

**Decision No. 44/2006**

**Dated 20/4/2006**

**Regarding stock option plans of directors and employees**

**Capital Market Authority Chairman**

After reviewing Law no. 159\1981 promulgating joint stock companies, companies limited by shares and limited liability companies,

The Decree of the Minister of Investment and International Cooperation no.96\1982 promulgating the Executive Regulations of Law 159\1981, Capital Market Law no. 95/1992,

The decree of the Minister of economy and Foreign Trade no. 135\1993 promulgating the Executive Regulations of Law 95\1992, Law no. 94\2005 amending some provisions of Law 159\1981 and Law no. 8\1997,

The Minister of Investment's decree no 282\2005 amending some provisions of Law of Joint Stock Companies, Companies Limited by shares and limited Liability companies no. 159\1981,

And after taking the opinion of the CMA board of directors at its session dated 12 April 2006

**Decided**

**Article (1)**

Attached forms to this decision shall be applicable to joint stock companies wishing to apply stock option plans for the staff whatever the legal system they are subject to.

**Article (2)**

The stock option plan apply to all the company's staff, directors and board of directors' members according to terms of such plans and without prejudice to the provisions of Law 159\1981 and its Executive Regulations.

### **Article (3)**

Provisions of the attached stock option plan shall not conflict with system of employees shareholders option plan and as per provisions of the Capital Market Law and its Executive Regulations. Companies may follow other incentive systems in accordance with valid laws and regulations.

### **Article (4)**

The attached forms to this decision shall be applicable as of the next day of its issuance.

All CMA competent departments shall take any necessary procedures to inform clients of CMA, General Authority of Investment, CASE and MCDR with those forms.

**CMA Chairman**

**Dr Hani Sarie-ElDin**

## **Annex (1)**

**A Draft Model for the amendment of the company's statute to apply the system of remuneration and stimulation of employees and directors according to the Minister of Investment's decree no. (282) of 2005**

# **The System of Remuneration and Incentives of Employees and Directors**

## **General Provisions**

### **Article (     )**

With respect to the provisions of articles 149, 150, 196 of the Executive Regulations of the Company Law no. 159 of 1981. The extra-ordinary general assembly might approve the following systems according to the board's proposal:

- Offering free shares
- Offering shares of special prices or by facilitating payment methods
- Assurance to pay after a specific period, and fulfillment of certain conditions according to the company's commitment

The general assembly states how to provide the required shares for the application of any of the above mentioned systems; either through issuing new shares or the company purchasing its shares or transferring the reserve into shares to increase the issued capital.

The approval of the assembly to any of the above mentioned systems depends on the provisions and procedures stated in the decree no. 282\2005 of the Minister of Investment and any other decisions amending it.

The assembly's decisions shall state the conditions of the claim of both employees and directors to the specified shares according to the system, as well as the conditions regarding the duration of the job, the position and efficiency.

In most cases, the company can assign the management of a system or more from the systems approved by the extra-ordinary general assembly to any of the following authorities:

- Licensed custodians
- Securities companies
- Federation of shareholding employees

## **Article (     )**

### **Distribution of earnings and returns resulting from liquidation**

With respect to the provisions of articles .....<sup>1</sup> of this statute, each employee or director<sup>2</sup>, to whom the ownership of the company's shares has been transferred according to any of the systems, is entitled to receive the returns on these shares during the distribution of earnings and returns resulting from liquidation provided that he has completely redeemed its value, unless these shares were offered for free.

Nevertheless, if the assembly ratifies a system that offers shares to employees and directors, facilitating payment methods, the shareholder shall receive at least a percent of earnings distributed that equals what he has paid from the price of the shares.

The employee or director is also entitled, in case of liquidation before paying the total value of the shares transferred to him, to receive a percentage of the returns of liquidation that equals what has been paid from the value of these shares.

## **Article (     )**

### **Voting in the General Assembly Meeting**

All employees and directors, to whom the shares of the company have been transferred, are entitled to attend the general assembly meetings and take part in voting on condition that they have paid the total value of these shares.

Nevertheless, if the company approves any of the systems previously mentioned; offering shares by facilitating payment methods, shareholders have the right to attend extra-ordinary general assembly meetings and take part in voting on decisions issued on condition that they have paid at least 50% of the total value of these shares during a period not exceeding 5 years from the date of transfer of ownership.

