

## **Corporate Governance Report for the 2015 financial year, including the Declaration on Corporate Governance pursuant to § 289 a HGB**

### **I. Declaration pursuant to § 161 of the German Stock Corporation Act (Specification pursuant to § 289 a. para. 2 No. 1 HGB as part of the Declaration on Corporate Governance)**

The Management Board and the Supervisory Board made the following compliance declaration in December 2015:

#### **Declaration by the Management Board and the Supervisory Board of Biofrontera AG (company) concerning the German Corporate Governance Code, pursuant to § 161 of the German Stock Corporation Act**

Pursuant to § 161 German Stock Corporation Act (AktG), the Management Board and the Supervisory Board of Biofrontera AG are obligated to declare each year that the recommendations of the "Government Commission on the German Corporate Governance Code" ("Code"), published by the Federal Ministry of Justice in the official section of the electronic Federal Gazette, have been and are being complied with, or which recommendations were not or are not being adhered to and why this is the case ("compliance declaration"). The compliance declaration must be made permanently accessible to the shareholders. The Management Board and the Supervisory Board hereby make the following compliance declaration:

Since the submission of its last compliance declaration in December 2014, Biofrontera AG has complied with the recommendations of the Code in the version listed in that declaration taking into account the exceptions stated there, and will comply with the version of 5 May 2015, with the following exceptions:

#### **Deductibles in respect of the D&O insurance (No. 3.8 para. 3)**

There is a D&O insurance policy for the company that provides no deductible for Supervisory Board members. In the company's view, such a deductible is not needed in order to ensure the motivation and sense of responsibility of the Supervisory Board members. A deductible would, however, probably undermine the company's aspirations to attract outstanding people from Germany and abroad to serve on its Supervisory Board. The Supervisory Board has therefore been expressly exempted from the new provisions regarding the deductible in the German Act regarding the Appropriateness of Management Board Remuneration (VorstAG) (§ 116 AktG).

#### **General limit to be specified for the term of office on the Supervisory Board (No. 5.4.1)**

As part of its diversity goals, the Supervisory Board should specify a general limit for the term of office on the Supervisory Board. However, in the company's case, specifying a general limit for the term of office is not considered to be appropriate from the current perspective. This is because, in the opinion of Supervisory Board, it is not possible to abstractly determine a length of time that could usefully be specified as a general maximum limit for the term of office. Instead, each case should be assessed individually, in terms of whether the length of membership of the Supervisory Board up to now may conflict with a proper and impartial exercise of the mandate.

#### **Structure of remuneration for the Supervisory Board (No. 5.4.6)**

The company does not take membership in committees into consideration when remunerating the Supervisory Board members. Given the close coordination in the six-member Supervisory Board, a differentiation of the Supervisory Board remuneration according to committee membership is not currently required, especially as the members generally have around the same workloads resulting from membership of the various committees.

#### **Reporting (No. 7.1.2)**

Financial reports, half-yearly reports and interim reports are published within the statutory periods.

## II. Corporate Governance Report

**(including statements pursuant to § 289 a para. 2 No. 2, 3 and 4 HGB (German Commercial Code) - together with the declaration pursuant to § 161 of the German Stock Corporation Act in point I above, these constitute the Declaration on Corporate Governance)**

Biofrontera Aktiengesellschaft (hereinafter also referred to as "the company") is a public limited company under German law. The company is managed by the Management Board and the Supervisory Board, and these boards cooperate for the benefit of the company. "Corporate governance" means the responsible management and supervision of companies, with a focus on long-term value creation. The Supervisory Board and the Management Board continuously review and develop corporate governance in the company, in order to ensure good, responsible company management and to provide transparency for shareholders. The Management Board and the Supervisory Board of Biofrontera Aktiengesellschaft are aware of their responsibilities to the company's shareholders, employees and business partners and to the general public. Therefore, Biofrontera Aktiengesellschaft generally considers compliance with the recommendations of the German Corporate Governance Code (hereinafter also referred to simply as "the Code") to be an important component of responsible corporate governance.

