



**KPMG S.A.**  
51 rue de Saint Cyr  
69009 Lyon



**RSM Paris**  
26 rue Cambacères  
75008 Paris

# Erytech Pharma S.A

**Statutory Auditors' special report on regulated agreements**

For the year ended 31 december 2022  
Erytech Pharma S.A.  
60 Avenue Rockefeller  
69008 Lyon



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*This is a translation into English of the statutory auditors' report on the Company's regulated agreement issued in French and it is provided solely for the convenience of English speaking users.*

*This report should be read in conjunction with, and construed in accordance with, French law and professional auditing standards applicable in France.*

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## **Erytech Pharma S.A.**

60 Avenue Rockefeller – 69008 Lyon

### **Statutory Auditors' special report on regulated agreements**

For the year ended 31 december 2022

To the Annual Shareholders' Meeting of Erytech Pharma S.A.,

As your Company's Statutory Auditors, we hereby report on the regulated agreements.

The terms of our engagement require us to communicate to you, based on information provided to us, the principal terms, conditions of those agreements, as well as the reasons justifying their interest for the company, brought to our attention or which we may have discovered during the course of our audit, without expressing an opinion on their usefulness and appropriateness or identifying such other agreements. It is your responsibility, pursuant to Article R.225-31 of the French Commercial Code (code de commerce), to assess the interest involved in respect of the conclusion of these agreements for the purpose of approving them.

Our role is also to provide you with the information stipulated in Article R.225-31 of the French Commercial Code (code de commerce) relating to the implementation during the past year of agreements previously approved by the Shareholders' Meeting.

We conducted the procedures we deemed necessary in accordance with the professional guidelines of the French National Institute of Statutory Auditors (Compagnie Nationale des Commissaires aux Comptes) relating to this engagement. These procedures consisted in verifying the consistency of the information provided to us with the relevant source documents.

### **REGULATED AGREEMENTS SUBMITTED TO THE APPROVAL OF THE SHAREHOLDERS' MEETING**

#### Agreements authorized and concluded during the year

We have not been advised of any regulated agreement concluded during the year to be submitted to the approval of the Shareholders' meeting in application of Article R.225-38 of the Commercial Code (Code de commerce).

### **REGULATED AGREEMENTS PREVIOUSLY APPROVED BY THE SHAREHOLDERS' MEETING**

- A) Regulated agreements authorized in previous financial years which remained in force during the 2022 financial year



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In application of Article R.225-30 of the French Commercial Code (code de commerce), we were informed that the execution of the following agreements, already approved by Shareholders' Meetings during previous financial years, remained in force for the 2022 financial year.

#### **a - Benefits and expenses**

##### Related person:

Mr. Jérôme Bailly, Deputy Chief Executive Officer.

##### Nature and purpose:

The Supervisory Board, on January 24, 2013, and the Board of Directors, on May 24, 2013, authorized the company to bear the cost of certain services and expenses benefiting to Mr. Jérôme Bailly, as shown in the table below.

##### Financial terms:

<b>Expenses recorded in the 2022 fiscal year (euros)</b>	<b>Jérôme BAILLY</b>
Professional health insurance APGIS (PRC)	2 172,1
Additional health insurance (VIVENS)	1 464,48
Additional pension plan (AXA)	8 227,2

#### **b - Directors and Officers liability insurance policy (D&O)**

##### Related persons:

- Mr. Gil Beyen, Chief Executive Officer,
- Mr. Jérôme Bailly, Deputy Chief Executive Officer,
- Mr. Eric Soyer, Deputy Chief Executive Officer,
- Mr. Philippe Archinard, Director,
- Mrs. Martine George, Director,
- Mr. Luc Dochez, Director,
- Mrs. Hilde Windels, representing BVBA Hilde Windels, Director,
- Mr. Sven Andreasson, representing GALENOS Sprl, Director,
- Mr. Jean-Paul Kress, Chairman of the Board of Director,
- Mrs. Mélanie Rolli, Director

##### Nature and purpose:

The company subscribed a Directors & Officers (D&O) liability insurance policy starting October 23, 2017 with the insurance company AON (lead company), as authorized by the Board of Directors on March 12, 2020 for Mrs. Mélanie Rolli and on September 7, 2017 for the other persons. This contract was renegotiated during the year ended December 31, 2018.



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Financial terms:

The expense incurred for the 2022 financial year cannot be divided individually between each executive and/or director and the following amount relates to the entire insurance policy: €2 797 234,8 for Mr. Jérôme Bailly, Mr. Eric Soyer, Mr. Gil Beyen, Mr. Philippe Archinard, Mrs. Martine George, Mr. Luc Dochez, Mrs. Hilde Windels, Mr. Sven Andreasson, Mr. Jean-Paul Kress, Mrs. Mélanie Rolli.