## **Article (   )**

### **Delay of Payment**

The board of directors shall take the necessary actions, according to the provisions of the Company Law no. 159\1981 and its Executive Regulations, against the employee or director who does not pay in time.<sup>1</sup>

This includes depriving him from distribution of earnings as well as the right to attend general assembly meetings and the right to vote.

## **Article (   )**

### **Prohibition of Taking Action**

If the company approves on any of the systems mentioned in article (   ) for remuneration and incentives of employees and directors, the shareholders are prohibited from taking any actions regarding these shares for a period specified by the extra-ordinary general assembly, which is not less than 3 years for shares offered and 2 years for shares sold by discount price or by facilitating payment methods.

The prohibition period is determined from the date of transfer of ownership of the shares.

The system might state a longer prohibition period for employees and directors who no longer work for the company.

## **Article (   )**

### **Resignation of the employee or director**

In case of the resignation of the employee or director before paying the total value of the transferred shares, the company shall return back what has been paid from the value of the shares according to their market value on the day of resignation in return for the transfer of ownership of these shares to the company, unless the employee

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<sup>1</sup> Reference is made to the articles concerning the distribution of earnings to shareholders, board members and employees

<sup>2</sup> The term director includes executive board members

or director informs the company in writing that he wishes to pay the remaining amount of the shares' price, during a period that does not exceed 7 days from the day of resignation.

These rules are applied on the heirs of the employee and director in case of death before payment.

The system approved by the assembly determines the rules regulating the unpaid amounts of shares' price in case of exceptional vacations, disciplinary segregation or suspension.

### **Article (    ) Amendment and Cancellation**

Without prejudice to the provisions of the ministerial decree no. (282) of 2005 regarding those benefiting from the selling pledge contracts, the extra-ordinary general assembly has the right to amend or cancel any condition concerning the remuneration and stimulation systems.

### **Article (    ) The General Assembly's Decisions**

In application of the rules and provisions of this chapter the extra-ordinary general assembly's decisions are issued with a majority of 75% of the present shares.

## Annex 2

A Draft Model for the system of remuneration and stimulation of employees and directors through offering them shares for free and selling them by outstanding, distinguished terms according to the ministerial decree no. (282) of 2005 regarding the amendment of some rules in the executive regulation of the company law no. (159) of 1981.

### **Introduction:**

- The system of remuneration and stimulation of employees is applied on those who acquire all conditions regarding efficiency, qualification and professional standard as well as the duration in which they have served the company, according to the rules stated by the system, which allow employees and directors to acquire part of the company's shares, either for free or by selling them through distinguished terms. This makes the system different from the system of the federation of shareholding employees, in which shares remain owned by the federation.
- Remuneration and stimulation do not replace the federation of shareholding employees and do not prevent the company from adopting other stimulation systems according to the laws and rules in this field.
- The system shall consider cases in which the company might purchase its shares and the duration for keeping these shares and their rights as well as the rules regarding distribution of earnings.

### **Definitions:**

**The company:** refers to the company "....."

**The assembly:** refers to the extra-ordinary general assembly of the company

**The system:** is the remuneration and stimulation system

**The statute:** refers to the statute of the company

**The beneficial:** refers to the employees, directors and board members

**The systems:** are the systems of remuneration and stimulation, represented in: 1- offering free shares, 2- selling shares through distinguished terms

**The executive regulation:** is that of the company law no. (159) of 1981 issued by the decree of the minister of investment affairs no. (96) of 1982, and amended by the ministerial decree no. (282) of 2005

**The shares:** refer to the company's shares with a nominal value that equals ..... per share.

## Article (1)

### **The System's Objective**

The company aims at the following:

- 1- ..... 2- ..... 3- .....  
.....

(For example: the company aims at creating a competitive spirit among employees and encouraging them to innovate and exert more effort, as well as rewarding the most diligent and distinguished)

## **Article (2)** **Explaining the System**

### **Explaining the remuneration and stimulation shares' system:**

#### **(1) In case of shares offered for free:**

Offering the company's shares for free, through the approval of the extra-ordinary general assembly meeting for the company's shareholders, is considered a right for the CEOs, directors and employees in the company or any of its affiliates as a result of their outstanding work and their annual assessment, as well as the economic performance of the company or the individual according to his professional position within a period determined by (3 years for example), notwithstanding the actual price of the share on the stock exchange.

#### **(2) In case of selling shares through distinguished terms represented in special prices or through facilitating payment methods by the company or by capital increase:**

CEOs, directors and employees have the acquire this right as a result of the approval of the extra-ordinary general assembly of the company's shareholders due to their efficiency, qualification and annual assessment as well as the economic performance of the company or the individual during the period in which they have served the company.

