



FONDATION  
DE SECOURS MUTUELS  
AUX ORPHELINS

**BYLAWS**  
**&**  
**RULES**

Modified  
by the extraordinary general assemblies  
of 30 April 1985, 18 September 1990,  
28 May 1991, 26 April 1995, 14 May 1996,  
29 May 2001, 24 May 2005 and the ordinary assembly of  
21 May 2014, with immediate effect.



# BYLAWS

## **I. NAME, REGISTERED OFFICE, PURPOSE AND ASSETS OF THE FOUNDATION**

### **Art. 1 Name and registered office**

The foundation known as Fondation de secours mutuelles aux Orphelins (the “Foundation”) and whose registered office is in Geneva is constituted by these bylaws in accordance with articles 80ss of the Swiss Civil Code. Any transfer of the registered office to another place in Switzerland requires the prior approval of the supervisory authority.

### **Art. 2 Purpose**

The general purpose of the Foundation is to help the children of people who have died or become disabled.

To this end, the Foundation may allocate financial assistance to these children based on principles of mutuality.

In addition, it can provide expanded ad hoc assistance in cases of hardship.

The conditions under which the aid mentioned in paragraphs 1 and 2 above may be granted shall be determined and specified in a regulation which supplements these bylaws. Contributions to the Foundation do not grant entitlement to benefits.

Within the framework of the goals set, the Foundation can work in Switzerland and abroad.

The Foundation is not for profit and does not aim to generate any gains. Its sole purpose will be to serve the public interest.

### **Art. 3 Resources**

The resources of the Foundation come from:

- a) property allotted to it at the time of its creation on 26 April 1872;
- b) contributions made by persons who have declared that they wish to provide one or more children with regular assistance as defined in article 2 para. 2 of these bylaws;
- c) its investments;
- d) gifts, bequests and allowances of any kind given to it.

The assets of the Foundation must be exclusively allocated to the purpose specified in these bylaws.

The return of the capital of the Foundation to the founders, as well as any payment from the capital of the Foundation to the founders, is prohibited.

The revenue generated by the Foundation shall be used solely to finance its projects in accordance with the purpose of these bylaws and/or to cover its operating costs.

The Foundation's assets must be administered in accordance with recognized business principles. The risk must be spread. In doing so, the assets must not be jeopardized by speculative transactions.

The assets of the Foundation as described in this article constitute the only guarantee of its commitments. In particular, the personal property of members of the Foundation Board are not affected by acts performed regularly within the framework of their mandate.

## **II. ORGANISATION OF THE FOUNDATION**

### **Art. 4 Bodies of the Foundation**

The bodies of the Foundation are:

- the Foundation Board,
- the auditor,
- an executive body, if necessary, and

- any other bodies created by the Foundation Board, whose authority and organisation will be specified by rules.

## **Art. 5 Foundation Board and Composition**

Administration of the Foundation is the responsibility of a Foundation Board made up of at least five natural persons or representatives of legal entities.

At least one member of the Foundation Board with signatory authority (individual or collective) must be domiciled in Switzerland.

The members of the Foundation Board work on a voluntary basis, subject to coverage of their expenses related to the activities of the Foundation. Paid employees of the institution may only sit on the Foundation Board in an advisory capacity.

The Foundation Board decides on the compensation paid to members (or third parties) to whom special authority is delegated and which results in considerable additional work.

## **Art. 6 Constitution and Additions**

The Foundation Board shall constitute itself and add additional members as necessary. Only leading figures who have a connection to the purpose of the Foundation because of their opinions and the commitment they have demonstrated are eligible for these positions.

## **Art. 7 Duration of the term of office**

Members of the Foundation Board are elected for a term of three years. They are eligible for re-election.

For each term of office, the Foundation Board is appointed by the former members by co-optation. If members leave the Foundation Board during the term of office, other members shall be elected for the remainder of that period to the extent necessary to comply with article 5 of these bylaws.