**c – Compensation**

Related person:

Mr. Jérôme Bailly, Deputy Chief Executive Officer.

Nature and purpose:

Modification of the fixed gross annual compensation in the context of Jérôme Bailly's employment contract, starting on January 1, 2019. This agreement was authorized by your Board of Directors on January 6, 2019.

Financial terms:

Expenses incurred by the Company related to the compensation of Mr. Jérôme BAILLY for the year ended December 31, 2022 was €249 672,20.

**d – Tax advisory services**

Related person:

Mr. Gil Beyen, Chief Executive Officer

Nature and purpose:

Modification of the amount of the tax advisory services authorized by the Board of Directors on January 6, 2019. This contract was subscribed with the law firm Delsol for the benefit of Mr. Gil Beyen. The Board of Directors authorized this contract on June 24, 2016.

Financial terms:

The amount of the expense is €5,000 and was recognized in the current financial year

**e - Employment agreements with Erytech Pharma S.A. and Erytech Pharma Inc:**

Related person:

Mr. Gil Beyen, Chief Executive Officer.

Nature and purpose:

Employment agreement with Erytech Pharma SA, authorized by the Board of Directors on March 8, 2019.

Employment agreement with Erytech Pharma Inc, authorized by the Board of Directors on May 3, 2019.



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Financial terms:

The gross annual compensation of Mr. Gil Beyen related to these employment agreements was €578 183,34 (€154 203,12 and 452 217,31 USD) for the year ended December 31, 2022.

**f – 401(k) retirement plan:**

Related person:

Mr. Gil Beyen, Chief Executive Officer.

Nature and purpose:

The contribution of your subsidiary Erytech Pharma Inc. to the 401(k)-retirement plan is 3% of the gross compensation of Mr. Gil Beyen and was authorized by the Board of Directors on March 8, 2019.

Financial terms:

The expense recorded for the year ended December 31, 2022, is €8 579. (USD.9 150)

**g - Benefits and expenses**

Related person:

Mr. Gil Beyen, Chief Executive Officer

Nature and purpose:

The Board of Directors, on March 8, 2019, authorized the company to bear the cost of certain services and expenses benefiting Mr. Gil Beyen, as shown in the table below, expressed in euros.

Financial terms:

<b>Expenses recorded in the 2022 fiscal year (euros)</b>	<b>Gil BEYEN</b>
Professional health insurance APGIS (PRC)	1 351,53
Additional health insurance (VIVENS)	1 372,44
Additional pension plan (AXA)	7 710,13

**h – Other benefits**

Related person:

Mr. Gil Beyen, Chief Executive Officer



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Nature and purpose:

The Board of Directors on March 8, 2019, authorized Erytech Pharma Inc. to cover some of the cost of the contributions to the Medical, Dental, Short-Term Disabilities and Long-Term Disabilities, Life, Accidental Death and Dismemberment, Travel Accident, Travel Assist, and Vision insurance policies.

Financial terms:

The expense for the year ended December 31, 2022 incurred by the Company in connection with this regulated agreement amounts to €.21 159,69 (USD. 22 568,93).

**i – Compensation**

Related person:

Mr. Eric Soyer, Deputy Chief Executive Officer.

Nature and purpose:

Fixed gross annual compensation in the context of Eric Soyer's employment contract, starting on January 1, 2019.

Financial terms:

The expense for the year ended December 31, 2022 incurred by the Company in connection with this regulated agreement amounts to €.396 316,3.

**j – Benefits and expenses**

Related person:

Mr. Eric Soyer, Deputy Chief Executive Officer.

Nature and purpose:

The Board of Directors, on March 8, 2019, authorized the company to bear the cost of certain services and expenses benefiting Mr. Eric Soyer, as shown in the table below, expressed in euros.

Financial terms:

<b>Expenses recorded in the 2022 fiscal year (euros)</b>	<b>Eric SOYER</b>
Professional health insurance APGIS (PRC)	2 862,97
Additional health insurance (VIVENS)	1 464,48
Additional pension plan (AXA)	8 227,2

B) Without execution during the past fiscal year

We were also informed that the following agreements, already approved by the Shareholders' Meeting during previous fiscal years, remained in force but produced no effects during the 2022 fiscal year.



