

Joint Report of the Management Board of BioNTech SE, Mainz, and the Managing Directors of BioNTech Small Molecules GmbH, Mainz, regarding the conclusion of a domination agreement among BioNTech SE and BioNTech Small Molecules GmbH pursuant to sec. 293a German Stock Corporation Act (*Aktiengesetz; AktG*)

The Management Board of BioNTech SE (*BioNTech*) and the Managing Directors of BioNTech Small Molecules GmbH (*BioNTech Small Molecules*) make the following joint report pursuant to sec. 293a German Stock Corporation Act (*Aktiengesetz; AktG*) regarding the domination agreement among BioNTech and BioNTech Small Molecules:

1. Conclusion and effectiveness of the domination agreement

The Management Board of BioNTech and the Managing Directors of BioNTech Small Molecules intend to conclude a domination agreement among the two companies. Under this domination agreement BioNTech would be the controlling company and BioNTech Small Molecules would be the dependent company.

Effectiveness of the domination agreement is subject to the approval of the general meeting of BioNTech, which is to be given at the Annual General Meeting scheduled to take place on 26 June 2020, and of the shareholders' meeting of BioNTech Small Molecules. Sole shareholder of BioNTech Small Molecules is BioNTech.

BioNTech intends to hold a shareholders' meeting in BioNTech Small Molecules following the Annual General Meeting scheduled for 26 June 2020 in order to give the approval for the entering into the domination agreement by BioNTech Small Molecules.

The Management Board of BioNTech and the Managing Directors of BioNTech Small Molecules intend to conclude the domination agreement, which is available in draft form, only after both the general meeting of BioNTech and the shareholders' meeting of BioNTech Small Molecules have given their respective approval.

The domination agreement will become effective only upon its registration with the commercial register (*Handelsregister*) of BioNTech Small Molecules.

2. Parties

2.1. BioNTech

BioNTech was founded by articles of association dated 02 June 2008 and was registered with the commercial register (*Handelsregister*) on 09 June 2008 (local court (*Amtsgericht*) of Bonn, registration no. HRB 16295). On 16 January 2009 it was resolved that the company's seat be relocated from Bonn to Mainz. From 16 February 2009 the company was registered with the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Mainz under registration number HRB 41865. Following the change of its legal form into an SE (*Societas Europaea*) the company is registered with the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Mainz under registration number HRB 48720. The share capital of

BioNTech amounts to EUR 238,197,961.00 and is divided into 238,197,961 registered no-par value shares. The fiscal year is similar to the calendar year.

Pursuant to its articles of association BioNTech's purpose of enterprise is to research and develop, as well as to manufacture and market immunological and RNA-based drugs and test methods for the diagnosis, prevention and treatment of cancer, infectious diseases and other serious diseases. The company may undertake all transactions and actions that are expedient for serving the company's purpose. It is also entitled to establish and acquire other companies and to invest in other companies, as well as to manage such companies or to limit itself to the administration of the investment.

The Management Board of BioNTech consists of Prof Dr Ugur Sahin (CEO), Dr Sierk Poetting, Sean de Gruchy Marett, PD (*Privatdozent*) Dr Özlem Türeci and Ryan Richardson.

The Supervisory Board of BioNTech consists, in accordance with the articles of association, of four members, which are all elected by the shareholders. Chairman of the Supervisory Board is Helmut Jeggle.

In the annual average for 2019 BioNTech employed 358 employees and the BioNTech group 1,195 employees.

With a balance sheet total of EUR EUR 706,242,382.22 for 2019, the annual financial statements of BioNTech show a net loss of EUR 194,517,135.81. For further information on the development of BioNTech's business and on the earnings situation we refer to the annual financial statements and to the management report of the company for the fiscal year of 2019.

2.2. BioNTech Small Molecules

BioNTech Small Molecules with its seat in Mainz (local court (*Amtsgericht*) of Mainz, registration number 46774) was founded on 11 April 2016 by way of foundation in cash with a share capital of EUR 25,000 and was registered with the commercial register (*Amtsgericht*) on 17 May 2016. The only share in BioNTech Small Molecules was taken over by BioNTech.

The purpose of enterprise of BioNTech Small Molecules is the research of synthetic agents against cancer and other diseases. The company is permitted to acquire or invest in other companies, take over their personal liability and representation, to establish branches, domestic or foreign, as well as undertaking all actions expedient to promote the undertakings of the company.

