

*This document constitutes three base prospectuses for the purposes of Art. 8(1) of Regulation (EU) 2017/1129 of the European Parliament and of the Council of June 14, 2017 (the **Prospectus Regulation**): (i) the base prospectus of Fresenius SE & Co. KGaA in respect of non-equity securities within the meaning of Art. 2(c) of the Prospectus Regulation (**Non-Equity Securities**), (ii) the base prospectus of Fresenius Finance Ireland Public Limited Company in respect of Non-Equity Securities and (iii) the base prospectus of Fresenius Finance Ireland II Public Limited Company in respect of Non-Equity Securities (together, the **Prospectus**).*



**Fresenius SE & Co. KGaA**  
**(Bad Homburg vor der Höhe, Federal Republic of Germany)**  
as Issuer and, in respect of Notes issued by  
**Fresenius Finance Ireland Public Limited Company and Fresenius Finance Ireland II Public Limited Company, as Guarantor**

**Fresenius Finance Ireland Public Limited Company**  
**Balbriggan, Co. Dublin, Ireland**  
as Issuer

**Fresenius Finance Ireland II Public Limited Company**  
**Balbriggan, Co. Dublin, Ireland**  
as Issuer

**€10,000,000,000**  
**Debt Issuance Programme**  
**(the Programme)**

This Prospectus has been approved by the Luxembourg Commission de Surveillance du Secteur Financier (the **CSSF**) as competent authority under the Prospectus Regulation. The CSSF only approves this Prospectus as meeting the standards of completeness, comprehensibility and consistency imposed by the Prospectus Regulation. Such approval should not be considered as an endorsement of the issuer or of the quality of the notes issued under the Programme (the **Notes**) that are the subject of this Prospectus. Investors should make their own assessment as to the suitability of investing in the Notes.

Each Issuer has requested the CSSF in its capacity as competent authority under the Prospectus Regulation and the Luxembourg act relating to prospectuses for securities dated July 16, 2019 (*Loi du 16 juillet 2019 relative aux prospectus pour valeurs mobilières* – the **Luxembourg Law**) to provide the competent authority in the Federal Republic of Germany with a certificate of approval attesting that the Prospectus has been drawn up in accordance with the Prospectus Regulation (**Notification**). Each Issuer may request the CSSF to provide competent authorities in additional Member States within the European Economic Area and the United Kingdom with a Notification. By approving a prospectus, the CSSF shall give no undertaking as to the economic and financial soundness of the operation or the quality or solvency of each issuer pursuant to article 6(4) Luxembourg Law.

Application has been made to list Notes on the official list of the Luxembourg Stock Exchange and to admit Notes to trading on the Luxembourg Stock Exchange's regulated market "Bourse de Luxembourg". The Luxembourg Stock Exchange's regulated market is a regulated market for the purposes of the Markets in Financial Instruments Directive 2014/65/EU, as amended. However, Notes may also be issued under the Programme which are listed on a stock exchange other than the Luxembourg Stock Exchange or which are not listed on any stock exchange.

*Arranger*  
**Deutsche Bank**  
*Dealers*

**BBVA**  
**BNP PARIBAS**  
**Credit Suisse**  
**Goldman Sachs Bank Europe SE**  
**Santander Corporate & Investment Banking**

**Barclays**  
**Commerzbank**  
**Deutsche Bank**  
**J.P. Morgan**  
**Société Générale Corporate & Investment Banking**

This Prospectus and any supplement to this Prospectus will be published in electronic form together with all documents incorporated by reference on the website of the Luxembourg Stock Exchange (*www.bourse.lu*). It replaces the base prospectus of the Issuers relating to the Programme dated April 12, 2019. It is valid for a period of twelve months from its date of approval. The validity ends upon expiration of March 30, 2021.

The obligation to supplement this Prospectus in accordance with article 23 of the Prospectus Regulation in the event of a significant new factor, material mistake or material inaccuracy does not apply when this Prospectus is no longer valid.

## RESPONSIBILITY STATEMENT

Fresenius SE & Co. KGaA (the *Company* or the *Guarantor*, together with its consolidated group companies, *Fresenius*, *Fresenius Group* or the *Group*, also referred to as *we*, *us* or *our*) with its registered office in Bad Homburg vor der Höhe, Federal Republic of Germany, Fresenius Finance Ireland Public Limited Company (*Fresenius Ireland*) with its registered office in Balbriggan, Co. Dublin, Ireland and Fresenius Finance Ireland II Public Limited Company (*Fresenius Ireland II*) with its registered office in Balbriggan, Co. Dublin, Ireland (each an *Issuer* and together the *Issuers*) accept responsibility for the information contained in this Prospectus and for the information which will be contained in the Final Terms (as defined herein).

Each Issuer hereby declares that, having taken all reasonable care to ensure that such is the case, the information contained in this Prospectus for which it is responsible is, to the best of its knowledge, in accordance with the facts and contains no omission likely to affect its import.

## NOTICE

This Prospectus should be read and understood in conjunction with any supplement hereto and with any other documents incorporated herein by reference and, in relation to any tranche of Notes (each a *Tranche*), together with the relevant final terms (the *Final Terms*). Full information on the Issuers and any Tranche is only available on the basis of the combination of the Prospectus and the relevant Final Terms.

Each Issuer has confirmed to the Dealers (as defined herein) that this Prospectus contains all information with regard to the Issuers, the Guarantor and the Notes which is material in the context of the Programme and the issue and offering of Notes thereunder; that the information contained herein with respect to the Issuers, the Guarantor and the Notes is accurate and complete in all material respects and is not misleading; that any opinions and intentions expressed herein are honestly held and based on reasonable assumptions; that there are no other facts with respect to the Issuers, the Guarantor or the Notes, the omission of which would make this Prospectus as a whole or any of such information or the expression of any such opinions or intentions misleading; that the Issuers have made all reasonable enquiries to ascertain all facts material for the purposes aforesaid.

This Prospectus is valid for 12 months following its date of approval and this Prospectus and any supplement hereto as well as any Final Terms reflect the status as of their respective dates of issue. The delivery of this Prospectus, any supplement thereto, or any Final Terms and the offering, sale or delivery of any Notes may not be taken as an implication that the information contained in such documents is accurate and complete subsequent to their respective dates of issue or that there has been no adverse change in the financial situation of the Issuers or the Guarantor since such date or that any other information supplied in connection with the Programme is accurate at any time subsequent to the date on which it is supplied or, if different, the date indicated in the document containing the same.

Each Issuer has undertaken with the Dealers to supplement this Prospectus in accordance with the Prospectus Regulation or publish a new prospectus in the event of any significant new factor, material mistake or inaccuracy relating to the information included in this Prospectus in respect of Notes issued on the basis of this Prospectus which is capable of affecting the assessment of the Notes and which arises or is noted between the time when this Prospectus has been approved and the closing of any tranche of Notes offered to the public or, as the case may be, when trading of any tranche of Notes on a regulated market begins in respect of Notes issued on the basis of this Prospectus.

No person has been authorized to give any information which is not contained in or not consistent with this Prospectus or any other document entered into in relation to the Programme or any information supplied by any Issuer or any other information in the public domain and, if given or made, such information must not be relied upon as having been authorized by the Issuers, the Dealers or any of them.

Neither the Arranger nor any Dealer nor any other person mentioned in this Prospectus, excluding the Issuers, is responsible for the information contained in this Prospectus or any supplement hereto, or any Final Terms or any document incorporated herein by reference, and accordingly, and to the extent permitted by the laws of any

relevant jurisdiction, none of these persons accepts any responsibility for the accuracy and completeness of the information contained in any of these documents.

The distribution of this Prospectus and any Final Terms and the offering, sale and delivery of Notes in certain jurisdictions may be restricted by law. Persons into whose possession this Prospectus or any Final Terms come are required to inform themselves about and observe any such restrictions. For a description of the restrictions applicable in the United States of America (**United States or U.S.**), the European Economic Area and the United Kingdom in general, the United Kingdom specifically, Luxembourg, and Japan and Ireland see "Selling Restrictions". In particular, the Notes have not been and will not be registered under the U.S. Securities Act of 1933, as amended (the **Securities Act**), and include notes in bearer form that are subject to U.S. tax law requirements. Subject to certain exceptions, Notes may not be offered, sold or delivered in, into nor within the United States or to U.S. persons.

**MIFID II PRODUCT GOVERNANCE / TARGET MARKET** – The Final Terms in respect of any Notes may include a legend entitled "MiFID II Product Governance" which will outline the target market assessment in respect of the Notes and which channels for distribution of the Notes are appropriate. Any person subsequently offering, selling or recommending the Notes (a **distributor**) should take into consideration the target market assessment; however, a distributor subject to Directive 2014/65/EU (as amended, **MiFID II**) is responsible for undertaking its own target market assessment in respect of the Notes (by either adopting or refining the target market assessment) and determining appropriate distribution channels.

A determination will be made in relation to each issue about whether, for the purpose of the MiFID Product Governance rules under EU Delegated Directive 2017/593 (the **MiFID Product Governance Rules**), any Dealer subscribing for any Notes is a manufacturer in respect of such Notes, but otherwise neither the Arranger nor the Dealers nor any of their respective affiliates will be a manufacturer for the purpose of the MiFID Product Governance Rules. None of Fresenius, Fresenius Ireland and Fresenius Ireland II is a manufacturer or distributor for the purposes of the MiFID Product Governance Rules.

**PRIIPS REGULATION / EEA AND UK RETAIL INVESTORS** – If the Final Terms in respect of any Notes include a legend entitled "Prohibition of Sales to EEA and UK Retail Investors", the relevant Notes are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available to any retail investor in the European Economic Area (**EEA**) or in the United Kingdom (**UK**). For these purposes, a retail investor means a person who is one (or more) of: (i) a retail client as defined in point (11) of Article 4(1) of MiFID II or (ii) a customer within the meaning of Directive 2016/97/EU (as amended, the **Insurance Distribution Directive**), where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II; or (iii) not a qualified investor as defined in the Prospectus Regulation. If the above mentioned legend is included in the relevant Final Terms, no key information document required by Regulation (EU) No 1286/2014 (as amended, the **PRIIPS Regulation**) for offering or selling the Notes or otherwise making them available to retail investors in the EEA or in the UK has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the EEA or in the UK may be unlawful under the PRIIPS Regulation.

The language of the Prospectus is English. Any part of this Prospectus in the German language constitutes a translation. In respect of the issue of any Tranche of Notes under the Programme, the German text of the Terms and Conditions may be controlling and binding if so specified in the relevant Final Terms. In respect of the German law governed Guarantee (including the negative pledge contained therein) the German language version is always controlling and binding.

**This Prospectus may only be used for the purpose for which it has been published.**

**This Prospectus and any Final Terms may not be used for the purpose of an offer or solicitation by anyone in any jurisdiction in which such offer or solicitation is not authorized or to any person to whom it is unlawful to make such an offer or solicitation.**

**This Prospectus, any supplement thereto and any Final Terms do not constitute an offer or an invitation to subscribe for or purchase any Notes.**

**IN CONNECTION WITH THE ISSUE OF ANY TRANCHE OF NOTES UNDER THE PROGRAMME, THE DEALER OR DEALERS (IF ANY) NAMED AS STABILISATION MANAGER(S) (OR PERSONS ACTING ON BEHALF OF ANY STABILISATION MANAGER(S)) IN THE APPLICABLE FINAL TERMS MAY OVER-ALLOT NOTES OR EFFECT TRANSACTIONS WITH A VIEW TO SUPPORTING THE MARKET PRICE OF THE NOTES AT A LEVEL HIGHER THAN THAT WHICH**

**MIGHT OTHERWISE PREVAIL. HOWEVER, STABILISATION MAY NOT NECESSARILY OCCUR. ANY STABILISATION ACTION MAY BEGIN ON OR AFTER THE DATE ON WHICH ADEQUATE PUBLIC DISCLOSURE OF THE TERMS OF THE OFFER OF THE RELEVANT TRANCHE OF NOTES IS MADE AND, IF BEGUN, MAY CEASE AT ANY TIME, BUT IT MUST END NO LATER THAN THE EARLIER OF 30 DAYS AFTER THE ISSUE DATE OF THE RELEVANT TRANCHE OF NOTES AND 60 DAYS AFTER THE DATE OF THE ALLOTMENT OF THE RELEVANT TRANCHE OF NOTES. ANY STABILISATION ACTION OR OVER-ALLOTMENT MUST BE CONDUCTED BY THE RELEVANT STABILISATION MANAGER(S) (OR PERSON(S) ACTING ON BEHALF OF ANY STABILISATION MANAGER(S)) IN ACCORDANCE WITH ALL APPLICABLE LAWS AND RULES.**

**ANY U.S. PERSON WHO HOLDS AN OBLIGATION UNDER THIS PROGRAMME THAT IS TREATED AS IN BEARER FORM FOR U.S. FEDERAL INCOME TAX PURPOSES WILL BE SUBJECT TO LIMITATIONS UNDER THE U.S. INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN CLAUSES 165(J) AND 1287(A) OF THE U.S. INTERNAL REVENUE CODE OF 1986, AS AMENDED.**

**BENCHMARK REGULATION - STATEMENT IN RELATION TO ADMINISTRATOR'S REGISTRATION** – The Final Terms in respect of any Notes offered on the basis of this Prospectus may specify that amounts payable under the relevant Notes may be calculated by reference to the Euro Interbank Offered Rate (*EURIBOR*), which as at the date of this Prospectus is provided by European Money Markets Institute (*EMMI*), or the London Interbank Offered Rate (*LIBOR*), which as at the date of this Prospectus is provided by ICE Benchmark Administration Limited (*IBA*). As at the date of this Prospectus, each of EMMI and IBA appears on the register of administrators and benchmarks established and maintained by the European Securities and Markets Authority (*ESMA*) pursuant to article 36 of Regulation (EU) 2016/1011 of the European Parliament and of the Council of June 8, 2016, as amended (the *Benchmark Regulation*). The registration status of any administrator under the Benchmark Regulation is a matter of public record and save where required by applicable law the Issuers do not intend to include in the relevant Final Terms any information on the registration status of any administrator.

In this Prospectus, all references to *€*, *EUR* or *euro* are to the currency introduced at the start of the third stage of the European economic and monetary union, and defined in Article 2 of Council Regulation (EC) No 974/98 of May 3, 1998, on the introduction of the euro, as amended. *U.S. dollars* or *\$* refer to the lawful currency of the United States.

Tranches of Notes may be rated or unrated. Where a Tranche of Notes is rated, such rating and the respective rating agency will be specified in the relevant Final Terms. A rating is not a recommendation to buy, sell or hold Notes and may be subject to suspension, reduction or withdrawal at any time by the assigning rating agency.

To the extent not otherwise indicated, the information contained in this Prospectus on the market environment, market developments, growth rates, market trends and competition in the markets in which the Group operates is taken from publicly available sources, including, but not limited to, third-party studies or the Group's own estimates that are also primarily based on data or figures from publicly available sources. The information from third-party sources that is cited here has been reproduced accurately. As far as the Issuers are aware and are able to ascertain from information published by such third-party, no facts have been omitted which would render the reproduced information published inaccurate or misleading.

This Prospectus also contains estimates of market data and information derived from these estimates that would not be available from publications issued by market research firms or from any other independent sources. This information is based on the Group's internal estimates and, as such, may differ from the estimates made by the Group's competitors or from data collected in the future by market research firms or other independent sources. To the extent the Issuers derived or summarized the market information contained in this Prospectus from a number of different studies, an individual study is not cited unless the respective information can be taken from it directly.

The Issuers have not independently verified the market data and other information on which third parties have based their studies or the external sources on which the Issuers' own estimates are based. Therefore, the Issuers assume no responsibility for the accuracy of the information on the market environment, market developments, growth rates, market trends and competitive situation presented in this Prospectus from third-party studies or the accuracy of the information on which the Issuers' own estimates are based. Any statements regarding the market environment, market developments, growth rates, market trends and competitive situation presented in this Prospectus regarding Fresenius Group and its operating divisions contained in this Prospectus are based on own estimates and/or analysis unless other sources are specified.

The information of any website included in the Prospectus except for the website *www.bourse.lu* in the context of the documents incorporated by reference, do not form part of the Prospectus and has not been scrutinized or approved by the CSSF.

## **FORWARD-LOOKING STATEMENTS**

This Prospectus contains certain forward-looking statements. A forward-looking statement is a statement that does not relate to historical facts and events. They are based on analyses or forecasts of future results and estimates of amounts not yet determinable or foreseeable. These forward-looking statements are identified by the use of terms and phrases such as "anticipate", "believe", "could", "estimate", "expect", "intend", "may", "plan", "predict", "project" and similar terms and phrases, including references and assumptions. This applies, in particular, to statements in this Prospectus containing information on future earning capacity, plans and expectations regarding Fresenius Group's business and management, its growth and profitability, and general economic and regulatory conditions and other factors that affect it.

Forward-looking statements in this Prospectus are based on current estimates and assumptions that the Issuers make to the best of their present knowledge. These forward-looking statements are subject to risks, uncertainties and other factors which could cause actual results, including Fresenius Group's financial condition and results of operations, to differ materially from and be worse than results that have expressly or implicitly been assumed or described in these forward-looking statements. Fresenius Group's business is also subject to a number of risks and uncertainties that could cause a forward-looking statement, estimate or prediction in this Prospectus to become inaccurate. Accordingly, investors are strongly advised to read the following sections of this Prospectus: "*Risk Factors*", "*General Information on the Issuer and the Guarantor - Fresenius SE & Co. KGaA*", "*General Information on the Issuer and the Guarantor - Fresenius Finance Ireland Public Limited Company*", "*General Information on the Issuer and the Guarantor - Fresenius Finance Ireland II Public Limited Company*" and "*Business of the Fresenius Group*". These sections include more detailed descriptions of factors that might have an impact on Fresenius Group's business and the markets in which it operates.

In light of these risks, uncertainties and assumptions, future events described in this Prospectus may not occur. In addition, neither the Issuers nor the Dealers assume any obligation, except as required by law, to update any forward-looking statement or to conform these forward-looking statements to actual events or developments.

## **ALTERNATIVE PERFORMANCE MEASURES**

This Prospectus contains certain alternative performance measures (*APMs*) which are not recognized financial measures under the International Financial Reporting Standards as issued by the International Accounting Standards Board and as adopted by the European Union (*IFRS*). Such APMs must be considered only in addition to, and not as a substitute for or superior to, financial information prepared in accordance with IFRS included elsewhere in the Prospectus. Investors are cautioned not to place undue reliance on these APMs and are also advised to review them in conjunction with the financial statements of the Issuers and related notes.

## TABLE OF CONTENTS

|                                                           |     |
|-----------------------------------------------------------|-----|
| General Description of the Programme .....                | 8   |
| Risk Factors .....                                        | 10  |
| Presentation of Financial Information .....               | 36  |
| General Information on the Issuers and the Guarantor..... | 37  |
| Business of the Fresenius Group .....                     | 58  |
| Issue Procedures .....                                    | 80  |
| Terms and Conditions of the Notes .....                   | 82  |
| Form of Final Terms .....                                 | 190 |
| Guarantee .....                                           | 209 |
| Use of Proceeds.....                                      | 219 |
| Taxation Warning.....                                     | 220 |
| Subscription and Sale .....                               | 221 |
| General Information .....                                 | 228 |
| Documents Incorporated by Reference .....                 | 230 |
| Names and Addresses.....                                  | 233 |

## GENERAL DESCRIPTION OF THE PROGRAMME

### General

Under this €10,000,000,000 Debt Issuance Programme, the relevant Issuer may from time to time issue Notes to one or more of the following dealers: Banca Bilbao Vizcaya Argentaria, S.A., Banco Santander, S.A., Barclays Bank PLC, Barclays Bank Ireland PLC, BNP Paribas, Commerzbank Aktiengesellschaft, Credit Suisse Securities (Europe) Limited, Deutsche Bank Aktiengesellschaft, Goldman Sachs Bank Europe SE, J.P. Morgan Securities plc, and Société Générale, and any additional dealer appointed under the Programme from time to time by the Issuer(s), which appointment may be for a specific issue or on an ongoing basis (together, the **Dealers**).

Deutsche Bank Aktiengesellschaft acts as arranger in respect of the Programme (the **Arranger**).

BNP Paribas acts as listing agent (the **Listing Agent**).

Deutsche Bank Aktiengesellschaft will act as fiscal agent (the **Fiscal Agent**) and paying agent (the **Paying Agent**).

The maximum aggregate principal amount of the Notes from time to time outstanding under the Programme (the **Programme Amount**) will not exceed €10,000,000,000 (or nearly equivalent in another currency). The Issuers may increase the Programme Amount in accordance with the terms of the Dealer Agreement from time to time.

### Issue of Notes

Notes issued by Fresenius Ireland or Fresenius Ireland II will have the benefit of a guarantee (the **Guarantee**) given by Fresenius SE & Co. KGaA. The Guarantee constitutes an irrevocable, unsecured and unsubordinated obligation of the Guarantor ranking pari passu with all other unsecured and unsubordinated obligations of the Guarantor.

Notes may be issued on a continuous basis in Tranches, each Tranche consisting of Notes which are identical in all respects. One or more Tranches, which are expressed to be consolidated and forming a single series and are identical in all respects, but which may have different issue dates, interest commencement dates, issue prices and dates for first interest payments may form a series (**Series**) of Notes. Further Notes may be issued as part of existing Series.

Notes will be issued in such denomination as may be agreed between the relevant Issuer and the relevant Dealer(s) and as indicated in the applicable Final Terms save that the minimum denomination of the Notes will be, if in euro, €1,000, and, if in any currency other than euro, an amount in such other currency of at least €1,000 at the time of the issue of Notes. Subject to any applicable legal or regulatory restrictions, and requirements of relevant central banks, Notes may be issued in euro or any other currency.

Notes may be issued at an issue price, which is at par or at a discount to, or premium over, par, as stated in the relevant Final Terms. The issue price for Notes to be issued will be determined at the time of pricing on the basis of a yield which will be determined on the basis of the orders of the investors which are received by the Dealers during the offer period. Orders will specify a minimum yield and may only be confirmed at or above such yield. The resulting yield will be used to determine an issue price, all to correspond to the yield.

The yield is calculated in accordance with the ICMA (International Capital Markets Association) method and based on the issue price of the Notes. The ICMA method determines the effective interest rate of notes taking into account accrued interest on a daily basis.

The specific terms of each Tranche will be set forth in the applicable Final Terms. The Final Terms listed on the official list and admitted to trading on the regulated market of the Luxembourg Stock Exchange or publicly offered in the Grand Duchy of Luxembourg will be displayed on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)). In the case of Notes listed on any other stock exchange or publicly offered in one or more member states of the European Economic Area (other than the Grand Duchy of Luxembourg) or the UK, the Final Terms will be displayed on the website of Fresenius ([www.fresenius.com](http://www.fresenius.com)).

### Distribution of Notes

The Notes are freely transferable and may be offered to qualified and non-qualified investors. However, if the Final Terms in respect of any Notes include a legend entitled "Prohibition of Sales to EEA and UK Retail Investors", the relevant Notes are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available to any retail investor in the EEA or in the UK. For these purposes, a retail investor means a person who is one (or more) of: (i) a retail client as defined in point (11) of Article 4(1) of MiFID II or (ii) a



customer within the meaning of the Insurance Distribution Directive, where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II; or (iii) not a qualified investor as defined in the Prospectus Regulation. If the above mentioned legend is included in the relevant Final Terms, no key information document required by the PRIIPs Regulation for offering or selling the Notes or otherwise making them available to retail investors in the EEA or in the UK has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the EEA or in the UK may be unlawful under the PRIIPs Regulation.

The Final Terms in respect of any Notes will include a legend entitled "MiFID II Product Governance" which will outline the target market assessment in respect of the Notes and which channels for distribution of the Notes are appropriate. Any person subsequently offering, selling or recommending the Notes (a *distributor*) should take into consideration the target market assessment; however, a distributor subject to MiFID II is responsible for undertaking its own target market assessment in respect of the Notes (by either adopting or refining the target market assessment) and determining appropriate distribution channels.

A determination will be made in relation to each issue about whether, for the purpose of the MiFID Product Governance rules, any Dealer subscribing for any Notes is a manufacturer in respect of such Notes, but otherwise neither the Arranger nor the Dealers nor any of their respective affiliates will be a manufacturer for the purpose of the MiFID Product Governance Rules. None of Fresenius, Fresenius Ireland and Fresenius Ireland II is a manufacturer or distributor for the purposes of the MiFID Product Governance Rules.

Under the Luxembourg Law, offers to the public relating to money market instruments having a maturity at issue of less than 12 months and complying also with the definition of securities are subject to the approval provisions of an alleviated prospectus pursuant to the provisions of Part III of such law.

### **Listing and Admission to Trading**

Application has been made to the Luxembourg Stock Exchange for Notes issued under this Programme to be listed on the official list of the Luxembourg Stock Exchange and admitted to trading on the regulated market of the Luxembourg Stock Exchange.

The Programme provides that Notes may be listed on other or further stock exchanges, as may be agreed between the relevant Issuer and the relevant Dealer(s) in relation to each issue. Notes may further be issued under the Programme which will not be listed on any stock exchange.

## RISK FACTORS

*Before deciding to purchase any Notes, investors should carefully review and consider the following risk factors and the other information contained in this Prospectus or incorporated by reference into this Prospectus. The occurrence of one or more of these risks alone or in combination with other circumstances may have a material adverse effect on the business and cash flows, financial condition and results of operations of Fresenius, Fresenius SE & Co. KGaA, Fresenius Ireland or Fresenius Ireland II and may affect Fresenius SE & Co. KGaA's and/or Fresenius Ireland's and/or Fresenius Ireland II's ability to fulfill their obligations under the Notes and the Guarantee, as applicable.*

*The following description is limited to risk factors which Fresenius SE & Co. KGaA, Fresenius Ireland and Fresenius Ireland II consider to be specific and material. Fresenius SE & Co. KGaA, Fresenius Ireland and Fresenius Ireland II describe only those risk factors they are currently aware of and which could impair their ability to fulfil their respective obligations under the Notes and the Guarantee, as applicable. Investing in the Notes could involve additional risks and uncertainties of which Fresenius SE & Co. KGaA, Fresenius Ireland and Fresenius Ireland II may not be currently aware, or which Fresenius SE & Co. KGaA, Fresenius Ireland and Fresenius Ireland II may currently not consider material on the basis of their regular risk assessments. The risks to which the business of Fresenius is exposed may result in inaccuracies in risk assessments or other forward-looking statements.*

*The Notes may not be a suitable investment for all investors and each potential investor in the Notes must determine the suitability of the investment in light of its own circumstances and financial condition. In particular, each potential investor should:*

- have sufficient knowledge and experience to make a meaningful evaluation of the Notes and the Guarantee, the merits and risks of investing in the Notes and the information contained in this Prospectus;*
- have access to, and knowledge of, appropriate analytical tools to evaluate, in the context of its particular financial situation and the investment(s) it is considering, an investment in the Notes and the impact the Notes will have on its overall investment portfolio;*
- have sufficient financial resources and liquidity to bear all of the risks of an investment in the Notes, including where the currency for principal or interest payments is different from the reference currency of the investor;*
- understand thoroughly the Terms and Conditions and the Guarantee; and*
- be able to evaluate (either alone or with the assistance of a financial adviser) possible scenarios that may affect its investment and its ability to bear the applicable risks.*

### RISKS RELATING TO FRESENIUS SE & CO. KGAA AND THE GROUP

#### Overall Economic, Political, Social and Geopolitical Risks

*Adverse global economic conditions and disruptions in financial markets, in particular those caused by the current global SARS-CoV-2 pandemic, could have an adverse effect on our businesses.*

We are dependent on the conditions of the financial markets and the global economy. In order to pursue its business, the Group is reliant on capital, as are our customers and commercial health care insurers. Limited or more expensive access to capital in the financial markets could adversely affect our businesses and profitability. Among other things, the potential decline in, or redirection to other purposes of, federal and state revenues may create additional pressures to contain or reduce reimbursements for our services from public payors around the world, including Medicare and Medicaid in the United States, and other government sponsored programs in the United States and other countries around the world.

In the United States, increasing job losses or changes in the unemployment rate may result in a smaller percentage of our patients being covered by an employer group health plan and a larger percentage being covered by lower paying Medicare and Medicaid programs. To the extent that payors are negatively impacted by a decline in the economy, we

may experience further pressure on prices, a further slowdown in collections, and a reduction in the amounts we expect to collect.

Devaluation of currencies and worsening economic conditions, including inflationary cost increases in various markets in connection with deteriorating country ratings also increase the risk of a goodwill impairment, which could lead to a partial or total goodwill write-off in the affected cash generating units.

In addition, uncertainty in the financial markets could adversely affect the variable interest rates payable under our credit facilities or could make it more difficult to obtain or renew such facilities or to obtain other forms of financing in the future.

Most recently, the rapid global spread of the SARS-CoV-2 pandemic has resulted in a material deterioration of the conditions for the global economy and financial markets have been materially affected. We expect that this development will adversely affect our business and result of operation. It could have adverse effects on our financial condition and our liquidity. While it is currently impossible to estimate and quantify the extent of its negative effects on our business, results of operations and financial condition, the SARS-CoV-2 pandemic poses material risks to our supply chains, our production, the sales of our products and the delivery of our services. These effects could for example be caused by restrictions on business activities of our suppliers, customers and ourselves, including our personnel, imposed by public authorities on a regional, national or international level, by unavailability of critical workforce, increased costs and by a material redirection of public health funds from our products and services to address the SARS-CoV-2 pandemic. These effects will be exacerbated the longer the SARS-CoV-2 pandemic lasts.

Any or all of these factors, or other consequences of the continuation, or worsening, of domestic and global economic conditions, which cannot currently be predicted, could adversely affect our businesses and results of operations.

***Market developments and government actions regarding the sovereign debt crisis in Europe could adversely affect our business, financial condition, results of operations, and liquidity.***

Global markets and economic conditions have in the past years repeatedly been negatively impacted by concerns regarding the ability of certain European Union member states and other countries to service their sovereign debt obligations. If the fiscal obligations of these countries continue to exceed their fiscal revenue, taking into account the reactions of the credit and swap markets, the ability of such countries to service their debt in a cost-efficient manner or to meet their other obligations could be impaired. The continued uncertainty over the outcome of various international financial support programs and the possibility that other countries may experience similar financial pressures could further disrupt global markets. In addition, current or worsening economic conditions, including as consequence of the SARS-CoV-2 pandemic, could adversely affect the ability of our customers, including governments, to pay for our services, products, and amount spent on health care generally. We have exposure to government obligations, principally for accounts receivable from public health care organizations in such countries. Continued adverse conditions in these countries for an extended period of time could adversely affect collection of our accounts receivable in these countries and require us to re-evaluate the collectability and valuation of our receivables, which could result in credit losses and have a material adverse effect on our business, financial condition, results of operations, and liquidity.

***We face specific risks from international operations.***

Our international operations are subject to a number of risks, including but not limited to the following:

- the economic situation in certain countries could deteriorate;
- inflation rates could accelerate and even may require hyperinflation accounting, as we need to apply for Argentina since July 1, 2018 for example;
- fluctuations in exchange rates could adversely affect profitability;
- we could face difficulties in enforcing and collecting accounts receivable under some countries' legal systems;

- we could be negatively impacted by the ability of certain countries to service their sovereign debt obligations;
- local regulations could restrict our ability to obtain a direct ownership interest in health care clinics or other operations;
- political, social, or economic instability, especially in developing and newly industrializing countries, could disrupt our operations;
- the withdrawal of the United Kingdom from the European Union and its possible effects on the tax, tax treaty, currency, operational, legal and regulatory regimes to which our businesses in the region are subject, the continuing uncertainty about the conditions of such a withdrawal as well as the present uncertainty regarding other EU member countries pursuing and achieving similar actions, including Catalonia's quest for independence from Spain;
- some customers and governments could increase their payment cycles, with resulting adverse effects on our cash flow;
- some countries could impose additional or higher taxes or fees or restrict the import of our products;
- potential increases in tariffs and trade barriers that could result from withdrawal by the United States or other countries from unions, including the exit from major multilateral trade agreements;
- we could fail to receive or could lose required licenses, certifications, or other regulatory approvals for the operation of subsidiaries or dialysis clinics, production facilities, sale of equipment, products, or services or acquisitions;
- civil unrest, armed conflict, or outbreaks of disease (e.g. pandemics, such as the one caused by the SARS-CoV-2 virus) in one or more countries in which we have material operations or material product revenue;
- differing labor regulations and difficulty in meeting the global demand for qualified personnel and managing geographically widespread operations;
- different or less robust regulatory regimes controlling the protection of our intellectual property;
- natural disasters, terrorist attacks, or other unforeseen events; and
- transportation delays or interruptions.

International growth and expansion into emerging markets, such as Asia-Pacific, Latin America, and Africa, could cause us difficulty due to greater regulatory barriers than in the United States or Western Europe, the necessity of adapting to new regulatory systems, and problems related to entering new markets with different economic, social, legal, and political systems and conditions. For example, unstable political conditions or civil unrest could negatively impact our operations and sales in a region or our ability to collect receivables or reimbursements or operate or execute projects in a region. Our Group has, on occasion in the past, been forced to postpone or discontinue certain projects due to the occurrence of events that resulted in an unacceptable level of risk to our personnel, and no assurance can be given that such events will not occur in the future.

In addition, our expanding geographical footprint increases the risk that our hospitals, clinics and manufacturing facilities may be forced to shut down or may be unable to operate at full capacity as a result of natural or other catastrophes. A significant disruption at any of these facilities, even on a short-term basis, could impair our ability to treat patients or to produce and ship our products to the market on a timely basis.

Any one or more of these or other factors could increase our costs, reduce our sales, or disrupt our operations, including our ability to treat patients or produce and ship our products to the market on a timely basis, with possible material adverse effects on our business, financial condition, and results of operations.

***We face risks and uncertainties from emerging markets.***

We intend to expand further in emerging markets, such as Asia-Pacific, Latin America, and Africa. We expect that sales from countries outside of Europe and North America will account for an increasing portion of our sales in the future. Emerging market economies can entail risks not commonly encountered in developed countries. These risks include, but are not limited to, underdeveloped or unstable political, legal and regulatory regimes, inconsistent enforcement of laws and regulations, limited or unreliable infrastructure, and a higher risk of conflict. Any one of

these or other factors relating to our operations in emerging markets could increase our costs, reduce our sales, or disrupt our operations, with possible material adverse effects on our business, financial condition, and results of operations.

### **Risks in the Health Care Sector**

#### ***Changes in reimbursement and/or governmental regulations for health care could materially decrease our sales and operating profit.***

We receive reimbursement for our health care services from both public, government-sponsored payors and private, commercial payors. A significant amount of the consolidated revenues of our business segment Fresenius Medical Care results from Medicare and Medicaid reimbursement. For example, in 2019, approximately 33% of Fresenius Medical Care's sales worldwide were attributable to U.S. federally funded health care benefit programs, such as Centers of Medicare and Medicaid.

The Medicare and Medicaid programs change their payment methodologies and funding from time to time in ways that are driven by changes in statute, economic conditions, or policy. For example, the Budget Control Act of 2011 (**BCA**) effected a 2% reduction to Medicare payments and subsequent activity in Congress, a \$1.2 trillion sequester (across-the-board spending cuts) in discretionary programs, took effect on April 1, 2013, which continues in force. In addition, options to restructure the Medicare program in the direction of a defined-contribution, "premium support" model and to shift Medicare funding to a block grant or per capita arrangement, with greater flexibility for the states, are also likely to be considered. Changes in payment methodologies and funding or payment requirements of (without limitation) the End-Stage Renal Disease Prospective Payment System, the Physician Fee Schedule, the Clinical Laboratory Fee Schedule, and the Ambulatory Surgical Center Payment System may have material effects on our operating results. We have very little opportunity to influence or predict the magnitude of those changes.

Changes in payment methodologies and funding or payment requirements, in particular any decrease in reimbursement rates or covered services regarding the U.S. Medicare or Medicaid programs could have a material adverse effect on Fresenius Medical Care's business, financial condition, and results of operations.

As part of the PPS, Fresenius Medical Care's dialysis clinics in the United States participate in the Quality Improvement Program (QIP). Medicare reimbursement benefits can be reduced by up to 2% based on the previous year's benefits if clinics do not meet the quality standards of the QIP. Underlying quality measures are reviewed, extended, and amended annually by the CMS. A material failure by Fresenius Medical Care to achieve the minimum client quality standards under the QIP could materially and adversely affect business, financial condition, and results of operations.

Through its value-based agreements and health insurance products, Fresenius Medical Care assumes the risk of both medical and administrative costs for certain patients in return for fixed periodic payments from governmental and commercial insurers. Fresenius Medical Care currently participates in various value-based programs, including:

- (i) the Centers for Medicare and Medicaid Services (**CMS**) Comprehensive End-Stage Renal Disease (**ESRD**) Care initiative; and
- (ii) capitation or shared savings agreements with commercial insurers in which Fresenius Medical Care receives a fixed fee to cover all or a defined portion of the medical costs of a defined population of patients.

CMS relied on authority granted by the ACA to implement the Comprehensive ESRD Care Model and BPCI, which seeks to deliver better health outcomes for ESRD patients while lowering CMS' costs. Although Congress's efforts to date to repeal the ACA have been unsuccessful, further efforts to repeal or revise the ACA, the posture of CMS in the Trump administration toward projects of this sort and litigation seeking the termination of the ACA may affect the project's future prospects in ways which we currently cannot quantify or predict.

The reserves that Fresenius Medical Care establishes for health insurance policy benefits and other contractual rights and benefits are based upon assumptions and judgements concerning a number of factors, including trends in health care costs, expenses, general economic conditions and other factors. To the extent the actual claims experience is less

favorable than estimated based on Fresenius Medical Care's underlying assumptions, incurred losses would increase and future earnings could be adversely affected.

Fresenius Medical Care receives reimbursement for the treatment of Medicare patients based upon the ESRD PPS rates as determined by CMS. CMS subjects a base ESRD PPS payment rate to case-mix adjustments that take into account individual patient characteristics. The annually adjusted rates may not provide fully compensating reimbursement for the services or products consumed during service. Pharmaceuticals included within the bundled rate are subjected to increased reimbursement pressure in comparison to the pharmaceuticals currently reimbursed outside the bundle. In some cases, pharmaceuticals that were reimbursed outside of the bundle are transitioned for inclusion within the bundle. Recently, CMS clarified that once any non-oral ESRD-related drug in a category previously considered oral only is approved by the FDA, such category of drugs will cease to be considered oral only. As a result of this determination, reimbursement for calcimimetics is now included in the ESRD PPS, effective as of January 1, 2018, subject to CMS's payment a "transitional drug add-on payment adjustment" for three years. During this transition period, CMS will not pay outlier payments for these drugs. If Fresenius Medical Care is unable to secure appropriate reimbursement arrangements for the pharmaceuticals it provides in its dialysis clinics, Fresenius Medical Care could experience a material adverse effect on its operating results.

Further, an increased utilization of bundled pharmaceuticals or decreases in reimbursement for pharmaceuticals outside the bundled rate may result in a material adverse impact on Fresenius Medical Care's results of operations. Fresenius Medical Care is also subject to audits and reviews by enforcement authorities, including the FDA, for compliance with applicable drug regulations. These audits or reviews may impact Fresenius Medical Care's participation in Medicare and Medicaid programs, the imposition of potential fines or penalties as well as oversight or recalibration of processes and procedures which may have a material adverse impact on Fresenius Medical Care's business and results of operations.

Fresenius Medical Care's profitability in its value-based agreements and insurance products is dependent in part upon the ability to contract on favorable terms with hospitals, physicians and other health care providers. The failure to maintain or to secure cost-effective health care provider contracts may result in a loss of beneficiaries or higher medical costs, which could adversely affect our business.

Government reimbursement programs generally pay less than private insurance. In addition, Fresenius Medical Care may experience higher write-offs of Medicare deductibles and other amounts due to uninsured and underinsured patients, resulting in an increase in uncollectible accounts. As a result, the payments Fresenius Medical Care receives from private payors generate a substantial portion of the profits Fresenius Medical Care reports. Approximately 34% of Fresenius Medical Care's consolidated health care revenues in the North American Segment were attributable to private payors in 2019.

Any of the following events, among others, could have a material adverse effect on our business, financial condition and results of operations:

- we may be subject to reductions in reimbursement from private payors;
- we may experience a reduction in Fresenius Medical Care's ability to obtain commercially insured patients to utilize our health care services relative to historical levels;
- efforts by private payors to continue to control the cost of and/or the eligibility for access to health care services, in particular relatively to products on and off the health care exchanges established by the ACA;
- a portion of Fresenius Medical Care's business that is currently reimbursed by private insurers or hospitals may become reimbursed by integrated care organizations, which may use payment methodologies that reduce reimbursement for Fresenius Medical Care's services;
- a portion of Fresenius Medical Care's business that is currently reimbursed by private insurers at rates based on our billed charges may become reimbursed under contracts at lower rates; or
- a portion of Fresenius Medical Care's patients who are currently covered by private insurers and rely on charitable assistance to defray their insurance premium costs may be forced to transition to government funded reimbursement programs with lower rates for our services, if efforts to restrict or eliminate the charitable funding of patient insurance premiums are successful.

In addition to the foregoing factors, the health care insurance industry is experiencing continuing consolidation among insurers and pharmacy benefit managers. Such consolidation could increase the bargaining power of such private payors vis-à-vis Fresenius Medical Care and adversely affect Fresenius Medical Care's ability to negotiate favorable coverage terms and reimbursement rates.

In addition, our business segment Fresenius Helios derives significant portions of its revenues from government reimbursement programs. A case-based reimbursement system for hospitals (based on diagnosis related groups or **DRG**) was introduced in Germany in 2003 for inpatients. This scheme, which phased in and was fully implemented in 2010, replaced the former composite scheme of mostly departmental per diem payments and a small share of case-based payments. Under the case-based reimbursement system, hospitals receive a flat fee per patient (more exactly for an inpatient case of the patient). The fee takes into account the individual conditions of each patient by evaluating the patient's principal and secondary diagnoses, age, the procedures undertaken on the patient, and the patient's discharge status. Hospitals receive additional payments for some specific services provided based on the procedure. Essentially, the DRG system is aimed at improving hospital efficiency and reducing health care spending. We will closely follow the further regulatory developments relating to the DRG system. As a result of the Nursing Staff Strengthening Act (*Pflegepersonalstärkungsgesetz (PpSG)*) for example, the nursing costs will be excluded from the DRG from 2020. Instead, the costs for patient-oriented nursing care will be fully reimbursed by the health insurance funds via separate nursing budgets. Since 2019, each additional or increased care place at the bed will be completely refinanced by the cost bearers. Moreover, minimum nurse staffing requirements for care-intensive hospital areas (*Pflegepersonaluntergrenzenverordnung (PpUGV)*) became effective on January 1, 2019. Further planned statutory regulations on minimum personnel levels in additional hospital departments with beds may further intensify competition for qualified nursing staff. Any changes to governmental regulations and to reimbursement schemes could have a material adverse effect on our business, financial condition, and results of operations.

As a result of the acquisition of IDC Salud Holding S.L.U. (*Quirónsalud*), Fresenius Helios operates hospitals in Spain through Public-Private Partnership contracts (**PPP**). These hospitals are part of the public health care system in Spain. Quirónsalud receives compensation for its services in the form of a per capita lump sum or remuneration for the specific service rendered. Changes to reimbursement schemes could also have a material adverse effect on our business, financial condition, and results of operations.

In connection with the SARS-CoV-2 pandemic, Germany has enacted legislation in March 2020 providing the German Federal Government with extensive powers to intervene with health care companies. Specifically, the German Federal Government, following the declaration of an epidemic situation of nationwide impact, can intervene with the companies' production and sales processes, thereby e.g. temporarily ordering the supply to the public sourcing channels. Similarly, the Spanish government has temporarily obtained the right to direct all hospitals, allowing the healthcare authorities to leverage all available resources to treat SARS-CoV-2 infected patients. Such an option is also embedded in the established crisis management plans of many other European countries and it is possible that further or similar measures will be introduced by health authorities in numerous markets in which Fresenius operates to combat the SARS-CoV-2 pandemic. While any such measures are currently expected to be limited in time, they could lead to loss of revenues and profits as compensation by public authorities for mandatorily provided healthcare products and services in fighting the SARS-CoV-2 pandemic could be lower than normal market prices.

Reductions in health care spending could also negatively affect the pricing of Fresenius Kabi products.

***We operate in a highly regulated industry such that the potential for legislative reform provides uncertainty and potential threats to our operating models and results.***

The delivery of health care services and products is highly regulated in most of the countries in which we operate. Proposals for legislative reform in these countries are often introduced to improve access to care, address quality of care issues and manage costs of the health care system. In the U.S., the Trump administration and the 115th U.S. Congress have publicly announced their intention to pursue, and may enact, significant changes to existing health care programs. Certain health insurance provisions of the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2011 (collectively, **ACA**), if not many more ACA provisions, are likely targets for change. Changes of this nature could have significant effects on our businesses.

