, the Company intends that the portion of the remuneration payable in share options will be limited and shall ensure, in accordance with provision 7.6 of the 2020 Code, that non-executive Board members shall receive part of their remuneration in the form of Company's shares, it being understood that these shares should be held until at least one year after the non-executive board member leaves the board and at least three years after the moment of award.

3 In deviation of provision 7.6 of the 2020 Code, the non-executive members of the Board of Directors do not receive part of their remuneration in the form of shares. This deviation is explained by the fact that the interests of the non-executive members of the Board of Directors are currently considered to be sufficiently oriented to the creation of long-term value for the Company, also considering the fact that some of them already hold shares and some of them already hold share options, the value of which is based on the value of the shares. Therefore, the payment in shares is not deemed necessary.

4 Pursuant to article 7:91 of the Belgian CCA and provisions 7.6 and 7.11 of the 2020 Code, shares should not vest and share options should not be exercisable within three years as of their granting. The Company's Board of Directors has been explicitly authorized in the Company's Articles of Association to deviate from this rule in connection with stock based incentive plans, compensations, awards and issuances to employees, directors and service providers of the Company and/or its subsidiaries (from time to time). The Company is of the opinion that this allows for more flexibility when structuring share-based awards. For example, it is customary for share incentive plans to provide for a vesting in several instalments over a well-defined period of time, instead of vesting after three years only. This seems to be more in line with prevailing practice.

5 In deviation of provision 7.9 of the 2020 Code, no minimum threshold of shares to be held by members of the executive management team is set. This deviation is explained by the fact that the interests of the members of the executive management team are currently considered to be sufficiently oriented to the creation of long-term value for the Company, also considering the fact that some of them already hold shares and some of them already hold share options, the value of which is based on the value of the shares. Therefore, setting a minimum threshold of shares to be held by them is not deemed necessary.

## 2.7 Diversity policy

The Company has not adopted a diversity policy. This is explained by the size of the Company. As the Company will grow and become more mature over time, the Board will assess whether and when it will be deemed appropriate to adopt a diversity policy.

As far as gender diversity is concerned, one third of the members of the Company's management team are women and, as of 31 December 2020, 46% of the total work force of the Company were women.

At the level of the Board of Directors, all board members are currently male. By 1 January 2026, at least one third of the members of the Board of Directors must be of the opposite gender. The Board (and in particular the nomination committee within the Board) will take appropriate action to ensure to timely comply with this requirement.

## 2.8 Remuneration report

### 2.8.1 Introduction

This remuneration report provides a comprehensive overview of the remuneration of the Company's directors and members of executive management for the financial year 2020.

The remuneration paid during 2020 or in relation to 2020 should be seen in the context of the initial public offering ("IPO") of the Company's shares on Euronext Brussels in September 2020.

The IPO is a key element in the remuneration of the Company's directors and members of executive management for the financial year 2020 given that (i) the (funding obtained through the) IPO was a performance indicator for the members of executive management, (ii) the IPO triggered the vesting of all subscription rights that had not yet vested before and (iii) as from the IPO, all non-executive directors receive fixed board fees (including fees for acting as a member of committees of the board).

Another key element in the remuneration of the Company's members of executive management was the FDA approval of the Investigational Device Exemption (IDE) application for the Company's DREAM study in the US, as obtaining such approval was another performance indicator for one of the members of the executive management.

As of the date of this remuneration report, the Company does not yet have a remuneration policy pursuant to Article 7:89/1 CCA that is approved by the Company's shareholders' meeting. The Company intends to submit a remuneration policy for approval to the Company's annual shareholders' meeting which will be held in June 2021.

Until such time as the Company's shareholders' meeting will have approved a remuneration policy, the remuneration of the directors will be in line with (i) in relation to the directors, the remuneration as determined by the shareholders' meeting as of the closing of the IPO, and (ii) in relation to the members of executive management, the remuneration of such members of executive management as was in place by the end of 2020, each time as summarized in the tables below.

## DIRECTORS

| Remuneration component | Short description of main provisions | |
|---|---|---|
| Base remuneration | Chairman of the Board – Non-executive director | Annual fixed fee of € 50,000 |
| | Independent non-executive directors | Annual fixed fee of € 25,000 |
| | Other non-executive directors | Annual fixed fee of € 25,000 |
| | Chairman of the audit committee | Annual fixed fee of € 5,000 |
| | Members of audit committee | Annual fixed fee of € 2,500 |
| | Members of remuneration committee | Annual fixed fee of € 2,500 |
| | Members of science & technology committee | Annual fixed fee of € 2,500 |
| | Members of the nomination committee | No fee |
| | Members of Cochlear project steering committee | Annual fixed fee of € 10,000 |
| | Executive directors | Not remunerated for mandate as executive director; remunerated as member of executive management |
| Fringe benefits | Non-executive directors | Reimbursement of reasonable out-of-pocket expenses (including travel and hotel expenses) |

## MEMBERS OF EXECUTIVE MANAGEMENT

| Remuneration component | Short description of main provisions |
|---|---|
| Base remuneration | Fixed amount |
| Fringe benefits (employees only) | Company car, laptop, phone, representation allowance |
| Age and risk provisions (employees only) | Pension plan (fixed contribution); health insurance |
| Short term incentive | Yearly performance bonus (employees) / yearly success fee (management companies), as further detailed below |
| Long term incentive | Participation in share option plans, as further detailed below |

**Short term incentive plan: yearly performance bonus / yearly success fee**

| Main provisions | Short description |
|---|---|
| Performance cycle | One calendar year |
| Target bonus | NA |

| MEMBERS OF EXECUTIVE MANAGEMENT | |
|---|---|
| Performance criteria and corresponding payout levels | One or more performance criteria (objectives) are determined. For each performance criterion, a target and corresponding payout level are determined:<br>• If target is reached: full payout<br>• If target is not reached: no payout |
| Calculation of bonus / success fee | The total bonus / success fee is composed of the sum of the payout levels related to the various performance criteria (if more than one) |
| Payment modalities | Payment in cash<br>100% of the bonus / success fee is paid at once |

**Long term incentive plan: share option plans**

| Main provisions | Short description |
|---|---|
| Frequency of offer | No pre-set frequency |
| Performance cycle | NA |
| Target number of offered share options | NA |
| Exercise price | Value of underlying shares at date of offer of share options |
| Exercise period | • Share option plans issued prior to 2020: five years from date of offer of share options<br>• Share option plan issued in 2020: ten years from issue of share options |
| Performance criteria and corresponding offering levels | NA |
| Calculation of number of offered share options | NA |
| Vesting | Vesting in three tranches:<br>1/3 of offered share options vests upon offer<br>1/3 of offered share options vests on first anniversary of offer<br>1/3 of offered share options vests on second anniversary of offer |
| Retention | NA |

As the Company only became a listed company in September 2020, and therefore the obligation to draw up a remuneration report pursuant to Article 3:6, §3 CCA (as amended effective as of 16 May 2020) was not applicable to the Company before, the Company does not have readily available the required information for the previous financial years. Hence, no comparison to preceding reported financial years will be made in this remuneration report. As from next year, the remuneration report will start to include information relating to years prior to the reported year (with the year 2020 being the earliest year in the comparison).

## 2.8.2 Total remuneration

*Total remuneration of directors*

**Table 1 - Total remuneration directors**

| Name, position | Fixed remuneration | | | Variable remuneration | | Extra-ordinary items | Pension expense | Total remune-ration | Proportion of fixed and variable remuneration |
|---|---|---|---|---|---|---|---|---|---|
| | Base remune-ration | Atten-dance fees | Fringe benefits | One-year variable | Multi-year variable | | | | |
| MINV SA (*)<br>Executive chairman until 21 September 2020 | 50,000.00[a] | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 50,000.00 | |
| Robert Taub<br>Non-executive chairman as of 21 September 2020 | 14,671.23[b] | 0.00 | 12,588.82[e] | 0.00 | 0.00 | 0.00 | 0.00 | 27,260.05 | |
| MINV SA + Robert Taub<br>TOTAL | 64,671.23 | 0.00 | 12,588.82 | 0.00 | 0.00 | 0.00 | 0.00 | 77,260.05 | Fixed: 100.00%<br>Variable: 0.00% |
| Janke Dittmer<br>Non-executive director | 7,684.93[b] | 0.00 | 291.83[e] | 0.00 | 0.00 | 0.00 | 0.00 | 7,976.76 | Fixed: 100.00%<br>Variable: 0.00% |
| Jürgen Hambrecht<br>Non-executive director as of 21 September 2020 | 8,383.56[b] | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 8,383.56 | Fixed: 100.00%<br>Variable: 0.00% |
| Kevin Rakin<br>Non-executive director | 8,383.56[b] | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 8,383.56 | Fixed: 100.00%<br>Variable: 0.00% |
| MedTech Execs LLC (**)<br>Non-executive director until 21 September 2020 | 9,024.75[c] | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 9,024.75 | |
| Donald Deyo<br>Non-executive director as of 21 September 2020 | 11,876.71[b] | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 11,876.71 | |
| MedTech Execs LLC + Don Deyo<br>TOTAL | 20,901.46 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 20,901.46 | Fixed: 100.00%<br>Variable: 0.00% |
| Pierre Gianello<br>Employee | 83,273.21[d] | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 83,273.21 | |
| Non-executive director | 7,684.93[b] | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 7,684.93 | |
| Pierre Gianello<br>TOTAL | 90,958.14 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 90,958.14 | Fixed: 100.00%<br>Variable: 0.00% |
| Jan Janssen<br>Non-executive director | 7,684.93[b] | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 7,684.93 | Fixed: 100.00%<br>Variable: 0.00% |
| Olivier Taelman (***)<br>Executive director, CEO | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | |

Notes

(*) Management company of Robert Taub.

(**) Management company of Donald Deyo.

(***) Olivier Taelman is not remunerated for the performance of his mandate as executive director as such; he is remunerated as member of the executive committee (see below).

(a) Fee pursuant to consultant agreement between MINV SA and the Company.

(b) Board fees for the period as of 21 September 2020 (i.e. closing of the IPO), composed as set out in the following table:

| | Pro rata part of fixed annual fee (50k) for non-executive chairman | Pro rata part of fixed annual fee (25k) for independent non-executive director | Pro rata part of fixed annual fee (25k) for other non-executive director | Pro rata part of fixed annual fee (5k) for chairman of audit committee | Pro rata part of fixed annual fee (2.5k) for member of audit committee | Pro rata part of fixed annual fee (2.5k) for member of remuneration committee | Pro rata part of fixed annual fee (2.5k) for member of science & technology committee | Pro rata part of fixed annual fee (10k) for member of Cochlear project steering committee | Total |
|---|---|---|---|---|---|---|---|---|---|
| Robert Taub | 13,972.60 | | | | | 698.63 | | | 14,671.23 |
| Janke Dittmer | | | 6,986.30 | | | | 698.63 | | 7,684.93 |
| Jürgen Hambrecht | | 6,986.30 | | | 698.63 | 698.63 | | | 8,383.56 |
| Kevin Rakin | | 6,986.30 | | 1,397.26 | | | | | 8,383.56 |
| Donald Deyo | | 6,986.30 | | | 698.63 | 698.63 | 698.63 | 2,794.52 | 11,876.71 |
| Pierre Gianello | | | 6,986.30 | | | | 698.63 | | 7,684.93 |
| Jan Janssen | | | 6,986.30 | | | | 698.63 | | 7,684.93 |

[c] Fee for performing the role of independent director while also serving as a member of the Cochlear project steering committee.

[d] Salary pursuant to employment agreement between Pierre Gianello and the Company for the role of Pierre Gianello as medical director of the Company one day per week.

[e] Fringe benefits consist of the reimbursement of out-of-pocket expenses (mostly travel related).

## *Total remuneration of members of executive management*

**Table 2 - Total remuneration members of executive management**

| | Fixed remuneration | | | Variable remuneration | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Name, position | Base remune-ration | Atten-dance fees | Fringe benefits | One-year variable | Multi-year variable | Extra-ordinary items | Pension expense | Total remune-ration | Proportion of fixed and variable remuneration |
| Olivier Taelman CEO | 262,538.39 | NA | 14,740.82[a] | 40,000.00[b] | 1,576,010.00[c] | 0.00 | 19,860.00[d] | 1,913,149.21 | Fixed: 15.53%<br>Variable: 84.47% |
| Fabian Suarez Gonzalez (*) CFO | 219,333.36 | NA | 0.00 | 50,000.00[b] | 0.00 | 0.00[e] | 0.00 | 269,333.36 | Fixed: 81.44%<br>Variable: 18.56% |

Notes

(*) Acting via ActuaRisk Consulting SRL.

[a] Fringe benefits consist of: company car (€ 11,631.50), laptop and mobile phone (€ 156), representation allowance (€ 1,050) and health insurance (€ 1,903.32).

[b] The "one-year variable" remuneration consists of the yearly performance bonus (CEO) / the yearly success fee (CFO), as further detailed in Table 3 below.

[c] The "multi-year variable" remuneration corresponds to the fair value of the share options that vested in 2020, calculated in accordance with the Black-Scholes model:

| | Number of warrants vested in 2020 | Fair value (Black Scholes) (rounded) | Total |
|---|---|---|---|
| ESOP 2013 (grant 2020) | 1 | 1,655.00 | 1,655.00 |
| ESOP 2018 (grant 2019) | 177 | 2,620.00 | 463,740.00 |
| ESOP 2018 (grant 2020) | 33 | 1,655.00 | 54,615.00 |
| ESOP 2020 (grant 2020) | 320,000 | 3.30 | 1,056,000.00 |
| Total | | | **1,576,010.00** |

As the Company calculates the fair value of its share options in accordance with the Black-Scholes model, such fair value of the share options that vested in 2020 is used as the value of the "multi-year variable" remuneration related to 2020 (and not the "surplus value" as calculated in Table 4).

[d] Defined contribution pension plan.

[e] As a result of the IPO (which was one possible "Exit" for purposes of the extraordinary variable compensation described in this note), ActuaRisk Consulting SRL shall be entitled to an extraordinary variable compensation that will become payable by the Company when ActuaRisk Consulting SRL invoices such compensation. ActuaRisk Consulting SRL cannot invoice the Company prior to 18 March 2021 (i.e. six months following the IPO).

This extraordinary variable compensation will be paid in cash and will be calculated as follows:

| Exit Value (€) | Variable compensation (in % of the Exit Value, excl. VAT) |
|---|---|
| < 65,000,000 | 0% |
| ≥ 65,000,000 < 300,000,000 | 0.35% |
| ≥ 300,000,000 | 0.50% |

The Exit Value will be equal to the closing trading price of the shares of the Company at the time ActuaRisk Consulting SRL will invoice the Company, multiplied by the number of then outstanding shares of the Company. If the Company is acquired through a public takeover offer, the Exit Value shall be equal to the value of 100% of the share capital of the Company on a fully-diluted basis in the framework of such acquisition. If the Exit takes the form of a sale of less than 100% of the shares, the entitlement to the variable compensation will be calculated in proportion to the percentage of shares that is sold in the Exit (e.g. if the Exit results from a sale of 60% of the shares, ActuaRisk Consulting SRL will be entitled to 60% of the variable compensation that it otherwise would be entitled to). If the sale of shares takes place in different phases, the Exit Value shall be calculated on the basis of the weighted average share price in the different phases of the Exit.

This extraordinary variable compensation shall be taken into account for purposes of calculating the variable and total compensation of Fabian Suarez Gonzalez (acting via ActuaRisk Consulting SRL) in the financial year during which ActuaRisk Consulting SRL shall invoice the compensation.

## Table with notes regarding the performance

**Tabel 3 - Performance (One-Year Variable Remuneration)**

| | Description of performance criteria and type of applicable remuneration | Relative weight of performance criteria | a) Measured performance<br>b) Corresponding remuneration (EUR) |
|---|---|---|---|
| Olivier Taelman<br>CEO | Objective related to regulatory approval | 50% | a) Target reached |
| | | | b) 20,000.00 |
| | Objective related to funding | 50% | a) Target reached |
| | | | b) 20,000.00 |
| | TOTAL | | **40,000.00** |
| Fabian Suarez Gonzalez (*)<br>CFO | Objective related to funding | 100% | a) Target reached |
| | | | b) 50,000.00 |
| | TOTAL | | **50,000.00** |

Notes

(*) Acting via ActuaRisk Consulting SRL.

## 2.8.3 Share based remuneration

**Table 4 - Remuneration in share options**

| Name, position | Main conditions of the share option plans | | | | | | Information regarding the reported financial year | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | Opening balance | During the year | | | | Closing balance |
| | Identification of the plan | Date of offer | Date of vesting of last tranche | End of holding period | Exercise period (from - to) | Exercise price | Number of share options held but not yet vested at the beginning of the year (**) | a) Number of share options offered<br>b) Value of underlying shares @ date of offer (**) | | a) Number of share options vested<br>b) Value of underlying shares @ date of vesting<br>c) Value @ exercise price<br>d) Surplus value @ date of vesting (**) (***) | | Share options not yet vested |
| **Robert Taub**<br>Non-executive chairman | NA | | | | | | | | | | | |
| **Janke Dittmer**<br>Non-executive director | NA | | | | | | | | | | | |
| **Jürgen Hambrecht**<br>Non-executive director | NA | | | | | | | | | | | |
| **Kevin Rakin**<br>Non-executive director | ESOP 2016 | 3/11/16 | 3/11/18 | NA | 3/11/16<br>3/11/21 | 2,585.32 | 0 | a) | 0 | a) | 0 | 0 |
| **Don Deyo**<br>Non-executive director | ESOP 2016 | 3/11/16 | 3/11/18 | NA | 3/11/16<br>3/11/21 | 2,585.32 | 0 | a) | 0 | a) | 0 | 0 |
| **Pierre Gianello**<br>Non-executive director | ESOP 2016 | 9/12/16 | 9/12/18 | NA | 9/12/16<br>9/12/21 | 2,585.32 | 0 | a) | 0 | a) | 0 | 0 |
| **Jan Janssen**<br>Non-executive director | NA | | | | | | | | | | | |
| **Olivier Taelman**<br>CEO | ESOP 2013 | 7/04/20 | 7/04/20 | NA | 7/04/20<br>23/12/24 | 5,966.59 | 0 | a) | 1 | a) | 1 | 0 |
| | | | | | | | | b) | 5,966.59 | b) | 5,966.59 | |
| | | | | | | | | | | c) | 5,966.59 | |
| | | | | | | | | | | d) | 0.00 | |
| | ESOP 2018 | 29/07/19 | 29/07/21 | NA | 29/07/19<br>29/07/24 | 3,259.91 | 177 | a) | 0 | a) | 177 | 0 |
| | | | | | | | | b) | | b) | 1,279,330.00 | |
| | | | | | | | | | | c) | 577,004.07 | |
| | | | | | | | | | | d) | 702,325.93 | |
| | ESOP 2018 | 7/04/20 | 7/04/22 | NA | 7/04/20<br>7/04/25 | 5,966.59 | 0 | a) | 33 | a) | 33 | 0 |
| | | | | | | | | b) | 196,897.47 | b) | 252,632.49 | |
| | | | | | | | | | | c) | 196,897.47 | |
| | | | | | | | | | | d) | 55,735.02 | |
| | ESOP 2020 | 7/04/20 | 7/04/22 | NA | 7/04/20<br>7/04/25 | 11.94 | 0 | a) | 320,000 | a) | 320,000 | 0 |
| | | | | | | | | b) | 3,820,800.00 | b) | 4,900,264.98 | |
| | | | | | | | | | | c) | 3,820,800.00 | |
| | | | | | | | | | | d) | 1,079,464.98 | |
| Total | | | | | | | 177 | a) | 320,034 | a) | 320,211 | 0 |
| | | | | | | | | b) | 4,023,664.06 | b) | 6,438,194.06 | |
| | | | | | | | | | | c) | 4,600,668.13 | |
| | | | | | | | | | | d) | 1,837,525.93 | |
| **Fabian Suarez Gonzalez** (*)<br>CFO | ESOP 2016 | 13/06/17 | 13/06/19 | NA | 13/06/17<br>13/06/22 | 2,585.32 | 0 | a) | 0 | a) | 0 | 0 |

Notes

(*) Acting via ActuaRisk Consulting SRL, but holding the share options personally.

(**) Share options held/granted/vested under the ESOP 2013, ESOP 2016 and ESOP 2018 plans each give right to 500 common shares; share options held/granted/vested under the ESOP 2020 plan each give right to 1 common share.

(***) The surplus value calculated under item d) in this column is not used as the "multi-year variable" remuneration in Table 2 above; instead, the fair value of the share options that vested in 2020, calculated in accordance with the Black-Scholes model, is used as the value of the "multi-year variable" remuneration in Table 2.

In addition to the information included in Table 4 above, during 2020:

- None of the directors or members of executive management exercised any share options, and
- No share options held by any of the directors or members of executive management expired.

The Company does not facilitate the entering into of derivative contracts related to share options, nor does the Company cover any risks related to share options.

The key features of the various share option plans are largely the same, and can be summarized as follows:

- Form of share options: registered form.
- Transfer of share options: unless the Board of Directors determines otherwise, the share options cannot be sold, assigned, transferred, pledged or otherwise encumbered by the holder of the share options.
- Number of shares to be issued upon exercise of share option:
  - ESOP 2013/ESOP 2016/ESOP 2018: each share option can be exercised for 500 new shares, taking into account the share split at a 500:1 ratio that was decided by an extraordinary shareholders' meeting on 21 February 2020.
  - 2020 ESOP: each share option can be exercised for one new share.
- Stock split: in the event of a stock split of the shares, the number of shares to be issued upon the exercise of the sharse options shall be adjusted accordingly.
- Duration of the share options: ten years as of their issuance.
  - For ESOP 2013/ESOP 2016/ESOP 2018 only: contractual expiration period of five years as of the grant, which period shall in no case exceed the ten year period as from issuance.
- Vesting of share options: unless the Board of Directors determines otherwise: vesting in three tranches: 1/3 (or 34% in the case of ESOP 2013) of the share options granted vests upon the date of grant, 1/3 (or 33% in the case of ESOP 2013) vests on the first anniversary date of the relevant share option agreement, 1/3 (or 33% in the case of ESOP 2013) vests on the second anniversary date of the relevant share option agreement.
- Exercise of share options:
  - ESOP 2013: vested share options can be exercised at any time during the year.
  - ESOP 2016: vested share options can be exercised during the following exercise periods: (i) 1 March until 31 March; (ii) 1 May until 31 May; and (iii) 1 September until 30 September of each year during which the share options are valid and exercisable.
- Consequence of termination of relationship between the holder of the share options and the Company: the exercise period and/or vesting period of the share options may vary depending on the circumstances under which the relationship between the holder and the Company is terminated.
- Governing law of the terms and conditions of the share options: laws of Belgium.

### 2.8.4 Severance payment

During 2020, no director and no member of executive management left the Company, hence no severance payments were due.

### 2.8.5 Use of the right to reclaim

The Company does not have any right to reclaim variable remuneration, hence the Company did not use such right in 2020.

### 2.8.6 Derogations from the remuneration policy

As set out in the introduction of this remuneration report, the Company does not yet have a remuneration policy. Hence, no derogations could be made from a remuneration policy.

Until such time as the Company's shareholders' meeting will have approved a remuneration policy, the remuneration of the directors will be in line with (i) in relation to the directors, the remuneration as determined by the shareholders' meeting as of the closing of the IPO, and (ii) in relation to the members of executive management, the remuneration of such members of executive management as was in place by the end of 2020, each time as summarized in the introduction of this remuneration report.

### 2.8.7 Evolution of the remuneration and the performance of the Company

As set out in the introduction of this remuneration report, the Company does not have readily available the information related to previous financial years that is required to allow a comparison with previous financial years. Therefore, this remuneration report includes the information related to 2020 only. As from next year, the remuneration report will start to include information relating to years prior to the reported year (with the year 2020 being the earliest year in the comparison).

**Yearly remuneration of the directors and the members of executive management**

| Yearly remuneration | 2020 |
|---|---|
| Non-executive directors | |
| Total remuneration (all non-executive directors collectively) (*) | 383,653.86 |
| Members of executive management | |
| Fixed remuneration (all members of executive management collectively) | 516,472.57 |
| Variable remuneration (all members of executive management collectively) | 1,666,010.00 |
| Total remuneration (all members of executive management collectively) | 2,182,482.57 |

(*) The total remuneration for 2020 comprises: board fees (annualized for directors who were only entitled to receive board fees as from 21 September 2020), fee pursuant to consultant agreement between MINV SA and the Company, and salary pursuant to employment agreement between Pierre Gianello and the Company.

### Yearly performance of the Company

In 2020, the Company used two non-financial performance criteria (that determined the "one-year variable" remuneration of the members of executive management):

- one performance criterion linked to the IPO of the Company (without such criterion including a minimum or target funding amount), and
- one performance criterion linked to FDA approval of the Company's DREAM study in the US.

In 2020, the net loss of the Company (on a consolidated basis) amounted to KEUR 12,245.

### Yearly average remuneration of the employees of the Company

| Average remuneration of employees on a full-time equivalent basis | 2020 |
|---|---|
| Employees of the consolidated group | 86,550.49 |

The average remuneration is calculated as follows:

- Excluded from the calculation: directors (including the salary of Pierre Gianello in his capacity of employee of the Company, as this salary is included in the "yearly change in the remuneration of the directors and the members of executive management"; see table above) and members of executive management.
- Based on the gross salary of employees (incl. bonuses, holiday pay, remuneration in kind, car allowance, as applicable) and the invoiced amounts (excl. VAT) of staff members who work through a management company.
- For employees/other staff members who do not work on a full-time basis, their salary/remuneration was prorated as if they were working full-time.
- For employees/other staff members who did not work during all of 2020, their salary/remuneration was prorated as if they had been working during all of 2020.

### Ratio highest and lowest remuneration

| Ratio highest remuneration / lowest remuneration | |
|---|---|
| Highest remuneration of the members of executive management | 1,913,149.21 |
| Lowest remuneration (in full-time equivalent) of the employees | 30,586.50 |
| Ratio highest remuneration / lowest remuneration | 62.55 |

## 2.9 Description of the principal risks associated with the activities of the Company

The principal risks associated with the Company's business include (without being limited to) the risks described below.

### 2.9.1 Risks relating to clinical development

***Even though the Company has obtained regulatory approval (CE-Mark) in Europe for the Genio® system based on first positive clinical trial results, this does not imply that clinical efficacy has been demonstrated and there is the possibility that ongoing and future clinical trials intended to support further marketing authorisations (or maintenance of existing ones) will not be successful, that the Genio® system will not perform as intended and that the sleep community will not accept the trial results as sufficient.***

Even though the Company has obtained regulatory approval, i.e. the CE-Mark (which is to be re-approved before May 2024), in Europe for the Genio® system based on first positive BLAST OSA clinical trial results (in which all study safety and performance endpoints were met with statistically significant p-values but based on a limited sample size obtained with an observational study without control group), there is the possibility that ongoing and future clinical trials intended to support further marketing authorisations (or maintenance of existing ones) will not be successful and that the Genio® system will not perform as intended. Future clinical evidence on efficacy with larger sample size, control group and long-term follow-up could be needed for final conclusion as to whether the Genio® system›s results can be considered as sufficient for the sleep community, which will be evaluated by the FDA. For a CE Mark, devices only need to demonstrate that they perform or will probably perform as designed and that the potential benefits outweigh potential risks.

The Company's clinical results are not necessarily predictive of the final results of its ongoing or future clinical trials, and successful results from the clinical trials thus far may not be replicated in later and larger clinical trials for example due to different patient populations and demographics, social, cultural or psychological factors which might be location specific. If the results of the ongoing or future clinical trials are inconclusive with respect to the efficacy of the Genio® system or if the Company does not meet the clinical endpoints with statistical significance or if there are safety concerns or adverse events associated with the Genio® system or if it takes more time to recruit the necessary number of patients for a trial, it may be prevented and/or delayed in obtaining further marketing approvals. Alternatively, even if the Company obtains regulatory approval, that approval may be for indications or patient populations that are not as broad as intended or desired or may require labeling that includes significant use or distribution restrictions or safety warnings. The Company may also be required to perform additional or unanticipated clinical trials to obtain approval or be subject to additional post-marketing testing requirements to maintain regulatory approval. In addition, regulatory authorities may withdraw their approval of the product or impose restrictions on its distribution in the form of a modified risk evaluation and mitigation strategy.

In particular, even if regulatory approval has been obtained in Europe, there is no guarantee for success in the US pivotal trial. For example, Apnex Medical Inc. obtained a CE-Mark in 2011 for its hypoglossal nerve stimulation device to treat OSA, based on initial clinical results, but shut down in 2013 after negative clinical results that failed to meet the primary endpoints in its pivotal study for FDA approval.

The performance of the Genio® system in commercial use may be different from the performance observed during the clinical studies for a number of reasons, including without limitation less control of the Company on the selection of patients suitable for use of the products, use by physicians with different experience and training, and failure to adhere to a follow-up regimen in the absence of clinical study enrolment and oversight. Furthermore, issues with product performance may subsequently be identified once a product is on the market, which could lead to the recall, modification, exchange, destruction or retrofitting of the device.

***Attracting patients to perform clinical studies and meeting clinical study objectives can be more costly and time-consuming than expected and could be adversely impacted by the occurrence of a pandemic, epidemic or other health crisis, including the recent outbreak of COVID-19.***

Due to the high degree of unpredictability of COVID-19, the Company foresees challenges in training and proctoring new centers and their surgeons in the United States, Europe and Australia/New Zealand. Patients being less willing to travel to these centers or their travelling being restricted could become an issue and potentially impact the Company's clinical and commercial activities.

Clinical study patients may be sourced from the own practice clinic or hospital of an Investigator (as defined below) or may be referred by another physician. Potential clinical study patients must sign an informed consent before undergoing certain clinical tests used to determine whether the patient meets the enrolment criteria for the clinical study (patient inclusion or exclusion). Once a patient is enrolled in the clinical study, the patient must comply with the study requirements and undergo periodic time-consuming tests, including a sleep test in a sleep lab. Not all patients will be eligible for the therapy. Moreover, some of the eligible patients may not comply with the requirements of the study, which may lead to poor or unusable data, or may withdraw from the study, which may compromise the results of the clinical study.

The Company may not be able to initiate, continue and/or complete in a timely manner clinical studies if it is unable to locate and enroll a sufficient number of eligible patients within the planned recruitment period to participate in these studies as required by the applicable regulatory authorities in the United States, Europe and any other applicable jurisdictions.

Despite an increased awareness regarding the Nyxoah technology since the publication of the BLAST OSA data in the European Respiratory Journal in October 2019, patient enrolment may be affected by other factors including the following: (i) the fact that the Genio® system is an implantable device requiring clinical study patients to undergo surgery, (ii) the severity of the disease under investigation, (iii) the patient eligibility criteria for the study in question, (iv) the perceived risks and benefits of the Genio® system for the indication under study, (v) the referral practices of physicians, (vi) the ability to monitor patients adequately during and after treatment, (vii) the proximity and availability of clinical study sites for prospective patients, (viii) the approval of other devices or therapeutics for the target indications, (ix) other clinical studies for the same target patients as those of the Company and (x) the necessity for the patients to dedicate their time to multiple visits to the clinic and/or sleep lab for tests, including a sleep test in a lab, forming part of the clinical study.

As a result of the COVID-19 pandemic, or similar pandemics, and related "shelter in place" or "quarantine" orders and other public health guidance measures, the Company has experienced and may experience in the future disruptions that could materially impact the ability to recruit patients or otherwise disrupt normal functioning of the healthcare system which could impair the ability of the Company to conduct its clinical studies and business in general as planned. Potential disruptions include but are not limited to:

- delay of surgeon training due to the limitations of traveling for surgeons to be trained, proctors and the Company's staff;
- delay of surgeon training due to the closing or restricted use of cadaver lab facilities hosting the training sessions;
- limitations of number of implants due to COVID-19 and regulatory guidance to limit elective surgeries;
- delay of or difficulties with site initiation and patient enrolment due to diversion of healthcare resources away from the conduct of clinical studies, including the unavailability, diversion or reallocation of resources and facilities of hospitals serving as the Company's clinical study sites and hospital staff supporting the conduct of the Company's clinical studies;

- delays or difficulties in enrolling patients in the Company's clinical studies as COVID-19 may reduce the willingness of patients to participate or continue to participate in clinical studies, resulting in the need to recruit new patients and go through new screening processes;
- increased rates of patients withdrawing from the Company's clinical studies following enrollment as a result of contracting COVID-19 or other health conditions or being forced to quarantine; and
- potential non-compliance of patients with clinical study protocols if quarantine impedes patient movement or interrupts or restricts healthcare services.