## **Article (3)** **How the company owns shares of remuneration and stimulation**

The company allocates part of its shares to apply this system. Shares are provided either through issuing new shares by capital increase or transferring the reserve or part of it into shares, whose value increases the issued capital.

## **Article (4)** **Implementation of the system**

The extra-ordinary general assembly of the company issued ..... in its session held on ..... the system of ..... after the amendment of the main statute of the company in session ....., according to the proposal of the company's board on .....

## **Article (5)**

### **Allocation of shares**

The extra-ordinary general assembly decided to allocate a number of shares for the implementation of a system or more, either through offering free shares or selling them by special prices through issuing new shares through capital increase or transferring the reserve into shares whose value increases the issued capital, a number of ..... shares were offered for free for the beneficial with a percent of .....% from shares to every beneficial, and a number of ..... shares were sold by distinguished terms with a percent of.....% from shares to every beneficial. The value of actual shares were calculated by ..... Pounds per share.

## **Article (6)**

### **Payment of shares' value**

Shares' value are paid from the beneficial's proceeds at the company .....and .....by installment ..... or .....

## **Article (7)**

### **System's Beneficial**

The beneficial must handle the position of..... at the company, and the period spent must not be less than..... , and his assessment should be ..... in the annual efficiency assessment report of the supervisory authorities of the company.

## **Article (8)**

### **Voting and sharing in profits**

The beneficial does not have the right to attend ordinary and extra-ordinary general assemblies. He also does not have the right to vote or share in profits unless: 1-..... 2-..... 3-.....

## **Article (9)**

### **Prohibition of disposal of shares**

The beneficial shall not dispose of shares except after .....from the date of transfer of ownership. During this period he has the right to get a percent of.....from the total distributed earnings on condition that ....., and after the payment of the total value of shares the beneficial shall have all ownership rights such as the procurement of dividends and voting in general assemblies<sup>1</sup>. It could be stated in the assembly's decision that the prohibition period can be extended if:.....or.....  
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<sup>2</sup> This right concerns selling shares by facilitating payment methods, as for dividend shares they have all rights  
<sup>2</sup> This differs according to the different systems

## **Article (10)**

### **Quitting or Resigning**

In case the beneficial quits work or resigns he shall have<sup>2</sup> ..... and the company shall<sup>3</sup> ..... In case he dies his heirs replace him legally in rights and commitments<sup>4</sup>.

## **Article (11)**

### **Management of the System**

A committee formed of<sup>5</sup>: handles the management. It manages the system according to the executive regulations and the general assembly's decision.

## **Article (12)**

### **Termination of the System**

The general assembly might terminate the system .....without any commitment to the beneficial and without prejudice to the rights he acquired before the termination decision.

## **Article (13)**

### **Settlement of Disputes**

In case of disputes between the company and the beneficial they can be settled according to law no. (27) of 1994 regarding the issuance of a law for arbitration in civil and commercial cases or through Cairo Regional Center for International Commerce Arbitration.

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<sup>3</sup> The commitment of the company is determined by re-purchasing the shares previously offered

<sup>4</sup> According to the applied system, in case dividend share were offered heirs replace the beneficial in practicing all rights regarding shares and participating in profits and voting on the company's decisions. In case of selling shares by facilitating payment methods, heirs can take back what has been paid from the value of shares or pay the rest of the value

<sup>5</sup> The company can assign the management to custodians or securities companies

## **Annex (3)**

Draft Form of Contract  
Granting Free Shares or Selling them under Special Terms  
Under Systems of Remuneration and Incentives

**It is on**                      **dated**    \    \

An agreement was concluded between:

First: The company\\_\_\_\_\_ (ASE)

Address: \_\_\_\_\_

Represented by: \_\_\_\_\_

Capacity:

Referred to in the contract as "The Company" or "First Party".

Second: Mr. \underline{\hspace{10cm}}

ID no. (personal\family): \_\_\_\_\_

Job at company: \_\_\_\_\_

Referred to in the contract as "Beneficiary" or "Second Party"

# Prelude

The company has adopted, as per CMA board of directors' decision dated ( ), the staff and directors remuneration and incentive system through granting them free shares or shares under distinguished terms. The system was ratified by the company's extraordinary general assembly and approved by the CMA on with the aim of enhancing competitiveness among staff and directors who would become more creative, inventive and efficient. The creative and distinguished shall be rewarded.