While the Trump administration announced in late 2017 its intention to cease cost-sharing reduction (**CSR**) payments under the insurance exchanges created under the ACA, the administration eventually did fund CSRs in 2018 and has requested funding for CSRs in 2019. If CSR funding ceases at any point, commercial insurers have indicated that premium rates would need to increase and that they may withdraw from the insurance exchanges created under the ACA. So far average premiums for 2019 appear to be only moderately higher compared to 2018, though there is large variation between states with some states having significant increases. In addition, there is ongoing litigation over the U.S. Federal Government's obligation to pay the CSRs and over the constitutionality of provisions of the ACA. We cannot predict whether the Trump administration will agree to pay the CSRs in 2019, continue to dismantle the insurance exchanges through other means, or how the ongoing litigation might be determined. As a result, a reduction in the availability of insurance through such exchanges could reduce the number of our commercially insured patients and shift such patients to Medicare and Medicaid. Because Medicare and Medicaid reimbursement rates are generally lower than the reimbursement rates paid by commercial insurers, a shift of commercially insured patients to Medicare and Medicaid could have a material adverse impact on our business, financial condition and results of operations.

Further federal or state legislation or regulations may be enacted in the future through a public referendum process in the United States that could substantially modify or reduce the amounts paid for services and products offered by us and our subsidiaries and/or implement new or alternative operating models and payment models that could present more risk to our health care service operations. If successful, ballot initiatives introduced at the state level in the United States can force a vote of all state citizens to directly adopt or reject proposed new legislation. These ballot initiatives require a material commitment of resources by us to participate in public discourse regarding the proposed new legislation underlying the initiatives, which if passed, could further regulate clinic staffing requirements, state inspection requirements and margins on commercial business. In 2018, there were preliminary efforts in three states in the U.S. to place dialysis-related ballot initiatives in upcoming public referendums. Two such initiatives did not progress to placement on the ballot, and one in the State of California was placed on the ballot and rejected in the general election in November. Also, in California, legislation impacting the dialysis industry was passed by the California legislature but was then vetoed by the California Governor. State regulation at this level would introduce an unprecedented level of oversight and additional expense at the clinic level which could have a material adverse effect on our business in the impacted states. While there is uncertainty regarding the passage and scope of these ballot initiatives, if some form of restrictive dialysis-related legislation passes at the state level, such action could have a material adverse impact on our business. It is also possible that statutes may be adopted or regulations may be promulgated in the future that impose additional eligibility requirements for participation in the federal and state health care programs. Such new legislation or regulations could, depending upon the detail of the provisions, have adverse effects, possibly material, on our businesses and results of operations.

***Any material disruption in U.S. federal government operations and funding could have a material adverse effect on our revenues, earnings, cash flows and financial condition.***

A substantial portion of our revenues is dependent on federal health care program reimbursement, and any disruptions in federal government operations could have a material adverse effect on our revenues, earnings and cash flows. If the U.S. government defaults on its debt, there could be broad macroeconomic effects that could raise our cost of borrowing funds, and delay or prevent our future growth and expansion. Any future federal government shutdown, U.S. government default on its debt and/or failure of the U.S. government to enact annual appropriations could have a material adverse effect on our revenues, earnings and cash flows. Additionally, disruptions in federal government operations may negatively impact regulatory approvals and guidance that are important to our operations, and create uncertainty about the pace of upcoming health care regulatory developments.

***In our hospital operations business, we are dependent on contracts with national public health insurance funds as well as government social security insurance authorities and government tax funds.***

Most of Fresenius Helios's patients in Germany are insured by public health insurance and social security insurance authorities. Therefore, we are highly dependent on the accreditation of our acute care hospitals which allows for the provision of services to these patients on behalf of, and in return for payment from the statutory health insurers. Hospitals are accredited for such treatment of statutorily insured patients if (i) they have been admitted to the respective state hospital supply plan (*Krankenhausplan*), or (ii) if they have entered into a medical care contract (*Versorgungsvertrag*) with the relevant state associations of statutory health insurers. Should a Fresenius Helios acute care hospital lose the accreditation for the provision of services to statutorily insured patients, or should the



hospitals be unable to compensate for lower reimbursement levels, this could have a material adverse effect on our business, financial condition, and results of operations.

In Spain, Quirónsalud operates public-private partnership hospitals that are integrated within the public health care network. The company is assigned responsibility for the publicly insured inhabitants of certain coverage areas and receives remuneration based on capitation or activity performed. Should Quirónsalud lose the concession to operate public-private partnership hospitals, or should Quirónsalud be unable to contract on favorable terms with the government or private health care insurers, or should hospitals be unable to compensate for lower reimbursement rates, this could have a material adverse effect on our business, financial condition, and results of operations.

***Our efforts to develop and market new and existing products and therapies successfully may fail.***

The development of new products and therapies always carries the risk that the goal of commercialization might not be achieved, or might take longer than planned. This is particularly true for the Fresenius Kabi biosimilars products. The development of biosimilar products carries risks, including substantial development costs and the still-developing regulatory and approval processes. Regulatory approval of new products requires comprehensive, cost-intensive preclinical and clinical studies. Furthermore, there is a risk that regulatory authorities either not grant, or delay, product approval. In addition, adverse effects of our products that may be discovered after regulatory approval or registration may lead to a partial or complete withdrawal from the market, either due to regulatory actions or our voluntary decision to stop marketing a product. In January 2018, for example, the CMDh at the EMA took the position to recommend that drugs containing HES be withdrawn from the market. In April 2018, the Standing Committee of the European Commission did not decide according to the EMA's proposal to suspend the MAs for products containing HES and referred the matter back to the PRAC at the EMA. The PRAC upheld its recommendation to suspend the MAs. Subsequently in July 2018, the CMDh took the position to maintain MAs, subject to the implementation of risk minimization efforts. These include controlled distribution to accredited hospitals and/or health care centers, training and direct communication to health care professionals as well as warnings on the packaging. In July 2018, the European Commission approved this position. These required risk-minimization measures for the HES products were initiated in 2019. Based on the results of a consumer study, the effectiveness of the measures will be reassessed in 2020. Similar measures could also be taken by authorities in non-EU countries and lead to the suspension or withdrawal of all or part of marketing authorizations in those countries. With generic IV drugs, it is also crucial that new products are continually brought to the market in a timely manner. Delays or unanticipated costs in any part of the process or our failure to obtain regulatory approval for our products could have a material adverse effect on our business, financial condition, and results of operations, by restricting or delaying the introduction of new products or therapies.

Furthermore, Fresenius Medical Care as well as Fresenius Kabi are subject to typical patent risks. This includes an inadequate protection by patents of the technologies and products that we developed. Competitors may copy our products without bearing comparable research and development costs.

### **Operating Risks**

***A failure of products we manufacture or purchase to meet the quality standards expected by our customers could materially adversely affect our business and reputation.***

Our reputation for quality is a key component of our success, and our customers expect our products to meet high standards for quality. Failure of one or more of the products we manufacture or of products we purchase for use in our hospital operations to meet these quality standards could result in decreased sales and a negative impact on our reputation in the markets in which we operate, which could have a material adverse effect on our business, financial condition, and results of operations.

***We face a number of risks related to our business operations.***

Our operational business around the world is exposed to a number of risks and to extensive government regulation, which include, among others:

- the quality, safety, and efficacy of medical and pharmaceutical products, supplies, and therapies;

- the operation and licensing of hospitals, dialysis clinics, and other health care facilities as well as manufacturing facilities and laboratories;
- the planning, construction, equipment, and management of pharmaceutical and medical-technical production facilities;
- the planning, construction, equipping, and management of health care facilities, especially the operation of hospitals, dialysis clinics, and other health care facilities;
- attracting qualified personnel.

***We could be adversely affected if we experience shortages of goods or material price increases from our suppliers, or an inability to access new and improved products and technology.***

The Group's business is dependent on the reliable supply of several raw materials for production and service purposes. The Group's purchasing strategy is aimed at developing partnerships with strategic suppliers through long-term contracts and at the same time ensuring, where reasonably practicable, that we have at least two sources for all supply and price-critical primary products (dual sourcing, multiple sourcing). To prevent loss of suppliers, we monitor our supplier relationships on a regular basis. Suppliers which are integral to our procurement functions are subject to performance and risk analyses. Through constant market analyses, designed based on demands of supplier relationships and contracts, we seek to mitigate disruptive goods shortages and potential price increases. If the Group is unable to counteract the risk of bottleneck situations at times of limited availability of goods and other materials in spite of its purchasing strategy in combination with ongoing monitoring of market developments, this could result in delays in production and hence have an adverse effect on the Group's results of operations. Similarly, price increases by suppliers and the inability to access new products or technology could also adversely affect the Group's result of operations.

***Significant competition could adversely affect pricing and sales in our business segments and our ability to grow.***

We face numerous competitors in each of our four business segments. Some of these competitors possess substantially greater financial, marketing, or research and development resources. In particular, technological innovation has historically been a significant competitive factor in the health care sector. The introduction of new products and services by competitors could render one or more of our products or services less competitive or even obsolete. Generally, the health care markets are characterized by price pressure (including from tenders), competition and efforts to contain costs. These factors could result in lower sales and adversely affect our business, financial position and results of operations.

Our Fresenius Medical Care business segment faces numerous competitors in both its health care services business and its dialysis products business, some of which may possess substantial financial, marketing or research and development resources. Competition and especially new competitive developments could materially adversely affect the future pricing and sale of Fresenius Medical Care's products and services. In particular, technological innovation has historically been a significant competitive factor in the dialysis products business. The introduction of new products by competitors could render one or more of Fresenius Medical Care's products or services less competitive or even obsolete.

Our Fresenius Kabi business segment's markets are characterized by price pressure, intense competition, and cost-saving measures in the health care sector. In the U.S. market for generic IV drugs, increased competition, among other things induced by the reentry of competitors after production halts, could have a material adverse effect on the pricing and sales of our products and services.

Almost all Fresenius Kabi injectable pharmaceutical products in the United States, are sold to customers through arrangements with group purchasing organizations (**GPOs**) and distributors. The majority of hospitals enter into membership agreements with GPOs of their choice for their purchasing needs. Currently, three GPOs influence the vast majority of pharmaceutical purchases of injectable drugs (as well as other items hospitals use) by U.S. hospitals and clinics. Fresenius Kabi currently derives a large percentage of its revenue in the United States through contracts with a small number of GPOs, and expects to continue to do so in the future. Fresenius Kabi has purchasing agreements with all major GPOs. To maintain these business relationships, Fresenius Kabi needs to be a reliable supplier of a comprehensive high-quality product line, remain price-competitive, and comply with the regulations of

the FDA. The GPOs also have purchasing agreements with other manufacturers and the bidding process for products is highly competitive. Most of the agreements Fresenius Kabi has with GPOs in the United States can be terminated at short or medium notice. If Fresenius Kabi does not succeed in fulfilling and maintaining its existing contracts or if new contracts are concluded on less favorable terms, this could have an adverse effect on our sales, financial position, and operational results.

The main customers in the area of transfusion technology are plasma companies and blood centers. There are four major plasma companies serving the United States. Blood centers in the United States are consolidating in response to blood-saving efforts at hospitals, and as blood collection volumes decline, prices are coming under increasing pressure. These market conditions could lead to a reduction in Fresenius Kabi's sales, which could have a material adverse effect on our business, financial condition, and results of operations.

Our Fresenius Helios business segment is Europe's leading private hospital operator. In the course of its further expansion, e.g. in the private Spanish hospital market, Fresenius Helios may compete with other hospital operators for suitable expansion targets. If consolidation in the private hospital market results in material restraints on Fresenius Helios's future growth, it could have a material adverse effect on our business, financial condition, and results of operations.

In the German market, Helios Germany sees a general trend towards outpatient treatments, which could lead to lower growth in the number of inpatient cases. To counter this trend, Helios Germany is expanding outpatient services offerings in a separate division. If Fresenius Helios is not able to take measures to counter the reduction in admissions, or if such measures are not successful, it could have a material adverse effect on our business, financial condition, and results of operations.

***If physicians and other referral sources cease referring patients to Fresenius Medical Care's health care service businesses and clinics or cease purchasing or prescribing Fresenius Medical Care's products, our revenues would decrease.***

In providing services within its health care business, Fresenius Medical Care is dependent upon patients' choosing Fresenius Medical Care health care facilities as the location for their care. Patients may select a clinic based, in whole or in part, on the recommendation of their physician. Physicians and other clinicians typically consider a number of factors when recommending a particular dialysis facility, pharmacy, physician practice, vascular surgery center or urgent care center to a patient, including the quality of care, the competency of staff, convenient scheduling, and location and physical condition. Physicians may change their recommendations, which may result in the movement of new or existing patients to competing facilities, including facilities established by the physicians themselves. At most of Fresenius Medical Care's facilities, a relatively small number of physicians often account for the referral of all or a significant portion of the patient base. Fresenius Medical Care has no ability to dictate these recommendations and referrals. If a significant number of physicians or other referral sources ceased referring their patients to Fresenius Medical Care's facilities or stop purchasing or prescribing Fresenius Medical Care's dialysis products, this would reduce our health care revenue and could materially adversely affect our overall operations.

***A change in the way Fresenius Helios conducts business may change how physicians refer patients to our clinics.***

Fresenius Helios could receive fewer referrals if its reputation and service to its patients is not perceived to be as good as other local hospitals anymore. Besides, as Fresenius Helios accesses the outpatient market more and more, this may lead to negative reactions by the physicians if perceived as competition to their business, resulting in lower referral rates. Furthermore, if Fresenius Helios focuses its services provided in smaller hospitals to certain indications, physicians may react by not referring patients also in the indications not affected by the new focus of the hospital. These factors could result in lower sales and adversely affect our business, our financial position, and our operational results.

***Our continued growth will depend upon our ability to attract and retain qualified personnel, such as highly qualified nurses and other medical personnel. Competition for those employees is intense. Moreover, we believe that future success in the service businesses (dialysis clinics, care coordination, and Fresenius Helios' hospitals and other health care facilities) will be significantly dependent on our ability to attract and retain qualified physicians to serve as employees of or consultants to our services businesses. If we are unable to achieve that goal or if doing so requires us to bear increased costs this could adversely impact our growth and results of operations.***

Our continued growth in the health care business will depend on our ability to attract and retain qualified personnel, including highly qualified nurses and other medical personnel. Competition for those employees is intense. Shortages for these sought-after employees, such as highly qualified nurses, engineers and research and development personnel, may increase our personnel and recruiting costs and/or impair our reputation for high-quality care or production of technologically advanced products. Moreover, we believe that future success in the business will be significantly dependent on our ability to attract and retain qualified physicians to serve as employees of or consultants to our health care services businesses.

Our products business depends on the development of new products, technologies, and treatment concepts to be competitive. Additionally, in recruiting, employing and retaining personnel we may be exposed to risks relating to various labor laws, legislative, union, or other labor-related activities or changes. Further, these factors could preclude us from integrating acquired companies into our operations, which could increase our costs, decrease our productivity and prevent us from realizing synergies from acquisitions. If we are unable to manage the risks above, then our growth and results of operations could be adversely impacted.

***Our in-licensing of rights to, or acquisition and commercialization of products might not be successful, and we may never receive any return on our investment in these product candidates.***

We may in-license rights to acquire or commercialize products or technologies. Other companies, including those with substantially greater financial and sales and marketing resources, will compete with us to license rights to or acquire or commercialize these products. We may not be able to license rights to or acquire these proprietary or other products or technologies on acceptable terms, if at all. Even if we obtain rights to a product and commit to payment terms, including, in some cases, up-front license payments, we may not be able to generate product sales sufficient to create a profit or otherwise avoid a loss.

A product candidate may fail to result in a commercially successful drug for other reasons, including the possibility that the product candidate may: fail to receive necessary regulatory approvals; be difficult or uneconomical to produce in commercial quantities; be precluded from commercialization by proprietary rights of third parties; or fail to achieve market acceptance.

The marketing strategy, distribution channels, and levels of competition with respect to any licensed or acquired product may be different from those of our current products, and we may not be able to compete favorably in any new product category.

***We are exposed to product liability, patent infringement, and other claims, which could result in significant costs and liability, which we may not be able to insure on acceptable terms in the future.***

Health care companies, including Fresenius, are typically subject to claims alleging negligence, product liability, breach of warranty, malpractice, and other legal theories that may involve large claims and significant defense costs, whether or not liability is ultimately imposed. The products of Fresenius Medical Care and Fresenius Kabi could also be subject to recalls and patent infringement claims, which, in addition to monetary penalties, may restrict our ability to sell or use our products. In addition, Fresenius Helios could be exposed to claims for negligence in the operation of its hospitals or other health care facilities or patient treatment, for example claims relating to hospital-based infectious diseases. Fresenius Vamed could be exposed to claims arising from errors in the planning, construction and equipping of hospitals or other health care facilities or to claims arising from negligence regarding the facility management or the operational management and logistics of hospitals and other health care facilities. We cannot assure that such claims will not be asserted against us, that significant adverse verdicts will not be reached against us for patent infringements or that large scale recalls of our products will not become necessary. In addition, the laws of some of the countries in which we operate provide legal rights to users of pharmaceutical products that could increase the risk of product liability claims. Product liability and patent infringement claims, other actions for

negligence or breach of contract, and product recalls or related sanctions could result in significant costs. These costs could have a material adverse effect on our business, financial condition, and results of operations. While personal injury litigation involving Fresenius Medical Care's acid concentrate product was substantially resolved by a settlement consummated in November 2017, Fresenius Medical Care and certain of its insurers are in litigation against each other relating to such insurers' coverage obligations under applicable policies.

While we have been able to obtain liability insurance in the past to partially cover our business risks, we cannot assure that such insurance will be available in the future either on acceptable terms or at all, or that our insurance carriers will not dispute their coverage obligations. In addition, we and our subsidiaries are partially self-insured for: professional, product, and general liability; auto liability; and worker's compensation claims, up to pre-determined levels above which our third-party insurance applies. A successful claim for which we are self-insured or in excess of the limits of our insurance coverage could have a material adverse effect on our business, results of operations, and financial condition. Liability claims, regardless of their merit or eventual outcome, also may have a material adverse effect on our business and reputation, which could in turn reduce our sales and profitability.

***Third parties may claim that we infringe their proprietary rights and may prevent or delay us from manufacturing and selling some of our new products.***

The manufacture, use and sale of new products that are the subject of conflicting patent rights have been the subject of substantial litigation in the pharmaceutical industry. Pharmaceutical companies with patented brand products frequently sue companies that file applications to produce generic equivalents of their patented brand products for alleged patent infringement or other violations of intellectual property rights, which may delay or prevent the entry of such generic products into the market. Also, competing pharmaceutical companies may file lawsuits against us or our strategic partners alleging patent infringement or may file declaratory judgment actions of non-infringement, invalidity, or unenforceability against us relating to our own patents. Such litigation is often costly and time-consuming and could result in a substantial delay in, or prevent the introduction and/or marketing of our products, which could have a material adverse effect on our business, financial condition and results of operations.

***If our joint ventures violate the law, our business could be adversely affected.***

A number of the dialysis clinics and health care centers Fresenius Medical Care operates are owned or managed by joint ventures in which one or more hospitals, physicians, or physician practice groups hold an interest. Physician owners, who are usually nephrologists, may also provide medical director services and physician owners may refer patients to those centers or other centers Fresenius Medical Care owns and operates or to other physicians who refer patients to those centers or other centers Fresenius Medical Care owns and operates. Because Fresenius Medical Care's relationships with physicians are governed by the federal and state anti-kickback statutes, it has structured the joint venture arrangements to comply with many of the criteria for safe harbor protection under the U.S. federal Medicare and Medicaid Fraud and Abuse Amendments of 1977, as amended (the ***Anti-Kickback Statute***). However, investments in these joint venture arrangements do not satisfy all elements of such safe harbor. While Fresenius Medical Care has established comprehensive compliance policies, procedures and programs to ensure ethical and compliant joint venture business operations, if one or more of Fresenius Medical Care's joint ventures were found to be in violation of the Anti-Kickback Statute, the U.S. federal Ethics in Patient Referrals Act of 1989 (the ***Stark Law***), or other similar laws worldwide, Fresenius Medical Care could be required to restructure or terminate them. Fresenius Medical Care also could be required to repay to Medicare, Medicaid as well as other federal health care programs, amounts received by the joint ventures pursuant to any prohibited referrals, and Fresenius Medical Care could be subject to criminal and monetary penalties and exclusion from Medicare, Medicaid, and other U.S. federal and state health care programs. Imposition of any of these penalties could have a material adverse effect on our business, financial condition and results of operations.

## **Financial Risks**

***Our leverage could adversely affect our financial condition, prevent us from fulfilling our debt-service obligations, or prevent us from pursuing certain aspects of our business strategy.***

Our indebtedness could adversely affect our financial condition which could, as a result, have significant consequences to our ability to service the Notes. For example, it could: jeopardize the success of our business strategy; increase our vulnerability to general adverse economic conditions; limit our ability to obtain necessary

financing to fund future working capital needs, capital expenditures, and other general corporate requirements; require us to dedicate a substantial portion of our cash flow from operations, as well as the proceeds of certain financings and asset dispositions, to payments on our indebtedness, thereby reducing the availability of our cash flow and such proceeds to fund other purposes; limit our flexibility in planning for, or reacting to, changes in our business and the industry in which we operate; place us at a competitive disadvantage compared to our competitors that have less debt; limit our ability to pursue possible future acquisitions and sell assets; make it more difficult for us to satisfy our obligations under our debt securities, including the Notes; and limit our ability to borrow additional funds.

As a result, our leverage makes us vulnerable to: a downturn in the operating performance of our subsidiaries; larger than normal fluctuations or volatility in our cash flow; or a downturn in economic conditions.

Our ability to make payments on and to refinance our indebtedness, including the Notes, will depend on our ability to generate cash in the future, which is dependent on various factors. These factors include governmental and private insurer reimbursement rates for medical treatment and general economic, financial, competitive, legislative, regulatory, and other factors that are beyond our control. If our cash flow is not sufficient to meet our debt service and principal payment requirements, we could be required to refinance our obligations or to dispose of assets in order to meet such requirements. In addition, from time to time we need to refinance our existing debt as and when it matures. In either case, there is no guarantee that we will be able to refinance our existing indebtedness on terms comparable to those governing our existing indebtedness. If our cash flow is not sufficient to meet our debt service and principal payment requirements, or if we are unable to refinance our existing indebtedness on acceptable terms, it could have a material adverse effect on our business, financial condition, or results of operations. In addition, Fresenius Medical Care is subject to covenants under the 2012 FMC Credit Agreement and under Fresenius Medical Care's financing arrangements which, among other things, may have the effect of limiting Fresenius Medical Care's ability to pay dividends.

***Changes in foreign exchange rates could have adverse effects on our financial results and on our ability to repay debt; our hedging efforts may be unsuccessful.***

The reporting currency of Fresenius is the euro. However, a significant portion of our sales is denominated in U.S. dollar. Therefore, fluctuations in exchange rates between the euro and other non-euro currencies, primarily the U.S. dollar, will affect the translation of our consolidated financial results into euro and will also affect the value of any distributions that our business segments make to us. Exchange rate changes may also affect our consolidated statement of financial position. Changes in the euro values of our consolidated assets and liabilities resulting from exchange rate movements may cause us to record foreign currency gains and losses. In addition, a significant amount of our consolidated debt from time to time outstanding was denominated in U.S. dollars. Our ability to use cash received in currencies other than the euro or U.S. dollar to service that debt could be adversely affected by changes in exchange rates against the euro or the U.S. dollar.

While we enter into hedging transactions to minimize the effects of certain changes in exchange rates, we cannot assure that such measures will be successful or that our hedging strategy will be effective. If these measures are unsuccessful or our hedging strategy is ineffective, this could increase our costs, reduce our sales or disrupt our operations, with possible material adverse effects on our business, financial condition and results of operations.

***Our efforts to assure correct and reliable financial reporting may fail.***

Numerous measures and internal controls assure the correctness and reliability of accounting processes and financial reporting, and thus preparation of financial statements, consolidated financial statements, and management reports in compliance with applicable principles. In addition, Fresenius Medical Care is subject to controls of Section 404 of the Sarbanes-Oxley-Act.

***Our consolidated statement of financial position includes intangible assets, which could become impaired.***

The amount of intangible assets, including goodwill, product rights and tradenames represents a considerable part of the total assets of the Fresenius Group. An impairment test of goodwill and other intangible assets with indefinite useful life is performed at least once a year. There is no guarantee that impairments will not occur, particularly in the event of a substantial deterioration of our future prospects or general economic conditions. If assets are considered to

be impaired, impairment charges could have a material adverse effect on our consolidated statement of financial position and results of operations.

***Diverging views of fiscal authorities could require us to make additional tax payments. Additional or higher taxes or fees could be imposed and/or the import or export of our products could be restricted.***

We are subject to ongoing tax audits in the United States, Germany, and other jurisdictions. We could potentially receive notices of unfavorable adjustments and disallowances in connection with certain of these audits. If we are unsuccessful in contesting unfavorable determinations, we could be required to make additional tax payments, which could have a material adverse impact on our results of operations and operating cash flow in the relevant reporting period.

Some countries could impose additional or higher taxes or fees or restrict the import or export of our products; this applies in particular to any initiatives by the U.S. administration.

***Despite our existing indebtedness, we may still be able to incur significantly more debt; this could intensify the risks described above.***

Despite our existing indebtedness, we may still be able to incur significantly more debt in the future, provided that such indebtedness does not exceed the limit on indebtedness imposed by our Syndicated Credit Agreement or other financing arrangements, and such indebtedness is permitted to be incurred under certain outstanding bonds of the Company (which were not issued under the Programme) and Fresenius US Finance II, Inc. (the **Legacy Bonds**). If additional debt is added to our current debt levels, the related risks that we now face could intensify.

***Our indebtedness imposes restrictions. If in the case of a breach of such restrictions the indebtedness under the Notes or certain other financing arrangements were to be accelerated, there can be no assurance that our assets would be sufficient to repay in full that indebtedness and the other indebtedness of the Issuers.***

Various debt instruments, including the Syndicated Credit Agreement, and the Legacy Bonds contain covenants restricting or limiting our ability to, among other things: incur additional indebtedness; create liens; and merge or consolidate with other entities. All of these limitations are subject to a number of important exceptions and qualifications and most of the covenants contained in the Legacy Bonds are currently suspended and will remain so as long as two of the three ratings assigned to the Legacy Bonds by Moody's, S&P and Fitch are at least BBB- or Baa3 (as the case may be) or higher, or, in each case, the equivalent in respect of rating categories of any rating agencies substituted for S&P, Moody's or Fitch.

In addition, under the Syndicated Credit Agreement, we are obligated to maintain a maximum leverage ratio. In addition, some of our outstanding tranches of Schuldschein Loans (*Schuldscheindarlehen*) have similar covenants, although these are currently suspended.

If we breach the covenants of any financing arrangements and are unable to cure the breach (to the extent the breach is capable of being cured) or to obtain a waiver from the lenders (to the extent the covenant is capable of being waived), we would be in default under the terms of such arrangement. A default under any financing arrangements could result in a default under other financing arrangements, including our Legacy Bonds and bonds issued under this Programme, could cause lenders under other arrangements to accelerate such financing arrangements, in which case the amounts under those arrangements would become due as well, and could result in the inability to draw amounts under the Syndicated Credit Agreement. If the indebtedness under the Notes or certain other financing arrangements were to be accelerated, there can be no assurance that our assets would be sufficient to repay in full that indebtedness and the other indebtedness of the relevant Issuer.

In addition, Fresenius Medical Care AG & Co. KGaA's credit facilities entered into in 2012 and amended from time to time (the **2012 FMC Credit Agreement**) and its other major financing arrangements include covenants that require Fresenius Medical Care to maintain a certain financial ratio or to meet other financial tests in order to incur indebtedness. Under the 2012 FMC Credit Agreement, Fresenius Medical Care is obligated to maintain a maximum consolidated leverage ratio. Other covenants in one or more of each of these agreements restrict or have the effect of restricting Fresenius Medical Care's ability to, among other things, dispose of assets, incur debt and create liens. A breach of any of the covenants or conditions of Fresenius Medical Care's financing arrangement could result in a

default and acceleration of the debt under the respective arrangement, which could, in turn, lead to additional defaults and acceleration of the debt under other financing arrangements of Fresenius Medical Care and, in some circumstances, of Fresenius.

If, in the case of a breach of such restrictions, the indebtedness under the Notes or certain other financing arrangements were to be accelerated, there can be no assurance that our assets would be sufficient to repay in full that indebtedness and the other indebtedness of the Issuers or, as applicable, the Guarantor.

### **Risks from Acquisitions**

#### ***Past and future acquisitions involve inherent uncertainties and risks.***

The acquisition and integration of companies carries risks that can adversely affect the assets and liabilities, financial position, and results of operations of Fresenius.

Acquisition processes often include closing conditions, including but not limited to antitrust clearance, fulfillment of representations and warranties and adherence to laws and regulations. Non-compliance with such closing conditions by either party to an acquisition could lead to litigation between the parties, with others and/or claims against Fresenius.

Following an acquisition, the acquired company's structure must be integrated while clarifying legal questions and contractual obligations. Marketing, patient services, quality standards, and logistics must also be unified and, potentially, divergent corporate and management cultures have to be reconciled. During the integration phase, key managers can leave the company and both the course of ongoing business processes and relationships with customers and employees can be harmed. In addition, change of control clauses may be claimed in certain contracts or financial instruments, some of which may be material to the acquired company. The integration process may prove more difficult or require more time and resources than expected and anticipated synergies from the combination might not be realized. Risks can arise from the operations of the newly acquired company that Fresenius regarded as insignificant or was unaware of. An acquisition may also prove to be less beneficial than initially expected. Future acquisitions may be a strain on the finances and management of our business. Moreover, as a consequence of an acquisition Fresenius may become directly or indirectly liable towards third parties, or claims against third parties may turn out to be non-assertable.

#### ***Our growth depends, in part, on our ability to continue to make acquisitions. Acquisitions may place a financial burden on us.***

The health care industry has experienced significant consolidation in recent years and experiences continuing consolidation. This development could adversely affect our ability to find suitable acquisition targets and to increase future growth and product sales. Additionally, our ability to make future acquisitions depends, in part, on our available financial resources and could be limited by restrictions imposed by competition laws as well as existing credit agreements. For our future acquisitions in our business segments, we may need to borrow additional debt or assume significant liabilities, either of which might increase our financial leverage and cause the prices of our debt securities to decline and increase our future financing costs. In addition, any financing that we might need for future acquisitions might be available to us only on terms that restrict our business. If we are not able to effect acquisitions on reasonable terms, there could be an adverse effect on our business, financial condition, and results of operations.

We also compete with other companies in seeking suitable acquisition targets, and the continuing consolidation of competitors could affect future growth of our product sales. In addition, our ability to grow might be constrained due to a lack of acquisition targets. If we are not able to continue to effect acquisitions at all or on reasonable terms, this could have an adverse effect on our business, financial condition, and results of operations.



## **Information Technology Risks**

***If we are unable to protect our information technology security systems against cyber-attacks or prevent other privacy or data security incidents that result in security breaches that disrupt our operations or result in the unintended dissemination of sensitive personal information or proprietary or confidential information, we could be exposed to significant regulatory fines or penalties, liability or reputational damage, or experience a material adverse effect on our results of operations, financial position, and cash flows.***

Our processes are growing ever more complex as a result of the Fresenius Group's steady growth and increasing internationalization. Correspondingly, the dependence on information and communication technologies, and on the systems used to structure procedures and – increasingly – harmonize them internationally, intensifies. We routinely process, store and transmit large amounts of data in our operations, including sensitive personal information as well as proprietary or confidential information relating to our business or third-parties. We may be subject to breaches of the information technology security systems we use.

The increased integration of IT systems and the use of new technologies like for example cloud computing within our business processes means that cyber-attacks could penetrate our internal and external systems and misappropriate or compromise sensitive personal information or proprietary or confidential information, including such information which is stored or transmitted on the systems used by certain of our products, to create system disruptions, cause shutdowns, or deploy viruses, worms, and other malicious software programs that attack our systems. As we increase the amount of sensitive personal information that we store and share digitally, our exposure to these data security and related cyber-attack risks increases, including the risk of undetected attacks, damage, loss or unauthorized disclosure or access, and the cost of attempting to protect against these risks also increases. We have implemented security technologies, processes and procedures to protect our confidential data; however, there are no assurances that such measures will be effective against all types of breaches.

Any failure to keep our information technology systems and our patients' and customers' sensitive information secure from attack, damage, loss or unauthorized disclosure or access, whether as a result of our action or inaction or that of our business associates or vendors, or the non-compliance with data protection laws, regulations, and standards could adversely affect our competitive position, our reputation and operations and also expose us to mandatory public disclosure requirements, litigation and governmental enforcement proceedings, material fines, penalties and/or remediation costs, and compensatory, special, punitive and statutory damages, consent orders and other adverse actions, any of which could adversely affect our business, results of operations, financial condition or liquidity.

## **Compliance and Legal Risks**

***If we do not comply with the health care or other governmental regulations applicable to our businesses, we could be subject to civil or criminal penalties and excluded from government health care reimbursement programs in the United States and other countries, or our authorization to conduct business could be terminated, either of which could result in a material decrease in our sales and operating profit.***

Our business and operations around the world are subject to extensive regulations in many jurisdictions and covering a broad range of areas, including but not limited to:

- permits from public authorities and monitoring of clinical and non-clinical research and development activities;
- product releases and regulatory approvals for new products and product modifications;
- checks and reviews by enforcement authorities of compliance with applicable pharmaceutical legislation;
- compliance with due diligence obligations, warranty obligations, and product liability regulations;
- the rate of, and accurate reporting and billing for, government and third-party reimbursement;
- the labeling and designation of products and their marketing;
- compensation of medical directors and other financial arrangements with physicians and other referral sources; and
- access to, collection, publication, use, and security of health information and other protected data.

If we fail to comply with one or more of these laws or regulations, this may give rise to a number of consequences, including monetary and administrative penalties, increased compliance costs, complete or partial exclusion from governmental reimbursement programs, or a complete or partial curtailment of our authorization to conduct business. Any of these consequences could have a material adverse impact on our business, reputation, financial condition or results of operations.

Our Group's medical devices and pharmaceutical products are subject to detailed, rigorous and frequently changing regulation by the U.S. Food and Drug Administration (*FDA*), and numerous other national, supranational, federal and state authorities. In addition, our Group's facilities and procedures and those of its suppliers are subject to periodic inspection by the FDA and other regulatory authorities. If an authority detects any deficiencies, we are required to address these issues immediately. The FDA and comparable regulatory authorities outside the U.S. may suspend, revoke, or adversely amend the authority necessary for manufacture, marketing, or sale of our products and those of our suppliers. Our Group and its suppliers must incur expense and spend time and effort to ensure compliance with these complex regulations, and if such compliance is not maintained, they could be subject to significant adverse administrative and judicial enforcement actions in the future. These possible enforcement actions could include warning letters, injunctions, civil penalties, seizures of our Group's products, and criminal prosecutions as well as dissemination of information to the public about such enforcement actions. These actions could result in, among other things, substantial modifications to our Group's business practices and operations, refunds, a total or partial shutdown of production while the alleged violation is remedied, and withdrawals or suspensions of current products from the market. Any of these events, together or individually, could disrupt our Group's business and have a material adverse effect on our Group's business, reputation, financial condition and results of operations. Moreover, the FDA may require us to stop marketing certain products which do not have formal FDA approvals. The FDA has increased its efforts to require companies to file and seek FDA approval for unapproved products, and when a product is approved, the FDA has typically increased its effort to remove other unapproved products from the market by issuing notices to companies currently manufacturing these products to cease its distribution of said products.

By virtue of this regulatory environment, our business activities and practices are subject to extensive review by regulatory authorities and private parties, and continuing audits, investigative demands, subpoenas, other inquiries, claims and litigation relating to our or our subsidiaries' compliance with applicable laws and regulations. We may not always be aware that an inquiry or action has begun, particularly in the case of "qui tam" or "whistle-blower" actions brought by private plaintiffs under the U.S. False Claims Act, which are initially filed under seal. Our Group companies are the subject of a number of ongoing actions, including governmental inquiries and civil suits by the U.S. federal government and private plaintiffs. Adverse results in one or more pending actions could have a material adverse effect on our business, financial condition, or results of operations.

In addition, there may be future legislative, administrative or regulatory changes that affect procedures or decision-making for approving medical device or drug products. They may also affect their status as approved products. Any such legislation, regulations or administrative action, if enacted or promulgated, could result in a delay, denial, suspension or revocation of regulatory approval for any of our products.

Any of these events, in combination or alone, could disrupt our Group's business and have a material adverse effect on our Group's business, financial condition and results of operations.

***We operate in many different jurisdictions and we could be adversely affected by violations of the U.S. Foreign Corrupt Practices Act and worldwide anti-corruption, anti-money laundering or other compliance laws.***

The U.S. Foreign Corrupt Practices Act (*FCPA*) and similar worldwide anti-corruption laws generally prohibit companies and their intermediaries from making improper payments to public officials for the purpose of obtaining or retaining business. Our internal policies mandate compliance with these anti-corruption, anti-money laundering and other compliance laws. We operate many facilities throughout the United States and other parts of the world. Our decentralized system has thousands of persons employed by many affiliated companies, and we rely on our management structure, regulatory and legal resources, and effective operation of our compliance program to direct, manage, and monitor the activities of these employees. Despite our training, oversight and compliance programs, there can be no assurance that our internal control policies and procedures will always protect us from deliberate, reckless, or inadvertent acts of our employees or agents that contravene our Group's compliance policies or violate

applicable anti-bribery, anti-money laundering or other compliance laws. Our continued expansion, including in developing countries, could increase the risk of such violations in the future.

Fresenius is constantly monitoring the business conduct of its group companies to ensure compliance with anti-corruption, anti-money laundering and other compliance laws and is investigating any potential or actual cases of non-compliance. For example, Fresenius is currently investigating certain payments made by one of its subsidiaries in three Asian countries to assess whether these payments involve breaches of anti-corruption and/or anti-money laundering regulations. Fresenius has taken measures to discontinue the relevant business conduct. It can however not be excluded that Fresenius might become the subject of investigations by authorities with respect to the relevant business conduct and that, if the conduct is found to have involved breaches of anti-corruption and/or anti money laundering regulations, fines may be imposed, third parties may claim damages, and/or that its specific subsidiary might be excluded from contracting with certain counterparties. The amount of any such fines, claims for damages by third parties, and/ or losses in sales cannot currently be determined with any certainty. In addition, there is no assurance that current or future internal investigations by Fresenius will not reveal other instances of actual or potential non-compliance with anti-bribery, anti-money laundering or other compliance laws.

Any violations of these laws, or allegations of such violations, could disrupt our business and result in a material adverse effect on our results of operations or financial condition.

***We are subject to risks from legal, administrative and arbitration proceedings.***

We are, or may become, involved in a number of legal, administrative and arbitration proceedings. These proceedings or potential proceedings could involve substantial claims for damages or other payments, or could seek injunctive relief. Based on a judgment or a settlement agreement, we could be obligated to pay substantial damages or fines, or could force us to act or refrain from a certain action. Our litigation costs and those of third parties (in relation to which we may have to indemnify such third parties) could also be significant.

Legal disputes can take an extended period of time to clarify and it is very difficult to predict their outcome and financial as well as other effects. The realization of any of these risks could have a material adverse effect on our business, financial condition, and results of operations.

**Other Risks**

***Fresenius SE & Co. KGaA relies on distributions from its subsidiaries to meet its payment obligations.***

Fresenius SE & Co. KGaA functions as a holding company for our Group, has no material amount of independent operations, and derives substantially all of its consolidated sales from its operating subsidiaries. Consequently, Fresenius SE & Co. KGaA's cash flow and its ability to meet its cash requirements, including its obligations under the Notes or, as applicable, the Guarantee, is dependent upon the profitability and cash flow of its subsidiaries and payments by such subsidiaries to Fresenius SE & Co. KGaA in the form of loans, dividends, fees, rental payments, or otherwise, as well as Fresenius SE & Co. KGaA's own credit arrangements.

The ability of our subsidiaries to make payments to Fresenius SE & Co. KGaA may be restricted by, among other things, applicable corporate and other laws and regulations and by the terms of covenants and restrictions contained in financing agreements to which our subsidiaries are or will be a party. In addition to any limitations on payment to Fresenius SE & Co. KGaA contained in such agreements, any failure to comply with the covenants and restrictions contained in such agreements could trigger defaults under those agreements which could delay or preclude the distribution of dividend payments or any other similar payments to Fresenius SE & Co. KGaA.

Any material reductions in distributions from its subsidiaries may adversely affect Fresenius SE & Co. KGaA's ability to meet its cash requirements, including its obligations under the Notes or, as applicable, the Guarantee.

## **RISKS RELATING TO FRESENIUS IRELAND**

***Fresenius Ireland has no material assets or sources of revenue except for claims against other Group companies resulting from intercompany receivables.***

Fresenius Ireland is a wholly-owned finance subsidiary of the Company and will on-lend the proceeds from the sale of the Notes under intercompany loans. Fresenius Ireland intends to service and repay the Notes out of the payments it receives under these intercompany loans. Fresenius Ireland has no other material assets or sources of revenue except for its claims under various intercompany receivables. Accordingly, Fresenius Ireland's ability to service and repay the Notes depends on the ability of the counterparties to the intercompany loans to service such indebtedness. Therefore, in meeting its payment obligations under the Notes, Fresenius Ireland is wholly dependent on the profitability and cash flow of the counterparties to the intercompany loans to which it is a party.

***Fresenius Ireland may be subject to Irish examinership procedures.***

Examinership is a procedure available under the Irish Companies Act 2014 (as amended) which facilitates the survival of Irish companies in financial difficulties. If Fresenius Ireland is unable, or likely to be unable, to pay its debts, an Irish court may appoint an examiner to oversee the operations of Fresenius Ireland and to facilitate its survival and the whole or any part of its business as a going concern.

Fresenius Ireland, the directors of Fresenius Ireland, a contingent, prospective or actual creditor of Fresenius Ireland, or shareholders of the holding company of Fresenius Ireland, at the date of presentation of the petition, not less than one-tenth of the voting share capital of Fresenius Ireland are each entitled to petition the court for the appointment of an examiner. If an examiner is appointed to Fresenius Ireland, a protection period, generally not exceeding 100 days, will be imposed so that the examiner can formulate and implement proposals for a compromise or scheme of arrangement with creditors. The examiner, once appointed, has the power to set aside contracts and arrangements entered into by the company after this appointment and, in certain circumstances, can avoid a negative pledge given by the company prior to this appointment.

During the period of protection, the examiner will compile proposals for a compromise or scheme or arrangement to assist in the survival of the company or the whole or any part of its undertaking as a going concern. A scheme of arrangement may be approved by the relevant Irish Court when at least one class of creditors whose interests or claims would be impaired by implementation of the proposals has voted in favor of the proposals and the relevant Irish Court is satisfied that such proposals are fair and equitable in relation to any class of members or creditors who have not accepted the proposals and whose interests would be impaired by implementation of the scheme of arrangement and the proposals are not unduly prejudicial to the interests of any interested party. In considering proposals by the examiner, it is likely that secured and unsecured creditors would form separate classes of creditors

During the protection period, any enforcement action by a creditor is prohibited and Fresenius Ireland is prohibited from paying any debts existing at the time of the presentation of the petition to appoint an examiner. The appointment of an examiner may restrict the ability of Fresenius Ireland to make timely payments and the rights of the Holders may be affected by the examiner's exercise of his powers.

## **RISKS RELATING TO FRESENIUS IRELAND II**

***Fresenius Ireland II has no material assets or sources of revenue except for claims against other Group companies resulting from intercompany receivables.***

Fresenius Ireland II is a wholly-owned finance subsidiary of the Company and will on-lend the proceeds from the sale of the Notes under intercompany loans. Fresenius Ireland II intends to service and repay the Notes out of the payments it receives under these intercompany loans. Fresenius Ireland II has no other material assets or sources of revenue except for its claims under various intercompany receivables. Accordingly, Fresenius Ireland II's ability to service and repay the Notes depends on the ability of the counterparties to the intercompany loans to service such indebtedness. Therefore, in meeting its payment obligations under the Notes, Fresenius Ireland II is wholly dependent on the profitability and cash flow of the counterparties to the intercompany loans to which it is a party.

***Fresenius Ireland II may be subject to Irish examinership procedures.***

Examinership is a procedure available under the Irish Companies Act 2014 (as amended) which facilitates the survival of Irish companies in financial difficulties. If Fresenius Ireland II is unable, or likely to be unable, to pay its debts, an Irish court may appoint an examiner to oversee the operations of Fresenius Ireland II and to facilitate its survival and the whole or any part of its business as a going concern.

Fresenius Ireland II, the directors of Fresenius Ireland II, a contingent, prospective or actual creditor of Fresenius Ireland II, or shareholders of the holding company of Fresenius Ireland II, at the date of presentation of the petition, not less than one-tenth of the voting share capital of Fresenius Ireland II are each entitled to petition the court for the appointment of an examiner. If an examiner is appointed to Fresenius Ireland II, a protection period, generally not exceeding 100 days, will be imposed so that the examiner can formulate and implement proposals for a compromise or scheme of arrangement with creditors. The examiner, once appointed, has the power to set aside contracts and arrangements entered into by the company after this appointment and, in certain circumstances, can avoid a negative pledge given by the company prior to this appointment.