Any difficulties in enrolling a sufficient number of patients for any of the Company's clinical studies, any patient withdrawing from the clinical studies or not complying with the study protocols could result in significant delays and could require the Company to abandon one or more clinical studies altogether. If study centers and Centers of Excellence are restricted in performing elective surgeries and/or following up with their study patients, this may lead to missing information and may potentially impact clinical trial data quality and integrity. Enrolment delays and other issues with the Company's clinical studies may result in increased research and development costs that may exceed the resources available to the Company and in delays to commercially launch the Genio® system in target markets, if approved.

***Hesitation to change or to undertake special training and economic, social, psychological and other concerns by physicians may limit general acceptance and adoption of the Genio® system.***

Performing clinical studies requires the engagement of many different and diverse hospitals, clinics and clinicians. In particular, the Company must engage a physician at each clinical study center to maintain overall responsibility for conduct of the clinical study (the "Investigator"). Each Investigator may have additional physicians working under his or her direction to conduct a study. The Company may not be able to attract sufficiently qualified Investigators or enough Investigators to conduct clinical studies within an adequate timeframe. As at 31 December 2020, the Company has trained 18 surgeons in Europe, 9 surgeons in Australia and 2 in the United States.

The success of the Genio® system will require acceptance and adoption by physicians. Such acceptance will depend on physicians being convinced of the distinctive characteristics, clinical performance, benefits, safety and cost-effectiveness of the Genio® system and being prepared to undertake special training in certain cases. Furthermore, physicians will likely only adopt the Genio® system if they determine, based on experience, clinical data, and published peer-reviewed journal articles that the Genio® system is an attractive treatment solution, and that third party payers, such as government programs and private health insurance plans, provide appropriate reimbursement for its use. Regarding the Genio® system, only two articles related to the BLAST OSA study have been published in the European Respiratory Journal and Laryngoscope Investigative Otolaryngology.

Even if the safety and efficacy of the Genio® system is established, physicians may be hesitant to change their medical treatment practices or accept and adopt the Genio® system, including for the following reasons:

- general conservatism about the adoption of new treatment practices;
- personal history of adverse events and severe adverse events;
- lack or perceived lack of long-term evidence supporting additional patient benefits;
- perceived liability risks associated with the use of new products and procedures;
- limited or lack of reimbursement and coverage within healthcare payment systems;
- costs associated with the purchase of new products and equipment;
- other procedures competing for physician time and attention;
- the fact that the Genio® system contains an implantable device requiring surgery for implantation;

- the time commitment that may be required for special training;
- insufficient level of commercial attractiveness to physicians;
- the extent of ongoing support required by the clinician; and
- the extent of ongoing involvement of the patient in therapy.

Economic, social, psychological and other concerns may also limit general acceptance and adoption of the Genio® system. Lack of acceptance and adoption of the Genio® system by a sufficient number of relevant physicians would substantially increase the duration of trials and their costs.

***Long-term growth depends on the Company's ability to enhance its technology, expand indications and develop and commercialize additional products.***

Developing (new) products is expensive and time-consuming and could divert management's attention away from the Company's core business. The Company continues to invest in improving the Genio® system to develop next generation products with improved features with respect to patient comfort, thereapy efficacy and reliability. The success of any new product offering or product enhancements to the Company's technology will depend on several factors, including the Company's ability to do the following:

- properly identify and anticipate physician and patient needs;
- develop and introduce new products and product enhancements in a timely manner;
- avoid infringing upon the intellectual property rights of third-parties;
- obtain necessary licenses from or reach commercial agreements with third parties owning proprietary technologies or solutions;
- demonstrate, if required, the safety and efficacy of new products with data from preclinical studies and clinical trials;
- obtain the necessary regulatory clearances or approvals for expanded indications, new products or product modifications;
- be fully compliant with marketing of new devices or modified products;
- provide adequate training to potential users of the Company's products;
- receive adequate coverage and reimbursement for procedures performed with the Company's products; and
- develop an effective and dedicated sales and marketing team.

If the Company is not successful in expanding indications (such as for instance treating complete concentric collapse patients) and developing and commercializing new products and product enhancements, its ability to increase its revenue in the future may be impaired.

### 2.9.2 Risks relating to commercialization and reimbursement

***The Company's future financial performance depends on the commercial acceptance of the Genio® system in target markets.***

At the date of this Annual Report, the Genio® system is the only product on the market by the Company. The Genio® system received a CE-Mark in March 2019 for the treatment of obstructive sleep apnea ("OSA"). The CE-Mark cannot be construed as evidence of (statistically significant) efficacy or safety of the Genio® system. The Company is working to gain commercial market acceptance of the Genio® system in target markets and has generated only limited revenue from commercial sales of the Genio® system. In 2020, the Company generated revenues of KEUR 69 under the existing HGNS NUB coding in Germany. The Genio® system launched by the Company might not gain commercial acceptance in target markets. If the Company fails to gain and maintain commercial market acceptance of the

Genio® system in its target markets, for instance because of insufficient price and reimbursement levels from government and third party payers, competition, the inability to demonstrate to physicians and other potential customers the benefits and cost-effectiveness relative to other products available on the market, the amount of revenue generated from sales of the Genio® system in the future could continue to be limited, and could even decrease over time. In addition, the Genio® system has not received marketing approval in the United States and the Company's future financial performance will depend on the successful completion of its planned pivotal study in the United States.

***The Company's success is largely contingent on third-party payments from government providers, healthcare insurance providers or other public or private sources, and its product may not be accepted for reimbursement by such payers.***

The existence of coverage and adequate reimbursement for the Company's products by government and/or private payers will be critical for market adoption of the Genio® system. Physicians and hospitals are unlikely to use the Genio® system at all or to a great extent, if they do not receive adequate reimbursement for the procedures utilizing the Company's product, and potential patients may be unable or unwilling to pay for the Genio® system themselves if appropriate reimbursement by government or private payers is not available.

In many countries, payment for the Genio® system will be dependent on obtaining a «reimbursement code» for the procedure and product. Obtaining a reimbursement code can be a lengthy process (taking from months to years), that varies from country to country. Following the grant of a reimbursement code payers (e.g. national healthcare systems or health insurance companies) have to agree to provide coverage for the procedure(s) that use the Genio® system, which could be an additional hurdle for the Company.

With global pressure on healthcare costs, payers are attempting to contain costs by, for example, limiting coverage of and the level of reimbursements for new therapies. Generally, hospitals, governments and third-party payers are increasingly exerting downward pressure and reviewing the cost-effectiveness of medical products, therapies and services. Securing adequate or attractive reimbursement often depends on the successful outcome of a medical economics study, which is a clinical study designed to demonstrate the cost effectiveness of a product or procedure. Such studies are time-consuming and costly. It is uncertain if the results of such studies will be sufficient to support a reimbursement application. The Company might therefore not be able to obtain reimbursement at satisfactory levels or at all.

Although there is a general consensus about the medical necessity to treat OSA and notwithstanding the increasing number of hypoglossal nerve stimulation therapy coverage decisions (as evidenced by the Inspire case), the Company:

- is currently in discussions and negotiations to secure reimbursement coverage;
- is at risk of currently not having sufficient evidence to determine that the Genio® therapy results demonstrate a meaningful improvement in net health outcomes for patients meeting the specified criteria. If so, further evidence might be necessary, while in the meantime the Company will make the Genio® system available through country-specific innovation funding pathways.

At this stage of development and penetration of hypoglossal nerve stimulation therapy in the OSA field, there are no large clinical studies available (yet) to confirm the long-term cost effectiveness of hypoglossal nerve stimulation.

Additionally, besides CPAP, as a first-line treatment, other second-line treatments, such as mandibular advancement devices, are not widely covered by healthcare systems and reimbursement differs significantly from one country to another.

The downward pressure on healthcare costs has become particularly intense in Europe, and as a result, increasingly high barriers are being erected to the entry of new products (e.g. the Genio® system).

The price that the Company may receive for, and the marketability of, the Genio® system for which the Company receives regulatory approval may suffer significantly if the government and/or third-party payers fail to provide adequate coverage and reimbursement or if further governmental cost containment or other health reform initiatives are adopted or implemented.

As a result, the Company could fail to support a commercial infrastructure or realize an appropriate return on its investment in product development.

***If the Company is unable to expand its sales, marketing and distribution capabilities for the Genio® system or to partner with suitable third parties to provide these services, the Company may not be successful in commercializing the Genio® system in its target markets, if and when approved.***

The Company will need on the one hand to expand its internal sales and marketing organization, which was composed of two employees at the end of 2020, to commercialize the Genio® system in markets that the Company will target directly, which may entail risks as set out above. On the other hand, the Company may decide to target certain other markets indirectly via distributors or other arrangements. If the Company is unable to find suitable distribution partners, loses these distribution partners or if the Company's distribution partners fail to sell the Company's products in sufficient quantities, on commercially viable terms or in a timely manner, the commercialization of the Genio® system could be materially harmed, which could prevent the Company from achieving or maintaining profitability.

Another factor that may inhibit the Company's efforts to commercialize the Genio® system in target markets is the lack of complementary products to be offered by sales personnel, which may put the Company at a competitive disadvantage relative to companies with more products.

If the Company is unable to expand its own sales, marketing and distribution capabilities or enter into arrangements with other third parties to perform these services, the Company would not be able to successfully commercialize its products in these markets.

***The occurrence of a pandemic, epidemic or other health crisis, including the recent outbreak of COVID-19, could have a negative impact on the Company's product development and manufacturing activities, the recruitment and conduct of its clinical studies and its ability to source required funding, which could delay or prevent it from executing its strategy as planned.***

The Company's business and the business of its development and manufacturing partners and suppliers could be materially adversely affected by the effects of pandemics, epidemics or other health crises, including the recent outbreak of COVID-19. The ultimate impact of the COVID-19 outbreak or any similar health pandemic or epidemic is highly uncertain and subject to rapid change.

In March 2020, the World Health Organization characterized COVID-19 as a pandemic, which resulted in the implementation of travel and other restrictions across the world to reduce the spread of the disease.

This exceptional situation has required exceptional measures. Governmental safety guidelines have been implemented in all Nyxoah entities. Although it cannot be excluded that COVID-19 related issues or measures may result in stoppages, interruptions, reductions or breaks in the Company's production activities, supply chain and support functions, during 2020 and up to the date of the Annual Report, COVID-19 has not resulted in any stoppage of the production activities in the Company's Tel Aviv facility, the Company's suppliers of components of the Genio® system are continuing to supply components and support functions (R&D, QA&RA) also continued, albeit with reduced capacity. From March

2020 and until the date of the Annual Report, patient screening activities and elective surgeries have been impacted and, in some cases, put on hold in Europe, Australia and the USA.

Due to the high degree of unpredictability of COVID-19, the Company foresees challenges in training and proctoring new centers and their surgeons in the United States and Europe. Patients being less willing to travel to these centers or their travelling being restricted could become an issue and potentially impact the Company's clinical and commercial activities.

While the ultimate overall economic impact caused by the COVID-19 pandemic may be difficult to assess or predict, it is currently resulting in significant disruption to the global financial markets. If the resulting disruptions are sustained or recurrent, they could make it more difficult for the Company to access capital, which could in the future negatively affect its ability to source required funding, which could delay or prevent it from executing its strategy as planned.

Although the Company is monitoring developments relating to the COVID-19 situation closely, the impact of COVID-19 on the Company's business is uncertain at this time and will depend on future developments, which are highly uncertain and cannot be predicted, including new information which may emerge concerning the severity of COVID-19 and the actions taken to contain it or address its impact, among other things. Therefore, the Company does not yet know the full extent of the impact on its business (including its supply chains, its clinical studies and its access to the capital required to execute its business strategy).

***The Company may focus its limited financial and managerial resources on a particular market resulting in a failure to capitalize on markets that may be more profitable or for which there is a greater likelihood of success.***

Taking into account its current limited financial and managerial resources, the Company will have to carefully identify which markets to target first based on parameters such as market size, market readiness, competition, and the type of product and allocate its financial and managerial resources accordingly.

In order to identify its primary target markets, the Company makes projections on the number of people by target market. These projections are derived from a variety of sources, including, but not limited to, scientific literature, governmental statistics and market research, and are highly contingent on a number of variables that are difficult to predict and may prove to be too high. If as a result of these or other factors the market for the Genio® system does not develop as currently anticipated, the Company›s ability to generate revenue could be materially adversely affected. If the Company uses its limited financial and managerial resources to promote a particular indication expansion that is not ultimately sufficiently commercially successful, this could result in a smaller population of patients who could benefit from the Genio® system than the Company anticipates which would result in lower potential revenue for the Company.

### 2.9.3 Risks relating to the Company's financial situation

***The Company may require additional funds in the future in order to meet its capital and expenditure needs and further financing may not be available.***

As at 31 December 2020, the Company had cash and cash equivalents of KEUR 92,300. Based on cash flow forecasts for the years 2021 and 2022, the Company believes that this will be sufficient to meet its capital requirements and fund its operations for at least 12 months as from the date of this Annual Report. However, the Company has based these estimates on assumptions that may prove to be incorrect, and the Company could spend its available financial resources much faster than currently expected. Any future funding requirements will depend on many factors, including without limitation:

- acceptance of the Company's therapy by patients, physicians, government payers, private payers, and the market generally;
- the scope, rate of progress and cost of current or future clinical studies;
- the cost of research and development activities;
- the cost associated with any complications or side effects related to the use of the Genio® system;
- the cost of filing and prosecuting patent applications and other intellectual property rights and defending and enforcing the Company's patents or other intellectual property rights in various jurisdictions;
- the cost of defending, in litigation or otherwise, any claims that the Company infringes third-party patents or other intellectual property rights;
- the cost and timing of additional regulatory clearances or approvals;
- the cost and timing of establishing additional sales and marketing capabilities;
- costs associated with any product recall that may occur;
- the effect of competing technological and market developments;
- the extent to which the Company acquires or invests in products, technologies and businesses; and
- the costs of operating as a public company.

The Company cannot be certain that additional funding will be available on acceptable terms, if at all. While the ultimate overall economic impact caused by the COVID-19 pandemic may be difficult to assess or predict, it is currently resulting in significant disruption to the global financial markets. If the resulting disruptions are sustained or recurrent, they could make it more difficult for the Company to access capital, which could in the future negatively affect its ability to source required funding, which could delay or prevent it from executing its strategy as planned.

In addition, any future debt financing into which the Company may enter may impose upon it covenants that restrict its operations, including limitations on its ability to incur liens or additional debt, pay dividends, repurchase its Shares, make certain investments and engage in certain merger, consolidation or asset sale transactions. If the Company raises additional funds through collaboration and licensing arrangements with third-parties, it may be necessary to relinquish some rights to the Company technologies or products, or grant licenses on terms that are not favorable to the Company.

If the Company does not have, or is not able to obtain, sufficient funds, the Company may have to delay development or commercialization of its products or license to third- parties the rights to commercialize products or technologies that the Company would otherwise seek to commercialize. The Company also may have to reduce marketing, customer support or other resources devoted to its products or cease operations.

***The Company may not be able to achieve or maintain profitability.***

The Company has incurred operating losses and negative operating cash flows in each period since it was incorporated in 2009. As of 31 December 2020, the Company had a loss brought forward of KEUR 60,341. These losses have resulted primarily from costs incurred in the development of the Genio® technology, as well as from general and administrative costs associated with the Company operations and manufacturing. The Company intends to fund the continued development of its technology and the Genio® product line, to expand manufacturing capabilities, to seek further regulatory and marketing approvals for the Genio® system in order to be able to secure reimbursement by payers, to maintain, protect and expand the Company's intellectual property portfolio, to expand sales and marketing activities and to scale-up manufacturing capacities. Approval in the United States from the Food and Drug Administration ("FDA") to start the investigational device exemption ("IDE") trial (DREAM trial) was obtained on 23 June 2020. The Company expects to obtain post-market approval by mid-2023. The aim of the study is to support a marketing authorization from the FDA in the United States, as well as to support product reimbursement more generally. The Company also plans to conduct additional clinical studies and as a result, management expects that clinical affairs expenses will increase significantly over the next several years. These expenses, together with anticipated commercial/sales, R&D and general and administrative expenses, will likely result in the Company incurring further losses for at least the next few years.

The Company may not achieve profitability, which could impair its ability to sustain operations or obtain any required additional funding. If the Company does achieve profitability in the future, it may not be able to sustain profitability in subsequent periods, and it may suffer net losses and/or negative operating cash flows in subsequent periods.

It is possible that the Company will experience fluctuating revenues, operating results and cash flows. In that case, as a result, period-to-period comparisons of financial results are not necessarily meaningful, and results of operations in prior periods should not be relied upon as an indication of future performance.

***Any loss or decrease of subsidies, reimbursable cash advances and tax reductions may affect the Company's financial resources.***

Since September 2011, the Company has received financial support from the Walloon Region in the form of recoverable cash advances and subsidies for more than € 8,7 million. In March 2018, in accordance with Section 27A of the Australian Industry Research and Development Act 1986, the Australian Government gave notice to the Company's Australian subsidiary of Registration for the R&D Tax Incentive from the 2017/2018 income year. This incentive represents 43.5% of the yearly eligible R&D expenditure. Since the incorporation of the Australian subsidiary, the total amount received by Nyxoah Pty Ltd is AUD 1.8 million (approximately € 1.1 million).

All these subsidies and reimbursable cash advances increased the Company's financial resources to support R&D and clinical development projects. However, the Company cannot predict whether it or its subsidiaries will continue to benefit from such incentives and/or advantages and/or to what extent.

### 2.9.4 Risks relating to the Company's dependence on third parties and on key personnel

***A loss or degradation in performance of the suppliers on which the Company depends for services and components used in the production and assembly of the Genio® system could have a material effect on the Company›s business, financial condition and results of operations.***

The Genio® system requires customized components and services that are currently available from a limited number of sources. If these suppliers decide not to supply, are unable to supply, or if they provide the Company with components or services of insufficient quality, this could harm the Company's reputation and business by affecting, for example, product availability and performance. The Company's suppliers might not be able or willing to continue to provide the Company with the components or services it needs, at suitable prices or in sufficient quantity or quality. If any of the Company›s existing suppliers are unable or unwilling to meet the Company's demand for components or services, or if the services or components that they supply do not meet quality and other specifications, clinical studies or sales of the Genio® system could be delayed or halted, which could prevent the Company from achieving or maintaining profitability. For instance, where the Company relies on a single source supplier for a critical component, even if additional suppliers are available to provide a secondary source for these critical components, the addition of a new supplier to the production process generally requires extensive evaluations, testing and regulatory approval, making it difficult and costly for the Company to diversify its exposure to single source suppliers. The Company's suppliers, in turn, depend on their own suppliers and supply chain. In addition, if the Company has to switch to a replacement supplier for any of its product components or for certain services required for the production and assembly of the Genio® system (for example, the sterilization and coating of the product components), or if the Company has to commence its own manufacturing to satisfy market demand, it may face delays, and the manufacturing and delivery of the Genio® system could be interrupted for an extended period of time, which could delay completion of its clinical studies or commercialization and prevent the Company from achieving or maintaining profitability. Alternative suppliers may be unavailable, may be unwilling to supply, may not have the necessary regulatory approvals or certifications, or may not have in place an adequate quality management system. Furthermore, modifications to a service or component made by a third-party supplier could require new approvals or certifications from the relevant regulatory authorities before the modified service or component may be used.

In addition, the Company's suppliers may discontinue their supply of components or services upon which the Company relies before the end of the product life of the Genio® system. The timing of a discontinuation may not allow the Company sufficient time to develop and obtain regulatory approval for replacement components or service before the Company exhausts its inventory. If suppliers discontinue their supply of components or services, the Company may have to pay premium prices to its suppliers to keep their production or service lines open or to obtain alternative suppliers, buy substantial inventory to last until the scheduled end of life of the Genio® system or through such time as the Company has an alternative component developed and approved by the regulatory authorities or temporarily cease supplying the Genio® system once its inventory of the affected component is exhausted.

Any of these interruptions to the supply of services or components could result in a substantial reduction in the Company's available inventory and an increase in its production costs.

***The Company may be unable to attract and retain management and other personnel it needs to succeed.***

Given the current state of the development of the Company, reliance on the expertise and experience of the Board of Directors, management and other key employees and contractors in management, engineering, manufacturing, clinical and regulatory matters, sales and marketing, and other functions

is crucial. The departure of any of these individuals from the Company without timely and adequate replacement or the loss of any of the Company's senior management or other key employees would make it difficult for the Company to achieve its objectives in a timely manner, or at all. The Company might not be able to find and attract other individuals with similar levels of expertise and experience or similar relationships with commercial partners and other market participants. In addition, the Company's competitive position could be compromised if a member of senior management transferred to a competitor.

The Company expects to expand its operations and grow its clinical development, manufacturing, administrative and commercial operations. This will require hiring a number of qualified clinical, scientific, commercial and additional administrative, sales and marketing personnel. Competition for skilled personnel is intense and may limit the Company's ability to hire and retain highly qualified personnel on acceptable terms or at all. Competitors may have greater financial and other resources, different risk profiles and a longer history than the Company. If the Company is unable to identify, attract, retain and motivate these highly skilled personnel, it may be unable to continue its development, commercialization or growth.

As a retention plan, the Company offers long-term incentives to key personnel through a warrant grant program. Further, non-competing clauses are included in all employee contracts.

***Third-party performance failure may increase the Company's development costs, delay granting of regulatory approval or delay or prevent commercialization.***

The Company relies, and will rely in the future, on third parties to conduct clinical studies, perform data collection and analysis and provide marketing, manufacturing, regulatory advice and other services that are crucial to its business. In particular, the Company's technology and product development activities or clinical studies conducted in reliance on third parties may be delayed, suspended, or terminated if (i) the third parties do not devote a sufficient amount of time or effort to the Company's activities or otherwise fail to successfully carry out their contractual duties or to meet regulatory obligations or expected deadlines, (ii) the Company replaces a third party, (iii) the quality or accuracy of the data obtained by third parties is compromised due to their failure to adhere to clinical protocols, regulatory requirements, or for other reasons including the loss of data; or (iv) the third party becomes bankrupt or enters into liquidation. The Company is currently not planning on relying on contract research organizations for its ongoing clinical trials (BETTER SLEEP, ELiSA and DREAM), but contract research organizations might be used in the future or for future trials.

The Company generally would not have the ability to control the performance of third parties in their conduct of their activities. If these third parties do not successfully carry out their contractual duties or regulatory obligations or meet expected deadlines, or in the event of a default, bankruptcy or shutdown of, or a dispute with, a third party, the Company would be required to find a replacement third party to conduct the required activities. The Company may be unable to enter into a new agreement with another third party on commercially acceptable terms. Furthermore, if the quality or accuracy of the data obtained by the third party is compromised, or if data is otherwise lost, the Company would be required to repeat the affected study. Third-party performance failures may therefore increase the Company's development costs, delay the Company's ability to obtain regulatory approval, and delay or prevent the commercialization of the Genio® system in target markets. In addition, the Company's third-party agreements usually contain a clause limiting such third party's liability, such that the Company may not be able to obtain full compensation for any losses that the Company may incur in connection with the third party's performance failures.

***Performance issues, service interruptions or price increases by the Company's shipping carriers could adversely affect the business and harm the Company's reputation and ability to supply its products on a timely basis.***

Expedited, reliable shipping is essential to the Company's operations since the components of the Genio® system are manufactured to the Company's specifications by third-party suppliers in various jurisdictions. While the initial assembly of the different electronic components is done by different external suppliers, the final assembly is done in the Company's facility in Tel Aviv. As a result, the Company relies heavily on providers of transport services for reliable and secure point-to-point transport of the key components of the Genio® system to the Company›s facility and for tracking of these shipments. Should a carrier encounter delivery performance issues such as loss, damage or destruction of any components, it would be costly to replace such components in a timely manner and such occurrences, if they resulted in delays to the assembly and shipment of the completed Genio® system to customers, may damage the Company›s reputation and lead to decreased demand for the Genio® system and increased cost and expense to the Company›s business. In addition, any significant increase in shipping rates could adversely affect the Company›s operating margins and results of operations. Similarly, strikes, severe weather, natural disasters or other service interruptions affecting delivery services the Company uses would adversely affect the Company›s ability to process orders for the Genio® system on a timely basis.

### 2.9.5 Risks relating to the markets and countries in which the Company operates

***Competition from medical device companies and medical device subsidiaries of large healthcare and pharmaceutical companies is intense and expected to increase.***

The market for sleep disordered breathing and OSA solutions is increasingly competitive. The Company's success is contingent on its ability to provide innovative and superior solutions as well as a strong value proposition for all stakeholders to achieve their health goals, and the Company's ability to achieve these goals is not certain. The Company is pioneering a new category in the care of sleep disordered breathing conditions with a system designed at the origin to treat OSA via a bilateral hypoglossal nerve stimulation system.

The Company considers other companies which have designed hypoglossal nerve stimulation technologies to treat OSA as direct competitors.

Additionally, the Company also considers, as indirect competition, invasive surgical treatment options such as uvulopalatopharyngoplasty and maxillomandibular advancement surgery and, to a lesser extent, mandibular advancement devices, which are primarily used in the treatment of mild to moderate OSA.

The Genio® therapy is approved for use as a second-line therapy in the treatment of moderate-to-severe OSA in patients who do not tolerate, refused or failed Positive Airway Pressure therapy. If one or more CPAP device manufacturers successfully develop a CPAP device that is better tolerated and demonstrates significantly higher therapy compliance, or if improvements in other second-line therapies make them more effective, cost effective, easier to use or otherwise more attractive than the Genio® system, these therapies could have a material adverse effect on the Company›s sales, financial condition and results of operations.

OSA prevalence is on the rise and the Company expects increasing competition from its current competitors, which may be well established and enjoy greater resources or other strategic advantages, as well as from new entrants into the market, some of which may become significant competitors in the future.

As the markets for sleep disordered breathing and OSA grow and change, the Company expects the markets will continue to attract existing and new emerging companies that will be Company com-

petitors, that currently engage in the fields of chronic disease management and neurostimulation, and which may choose, to venture into developing and introducing new approaches, products and services.

Any products developed by the Company's competitors that have been commercialized or are in clinical studies or in development or are developed in the future could have superior clinical results, be easier to implement clinically, be more convenient for patients, be less expensive than the Genio® system or reach commercialization sooner in certain target markets. In addition, products are generally provided at no charge during clinical studies. Entry by a competitive product into clinical studies while the Genio® system is being commercialized could have an adverse effect on the Company's sales.

The commercial availability of any approved competing product could potentially inhibit recruitment and enrolment in the Company's clinical studies. The Company may successfully conclude its clinical studies and obtain final regulatory approval, and nevertheless may fail to compete against competitors or alternative treatments that may be available or developed for the relevant indication. Alternative treatments include drugs, devices and surgery, among others. New treatment options may emerge yielding clinical results better than or equal to those achieved with the Genio® system, possibly at a lower cost. Emergence of such new therapies may inhibit the Company's ability to develop and grow the market for the Genio® system. Furthermore, new entrants into the markets in which the Company operates could also decide to more aggressively compete on price, requiring the Company to reduce prices to maintain market share.

***Significant parts of the Company's operations are located in Israel and, therefore, the Company's results may be adversely affected by political, economic and military instability in Israel.***

The Company's research and development facility and all manufacturing facilities are located in Tel Aviv, Israel. In addition, the majority of its employees and some officers are residents of Israel. Accordingly, political, economic and military conditions in Israel may directly adversely affect the Company's business. Any armed conflicts, terrorist activities, political instability in the region or the interruption or curtailment of trade between Israel and its trading partners could adversely affect the Company's business conditions in general and harm its results of operations. The Company's commercial insurance does not cover losses that may occur as a result of an event associated with the security situation in the Middle East. Although Israeli legislation requires the Israeli government to cover the reinstatement value of direct damages that are caused by terrorist attacks or acts of war, the Company cannot assure that this government coverage will be maintained, or if maintained, will be sufficient to fully compensate the Company for damages incurred. Any losses or damages incurred by the Company could have a material adverse effect on its business.

### 2.9.6 Risks related to manufacturing

***The Company may not be able to manufacture or outsource manufacturing of the Genio® system in sufficient quantities, in a timely manner or at a cost that is economically attractive.***

The Company's revenues and other operating results will depend, in large part, on its ability to manufacture and sell the Genio® system in sufficient quantities and quality, in a timely manner, and at a cost that is economically attractive.

The Company expects to be required to significantly increase manufacturing volumes as clinical studies on the Genio® system are expanded and the Genio® system is commercialized. The capacity of the Company›s facility in Tel Aviv is expected to cover the demand for the Genio® Implantable Stimulator and the Genio® External Stimulator up until the end of 2021. Manufacturing of the Genio® Activation Chip and the Genio® Charging Unit is mostly outsourced to a third party contract manufacturing organization. In order to support future demand for the Genio® system, the Company would likely need to

expand its manufacturing capacity, which could require opening a new facility or additional outsourcing to a third-party contract manufacturing organization. Opening a new manufacturing facility could involve significant additional expenses, including for the construction of a new facility, the movement and installation of key manufacturing equipment, the modification of manufacturing processes and for the recruitment and training of new team members. In addition, the Company must also notify, and in most cases obtain approval from, regulatory authorities regarding any changes or modifications to its manufacturing facilities and processes, and the regulatory authorities might not authorize the Company to proceed or might delay the process significantly.

In addition, the Company's current business expectation is that the cost of goods sold will decline over time as the cumulative volume manufactured grows. However, the Company or its suppliers might not be able to increase yields and/or decrease manufacturing costs with time, and in fact costs may increase, which could prevent the Company from achieving or maintaining profitability.

***The Company's results of operations could be materially harmed if it is unable to accurately forecast customer demand for its Genio® system and manage its inventory.***

To ensure adequate inventory supply of the Genio® system in general and its components (e.g. for replacement, upgrade or maintenance purposes), the Company must forecast inventory needs and place orders with its suppliers based on its estimates of future demand for the Genio® system and/or its components. The Company has never commercialized its products before and its ability to accurately forecast demand for its Genio® system could be negatively affected by many factors, including failure to accurately manage the Company›s expansion strategy, product introductions by competitors, an increase or decrease in customer demand for the Genio® system or for products of the Company›s competitors, failure to accurately forecast customer acceptance of new products, unanticipated changes in general market conditions or regulatory matters and weakening of economic conditions or consumer confidence in future economic conditions. Inventory levels in excess of customer demand may result in inventory write-downs or write-offs, which would cause the Company's gross margin to be adversely affected and could impair the strength of the Genio® brand. Conversely, if the Company underestimates customer demand for the Genio® system, the Company third-party contract manufacturers may not be able to deliver products to meet the Company›s requirements, and this could result in damage to the Company›s reputation and customer relationships. In addition, if the Company experiences a significant increase in demand, additional supplies of raw materials or additional manufacturing capacity may not be available when required on terms that are acceptable to the Company, or at all, or suppliers or third-party manufacturers might not be able to allocate sufficient capacity in order to meet the Company's increased requirements, which could have an adverse effect on the Company's ability to meet customer demand for the Genio® system.

The Company seeks to maintain sufficient levels of inventory in order to protect itself from supply interruptions. As a result, it is subject to the risk that a portion of its inventory will become obsolete or expire, which could affect the Company's earnings and cash flows due to the resulting costs associated with the inventory impairment charges and costs required to replace such inventory.

### 2.9.7 Legal and regulatory risks

***The Genio® system is still unapproved in certain significant markets, such as the United States market, and seeking and obtaining regulatory approval for active implantable medical devices can be a long, expensive and uncertain process.***

Applications for prior regulatory approval in the countries where the Company intends to sell or market its products may require extensive pre-clinical, clinical and technical testing, all of which must be undertaken in accordance with the requirements of regulations established by the relevant regulatory agencies, which are complex and have become more stringent over time. The Company may be adversely affected by potential changes in government policy or legislation applicable to implantable

medical devices. At the date of this Annual Report, the Company has only received regulatory approval for the European Economic Area ("EEA") Member States (through CE-Marking) for its Genio® system as well as Israeli Medical Devices and Accessories (AMAR) approval (also based on the CE-Marking).

