



**Biofrontera AG**

**Leverkusen**

- ISIN: DE0006046113 / WKN: 604611 -

**Invitation to the Extraordinary General Meeting**

We hereby invite our shareholders to the Extraordinary General Meeting to be held on Monday, January 09, 2023, at 11:00 a.m. at Forum Leverkusen, Agam-Saal, Am Büchelter Hof 9, 51373 Leverkusen.

**I. Agenda**

**1. Adoption of Resolution on Authorized Capital**

The Management Board and the Supervisory Board propose that the following resolution be adopted:

„a) The Management Board is authorized, with the approval of the Supervisory Board, to increase the share capital of the Company on one or more occasions on or before December 31, 2027, by a total of up to EUR 12,700,000.00 by issuing new registered no-par value shares, each representing a notional share of the share capital of the Company of EUR 1.00, against cash contributions (Authorized Capital 2022). The authorization may be exercised in full or in partial amounts. The new shares shall carry dividend rights from the beginning of the financial year in which they are issued. The new shares may also be taken over by a bank, securities institution or an entity operating in accordance with Section 53 (1) sentence 1 or Section 53b (1) sentence 1 or (7) of the German Banking Act (*Kreditwesengesetz*; “**KWG**”), as determined by the Management Board, with the obligation to offer them to the shareholders (indirect subscription right).

**CONVENIENCE TRANSLATION – ONLY GERMAN VERSION IS BINDING**

The Management Board is obliged to ensure that the subscription rights can be and are traded on the stock exchange. The Management Board is also obliged to ensure that shareholders who exercise their subscription rights are able to subscribe to additional shares. The Supervisory Board is authorized to amend the Articles of Association in accordance with the utilization of the authorized capital.

Shareholders are in principle entitled to subscription rights. However, the Management Board is authorized, with the approval of the Supervisory Board, to exclude shareholders' subscription rights to shares:

1. for fractional amounts resulting from the subscription ratio;
2. insofar as a third party which is not a credit institution, securities institution or an entity operating in accordance with Section 53 (1) sentence 1 or Section 53b (1) sentence 1 or (7) KWG subscribes for the new shares and it is ensured that the shareholders are granted an indirect subscription right.

b) Section 7 (3) of the Articles of Association of the Company shall be amended to read as follows:

„The Management Board is authorized, with the approval of the Supervisory Board, to increase the share capital of the Company on one or more occasions on or before December 31, 2027, by a total of up to EUR 12,700,000.00 by issuing new registered no-par value shares, each representing a notional share of the share capital of the Company of EUR 1.00, against cash contributions (Authorized Capital 2022). The authorization may be exercised in full or in partial amounts. The new shares shall carry dividend rights from the beginning of the financial year in which they are issued. The new shares may also be taken over by a bank, securities institution or an entity operating in accordance with Section 53 (1) sentence 1 or Section 53b (1) sentence 1 or (7) KWG, as determined by the Management Board, with the obligation to offer them to the shareholders (indirect subscription right).

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1. for fractional amounts resulting from the subscription ratio;
2. insofar as a third party which is not a credit institution, securities institution or an entity operating in accordance with Section 53 (1) sentence 1 or Section 53b (1) sentence 1 or (7) KWG subscribes for the new shares and it is ensured that the shareholders are granted an indirect subscription right.““

### **2. Adoption of Resolution on Capital Increase**

The Management Board and the Supervisory Board propose that the following resolution be adopted:

The share capital of the Company shall be increased by up to EUR 7,089,673.00 by issuing up to 7,089,673 new no-par value registered shares with a notional share in the share capital of EUR 1.00 each ("New Shares") against cash contributions.

The New Shares carry full dividend rights from the beginning of the last financial year for which the existing shares of the Company carry dividend rights at the time the New Shares are created. They will be issued at an issue price of EUR 1.00 per New Share, i.e. at a total issue price of up to EUR 7,089,673.00.