Pursuant to No. 3.10 of the Code, the Management Board and the Supervisory Board must submit an annual report on the company's corporate governance (corporate governance report). This report must also include explanations of any areas of non-compliance with the recommendations of the Code. The other contents of the corporate governance report are as follows: No. 5.4.1: Diversity, the Supervisory Board's aims in terms of its composition, and its progress in achieving these aims must be published in the corporate governance report. No. 6.2: If the total quantity of shares owned by all Management Board and Supervisory Board members exceeds 1% of the shares issued by the company, the respective total quantities of shares owned by the Management Board and the Supervisory Board must be stated separately in the corporate governance report. No. 7.1.3: The corporate governance report must include specific statements concerning share option programmes and similar security-based incentive systems provided by the company, if these statements have not already been made in the annual financial statement, the consolidated financial statement or the remuneration report.

### About the company's management structure

Biofrontera Aktiengesellschaft is subject to the provisions of German law on stock companies and capital markets, as well as the provisions of the Articles of Association and the Rules of Procedure for the Management Board and the Supervisory Board. The two organs, the Management Board and the Supervisory Board, give the company a two-part management and supervisory structure. The Management Board and the Supervisory Board are obliged to act in the interests of the shareholders and for the benefit of the company. The company's third organ is the Annual General Meeting.

### About the Company's corporate governance practices

The values enshrined in the statutory regulations and in internal guidelines and organisational instructions lie at the heart of the management culture for the company and its subsidiaries. Sector-specific certifications and quality requirements, compliance with which requires considerable efforts, are of particular importance in this respect.

In addition, there is a common understanding among management and employees of the need to link sustainable growth with commercial success and, at the same time, to create benefits for society by providing effective and tolerable pharmacological products.

To achieve this goal, every employee should be aware of his or her contribution to corporate success and to the creation of value, and he or she should be willing and able to take responsibility for achieving the necessary

results.

In order to act autonomously and on their own initiative, employees must first know about and understand the company's strategic orientation. The company management therefore provides its employees with regular updates concerning company objectives, current business progress, the market environment and the competitive environment. Moreover, clearly defined company structures, areas of responsibility and processes are an important foundation for ensuring efficient corporate governance and cooperation. When combined with well-defined but continuously optimised processes, this kind of structure makes it possible to align management processes with the company's objectives and to regularly monitor the company's progress in achieving its objectives.

In this respect, the motivation and esteem of the company's employees is particularly important because employees will show exceptional dedication and achieve high productivity and efficiency only if they have a positive attitude towards their work environment, and if they identify strongly with the company and its objectives. This is why the company promotes a good balance between the high performance expected of highly-qualified and focused employees in a dynamic market, on the one hand, and the necessities and demands of a healthy personal life, on the other hand.

### Compliance

The entrepreneurial activities of the Biofrontera Group must adhere to the laws of the various countries in which it operates. This is increasingly relevant because of increasing sales activities in foreign markets.

The Biofrontera Group performs its business activities responsibly and in accordance with the statutory provisions and official regulations of the countries in which it is active. It expects its employees to carry out their everyday work in a legally and ethically impeccable manner, because developers and manufacturers of pharmacological products must act with the utmost integrity in order to justify the trust of their partners and especially that of the patients treated with their products.

In training courses involving the responsible compliance officer, the employees have been made familiar with the relevant codes of conduct and the legal and regulatory requirements. Key elements of the compliance applied at the Biofrontera Group are compliance with antitrust rules, integrity in business transactions, a commitment to product stewardship and sustainability, adherence to the company's quality management system, and the avoidance and/or proper handling of conflicts of interest.

Further details are available in the specified *Code of Conduct* entitled "Behavior in Business: Integrity, Innovation, Respect and Responsibility", which must be followed by all employees and organs.

## Functions of the Management Board and the Supervisory Board

### Management Board

The Management Board represents the company externally and manages it in accordance with the law, the Articles of Association and the Rules of Procedure for the Management Board. The company's quality management system is directly linked to the Chief Executive Officer. The Management Board guarantees that appropriate risk management is implemented within the company and that risk monitoring is carried out. This is intended to ensure that any developments that could threaten the company's ongoing existence are identified at an early stage. The Management Board defines the company's strategic orientation, adjusts the latter in consultation with the Supervisory Board and ensures that it is implemented. The Management Board must ensure compliance with statutory regulations and the company's internal guidelines, and it strives to ensure compliance with the latter by the companies in the group (compliance).