On 15 August 2017 a profit and loss transfer agreement was concluded with BioNTech, which was registered with the commercial register (*Handelsregister*) of BioNTech Small Molecules on 19 September 2017. This profit and loss transfer agreement shall be left unaffected by the domination agreement.

With a balance sheet total of EUR 13,140,698.58 for 2019, the annual financial statements of BioNTech Small Molecules show a net profit of EUR 0, as the existing profit and loss transfer agreement already provides for a transfer of profits and losses. For the fiscal year of 2019, net losses of EUR 5,930,273.28 were assumed by BioNTech. For further information on the

development of BioNTech Small Molecules's business and on the earnings situation we refer to the annual financial statements of the company and to the management report of the group for the fiscal year of 2019.

Dr Sierk Poetting and Stefan Strobl are the Managing Directors of BioNTech Small Molecules.

On average for the year 2019 BioNTech Small Molecules had 24 employees.

3. Reasons for the conclusion of the domination agreement

3.1. Corporate law reasons

The conclusion and implementation of the domination agreement in addition to the existing profit and loss transfer agreement between BioNTech and BioNTech Small Molecules is best suited to ensure the consistent direction of the subsidiary and its integration into the BioNTech Group. The agreement allows for the Management Board of BioNTech to issue instructions in the superordinate interest of the group to the Managing Directors of its subsidiary BioNTech Small Molecules and to ensure consistent acting of BioNTech and BioNTech Small Molecules.

3.2. Tax reasons

The consolidated tax group for value added tax purposes (*umsatzsteuerliche Organschaft*) allows for the value added tax (*Umsatzsteuer*) and the input tax claims (*Vorsteueransprüche*) of the group subsidiary BioNTech Small Molecules to be recorded at the group parent BioNTech. The group subsidiary's obligations regarding the value added tax, e.g. value added tax pre-registration or submission of the value added tax declaration, can be performed in a concentrated and efficient manner by the group parent. Furthermore, services between the two companies will not be taxed as internal turnover (*Innenumsätze*). Sole debtor of taxes within the consolidated tax group for value added tax purposes (*umsatzsteuerliche Organschaft*) is the group parent. However, the group subsidiary still bears liability for value added tax attributable to it. The requirements under which a consolidated tax group for value added tax purposes (*umsatzsteuerliche Organschaft*) is given have been stipulated in the VAT application decree (*Umsatzsteuer-Anwendungserlass*) and have been further modified and specified by the letter of the Federal Ministry of Finances (*Bundesministerium der Finanzen; BMF*) of 26 Mai 2017 (III C 2 – S 7105/15/10002). Accordingly, when a domination agreement pursuant to sec. 291 German Stock Corporation Act (*Aktiengesetz; AktG*) is concluded generally speaking it can be assumed that organisational integration (*organisatorische Eingliederung*) is given. The further requirements for a consolidated tax group for value added tax purposes (*umsatzsteuerliche Organschaft*) (being financial and economic integration (*finanzielle und wirtschaftliche Eingliederung*)) are met among BioNTech and BioNTech Small Molecules.

Without the consolidated tax group for value added tax purposes (*umsatzsteuerliche Organschaft*) among the two companies the obligations of BioNTech RA Holdin with regard to value added tax would require a high degree of administrative effort. This shall be avoided. To ensure that a consolidated tax group for value added tax purposes (*umsatzsteuerliche Organschaft*) among BioNTech and BioNTech Small Molecules is legally established, the conclusion of a domination agreement is required and will ensure the optimal structure for value added tax purposes. The agreement secures that the consolidated tax group for value

added tax purposes (*umsatzsteuerliche Organschaft*) will persist even in the case of personnel changes at the governing bodies of BioNTech and BioNTech Small Molecules.

4. Explanatory notes regarding the domination agreement

The domination agreement among BioNTech and BioNTech Small Molecules and its individual provisions can be explained as follows:

4.1. Domination (cl. 1 of the agreement)

Cl. 1 of the domination agreement contains the provision which is distinctive for the domination agreement, i.e. pursuant to which BioNTech Small Molecules as the dependent company submits the direction of its company to BioNTech as the controlling company. Therefore, BioNTech is entitled to issue instructions to the Managing Directors of BioNTech Small Molecules regarding the direction of the company. This right to issue instructions, however, by law does not extend to the request to modify, sustain or end the domination agreement. The contract clarifies that notwithstanding the right to issue instructions, the representation and management of the dependent company remain the obligations of the Managing Directors of the dependent company.