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## **a - Indemnification agreements**

### Related persons:

- Mr. Gil Beyen, Chief Executive Officer,
- Mr. Eric Soyer, Deputy Chief Executive Officer,
- Mr. Jérôme Bailly, Deputy Chief Executive Officer,
- Mr. Philippe Archinard, Director,
- Mrs. Martine George, Director,
- Mr. Luc Dochez, Director,
- Mrs. Hilde Windels, representing BVBA Hilde WINDELS, Director,
- Mr. Sven Andreasson, representing GALENOS Sprl, Director,
- Mr. Jean-Paul Kress, Chairman of the Board of Director,
- Mrs. Mélanie Rolli, Director

### Nature and purpose:

Indemnification agreement authorized by the Board of Directors on January 6, 2019 for Mr. Soyer, on March 12, 2020 for Mrs. Rolli, and on November 6, 2017 for all the other persons.

The contract provides Directors and Officers with indemnification against liabilities and advancement of expenses in connection with any matters that arise out of their service to the company.

### Financial terms:

No expense was recorded by the Company in connection with this agreement for the 2022 fiscal year.

## **b- Severance payment in the event of a change in control:**

### Related person:

Mr. Jérôme Bailly, Deputy Chief Executive Officer

### Nature and purpose:

Severance payment in the event of a change in control authorized by the Board of Directors on August 31, 2015.

This severance is not cumulative with the other severance compensation agreement authorized by the Board of Directors on August 31, 2015.

Mr. Jérôme Bailly will receive a lump-sum severance payment equal to 12 times the average monthly compensation (variable compensation included) effectively received over the course of the 12 months preceding his departure, if within the 12 months following the change in control of your company by the acquisition of more than 50% of the voting rights, Mr. Bailly:

- is dismissed, except for serious misconduct or gross negligence,
- obtains a contractual dismissal, whether at the initiative of the company or the employee,



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- resigns, provided that such resignation is the result of a demotion by the Company, its acquirer or by one of its subsidiaries or a refusal to accept a position with less responsibility and/or lower remuneration compared to the position held before the change in control.

Payment of this indemnity would be subject to the recognition of the following performance conditions:

- compliance with the Company's expenditure budget and
- at least one of the two following conditions:
  - ✓ at least one collaboration or licensing agreement underway;
  - ✓ at least one product in active clinical development phase by the Company.

Financial terms:

No expense was recorded by the Company in connection with this agreement for the 2022 fiscal year.

**c - Specific allowance paid in the event of a change of control occurring within two years of the grant of free shares:**

Related person:

Mr. Jérôme Bailly, Deputy Chief Executive Officer

Nature and purpose:

Specific indemnity in the event of a change of control within two years of the grant of free shares to Jérôme Bailly, authorized by the Board of Directors on November 2, 2016.

This indemnity was set up in order to compensate, in the event of a merger acquisition occurring within 24 months of the grant of the free shares, any loss of compensation in the event of cancellation of the free shares previously awarded or due to the loss of a preferential tax treatment on the sale of these shares.

Financial terms:

No expense was recorded by the Company in connection with this agreement for the 2022 fiscal year.

**d- Severance payment:**

Related person:

Mr. Jérôme Bailly, Deputy Chief Executive Officer

Nature and purpose:

Severance payment, authorized by the Board of Directors on August 31, 2015 in the event of dismissal for any reason whatsoever, except for serious misconduct or gross negligence.





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Mr. Jérôme Bailly may claim an indemnity equal to 6 times his average fixed monthly remuneration, plus 3 months of fixed remuneration per year of seniority, with a maximum of 12 months fixed remuneration, unless the collective agreements are more favorable.

Payment of this indemnity is subject to the following performance conditions being met:

- compliance with the Company's expenditure budget, and
- at least one of the two following conditions:
  - ✓ one collaboration or licensing agreement underway;
  - ✓ one product in active clinical development phase by the Company.

Financial terms:

No expense was recorded by the Company in connection with this agreement for the 2022 fiscal year.

**e- Severance payment:**

Related person:

Mr. Gil Beyen, Chief Executive Officer.

Nature and purpose:

Severance payment, authorized by the Board of Directors on March 8, 2019, following prior authorization by the Board of Directors on May 24, 2013.

In the event of:

- expiration of a term of office (except where renewal has been refused by the interested party),
- dismissal (except for dismissal due to serious misconduct or gross negligence as this term is understood with respect to the case law of the Labor Division of the French Court of Cassation),

Mr. Gil Beyen may claim an indemnity equal to:

- twelve times his average monthly compensation (bonuses included) effectively received during the twelve months prior to the revocation decision or expiration of his term of office, or
- the fixed annual compensation determined by the Board of Directors, in the event of revocation within the 12 months following the appointment of Mr. Gil Beyen.

Payment of this indemnity is subject to the following performance conditions being met:

- compliance with the Company's expenditure budget, and
- at least one of the two following conditions:
  - ✓ one collaboration or licensing agreement underway;
  - ✓ one product in active clinical development phase by the Company.