The New Shares are to be offered to the shareholders for subscription. The subscription right is granted in such a way that the New Shares are taken over by a bank, a securities institution or an entity operating in accordance with Section 53 (1) sentence 1 or section 53b (1) sentence 1 or (7) KWG, to be determined and assigned by the Management Board, with the obligation to offer them to the shareholders for subscription at a ratio of 9:1 at the subscription price and to transfer the additional proceeds - after deduction of reasonable costs - to the Company (indirect subscription right). One new share can therefore be subscribed for every nine old shares. For the exercise of the subscription right an exercise period of at minimum two weeks has to be determined. The subscription rights are transferable. The Company is obliged to establish a subscription rights trading system in the open market on a German stock exchange.

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The offer for subscription shall be made at a subscription price of EUR 1.05 per New Share.

The Company shall grant shareholders an oversubscription right proportional to their exercised subscription rights in compliance with the principle of equal treatment. New shares which are not to be allocated to shareholders on the basis of the subscription right or the oversubscription right may be freely disposed of by the Management Board. Additional subscription requests of shareholders shall take precedence over acquisition requests of third parties.

The Management Board is also authorized, with the approval of the Supervisory Board, to determine the further details of the capital increase and its implementation, in particular the further conditions for the issue of the New Shares. The Supervisory Board is authorized to amend the wording of Section 7 (1) of the Articles of Association to reflect the execution of the capital increase.

The following implementation period is determined: The resolution on the capital increase shall become invalid if the execution of the capital increase pursuant to Section 188 of the German Stock Corporation Act (Aktiengesetz; "AktG") has not been registered with the competent Commercial Register within six months of the date of the General Meeting. If the resolution on the capital increase is challenged by an action for rescission and/or annulment, it shall, in deviation from the previous sentence, become invalid if the execution of the capital increase pursuant to Section 188 AktG has not been registered with the competent Commercial Register within nine months of the date of the General Meeting.

The Management Board is instructed to agree on subscription right waivers with one or more shareholders to the extent required for achieving a smooth subscription ratio of 9:1.

**3. Adoption of Resolution on Amendment of Articles of Association to increase number of members of Supervisory Board**

In accordance with Section 12 (1) of the Articles of Association, the Supervisory Board currently consists of six members.

The Management Board and the Supervisory Board propose adding the following sentence 2 to Section 12 (1) of the Articles of Association:

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"An increase of the number of Supervisory Board members to more than six, either through a corresponding election by the General Meeting and/or an amendment of the Articles of Association with corresponding content, requires a mandatory majority of at minimum three quarters of the votes cast. Section 22 (2) of the Articles of Association shall not apply in this respect. An amendment of the preceding sentence may only be adopted by a majority of three quarters of the votes cast and of the share capital represented."

**4. Adoption of Resolution on Amendments of Section 13 and Section 22 (2) of Articles of Association**

The Management Board and Supervisory Board propose that the following resolution be adopted:

"Pursuant to Section 13 sentence 3 of the Articles of Association, the dismissal of members of the Supervisory Board shall be possible with a three-quarter majority of the votes cast. In Section 22 (2) of the Articles of Association, the words "pursuant to Section 103 AktG (dismissal of Supervisory Board members)" shall therefore be deleted without replacement and the following sentence shall be added to Section 13 of the Articles of Association: "Sentence 3 may only be amended with a majority of three quarters of the votes cast and of the share capital represented.""

**5. Confirmation Resolution pursuant to Section 244 Sentence 1 AktG concerning the resolution adopted by the Annual General Meeting on August 23, 2022 under agenda item 8 on the election of Prof. Dr Karin Lergenmüller as member of the Supervisory Board**

Under agenda item 8, the Annual General Meeting of the Company held on August 23, 2022 elected Prof. Dr. Karin Lergenmüller, Professor of Marketing and General Business Administration at RheinMain University of Applied Sciences, as a member of the Supervisory Board of the Company until the end of the Annual General Meeting which resolves on the discharge of the members of the Supervisory Board for the financial year ending December 31, 2025. A shareholder has challenged the election of Prof. Dr. Karin Lergenmüller as a member of the Supervisory Board of the Company with an action for determining the deficiency of the resolution.

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Against this background, the Management Board and Supervisory Board propose that the following resolution be adopted:

The resolution adopted by the Annual General Meeting on August 23, 2022 under agenda item 8 with the following content:

*"Prof. Dr. Karin Lergenmüller, Professor of Marketing and General Business Administration at RheinMain University of Applied Sciences, is elected as a member of the Supervisory Board of the Company until the end of the Annual General Meeting which resolves on discharge of the members of the Supervisory Board for the financial year ending December 31, 2025."*

is confirmed in accordance with Section 244 sentence 1 AktG.