During the period of protection, the examiner will compile proposals for a compromise or scheme or arrangement to assist in the survival of the company or the whole or any part of its undertaking as a going concern. A scheme of arrangement may be approved by the relevant Irish Court when at least one class of creditors whose interests or claims would be impaired by implementation of the proposals has voted in favor of the proposals and the relevant Irish Court is satisfied that such proposals are fair and equitable in relation to any class of members or creditors who have not accepted the proposals and whose interests would be impaired by implementation of the scheme of arrangement and the proposals are not unduly prejudicial to the interests of any interested party. In considering proposals by the examiner, it is likely that secured and unsecured creditors would form separate classes of creditors

During the protection period, any enforcement action by a creditor is prohibited and Fresenius Ireland II is prohibited from paying any debts existing at the time of the presentation of the petition to appoint an examiner. The appointment of an examiner may restrict the ability of Fresenius Ireland II to make timely payments and the rights of the Holders may be affected by the examiner's exercise of his powers.

**RISKS RELATING TO THE GUARANTEE**

***The proceeds from the enforcement of the Guarantee may not be sufficient to satisfy the obligations under the Notes.***

The Notes will, upon issuance by Fresenius Ireland or Fresenius Ireland II, be guaranteed by the Guarantee as specified in the Terms and Conditions. The amount to be received upon an enforcement of the Guarantee would be dependent on numerous factors affecting the financial situation of the Guarantor at the time of its enforcement, including its other debt obligations. In the event of a foreclosure, liquidation, bankruptcy or similar proceeding, the payments under the Guarantee may not be sufficient to repay the obligations under the Notes.

***German insolvency laws may preclude the recovery of payments due under the Guarantee.***

Insolvency proceedings with regard to the Guarantor would most likely be based on and governed by the insolvency laws of Germany, the jurisdiction under which it is organized and in which all of its assets are located.

Under German insolvency law, in particular, an insolvency administrator (*Insolvenzverwalter*) of the Guarantor may avoid (*anfechten*) transactions which are detrimental to insolvency creditors and which were effected prior to the commencement of insolvency proceedings. Such transactions can include the payment of any amounts to the holders of the Notes (the **Holders**), as well as provision of security for their benefit. The administrator's right to avoid transactions under the German Insolvency Code (*Insolvenzordnung*) can, depending on the circumstances, extend to transactions during a period of up to ten-years prior to the petition for commencement of insolvency proceedings. In the event such transactions were successfully avoided, the Holders would be under an obligation to repay the amounts received plus interest or to waive the security provided (as the case may be). In addition, before the opening of insolvency proceedings, a creditor who has obtained an enforcement order has the right to avoid certain transactions, such as the payment of debt and the granting of security pursuant to the German Code on Avoidance

(*Anfechtungsgesetz*). In particular, a transaction (which term includes the provision of security or the payment of debt) may be avoided in the following cases:

- the transaction was entered into by the debtor (i.e., the Guarantor) and is directly detrimental to its insolvency creditors if the transaction was effected (i) during the three-month period prior to the petition for commencement of insolvency proceedings over the assets of the debtor and the debtor was unable to make payments when due at the time of the transaction and the beneficiary of the transaction (i.e., the Holders) had positive knowledge thereof at such time, or (ii) after a petition for the commencement of insolvency proceedings and the beneficiary of the transaction had knowledge of either the debtor's inability to make payments when due or of the petition for commencement of insolvency proceedings at the time of the transaction;
- the transaction was entered into during the ten-year period prior to the petition for the commencement of insolvency proceedings with the debtor's actual intent to disadvantage creditors, provided that the beneficiary of such transaction had positive knowledge of the debtor's intent at the time of the transaction (such knowledge is presumed under German insolvency laws if the beneficiary knew of the debtor's imminent insolvency and that the transaction constituted a disadvantage for the creditors);
- the transaction granting an insolvency creditor security (including a guarantor) or satisfaction to which such creditor had no right or no right to claim in such manner or at such time it was entered into and such transaction took place (i) within the month prior to the petition for commencement of insolvency proceedings; (ii) within the second or third month preceding such petition and the debtor was unable to make payments when due at the time of such transaction; or (iii) within the second and third month prior to the petition for commencement of insolvency proceedings and the creditor had positive knowledge at the time of the transaction that it was detrimental to the creditors of the debtor; or
- the transaction granting an insolvency creditor security or satisfaction to which such creditor had a right and such transaction took place (i) within the three-month period prior to the petition for the commencement of insolvency proceedings and the debtor was unable to make payments when due at the time of the transaction and the beneficiary of the transaction had positive knowledge thereof at such time, or (ii) following a petition for the commencement of insolvency proceedings and the creditor had positive knowledge of either the debtor's inability to make payments when due or of the petition for commencement of insolvency proceedings at the time of the transaction.

Generally, the Guarantor would be considered unable to make payments when due if it is not able to meet at least 90% of its due financial obligations within a period of three weeks. If their security were avoided or held unenforceable for any other reason, the Holders would cease to have any claim in respect of such security. Any amounts obtained from a transaction that has been avoided would have to be repaid plus interest.

***Each Holder might have to enforce its claims in respect of the Guarantee directly against the Guarantor.***

The Guarantee in respect of the Notes will constitute a contract for the benefit of the Holders as third-party beneficiaries in accordance with § 328(1) of the German Civil Code (*Bürgerliches Gesetzbuch*). As a consequence, each Holder will have the right to demand payment directly from the Guarantor under the Guarantee and to enforce the Guarantee directly against the Guarantor.

## **RISKS RELATING TO THE NOTES**

### **Risks relating to the nature of the Notes**

***The Notes are structurally subordinated to other creditors of the Company's subsidiaries.***

Generally, claims of creditors of a subsidiary, including trade creditors, secured creditors, and creditors holding indebtedness and guarantees issued by the subsidiary, will have priority with respect to the assets and earnings of the subsidiary over the claims of creditors of its parent company. However, Holders will have direct claims against the Guarantor itself under the guarantee issued by the Guarantor guaranteeing the Notes on an unsecured basis.

Accordingly, the Notes will be structurally subordinated to all creditors, including trade creditors, of the Guarantor's subsidiaries (including Fresenius Medical Care) other than the Group's financing subsidiaries, incl. Fresenius Ireland

and Fresenius Ireland II. Any right of the Guarantor to receive assets of any subsidiary upon the insolvency or liquidation of the subsidiary (and the consequent rights of the Holders to participate in those assets) will be structurally subordinated to the claims of these subsidiary's creditors, except to the extent the Guarantor's claims do not result from (i) its shareholdings, (ii) shareholder loans (or their economic equivalent) subordinated by law, or (iii) contractually subordinated claims, in which case its claims would still be subordinated with respect to any assets of the subsidiary pledged to secure other indebtedness, and any indebtedness of the subsidiary senior to that held by the Guarantor. In addition, holders of secured indebtedness of the Guarantor would have a claim on the assets securing such indebtedness that is prior to the Holders and would have a claim that is *pari passu* with the Holders to the extent the security did not satisfy such indebtedness.

The Notes would be subordinated to any secured debt of the relevant Issuer and the Guarantor to the extent of the value of the assets securing such debt.

***Although the occurrence of specific change of control events will permit Holders to require redemption or repurchase of the Notes, the relevant Issuer may not be able to redeem or repurchase such Notes.***

Upon the occurrence of specific change of control events, the Holders will have the right to require the redemption or repurchase of all or part of their Notes at an amount specified in the Final Terms, plus accrued and unpaid interest. Our ability to redeem or repurchase Notes upon such a change of control event will be limited by our access to funds at the time of the redemption or repurchase. Upon a change of control event, we may be required immediately to repay the outstanding principal, any accrued interest on and any other amounts owed by us under one or more of our bank facilities or other debt. The source of funds for these repayments would be the available cash or cash generated from other sources. However, it cannot be assured that there will be sufficient funds available upon a change of control to make these repayments and any required redemption or repurchases of Notes. In that case, our failure to purchase any of the Notes would constitute an event of default under the Terms and Conditions, which would likely cause a default under other debt obligations.

***Credit ratings may not reflect all risks of an investment in the Notes; they are not recommendations to buy or hold securities, and are subject to revision, suspension, or withdrawal at any time.***

One or more independent credit rating agencies may assign credit ratings to the Notes. The ratings may not reflect the potential impact of all risks related to the structure, market, additional risk factors discussed herein, and other factors that may affect the value of the Notes. A credit rating is not a recommendation to buy, sell, or hold securities and may be subject to revision, suspension, or withdrawal by the rating agency at any time. No assurance can be given that a credit rating will remain constant for any given period of time or that a credit rating will not be reduced or withdrawn entirely by the credit rating agency if, in its judgment, circumstances so warrant. Any suspension, reduction, or withdrawal of the credit rating assigned to the relevant Notes by one or more of the credit rating agencies may adversely affect the cost and terms and conditions of our financings and could adversely affect the value and trading of such Notes.

***The Notes and the Guarantee could become effectively subordinated to the Group's debt to the extent such debt is secured by assets that are not also securing the Notes.***

Although the Terms and Conditions and the Guarantee restrict the Company's and, to the extent legally possible, its subsidiaries' ability to provide asset security for the benefit of other Capital Market Indebtedness without securing the Notes equally, the requirement to provide equal security to the Notes is subject to a number of significant exceptions and carve-outs. To the extent the relevant Issuer or the Guarantor provides asset security for the benefit of other debt without also securing the Notes, the Notes and the Guarantee will be effectively subordinated to such debt to the extent of such assets.

As a result of the foregoing, holders of (present or future) secured debt of the Group may recover disproportionately more on their claims than the Holders in an insolvency, bankruptcy or similar proceeding. The relevant Issuer and the Guarantor may not have sufficient assets remaining to make payments on the Notes or the Guarantee, respectively.

## **Liquidity Risk**

*There is no active public trading market for the Notes.*

Application has been made to the Luxembourg Stock Exchange for Notes issued under this Programme to be listed on the official list of the Luxembourg Stock Exchange and to be admitted to trading on the regulated market of the Luxembourg Stock Exchange. However, the Programme provides that Notes may be listed on other or further stock exchanges or may not be listed at all. Regardless of whether the Notes are listed or not, there can be no assurance regarding the future development of a market for the Notes or the ability of Holders to sell their Notes or the price at which Holders may be able to sell their Notes. If such a market were to develop, the Notes could trade at prices that may be higher or lower than the initial offering price depending on many factors, including prevailing interest rates, the Group's operating results, the market for similar securities and other factors, including general economic conditions, performance and prospects, as well as recommendations of securities analysts. The liquidity of, and the trading market for, the Notes may also be adversely affected by declines in the market for debt securities generally. Such a decline may affect any liquidity and trading of the Notes independent of the Group's financial performance and prospects. If Notes are not listed on any exchange, pricing information for such Notes may be more difficult to obtain which may affect the liquidity of the Notes adversely.

## **Market Price and Exchange Rate Risk**

*The development of market prices of the Notes depends on various factors.*

The development of market prices of the Notes depends on various factors, such as changes of market interest rate levels, the policies of central banks, overall economic developments, inflation rates or the lack of or excess demand for the relevant type of Note. The Holders are therefore exposed to potential unfavorable developments of market prices of their Notes which would be realized if the Holders sell the Notes prior to the final maturity of such Notes. If a Holder decides to hold the Notes until final maturity, the Notes will be redeemed at the amount set out in the relevant Final Terms.

*A Holder of Notes denominated in a foreign currency is exposed to the risk of changes in currency exchange rates which may affect the yield of such Notes.*

A Holder of Notes denominated in a foreign currency (i.e. a currency other than euro) is particularly exposed to the risk of changes in currency exchange rates which may affect the yield of such Notes. Changes in currency exchange rates result from various factors, such as macro-economic factors, speculative transactions and interventions by central banks and governments. A change in the value of any foreign currency against the euro, for example, will result in a corresponding change in the euro value of Notes denominated in a currency other than euro and a corresponding change in the euro value of interest and principal payments made in a currency other than euro in accordance with the terms of such Notes. If the underlying exchange rate falls and the value of the euro rises correspondingly, the price of the Notes and the value of interest and principal payments made thereunder expressed in euro falls. In addition, government and monetary authorities may impose (as some have done in the past) exchange controls that could adversely affect an applicable currency exchange rate. As a result, investors may receive less interest or principal than expected.

## **Risks relating to specific Terms and Conditions of the Notes**

*The Issuer may redeem the Notes early.*

The applicable Final Terms will indicate if the relevant Issuer has the right to call the Notes prior to maturity (optional call right), irrespective of market interest rates. If the applicable Final Terms indicate that payments on Notes are linked to a benchmark, the relevant Issuer may also have the right to redeem the Notes in case of a discontinuation of such benchmark. In addition, the relevant Issuer will always have the right to redeem the Notes if the relevant Issuer is required to pay additional amounts (gross-up payments) on the Notes for reasons of taxation as set out in the Terms and Conditions. If the relevant Issuer redeems the Notes prior to maturity, a Holder of such Notes is exposed to the risk that his investment will have a lower than expected yield due to such early redemption.



### ***Quorum requirement and SchVG risks in case of certain events of default***

The Terms and Conditions provide that, in case of certain events of default, any notice declaring the Notes due and payable shall become effective only when the Fiscal Agent has received such default notices from Holders representing at least 25 per cent. of the aggregate principal amount of Notes then outstanding. Under the German Act on Debt Securities of 2009 (*Schuldverschreibungsgesetz – SchVG*), even if a default notice is given by a sufficient number of Holders of Notes, this could be rescinded by majority resolution within three months. A simple majority of votes would be sufficient for a resolution on the rescission of such acceleration but, in any case, more Holders would have to consent to a rescission than have delivered default notices.

Holders should be aware that, as a result, they may not be able to accelerate their Notes upon the occurrence of certain events of default, unless the required quorum of Holders delivers default notices and such acceleration is not rescinded by majority resolution of the Holders.

### ***The market-value of fixed rate Notes is dependent on market interest rates.***

A Holder of a fixed rate Note is exposed to the risk that the price of such Note declines as a result of an increase in the market interest rate. While the nominal interest rate of a fixed rate Note as specified in the applicable Final Terms is fixed during the life of such Note, the current interest rate on the capital market (market interest rate) typically changes on a daily basis. As the market interest rate changes, the price of a fixed rate Note also changes, but in the opposite direction. If the market interest rate increases, the price of a fixed rate Note typically falls, until the yield of such Note is approximately equal to the market interest rate. If the market interest rate falls, the price of a fixed rate Note typically increases, until the yield of such Note is approximately equal to the market interest rate. If the Holder of a fixed rate Note holds such Note until maturity, changes in the market interest rate are without relevance to such Holder as the Note will be redeemed at a specified redemption amount, usually the principal amount of such Note.

### ***A Holder of a floating rate Note is exposed to the risk of fluctuating interest rate levels and uncertain interest income.***

A Holder of a floating rate Note is exposed to the risk of fluctuating interest rate levels and uncertain interest income. Fluctuating interest rate levels make it impossible to determine the yield of floating rate Notes in advance. Neither the current nor the historical value of the relevant floating rate should be taken as an indication of the future development of such floating rate during the term of any Notes.

Floating rate Notes may be structured to include caps or floors, or any combination of those features. The effect of a cap is that the amount of interest will never rise above and beyond the predetermined cap, so that the Holder will not be able to benefit from any actual favorable development beyond the cap. The yield could therefore be considerably lower than that of similar floating rate Notes without a cap.

### ***Risks associated with the reform of LIBOR, EURIBOR and other interest rate benchmarks'***

The London Interbank Offered Rate (**LIBOR**), the Euro Interbank Offered Rate (**EURIBOR**) and other interest rates or other types of rates and indices which are deemed "benchmarks" (each a **Benchmark** and together, the **Benchmarks**) have become the subject of regulatory scrutiny and recent national and international regulatory guidance and proposals for reform. Some of these reforms are already effective whilst others are still to be implemented. These reforms may cause such Benchmarks to perform differently than in the past, or to disappear entirely, or have other consequences which cannot be predicted. Any such consequence could have a material adverse effect on any Notes linked to such a Benchmark.

International proposals for reform of Benchmarks include the European Council's regulation (EU) 2016/1011 of June 8, 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (the **Benchmark Regulation**) which is fully applicable since January 1, 2018.

The Benchmark Regulation could have a material impact on Notes linked to a Benchmark, including in any of the following circumstances:

- a rate or index which is a Benchmark may only be used if its administrator obtains authorization or is registered and in case of an administrator which is based in a non-EU jurisdiction, if the administrator's legal benchmark system is considered equivalent (Art. 30 Benchmark Regulation), the administrator is recognized (Art. 32 Benchmark Regulation) or the Benchmark is endorsed (Art. 33 Benchmark Regulation) (subject to applicable transitional provisions). If this is not the case, Notes linked to such Benchmarks could be impacted; and
- the methodology or other terms of the Benchmark could be changed in order to comply with the terms of the Benchmark Regulation, and such changes could have the effect of reducing or increasing the rate or level or affecting the volatility of the published rate or level, and could impact the Notes, including Calculation Agent determination of the rate.

Interest amounts payable under floating rate Notes issued under the Programme are calculated by reference to (i) EURIBOR which is as at the date of this Prospectus provided by the European Money Markets Institute (**EMMI**), or (ii) LIBOR which is as at the date of this Prospectus provided by the ICE Benchmark Administration Limited (**IBA**). As at the date of this Prospectus, IBA and EMMI appear on the register of administrators and benchmarks established and maintained by the European Securities and Markets Authority (**ESMA**) pursuant to Article 36 of the Benchmark Regulation.

In addition to the aforementioned Benchmark Regulation, there are numerous other proposals, initiatives and investigations which may impact Benchmarks.

Following the implementation of any such potential reforms, the manner of administration of Benchmarks may change, with the result that they may perform differently than in the past, or Benchmarks could be eliminated entirely, or there could be other consequences which cannot be predicted. For example, on July 27, 2017, the UK Financial Conduct Authority announced that it will no longer persuade or compel banks to submit rates for the calculation of the LIBOR benchmark after 2021 (the **FCA Announcement**). The FCA Announcement indicates that the continuation of LIBOR on the current basis cannot and will not be guaranteed after 2021.

If a Benchmark were to be discontinued or otherwise unavailable, the rate of interest for floating rate Notes which are linked to such Benchmark will be determined for the relevant period by the fallback provisions applicable to such Notes, which in the end could lead, *inter alia*, to determination of the applicable interest rate on the basis of another benchmark determined by the Issuer in its discretion, or to a previously available rate of the Benchmark being applied until maturity of the floating rate Notes, effectively turning the floating rate of interest into a fixed rate of interest, or to an early termination of the relevant Notes at the option of the Issuer. Under these fallback provisions, the Benchmark will be substituted, if possible, by a replacement offered interest rate or an alternative offered interest rate determined by the Issuer (possibly after consultation with an independent advisor). If this is not possible, the interest rate for the relevant interest period will be determined on the basis of the offered interest rate that was used for the last preceding interest period and such rate will continue to apply for future interest periods of the Notes until a replacement offered interest rate or an alternative offered interest rate will be determined by the Issuer in accordance with the fallback provisions. In addition, if, in the Issuer's opinion, it is not possible to determine a replacement offered interest rate or an alternative offered interest rate in accordance with the fallback provisions and if the Final Terms so provide, the Issuer will be entitled to call the Notes for redemption at their principal amount, together with interest accrued (if any). Due to the uncertainty concerning the availability of a replacement offered interest rate or an alternative offered interest rate, the relevant further fallback provisions may not operate as intended at the relevant time.

Any changes to a Benchmark as a result of the Benchmark Regulation or other initiatives, could have a material adverse effect on the costs of refinancing a Benchmark or the costs and risks of administering or otherwise participating in the setting of a Benchmark and complying with any such regulations or requirements. Although it is uncertain whether or to what extent any of the above-mentioned changes and/or any further changes in the administration or method of determining a Benchmark could have an effect on the value of any Notes linked to the relevant Benchmark, investors should be aware that any changes to a relevant Benchmark may have a material adverse effect on the value or liquidity of, and the amounts payable on, floating rate Notes whose rate of interest is linked to such Benchmark.

## **Risks relating to laws and regulations applicable to the Notes**

### ***Resolutions of Holders***

If the Terms and Conditions of Notes provide for meetings of Holders of a series of Notes or the taking of votes without a meeting, the Terms and Conditions of such Notes and the Guarantee may be amended (as proposed or agreed by the relevant Issuer and/or Guarantor) by majority resolution of the Holders of such Notes and any such majority resolution will be binding on all Holders. Any Holder is therefore subject to the risk that its rights against the Issuer under the Terms and Conditions of the relevant series of Notes are amended, reduced or even cancelled by a majority resolution of the Holders. Any such majority resolution will even be binding on Holders who have declared their claims arising from the Notes due and payable based on the occurrence of an event of default but who have not received payment from the Issuer or, as applicable, the Guarantor prior to the amendment taking effect. According to the German Act on Debt Securities of 2009 (Schuldverschreibungsgesetz – **SchVG**), the relevant majority for Holders' resolutions is generally based on votes cast, rather than on the aggregate principal amount of the relevant Notes outstanding. Therefore, any such resolution may effectively be passed with the consent of less than a majority of the aggregate principal amount of the relevant Notes outstanding.

### ***Holdings' Representative***

If the Notes provide that the Holders of a series of Notes are entitled to appoint a Holdings' representative (the **Holdings' Representative**) by a majority resolution of such Holders or if a Holdings' Representative has been appointed in the Terms and Conditions of a series of Notes it is possible that a Holder may be deprived of its individual right to pursue and enforce its rights under the Terms and Conditions against the Issuer or, as applicable, the Guarantor, such right passing to the Holdings' Representative who is then exclusively responsible to claim and enforce the rights of all the Holders of the relevant series of Notes.

## PRESENTATION OF FINANCIAL INFORMATION

### GENERAL INFORMATION

References to “2019” and “2018” (unless otherwise specified) shall refer to the fiscal years ended December 31, 2019 and 2018, respectively.

The Company’s consolidated financial statements and other financial information contained herein have been prepared in accordance with the International Financial Reporting Standards of the International Accounting Standards Board (*IASB*) as adopted by the European Union (*IFRS*) applicable at the relevant date (i.e. the reporting date). We use IFRS to comply with the reporting requirements of the German Commercial Code (*Handelsgesetzbuch*) and other German laws.

The unconsolidated financial statements of Fresenius Ireland and Fresenius Ireland II included in this Prospectus have been prepared in accordance with IFRS. Unless otherwise indicated, our financial information in this Prospectus complies with IFRS applicable at the relevant date (i.e., the reporting date of the respective annual).

At December 31, 2019, the Company owned 31.64% of the subscribed capital of Fresenius Medical Care AG & Co. KGaA (*FMC AG & Co. KGaA*). FMC AG & Co. KGaA is a German partnership limited by shares. Fresenius Medical Care Management AG, the general partner of FMC AG & Co. KGaA, is a wholly owned subsidiary of the Company. Through this structure, the Company has rights that give Fresenius SE & Co. KGaA the ability to direct the relevant activities and, hence, the earnings of FMC AG & Co. KGaA. Therefore, FMC AG & Co. KGaA is fully consolidated in the consolidated financial statements of the Fresenius Group. However, the Company receives cash flows generated by FMC AG & Co. KGaA only to the extent they are distributed to the Company as dividends or payments under existing agreements, such as rental and service agreements. Dividends are received by the Company only in proportion to its economic interest in FMC AG & Co. KGaA.

Certain numerical data, financial information and market data in this Prospectus are subject to rounding adjustments that were carried out according to customary commercial standards. As a result, the aggregate amounts herein may not correspond in all cases to the data contained in the underlying sources.

### EBIT/ EBITDA

“EBIT” refers to earnings before interest, income taxes and noncontrolling interest.

In this Prospectus, we present EBITDA (adjusted and unadjusted). “EBITDA” refers to operating income (including noncontrolling interests) plus depreciation and amortization. We do not present EBITDA as a measure of our operating results. Our management believes that the presentation of EBITDA is helpful to investors as a measure of our ability to service debt. However, investors should not construe EBITDA as an alternative expression of net income determined in accordance with IFRS or cash flows from operations, investing activities or financing activities as a measure of cash flows.

We show EBITDA for each of our business segments before giving effect to the segment Corporate/Other, to which certain sales and costs are allocated. For this reason, the EBITDA contributions of each of our business segments when added together may add up to more than 100% of our total EBITDA.

## GENERAL INFORMATION ON THE ISSUERS AND THE GUARANTOR

### FRESENIUS SE & CO. KGAA

#### ISSUER AND GUARANTOR

##### General Information

The legal and commercial name of the Company is Fresenius SE & Co. KGaA.

The Company was originally incorporated on August 20, 1966 as Chemisch-pharmazeutische Verwaltungsgesellschaft mbH, a limited liability company organized under German law. This company was registered with the commercial register of the local court (*Amtsgericht*) of Bad Homburg vor der Höhe, Germany, under registration number HRB 1152. On October 30, 1981, the shareholders' meeting of Chemisch-pharmazeutische Verwaltungsgesellschaft mbH resolved to change the legal form of the Company into a stock corporation (*Aktiengesellschaft*) governed by German law and the Company's name to Fresenius Verwaltungs-Aktiengesellschaft. These changes became effective upon registration of Fresenius Verwaltungs-Aktiengesellschaft with the commercial register of the local court of Bad Homburg vor der Höhe, Germany, under registration number HRB 2617, on December 9, 1981.

On December 23, 1981, the general shareholders' meeting of Fresenius Verwaltungs-Aktiengesellschaft resolved to change the name of the Company to Fresenius AG. This change became effective upon entry into the commercial register on December 28, 1981. On December 4, 2006, the general shareholders' meeting of Fresenius AG resolved to change the Company's legal form into a European Company (*Societas Europaea* — SE) organized under German and European law and the Company's name to Fresenius SE. These changes became effective upon registration of Fresenius SE with the commercial register of Bad Homburg vor der Höhe, Germany, under registration number HRB 10660, on July 13, 2007.

On May 12, 2010, the general shareholders' meeting of Fresenius SE resolved to change the legal form of the Company into a partnership limited by shares (*Kommanditgesellschaft auf Aktien*) with an SE as general partner, governed by German and European law, the Company's name to Fresenius SE & Co. KGaA and, so as to simplify the company's share structure by creating one share class while maintaining the control position of the Else Kröner-Fresenius-Stiftung, to convert the then existing non-voting no-par value preference bearer shares into voting ordinary shares at a 1:1 exchange ratio. These changes became effective upon registration of the Company with the commercial register of the local court of Bad Homburg vor der Höhe, Germany, under registration number HRB 11852, on January 28, 2011.

The Company has its registered office in Bad Homburg vor der Höhe, Germany. Its business address is Else-Kröner-Strasse 1, 61352 Bad Homburg vor der Höhe, Germany, and its telephone number is +49 (0) 6 172-608-0. The duration of the Company is indefinite. The Company conducts its business under its legal name.

The Legal Entity Identifier (LEI) of Fresenius SE & Co. KGaA is XDFJ0CYCO01FXRFTQS51. The Company's website is available at [www.fresenius.com](http://www.fresenius.com). The information on the Company's website does not form part of this Prospectus unless it is explicitly incorporated by reference into this Prospectus.

##### Corporate Purpose

Pursuant to section 2 of its articles of association, the corporate purpose of the Company is:

- the development, manufacture, and distribution of, as well as trading in, products, systems, and processes in the health care sector;
- the construction, development, and operation of medical and curative facilities, as well as of hospitals; and
- consulting in the medical and pharmaceutical fields, as well as scientific information and documentation.

The Company operates directly or through associated companies (*Beteiligungsgesellschaften*) in Germany and abroad.

The Company is entitled to enter into any and all business transactions and to take any and all measures that are deemed necessary or useful in accomplishing the corporate purpose of the Company and may, in particular, participate in other undertakings of the same or a related kind, take over the management and/or the representation of

such undertakings, transfer company divisions, including major company divisions, to undertakings in which the Company holds at least a majority of the voting capital and/or a controlling interest, and establish branch offices in Germany and abroad.

### **Principal Activities**

The Company's principal activity is to act as a holding company for its subsidiaries, which develop, manufacture, and distribute health care products and services and which are involved in the construction, development, operation of medical facilities.

### **Organizational Structure**

The Fresenius Group is headed by Fresenius SE & Co. KGaA which acts as holding company for the Group. The Fresenius Group consists of more than 2,500 subsidiaries and affiliated companies (including minority holdings) worldwide.

Fresenius Kabi AG (*Fresenius Kabi* or *Kabi*) and Fresenius ProServe GmbH are wholly-owned subsidiaries of Fresenius SE & Co. KGaA. Fresenius Kabi AG acts as the holding company for our business segment Fresenius Kabi. Fresenius ProServe GmbH acts as the holding company for our business segments Fresenius Helios and Fresenius Vamed. Fresenius Kabi AG and Fresenius ProServe GmbH are each controlled under a domination agreement (*Beherrschungsvertrag*) with the Company as controlling entity. Both companies, respectively, are also party to a profit and loss transfer agreement (*Ergebnisabführungsvertrag*) with the Company as dominating entity.

As of December 31, 2019, Fresenius SE & Co. KGaA owned 31.64% of the subscribed capital of FMC AG & Co. KGaA. FMC AG & Co. KGaA acts as holding company for the fully consolidated FMC AG & Co. KGaA and its subsidiaries on a consolidated basis, as a standalone company and/or as our consolidated subsidiary and business segment (*Fresenius Medical Care*) which is again controlled by its general partner Fresenius Medical Care Management AG, a wholly-owned subsidiary of Fresenius SE & Co. KGaA.

### **Management and Supervisory Bodies, Board Practices**

#### **General**

Fresenius SE & Co. KGaA is the ultimate holding company of the Group. As a partnership limited by shares (*Kommanditgesellschaft auf Aktien*) with a European Company (*Societas Europaea* — *SE*) as general partner, the corporate bodies of the Company are the general partner, the supervisory board and the general shareholders' meeting.

#### **Fresenius Management SE**

Fresenius Management SE (*Management SE*), a wholly-owned subsidiary of the Else Kröner-Fresenius-Stiftung, is the sole general partner of the Company. The corporate bodies of Management SE are the management board, the supervisory board and the general shareholders' meeting. Management SE has a two-tier management and control system consisting of the management board and the supervisory board. The powers of these bodies are governed by the Regulation (EC) No. 2157/2001, the German Law on Implementation of the Regulation (EC) No. 2157/2001 (*SE-Ausführungsgesetz*), the German Stock Corporation Act (*Aktiengesetz*), the Articles of Association and the rules of procedure of the management board and the supervisory board. The two boards work independently of each other. No one is allowed to be a member of both bodies simultaneously.

The management board of Management SE is responsible for managing Management SE's day-to-day business. The supervisory board of Management SE advises and supervises the management board, in particular the managing of the Company by Management SE, and is responsible for appointing and removing members of the management board. The supervisory board generally may not exercise any management functions. However, according to the rules of procedure of the management board, certain types of transactions may not be carried out by the management board without the consent of the supervisory board.

#### **Fresenius SE & Co. KGaA**

As general partner of the Company, Management SE is solely responsible for the management of the Company, including all exceptional management measures, and solely represents the Company in its dealings with third parties. Members of the management board of Management SE are not permitted to simultaneously be members of the supervisory boards of Management SE or the Company. When acting in its capacity as general partner for the

Company, Management SE is always acting through its management board. Therefore, any reference to “Management Board” below refers to the management board of Management SE (the **Management Board**). The supervisory board of Fresenius SE & Co. KGaA oversees and advises Management SE in its acting as general partner of Fresenius SE & Co. KGaA. In addition, the supervisory board represents Fresenius SE & Co. KGaA in transactions between Management SE and Fresenius SE & Co. KGaA. A member of the supervisory board of Management SE can simultaneously be a member of the supervisory board of Fresenius SE & Co. KGaA.

#### ***Management board of Fresenius Management SE***

As of the date of this Prospectus, the Management Board consists of seven members. The members of the Management Board are appointed and dismissed by the supervisory board of Management SE.

The rules of procedures of the Management Board assign each member of the board a specific area of responsibility. The members of the Management Board are nevertheless jointly responsible for managing our Group. The names of the members of Fresenius Management SE's Management Board, their areas of responsibility and their principal activities outside of the Fresenius Group are shown in the table below.

| <b><u>Name</u></b>   | <b><u>Responsibility</u></b>                                                     | <b><u>Principal activities outside the Fresenius Group</u></b> |
|----------------------|----------------------------------------------------------------------------------|----------------------------------------------------------------|
| Stephan Sturm        | Chairman of the Management Board, as such Chief Executive Officer ( <b>CEO</b> ) | <b>Supervisory Board:</b><br>Lufthansa AG                      |
| Rachel Empey         | Chief Financial Officer                                                          | <b>Director (non-executive):</b><br>Inchcape plc.              |
| Dr. Francesco De Meo | CEO of Fresenius Helios                                                          | none                                                           |
| Dr. Jürgen Götz*     | Chief Legal and Compliance Officer, Labor Relations Director                     | none                                                           |
| Mats Henriksson      | CEO of Fresenius Kabi                                                            | none                                                           |
| Rice Powell          | CEO of Fresenius Medical Care                                                    | none                                                           |
| Dr. Ernst Wastler    | CEO of Fresenius Vamed                                                           | none                                                           |

\* The term of Dr. Jürgen Götz will end by the end of June 2020.

The members of the Management Board can be contacted at Management SE's business address: Else-Kröner-Straße 1, 61352 Bad Homburg vor der Höhe, Germany.

#### ***Supervisory Board of Management SE***

As of the date of this Prospectus, the supervisory board of Management SE consists of six members. All six members of the supervisory board of Management SE are appointed by the general shareholders' meeting of Management SE.

Resolutions of the supervisory board of Management SE require a majority of the votes cast, unless otherwise required by mandatory law, the articles of association of Management SE or the rules of procedures of the supervisory board of Management SE. In the case of a parity of votes, the vote of the Chairman shall be decisive.

The supervisory board must meet at least twice during each six-month calendar period.

The names of the members of Management SE's Supervisory Board, their positions and their further offices outside of Fresenius Group (as of December 31, 2019) are shown in the table below:

| <u>Name</u>        | <u>Position</u> | <u>Further offices held outside the Fresenius Group</u>                                                                                                                                                                                          |
|--------------------|-----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Dr. Gerd Krick     | Chairman        | none                                                                                                                                                                                                                                             |
| Dr. Kurt Bock      |                 | <b>Supervisory Board:</b><br>BMW Group<br>Fuchs Petrolub SE (Chairman)<br>Münchener Rückversicherungs-Gesellschaft                                                                                                                               |
| Michael Diekmann   |                 | <b>Supervisory Board:</b><br>Allianz SE (Chairman)<br>Siemens AG                                                                                                                                                                                 |
| Wolfgang Kirsch    |                 | <b>Advisory Board:</b><br>Adolf Würth GmbH & Co. KG<br><b>Supervisory Board:</b><br>Würth Finance International B.V., Netherlands                                                                                                                |
| Klaus-Peter Müller |                 | none                                                                                                                                                                                                                                             |
| Dr. Dieter Schenk  | Deputy Chairman | <b>Supervisory Board:</b><br>HWT Invest AG (formerly Bank Schilling & Co. AG) (Chairman)<br>Gabor Shoes AG (Chairman)<br>TOPTICA Photonics AG (Chairman)<br><b>Foundation Board (Stiftungsrat):</b><br>Else Kröner-Fresenius-Stiftung (Chairman) |

The members of the supervisory board of Management SE can be contacted at Management SE's business address: Else-Kröner-Straße 1, 61352 Bad Homburg vor der Höhe, Germany.

#### ***Supervisory Board of Fresenius SE & Co. KGaA***

As of the date of this Prospectus, the supervisory board of the Company is composed of six shareholder representatives and six employee representatives. Six members who represent the shareholders are appointed by the general shareholders' meeting, whereby the Else Kröner-Fresenius-Stiftung has no vote in such appointment. Six employee representatives are elected by the Company's European Works Council.

Unless other majorities are mandatory by law, the supervisory board of the Company passes its resolutions by a simple majority of the votes submitted. If a vote is tied, the Chairman has the casting vote or, if he does not take part in the voting, the matter is decided by the vote of the Deputy Chairman, who is a shareholder representative.

The supervisory board of the Company should convene once each calendar quarter, and must convene twice each calendar half-year.

The table below lists the members of and their positions on the supervisory board of the Company and shows their further offices outside of Fresenius Group (as of December 31, 2019):



| <u>Name</u>                        | <u>Position</u> | <u>Further offices held outside the Fresenius Group</u>                                                                 |
|------------------------------------|-----------------|-------------------------------------------------------------------------------------------------------------------------|
| Dr. Gerd Krick                     | Chairman        | none                                                                                                                    |
| Prof. Dr. med. D. Michael Albrecht |                 | <b>Management Board:</b><br>University Hospital Carl Gustav Carus<br>Dresden (Spokesman)                                |
|                                    |                 | <b>Supervisory Board:</b><br>Dresden International University (DIU)<br>GÖK Consulting AG<br>Universitätsklinikum Aachen |
| Bernd Behlert*                     |                 | none                                                                                                                    |
| Michael Diekmann                   | Deputy Chairman | <b>Supervisory Board:</b><br>Allianz SE (Chairman)<br>Siemens AG                                                        |
| Konrad Kölbl*                      |                 | none                                                                                                                    |
| Stefanie Balling*                  |                 | none                                                                                                                    |
| Frauke Lehmann*                    |                 | none                                                                                                                    |
| Prof. Dr. med. Iris Löw-Friedrich  |                 | <b>Executive Vice President and Chief Medical Officer, Head of Development</b><br>UCB S.A.                              |
|                                    |                 | <b>Supervisory Board:</b><br>Evotec AG                                                                                  |
| Klaus-Peter Müller                 |                 | none                                                                                                                    |
| Oscar Romero de Paco*              |                 | none                                                                                                                    |
| Hauke Stars                        |                 | <b>Management Board:</b><br>Deutsche Börse AG                                                                           |
|                                    |                 | <b>Supervisory Board:</b><br>Eurex Frankfurt AG                                                                         |
|                                    |                 | <b>Administrative Board:</b><br>Clearstream International S.A.<br>Kühne + Nagel International AG                        |
| Niko Stumpfögger*                  | Deputy Chairman | <b>Secretary:</b><br>Trade Union ver.di, health care division                                                           |

\* Employee Representative

The members of the supervisory board of the Company can be contacted at Fresenius SE & Co. KGaA's business address: Else-Kröner-Straße 1, 61352 Bad Homburg vor der Höhe, Germany.

### ***Conflicts of Interest of the Members of the Corporate Bodies***

Some members of the Management Board and other members of the Company's management are also members of the management board and/or members of the management of subsidiaries of the Company. Members of the Management Board also serve on the managing bodies of FMC AG & Co. KGaA, Fresenius Kabi AG, Helios Kliniken GmbH and VAMED AG, as well as of the subsidiaries of these companies. Furthermore, some members of supervisory board of Management SE are also members of the supervisory board and/or members of supervisory boards of subsidiaries of the Company.

Although the interests of the Company and its subsidiaries are generally in line with each other, there can be no assurance that conflicts of interests will not arise in certain instances. These potential conflicts of interests could be particularly important in light of the minority ownership of the Company in FMC AG & Co. KGaA. The German Stock Corporation Act and the German Corporate Governance Code contain provisions that aim to protect affected companies from the negative effects of potential conflicts of interest.

Beyond this, there are no potential conflicts of interests between the obligations of the members of the Management Board and the supervisory board of Management SE towards the Company and their private interests or other obligations. As far as the Company is aware, there are no other potential conflicts of interests between the obligations of the members of the supervisory board of the Company towards the Company and their private interests.

### ***Corporate Governance***

The German Corporate Governance Code (*Deutsche Corporate Governance Kodex*, the ***Corporate Governance Code***) contains recommendations and suggestions for managing and monitoring listed companies in Germany. It is based on internationally and nationally recognized standards for good and responsible corporate governance. The purpose of the Corporate Governance Code is to make the German corporate governance system transparent for investors. The Corporate Governance Code was passed by the Government Commission of the German Corporate Governance Code on February 26, 2002 and was last amended on February 7, 2017. The amended version was published in the Federal Gazette on April 24, 2017.

There is no legal obligation to comply with the recommendations or suggestions of the Corporate Governance Code. However, the German Stock Corporation Act requires that the management board and the supervisory board of a German listed company either declare on an annual basis that the recommendations of the Corporate Governance Code were and will be adhered to or state which recommendations were or will not be followed. This declaration must be available to shareholders on a constant basis. No disclosure is required when companies deviate from the suggestions in the Corporate Governance Code.

The supervisory board of the Company and the Management Board have adopted the following declaration of conformity (*Entsprechenserklärung*) in December 2019, and have made it available to shareholders. In accordance with clause 3.10 of the Corporate Governance Code, this declaration, as well as past declarations, is available on the Company's website, at [www.fresenius.com](http://www.fresenius.com), under the heading "The Healthcare Group/Management /Corporate Governance":

"The Management Board of the General Partner of Fresenius SE & Co. KGaA, Fresenius Management SE (hereafter the Management Board) and the Supervisory Board of Fresenius SE & Co. KGaA declare that since the issuance of the previous Declaration of Conformity in October 2019, the recommendations of the "Government Commission on the German Corporate Governance Code" published by the Federal Ministry of Justice and Consumer Protection (*Bundesministerium der Justiz und für Verbraucherschutz*) in the official section of the Federal Gazette (*Bundesanzeiger*) (hereafter the Code) in the version of February 7, 2017 have been met and will also be met in the future. Only the following recommendations of the Code in the version of February 7, 2017 have not and will not be met as explained in the following:

- Code number 5.1.2 paragraph 2 sentence 3: Age Limit of Management Board members

Pursuant to Code number 5.1.2 paragraph 2 sentence 3, an age limit shall be specified for the members of the Management Board.

As in the past, Fresenius will refrain from specifying an age limit for members of the Management Board. Complying with this recommendation would unduly limit the selection of qualified candidates.

- Code number 5.4.1 paragraph 2 and paragraph 4: Specification of concrete objectives regarding the composition of the Supervisory Board, preparation of a competency profile and consideration when making election proposals

Pursuant to Code number 5.4.1 paragraph 2 and paragraph 4, the Supervisory Board shall specify specific goals for its composition and prepare a competency profile for the entire Board. The targets shall be considered when making election proposals to the Annual General Meeting and at the same time aim to fulfill the competency profile for the entire Board. The status of the implementation shall be published in the Corporate Governance Report.

The Supervisory Board has specified concrete goals for its composition and has prepared a competency profile for the entire Board. In the interest of the company and to avoid unduly limiting the selection of qualified candidates, it has refrained from specifying an age limit and a regular limit for a member's tenure. The Supervisory Board shall instead also consist of members with long-term experience and thus individuals, who are generally older. The balanced ratio of Supervisory Board members of various ages and with varying tenures is crucial. With this exception, the recommendations pursuant to Code number 5.4.1 paragraph 2 and paragraph 4 are met.

- Precautionary statement of non-compliance with regard to the Management Board compensation of Mr. Rice Powell

Management Board member Rice Powell receives his compensation exclusively from Fresenius Medical Care Management AG. At Fresenius Medical Care Management AG there are no compensation caps by specific amount for all compensation components and thus for overall compensation. A compensation cap by specific amount is therefore also not included in the corresponding model table of the compensation report. In addition, there is no Code-complying severance payment cap. With reference to Mr. Powell, a precautionary statement of non-compliance with Code numbers 4.2.3 paragraph 2 sentence 6, 4.2.3 paragraph 4 and 4.2.5 paragraph 3 is therefore made. Give the detailed explanations of the reasons for the non-compliance of Fresenius Medical Care AG & Co. KGaA, a reference is made to that company's Declaration of Conformity."

## Share Capital

As of December 31, 2019, the Company had issued a share capital of €557,379,979.00 represented by 557,379,979 voting ordinary shares, each of which grants one vote in the general shareholders' meeting of the Company. All shares have been fully paid up.

## Financial Year

The financial year of the Company is the calendar year.

## Auditors

KPMG AG Wirtschaftsprüfungsgesellschaft, The Squire, Am Flughafen, 60549 Frankfurt am Main, Germany, a member of the German Chamber of Public Accountants (*Wirtschaftsprüferkammer*), Berlin, is the auditor of the consolidated and unconsolidated financial statements of the Company.

KPMG AG Wirtschaftsprüfungsgesellschaft audited the consolidated financial statements of the Company as of and for the years ended December 31, 2019 and 2018, prepared in accordance with IFRS, as adopted by the EU. An unqualified audit opinion (*Bestätigungsvermerk*) was issued in respect of each of the consolidated financial statements of the Company mentioned above.

## Major Shareholders

The Else Kröner-Fresenius-Stiftung is Fresenius SE & Co. KGaA's major shareholder and held 148,298,594 ordinary shares of Fresenius SE & Co. KGaA on December 31, 2019, which represents 26.6% of the subscribed capital of Fresenius SE & Co. KGaA as of this date.

Based on notices the Company received pursuant to Section 33 et seq. of the German Securities Trading Act (*Wertpapierhandelsgesetz*) until March 25, 2020, the following other shareholders held (directly or indirectly), as per the day of the notice, five per cent. or more of its outstanding voting rights:

| <b><u>Beneficial Shareholder(s)</u></b>                   | <b>Percentage of voting rights</b> | <b>Holding as at</b> | <b>Notification received by Fresenius on</b> |
|-----------------------------------------------------------|------------------------------------|----------------------|----------------------------------------------|
| Allianz Global Investors GmbH,<br>Frankfurt/Main, Germany | 5.09                               | February 10, 2020    | February 12, 2020                            |

All notifications made by shareholders in accordance with the German Securities Trading Act (*Wertpapierhandelsgesetz*) are published on the website of the Company [www.fresenius.com](http://www.fresenius.com) under

Investors/Share/Shareholder Structure. In furnishing our website address in this document, however, we do not intend to incorporate any information on our website into this document, and no information on our website should be considered to be part of this document.