The Management Board of Biofrontera Aktiengesellschaft currently comprises three members: the Chief Executive Officer, the Chief Financial Officer and the Chief Commercial Officer. The Supervisory Board has issued Rules of Procedure for the Management Board. Pursuant to the Rules of Procedure for the Management Board, measures implemented and transactions performed by the Management Board that are of fundamental significance require the approval of the Supervisory Board.

### Supervisory Board

The Supervisory Board appoints the members of the Management Board, advises the Management Board concerning the management of the company, and monitors the company's general management activities. The Supervisory Board of Biofrontera Aktiengesellschaft currently comprises six members, none of whom was previously a member of the company's Management Board. The Supervisory Board has established its own Rules of Procedure.

### Committees of the Supervisory Board

Currently, the Supervisory Board has a Personnel Committee, an Audit Committee, a Research & Development Committee, a Business Development Committee and a Nomination Committee as its permanent committees.

The Personnel Committee prepares decisions for the Supervisory Board regarding the appointment and dismissal of Management Board members. Unlike in the past, the plenum are now assigned responsibility for remuneration decisions as a result of changes in the German Act regarding the Appropriateness of Management Board Remuneration (VorstAG), so the Personnel Committee now only carries out preparatory work. The Supervisory Board has amended its Rules of Procedure accordingly. In addition, it advises on long-term succession planning for the Management Board.

The Audit Committee focuses in particular on issues relating to accounting and risk management, the auditor's mandatory independence and the issuing of the audit mandate to the auditor, as well as the overseeing of the audit of the company's annual financial statement. In companies as defined in § 264d of the German Commercial Code (HGB), which includes Biofrontera Aktiengesellschaft, the Supervisory Board's nomination for the selection of the auditor must be based on the Audit Committee's recommendation. Furthermore, in companies as defined in § 264d of the German Commercial Code (HGB), at least one independent member of the Supervisory Board must have expertise in the fields of accounting or auditing, with this person being a member of the Audit Committee.

The Research & Development Committee deals with key issues related to product development. After discussions within the Research and Development Committee, it makes appropriate recommendations to the Management Board and the Supervisory Board.

The Business Development Committee assesses the opportunities for licensing deals and related contractual terms, advises the Management Board in specific negotiations and prepares decisions for the Supervisory Board on matters requiring approval.

The Nomination Committee proposes suitable candidates to the Supervisory Board for its nominations at the Annual General Meeting. In so doing, the Nomination Committee considers the balance and variation of knowledge, skills and experience of all the Supervisory Board members, and creates candidate profiles. In addition, the Nomination Committee makes recommendations to or informs the Supervisory Board of results from its regular evaluations of the knowledge, skills and experience of individual board members and the Supervisory Board in its entirety. In the course of performing its duties, the Nomination Committee can draw on company resources deemed appropriate and also on external consultants within the necessary framework.

## Objectives regarding the composition of the Supervisory Board

Pursuant to No. 5.4.1 of the Code, the Supervisory Board must be composed in such a way that, overall, its members have the necessary knowledge, skills and professional experience to carry out their tasks properly. The Supervisory Board should define specific objectives regarding its composition, taking into account the company's specific situation, the company's international activities, potential conflicts of interest, the number of independent members of the Supervisory Board in terms of No. 5.4.2 of the Code, an age limit specified for the Supervisory Board members, and diversity. In particular, these specific objectives are intended to ensure that there is an appropriate proportion of female Supervisory Board members.

Pursuant to No. 5.4.2 of the Code, the Supervisory Board should include what it considers to be an appropriate proportion of independent members. In the context of this recommendation, a Supervisory Board member cannot be regarded as independent if s/he has a personal or commercial relationship with the company, its organs, a controlling shareholder or a company affiliated to the latter which may be deemed to represent a significant and not merely temporary conflict of interest. The Supervisory Board should not include more than two former Management Board members. Supervisory Board members should not have any roles within the organs of, or as consultants for, any of the company's major competitors.

The Supervisory Board concurs with the contents of the Code with regard to the fact that, in addition to balanced professional qualifications, diversity should also be taken into account: the composition of the Supervisory Board should always be suitably international, and there should always be a suitable proportion of women represented on the Supervisory Board. In this context, "diversity" is to be understood in terms of international origin, education, training or professional activity, rather than in terms of citizenship, gender and age.

