



## **Pre-Announcement of the Public Tender Offer by**

### **Janssen Holding GmbH, Zug, Switzerland**

for all publicly held registered shares with a nominal value of CHF 0.50 each of

### **Actelion Ltd, Allschwil, Switzerland**

On the terms and subject to the conditions set forth below, Janssen Holding GmbH, a corporation organized under the laws of Switzerland, having its registered office in Zug (the **Offeror**), intends to launch, on or around February 16, 2017, a public tender offer (the **Offer**) pursuant to art. 125 *et seq.* of the Swiss Federal Act on Financial Market Infrastructure and Market Conduct in Securities and Derivatives Trading of June 19, 2015 (*Bundesgesetz über die Finanzmarktinfrastrukturen und das Marktverhalten im Effekten- und Derivatehandel*) and its implementing ordinances for all publicly held registered shares (*Namenaktien*) of Actelion Ltd, Allschwil, Switzerland (the **Company** or **Actelion**), with a nominal value of CHF 0.50 each (each, an **Actelion Share**).

### **Background of the Offer**

The proposed transaction combines the Offer with a demerger of the Company's preclinical discovery and clinical pipeline business, accomplished through (1) the reorganisation of the assets and liabilities of such business into a newly formed company (**R&D NewCo**) and (2) the distribution of all of the shares of R&D NewCo by way of a dividend in kind to Actelion's shareholders (the **Stock Dividend**), in each case pursuant to the terms of the Demerger Agreement (as hereinafter defined). All shares of R&D NewCo will be listed on the SIX Swiss Exchange (**SIX**) (the reorganisation, the distribution and the admission to listing together, the **Demerger Transactions**). On January 26, 2017, the Offeror, Johnson & Johnson, a corporation organized under the laws of New Jersey, United States and the indirect parent of the Offeror (**J&J**), and an affiliate of J&J (the **Bidder**) entered into a transaction agreement with the Company (the **Transaction Agreement**) pursuant to which the Offeror agreed to submit, publish and conduct the Offer, and the Company's board of directors unanimously agreed, *inter alia*, to recommend the Offer for acceptance by the holders of Actelion Shares. On January 26, 2017, an affiliate of J&J also entered into a demerger agreement with the Company and R&D NewCo (the **Demerger Agreement**) pursuant to which the parties agreed to consummate the Demerger Transactions.

In connection with the Offer, the Bidder has also agreed to make a convertible loan to R&D NewCo with a maturity of ten (10) years, which shall be convertible, in two tranches, up to an aggregate of 32% of the shares of R&D NewCo. One day following the consummation of the Offer (the **Settlement**, and the date on which the Settlement shall occur, the **Settlement Date**) and the completion of the Demerger Transactions, the first tranche of the convertible loan will be converted, so that the Bidder will hold 16% of the shares of R&D NewCo, and the former Actelion shareholders will own 84% of the shares of R&D NewCo. The remaining portion of the loan shall be convertible by the Bidder at any time. At maturity, R&D NewCo may settle the second tranche of the loan (if still outstanding) in cash or in shares of R&D NewCo. The Bidder has committed itself by contract for a period of five (5) years following the Settlement not to acquire any equity securities of R&D NewCo which would result in the Bidder holding more than 32% of R&D NewCo's issued share capital, subject to certain exceptions.

## I. Terms of the Offer

The Offer is expected to be made on the following main terms:

### A. Object of the Offer

Except as set forth below and subject to the offer restrictions, the Offer will extend to all publicly held Actelion Shares.

The Offer will not extend to (i) Actelion Shares held by J&J or any of its subsidiaries, (ii) Actelion Shares held by the Company or any of its Subsidiaries or (iii) the American Depositary Receipts of the Company which are traded on the over-the-counter (OTC) markets in the United States.