Curriculum vitae of the candidate together with information pursuant to Section 125 (1) sentence 5 AktG

Date of birth: \*1959  
Occupation: Professor of Marketing and General Business Administration at RheinMain University of Applied Sciences, Wiesbaden  
Nationality: German  
Place of residence: 65343 Eltville, Germany  
Place of birth: Bad Dürkheim, Germany

Work experience

Prof. Dr. Karin Lergenmüller worked for Deutsche Bank AG after holding positions in the management consulting industry, including Andersen Consulting and Gemini Consulting. From 1996 to 1998 she was a member of the management of Joas & Comp., Bad Homburg. Since 1999, Prof. Dr. Karin Lergenmüller has been Professor of Marketing and General Business Administration at RheinMain University of Applied Sciences, Wiesbaden. From 2013 to 2021, she was Head of Finance at the largest private winery holding company of a group of wineries in Eltville-Erbach/Landau. Since 2000 Prof. Dr. Karin Lergenmüller is a Global Equity Investor, specialized in Digital World, Technology companies, NFT's and Crypto.

Prof. Dr. Karin Lergenmüller is a member of the following statutory supervisory boards:

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- Alpha Cleantec Aktiengesellschaft, Heidelberg, Chairwoman of the Supervisory Board
- DELPHI Unternehmensberatung Aktiengesellschaft, Heidelberg, Chairwoman of the Supervisory Board
- SPARTA AG, Heidelberg, Member of the Supervisory Board
- Heidelberger Beteiligungsholding AG, Heidelberg, Member of the Supervisory Board
- Deutsche Balaton Biotech AG, Frankfurt am Main, Member of the Supervisory Board
- Biofrontera AG, Leverkusen, Member of the Supervisory Board
- MARNA Beteiligungen AG, Heidelberg, Deputy Chairwoman of the Supervisory Board

Prof. Dr. Karin Lergenmüller is a member of the following comparable domestic and foreign supervisory bodies of business enterprises:

- Ayla Biosciences Inc, Delaware, USA

Disclosures in accordance with Recommendation C. 13 of the German Corporate Governance Code (as amended on April 28, 2022)

According to Recommendation C. 13 of the Code, the Supervisory Board shall disclose the personal and business relationships of each candidate with the Company, the Company's corporate bodies and a shareholder with a material interest in the Company when making election proposals to the General Meeting. The recommendation on disclosure is limited to those circumstances which, in the opinion of the Supervisory Board, an objectively judging shareholder would regard as decisive for his election decision. Shareholders with a material interest within the meaning of this recommendation are those who directly or indirectly hold more than 10% of the voting shares of the Company.

Accordingly, the following is disclosed:

Prof. Dr. Karin Lergenmüller is a member of supervisory boards of the following subsidiaries of Mr. Wilhelm K. T. Zours, who is Chairman of the Supervisory Board

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of Biofrontera AG and to whom a total shareholding of more than 10% of the voting shares of Biofrontera AG is attributed under securities trading law:

- Alpha Cleantec Aktiengesellschaft, Heidelberg, Chairwoman of the Supervisory Board
- DELPHI Unternehmensberatung Aktiengesellschaft, Heidelberg, Chairwoman of the Supervisory Board
- SPARTA AG, Heidelberg, Member of the Supervisory Board
- Heidelberger Beteiligungsholding AG, Heidelberg, Member of the Supervisory Board
- Deutsche Balaton Biotech AG, Frankfurt am Main, Member of the Supervisory Board
- Biofrontera AG, Leverkusen, Member of the Supervisory Board
- MARNA Beteiligungen AG, Heidelberg, Deputy Chairwoman of the Supervisory Board

**II. Report of the Management Board on agenda item 1 pursuant to Sections 203**

**(2) Sentence 2, 186 (4) Sentence 2 AktG**

- a) The General Meeting of the Company shall again resolve on an authorized capital in order to enable the financing of the Company and, in this respect, to enable the Company to raise capital flexibly.