**Since the beneficiary should meet necessary terms to benefit from the remuneration and incentives system,**

**The company wishes to grant the beneficiary free shares\ or preferred shares with distinguished terms in accordance with rules and procedures authorized by the extra ordinary general assembly and as per this contract with the aim of motivating the beneficiary.**

**The beneficiary agreed to be granted free shares or preferred shares according to rules and procedures ratified the company's extraordinary general assembly and under this contract.**

**The two parties agreed to the following:**

## Article (2)

**The previous prelude is an integral part of the contract.**

Article (3)

*The company's extra ordinary general assembly decided to grant free shares for the beneficiary representing     % of the total number of free shares.*

Article (4)

**The free shares were funded by transferring the company's reserve or part of it into shares whose value shall increase the company's issued capital.**

Article (5)

**In case of being granted free shares and transferring their ownership to him\her, the beneficiary shall be entitled to attend the company's general assembly, vote on the company's decisions and get its dividend.**

Article (6)

**The beneficiary may not take action to the free shares for the period of     (     ) without prejudice to his\her right in dividends or any other rights stated by the company's statute.**

Article (7)

**In case of the beneficiary's resignation the company shall be committed to repurchase the free shares granted to him\her. In case of the beneficiary's death, his\ her heirs shall replace the beneficiary in practicing all rights related to free shares in taking part in profits and voting on the company's decisions.**

Article (8)

**The extra ordinary general assembly decided to sell preferred shares to the beneficiary with the actual value of per share with special prices or easy term of payment as follows:**

Article (9)

**In case of selling the preferred shares under easy terms, the beneficiary is entitled to get a percentage of profits distribution that equals what he paid of shares value as well as voting right as per the company's statute and provided that he paid 50% of the total price of the preferred shares. In case of company liquidation before full payment of preferred shares value, the beneficiary is also entitled to get a percentage of liquidation returns that equals what he paid for them.**

Article (10)

**The beneficiary may not take any action with the preferred shares within     from the date of their ownership transfer and until full payment of preferred shares without prejudice to his\her rights in profit allocation or any other rights stated by the company statute with the same percentage pf the price paid for the preferred shares.**

Article (11)

**In case of beneficiary resignation before full payment of shares price, he\she may either pay the remainder of the price or redeem what he\she paid with the price at the resignation acceptance time and within seven working days from the resignation date. These provisions shall be applicable to heirs, in case of the death of the beneficiary before payment of preferred shares price.**

Article (12)

**The beneficiary shall be committed to pay total price of shares purchased with under special terms within a period not exceeding from the date of ownership transfer.**

Article (13)

**In case that the beneficiary delays in payment of share value in due dates stated in this contract, the company has the right to take necessary procedures as per its statute and rules promulgated in Company Law no. 159\1981. The procedures include denying him\her the right to receive profit distribution if any, the right to attend general assembly meetings or the voting right if any beside other procedures and rules stipulated in Law no. 159\1981.**

Article (14)

**It is agreed upon that the extra ordinary general assembly may at any time issue a decision to amend terms or cancel the remuneration and incentive system without prejudice toe the beneficiary's rights that emerged after issuing the decision to cancel that system.**

Article (15)

**In case of any dispute or disagreement between the two parties, it may be agreed to settle it through arbitration as per provisions of Law 27\1994 on arbitration in civil and commercial articles or through Cairo regional centre of international commercial arbitration.**

Article (16)

**This contract was written in two copies, one for each party.**

***First Party***

***Second Party***

## **Annex (4)**

### **Draft Form of Contract and Share Selling Pledge According to Remuneration and Incentives System Of Directors and Staff**

**In ..... Co.**

**It is on ..... Dated .....Month ..... Year..... this  
contract was signed by the two following parties:**

**1) .....Co.**

**..... (Referred to as the "Company").**

**2) Mr.\Ms. ....**

**.....(Referred to as the  
"beneficial").**

### **Prelude**

Since the Company has established in its statute a remuneration and incentives system (referred to as the "system") that is based on a pledge to sell the company's shares to the beneficial in accordance with terms stipulated later and the decree of the Minister of Investment no. 282\2005, The employee occupies the job ..... under the degree of .....,

The two parties wish to sign this contract to organize how employees would benefit from the system and how they would receive distributed shares according to such system (referred to as the "system shares"),

The two parties agreed to the following:

### ***Article (1)***

#### **Prelude**

The previous prelude and Attachment (A) are an integral part of this contract and complementary to its provisions.