It is possible to dismiss a member of the Foundation Board at any time for just cause, in particular if the member concerned has violated his obligations or is no longer able to perform his duties properly.

The Foundation Board shall vote on the dismissal of its members by a two-thirds majority of the members present.

## **Art. 8 Authority**

The Foundation Board is the supreme body of the Foundation. It shall have all powers not expressly delegated to another body in these bylaws and shall take all necessary steps for it to function properly.

It determines all activities of the Foundation and manages its affairs.

In particular, it has the following inalienable tasks:

- regulation of the rights of signatory authority and representation of the Foundation;
- appointment of the Foundation Board and the auditor;
- approval of the annual accounts.

The Foundation Board is authorized to delegate some of its powers to one or more of its members or to third parties. The conditions of the delegation shall be stated in a regulation. This may be modified at any time by the Foundation Board in the framework of determination of the purpose. Any modification shall require the approval from the supervisory authority.

## **Art. 9 Decision-making**

The Foundation Board may take its decisions when a majority of the members are present. The Foundation Board may also meet and take decisions by teleconference, videoconference or any other similar means of communication.

Decisions shall be taken by a simple majority in so far as the bylaws or a regulation do not provide for a qualified majority. In the event of a tie, the President casts the deciding vote. The sessions and decisions are recorded in minutes.

Decisions and votes may also be taken or take place in writing provided that no member requests oral deliberations.

Invitations to meetings of the Foundation Board must generally be sent at least 10 days before the scheduled date.

In the event of a conflict of interest, the concerned member of the Foundation Board recuses himself. He may be present during deliberations on the matter, but not during the decision-making.

#### **Art. 10 Auditor**

The Foundation Board appoints a certified, external and independent auditor to audit the accounts of the Foundation annually and to submit a detailed report to the Foundation Board with the proposal to approve it, unless the Foundation has been exempted from this obligation by the supervisory authority. It must also ensure compliance with the statutory provisions of the Foundation.

#### **Art. 11 Technical reviews**

A technical review of the financial situation of the Foundation shall be carried out at least every five years by one or more actuaries appointed by the Foundation Board.

The result of this examination shall be brought to the attention of the Foundation Board and the auditor.

Any decision to increase the commitments of the Foundation or to reduce contributions may only be taken after a technical examination which shows that the financial situation of the Foundation will not be compromised. However, this review is not necessary when temporary relief in the payment of contributions or temporary increases in the Foundation's benefits are the subject of a decision limited to the current financial year.

### **III. MODIFICATION OF THE BYLAWS AND DISSOLUTION OF THE FOUNDATION**

#### **Art. 12 Modification of the bylaws**

The Foundation Board is empowered to propose modifications of the bylaws to the supervisory authority, in accordance with applicable provisions of the Swiss Civil Code.

#### **Art. 13 Dissolution**

The Foundation is of unlimited duration.

The Foundation may only be dissolved for the reasons specified by law and with the approval of the supervisory authority.

In the event of dissolution of the Foundation, the proceeds of the liquidation must be allocated to one or more Swiss institution(s) pursuing a purpose similar to that of the Foundation and exempt from taxes because of its (their) purpose of public service or of serving the public good, to the Confederation, a canton, a municipality or one of their establishments.

Under no circumstances may the property of the Foundation be returned to the founders, members of the Foundation Board or their heirs, nor be used in whole, in part or in any way whatsoever for their benefit.

### **IV. APPLICABLE LAW AND REGISTRY OF COMMERCE**

#### **Art. 14 Applicable law and competent authorities**

These bylaws shall be applied and interpreted in accordance with Swiss law.

Except in cases subject to the competence of the supervisory authority, any dispute or litigation arising from these bylaws shall fall within the jurisdiction of the competent courts at the location of the registered office of the Foundation.



## **Art. 15 Registration with the commerce registry**

This Foundation is registered with the Commerce Registry of the Canton of Geneva.