The remaining shares of the Company are in free float. All shares of the Company have identical voting rights, with the exception of certain voting restrictions that apply only to shares held by the Else Kröner-Fresenius-Stiftung. There are no multiple voting rights.

The Issuers are not aware of any arrangements which would result in a change in control of one of the Issuers.

### **Historical Financial Information**

The audited consolidated financial statements of the Company for the financial years ended December 31, 2019 and December 31, 2018, which were prepared on the basis of IFRS and the audit opinions (*Bestätigungsvermerke*) thereon, are incorporated by reference into this Prospectus.

### **Selected Financial Information**

*The selected consolidated financial information below (including ratios) reflects the full consolidation of FMC AG & Co. KGaA's financial statements in our financial statements. Fresenius Medical Care Management AG, a wholly owned subsidiary of the Company in the legal form of a stock corporation under German law (Aktiengesellschaft), is the general partner of FMC AG & Co. KGaA. Fresenius Medical Care Management AG, acting through its management board, is responsible for the management of FMC AG & Co. KGaA. Fresenius SE & Co. KGaA owned 31.64% of the subscribed capital of FMC AG & Co. KGaA at December 31, 2019. Fresenius Medical Care Management AG, the general partner of FMC AG & Co. KGaA, is a wholly owned subsidiary of Fresenius SE & Co. KGaA. Through this structure, Fresenius SE & Co. KGaA has rights that give Fresenius SE & Co. KGaA the ability to direct the relevant activities and, hence, the earnings of FMC AG & Co. KGaA. Therefore, FMC AG & Co. KGaA is fully consolidated in the consolidated financial statements of the Fresenius Group. Net income and net assets attributable to other shareholders of FMC AG & Co. KGaA are eliminated and recorded under noncontrolling interest in our consolidated statement of income and consolidated statement of financial position. However, the Company receives cash flows generated by FMC AG & Co. KGaA only to the extent they are distributed to the Company as dividends or payments under existing agreements, such as rental and service agreements. Dividends are received by the Company only in proportion to its economic interest in FMC AG & Co. KGaA and amounted to €110 million in 2019.*

The selected financial and business data below should be regarded only as an introduction and any investment decision should be based on a review of the entire Prospectus.

The following tables present selected consolidated financial information for our Group prepared in accordance with IFRS. We derived the selected financial information from our consolidated financial statements for each of the financial years ended December 31, 2019 and December 31, 2018, each prepared in accordance with IFRS, as adopted by the EU. KPMG AG Wirtschaftsprüfungsgesellschaft, The Squire, Am Flughafen, 60549 Frankfurt am Main, Germany, audited and issued an auditors' report with respect to each of the consolidated financial statements of the financial years ended December 31, 2019 and December 31, 2018. These auditors' reports are incorporated by reference in this Prospectus.

|                                                                                                 | Year ended<br>December 31, | Change year<br>ended<br>December 31, | Change at<br>constant<br>currency<br>year ended<br>December 31, |
|-------------------------------------------------------------------------------------------------|----------------------------|--------------------------------------|-----------------------------------------------------------------|
|                                                                                                 | 2019                       | 2018                                 | 2019                                                            |
|                                                                                                 | (audited)                  |                                      | 2019                                                            |
|                                                                                                 | (€ in millions)            |                                      | (%)                                                             |
| Selected Consolidated Statement of Income and Selected Other Consolidated Financial Information |                            |                                      |                                                                 |
| Sales                                                                                           | 35,409                     | 33,530                               |                                                                 |
|                                                                                                 |                            | 33,530/                              |                                                                 |
| Sales, adjusted <sup>(1)</sup>                                                                  | 35,524                     | 33,009 <sup>(3)</sup>                | 8                                                               |
| EBITDA <sup>(2)</sup>                                                                           | 7,083                      | 6,745 <sup>(4)</sup>                 |                                                                 |
|                                                                                                 |                            | 6,055/                               |                                                                 |
| EBITDA, adjusted <sup>(1)(2)</sup>                                                              | 6,170                      | 6,032 <sup>(3)</sup>                 | 2                                                               |
| Operating Income (EBIT)                                                                         | 4,631                      | 5,251                                |                                                                 |
|                                                                                                 |                            | 4,561/                               |                                                                 |
| Operating Income (EBIT), adjusted <sup>(1)</sup>                                                | 4,599                      | 4,547 <sup>(3)</sup>                 | 1                                                               |
| Net Income                                                                                      | 3,029                      | 3,714                                |                                                                 |
|                                                                                                 |                            | 3,111/                               |                                                                 |
| Net Income, adjusted <sup>(1)</sup>                                                             | 3,134                      | 3,115 <sup>(3)</sup>                 | 1                                                               |
| Net Income attributable to shareholders of<br>Fresenius SE & Co. KGaA                           | 1,883                      | 2,027                                |                                                                 |
| Net Income, adjusted, attributable to shareholders of<br>Fresenius SE & Co. KGaA <sup>(1)</sup> | 1,915                      | 1,871/                               |                                                                 |
|                                                                                                 | 1,915                      | 1,872 <sup>(3)</sup>                 | 2                                                               |

#### **Selected Consolidated Cash Flow Statement Data**

|                                                     |                            |         |
|-----------------------------------------------------|----------------------------|---------|
| Net Cash provided by operating activities           | 4,263/3,514 <sup>(5)</sup> | 3,742   |
| Net Cash used in investing activities               | (4,856)                    | (1,464) |
| Net Cash used in (provided by) financing activities | (484)/265 <sup>(6)</sup>   | (1,273) |

| As of<br>December 31,          |      |
|--------------------------------|------|
| 2019                           | 2018 |
| (audited)                      |      |
| (€ in millions, except ratios) |      |

### Selected Consolidated Statement of Financial Position Data and Net Debt

|                                                                 |                               |                            |
|-----------------------------------------------------------------|-------------------------------|----------------------------|
| Total Assets                                                    | 67,006/ 61,237 <sup>(7)</sup> | 56,703                     |
| Total shareholders' equity                                      | 26,580/ 26,836 <sup>(8)</sup> | 25,008                     |
| Net debt <sup>(10)</sup>                                        | 25,604/ 19,579 <sup>(9)</sup> | 16,275                     |
| Ratio of Net Debt to EBITDA <sup>(2)(11)(14)</sup>              | 3.60/ 3.61 <sup>(13)</sup>    | -                          |
| Ratio of Net Debt to EBITDA,<br>adjusted <sup>(2)(11)(12)</sup> | 3.14/ 3.14 <sup>(9)(13)</sup> | 2.73/ 2.71 <sup>(13)</sup> |

- (1) The Group's IFRS financial results for the years ended December 31, 2019 and 2018 include special items. In addition, the Group's IFRS financial results for the year ended December 31, 2019 include effects of the accounting standard IFRS 16 that became effective January 1, 2019 while the Group's IFRS financial results for the year ended December 31, 2018 do not. The relevant positions of the profit and loss statement were adjusted for these special items.

The tables below show the special items and the reconciliation of Sales, EBITDA, EBIT, net income and net income attributable to the shareholders of Fresenius SE & Co. KGaA on an adjusted basis to the corresponding historical amounts for the years ended December 31, 2019 and 2018. In addition, the table regarding the year ended December 31, 2019 shows the adjustment for the newly adopted standard IFRS 16. Sales, EBITDA, EBIT and Net Income figures for the year ended December 31, 2018 were not adjusted for the divestiture of Care Coordination activities at Fresenius Medical Care in 2018.

| € in millions                                                                        | Year ended<br>December<br>31, 2019,<br>adjusted | IFRS<br>16<br>effect | Year ended<br>December<br>31, 2019,<br>adjusted<br>for<br>special<br>items only | Transaction-<br>related<br>expenses<br>(NxStage at<br>FMC) | Transaction-<br>related<br>expenses<br>(Akorn) | Revaluation<br>of<br>Biosimilars<br>contingent<br>liabilities | Gain related<br>to<br>divestitures<br>of Care<br>Coordination<br>activities | Expenses<br>associated<br>with the cost<br>optimization<br>programme<br>at FMC | Year ended<br>December<br>31, 2019 |
|--------------------------------------------------------------------------------------|-------------------------------------------------|----------------------|---------------------------------------------------------------------------------|------------------------------------------------------------|------------------------------------------------|---------------------------------------------------------------|-----------------------------------------------------------------------------|--------------------------------------------------------------------------------|------------------------------------|
| Sales                                                                                | 35,524                                          | (115)                | 35,409                                                                          | 0                                                          | 0                                              | 0                                                             | 0                                                                           | 0                                                                              | 35,409                             |
| EBITDA                                                                               | 6,170                                           | 934                  | 7,104                                                                           | (24)                                                       | (3)                                            | 32                                                            | 29                                                                          | (55)                                                                           | 7,083                              |
| Depreciation<br>and<br>amortization                                                  | 1,571                                           | 845                  | 2,416                                                                           | 0                                                          | 0                                              | 0                                                             | 0                                                                           | 36                                                                             | 2,452                              |
| EBIT                                                                                 | 4,599                                           | 89                   | 4,688                                                                           | (24)                                                       | (3)                                            | 32                                                            | 29                                                                          | (91)                                                                           | 4,631                              |
| Net income                                                                           | 3,134                                           | (85)                 | 3,049                                                                           | (18)                                                       | (3)                                            | 19                                                            | 49                                                                          | (67)                                                                           | 3,029                              |
| Net income<br>attributable<br>to<br>shareholders<br>of Fresenius<br>SE & Co.<br>KGaA | 1,915                                           | (36)                 | 1,879                                                                           | (6)                                                        | (3)                                            | 19                                                            | 15                                                                          | (21)                                                                           | 1,883                              |

| € in millions                                                                                 | Year ended<br>December 31,<br>2018, adjusted | Transaction-<br>related effects<br>(Biosimilars and<br>Akorn) | Revaluation of<br>biosimilars<br>contingent<br>liabilities | Impact of<br>FCPA-<br>related<br>charge at<br>FMC | Gain related to<br>divestitures of Care<br>Coordination<br>activities at FMC | Year ended<br>December 31,<br>2018 |
|-----------------------------------------------------------------------------------------------|----------------------------------------------|---------------------------------------------------------------|------------------------------------------------------------|---------------------------------------------------|------------------------------------------------------------------------------|------------------------------------|
| <b>Sales*</b>                                                                                 | <b>33,530</b>                                | <b>0</b>                                                      | <b>0</b>                                                   | <b>0</b>                                          | <b>0</b>                                                                     | <b>33,530</b>                      |
| <b>EBITDA</b>                                                                                 | <b>6,055</b>                                 | <b>(35)</b>                                                   | <b>(7)</b>                                                 | <b>(77)</b>                                       | <b>809</b>                                                                   | <b>6,745<sup>(4)</sup></b>         |
| Depreciation and<br>amortization                                                              | (1,494)                                      | 0                                                             | 0                                                          | 0                                                 | 0                                                                            | (1,494) <sup>(4)</sup>             |
| <b>EBIT</b>                                                                                   | <b>4,561</b>                                 | <b>(35)</b>                                                   | <b>(7)</b>                                                 | <b>(77)</b>                                       | <b>809</b>                                                                   | <b>5,251</b>                       |
| <b>Net income</b>                                                                             | <b>3,111</b>                                 | <b>(37)</b>                                                   | <b>(5)</b>                                                 | <b>(28)</b>                                       | <b>673</b>                                                                   | <b>3,714</b>                       |
| <b>Net income<br/>attributable to<br/>shareholders of<br/>Fresenius SE &amp; Co.<br/>KGaA</b> | <b>1,871</b>                                 | <b>(37)</b>                                                   | <b>(5)</b>                                                 | <b>(9)</b>                                        | <b>207</b>                                                                   | <b>2,027</b>                       |

\*Unadjusted, no adjustments

- (2) EBITDA (earnings before interest, tax, depreciation and amortization expenses) means operating income plus depreciation and amortization and is derived from our operating income determined in accordance with IFRS. EBITDA is the basis for determining compliance with certain covenants contained in our Syndicated Credit Agreement or may be relevant in other major financing arrangements. We are presenting this figure on the basis that investors may find it helpful as a measure of our performance. EBITDA should not be considered to be an alternative to net earnings determined in accordance with IFRS or to cash flow from operations, investing activities or financing activities. In addition, not all funds depicted by EBITDA are available for management's discretionary use. For example, a substantial portion of such funds are subject to contractual restrictions and functional requirements for debt service, to fund necessary capital expenditures and to meet other commitments from time to time. EBITDA, as calculated, may not be comparable to similarly titled measures reported by other companies. EBITDA includes EBITDA of Fresenius Medical Care because we fully consolidate FMC AG & Co. KGaA.
- (3) Additionally adjusted for divestiture of Care Coordination activities at Fresenius Medical Care (Sales -€521 million, EBITDA -€23 million, EBIT -€14 million, Net income €4 million, Net income attributable to shareholders of Fresenius SE & Co. KGaA €1 million). Growth rates are based on this additionally adjusted figure.
- (4) As shown in the financial statements of the year ended December 31, 2019.
- (5) Excluding IFRS 16 effect of €749 million.
- (6) Excluding IFRS 16 effect of -€749 million.
- (7) Excluding IFRS 16 effect of €5,769 million.
- (8) Excluding IFRS 16 effect of -€256 million.
- (9) Net Debt excluding IFRS 16 effect of €6,025 million. The figure used for the calculation of Net Debt / EBITDA further excludes a reclassification to Net Debt according to IFRS 16 (€195 million) and amounts to €19,384 million. EBITDA excluding an IFRS 16 effect of €934 million.
- (10) Net debt includes short-term borrowings, short-term borrowings from related parties, long term debt (including current portion) and, since the adoption of IFRS 16, lease liabilities less cash and cash equivalents. As of December 31, 2019, net debt includes €11,425 million of external net debt of Fresenius SE & Co. KGaA and its wholly owned financing subsidiaries, €84 million external net debt of Fresenius Kabi, €951 million external net debt of Fresenius Helios, €371 million external net debt of Fresenius Vamed, and because we fully consolidate FMC AG & Co. KGaA, €12,774 million external net debt of Fresenius Medical Care. Net debt excluding IFRS 16 effect includes short-term borrowings, short-term borrowings from related parties, long term debt (including current portion) less cash and cash equivalents. Net debt excluding IFRS 16 effect is the basis for determining compliance with certain covenants contained in our Syndicated Credit Agreement or may be relevant in other major financing arrangements. Net debt excluding IFRS 16 effect is the basis for determining compliance with certain covenants contained in our Syndicated Credit Agreement or may be relevant in other major financing arrangements. As of December 31, 2019 net debt includes €11,494 million of external net debt of Fresenius SE & Co. KGaA and its wholly owned financing subsidiaries, €294 million net cash of Fresenius Kabi, €45 million external net debt of Fresenius Helios, €35 million net debt of Fresenius Vamed, and because we fully consolidate FMC AG & Co. KGaA, €8,300 million external net debt of Fresenius Medical Care.
- (11) In calculating our ratio of net debt to EBITDA, our EBITDA, adjusted for the financial years ended December 31, 2019 and December 31, 2018 have been further adjusted to reflect twelve months of EBITDA effect from acquisitions within such period.
- (12) EBITDA, adjusted for the year ended December 31, 2019 amounted to €6,176 million. EBITDA, adjusted for the year ended December 31, 2018 was further adjusted for divestitures made by Fresenius Medical Care and amounted to €5,968 million.
- (13) At annual average exchange rates for both net debt and EBITDA.
- (14) Net Debt and EBITDA including IFRS 16 but EBITDA excluding special items amounting to €7,110 million.

## Trend Information and Significant Changes

There has been no material adverse change in the prospects of the Company since December 31, 2019.

There has been no significant change in the financial performance of the Fresenius Group since December 31, 2019.

There has been no significant change in the financial position of the Fresenius Group since December 31, 2019.

## Borrowing and Funding

On January 15, 2020, the Company issued bonds under this Programme in an aggregate volume of €750 million due January 15, 2028. Other than that, there have been no material changes in the borrowing and funding structure of the Company since December 31, 2019.

## Legal and Arbitration Proceedings

Please refer to “*Business of the Fresenius Group – Legal Proceedings*”.

## Material Contracts

Please refer to “*Business of the Fresenius Group – Material Contracts*”.

## Rating

S&P Global Ratings Europe Limited (*Standard & Poor's*)<sup>1,2</sup> has assigned a solicited long-term credit rating of BBB<sup>3</sup> (outlook stable) to the Company.<sup>4</sup>

Moody's Deutschland GmbH<sup>2,5</sup> (*Moody's*) has assigned a solicited long-term credit rating of Baa3<sup>6</sup> (outlook stable) to the Company.<sup>4</sup>

Fitch Ratings Limited<sup>2,7</sup> (*Fitch*) has assigned a solicited long-term credit rating of BBB<sup>-8</sup> (outlook stable) to the Company.<sup>4</sup>

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<sup>1</sup> Standard & Poor's is established in the European Union and is registered under Regulation (EC) No 1060/2009 of the European Parliament and of the Council of September 16, 2009 on credit rating agencies, amended by Regulation (EC) No 513/2011 of the European Parliament and of the Council of May 11, 2011 and by Regulation (EC) No 462/2013 of the European Parliament and of the Council of May 21, 2013 (the *CRA Regulation*).

<sup>2</sup> The European Securities and Markets Authority publishes on its website (<http://www.esma.europa.eu/page/List-registered-and-certified-CRAs>) a list of credit rating agencies registered in accordance with the CRA Regulation. That list is updated within five working days following the adoption of a decision under Article 16, 17 or 20 CRA Regulation. The European Commission shall publish that updated list in the Official Journal of the European Union within 30 days following such update.

<sup>3</sup> According to Standard & Poor's: “An obligor rated 'BBB' has adequate capacity to meet its financial commitments. However, adverse economic conditions or changing circumstances are more likely to lead to a weakened capacity of the obligor to meet its financial commitments. Ratings from 'AA' to 'CCC' may be modified by the addition of a plus (+) or minus (-) sign to show relative standing within the major rating categories.”

<sup>4</sup> A credit rating assesses the creditworthiness of an entity and informs an investor therefore about the probability of the entity being able to redeem invested capital. It is not a recommendation to buy, sell or hold securities and may be revised or withdrawn by the rating agency at any time.

<sup>5</sup> Moody's Deutschland GmbH is established in the European Union and is registered under the CRA Regulation.

<sup>6</sup> According to Moody's: “Obligations rated Baa are subject to moderate credit risk. They are considered medium-grade and as such may possess speculative characteristics. Moody's appends numerical modifiers 1, 2, and 3 to the respective rating classification ... The modifier 3 indicates that the obligation ranks in the lower end of its generic rating category.”

<sup>7</sup> Fitch Ratings Limited is established in the United Kingdom and is registered under the CRA Regulation.

<sup>8</sup> According to Fitch: “‘BBB’ ratings indicate that expectations of default risk are currently low. The capacity for payment of financial commitments is considered adequate but adverse business or economic conditions are more likely to impair this capacity. The modifiers ‘+’ or ‘-’ may be appended to a rating to denote relative status within major rating categories.”



## **FRESENIUS FINANCE IRELAND PUBLIC LIMITED COMPANY**

### **ISSUER**

#### **General Information**

The legal and commercial name of the company is Fresenius Finance Ireland Public Limited Company.

Fresenius Ireland was incorporated as a public limited company under the laws of Ireland on November 18, 2016 and is governed by the laws of Ireland. The company has its registered office and business office at 3A Fingal Bay Business Park, Balbriggan, Co. Dublin, Ireland. Its phone number is +353 19 680 164. The duration of Fresenius Ireland is indefinite. Fresenius Ireland conducts its business under its legal name.

Fresenius Ireland is registered under the company number 593152 with the Companies Registration Office of Ireland.

The Legal Entity Identifier (LEI) of Fresenius Ireland is 549300GFSOR556BX2290.

#### **Corporate Purpose**

Pursuant to section 3 of its memorandum of association, the corporate purpose of Fresenius Ireland is:

- “(A) (i) To carry on the business of a finance company within the group of Fresenius SE & Co. KGaA together with its subsidiaries (the "Fresenius Group") including the raising and procurement of all kinds of finance for the Fresenius Group, whether on a secured or unsecured basis, in any currency and in any jurisdiction including by way of the issue of debt, including the creation and issue of listed or unlisted notes, bonds, euro bonds, debentures, debt instruments, bonds, promissory notes or other securities, and the borrowing of money to on-lend to other Fresenius Group companies.
- (ii) To negotiate borrowings and loans, and to borrow moneys on such terms and conditions as may be deemed appropriate and to loan moneys to the Fresenius Group, and to aid the Fresenius Group with capital, credit, means or resources for the prosecution of any works, undertakings, projects or enterprises.
- (iii) To identify, negotiate, enter into and manage short term investments in consultation with the Fresenius Group treasury function and in accordance with the Fresenius Group's financing strategy, including to acquire and hold either in the name of the Company or in that of any nominee, shares, stocks, gifts, debentures, debenture stock, bonds, notes, obligations, securities and financial instruments of any kind whatsoever issued or guaranteed by any company wherever incorporated or carrying on business, any government, sovereign ruler, province, region, commissioners, public utility body or authority, supreme, dependent, municipal, local or otherwise in any part of the world, and to exercise and enforce all rights and powers conferred by or incidental to the ownership of any such shares, stock, obligations or other securities.
- (iv) To engage in foreign currency and interest rate transactions in accordance with the Fresenius Group's financing strategy including but not limited to entering into foreign currency spot and forward rate exchange contracts, futures, options, forward rate agreements, swaps, caps, floors, collars and other foreign exchange and interest rate hedging arrangements and other instruments as are similar to, or derivatives of any of the foregoing and as such instruments may be developed from time to time.
- (v) As an object of the Company and as a pursuit in itself or otherwise, and whether for the purpose of making a profit or avoiding a loss or for any other purpose whatsoever, to engage in currency and interest rate transactions, credit default swaps, hedges or other transactions and any other financial or other transactions of whatever nature, including any transaction for the purpose of, or capable of being for the purposes of, avoiding, reducing, minimizing, hedging against or otherwise managing the risk of any loss, cost, expense or liability arising, or which may arise, directly or indirectly, from a change or changes in any interest rate or currency exchange rate or in the price or value of any property, asset, commodity, index or liability or the credit standing or any person or entity or from any other risk or factor affecting the company's undertaking and business, including but not limited to dealings, whether involving purchases, sales or otherwise in any credit-default contracts, currency, spot and forward exchange rate contracts, forward rate agreements caps, floors and collars, futures, options, swaps, and any other credit default currency interest rate and other hedging arrangements and such other instruments as are similar to, or derivatives of any of the foregoing.
- (vi) To guarantee, grant indemnities in respect of, support or secure, whether by personal covenant or by mortgaging or charging all or any part of the undertaking, property and assets (present and future) and

uncalled capital of the Company, or by both such methods, the performance of the contracts or obligations of and the repayment or payment of the principal amounts of and premiums, interest and dividends on any securities or indebtedness of any company in the Fresenius Group or otherwise associated with the Fresenius Group notwithstanding the fact that the Company may not receive any consideration, advantage or benefit, direct or indirect from entering into such guarantee or other arrangement or transaction contemplated herein.

- (vii) To hold funds for the purpose of engaging in the activities specified in (i), (ii), (iii), (iv), (v) and (vi) above.
  - (viii) To supply advice and to render services to enterprises and companies of the Fresenius Group and to third parties.
- (B) To engage in any type of activity in furtherance of any of the activities specified under (A) above.”

### **Principal Activities**

The principal activity of Fresenius Ireland is to act as finance company within the Fresenius Group, including the provision of loans to Fresenius SE & Co. KGaA and to companies of the Fresenius Group financed with capital contributions and funds acquired from the capital market, bank loans and loans from other companies of the Fresenius Group.

### **Organizational Structure and Major Shareholder**

Fresenius Ireland is a wholly-owned subsidiary of Fresenius Finance Holdings Limited, Balbriggan, Co. Dublin, Ireland, which in turn is a wholly-owned subsidiary of Fresenius SE & Co. KGaA, Bad Homburg vor der Höhe. Fresenius Ireland belongs to the Fresenius Group. For more information on the organizational structure of the Fresenius Group, please see "*Fresenius SE & Co. KGaA —Organizational structure*".

### **Share Capital**

As of the date of this Prospectus, Fresenius Ireland had an authorized capital of €1,000,000.00 divided into 1,000,000 ordinary shares of €1.00 each, 25,000 of which have been issued and fully paid up.

### **Capital Contributions**

On January 31, 2017 Fresenius Ireland received a sum of €469,688,579.06 by way of an unconditional capital contribution credited to Fresenius Ireland's reserves from its sole shareholder Fresenius Finance Holdings Limited. On February 8, 2017 Fresenius Ireland received a further sum of €275,000,000.00 by way of an unconditional capital contribution credited to Fresenius Ireland's reserves from its sole shareholder Fresenius Finance Holdings Limited.

An amount of €709,075,579.06 of the total proceeds of the capital contributions received was on-lent by Fresenius Ireland within the Fresenius Group as intercompany loans and used to fund the acquisition of Quirónsalud and for general corporate purposes. A balance of €35,613,000 of the total proceeds of the capital contributions received was made available for Fresenius Ireland to expend as the directors of Fresenius Ireland in their absolute discretion determine.

On July 2, 2018 Fresenius Ireland received a sum of €200,000,000.00 by way of an unconditional capital contribution credited to Fresenius Ireland's reserves from its sole shareholder Fresenius Finance Holdings Limited. The full amount of this contribution was on-lent by Fresenius Ireland within the Fresenius Group as an intercompany loan and used to fund the transfer of inpatient rehabilitation business from Fresenius Helios to Fresenius Vamed.

In 2019, Fresenius Ireland received a total of €140,000,000.00 by way of unconditional capital contributions credited to Fresenius Ireland's reserves from its sole shareholder Fresenius Finance Holdings Limited. The contributions were partly on-lent by Fresenius Ireland within the Fresenius Group as an intercompany loan and were used to fund acquisitions by Fresenius Helios. In addition, the contributions will partly be used, by way of intercompany loans, to fund future acquisitions by Fresenius Helios.

On March 12, 2020 Fresenius Ireland received a sum of €250,000,000.00 by way of an unconditional capital contribution credited to Fresenius Ireland's reserves from its sole shareholder Fresenius Finance Holdings Limited. The proceeds of the contribution were on-lent by Fresenius Ireland within the Fresenius Group by way of intercompany loans and used to fund an acquisition by Fresenius Helios.

These unconditional capital contributions do not constitute loans and accordingly there is no servicing burden on them and the sole shareholder has no right to seek their repayment. The capital contributions were not made in return for any share capital in Fresenius Ireland nor for any rights such as voting rights, a share in the profits, or share surplus assets of Fresenius Ireland on liquidation and the use to which their proceeds are put is a matter for the absolute discretion of the directors of Fresenius Ireland.

### **Administrative, Management and Supervisory Bodies**

Fresenius Ireland has four directors. Fresenius Ireland does not have a supervisory board. Fresenius Ireland is a privately held company and is therefore not subject to public corporate governance standards.

The directors of Fresenius Ireland are Sara Hennicken, Ulf Freytag, Alan McDermott and Oonagh Hayes (*company secretary*).

There are no potential conflicts between any duties to Fresenius Ireland of the members of the board of directors of Fresenius Ireland and their private interests and or other of their duties.

Sara Hennicken is also Senior Vice President Finance of Fresenius SE & Co. KGaA. Ulf Freytag is also Senior Vice President Corporate Tax of Fresenius SE & Co. KGaA. Alan McDermott is also an International Treasury Manager of Fresenius Ireland. Oonagh Hayes is also a director of Amesto Global (Ireland) Limited.

The directors can be contacted under the business address of Fresenius Ireland.

### **Financial Year, Auditor**

The financial year of Fresenius Ireland is the calendar year.

Fresenius Ireland has appointed KPMG Ireland, 1 Stokes Place, St Stephens Green, Dublin 2, Ireland, as independent auditor. KPMG Ireland is a member of and accredited by the Chartered Accountants Ireland (CAI).

### **Historical Financial Information**

The audited unconsolidated financial statements of Fresenius Ireland for the financial years ended December 31, 2019 and December 31, 2018, which were prepared on the basis of IFRS and the audit opinion (*Bestätigungsvermerk*) thereon, are incorporated by reference into this Prospectus.

### **Selected Financial Information**

The following selected financial information has been extracted from the audited unconsolidated financial statements in accordance with IFRS of Fresenius Ireland for the financial years ended December 31, 2019 and December 31, 2018.

|                                          | <b>Year ended<br/>December 31,</b> |             |
|------------------------------------------|------------------------------------|-------------|
|                                          | <b>2019</b>                        | <b>2018</b> |
|                                          | <b>(audited)</b>                   |             |
|                                          | <b>(€ in thousands)</b>            |             |
| Sales                                    | -                                  | -           |
| Total comprehensive income               | 48,075                             | 39,048      |
| Net cash flows from operating activities | 53,102                             | 99,505      |
| Net cash flows from investing activities | (77,588)                           | (592,248)   |
| Net cash from financing activities       | 24,486                             | 492,743     |

The net cash flows from investing activities for the period ended December 31, 2019 mainly consisted of loans advanced to HELIOS Finance Spain, S.L.U.

|              | <b>As of<br/>December 31,</b> |             |
|--------------|-------------------------------|-------------|
|              | <b>2019</b>                   | <b>2018</b> |
|              | <b>(audited)</b>              |             |
|              | <b>(€ in thousands)</b>       |             |
| Total Assets | 6,306,733                     | 6,228,329   |

|                                                                     | As of<br>December 31, |           |
|---------------------------------------------------------------------|-----------------------|-----------|
|                                                                     | 2019                  | 2018      |
|                                                                     | (audited)             |           |
| Equity                                                              | 1,206,147             | 1,018,072 |
| Net financial debt (long term debt plus short-term debt minus cash) | 5,057,821             | 5,167,461 |

### Outstanding Financings

On January 30, 2017, Fresenius Ireland issued the notes listed below under the Programme. As at the date of this Prospectus, no further bonds have been issued by Fresenius Ireland. The proceeds and other available funds were on-lent as intercompany loans and used to fund the acquisition of Quirónsalud and for general corporate purposes.

| Issuer            | Principal amount in million | Maturity         |
|-------------------|-----------------------------|------------------|
| Fresenius Ireland | €700                        | January 31, 2022 |
| Fresenius Ireland | €700                        | January 30, 2024 |
| Fresenius Ireland | €700                        | February 1, 2027 |
| Fresenius Ireland | €500                        | January 30, 2032 |

All outstanding notes issued by Fresenius Ireland are unsecured and guaranteed by Fresenius SE & Co. KGaA. The holders have the right to request that Fresenius Ireland repurchases the applicable issue of notes at 101% of principal amount plus accrued interest upon the occurrence of a change of control of Fresenius SE & Co. KGaA followed by a decline in the rating of Fresenius SE & Co. KGaA. Fresenius Ireland may redeem the notes at any time at a price of 100% of principal plus accrued interest and a premium calculated pursuant to the terms of the notes.

On August 22, 2017, Fresenius Ireland borrowed the term loans listed below under the Syndicated Credit Agreement. The proceeds were on-lent in full by way of intercompany loans and used for general corporate purposes. Fresenius Ireland is also a borrower under the Euro revolving credit facility which was fully undrawn at December 31, 2019.

The following table shows the available and outstanding amounts as of December 31, 2019:

|                                    | Maximum Amount Available as<br>of December 31, 2019<br>€ in millions | Balance Outstanding as<br>of December 31, 2019<br>€ in millions |
|------------------------------------|----------------------------------------------------------------------|-----------------------------------------------------------------|
| Revolving Credit Facility in euros | 1,100                                                                | 0                                                               |
| Term Loan A in euros 2017/2021     | 750                                                                  | 750                                                             |
| Term Loan A in euros 2017/2022     | 775                                                                  | 775                                                             |
| <b>Total</b>                       | <b>2,625</b>                                                         | <b>1,525</b>                                                    |

All outstanding term loans and facilities are guaranteed by Fresenius SE & Co. KGaA

For more information on the outstanding financings of the Fresenius Group, please refer to “*Business of the Fresenius Group – Material Contracts*”.

### Trend Information and Significant Changes

There has been no material adverse change in the prospects of Fresenius Ireland since December 31, 2019.

There has been no significant change in the financial performance of the Fresenius Group since December 31, 2019.

There has been no significant change in the financial position of the Fresenius Group since December 31, 2019.

### **Borrowing and Funding**

Throughout the period from January 1, 2020 until the date of this Prospectus, Fresenius Ireland continued to issue and redeem euro denominated short term debt under Fresenius's commercial paper program which allows for outstanding issuances up to a maximum of EUR 1 billion. The proceeds were on-lent as intercompany loans.

On March 12, 2020 Fresenius Ireland received an equity injection by way of capital contribution from Fresenius SE & Co. KGaA. The proceeds were on-lent as intercompany loans.

Other than as indicated above, there have been no material changes in the borrowing and funding structure of Fresenius Ireland since December 31, 2019.

### **Legal and Arbitration Proceedings**

Please refer to "*Business of the Fresenius Group – Legal Proceedings*".

### **Material Contracts**

Please refer to "*Business of the Fresenius Group – Material Contracts*".

### **Rating**

Fresenius Ireland has not been assigned any credit rating with its cooperation or at its request.

## **FRESENIUS FINANCE IRELAND II PUBLIC LIMITED COMPANY**

### **ISSUER**

#### **General Information**

The legal and commercial name of the company is Fresenius Finance Ireland II Public Limited Company.

Fresenius Ireland II was incorporated as a public limited company under the laws of Ireland on April 6, 2017 and is governed by the laws of Ireland. The company has its registered office and business office at 3A Fingal Bay Business Park, Balbriggan, Co. Dublin, Ireland. Its phone number is +353 19 680 164. The duration of Fresenius Ireland II is indefinite. Fresenius Ireland II conducts its business under its legal name.

Fresenius Ireland II is registered under the company number 601944 with the Companies Registration Office of Ireland.

The Legal Entity Identifier (LEI) of Fresenius Ireland II is 5299003EJP0V2ACKHG10.

#### **Corporate Purpose**

Pursuant to section 3 of its memorandum of association, the corporate purpose of Fresenius Ireland II is:

- “(A) (i) To carry on the business of a finance company within the group of Fresenius SE & Co. KGaA together with its subsidiaries (the "Fresenius Group") including the raising and procurement of all kinds of finance for the Fresenius Group, whether on a secured or unsecured basis, in any currency and in any jurisdiction including by way of the issue of debt, including the creation and issue of listed or unlisted notes, bonds, euro bonds, debentures, debt instruments, bonds, promissory notes or other securities, and the borrowing of money to on-lend to other Fresenius Group companies.
- (ii) To negotiate borrowings and loans, and to borrow moneys on such terms and conditions as may be deemed appropriate and to loan moneys to the Fresenius Group, and to aid the Fresenius Group with capital, credit, means or resources for the prosecution of any works, undertakings, projects or enterprises.
- (iii) To identify, negotiate, enter into and manage short term investments in consultation with the Fresenius Group treasury function and in accordance with the Fresenius Group's financing strategy, including to acquire and hold either in the name of the Company or in that of any nominee, shares, stocks, gifts, debentures, debenture stock, bonds, notes, obligations, securities and financial instruments of any kind whatsoever issued or guaranteed by any company wherever incorporated or carrying on business, any government, sovereign ruler, province, region, commissioners, public utility body or authority, supreme, dependent, municipal, local or otherwise in any part of the world, and to exercise and enforce all rights and powers conferred by or incidental to the ownership of any such shares, stock, obligations or other securities.
- (iv) To engage in foreign currency and interest rate transactions in accordance with the Fresenius Group's financing strategy including but not limited to entering into foreign currency spot and forward rate exchange contracts, futures, options, forward rate agreements, swaps, caps, floors, collars and other foreign exchange and interest rate hedging arrangements and other instruments as are similar to, or derivatives of any of the foregoing and as such instruments may be developed from time to time.
- (v) As an object of the Company and as a pursuit in itself or otherwise, and whether for the purpose of making a profit or avoiding a loss or for any other purpose whatsoever, to engage in currency and interest rate transactions, credit default swaps, hedges or other transactions and any other financial or other transactions of whatever nature, including any transaction for the purpose of, or capable of being for the purposes of, avoiding, reducing, minimizing, hedging against or otherwise managing the risk of any loss, cost, expense or liability arising, or which may arise, directly or indirectly, from a change or changes in any interest rate or currency exchange rate or in the price or value of any property, asset, commodity, index or liability or the credit standing or any person or entity or from any other risk or factor affecting the company's undertaking and business, including but not limited to dealings, whether involving purchases, sales or otherwise in any credit-default contracts, currency, spot and forward exchange rate contracts, forward rate agreements caps, floors and collars, futures, options, swaps, and any other credit default currency interest rate and other hedging arrangements and such other instruments as are similar to, or derivatives of any of the foregoing.

- (vi) To guarantee, grant indemnities in respect of, support or secure, whether by personal covenant or by mortgaging or charging all or any part of the undertaking, property and assets (present and future) and uncalled capital of the Company, or by both such methods, the performance of the contracts or obligations of and the repayment or payment of the principal amounts of and premiums, interest and dividends on any securities or indebtedness of any company in the Fresenius Group or otherwise associated with the Fresenius Group notwithstanding the fact that the Company may not receive any consideration, advantage or benefit, direct or indirect from entering into such guarantee or other arrangement or transaction contemplated herein.
- (vii) To hold funds for the purpose of engaging in the activities specified in (i), (ii), (iii), (iv), (v) and (vi) above.
- (viii) To supply advice and to render services to enterprises and companies of the Fresenius Group and to third parties.
- (B) To engage in any type of activity in furtherance of any of the activities specified under (A) above.”

### **Principal Activities**

The principal activity of Fresenius Ireland II is to act as finance company within the Fresenius Group, including the provision of loans to Fresenius SE & Co. KGaA and to companies of the Fresenius Group financed with capital contributions and funds acquired from the capital market, bank loans and loans from other companies of the Fresenius Group.

### **Organizational Structure and Major Shareholder**

Fresenius Ireland II is a wholly-owned subsidiary of Fresenius Finance Holdings Limited, Balbriggan, Co. Dublin, Ireland, which in turn is a wholly-owned subsidiary of Fresenius SE & Co. KGaA, Bad Homburg vor der Höhe. Fresenius Ireland II belongs to the Fresenius Group. For more information on the organizational structure of the Fresenius Group, please see "*Fresenius SE & Co. KGaA —Organizational structure*".

### **Share Capital**

As of the date of this Prospectus, Fresenius Ireland II had an authorized capital of \$1,000,000.00 divided into 1,000,000 ordinary shares of \$1.00 each, 27,000 of which have been issued and fully paid up.

### **Capital Contributions**

On July 3, 2017 Fresenius Ireland II received a sum of \$ 350,000,000.00 by way of an unconditional capital contribution credited to Fresenius Ireland II's reserves from its sole shareholder Fresenius Finance Holdings Limited. The full amount of this contribution was on-lent by Fresenius Ireland II within the Fresenius Group as an intercompany loan and used for general corporate purposes.

This unconditional capital contribution does not constitute a loan and accordingly there is no servicing burden on it and the sole shareholder has no right to seek their repayment. The capital contribution was not made in return for any share capital in Fresenius Ireland II nor for any rights such as voting rights, a share in the profits, or share surplus assets of Fresenius Ireland on liquidation and the use to which their proceeds are put is a matter for the absolute discretion of the directors of Fresenius Ireland.

### **Administrative, Management and Supervisory Bodies**

Fresenius Ireland II has four directors. Fresenius Ireland II does not have a supervisory board. Fresenius Ireland II is a privately held company and is therefore not subject to public corporate governance standards.

The directors of Fresenius Ireland II are Sara Hennicken, Ulf Freytag, Alan McDermott and Oonagh Hayes (*Company Secretary*).

There are no potential conflicts between any duties to Fresenius Ireland II of the members of the board of directors of Fresenius Ireland II and their private interests and or other of their duties.

Sara Hennicken is also Senior Vice President Finance of Fresenius SE & Co. KGaA. Ulf Freytag is also Senior Vice President Corporate Tax of Fresenius SE & Co. KGaA. Alan McDermott is also an International Treasury Manager of Fresenius Ireland II. Oonagh Hayes is also a director of Amesto Global (Ireland) Limited.

The directors can be contacted under the business address of Fresenius Ireland II.

### Financial Year, Auditor

The financial year of Fresenius Ireland II is the calendar year.

Fresenius Ireland II has appointed KPMG Ireland, 1 Stokes Place, St Stephens Green, Dublin 2, Ireland, as independent auditor. KPMG Ireland is a member of and accredited by the Chartered Accountants Ireland (CAI).

### Historical Financial Information

The audited unconsolidated financial statements of Fresenius Ireland II for the financial years ended December 31, 2019 and December 31, 2018, which were prepared on the basis of IFRS and the audit opinion (Bestätigungsvermerk) thereon, are incorporated by reference into this Prospectus.

### Selected Financial Information

The following selected financial information has been extracted from the audited unconsolidated financial statements in accordance with IFRS of Fresenius Ireland II for the financial years ended December 31, 2019 and 2018.

|                                          | Year ended<br>December 31,<br>2019 | Year ended<br>December 31,<br>2018 |
|------------------------------------------|------------------------------------|------------------------------------|
|                                          | (audited)<br>(\$ in thousands)     |                                    |
| Sales                                    | -                                  | -                                  |
| Total comprehensive income               | 15,191                             | 14,697                             |
| Net cash flows from operating activities | 14,111                             | 16,836                             |
| Net cash flows from investing activities | 45,884                             | 43,156                             |
| Net cash used in financing activities    | (60,000)                           | (60,000)                           |

The net cash flows from investing activities for the period ended December 31, 2019 mainly consisted of loan principal repayments received from Fresenius Kabi USA Inc.

|                                                                        | As of<br>December 31,<br>2019  | 2018    |
|------------------------------------------------------------------------|--------------------------------|---------|
|                                                                        | (audited)<br>(\$ in thousands) |         |
| Total Assets                                                           | 901,749                        | 947,708 |
| Equity                                                                 | 386,968                        | 371,777 |
| Net financial debt (long term debt plus short-term debt<br>minus cash) | 514,471                        | 574,125 |

### Outstanding Financings

On August 22, 2017, Fresenius Ireland II borrowed the term loan listed below under the Syndicated Credit Agreement. The proceeds were on-lent in full by way of an intercompany loan and used for general corporate purposes. Fresenius Ireland II is also a borrower under the U.S. dollar revolving credit facility which was fully undrawn at December 31, 2019.



The following table shows the available and outstanding amounts as of December 31, 2019:

|                                           | <b>Maximum Amount Available as<br/>of December 31, 2019<br/>€ in millions</b> | <b>Balance Outstanding as<br/>of December 31, 2019<br/>€ in millions</b> |
|-------------------------------------------|-------------------------------------------------------------------------------|--------------------------------------------------------------------------|
| Revolving Credit Facility in U.S. dollars | 446                                                                           | 0                                                                        |
| Term Loan A in U.S. dollars 2017/2022     | 458                                                                           | 458                                                                      |
| <b>Total</b>                              | <b>904</b>                                                                    | <b>458</b>                                                               |

All outstanding term loans and facilities are guaranteed by Fresenius SE & Co. KGaA.

For more information on the outstanding financings of the Fresenius Group, please refer to “*Business of the Fresenius Group – Material Contracts*”.

#### **Trend Information and Significant Changes**

There has been no material adverse change in the prospects of Fresenius Ireland II since December 31, 2019.

There has been no significant change in the financial performance of the Fresenius Group since December 31, 2019.

There has been no significant change in the financial position of the Fresenius Group since December 31, 2019.

#### **Borrowing and Funding**

There have been no material changes in the borrowing and funding structure of Fresenius Ireland II since December 31, 2019.

#### **Legal and Arbitration Proceedings**

Please refer to “*Business of the Fresenius Group – Legal Proceedings*”.

#### **Material Contracts**

Please refer to “*Business of the Fresenius Group – Material Contracts*”.

#### **Rating**

Fresenius Ireland II has not been assigned any credit rating with its cooperation or at its request.

## **BUSINESS OF THE FRESENIUS GROUP**

### **OVERVIEW**

The Fresenius Group is a global health care group providing products and services for dialysis, hospitals, and outpatient medical care. In addition, Fresenius focusses on hospital operations. It also manages projects and provides services for hospitals and other health care facilities. The health care sector is one of the world's largest industries. It is relatively insensitive to economic fluctuations compared to other sectors. Major trends affecting the health care sector are: rising medical needs deriving from aging population, the growing number of chronically ill and multimorbid patients, stronger demand for innovative products and therapies, advances in medical technology, the growing health consciousness, which increases the demand for health care services and facilities. In the emerging countries, drivers are: expanding availability and correspondingly greater demand for basic health care and increasing national incomes and hence higher spending on health care. At the same time, the cost of health care is rising and claiming an ever-increasing share of national income. Health care structures are being reviewed and cost-cutting potential identified in order to contain the steadily rising health care expenditures. However, such measures cannot compensate for the cost pressure. Market-based elements are increasingly being introduced into the health care system to create incentives for cost- and quality-conscious behavior. Overall treatment costs will be reduced through improved quality standards. In addition, ever-greater importance is being placed on disease prevention and innovative reimbursement models linked to treatment quality standards.

The Fresenius Group includes the following four business segments: Fresenius Medical Care, Fresenius Kabi, Fresenius Helios and Fresenius Vamed. All indication of competitive positions or our business segments or product segments in this section are based on our internal estimates (using publicly available data, where possible), unless otherwise indicated.