The availability of financing instruments will continue to be of particular importance in the future, irrespective of the regular annual General Meetings of the Company. It is often not always possible to determine in advance the point in time at which the Company will need to raise the corresponding funds. With the instrument of authorized capital, stock corporations are provided with an instrument with which the management can be authorized by the General Meeting, for a limited period and limited to an amount of at maximum half of the share capital existing at the time the authorization becomes effective, to increase the share capital without a further resolution by the General Meeting.



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The General Meeting of the Company is to resolve on an authorized capital in the amount of EUR 12,700,000.00. The authorized capital is to be used only for cash capital increases.

- b) In case the authorization to issue new shares from the authorized capital is utilized, shareholders shall in principle be granted subscription rights. This allows all shareholders to participate in a capital increase in proportion to their shareholding and to maintain both their voting influence and their shareholding in the Company in terms of value. This also applies in particular if the new shares are not offered directly to the shareholders for subscription but with the involvement of one or more banks, insofar as these are obliged to offer the acquired shares to the shareholders for subscription by way of so-called indirect subscription rights. The proposed resolution therefore provides for a corresponding provision.

However, the Management Board is also to be authorized, with the approval of the Supervisory Board, to decide on an exclusion of statutory subscription rights both for fractional amounts and in a number of other cases.

- c) The proposed authorization to exclude subscription rights for fractional amounts is intended to facilitate the handling of issue of shares with a general subscription right for shareholders. Fractional amounts may result from the size of the issue volume and the subscription ratio to be determined by the Management Board under the authorization if not all new shares to be issued can be distributed equally among all shareholders, e.g. if shareholders cannot exclusively be allocated full numbers of shares for subscription due to their shareholdings. The fractional amounts and their value per shareholder are generally small and are realized in the best possible way for the Company or the shareholder by sale on the stock exchange or otherwise. The cost of issuing shares without an exclusion of subscription rights for fractional amounts is considerably higher. An exclusion of subscription rights for fractional amounts therefore serves the purpose of practicability and facilitates the execution of a share issue.

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- d) Finally, the Management Board is to be authorized to exclude subscription rights insofar as a suitable third party which is not a bank takes over the new shares with the obligation to offer them to the shareholders for subscription in the same way as they would be entitled to subscribe without exclusion of subscription rights. This is merely a formal exclusion of subscription rights, as it is materially ensured that the shareholders can exercise their statutory subscription rights. This gives the Company the opportunity to place the capital increase, if necessary without the involvement of a credit institution, a securities institution or an entity operating in accordance with Section 53 (1) sentence 1 or Section 53b (1) sentence 1 or (7) KWG, in full in other markets as well as more cost-effectively.
- e) There are currently no specific plans to utilize the authorized capital. The Management Board will consider on a case-by-case basis whether to make use of the authorization to increase the share capital while excluding shareholders' subscription rights. The Management Board will only use the authorized capital with the exclusion of subscription rights, and the Supervisory Board will only grant its approval, if this is in the best interests of the Company and its shareholders after due examination by the Management Board and the Supervisory Board. The Management Board will inform the respective next General Meeting of the utilization of the authorized capital.

**III. Further information, notes**

**1. Total number of shares and voting rights at the time of convening the General Meeting**

At the time of the convening of this General Meeting, 63,807,058 no-par value shares of the Company had been issued and thus - subject to suspended voting rights - 63,807,058 no-par value shares were entitled to participate and vote. Each share grants one vote.

The Company does not hold any treasury shares at the time of convening the General Meeting.

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Shareholders who are in violation of their notification obligations pursuant to Sections 33 et seq., 38, 39 of the German Securities Trading Act (*WpHG*), are excluded from participating in and exercising their voting rights at the General Meeting in accordance with the provisions of Section 44 of the German Securities Trading Act (*WpHG*).

At the General Meeting of the Company on August 23, 2022 the shareholder Maruho Deutschland GmbH was not permitted to participate and to exercise voting rights due to a loss of rights pursuant to Section 44 of the German Securities Trading Act (*WpHG*). The chairman of the General Meeting will also review for this General Meeting whether this shareholder is subject to a loss of rights.