# GENERAL RULES

## PART I

### CONTRIBUTIONS

#### Article 1

##### Partners

The following persons may declare that they wish to provide one or more children (the “**Beneficiaries**”) with regular assistance and, thus, become approved partners of the Foundation (the “**Partners**”), subject to the provisions of these rules:

- 1.1. the father and/or mother covering their own child(ren);
- 1.2. persons covering children other than their own;
- 1.3. persons who do not have children at the time of admission.

#### Article 2

##### Donors

- 2.1. The Board may admit persons as donors if they renounce, for themselves and their children, any benefit from the Foundation.
- 2.2. Donors determine the amount of their donation at their discretion.

### **Article 3**

#### **Over Coverage**

No child may be the beneficiary of more than two Partners.

### **Article 4**

#### **Conditions and formalities for admission as a Partner**

- 4.1. Any natural person may request admission as a Partner.
- 4.2. To be admitted, the candidate must meet the following conditions:
  - 4.2.1. be domiciled in Switzerland or exercise his professional activity there, or benefit from an employment contract under Swiss law with a company having its registered office or a branch in Switzerland;
  - 4.2.2. be at least 18 years of age and at most 65 years of age;
  - 4.2.3. not be incapacitated for work.
- 4.3. All candidates must submit an application for admission and produce, on request, all documents attesting to the required qualifications.
- 4.4. A company may present its employees as Partners. Such employees shall satisfy the conditions stated in Article 4.2 above. The company may submit a general application for admission for the employees concerned, including a list containing the usual individual information and, if necessary, supporting documents.
- 4.5. The candidates recognize the right of the Board to take all other measures to guarantee the Foundation against abuse, and declare to be subject to the bylaws and rules of the Foundation, as well as to the decisions of the Board taken pursuant thereto.
- 4.6. The Board shall decide on admission.

## **Article 5**

### **Effective date of admission**

- 5.1. Admission shall be effective on the date of the Board decision.
- 5.2. The candidate is notified in writing (by letter or email) of this decision.
- 5.3. He must, within 30 days following receipt of said decision, pay his first contribution.
- 5.4. If he does not complete this formality within the prescribed period, the Board may cancel his admission.

## **Article 6**

### **Refusal of admission**

The Board may refuse a request for admission without having to give reasons and without the possibility of appeal.

## **Article 7**

### **Loss of the status of Partner**

The status of Partner is lost by resignation, death, withdrawal, or expiry of the period of coverage of the last announced child.

## **Article 8**

### **Continuation of the capacity of Partner**

Any person who, at the end of the period of coverage of the last announced child, expresses the desire to continue to support the Foundation may become a donor as intended in Article 2.

## **Article 9**

### **Resignation**

- 9.1. Each Partner may submit his resignation to the Board at any time in writing.
- 9.2. The resignation shall take effect at the end of the period for which the Partner has paid his contributions.
- 9.3. The resignation causes the covered children to lose all financial support from the Foundation.

## **Article 10**

### **Withdrawal**

- 10.1. The Board is competent to order the withdrawal of any Partner:
  - 10.1.1. who does not fulfil his obligations to the Foundation;
  - 10.1.2. who clearly acts in a manner that is contrary to the interests of the Foundation;
  - 10.1.3. whose admission is subsequently found to be abusive or based on false declarations; no benefit will be paid to children covered by such a Partner, even if the fraud does not appear until after the death of the Partner in question.

## PART 2

### **OBLIGATIONS OF THE PARTNERS**

#### **Article 11**

##### **Announcements**

The Partners shall keep the Foundation informed, at the latest within 3 months, of becoming aware of any changes that may occur in their personal situation and that of the children they cover. Failure to do so may result in cancellation by decision of the Board, as intended in Article 10.

#### **Article 12**

##### **Obligation to cover**

- 12.1. Any Partner, as intended in Article 11, is required, upon admission, to cover each of his children under 20 years of age.
- 12.2. He must then announce any new child within three months.
- 12.3. The Foundation must cover new children regardless of the age of the Partner, even if they are born after the Partner has reached the age limit of 60.