### ***Article (2)***

#### **Company's Statement**

The company hereby admits that the employee meets all terms to benefit from the system proposed by the company's BOD and ratified by its extra ordinary general assembly dated .....

### **Article (3)**

#### **Pledge**

3-1 In observance of articles (4) and (5) and provided that the employee practices his\her right to purchase (all or some) of the system shares during the period defined in the notification mentioned in Article (5) and in accordance with terms and form in Attachment (1), the company hereby is committed to transfer the ownership of .....the system shares to the employee if he\she wishes to within ..... or .....% of the shares allocated to that system.

3-2 The ownership of the aforementioned shares shall be transferred as follows:<sup>4</sup>

.....  
.....

### **Article (4)**

#### **Terms of Pledge**

The company's pledge shall not be valid until the following terms are met:

- a. That the employee is still in service on .....<sup>5</sup>  
(shall be referred to as due date\ s)
- b. That the employee was given, during the stated period, grade .....in the annual report of the company according to its internal regulations.
- c. That the company realized the following results:  
.....  
.....
- d. That the employee expressed the desire to buy system shares during the period defined in attachment (1).<sup>6</sup>

### **Article (5)**

#### **Notification of Maturity**

If terms in article (4) are met, the company shall be committed to notify the employee immediately and in writing to his\her last address in the employment file and in the form in Attachment (1) at due date\ s.

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(<sup>4</sup>) In this paragraph, the company shall set the date and phases (if there are many phases) of ownership transfer of the system shares to the employee and the number of shares to be transferred to him\her whether on one or many installments provided that the share price would be defined at each phase.

(<sup>5</sup>) The employee's due date\ s in purchasing system shares (all or some of them as per current status).

(<sup>6</sup>) This paragraph is optional for the company that may adopt a certain economic quality standard.

## ***Article (6)***

### **Contract Duration**

- 6-1 This contract shall be applicable for .....
- 6-2 The company may break its pledge in the following cases:<sup>7</sup>  
....., or in case the employee declines from the right to purchase the shares during the set period of notification.
- 6-3 In case of the employee's death before expressing the wish to purchase the shares and before the end of the defined period for announcing that wish, the heirs are entitled to finish the pledge by expressing such wish and fully pay the value of the system shares.

## ***Article (7)***

### **Applicable Law and Judicial Competence**

In case of dispute or disagreement between the two parties, it may be settled as per provisions of law 27\1994 through enacting a law on arbitration in civil and commercial articles or through Cairo regional center for international commercial arbitration.

## **Article (8)**

This contract was written in two copies, one for each party.

### **Attachment (1)**

From: ..... (the Company)

To: ..... (the Employee)

Date: .....<sup>8</sup>

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<sup>(7)</sup> ) Cases of death, resignation and dismissal are regulated in this paragraph.

<sup>(8)</sup> ) Date of each maturity

Subject: Maturity of .....(employee) of the right to buy  
..... Of the system shares

With reference to the above issue, contract of system shares pledge (according to their definition) dated ..... And signed by us, we would like to inform you the following:

- 1) The company has granted you the right to purchase ..... of the system shares.
- 2) You are entitled to practice your right to buy shares mentioned in (1) within a period not exceeding ..... from the date of receiving this notification after which the right to purchase such shares is subtracted.
- 3) You are entitled to practice your right to buy shares mentioned in (1) with the price of .....per share with the total value of ..... to be paid as follows:

.....

.....

- 4) Without prejudice to paragraph (2), if you do not pay the total value, your right to purchase the shares mentioned in (1) will be subtracted. <sup>9</sup>
- 5) Once the ownership of those shares is transferred according to terms included in this notification, you may take part in the company's general assembly and get profit distribution of shares transferred to you under this notification. You are denied the right to sell those shares for ..... from the date of their ownership transfer to you.
- 6) This attachment is considered an integral part of the contract as per the remuneration and incentive system of directors and staff.

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(<sup>9</sup>) The company may transfer the ownership of shares to the employee, if he\she pays part of the total value provided that the two parties reach an agreement on that issue.

7) In order that you will be able to express your wish to practice your purchasing right as per this notification, you should inform the company in writing in the following address: ..... during the period indicated in the notification without prejudice to your commitment to pay the value of those shares in due dates.

**Company Seal: (.....)**

**Name: .....**

**Capacity: .....**

**Signature: .....**