In the United States, the Company is in the early stages of a process of seeking marketing approval. The Company received an investigational device exemption ("IDE") approval from the FDA on 23 June 2020 and is in the process of formally confirming the appropriate regulatory pathway to pursue to receive marketing authorization. Even though it has received an IDE, the Genio® system may not successfully obtain marketing authorization. In addition, there may be substantial and unexpected delays in the process, for example in the initiation and completion of clinical study testing and evaluation.

Since the Genio® system is a wireless medical device, additional complications may arise with respect to obtaining marketing authorization in the United States. For example, the Federal Communications Commission must also determine that wireless medical devices, such as the Genio® system, are compatible with other uses of the spectrum on which the device operates, and that power levels and the frequency spectrum of the wireless energy transfer comply with applicable regulations. The pertinent submission with the Federal Communications Commission will be done prior to commercialization and will take approximately three months to complete.

***Failure to comply with the significant regulations and approvals to which the Company's manufacturing facilities and those of its third-party suppliers are subject to may affect the Company's business.***

The Company currently manufactures the Genio® system and has entered into relationships with third party suppliers to manufacture and supply certain components of the Genio® system. The manufacturing practices of the Company and its third-party suppliers are subject to ongoing regulation and periodic inspection. Any failure to follow and document the adherence to regulatory requirements (including having in place an adequate quality management system (QMS) in line with the most up-to-date standards and regulations) by the Company or its third party suppliers may lead to significant delays in the availability of the Genio® system for commercial sale or clinical studies, may result in the termination of or a hold on a clinical study, or may delay or prevent filing or approval or maintenance of marketing applications for the Genio® system.

Failure to comply with applicable regulations could also result in regulatory authorities taking various actions, including:

- levying fines and other civil or criminal penalties;
- imposing consent decrees or injunctions;
- requiring the Company to suspend or put on hold one or more of the Company's clinical studies;
- suspending or withdrawing regulatory approvals;
- delaying or refusing to approve pending applications or supplements to approved applications;
- requiring the Company to suspend manufacturing activities, sales, imports or exports of the Genio® system;
- requiring the Company to communicate with physicians and other customers about concerns related to actual or potential safety, efficacy, and other issues involving the Company;
- mandating product recalls or seizing products;
- imposing operating restrictions; and
- seeking criminal prosecutions.

Any of the foregoing actions could be detrimental to the Company's reputation or result in significant costs or loss of revenues for the Company.

***Seeking, obtaining and maintaining regulatory approval in the EEA under the new Medical Device Regulation, with the CE-mark to be re-approved before May 2024, can be an uncertain process and Notified Bodies have limited resources and may experience backlogs.***

Under the new Medical Device Regulation, devices currently on the market in the EEA having been granted a CE-Mark under Council Directive 90/385/EEC of 20 June 1990 on the approximation of the laws of the Member States relating to active implantable medical devices (the "AIMD Directive") – such as the Company's Genio® system – will need to be re-evaluated and re-approved in accordance with the new Medical Device Regulation. Any modification to an existing CE-marked medical device will also require approval of its compliance with the new Medical Device Regulation.

The new Medical Device Regulation also imposes a re-designation of the "Notified Bodies" (i.e. the organizations designated by the EEA Member State in which they are based, which are responsible for assessing whether medical devices and manufacturers of medical devices meet the applicable regulatory requirements in the EEA). To be re-designated Notified Bodies must demonstrate increased technical expertise in their scope of designation, as well as improved quality management systems. This re-designation process has caused backlogs in the assessment of medical devices and medical device manufacturers during the transition period leading up to the May 2021 effective date of the new Medical Device Regulation.

The CE-Mark obtained in 2019 for the Company's Genio® system will remain valid until March 2024. It must be re-approved under the new Medical Device Regulation before the end of that period of time. The recertification requires the demonstration that the performance and the safety of the system has been maintained and that the system continues to meet existing regulations and standards. Otherwise, the marketing and sale of the Genio® system in EEA Member States may be temporarily or permanently prohibited. Significant modifications to the Genio® system, if any, will also require approval under the new Medical Device Regulation.

The overall backlogs experienced by the Notified Bodies having already been re-designated (including the Dutch company DEKRA Certification B.V., which issued the CE-Mark and an ISO 13485:2016 certificate to the Company under the AIMD Directive) might have a negative impact on the (re-)approval of the Genio® system. The Company believes, however, that it is on track to meet the new requirements by the deadlines set forth in the new Medical Device Regulation.

Any third-party distributors relied upon by the Company in the EEA, such as its local distributor in Spain, also need to be compliant with the new Medical Device Regulation. If a distributor in the EEA fails to meet the requirements of the new Medical Device Regulation, on a timely basis or at all, the marketing and sale of the Genio® system by such distributor may be temporarily or permanently prohibited.

Any delay or failure to comply with the new Medical Device Regulation could result in the sale of the Genio® system being temporarily or permanently prohibited in EEA Member States and affect the Company's reputation, business, financial condition, results of operations and prospects.

***Compliance with regulations for quality systems for medical device companies is difficult, time consuming and costly.***

The Company has developed and maintains a quality management system for medical devices intended to ensure quality of the Company's products and activities. The system is designed to be in compliance with regulations in many different jurisdictions, including the Quality Systems Regulations mandated by the FDA in the United States and the requirements of the AIMD Directive in the European Union, including the international standard ISO13485 required by the countries in Europe that recognize the CE-Mark, Israel, New Zealand and Australia.

Compliance with regulations for quality management systems for medical device companies is time consuming and costly, and there are changes in the regulations from time to time. For example, ISO13485:2019 (i.e. the latest version of ISO13485) aims to harmonize the requirements of ISO13485 with the requirements of the AIMD. While management believes that the Company is compliant with existing quality management system regulations for medical device companies at the date of this Annual Report, it is possible that the Company may be found to be non-compliant with new or existing regulations in the future. In addition, the Company may be found to be non-compliant as a result of future changes in, or interpretation of, the regulations for quality systems. If the Company does not achieve compliance or subsequently becomes non-compliant, the regulatory authorities may require that the Company takes appropriate action to address non-conformance issues identified in the audit, withdraw marketing clearance, or require product recall or take other enforcement action.

The Company's external vendors must, in general, also comply with the quality systems regulations and ISO13485. Any of the Company's external vendors may become non-compliant with quality systems regulations or ISO13485, which could result in enforcement action by regulatory authorities, including, for example a warning letter from the FDA or a requirement to withdraw from the market or suspend distribution, or export or use of products manufactured by one or more of the Company's vendors.

Any change or modification to a device (including changes to the manufacturing process) may require further approvals (depending on the jurisdiction) and must be made in compliance with appropriate quality system regulations (such as the quality systems regulations for the United States and the AIMD Directive and the new Medical Device Regulation for Europe), which compliance may cause interruption to or delays in the marketing and sale of the Company's products. Regulations and laws regarding the manufacture and sale of active implantable medical devices ("AIMDs") are subject to future changes, as are administrative interpretation and policies of regulatory agencies. If the Company fails to comply with such laws and regulations where the Company would intend to market the Genio® system, the Company could be subject to enforcement action including recall of its device, withdrawal of approval or clearance and civil and criminal penalties. If any of these events occur, it may materially and adversely affect the Company's business, financial condition, results of operations and prospects.

***Active implantable medical devices such as the Genio® system carry risks associated with the surgical procedure for implant or removal of the device, use of the device, or the therapy delivered by the device.***

The Genio® system is a medical device with complex electronic circuits and software and includes a component that is implanted in the patient through a surgical procedure. It is not possible to design and build electronic implantable medical devices that are 100% reliable, since all electronic devices carry a risk of failure. Furthermore, all surgical procedures carry risks and the effectiveness of any medical therapy varies between patients. The consequences of failure of the Genio® system include complications arising from product use and associated surgical procedures and could range from minor to life-threatening effects and even death.

All medical devices have associated risks. Regulatory authorities regard AIMDs as the highest risk category of medical devices and accordingly AIMDs are subject to a high level of scrutiny when seeking regulatory approval. The Genio® system was reviewed, classified and the CE-Mark was granted by the Company›s European Notified Body as an AIMD. A CE-Mark in Europe indicates that the device in question is in full compliance with European legislation. Medical devices approved in the EU only need to demonstrate that they perform or will probably perform as designed and that the potential benefits outweigh potential risks. Devices approved first in the EU may be associated with an increased risk of post-marketing safety alerts and recalls. On the other hand, before FDA approval of a medical device in the US, a device must not only be shown to be safe, but also efficacious. The risk classification for

the Genio® system is still under review by the U.S. Food and Drug Administration and other International Regulatory bodies. The risks associated with medical devices and the therapy delivered by them, include, among others, risks associated with any surgical procedure, such as infection, allergic reaction, and consequences of anesthesia and risks associated with any implantable medical device such as device movement, electromagnetic interference, device failure, tissue damage including nerve damage, pain and psychological side effects associated with the therapy or the surgical procedure.

Adverse events associated with these risks may lead some patients to blame the Company, the physician or other parties for such occurrences. This may result in product liability lawsuits, medical malpractice lawsuits, investigations by regulatory authorities, adverse publicity, criminal charges or other harmful circumstances for the Company. Any of those circumstances may have a material adverse effect on the Company ability to conduct its business, to continue selling the Genio® system, to achieve revenue objectives, or to develop future products.

***If the Company's products are defective, or otherwise pose safety risks, the relevant governmental authorities could require their recall, or the Company may need to initiate a recall of its products voluntarily.***

AIMDs are characterized by a complex manufacturing process, requiring adherence to demanding product specifications. The Genio® system uses many disciplines including electrical, mechanical, software, biomaterials, and other types of engineering. Device failures discovered during the clinical study phase may lead to suspension or termination of the study. In addition, device failures and malfunctions may result in a recall of the product, which may relate to a specific manufacturing lot or may affect all products in the field. Recalls may occur at any time during the life cycle of a device once regulatory approval has been obtained for the commercial distribution of the device. For example, engineers employed by the Company undertaking development or manufacturing activities may make an incorrect decision or make a decision during the engineering phase without the benefit of long-term experience, and the impact of such wrong decisions may not be felt until well into a product's life cycle. The relevant governmental authorities may require the recall of commercialized products in the event of material deficiencies, or defects in design or manufacture, or in the event that a product poses an unacceptable risk to health. The Company on its own initiative may recall a product if any material deficiency in a device is found. A government mandated or voluntary recall could occur as a result of an unacceptable risk to health, component failures, manufacturing errors, design or labelling defects or other deficiencies and issues.

Recalls of the Genio® system would divert managerial and financial resources and could result in damaged relationships with regulatory authorities and lead to loss of market share to competitors. In addition, any product recall may result in irreparable harm to the Company's reputation. Any product recall could impair the Company's ability to produce products in a cost-effective and timely manner in order to meet customer demand. The Company may also be required to bear other costs or take other actions that may have a negative impact on future revenue and could prevent the Company from achieving or maintaining profitability.

***The Company faces the risk of product liability claims that could be expensive, divert management's attention and harm its reputation and business. The Company may not be able to maintain adequate product liability insurance.***

The Genio® system is designed to affect important bodily functions and processes. As medical device manufacturer, the Company is exposed to product liability claims arising from failures and malfunctioning of the Genio® system, product use and associated surgical procedures. This risk exists even if the Genio® system is cleared or approved for commercial sale by regulatory authorities and manu-

factured in facilities licensed and regulated by the applicable regulatory authority. The medical device industry has historically been subject to extensive litigation over product liability claims, and the Company may face product liability suits if the Genio® system causes, or merely appears to have caused, patient injury or death. In addition, an injury that is caused by the activities of the Company›s suppliers, such as those who provide the Company with components and raw materials, may be the basis for a claim against the Company. Product liability claims may be brought against the Company by patients, healthcare providers or others selling or otherwise being exposed to the Genio® system, among others. If the Company cannot successfully defend itself against product liability claims, the Company will incur substantial liabilities and reputational harm. In addition, regardless of merit or eventual outcome, product liability claims may result in one or more of the following:

- costs of litigation;
- distraction of management's attention from its primary business;
- the inability to commercialize the Genio® system or new products;
- decreased demand for the Genio® system;
- damage to the Company's reputation;
- product recalls or withdrawals from the market;
- withdrawal of clinical trial participants;
- substantial monetary awards to patients or other claimants; or
- loss of sales.

Although the Company maintains product liability and clinical study liability insurance at levels it believes are appropriate, this insurance is subject to deductibles and coverage limitations. The Company's current product liability insurance may not continue to be available to the Company on acceptable terms, if at all, and, if available, coverage may not be adequate to protect the Company against any future product liability claims. If the Company is unable to obtain insurance at an acceptable cost or on acceptable terms or otherwise protect against potential product liability claims, the Company could be exposed to significant liabilities, including claims for amounts in excess of insured liabilities. As of the date of the Annual Report, there are no product liability claims against the Company.

***The Company bears the risk of warranty claims on the Genio® system.***

The Company bears the risk of warranty claims on the Genio® system. The Company may not be successful in claiming recovery under any warranty or indemnity provided to the Company by its suppliers or vendors in the event of a successful warranty claim against the Company by a customer or any recovery from such vendor or supplier may not be adequate. In addition, warranty claims brought by its customers related to third-party components may arise after the Company›s ability to bring corresponding warranty claims against such suppliers expires, which could result in costs to the Company. As of the date of the Annual Report, there are no warranty claims against the Company.

The Company is and will be subject to healthcare fraud and abuse laws and other laws applicable to its business activities and if it is unable to comply with such laws, it could face substantial penalties.

***The Company is subject to various fraud and abuse laws.***

For instance, pursuant to the Belgian Act of 18 December 2016 and its implementing Royal Decree of 14 June 2017 (the "Sunshine Act"), manufacturers of medical devices are required to document and disclose all direct or indirect premiums and benefits granted to healthcare professionals, healthcare organizations and patient organizations with a practice or a registered office in Belgium. Also, under Article 10 of the Belgian Act of 25 March 1964, it is prohibited (subject to limited exceptions) in the

context of the supply of medical devices to offer or grant any advantage or benefit in kind to amongst others healthcare professionals and healthcare organizations.

Upon the planned launch of operations in the United States, the Company's operations will be subject to various federal and state fraud and abuse laws. Such laws include the federal and state anti-kick-back statutes, physician payment transparency laws, false claims laws and sunshine laws. These laws may affect, among other things, the Company's proposed sales and marketing and education programs and require it to implement additional internal systems for tracking certain marketing expenditures and to report to governmental authorities. In addition, the Company may be subject to patient privacy and security regulations by both the federal government and the states in which the Company conducts its business.

If the Company's operations are found to be in violation of any of the laws described above or any other governmental regulations that apply to it, it may be subject to penalties, including administrative, civil and criminal penalties, damages, fines, disgorgement, the curtailment or restructuring of the Company's operations, the exclusion from participation in government healthcare programs and individual imprisonment.

***Security breaches and other disruptions could compromise the Company's information and expose the Company to liability, which would cause the Company's business and reputation to suffer.***

The Company and certain third parties that it relies on for its operations collect and store confidential and sensitive information, and their operations are highly dependent on information technology systems, including internet-based systems, which may be vulnerable to breakdown, wrongful intrusions, data breaches and malicious attack. This information includes, among other things, intellectual property and proprietary information, the confidential information of any of the Company's future collaborators and licensees, the personal data of the Company's employees, and personal data from patients using the Genio® system, which falls into the specially protected category of health data, for which additional safeguards are required under applicable laws. Any attack or breach could compromise the Company's networks or those of related third parties and stored information could be accessed, publicly disclosed, lost, or stolen, resulting in legal claims or proceedings, liability (including substantial fines and penalties) under laws that protect the privacy of personal information, including the General Data Protection Regulation ("GDPR") in Europe and the Health Insurance Portability and Accountability Act ("HIPAA") in the United States, and lead to delays and impediments to the Company's development efforts, and damage to the Company's reputation. In particular, the loss of pre-clinical or clinical study data from completed, ongoing or planned studies could result in delays in the Company's regulatory approval efforts and significantly increase the Company's costs to recover or reproduce the data.

Since the Genio® system is a wireless medical device, additional complications may arise with respect to the wireless, RF, technology used for the communication between the system parts. While the Company has reviewed and determined the integrity of its system and the communication protocol, use of wireless technology imposes a risk that third parties might attempt to access the Company›s system. An additional risk is related to interruption or distortion of communication by other devices that might be used in the vicinity of the system, especially when in use by the user, which might have an effect on the effectiveness of the therapy delivered by the system. Any such unauthorized access, interruption or distortion could result in legal claims or proceedings, liability (including substantial fines and penalties) under laws that protect the privacy of personal information (such as the GDPR and HIPAA), delays and impediments to the Company's development efforts, damage to the Company's reputation, and ineffectiveness of the therapy. In addition, procedures and safeguards must continually evolve to meet new data security challenges, and enhancing protections, and conducting investigations and remediation, may impose additional costs on the Company.

### 2.9.8 Risks relating to intellectual property

***The inability to fully protect and exploit the Company's intellectual property and trade secrets may adversely affect the Company's financial performance and prospects.***

The Company's success will depend significantly on its ability to protect its proprietary and licensed in rights, including in particular the intellectual property and trade secrets related to the Genio® system. The Company relies on a combination of patent(s) (applications), trademarks, designs and trade secrets, and uses non-disclosure, confidentiality and other contractual agreements to protect its technology. The Company generally seeks patent protection where possible for those aspects of its technology and products that it believes provide significant competitive advantages. However, the Company may be unable to adequately protect the intellectual property rights and trade secrets related to the Genio® system or may become subject to a claim of entitlement, infringement or misappropriation that it is unable to settle on commercially acceptable terms. The Company cannot be certain that patents will be issued with respect to the Company's pending or future patent applications. In addition, the Company does not know whether any issued patents will be upheld as valid or proven enforceable against alleged infringers or whether they will prevent the development of competitive patents or provide meaningful protection against competitors or against competitive technologies.

In addition, the Company's intellectual property rights might be challenged, invalidated, circumvented or rendered unenforceable. The Company's competitors or other third parties may successfully challenge and invalidate or render unenforceable the Company's issued patents, including any patents that may be issued in the future. This could prevent or limit the Company's ability to stop competitors from marketing products that are identical or substantially equivalent to the Genio® system. In addition, despite the broad definition of Company concepts and inventions in its portfolio, as is common in technological progress, competitors may be able to design around the Company's patents or develop products that provide outcomes that are comparable to the Genio® system but that are not covered by the Company's patents. Much of the Company's value is in its intellectual property, and any challenge to the Company's intellectual property portfolio (whether successful or not) may affect its value.

***The Company could become subject to intellectual property litigation.***

The medical device industry is characterized by rapidly changing products and technologies and there is intense competition to establish intellectual property and proprietary rights covering the use of these new products and the related technologies. This vigorous pursuit of intellectual property and proprietary rights has resulted and will continue to result in extensive litigation and administrative proceedings over patent and other intellectual property rights. Whether a product and/or a process infringes a patent involves complex legal and factual issues, and the outcome of such disputes is often uncertain. There may be existing patents of which the Company is unaware that are inadvertently infringed by the Genio® system.

Competitors may have or develop patents and other intellectual property that they assert are infringed by the Genio® system. Any infringement claim against the Company, even if without merit, may cause the Company to incur substantial costs, and could place a significant strain on the Company's financial resources and/or divert the time and efforts of management from the conduct of the Company's business. In addition, any intellectual property litigation could force the Company to do one or more of the following: (i) stop selling the Genio® system or using technology that contains the allegedly infringing intellectual property; (ii) forfeit the opportunity to license the Company patented technology to others or to collect royalty payments based upon successful protection and assertion of its intellectual property rights against others; (iii) pay substantial damages to the party whose intellectual property rights the Company may be found to be infringing; or (iv) redesign those products that contain or utilize the allegedly infringing intellectual property. As of the date of the Annual Report, there is no intellectual property litigation pending against the Company.

***The Company depends on confidentiality agreements with third parties, which might not provide adequate protection for its confidential information.***

The Company relies upon unpatented confidential and proprietary information, including technical information, know-how, and other trade secrets to develop and maintain its competitive position and the Genio® system. While the Company generally enters into non-disclosure or confidentiality agreements with its employees and other third parties to protect its intellectual property and trade secrets, such agreements might be breached, or might not provide meaningful protection for the Company's trade secrets and proprietary information or adequate remedies might not be available in the event of an unauthorized use or disclosure of such information.

***The Company depends on exclusive licenses and agreements with third parties, which might not provide adequate protection for its technology.***

The Company relies on licensing agreements providing the Company exclusivity in the field of its practice. While the Company has ensured through multiple robust agreements acquisition of exclusive licenses and freedom to operate for its technology, as with any agreement, under unexpected or unpredictable circumstances, these could be under a risk of being terminated despite companies' efforts and diligence in ensuring integrity of the agreement. Should the agreements be found invalid or licenses revoked and the licensor decide to sue the Company for infringement of its patents rights, this could expose the Company to risks of litigation. In addition, any intellectual property litigation could force the Company to do one or more of the following: (i) stop selling the Genio® system or using technology that contains the allegedly infringing intellectual property; (ii) forfeit the opportunity to license the Company patented technology to others or to collect royalty payments based upon successful protection and assertion of its intellectual property rights against others; (iii) pay substantial damages to the party whose intellectual property rights the Company may be found to be infringing; or (iv) redesign those products that contain or utilize the allegedly infringing intellectual property.

The requirement to obtain licenses to third party intellectual property could also arise in the future. If the Company needs to license in any third-party intellectual property, it could be required to pay lump sums or royalties on its products. In addition, if the Company is required to obtain licenses to third party intellectual property, it might not be able to obtain such licenses on commercially reasonable terms or at all.

### 2.9.9 Risks relating to the ownership of the Shares

***An active market for the Shares may not be sustained or be sufficiently liquid.***

Due to the lock-up arrangements in connection with the Company's initial public offering in September 2020, only approximately 21 percent of the Company's Shares was freely tradeable until 18 March 2021. An active trading market for the Shares may not be sustained or be sufficiently liquid. If an active trading market is not sustained, the liquidity and trading price of the Shares could be adversely affected. The degree of liquidity of the Shares may negatively impact the price at which an investor can dispose of the Shares where the investor is seeking to achieve a sale within a short timeframe.

***The market price of the Shares may fluctuate significantly in response to a variety of factors.***

Publicly traded securities from time to time experience significant price and volume fluctuations that may be unrelated to the results of operation or the financial condition of the companies that have issued them. In addition, the market price of the Shares may prove to be highly volatile and may fluctuate significantly in response to a number of factors, many of which are beyond the Company's control, including the following:

- announcements of technological innovations, clinical data in relation to existing or new products or collaborations by the Company or its competitors;
- market expectations for the Company's financial performance;
- actual or anticipated fluctuations in the Company's business, results of operations and financial condition;
- changes in the estimates of the Company's results of operations, downgrades of recommendations, or cessation of publication of research reports on the Company by securities analysts;
- potential or actual sales of blocks of Shares in the market or short selling of Shares, future issues or sales of Shares, and stock market price and volume fluctuations in general;
- the entrance of new competitors or new products in the markets in which the Company operates;
- volatility in the market as a whole or investor perception of the Company's markets and competitors;
- changes in market valuation of similar companies;
- announcements by the Company or its competitors of significant contracts;
- acquisitions, strategic alliances, joint ventures, capital commitments or new products or services;
- additions or departures of key personnel;
- litigation;
- developments regarding intellectual property rights, including patents;
- regulatory, pricing and reimbursement developments in Europe, the United States and other jurisdictions, and new government regulation in general;
- general economic, financial and political conditions;
- disruptions of financial markets as result of a pandemic or other public health crisis, such as COVID-19; and
- the risk factors mentioned above.

The market price of the Shares may be adversely affected by most of the preceding or other factors regardless of the Company's actual results of operations and financial condition.

***Future sales of substantial amounts of Shares, or the perception that such sales could occur, could adversely affect the market value of the Shares.***

A sale of a significant number of Shares on the public markets, or the perception that such sale will occur, may adversely affect the market price of the Shares. The Company cannot make any predictions as to future sales of the Shares or the perception that such sales could have on the market price of the Shares. Subject to certain exceptions, all of the Company's existing shareholders at the time of the Company's initial public offering in September 2020 have entered into a lock-up arrangement with the underwriters: (i) the holders of shares or other securities representing more than 2% of the Company's Shares on a fully diluted basis (excluding the new Shares that were to be issued pursuant to the initial public offering) have entered into a lock up arrangement with the underwriters with respect to certain of their Shares and other securities issued by the Company for a period of twelve months after the listing date of 18 September 2020, and (ii) the holders of shares or other securities representing 2% or less of the Company's Shares on a fully diluted basis (excluding the new Shares that were to be issued pursuant to the initial public offering) have entered into a lock up arrangement with the underwriters with respect to certain of their Shares and other securities issued by the Company for a period of six months after the Listing Date.

Given the fact that several of the Company's existing shareholders at the time of the Company's initial public offering have been investors in the Company for many years, it cannot be excluded that some of them may want to sell all or part of their Shares following the expiration of their lock-up obligations where applicable. Future potential sales of Shares by the relevant shareholders, or the perception that such sales could occur, may adversely affect the market price of the Shares.

***The Company will likely not be in a capacity to pay dividends in the near future and intends to retain all earnings.***

The Company has not declared or paid dividends on its Shares in the past and does not currently have the intention to pay any dividend. Any declaration of dividends will be based upon the Company's earnings, financial condition, capital requirements and other factors considered important by the Board of Directors.

Belgian law and the Articles of Association do not require the Company to declare dividends. Currently, the Board of Directors expects to retain all earnings, if any, generated by the Company's operations for the development and growth of its business and does not anticipate paying any dividends to the shareholders in the near future.

***Certain significant shareholders of the Company may have different interests from the Company and may be able to control the Company, including the outcome of shareholder votes.***

The Company has a number of significant shareholders. Other than the lock up arrangements as described above, the Company is not aware of shareholders having entered into or having the intention to enter into a shareholders' agreement, or agreeing to act in concert, following the closing of the Company's initial public offering. Nevertheless, some of the Company's shareholders could, alone or together, have the ability to elect or dismiss directors, and, depending on how broadly the Company's other Shares are held, take certain other shareholders' decisions that require at least 50%, 75% or 80% of the votes of the shareholders that are present or represented at general shareholders' meetings where such items are submitted to voting by the shareholders. Alternatively, to the extent that these shareholders have insufficient votes to impose certain shareholders' decisions, they could still have the ability to block proposed shareholders' resolutions that require at least 50%, 75% or 80% of the votes of the shareholders that are present or represented at general shareholders' meetings where such decisions are submitted to voting by the shareholders. Any such voting by one or more shareholders may not be in accordance with the interests of the Company or the other shareholders of the Company.

***Investors resident in countries other than Belgium may suffer dilution if they are unable to participate in future preferential subscription rights offerings.***

Under Belgian law and the Company's constitutional documents, shareholders have a waivable and cancellable preferential subscription right to subscribe pro rata to their existing shareholdings to the issuance, against a contribution in cash, of new Shares or other securities entitling the holder thereof to new Shares, unless such rights are limited or cancelled by resolution of the Company's general shareholders' meeting or, if so authorized by a resolution of such meeting, the Board of Directors. The exercise of preferential subscription rights by certain shareholders not residing in Belgium (including those in the United States, Australia, Israel, Canada or Japan) may be restricted by applicable law, practice or other considerations, and such shareholders may not be entitled to exercise such rights, unless the rights and Shares are registered or qualified for sale under the relevant legislation or regulatory framework. In particular, the Company may not be able to establish an exemption from registration under the U.S. Securities Act, and the Company is under no obligation to file a registration statement with respect to any such preferential subscription rights or underlying securities or to endeavor to have a registration statement declared effective under the U.S. Securities Act. Shareholders in jurisdictions outside Belgium who are not able or not permitted to exercise their preferential subscription rights in the event of a future preferential subscription rights, equity or other offering may suffer dilution of their shareholdings.

# 3 Shares and Shareholders

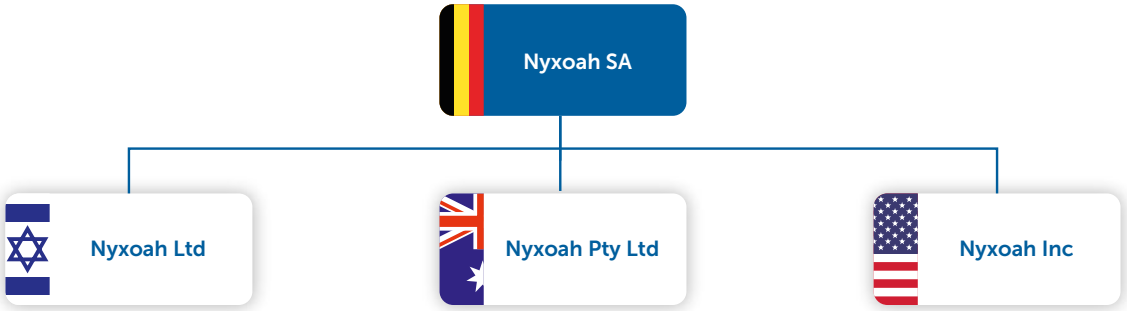
# Shares and Shareholders

## 3.1 Group structure

The Group is composed of Nyxoah SA and its wholly owned subsidiaries:

- Nyxoah Ltd (Israeli subsidiary, incorporated on 1 January 2008 under the name M.L.G. Madaf G. Ltd and a subsidiary of Nyxoah SA since 21 October 2009), which conducts research and development and manufacturing activities, and the preparation of commercial activities.
- Nyxoah Pty Ltd (Australian subsidiary, incorporated on 1 February 2017), which conducts clinical activities and the preparation of commercial activities.
- Nyxoah Inc. (U.S. subsidiary, incorporated on 14 May 2020), which conducts clinical activities.

The following chart represents the Group's structure at the date of this Annual Report:




The Company does not carry out any activities through a branch office.

## 3.2 Share capital and shares

### 3.2.1 Capital increases and issuance of shares in 2020

On 1 January 2020, the share capital of the Company amounted to EUR 2,481,296.61 and was represented by 23,938 shares, of which 7,637 common shares, 4,061 series A preferred shares, 7,638 series B preferred shares and 4,602 series B2 preferred shares).

On 21 February 2020, an extraordinary shareholders' meeting approved, inter alia, (i) the conversion of all existing series A preferred shares, series B preferred shares and series B2 preferred shares in common shares (the "**Share Consolidation**"), (ii) the increase of the registered capital in an amount of € 435,372 (exclusive of an issuance premium of € 24,624,293.88) in order to bring the registered capital from € 2,481,298.61 to € 2,916,670.61 by issuance of 4,200 new shares and (iii) a split of all shares existing after said Share Consolidation and capital increase into several shares at a 500:1 ratio to reduce the value per individual share of the Company in view of the IPO (the "**Share Split**"). Immediately following the Share Split, the share capital of the Company amounted to EUR 2,916,670.61 and was represented by 16,979,000 common shares.

On 7 September 2020, the Company issued 44,500 shares pursuant to an exercise of subscription rights.

On 21 September 2020, the Company issued 4,335,000 shares pursuant to a capital increase in cash at the occasion of the closing of the IPO, as well as 65,359 shares pursuant to a capital increase in kind;

On 29 September 2020, the Company issued 650,250 shares pursuant to a capital increase in cash following the exercise of an over-allotment option in connection with the Company's IPO.

On 28 October 2020, the Company issued 23,500 shares pursuant to an exercise of subscription rights.

Consequently, on 31 December 2020, the Company's registered capital amounted to EUR 3,796,047.64, represented by 22,097,609 shares.

On 21 February 2020, the extraordinary shareholders' meeting also issued 550,000 subscription rights in the framework of the 2020 Warrants Plan (see below).