### B. Offer Price

The offer price for each Actelion Share is USD 280 net in cash (the **Offer Price**). The Offer Price will be paid regardless of this distribution of shares of R&D NewCo as described above ("Background of the Offer"), and will not be reduced as a result thereof.

Other than as set forth in the preceding paragraph, the Offer Price will be reduced by the gross amount of any dilutive effects caused by the Company or any of its Subsidiaries in respect of the Actelion Shares prior to the Settlement, including dividend payments and other distributions of any kind, stock splits or reverse stock splits, demergers and spin-offs, capital increases and the sale of treasury shares at an issuance or sales price per Actelion Share below the Offer Price, the purchase of Actelion Shares at a purchase price above the Offer Price, the issuance of options or other rights for the acquisition of Actelion Shares and repayments of capital in any form; *provided, however*, that the Offer Price will not be reduced by the dividend to be declared and paid by the Company to effect the Demerger Transactions or in connection with issuances of Actelion Shares arising from the exercise or settlement of Company awards outstanding as of January 25, 2017 or issued in compliance with the Transaction Agreement, in each case under the Company's existing equity plans.

The Offer Price implies a premium of 46% (at current exchange rates) to the volume-weighted average price of all on-exchange transactions in Actelion Shares executed on the SIX during the sixty (60) SIX trading days (each a **Trading Day**) prior to the publication of this pre-announcement (the **Pre-Announcement**), which amounts to CHF 191.20, a premium of 23% (at current exchange rates) to the on-exchange closing price of the Actelion Shares on the SIX on January 25, 2017, the Trading Day immediately prior to the publication of this Pre-Announcement, of CHF 227.40, and a premium of 90% (at current exchange rates) to the on-exchange closing price of the Actelion Shares on the SIX on November 15, 2016, the Trading Day immediately prior to media reports regarding a potential acquisition of the Company.

### C. Offer Period and Additional Acceptance Period

It is expected that the offer prospectus relating to the Offer (the **Offer Prospectus**) will be published on or around February 16, 2017. After the lapse of the cooling-off period of ten (10) Trading Days, it is intended that the Offer will remain open for acceptance for twenty (20) Trading Days (the **Offer Period**). The Offeror reserves the right to extend the Offer Period once or several

times to a maximum of forty (40) Trading Days or, after consultation with the Company, beyond forty (40) Trading Days with the approval of the Swiss Takeover Board (the **TOB**). If the Offer is successful, after the expiration of the (possibly extended) Offer Period, there will be an additional acceptance period of ten (10) Trading Days for the subsequent acceptance of the Offer (the **Additional Acceptance Period**).

Assuming that the Offer Prospectus will be published on February 16, 2017 and applying the minimum periods above, the Offer Period would run from about March 3, 2017 until about 4 p.m. CET on March 30, 2017, and the Additional Acceptance Period would run from about April 6, 2017 until about 4 p.m. CET on April 21, 2017.

#### **D. Offer Conditions, Waiver of Offer Conditions and Period for which the Offer Conditions are in Force and Effect**

##### **1. Offer Conditions**

The Offer is expected to be subject to the conditions set forth below:

- (a) Minimum Acceptance Rate: The Offeror shall have received valid and irrevocable acceptances for such number of Actelion Shares representing, when combined with any Actelion Shares that J&J and its Subsidiaries will own at the end of the (possibly extended) Offer Period (but not including Actelion Shares held by the Company or any of its Subsidiaries), at least 67% of all Actelion Shares that are issued and outstanding at the end of the (possibly extended) Offer Period.
- (b) Merger Control and Other Approvals: (i) All waiting periods with respect to the Offer and the other transactions contemplated by this Pre-Announcement and the Transaction Agreement under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the **HSR Act**), and any rules promulgated thereunder shall have expired or been terminated; (ii) the European Commission adopting and formally notifying to the parties, or having been deemed under Council Regulation (EC) 139/2004 of the European Union to have adopted, all decisions and approvals necessary to allow consummation of the Offer and other transactions contemplated by this Pre-Announcement and the Transaction Agreement (and, to the extent relevant, all conditions or obligations contained in such decisions and approvals necessary to allow consummation of the Offer and the other transactions contemplated by this Pre-Announcement and the Transaction Agreement having been satisfied or complied with); and (iii) all competent merger control and other authorities and, if applicable, courts, in each case, in each of the following jurisdictions shall have approved or, as the case may be, not prohibited or objected to the consummation of the Offer and other transactions contemplated by this Pre-Announcement and the Transaction Agreement: Japan, Russia, Israel, Taiwan and Turkey. With respect to each of clauses (i), (ii) and (iii) of the preceding sentence, the approval, clearance, decision or expiration or termination of the applicable waiting period shall not be subject to any condition or undertaking on J&J, the Company or any of their respective Subsidiaries that, individually or together with any other such condition or undertaking, in the opinion of an independent accounting firm or investment bank of international reputation to be appointed by the Offeror (the **Independent Expert**) would reasonably be expected to cause a Material Adverse

Effect (as defined in condition (d), below) on J&J and its Subsidiaries, taken as a whole, or the Company and its Subsidiaries, taken as a whole.

- (c) *No Injunction or Prohibition*: No judgment, decision, order or other authoritative measure shall have been issued by any competent court or governmental authority temporarily or permanently preventing, prohibiting or declaring illegal the Offer or the Settlement.
- (d) *No Company Material Adverse Effect*: From the date of this Pre-Announcement until the end of the (possibly extended) Offer Period, no changes in circumstances, events, facts or occurrences shall have been disclosed by the Company or otherwise come to the Offeror's attention which, individually or together with any other changes in circumstances, events, facts or occurrences that are relevant under this condition (d), in the opinion of the Independent Expert, would be reasonably expected to have a Material Adverse Effect on the Company and its Subsidiaries, taken as a whole.

A **Material Adverse Effect** means a reduction of:

- the annual consolidated earnings before interest and taxes (**EBIT**) of CHF 98.3 million – which is an amount equal to 15% of the consolidated EBIT of the Company and its Subsidiaries in the financial year 2015 as per the Company's annual report 2015 – or more;
- the annual consolidated sales of CHF 204.5 million – which is an amount equal to 10% of the consolidated sales of the Company and its Subsidiaries in the financial year 2015 as per the Company's annual report 2015 – or more.

When determining whether a Material Adverse Effect has occurred with respect to any person, the following changes in circumstances, events, facts or occurrences shall not be taken into account, individually or together:

- any circumstance, event, fact or occurrence in the industries in which the applicable person operates or in the economy generally, except to the extent (and only to the extent) that such circumstance, event, fact or occurrence disproportionately affects the applicable person relative to other participants in the industry in which the applicable person operates; or
  - any circumstance, event, fact or occurrence that arises from or relates to R&D NewCo, the R&D Business or any of the Transferring Business Assets or Assumed Liabilities, in each case as defined in the Demerger Agreement, except to the extent (and only to the extent) such circumstance, event, fact or occurrence affects any other aspect of the Company or its Subsidiaries; or
  - any circumstance, event, fact or occurrence that arises from or relates to the commencement of sales of a generic form of Bosentan (marketed by the Company as Tracleer) in the United States.
- (e) *Registration in the Share Register of the Company*: The board of directors of the Company shall have resolved to register, upon Settlement, the Offeror and/or any other company controlled and designated by J&J in the share register of the Company as shareholder(s) with voting rights with respect to all Actelion Shares that J&J or any of its Subsidiaries have acquired or may acquire (with respect to Actelion Shares to be acquired in the Offer, subject

to all other conditions to the Offer having been satisfied or waived), and the Offeror and/or any other company controlled and designated by J&J shall have been registered in the share register of the Company as shareholder(s) with voting rights with respect to all Actelion Shares acquired.