4.2. Takeover of losses (cl. 2 of the agreement)

Pursuant to cl. 2 of the domination agreement BioNTech is obligated to take over the losses of BioNTech Small Molecules in accordance with the provisions of sec. 302 German Stock Corporation Act (*Aktiengesetz; AktG*), as amended. Pursuant to the version of sec. 302 German Stock Corporation Act (*Aktiengesetz; AktG*) currently in effect BioNTech will have to compensate for any net loss (calculated not taking into account the obligation to take over the losses) of the group subsidiary arising during the term of the agreement. The loss to be compensated may – insofar as permitted by commercial law – be offset against amounts released from other revenue reserves that are transferred to them during the term of the contract.

If the domination agreement does not end before the close of a fiscal year of the group subsidiary, its claim for BioNTech to take over the losses arises at the end of BioNTech Small Molecules' fiscal year. It becomes due with value at this point. The obligation to take over the losses applies retroactively from the beginning of the fiscal year during which the agreement becomes effective upon registration with the commercial register (*Handelsregister*) at the seat of the group subsidiary.

Pursuant to the existing profit and loss transfer agreement BioNTech is already obligated vis-à-vis BioNTech Small Molecules to take over the losses.

4.3. Effectiveness and term (cl. 3 of the agreement)

Cl. 3 of the agreement stipulates the term of and the options to terminate the domination agreement.

Cl. 3.1 of the agreement provides that, in accordance with statutory law, the domination agreement becomes effective upon registration with the commercial register (*Handelsregister*)

of BioNTech Small Molecules. Further, the approval of both the general meeting of BioNTech and of the shareholders' meeting of BioNTech Small Molecules is required beforehand.

As concerns its cl. 1, i.e. regarding BioNTech's right to issue instructions, the agreement applies from the time of registration of the agreement with the commercial register (*Handelsregister*) of BioNTech Small Molecules. In all other respects the agreement applies from the beginning of the fiscal year of BioNTech Small Molecules during which registration with the commercial register (*Handelsregister*) of BioNTech Small Molecules occurs, i.e. if such registration takes place by 31 December 2020, it applies retroactively from 01 January 2020, and, if said registration occurs only after 31 December, it applies from 01 January 2021.

Cl. 3.2 of the agreement stipulates that the contract is concluded for an indefinite period and that it may be terminated with notice of six months to the end of any fiscal year of BioNTech Small Molecules. The written form requirement provided for in the contract regarding the termination is in accordance with what is already provided for by statutory law (see sec. 297 para. 3 German Stock Corporation Act (*Aktiengesetz; AktG*)).

Cl. 3.3 of the contract clarifies that the right to termination for cause without observance of a notice period remains unaffected, whereby by way of example – i.e. not exhaustively – various reasons are listed that are considered sufficient cause. This includes e.g. the disposal of shares in BioNTech Small Molecules by BioNTech.

4.4. Miscellaneous (cl. 4 of the agreement)

Cl. 4.1 of the agreement clarifies that the domination agreement leaves unaffected the existing profit and loss transfer agreement between BioNTech Small Molecules and BioNTech.

Cl. 4.2 of the agreement provides that modifications and amendments to the agreement require written form to be effective, with any stricter form prescribed by statutory law – e.g. notarization – taking precedence. This includes modifications of the written form requirement.

Cl. 4.3 of the agreement contains a severability clause, pursuant to which the invalidity of any clause leaves the validity of the remaining provisions of the agreement unaffected. This provision is in line with what is customary in contractual practice and is included for reasons of legal precaution. There is no indication that any of the contractual provision may be invalid.

4.5. Settlement and compensation (*Ausgleich und Abfindung*)

BioNTech is the sole shareholder of BioNTech Small Molecules. For this reason no clauses on settlement and compensation (*Ausgleich und Abfindung*) for outside shareholders (*außenstehende Gesellschafter*) of BioNTech Small Molecules had to be provided for in the domination agreement, which would have had required a preceding valuation. An audit pursuant to sec. 293 sec. 1 German Stock Corporation Act (*Aktengesetz; AktG*) is not called for.

5. Alternatives

There is no economically sensible alternative to the conclusion of the domination agreement between BioNTech and BioNTech Small Molecules that could realise the aforementioned goals

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alike or better. No legal or tax structuring could achieve the objectives pursued with the conclusion of the domination agreement equally. For example, a merger of BioNTech Small Molecules onto BioNTech would mean to relinquish the legal identity of BioNTech Small Molecules, which is not desired.

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*[Signatures of the Management Board of BioNTech and of the Managing Directors of
BioNTech Small Molecules]*