#### **Article 13**

##### **Failure to cover**

- 13.1. If a Partner fails to have one or more of his children covered within the allotted time and this omission is discovered during his lifetime, he will be required to complete this formality and to pay, within the month, the arrears in contributions and expenses.

- 13.2. If the omission is noticed only upon the death of the Partner or if this death occurs before expiry of the period of one month without the Partner having corrected his situation as provided for in Article 13.1., his orphans will receive a uniform reduced benefit, calculated so that the current value is equivalent to that which the Foundation would have had to pay if only the children covered were entitled to it.

## **Article 14**

### **Services of the Foundation**

- 14.1. Admission as a Partner does not imply entitlement to benefits.
- 14.2. At the first annual meeting of the Foundation Board, the latter shall set for the current year, on the basis of the financial situation of the Foundation, the amount of benefits granted, if any, to all Beneficiaries.
- 14.3. The Partner defines, during his affiliation, the benefit category allocated from the following five possibilities:
- Level 1 : lower benefit (CHF 3'000.- maximum)
  - Level 2 : lower average benefit (CHF 6'000.- maximum)
  - Level 3 : average benefit (CHF 9,000.- maximum)
  - Level 4 : higher average benefit (CHF 12'000.- maximum)
  - Level 5 : superior benefit (CHF 18'000.- maximum)

The level chosen must be the same for all children covered by the same Partner.

For the age category of entry from 55 to 65 years, the level of benefit may not be more than level 2.

- 14.4. When a person who is already a Partner joins a company that covers its staff, but at a lower level than the existing contract for the Partner in question, the latter may maintain membership for the higher level by making direct payment for the difference in contribution.

- 14.5. The administrative staff shall keep a table at the permanent disposal of the Partners, existing or potential, which indicates the benefits allocated by the Foundation Board over the last 10 years for the 5 levels mentioned above in Article 14.3.
- 14.6. The Foundation may also, if necessary and within its means, provide non-pecuniary assistance to the families of the Partners, in particular in the form of advice, support, prevention, organization of conferences and information sessions, and collaboration with other institutions pursuing a similar purpose.

## **Article 15**

### **Increase or decrease of the service**

- 15.1. Any Partner may request modification (increase or decrease) of the category of services, within the limits of Article 14.3.
- 15.2. Any increase shall be subject to the procedure indicated in Article 4 on the Conditions and Formalities of Admission, which shall apply *mutatis mutandis*. The Board shall decide on such a request and may refuse it without having to give reasons and without the possibility of appeal.
- 15.3. The provisions of Article 15.2 apply in the event that a Partner, authorized to reduce the benefit, subsequently wishes to increase it again.
- 15.4. The changes to the benefit shall apply with immediate effect on the date of receipt of the request for a reduction and, in the case of a request for an increase, on the date on which the Board takes a decision.



## **Article 16**

### **Contributions**

- 16.1. Contributions are based on the benefit category chosen under Article 14.3 and the age of the Partner. They shall be determined each year by the Board at the time of approval of the annual accounts and published on the Foundation's website.
- 16.2. The annual contribution due for each child is payable prorata temporis from the month in which the Partner's admission takes place, or the birth, or the adoption of the child, or the increase in the benefit; it ceases to be due at the end of the year in which the Partner's death or disability takes place, or the covered child's withdrawal, due to age.
- 16.3. The incoming Partner without a covered child pays, until the birth or adoption of the first child, half of the contribution relating to the covered amount.

## **Article 17**

### **Payment of contributions**

- 17.1. The annual fee is due for the entire calendar year and is payable no later than 31 March of the year for which it is due.
- 17.2. If the Partner makes the request before 31 January of each year, it may be paid by half-year or quarter, but no later than the last day of the first month of the half-year or quarter concerned.
- 17.3. Any Partner in arrears in the payment of his contributions is required to pay it within thirty days. If the notification has no effect, the Foundation's benefits are suspended from expiration of the allotted time. The Board shall then proceed with withdrawal in accordance with Article 10, and shall inform the person concerned accordingly.