This means that the composition of the Supervisory Board should take proper account of the diversity that is to be found in an open, innovative company like Biofrontera Aktiengesellschaft, which will probably be even more internationally active in the future. This has particular relevance for Biofrontera Aktiengesellschaft in terms of it being a biopharmaceutical company as well as, of course, with regard to the fields of research, development, manufacture and sales of medical cosmetics and new drugs for the care and treatment of skin and inflammatory diseases.

However, this also means that nobody should be excluded from being a candidate for the Supervisory Board or should be proposed as a candidate for the Supervisory Board solely because he or she has or does not have a particular attribute. In this regard, women are to be given preference to a reasonable extent in the event of candidates having the same qualifications and experience.

For companies as defined in § 264d of the German Commercial Code, which includes Biofrontera Aktiengesellschaft, at least one independent member of the Supervisory Board must also have expertise in the fields of accounting or auditing, in accordance with the provisions of the German Stock Corporation Act. Hence, this is a mandatory diversity criterion.

The company's Supervisory Board consists of six members, all of whom are elected by the shareholders.

The Supervisory Board defined the following aims regarding its composition ("diversity goals") on 22 February 2011:

- Consideration of the expected future increase in the international activities of the company and its subsidiaries
- Availability and willingness/acceptable maximum number of Supervisory Board members
- Consideration of professional/technical expertise and industry knowledge, especially with regard to the areas of research and development, manufacturing and sales of medical cosmetics and new drugs for the care and treatment of skin and inflammatory diseases
- Consideration of specialist knowledge and experience in the use of accounting principles and internal

control procedures (financial expert)

- Independence of the Supervisory Board members/avoidance of conflicts of interest
- Consideration of the age limit defined in the Rules of Procedure of the Supervisory Board
- Inclusion of two women on the Supervisory Board

As an addition to the above aims regarding its composition, the Supervisory Board expanded the point, "Independence of Supervisory Board members/avoidance of conflicts of interest", on 23 March 2013 to stipulate that at least half of its members should fulfil the criteria of independence set by the current recommendations of the Code, and that the financial expert must be an independent member of the Supervisory Board pursuant to the statutory directive specified in § 100, paragraph 5 of the German Stock Corporation Act.

In the Supervisory Board's opinion, the current level of progress in achieving these aims should be judged favourably overall. All the relevant areas of expertise are represented in the Supervisory Board, particularly with regard to sector-specific requirements and other specialist areas (financial expert). There is also extensive international business experience. All Supervisory Board members have sufficient time to fulfil their responsibilities. In the opinion of the Management Board and the Supervisory Board, no Supervisory Board members have a personal or commercial relationship with the company, its organs, a controlling shareholder or a company affiliated to the latter which may be deemed to represent a significant and not merely temporary conflict of interest. The Supervisory Board does not include any former Management Board members. In addition, the incumbent Supervisory Board members do not have any roles within the organs of, or as consultants for, any major competitors.

A woman, Ms Ulrike Kluge, has been a member of the Supervisory Board since 10 May 2011, so successful progress has been made in terms of achieving the aims in this respect. If possible, a second woman shall be included in the next regular election of shareholder representatives. This election would take place in the Annual General Meeting that decides whether or not to discharge the boards for the 2015 financial year.

The Supervisory Board will take into account the aims defined regarding its composition to the greatest extent possible in finding suitable candidates, in the event that any of its members leave their position prematurely.

In preparation for the submission of nominations to the Annual General Meeting which will take place in 2016 and which regularly decides on the election of new shareholder representatives, the Supervisory Board and the Nomination Committee have also drawn on the expertise of consultants who specialise in searching for candidates. Unfortunately - at least up to the time this report was issued - this search has not named or identified any female candidates who meet the specified requirements and could therefore be considered for nomination. At the time this report was issued, it was therefore expected that the Supervisory Board will not include two women after the election in 2016.