- (f) Listing of R&D NewCo: The shares of R&D NewCo (as described in the listing prospectus with respect thereto, which, if required, shall include audited carve-out financial statements with respect to R&D NewCo) shall have been approved for listing by the regulatory board of the SIX.
- (g) Resignation of Members of the Board of Directors of the Company: All members of Actelion's board of directors shall have resigned from their functions on the board of directors of the Company and its Subsidiaries with effect from and subject to the Settlement.
- (h) General Meeting of Shareholders of the Company: A general meeting of the Company's shareholders shall have approved:
- (i) the election of the persons nominated by the Offeror to the Company's board of directors with effect from and subject to the Settlement; and
  - (ii) a distribution of the shares of R&D NewCo to Actelion's shareholders, to be distributed to Actelion's shareholders concurrently with the Settlement, following the completion of the other Demerger Transactions.
- (i) No Adverse Resolutions by the General Meeting of Shareholders of the Company: Other than in connection with the Demerger Transactions, no meeting of shareholders of the Company shall have:
- (A) resolved or approved any dividend, other distribution or capital reduction or any acquisition, spin-off (*Abspaltung*), transfer of assets and liabilities (*Vermögensübertragung*) or other disposal of assets (x) with an aggregate value or for an aggregate consideration of more than CHF 191.5 million (corresponding to 10% of the consolidated total assets of the Company and its Subsidiaries as of December 31, 2015, as per the Company's annual report 2015), or (y) contributing in the aggregate more than CHF 98.3 million to the EBIT (corresponding to 15% of the consolidated EBIT of the Company and its Subsidiaries in the financial year 2015, as per the Company's annual report 2015);
  - (B) resolved or approved any merger, demerger (*Aufspaltung*) or ordinary, authorized or conditional increase of the share capital of the Company; or
  - (C) adopted any amendment of the articles of association of the Company to introduce any transfer restrictions (*Vinkulierung*) or voting limitations (*Stimmrechtsbeschränkungen*).
- (j) No Acquisition or Sale of Material Assets or Incurrence or Repayment of Material Indebtedness: With the exception of the obligations that have been made public prior to the date of this Pre-Announcement or that are related to the Offer or the Demerger Transactions or arise from the Settlement, between the date hereof and the transfer of control to the

Offeror, the Company and its Subsidiaries shall not have undertaken to acquire or sell (or have acquired or sold) any assets or have undertaken to incur or repay (or have incurred or repaid) any indebtedness in the aggregate amount or value of more than CHF 191.5 million (corresponding to 10% of the consolidated total assets of the Company and its Subsidiaries as of December 31, 2015, as per the Company's annual report 2015).

## 2. Waiver of Offer Conditions

The Offeror reserves the right to waive, in whole or in part, one or more of the conditions, except for conditions (a), (f) and (h)(ii), which the Offeror may only waive in accordance with the following sentences. The Offeror may only waive condition (a) to an acceptance level of 51% of all Actelion Shares that are issued and outstanding at the end of the (possibly extended) Offer Period. The Offeror may only waive conditions (f) and (h)(ii), in whole or in part, if (x) the board of directors of the Company or any committee thereof notifies the Bidder, in connection with a competing proposal that does not contemplate the Demerger Transactions, and following this notification the Company and the Bidder enter into an agreement in respect an alternative transaction that does not contemplate the Demerger Transactions or (y) the board of directors of the Company or any committee thereof, in connection with a competing proposal, withdraws (or modifies or qualifies in any manner adverse to the Bidder) its recommendation of the Offer or approves or recommends such competing proposal or the Company enters into an agreement in respect of such competing proposal or announces any of the foregoing.