#### **Fresenius Medical Care**

Fresenius Medical Care is the world's largest provider of dialysis products and services for patients with chronic kidney failure according to publicly reported sales and number of patients treated.

#### **Fresenius Kabi**

Fresenius Kabi is a leading supplier of intravenously administered generic drugs (*IV drugs*), clinical nutrition, and infusion therapies for critically and chronically ill patients as well as medical devices and transfusion technology products. In addition, Fresenius Kabi develops biosimilars with a focus on oncology and autoimmune diseases.

#### **Fresenius Helios**

Fresenius Helios is Europe's leading private hospital operator according to publicly reported sales. The company comprises Helios Germany and Helios Spain (Quirónsalud). Helios Germany operates 86 hospitals, around 125 outpatient clinics, 8 prevention centers (as of December 31, 2019) and treats approximately 5.6 million patients annually.

Helios Spain operates 47 hospitals, 71 outpatient clinics and around 300 occupational risk prevention centers (as of December 31, 2019), and treats approximately 15.4 million patients annually.

#### **Fresenius Vamed**

Fresenius Vamed manages projects and provides services for hospitals and other health care facilities worldwide and is a leading post-acute care provider in central Europe. The portfolio ranges along the entire value chain: from project development, planning and turnkey construction, via maintenance and technical management, to total operational management.

## OUR BUSINESS

The Fresenius Group has a global presence in more than 100 countries and has an international sales network and maintains more than 90 production sites worldwide. In the year ended December 31, 2019, the Fresenius Group generated sales of €35,409 million (2018: €33,530 million) and an EBIT of €4,599 million (2018: €4,547 million)<sup>9</sup>. In the year ended December 31, 2019, EBITDA of the Fresenius Group was €6,170 million (2018: €6,032 million)<sup>10</sup>. The Fresenius Group and all business segments had a sustainable organic sales growth in the past even in a volatile economic environment. Fresenius Medical Care is fully consolidated into the financial statements of the Fresenius Group.

### Fresenius Medical Care

Fresenius Medical Care is the world's largest dialysis company, based on publicly reported revenue and number of patients treated. It provides dialysis care and related services to patients with end-stage renal disease (*ESRD*), as well as other health care services. Fresenius Medical Care develops, manufactures and distributes a wide variety of health care products, which include dialysis and non-dialysis products. Fresenius Medical Care's dialysis products include hemodialysis machines, peritoneal cyclers, dialyzers, peritoneal solutions, hemodialysis concentrates, solutions and granulates, bloodlines, renal pharmaceuticals and systems for water treatment. Fresenius Medical Care's non-dialysis products include acute cardiopulmonary and apheresis products. Fresenius Medical Care supplies dialysis clinics it owns, operates or manages with a broad range of products and also sells dialysis products to other dialysis service providers. Fresenius Medical Care describes certain of its other health care services as "Care Coordination".

Care Coordination currently includes, but is not limited to, value and risk-based arrangements, pharmacy services, vascular, cardiovascular and endovascular specialty services as well as ambulatory surgery center services, physician nephrology and cardiology services, urgent care services and ambulant treatment services. Until June 28, 2018, Care Coordination also included the coordinated delivery of emergency, intensivist and hospitalist physician services as well as transitional care. All of these Care Coordination services together with dialysis care and related services represent the Fresenius Medical Care's health care services.

Fresenius Medical Care is the world's leading provider of dialysis services with a market share of about 10% based on the number of treated patients. As of December 31, 2019, Fresenius Medical Care provided dialysis treatment to 345,096 patients (333,331 patients as of December 31, 2018) in 3,994 dialysis clinics (3,928 as of December 31, 2018) worldwide, located in approximately 50 countries. In 2019, it provided 52,148,107 dialysis treatments (50,027,579 dialysis treatment in 2018).

Sales of Fresenius Medical Care increased by 6% (2% in constant currency) to €17,477 million in 2019 (2018: €16,547 million), of which 69% were derived in North America, 16% in Europe/Middle East/Africa, 11% in Asia Pacific and 4% in Latin America. Fresenius Medical Care's sales represented 49% of our consolidated Group sales in 2019 (2018: 49%). In the year ended December 31, 2019, EBITDA of Fresenius Medical Care was €3,933 million (2018: €3,041 million). Although Fresenius Medical Care is fully consolidated in our financial statements, the Company owned approximately 31.64% of the subscribed capital of Fresenius Medical Care at December 31, 2019, excluding treasury shares, and we receive cash flows from it only to the extent that dividends are paid to us and from existing agreements such as rental and service agreements.

The number of dialysis patients worldwide increased by 6% in 2019 (by 6% in 2018).

### Dialysis Services

Fresenius Medical Care provides dialysis treatment and related laboratory and diagnostic services through its global network of outpatient dialysis clinics. At its clinics, Fresenius Medical Care provides hemodialysis treatments at individual stations through the use of dialysis machines and disposable products.

As part of the dialysis therapy, Fresenius Medical Care provides a variety of services to ESRD patients at its dialysis clinics in the United States. These services include administering erythropoietin stimulating agents (*ESAs*), which are synthetic engineered hormones that stimulate the production of red blood cells to treat anemia, a medical complication that ESRD patients frequently experience. Fresenius Medical Care administers ESAs to most of its

<sup>9</sup> For further information on adjustments to EBIT for the financial years ended 31 December 2019 and 2018, please see "Selected Financial Information", in particular footnotes (1), (2) and (3) thereto, on pages 44 et seqq. of this Prospectus.

<sup>10</sup> For further information on adjustments to EBITDA for the financial years ended 31 December 2019 and 2018, please see "Selected Financial Information", in particular footnotes (1), (2) and (3) thereto, on pages 44 et seqq. of this Prospectus.

patients in the United States. ESAs have historically constituted a material portion of Fresenius Medical Care's overall costs of treating its ESRD patients.

Fresenius Medical Care's clinics also offer services for home dialysis patients, the majority of whom receive peritoneal dialysis treatment. For these patients, Fresenius Medical Care provides materials, training and patient support services, including clinical monitoring, follow-up assistance and arranging for delivery of supplies to the patient's residence. With the acquisition of NxStage Medical, Inc (*NxStage*) in 2019, Fresenius Medical Care strengthened its vertically integrated dialysis business, improving quality of care and clinical outcomes for dialysis patients. NxStage develops, produces, and markets medical devices for use in home uses as well as in the critical care setting.

Fresenius Medical Care also provides dialysis services under contract to hospitals in the United States on an "as needed" basis for hospitalized ESRD patients and for patients suffering from acute kidney failure. Fresenius Medical Care provides services to these patients either at their bedside, using portable dialysis equipment, or at the hospital's dialysis site. Contracts with hospitals provide for payment at negotiated rates that are generally higher than the Medicare reimbursement rates for chronic in-clinic outpatient treatments.

### ***Dialysis Products***

Based on internal estimates, publicly available market data and Fresenius Medical Care's data of significant competitors, Fresenius Medical Care is the world's largest manufacturer and distributor of equipment and related products for hemodialysis and the second largest manufacturer and distributor of peritoneal dialysis products, measured by publicly reported revenues. Fresenius Medical Care supplies dialysis products to its dialysis clinics and also sells its dialysis products directly and through distributors in around 150 countries. Most of its customers are dialysis clinics. Fresenius Medical Care produces and distributes a wide range of machines and disposables for HD, PD and acute dialysis.

### ***Hemodialysis Products***

Fresenius Medical Care's advanced line of hemodialysis machines includes four series. Fresenius Medical Care developed the 4008 and 5008 Series for its markets outside of North America and the 2008 Series for the North American market. In 2016, Fresenius Medical Care introduced the series 6008 with the launch of the 6008 CAREsystem. In January 2019, Fresenius Medical Care launched the 4008A dialysis machine, specifically designed for emerging markets, in various countries, including China.

### ***Dialyzers***

Dialyzers are specialized filters that remove waste products, toxins and excess water from the blood during dialysis. Fresenius Medical Care estimates that it is the leading worldwide producer of polysulfone dialyzers. Fresenius Medical Care manufactures several series including Hemoflow™, FX class® and its Optiflux® series, the leading dialyzer brand in the U.S.

### ***Peritoneal Dialysis Products***

Fresenius Medical Care offers a full line of peritoneal dialysis systems and solutions for both CAPD and APD treatments.

CAPD Therapy: The stay•safe® system has been specifically designed to help patients with their daily self-care CAPD treatment in a safe and convenient way.

APD Therapy: The effectiveness of APD therapy depends on the solution dwell time in the abdomen, the composition of the solution used, the volume of solution and the duration of the treatment, usually 8 – 10 hours. APD using Fresenius Medical Care's product line, which includes its *sleep•safe* cyclers, *sleep•safe harmony* cycler and Liberty® cycler, offers a number of benefits to PD patients.

### ***Other Dialysis Products***

Fresenius Medical Care manufactures and/or distributes arterial, venous, single needle and pediatric bloodlines. It produces both liquid and dry dialysate concentrates. Fresenius Medical Care also produces dialysis solutions in bags, including solutions for priming and rinsing hemodialysis bloodlines, as well as connection systems for central concentrate supplies and devices for mixing dialysis solutions and supplying them to hemodialysis machines. Other products include solutions for disinfecting and decalcifying hemodialysis machines, fistula needles, hemodialysis catheters, and products for acute renal treatment.

### ***Non-Dialysis Products***

**Therapeutic apheresis.** Within the portfolio of therapeutic apheresis products, Fresenius Medical Care offers extracorporeal therapy options for patients who cannot be sufficiently treated through conventional pharmaceutical regimens. This therapy uses selective absorbers and filters for the cleaning of blood or plasma compartments.

**Liver support therapy.** With Prometheus®, Fresenius Medical Care offers a combinational system of dialysis modality and plasma apheresis to clean the blood from soluble and non-soluble toxins arising in the context of acute liver failure.

**Extracorporeal lung and heart assist therapies.** In December 2016, Fresenius Medical Care acquired Xenios, a company which focuses on research and innovation of products and therapies for the indicators of acute respiratory distress syndrome, chronic obstructive pulmonary disease and cardiogenic shock. The products and therapies using extracorporeal gas exchange allow the lung time to rest and to heal. This is accomplished through the interventional lung assist, which provides a range of support from partial CO2 removal to full oxygenation and supports, prevents or replaces the need for mechanical ventilation.

### ***Renal Pharmaceuticals***

Fresenius Medical Care continues to develop, acquire and in-license renal pharmaceuticals to improve dialysis treatment for its patients. Below are the primary renal pharmaceuticals Fresenius Medical Care has developed or for which it has obtained licenses for use.

#### ***PhosLo®***

In November 2006, Fresenius Medical Care acquired PhosLo®, a calcium-based phosphate binder. It has received approval of PhosLo® in selected European countries. In October 2008, a competitive generic phosphate binder was introduced in the U.S. market, which reduced Fresenius Medical Care PhosLo® sales in 2009. In October 2009, Fresenius Medical Care launched an authorized generic version of PhosLo® to compete in the generic calcium acetate market. In April 2011, the U.S. Food and Drug Administration (**FDA**) approved Fresenius Medical Care's New Drug Application (NDA) for Phoslyra®, a liquid formulation of PhosLo®, and it continues to commercialize the authorized generic version of calcium acetate as well as Phoslyra® in the U.S. market.

#### ***Venofer® and Ferinject®***

In 2008, Fresenius Medical Care entered into two separate and independent license and distribution agreements, one for certain countries in Europe and the Middle East (with Vifor (International) Ltd. (a subsidiary of Swiss-based Pharma Ltd)) and one for the U.S. (with American Regent, Inc. (formerly Luitpold Pharmaceuticals Inc.)), to market and distribute intravenous iron products, such as Venofer® (iron sucrose) and Ferinject® (ferric carboxymaltose) (outside of the U.S.). Both drugs are used to treat iron deficiency anemia experienced by non-dialysis CKD (chronic kidney disease) patients as well as dialysis patients. Venofer® is the leading intravenous iron product worldwide. The first agreement concerns all commercialization activities for these intravenous iron products in the field of dialysis and became effective on January 1, 2009. In North America, a separate license agreement effective November 1, 2008 provides Fresenius Medical Care's subsidiary Fresenius USA Manufacturing Inc. (**FUSA**) with exclusive rights to manufacture and distribute Venofer® to freestanding (non-hospital based) U.S. dialysis facilities and, in addition, grants FUSA similar rights for certain new formulations of the drug. The U.S. license agreement has a term of ten years and includes FUSA extension options. The North American agreement with American Regent was renegotiated in 2018 and the new agreement is effective through December 2023. The international agreement which had a term of 20 years was terminated in 2010 as a consequence of the establishment of VFMCRRP.

In December 2010, Fresenius Medical Care announced the expansion of its agreements with Vifor Pharma by forming a new renal pharmaceutical company, Vifor Fresenius Medical Care Renal Pharma, (**VFMCRRP**), with the intention to develop and distribute products to treat iron deficiency anemia and bone mineral metabolism for pre-dialysis and dialysis patients. Fresenius Medical Care owns 45% of the company, which is headquartered in Switzerland. Vifor Pharma contributed licenses (or the commercial benefit in the U.S.) to its Venofer® and Ferinject® products for use in the dialysis and pre-dialysis market (CKD stages III to V). Vifor Pharma and its existing key affiliates or partners retain the responsibility for commercialization of both products outside the renal field.

#### ***Velphoro®***

As part of the agreement to create VFMCRRP, Vifor Pharma also contributed to the new company the asset (excluding Japan) Velphoro®, a novel iron-based phosphate binder. Fresenius Medical Care North America (**FMCNA**) markets the product on behalf of VFMCRRP in the U.S. The product for the U.S. market is supplied by an FDA-approved

Vifor Pharma manufacturing facility in Switzerland and an FDA-approved contract manufacturer also located in Switzerland. Velphoro® has been approved and commercially launched in 27 countries worldwide and the VFMCRP partner Kissei also received approval from the Ministry of Health, Labour and Welfare in Japan during 2015 for the product which is marketed in Japan under the brand name P-TOL.

#### *OsvaRen® and Phosphosorb®*

In June 2015, Fresenius Medical Care further developed its joint company, VFMCRP, with Vifor Pharma. In addition to the iron replacement products Ferinject® and Venofer® for use in nephrology indications as well as the phosphate binder Velphoro® in Fresenius Medical Care's shared product portfolio, VFMCRP acquired nephrology medicines commercialized by Fresenius Medical Care, including the phosphate binders OsvaRen® and Phosphosorb®.

### **Care Coordination**

#### *Care Coordination activities within the United States*

Care Coordination activities within the United States include (or, where described below, included until the specified dates), but are not limited to, the following services:

#### *Pharmacy Services*

Fresenius Medical Care offers pharmacy services, mainly in the U.S. These services include providing renal medications and supplies to the homes of patients or to their dialysis clinic directly from renal pharmacists.

#### *Vascular, cardiovascular and endovascular specialty services as well as ambulatory surgery center services*

Fresenius Medical Care operates vascular access centers mainly in the U.S. as well as develops, owns, and manages specialty outpatient surgery centers for vascular care. A patient receiving hemodialysis must have a vascular access site to enable blood to flow to a dialysis machine for cleansing and to return the newly cleaned blood to the body. Fresenius Medical Care's centers create and coordinate the maintenance of these vascular access sites, helping to ensure maturation before use and good flow of blood. Additionally, Fresenius Medical Care's vascular access services provides both cardiovascular and endovascular specialty services. Cardiovascular procedures are similar to the setting of care and scope of services for vascular access procedures with a focus on treatment for heart disease, while endovascular surgical procedures are minimally invasive and designed to access many regions of the body via major and peripheral blood vessels and assist in both the maintenance of hemodialysis accesses and treatment of peripheral artery disease.

#### *Hospitalist, emergency and intensivist services (divested)*

Fresenius Medical Care held a controlling interest in Sound Inpatient Physicians Holding, LLC, where it employed physicians providing care in hospitals and post-acute care centers. On June 28, 2018, Fresenius Medical Care announced the closing of the divestiture of Sound Inpatient Physicians Holding, LLC to an investment consortium led by Summit Partners.

*Value and risk-based services* Fresenius Medical Care continues to expand its activities in value-based health care contracting. Value based contracting includes shared savings arrangements in which private payors or government programs share the savings from reductions in the overall medical spend of a population under management assuming that certain quality thresholds are also met. Such contracting also includes capitated arrangements in which private payors or government programs pay Fresenius Medical Care a fixed amount per member under management to fund beneficiary medical expenses. Since capitation arrangements often can be recognized as premium revenue and the full medical premium for ESRD beneficiaries generally is very large, capitation programs can drive significant revenue and, when costs are effectively managed, profit opportunities.

#### *Urgent care services*

Fresenius Medical Care operates walk-in clinics focusing on the delivery of ambulatory care in a dedicated medical facility outside of a traditional emergency room. Urgent care centers serve patients with a variety of injuries and illnesses requiring immediate care, but not serious enough to require an emergency room visit. In addition to injury and illnesses treatment, its urgent care centers also provide physicals, occupational medicine services, pre-operative exams and vaccinations. In 2019, Fresenius Medical Care divested the MedSpring Urgent Care Centers in Texas.

#### *Physician nephrology and cardiology services*

Fresenius Medical Care manages and operates nephrology and cardiology physician practices in the United States.

## *Care Coordination activities outside the United States*

### *Ambulant treatment services*

In 2017, Fresenius Medical Care acquired a majority stake in Cura, a leading operator of day hospitals in Australia. Additionally, Fresenius Medical Care has care coordination activities in other parts of Asia. These services in Asia-Pacific include ambulant treatment services in day care hospitals where Fresenius Medical Care provides treatment infrastructure, comprehensive and specialized health check-ups, inpatient and outpatient services, vascular access and other chronic treatment services.

### **Markets**

To obtain and manage information on the status and development of global, regional and national markets Fresenius Medical Care has developed the Market & Competitor Survey (**MCS**). It uses the MCS within the company as a tool to collect, analyze and communicate current and essential information on the dialysis market, developing trends, its market position, and those of Fresenius Medical Care's competitors. Country-by-country surveys are performed at the end of each calendar year which focus on the total number of patients treated for ESRD, the treatment modality selected, products used, treatment location and the structure of ESRD patient care providers. All information received is consolidated at a global and regional level and analyzed and reported together with publicly available information published by Fresenius Medical Care's competitors. While Fresenius Medical Care believes the information contained in its surveys and competitor publications to be reliable, the company has not independently verified the data or any assumptions from which the MCS is derived or on which the estimates they contain are based. Except as otherwise specified herein, all patient and market data in this section have been derived using the MCS.

Fresenius Medical Care estimates that the volume of the global dialysis market (products and services) was €80 billion in 2019 comprising approximately €14 billion of dialysis products and approximately €66 billion of dialysis services (including renal pharmaceuticals). In constant currency, the global dialysis market grew by about 4% in the year 2019.

Fresenius Medical Care is one of the world's leading providers of dialysis services with a market share of about 10% based on the number of all treated patients worldwide in 2019. Fresenius Medical Care is also the market leader in dialysis products with a 36% worldwide dialysis product market share.

### **Fresenius Kabi**

Fresenius Kabi specializes in the therapy and care of chronically and critically ill patients. Representing approximately 20% of the Group's consolidated sales in 2019, Fresenius Kabi has four product segments: IV drugs (intravenously administered generic drugs), clinical nutrition, infusion therapy, and medical devices/transfusion technology. In addition, Fresenius Kabi develops biosimilars with a focus on oncology and autoimmune diseases. Fresenius Kabi's products cover the full range of patient care: emergency cases, surgery, intensive care, hospital wards, and outpatient care.

Fresenius Kabi increased sales by 6% to €6,919 million in 2019 (2018: €6,544 million), of which 33% were derived in Europe, 35% in North America, 22% in Asia Pacific and 10% in Latin America/ Africa. Currency translation effects increased sales by 2%. This resulted mainly from the appreciation of the U. S. dollar, against the euro. In the year ended December 31, 2019, EBITDA of Fresenius Kabi was €1,573 million (2018: €1,434 million).

### **IV Drugs**

Fresenius Kabi is one of the leading global suppliers of generic IV drugs. It has a comprehensive product portfolio for the therapy areas of anesthesia, pain-therapy (*analgesics*), infectious diseases, oncology, and critical illness. The portfolio is geared towards the treatment of and care for chronically and critically ill patients. Fresenius Kabi not only manufactures the drugs, but also produces some of the active pharmaceutical ingredients (**API**), and thus covers the entire pharmaceutical value chain – a factor of particular relevance to quality and cost competitiveness.

In the generic IV drugs segment, Fresenius Kabi has expanded its product portfolio to additional regional markets. In 2019, there were more than 85 new product launches of IV drugs worldwide.

Fresenius Kabi received marketing authorization from the European Commission in April 2019 for Idacio, an Adalimumab biosimilar, for all indications of the reference medicine and subsequently launched its first biosimilar in Europe. Fresenius Kabi also submitted Idacio for marketing authorization in several countries outside of Europe. In

addition, Fresenius Kabi has enabled the attending physicians and their patients to receive access to KabiCare, a program designed to train and support physicians and patients with information material on biosimilars, autoimmune diseases, and treatment with Idacio.

In addition, the clinical development of MSB 11455, a biosimilar candidate of Pegfilgrastim, has already been finalized and the preparation of the submission for marketing authorization is underway. Pegfilgrastim stimulates the formation of white blood cells (leukocytes) in certain cancer treatments. MSB 11456, a biosimilar candidate of Tocilizumab, which is used in chronic inflammatory diseases such as rheumatoid arthritis, is in the clinical phase of development.

### ***Clinical Nutrition***

Fresenius Kabi is a leading provider of clinical nutrition products as well as related medical-technical products and disposables for administering these products. Clinical nutrition provides care for patients who cannot nourish themselves normally or sufficiently. There are two types of clinical nutrition therapy: parenteral nutrition and enteral nutrition. Parenteral nutrition is administered intravenously when the intestinal function is impaired. Enteral nutrition is administered in the form of sip and tube feeds using the gastro-intestinal tract. Fresenius Kabi is one of the few companies worldwide to offer both forms of clinical nutrition.

#### ***Parenteral Nutrition***

Parenteral nutrition is administered to patients intravenously. Fresenius Kabi has a comprehensive range of products, such as: amino acid solutions, including formulations for pediatric use, standard adult use, dedicated amino acids for patients with specific diseases such as renal insufficiency or hepatic insufficiency (liver disease), and specific amino acids for intensive care; diverse lipid emulsions; glucose products; water and fat soluble vitamins and trace elements; and medical-technical products and disposables for administering parenteral nutrition.

Fresenius Kabi further expanded the market presence of its products for parenteral nutrition. Its three-chamber bags make Fresenius Kabi one of the leading suppliers in the product segment of multi-chamber bags for parenteral nutrition. In 2019, Fresenius Kabi launched its new product SmofKabivien Low Osmo Peripheral, for example, a three-chamber bag that provides patients with a time-efficient energy delivery.

#### ***Enteral Nutrition***

Enteral nutrition products are given as sip or tube feeds using the gastro-intestinal tract. Fresenius Kabi's enteral products that are taken orally (oral nutritional supplements) are available in a variety of flavors and textures.

Fresenius Kabi's enteral nutrition products include a range of standard tube and sip feeds with different energy and protein levels with and without fibers for patients with or at risk of malnutrition and other nutrition deficiencies; enteral products for intensive care patients to address increased requirements of certain key nutrients such as glutamine and antioxidants; pediatric enteral nutrition products; disease-specific products for treatment of patients with, for example, renal insufficiency, hepatic insufficiency, diabetes, burns, dysphagia and cancer; and medical-technical products and disposables for administering enteral nutrition.

In the area of enteral nutrition, Fresenius Kabi also achieved growth, particularly in the Asia-Pacific and Latin America regions. In 2019, Fresenius Kabi moved ahead with the internationalization of its product portfolio and launched its Fresubin sip and tube feed products in South Korea and Australia.

### ***Infusion Therapy***

Fresenius Kabi's infusion therapy business offers products for fluid substitution, blood volume replacement and treatment of electrolyte deficiencies. For the administration of these therapies, Fresenius Kabi provides both, the infusion technologies and disposables.

Fresenius Kabi provides a wide range of infusion therapy products, including the following: basic infusion solutions which consist primarily of salts (electrolytes), carbohydrates and water. They are infused when the body water content or electrolyte balance is impaired, as well as in acute need of energy supply and a lack of salt or specific minerals. They also serve as carrier solutions for intravenously administered drugs. In addition, Fresenius Kabi offers a comprehensive range of products in infusion bags and bottles, such as freeflex PVC-free infusion bags and KabiPac plastic bottles.



Furthermore, Fresenius Kabi manufactures blood volume substitution solutions that include hydroxyethyl starch derived from waxy maize. Artificial blood volume replacement products (colloids) are often used to treat patients suffering from acute blood losses, e.g. resulting from an accident or during surgery.

Fresenius Kabi also provides medical-technical equipment and disposables, such as cannulas, tubes and pumps for administering infusion solutions.

### ***Medical Devices/Transfusion Technology***

Medical devices are used for the administration of pharmaceuticals and include infusion and nutrition pumps, infusion management systems, anesthesia monitoring, as well as disposables, including infusion sets, extension lines, enteral nutrition tubes and monitoring electrodes. A specific range of these products is designed for pediatric use.

Within transfusion medicine and cell therapies, Fresenius Kabi offers products for the collection of blood components and extracorporeal therapies.

In the medical devices product segment, Fresenius Kabi launched its ProNeo product portfolio in Europe in 2019. The ProNeo portfolio includes a comprehensive range of transnasal feeding tubes and accessories that meet the specific requirements of enteral nutrition application in neonatal and pediatric wards.

In the transfusion technology product segment, Fresenius Kabi has begun to introduce the Amicus Blue cell separator in Europe, which can also be used for extracorporeal photopheresis.

### ***Production Facilities***

Fresenius Kabi operates an international production network with its most important production sites in Germany, Austria, Sweden, the United States, China and India. In addition, Fresenius Kabi has production sites in other European countries, South and Central America, Asia and South Africa.

### ***Market***

The global market for generic IV drugs, biopharmaceuticals, clinical nutrition, infusion therapy, and medical devices / transfusion technology was worth about €97 billion in 2019 (Market data based on company research and refers to Fresenius Kabi's addressable markets. This is subject to annual volatility due to currency fluctuations and patent expiries of original drugs in the IV drug market, among other things.)

The global market for generic IV drugs was worth about €38 billion in 2019 (Market definition adjusted: among other items, sales volume of non-patented branded drugs is included). Fresenius Kabi was able to enter additional market segments of the global addressable market due to targeted investments and the expansion of its product portfolio, among others, in the area of complex formulations, liposomal solutions, and prefilled syringes.

The market for IV drugs in 2019 grew by 2% worldwide and by 3% in the European market. Growth is mainly achieved through products that are brought to market when the original drug goes off-patent, as well as through original off-patent products that are offered at steady prices due to a unique selling proposition. Additionally, market growth is based on price increases for single molecules by individual competitors.

The biopharmaceutical market segment is one of the fastest-growing segments in the health care business. The relevant market for the targeted biopharmaceuticals, all in the therapeutic areas of oncology and autoimmune diseases, was worth about €37 billion in 2019.

In 2019, the global market for clinical nutrition was worth about €9 billion. In Europe, the market grew by about 4%. In Latin America the clinical nutrition market saw growth of up to 10%. In Asia-Pacific, the market for enteral nutrition grew by about 10%. In the area of parenteral nutrition, Fresenius Kabi's important market for three-chamber bags grew by 10% in Asia-Pacific. In Africa, these two segments also showed positive growth. There is growth potential in clinical nutrition worldwide, because nutrition therapies are often not yet sufficiently used in patient care, although studies have proven their medical and economic benefits. In cases of health- or age-induced nutritional deficiencies, for example, the administration of clinical nutrition can reduce hospital costs through shorter stays and less nursing care.

In 2019, Fresenius Kabi considers its global market for infusion therapy to have been worth about €6 billion. In Europe, the market for infusion therapies grew by around 1%, with growth in Latin America, Africa, and Asia-Pacific of up to 5% in individual regions. After the strong growth in 2018 due to the recovery of the previous supply shortages, the U. S. market showed a slight decline in 2019. Infusion therapies (e.g. electrolytes) are part of the

medical standard in hospitals worldwide. Market growth is mainly driven by increasing product demand in emerging markets. We estimate that the global market for medical devices / transfusion technology to have been worth more than €7 billion in 2019, including approximately €4 billion for medical devices and about €3 billion for transfusion technology. The market grew by approximately 4% in 2019. In the medical devices market, the main growth drivers are IT-based solutions that focus on application safety and therapy efficiency. In the transfusion technology market, the areas of plasma collection, therapeutic apheresis, and cell therapy are experiencing positive growth. The decline in the demand for blood bags triggered by new treatment methods in Europe and the United States in recent years is coming to an end.

### **Fresenius Helios**

Fresenius Helios is Europe's leading private hospital operator in terms of sales. The company comprises Helios Germany and Helios Spain (Quirónsalud).

Helios Germany has 86 acute care hospitals, including seven maximum care clinics. It provides expertise in all areas and at all levels of clinical care. As of December 31, 2019, Helios Germany has approximately 28,380 beds and treats approximately 5.6 million patients (thereof approximately 4.4 million outpatients and 1.2 million inpatients) annually. As of July 1, 2018, Fresenius Helios transferred its German in-patient post-acute care business to Fresenius Vamed.

Quirónsalud offers the full spectrum of inpatient and outpatient care in 47 hospitals, 71 outpatient clinics and approximately 300 occupational risk prevention (**ORP**) centers (as of December 31, 2019). Quirónsalud has approximately 7,280 beds and treats approximately 15.4 million patients (thereof approximately 14.6 million outpatients and 0.8 million inpatients) annually in its hospitals in Spain. In addition, the company is active in Latin America with 4 hospitals and as a provider of medical diagnostics.

Fresenius Helios's business model is based on both organic and inorganic growth. Organic growth is achieved through increases in inpatient admissions and price. In Germany, the so called DRG inflator is the main driver for the price increase for hospital services. In Spain, price increases for private hospitals are individually negotiated with health insurance companies, and for privately operated hospitals in the public system (public-private partnerships or **PPPs**) they are typically linked to an inflation index. Further organic growth potential arises from the opportunity for private hospital operators to expand their networks by building new hospitals, particularly in Spain, and from developing new patient care models, particularly in Germany. To counter an assumed decline in admissions, inter alia due to a trend towards outpatient treatments, Helios Germany is expanding outpatient services offerings in a separate division.

In addition, potential for inorganic growth arises from consolidation potential, especially in the highly fragmented Spanish market and in Latin America, as well as from an intermittent selective consolidation in the German hospital market, in which the company has selectively participated.

In 2019, Fresenius Helios generated 26% of Fresenius's total Group sales. Fresenius Helios' total sales in 2019 were €9,234 million, up 3% from €8,993 million in 2018. Fresenius Helios' growth is based on the number of admissions and reimbursement rate increases combined with a relatively low bad debt ratio due to the comprehensive insurance coverage of the German population and due to the tax funded public insurance coverage in Spain. In the year ended December 31, 2019, EBITDA of Fresenius Helios was €1,439 million (2018: €1,429 million).

### **Market**

The market of acute care hospitals in Germany (total costs, gross of German Hospitals excluding academic research and teaching) was about €102 billion in 2017 (most recent data available on the German hospital market: German Federal Statistics Office, 2017 data; German Hospital Institute (DKI), Krankenhaus Barometer 2019. Market definition by total costs of the German acute care hospitals (gross), less academic research and teaching). Personnel expenses accounted for about 62% of hospital costs, and material costs for 38%. Personnel and material expenses rose by 5% and 3% respectively.

The admissions in the acute care hospital market decreased by 0.5% in 2017.

The economic situation of the German hospitals worsened compared with the previous year. About 40% of German hospitals recorded losses in 2018. A further 9% broke even, and 51% were able to generate a profit for the year. The often difficult economic and financial situation of the hospitals is accompanied by significant investment needs driven by medical and technological advances, higher quality requirements, and necessary modernizations. Moreover, the federal states failed to meet their statutory obligation to provide sufficient financial resources in the

past. This results into a continuously increasing investment backlog. The German Hospital Institute (DKI) estimates that the annual investment requirement at German hospitals is at least €6.8 billion (German Hospital Institute (DKI), Krankenhaus Barometer 2019). This is about two and a half times the funding for investment currently being provided by federal states.

The change in value figure (DRG inflator) is relevant for the increase in the reimbursement of hospital treatments in Germany. For 2020 it was set at 3.66%.

The private Spanish hospital market volume was about €15 billion in 2018 (Market data based on company research and refers to the addressable market of Quirónsalud. Market definition includes neither PPPs nor OPRs).

In particular, the increasing number of privately insured patients is opening up growth opportunities for private operators. Private supplemental insurance in Spain is relatively inexpensive. It is required in order to make use of the services in private hospitals. Among other factors, the comparatively short waiting times for scheduled treatments make private hospitals attractive.

### **Fresenius Vamed**

Fresenius Vamed manages projects and provides services for hospitals and other health care facilities worldwide and is a leading post-acute care provider in Central Europe. Founded in 1982, Fresenius Vamed has successfully completed around 960 projects in about 95 countries in Europe, Africa, the Middle East, Asia and Latin America including hospitals and university clinics, health and rehabilitation centers, thermal spa and medical wellness resorts, laboratories and research facilities and other health care facilities. Fresenius Vamed also provides services globally to about 890 health care facilities with approximately 205,000 beds (as of December 31, 2019).

Fresenius Vamed's portfolio ranges along the entire value chain in the health care area: from project development, planning, and turnkey construction, via maintenance and technical management, to total operational management. Its range of competencies enables Fresenius Vamed to support complex health care facilities efficiently and successfully at each stage of their life cycle.

Fresenius Vamed generated 5% of the Fresenius Group's total sales in 2019. Fresenius Vamed increased sales by 31% in 2019 to €2,206 million (2018: €1,688 million), of which 37% were derived in project business and 63% in service business. Regional wise, 83% of sales were in Europe, 3% in Africa, 9% in Asia Pacific and 5% in Latin America. In the year ended December 31, 2019, EBITDA of Fresenius Vamed was €205 million (2018: €133 million).

#### ***Project Business***

The project business comprises the consulting, project development, planning, turnkey construction, and financing management for projects. Fresenius Vamed responds flexibly to clients' local needs, providing custom-tailored solutions, all from one source. Fresenius Vamed also carries out projects in cooperation with partners. With 26 implemented projects, Fresenius Vamed considers itself to be a pioneer in PPP models.

#### ***Service Business***

Fresenius Vamed offers a full range of facility management services for health care facilities. Modular in design, Fresenius Vamed's service offering encompasses every aspect of technical, commercial, and infrastructural facility management as well as the total operational management for health care facilities. The service business includes building and equipment maintenance, medical technology management, and technical management.

In addition to offering services for health care facilities worldwide, Fresenius Vamed itself is active as a post-acute care provider in several countries, including Germany, Austria, Switzerland, the Czech Republic, and the United Kingdom.

### ***Vamed Vitality World***

With the range of services offered by VAMED Vitality World, Fresenius Vamed is building a bridge between preventive medicine and health tourism in spa and health resorts. Fresenius Vamed considers itself to be one of the leaders in the Austrian market and operates nine thermal and health care spa resorts.

### ***Market***

The market for projects and services for hospitals and other health care facilities is very fragmented. Therefore, an overall market size cannot be determined. The market is country-specific and depends, to a large extent, on factors such as public health care policies, government regulation, and levels of privatization, as well as demographics and economic and political conditions.

In markets with established health care systems and mounting cost pressure, the challenge for hospitals and other health care facilities is to increase their efficiency. Here, demand is especially high for sustainable planning and energy-efficient construction, optimized hospital processes, and the outsourcing of medical-technical support services to external specialists. Through the integration of the post-acute care business of Fresenius Helios, Fresenius Vamed has become a leading provider in this field in Central Europe. In emerging markets, the focus is on building and developing infrastructure and improving the level of health care.

## **RESEARCH AND DEVELOPMENT**

Fresenius focuses its R&D efforts on its core competencies in the following areas:

- Dialysis;
- Generic IV drugs;
- Biosimilars;
- Infusion and nutrition therapies; and
- Medical devices.

Apart from new products, the Fresenius Group is concentrating on developing optimized or completely new therapies, treatment methods, and services. Fresenius opened its new research and development center for biosimilars in Eysins in the Swiss canton of Vaud as an important step in expanding its capacity to develop new biosimilar products. Fresenius Kabi is also expanding its enteral nutrition research and development activities in Wuxi, China. In 2019, research and development expenses were €677 million before revaluation of biosimilars contingent liabilities (2018: €649 million), representing approximately 6.8% of the Fresenius Group's product sales (2018: 6.7%). Research services provided by third parties are mainly used by Fresenius Kabi, especially in the field of biosimilars.

As of December 31, 2019, there were 3,412 employees in research and development (2018: 3,042), of which 1,200 were employed at Fresenius Medical Care (2018: 970) and 2,200 at Fresenius Kabi (2018: 2,072).

The Fresenius Group's main research sites are in Europe, the United States, and India. Product-related development activities are also carried out in China.

## **EMPLOYEES**

The Fresenius Group had 294,134 employees as of December 31, 2019 (2018: 276,750), an increase of 6% compared to the previous year. With the transfer of Fresenius Helios' post-acute care business in Germany to Fresenius Vamed, approximately 7,600 employees were taken over by Fresenius Vamed. During the last two financial years, Fresenius has not suffered any major labor related work disruptions.

Fresenius believes that the knowledge, experience, and commitment of its employees are critical to its success. The interplay of a wide range of views, opinions, cultural backgrounds, experiences, and values helps it achieve its full potential and contributes to its success. For this reason, Fresenius values a culture of diversity.

## INVESTMENTS

In 2019, investments in property, plant and equipment was €2,463 million (2018: €2,163 million). Among the main investments in property, plant and equipment were the modernization of existing, and equipping of new, dialysis clinics at Fresenius Medical Care and the optimization and expansion of production facilities, primarily in North America and Europe for Fresenius Medical Care, and for Fresenius Kabi, primarily in Europe, North America, and Asia. Significant individual projects for Fresenius Kabi were investments in the production plant in Melrose Park near Chicago and investments in Grand Island, Wilson, North Carolina and Wuxi, China. Investments also included new building and modernization of hospitals at Fresenius Helios. The most significant individual projects were, among other locations, the hospitals in Duisburg, Wiesbaden and Wuppertal, as well as the construction of a proton beam therapy center in Madrid.

Investments in property, plant and equipment of approximately €529 million are expected to be made in 2020, to continue with major ongoing investment projects. These are investment obligations mainly for hospitals at Fresenius Helios, as well as investments to expand and optimize production facilities for Fresenius Medical Care and Fresenius Kabi. These projects will be financed from operating cash flow.

Total acquisition spending was €2,623 million in 2019 (2018: €1,086 million), including the acquisition of NxStage and the purchase of dialysis clinics at Fresenius Medical Care, already planned acquisition-related milestone payments relating to the acquisition of the biosimilars business of Merck KGaA at Fresenius Kabi, the purchase of clinics and outpatient clinics in Spain and Colombia and the purchase of outpatient clinics in Germany at Fresenius Helios and the purchase of technical service providers at Fresenius Vamed.

Fresenius continues to target for a Net Debt/EBITDA ratio in a range of 3.0-3.5 (following the application of the new accounting standard IFRS 16).

On February 21, 2019, Fresenius Medical Care acquired all of the outstanding shares of NxStage for \$30.00 per common share. The total acquisition value of this business combination, net of cash acquired, is \$1,976 million (€1,741 million at the date of the closing of the transaction). NxStage is a leading medical technology company that develops, produces, and markets an innovative product portfolio of medical devices for use in home dialysis and in the critical care setting. NxStage has been consolidated as of February 21, 2019.

On June 28, 2018, Fresenius Medical Care completed the divestment of its controlling interest in Sound Inpatient Physicians Holdings, LLC (*Sound*) to an investment consortium led by Summit Partners (*Summit*). Sound is a physician organization providing services across the acute episode of care – through emergency medicine, critical care, hospital medicine, transitional care and advisory services. The total transaction proceeds were \$1,771 million (€1,531 million). The pre-tax gain related to divestitures for care coordination activities was €809 million, which primarily related to this divestiture, the effect of the six-month impact from the increase in valuation of Sound's share-based payment program, incentive compensation expense and other costs caused by the divestment of Sound.

## MATERIAL CONTRACTS

### Syndicated Credit Agreement

On August 22, 2017, Fresenius SE & Co. KGaA and various subsidiaries amended and restated the existing credit agreement (the *Syndicated Credit Agreement*) pursuant to which unsecured facilities in the amount of approximately €3,800 million are available to Fresenius SE & Co. KGaA, Fresenius Finance Ireland, Fresenius Finance Ireland II and Fresenius US Finance I, Inc. In August 2019, the revolving credit facility of the Syndicated Credit Agreement was increased by €100 million.

The Syndicated Credit Agreement provides for several revolving credit and term loan facilities denominated in Euro or U.S. dollar and maturing in 2021 or 2022. The borrowers' obligations under the Syndicated Credit Agreement are unsecured and solely guaranteed by Fresenius SE & Co. KGaA.

The Syndicated Credit Agreement includes customary affirmative and negative covenants with respect to Fresenius SE & Co. KGaA and its subsidiaries which, under certain conditions, limit the incurrence of indebtedness and the creation of liens. The Syndicated Credit Agreement also includes a financial covenant which requires Fresenius SE & Co. KGaA and its subsidiaries to maintain a maximum leverage ratio.

The following table shows the available and outstanding amounts of the Syndicated Credit Agreement as of December 31, 2019:

|                                           | <b>Maximum Amount Available<br/>as of December 31, 2019<br/>€ in millions</b> | <b>Balance Outstanding<br/>as of December 31, 2019<br/>€ in millions</b> |
|-------------------------------------------|-------------------------------------------------------------------------------|--------------------------------------------------------------------------|
| Revolving Credit Facility in euros        | 1,100                                                                         | 0                                                                        |
| Revolving Credit Facility in U.S. dollars | 446                                                                           | 0                                                                        |
| Term Loan A in euros 2017/2021            | 750                                                                           | 750                                                                      |
| Term Loan A in euros 2017/2022            | 775                                                                           | 775                                                                      |
| Term Loan A in U.S. dollars 2017/2022     | 458                                                                           | 458                                                                      |
| <b>Total</b>                              | <b>3,529</b>                                                                  | <b>1,983</b>                                                             |

### **Fresenius Bonds**

The following table sets forth information regarding Fresenius's bonds as of December 31, 2019.

| <b>Issuer</b>                 | <b>Principal amount in million</b> | <b>Maturity</b>   |
|-------------------------------|------------------------------------|-------------------|
| Fresenius SE & Co. KGaA*      | €500                               | July 15, 2020     |
| Fresenius SE & Co. KGaA*      | €450                               | February 1, 2021  |
| Fresenius SE & Co. KGaA*      | €450                               | February 1, 2024  |
| Fresenius SE & Co. KGaA       | €500                               | February 15, 2025 |
| Fresenius SE & Co. KGaA       | €500                               | February 15, 2029 |
| Fresenius US Finance II, Inc. | \$300                              | February 1, 2021  |
| Fresenius US Finance II, Inc. | \$300                              | January 15, 2023  |
| Fresenius Ireland             | €700                               | January 31, 2022  |
| Fresenius Ireland             | €700                               | January 30, 2024  |
| Fresenius Ireland             | €700                               | February 1, 2027  |
| Fresenius Ireland             | €500                               | January 30, 2032  |

\* On July 29, 2016, the original issuer, Fresenius Finance B.V. was replaced by Fresenius SE & Co. KGaA as the successor issuer.

On January 15, 2020, Fresenius SE & Co. KGaA issued bonds under this Programme in an aggregate volume of €750 million as set forth in the following table:

| <b>Issuer</b>           | <b>Principal amount in million</b> | <b>Maturity</b>  |
|-------------------------|------------------------------------|------------------|
| Fresenius SE & Co. KGaA | €750                               | January 15, 2028 |

The above-mentioned bonds issued by Fresenius SE & Co. KGaA (or its predecessor issuer), Fresenius US Finance II, Inc. and Fresenius Ireland are referred to in this Prospectus as the **Fresenius Bonds**. As of the date of this Prospectus no further Fresenius Bonds have been issued by Fresenius.

All Fresenius Bonds are unsecured, and the Fresenius Bonds issued by Fresenius US Finance II, Inc and Fresenius Ireland are guaranteed by Fresenius SE & Co. KGaA.

All bonds of Fresenius US Finance II, Inc and Fresenius Ireland and the bonds issued by Fresenius SE & Co. KGaA before 2019 may be redeemed prior to their stated maturity at the option of the respective issuers at a price of 100% of principal plus accrued interest and a premium calculated pursuant to the terms of the bonds under observance of certain notice periods.

The holders of the Fresenius Bonds have the right to request that the respective issuers repurchase the applicable issue of Fresenius Bonds at 101% of principal amount plus accrued interest upon the occurrence of a change of control of Fresenius SE & Co. KGaA followed by a decline in the rating of the respective bonds or, as applicable, the rating of Fresenius SE & Co. KGaA.

