

Biocept, Inc.

Charter of the Nominating and Corporate Governance Committee

I. Purpose

The purpose of the Nominating and Corporate Governance Committee (the “*Committee*” or “*Nominating Committee*”) of the Board of Directors (the “*Board*”) of Biocept, Inc. (the “*Company*”) is to assist the Board in nominating members of the Board and developing and recommending corporate governance guidelines to the Board. The Committee’s principal functions are to:

- Identify individuals qualified to become board members, consistent with criteria approved by the Board, and recommend that the Board select the director nominees for election at each annual meeting of stockholders or to fill vacancies on Board in accordance with the Company’s Bylaws;
- Recommend to the Board any appropriate changes in the Company’s Code of Ethics, applicable to the Chief Executive Officer and other senior financial officers, and in the Code of Business Conduct, applicable to all Company directors, officers and employees, and in such other corporate governance policies and documents as the Committee determines from time to time, including such policies and documents as the Committee may develop and/or recommend to the Board for approval;
- Recommend to the Board director nominees for each committee of the Board; and
- Lead the Board in its annual review of the performance of the Board and any committee thereof, as applicable.

II. Membership

The Committee shall consist of two or more members of the Board, as appointed by the Board. Each member of the Committee must (1) be an “independent director” as defined under the listing rules of the stock exchange on which the Company’s securities are listed for trading, (2) be free from any relationship that, in the opinion of the Board, would interfere with the exercise of independent judgment as a Committee member, and (3) meet any other requirements imposed by applicable laws, rules, regulations and stock exchange listing standards, subject to any applicable exemptions and transition provisions.

III. Responsibilities and Authority

The following are general guidelines establishing the responsibilities and authority of the Committee. This list is not intended to be exhaustive, and the Committee may modify the list as appropriate, establishing policies and procedures as required or recommended to meet its purpose.

A. Nominating Directors

The Committee shall:

1. Develop and recommend policies regarding the director nomination processes, including establishing a policy with regard to consideration of director candidates recommended by stockholders. The current policy is that the Nominating Committee will review and consider any director candidates who have been recommended in accordance with the Company's Bylaws by stockholders of the Company entitled to vote in the election of directors.
2. Recommend to the Board criteria for Board membership, which shall include a description of any specific, minimum qualifications that the Committee believes must be met by a recommended nominee, whether recommended by the Committee or by stockholders, and a description of any specific qualities or skills that the Committee believes are necessary for one or more of the Company's directors to possess. The current selection criteria are as follows:
 - Each director should be committed to enhancing long-term stockholder value and must possess a high level of personal and professional ethics, sound business judgment and integrity. The Committee believes that a well rounded board consists of directors with backgrounds that are complementary to one another, reflecting a variety of experiences, skills and expertise;
 - Each director should be free of any conflicts of interest which would violate applicable laws, rules, regulations or listing standards, or interfere with the proper performance of his or her responsibilities;
 - Each director should possess experience, skills and attributes which enhance his or her ability to perform duties on behalf of the Company. In assessing these qualities, the Committee will consider such factors as (i) personal skills and attributes, (ii) expertise in the areas of accounting, marketing, strategy, financial reporting or corporate governance, or (iii) professional experience in diabetes care or the medical device industry, as well as other factors that would be expected to contribute to an effective Board.
 - Each director should have the willingness and ability to devote the necessary time and effort to perform the duties and responsibilities of Board membership; and
 - Each director should demonstrate his or her understanding that his or her primary responsibility is to the stockholders of the company, and that his or her primary goal is to serve the best interests of those stockholders, and not his or her personal interest or the interest of a particular group.
3. Annually assess the adequacy of the criteria for Board membership and submit any proposed changes to the Board for approval.
4. Recommend to the Board the composition of the full Board and its standing committees (currently: Audit, Compensation, and Nominating and Corporate Governance), including their respective chairs, if applicable.

5. Approve all nominees to serve as members of the Board before they are appointed by the Board or proposed by the Board for election by the stockholders, including approval of director nominees to be proposed by the Board for election at each annual meeting of stockholders and approval of all director nominees to be elected by the Board to fill interim director vacancies.
6. Review the narrative disclosure regarding the director nomination process implemented by the Committee or the Board to be included in any Securities and Exchange Commission (“*SEC*”) filing.
7. Exercise sole authority to retain and terminate any search firm or other advisor that is used by the Company to assist in identifying director candidates. The Committee shall have the sole authority to approve any such advisor’s fees and other retention terms.
8. Establish term policies and rotation plans for Board members and committee chairs, including in general a succession plan for the Board.
9. Consider procedures for the retirement or replacement of Board members.