## 3. Period for Which the Offer Conditions are in Force and Effect

- (a) Conditions (a) and (d) shall be in force and in effect until the expiration of the (possibly extended) Offer Period. If any of the conditions (a) or (d) have not been satisfied or waived by the end of the (possibly extended) Offer Period, the Offer will be declared unsuccessful.
- (b) Conditions (b), (c), (f), (g), (i) and (j) shall be in force and effect until the Settlement.
- (c) Conditions (e) and (h) shall be in force and effect until the Settlement or, if earlier, until the date when the applicable corporate body of the Company has taken the required resolution mentioned therein.
- (d) If any of the conditions (b), (c), (f), (g), (i) or (j) or, if and to the extent still applicable (see preceding paragraphs), any of conditions (e) or (h), have not been satisfied or waived by the anticipated Settlement, the Offeror shall be entitled to declare the Offer unsuccessful or to postpone the Settlement for a period of up to four months after the expiration of the Additional Acceptance Period (the **Postponement**). During the Postponement, the Offer shall continue to be subject to the conditions (b), (c), (f), (g), (i) and (j) and, if and to the extent still applicable (see preceding paragraphs), conditions (e) and (h), as long as, and to the extent, such conditions have not been satisfied or waived. Unless the Offeror applies for, and the TOB approves, an additional postponement of the Settlement, the Offeror will declare the Offer unsuccessful if such conditions have not been satisfied or waived during the Postponement.

## II. Offer Restrictions

### General

The Offer is not being and will not be made, directly or indirectly, in any country or jurisdiction in which it would be considered unlawful or otherwise violate any applicable laws or regulations, or which would require J&J or any of its Subsidiaries to change or amend the terms or conditions of the Offer in any material way, to make an additional filing with any governmental, regulatory or other authority or take additional action in relation to the Offer. It is not intended to extend the Offer to any such country or jurisdiction. Any such documents relating to the Offer must neither be distributed in any such country or jurisdiction nor be sent into such country or jurisdiction, and must not be used for the purpose of soliciting the purchase of securities of the Company by any person or entity resident or incorporated in any such country or jurisdiction.

### Notice to U.S. Holders

The Offer is being made for the registered shares of the Company, a Swiss company whose shares are listed on the SIX, and is subject to Swiss disclosure and procedural requirements, which are different from those of the United States (**U.S.**). The Offer is being made in the U.S. pursuant to Section 14(e) of, and Regulation 14E under, the U.S. Securities Exchange Act of 1934, as amended (the **U.S. Exchange Act**), subject to the exemptions provided by Rule 14d-1 and Rule 14e-5 under the U.S. Exchange Act and any exemptions from such requirements granted by the U.S. Securities and Exchange Commission (the SEC), and otherwise in accordance with the requirements of Swiss law. Accordingly, the Offer is subject to disclosure and other procedural requirements, including with respect to withdrawal rights, settlement procedures and timing of payments that are different from those applicable under U.S. domestic tender offer procedures and laws. U.S. holders of Actelion Shares are encouraged to consult with their own Swiss advisors regarding the Offer.

This Pre-Announcement does not constitute the Offer. The Offeror will disseminate the Offer Prospectus (with full Offer terms and conditions) as required by applicable law, and the shareholders of the Company should review the Offer Prospectus and all other Offer documents carefully. The Offer may not be accepted before publication of the Offer Prospectus and expiration of a cooling-off period of ten (10) Trading Days (if not extended by the TOB), which will run from the Trading Day immediately after the publication date of the Offer Prospectus.

According to the laws of Switzerland, Actelion Shares tendered into the Offer may generally not be withdrawn after they are tendered except under certain circumstances, in particular in case a competing offer for the Actelion Shares is launched.