### **2. Requirements for participation in the General Meeting**

Only those shareholders who register with the Company at least six days before the General Meeting (the day of receipt and the day of the General Meeting are not to be counted), i.e. by Monday, January 02, 2023, 24:00 hours, and who are entered in the share register on the day of the General Meeting are entitled to attend the General Meeting, in particular to exercise their voting rights. The registration must be made in writing (§ 126 BGB) or in text form (§ 126b BGB). The registration must be received by the Company in German or English at the following address by letter or e-mail:

Biofrontera AG

c/o Computershare Operations Center

80249 München

E-Mail: [anmeldestelle@computershare.de](mailto:anmeldestelle@computershare.de)

The Company will send the registration documents and the notifications pursuant to Section 125 AktG by mail to shareholders who request it or who are entered as shareholders in the Company's share register at the beginning of the 21st day before the meeting (December 19, 2022, 0:00 hours). Shareholders who are entered in the share register thereafter may also register for the General Meeting in accordance with the above options.

For technical reasons, no changes will be made to the share register in the period from January 03, 2023 to January 09, 2023 (inclusive). Therefore, the registration status of the share register on the day of the General Meeting corresponds to the status after the last rewrite on January 02, 2023.

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Pursuant to Section 67 (2) sentence 1 AktG, rights and obligations arising from shares exist in relation to the Company only for and against the person entered in the share register. Accordingly, the registration status of the share register on the day of the General Meeting is decisive for the right to participate and for the number of voting rights to which a person entitled to participate in the General Meeting is entitled. Trading in shares is not blocked by registration for the General Meeting. Shareholders can therefore continue to freely dispose of their shares even after registration. Since, in relation to the Company, only those persons entered as such in the share register on the day of the General Meeting are deemed to be shareholders, a disposal may, however, have an effect on a shareholder's right to participate.

Intermediaries and other persons treated as such in accordance with section 135 (8) of the AktG (in particular shareholders' associations and proxy advisors) may only exercise voting rights for shares which do not belong to them but for which they are entered in the share register as the holder if they are authorized to do so. Details can be found in Section 135 AktG.

### **3. Proxy and instructions to a proxy of the Company**

We offer our shareholders the opportunity to authorize a proxy appointed by the Company and bound by instructions (proxy) to exercise the voting rights. This also requires timely registration in accordance with the provisions of III. 2 above and entry in the share register. If a proxy is authorized, the proxy has to be given instructions on how to exercise voting rights. Without corresponding instructions, the proxy may not exercise the voting right.

The granting of the proxy, its revocation and the proof of authorization vis-à-vis the Company must be in text form. With the exception of granting of the proxy during the General Meeting by using the form handed out at the General Meeting, for the authorization of a proxy with express instructions, the form sent to the shareholders together with the invitation documents or the power of attorney and instruction form available on the website

<https://www.biofrontera.com/de/investoren/hauptversammlung>

may be used.

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Proxies and instructions – unless issued during the General Meeting – have to be received no later than January 05, 2023, 24:00 hours, by mail or by e-mail at the following address:

Biofrontera AG

c/o Computershare Operations Center

80249 München

E-Mail: [anmeldestelle@computershare.de](mailto:anmeldestelle@computershare.de)

The above information on the possibilities of transmission and the deadlines to be observed shall apply mutatis mutandis to a revocation of the granting of power of attorney to a proxy appointed by the Company and to changes in instructions.

If the shareholder or another third party authorized by the shareholder appears at the General Meeting, the proxy will not exercise the voting right unless he is granted power of attorney by the shareholder or sub-power of attorney by another third party authorized by the shareholder during the General Meeting.

**4. Authorization of persons other than a Company proxy**

Voting rights may be exercised by proxy, including by an intermediary or an association of shareholders. This also requires timely registration in accordance with the provisions of Section III. 2 above and entry in the share register.

The following shall apply to the form of proxies granted to other third parties rather than to intermediaries or persons or associations equivalent in this respect pursuant to Section 135 (8) AktG (in particular shareholders' associations) in accordance with Section 23 of the Articles of Association: The proxy may in any case be granted in writing or by fax; any other forms regulated by law for granting the proxy, revoking it and providing proof of authorization to the Company shall not be restricted by the Articles of Association. The granting of the power of attorney, its revocation and the proof of authorization vis-à-vis the Company may therefore also be made in text form.