### 3.2.2 Outstanding subscription rights

The Company has currently outstanding ESOP Warrants (subscription rights) pursuant to four outstanding share based incentive plans, namely (i) the ESOP Warrants that were granted to employees, officers, directors, consultants and advisors of Nyxoah SA or its present or future subsidiaries (the "**Subsidiaries**") pursuant to the 2013 Share Incentive Plan (the "**2013 ESOP Warrants**"), (ii) the ESOP Warrants that were granted to employees, officers, directors, consultants and advisors of the Company and its Subsidiaries pursuant to the 2016 Warrants plan (the "**2016 ESOP Warrants**"), (iii) the ESOP Warrants that were granted to employees, officers, directors, consultants and advisors of the Company and its Subsidiaries pursuant to the 2018 Warrants plan (the "**2018 ESOP Warrants**") and (iv) the ESOP Warrants that were granted to employees, officers, directors, consultants and advisors of the Company and its Subsidiaries pursuant to the 2020 Warrants plan (the "**2020 ESOP Warrants**").

All outstanding ESOP Warrants vested as a result of the IPO of the Company in September 2020.

The following table provides an overview of the ESOP Warrants that are outstanding (i.e. still exercisable) as of 31 December 2020.

| Type of ESOP Warrants Plan | Number of ESOP Warrants issued | Number of ESOP Warrants lapsed, exercised or no longer available for grant | Number of ESOP Warrants outstanding | Issue date | Expiration date | Exercise Price ESOP Warrant (€) | Number and type of Shares issuable per ESOP Warrant | Aggregate number and type of Shares issuable upon exercise of outstanding ESOP Warrants |
|---|---|---|---|---|---|---|---|---|
| 2013 ESOP Warrants | 640 | 479 | 161 | 03/05/2013<br>23/12/2014 | 03/05/2023<br>23/12/2024 | 2,585.51[a]<br>5,966.59[b] | 500[e] common shares per ESOP Warrant | 80,500 common shares |
| 2016 ESOP Warrants | 1,500 | 1,065 | 435 | 3/11/2016 | 3/11/2026 | 2,585.32[c] | 500[e] common shares per ESOP Warrant | 217,500 common shares |
| 2018 ESOP Warrants | 525 | 206 | 319 | 12/12/2018 | 12/12/2028 | 3,259.91[d]<br>5,966.59[b] | 500[e] common shares per ESOP Warrant | 159,500 common shares |
| 2020 ESOP Warrants | 550,000 | 0 | 550,000 | 21/02/2020 | 21/02/2030 | 11.94 | 1 common share per ESOP Warrant | 550,000 common shares |
| Total | | | | | | | | 1,007,500 common shares |

Notes

[a] For ESOP Warrants granted prior to April 2020. This results in a subscription price of €5.17 (rounded) per new Share.

[b] For 1 2013 ESOP Warrant and 33 2018 ESOP Warrants granted in April 2020. This results in a subscription price of €11.93 (rounded) per new Share.

[c] This results in a subscription price of €5.17 (rounded) per new Share.

[d] This results in a subscription price of €6.52 (rounded) per new Share.

[e] Taking into account the Share Split at a ratio of 500:1 that was approved by an extraordinary shareholders' meeting on 21 February 2020.

### 3.2.3 Number, form and transferability of shares

Of the 22,097,609 shares of Nyxoah SA outstanding at the end of 2020, 17,889,849 shares were registered shares and 4,207,760 shares were dematerialized shares. All shares are fully paid up and are of the same class (common shares).

The articles of association of the Company do not contain any restriction on the transfer of the shares.

The Company is not aware of shareholders' agreements that may give rise to restrictions on the transfer of shares (other than certain lock up arrangements entered into in connection with the Company's IPO).

### 3.2.4 Rights attached to the shares

Each share (i) entitles its holder to one vote at Nyxoah SA's shareholders' meetings; (ii) has the same rights and obligations, (iii) equally shares in the profit of Nyxoah SA; and (iv) gives its holder a preferential subscription right to subscribe to new shares, convertible bonds or warrants in proportion to the part of the share capital represented by the shares already held. The preferential subscription right can be restricted or cancelled by a resolution approved by the shareholders' meeting, or by the Board of Directors subject to an authorization of the shareholders' meeting, in accordance with the provisions of the Belgian CCA and the Company's articles of association.

The articles of association of the Company do not contain any restriction on voting rights.

The Company is not aware of shareholders' agreements that may give rise to restrictions on the exercise of voting rights (other than certain lock up arrangements entered into in connection with the Company's IPO).

There are no holders of securities with special control rights in the Company, nor are there any control mechanisms in case of an employee shareholding system.

### 3.2.5 Procedure for changes in share capital

In principle, changes to the share capital are decided by the shareholders. The general shareholders' meeting may at any time decide to increase or reduce the share capital of the Company. Such resolution requires the presence or representation of at least 50% of the share capital of the Company and a majority of at least 75% of the votes cast (whereby abstentions are not included in the numerator nor in the denominator). In the event where the required quorum is not present or represented at the first meeting, a second meeting needs to be convened through a new notice. The second general shareholders' meeting may validly deliberate and decide regardless of the number of shares present or represented, but a resolution still requires a majority of at least 75% of the votes cast.

Subject to the same quorum and majority requirements, the general shareholders' meeting may authorize the board of directors, within certain limits, to increase the Company's share capital without any further approval of the shareholders. This is the so-called authorized capital (see below). This authorization needs to be limited in time (i.e. it can only be granted for a renewable period of maximum five years) and scope (i.e. the authorized capital may not exceed the amount of the registered capital at the time of the authorization).

### 3.2.6 The Company's authorised capital

On 7 September 2020, the Company's general shareholders' meeting authorized the Board of Directors to increase the share capital of the Company within the framework of the authorized capital with a maximum of 100% of its amount as at the closing of the IPO (i.e. EUR 3,680,297.39). The Company's general shareholders' meeting decided that the Board of Directors, when exercising its powers under the authorized capital, will be authorized to restrict or cancel the statutory preferential subscription rights of the shareholders (within the meaning of article 7:188 and following of the Belgian CCA). This authorization includes the restriction or cancellation of preferential subscription rights for the benefit of one or more specific persons (whether or not employees of the Company or its subsidiaries) and the authority to increase the Company's capital after having been notified by the FSMA that the Company is the subject of a public takeover bid.

The authorization is valid until 10 November 2025 (i.e. for a term of five years as from the date of the publication of the authorization in the Annexes to the Belgian State Gazette on 10 November 2020).

In 2020, the Company did not make use of the authorized capital.

### 3.2.7 Purchase and sale of own shares

The Company may acquire, pledge and dispose of its own shares, profit certificates or associated certificates at the conditions provided for by articles 7:215 and following of the Belgian CCA. These conditions include a prior special shareholders' resolution approved by at least 75% of the votes validly cast at a general shareholders' meeting (whereby abstentions are not included in the numerator nor in the denominator) where at least 50% of the share capital and at least 50% of the profit certificates, if any, are present or represented. Furthermore, shares can only be acquired with funds that would otherwise be available for distribution as a dividend to the shareholders and the transaction must pertain to fully paid-up shares or associated certificates. Finally, an offer to purchase shares must be made by way of an offer to all shareholders under the same conditions. Shares can also be acquired

by the Company without offer to all shareholders under the same conditions, provided that the acquisition of the shares is effected in the central order book of the regulated market of Euronext Brussels or, if the transaction is not effected via the central order book, provided that the price offered for the Shares is lower than or equal to the highest independent bid price in the central order book of the regulated market of Euronext Brussels at that time.

Generally, the general shareholders' meeting or the Articles of Association determine the amount of shares, profit certificates or certificates that can be acquired, the duration of such an authorization which cannot exceed five years as from the publication of the proposed resolution as well as the minimum and maximum price that the Board of Directors can pay for the shares.

The prior approval by the shareholders is not required if the Company purchases the shares to offer them to the Company's personnel, in which case the shares must be transferred within a period of 12 months as from their acquisition.

The Board of Directors may also expressly be authorised to dispose of the Company's own shares to one or more specific persons other than employees of the Company or its subsidiaries, in accordance with the provisions of the Belgian CCA.

The authorizations referred to above (if any) shall extend to the acquisition and disposal of shares of the Company by one or more of its direct subsidiaries, within the meaning of the legal provisions relating to the acquisition of shares in their parent company by subsidiaries.

The Company's general shareholders' meeting did not grant such authorization to the Board of Directors.

As of the date of this Annual Report, the Company does not hold any own Shares.

### 3.2.8 Anti-takeover provisions

Public takeover bids for shares and other securities giving access to voting rights (such as subscription rights or convertible bonds, if any) are subject to supervision by the FSMA. Any public takeover bid must be extended to all of the Company's voting securities, as well as all other securities giving access to voting rights. Prior to making a bid, a bidder must publish a prospectus which has been approved by the FSMA prior to publication.

The Belgian Act of 1 April 2007 on public takeover bids, as amended (the "Belgian Takeover Act") provides that a mandatory bid must be launched if a person, as a result of its own acquisition or the acquisition by persons acting in concert with it or by persons acting for their account, directly or indirectly holds more than 30% of the voting securities in a company having its registered office in Belgium and of which at least part of the voting securities are traded on a regulated market or on a multilateral trading facility designated by the Belgian Royal Decree of 27 April 2007 on public takeover bids, as amended (the "Belgian Takeover Decree"). The mere fact of exceeding the relevant threshold through the acquisition of shares will give rise to a mandatory bid, irrespective of whether the price paid in the relevant transaction exceeds the current market price. The duty to launch a mandatory bid does not apply in certain cases set out in the Belgian Takeover Decree such as (i) in case of an acquisition if it can be shown that a third party exercises control over the Company or that such party holds a larger stake than the person holding 30% of the voting securities or (ii) in case of a capital increase with preferential subscription rights decided by the Company's general shareholders' meeting.

There are several provisions of Belgian company law and certain other provisions of Belgian law, such as the obligation to disclose significant shareholdings and merger control, that may apply towards the Company and which may create hurdles to an unsolicited tender offer, merger, change in management or other change in control. These provisions could discourage potential takeover attempts that other shareholders may consider to be in their best interest and could adversely affect the market price of the shares. These provisions may also have the effect of depriving the shareholders of the opportunity to sell their shares at a premium.

In addition, pursuant to Belgian company law, the board of directors of Belgian companies may in certain circumstances, and subject to prior authorization by the shareholders, deter or frustrate public takeover bids through dilutive issuances of equity securities (pursuant to the "authorized capital") or through share buy-backs (i.e. purchase of own shares). In principle, the authorization of the Board of Directors to increase the share capital of the Company through contributions in kind or in cash with cancellation or limitation of the preferential subscription right of the existing shareholders is suspended as of the notification to the Company by the FSMA of a public takeover bid on the securities of the Company. The general shareholders' meeting can, however, under certain conditions, expressly authorize the Board of Directors to increase the capital of the Company in such case by issuing shares in an amount of not more than 10% of the existing Shares at the time of such a public takeover bid.

On 7 September 2020, the Company's general shareholders' meeting expressly authorized the Board of Directors to increase the Company's capital after having been notified by the FSMA that the Company is the subject of a public takeover bid.

The Articles of Association do not provide for any other specific protective mechanisms against public takeover bids.

The Company did not enter into any agreement with its directors or employees providing for compensation when, as a result of a public takeover bid, the directors resign or have to resign without valid reason or the employment of employees is terminated.

### 3.2.9 Material contracts containing change of control clauses

On 30 June 2016, the Company entered into a loan agreement with Novallia SA in the amount of € 500,000 for a duration of eight years. The agreement is subject to a change of control provision pursuant to which Novallia SA may terminate the credit agreement and claim repayment of all out-standing amounts in case of in the event of a change in the shareholder structure.

### 3.2.10 Procedure for amending the Company's articles of association

Amendments to the Company's articles of association (other than an amendment of the corporate purpose), require the presence or representation of at least 50% of the share capital of the Company and a majority of at least 75% of the votes cast (whereby abstentions are not included in the numerator nor in the denominator). An amendment of the Company's corporate purpose requires the approval of at least 80% of the votes cast at a general shareholders' meeting (whereby abstentions are not included in the numerator nor in the denominator), which can only validly pass such resolution if at least 50% of the share capital of the Company and at least 50% of the profit certificates, if any, are present or represented. In the event where the required quorum is not present or represented at the first meeting, a second meeting needs to be convened through a new notice. The second general shareholders' meeting may validly deliberate and decide regardless of the number of Shares present or represented. The special majority requirements, however, remain applicable.

## 3.3 Shareholders

### 3.3.1 Major shareholders

Based on the transparency notifications received by the Company, the shareholders' structure of the Company (including all shareholders owning 3% or more of Nyxoah SA's shares) on 31 December 2020 was as follows:

| Shareholder | Number of shares declared in most recent transparency notification (1) | % of shares at time of most recent transparency notification (2) | % of shares (simulation) based on denominator on 31 December 2020 (3) |
|---|---|---|---|
| Cochlear Investments Pty Ltd (4) | 3,947,617 | 18.43% | 17.86% |
| Cooperatieve Gilde Healthcare III Sub-Holding UA + Cooperatieve Gilde Healthcare III Sub-Holding 2 UA (5) | 3,153,822 | 14.72% | 14.27% |
| Robert Taub + MINV SA (6) | 2,817,470 | 13.15% | 12.75% |
| Together Partnership (7) | 2,503,500 | 11.69% | 11.33% |
| Jürgen Hambrecht | 1,047,029 | 4.89% | 4.74% |
| Resmed Inc. (7) | 794,235 | 3.71% | 3.59% |
| Others (8) | 7,833,936 | | 35.45% |
| Total (denominator) on 31 December 2020 | 22,097,609 | | 100.00% |

(1) As a result of transactions that do not need to be disclosed to Nyxoah, the numbers mentioned in this column might not be the actual numbers of shares held by the relevant shareholders at the date of this Annual Report.
(2) Percentages based on number of shares and denominator at time of transparency notification.
(3) Percentages based on number of shares at time of transparency notification but on current denominator.
(4) Cochlear Investments Pty Ltd is 100% held by Cochlear Limited. Cochlear Limited is not controlled.
(5) Cooperatieve Gilde Healthcare III Sub-Holding UA and Cooperatieve Gilde Healthcare III Sub-Holding 2 UA hold the shares in Nyxoah. Gilde Healthcare III Management BV is the management company of these two entities and can -in the absence of specific instructions- exercise the voting rights at its discretion. Gilde Healthcare III Management BV is controlled by Gilde Healthcare Holding BV. Gilde Healthcare Holding BV is not controlled.
(6) MINV SA is 100% owned by Robelga SRL, which is 100% owned by BMI estate (a partnership (société simple) without legal personality). Robert Taub has 100% usufruct and Robert Taub's children have 100% bare ownership of BMI estate.
(7) Not controlled.
(8) Existing shareholders whose shareholding does not exceed 3%.

### 3.3.2 Agreements between shareholders of the Company

On the date of this Annual Report, the Company has no knowledge of the existence of any shareholders' agreements between its shareholders (other than certain lock up arrangements entered into in connection with the Company's IPO).

### 3.3.3 Agreements between the Company and major shareholders

#### Collaboration Agreement with Cochlear

The Company and Cochlear Limited ("Cochlear") have entered into a collaboration agreement, dated 7 November 2018, under which the Company and Cochlear agree to collaborate to further develop and progress commercialization of implantable treatments for sleep disordered breathing conditions. Cochlear has significant expertise in the development of implantable devices and this agreement can therefore be considered as material.

The specific contributions and services to be used, applied and provided by both parties are further detailed in a document called "Statement of Work" that may be agreed upon by the parties from time to time. The initial Statement of Work was agreed upon by the Company and Cochlear on 7 November 2018. According to this Statement of Work, Cochlear would evaluate three packaging technologies (i.e. Titanium, Ceramic and Hybrid) and support the Company in the assessment of the Company's encapsulation technologies. The objectives of this initial Statement of Work have been met. A new Statement of Work was entered into on 8 June 2020 and the Company may decide to enter into other new Statements of Work with Cochlear to continue their collaboration.

The collaboration agreement will end on the date of completion of the last "Statement of Work" or may be terminated with a 30 days' prior written notice from a party to the other party provided that party concludes on reasonable grounds, and after consultation with the "project steering committee", that there is no reasonable prospect of the objectives of the project being achieved. Each party is also entitled to terminate the collaboration agreement with immediate effect upon the occurrence of specific events (e.g. material breach of the collaboration agreement or by a party, insolvency or bankruptcy, etc.). Depending on the project, the Company could pay a break-up fee, if the decision is made to stop the collaboration with Cochlear.

#### Agreement with Man & Science SA (a company held and controlled by Robert Taub, TOGETHER Partnership, Jürgen Hambrecht and Noshaq SA)

The Company, Man & Science SA (a company held and controlled by Robert Taub, TOGETHER Partnership, Jürgen Hambrecht and Noshaq SA), Cephalix SA[1], Glucobel SA, Surgical Electronics SA and Dr. Adi Mashiach have entered into a multiparty agreement[2] regarding their respective ownership and licensing rights in relation to multiple inventions, including but not limited to inventions generally related to implantable flexible neuro-stimulators and inventions for specific medical indications including sleep disordered breathing, head pain, glucose monitoring, hypertension and other indications. This agreement provides that (i) the Company fully owns all rights in relation to the inventions specifically related to the sleep disordered breathing field and (ii) Man & Science SA is the owner of the generic inventions and granted a fully paid-up, exclusive and worldwide, license with respect to these inventions to several parties, including the Company in the field of sleep disordered breathing. On 23 June 2016, the Company, Cephalix SA, Surgical Electronics SA, and Man & Science SA entered into a confirmatory addendum, aiming to confirm that (i) the Company fully owns all rights in relation to the inventions specifically related to the sleep disordered breathing field as further detailed in the agreement, (ii) Man & Science SA granted an exclusive, worldwide, fully paid-up, royalty free and transferable license to the Company in the "Shared Patents" in the Sleep Disordered Breathing field inventions and (iii) the Company granted an exclusive, fully paid-up, royalty free, transferable license to use the patents as listed in the schedules to the agreement outside the sleep disordered breathing field, namely to Cephalix SA in the head pain field, Surgical Electronics SA in the hypertension field and Man & Science SA outside the head pain field and the hypertension field.

1 Pursuant to a notarial deed of 19 December 2018, Man & Science SA was merged into Cephalix SA, which resulted in a transfer under universal title of all assets and liabilities of Man & Science SA to Cephalix SA. At the same time Cephalix SA changed its corporate name to Man & Science SA

2 This agreement is undated.

4

# Consolidated Financial Statements

# Consolidated Financial Statements as of 31 December 2020

## 4.1 Statement by the Board of Directors

The Board of Directors, represented by all its members, hereby certifies that, to the best of its knowledge,

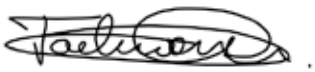
a. the consolidated financial statements, prepared in accordance with the applicable standards for financial statements, give a true and fair view of the assets, liabilities, financial position and results of the Company and the undertakings included in the consolidation taken as a whole; and
b. this Annual Report of the Board of Directors provides a true and fair overview of the development, results and the position of the Company and the undertakings included in the consolidation taken as a whole, as well as a description of the principal risks and uncertainties that they face.

Mont-Saint-Guibert, 8 April 2021

On behalf of the Board of Directors

Robert Taub, Chairman

Olivier Taelman, CEO



## 4.2 Consolidated Statement of Financial Position

| (in EUR 000) | | As of 31 December | |
|---|---|---|---|
| | Notes | 2020 | 2019 Restated* |
| **ASSETS** | | | |
| **Non-current assets** | | | |
| Property, plant and equipment | 5.7 | 713 | 322 |
| Intangible assets | 5.8 | 15,853 | 5,734 |
| Right of use assets | 5.9 | 3,283 | 1,066 |
| Deferred tax asset | 5.29 | 32 | 21 |
| Other long-term receivables | | 91 | 78 |
| | | **19,972** | **7,221** |
| **Current assets** | | | |
| Inventory | | 55 | - |
| Trade receivables | | - | 60 |
| Other receivables | 5.10 | 1,644 | 2,048 |
| Other current assets | | 109 | 11 |
| Cash and cash equivalents | 5.11 | 92,300 | 5,855 |
| | | **94,108** | **7,974** |
| **Total assets** | | **114,080** | **15,195** |

* The year 2019 has been restated to reflect the adjustments as explained in Note 5.2.3.

| (in EUR 000) | | As of 31 December | |
|---|---|---|---|
| | Notes | 2020 | 2019 Restated* |
| **EQUITY AND LIABILITIES**<br>**Capital and reserves** | | | |
| Capital | 5.12 | 3,796 | 2,481 |
| Share premium | 5.12 | 150,936 | 47,668 |
| Share based payment reserve | 5.13 | 2,650 | 420 |
| Currency translation reserve | 5.12 | 149 | 207 |
| Retained Earnings | 5.12 | (60,341) | (48,415) |
| Total equity attributable to shareholders | | **97,190** | **2,361** |
| **LIABILITIES**<br>**Non-current liabilities** | | | |
| Financial debt | 5.14 | 7,607 | 7,146 |
| Lease liability | 5.9 | 2,844 | 735 |
| Pension Liability | 5.26 | 37 | 30 |
| Other payables | 5.26 | - | 547 |
| | | **10,488** | **8,458** |
| **Current liabilities** | | | |
| Financial debt | 5.14 | 616 | 378 |
| Lease liability | 5.9 | 473 | 340 |
| Trade payables | 5.15 | 1,190 | 1,385 |
| Other payables | 5.16 | 4,123 | 2,273 |
| | | **6,402** | **4,376** |
| **Total liabilities** | | **16,890** | **12,834** |
| **Total equity and liabilities** | | **114,080** | **15,195** |

* The year 2019 has been restated to reflect the adjustments as explained in Note 5.2.3.

## 4.3 Consolidated Income Statement and Other Comprehensive Loss

| (in EUR 000) | | For the year ended 31 December | |
|---|---|---|---|
| | Notes | 2020 | 2019 Restated* |
| Revenue | 5.17 | 69 | - |
| Cost of goods sold | 5.17 | (30) | - |
| **Gross Profit** | | **39** | **-** |
| General and administrative expenses | 5.18 | (7,522) | (4,226) |
| Research and development expenses | 5.19 | (473) | (630) |
| Clinical expenses | 5.20 | (1,053) | (848) |
| Manufacturing expenses | 5.21 | (460) | (489) |
| Quality assurance and regulatory expenses | 5.22 | (227) | (227) |
| Patents Fees & Related | 5.23 | (123) | (267) |
| Therapy Development expenses | 5.23 | (1,864) | (902) |
| Other operating income / (expenses) | 5.24 | 459 | (126) |
| **Operating loss for the period** | | **(11,224)** | **(7,715)** |
| Financial income | 5.27 | 62 | 71 |
| Financial expense | 5.28 | (990) | (740) |
| **Loss for the period before taxes** | | **(12,152)** | **(8,384)** |
| Income taxes | 5.29 | (93) | (70) |
| **Loss for the period** | | **(12,245)** | **(8,454)** |
| **Loss attributable to equity holders**[1] | | **(12,245)** | **(8,454)** |
| **Other comprehensive (loss) / income**<br>Items that may be subsequently reclassified to profit or loss (net of tax) | | | |
| Currency translation differences | | (58) | 168 |
| **Total comprehensive loss for the year, net of tax** | | **(12,303)** | **(8,286)** |
| **Loss attributable to equity holders**[1] | | **(12,303)** | **(8,286)** |
| Basic Loss Per Share (in EUR) | 5.30 | (0.677) | (0.488) |
| Diluted Loss Per Share (in EUR) | 5.30 | (0.677) | (0.488) |

* The year 2019 has been restated to reflect the adjustments as explained in Note 5.2.3

1 For the years ending 31 December 2020 and 2019, the loss is fully attributable to equity holders of the Company as the Company does not have any non-controlling interests.

## 4.4 Consolidated Statement of Changes in Equity

(in EUR 000)

| | | Attributable to owners of the parent | | | | | |
|---|---|---|---|---|---|---|---|
| | Notes | Capital | Share premium | Share based payment reserve | Currency translation reserve | Retained earnings | Total |
| Balance at 1 January 2019 restated* | 5.12 | 2,481** | 47,668 | 80 | 39 | (39,967) | 10,301 |
| Loss for the year | | | | | | (8,454) | (8,454) |
| Other comprehensive income for the year | | | | | 168 | | 168 |
| **Total comprehensive income/(loss) for the year** | | | | | **168** | **(8,454)** | **(8,286)** |
| Equity-settled share-based payments plan | 5.13 | | | 340 | | 6 | 346 |
| **Total transactions with owners of the Company recognized directly in equity** | | | | **340** | | **6** | **346** |
| **Balance at 31 December 2019** | | **2,481**** | **47,668** | **420** | **207** | **(48,415)** | **2,361** |
| **Balance at 1 January 2020** | | **2,481**** | **47,668** | **420** | **207** | **(48,415)** | **2,361** |
| Loss for the year | | | | | | (12,245) | (12,245) |
| Other comprehensive loss for the year | | | | | (58) | | (58) |
| **Total comprehensive loss for the year** | | **-** | **-** | **-** | **(58)** | **(12,245)** | **(12,303)** |
| Equity-settled share-based payments | | | | 2,230 | | 319 | 2,549 |
| Issuance of shares for cash | | 1,304 | 108,857 | | | | 110,161 |
| Conversion convertible loan | | 11 | 989 | | | | 1,000 |
| Transaction cost | | | (6,578) | | | | (6,578) |
| **Total transactions with owners of the Company recognized directly in equity** | | **1,315** | **103,268** | **2,230** | | **319** | **107,132** |
| **Balance at 31 December 2020** | | **3,796** | **150,936** | **2,650** | **149** | **(60,341)** | **97,190** |

* The year 2019 and the balance at 1 January 2019 has been restated to reflect the adjustments as explained in Note 5.2.3

** The preferred shares are disclosed as capital in statement of financial position and equity.

## 4.5 Consolidated Statement of Cash Flows

| (in EUR 000) | | For the year ended 31 December | |
|---|---|---|---|
| | Notes | 2020 | 2019 Restated* |
| **CASH FLOWS FROM OPERATING ACTIVITIES** | | | |
| Loss before tax for the year | | (12,152) | (8,384) |
| Adjustments for: | | | |
| Finance income | 5.27 | (62) | (71) |
| Finance expenses | 5.28 | 990 | 740 |
| Depreciation and impairment of property, plant and equipment and right-of-use assets | 5.7, 5.9 | 620 | 433 |
| Share-based payment transaction expense | 5.13 | 2,549 | 346 |
| Pension-related expenses | 5.26 | 7 | 30 |
| Other non-cash items[2] | 5.24, 5.29 | (134) | 70 |
| Cash generated before changes in working capital | | (8,182) | (6,836) |
| Changes in working capital: | | | |
| Increase in Inventory | | (55) | - |
| Decrease/(Increase) in Trade and other receivables | | 365 | (1,385) |
| Increase in Trade and other payables | | 1,109 | 2,342 |
| Cash generated from changes in operations | | (6,763) | (5,879) |
| Interests received | 5.27 | 3 | 8 |
| Interests paid | 5.28 | (151) | (33) |
| Income tax paid | 5.29 | (104) | (61) |
| Net cash used in operating activities | | (7,015) | (5,965) |
| **CASH FLOWS FROM INVESTING ACTIVITIES** | | | |
| Purchases of property, plant and equipment | 5.7 | (562) | (51) |
| Capitalization of intangible assets | 5.8 | (10,118) | (5,734) |
| Increase of long-term deposits | | (13) | (10) |
| Net cash used in investing activities | | (10,693) | (5,795) |

2 The other non-cash items include (i) the impact of the initial measurement and re-measurement of recoverable cash advances (see notes 5.14, 5.24 and (ii) the evolution of the deferred tax assets.

| (in EUR 000) | | For the year ended 31 December | |
|---|---|---|---|
| | Notes | 2020 | 2019 Restated* |
| **CASH FLOWS FROM FINANCING ACTIVITIES** | | | |
| Payment of principal portion of lease liabilities | 5.9 | (479) | (341) |
| Repayment of other loan | 5.14.2 | (63) | (82) |
| Recoverable cash advance received | 5.14.1 | 190 | 1,196 |
| Repayment of recoverable cash advance | 5.14.1 | (55) | (40) |
| Proceeds from convertible loan | 5.13 | 1,000 | - |
| Proceeds from issuance of shares, net of transaction costs | 5.12 | 103,583 | - |
| **Net cash generated from financing activities** | | **104,176** | **733** |
| **Movement in cash and cash equivalents** | | **86,468** | **(11,027)** |
| Effect of exchange rates on cash and cash equivalents | | (23) | 77 |
| **Cash and cash equivalents at 1 January** | **5.11** | **5,855** | **16,805** |
| **Cash and cash equivalents at 31 December** | **5.11** | **92,300** | **5,855** |

* The year 2019 has been restated to reflect the adjustments as explained in Note 5.2.3

5

# Notes to the Consolidated Financial Statements

# Notes to the Consolidated Financial Statements

## 5.1 General Information

Nyxoah SA (the "Company") is a public listed company with limited liability (naamloze vennootschap/ société anonyme) incorporated and operating under the laws of Belgium and is domiciled in Belgium. The Company is registered with the legal entities register (Brabant Walloon) under enterprise number 0817.149.675. The Company's registered office is in Rue Edouard Belin 12, 1435 Mont-Saint-Guibert, Belgium.

The Company is a medical technology company focused on the development and commercialization of innovative solutions to treat Obstructive Sleep Apnea, or OSA. The Company's lead solution is the Genio system, a CE-Marked, patient-centric, minimally invasive, next generation hypoglossal neurostimulation therapy for OSA. OSA is the world's most common sleep disordered breathing condition and is associated with increased mortality risk and comorbidities including cardiovascular diseases, depression and stroke.

The Genio® system is the world's first and unique battery-free, minimally invasive and leadless neurostimulator implant and is capable of delivering bilateral hypoglossal nerve stimulation to keep the upper airway open. The product is intended to be used as a second-line therapy to treat moderate to severe Obstructive Sleep Apnea ("OSA") patients who have failed conventional therapy, including Continuous Positive Airway Pressure ("CPAP"), which, despite its proven efficacy, is associated with many limitations, meaning compliance is a serious challenge. In addition, other second-line treatments are more suitable to treat mild to moderate OSA (such as oral devices) or highly invasive. Compared to other hypoglossal nerve stimulation technologies for the treatment of OSA, the Genio® system is a disruptive, differentiating technology that targets a clear unmet medical need thanks to its minimally invasive and quick implantation technique, its external battery and its ability to stimulate the two branches of the hypoglossal nerve.

Obstructive sleep apnea is the world's most common sleep disordered breathing condition. OSA occurs when the throat and tongue muscles and soft tissues relax and collapse. It makes a person stop breathing during sleep, while the airway repeatedly becomes partially (hypopnea) or completely (apnea) blocked, limiting the amount of air that reaches the lungs. During an episode of apnea or hypopnea, the patient's oxygen level drops, which leads to sleep interruptions.

The Company has established three wholly owned subsidiaries: Nyxoah Ltd, a subsidiary of the Company since 21 October 2009 (located in Israel and incorporated on 10 January 2008 under the name M.L.G. Madaf G. Ltd) and Nyxoah Pty Ltd since 1 February 2017 (located in Australia) and Nyxoah Inc. Since 14 May 2020 (located in the USA).

These Consolidated Financial Statements have been authorized for issue on 8 April 2021 by the Board of Directors of the Company.

The Consolidated Financial Statements have been audited by EY Réviseurs d'Entreprises SRL, the company statutory auditor and independent registered public accounting firm.

## 5.2 Significant accounting policies

### 5.2.1 Basis of Preparation and Going Concern

**Basis of preparation**

These Consolidated Financial Statements have been prepared in accordance with the International Financial Reporting Standards (IFRS) as issued by the International Accounting Standards Board (IASB), and as adopted for use in the European Union (EU).

The Consolidated Financial Statements are presented in Euro (EUR) and all values are rounded to the nearest thousand (KEUR), except when otherwise indicated.

The preparation of the Consolidated Financial Statements requires the use of certain critical accounting estimates. It also requires management to exercise its judgment in the process of applying the Company's accounting policies. The areas involving a higher degree of judgment or complexity, are areas where assumptions and estimates are significant to the Consolidated Financial Statements. They are disclosed in note 5.5.