In accordance with the laws of Switzerland and subject to applicable regulatory requirements, J&J and its Subsidiaries and Affiliates or their respective nominees or brokers (acting as agents for the Offeror) may from time to time after the date of the Offer Prospectus, and other than pursuant to the Offer, directly or indirectly, purchase or arrange to purchase Actelion Shares or any securities that are convertible into, exchangeable for or exercisable for Actelion Shares from shareholders

of the Company who are willing to sell their Actelion Shares outside the Offer from time to time, including purchases in the open market at prevailing prices or in private transactions at negotiated prices, and shall comply with applicable laws and regulations in Switzerland and applicable U.S. securities laws, rules and regulations and pursuant to exemptive relief granted by the SEC from Rule 14e-5 under the U.S. Exchange Act. Any such purchases will not be made at prices higher than the offer price or on terms more favorable than those offered pursuant to the Offer unless the offer price is increased accordingly. Any information about such purchases or arrangements to purchase will be publicly disclosed in the U.S. on <http://www.investor.jnj.com/publictenderoffer.cfm> to the extent that such information is made public in accordance with the applicable laws and regulations of Switzerland. In addition, the financial advisor to the Company and, subject to applicable Swiss and U.S. securities laws, rules and regulations and pursuant to exemptive relief granted by the SEC from Rule 14e-5 under the U.S. Exchange Act, the financial advisor to J&J and its Affiliates may also engage in ordinary course trading activities in securities of the Company, which may include purchases or arrangements to purchase such securities.

It may be difficult for U.S. holders to enforce their rights and any claim arising out of U.S. securities laws, since the Offeror and the Company are located in a non-U.S. jurisdiction, and some or all of their officers and directors may be residents of a non-U.S. jurisdiction. U.S. holders may not be able to sue a non-U.S. company or its officers or directors in a U.S. or non-U.S. court for violations of the U.S. securities laws. Further, it may be difficult to compel a non-U.S. company and its Affiliates to subject themselves to a U.S. court's judgment.

The receipt of cash pursuant to the Offer by a U.S. holder of Actelion Shares may be a taxable transaction for U.S. federal income tax purposes and under applicable U.S. state and local laws, as well as foreign and other tax laws. Each shareholder of the Company is urged to consult his or her independent professional advisor immediately regarding the tax consequences of an acceptance of the Offer. Neither the SEC nor any securities commission of any State of the U.S. has (a) approved or disapproved of the Offer; (b) passed upon the merits or fairness of the Offer; or (c) passed upon the adequacy or accuracy of the disclosure in this Pre-Announcement. Any representation to the contrary is a criminal offence in the U.S.

### **American Depositary Shares and American Depositary Receipts**

The Offeror is aware that there is an "unsponsored" American Depositary Receipt Program concerning Actelion Shares. The Offer is not being made for American Depositary Shares representing Actelion Shares (**ADSs**), nor for American Depositary Receipts evidencing such ADSs (**ADRs**). However, the Offer is being made for the Actelion Shares that are represented by the ADSs. Holders of ADSs and ADRs are encouraged to consult with the appropriate depository regarding the tender of Actelion Shares that are represented by ADSs. The Offeror is unaware of whether any respective depository will make arrangements to tender the underlying Actelion Shares into the Offer on behalf of holders of ADSs or ADRs.

Holders of ADSs may present their ADSs to the appropriate depository for cancellation and (upon compliance with the terms of the deposit agreements relating to the "unsponsored" American Depositary Receipt Program concerning Actelion Shares, including payment of the depository's

fees and any applicable transfer fees, taxes and governmental charges) delivery of Actelion Shares to them, in order to become shareholders of the Company. The Offer may then be accepted in accordance with its terms for the Actelion Shares delivered to holders of ADSs upon such cancellation. Holders of ADSs should be aware, however, that in order to tender in this manner, they may need to have an account in Switzerland into which the Actelion Shares can be delivered.

### III. Additional Information

Additional information on the Offer is expected to be published electronically through the same media.

#### Identification

	<b>Security Number</b>	<b>ISIN</b>	<b>Ticker Symbol</b>
Registered shares with a nominal value of CHF 0.50 each of Actelion	1 053 247	CH001 053 247	ATLN

January 26, 2017

#### Lead Financial Advisor

LAZARD

#### Financial Advisor



#### Tender Agent