Fresenius SE & Co. KGaA has agreed to a number of covenants to provide protection to the holders of the bonds issued before 2017, which partly restrict the scope of action of Fresenius SE & Co. KGaA and its subsidiaries (excluding Fresenius Medical Care and its subsidiaries). These covenants include restrictions on further debt that can be raised, the mortgaging or sale of assets, the entering into sale and leaseback transactions as well as mergers and consolidations with other companies. Some of these restrictions were suspended automatically as the rating of the respective bonds reached investment grade status. As of December 31, 2019, the Fresenius Group was in compliance with all of its covenants.

### **Fresenius Schuldschein Loans**

As of December 31, 2019, Fresenius's outstanding euro-denominated promissory notes (*Schuldscheindarlehen*) issued by Fresenius SE & Co. KGaA (the **Euro Schuldschein Loans**) consist of several tranches with maturities between 2020 and 2029 and have a total notional amount of €1,827 million.

The Euro Schuldschein Loans issued before 2019 are guaranteed under certain conditions by Fresenius Kabi AG and Fresenius ProServe GmbH.

As of December 31, 2019, Fresenius's outstanding USD-denominated promissory notes (*Schuldscheindarlehen*) issued by Fresenius US Finance II, Inc. (the **US\$ Schuldschein Loans** and together with the Euro Schuldschein Loans, the **Fresenius Schuldschein Loans**) consist of several tranches with maturities between 2021 and 2023 and have a total notional amount of \$ 400 million.

The US\$ Schuldschein Loans are guaranteed by Fresenius SE & Co. KGaA, Fresenius Kabi AG and Fresenius ProServe GmbH.

As at the date of this Prospectus, no further Fresenius Schuldschein Loans have been issued by Fresenius.

### **Commercial Paper Program**

Fresenius has a commercial paper program for the issuance of a maximum of €1 billion of short-term notes according to which Fresenius SE & Co. KGaA and Fresenius Ireland may issue notes denominated in euros or in any other freely convertible currency of an OECD member state with a maturity of not more than 364 days. Notes issued by Fresenius Ireland under the commercial paper program are guaranteed by Fresenius SE & Co. KGaA. As of December 31, 2019, the commercial paper program of Fresenius SE & Co. KGaA and Fresenius Ireland was utilized in an amount of €953 million.

### **Equity-neutral Convertible Bonds**

On March 24, 2014, Fresenius SE & Co. KGaA issued €500 million aggregate principal amount of equity-neutral convertible bonds which were due on September 24, 2019 and subsequently redeemed at maturity.

On January 31, 2017, Fresenius SE & Co. KGaA issued €500 million aggregate principal amount of equity-neutral convertible bonds which are due on January 31, 2024. Beginning in August 2023, bond holders can exercise the conversion rights embedded in the convertible bonds.

In order to fully offset the economic exposure from the conversion feature, Fresenius SE & Co. KGaA purchased call options on its shares in connection with the issue of its equity-neutral convertible bonds. Any increase of the share price above the conversion price of the equity-neutral convertible bonds will be fully offset by a corresponding value increase of the call options.

### **Credit Lines and other Sources of Liquidity**

In addition to the financial liabilities described above, Fresenius maintains additional credit facilities which have not been utilized, or have been utilized in part. As of December 31, 2019, the additional financial cushion resulting from unutilized credit facilities amounted to approximately €4.0 billion.

Syndicated credit facilities accounted for approximately €2.8 billion. This portion is comprised of Fresenius Medical Care's credit agreement in the amount of €1.3 billion and the Syndicated Credit Agreement in the amount of €1.5 billion. Furthermore, committed and uncommitted bilateral facilities of approximately €1.2 billion were available. They include credit facilities which certain entities of the Fresenius Group have arranged with commercial banks. These credit facilities are used for general corporate purposes and are usually unsecured.

In March 2020, we increased a committed bilateral credit line and converted another formerly uncommitted bilateral credit line in to a committed credit line, thereby increasing our committed financial headroom by approximately €200 million in aggregate. These credit lines are partially drawn.

### **LEGAL PROCEEDINGS**

Fresenius is routinely involved in claims, lawsuits, regulatory and tax audits, investigations and other legal matters arising, for the most part, in the ordinary course of its business of providing health care services and products. Legal matters that Fresenius currently deems to be material or noteworthy are described below. For the matters described below in which Fresenius believes a loss is both reasonably possible and estimable, an estimate of the loss or range of loss exposure is provided. For other matters described below, Fresenius believes that the loss probability is remote and/or the loss or range of possible losses cannot be reasonably estimated at this time. The outcome of litigation and other legal matters is always difficult to predict accurately and outcomes that are not consistent with Fresenius's view of the merits can occur. Fresenius believes that it has valid defenses to the legal matters pending against it and is defending itself vigorously. Nevertheless, it is possible that the resolution of one or more of the legal matters currently pending or threatened could have a material adverse effect on Fresenius's business, results of operations and financial condition.

Beginning in 2012, FMC AG & Co. KGaA received certain communications alleging conduct in countries outside the U.S. that might violate the U.S. Foreign Corrupt Practices Act (*FCPA*) or other anti-bribery laws. FMC AG & Co. KGaA conducted investigations with the assistance of outside counsel and, in a continuing dialogue, FMC AG & Co. KGaA voluntarily advised the U.S. Securities and Exchange Commission (*SEC*) and the U.S. Department of Justice (*DOJ*) (collectively and interchangeably the *government* or the *government agencies*) about these investigations. The government agencies also conducted their own investigations, in which FMC AG & Co. KGaA cooperated.

In the course of this dialogue, FMC AG & Co. KGaA identified and reported to the government, and took voluntary remedial actions including employee disciplinary actions with respect to, conduct that resulted in the government seeking monetary penalties including disgorgement of profits and other remedies. This conduct revolved principally around FMC AG & Co. KGaA's products business in countries outside the United States. FMC AG & Co. KGaA recorded charges of €200 million in 2017 and €77 million in 2018 encompassing estimates of the government's claims for profit disgorgement, penalties, certain legal expenses, and other related costs or asset impairments believed likely to be necessary for final resolution of the claims and issues arising from the investigation. The increase recorded in 2018 took into consideration preliminarily understandings with the government on the financial terms of a potential settlement. Following this increase, which took into account incurred and anticipated legal expenses, impairments and other costs, the provision totals €224 million as of December 31, 2018.

On March 29, 2019, FMC AG & Co. KGaA entered into a non-prosecution agreement with the DOJ and a separate agreement with the SEC intended to resolve fully and finally the government's claims against FMC AG & Co. KGaA arising from the investigations. FMC AG & Co. KGaA paid a combined total in penalties and disgorgement of approximately \$232 million to the government in connection with these agreements. The entire amount paid to the government was reserved for in charges that FMC AG & Co. KGaA recorded in 2017 and 2018 and announced in 2018. As part of the settlement, FMC AG & Co. KGaA agreed to retain an independent compliance monitor for a



period of two years and to an additional year of self-reporting. As of July 26, 2019, the monitor was appointed and the monitorship period commenced.

In 2015, FMC AG & Co. KGaA self-reported to the German prosecutor conduct with a potential nexus to Germany and continues to cooperate with government authorities in Germany in their view of the conduct that prompted FMC AG & Co. KGaA's and government investigations.

Since 2012, FMC AG & Co. KGaA has made and continues to make further significant investments in its compliance and financial controls in its compliance, legal and financial organizations. FMC AG & Co. KGaA's remedial actions included separation from those employees responsible for the above-mentioned conduct. FMC AG & Co. KGaA is dealing with post-FCPA review matters on various levels. FMC AG & Co. KGaA continues to be fully committed to compliance with the FCPA and other anti-bribery laws.

Personal injury litigation involving the acid concentrate product, labeled as GranuFlo® or NaturaLyte®, of Fresenius Medical Care Holdings, Inc. (**FMCH**) first arose in 2012 and was substantially resolved by settlement agreed in principle in February 2016 and consummated in November 2017. Remaining individual personal injury cases do not present material risk.

FMCH's affected insurers agreed to the settlement of the acid concentrate personal injury litigation and funded \$220 million of the settlement fund under a reciprocal reservation of rights encompassing certain coverage issues raised by insurers and FMCH's claims for indemnification of defense costs. FMC AG & Co. KGaA accrued a net expense of \$60 million in connection with the settlement, including legal fees and other anticipated costs. Following entry into the settlement, FMCH's insurers in the AIG group and FMCH each initiated litigation against the other relating to the AIG group's coverage obligations under applicable policies. In the coverage litigation, the AIG group seeks to be indemnified by FMCH for some or all of its \$220 million outlay; FMCH seeks to confirm the AIG group's \$220 million funding obligation, to recover defense costs already incurred by FMCH, and to compel the AIG group to honor defense and indemnification obligations required for resolution of cases not participating in the settlement. As a result of decisions on issues of venue, the coverage litigation is proceeding in the New York state trial court for Manhattan. *See*, *National Union Fire Insurance v. Fresenius Medical Care*, 2016 Index No. 653108 (Supreme Court of New York for New York County).

Four institutional plaintiffs filed complaints against FMCH or its affiliates under state deceptive practices statutes resting on certain background allegations common to the GranuFlo®/NaturaLyte® personal injury litigation, but seeking as remedy the repayment of sums paid to FMCH attributable to the GranuFlo®/NaturaLyte® products. These cases implicate different legal standards, theories of liability and forms of potential recovery from those in the personal injury litigation and their claims were not extinguished by the personal injury litigation settlement described above. All of the institutional cases have been resolved by settlement except for the claims by the State of Louisiana through its Attorney General and Blue Cross Blue Shield Louisiana, which remain active in the combined proceeding. *See*, *State of Louisiana ex re. Caldwell and Louisiana Health Service & Indemnity Company v. Fresenius Medical Care Airline*, 2016 Civ. 11035 (U.S.D.C. D. Mass.). The Caldwell and Blue Cross Louisiana cases remain unresolved and are proceeding together in federal court in Boston, but are subject to undecided motions for severance and remand. There is no trial date in either case. FMC AG & Co. KGaA has increased its litigation reserves to account for anticipated settlement of some, but not all, of the three remaining payor cases. However, at the present time there are no agreements in principle for resolving these cases and litigation through final adjudication may be required in any or all of them.

On September 6, 2018, a special-purpose entity organized under Delaware law for the purpose of pursuing litigation filed a Pure Bill of Discovery in a Florida county court seeking discovery from FMCH related to the personal injury settlement, but no other relief. *See*, *MSP Recovery Claims Series LLC v. Fresenius Medical Care Holdings*, No. 2018-030366-CA-01 (11<sup>th</sup> Judicial Circuit, Dade County, Florida). The Pure Bill was thereafter removed to federal court and transferred into the multidistrict *Fresenius GranuFlo®/NaturaLyte® Dialysate Products Liability* in Boston. *See*, No. 1:13-MD-02428-DPW (D. Mass.2013). On March 12, 2019, plaintiff amended its Pure Bill by filing a complaint claiming rights to recover monetary damages on behalf of various persons and entities who are alleged to have assigned to plaintiff their rights to recover monetary damages arising from their having provided or paid for medical services for dialysis patients receiving treatments using FMCH's acid concentrate product. FMCH is responding to the amended complaint.

In August 2014, FMCH received a subpoena from the United States Attorney for the District of Maryland inquiring into FMCH's contractual arrangements with hospitals and physicians involving contracts relating to the management of in-patient acute dialysis services. FMCH is cooperating in the investigation.

In July 2015, the Attorney General for Hawaii issued a civil complaint under the Hawaii False Claims Act alleging a conspiracy pursuant to which certain Liberty Dialysis subsidiaries of FMCH overbilled Hawaii Medicaid for Liberty's Epogen® administrations to Hawaii Medicaid patients during the period from 2006 through 2010, prior to the time of FMCH's acquisition of Liberty. *See, Hawaii v. Liberty Dialysis – Hawaii, LLC et al.* Case No. 15-1-1357-07 (Hawaii 1<sup>st</sup> Circuit). The State alleges that Liberty acted unlawfully by relying on incorrect and unauthorized billing guidance provided to Liberty by Xerox State Healthcare LLC, which acted as Hawaii's contracted administrator for its Medicaid program reimbursement operations during the relevant period. The amount of the overpayment claimed by the State is approximately \$8 million, but the State seeks civil remedies, interest, fines, and penalties against Liberty and FMCH under the Hawaii False Claims Act substantially in excess of the overpayment. After prevailing on motions by Xerox to preclude it from doing so, FMCH is pursuing third-party claims for contribution and indemnification against Xerox. The State's False Claims Act complaint was filed after Liberty initiated an administrative action challenging the State's recoupment of alleged overpayments from sums currently owed to Liberty. The civil litigation and administrative action are proceeding in parallel. Trial in the civil litigation is scheduled for July 13, 2020.

On August 31, 2015, FMCH received a subpoena under the False Claims Act from the United States Attorney for the District of Colorado (Denver) inquiring into FMCH's participation in and management of dialysis facility joint ventures in which physicians are partners. FMCH continues to cooperate in the Denver United States Attorney's Office investigation, which has come to focus on purchases and sales of minority interests in ongoing outpatient facilities between FMCH and physician groups.

On November 25, 2015, FMCH received a subpoena under the False Claims Act from the United States Attorney for the Eastern District of New York (Brooklyn) also inquiring into FMCH's involvement in certain dialysis facility joint ventures in New York.

On September 26, 2018, the Brooklyn United States Attorney's Office declined to intervene on the *qui tam* complaint filed under seal in 2014 that gave rise to this investigation. *See CKD Project LLC v. Fresenius Medical Care*, 2014 Civ. 6646 (E.D.N.Y. November 12, 2014). The court unsealed the complaint, allowing the relator to serve and proceed on his own. The relator, a special-purpose entity formed by law firms to pursue *qui tam* proceedings, has served its complaint and litigation is proceeding.

Beginning October 6, 2015, the United States Attorney for the Eastern District of New York (Brooklyn) has led an investigation through subpoenas issued under the False Claims Act, utilization and invoicing by FMCH's subsidiary Azura Vascular Care for a period beginning after FMCH's acquisition of American Access Care LLC (**AAC**) in October 2011. FMCH is cooperating in the Brooklyn United States Attorney's Office (**USAO**) investigation. The Brooklyn USAO has indicated that its investigation is nationwide in scope and is focused on whether certain access procedures performed at Azura facility haven been medically necessary and whether certain physician assistants employed by Azura exceeded their permissible scope of practice. Allegations against AAC arising in districts in Connecticut, Florida and Rhode Island relating to utilization and invoicing were settled in 2015.

On June 30, 2016, FMCH received a subpoena from the United States Attorney for the Northern District of Texas (Dallas) seeking information under the False Claims Act about the use and management of pharmaceuticals including Velporo®. The investigation encompasses DaVita, Amgen, Sanofi, and other pharmaceutical manufacturers and includes inquiries into whether certain compensation transfers between manufacturers and pharmacy vendors constituted unlawful kickbacks. FMCH understands that this investigation is substantively independent of the \$63.7 million settlement by Davita Rx announced on December 14, 2017 in the matter styled *United States ex rel. Gallian v. DaVita Rx*, 2016 Civ. 0943 (N.D. Tex.). FMCH has cooperated in the investigation.

On November 18, 2016, FMCH received a subpoena under the False Claims Act from the United States Attorney for the Eastern District of New York (Brooklyn) seeking documents and information relating to the operations of Shiel Medical Laboratory, Inc., which FMCH acquired in October 2013. In the course of cooperating in the investigation and preparing to respond to the subpoena, FMCH identified falsifications and misrepresentations in documents submitted by a Shiel salesperson that relate to the integrity of certain invoices submitted by Shiel for laboratory testing for patients in long term care facilities. On February 21, 2017, FMCH terminated the employee and notified the United States Attorney of the termination and its circumstances. The terminated employee's conduct is expected to result in demands for FMCH to refund overpayments and to pay related penalties under applicable laws, but the monetary value of such payment demands cannot yet be reasonably estimated. FMCH contends that, under the asset sale provisions of its 2013 Shiel acquisition, it is not responsible for misconduct by the terminated employee or other Shiel employees prior to the date of the acquisition.

The Brooklyn United States Attorney's Office continues to investigate a range of issues involving Shiel, including allegations of improper compensation (kickbacks) to physicians, and has disclosed that multiple sealed qui tam complaints underlie the investigation.

On December 12, 2017, FMCH sold to Quest Diagnostics certain Shiel operations that are the subject of this Brooklyn subpoena, including the misconduct reported to the United States Attorney. Under the Quest Diagnostics sale agreement, FMCH retains responsibility for responding to the Brooklyn investigation and for the liabilities arising from conduct occurring after its 2013 acquisition of Shiel and prior to its sale of Shiel to Quest Diagnostics. FMCH is cooperating in the investigation.

On December 14, 2016, the Center for Medicare and Medicaid Services (**CMS**), which administers the federal Medicare program, published an Interim Final Rule (**IFR**) titled "Medicare Program; Conditions for Coverage for End-Stage Renal Disease Facilities-Third Party Payment". The IFR would have amended the conditions for coverage for dialysis providers like FMCH and would have effectively enabled insurers to reject premium payments made by or on behalf of patients who received grants for individual market coverage from the American Kidney Fund (**AKF**). The IFR could thus have resulted in those patients losing individual insurance market coverage. The loss of coverage for these patients would have had a material and adverse impact on the operating results of FMCH.

On January 25, 2017, a federal district court in Texas, responsible for litigation initiated by a patient advocacy group and dialysis providers including FMCH preliminarily enjoined CMS from implementing the IFR. *See*, *Dialysis Patient Citizens v. Burwell*, 2017 Civ. 0016 (E.D. Texas, Sherman Div.). The preliminary injunction was based on CMS' failure to follow appropriate notice-and-comment procedures in adopting the IFR. The injunction remains in place and the court retains jurisdiction over the dispute.

On June 22, 2017, CMS requested a stay of proceedings in the litigation pending further rulemaking concerning the IFR. CMS stated, in support of its request, that it expects to publish a Notice of Proposed Rulemaking in the Federal Register and otherwise pursue a notice-and-comment process. Plaintiffs in the litigation, including FMCH, consented to the stay, which was granted by the court on June 27, 2017.

On January 3, 2017, FMCH received a subpoena from the United States Attorney for the District of Massachusetts under the False Claims Act inquiring into FMCH's interactions and relationships with the AKF, including FMCH's charitable contributions to AKF and AKF's financial assistance to patients for insurance premiums. FMCH cooperated in the investigation, which was part of a broader investigation into charitable contributions in the medical industry. On August 1, 2019, the United States District Court for the District of Massachusetts entered into an order announcing that the United States had declined to intervene on a qui tam complaint underlying the United States Attorney's Office Boston investigation and unsealing the relator's complaint so as to permit the relator to serve the complaint and proceed on his own. The relator did not serve the complaint within the time allowed, but the court has not yet dismissed the relator's complaint.

On April 8, 2019, United Healthcare served a demand for arbitration against FMCH. The demand asserts that FMCH unlawfully "steered" patients by waiving co-payments and other means away from coverage under government-funded insurance plans including Medicare into United Healthcare's commercial plans, including Affordable Care Act exchange plans. FMCH is contesting United Healthcare's claims and demands. A final hearing date has been scheduled in the arbitration for August 23, 2021.

In early May 2017, the United States Attorney for the Middle District of Tennessee (Nashville) issued identical subpoenas to FMCH and two subsidiaries under the False Claims Act concerning FMCH's retail pharmaceutical business. The investigation is exploring allegations related to improper inducements to dialysis patients to fill oral prescriptions through FMCH's pharmacy service, improper billing for returned pharmacy products and other allegations similar to those underlying the \$63.7 million settlement by DaVita Rx in Texas announced on December 14, 2017. *See*, *United States ex rel. Gallian*, 2016 Civ. 0943 (N.D. Tex.). FMCH is cooperating in the investigation.

On March 12, 2018, Vifor Fresenius Medical Care Renal Pharma Ltd. And Vifor Fresenius Medical Care Renal Pharma France S.A.S. (collectively **VFMCPR**) (the joint venture between Galencia (Vifor) and FMC AG & Co. KGaA), filed a complaint for patent infringement against Lupin Atlantis Holding SA and Lupin Pharmaceuticals Inc. (collectively **Lupin**), and Teva Pharmaceuticals USA, Inc. (**Teva**) in the U.S. District Court for the District of Delaware (Case 1:18-cv-00390-LPS). The patent infringement action is in response to Lupin and Teva's filings of Abbreviated New Drug Applications (ANDA) with the FDA for generic versions of Velphoro®. Velphoro® is protected by patents listed in the FDA's Approved Drug Products with Therapeutic Equivalence Evaluations, also known as the Orange Book. The complaint was filed within the 45-day period provided for under the Hatch-Waxman legislation, and triggered a stay of FDA approval of the ANDAs for 30 months (2.5 years) (specifically, up to July

29, 2020 for Lupin's ANDA; and August 6, 2020 for Teva's ANDA), or a shorter time if a decision in the in the infringement suit is reached that the patents-at-issue are invalid or not infringed. In response to another ANDA being filed or for a generic Velphoro®, VFMCRP filed a complaint for patent infringement against Annora Pharma Private Ltd., and Hetero Labs Ltd. (collectively **Annora**), in the U.S. District Court for the District of Delaware on December 17, 2018. A 30-month stay of FDA approval of Annora's ANDA will run through to May 30, 2021.

On December 17, 2018, FMCH was served with a subpoena under the False Claims Act from the United States Attorney for the District of Colorado (Denver) as part of an investigation of allegations against DaVita involving transactions between FMCH and DaVita. The subject transactions include sales and purchases of dialysis facilities, dialysis-related products and pharmaceuticals, including dialysis machines and dialyzers, and contracts for certain administrative services. FMCH is cooperating in the investigation.

On June 28, 2019, certain FMCH subsidiaries filed a complaint against the United States seeking to recover monies owed to them by the United States Department of Defense under the Tricare program, and to preclude Tricare from recouping monies previously paid. *See*, Bio-Medical Applications of Georgia, Inc. et. Al v. United States, CA 19-947, United States Court of Federal Claims. Tricare provides reimbursement for dialysis treatments and other medical care provided to members of the military services, their dependents and retirees. The litigation challenges unpublished administrative actions by Tricare administrators reducing the rate of compensation paid for dialysis treatments provided to Tricare beneficiaries based on recasting or "crosswalking" of codes used and followed in invoicing without objection for many years. Tricare administrators have acknowledged the unpublished administrative action and declined to change or abandon it. The Tricare administrators have filed a motion to dismiss the complaint, but are not yet required to articulate, and have not yet presented, a substantive defense to the complaint. FMCH has imposed a constraint on revenue for accounts receivable in legal dispute otherwise recognized from the Tricare program that it believes, in consideration of facts currently known, sufficient to account for the possibility of not prevailing in the litigation.

In November 2014, Fresenius Kabi Oncology Limited (**FKOL**) received a subpoena from the DOJ, U.S. Attorney for the District of Nevada. The subpoena requests documents in connection with the January 2013 inspection by the FDA of FKOL's plant for active pharmaceutical ingredients in Kalyani, India. That inspection resulted in a warning letter from the FDA in July 2013. The subpoena marks the DOJ's criminal and/or civil investigation in this connection and seeks information from throughout the Fresenius Kabi group. Through an ancillary subpoena of January 2016, the DOJ has requested additional historic information and data. Through further ancillary subpoenas of June 2016 and November 2016, the DOJ has requested further information from Fresenius Kabi USA and Fresenius Kabi AG without changing the focus of the investigation. Fresenius Kabi fully cooperates with the governmental investigation. Fresenius Kabi has entered into a tolling agreement with the DOJ, thereby waiving its statute of limitation defense until July 2018. The tolling agreement was extended by mutual agreement until July 2020. Fresenius Kabi is working with the DOJ towards conclusion of the investigation. It is expected that any resolution will include a monetary payment and potentially other measures to ensure that a misconduct of the nature detected in 2013 will not occur again in the future.

On April 24, 2017, Fresenius announced that Fresenius Kabi has agreed to acquire Akorn, Inc. (**Akorn**), a U.S.-based manufacturer and marketer of prescription and over-the-counter pharmaceutical products, for approximately \$4.3 billion, or \$34 per share, plus the prevailing net debt at closing of the transaction. Fresenius conducted an independent investigation, using external experts, into alleged breaches of FDA data integrity requirements relating to product development and other activities at Akorn. Fresenius decided on April 22, 2018 to terminate the merger agreement with Akorn, due to Akorn's failure to fulfill several closing conditions. Fresenius' decision was based on, among other factors, material breaches of FDA data integrity requirements relating to Akorn's operations found during Fresenius' independent investigation. Fresenius offered to delay its decision in order to allow Akorn additional opportunity to complete its own investigation and present any information it wished Fresenius to consider, but Akorn declined that offer. Akorn disagreed with Fresenius' position and filed a lawsuit on April 23, 2018 purporting to enforce the merger agreement. Fresenius filed a counterclaim on April 30, 2018. The trial of the lawsuit took place in the Delaware Court of Chancery from July 9 to 13, 2018 and closing arguments were made on August 23, 2018. On October 1, 2018, the Delaware Court of Chancery ruled in favor of Fresenius in the lawsuit by Akorn against Fresenius for the consummation of the April 2017 merger. Akorn appealed on October 18, 2018 against this ruling to the Delaware Supreme Court. On December 7, 2018, the Delaware Supreme Court, being the highest court and final instance in Delaware, affirmed the ruling of the Delaware Court of Chancery in favor of Fresenius. Fresenius has sued Akorn for damages suffered as a result of lost acquisition expenses. The lawsuit is pending before the Delaware Court of Chancery in the United States and is currently being heard.

From time to time, Fresenius Group is a party to or may be threatened with other litigation or arbitration, claims or assessments arising in the ordinary course of its business. Fresenius's management regularly analyses current information, including, as applicable, the Group's defenses and insurance coverage and, as necessary, provides accruals for probable liabilities for the eventual disposition of these matters.

Fresenius, like other health care providers, insurance plans and suppliers, conducts its operations under intense government regulation and scrutiny. It must comply with regulations which relate to or govern the safety and efficacy of medical products and supplies, the marketing and distribution of such products, the operation of manufacturing facilities, laboratories, dialysis clinics and other health care facilities, and environmental and occupational health and safety. With respect to the development, manufacture, marketing and distribution of medical products, if such compliance is not maintained, Fresenius could be subject to significant adverse regulatory actions by the FDA and comparable regulatory authorities outside the United States. These regulatory actions could include warning letters or other enforcement notices from the FDA, and/or comparable foreign regulatory authorities, which may require Fresenius to expend significant time and resources in order to implement appropriate corrective actions. If Fresenius does not address matters raised in warning letters or other enforcement notices to the satisfaction of the FDA and/or comparable regulatory authorities outside the United States, these regulatory authorities could take additional actions, including product recalls, injunctions against the distribution of products or operation of manufacturing plants, civil penalties, seizures of Fresenius's products and/or criminal prosecution. FMCH is currently engaged in remediation efforts with respect to one pending FDA warning letter, Fresenius Kabi with regard to three pending FDA warning letters. Fresenius must also comply with laws of the United States, including the U.S. federal Medicare and Medicaid Fraud and Abuse Amendments of 1977, as amended (the *Anti-Kickback Statute*), the federal False Claims Act, the federal Ethics in Patient Referrals Act of 1989 (the *Stark Law*), the federal Civil Monetary Penalties Law and the federal Foreign Corrupt Practices Act as well as other U.S. federal and state fraud and abuse laws. Applicable laws or regulations may be amended, or enforcement agencies or courts may make interpretations that differ from Fresenius's interpretations or the manner in which Fresenius conducts its business. Enforcement has become a high priority for the U.S. federal government and some states of the United States. In addition, the provisions of the False Claims Act authorizing payment of a portion of any recovery to the party bringing the suit encourage private plaintiffs to commence whistle-blower actions. By virtue of this regulatory environment, Fresenius's business activities and practices are subject to extensive review by regulatory authorities and private parties, and continuing audits, subpoenas, other inquiries, claims and litigation relating to Fresenius's compliance with applicable laws and regulations. Fresenius may not always be aware that an inquiry or action has begun, particularly in the case of whistle-blower actions, which are initially filed under court seal.

Fresenius operates many facilities and handles the personal data (*PD*) of its patients and beneficiaries throughout the United States and other parts of the world, and engages with other business associates to help it carry out its health care activities. In such a decentralized system, it is often difficult to maintain the desired level of oversight and control over the thousands of individuals employed by many affiliated companies and its business associates. On occasion, Fresenius or its business associates may experience a breach under U.S. Health Insurance Portability and Accountability Act Privacy Rule and Security Rules, the EU's General Data Protection Regulation and/or other similar laws (*Data Protection Laws*) when there has been impermissible use, access, or disclosure of unsecured PD or when Fresenius or its business associates neglect to implement the required administrative, technical and physical safeguards of its electronic systems and devices, or a data breach that results in impermissible use, access or disclosure of personal identifying information of its employees, patients and beneficiaries. On those occasions, Fresenius must comply with applicable breach notification requirements.

Fresenius relies upon its management structure, regulatory and legal resources, and the effective operation of its compliance program to direct, manage and monitor the activities of its employees. On occasion, Fresenius may identify instances where employees or other agents deliberately, recklessly or inadvertently contravene Fresenius' policies or violate applicable law. The actions of such persons may subject Fresenius and its subsidiaries to liability under the Anti-Kickback Statute, the Stark Law, the False Claims Act, Data Protection Laws, the Health Information Technology for Economic and Clinical Health Act and the Foreign Corrupt Practices Act, among other laws and comparable state laws or laws of other countries.

Physicians, hospitals and other participants in the health care industry are also subject to a large number of lawsuits alleging professional negligence, malpractice, product liability, worker's compensation or related claims, many of which involve large claims and significant defense costs. Fresenius has been and is currently subject to these suits due to the nature of its business and expects that those types of lawsuits may continue. Although Fresenius maintains insurance at a level, which it believes to be prudent, it cannot assure that the coverage limits will be adequate or that insurance will cover all asserted claims. A successful claim against Fresenius or any of its subsidiaries in excess of

insurance coverage could have a material adverse effect upon Fresenius and the results of its operations. Any claims, regardless of their merit or eventual outcome, could have a material adverse effect on Fresenius's reputation and business.

Fresenius has also had claims asserted against it and has had lawsuits filed against it relating to alleged patent infringements or businesses that Fresenius has acquired or divested. These claims and suits relate both to operation of the businesses and to the acquisition and divestiture transactions. Fresenius has, when appropriate, asserted its own claims, and claims for indemnification. A successful claim against Fresenius or any of its subsidiaries could have a material adverse effect on its business, financial condition, and results of its operations. Any claims, regardless of their merit or eventual outcome, could have a material adverse effect upon Fresenius's reputation and business.

## **RECENT EVENTS**

Most recently, the rapid global spread of the SARS-CoV-2 pandemic has resulted in a material deterioration of the conditions for the global economy and financial markets have been materially affected. We expect that this development will adversely affect our business and result of operation. It could have adverse effects on our financial condition and our liquidity. While it is currently impossible to estimate and quantify the extent of its negative effects on our business, results of operations and financial condition, the SARS-CoV-2 pandemic poses material risks to our supply chains, our production, the sales of our products and the delivery of our services. These effects could for example be caused by restrictions on business activities of our suppliers, customers and ourselves, including our personnel, imposed by public authorities on a regional, national or international level, by unavailability of critical workforce, increased costs and by a material redirection of public health funds from our products and services to address the SARS-CoV-2 pandemic. These effects will be exacerbated the longer the SARS-CoV-2 pandemic lasts.

As at the date of this prospectus, our supply chains remain functional in all material respects, but challenges exist in some locations and may evolve further. On a global level we are working with the relevant authorities to keep our logistics supply and delivery of products secure. We believe that we have an overall satisfactory level of raw materials and finished goods in stock, and are working to proactively manage any potential shortages. As a result of these efforts, our production sites are generally operational. In China, our manufacturing facilities are ramping up to return to normal operational levels. At our hospitals and clinics we have taken significant action to prepare and react to the pandemic. Much of our operations, including our acute care hospitals in Spain and Germany, and our manufacturing facilities are part of the critical infrastructure required to react to the current pandemic situation, and we are working with all the relevant authorities to enable effective response to the resulting demands. Generally, our hospitals and dialysis clinics are open and functional. Fresenius remains fully dedicated to protecting its workforce, to ensure business continuity, to enable us to continue operations at our production sites and to be able to treat our patients globally.

In connection with the SARS-CoV-2 pandemic, Germany has enacted legislation in March 2020 providing the German Federal Government with extensive powers to intervene with health care companies. Specifically, the German Federal Government, following the declaration of an epidemic situation of nationwide impact, can intervene with the companies' production and sales processes, thereby e.g. temporarily ordering the supply to the public sourcing channels.

The German Federal Government has also enacted legislation in March 2020 to compensate for the economic effects of the crisis with regard to hospital operators and other health care facilities. The new legislation creates a financial shield to indemnify hospital providers for the suspension of elective procedures and increased costs for treating SARS-CoV-2 infected patients. The shield includes a guaranteed payment for each additional installed intensive care bed. Hospitals' liquidity will be supported with shortened payment cycles. Measures also include lump sum compensation payments for suspended elective treatments, increased personnel costs and higher material costs, among others. However, such payments may not be sufficient to fully compensate for lost revenues and increased costs.

The Spanish government has temporarily obtained the right to direct all hospitals, allowing the healthcare authorities to leverage all available resources to treat SARS-CoV-2 infected patients. Such an option is also embedded in the established crisis management plans of many other European countries and it is possible that similar measures will be introduced by health authorities in numerous markets in which Fresenius operates to combat the SARS-CoV-2 pandemic. Fresenius Helios in Spain fully supports this measure of the Spanish government, as it allows centralized

capacity management, and hence rapid responses to changing circumstances with the aim to provide treatment to the greatest possible number of patients. While any such governmental measures are currently expected to be limited in time, they could lead to loss of revenues and profits as compensation by public authorities for mandatorily provided healthcare products and services in fighting the SARS-CoV-2 pandemic could be lower than normal market prices.

In the US, several pieces of legislations have been enacted to support the economy, including the health care sector. Additional funding provided under such legislation may provide support to our business in the US such as, for example, a US\$ 100 billion fund at the disposal of the Health Department Secretary dedicated to health care providers addressing the SARS-CoV-2 pandemic and a Medicare sequester relief from May through December 2020. However, these measures may not fully offset potential lost revenues or increased costs.

Further legislation, and amendments to existing legislation, intended to fight the SARS-CoV-2 pandemic and its adverse economic consequences can be expected in the markets in which we operate. It is currently not possible to estimate or to quantify any effects of such legislative measures on our business.

In March 2020, we increased a committed bilateral credit line and converted another formerly uncommitted bilateral credit line in to a committed credit line, thereby increasing our committed financial headroom by approximately €200 million in aggregate. These credit lines are partially drawn.

## **OUTLOOK**

The health care sector is one of the world's largest industries. It is relatively insensitive to economic fluctuations compared to other sectors. Fresenius expects that the health care sector will continue to grow in the coming years.

Fresenius sees opportunities to benefit from the rising medical needs deriving from aging populations, the growing number of chronically ill and multimorbid patients, stronger demand for innovative products and therapies as well as comprehensive care and advances in medical technology, as well as the still insufficient access to health care in the developing and emerging countries. On the other hand, experts estimate that further financial constraints especially in the public sector could result in more pricing pressure and correspondingly lower revenues for companies in the health care industry. Some countries are experiencing significant financing problems in the health care sector due to the strained public finance situation. Above-average growth opportunities exist not only in the markets of Asia-Pacific but also in Latin America and Africa. Fresenius therefore seeks to strengthen its activities in these regions. Beside expanding regional presences, Fresenius further seeks to broaden its services and products business in its existing markets and to exploit opportunities for potential within its operations for cost-management and efficiency-enhancement measures.

Fresenius Medical Care expects the number of dialysis patients worldwide to continue growing in the coming years. Fresenius Kabi expects the market for generic IV drugs, biopharmaceuticals, clinical nutrition, infusion therapy and medical devices/transfusion technology to continue to grow. In line with market development in Germany, Fresenius Helios sees a trend towards outpatient treatments leading to some pressure on admissions growth in its hospitals. To counter this trend, Helios Germany is expanding outpatient services offerings in a separate division. Fresenius Helios expects the private hospital market in Spain to continue to grow. In the market for projects and services for hospitals and other health care facilities as well as in the market for post-acute care services in Europe, Fresenius Vamed expects the growth to continue.

Most recently, the rapid global spread of the SARS-CoV-2 pandemic has resulted in a material deterioration of the conditions for the global economy and financial markets have been materially affected. This development will adversely affect our business and result of operation and could have adverse effects on our financial condition and our liquidity. However, it is currently impossible to estimate or to quantify any such effects.

## ISSUE PROCEDURES

### General

The relevant Issuer and the relevant Dealer(s) will agree on the terms and conditions applicable to each particular Tranche (the **Conditions**). The Conditions will be constituted by the Terms and Conditions of the Notes set forth below (the **Terms and Conditions**) as further specified by the provisions of the Final Terms as set out below.

### Options for sets of Terms and Conditions

A separate set of Terms and Conditions applies to each type of Notes, as set forth below. The Final Terms provide for the Issuer to choose among the following Options:

Option I – Terms and Conditions for Notes with fixed interest rates;

Option II – Terms and Conditions for Notes with floating interest rates;

With respect to Fixed Rate Notes, each of Option I A and Option I B is incorporated by reference into this Prospectus for the purpose of a potential increase of Notes outstanding and originally issued prior to the date of this Prospectus.

### Documentation of the Conditions

The Issuer may document the Conditions of an individual issue of Notes in either of the following ways:

- The Final Terms shall be completed as set out therein. The Final Terms shall determine which of Option I or Option II, including certain further options contained therein, respectively, shall be applicable to the individual issue of Notes by replicating the relevant provisions and completing the relevant placeholders of the relevant set of Terms and Conditions as set out in the Prospectus in the Final Terms. The replicated and completed provisions of the set of Terms and Conditions alone shall constitute the Conditions, which will be attached to each global note representing the Notes of the relevant Tranche. This type of documentation of the Conditions will be used where the Notes are publicly offered, in whole or in part, or are to be initially distributed, in whole or in part, to non-qualified investors.
- Alternatively, the Final Terms shall determine which of Option I or Option II and of the respective further options contained in each of Option I and Option II are applicable to the individual issue by only referring to the specific sections of the relevant set of Terms and Conditions as set out in the Prospectus. The Final Terms will specify that the provisions of the Final Terms and the relevant set of Terms and Conditions as set out in the Prospectus, taken together, shall constitute the Conditions. Each global note representing a particular Tranche of Notes will have the Final Terms and the relevant set of Terms and Conditions as set out in the Prospectus attached.

### Determination of Options / Completion of Placeholders

The Final Terms shall determine which of Option I or Option II shall be applicable to the individual issue of Notes. Each of the sets of Terms and Conditions of Option I or Option II contains also certain further options (characterized by indicating the optional provision through instructions and explanatory notes set out either on the left of or in square brackets within the text of the relevant set of Terms and Conditions as set out in the Prospectus) as well as placeholders (characterized by square brackets which include the relevant items) which will be determined by the Final Terms as follows:

#### *Determination of Options*

The Issuer will determine which options will be applicable to the individual issue either by replicating the relevant provisions in the Final Terms or by reference of the Final Terms to the sections of the relevant set of Terms and Conditions as set out in the Prospectus. If the Final Terms do not replicate or refer to an alternative or optional provision it shall be deemed to be deleted from the Conditions.

#### *Completion of Placeholders*

The Final Terms will specify the information with which the placeholders in the relevant set of Terms and Conditions will be completed. In case the provisions of the Final Terms and the relevant set of Terms and Conditions, taken together, shall constitute the Conditions the relevant set of Terms and Conditions shall be deemed



to be completed by the information contained in the Final Terms as if such information were inserted in the placeholders of such provisions.

In that case, all instructions and explanatory notes and text set out in square brackets in the relevant set of Terms and Conditions and any footnotes and explanatory text in the Final Terms will be deemed to be deleted from the Conditions.

### **Controlling Language**

As to controlling language of the respective Conditions, the following applies:

- In the case of Notes (i) publicly offered, in whole or in part, in the Federal Republic of Germany, or (ii) initially distributed, in whole or in part, to non-qualified investors in the Federal Republic of Germany, German will be the controlling language. If, in the event of such public offer or distribution to non-qualified investors, however, English is chosen as the controlling language, a German language translation of the Conditions will be available from the principal offices of the Fiscal Agent and the Issuer as specified on the back of this Prospectus.
- In other cases the Issuer will elect either German or English to be the controlling language.

## TERMS AND CONDITIONS OF THE NOTES

The Terms and Conditions of the Notes (the **Terms and Conditions**) are set forth below for two options:

**Option I** comprises the set of Terms and Conditions that apply to Tranches of Notes with fixed interest rates.

**Option II** comprises the set of Terms and Conditions that apply to Tranches of Notes with floating interest rates.

The set of Terms and Conditions for each of these Options contains certain further options, which are characterized accordingly by indicating the respective optional provision through instructions and explanatory notes set out in square brackets within the set of Terms and Conditions.

In the Final Terms the Issuer will determine, which of Option I or Option II including certain further options contained therein, respectively, shall apply with respect to an individual issue of Notes, either by replicating the relevant provisions or by referring to the relevant options.

To the extent that, upon the approval of the Prospectus, the Issuer had no knowledge of certain items which are applicable to an individual issue of Notes, this Prospectus contains placeholders set out in square brackets which include the relevant items that will be completed by the Final Terms.

*Die Emissionsbedingungen für die Schuldverschreibungen (die **Emissionsbedingungen**) sind nachfolgend in zwei Optionen aufgeführt.*

**Option I** umfasst den Satz der Emissionsbedingungen, der auf Tranchen von Schuldverschreibungen mit fester Verzinsung Anwendung findet.

**Option II** umfasst den Satz der Emissionsbedingungen, der auf Tranchen von Schuldverschreibungen mit variabler Verzinsung Anwendung findet.

*Der Satz von Emissionsbedingungen für jede dieser Optionen enthält bestimmte weitere Optionen, die entsprechend gekennzeichnet sind, indem die jeweilige optionale Bestimmung durch Instruktionen und Erklärungen in eckigen Klammern innerhalb des Satzes der Emissionsbedingungen bezeichnet wird.*

*In den Endgültigen Bedingungen wird die Emittentin festlegen, welche der Option I oder Option II (einschließlich der jeweils enthaltenen bestimmten weiteren Optionen) für die einzelne Emission von Schuldverschreibungen Anwendung findet, indem entweder die betreffenden Angaben wiederholt werden oder auf die betreffenden Optionen verwiesen wird.*

*Soweit die Emittentin zum Zeitpunkt der Billigung des Prospektes keine Kenntnis von bestimmten Angaben hatte, die auf eine einzelne Emission von Schuldverschreibungen anwendbar sind, enthält dieser Prospekt Platzhalter in eckigen Klammern, die maßgeblichen durch die Endgültigen Bedingungen zu vervollständigenden Angaben enthalten.*

### TERMS AND CONDITIONS

*[In case the options applicable to an individual issue are to be determined by referring in the Final Terms to the relevant options contained in the set of Terms and Conditions for Option I or Option II:*

The provisions of these Terms and Conditions apply to the Notes as completed by the terms of the final terms which is attached hereto (the Final Terms). The blanks in the provisions of these Terms and Conditions which are applicable to the Notes shall be deemed to be completed by the information contained in the Final Terms as if such information were inserted in the blanks of such provisions;

### EMISSIONSBEDINGUNGEN

*[Im Fall, dass die Optionen, die für eine einzelne Emission anwendbar sind, in den Endgültigen Bedingungen durch Verweis auf die weiteren Optionen bestimmt werden, die im Satz der Emissionsbedingungen der Option I oder Option II enthalten sind:*

Die Bestimmungen dieser Emissionsbedingungen gelten für diese Schuldverschreibungen so, wie sie durch die Angaben der beigefügten endgültigen Bedingungen (die Endgültigen Bedingungen) vervollständigt werden. Die Leerstellen in den auf die Schuldverschreibungen anwendbaren Bestimmungen dieser Emissionsbedingungen gelten als durch die in den Endgültigen Bedingungen enthaltenen Angaben

alternative or optional provisions of these Terms and Conditions as to which the corresponding provisions of the Final Terms are not completed or are deleted shall be deemed to be deleted from these Terms and Conditions; and all provisions of these Terms and Conditions which are inapplicable to the Notes (including instructions, explanatory notes and text set out in square brackets) shall be deemed to be deleted from these Terms and Conditions, as required to give effect to the terms of the Final Terms. Copies of the Final Terms may be obtained free of charge at the specified office of the Fiscal Agent and at the specified office of any Paying Agent and at the principal office of each Issuer provided that, in the case of Notes which are not listed on any stock exchange, copies of the relevant Final Terms will only be available to Holders of such Notes.]

ausgefüllt, als ob die Leerstellen in den betreffenden Bestimmungen durch diese Angaben ausgefüllt wären; alternative oder wählbare Bestimmungen dieser Emissionsbedingungen, deren Entsprechungen in den Endgültigen Bedingungen nicht ausgefüllt oder die gestrichen sind, gelten als aus diesen Emissionsbedingungen gestrichen; sämtliche auf die Schuldverschreibungen nicht anwendbaren Bestimmungen dieser Emissionsbedingungen (einschließlich der Anweisungen, Anmerkungen und der Texte in eckigen Klammern) gelten als aus diesen Emissionsbedingungen gestrichen, so dass die Bestimmungen der Endgültigen Bedingungen Geltung erhalten. Kopien der Endgültigen Bedingungen sind kostenlos bei der bezeichneten Geschäftsstelle der Emissionsstelle und bei den bezeichneten Geschäftsstellen einer jeden Zahlstelle sowie bei der Hauptgeschäftsstelle jeder Emittentin erhältlich; bei nicht an einer Börse notierten Schuldverschreibungen sind Kopien der betreffenden Endgültigen Bedingungen allerdings ausschließlich für die Gläubiger solcher Schuldverschreibungen erhältlich.]