This indemnity will still be paid by the Company in the event of term expiry or cancellation of Mr. Gil Beyen's position.

This indemnity will be also paid by Erytech Pharma Inc., in the event of term expiry or cancellation of Mr. Gil Beyen's position within Erytech Pharma Inc. (for the proportion of the compensation paid by Erytech Pharma Inc.).



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Financial terms:

No expense was recorded by the Company in connection with this agreement for the 2022 fiscal year.

**f - Severance payment in the event of a change in control:**

Related person:

Mr. Gil Beyen, Chief Executive Officer.

Nature and purpose:

Severance payment in the event of a change in control authorized by the Board of Directors on March 8, 2019, following prior authorization by the Board of Directors on August 31, 2015.

Mr. Gil Beyen will receive a lump-sum severance payment equal to 12 times the average monthly compensation (variable compensation included) effectively received over the course of the 12 months preceding his departure, if in the 12 months following the change in control of your company by the acquisition of more than 50% of the voting rights, Mr. Gil Beyen:

- is dismissed, (except for serious misconduct or gross negligence as this term is understood with respect to the case law of the Labor Division of the French Court of Cassation);
- resigns, provided that such resignation is the result of a demotion by the Company, its acquirer or by one of its subsidiaries or a refusal to accept a proposal for a position with less responsibility and/or lower compensation compared to the position held before the change in control.

Payment of this indemnity would be subject to the same performance conditions as those required for the severance payment authorized by the Board of Directors on 24 May 2013, namely:

- compliance with the Company's expenditure budget and
- at least one of the two following conditions:
  - ✓ at least one collaboration or licensing agreement underway;
  - ✓ at least one product in active clinical development phase by the Company.

This indemnity will still be paid by the company in the event of resignation or cancellation of Mr. Gil Beyen's position.

This indemnity will be also paid by Erytech Pharma Inc., in the event of term expiry or cancellation of Mr. Gil Beyen's position within Erytech Pharma Inc. (for the proportion of the remuneration paid by Erytech Pharma Inc.).

Financial terms:

No expense was recorded by the Company in connection with this agreement for the 2022 fiscal year.



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**g - Specific indemnity paid in the event of a change of control occurring within two years of the grant of free shares:**

Related person:

Mr. Gil Beyen, Chief Executive Officer.

Nature and purpose:

Specific indemnity in the event of a change of control occurring within two years of the grant of free shares to Mr. Gil Beyen, authorized by the Board of Directors on March 8, 2019.

This indemnity was set up in order to compensate, in the event of a merger acquisition occurring within 24 months of the grant of the free shares, any loss of compensation related to cancellation of the free shares previously awarded or due to the loss of a preferential tax treatment on the sale of these shares.

If, within twenty-four months of the award of Company free shares to Mr. Gil BEYEN, an operation is conducted whereby at least fifty percent of the Company's voting rights fall into the hands of a single person or a group of persons acting in concert ("Change of Control"), and where:

- (i) free shares granted to Mr. Beyen were to be canceled under the Change of Control, Mr. Beyen would, in consideration of the cancellation of said free shares, be awarded a lump-sum compensation, the amount of which would be determined so that the net amount after deduction of contributions on wages and income tax (at a fixed rate of 35%) is equal to the net amount after deduction of social security contributions on wages and income tax (at a fixed rate of 35%) that Mr. Beyen would have received if he had sold said free shares on the date of the Change of Control and benefited from the related social security regime and tax treatment applicable to capital gains on shares; and where
- (ii) free shares awarded to Mr. Beyen were to be sold under the Change of Control, the Company shall pay Mr. Beyen a lump-sum compensation, the amount of which shall be equal to the difference between the amount net of income tax that Mr. Beyen would have received had he benefited, on the date of the sale of said shares, from the more favorable social security regime and tax treatment and the amount net of income tax actually received by Mr. Beyen on the sale of said free shares (assuming an effective income tax rate of 35%).

Financial terms:

No expense was recorded by the Company in connection with this agreement for the 2022 fiscal year.

**h - Training agreement:**

Related person:

Mr. Jérôme Bailly, Deputy Chief Executive Officer

Nature and purpose:

Training agreement for the benefit of Mr. Jérôme Bailly authorized by the annual general meeting on June 27, 2017.



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Financial terms:

No expense was recorded by the Company in connection with this agreement for the 2022 fiscal year.

*French original signed by*

The Statutory Auditors  
Lyon and Paris, March 28, 2023

KPMG S.A.

RSM Paris

Stéphane Devin  
Partner

Jean-Charles Boucher  
Partner