**Going concern principle**

The Consolidated Financial Statements have been prepared on a going concern basis. Please refer to note 5.5.1 for the detailed explanation of the going concern.

### 5.2.2 New and amended standards and interpretations applicable

#### 5.2.2.1 Effective for the annual periods beginning on or before 1 January 2020

The Company applied for the first-time certain standards and amendments, which are effective for annual periods beginning on or before 1 January 2020. The following new standards and amendments that apply for the first time in 2020, do not have a material impact on the Consolidated Financial Statements of the Company:

- Amendments to IAS 1 and IAS 8 Definition of Material
- Amendments to IFRS 3 Business Combinations: Definition of a Business
- Amendments to IFRS 9, IAS 39 and IFRS 7 Interest Rate Benchmark Reform – Phase 1
- Amendments to references to the Conceptual Framework in IFRS standards

#### 5.2.2.2 Effective for the annual period beginning after 1 January 2020

Certain new accounting standards and interpretations have been published that are not mandatory for 31 December 2020 reporting periods and have not been early adopted by the Company. These standards are not expected to have a material impact on the entity in the current or future reporting periods and on foreseeable future transactions.

a. Amendments to IAS 1 Presentation of Financial Statements: Classification of Liabilities as Current or Non-current (applicable for annual periods beginning on or after 1 January 2023, but not yet endorsed in the EU)
b. Amendments to IAS 16 Property, Plant and Equipment: Proceeds before Intended Use (applicable for annual periods beginning on or after 1 January 2022, but not yet endorsed in the EU)
c. Amendments to IAS 37 Provisions, Contingent Liabilities and Contingent Assets: Onerous Contracts — Cost of Fulfilling a Contract (applicable for annual periods beginning on or after 1 January 2022, but not yet endorsed in the EU)
d. Amendments to IFRS 3 Business Combinations: Reference to the Conceptual Framework (applicable for annual periods beginning on or after 1 January 2022, but not yet endorsed in the EU)

e. Amendments to IFRS 9, IAS 39, IFRS 7, IFRS 4 and IFRS 16 Interest Rate Benchmark Reform – Phase 2 (applicable for annual periods beginning on or after 1 January 2021, but not yet endorsed in the EU)
f. Annual Improvements to IFRS Standards 2018–2020 (applicable for annual periods beginning on or after 1 January 2022, but not yet endorsed in the EU)

### 5.2.3 Correction of an error

The Company has restated 2019 and the balance at 1 January 2019 to reflect the accounting for the cash-settled share-based payment transactions that existed at those reporting dates. In the previous consolidated financial statements, the cash-settled share-based payment transactions were not accounted for in accordance with IFRS 2 Share-based payments. See note 5.13.3

The error has been corrected by restating each of the affected financial statement line items for the prior periods, as follows:

*Impact on equity – increase (decrease) of equity*

| (in EUR 000) | At 31 December 2019 | At 1 January 2019 |
|---|---|---|
| Other non-current liabilities | 547 | 153 |
| Non-current liabilities | 547 | 153 |
| Other Current liabilities | 805 | - |
| Current liabilities | 805 | - |
| Total liabilities | 1,352 | 153 |
| Total equity | (1,352) | (153) |
| Total equity and liabilities | - | - |

*Impact on consolidated income statement and other comprehensive income – decrease (increase) loss*

| (in EUR 000) | For the year ended 31 December 2019 |
|---|---|
| General and administrative expense | (1,199) |
| Operating loss for the period | (1,199) |
| Loss for the period before taxes | (1,199) |
| Loss for the period | (1,199) |
| Loss attributable to equity holders | (1,199) |
| Total comprehensive loss for the year, net of tax | (1,199) |
| Basic earnings per share (in EUR) | (0.08) |
| Diluted earnings per share (in EUR) | (0.08) |

*Impact on the consolidated statement of cash flow – increase (decrease) cash flow*

| (in EUR 000) | For the year ended 31 December 2019 |
|---|---|
| Loss before tax for the year | (1,199) |
| Cash generated before changes in working capital | (1,199) |
| Increase in Trade and other payables | 1,199 |
| Cash generated from changes in operations | 1,199 |

## 5.2.4 Basis of Consolidation

The Consolidated Financial Statements comprise the financial statements of the Company and its subsidiaries as at 31 December 2020 and 2019.

Subsidiaries are all entities (including structured entities) over which the Company has control. The Company controls an entity when the Company is exposed to, or has rights to, variable returns from its involvement with the entity and has the ability to affect those returns through its power over the entity. Subsidiaries are fully consolidated from the date on which control is transferred to the Company. They are deconsolidated from the date control ceases.

Inter-company transactions, balances and unrealized gains on transactions between group companies are eliminated.

## 5.2.5 Foreign Currency Translations

The Consolidated Financial Statements are presented in Euro, which is the Company's functional and presentation currency. For each subsidiary, the Company determines the functional currency. Items included in the financial statements of each subsidiary are measured using that functional currency.

Transactions in foreign currencies are recorded at their respective foreign exchange rate prevailing at the date of the transaction. Monetary assets and liabilities denominated in foreign currencies are translated at the foreign exchange rates prevailing at the closing date. Exchange differences arising on the settlement of monetary items or on reporting monetary items at rates different from those at which they were initially recorded during the period or in previous periods, are recognized in the consolidated income statement. Non-monetary items that are measured in terms of historical cost in a foreign currency are translated using the exchange rates as at the date of the initial transactions.

On consolidation, the assets and liabilities of foreign operations are translated into euros at the rate of exchange prevailing at the reporting date and the income statement is translated at the average rate of the year. The exchange differences arising on the translation are recognized in other comprehensive income. On disposal of a foreign operation, the component of other comprehensive income relating to that particular foreign operation is recognized in the income statement.

## 5.2.6 Intangible Assets

### 5.2.6.1 Patents

Patents relate to direct attributable expenditure incurred for obtaining patent rights related to the Genio® system and are carried at costs less accumulated amortization and accumulated impairment losses. Patents costs will be amortized as from January 2021 together with the related Genio® system capitalized development costs.

#### 5.2.6.2 Research and Development Costs

Research costs are expensed as incurred. Development expenditures on an individual project are recognized as an intangible asset when the Company can demonstrate:

- the technical feasibility of completing the intangible asset so that it will be available for use or sale;
- the intention to complete the intangible asset and use or sell it;
- the ability to use or sell the intangible asset;
- how the intangible asset will generate probable future economic benefits;
- the availability of adequate technical, financial and other resources to complete the development and to use or sell the intangible asset; and
- the ability to measure reliably the expenditure attributable to the intangible asset during its development.

The Company started recognizing the development expenditure as an asset since March 2019 triggered by obtaining CE mark for the first generation of the Genio® system. As from July 2020, the Company started recognizing the development expenditure as an asset for the improved second generation of the Genio® system. The asset is carried at cost less any accumulated amortization and accumulated impairment losses. Development costs include employee compensation and outsourced development expenses. Amortization of the asset begins when development is complete and the asset is available for use. During the period of development, the asset is tested for impairment annually. Amortization for the first generation of the Genio® system will start and be recognized in R&D and Clinical departments during 2021. See note 5.8

### 5.2.7 Property, Plant and Equipment

Property, plant and equipment are initially recorded in the statement of financial position at their acquisition cost, which includes the costs directly attributable to the acquisition and installation of the asset.

Property, plant and equipment are subsequently measured at their historical cost less accumulated depreciation and impairment, if any.

Property, plant and equipment are depreciated on a straight-line basis over their estimated useful life. The estimated useful life of each category of property, plant and equipment is as follows:

| | |
|---|---|
| • IT equipment | 3 years |
| • Furniture and office equipment | 5 to 15 years |
| • Laboratory equipment | 15 years |
| • Leasehold improvements | The shorter of lease term and 10 years |

Property, plant and equipment are derecognized upon disposal or when no future economic benefits are expected from its use or disposal. Any gain or loss arising on derecognition of the asset, which is the difference between the net disposal proceeds and the carrying amount of the asset, is included in the income statement when the asset is derecognized.

The residual values, useful lives and methods of depreciation of property, plant and equipment are reviewed at each financial year end and adjusted prospectively, if appropriate.

### 5.2.8 Impairment of Intangible Assets and Property, Plant and Equipment

At each reporting date, the Company assesses whether there is an indication that property, plant and equipment and intangible assets with a definite useful life may be impaired. If an indication of impairment exists, or when annual impairment testing is required in case of intangible assets with an

indefinite useful life or intangible assets not yet for use, the Company estimates the asset's recoverable amount. The recoverable amount of an asset is the higher of the assets or cash-generating units (CGU) fair value less costs to sell and its value in use.

The recoverable amount is determined based on the value in use of the individual asset or the CGU. In assessing value in use, the estimated future pre-tax cash flows are discounted to their present value using a pre-tax discount rate that reflects current market assessments of the time value of money and the risks specific to the asset.

A previously recognized impairment loss is reversed only if there has been a change in the assumptions used to determine the asset's recoverable amount since the last impairment loss was recognized. The reversal is limited so that the carrying amount of the asset does not exceed its recoverable amount, nor exceeds the carrying amount that would have been determined, net of depreciation, had no impairment loss has been recognized for the asset in prior years. Such reversal is recognized in the consolidated income statement.

### 5.2.9 Financial assets and liabilities

Financial assets and financial liabilities are recognized when the Company becomes a party to the contractual provisions of the instruments.

Financial assets and financial liabilities are initially measured at fair value. Transactions costs that are directly attributable to the acquisition or issue of financial assets and liabilities are added or deducted from the fair value of the financial assets or financial liabilities, as appropriate, on initial recognition.

The Company does not use any financial instruments for trading or hedging purposes.

#### 5.2.9.1 Financial Assets

Financial assets include mainly other long-term receivables, trade receivables, other receivables and cash and cash equivalents, and are measured at amortized cost using the effective interest method, less impairment allowance. Interest income is recognized by applying the effective interest rate, except for short-term receivables when the effect of discounting is immaterial.

**Derecognition**

A financial asset is derecognized when the contractual rights to receive cash flows from the asset have expired or when the Company transferred its rights to receive cash flows and substantially all risks and rewards of ownership of the financial asset to another party.

**Impairment of Financial Assets**

For trade receivables and other receivables, the Company applies a simplified approach in calculating Expected Credit Losses ("ECL"). Therefore, the Company does not track changes in credit risk, but instead recognizes a loss allowance based on lifetime ECLs at each reporting date. The Company has established a provision matrix that is based on its historical credit loss experience, adjusted for forward-looking factors specific to the debtors and the economic environment.

The carrying amount of the asset is reduced through the use of an allowance account and the loss is recognized in the income statement.

#### 5.2.9.2 Financial Liabilities

The financial liabilities include financial debt, trade payables and other payables. Those financial liabilities are measured at amortized cost using the effective interest rate method. Amortized cost is calculated by taking into account any discount or premium on acquisition and fees or costs that are an integral part of the effective interest rate. The effective interest rate amortization is included as

financial cost in the consolidated income statement. When the estimated contractual cash flows are modified, the entity recalculates the gross carrying amount of the financial liability as the present value of the modified cash flows discounted at the original effective interest rate. The difference between the recalculated carrying amount and the initial carrying amount is included in other operating income & expense in the consolidated income statement.

*Derecognition*
The Company derecognizes financial liabilities when, and only when, the Company's obligations are discharged, cancelled or they expire. The difference between the carrying amount of the financial liability derecognized and the consideration paid and payable is recognized in income statement.

### 5.2.10 Fair value measurement

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The fair value measurement is based on the presumption that the transaction to sell the asset or transfer the liability takes place either in the principal market for the asset or liability or in the absence of a principal market, in the most advantageous market for the asset or liability. The principal or the most advantageous market must be accessible by the Company. The fair value of an asset or liability is measured using the assumptions that market participants would use when pricing the asset or liability, assuming that the market participants act in their economic best interest.

All assets and liabilities for which fair value is measured or disclosed in the Consolidated Financial Statements are categorized within the fair value hierarchy, described as follows, based on the lowest level input that is significant to the fair value measurement as a whole:

| | |
|---|---|
| Level 1 | quoted (unadjusted) market prices in active markets for identical assets or liabilities; |
| Level 2 | valuation techniques for which the lowest level input that is significant to the fair value measurement is directly or indirectly observable; and |
| Level 3 | valuation techniques for which the lowest level input that is significant to the fair value measurement is unobservable. |

### 5.2.11 Cash and Cash Equivalents

Cash and cash equivalents include cash in hand, deposits held at call with banks, other short-term deposits with a maturity of or less than 3 months, and which are subject to an insignificant risk of changes in value.

### 5.2.12 Equity Instruments

Equity instruments issued by the Company are recorded at the fair value of the proceeds received, net of transaction costs.

#### Convertible loan

The Company has issued a convertible loan on 26 June 2020 for a total amount of KEUR 1,000.

The Company identified two components included in the convertible loan agreement: a host loan and an embedded derivative failing the equity classification. The Company has applied the simplification method called the "fair value option".

Under this approach, a contract that contains one or more embedded derivatives that would normally be required to be accounted for separately can instead be accounted for jointly with its host instrument at fair value through income statement. Until conversion and at each reporting date, the Com-

pany revaluates the fair value of the convertible loan. Upon subsequent evaluation, the element of gains or losses attributable to changes in credit risk should be recognized in other comprehensive income with the remainder recognized in profit or loss. The estimation of the fair value of the convertible loan on initial or subsequent recognition is dependent on the discount rate and maturity date. The fair value measurement of the convertible loan is classified as level 3. The Company used a discount rate of 5% for the initial recognition of the convertible loan. Given the potential equity transaction, the Company estimated the maturity of the convertible loan to be 3 months as of June 30, 2020.

### 5.2.13 Income Taxes

Income taxes include current income tax and deferred income tax.

#### Current Income Tax

Current income tax assets and liabilities are measured at the amount expected to be recovered from or paid to the tax authorities. Tax rates and tax laws that are considered to determine the amount of tax assets or liabilities are those that are enacted or substantially enacted, at the reporting date.

#### Deferred Income Tax

Deferred tax is provided using the liability method on temporary differences between the tax bases of assets and liabilities and their carrying amounts for financial reporting purposes at reporting date. Deferred tax liabilities are recognized for all taxable temporary differences, except when the deferred tax liability arises from the initial recognition of an asset or liability in a transaction that at the time of the transaction affects neither the accounting profit nor taxable profit or loss.

Deferred tax assets are recognized for all deductible temporary differences, the carry forward of unused tax credits and any unused tax losses. Deferred tax assets are recognized to the extent that is probable that taxable profit will be available against which the deductible temporary differences, and the carry forward of unused tax credits and unused tax losses can be utilized, except when the deferred tax asset relating to the deductible temporary differences arises from the initial recognition of an asset or liability in a transaction that at the time of the transaction affects neither accounting profit nor taxable profit or loss.

The carrying amount of deferred tax assets is reviewed at each reporting date and reduced to the extent that it is no longer probable that sufficient taxable profit will be available to allow all or part of the deferred tax asset to be utilized. Unrecognized deferred tax assets are re-assessed at each reporting date and are recognized to the extent that it has become probable that future taxable profits will allow the deferred tax asset to be recovered.

Deferred tax assets and tax liabilities are measured at the tax rates that are expected to apply in the year when the asset is realized or the liability is settled, based on tax rates (and tax laws) that have been enacted or substantially enacted at the reporting date.

Deferred tax assets and deferred tax liabilities are offset if a legally enforceable right exists to set off current tax assets against current tax liabilities and the deferred taxes relate to the same taxation authority.

### 5.2.14 Employee Benefits

#### Short-Term Employee Benefits

Short-term employee benefits include salaries and social security taxes, paid vacation and bonuses. They are recognized as expenses for the period in which employees perform the corresponding services. Outstanding payments at the end of the period are presented within current liabilities (other payables).

### Post-Employment Benefits

Post-employment benefits include pensions and retirement benefits for employees, which are covered by contributions of the Company.

The Company has set up a pension plan for its employees which qualifies as Defined Benefit pension plan under IAS 19. In the view of the minimum legal returns guaranteed under such scheme, those plans qualify as Defined Benefits plans. Such pension scheme is treated in accordance with IAS 19 "Employee Benefits" as a defined benefit plan. For defined benefit plans, the amount recognized in the Statement of financial position as a net liability (asset) corresponds to the difference between the present value of future obligations and the fair value of the plan assets.

The present value of the obligation and the costs of services are determined by using the "projected unit credit method" and actuarial valuations are performed at the end of each reporting period. The actuarial calculation method implies the use of actuarial assumptions by the Company, involving the discount rate, evolution of wages, employee turnover and mortality tables. These actuarial assumptions correspond to the best estimations of the variables that will determine the final cost of post-employment benefits. The discount rate reflects the rate of return on high quality corporate bonds with a term equal to the estimated duration of the post-employment benefits obligations. The actuarial calculations of post-employment obligations are performed by independent actuaries.

Remeasurement, comprising actuarial gains and losses, the effect of the changes to the asset ceiling (if applicable) and the return on plan assets (excluding interest), is reflected immediately in the consolidated statement of financial position with a charge or credit recognized in other comprehensive income in the period in which they occur. Remeasurement recognized in other comprehensive income is reflected immediately in retained earnings and will not be reclassified to profit or loss.

## 5.2.15 Share-Based Compensation

### Equity-settled share-based compensation

The Company operates an equity-based compensation plan, whereby warrants are granted to directors, management and selected employees and non-employees. The warrants are accounted for as equity-settled share-based payment plans since the Company has no legal or constructive obligation to repurchase or settle the warrants in cash.

Each warrant gives the beneficiaries the right to subscribe to one or several common share of the Company. The warrants are granted for free and have an exercise price is determined by the Board of Directors of the Company.

The fair value of the employee services received in exchange for the grant of stock options or warrants is determined at the grant date using a Black & Scholes valuation model.

The costs of equity-settled transactions are recognized in employee benefit expense. The total amount to be expensed over the vesting period, if any, with a corresponding increase in the « share-based payment reserve » within equity, is determined by reference to the fair value of the stock options or warrants granted, excluding the impact of any non-market vesting conditions. The cumulative expense recognized for equity-settled transactions at each reporting date until the vesting date reflects the extent to which the vesting period has expired and the entity's best estimate of the number of equity instruments that will ultimately vest. At each closing date, the entity revises its estimates of the number of stock options that are expected to become exercisable. It recognizes the impact of the revision of original estimates, if any, in the income statement, and a corresponding adjustment to equity over the remaining vesting period.

The proceeds received net of any directly attributable transaction costs are credited to share capital when the stock options or the warrants are exercised. When warrants granted under a share-based compensation plan are not exercised and have expired, the amount previously recognized under the share-based payment reserve is reclassified to the caption retained earnings, within equity.

### Cash-settled share-based payment transaction

The Company has two cash-settled share-based payment arrangements in place granted to contracts in return for services delivered. A liability is recognized for the fair value of cash-settled transactions. The fair value is measured initially and at each reporting date up to and including the settlement date, with changes in fair value recognized in general and administrative expenses. The fair value is expensed over the period until the vesting date with recognition of a corresponding liability. The fair value is determined by reference to the pre-money valuation of the Company or the share-price as the cash-settled share-based payment transactions have an exercise price of zero.

## 5.2.16 Provisions

A provision is set up by the Company if, at the reporting date, the Company has a present obligation, either legal or constructive, as a result of past events, when it is probable that an outflow of resources will be required to settle the obligation and when a reliable estimate of the amount can be made.

## 5.2.17 Leases

The Group assesses at contract inception whether a contract is, or contains, a lease. That is, if the contract conveys the right to control the use of an identified asset for a period of time in exchange for consideration.

### Right-of-use assets

The Company recognizes right-of-use assets at the commencement date of the lease (i.e., the date the underlying asset is available for use). Right-of-use assets are measured at cost, less any accumulated depreciation and impairment losses, and adjusted for any remeasurement of lease liabilities. The cost of right-of-use assets includes the amount of lease liabilities recognized, initial direct costs incurred, and lease payments made at or before the commencement date less any lease incentives received. Unless the Group is reasonably certain to obtain ownership of the leased asset at the end of the lease term, the recognized right-of-use assets are depreciated on a straight-line basis over the shorter of its estimated useful life and the lease term. Right-of-use assets are subject to impairment, but no impairment has been identified in fiscal year 2019 and 2020.

### Lease liabilities

At the commencement date of the lease, the Company recognizes lease liabilities measured at the present value of lease payments to be made over the lease term. The lease payments include fixed payments (including in-substance fixed payments) less any lease incentives receivable, variable lease payments that depend on an index or a rate, and amounts expected to be paid under residual value guarantees. The lease payments also include the exercise price of a purchase option reasonably certain to be exercised by the Company and payments of penalties for terminating a lease, if the lease term reflects the Group exercising the option to terminate. The variable lease payments that do not depend on an index or a rate are recognized as expense in the period in which the event or condition that triggers the payment occurs.

In calculating the present value of lease payments, the Company uses the incremental borrowing rate at the lease commencement date if the interest rate implicit in the lease is not readily determinable. After the commencement date, the amount of lease liabilities is increased to reflect the accretion of interest and reduced for the lease payments made. In addition, the carrying amount of lease liabilities is remeasured if there is a modification, a change in the lease term, a change in the in-substance fixed lease payments or a change in the assessment to purchase the underlying asset.

### Short-term leases and leases of low-value assets

The Group applies the short-term lease recognition exemption to its short-term leases of machinery and equipment (i.e., those leases that have a lease term of 12 months or less from the commencement date and do not contain a purchase option). It also applies the lease of low-value assets recognition exemption to leases of office equipment that are considered of low value (i.e., below €5,000). Lease payments on short-term leases and leases of low-value assets are recognized as expense on a straight-line basis over the lease term. See note 5.31.2

## 5.2.18 Revenue

The Company has started commercializing the Genio® system in Europe. The Company sells The Genio® system to hospitals and distributors. Revenue from selling the Genio® system is recognized at a point in time when control over The Genio® system is transferred to the customer, which is in general at delivery at customer site or a predefined location in the country of the customer. The revenue from the Genio® system may consist of individual products or a bundle of products in the form of a kit. The revenue is then recognized at an amount that reflects the consideration to which the Company expects to be entitled in exchange of the Genio® system. In determining the transaction price for the sale of the Genio® system, the Company considers the effects of variable consideration.

The Company did not have any contracts with customers subject to IFRS 15 prior to 2020 and thus there is no impact of adopting IFRS 15.

### Variable consideration including volume rebates

Some contracts may include a volume discount in the form of a free Genio® system when a certain purchase volume over a predefined period (generally 12-months) is met or exceeded. The Company will allocate a portion of the transaction price to the free Genio® system based on the relative standalone fair value of the Genio® system unless it is reasonably certain that the purchase volume threshold will not be met (considering the constraining estimates of variable consideration).

Some contracts may include a volume discount in the form of a free Genio® system when a certain purchase volume over a predefined period (generally 12-months) is met or exceeded. The Company will apply the most likely amount method or the expected value method to estimate the variable consideration in the contract. The Company will then apply the requirements on constraining estimates of variable consideration in order to determine the amount of the variable consideration that can be included in the transaction price and recognized as revenue.

The contracts with customers do not have right of returns.

### Warranty obligations

The Company provides a three-year warranty on the Genio® system for general repairs of defects that existed at the time of sale. The assurance-type warranties are accounted for as warranty provisions which is currently not material.

## 5.2.19 Recoverable cash advances and other government grants

Government grants are recognized where there is reasonable assurance that the grant will be received and all attached conditions will be complied with. When the grant relates to an expense item, it is recognized as income on a systematic basis over the periods that the related costs, for which it is intended to compensate, are expensed. When the grant relates to an asset, it is recognized as income in equal amounts over the expected useful life of the related asset.

The Company received the support from a governmental agency, in this case the Walloon Region ("Region"), under the form of recoverable cash advances. Recoverable cash advances are aimed at

supporting specific development programs. As part of this support, an agreement is concluded with the Region consisting in three distinct phases being a research phase, a decision phase and an exploitation phase. During the research phase, the Company receives funds from the Region based on eligible expenses incurred by the Company.

At the end of the research phase, there is a decision phase of six months, allowing the Company to decide whether or not it will use the results of the research phase.

- If the Company decides not to use the results of the research phase, it has to notify the Region and transfer to the Region the rights associated with the research phase. Accordingly, the advances received are not to be reimbursed.
- If the Company decides to use the results of the research phase, it will enter into the exploitation phase. In such a situation, the advances received become refundable through a fixed repayment part (30%) and a variable repayment scheme (0.224%-0.45%). The fix part is repayable unconditionally in accordance with a reimbursement plan. The variable part is dependent on the success of the project, i.e. based on a percentage on sales generated by the product that has benefited from the research.
- Reimbursements (fixed and variable) to be made by the Company (interests included) may represent up to 2 times the amount of cash advance received, depending on the level and the timing of the sales.

At inception, recoverable cash advances are recognized as financial liability at fair value when received. To determine the fair value of the cash advances received, the Company estimates future cash outflows considering (i) assumptions regarding the estimation of the timing and the probability of the future sales or (ii) the probability that the Company will notify the Walloon Region whether it will decide or not to use the results of the research phase and (iii) an appropriate discount rate.

At inception, if the fair value of the liability exceeds the amounts of the cash received, the difference is recognized in the income statement as operating expenses. If the amount of cash received would exceed the fair value of the liability, the difference would be considered as a government grant, being recognized in the income statement as operating income on a systematic basis in order to match the expenses incurred.

Subsequently, at each closing date, the financial liability is measured at amortized cost. When the estimated contractual cash flows are modified, the entity recalculates the gross carrying amount of the financial liability as the present value of the modified cash flows discounted at the original effective interest rate. The difference between the recalculated carrying amount and the initial carrying amount is included in the caption "other operating income/expenses" in the consolidated income statement and in the financial expenses for the impact of the discounting. When modifying the estimated contractual cash flows, the Company reviews if there are indicators, either positive or negative, influencing the estimation of the timing and level of the future sales of the products benefiting from the support of the Walloon Region.

When repayment of recoverable cash advances may be forgiven, the liability component of recoverable cash advances is treated as a government grant and taken to income only when there is reasonable assurance that the entity will meet the terms for forgiveness of the advance.

The Company also has received research and development incentives in Australia in relation to certain development activities and clinical trials. The Company recognizes the research and development incentives as another receivable and other operating income when it is reasonably certain that all conditions (which are limited and only protective in nature such as having an entity in Australia, conducting R&D activities in Australia) are satisfied and the incentive will be received, which is when the development activities and clinical trials are being performed. See note 5.10 and 5.24.

### 5.2.20 Segment Reporting

Based on the organizational structure, as well as the nature of financial information available and reviewed by the Company's chief operating decision makers to assess performance and make decisions about resource allocations, the Company has concluded that its total operations represent one reportable segment. The chief operating decision maker is the CEO.

## 5.3 Capital Management

The Company's objectives when managing capital are to maintain sufficient liquidity to meet its working capital requirements and fund capital investment in order to safeguard its ability to continue operating as a going concern. The capital structure of the Company consists of equity attributable to the shareholders, such as share capital, share premium, reserves and retained earnings, and of borrowings. The capital of Nyxoah SA amounts to KEUR 3,796 at December 31, 2020 (2019: KEUR 2,481). Total cash and cash equivalents amount to KEUR 92,300 at December 31, 2020 (2019: KEUR 5,855). The current cash situation and the anticipated cash generation are the most important parameters in assessing the capital structure. The Company's policy is to maintain a strong capital base in order to maintain investor confidence in its capacity to support the future development of its operations.

The Company monitors capital regularly to ensure that its ability to continue operating as a going concern and the legal capital requirements are met and may propose capital increases to the Shareholders' Meeting to ensure the necessary capital remains intact.

## 5.4 Management of Financial Risks

The Company's activities expose it to a variety of financial risks. The Company's finance department identifies and evaluates the financial risks in co-operation with the operating units.

#### Market Risk

Market risk is the risk that the fair value of future cash flows of a financial instrument will fluctuate because of changes in market prices. The Company's activities may expose it to changes in foreign currency exchange rates and interest rates. The Company is not exposed to any equity price risk or commodity price risk as it does not invest in these classes of investments.

#### Credit risk

The credit risk arises mainly from trade receivables, cash and cash equivalents and deposits with banks and financial institutions. The Company only works with international reputable commercial banks and financial institutions.

Furthermore, the Company is not exposed to any material credit risk as other receivables are mainly due by the governments in Australia and the Walloon Region and there is limited risk associated to this receivable.

#### Foreign Exchange Risk

The Company is minimally exposed to currency risk on a limited number of expenses that are denominated in currencies other than the functional currency of the company's subsidiaries: NIS, AUD, and USD.

Additionally, earnings variability arises from the translation of monetary assets and liabilities denominated in currencies other than the functional currency of the Company's subsidiaries at the rate of exchange at each closing date, the impact of which is reported as a foreign exchange gain or loss in the consolidated statements of comprehensive income.

| | 2020 rates | | 2019 rates | |
|---|---|---|---|---|
| Currency | Closing | Average | Closing | Average |
| NIS | 3.92758 | 3.92330 | 3.87700 | 3.99220 |
| AUD | 1.58636 | 1.65548 | 1.60102 | 1.61057 |
| USD | 1.22239 | 1.15189 | - | - |

Based on the Company's foreign currency exposures noted above, varying the above foreign exchange rates to reflect positive and negative changes of 5% of the NIS, AUD and USD would have the following impact:

| | Change in foreign exchange rate | Effect on loss (before tax) | | | Effect on pretax equity | | |
|---|---|---|---|---|---|---|---|
| | | NIS | USD | AUD | NIS | USD | AUD |
| 2020 | 5% | 12 | -4 | 55 | 83 | -7 | 208 |
| | -5% | -12 | 4 | -61 | -91 | 8 | -230 |
| 2019 | 5% | 11 | - | 39 | 71 | - | 127 |
| | -5% | -11 | - | -43 | -77 | - | -141 |

The Company does not generally enter into arrangements to hedge its currency risk exposure.

### Liquidity Risk

The Company's main sources of cash inflows are obtained through capital increases, recoverable cash advances and grants. Cash is invested in low risk investments such as short-term bank deposits or savings accounts. The Company mainly makes use of liquid investment in current accounts (in Euro) or short-term deposit accounts.

The ability of the Company to maintain adequate cash reserves to support its activities in the medium term is highly dependent on the Company's ability to raise additional funds. As a consequence, the Company is exposed to significant liquidity risk in the medium term.

Contractual undiscounted maturities of financial liabilities at 31 December are as follows:

| (in EUR 000) | 2020 | | | 2019 | | |
|---|---|---|---|---|---|---|
| | Lease Liability | Financial Debt | Trade & Other Payable | Lease Liability | Financial Debt | Trade & Other Payable |
| Less than 1 year | 560 | 632 | 5,313 | 353 | 392 | 3,658 |
| 1-5 years | 2,185 | 4,987 | | 709 | 2,871 | 547 |
| 5+ years | 895 | 4,620 | | 38 | 11,470 | - |
| TOTAL | **3,640** | **10,239** | **5,313** | **1,100** | **14,733** | **4,205** |

### Fair Value

The carrying amount of cash and cash equivalents, trade receivables, other receivables and other current assets approximate their value due to their short-term character. Derivatives financial instruments, such as foreign exchange forward contracts, are also measured at fair value. However, none of the contracts were on-going at year end.

The carrying value of current liabilities approximates their fair value due to the short-term character of these instruments.