## PART 3

### **BENEFITS OF THE FOUNDATION**

#### *A. In case of death*

#### **Article 18**

##### **Benefit decided by the Foundation Board**

- 18.1. The benefit determined according to Article 14, annually and according to the financial situation of the Foundation, may be granted to Beneficiaries covered by a Partner who has died.
- 18.2. The payment of said benefit is then made based on the value of the first day of the month during which the death of the Partner occurred.
- 18.3. The payment of said benefit shall lapse:
  - 18.3.1. in the event of the death of the Beneficiary, the last day of the month in which the Beneficiary dies; or
  - 18.3.2. the last day of the month in which the Beneficiary completes its 20th year; or
  - 18.3.3. if the Beneficiary is a student or apprentice beyond age 20 (as evidenced by a decision in effect from the competent authority relating to the granting of family benefits), the last day of the month in which the Beneficiary ceases to be a student or apprentice, but no later than the last day of the month in which the Beneficiary reaches age 25.
- 18.4. Application of Article 10 and Article 13 of these rules remains reserved.
- 18.5. The posthumous child of a Partner has, from birth, the same rights as a covered child.

## **Article 19**

### **Payment of the benefit decided by the Foundation Board**

- 19.1. Payment is made on the first business day of each month.
- 19.2. It is paid to the legal representative of the Beneficiary, then, upon reaching the age of majority, directly to the Beneficiary, the institution of guardianship or protection being reserved.

## **Article 20**

### **Death benefit**

Upon the death of a Partner, the Foundation is entitled to pay, for each Beneficiary, a single benefit set by the Board.

## **Article 21**

### **Allocation of withdrawal**

The Foundation shall be entitled to pay, for each child receiving benefits, at the end of those benefits, a single allocation set by the Board.

## **Article 22**

### **Non-transferability**

The benefit and other allowances paid by the Foundation are non-transferable.

## **Article 23**

### **Supporting documents**

The Board may require any supporting documents necessary for determination and payment of the benefit and other allocations.

*B. In case of disability*

## **Article 24**

### **Disability**

- 24.1. Disability, as intended in these rules, shall be based on a decision of the Swiss disability insurance, excluding decisions issued by foreign authorities, unless they have been recognised by the Swiss Confederation under an international convention.
- 24.2. The Board may consider situations of hardship, even when only a foreign disability decision is presented. In this regard, the Board enjoys complete discretion.

## **Article 25**

### **Benefit decided by the Foundation Board**

- 25.1. The benefit determined according to Article 14, annually and according to the financial situation of the Foundation, is, where applicable, paid to children covered by a Partner whose degree of disability reaches at least 50%.
- 25.2. The benefit is then proportional to the Partner's degree of disability.

- 25.3. Children born more than nine months after the onset of disability as determined by the Swiss Disability Insurance Authority do not receive any benefit from the Foundation; the same applies to children adopted after the onset of disability.

## **Article 26**

### **Exemption from contributions**

The Disabled Partner whose children he/she covers receive a benefit is exempt from payment of contributions for as long as the benefit is paid.

## **Article 27**

### **Request for benefits**

- 27.1. The Partner who intends to request benefit in the event of disability for the benefit of the children he covers must send a request to the Board.
- 27.2. This request must be accompanied by all the documents necessary to evaluate it, in particular the decision of the Swiss disability insurance.
- 27.3. The Board may require other supporting documents as it deems appropriate. It may also order research at the expense of the Foundation or have doctors of its choice conduct any examination it deems useful.

## **Article 28**

### **Decision of the Board**

- 28.1. The Partner is informed of the Board's decision by registered letter.
- 28.2. The Board's decision is final.