B. Corporate Governance

The Committee shall:

1. Establish a process for the review, no less often than as required by a rotating cycle with annual intervals, of the respective charters of each of the standing committees of the Board, in order to, among other things, ensure that such charters comply with applicable laws, rules, regulations and listing standards; such process would contemplate initial review and recommendations by the Committee, followed by further review and recommendations by the applicable standing committee, followed by Board consideration for approval. Monitor the appropriate functioning of such process.
2. Review at least biannually and recommend to the Board for approval any appropriate changes in the Code of Ethics (applicable to the Chief Executive Officer and other senior financial officers), in order to, among other things, ensure that it complies with applicable laws, rules, regulations and listing standards.
3. Review at least biannually and recommend to the Board for approval any appropriate changes in the Code of Business Conduct (applicable to all Company directors, officers and employees), in order to, among other things, ensure that it complies with applicable laws, rules, regulations and listing standards.
4. Review and recommend that the Board consider and approve other governance and compliance policies and documents as deemed appropriate by the Committee, which may include an Insider Trading Policy, a Related Party Transaction Policy and a Stockholder Communication Policy. Review and assess the adequacy of such policies and documents, after the Board’s respective approvals, at least biannually and recommend any proposed changes to the Board for approval.
5. Establish the procedure for procuring at least annually from each Board member and officer a written statement confirming familiarity with and

compliance with the conflict-of-interest and other key components of the Code of Ethics, Code of Business Conduct, Insider Trading Policy, Related Party Transaction Policy. Review all such statements and attend to any deficiencies observed.

6. Review with management the Company's policies with respect to risk assessment and risk management.
7. Review and recommend that the Board consider and approve a management succession planning process which would include review, at least annually, of contingency plans for a successor to assume the role of Chief Executive Officer and the roles of the other respective senior officers. Review and assess the adequacy of such process, after the Board's approval, and compliance with its elements, and recommend any proposed changes to the Board, from time to time.
8. Establish the process for, and conduct at least annually, performance reviews of the Board, its respective Committees, and the respective individual Board members. Report appropriately the results of such reviews.
9. Evaluate whether any position held or proposed to be held by any new or existing director would represent a conflict of interest with such director's membership on the Company's Board or any committee thereof.
10. Oversee and facilitate the regular education of directors in matters affecting the Company's business and the responsibilities of directors in order to provide them the tools to meet their obligations and exercise their fiduciary duties.

C. Annual Review of Charter

The Committee shall review and assess the adequacy of this Charter at least annually and recommend to the Board any amendments or modifications to the Charter that the Committee deems appropriate.

D. Risk Oversight

The Committee shall regularly consider whether the Company's nomination and/or governance compensation practices, mechanisms, strategy and policies, or any other matters within the purview of the Committee, encourage undue or inappropriate risk taking by the Company's directors, officers and/or other employees. If so, the Committee shall take appropriate steps to remedy such matters or recommend that the Board take appropriate steps to remedy such matters.

E. Additional Nominating Committee Authority

The Committee is authorized, on behalf of the Board, to do any of the following, as the Committee deems necessary or appropriate in its discretion:

1. Periodically review, with advice from the Company's legal counsel, and recommend changes to the Company's Certificate of Incorporation and Bylaws (each as amended from time to time) as such changes relate to corporate governance matters.

2. Form and delegate authority to subcommittees consisting of one or more of its members as the Committee deems appropriate to carry out its responsibilities and exercise its powers.
3. Engage independent legal counsel and other advisors as it deems necessary or advisable to carry out its responsibilities and powers, and determine the compensation or fees payable to such counsel or other advisors.
4. Rely upon advice and information that it receives in its discussions and communications with management and such advisors as may be consulted by the Committee.
5. Request that any officer or employee of the Company, the Company's outside legal counsel, or any other advisor retained by the Company to render advice to the Company, attend a meeting of the Nominating Committee, or meet with any members of or advisors to the Nominating Committee.
6. Perform other activities required by applicable laws, rules, regulations or listing standards.
7. Perform other activities that are consistent with this Charter, the Company's Certificate of Incorporation and Bylaws, and applicable laws, rules, regulations and listing standards as the Committee or the Board deems necessary or appropriate.
8. Have unrestricted access to Company personnel and documents, and the authority to direct and supervise an investigation into any matters within the scope of its duties.
9. Incur such expenses as are necessary or appropriate in carrying out its duties.
10. Perform such other functions as may be requested by the Board from time to time.

IV. Meetings and Minutes

The Committee will meet at least once per year or more frequently, as determined appropriate by the Committee. The Committee will regularly report to the Board on significant matters related to the Committee's responsibilities. A quorum of the Committee for the transaction of business will be a majority of its members. Meetings may be held telephonically. The Committee may also act by unanimous written consent in lieu of a meeting. The Committee will maintain written minutes of its meetings and will provide such minutes to the Board.