The fair value of non-current liabilities (financial debt and other non-current liabilities) is evaluated based on their interest rates and maturity date. These instruments have fixed interest rates and their fair value measurements are subject to changes in interest rates. The fair value measurement is classified as level 3. Please refer to note 5.2.10 for information on the valuation of non-current liabilities.

| (in EUR 000) | Carrying value | | Fair value | |
|---|---|---|---|---|
| | 2020 | 2019 restated | 2020 | 2019 restated |
| **Financial Assets** | | | | |
| Other long-term receivables (level 3) | 91 | 78 | 91 | 78 |
| Trade and other receivables (level 3) | 1,644 | 2,107 | 1,644 | 2,107 |
| Other current assets (level 3) | 109 | 11 | 109 | 11 |
| Cash and cash equivalents (level 1) | 92,300 | 5,855 | 92,300 | 5,855 |
| **Financial liabilities** | | | | |
| Financial debt (level 3) | 313 | 376 | 250 | 321 |
| Lease liability (level 3) | 3,317 | 1,075 | 3,317 | 1,075 |
| Recoverable cash advances (level 3) | 7,910 | 7,148 | 7,910 | 7,148 |
| Trade and other payables (level 3) | 5,313 | 4,205 | 5,313 | 4,205 |

## 5.5 Critical Accounting Estimates and Assumptions

When preparing the Consolidated Financial Statements, judgments, estimates and assumptions are made that affect the carrying amount of certain assets, liabilities and expenses. These include the going concern assessment, the share-based payment transactions, the accounting for research and development expenses, the recoverable cash advances and deferred taxes. These judgments, estimates and assumptions have been reviewed for each year and are reviewed on a regular basis, taking into consideration past experience and other factors deemed relevant under the then prevailing economic conditions. Changes in such conditions might accordingly result in different estimates in the Company's future Consolidated Financial Statements.

## 5.5.1 Critical Judgments

### Going Concern

As at 31 December 2020, the Company had cash and cash equivalents of KEUR 92,300. Based on cash flow forecasts for the years 2021 and 2022, which include significant expenses and cash outflows in relation to -among others- the ongoing clinical trials, the continuation of research and development projects, and the scaling-up of the Company's manufacturing facilities, the Company believes that this cash position will be sufficient to meet the Company's capital requirements and fund its operations for at least 12 months as from the date of this Annual Report.

In view of the above, and notwithstanding a loss brought forward of KEUR 60,341 as of 31 December 2020, the Board of Directors has decided, after due consideration, that the application of the valuation rules in the assumption of a "going concern" is justified.

## 5.5.2 Critical Accounting Estimates and Assumptions

### Recoverable Cash Advances

The Company benefits from recoverable cash advances granted by the Region. These are in substance financial liabilities of the Company towards the Region. The determination of the amount of the financial liability is subject to a high degree of subjectivity and requires the Company to make estimates of the future sales it will derive in the future from the products that benefited from the support of the Region.

Based on these estimates, it may be concluded that the amount of the cash advance that the Company has received from the Region exceeds the amount of the financial liability estimated by the Company. In such a situation, the difference is considered as a government grant. Subsequent re-estimation of the timing of the cash outflows of the financial liability is accounted for in profit and loss.

Management estimates the fair value of the liability of the future payment to be made to the Walloon Region based on a forecasted volume of sales. The estimation of the fair value is dependent on the discount rate applied. The fixed part to be reimbursed has been discounted with a discount rate of 5% and the variable part (based on sales forecasts) with a discount rate of 12.5%. Refer also to note 5.14

### Development Expenses capitalized and related impairment testing

The Company capitalizes costs for product development projects. Initial capitalization of costs is based on management's judgement that technological and economic feasibility is confirmed, usually when a product development project has reached a defined milestone according to an established project management model.

At 31 December 2019, for the first time the Company capitalized amount of development costs for the first generation of the Genio® System. This amount includes costs related to the development of the Genio® System which received CE Mark approval in March 2019 and related improvements. Therefore, the Company is of the opinion that, from March 2019, development expenditures do meet capitalization criteria. The Company uses an estimate for certain research and development expenses related to the Genio® System and related improvements to determine the amount to be capitalized or recorded as an expense. Accordingly, the costs incurred for the first generation of the Genio® System have been recognized as development assets for a total amount of KEUR 14,222 as of 31 December 2020 (2019: KEUR 5,311). In addition, the Company started capitalizing the development costs for the improved second generation of the Genio® System as from July 2020 for a total amount of KEUR 1,040. See note 5.8.

The development expenses capitalized have to be tested annually for impairment during the development period, prior to the start of its amortization. The Company performs the impairment test on the

smallest group of assets to which it belongs for which there are separately identifiable cash flows: its cash-generating units ("CGU's"). Where the carrying value of an asset exceeds its recoverable amount (i.e. the higher of value in use and fair value less costs to sell), the asset is written down accordingly. The Company is a one product line company and the capitalized development expenses are only related to this product (Genio® System).

When performing the impairment test, management needs to make significant judgments, estimates and assumptions. The Company bases its impairment calculation on detailed budgets and forecast calculations generally covering a period of five to six years. For longer periods, a long-term growth rate is calculated and applied to future cash flows projected after the terminal year. See note 5.8

**Share-Based Payments**

The Company has equity-settled share-based payment plans in place. Estimating fair value for share-based payment transactions requires determination of the most appropriate valuation model, which is dependent on the terms and conditions of the option plan. This estimate also requires determination of the most appropriate inputs to the valuation model including the expected life of the share option, volatility and dividend yield and making assumptions about them.

In addition, the Company has two cash-settled share-based payment plans in place. Estimating the fair value of those cash-settled share-based payment plans require the Company to estimate (i) the pre-money valuation of the Company at 31 December 2019 and (ii) to estimate the vesting period considering the most likely date when an Exit event may occur. The assumptions and models used for estimating the fair-value for share-based payment transactions are disclosed in note 5.13

## 5.6 Subsidiaries

For all years ended as at 31 December 2020 and 2019 respectively, the Company owns 100% of the shares of Nyxoah Ltd, an Israeli company located in Tel-Aviv that was incorporated in 2009 and has a share capital of NIS 1.00.

The Company also owns 100% of the shares of Nyxoah Pty Ltd, an Australian company located in Collingwood that was incorporated in 2017 and has a share capital of AUD 100.

The Company owns 100% of the shares of Nyxoah Inc, an American company located in Delaware that was incorporated in May 2020 and has a share capital of 1 USD.

## 5.7 Property Plant and Equipment

| (in EUR 000) | Furniture and office equipment | Leasehold improvements | Laboratory equipment | Total |
|---|---|---|---|---|
| **Opening Gross value** | 439 | 190 | 133 | 762 |
| Additions | 48 | - | 3 | 51 |
| **Gross value at 31/12/2019** | **487** | **190** | **136** | **813** |
| Additions | 178 | 358 | 26 | 562 |
| **Gross value at 31/12/2020** | **665** | **548** | **162** | **1,375** |
| **Depreciation** | | | | |
| Opening accumulated depreciation | (283) | (72) | (37) | (392) |
| Depreciation charge | (64) | (24) | (12) | (100) |
| **Depreciation at 31/12/2019** | **(347)** | **(96)** | **(49)** | **(492)** |
| Depreciation charge | (83) | (74) | (12) | (169) |
| **Depreciation at 31/12/2020** | **(430)** | **(170)** | **(61)** | **(661)** |
| Opening Exchange differences | (3) | 2 | 2 | 1 |
| Exchange differences | (1) | - | - | (1) |
| **Exchange differences at 31/12/2020** | **(4)** | **2** | **2** | **-** |
| **Net book value at 31/12/2019** | **137** | **96** | **89** | **322** |
| **Net book value at 31/12/2020** | **231** | **380** | **103** | **713** |

In 2020 and 2019 additions were mainly related to leasehold improvements, IT and office equipment.

The yearly depreciation charge amounts to KEUR 169 in 2020 and KEUR 100 in 2019.

## 5.8 Intangible assets

| (in EUR 000) | Development Cost | Patents and licenses | Total |
|---|---|---|---|
| **Cost** | | | |
| Opening Gross value | - | - | - |
| Additions | 5,311 | 335 | 5,646 |
| **Gross value at 31/12/2019** | **5,311** | **335** | **5,646** |
| Additions | 9,874 | 256 | 10,130 |
| **Gross value at 31/12/2020** | **15,185** | **591** | **15,776** |
| **Amortization** | | | |
| Opening amortization | - | - | - |
| Amortization | - | - | - |
| **Amortization at 31/12/2019** | **-** | **-** | **-** |
| Amortization | - | - | - |
| **Amortization at 31/12/2020** | **-** | **-** | **-** |
| Opening Exchange differences | 88 | - | 88 |
| Exchange differences | (11) | - | (11) |
| **Exchange differences at 31/12/2020** | **77** | **-** | **77** |
| **Net book value at 31/12/2019** | **5,399** | **335** | **5,734** |
| **Net book value at 31/12/2020** | **15,262** | **591** | **15,853** |

There is only one development project: the Genio® system. The Company has capitalized a total of KEUR 14,222 as at 31 December 2020 (2019: KEUR 5,311) related to the first generation of the Genio® system. During 2020, the Company launched the commercialization of Genio® system in Europe. As at 31 December 2020, the Company was still in the early stage of the commercialization and production in that region. The Company will start amortizing the first-generation Genio® system as from 1 January 2021.

The Company continues to incur development expenditures as from July 2020 with regard to the improved second-generation Genio® system for a total amount of KEUR 1,040 as at 31 December 2020.

In accordance with the accounting principle, the intangible assets have to be tested annually for impairment during the development period, prior to the start of its amortization. The Genio® system is currently the unique product line developed by the Company and the Company determined that it has only one cash generating unit for which a value in use analysis has been performed. The discount rate and a long-term growth rate applied over the expected term that the asset will generate economic benefits, used are respectively 13% and 7.5%. The discount has been determined by reference to the analyst reports covering the Company which are available.

Based on the current operating budget as approved by the Board of Directors, the Company's management prepared cash flow forecasts, which covers a six-year period and an appropriate extrapolation of cash flows beyond this 2026. A sensitivity analysis has been performed concluding that reasonable change in the WACC and/or the long-term growth rate would not lead to an impairment.

## 5.9 Right-of-use assets and lease liabilities

The Company has lease contracts for buildings and vehicles used in its operations. Leases of building generally have lease terms between four and nine years, while motor vehicles generally have lease terms of five years. The Company's obligations under its leases are secured by the lessor's title to the leased assets. Generally, the Company is restricted from assigning and subleasing the leased assets and some contracts require the Company to maintain certain financial ratios.

The Company also has certain leases of office equipment with low value. The Company applies the "short-term lease" and "lease of low-value assets" recognition exemptions for these leases.

The carrying amounts of right-of-use assets recognized and the movements during the period is as follows:

| (in EUR 000) | Building | Motor vehicles | Total |
|---|---|---|---|
| **Gross value** | | | |
| As of January 1, 2019 | 1,131 | 192 | 1,323 |
| Addition | - | - | - |
| **Gross value at 31/12/2019** | **1,131** | **192** | **1,323** |
| Addition | 3,194 | 233 | 3,427 |
| Disposal | (1,207) | (23) | (1,230) |
| **Gross value at 31/12/2020** | **3,117** | **402** | **3,519** |
| **Depreciation** | | | |
| As of January 1, 2019 | - | - | - |
| Depreciation of the year | (281) | (52) | (333) |
| **Depreciation at 31/12/2019** | **(281)** | **(52)** | **(333)** |
| Depreciation of the year | (383) | (68) | (451) |
| Disposal | 470 | 11 | 481 |
| **Depreciation at 31/12/2020** | **(194)** | **(109)** | **(303)** |
| Opening exchange difference | 76 | - | 76 |
| Exchange difference | (9) | - | (9) |
| **Exchange difference at 31/12/2020** | **67** | **-** | **67** |
| **Net carrying value at 31/12/2019** | **926** | **140** | **1,066** |
| **Net carrying value at 31/12/2020** | **2,990** | **293** | **3,283** |

The disposal in buildings for 2020 relate to the termination of the office leases in Israel and Belgium which were replaced by new office leases with significant different terms and conditions. The initial lease contract was terminated resulting in the disposal. The loss on disposal recognized amounts to KEUR 6. The new offices leases explain the addition of €3.2 million in buildings during 2020.

The carrying amounts of lease liabilities and the movements during the period is as follows:

| (in EUR 000) | |
|---|---|
| **As at January 1, 2019 – Adoption of IFRS 16** | **1,323** |
| Addition | - |
| Accretion of interest | 17 |
| Payments | (341) |
| Exchange difference | 76 |
| **Net carrying value at 31/12/2019** | **1,075** |
| Addition | 3,427 |
| Disposal | (743) |
| Accretion of interest | 47 |
| Payments | (479) |
| Exchange difference | (10) |
| **Net carrying value at 31/12/2020** | **3,317** |
| Non-Current | 735 |
| Current | 340 |
| **Net carrying value at 31/12/2019** | **1,075** |
| Non-Current | 2,844 |
| Current | 473 |
| **Net carrying value at 31/12/2020** | **3,317** |

The maturity analysis of lease liabilities is disclosed in note 5.4, the table hereunder details the amounts recognized in profit or loss:

| (in EUR 000) | 31/12/2020 | 31/12/2019 |
|---|---|---|
| Depreciation expense of right-of-use assets | 451 | 333 |
| Interest charge on lease liabilities | 47 | 17 |
| Rent expenses (note 5.18) | 89 | 115 |

## 5.10 Other receivables

| (in EUR 000) | 2020 | 2019 |
|---|---|---|
| Recoverable cash advance receivable | - | 1,100 |
| R&D Incentive receivable (Australia) | 951 | 495 |
| VAT receivable | 607 | 153 |
| Current tax receivable | (3) | 30 |
| Other | 89 | 270 |
| **Total Other receivables** | **1,644** | **2,048** |

R&D Incentive receivable relates to incentives received in Australia as support to the clinical trials and the development of the Genio® system.

The recoverable cash advance of 2019 was related to the Walloon Region who confirmed a final payment of KEUR 1,100 in connection with the convention 7388.

Current tax receivable relates to excess prepayment of corporate income tax in Israel.

## 5.11 Cash and Cash Equivalents

| (in EUR 000) | 2020 | 2019 |
|---|---|---|
| Short term deposit | 28 | 28 |
| Three months term deposit | 6 | 363 |
| Current accounts | 92,266 | 5,463 |
| Petty Cash | - | 1 |
| **Total Cash and cash equivalents** | **92,300** | **5,855** |

## 5.12 Capital, Share Premium, Reserves

### 5.12.1 Capital and share premium

The number of shares and the par value in the paragraph below take into account resolutions adopted by the shareholders' meeting of 21 February 2020. All existing preferred shares were converted into common shares, and then a share split of 500:1 was approved by the shareholders' meeting. The tables and comments below reflect the number of shares after the share split of 500:1 as of 1 January 2019.

As of 31 December 2019, the share capital of the Company amounts to KEUR 2,481, represented by 14,879,000 shares, and the share premium amounts to KEUR 47,668. As at 31 December 2019, there were four categories of shares, including 3 types of preferred shares (Preferred "A" shares, preferred "B" shares and preferred "B2" shares). Preferred shares had specific rights which can be summarized as follows: Holders of preferred shares can propose the appointment of a board director, have a liquidation preference and anti-dilution protection. In addition, preferred B and B2 shares have specific rights to preferred dividends. In connection with the capital increase of 12 February 2020, the shareholders' meeting of the Company has decided to convert all preferred shares in common shares and to cancel all anti-dilutive warrants granted to holders of preferred shares.

As of 31 December 2020, the share capital of the Company amounts to KEUR 3,796 represented by 22,097,609 shares, and the share premium amounts to KEUR 157,514 (before deduction of the transactions costs).

Evolution of the share capital and share premium over the last two years is as follows:

| (Number of shares except otherwise stated) | Number of Shares | Par value (EUR) | Share Capital | Share Premium |
|---|---|---|---|---|
| **1 January 2019 (adjusted for share split in 2020)** | 14,879,000 | 0.17 | 2,481 | 47,668 |
| **31 December 2019 (adjusted for share split in 2020)** | 14,879,000 | 0.17 | 2,481 | 47,668 |
| 21 February 2020 - Capital increase | 2,100,000 | 0.21 | 435 | 24,624 |
| 7 September 2020 - Exercise warrants | 44,500 | 0.17 | 8 | 222 |
| 21 September 2020 - IPO | 4,335,000 | 0.17 | 745 | 72,950 |
| 21 September 2020 - Convertible loan | 65,359 | 0.17 | 11 | 989 |
| 29 September 2020 - Exercise warrants | 650,250 | 0.17 | 112 | 10,944 |
| 28 October 2020 - Exercise warrants | 23,500 | 0.17 | 4 | 117 |
| **31 December 2020 (adjusted for share split in 2020)** | **22,097,609** | **0.17** | **3,796** | **157,514** |

On 21 February 2020, the Company, its shareholders and a new investor (ResMed Inc.) signed a subscription agreement with respect to an aggregate capital increase in the Company of KEUR 25,060 (including share premium) in exchange for 2,100,000 new shares in the Company.

Pursuant to the terms and conditions of the subscription agreement, the shareholders' meeting adopted on 21 February 2020 the following resolutions:

- the conversion of all preferred shares into common shares,
- the cancellation of the outstanding Series B Anti-Dilution Warrants and Series B2 Anti-Dilution Warrants, and
- share split at a 500:1 ratio to reduce the value per individual share of the Company.

On 7 September 2020, pursuant to the exercise of warrants, the aggregate capital of the Company increased with KEUR 230 (including share premium) in exchange for 44,500 new shares in the Company.

On 21 September 2020, the shareholders' meeting adopted the following resolutions:

The Initial Public Offering (IPO) resulted in an aggregate capital increase in the Company of KEUR 73,695 (including share premium) in exchange for 4,335,000 new shares in the Company at the price of EUR 17 per share, and the conversion of a convertible loan of KEUR 1,000 in shares resulted (triggered by the IPO) in an aggregate capital increase in the Company of KEUR 1,000 (including share premium) in exchange for 65,359 new shares in the Company. The convertible loan was entered into between the Company and Noshaq SA ("Noshaq") on 26 June 2020 for an amount of KEUR 1,000. The

convertible loan had a non-compounding interest rate of 2,50% per annum. The trigger events for a mandatory conversion were (I) an initial public offering, (ii) qualifying financing and (iii) a trade sale. If no mandatory conversion has taken place on or prior to the second anniversary of date of the loan, The Company shall be able to opt for an optional conversion to force Noshaq to convert the entire outstanding Principal Amount at nominal value into new shares. The convertible loan was accounted for prior to conversion at fair value with changed in fair value through the profit or loss. No fair value adjustments have been recorded between the issue date and the conversion date due to the short period between both dates.

As part of the initial public offering, the Company incurred direct-attributable transaction costs of KEUR 6,488 which have been deducted from the share premium. The proceeds from the IPO net of transaction costs amounted to KEUR 67,207.For the other capital increases the transactions costs amounted to KEUR 96.

On 29 September 2020, pursuant to the exercise of the "Over-allotment Warrant" that was conditionally issued on 7 September 2020 and confirmed on 21 September 2020, the aggregate capital of the Company increased with KEUR 11,054 (including share premium) in exchange for 650,250 new shares in the Company.

On 28 October 2020, pursuant to the exercise of warrants, the aggregate capital of the Company increased with KEUR 122 (including share premium) in exchange for 23,500 new shares in the Company.

### 5.12.2 Categories of existing shares

As at 31 December 2019, there are four categories of shares, including 3 types of preferred shares. Preferred shares have specific rights which can be summarized as follows: Holders of preferred shares can propose the appointment of a board director, have a liquidation preference and anti-dilution protection. In addition, preferred B and B2 shares have specific rights to preferred dividends.

In connection with the capital increase of 21 February 2020, the shareholders' meeting of the Company has decided to convert all preferred shares in common shares and to cancel all anti-dilutive warrants granted to holders of preferred shares. As a result of this conversion, the capital of the Company represented by 23,938 existing shares with different rights as of 31 December 2019 will be represented by 29,758 common shares with the same rights. Following a share split decided the same day of 500:1, number of common shares amounted to 14,879,000 (before capital increase achieved on 21 February 2020 and other transactions after 21 February 2020).

Applying this conversion and split to the existing shares as of 1 January 2019 provides the following information:

| | Common Shares |
|---|---|
| 1 January 2019 | 14,879,000 |
| Capital increase | - |
| Capital increase through exercise of options | - |
| **31 December 2019** | **14,879,000** |
| Capital increase in cash | 2,100,000 |
| Capital increase through IPO | 4,335,000 |
| Capital increase through exercise of options | 718,250 |
| Capital increase through convertible loan | 65,359 |
| **31 December 2020** | **22,097,609** |

### 5.12.3 Reserves

The reserves included the share-based payment reserve (see note 5.13), the currency translation reserve and the retained earnings. Retained earnings is comprised of primarily of accumulated losses.

## 5.13 Share-Based Compensation

As of 31 December 2020, the Company has four outstanding equity-settled share-based incentive plans, including (i) the 2013 warrants plan (the 2013 Plan), (ii) the 2016 warrants plan (the 2016 Plan), (iii) the 2018 warrants plan (the 2018 Plan), and (iv) the 2020 warrants plan (the 2020 plan). The Company had an extraordinary shareholders' meeting on 21 February 2020, where it was decided to achieve a share split in a ratio of 500:1. Per Warrant issued before 21 February 2020, 500 common shares will be issuable. For presentation purposes the tables and comments below reflect the number of shares the warrants give right to across all plans.

Pursuant to a decision of the 21 February 2020 extraordinary shareholders' meeting, the AD Warrants were cancelled.

In accordance with the terms of the various plans, all warrants that had not yet vested before, vested on 7 September 2020, i.e. ten business days prior to the closing of the IPO on 21 September 2020.

The changes of the year for the equity-settled warrant plans are as follows:

| Number of shares (after share split) warrants give right to across all plans | 2020 | 2019 |
|---|---|---|
| **Outstanding at January 1** | **1,143,500** | **1,012,000** |
| Granted | 567,000 | 246,000 |
| Forfeited/Cancelled | (635,000) | (114,500) |
| Exercised | (68,000) | 0 |
| **Outstanding at December 31** | **1,007,500** | **1,143,500** |
| **Exercisable at December 31** | **1,007,500** | **968,503** |

In addition, the Company has one cash-settled share-based payment transaction which is explained further below.

### 5.13.1 Description of the equity-settled share-based incentive plans

**(a) 2013 Plan**

On 3 May 2013, the shareholders' meeting of the Company approved the issuance of 340 warrants, giving each the right to subscribe to one common share of the Company before share split (500 shares after the share split). These warrants are valid until 3 May 2023. In addition, on 23 December 2014, the shareholders' meeting of the Company issued 300 additional warrants under the 2013 Plan. The Shareholders' Meeting granted a special proxy to the Board of Directors of the Company in order to (i) identify the beneficiaries, (ii) offer the issued warrants to workers of the Company, and (iii) determine the exercise price of the concerned warrants.

The exercise price of each warrant is EUR 2,585.51 before share split for warrants granted before April 2020. Taking into consideration the share split, this would result in an exercise price of EUR 5.17 per share. The exercise price of each warrant is EUR 5,966.59 before share split for warrants granted in

April 2020. Taking into consideration the share split, this would result in an exercise price of EUR 11.94 per share. The key features of the warrants granted under the 2013 Plan are as follows (i) each warrant could be exercised for one share before share split (500 shares after the share split), (ii) the warrants are granted for free, (iii) the warrants have a term of five years since the grant date, (iv) the only vesting condition is that the holder is still an employee of the Company at the vesting date, and (v) the warrants vest accordingly: 34% at the grant date, 33% at the first anniversary of the grant date, 33% at the second anniversary. As a result of the IPO, all warrants that had not yet vested before, vested on 7 September 2020, i.e. ten business days prior to the closing of the IPO on 21 September 2020.

In April 2020, 1 warrant was granted under the 2013 Plan with an exercise price of EUR 5,966.59 (EUR 11.94 per share after the share split)

The status of the 2013 warrant plan at 31 December is as follows:

| Number of shares (after share split) warrants give right to for Plan 2013 | 2020 | 2019 |
|---|---|---|
| Outstanding at January 1 | 208,000 | 269,500 |
| Granted | 500 | 0 |
| Forfeited/Cancelled | (83,500) | (61,500) |
| Exercised | (44,500) | 0 |
| **Outstanding at December 31** | **80,500** | **208,000** |
| **Exercisable at December 31** | **80,500** | **208,000** |

With respect to the warrants exercised in 2020, a total of 89 warrants representing 44,500 shares after share split, were exercised. Since the 2013 warrant plan prescribes that each warrant gives right to 500 shares and our table above presents the impact on the number of shares, the actual remaining number of warrants as per 31 December 2020 equals 161 representing 80,500 shares.

### (b) 2016 Plan

On 3 November 2016, the shareholders' meeting of the Company approved the issuance of 1.500 warrants, giving each the right to subscribe to one common share of the Company before share split (500 shares after the share split). Under this plan, up to 1.500 warrants can be issued. By consequence, the Company can issue up to 1.500 common shares before share split (750,000 shares after the share split) if all warrants are exercised.

The total amount of warrant owners cannot exceed 150 individuals. Unless the Board of Directors determines otherwise, the 2016 ESOP Warrants are not transferable inter vivos once they have been granted to a holder of the 2016 ESOP Warrants, and may not be pledged or encumbered with any security, pledge or right in rem in any other way, either voluntarily, by operation of law or otherwise. The exercise price of each warrant cannot be less than EUR 2,585.32. Taking into consideration the share split, this would result in an exercise price of EUR 5.17 per share. The key features of the warrants granted under the 2016 Plan are as follows (i) each warrant could be exercised for one share before share split (500 shares after the share split), (ii) the warrants are granted for free, (iii) the warrants have a term of maximum ten years since the grant date, (iv) the only vesting condition is the holder is still an employee of the Company at the vesting date, and (v) the warrants vest accordingly: 34% at the grant date, 33% at the first anniversary of the grant date, 33% at the second anniversary. Accordingly, the fair value of the plan is expensed over the vesting period. All 1,500 warrants were granted throughout the years 2016, 2017 and 2018. As a result of the IPO, all warrants that had not yet vested before, vested on 7 September 2020, i.e. ten business days prior to the closing of the IPO on 21 September 2020.

The status of the 2016 warrant plan at 31 December is as follows:

| Number of shares (after share split) warrants give right to for Plan 2016 | 2020 | 2019 |
|---|---|---|
| Outstanding at January 1 | 742,500 | 742,500 |
| Granted | 0 | 0 |
| Forfeited/Cancelled | (501,500) | 0 |
| Exercised | (23,500) | 0 |
| **Outstanding at December 31** | **217,500** | **742,500** |
| **Exercisable at December 31** | **217,500** | **695,500** |

With respect to the warrants exercised in 2020, a total of 47 warrants representing 23,500 shares were exercised. Since the 2016 warrant plan prescribes that each warrant gives right to 500 shares and our table above presents the impact on the number of shares, the actual remaining number of warrants as per 31 December 2020 equals 435 representing 217,500 shares.

### (c) 2018 Plan

On 12 December 2018, the shareholders' meeting of the Company approved the issuance of 525 warrants, giving each the right to subscribe to one common share of the Company before share split (500 shares after the share split). Under this plan, up to 525 warrants can be issued. By consequence, the Company can issue up to 525 common shares if all warrants are exercised.

The total amount of warrant owners cannot exceed 150 individuals. Unless the Board of Directors determines otherwise, the 2018 ESOP Warrants are not transferable inter vivos once they have been granted to a holder of the 2018 ESOP Warrants, and may not be pledged or encumbered with any security, pledge or right in rem in any other way, either voluntarily, by operation of law or otherwise. The exercise price of each warrant cannot be less than EUR 3,259.91. Taking into consideration the share split, this would result in an exercise price of EUR 6.52 per share. The key features of the warrants granted under the 2018 Plan are as follows (i) each warrant could be exercised for one share before share split (500 shares after the share split), (ii) the warrants are granted for free, (iii) the warrants have a term of maximum ten years since the grant date, (iv) the only vesting condition is the holder is still an employee of the Company at the vesting date, and (v) the warrants vest accordingly: 34% at the grant date, 33% at the first anniversary of the grant date, 33% at the second anniversary. Accordingly, the fair value of the plan is expensed over the vesting period. As a result of the IPO, all warrants that had not yet vested before, vested on 7 September 2020, i.e. ten business days prior to the closing of the IPO on 21 September 2020.

In April 2020, 33 warrants were granted under the 2018 Plan with an exercise price of EUR 5,966.59 (exercise price of EUR 11.93 per share after the share split) while the previous warrants of the 2018 Plan have an exercise price of EUR 3,259.91 (exercise price of EUR 6.52 per share after the share split).

The status of the 2018 warrant plan at 31 December is as follows:

| Number of shares (after share split) warrants give right to for Plan 2018 | 2020 | 2019 |
|---|---|---|
| Outstanding at January 1 | 193,000 | 0 |
| Granted | 16,500 | 246,000 |
| Forfeited/Cancelled | (50,000) | (53,000) |
| Exercised | 0 | 0 |
| **Outstanding at December 31** | **159,500** | **193,000** |
| **Exercisable at December 31** | **159,500** | **65,000** |

No warrants were exercised in 2020. Since the 2018 warrant plan prescribes that each warrant gives right to 500 shares and our table above presents the impact on the number of shares, the actual remaining number of warrants as per 31 December 2020 equals 319 representing 159,500 shares.

### (d) 2020 Plan

On 7 April 2020, the shareholders' meeting of the Company approved the issuance of 550,000 warrants, giving each the right to subscribe to one common share of the Company. Under this plan, up to 550,000 warrants can be issued. By consequence, the Company can issue up to 550,000 common shares if all warrants are exercised.

The total number of warrant beneficiaries cannot exceed 150 individuals. Unless the Board of Directors determines otherwise, the 2020 ESOP Warrants are not transferable inter vivos once they have been granted to a holder of the 2020 ESOP Warrants, and may not be pledged or encumbered with any security, pledge or right in rem in any other way, either voluntarily, by operation of law or otherwise. The key features of the warrants granted under the 2020 Plan are as follows (i) each warrant could be exercised for one share, (ii) the warrants are granted for free, (iii) the warrants have a term of maximum ten years since the grant date, (iv) the only vesting condition is the holder is still an employee of the Company at the vesting date, and (v) the warrants vest accordingly: 34% at the grant date, 33% at the first anniversary of the grant date, 33% at the second anniversary. Accordingly, the fair value of the plan is expensed over the vesting period. As a result of the IPO, all warrants that had not yet vested before, vested on 7 September 2020, i.e. ten business days prior to the closing of the IPO on 21 September 2020. The exercise price of each warrant amounts to EUR 11.94.

The status of the 2020 warrant plan at December 31 is as follows:

| Number of shares warrants give right to for Plan 2020 | 2020 |
|---|---|
| Outstanding at January 1 | 0 |
| Granted | 550,000 |
| Forfeited/Cancelled | 0 |
| Exercised | 0 |
| **Outstanding at December 31** | **550,000** |
| **Exercisable at December 31** | **550,000** |

No warrants were exercised in 2020.

### 5.13.2 Accounting for Equity-settled Share-Based Payment

The fair value of the plan is expensed over the vesting period. The share-based compensation expense for all vested warrants recognized in the income statement was KEUR 2,548 for the year ended 31 December 2020, KEUR 346 for the year ended 31 December 2019, KEUR 28 for the year ended 31 December 2018.

The table below details the number of exercisable (vested) warrants and their weighted average exercised price. For presentation purposes the table reflect the number of shares the warrants give right to across all plans.

| Total | 2020 | 2019 | 2018 |
|---|---|---|---|
| **Exercisable Warrants at December 31** | **550,915** | **1,940** | **1,807** |
| Shares representing the Exercisable Warrants at December 31 | 1,007,500 | 1,143,500 | 1,012,000 |
| Weighted average exercise price per share | 9.17 | 5.26 | 5.17 |

#### Fair value

The fair value of each option or subscription right is estimated on the date of grant using the Black & Scholes model based on the following:

- The dividend return is estimated by reference to the historical dividend payment of the Group. Currently, this is estimated to be zero as no dividend have been paid since inception;
- Expected volatility is estimated based on a sample of similar companies based on the healthcare products sector of the Damodaran dataset;
- Risk-free interest rate is based on the yield of EUR bonds with an equivalent term to liquidation event;
- The expected life of the share options is based on current expectations and is not necessarily indicative of exercise patterns that may occur.
- Fair value of the shares is estimated based on the market approach using publicly traded companies and acquisitions of private held companies within the same industry as Nyxoah. (Prior to the initial public offering)

The following table provides the input to the Black-Scholes model for warrants granted in 2018,2019 and 2020 related to the 2013 warrant plan, the 2016 warrant plan, the 2018 warrant plan and the 2020 warrant plan. The table and notes uses as a basis, the number of shares the warrants give right to across all plans.

| | Plan 2016 (grant 2018) | Plan 2018 (grant 2019) | Plan 2013 (grant 2020) | Plan 2018 (grant 2020) | Plan 2020 (grant 2020) |
|---|---|---|---|---|---|
| Return Dividend | 0% | 0% | 0% | 0% | 0% |
| Expected volatility | 66.92% | 56.32% | 56.32% | 56.32% | 56.32% |
| Risk-free interest rate | 0.35% | -0.20% | -0.20% | -0.20% | -0.20% |
| Expected life | 3 | 3 | 3 | 3 | 3 |
| Exercise price | 5.17 | 6.52 | 11.94 | 11.94 | 11.94 |
| Stock price | 1.09 | 10.24 | 10.20 | 10.20 | 10.20 |
| Fair value | 0.10 | 5.30 | 3.31 | 3.31 | 3.31 |

The weighted average fair value of warrants granted during the year was EUR 3.31 in 2020, EUR 5.30 in 2019 and EUR 0.10 in 2018.