## **Article 29**

### **Start of the benefit**

- 29.1. If a benefit is granted, it is paid as soon as the right to a pension is recognized by the Swiss disability insurance.
- 29.2. Payment of the benefit starts from the date of the decision of the Swiss disability insurance, taking into account its possible retroactivity, but without being able to go back more than two years from filing of the request with the Foundation.

## **Article 30**

### **Revision of the benefit**

- 30.1. The benefit is increased, reduced or eliminated if the Partner's degree of disability changes.
- 30.2. The Partner must inform the Foundation of any decision that the Swiss disability insurance may take within three months from the day that it becomes aware of it. In addition, he must provide proof of his degree of disability every two years. The Board shall verify the case and may delegate this responsibility to the administrative staff.
- 30.3. In addition, the Foundation may, at any time, have the Partner's degree of disability verified in any manner it deems appropriate.
- 30.4. On the basis of its review and the documents provided, the Board may decide to revise the benefit.

## **Article 31**

### **Common provisions**

Articles 18.3 and 18.4 (end of payment of the benefit), Article 19 (Payment of the benefit), Article 21 (Allocation of withdrawal), Article 22 (Non-transferability) and Article 23 (Supporting documents) shall apply *mutatis mutandis* to benefits in the event of disability.

## PART 4

### **BODIES**

#### A. *Foundation Board*

## **Article 32**

### **Power of appreciation**

The Foundation Board enjoys broad discretion in implementing the Foundation's purpose, particularly in cases of hardship, and has a Relief Fund for this purpose (Article 37).

## **Article 33**

### **Power of representation**

The Board designates the persons authorized to represent the Foundation vis-à-vis third parties and determines the method of signature.

## PART 5

### **ANNUAL ACCOUNTS – FUNDS**

#### **Article 34**

##### **Financial Year**

The Financial Year starts on 1 January and ends on 31 December.

#### **Article 35**

##### **Balance Sheet**

At the end of each financial year, a balance sheet of the Foundation's assets and liabilities is established, as well as a statement of expenditure and revenue for the past financial year (operating account).

#### **Article 36**

##### **Reserve for benefits in progress**

- 36.1. The reserve for benefits in progress shown on the balance sheet represents the sums necessary for payment of the Foundation's benefits – as known at the end of each financial year – to orphans and children covered by disabled Partners.
- 36.2. The amount of this reserve is determined mathematically, at the end of each financial year, on the basis of the average of the benefits paid during the previous 5 years.
- 36.3. On the basis of this determination, the reserve is funded by debiting the operating account. If the amount determined is exceeded, the reserve shall be dissolved accordingly by the credit in the operating account.



## **Article 37**

### **Assistance fund**

- 37.1. A contingency fund may be established and replenished at the end of each financial year.
- 37.2. In particular, the assets of this fund are used for:
- a) payment of the retroactive benefit for children of disabled persons (Article29.2);
  - b) allocation of pensions in cases of hardship, regardless of the decision of the disability insurance (Article24.2) and the status of the child concerned (Article13.2);
  - c) making payments as decided by the Board, in accordance with the purpose of the Foundation, in cases of hardship (Article 32).

## **Article 38**

### **Temporary assistance**

When the operating account shows a sufficient surplus of revenue, the Board may, if it considers that no other consideration precludes it, decide to use part of this surplus, in any form, to relieve the expenses of the Partners or to improve assistance to the Beneficiaries, but only during the current financial year.

## **Article 39**

### **Other funds**

The Board may establish other funds and decide, if necessary, on appropriate allocations. The funds created must serve the purpose of the Foundation.

## **Article 40**

### **Reserve fund**

The balance of the operating account, after deduction for temporary relief and other purposes, including assistance and other funds, shall be transferred to the reserve fund.

## **PART 6**

### **FINAL PROVISIONS**

## **Article 41**

### **Modifications and effective date**

These rules may be modified at any time by the Foundation Board, subject to validation by the Foundation Supervisory Authority. They shall take effect upon approval by the Foundation Board.





**FONDATION DE SECOURS MUTUELS AUX ORPHELINS**

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