The address and e-mail address specified in Section III. 3 are available for declaring the granting of a proxy to the Company, its revocation and the transmission of proof of a declared proxy or its revocation.

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If the granting or proof of proxy or its revocation is made by declaration to the Company by post, for organizational reasons this must be received by January 05, 2023, 24:00 hours at the latest. Transmission to the Company by e-mail is possible until the end of the General Meeting.

If intermediaries or equivalent persons or associations (in particular shareholders' associations) are authorized pursuant to Section 135 (8) AktG, they must record the authorization in a verifiable manner (Section 135 AktG). We recommend that our shareholders consult with the aforementioned persons regarding the form of the powers of attorney.

### **5. Shareholders' rights to request an addition to the agenda (Section 122 (2) AktG)**

Shareholders whose shares together amount to one-twentieth of the share capital or the pro rata amount of EUR 500,000 may, pursuant to Section 122 (2) AktG, request that items be placed on the agenda of the General Meeting and published. The request must be made in writing (§ 126 BGB) to the Executive Board. Each new item on the agenda must be accompanied by a statement of reasons or a draft resolution. Requests by shareholders to add items to the agenda must be sent to the following address: Biofrontera AG, Management Board, Hemmelrather Weg 201, 51377 Leverkusen.

Requests for additions to the agenda must be received by the Company at least 30 days before the meeting. The last possible date for receipt of a request for additions to the agenda is Friday, December 09, 2022, 24:00 hours. Applicants must prove that they have held the shares for at least 90 days before the date of receipt of the request and that they will hold the shares until a decision on the request is made. Under section 70 of the Stock Corporation Act (AktG) there are certain possibilities for offsetting, to which reference is made.

### **6. Shareholders' rights to announce motions and election proposals (sections 126 (1), 127 AktG)**

Countermotions and nominations for election that are to be made available via the Company's website prior to the General Meeting in accordance with sections 126 and 127 of the AktG must be received at the following address by Sunday, December 25, 2022, 24:00 hours:

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Biofrontera AG

Vorstand

Hemmelrather Weg 201

51377 Leverkusen

or at the e-mail address [ir@biofrontera.com](mailto:ir@biofrontera.com)

Only counter motions and election proposals received in good time at the aforementioned address, including the name of the shareholder and any reasons to be made accessible, will be published on the website

<https://www.biofrontera.com/de/investoren/hauptversammlung>

to the extent that the legal requirements pursuant to sections 126 and 127 of the German Stock Corporation Act (AktG) are otherwise also met. Any comments by the management will also be made available at the aforementioned Internet address.

**7. Shareholder's right to information at the General Meeting (Section 131 (1) AktG)**

Upon request, each shareholder shall be provided with information at the General Meeting by the Executive Board on the Company's affairs to the extent that such information is necessary to permit a proper evaluation of the item on the agenda. The duty to provide information also extends to the legal and business relations of the Company with an affiliated company. The Executive Board may refuse to provide information for the reasons stated in § 131 (3) AktG.

**8. Notes on data protection**

In the context of the General Meeting of Biofrontera AG, personal data of shareholders and, if applicable, personal data of proxies are processed. Details of this can be found in our data protection information at

<https://www.biofrontera.com/de/investoren/hauptversammlung>

can be found on the website. Shareholders who authorize a proxy are requested to inform the proxy of the data protection information.

**9. Time data**

All times stated in this convocation are in Central European Time (CET/UTC+1)).

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**10. Publications on the Company's website / Further information on shareholders' rights**

Documents to be made available on the agenda items are available on the Company's website at:

<https://www.biofrontera.com/de/investoren/hauptversammlung>

The information pursuant to Section 124a of the German Stock Corporation Act (AktG) will also be accessible there shortly after the General Meeting is convened, and further information on shareholders' rights will also be made available there from the time the meeting is convened.

**11. Resolutions**

All agenda items are to be subject to votes that are binding in nature. For each vote, the options of approval (YES), rejection (NO) or abstention (ABSENT) are available.

Leverkusen, December 2022

The Management Board