The weighted average remaining contractual life for the share options outstanding as at 31 December was 3.4 in 2020, 2.5 in 2019 and 2.99 in 2018.

### 5.13.3 Cash-settled share-based payment transactions

The Company has signed a service agreement with ActuaRisk Consulting SRL in 2014 and amended afterwards for an indefinite period which includes a variable compensation for the services delivered under the service agreement. The variable compensation will become payable upon an "Exit of the Company" ("Exit"), unless ActuaRisk Consulting SRL becomes a bad leaver as defined in the service agreement prior to the Exit. The variable compensation can be invoiced by ActuaRisk Consulting SRL, as from the 6th month following an Exit at an amount equal to the closing trading of the Shares of the company at the time of invoice multiplied by the number of the then outstanding shares adjusted with then outstanding warrants and multiplied by a variable % between 0% and 0,5% depending on the exit value. The exercise period has no maturity. The vesting period is variable and starts at the signing date of the service agreement and the expected date of an Exit. The vesting term was estimated at 31 December 2019 at 82 months. The IPO completed on 21 September 2020 qualifies as an Exit under the service agreement and as such the rights are vested at 31 December 2020.

The Company has signed a service agreement with Mr. Kezirian in 2015 and amended afterwards for an indefinite period which include a variable compensation for the services delivered under the service agreement. The variable compensation will be 0,5% of 100% of the shares on a fully diluted basis, less any expenses, costs and fees incurred by the shareholders or the Company in the framework of the Exit. The variable compensation will vest fully within 5 years anniversary of the service agreement, i.e. 25 November 2020 or a vesting period of 60 months. The variable compensation becomes payable upon an "Exit of the Company" ("Exit"), unless Mr. Kezirian becomes a bad leaver as defined in the service agreement prior to the Exit. The IPO completed on 21 September 2020 qualifies as an Exit under the service agreement.

Both arrangements qualify as a cash-settled share-based payment transaction. We refer to note 5.2.3 for the correction of an error with regard to these cash-settled share-based payment transactions. The liability for the cash-settled share-based payment arrangements amount to KEUR 1,825 at 31 December 2020 (KEUR 1,352 in 2019) with an expense recognized in general and administrative expense of KEUR 1,981 (2019: KEUR 1,199). The total intrinsic value of the fully vested liability at 31 December 2020 is KEUR 1,825. The arrangement with Mr. Kezirian has been exercised on 21 September 2020 following the IPO with a total payment of KEUR 1,508 in September 2020. The arrangement with ActuaRisk Consulting SRL has vested in full on 21 September 2020 and will be exercisable as from the 6th month following the IPO. At 31 December 2019, none of the arrangements were exercisable.

## 5.14 Financial Debt

Financial debt consists of recoverable cash advances and other loan. Related amounts can be summarized as follows:

| (in EUR 000) | 2020 | 2019 |
|---|---|---|
| Recoverable cash advances – Non-current | 7,419 | 6,874 |
| Recoverable cash advances – Current | 491 | 274 |
| **Total Recoverable cash advances** | **7,910** | **7,148** |
| Other loan – Non-current | 188 | 272 |
| Other loan – Current | 125 | 104 |
| **Total Other loan** | **313** | **376** |
| Non-current | 7,607 | 7,146 |
| Current | 616 | 378 |
| **Total Financial debt** | **8,223** | **7,524** |

### 5.14.1 Financial debt related to recoverable cash advances

#### 5.14.1.1 Recoverable cash advances received

As at 31 December 2020, the details of recoverable cash advances received can be summarized as follows:

| (in EUR 000) | Contractual Advances | Advances received | Amounts reimbursed |
|---|---|---|---|
| Sleep apnea device (6472) | 1,600 | 1,600 | 420 |
| First Articles (6839) | 2,160 | 2,160 | 84 |
| Clinical Trial (6840) | 2,400 | 2,400 | - |
| Activation chip improvements (7388) | 1,467 | 1,467 | 15 |
| **Total** | **7,627** | **7,627** | **519** |

- The Convention 6472 "Sleep apnea device" for a total amount of KEUR 1,600 was signed in 2011. The total amount of the advance has been received before 1 January 2015. The turnover dependent reimbursement is based on 0.224% of the sales achieved by June 2037. The Company has notified his intention to exploit the results of this project before 2015. As a result, cumulated fixed reimbursements amount to KEUR 420 (excluding interests) out of which KEUR 40 in 2020 and KEUR 40 in 2019.
- The Convention 6839 "First Articles" for a total amount of KEUR 2,160 was signed on 5 December, 2012. At 1 January 2015, the advance received amounted to KEUR 1,934. The outstanding amount of K€ 226 has been received in 2018. The turnover dependent reimbursement is based on 0.3% of the sales achieved by June 2037. The Company notified to the Region its decision about the exploitation of the results during 2017, therefore fixed reimbursement started in 2018 (KEUR 84 excluding interests). The Region has informed the Company that the fixed reimbursement related to 2019 and 2020 will be due in 2021. At the end of 2020, the total reimbursement (excluding interests), amounted to 84 KEUR.

- The Convention 6840 "Clinical Trial" for a total amount of KEUR 2,400 was signed on 6 December, 2012. At 31 December 2020, the advance received amounted to KEUR 2,400 (2019: KEUR 2,210) after an amount of KEUR 190 was received as part of the advance in 2020. The turnover dependent reimbursement is based on 0.336% of the sales achieved by December 2038. The Company has notified to the Region its decision about the exploitation of the results in the course of 2018.
- The Convention 7388 "Implant for Obstructive Sleep Apnea, "Activation Chip Improvements" for a total amount of KEUR 1,467 was signed in December 2015. During 2016, an amount of KEUR 367 was received as part of this advance. Since 2019, the Company received the remaining balance of KEUR 1,100. The turnover dependent reimbursement is based on 0.45% of the sales achieved to December 2038. In 2019, the Company has notified to the Region its decision about the exploitation of the results. In 2020, a total of KEUR 15 was reimbursed (excluding interests).

### 5.14.1.2 Evolution of the financial debt in the financial statements

The determination of the amount to be reimbursed to the Walloon Region under the signed agreements is subject to a degree of uncertainty as it depends on the amount of the future sales that the Company will generate or not in the future. To determine the fair value of those advances, management of the Company has considered the possible outcomes of the program currently benefiting from the support of the Walloon Region. Management has considered that the probability to have to reimburse the 30% non-revocable repayment has a probability of 100% to occur. The reimbursement of the variable part, the fair value of which is determined on the basis of the sales forecasts largely depends on external factors such as CE marking, social security programs, post-market studies and expected timing and level of sales.

The Management performed an initial recognition of the financial debt for the variable part using a discount rate of 12.5%.

As the period for reimbursements is up to 2037/2038, the initial recognition of the liability reflects a reimbursement of the recoverable cash advances which represents 2 times the amount received as detailed in the table below:

| (in EUR 000) | 2020 | 2019 |
|---|---|---|
| Recoverable cash advances received | 7,627 | 7,437 |
| Amounts to be reimbursed (2 times) | 15,254 | 14,874 |
| Amounts reimbursed at year-end (interests included) | (582) | (517) |
| **Total Recoverable cash advances (undiscounted)** | **14,672** | **14,357** |

Based on expected timing of sales and after discounting, the financial debt related to the recoverable cash advances is as follows:

| (in EUR 000) | 2020 | 2019 |
|---|---|---|
| Contract 6472 | 1,421 | 1,296 |
| Contract 6839 | 2,214 | 2,115 |
| Contract 6840 | 2,592 | 2,232 |
| Contract 7388 | 1,683 | 1,505 |
| **Total Recoverable cash advances** | **7,910** | **7,148** |
| | | |
| Non-current | 7,419 | 6,874 |
| Current | 491 | 274 |
| **Total Recoverable cash advances** | **7,910** | **7,148** |

The amounts recorded under Current caption correspond to the sales-independent amounts (fixed repayment) estimated to be repaid to the Walloon Region in the next 12 months period. The estimated sales-independent (variable repay) above 12 months as well as sales-dependent reimbursements (variable) are recorded under Non-current liabilities. Changes in the recoverable cash advances can be summarized as follows:

| (in EUR 000) | 2020 | 2019 |
|---|---|---|
| As of January 1 | 7,148 | 5,357 |
| Advances received | 190 | 1,196 |
| Advances reimbursed (excluding interests) | (55) | (40) |
| Initial measurement and re-measurement | (145) | 60 |
| Discounting impact | 772 | 575 |
| **As of December 31** | **7,910** | **7,148** |

The discounting impact is included and presented in the financial expenses and amounted to KEUR 772 (2019: KEUR 575). The initial measurement and re-measurement are included in other operating income/expenses and amounted to KEUR (145) (2019: KEUR 60).

A sensitivity analysis of the carrying amount of recoverable cash advances has been done to assess the impact of a change in assumptions. Nyxoah tested reasonable sensitivity to changes in revenue projections[1] of +/- 25% and in the discount rates of +/- 25%. The table hereunder details the sensitivity results:

| Fair Value of Liabilities as of end of 2020 (in EUR 000) | Variation of revenue projections | | |
|---|---|---|---|
| Variation of discount rates* | -25% | 0% | 25% |
| -25% | 8,787 | 9,099 | 9,281 |
| 0% | 7,567 | 7,910 | 8,114 |
| +25% | 6,566 | 6,922 | 7,138 |

* A change of -25% in the discount rates implies that the discount rate used for the fixed part of the recoverable cash advances is 3,8% instead of 5% while the one used for the variable part is 9,4% instead of 12,5%.

An increase of 25% of revenue projections implies, if discount rates does not change, an increase of the expected liability as repayment of the liability is accelerated.

An increase of 25% of the discount rate decreases the expected liability if revenue projections remain unchanged.

### 5.14.2 Other Financial Liabilities

The Company has contracted a loan of KEUR 500 on 29 June 2016 with a maturity of 8 years, re-payable as from 30 June 2018 and bearing interest of 1.284% p.a. The loan has a carrying amount of KEUR 313 at 31 December 2020 and KEUR 376 at 31 December 2019. The payments have been postponed for 3 months due to COVID-19 so the maturity date of the loan has been extended until 30 June 2024.

## 5.15 Trade Payables

| (in EUR 000) | 2020 | 2019 |
|---|---|---|
| Payables | 815 | 1,174 |
| Invoices to be received | 375 | 211 |
| **Total Trade payables** | **1,190** | **1,385** |

The increase of the trade payables between 2020 and 2019 is mainly due to increase in general activities. The Company normally settles its trade payable in 30 days.

1 Changes in revenue projections can be due to changes in the timing of revenues, changes in product pricing, etc

## 5.16 Current and Non-current Other Payables

| (in EUR 000) | 2020 | 2019 Restated |
|---|---|---|
| **Total other non-current payables** | - | 547 |
| Holiday pay accrual | 376 | 243 |
| Salary | 382 | 381 |
| Accrued expenses | 1,244 | 687 |
| Other | 2,121 | 962 |
| **Total Other current payables** | **4,123** | **2,273** |

The increase of the accrued expenses in 2020, compared to 2019, is mainly due to hospital services for the clinical trials in Australia. The category other current and non-current payables include a variable compensation for an amount of KEUR 1,825 at 31 December 2020 (2019: KEUR 1,352 of which KEUR 547 non-current and KEUR 804 current) of a cash-settled share based payment transaction. See note 5.13.3

## 5.17 Revenue and costs of goods sold

For the first time since its inception, the company started generating revenue as of July 2020. The revenue for the amount of KEUR 69 is generated under the existing HGNS NUB coding in Germany. Revenue is recognized at a point in time upon satisfaction of the performance obligation, being the moment control over the Genio® system is transferred to the customer.

| (in EUR 000) | 2020 |
|---|---|
| Purchases of goods and services | 85 |
| Inventory movement | (55) |
| **Cost of goods sold** | **30** |

## 5.18 General and Administrative expenses

General and administrative expenses consist primarily of payroll and personnel, related costs, and spending related to finance, information technology and human resource functions. Other general and administrative expenses include travel expenses, professional services fees, audit fees, insurance costs and general corporate expenses, including facilities-related expenses.

| (in EUR 000) | 2020 | 2019 Restated |
|---|---|---|
| Staff costs | 3,015 | 1,327 |
| Consulting and contractors' fees | 2,883 | 1,733 |
| Legal fees | 201 | 42 |
| Rent | 89 | 115 |
| Facilities | 116 | 67 |
| Depreciation and amortization expense | 599 | 415 |
| ICT | 234 | 151 |
| Travel | 134 | 186 |
| Other expenses | 251 | 190 |
| **Total General and Administrative expenses** | **7,522** | **4,226** |

General and administrative expenses increased by 78% from KEUR 4,226 in 2019 to KEUR 7,522 in 2020. The increase is due to consulting expenses, staff and legal fees to support the Company growth. The increase in consulting and contractors' fees includes variable compensations for an amount of KEUR 1,981 in 2020 and KEUR 1,199 in 2019 related to a cash-settled share based payment transaction. See note 5.13.3. The increase of KEUR 159 in legal fees is due to services and not to any ongoing disputes.

## 5.19 Research and Development expenses

Research and development expenses consist primarily of product development, engineering to develop and support our products, testing, consulting services and other costs associated with the next generation of the Genio® system. These expenses primarily include employee compensation and outsourced development expenses.

| (in EUR 000) | 2020 | 2019 |
|---|---|---|
| Staff costs | 1,304 | 1,252 |
| Consulting and contractors' fees | - | 11 |
| Outsourced developments | 1,717 | 1,054 |
| Depreciation and amortization expense | 20 | 16 |
| Travel | 4 | 33 |
| Other | 21 | 9 |
| Capitalized costs | (2,593) | (1,745) |
| **Total Research and development expenses** | **473** | **630** |

Before capitalization of KEUR 2,593 in 2020, Research and development expenses increased by 29% from KEUR 2,375 in 2019 to KEUR 3,066 in 2020 due mainly to the further development of the Genio® system.

## 5.20 Clinical expenses

Clinical expenses consist primarily of clinical studies related to the development of our Genio® system, consulting services and other costs associated with clinical activities. These expenses include employee compensation, clinical trial management and monitoring, payments to clinical investigators, data management and travel expenses for our various clinical trials.

| (in EUR 000) | 2020 | 2019 |
|---|---|---|
| Staff costs | 1,531 | 921 |
| Consulting and contractors' fees | 748 | 474 |
| Clinical activities | 1,731 | 1,190 |
| Travel | 51 | 182 |
| Other | 255 | 114 |
| Capitalized costs | (3,263) | (2,033) |
| **Total Clinical expenses** | **1,053** | **848** |

Before capitalization of KEUR 3,263 in 2020, clinical expenses increased by 50% from KEUR 2,881 in 2019 to KEUR 4,316 in 2020. The increase in the expenses was mainly due to an increase in staff and consulting to support the completion of the Better Sleep study implantations, continuous recruitment for Elisa study and the launch of the new Dream IDE study in the US.

## 5.21 Manufacturing expenses

Manufacturing expenses consist primarily of employee compensation, acquisition costs of the components of the Genio® system, as well as distribution-related expenses such as logistics and shipping costs for non-commercial units of the Genio® system.

| (in EUR 000) | 2020 | 2019 |
|---|---|---|
| Staff costs | 1,211 | 613 |
| Consulting and contractors' fees | - | - |
| Manufacturing | 2,427 | 1,071 |
| Travel | 25 | 41 |
| Other | 139 | 87 |
| Capitalized costs | (3,342) | (1,323) |
| **Total Manufacturing expenses** | **460** | **489** |

Before capitalization of KEUR 3,342 in 2020, manufacturing expenses increased by 110% from KEUR 1,812 in 2019 to KEUR 3,802 in 2020. The increase in the expenses was mainly due to an increase in staff, in production and engineering team to support capacity and yield improvement, and also due to purchasing raw materials to support increase in the production.

Manufacturing costs (including material and supplier costs only, staff costs excluded) are as follows:

| (in EUR 000) | 2020 | 2019 |
|---|---|---|
| Implantable stimulator | 1,660 | 686 |
| Activation chip | 228 | 67 |
| Disposable patch | 102 | 113 |
| External stimulator | 69 | 37 |
| Other | 368 | 168 |
| Capitalized costs | (2,254) | (800) |
| **Total** | **173** | **271** |

## 5.22 Quality Assurance and Regulatory expenses

Quality assurance and regulatory expenses consist primarily of quality control, quality assurance and regulatory expenses for activities non-related to the production of commercial units of the Genio® system. These expenses include employee compensation, consulting, testing and travel expenses related to the QA/RA department.

| (in EUR 000) | 2020 | 2019 |
|---|---|---|
| Staff costs | 641 | 353 |
| Consulting and contractors' fees | 291 | 400 |
| QA & regulatory | 542 | 148 |
| Travel | - | 27 |
| Capitalized costs | (1,247) | (701) |
| **Total Quality Assurance and Regulatory expenses** | **227** | **227** |

Before capitalization of KEUR 1,247 in 2020, Quality assurance and regulatory expenses increased by 59% from KEUR 928 in 2019 to KEUR 1,474 in 2020. The increase in the expenses was mainly due to an increase in staff and QA & regulatory activities to support manufacturing scaling up process.

## 5.23 Patents and Therapy Development expenses

### Patents fees & related expenses

Patents fees and relate expenses consist primarily of compensation for personnel, spending related to the protection of company's intellectual property, prosecution costs and travel expenses. Up to 2019, patents fees and related expenses were not capitalized following an accounting policy similar to the one applied to development expenses.

Before capitalization of KEUR 256 in 2020 (2019: KEUR 335), patents fees and related expenses amounted to KEUR 379 in 2020 (2019: KEUR 602)

### Therapy development expenses

Therapy development expenses consist primarily of compensation for personnel, spending related to direct sale force, market access and reimbursement activities. Other therapy development expenses include training physicians, travel expenses, conferences, market research, advertising and public relations.

Therapy development expenses increased by 107% from KEUR 902 in 2019 to KEUR 1,864 in 2020. The increase in the expenses was mainly due to an increase in staff and consulting, to support the launch the commercialization in Europe.

## 5.24 Other Operating Income / (Expenses)

| (in EUR 000) | 2020 | 2019 |
|---|---|---|
| **Recoverable cash advances** | | |
| Initial measurement and re-measurement | 147 | (61) |
| R&D Incentives (Australia) | 1,000 | 425 |
| Capitalization of R&D Incentive | (573) | (493) |
| Other income/(expenses) | (115) | 3 |
| **Total Other Operating Income/(Expenses)** | **459** | **(126)** |

The impact of the recoverable cash advances is further detailed in note 5.14. It includes the impact of the initial measurement and re-measurement of the financial debt.

The R&D Incentive (Australia) relates to incentive to be received on development expenses incurred by the subsidiary in Australia. The 2020 R&D incentive of KEUR (573) (2019: KEUR 493) has been deducted from the clinical expenses capitalized.

## 5.25 Employee Benefits

| (in EUR 000) | 2020 | 2019 |
|---|---|---|
| Salaries | 4,577 | 3,625 |
| Social charges | 562 | 518 |
| Fringe benefits | 104 | 153 |
| Defined contribution plan | 249 | 258 |
| Holiday pay | 273 | 99 |
| Share-based payment (see note 5.13) | 2,548 | 346 |
| Other | 138 | 127 |
| **Total employee benefits** | **8,451** | **5,126** |

| (in EUR 000) | 2020 | 2019 |
|---|---|---|
| General and administrative expenses | 3,015 | 1,327 |
| Research & Development costs | 1,304 | 1,252 |
| Clinical expenses | 1,531 | 921 |
| Operation & Manufacturing expenses | 1,211 | 613 |
| QA expenses | 641 | 353 |
| Other expenses (therapy development, patents, etc.) | 749 | 660 |
| **Total employee benefits** | **8,451** | **5,126** |

As at 31 December 2020, the Nyxoah Group employed 71.9 (2019: 42.5) full-time equivalents, including white-collar employees and consultants. The following table presents a breakdown of the Company's full-time equivalents as at 31 December 2020 and 2019:

| | As at 31 December | |
|---|---|---|
| | 2020 | 2019 |
| General & Administration | 9 | 5.8 |
| IP & Trademark | - | 1.0 |
| Research & Development | 10.8 | 10.6 |
| Clinical & Regulatory Affairs | 23.2 | 8.2 |
| Quality Assurance & Regulatory | 7.9 | 5.9 |
| Operations | 15 | 9.0 |
| Therapy Development (including the sales team) | 6 | 2.0 |
| **Total** | **71.9** | **42.5** |

As of 31 December 2020, the Company had 20.2 full-time equivalents located in Belgium (2019: "10.2"), 36.7 full-time equivalents located in Israel (2019:"28.3") 5 full-time equivalents located in Australia (2019: "4"), and 10 full-time equivalents located in USA.

## 5.26 Pension Schemes

### Defined contribution plan

The Company offers Defined Contribution Plan funded through group insurances to its employees of the Israel entity. The total expense recognized in the consolidated income statement for contributions under this plan amount to KEUR 171 (2019: KEUR 148).

### Defined benefit plan

The Company offers a pension plan with a minimum return guaranteed by law to its employees of the Belgian entity. The contributions to this plan amount to minimum 7.0% of the salary, partly paid by the employer and partly by the employees. As explained hereafter, this pension plan qualifies as Defined Benefit Plan under IFRS. As a result, a provision of KEUR 37 (2019: KEUR 30) has been recorded for the net benefit obligation in 2020. The impact on the OCI was not material.

As a consequence of the law of 18 December 2015, minimum returns guaranteed by the employers are as follows:

- For the contributions paid as from 1 January 2016, a new variable return based on OLO rates comprised between 1.75% and 3.75%. The rate is currently set to 1.75%.
- For the contributions paid until end December 2015, the previously applicable legal returns of 3.75% on employee contributions and 3.25% on employer contributions continue to apply until retirement date of the participants.

The insurance companies managing these plans for the Company also guarantee a minimum return on the reserves as well as on future contributions for some portions of the plan. They have evolved as follows: 4.75% until 1998, 3.25% from 1999 till 2012 and between 0.50% and 2.25% since 2013. They are currently set between 0.50% and 1.50%. The assets of the plan are entirely managed by external insurance companies "qualifying third party" which do not have any link with the Company.

The weighted average duration until the pension age for the Belgian plan is 20 years at 31 December 2020. In view of the minimum legal returns guaranteed, this pension Plan qualifies as Defined Benefit Plan under IFRS. Indeed, it induces a financial risk for the Company during periods of declining market interest rates when the returns guaranteed by the insurance companies are lower than the minimum legal returns, which is currently the case. In this case, the intervention of the insurance company is limited, and the Company shall fund the balance between the return delivered by the insurance company and the legal return.

A complete actuarial calculation has been performed for this plan by external actuaries based on the "Projected Unit Credit Method without future contribution" according to the IAS 19,115 as follows:

- Projection of the minimum return guaranteed by the law till the retirement date and discounting of this amount with the discount rate used for the valuation (rate of high-quality corporate bonds);
- The discounted net obligation is the maximum between this discounted projection and the projection of the accrued reserves discounted at the discount rate used for the valuation (rate of high-quality corporate bonds).

The net defined benefit obligation was established at KEUR 37 as of 31 December, 2020 (2019: KEUR 30):

| (in EUR 000) | 2020 | 2019 |
|---|---|---|
| Net defined benefit liability at the beginning of the year | 30 | 13 |
| Defined benefit cost included in profit or loss | 93 | 90 |
| Total remeasurement included in OCI | - | - |
| Employer contributions | -77 | -73 |
| Transfer reserves (terminated participants) | -9 | - |
| **Net defined benefit liability at the end of the year** | **37** | **30** |

The gross defined benefit liability is as follows:

| (in EUR 000) | 2020 | 2019 |
|---|---|---|
| **Gross defined benefit liability at the beginning of the year** | **209** | **118** |
| Current service cost | 90 | 90 |
| Interest cost | 1 | 2 |
| Taxes on contributions | -8 | -1 |
| Transfer reserves (terminated participants) | -60 | - |
| Actuarial loss due to change in financial assumptions | 16 | - |
| **Gross defined benefit liability at the end of the year** | **248** | **209** |

The fair value of the plan assets is as follows:

| (in EUR 000) | 2020 | 2019 |
|---|---|---|
| **Fair value plan assets at the beginning of the year** | **179** | **106** |
| Interest income | 2 | 1 |
| Employer contributions | 77 | 73 |
| Taxes on contributions | -8 | -1 |
| Transfer reserves (terminated participants) | -55 | - |
| Actuarial gain on fair value of the plan assets | 16 | - |
| **Fair value plan assets at the end of the year** | **211** | **179** |

The number of members and the average age of the members is as follows:

| | 2020 | 2019 |
|---|---|---|
| Active members | 14 | 8 |
| Inactive members | - | - |
| Average age | 43 | 48 |

All plan assets are invested in an insurance contract with guaranteed interest rate (branch 21 product). The defined benefit calculation has been performed based on the below assumptions:

| | 2020 | 2019 |
|---|---|---|
| Discount rate | 0,1% | 0,6% |
| Inflation rate | 2% | 2% |
| Salary increase (in excess of inflation) | 0% | 0% |
| Withdrawal rate based on age (between) | 1,5% and 8,50% | 1,5% and 8,50% |

The discount rate was derived from the EIOPA term structure on each valuation date, considering the weighted average duration of liabilities. The inflation rate is based on the long-term objective of the European Central Bank. Retirement age assumption is in line with current legal requirements. The withdrawal rate and the salary increase rate reflect the expectations of the company on a long-term basis.

A sensitivity with reasonable possible changes on the discount rate will impact the net defined benefit liability as follows (positive = increase net defined benefit liability / negative = decrease of net defined benefit liability):

| (in EUR 000) | 2020 |
|---|---|
| Increase of 0,25% in the discount rate | -2 |
| Decrease of 0,25% in the discount rate | 2 |

The expected employer contributions for the year 2021 amounts to KEUR 100.

## 5.27 Financial Income

| (in EUR 000) | 2020 | 2019 |
|---|---|---|
| Interests | 3 | 8 |
| Exchange differences | 59 | 63 |
| **Total Financial income** | **62** | **71** |

## 5.28 Financial Expense

| (in EUR 000) | 2020 | 2019 |
|---|---|---|
| Recoverable cash advances, Discounting | 772 | 575 |
| Interest and bank charges | 151 | 33 |
| Interest on lease liabilities | 47 | 17 |
| Exchange differences | 20 | 115 |
| **Total Financial expense** | **990** | **740** |

The discounting impact of the recoverable cash advances is further detailed in note 5.14 above.

## 5.29 Income Taxes

The major components of income tax expense for the years ended 31 December 2020 and 2019 are as follows:

| (in EUR 000) | 2020 | 2019 |
|---|---|---|
| Current tax | (104) | (61) |
| Deferred tax Income/(Expense) | 11 | (9) |
| **Total Income Tax Expenses** | **(93)** | **(70)** |

Current tax mainly relates to income tax paid by the subsidiary in Israel. The deferred tax also relates to the subsidiary in Israel where some payroll accruals are temporary differences in the determination of the taxable income. These temporary differences generate deferred tax income/(expense) of KEUR 11 in 2020 and KEUR (9) in 2019, and deferred tax assets of KEUR 32 (2019: KEUR 21).

The income tax expenses can be reconciled to the Company's Belgian statutory income tax rate of 25% (29.58% in 2019) as follows:

| (in EUR 000) | 2020 | 2019 Restated |
|---|---|---|
| Pre-Tax Book Income /(loss) | (12,152) | (8,384) |
| Company Statutory Income Tax Rate | 25.00% | 29.58% |
| Income Tax at Company Statutory Tax Rate: | 3,038 | 2,480 |
| Unrecognized DTA on tax losses and temporary differences | (2,681) | (2,132) |
| Non deductible expenses | (488) | (426) |
| Foreign Tax Rate Differential | 58 | 38 |
| Other temporary differences | (20) | (30) |
| Income Tax at Company Effective Tax Rate | (93) | (70) |
| Company Effective Income Tax Rate | (0.77%) | (0.83%) |

As mentioned above, the subsidiary in Israel is paying income taxes and recognized deferred tax on some temporary differences. The applicable tax rate being 16%, amounts are reconciled as described in the above table.

The Belgian entity and the Australian entity both have historical losses that can be carried forward to future taxable income. The Belgian entity has tax losses for MEUR 56.3 as at 31 December 2020 (2019: MEUR 44.1) but also has recoverable temporary differences (MEUR 6.0 on valuation of recoverable cash advances (2019: MEUR 5,4) and MEUR 0,7 taxed reserves (2019: MEUR 2). The Australian entity has tax losses for KEUR 767 as at 31 December 2020 (2019: KEUR 548). Due to the fact that these entities are not expected to generate significant profits in the near future, no deferred tax assets on tax losses carried forward and temporary differences have been recognized at this stage.

## 5.30 Earnings Per Share (EPS)

The Basic Earnings Per Share and the Diluted Earnings Per Share are calculated by dividing earnings for the year by the weighted average number of shares outstanding during the year. As the Company is incurring net losses, outstanding warrants have no dilutive effect. As such, there is no difference between the Basic and Diluted EPS.

EPS has been presented in the income statement taking into account resolutions adopted by the shareholders' meeting of 21 February 2020. All existing preferred shares were converted into common shares, and then a share split of 500:1 was approved by the shareholders' meeting. Applying this split to the existing shares as of 31 December 2019 provides the following information:

| | 2020 | 2019 |
|---|---|---|
| As at 31 December, after conversion and share split | | |
| Outstanding shares at year-end | 22,097,609 | 14,879,000 |
| Weighted average number of shares outstanding | 18,097,988 | 14,879,000 |
| Number of Shares resulting of the exercise of outstanding warrants | 1,007,500 | 1,143,500 |

Basic and Diluted EPS, based on weighted average number of shares outstanding after conversion and share split are as follows:

| | 2020 | 2019 Restated |
|---|---|---|
| Loss of year attributable to equity holders (in EUR) | (12,245,000) | (8,454,000) |
| Weighted average number of shares outstanding (in units) | 18,097,988 | 14,879,000 |
| **Basic earnings per share in EUR (EUR/unit)** | **(0.677)** | **(0.568)** |
| **Diluted earnings per share in EUR (EUR/unit)** | **(0.677)** | **(0.568)** |

## 5.31 Commitments

### 5.31.1 Capital Commitments

There are no commitments related to capital expenditures at the closing date.

### 5.31.2 Lease expenses

The lease expense recognized in the income statement mainly relate to municipality taxes, electricity charges and low-value leases:

| (in EUR 000) | 2020 | 2019 |
|---|---|---|
| Expense | 89 | 115 |
| Total | 89 | 115 |

### 5.31.3 Other commitments

The Company has granted in October 2020 an amount of KEUR 500 towards an institute under the Company's Sponsored Grant Program. The institute will have to perform over a total period of two years certain clinical and research activities and training and education activities. The future payment commitments amount to KEUR 400 at 31 December 2020 which will be paid quarterly in installments over the remaining period if the institute performs its activities.

## 5.32 Related Party Transactions

Transactions between the Company and its subsidiaries have been eliminated on consolidation and are not disclosed in the notes.