**OPTION I – Terms and Conditions for Notes with fixed interest rate /  
Emissionsbedingungen für Schuldverschreibungen mit fester Verzinsung**

**TERMS AND CONDITIONS**

**§ 1**

**(CURRENCY, DENOMINATION, FORM)**

(1) Currency; Denomination.

This series of Notes (the *Notes*) of [Fresenius SE & Co. KGaA][Fresenius Finance Ireland Public Limited Company][Fresenius Finance Ireland II Public Limited Company] ([*Fresenius SE & Co. KGaA*][*Fresenius Ireland*][*Fresenius Ireland II*] or the *Issuer*) is being issued in [*Specified Currency*] (the *Specified Currency*) in the aggregate principal amount [*in the case the Global Note is an NGN the following applies*: (subject to § 1(3))] of [*aggregate principal amount*] (in words: [*aggregate principal amount in words*]) in the denomination of [*Specified Denomination*] (the *Specified Denomination*).

(2) Form.

The Notes are being issued in bearer form.

*[In the case of Notes which are represented by a Permanent Global Note the following applies:*

(3) Permanent Global Note.

The Notes are represented by a permanent global note (the *Permanent Global Note* or the *Global Note*) without coupons. The Permanent Global Note shall be signed manually by authorized signatories of the Issuer and shall be authenticated by or on behalf of the Fiscal Agent. Definitive Notes and interest coupons will not be issued.]

*[In the case of Notes which are initially represented by a Temporary Global Note the following applies:*

(3) Temporary Global Note – Exchange.

(a) The Notes are initially represented by a temporary global note (the *Temporary Global Note*) without coupons. The Temporary Global Note will be exchangeable for Notes in Specified Denominations represented by a permanent global note (the *Permanent Global Note*

**EMISSIONSBEDINGUNGEN**

**§ 1**

**(WÄHRUNG, STÜCKELUNG, FORM)**

(1) Währung; Stückelung.

Diese Serie von Schuldverschreibungen (die *Schuldverschreibungen*) der [Fresenius SE & Co. KGaA][Fresenius Finance Ireland Public Limited Company][Fresenius Finance Ireland II Public Limited Company] ([*Fresenius SE & Co. KGaA*][*Fresenius Ireland*][*Fresenius Ireland II*] oder die *Emittentin*) wird in [*Festgelegte Währung*] (die *Festgelegte Währung*) im Gesamtnennbetrag [*falls die Globalurkunde eine NGN ist, ist folgendes anwendbar*: (vorbehaltlich § 1(3))] von [*Gesamtnennbetrag*] (in Worten: [*Gesamtnennbetrag in Worten*]) in einer Stückelung von [*Festgelegte Stückelung*] (die *Festgelegte Stückelung*) begeben.

(2) Form.

Die Schuldverschreibungen lauten auf den Inhaber.

*[Im Fall von Schuldverschreibungen, die durch eine Dauerglobalurkunde verbrieft sind, ist folgendes anwendbar:*

(3) Dauerglobalurkunde.

Die Schuldverschreibungen sind durch eine Dauerglobalurkunde (die *Dauerglobalurkunde* oder die *Globalurkunde*) ohne Zinsscheine verbrieft. Die Dauerglobalurkunde trägt die eigenhändigen Unterschriften ordnungsgemäß bevollmächtigter Vertreter der Emittentin und ist von der Emissionsstelle oder in deren Namen mit einer Kontrollunterschrift versehen. Einzelurkunden und Zinsscheine werden nicht ausgegeben.]

*[Im Fall von Schuldverschreibungen, die anfänglich durch eine vorläufige Globalurkunde verbrieft sind, ist folgendes anwendbar:*

(3) Vorläufige Globalurkunde – Austausch.

(a) Die Schuldverschreibungen sind anfänglich durch eine vorläufige Globalurkunde (die *vorläufige Globalurkunde*) ohne Zinsscheine verbrieft. Die vorläufige Globalurkunde wird gegen Schuldverschreibungen in den Festgelegten Stückelungen, die durch eine

and together with the Temporary Global Note, the *Global Notes*) without coupons. **[In the case of Euroclear and CBL and if the Global Note is an NGN the following applies:** The details of such exchange shall be entered in the records of the ICSDs (as defined below).] The Global Notes shall each be signed manually by authorized signatories of the Issuer and shall each be authenticated by or on behalf of the Fiscal Agent. Definitive Notes and interest coupons will not be issued.

- (b) The Temporary Global Note shall be exchanged for the Permanent Global Note on a date (the **Exchange Date**) not earlier than 40 days after the date of issue of the Notes. Such exchange shall only be made upon delivery of certifications to the effect that the beneficial owner or owners of the Notes is not a U.S. person (other than certain financial institutions or certain persons holding Notes through such financial institutions). Payment of interest on Notes represented by a Temporary Global Note will be made only after delivery of such certifications. A separate certification shall be required in respect of each such payment of interest. Any such certification received on or after the 40<sup>th</sup> day after the date of issue of the Notes will be treated as a request to exchange the Temporary Global Note pursuant to subparagraph (b) of this § 1(3). Any Notes delivered in exchange for the Temporary Global Note shall be delivered only outside of the United States (as defined in § 1(6)).]

(4) Clearing System.

Each Global Note will be kept in custody by or on behalf of the Clearing System until all obligations of the Issuer under the Notes have been satisfied. **Clearing System** means **[if more than one Clearing System, the following applies: each of]** the following: [Clearstream

Dauerglobalurkunde (die **Dauerglobalurkunde** und zusammen mit der vorläufigen Globalurkunde, die **Globalurkunden**) ohne Zinsscheine verbrieft sind, ausgetauscht. **[Im Fall von Euroclear und CBL und wenn die Globalurkunde eine NGN ist, ist folgendes anwendbar:** Die Einzelheiten eines solchen Austausches werden in die Aufzeichnungen der ICSDs (wie nachstehend definiert) aufgenommen.] Die Globalurkunden tragen jeweils die eigenhändigen Unterschriften ordnungsgemäß bevollmächtigter Vertreter der Emittentin und sind jeweils von der Emissionsstelle oder in deren Namen mit einer Kontrollunterschrift versehen. Einzelurkunden und Zinsscheine werden nicht ausgegeben.

- (b) Die vorläufige Globalurkunde wird an einem Tag (der **Austauschtag**) gegen die Dauerglobalurkunde ausgetauscht, der nicht weniger als 40 Tage nach dem Tag der Begebung der Schuldverschreibungen liegt. Ein solcher Austausch darf nur nach Vorlage von Bescheinigungen erfolgen, wonach der oder die wirtschaftlichen Eigentümer der Schuldverschreibungen keine U.S.-Personen sind (ausgenommen bestimmte Finanzinstitute oder bestimmte Personen, die Schuldverschreibungen über solche Finanzinstitute halten). Solange die Schuldverschreibungen durch eine vorläufige Globalurkunde verbrieft sind, werden Zinszahlungen erst nach Vorlage dieser Bescheinigungen vorgenommen. Eine gesonderte Bescheinigung ist für jede solche Zinszahlung erforderlich. Jede Bescheinigung, die am oder nach dem 40. Tag nach dem Tag der Begebung der Schuldverschreibungen eingeht, wird als ein Ersuchen behandelt werden, diese vorläufige Globalurkunde gemäß Absatz (b) dieses § 1(3) auszutauschen. Schuldverschreibungen, die im Austausch für die vorläufige Globalurkunde geliefert werden, dürfen nur außerhalb der Vereinigten Staaten (wie in § 1(6) definiert) geliefert werden.]

(4) Clearingsystem.

Die Globalurkunde wird solange von einem oder im Namen eines Clearingsystems verwahrt, bis sämtliche Verbindlichkeiten der Emittentin aus den Schuldverschreibungen erfüllt sind. **Clearingsystem** bedeutet **[bei mehr als einem Clearingsystem ist folgendes anwendbar:**

Banking Aktiengesellschaft, Frankfurt am Main (**CBF**)] [Clearstream Banking, société anonyme Luxembourg (**CBL**)] [and] [Euroclear Bank SA/NV Brussels as operator of the Euroclear System (**Euroclear**)] and any successor in such capacity. **[In the case of CBL and Euroclear as Clearing System the following applies: International Central Securities Depositary or ICSD means each of CBL and Euroclear (together, the ICSDs).]**

**[In the case of Notes kept in custody on behalf of the ICSDs and the global note is a NGN, the following applies:** The Notes are issued in new global note (**NGN**) form and are kept in custody by a common safekeeper on behalf of both ICSDs.

The principal amount of Notes represented by the Global Note shall be the aggregate amount from time to time entered in the records of both ICSDs. The records of the ICSDs (which expression means the records that each ICSD holds for its customers which reflect the amount of such customer's interest in the Notes) shall be conclusive evidence of the principal amount of Notes represented by the Global Note and, for these purposes, a statement issued by an ICSD stating the principal amount of Notes so represented at any time shall be conclusive evidence of the records of the relevant ICSD at that time.

On any redemption or interest being made in respect of, or purchase and cancellation of, any of the Notes represented by the Global Note the Issuer shall procure that details of any redemption, payment or purchase and cancellation (as the case may be) in respect of the Global Note shall be entered *pro rata* in the records of the ICSDs and, upon any such entry being made, the principal amount of the Notes recorded in the records of the ICSDs and represented by the Global Note shall be reduced by the aggregate principal amount of the Notes so redeemed or purchased and cancelled.]

jeweils] folgendes: [Clearstream Banking Aktiengesellschaft, Frankfurt am Main (**CBF**)] [Clearstream Banking, société anonyme, Luxemburg (**CBL**)] [und] [Euroclear Bank SA/NV Brüssel, als Betreiberin des Euroclear Systems (**Euroclear**)] sowie jeder Funktionsnachfolger. **[Im Fall von CBL oder Euroclear als Clearingsystem ist folgendes anwendbar: International Central Securities Depositary oder ICSD bezeichnet jeweils CBL und Euroclear (zusammen die ICSDs).]**

**[Im Fall von Schuldverschreibungen, die im Namen der ICSDs verwahrt werden, und falls die Globalurkunde eine NGN ist, ist folgendes anwendbar:** Die Schuldverschreibungen werden in Form einer New Global Note (NGN) ausgegeben und von einer gemeinsamen Verwahrstelle im Namen beider ICSDs verwahrt.

Der Nennbetrag der durch die Globalurkunde verbrieften Schuldverschreibungen entspricht dem jeweils in den Registern beider ICSDs eingetragenen Gesamtbetrag. Die Register der ICSDs (unter denen man die Register versteht, die jeder ICSD für seine Kunden über den Betrag ihres Anteils an den Schuldverschreibungen führt) sind schlüssiger Nachweis über den Nennbetrag der durch die Globalurkunde verbrieften Schuldverschreibungen und eine zu diesen Zwecken von einem ICSD jeweils ausgestellte Bestätigung mit dem Nennbetrag der so verbrieften Schuldverschreibungen ist zu jedem Zeitpunkt ein schlüssiger Nachweis über den Inhalt des Registers des jeweiligen ICSD.

Bei Rückzahlung oder Zinszahlung bezüglich der durch die Globalurkunde verbrieften Schuldverschreibungen bzw. bei Kauf und Entwertung der durch die Globalurkunde verbrieften Schuldverschreibungen stellt die Emittentin sicher, dass die Einzelheiten über jede Rückzahlung und Zahlung bzw. Kauf und Entwertung bezüglich der Globalurkunden *pro rata* in die Unterlagen der ICSDs eingetragen werden, und nach dieser Eintragung vom Nennbetrag der in die Register der ICSDs aufgenommenen und durch die Globalurkunde verbrieften Schuldverschreibungen der Gesamtnennbetrag der zurückgezählten bzw. gekauften und entwerteten Schuldverschreibungen abgezogen wird.]

**[In the case of Notes kept in custody on behalf of the ICSDs and the global note is a CGN, the following applies:** The Notes are issued in classical global note (CGN) form and are kept in custody by a common depository on behalf of both ICSDs.]

(5) Holder of Notes.

**Holder** means any holder of a proportionate co-ownership or other beneficial interest or right in the Notes.

**[In the case the Temporary Global Note is a NGN, the following applies:** On an exchange of a portion only of the Notes represented by a Temporary Global Note, the Issuer shall procure that details of such exchange shall be entered *pro rata* in the records of the ICSDs.]

(6) United States.

For the purposes of these Terms and Conditions, **United States** means the United States of America (including the States thereof and the District of Columbia) and its possessions (including Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and Northern Mariana Islands).

**[In case Book-Entry Register with CBF is provided in the Final Terms, the following applies:**

(7) Book-Entry Register.

The Issuer and CBF have agreed that CBF will act as the Issuer's book-entry registrar in respect of the Notes. In such capacity and without prejudice to the issuance of the Notes in bearer form and their status as notes in bearer form under German law, CBF has agreed, as agent of the Issuer, to maintain records of the Notes credited to the accounts of the accountholders of CBF.]

**[Im Fall von Schuldverschreibungen, die im Namen der ICSDs verwahrt werden, und falls die Globalurkunde eine CGN ist, ist folgendes anwendbar:** Die Schuldverschreibungen werden in Form einer Classical Global Note (CGN) ausgegeben und von einer gemeinsamen Verwahrstelle im Namen beider ICSDs verwahrt.]

(5) Gläubiger von Schuldverschreibungen.

**Gläubiger** bedeutet jeder Inhaber eines Miteigentumsanteils oder anderen vergleichbaren Rechts an den Schuldverschreibungen.

**[Falls die Globalurkunde eine NGN ist, ist folgendes anwendbar:** Bei Austausch nur eines Teils von Schuldverschreibungen, die durch eine vorläufige Globalurkunde verbrieft sind, wird die Emittentin sicherstellen, dass die Einzelheiten dieses Austauschs *pro rata* in die Register der ICSDs aufgenommen werden.]

(6) Vereinigte Staaten.

Für die Zwecke dieser Emissionsbedingungen bezeichnet **Vereinigte Staaten** die Vereinigten Staaten von Amerika (einschließlich deren Bundesstaaten und des District of Columbia) sowie deren Territorien (einschließlich Puerto Rico, der U.S. Virgin Islands, Guam, American Samoa, Wake Island und Northern Mariana Islands).

**[Falls in den Endgültigen Bedingungen eine Eintragung im Effktingiro-Register bei CBF vorgesehen ist, gilt Folgendes:**

(7) Effktingiro-Register

Die Emittentin und CBF haben vereinbart, dass CBF zum Effktingiro-Registrar der Emittentin bezüglich der Schuldverschreibungen bestellt wird. In dieser Funktion und unbeschadet der Emission der Schuldverschreibungen sowie deren Status als Inhaberpapiere nach deutschem Recht hat CBF zugesagt, als Beauftragte der Emittentin in den Büchern der CBF Aufzeichnungen über die Schuldverschreibungen, die auf den Konten der CBF-Kontoinhaber gutgeschrieben sind, zu führen.]

## § 2

### (STATUS, NEGATIVE PLEDGE [IN THE CASE OF NOTES ISSUED BY FRESENIUS IRELAND OR FRESENIUS IRELAND II, THE FOLLOWING APPLIES: , GUARANTEE])

#### (1) Status.

The obligations under the Notes constitute unsecured and unsubordinated obligations of the Issuer ranking *pari passu* among themselves and *pari passu* with all other present or future unsecured and unsubordinated obligations of the Issuer, unless such obligations are accorded priority under mandatory provisions of statutory law.

#### (2) Negative Pledge.

So long as any of the Notes remain outstanding, but only up to the time all amounts of principal and interest have been placed at the disposal of the Fiscal Agent, the Issuer undertakes **[in the case of Notes issued by Fresenius SE & Co. KGaA, the following applies:** (i)] not to grant or permit to subsist any mortgage, land charge, lien or any other security right in rem (*dingliches Sicherungsrecht*) (the **Security Interest**) over any or all of its present or future assets, as security for any present or future Capital Market Indebtedness **[in the case of Notes issued by Fresenius SE & Co. KGaA, the following applies:** and (ii) to procure, to the extent legally possible, that none of its Subsidiaries will grant or permit to subsist any Security Interest over any or all of its present or future assets, as security for any present or future Capital Market Indebtedness,] without at the same time having the Holders share equally and rateably in such Security Interest. This undertaking shall not apply with respect to any Security Interest which (i) is provided over any of the Issuer's claims **[in the case of Notes issued by Fresenius SE & Co. KGaA, the following applies:** or claims of any of its Subsidiaries] against any affiliated companies within the meaning of sections 15 et seq. of the German Stock Corporation Act (*Aktiengesetz*) or any third party, which claims exist now or arise at any time in the future, as a result of the passing on of the proceeds from the sale by the issuer of any securities, provided that any such security serves to secure obligations under such securities issued by the Issuer **[in the case of Notes issued by Fresenius SE & Co. KGaA, the following applies:** or by any of its

## § 2

### (STATUS, NEGATIVVERPFLICHTUNG [IM FALL VON SCHULDVERSCHREIBUNGEN, DIE VON FRESENIUS IRELAND ODER FRESENIUS IRELAND II BEGEBEN WERDEN, IST FOLGENDES ANWENDBAR: , GARANTIE])

#### (1) Status.

Die Schuldverschreibungen begründen nicht besicherte und nicht nachrangige Verbindlichkeiten der Emittentin, die untereinander und mit allen anderen gegenwärtigen und künftigen nicht besicherten und nicht nachrangigen Verbindlichkeiten der Emittentin gleichrangig sind, soweit diesen Verbindlichkeiten nicht durch zwingende gesetzliche Bestimmungen ein Vorrang eingeräumt wird.

#### (2) Negativverpflichtung.

Die Emittentin verpflichtet sich, solange Schuldverschreibungen ausstehen, jedoch nur bis zu dem Zeitpunkt, an dem alle Beträge an Kapital und Zinsen der Emissionsstelle zur Verfügung gestellt worden sind, **[bei von Fresenius SE & Co. KGaA begebenen Schuldverschreibungen, ist folgendes anwendbar:** (i)] keine Grundpfandrechte, Pfandrechte oder sonstigen dinglichen Sicherungsrechte (ein **Sicherungsrecht**) an gegenwärtigen oder zukünftigen Teilen ihres Vermögens oder ihres Vermögens insgesamt zur Sicherung der gegenwärtigen oder zukünftigen Kapitalmarktverbindlichkeiten zu bestellen oder fortbestehen zu lassen, **[bei von Fresenius SE & Co. KGaA begebenen Schuldverschreibungen, ist folgendes anwendbar:** und (ii) soweit rechtlich möglich, zu veranlassen, dass keine ihrer Tochtergesellschaften Sicherungsrechte an gegenwärtigen oder zukünftigen Teilen ihres Vermögens oder ihres Vermögens insgesamt zur Sicherung der gegenwärtigen oder zukünftigen Kapitalmarktverbindlichkeiten bestellt oder fortbestehen lässt,] ohne jeweils die Gläubiger zur gleichen Zeit auf gleiche Weise und anteilig an diesen Sicherungsrechten teilhaben zu lassen. Diese Verpflichtung gilt nicht in Bezug auf Sicherungsrechte, die (i) an gegenwärtigen oder zukünftigen Ansprüchen der Emittentin **[bei von Fresenius SE & Co. KGaA begebenen Schuldverschreibungen, ist folgendes anwendbar:** oder Ansprüchen einer ihrer Tochtergesellschaften] gegen verbundene Unternehmen im Sinne der §§ 15 f. Aktiengesetz oder gegen Dritte aufgrund von einer Übertragung von Erlösen aus dem Verkauf von



Subsidiaries], (ii) is existing on assets at the time of the acquisition thereof by the Issuer [*in the case of Notes issued by Fresenius SE & Co. KGaA, the following applies:* or by any of its Subsidiaries] or is existing over assets of a newly acquired company which becomes a member of the Fresenius Group, (iii) is existing on the issue date of the Notes, (iv) secures a Capital Market Indebtedness existing at the time of acquisition that becomes an obligation of the Issuer or of any company within the Fresenius Group as a consequence of such acquisition, provided that such Capital Market Indebtedness was not created in contemplation of such acquisition (v) is mandatory pursuant to applicable laws or required as a prerequisite for obtaining any governmental approvals, (vi) is provided in connection with any issuance of asset backed securities by the Issuer [*in the case of Notes issued by Fresenius SE & Co. KGaA, the following applies:* or by any of its Subsidiaries], (vii) is provided in respect of any issuance of asset backed securities made by a special purpose vehicle where the Issuer [*in the case of Notes issued by Fresenius SE & Co. KGaA, the following applies:* or any of its Subsidiaries] is the originator of the underlying assets, (viii) is provided in connection with the renewal, extension or replacement of any security pursuant to foregoing (i) through (vii) and, (ix) secures Capital Market Indebtedness the principal amount of which (when aggregated with the principal amount of any other Capital Market Indebtedness which has the benefit of a security other than any permitted under the subparagraphs (i) to (viii) above) does not exceed EUR 100,000,000 (or its equivalent in other currencies at any time).

For purposes of these Terms and Conditions, **Capital Market Indebtedness** means any obligation for the payment of borrowed money which is evidenced by a certificate of indebtedness (*Schuldscheindarlehen*) or which is

Wertpapieren bestehen, soweit diese Sicherheiten zur Sicherung von Verpflichtungen aus diesen durch die Emittentin [*bei von Fresenius SE & Co. KGaA begebenen Schuldverschreibungen, ist folgendes anwendbar:* oder durch eine ihrer Tochtergesellschaften] ausgegebenen Wertpapieren dienen, (ii) an Vermögensgegenständen bestellt sind, die bereits zum Zeitpunkt des Erwerbs des betreffenden Vermögensgegenstandes durch die Emittentin [*bei von Fresenius SE & Co. KGaA begebenen Schuldverschreibungen, ist folgendes anwendbar:* oder durch eine ihrer Tochtergesellschaften] bestanden, oder am Vermögen einer neu erworbenen Gesellschaft bestehen, die Mitglied des Fresenius-Konzerns wird, (iii) zum Ausgabetag der Schuldverschreibungen bestehen, (iv) eine im Zeitpunkt einer Akquisition bestehende Kapitalmarktverbindlichkeit besichern, die infolge der Akquisition eine Verpflichtung der Emittentin oder einer Gesellschaft des Fresenius-Konzerns wird, sofern diese Kapitalmarktverbindlichkeit nicht im Hinblick auf diese Akquisition begründet wurde, (v) aufgrund anwendbaren Rechts gesetzlich vorgeschriebene Sicherheiten sind oder solche, deren Bestehen eine Voraussetzung zur Erteilung einer behördlichen Genehmigung sind, (vi) im Zusammenhang mit durch die Emittentin [*bei von Fresenius SE & Co. KGaA begebenen Schuldverschreibungen, ist folgendes anwendbar:* oder durch eine ihrer Tochtergesellschaften] begebenen asset backed securities (ABS) stehen, (vii) im Zusammenhang mit durch Zweckgesellschaften begebenen asset backed securities (ABS) stehen, bei denen die Emittentin [*bei von Fresenius SE & Co. KGaA begebenen Schuldverschreibungen, ist folgendes anwendbar:* oder eine ihrer Tochtergesellschaften] der Originator der zugrundeliegenden Vermögensgegenstände ist, (viii) der Erneuerung, Verlängerung oder dem Austausch irgendeiner Sicherheit gemäß vorstehend (i) bis (vii) dienen und (ix) Kapitalmarktverbindlichkeiten besichern, deren Kapitalbetrag (bei Aufaddierung auf den Kapitalbetrag sonstiger Kapitalmarktverbindlichkeiten, für die andere Sicherheiten als die nach (i) bis (viii) zulässigen bestehen) EUR 100.000.000 (oder deren jeweiligen Gegenwert in anderen Währungen) nicht überschreitet.

Im Sinne dieser Emissionsbedingungen bezeichnet **Kapitalmarktverbindlichkeit** jede Verbindlichkeit zur Rückzahlung aufgenommenen Geldbeträge, die durch Schuldscheindarlehen dokumentiert ist oder

represented by any bond or debt security with an original maturity of more than one year which is, or is intended to be, or is capable of being listed or traded on a stock exchange or other recognized securities market.

**Fresenius Group** means Fresenius SE & Co. KGaA and its Subsidiaries on a consolidated basis.

*[In the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:*

(3) Guarantee and Negative Pledge.

- (a) Fresenius SE & Co. KGaA (the **Guarantor**) has given an unconditional and irrevocable guarantee (the **Guarantee**) for the due and punctual payment of principal of, and interest on, and any other amounts payable under any Notes. The Guarantee constitutes a contract for the benefit of the Holders from time to time as third party beneficiaries in accordance with § 328 paragraph 1 of the German Civil Code (*Bürgerliches Gesetzbuch*)<sup>11</sup>, giving rise to the right of each Holder to require performance of the Guarantee directly from the Guarantor and to enforce the Guarantee directly against the Guarantor. Copies of the Guarantee may be obtained free of charge at the specified office of the Fiscal Agent.
- (b) The Guarantor has undertaken in the Guarantee, as long as any of the Notes remain outstanding, but only up to the time all amounts of principal and interest have been placed at the disposal of the Fiscal Agent, (i) not to grant or permit to subsist any Security Interest over any or all of its present or future assets, as security for any present or future Capital Market Indebtedness (as defined in § 2(2)), and (ii) to procure, to the extent legally possible, that none of its Subsidiaries will grant or permit to subsist any Security Interest over any or all of its present or future assets, as security for any present or future Capital Market Indebtedness without at the same time having the Holders share equally and rateably in such Security Interest. This undertaking shall not apply with respect to any Security Interest which (i) is provided

durch Schuldverschreibungen oder sonstige Wertpapiere mit einer ursprünglichen Laufzeit von mehr als einem Jahr, die an einer Börse oder an einem anderen anerkannten Wertpapiermarkt zugelassen oder gehandelt werden oder zugelassen oder gehandelt werden können, verbrieft, verkörpert oder dokumentiert ist.

**Fresenius-Konzern** bezeichnet Fresenius SE & Co. KGaA und ihre Tochtergesellschaften auf konsolidierter Basis.

*[Im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:*

(3) Garantie und Negativverpflichtung.

- (a) Fresenius SE & Co. KGaA (die **Garantin**) hat eine unbedingte und unwiderrufliche Garantie (die **Garantie**) für die ordnungsgemäße und pünktliche Zahlung von Kapital und Zinsen und allen anderen zu zahlenden Beträgen unter den Schuldverschreibungen übernommen. Die Garantie stellt einen Vertrag zugunsten der Gläubiger als begünstigte Dritte im Sinne des § 328 Absatz 1 BGB dar, der jedem Gläubiger das Recht gibt, Erfüllung der in der Garantie übernommenen Verpflichtungen unmittelbar von der Garantin zu verlangen und diese Verpflichtungen unmittelbar gegen die Garantin durchzusetzen. Kopien der Garantie können kostenlos bei der bezeichneten Geschäftsstelle der Emissionsstelle bezogen werden.
- (b) Die Garantin hat sich in der Garantie verpflichtet, solange Schuldverschreibungen ausstehen, jedoch nur bis zu dem Zeitpunkt, an dem alle Beträge an Kapital und Zinsen der Emissionsstelle zur Verfügung gestellt worden sind, (i) keine Sicherungsrechte an gegenwärtigen oder zukünftigen Teilen ihres Vermögens oder ihres Vermögens insgesamt zur Sicherung gegenwärtiger oder zukünftiger Kapitalmarktverbindlichkeiten (wie in § 2(2) definiert) zu bestellen oder fortbestehen zu lassen und (ii) soweit rechtlich möglich, zu veranlassen, dass keine ihrer Tochtergesellschaften Sicherungsrechte an gegenwärtigen oder zukünftigen Teilen ihres Vermögens oder ihres Vermögens insgesamt zur Sicherung der gegenwärtigen oder zukünftigen Kapitalmarkt-

<sup>11</sup> An English language convenience translation of § 328 paragraph 1 BGB (German Civil Code) reads as follows: A contract may stipulate performance for the benefit of a third party, to the effect that the third party acquires the right directly to demand performance.

over any of the Guarantor's claims or claims of any of its Subsidiaries against any affiliated companies within the meaning of sections 15 et seq. of the German Stock Corporation Act (*Aktiengesetz*) or any third party, which claims exist now or arise at any time in the future, as a result of the passing on of the proceeds from the sale by the issuer of any securities, provided that any such security serves to secure obligations under such securities issued by the Guarantor or by any of its Subsidiaries, (ii) is existing on assets at the time of the acquisition thereof by the Guarantor or by any of its Subsidiaries or is existing over assets of a newly acquired company which becomes a member of the Fresenius Group (iii) is existing on the issue date of the Notes, (iv) secures a Capital Market Indebtedness existing at the time of acquisition that becomes an obligation of the Guarantor or of any company within the Fresenius Group as a consequence of such acquisition, provided that such Capital Market Indebtedness was not created in contemplation of such acquisition, (v) is mandatory pursuant to applicable laws or required as a prerequisite for obtaining any governmental approvals, (vi) is provided in connection with any issuance of asset backed securities by the Guarantor or by any of its Subsidiaries, (vii) is provided in respect of any issuance of asset backed securities made by a special purpose vehicle where the Guarantor or any of its Subsidiaries is the originator of the underlying assets, (viii) is provided in connection with the renewal, extension or replacement of any security pursuant to foregoing (i) through (vii) and, (ix) secures Capital Market Indebtedness the principal amount of which (when aggregated with the principal amount of any other Capital Market Indebtedness which has the benefit of a security other than any permitted under the sub-paragraphs (i) to (viii) above) does not exceed EUR 100,000,000 (or its equivalent in other currencies at any time).]

verbindlichkeiten, bestellt oder fortbestehen lässt, ohne jeweils die Gläubiger zur gleichen Zeit auf gleiche Weise und anteilig an diesen Sicherungsrechten teilhaben zu lassen. Diese Verpflichtung gilt nicht in Bezug auf Sicherungsrechte, die (i) an gegenwärtigen oder zukünftigen Ansprüchen der Garantin oder Ansprüchen einer ihrer Tochtergesellschaften gegen verbundene Unternehmen im Sinne der §§ 15 f. Aktiengesetz oder gegen Dritte aufgrund von einer Übertragung von Erlösen aus dem Verkauf von Wertpapieren bestehen, soweit diese Sicherheiten zur Sicherung von Verpflichtungen aus diesen durch die Garantin oder durch eine ihrer Tochtergesellschaften ausgegebenen Wertpapieren dienen, (ii) an Vermögensgegenständen bestellt sind, die bereits zum Zeitpunkt des Erwerbs des betreffenden Vermögensgegenstandes durch die Garantin oder durch eine ihrer Tochtergesellschaften bestanden, oder am Vermögen einer neu erworbenen Gesellschaft bestehen, die Mitglied des Fresenius-Konzerns wird, (iii) zum Ausgabebetrag der Schuldverschreibungen bestehen, (iv) eine im Zeitpunkt einer Akquisition bestehende Kapitalmarktverbindlichkeit besichern, die infolge der Akquisition eine Verpflichtung der Garantin oder einer Gesellschaft des Fresenius-Konzerns wird, sofern diese Kapitalmarktverbindlichkeit nicht im Hinblick auf diese Akquisition begründet wurde, (v) aufgrund anwendbaren Rechts gesetzlich vorgeschriebene Sicherheiten sind oder solche, deren Bestehen eine Voraussetzung zur Erteilung einer behördlichen Genehmigung sind, (vi) im Zusammenhang mit durch die Garantin oder durch eine ihrer Tochtergesellschaften begebenen asset backed securities (ABS) stehen, (vii) im Zusammenhang mit durch Zweckgesellschaften begebenen asset backed securities (ABS) stehen, bei denen die Garantin oder eine ihrer Tochtergesellschaften der Originator der zugrundeliegenden Vermögensgegenstände ist, (viii) der Erneuerung, Verlängerung oder dem Austausch irgendeiner Sicherheit gemäß vorstehend (i) bis (vii) dienen und (ix) Kapitalmarktverbindlichkeiten besichern, deren Kapitalbetrag (bei Aufaddierung auf den Kapitalbetrag sonstiger Kapitalmarktverbindlichkeiten, für die andere Sicherheiten als die nach (i)

bis (viii) zulässigen bestehen)  
EUR 100.000.000 (oder deren jeweiligen  
Gegenwert in anderen Währungen) nicht  
überschreitet.]

**Subsidiary** means, with respect to any Person, any corporation, limited liability company, association, partnership or other business entity whose results of operations are consolidated in accordance with IFRS with those of:

- (a) such Person;
- (b) such Person and one or more Subsidiaries of such Person; or
- (c) one or more Subsidiaries of such Person;

provided, however, that this definition of Subsidiaries shall exclude Fresenius Medical Care AG & Co. KGaA and its Subsidiaries.

**IFRS** refers to International Financial Reporting Standards of the International Accounting Standards Board, as adopted by the European Union.

### § 3 (INTEREST)

- (1) Rate of Interest and Interest Payment Dates.

The Notes shall bear interest on their principal amount at the rate of [**Rate of Interest**]% *per annum* from (and including) [**Interest Commencement Date**] to (but excluding) the Maturity Date (as defined in § 5(1)). Interest shall be payable in arrear on [**Interest Payment Date(s)**] in each year (each such date, an **Interest Payment Date**). The first payment of interest shall be made on [**First Interest Payment Date**] [*if the First Interest Payment Date is not the first anniversary of the Interest Commencement Date, the following applies:* and will amount to [**Initial Broken Amount per Specified Denomination**] per Specified Denomination.] [*If Maturity Date is not an Interest Payment Date, the following applies:* Interest in respect of the period from (and including) [**last Interest Payment Date preceding the Maturity Date**] to (but excluding) the Maturity Date will amount to [**Final Broken Amount per Specified Denomination**] per Specified Denomination.]

**Tochtergesellschaft** bezeichnet in Bezug auf einen Rechtsträger, eine Kapitalgesellschaft, eine Gesellschaft mit Haftungsbeschränkung, eine Vereinigung, eine Personengesellschaft oder ein sonstiges Unternehmen, dessen Ergebnisse gemäß IFRS mit den Ergebnissen folgender Personen konsolidiert werden:

- (a) dieses Rechtsträgers;
- (b) dieses Rechtsträgers und einer oder mehreren Tochtergesellschaften dieses Rechtsträgers; oder
- (c) einer oder mehrerer Tochtergesellschaften dieses Rechtsträgers,

wobei jedoch diese Definition von Tochtergesellschaft die Fresenius Medical Care AG & Co. KGaA und ihre Tochtergesellschaften ausschließt.

**IFRS** bezeichnet die International Financial Reporting Standards des International Accounting Standards Board, wie sie von der Europäischen Union anerkannt werden.

### § 3 (ZINSEN)

- (1) Zinssatz und Zinszahlungstage.

Die Schuldverschreibungen werden bezogen auf ihren Nennbetrag verzinst, und zwar vom [**Verzinsungsbeginn**] (einschließlich) bis zum Fälligkeitstag (wie in § 5(1) definiert) (ausschließlich) mit jährlich [**Zinssatz**]%. Die Zinsen sind nachträglich am [**Zinszahlungstag(e)**] eines jeden Jahres zahlbar (jeweils ein **Zinszahlungstag**). Die erste Zinszahlung erfolgt am [**erster Zinszahlungstag**] [*sofern der erste Zinszahlungstag nicht der erste Jahrestag des Verzinsungsbeginns ist, ist folgendes anwendbar:* und beläuft sich auf [**anfänglicher Bruchteilszinsbetrag je Festgelegte Stückelung**] je Festgelegte Stückelung.] [*Sofern der Fälligkeitstag kein Zinszahlungstag ist, ist folgendes anwendbar:* Die Zinsen für den Zeitraum vom [**letzter dem Fälligkeitstag vorausgehender Zinszahlungstag**] (einschließlich) bis zum Fälligkeitstag (ausschließlich) belaufen sich auf [**abschließender Bruchteilszinsbetrag je Festgelegte Stückelung**] je Festgelegte

(2) Accrual of Interest.

The Notes shall cease to bear interest from the expiry of the day preceding the day on which they are due for redemption. If the Issuer for any reason fails to redeem the Notes when due, interest shall continue to accrue at the default rate of interest established by statutory law<sup>12</sup> on the outstanding aggregate principal amount of the Notes from (and including) the due date to (but excluding) the day on which such redemption payment is made to the Holders.

(3) Calculation of Interest for Periods other than a full Year.

If interest is to be calculated for a period other than a full year, it shall be calculated on the basis of the Day Count Fraction (as defined below). **[If the Specified Currency is Euro and if Actual/Actual (ICMA) is applicable, the following applies:** The number of Interest Payment Dates per calendar year (each a **Determination Date**) is **[number of regular Interest Payment Dates per calendar year].**]

(4) Day Count Fraction.

**Day Count Fraction** means with regard to the calculation of the amount of interest on the Notes for any period of time (the **Calculation Period**):

Stückelung.]

(2) Auflaufende Zinsen.

Der Zinslauf der Schuldverschreibungen endet mit Ablauf des Tages, der dem Tag vorangeht, an dem sie zur Rückzahlung fällig werden. Falls die Emittentin die Schuldverschreibungen bei Fälligkeit aus irgendeinem Grund nicht zurückzahlt, wird der ausstehende Gesamtnennbetrag der Schuldverschreibungen von dem Tag der Fälligkeit (einschließlich) bis zum Tag der vollständigen Rückzahlung an die Gläubiger (ausschließlich) mit dem gesetzlich bestimmten Verzugszins<sup>13</sup> verzinst.

(3) Berechnung der Zinsen für Zeiträume, die nicht einem vollen Jahr entsprechen.

Sofern Zinsen für einen Zeitraum, der nicht einem vollen Jahr entspricht, zu berechnen sind, erfolgt die Berechnung auf der Grundlage des Zinstagequotienten (wie nachfolgend definiert). **[Falls die Festgelegte Währung Euro ist, und falls Actual/Actual (ICMA) anwendbar ist, ist folgendes anwendbar:** Die Anzahl der Zinszahlungstage im Kalenderjahr (jeweils ein **Feststellungstermin**) beträgt **[Anzahl der regulären Zinszahlungstage im Kalenderjahr].**]

(4) Zinstagequotient.

**Zinstagequotient** bezeichnet im Hinblick auf die Berechnung von Zinsbeträgen auf die Schuldverschreibungen für einen beliebigen Zeitraum (der **Zinsberechnungszeitraum**):

<sup>12</sup> The default rate of interest established by statutory law is five percentage points above the basis rate of interest published by *Deutsche Bundesbank* from time to time, §§ 288 paragraph 1, 247 paragraph 1 of the German Civil Code.

<sup>13</sup> Der gesetzliche Verzugszinssatz beträgt für das Jahr fünf Prozentpunkte über dem von der Deutsche Bundesbank von Zeit zu Zeit veröffentlichten Basiszinssatz, §§ 288 Absatz 1, 247 Absatz 1 BGB.

***[If the Specified Currency is Euro and if Actual/Actual (ICMA) is applicable the following applies:***

- (a) if the Calculation Period (from and including the first day of such period but excluding the last) is equal to or shorter than the Determination Period during which the Calculation Period ends, the number of days in such Calculation Period (from and including the first day of such period but excluding the last) divided by the product of (1) the number of days in such Determination Period and (2) the number of Determination Dates (as specified in § 3(3)) that would occur in one calendar year; or
- (b) if the Calculation Period is longer than the Determination Period during which the Calculation Period ends, the sum of: (A) the number of days in such Calculation Period falling in the Determination Period in which the Calculation Period begins divided by the product of (1) the number of days in such Determination Period and (2) the number of Determination Dates (as specified in § 3(3)) and (B) the number of days in such Calculation Period falling in the next Determination Period divided by the product of (1) the number of days in such Determination Period and (2) the number of Determination Dates (as specified in § 3(3)) that would occur in one calendar year.

***Determination Period*** means the period from (and including) a Determination Date to, (but excluding) the next Determination Date. For the purpose of determining the relevant Determination Period, ***[deemed Interest Payment Date(s)]*** shall [each] be deemed to be a Determination Date.]

***[In the case of 30/360, 360/360 or Bond Basis the following applies:*** the number of days in the Calculation Period divided by 360, the number of days to be calculated on the basis of a year of 360 days with twelve 30-day months (unless (A) the last day of the Calculation Period is the 31st day of a month but the first day of the Calculation Period is a day other than the 30th or 31st day of a month, in which case the month that includes that last day shall not be considered to be shortened to a 30-day month, or (B) the

***[Falls die Festgelegte Währung Euro ist und Actual/Actual (ICMA) anwendbar ist, ist folgendes anwendbar:***

- (a) wenn der Zinsberechnungszeitraum (einschließlich des ersten aber ausschließlich des letzten Tages dieser Periode) kürzer ist als die Feststellungsperiode, in die das Ende des Zinsberechnungszeitraumes fällt oder ihr entspricht, die Anzahl der Tage in dem betreffenden Zinsberechnungszeitraum (einschließlich des ersten aber ausschließlich des letzten Tages dieser Periode) geteilt durch das Produkt (1) der Anzahl der Tage in der Feststellungsperiode und (2) der Anzahl der Feststellungstermine (wie in § 3(3) angegeben) in einem Kalenderjahr; oder
- (b) wenn der Zinsberechnungszeitraum länger ist als die Feststellungsperiode, in die das Ende des Zinsberechnungszeitraumes fällt, die Summe aus (A) der Anzahl der Tage in dem Zinsberechnungszeitraum, die in die Feststellungsperiode fallen, in welcher der Zinsberechnungszeitraum beginnt, geteilt durch das Produkt aus (1) der Anzahl der Tage in dieser Feststellungsperiode und (2) der Anzahl der Feststellungstermine (wie in § 3(3) angegeben) in einem Kalenderjahr und (B) der Anzahl der Tage in dem Zinsberechnungszeitraum, die in die nächste Feststellungsperiode fallen, geteilt durch das Produkt aus (1) der Anzahl der Tage in dieser Feststellungsperiode und (2) der Anzahl der Feststellungstermine (wie in § 3(3) angegeben) in einem Kalenderjahr.

***Feststellungsperiode*** ist die Periode ab einem Feststellungstermin (einschließlich desselben) bis zum nächsten Feststellungstermin (ausschließlich desselben). Zum Zwecke der Bestimmung der maßgeblichen Feststellungsperiode ist ***[fiktive(r) Zinszahlungstag(e)]*** [jeweils] ein Feststellungstermin.]

***[Im Fall von 30/360, 360/360 oder Bond Basis, ist folgendes anwendbar:*** die Anzahl von Tagen im Zinsberechnungszeitraum, dividiert durch 360, wobei die Anzahl der Tage auf der Grundlage eines Jahres von 360 Tagen mit zwölf Monaten zu je 30 Tagen zu ermitteln ist (es sei denn, (A) der letzte Tag des Zinsberechnungszeitraumes fällt auf den 31. Tag eines Monats, während der erste Tag des Zinsberechnungszeitraumes weder auf den 30. noch auf den 31. Tag eines Monats fällt, in

last day of the Calculation Period is the last day of the month of February in which case the month of February shall not be considered to be lengthened to a 30-day month).]

**[In the case of 30E/360 or Eurobond Basis the following applies:** the number of days in the Calculation Period divided by 360 (the number of days to be calculated on the basis of a year of 360 days with twelve 30-day months, without regard to the date of the first day or last day of the Calculation Period unless, in the case of the final Calculation Period, the Maturity Date is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30-day month).]

#### **§ 4 (PAYMENTS)**

- (1) Payment of Principal and Payment of Interest.
  - (a) Payment of principal in respect of the Notes shall be made, subject to subparagraph (2) below, to the Clearing System or to its order for credit to the accounts of the relevant account holders of the Clearing System.
  - (b) Payment of Interest on the Notes shall be made, subject to subparagraph (2), to the Clearing System or to its order for credit to the accounts of the relevant account holders of the Clearing System.

**[In the case of interest payable on a Temporary Global Note, the following applies:** Payment of interest on Notes represented by the Temporary Global Note shall be made, subject to subparagraph (2), to the Clearing System or to its order for credit to the accounts of the relevant account holders of the Clearing System, upon due certification as provided in § 1(3)(b).]

welchem Fall der diesen Tag enthaltende Monat nicht als ein auf 30 Tage gekürzter Monat zu behandeln ist, oder (B) der letzte Tag des Zinsberechnungszeitraumes fällt auf den letzten Tag des Monats Februar, in welchem Fall der Monat Februar nicht als ein auf 30 Tage verlängerter Monat zu behandeln ist).]

**[Im Fall von 30E/360 oder Eurobond Basis, ist folgendes anwendbar:** die Anzahl der Tage im Zinsberechnungszeitraum, dividiert durch 360 (dabei ist die Anzahl der Tage auf der Grundlage eines Jahres von 360 Tagen mit zwölf Monaten zu 30 Tagen zu ermitteln, und zwar ohne Berücksichtigung des Datums des ersten oder letzten Tages des Zinsberechnungszeitraumes, es sei denn, dass im Fall des letzten Zinsberechnungszeitraumes der Fälligkeitstag der letzte Tag des Monats Februar ist, in welchem Fall der Monat Februar als nicht auf einen Monat zu 30 Tagen verlängert gilt).]