#### Equal participation of men and women

##### *Proportion of women in the two management levels below Management Board level*

Pursuant to § 76 para. 4 AktG, the management boards of companies which are publicly listed or subject to co-determination are required to set targets for the proportion of women in the two levels of management below management board level. Biofrontera AG does not currently have two management levels below Management Board level within the meaning of the provisions of § 76 para. 4 AktG. In September 2015, four people undertook the management tasks below Management Board level. The proportion of women in this first and only management level was 50% in September 2015. Due to the absence of two management levels below Management Board level, in September 2015, targets for the proportion of women pursuant to § 76 para. 4 AktG were only set in relation to the one existing management level below Management Board level. The target for the proportion of women in the

existing management level below Management Board level was set at 30%. It was decided not to set the target at 50% because if the existing top management level below Management Board level was expanded to include another man, it would lead to a significant shortfall below the target. The deadline for achieving the target was set as 30 June 2017. At the time this report was issued, the target had been achieved.

#### Proportion of women on the Management Board

Pursuant to § 111 para. 5 AktG, the supervisory boards of companies which are publicly listed or subject to co-determination are responsible for setting targets for the proportion of women on the management board. The target for the proportion of women on the Management Board was set at 0%. The deadline for achieving the target was set as 30 June 2017.

The reason for this was that the Management Board currently has three appointed members. None of the current Management Board members are women, and all the contracts of the Board members are valid beyond 30 June 2017. To achieve any target of more than 0% by the legally specified deadline of 30 June 2017 would therefore require that Board members leave prematurely and at least one woman was appointed in their place, or that the Board was expanded and the additional position(s) were occupied by women. However, there are currently no plans to follow either of these courses of action.

A target of 0% should be permitted on an exceptional basis if a management board or the management is constituted only of men whose employment contracts extend beyond the deadline for achieving the target - as in this case. The Supervisory Board of Biofrontera AG therefore exercises this recognised exception.

#### Proportion of women on the Supervisory Board

Pursuant to § 111 para. 5 AktG, the supervisory boards of companies which are publicly listed or subject to co-determination are responsible for setting targets for the proportion of women on the supervisory board. The target for the proportion of women on the Supervisory Board was set at 1/3 - in accordance with the diversity goals. The deadline for achieving the target was set as 31 August 2016 - in accordance with the diversity goals. In addition, please refer to the comments above under the section on "Objectives regarding the composition of the Supervisory Board".

#### The Annual General Meeting

The shareholders exercise their rights at the Annual General Meeting, including their voting rights. Each share grants its holder one vote. The ordinary Annual General Meeting takes place within the first eight months of each financial year. The agenda for the Annual General Meeting, including the reports and documents required for the Annual General Meeting, are published on the company's website. In order to make it easier for its shareholders to exercise their rights personally, the company provides access to a proxy bound by their voting instructions for Annual General Meetings. In the convocation of the Annual General Meeting and in communications to the shareholders, it is explained how voting instructions can be issued prior to the Annual General Meeting. In addition, shareholders remain entitled to appoint agents to vote on their behalf. The Annual General Meeting decides whether or not to discharge the Management Board and the Supervisory Board. Among other things, it also decides upon the appropriation of the balance sheet profit and upon corporate actions, and decides whether or not to approve company contracts or to amend the company's Articles of Association.

#### Financial reporting

The Biofrontera consolidated financial statement is prepared in accordance with the International Financial

Reporting Standards (IFRS). Financial reports, half-yearly reports and interim reports are published within the statutory periods.

### Shareholdings of the Management Board and the Supervisory Board

On 31 December 2015, the members of the Management Board and the Supervisory Board directly or indirectly held the following shares or share options for financial instruments related to shares or from employee share option programmes.

#### Management Board

Name	Shares	Options for €5 per share from warrant bond 2009/2017	Employee share options from share option programme 2011
Professor Hermann Lübbert	720,512	22,830	151,850
Thomas Schaffer	25,700	0	35,000
Christoph Dünwald	35,280	0	0

#### Supervisory Board

Name	Shares	Options at €3 from warrant bond 2011/2016
Jürgen Baumann (Chairman)	30,000	0

#### Transparency

Our shareholders are informed about any significant events in the company and in the group in the annual report, current press releases and ad hoc reports. All notifications received by the company stating that shareholders have exceeded or fallen below the voting right thresholds of 3, 5, 10, 25, 50 and 75% are published promptly.