### 5.32.1 Remuneration of Key Management

The remuneration of the senior management consists of the remuneration of the CEO of the Company:

| (in EUR 000) | 2020 | 2019 |
|---|---|---|
| Short-term remuneration & compensation | 337 | 612 |
| Share based payment | 1,576 | 231 |
| **Total** | **1,913** | **843** |

In the period between 2017 and November 2019, Mr. Enrique Vega served as the Company's CEO. As of November 2019, Mr. Olivier Taelman was appointed as CEO of the Company. The total compensation for Mr. Enrique Vega in 2019 was KEUR 579.

In 2020 and 2019, ActuaRisk Consulting, a company owned by a member of executive management, invoiced Nyxoah SA for an amount of KEUR 309 and KEUR 234, respectively, for consulting services. Of the KEUR 309 invoiced in 2020, KEUR 39.6 related to fees due in relation to 2019. The Company also recognized a share-based payment expense of KEUR 1,825 in 2020 (2019: KEUR 547) in relation to the variable remuneration rights which vested at the time of the IPO. See note 5.13.2

In 2020, a loan of KEUR 8.8 was granted by Nyxoah SA to Olivier Taelman in connection with the payment of taxes due following the acceptance of warrants. No other loans or other guarantees have been given to a member of the executive management team.

### 5.32.2 Transactions with Non-Executive Directors and Shareholders

| (in EUR 000) | 31/12/2020 | | | 31/12/2019 | |
|---|---|---|---|---|---|
| | R&D Collaboration | Consulting services | Board remuneration | Consulting services | Board remuneration |
| Cochlear | 1,300 | - | - | 839 | |
| Noshaq | | 10 | | | |
| MINV SA | - | 50 | - | 79 | |
| Man & Science S.A. | | 44 | | 6 | |
| Gilde Healthcare | | | | 2 | |
| Christopher Smith | - | | - | 9 | 11 |
| Medtech Execs LLC | - | | 9 | | 31 |
| Robert Taub | | | 28 | | |
| Janke Dittmer | | | 8 | | |
| Kevin Rakin | | | 8 | | |
| Donald Deyo | | | 12 | | |
| Pierre Gianello | | | 8 | | |
| Jan Janssen | | | 8 | | |
| Jurgen Hambrecht | | | 9 | | |
| **Total** | 1,300 | 104 | 90 | 935 | 42 |

## 5.33 Events after the Balance-Sheet Date

After closing of the financial year, Nyxoah signed an exclusive license agreement with Vanderbilt University (Nashville, TN, USA). This agreement allows Nyxoah to develop new neurostimulation technologies for the treatment of sleep disordered breathing conditions based on inventions and patents owned by Vanderbilt University, which will potentially expand Nyxoah's future pipeline.

On 22 February 2021, the Company issued 10,000 shares pursuant to an exercise of subscription rights. Consequently, on the date of this Annual Report, the Company's registered capital amounts to EUR 3,797,765.64, represented by 22,107,609 shares.

## 5.34 Statutory Auditor Services and Performance of Exceptional Activities or Execution of Special Instructions Performed by the Auditor

EY Réviseurs d'Entreprises SRL, organized and existing under the laws of Belgium, with registered office at De Kleetlaan 2, 1831 Diegem, Belgium has been appointed as the statutory auditor of the Company for a term of 3 years ending immediately at the approval by the shareholders' meeting of the financial statements for the year ended 31 December 2018. Re-appointment of the statutory auditor has been decided by the General Assembly of Shareholders dated 23 May 2019. The new mandate of 3 years ends at the approval by the shareholders' meeting of the financial statements for the year ended 31 December 2021.

The Company expensed in fees to the auditor KEUR 512 in 2020 and KEUR 97 in 2019. The fees are broken down as follows:

- Audit fee for statutory and consolidated financials: KEUR 142 in 2020 and KEUR 76 in 2019.
- Tax consulting services: KEUR 3 in 2020 and KEUR 9 in 2019
- IPO, Capital increase and other related reports: KEUR 357 in 2020 and KEUR 12 in 2019.
- Training: KEUR 10 in 2020

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# Statutory Auditors Report

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Building a better working world

# Independent auditor's report to the general meeting of Nyxoah SA for the year ended 31 December 2020

As required by law and the Company's articles of association, we report to you as statutory auditor of Nyxoah SA (the "Company") and its subsidiaries (together the "Group"). This report includes our opinion on the Consolidated Statements Of Financial Position as at 31 December 2020, the Consolidated Income Statement And Other Comprehensive Income, the Consolidated Statement of Changes In Equity, the Consolidated Statement Of Cash Flows for the year ended 31 December 2020 and the disclosures (all elements together the "Consolidated Financial Statements") as well as our report on other legal and regulatory requirements. These two reports are considered one report and are inseparable.

We have been appointed as statutory auditor by the shareholders' meeting of 23 May 2019, in accordance with the proposal by the Board of Directors. Our mandate expires at the shareholders' meeting that will deliberate on the Consolidated Financial Statements for the year ending 31 December 2021. We performed the audit of the Consolidated Financial Statements of the Group during 5 consecutive years.

## Report on the audit of the Consolidated Financial Statements

### Unqualified opinion

We have audited the Consolidated Financial Statements of Nyxoah SA, that comprise of the Consolidated Statements Of Financial Position on 31 December 2020, the Consolidated Income Statement And Other Comprehensive Income, the Consolidated Statement Of Changes In Equity, the Consolidated Statement Of Cash Flows of the year and the disclosures, which show a consolidated balance sheet total of € 114.080.000 and of which the consolidated income statement shows a loss for the year of € 12.245.000.

In our opinion, the Consolidated Financial Statements give a true and fair view of the consolidated net equity and financial position as at 31 December 2020, and of its consolidated results for the year then ended, prepared in accordance with the International Financial Reporting Standards as adopted by the European Union ("IFRS") and with applicable legal and regulatory requirements in Belgium.

### Basis for the unqualified opinion

We conducted our audit in accordance with International Standards on Auditing ("ISAs"). Our responsibilities under those standards are further described in the "Our responsibilities for the audit of the Consolidated Financial Statements" section of our report.

We have complied with all ethical requirements that are relevant to our audit of the Consolidated Financial Statements in Belgium, including those with respect to independence.

We have obtained from the Board of Directors and the officials of the Company the explanations and information necessary for the performance of our audit and we believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

### Emphasis of certain matters

The comparative figures relating to the year ended 31 December 2019 included in Consolidated Financial Statements for the year ended 31 December 2020 have been restated following a material error that has been detected in 2020 in connection with share based payments. This material error and the effect of the corrections made to the opening balance sheet of 1 January 2019 and the balance sheet and

income statement for the year ended 31 December 2019 are described in 'Note 5.2.3 Correction of an error' of the Consolidated Financial Statements.

## Key audit matters

Key audit matters are those matters that, in our professional judgment, were of most significance in our audit of the Consolidated Financial Statements of the current reporting period.

These matters were addressed in the context of our audit of the Consolidated Financial Statements as a whole and in forming our opinion thereon, and consequently we do not provide a separate opinion on these matters.

### Valuation of recoverable cash advances received from Government Grant and the Genio® system intangible asset

**Description of the key audit matter:**
At December 31, 2020, the financial liability associated with the recoverable cash advances ("RCA's") and the intangible asset regarding the Genio® system that represents the costs capitalized related to the development of the Genio® device, were approximately €7.9 million and €15.8 million respectively. As explained in Notes 5.8 and 5.14.1 to the Consolidated Financial Statements, the financial liability associated with the RCA's is required to be remeasured each reporting period in line with IFRS 9 "Financial Instruments" and the intangible asset not yet ready for use must be assessed for impairment annually in line with IAS 36 "Impairment of Assets". The fair value of this liability and asset are measured using assumptions, the most significant of which are sales revenue growth and discount rate.

Auditing these assumptions is complex due to the highly judgmental and sensitive nature of the inputs used by management to develop these assumptions. For instance, the Genio® system is still unapproved in certain significant markets, such as the United States market, and obtaining regulatory approval for active implantable medical devices can be a longer than expected and uncertain process. This results in a higher level of subjectivity in management's development of the projected revenue assumption. Auditing the discount rate used by management is also complex, as it is sensitive to the higher inherent risk associated with the industry, and the uncertainty around the outcome of the R&D process.

**Summary of the procedures performed**

- We obtained an understanding over management's process for estimating these assumptions, including management's review of the significant assumptions, determination of the model, and assessment of the data inputs used in developing the assumptions.
- To test the fair value of the financial liability associated with RCA's and the Genio® system intangible asset, our audit procedures included, among others, evaluating the Company's methodology and models, involving our valuation specialists to assist in testing the significant assumptions described above with respect to anticipated revenue growth and applied discount rate, comparing assumptions to market and third-party data, testing the completeness and accuracy of the underlying data and performing sensitivity analysis for these significant assumptions.
- In reference to the projected revenue, we assessed each revenue scenario by comparing them with management's business plan and for consistency with other internal reporting. We also tested overall revenue assumptions by benchmarking them against available industry data.
- Our procedures to test the appropriateness of the discount rate included comparing the discount rate used by management to the market rates and to a range of discount rates independently developed by us with the assistance of our specialists.
- Additionally, we have read and evaluated the Board of Directors minutes, reports and appendices, to confirm the projections of revenue and to identify any contradictory information as to the information above.

- Finally, we have read and evaluated the footnotes in the consolidated financial statements in connection with revenue projection and discount rate for disclosures completeness.

## Responsibilities of the Board of Directors for the preparation of the Consolidated Financial Statements

The Board of Directors is responsible for the preparation of the Consolidated Financial Statements that give a true and fair view in accordance with IFRS and with applicable legal and regulatory requirements in Belgium and for such internal controls relevant to the preparation of the Consolidated Financial Statements that are free from material misstatement, whether due to fraud or error.

As part of the preparation of Consolidated Financial Statements, the Board of Directors is responsible for assessing the Company's ability to continue as a going concern, and provide, if applicable, information on matters impacting going concern, The Board of Directors should prepare the financial statements using the going concern basis of accounting, unless the Board of Directors either intends to liquidate the Company or to cease business operations, or has no realistic alternative but to do so.

## Our responsibilities for the audit of the Consolidated Financial Statements

Our objectives are to obtain reasonable assurance whether the Consolidated Financial Statements are free from material misstatement, whether due to fraud or error, and to express an opinion on these Consolidated Financial Statements based on our audit. Reasonable assurance is a high level of assurance, but not a guarantee that an audit conducted in accordance with the ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these Consolidated Financial Statements.

In performing our audit, we comply with the legal, regulatory and normative framework that applies to the audit of the Consolidated Financial Statements in Belgium. However, a statutory audit does not provide assurance about the future viability of the Company and the Group, nor about the efficiency or effectiveness with which the board of directors has taken or will undertake the Company's and the Group's business operations. Our responsibilities with regards to the going concern assumption used by the board of directors are described below.

As part of an audit in accordance with ISAs, we exercise professional judgment and we maintain professional skepticism throughout the audit. We also perform the following tasks:

- identification and assessment of the risks of material misstatement of the Consolidated Financial Statements, whether due to fraud or error, the planning and execution of audit procedures to respond to these risks and obtain audit evidence which is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting material misstatements resulting from fraud is higher than when such misstatements result from errors, since fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control;
- obtaining insight in the system of internal controls that are relevant for the audit and with the objective to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control;
- evaluating the selected and applied accounting policies, and evaluating the reasonability of the accounting estimates and related disclosures made by the Board of Directors as well as the underlying information given by the Board of Directors;
- conclude on the appropriateness of the Board of Directors' use of the going-concern basis of accounting, and based on the audit evidence obtained, whether or not a material uncertainty exists related to events or conditions that may cast significant doubt on the Company's or Group's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the Consolidated

Financial Statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on audit evidence obtained up to the date of the auditor's report. However, future events or conditions may cause the Company to cease to continue as a going-concern;

- evaluating the overall presentation, structure and content of the Consolidated Financial Statements, and evaluating whether the Consolidated Financial Statements reflect a true and fair view of the underlying transactions and events.

We communicate with the Audit Committee within the Board of Directors regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

Because we are ultimately responsible for the opinion, we are also responsible for directing, supervising and performing the audits of the subsidiaries. In this respect we have determined the nature and extent of the audit procedures to be carried out for group entities.

We provide the Audit Committee within the Board of Directors with a statement that we have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on our independence, and where applicable, related safeguards.

From the matters communicated with the Audit Committee within the Board of Directors, we determine those matters that were of most significance in the audit of the Consolidated Financial Statements of the current period and are therefore the key audit matters. We describe these matters in our report, unless the law or regulations prohibit this.

## Report on other legal and regulatory requirements

### Responsibilities of the Board of Directors

The Board of Directors is responsible for the preparation and the content of the Board of Directors' report on the Consolidated Financial Statements.

### Responsibilities of the auditor

In the context of our mandate and in accordance with the additional standard to the ISAs applicable in Belgium, it is our responsibility to verify, in all material respects, the Board of Directors' report on the Consolidated Financial Statements "Section 1 Report of The Board of Directors To The Shareholders For The Financial Year Ending 31 December 2020", as well as to report on these matters.

### Aspects relating to Board of Directors' report

In our opinion, after carrying out specific procedures on the Board of Directors' report, the Board of Directors' report is consistent with the Consolidated Financial Statements and has been prepared in accordance with article 3:32 of the Code of companies and associations.

In the context of our audit of the Consolidated Financial Statements, we are also responsible to consider whether, based on the information that we became aware of during the performance of our audit, the Board of Directors' report contains any material inconsistencies or contains information that is inaccurate or otherwise misleading. In light of the work performed, there are no material inconsistencies to be reported.

### Independence matters

Our audit firm and our network have not performed any services that are not compatible with the audit of the Consolidated Financial Statements and have remained independent of the Company during the course of our mandate.

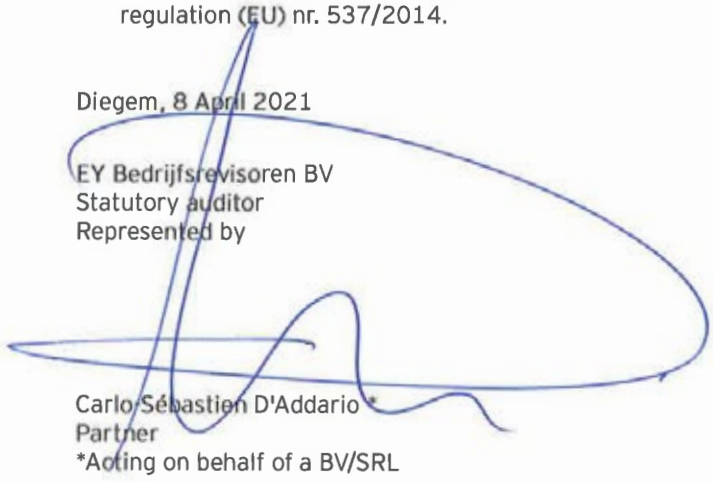
The fees related to additional services which are compatible with the audit of the Consolidated Financial Statements as referred to in article 3:65 of the Code of companies and associations were duly itemized and valued in the notes to the Consolidated Financial Statements.

## Other communications

- This report is consistent with our supplementary declaration to the Audit Committee as specified in article 11 of the regulation (EU) nr. 537/2014.

Diegem, 8 April 2021

EY Bedrijfsrevisoren BV
Statutory auditor
Represented by



Carlo Sébastien D'Addario *
Partner
*Acting on behalf of a BV/SRL

21CSD0093

7

# Statutory Accounts

# Statutory accounts as of 31 December 2020

## 7.1 Balance sheet

| | Notes | Codes | Period | Preceding period |
|---|---|---|---|---|
| Assets | | | | |
| FORMATION EXPENSES | 6.1 | 20 | 6,149,881 | |
| FIXED ASSETS | | 21/28 | 14,796,654 | 5,165,045 |
| Intangible fixed assets | 6.2 | 21 | 14,485,404 | 5,104,156 |
| Tangible fixed assets | 6.3 | 22/27 | 293,159 | 49,582 |
| Land and buildings | | 22 | | |
| Plant, machinery and equipment | | 23 | 37,397 | 18,341 |
| Furniture and vehicles | | 24 | 61,198 | 21,570 |
| Leasing and other similar rights | | 25 | | |
| Other tangible fixed assets | | 26 | 194,564 | 9,671 |
| Assets under construction and advance payments | | 27 | | |
| Financial fixed assets | 6.4 à 6.5.1 | 28 | 18,091 | 11,307 |
| Affiliated Companies | 6.15 | 280/1 | 62 | 63 |
| Participating interests | | 280 | 62 | 63 |
| Amounts receivable | | 281 | | |
| Other companies linked by participating interests | 6.15 | 282/3 | | |
| Participating interests | | 282 | | |
| Amounts receivable | | 283 | | |
| Other financial fixed assets | | 284/8 | 18,029 | 11,244 |
| Shares | | 284 | | |
| Amounts receivable and cash guarantees | | 285/8 | 18,029 | 11,244 |

| | Notes | Codes | Period | Preceding period |
|---|---|---|---|---|
| CURRENT ASSETS | | 29/58 | 91,294,625 | 6,079,882 |
| Amount receivable after more than one year | | 29 | | |
| Trade debtors | | 290 | | |
| Other amounts receivable | | 291 | | |
| Stocks and contracts in progress | | 3 | 55,435 | |
| Stocks | | 30/36 | 55,435 | |
| Raw material and consumables | | 30/31 | | |
| Work in progress | | 32 | 41,903 | |
| Finished goods | | 33 | 13,532 | |
| Goods purchased for resale | | 34 | | |
| Immovable property intended for sale | | 35 | | |
| Advance payments | | 36 | | |
| Contracts in progress | | 37 | | |
| Amount receivable within one year | | 40/41 | 695,238 | 1,521,699 |
| Trade debtors | | 40 | 234,090 | 198,409 |
| Other amounts receivable | | 41 | 461,148 | 1,323,290 |
| Current investments | | 50/53 | | |
| Own shares | | 50 | | |
| Other investments | | 51/53 | | |
| Cash at bank and in hand | | 54/58 | 90,446,826 | 4,552,517 |
| Accruals and deferred income | | 490/1 | 97,126 | 5,666 |
| TOTAL ASSETS | | **20/58** | **112,241,160** | **11,244,927** |

| | | Notes | Codes | Period | Preceding Period |
|---|---|---|---|---|---|
| EQUITY AND LIABILITIES | | | | | |
| **EQUITY** | | | 10/15 | 105,771,637 | 5,736,764 |
| **Contributions** | | 6.7.1 | 10/11 | 161,309,852 | 50,149,304 |
| Capital | | | 10 | 3,796,048 | 2,481,299 |
| Issued capital | | | 100 | 3,796,048 | 2,481,299 |
| Uncalled capital | | | 101 | | |
| Beyond capital | | | 11 | 157,513,804 | 47,668,005 |
| Share premium account | | | 1100/1 | 157,513,804 | 47,668,005 |
| Other | | | 1109/1 | | |
| **Revaluation surpluses** | | | 12 | | |
| **Reserves** | (+)/(-) | | 13 | | |
| Reserves not available | | | 130/1 | | |
| Legal reserve | | | 130 | | |
| Reserves not available statutorily | | | 1311 | | |
| Purchase of own shares | | | 1312 | | |
| Financial support | | | 1313 | | |
| Other | | | 1319 | | |
| Untaxed reserves | | | 132 | | |
| Available reserves | | | 133 | | |
| **Accumulated profits (losses)** | | | 14 | -55,538,215 | -44,412,540 |
| **Capital subsidies** | (+)/(-) | | 15 | | |
| **Advance to shareholders on the distribution of net assets** 5 | | | 19 | | |
| **Provisions and deferred taxes** | | | 16 | 3,270 | |
| **Provisions for liabilities and charges** | | | 160/5 | 3,270 | |
| Pensions and similar obligations | | | 160 | | |
| Taxes | | | 161 | | |
| Major repairs and maintenance | | | 162 | | |
| Environmental obligations | | | 163 | | |
| Other liabilities and charges | | 6.8 | 164/5 | 3,270 | |
| **Deferred taxes** | | | 168 | | |

| | Notes | Codes | Period | Preceding period |
|---|---|---|---|---|
| AMOUNTS PAYABLE | | 17/49 | 6,466,253 | 5,508,163 |
| **Amounts payable after more than one year** | 6.9 | 17 | 1,537,177 | 1,783,035 |
| Financial debt | | 170/4 | 1,537,177 | 1,783,035 |
| Subordinated loans | | 170 | | |
| Unsubordinated debentures | | 171 | | |
| Leasing and other similar obligations | | 172 | | |
| Credit institutions | | 173 | | |
| Other loans | | 174 | 1,537,177 | 1,783,035 |
| Trade debts | | 175 | | 547,329 |
| Suppliers | | 1750 | | 547,329 |
| Bills of exchange payable | | 1751 | | |
| Advance payments on contracts in progress | | 176 | | |
| Other amounts payable | | 178/9 | | |
| **Amounts payable within one year** | 6.9 | 42/48 | 4,574,574 | 2,933,271 |
| Current portion of amounts payable after more than one year falling due within one year | | 42 | 544,667 | 358,833 |
| Financial debt | | 43 | | |
| Credit institutions | | 430/8 | | |
| Other loans | | 439 | | |
| Trade debts | | 44 | 2,806,379 | 2,048,431 |
| Suppliers | | 440/4 | 2,806,379 | 2,048,431 |
| Bills of exchange payable | | 441 | | |
| Advance payments on contracts in progress | | 46 | | |
| Taxes, remuneration and social security | | 45 | 479,345 | 260,674 |
| Taxes | | 450/3 | 204,036 | 15,278 |
| Remuneration and social security | | 454/9 | 275,309 | 245,396 |
| Other amounts payable | | 47/48 | 744,183 | 325,333 |
| **Accruals and deferred income** | | 492/3 | 354,502 | 184,528 |
| TOTAL LIABILITIES | | **10/49** | **112,241,160** | **11,244,927** |

## 7.2 Profit and loss account

| | Notes | Codes | Period | Preceding period |
|---|---|---|---|---|
| **Operating income** | | 70/76A | 10,482,876 | 6,679,054 |
| Turnover | 6.10 | 70 | 69,160 | |
| Stock on finished goods and work in progress: increase (decrease) (+)/(-) | | 71 | 55,435 | |
| Produced fixed assets | | 72 | 9,381,248 | 5,104,156 |
| Other operating income | | 74 | 977,033 | 1,569,304 |
| Non-recurring operating income | 6.10 | 76A | | 5,594 |
| **Operating charges** | | 60/66A | 19,460,013 | 13,099,441 |
| Goods for resale, raw materials and consumables | | 60 | 85,515 | |
| Purchases | | 600/8 | 85,515 | |
| Stock: decrease (increase) | | 609 | | |
| Services and other goods | | 61 | 23,374,090 | 10,641,630 |
| Remuneration, social security and pensions | 6.10 | 62 | 1,968,510 | 1,939,302 |
| Amortizations of and other amounts written down on formation expenses, intangible and tangible fixed assets | | 630 | 440,339 | 40,230 |
| Amounts written down on stocks, contracts in progress and trade debtors: additions (write-backs) | 6.10 | 631/4 | | |
| Provisions for liabilities and charges: appropriations (uses and write-backs) | 6.10 | 635/8 | 3,270 | |
| Other operating charges | 6.10 | 640/8 | 69,789 | 478,279 |
| Operating charges reported as assets under restructuring costs | | 649 | | |
| Non-recurring operating charges | 6.12 | 66A | -6,481,501 | |
| **Operating profit (loss)** | | 9901 | -8,977,137 | -6,420,387 |

| | | Notes | Codes | Period | Preceding Period |
|---|---|---|---|---|---|
| **Financial income** | | | 75/76B | 115,404 | 103,853 |
| Recurring financial income | | | 75 | 115,404 | 103,853 |
| Income from financial fixed assets | | | 750 | 49,948 | |
| Income from current assets | | | 751 | 2,072 | |
| Other financial income | | 6.11 | 752/9 | 63,384 | 103,853 |
| Non-recurring financial income | | 6.12 | 76B | | |
| **Financial charges** | | | 65/66B | 2,263,321 | 1,497,201 |
| Recurring financial charges | | | 65 | 1,300,805 | 206,117 |
| Debt charges | | | 650 | 123,847 | |
| Amounts written down on current assets other than stocks, contracts in progress and trade debtors: additions (write-backs) (+)/(-) | | | 651 | 846,916 | |
| Other financial charges | | | 652/9 | 330,042 | 206,117 |
| Non-recurring financial charges | | 6.12 | 66B | 962,516 | 1,291,084 |
| **Profit (Loss) for the period before taxes** (+)/(-) | | | 9903 | -11,125,054 | -7,813,735 |
| **Transfer from deferred taxes** | | | 780 | | |
| **Transfer to deferred taxes** | | | 680 | | |
| **Income taxes on the result** | (+)/(-) | | 67/77 | 621 | 51,704 |
| Taxes | | 6.13 | 670/3 | 621 | 51,704 |
| Adjustment of income taxes and write-back of tax provisions | | | 77 | | |
| **Profit (Loss) of the period** | (+)/(-) | | 9904 | -11,125,675 | -7,865,439 |
| **Transfer from untaxed reserves** | | | 9975 | | |
| **Transfer to untaxed reserves** | | | | | |
| **Profit (Loss) of the period available for appropriation** | (+)/(-) | | 99762 | -11,125,675 | -7,865,439 |

### Appropriation account

| | | Notes | Codes | Period | Preceding period |
|---|---|---|---|---|---|
| **Profit (Loss) to the appropriated** | (+)/(-) | | 9906 | -55,538,215 | -44,412,540 |
| Profit (Loss) of the period available for appropriation | (+)/(-) | | (9905) | -11,125,675 | -7,865,439 |
| Profit (Loss) of the preceding period brought forward | (+)/(-) | | 14P | -44,412,540 | -36,547,101 |
| Transfer from equity | | | 791/2 | | |
| From contributions | | | 791 | | |
| From reserves | | | 792 | | |
| Appropriations to equity | | | 691/2 | | |
| To contributions | | | 691 | | |
| To legal reserve | | | 6920 | | |
| To other reserves | | | 6921 | | |
| **Profit (loss) to be carried forward** | (+)/(-) | | (14) | -55,538,215 | -44,412,540 |
| **Shareholders' contribution in respect of losses** | | | 794 | | |
| **Profit to be distributed** | | | 694/7 | | |
| Compensation for contributions | | | 694 | | |
| Directors or managers | | | 695 | | |
| Employees | | | 696 | | |
| Other beneficiaries | | | 697 | | |

## 7.3 Valuation rules

The statutory annual accounts have been drawn up in accordance with the Royal Decree of 29 April 2019 regarding the implementation of the Code of Companies and Associations.

The annual accounts give a true and fair view of the assets, liabilities, financial position and results of the Company. The amounts relating to the financial year are established in a consistent way with those of the previous financial year.

Assets and liabilities are valued in accordance with article 3:108 of the Royal Decree of 29 April 2019 on the assumption that the Company will continue as a going concern.

Each component of the assets and liabilities is valued separately. Depreciations, write-off and revaluations are specific to each asset to which they relate. Provisions for liabilities and charges are individualized. Valuations, depreciations, write-off and provisions for liabilities and charges meet the requirements of prudence, sincerity and good faith.

The valuation rules have been modified compared to the previous financial year for the following areas:

- Intangible assets
- Formation expenses

There is no impact on the annual accounts related to these modifications.

### Formation expenses amortized over a period of 5 years

Formation expenses will be depreciated over a period of 5 years as from the finalization of the capital round.

### Intangible assets

Intangible fixed assets are stated at net book value, i.e. the acquisition value less depreciations and write-downs recorded. If they were set up by the Company itself, they are recorded at the lower of cost or production cost, or at a conservative estimate of their value in use, with an estimate of future yield acting as a ceiling.

Intangible assets are amortized on a straight-line basis. The following amortization percentage applies: 20%. As the Company started selling in 2020, amortization should have started in 2020. However, the amount of the sales in 2020 being non-significant, the Company decided to start amortization in 2021.

### Research and development expenses – Patents

The development costs are capitalized as intangible asset on the balance sheet if the potential profitability is identifiable and probable. Internal development expenses will be capitalized for the first time in the year in which the CE mark is obtained.

### Research and development expenses - Device treating Obstructive Sleep Apnea

The development costs are capitalized as intangible asset on the balance sheet if the potential profitability is identifiable and probable. Part of the capitalization will stop following the sales made. Nevertheless, part of the capitalization will continue, i.e.: costs related to the clinical study conducted in the US (development phase), costs related to the development of the device treating Obstructive Sleep Apnea.

### Property, plant and equipment

Tangible fixed assets are stated at net book value, i.e. the acquisition value less depreciations and impairments.

Tangible fixed assets are depreciated using the straight-line method. Additional costs are immediately recognized in the income statement.

The following depreciation percentages apply:

- Computer hardware: 33%.
- Fitting-out of rented buildings: 20%
- Machinery and tools: 20%.
- Furniture: 10%

Interest expenses are not included in the acquisition value.

Property, plant and equipment that are no longer in use or that have no planned use on a long-term basis for the Company's business are, where applicable, subject to exceptional depreciation or impairment to bring their valuation into line with their probable realizable value.

### Long-term financial assets

Financial fixed assets are valued at their acquisition cost and impairments are accounted for in case sustainable minus values are identified considering applicable circumstances, considering expected profitability or perspectives for which the investment or shares are held.

### Guarantees are booked at their nominal value

Write-offs are applied to receivables included in financial fixed assets in the event of uncertainty regarding the payment of those on the due date.

### Receivables

Receivables are recorded in the balance sheet at their nominal value. Receivables are subject to write-off in the event of uncertainty as to the payment of all or part of the receivable on the due date.

Receivables are recorded in the balance sheet at their nominal value taking into consideration liabilities recorded in accruals and deferred income on the basis of pro rata temporis of interest:

a. interest conventionally included in the nominal value of the receivables;
b. the difference between the acquisition value and the nominal value of the receivables;
c. the discounting of non-interest-bearing or abnormally low-interest receivables.

### Cash and cash equivalents

Cash and cash equivalents are recorded at their nominal value. Write-offs are applied if their realizable value is lower than their nominal value on the closing date of the financial year. Additional write-off are booked in the same way as for investments.

### Accrued charges and deferred income

Income and expenses relating to the financial year or to the previous financial years are taken into account, regardless of the date of payment or collection of such income and expenses, unless the actual collection of such income is uncertain. If income or expenses are significantly influenced by income or expenses attributable to another financial year, this is mentioned in the notes to the accounts.

### Recoverable advances

Recoverable advances contracted with the Direction Générale d'Aide à la Recherche de la Région Wallonne (DGO6) are recognized as other operating income in the fiscal year in which the Company obtains confirmation of the settlement of the DGO6's claims. When the Company decides to use the results of the research or development project (decision subject to written notification by the Company to DGO6), the portion of the recoverable cash advance that is repayable at the time of the decision to start using the results of the research or development project independently of sales (i.e. 30% of the recoverable advance) is recognized as a debt on the balance sheet. The remaining 70% of the amount of the recoverable advance, which is repayable based on sales, will be recorded as an off-balance sheet item.

### Accrued charges and deferred revenues

These debts are valued at their nominal value. These debts do not include any long-term debts, either interest-free or with a low interest rate. If this is the case, a discount must be applied to these debts that should be capitalized.

### Transactions in foreign currencies

Transactions in foreign currencies are translated at the exchange rate applicable at the date of the transaction.

Non-current assets and shareholders' equity are translated into euros at the historical exchange rate.

Other assets and liabilities in foreign currencies are translated into euros at the exchange rate applicable at the balance sheet date. Realized and unrealized exchange differences are accounted as deferred revenues.

### Income and expense recognition

Income and expenses related to the disposal of an asset will be recognized in the year in which the main risks and rewards on the asset are transferred to the purchaser. In principle, the transfer of the main risks and rewards correspond to the transfer of ownership of the asset or, if it is separated from it, to the transfer of the risks of loss or deterioration of the asset.

With respect to the provision of services, the income and expenses related to the provision of services will be allocated to the financial year in which the essential part of the service is performed.

Expenses will be recognized as they are incurred. Invoiced expenses that are related to the following financial year will be accounted for on a deferred charges account on the assets side of the balance sheet.

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Nyxoah®