#### **§ 4 (ZAHLUNGEN)**

- (1) Zahlungen auf Kapital und Zahlung von Zinsen.
  - (a) Zahlungen von Kapital auf die Schuldverschreibungen erfolgen nach Maßgabe des nachstehenden Absatzes (2) an das Clearingsystem oder dessen Order zur Gutschrift auf den Konten der jeweiligen Kontoinhaber des Clearingsystems.
  - (b) Die Zahlung von Zinsen auf die Schuldverschreibungen erfolgt nach Maßgabe des nachstehenden Absatzes (2) an das Clearingsystem oder dessen Order zur Gutschrift auf den Konten der jeweiligen Kontoinhaber des Clearingsystems.

**[Im Fall von Zinszahlungen auf eine vorläufige Globalurkunde ist folgendes anwendbar:** Die Zahlung von Zinsen auf Schuldverschreibungen, die durch die vorläufige Globalurkunde verbrieft sind, erfolgt nach Maßgabe des nachstehenden Absatzes (2) an das Clearingsystem oder dessen Order zur Gutschrift auf den Konten der jeweiligen Kontoinhaber des Clearingsystems, und zwar nach ordnungsgemäßer Bescheinigung gemäß § 1(3)(b).]

(2) Manner of Payment.

Subject to applicable fiscal and other laws and regulations, payments of amounts due in respect of the Notes shall be made in the Specified Currency.

(3) Discharge.

The Issuer [*in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:* or, as the case may be, the Guarantor] shall be discharged by payment to, or to the order of, the Clearing System.

(4) Payment Business Day.

If the date for payment of any amount in respect of any Note is not a Payment Business Day then the Holder shall not be entitled to payment until the next such day in the relevant place and shall not be entitled to further interest or other payment in respect of such delay.

For these purposes, **Payment Business Day** means any day which is

**[In the case the Notes are not denominated in Euro the following applies:** a day (other than a Saturday or a Sunday) on which commercial banks and foreign exchange markets settle payments in **[relevant financial center(s)]**..**][and]]**

**[In the case the Clearing System and TARGET shall be open the following applies:** a day (other than a Saturday or a Sunday) on which the Clearing System as well as all relevant parts of TARGET2 are operational to forward the relevant payment.]

(5) References to Principal and Interest.

References in these Terms and Conditions to principal in respect of the Notes shall be deemed to include, as applicable: **[if the Notes are redeemable at the option of the Issuer for other than tax reasons or reasons of minimal outstanding principal amount, the following applies:** the Call Redemption Amount of the Notes;] **[if the Notes are redeemable at the option of the Issuer (Make-Whole), the following applies:** the Make-Whole Amount of the Notes;] **[If the Notes are subject to Early Redemption at the Option of the Issuer upon the occurrence of a Transaction Trigger Event the following applies:** the Event Redemption

(2) Zahlungsweise.

Vorbehaltlich geltender steuerlicher und sonstiger gesetzlicher Regelungen und Vorschriften erfolgen zu leistende Zahlungen auf die Schuldverschreibungen in der Festgelegten Währung.

(3) Erfüllung.

Die Emittentin **[bei von Fresenius Ireland oder Fresenius Ireland II begebenen Schuldverschreibungen, ist folgendes anwendbar:** bzw. die Garantin] wird durch Leistung der Zahlung an das Clearingsystem oder dessen Order von ihrer Zahlungspflicht befreit.

(4) Zahltag.

Fällt der Fälligkeitstag einer Zahlung in Bezug auf eine Schuldverschreibung auf einen Tag, der kein Zahltag ist, dann hat der Gläubiger keinen Anspruch auf Zahlung vor dem nächsten Zahltag am jeweiligen Geschäftsort. Der Gläubiger ist nicht berechtigt, weitere Zinsen oder sonstige Zahlungen aufgrund dieser Verspätung zu verlangen.

Für diese Zwecke bezeichnet **Zahltag** einen Tag,

**[Im Fall von nicht auf Euro lautenden Schuldverschreibungen, ist folgendes anwendbar:** der ein Tag (außer einem Samstag oder Sonntag) ist, an dem Geschäftsbanken und Devisenmärkte Zahlungen in **[relevante(s) Finanzzentrum(en)]** abwickeln..**][und]]**

**[Falls das Clearingsystem und TARGET offen sein müssen, ist folgendes anwendbar:** der ein Tag (außer einem Samstag oder Sonntag) ist, an dem das Clearingsystem sowie alle betroffenen Bereiche des TARGET2 betriebsbereit sind, um die betreffenden Zahlungen weiterzuleiten.]

(5) Bezugnahmen auf Kapital und Zinsen.

Bezugnahmen in diesen Emissionsbedingungen auf Kapital der Schuldverschreibungen schließen, soweit anwendbar, die folgenden Beträge ein: **[falls die Emittentin das Wahlrecht hat, die Schuldverschreibungen aus anderen als steuerlichen Gründen oder aufgrund eines geringfügig ausstehendem Nennbetrag vorzeitig zurückzuzahlen, ist folgendes anwendbar:** den Wahl-Rückzahlungsbetrag (Call) der Schuldverschreibungen;] **[falls die Emittentin das Wahlrecht hat, die Schuldverschreibungen vorzeitig zurückzuzahlen (Make-Whole), ist folgendes anwendbar:** den Make-Whole Betrag der



Amount of the Notes;] *[if the Notes are redeemable at the option of the Holder other than for reason of a Change of Control the following applies:* the Put Redemption Amount of the Notes;] and any premium and any other amounts which may be payable under or in respect of the Notes. References in these Terms and Conditions to interest in respect of the Notes shall be deemed to include, as applicable, any Additional Amounts which may be payable under § 7.

(6) Deposit of Principal and Interest.

The Issuer *[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:* or, as the case may be, the Guarantor] may deposit with the local court (*Amtsgericht*) in Frankfurt/Main principal or interest not claimed by Holders within twelve months after the Maturity Date, even though such Holders may not be in default of acceptance of payment. If and to the extent that the deposit is effected and the right of withdrawal is waived, the respective claims of such Holders against the Issuer shall cease.

**§ 5  
(REDEMPTION)**

(1) Final Redemption.

Unless previously redeemed in whole or in part or purchased and cancelled, the Notes shall be redeemed at principal amount on *[Maturity Date]* (the *Maturity Date*).

(2) Early Redemption for Reasons of Taxation.

If as a result of any change in, or amendment to, the laws or regulations of any Relevant Taxing Jurisdiction (as defined in § 7 herein) or any political subdivision or taxing authority thereto or therein affecting taxation or the obligation to pay duties of any kind, or any change in, or amendment to, an official interpretation or application of such laws or regulations, which amendment or change is effective on or after the date on which the last tranche of this series of Notes was issued, the Issuer *[in the case of*

Schuldverschreibungen;] *[falls die Emittentin das Wahlrecht hat, die Schuldverschreibungen vorzeitig bei Eintritt eines Transaktions-Ereignisses zurückzuzahlen, ist folgendes anwendbar:* den Ereignis-Rückzahlungsbetrag der Schuldverschreibungen;] *[falls der Gläubiger ein Wahlrecht hat, die Schuldverschreibungen, außer bei Vorliegen eines Kontrollwechsels, vorzeitig zu kündigen, ist folgendes anwendbar:* den Wahl-Rückzahlungsbetrag (Put) der Schuldverschreibungen;] sowie jeden Aufschlag sowie sonstige auf oder in Bezug auf die Schuldverschreibungen zahlbaren Beträge. Bezugnahmen in diesen Emissionsbedingungen auf Zinsen auf die Schuldverschreibungen sollen, soweit anwendbar, sämtliche gemäß § 7 zahlbaren Zusätzlichen Beträge einschließen.

(6) Hinterlegung von Kapital und Zinsen.

Die Emittentin *[bei von Fresenius Ireland oder Fresenius Ireland II begebenen Schuldverschreibungen, ist folgendes anwendbar:* bzw. die Garantin] ist berechtigt, beim Amtsgericht Frankfurt am Main Zins- oder Kapitalbeträge zu hinterlegen, die von den Gläubigern nicht innerhalb von zwölf Monaten nach dem Fälligkeitstag beansprucht worden sind, auch wenn die Gläubiger sich nicht in Annahmeverzug befinden. Soweit eine solche Hinterlegung erfolgt, und auf das Recht der Rücknahme verzichtet wird, erlöschen die diesbezüglichen Ansprüche der Gläubiger gegen die Emittentin.

**§ 5  
(RÜCKZAHLUNG)**

(1) Rückzahlung bei Endfälligkeit.

Soweit nicht zuvor bereits ganz oder teilweise zurückgezahlt oder angekauft und entwertet, werden die Schuldverschreibungen zu ihrem Nennbetrag am *[Fälligkeitstag]* (der *Fälligkeitstag*) zurückgezahlt.

(2) Vorzeitige Rückzahlung aus steuerlichen Gründen.

Die Schuldverschreibungen können insgesamt, jedoch nicht teilweise, nach Wahl der Emittentin mit einer Kündigungsfrist von nicht mehr als 60 und nicht weniger als 30 Tagen durch Erklärung gegenüber der Emissionsstelle und Benachrichtigung gemäß § 12 gegenüber den Gläubigern vorzeitig gekündigt und zu ihrem Nennbetrag zuzüglich etwaiger bis zum für die Rückzahlung festgesetzten Tag (ausschließlich) aufgelaufener Zinsen zurückgezahlt werden, falls die Emittentin *[bei von Fresenius Ireland*

*Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:* or the Guarantor, as the case may be,] is required to pay Additional Amounts (as defined in § 7 herein) on the next succeeding Interest Payment Date (as defined in § 3(1)), and this obligation cannot be avoided by the use of reasonable measures available to the Issuer [*in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:* or the Guarantor, as the case may be,] the Notes may be redeemed, in whole but not in part, at the option of the Issuer, upon not more than 60 days' nor less than 30 days' prior notice of redemption given to the Fiscal Agent and, in accordance with § 12 to the Holders, at their principal amount, together with interest (if any) accrued to the date fixed for redemption (excluding).

However, no such notice of redemption may be given (i) earlier than 90 days prior to the earliest date on which the Issuer [*in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:* or the Guarantor] would be obligated to pay such Additional Amounts were a payment in respect of the Notes [*in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:* or the Guarantee] then due, or (ii) if at the time such notice is given, such obligation to pay such Additional Amounts does not remain in effect.

Any such notice shall be given in accordance with § 12. It shall be irrevocable, must specify the date fixed for redemption and must set forth a statement in summary form of the facts constituting the basis for the right of the Issuer so to redeem.

Before the publication of any notice of redemption pursuant to this paragraph, the Issuer shall deliver to the Fiscal Agent a certificate signed by an executive director of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer so to redeem have occurred, and an opinion of independent legal or tax

*oder Fresenius Ireland II begebenen Schuldverschreibungen, ist folgendes anwendbar:* oder die Garantin] als Folge einer Änderung oder Ergänzung der Steuer- oder Abgabengesetze und -vorschriften einer Relevanten Steuerjurisdiktion (wie in § 7 dieser Bedingungen definiert) oder deren politischen Untergliederungen oder Steuerbehörden oder als Folge einer Änderung oder Ergänzung der Anwendung oder der offiziellen Auslegung dieser Gesetze und Vorschriften (vorausgesetzt, diese Änderung oder Ergänzung wird am oder nach dem Tag, an dem die letzte Tranche dieser Serie von Schuldverschreibungen begeben wird, wirksam) am nächstfolgenden Zinszahlungstag (wie in § 3(1) definiert) zur Zahlung von Zusätzlichen Beträgen (wie in § 7 dieser Bedingungen definiert) verpflichtet sein wird und diese Verpflichtung nicht durch das Ergreifen zumutbarer, der Emittentin [*bei von Fresenius Ireland oder Fresenius Ireland II begebenen Schuldverschreibungen, ist folgendes anwendbar:* oder der Garantin] zur Verfügung stehender Maßnahmen vermieden werden kann.

Eine solche Kündigung darf allerdings nicht (i) früher als 90 Tage vor dem frühestmöglichen Termin erfolgen, an dem die Emittentin [*bei von Fresenius Ireland oder Fresenius Ireland II begebenen Schuldverschreibungen, ist folgendes anwendbar:* oder die Garantin] verpflichtet wäre, solche Zusätzlichen Beträge zu zahlen, falls eine Zahlung auf die Schuldverschreibungen [*bei von Fresenius Ireland oder Fresenius Ireland II begebenen Schuldverschreibungen, ist folgendes anwendbar:* oder die Garantie] dann fällig sein würde, oder (ii) erfolgen, wenn zu dem Zeitpunkt, zu dem die Kündigung erklärt wird, die Verpflichtung zur Zahlung von Zusätzlichen Beträgen nicht mehr wirksam ist.

Eine solche Kündigung ist gemäß § 12 bekanntzumachen. Sie ist unwiderruflich, muss den für die Rückzahlung festgelegten Termin nennen und eine zusammenfassende Erklärung enthalten, welche die das Rückzahlungsrecht der Emittentin begründenden Umstände darlegt.

Vor Bekanntgabe einer Mitteilung über eine Rückzahlung gemäß diesen Bestimmungen hat die Emittentin der Emissionsstelle eine von einem Mitglied der Geschäftsleitung der Emittentin unterzeichnete Bescheinigung zukommen zu lassen, der zufolge die Emittentin berechtigt ist, eine entsprechende Rückzahlung zu leisten, und in der nachvollziehbar dargelegt ist, dass die Bedingungen für das Recht der

advisers of recognized standing to the effect that the Issuer **[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:** or the Guarantor, as the case may be,] has or will become obliged to pay such Additional Amounts as a result of such change or amendment.

**[If the Notes are subject to Early Redemption at the Option of the Issuer for Reasons of Minimal Outstanding Principal Amount, the following applies:**

- (3) Early Redemption at the Option of the Issuer for Reasons of Minimal Outstanding Principal Amount.

If 80% or more in principal amount of the Notes then outstanding have been redeemed or purchased by the Issuer **[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:**, Fresenius SE & Co. KGaA] or any Subsidiary of Fresenius SE & Co. KGaA, the Issuer may, on not less than 30 or more than 60 days' notice to the Holders of Notes redeem, at its option, the remaining Notes as a whole at their principal amount, together with interest (if any) accrued to the date fixed for redemption (excluding).]

**[If the Holders may request the repurchase of the Notes upon a Change of Control, the following applies:**

- (4) Early Redemption at the Option of the Holders upon a Change of Control.

Each Holder of the Notes, upon the occurrence of a Change of Control Triggering Event, will have the right (unless, prior to the giving of the Put Event Notice referred to below, the Issuer gives notice to redeem the Notes in accordance with § 5(2), i.e. for taxation reasons) to require that the Issuer repurchases such Holder's Notes on the Optional Redemption Date at a purchase price in cash equal to 101% of the principal amount together with interest (if any) accrued to the Optional Redemption Date (excluding).

In this context the following provisions apply:

Emittentin zur Rückzahlung gemäß diesen Bestimmungen erfüllt sind; zusätzlich hat die Emittentin ein von unabhängigen und anerkannten Rechts- oder Steuerberatern erstelltes Gutachten vorzulegen, demzufolge die Emittentin **[bei von Fresenius Ireland oder Fresenius Ireland II begebenen Schuldverschreibungen, ist folgendes anwendbar:** oder die Garantin] in Folge einer entsprechenden Änderung oder Ergänzung zur Zahlung Zusätzlicher Beträge verpflichtet ist oder sein wird.

**[Falls die Schuldverschreibungen nach Wahl der Emittentin bei geringfügig ausstehendem Nennbetrag vorzeitig kündbar sind, ist folgendes anwendbar:**

- (3) Vorzeitige Rückzahlung nach Wahl der Emittentin bei geringfügig ausstehendem Nennbetrag.

Wenn 80% oder mehr des Nennbetrags der dann ausstehenden Schuldverschreibungen durch die Emittentin **[im Fall von Schuldverschreibungen, die von der Fresenius Ireland oder der Fresenius Ireland II begeben werden, ist folgendes anwendbar:**, Fresenius SE & Co. KGaA] oder eine Tochtergesellschaft von Fresenius SE & Co. KGaA zurückgezahlt oder zurückerworben wurde, ist die Emittentin berechtigt, nach ihrer Wahl alle ausstehenden Schuldverschreibungen mit einer Frist von mindestens 30 und höchstens 60 Tagen gegenüber den Gläubigern zu kündigen und zum Nennbetrag zuzüglich etwaiger bis zum Rückzahlungstag (ausschließlich) aufgelaufener Zinsen zurück zu zahlen.]

**[Falls die Gläubiger bei Vorliegen eines Kontrollwechsels den Ankauf der Schuldverschreibungen verlangen können, ist folgendes anwendbar:**

- (4) Vorzeitige Rückzahlung nach Wahl der Gläubiger bei Vorliegen eines Kontrollwechsels.

Falls ein Kontrollwechselereignis stattfindet, hat jeder Gläubiger das Recht (soweit die Emittentin nicht bereits vor Abgabe der Vorzeitigen Rückkaufsgrunderklärung (wie nachstehend definiert) die Rückzahlung gemäß § 5(2), d.h. aus steuerlichen Gründen, erklärt hat) von der Emittentin am Stichtag den Rückkauf seiner Schuldverschreibungen zu einem Kaufpreis von 101% des Nennbetrags zuzüglich etwaiger bis zum Stichtag (ausschließlich) aufgelaufener Zinsen zu verlangen.

In diesem Zusammenhang finden die folgenden

**Change of Control Triggering Event** means the occurrence of a Change of Control together with a Ratings Decline.

**Rating Agency** means (1) S&P Global Inc. and its subsidiaries or successors (**S&P**), (2) Moody's Investors Service Inc. and its subsidiaries or successors (**Moody's**), and (3) Fitch Ratings Ltd. and its subsidiaries or successors (**Fitch**), or (4) if S&P, Moody's or Fitch, or all three shall not make a rating of Fresenius SE & Co. KGaA publicly available, a European-wide reputable securities rating agency or agencies, as the case may be, selected by Fresenius SE & Co. KGaA, which shall be substituted for S&P, Moody's or Fitch or all three, as the case may be.

**Ratings Decline** means that if, at the time of the occurrence of a Change of Control, Fresenius SE & Co. KGaA has been, from any Rating Agency it has solicited, (a) rated Investment Grade and such rating from any Rating Agency is, within 120 days from such time, either downgraded to a non-investment grade rating or withdrawn and is not within such 120-day period subsequently (in the case of a downgrade) upgraded to Investment Grade by such Rating Agency or (in the case of withdrawal) replaced by an Investment Grade rating from any other Rating Agency; or (b) rated below Investment Grade and such rating from any Rating Agency is, within 120 days from such time, downgraded by one or more gradations (including gradations within Rating Categories as well as between Rating Categories) and is not within such 120-day period subsequently upgraded to its earlier credit rating or better by such Rating Agency, provided that if at the time of the occurrence of the Change of Control Fresenius SE & Co. KGaA carries a rating from more than one Rating Agency, at least one of which is Investment Grade, then sub-paragraph (a) will apply; and in making the relevant decision(s) referred to above, the relevant Rating Agency announces publicly or confirms in writing to Fresenius SE & Co. KGaA that such decision(s) resulted, in whole or in part, from the occurrence of the Change of Control.

Provided however that, no Ratings Decline will occur if at the end of the 120-day period Fresenius SE & Co. KGaA has been rated by at least two Rating Agencies, it has solicited, Investment Grade.

Vorschriften Anwendung:

Ein **Kontrollwechselereignis** liegt vor, wenn ein Kontrollwechsel zusammen mit einer Ratingherabstufung eintritt.

**Ratingagentur** bezeichnet (1) S&P Global Inc. sowie deren Tochter- oder Nachfolgesellschaften (**S&P**), (2) Moody's Investors Service Inc. sowie deren Tochter- oder Nachfolgesellschaften (**Moody's**), (3) Fitch Ratings Ltd. sowie deren Tochter- oder Nachfolgesellschaften (**Fitch**), oder (4) falls S&P, Moody's oder Fitch oder alle drei kein Rating für Fresenius SE & Co. KGaA öffentlich zur Verfügung stellen, eine Ratingagentur oder Ratingagenturen mit europaweitem Ansehen, die von Fresenius SE & Co. KGaA ausgewählt wird und S&P, Moody's oder Fitch oder alle diese Agenturen ersetzt.

Eine **Ratingherabstufung** liegt vor, falls Fresenius SE & Co. KGaA (aufgrund einer Beauftragung durch Fresenius SE & Co. KGaA) bei Eintritt des Kontrollwechsels von einer Ratingagentur (a) mit Investment Grade bewertet ist und dieses Rating von einer Ratingagentur innerhalb von 120 Tagen nach dem Kontrollwechsel zu einem non-investment grade Rating herabgestuft oder das Rating zurückgezogen wurde und nicht innerhalb dieser 120-Tagesperiode anschließend (im Falle einer Herabstufung) durch diese Ratingagentur wieder auf ein Investment Grade Rating heraufgestuft oder (im Falle eines Zurückziehens) durch das Investment Grade Rating einer anderen Ratingagentur ersetzt wurde; oder (b) unterhalb von Investment Grade bewertet ist und dieses Rating von einer Ratingagentur innerhalb von 120 Tagen nach dem Kontrollwechsel um eine oder mehrere Stufen (einschließlich Untergliederungen innerhalb von sowie zwischen Ratingkategorien) herabgestuft und nicht innerhalb dieser 120-Tagesperiode anschließend wieder auf das ursprüngliche oder ein besseres Rating durch diese Ratingagentur heraufgestuft wurde; wobei, falls Fresenius SE & Co. KGaA zum Zeitpunkt des Eintritts des Kontrollwechsels über ein Rating von mehr als einer Ratingagentur verfügt, von denen mindestens eines ein Investment Grade Rating ist, Absatz (a) Anwendung findet; und im Zusammenhang mit einer der oben genannten Entscheidungen die betreffende Ratingagentur öffentlich bekannt macht oder gegenüber Fresenius SE & Co. KGaA schriftlich bestätigt, dass diese Entscheidung ganz oder teilweise auf den Kontrollwechsel zurückzuführen ist.

**Rating Category** means:

- (a) with respect to S&P or Fitch, any of the following categories: BB, B, CCC, CC, C and D (or equivalent successor categories),
- (b) with respect to Moody's, any of the following categories: Ba, B, Caa, Ca, C and D (or equivalent successor categories), and
- (c) the equivalent of any such category of S&P, Moody's or Fitch used by another rating agency in determining whether the rating of Fresenius SE & Co. KGaA has decreased by one or more gradations, gradations within rating categories (+ and - for S&P, 1, 2 and 3 for Moody's, + and - for Fitch; or the equivalent gradations for another rating agency) shall be taken into account (e.g., with respect to S&P, a decline in a rating from BB+ to BB, as well as from BB- to B+, will constitute a decrease of one gradation).

**Investment Grade** means a rating of (i) BBB- or higher by S&P and Fitch and, (ii) Baa3 or higher by Moody's, or the equivalent of such ratings by S&P, Moody's or Fitch and the equivalent in respect of rating categories of any Rating Agencies substituted for S&P, Moody's or Fitch.

A **Change of Control** means the occurrence of one or more of the following events:

- (a) so long as Fresenius SE & Co. KGaA is organized as a KGaA, if the General Partner of Fresenius SE & Co. KGaA charged with the management of Fresenius SE & Co. KGaA shall at any time fail to be a Subsidiary of Else Kröner-Fresenius-Stiftung, or if Else Kröner-Fresenius-Stiftung shall fail at any time to own or control more than 10% of the capital stock with ordinary voting power in Fresenius SE & Co. KGaA;

Eine Ratingherabstufung liegt jedoch nicht vor, falls Fresenius SE & Co. KGaA (aufgrund einer Beauftragung durch Fresenius SE & Co. KGaA) am Ende der 120-Tagesperiode von mindestens zwei Ratingagenturen mit Investment Grade bewertet wird.

**Ratingkategorie** bezeichnet:

- (a) in Bezug auf S&P oder Fitch eine der folgenden Kategorien: BB, B, CCC, CC, C und D (bzw. entsprechende Nachfolgekategorien);
- (b) in Bezug auf Moody's eine der folgenden Kategorien: Ba, B, Caa, Ca, C und D (bzw. entsprechende Nachfolgekategorien); und
- (c) diesen Kategorien von S&P oder Moody's oder Fitch entsprechende Ratingkategorien einer anderen Ratingagentur. Bei der Bestimmung, ob das Rating von Fresenius SE & Co. KGaA um eine oder mehrere Stufen herabgestuft wurde, werden die jeweiligen Ratingkategorien weiter untergliedernde Zusätze („+“ und „-“ bei S&P, „1“, „2“ und „3“ bei Moody's, „+“ und „-“ bei Fitch bzw. entsprechende Zusätze anderer Ratingagenturen) berücksichtigt (z. B. entspricht bei S&P eine Ratingänderung von BB+ auf BB oder von BB- auf B+ jeweils einer Herabstufung um eine Stufe).

**Investment Grade** bezeichnet ein Rating von (i) BBB- oder höher im Fall von S&P und Fitch und (ii) Baa3 oder höher im Fall von Moody's, oder das entsprechende Äquivalent dieser Ratings im Fall von S&P, Moody's oder Fitch sowie das entsprechende Äquivalent in den Ratingkategorien einer anderen Ratingagentur, durch die S&P, Moody's oder Fitch ersetzt wurde.

Ein **Kontrollwechsel** bezeichnet den Eintritt eines oder mehrerer der folgenden Ereignisse:

- (a) so lange Fresenius SE & Co. KGaA die Rechtsform einer KGaA hat: Wenn es sich bei dem mit der Geschäftsführung von Fresenius SE & Co. KGaA beauftragten Komplementär der Gesellschaft zu irgendeinem Zeitpunkt nicht um eine Tochtergesellschaft der Else Kröner-Fresenius-Stiftung handelt oder wenn die Else Kröner-Fresenius-Stiftung zu irgendeinem Zeitpunkt nicht mehr als 10 % des stimmberechtigten Grundkapitals an Fresenius SE & Co. KGaA hält und

- (b) if Fresenius SE & Co. KGaA is no longer organized as a KGaA, any event the result of which is that (A) any person or group (**Relevant Person(s)**) acting in concert (as defined in § 30 (2) of the German Securities Acquisition and Takeover Act (*Wertpapiererwerbs- und Übernahmegesetz*)) or any person or group acting on behalf of any such Relevant Person(s), other than the Permitted Holder, is or becomes the direct or indirect legal or beneficial ownership or any legal or beneficial entitlement (as defined in § 34 of the German Securities Trading Act (*Wertpapierhandelsgesetz*)) of, in the aggregate, more than 50% of the voting shares of Fresenius SE & Co. KGaA; or
- (c) any sale, lease, exchange or other transfer (in one transaction or a series of related transactions) of all or substantially all of the assets of Fresenius SE & Co. KGaA to any Relevant Person or any person or group acting on behalf of any such Relevant Person(s).

**General Partner** means Fresenius Management SE, a *societas europaea* organized under the laws of Germany, including its successors and assigns and other Persons, in each case who serve as the general partner (*persönlich haftender Gesellschafter*) of Fresenius SE & Co. KGaA from time to time.

**Person** means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, government or any agency, instrumentality or political subdivision thereof, or any other entity.

**Permitted Holder** means Else Kröner-Fresenius-Stiftung and any of its Affiliates.

**Affiliate** of any specified Person means:

- (a) any other Person, directly or indirectly, controlling or controlled by, or

kontrolliert;

- (b) wenn Fresenius SE & Co. KGaA nicht mehr die Rechtsform einer KGaA hat, ein Ereignis, in dessen Folge (A) eine Person oder mehrere Personen (**Relevante Personen**), die abgestimmt handeln (wie in § 30 (2) Wertpapiererwerbs- und Übernahmegesetz definiert), oder einer oder mehrere Dritte, die im Auftrag einer solchen Relevanten Personen handeln, mit Ausnahme des Zulässigen Inhabers, unmittelbar oder mittelbar rechtliches oder wirtschaftliches Eigentum in jedweder Form bzw. die unmittelbare oder mittelbare rechtliche oder wirtschaftliche Verfügungsbefugnis in jedweder Form (wie in § 34 Wertpapierhandelsgesetz beschrieben) an insgesamt mehr als 50% der stimmberechtigten Aktien der Fresenius SE & Co. KGaA erlangen; oder
- (c) ein Verkauf, ein Leasing, ein Tausch oder eine sonstige Übertragung (im Rahmen einer einzigen Transaktion oder einer Reihe miteinander zusammenhängender Transaktionen) aller oder aller wesentlichen Vermögenswerte der Fresenius SE & Co. KGaA an eine oder mehrere Relevante Personen, oder einen oder mehrere Dritte, die im Auftrag solcher Relevanten Personen handeln.

**Komplementär** bezeichnet die Fresenius Management SE, eine *societas europaea* nach deutschem Recht, sowie ihre Nachfolger, Abtretungsempfänger und sonstige Personen, die zum jeweiligen Zeitpunkt als persönlich haftender Gesellschafter von Fresenius SE & Co. KGaA auftreten.

**Person** bezeichnet eine natürliche Person, eine Körperschaft, eine Personengesellschaft, ein Joint Venture, eine Vereinigung, eine Aktiengesellschaft, einen Trust, eine Einrichtung ohne eigene Rechtspersönlichkeit, eine staatliche Stelle oder Behörde, eine Gebietskörperschaft oder einen sonstigen Rechtsträger.

**Zulässiger Inhaber** bezeichnet die Else Kröner-Fresenius-Stiftung und alle mit ihr verbundenen Personen.

**Verbundene Person** einer bestimmten Person bezeichnet:

- (a) jede andere Person, die diese Person direkt oder indirekt kontrolliert bzw. direkt oder

- (b) under direct or indirect common control with such specified Person.

For the purposes of this definition, “control” when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise (section 15 of the German Stock Corporation Act (*Aktiengesetz*); and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

Within 30 days upon the Issuer becoming aware that a Change of Control Triggering Event has occurred, the Issuer shall give notice (a ***Put Event Notice***) to the Holders in accordance with § 12 stating:

- (a) that a Change of Control Triggering Event has occurred;
- (b) the circumstances and relevant facts regarding such Change of Control Triggering Event;
- (c) the repurchase date (which shall be no earlier than 30 days nor later than 60 days from the date such Put Event Notice is given) (the ***Optional Redemption Date***);
- (d) that each Note will be subject to repurchase only in integral multiples the Specified Denomination; and
- (e) the instructions determined by the Issuer that a Holder must follow in order to have its Notes purchased pursuant to this § 5(4).

In order to exercise such option, the Holder must submit during normal business hours at the specified office of the Fiscal Agent a duly completed option exercise notice in the form available from the specified office of the Fiscal Agent within the period of 20 days after a Put Event Notice is given. No option so exercised may be revoked or withdrawn without the prior consent of the Issuer.]

*[If the Notes are subject to Early Redemption at the*

indirekt von ihr kontrolliert wird, oder

- (b) mit dieser bestimmten Person unter direkter oder indirekter gemeinsamer Kontrolle steht.

Für den Zweck dieser Definition bezeichnet „Kontrolle“ bei Verwendung in Bezug auf eine Person die Befugnis, deren Geschäftsführung und Unternehmenspolitik direkt oder indirekt zu bestimmen (§ 15 Aktiengesetz), sei es durch den Besitz von stimmberechtigten Kapitalanteilen, eine vertragliche Festlegung oder anderweitig, und die Bedeutung der Begriffe „kontrolliert“ und „kontrollieren“ ist entsprechend zu verstehen.

Innerhalb von 30 Tagen, nachdem die Emittentin von einem Kontrollwechselereignis Kenntnis erlangt hat, wird die Emittentin dies den Gläubigern gemäß § 12 bekannt machen (***Vorzeitige Rückkaufsgrunderklärung***) und dabei folgendes mitteilen:

- (a) dass ein Kontrollwechselereignis eingetreten ist;
- (b) die Umstände und relevanten Informationen bezüglich des Kontrollwechselereignisses;
- (c) den Tag des Rückkaufs (der nicht früher als 30 und nicht später als 60 Tage nach dem Tag, an dem die Vorzeitige Rückkaufsgrunderklärung erfolgt, liegen darf) (der ***Stichtag***);
- (d) dass die Schuldverschreibungen nur in ganzen Vielfachen der Festgelegten Stückelung zurückgekauft werden; und
- (e) die Anweisungen, die ein Gläubiger befolgen muss, damit die Schuldverschreibungen gemäß diesem § 5(4) zurückgekauft werden.

Um ein solches Recht auszuüben, muss ein Gläubiger während der allgemeinen Geschäftszeiten bei der angegebenen Geschäftsstelle der Emissionsstelle eine vollständig ausgefüllte Ausübungserklärung in der durch die Emissionsstelle bereitgestellten Form innerhalb eines Zeitraums von 20 Tagen nach Bekanntmachung der Vorzeitigen Rückzahlungserklärung übermitteln. Kein in dieser Form ausgeübtes Recht kann ohne vorherige Zustimmung der Emittentin widerrufen oder zurückgezogen werden.]

*[Falls die Emittentin das Wahlrecht hat, die*

**Option of the Issuer the following applies:**

[(5)] Early Redemption at the Option of the Issuer.

- (a) The Issuer may, upon notice given in accordance with clause (b), redeem all or some only of the Notes within the Call Redemption Period(s) at the Call Redemption Amount(s) set forth below together with accrued interest, if any, to (but excluding) the relevant redemption date.

Call Redemption  
Period(s)

Call Redemption  
Amount(s)

**[Call Redemption  
Period(s)]**

[●]  
[●]

**[Call Redemption  
Amount(s)]**

[●]  
[●]

**[If Notes are subject to Early Redemption at the Option of the Holder, the following applies:**

The Issuer may not exercise such option in respect of any Note which is the subject of the prior exercise by the Holder thereof of its option to require the redemption of such Note under subparagraph [(8)] of this § 5.]

- (b) Notice of redemption shall be given by the Issuer to the Holders of the Notes in accordance with § 12. Such notice shall specify:
- (i) the series of Notes subject to redemption;
  - (ii) whether such series is to be redeemed in whole or in part only and, if in part only, the aggregate principal amount of the Notes which are to be redeemed;
  - (iii) the relevant redemption date, which shall be not less than 20 nor more than 40 days after the date on which notice is given by the Issuer to the Holders; and
  - (iv) the Call Redemption Amount at which such Notes are to be redeemed.
- (c) In the case of a partial redemption of Notes, Notes to be redeemed shall be selected in

**Schuldverschreibungen vorzeitig zurückzuzahlen, ist folgendes anwendbar:**

[(5)] Vorzeitige Rückzahlung nach Wahl der Emittentin.

- (a) Die Emittentin kann, nachdem sie gemäß Absatz (b) gekündigt hat, die Schuldverschreibungen insgesamt oder teilweise innerhalb des/der Wahl-Rückzahlungszeitraums/räume (Call) zum/zu den Wahl-Rückzahlungsbetrag/beträgen (Call), wie nachfolgend angegeben, nebst etwaigen bis zum maßgeblichen Rückzahlungstag (ausschließlich) aufgelaufenen Zinsen zurückzahlen.

Wahl-Rück-  
zahlungszeitraum/räume  
(Call)

Wahl-Rück-  
zahlungsbetrag/  
beträge (Call)

**[Wahl-Rückzahlungs-  
zeitraum/ räume]**

[●]  
[●]

**[Wahl-Rückzahlungs-  
betrag/beträge]**

[●]  
[●]

**[Falls der Gläubiger ein Wahlrecht hat, die Schuldverschreibungen vorzeitig zu kündigen, ist folgendes anwendbar:**

Der Emittentin steht dieses Wahlrecht nicht in Bezug auf eine Schuldverschreibung zu, deren Rückzahlung bereits der Gläubiger in Ausübung seines Wahlrechts nach Absatz [(8)] dieses § 5 verlangt hat.]

- (b) Die Kündigung ist den Gläubigern der Schuldverschreibungen durch die Emittentin gemäß § 12 bekanntzugeben. Sie muss die folgenden Angaben enthalten:
- (i) die zurückzuzahlende Serie von Schuldverschreibungen;
  - (ii) eine Erklärung, ob diese Serie ganz oder teilweise zurückgezahlt wird und im letzteren Fall den Gesamtnennbetrag der zurück-zuzahlenden Schuldverschreibungen;
  - (iii) den maßgeblichen Rückzahlungstag, der nicht weniger als 20 und nicht mehr als 40 Tage nach dem Tag der Kündigung durch die Emittentin gegenüber den Gläubigern liegen darf; und
  - (iv) den Wahl-Rückzahlungsbetrag (Call), zu dem die Schuldverschreibungen zurückgezahlt werden.
- (c) Wenn die Schuldverschreibungen nur teilweise zurückgezahlt werden, werden die



accordance with the rules of the relevant Clearing System. **[In the case of Notes in NGN form, the following applies:** For technical procedure of the ICSDs, in the case of a partial redemption the outstanding redemption amount will be reflected in the records of the ICSDs as either a reduction in nominal amount or as a pool factor, at the discretion of the ICSDs.]]

**[If the Notes are subject to Early Redemption at the Option of the Issuer (Make-Whole), the following applies:**

[(6)] Early Redemption at the Option of the Issuer.

- (a) The Issuer may, upon notice given in accordance with clause (b), redeem all or some only of the Notes at its option, at a redemption price equal to 100% of the principal amount of the Notes being redeemed plus accrued interest, if any, to the redemption date, plus the excess (if any) of:

- (i) as determined by the Calculation Agent, the sum of the present values of the remaining scheduled payments of principal and interest on the Notes being redeemed not including any portion of such payment of interest accrued on the date of redemption, from the redemption date to the earlier of (x) the first day on which the Notes may be redeemed at the option of the Issuer at their principal amount and (y) the Maturity Date, each discounted at the Benchmark Yield plus *[margin]*% to the redemption date by applying the Day Count Fraction set out in § 3(4); over

- (ii) the principal amount of the Notes being redeemed

(the **Make-Whole Amount**).

**Benchmark Yield** means the yield as at the Redemption Calculation Date as appearing

zurückzuzahlenden Schuldverschreibungen in Übereinstimmung mit den Regeln des betreffenden Clearingsystems ausgewählt. **[Falls die Schuldverschreibungen in Form einer NGN begeben werden, ist folgendes anwendbar:** Für das technische Verfahren der ICSDs wird im Fall einer teilweisen Rückzahlung der entstehende Rückzahlungsbetrag entweder als reduzierter Nennbetrag oder als Poolfaktor nach Ermessen der ICSDs in das Register der ICSDs aufgenommen.]]

**[Falls die Emittentin das Wahlrecht hat, die Schuldverschreibungen vorzeitig zurückzuzahlen (Make-Whole), ist folgendes anwendbar:**

[(6)] Vorzeitige Rückzahlung nach Wahl der Emittentin.

- (a) Die Emittentin kann, nachdem sie gemäß Absatz (b) gekündigt hat, die Schuldverschreibungen insgesamt oder teilweise nach ihrer Wahl zu einem Rückzahlungsbetrag von 100% des Nennbetrags, nebst etwaigen bis zum maßgeblichen Rückzahlungstag (ausschließlich) aufgelaufenen Zinsen, zuzüglich des Betrages (sofern sich ein solcher ergibt), um den

- (i) die durch die Berechnungsstelle ermittelte Summe der Barwerte der verbleibenden planmäßigen Kapitalrückzahlungen und Zinszahlungen auf die zurückzuzahlenden Schuldverschreibungen (nicht eingerechnet der am Rückzahlungstag aufgelaufene Teil dieser Zinszahlungen) vom Rückzahlungstag bis zum früheren der beiden folgenden Daten (x) der erste Tag, an dem die Emittentin nach ihrer Wahl die Schuldverschreibungen zu ihrem Nennbetrag zurückzahlen darf, oder (y) der Fälligkeitstag, jeweils abgezinst auf den Rückzahlungstag unter Anwendung des in § 3(4) bestimmten Zinstagequotienten und auf Basis der Benchmark-Rendite zuzüglich *[Marge]*%,

- (ii) den Nennbetrag der zurückzuzahlenden Schuldverschreibungen übersteigt,

(der **Make-Whole Betrag**) zurückzahlen.

Die **Benchmark-Rendite** ist die am Rückzahlungs-Berechnungstag bestehende

at around [*relevant time*] on the Screen Page in respect of the Benchmark Security, or if such yield cannot be so determined at such time, the yield determined as aforesaid as appearing on the Screen Page at such other time on the Redemption Calculation Date as may be considered to be appropriate by the Calculation Agent.

**Screen Page** means Bloomberg [HP (setting "Last Yield To Convention" and using the pricing source "FRNK")] [*other relevant screen page*] (or any successor page or successor pricing source) for the Benchmark Security, or, if such Bloomberg page or pricing source is not available, such other page (if any) from such other information provider displaying substantially similar data as may be considered to be appropriate by the Calculation Agent.

**Benchmark Security** means the [*euro denominated benchmark debt security of the Federal Republic of Germany*] [*other relevant benchmark*] due [*maturity*], carrying ISIN [*ISIN of the reference bond used at pricing the Notes*], or, if such security is no longer outstanding on the Redemption Calculation Date, such substitute benchmark security selected by the Calculation Agent, in each case as having a maturity comparable to the remaining term of the Note to the Maturity Date, that would be used at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the Maturity Date.

**Redemption Calculation Date** means the sixth Payment Business Day prior to the date on which the Notes are redeemed as a result of any event specified in this § 5[(6)].

- (b) Notice of redemption shall be given by the Issuer to the Holders of the Notes in accordance with § 12. Such notice shall specify:
  - (i) the series of Notes subject to redemption;

Rendite, wie sie etwa um [*maßgebliche Uhrzeit*] auf der Bildschirmseite für die Referenzanleihe, oder, sollte zu diesem Zeitpunkt keine Rendite festgestellt werden können, die vorstehend bestimmte Rendite so wie sie zu einem anderen Zeitpunkt, der von der Berechnungsstelle für angemessen erachtet wird, am Rückzahlungs-Berechnungstag auf der Bildschirmseite angezeigt wird.

**Bildschirmseite** ist Bloomberg [HP (Einstellung "Last Yield to Convention" und Verwendung der Preisquelle "FRNK")] [*andere Bildschirmseite*] (oder jede Nachfolgeseite oder Nachfolge-Preisquelle) für die Referenzanleihe, oder, falls diese Bloomberg-Seite oder Preisquelle nicht verfügbar ist, eine andere Seite (falls vorhanden) eines Informationsanbieters, die weitgehend ähnliche Daten anzeigt, wie von der Berechnungsstelle für angemessen erachtet.

**Referenzanleihe** ist die [*Euro-Referenz-Anleihe der Bundesrepublik Deutschland*] [*andere Referenzanleihe*] fällig [*Fälligkeitstermin*] mit ISIN [*ISIN der Referenzanleihe, die bei der Preisbestimmung der Schuldverschreibungen genannt wurde*] oder, falls diese Anleihe am Rückzahlungs-Berechnungstag nicht mehr aussteht, eine von der Berechnungsstelle ausgewählte ersetzende Referenzanleihe, jeweils mit einer Laufzeit, die mit der verbleibenden Restlaufzeit der Schuldverschreibung bis zum Fälligkeitstag vergleichbar ist, und die im Zeitpunkt der Auswahlentscheidung und in Übereinstimmung mit der üblichen Finanzmarktp Praxis zur Preisbestimmung bei Neuemissionen von Unternehmensanleihen mit einer bis zum Fälligkeitstag der Schuldverschreibung vergleichbaren Laufzeit verwendet würde.

**Rückzahlungs-Berechnungstag** ist der sechste Zahltag vor dem Tag, an dem die Schuldverschreibungen aufgrund eines in diesem § 5[(6)] genannten Ereignisses zurückgezahlt werden.

- (b) Die Kündigung ist den Gläubigern der Schuldverschreibungen durch die Emittentin gemäß § 12 bekanntzugeben. Sie muss die folgenden Angaben enthalten:
  - (i) die zurückzuzahlende Serie von Schuldverschreibungen;

- (ii) whether such series is to be redeemed in whole or in part only and, if in part only, the aggregate principal amount of the Notes which are to be redeemed; and
- (iii) the relevant redemption date, which shall be not less than 20 nor more than 40 days after the date on which notice is given by the Issuer to the Holders.
- (c) In the case of a partial redemption of Notes, Notes to be redeemed shall be selected in accordance with the rules of the relevant Clearing System. **[In the case of Notes in NGN form, the following applies:** For technical procedure of the ICSDs, in the case of a partial redemption the outstanding redemption amount will be reflected in the records of the ICSDs as either a reduction in nominal amount or as a pool factor, at the discretion of the ICSDs.])

**[If the Notes are subject to Early Redemption at the Option of the Issuer upon the occurrence of a Transaction Trigger Event the following applies:**

- [(7)] Early Redemption at the Option of the Issuer upon the occurrence of a Transaction Trigger Event.
- (a) Upon the occurrence of a Transaction Trigger Event, the Issuer may, upon notice given in accordance with clause (b), redeem all of the Notes on the Event Redemption Date at the Event Redemption Amount together with interest (if any) to the Event Redemption Date (excluding).

The Issuer may waive its right to call the Notes for redemption based on a Transaction Trigger Event by giving notice in accordance with § 12.

**[If the Notes are subject to Early Redemption at the Option of the Holder the following applies:** The Issuer may not exercise such option in respect of any Note which is the subject of the prior exercise by the Holder thereof of its option to require the redemption of such Note under

- (ii) eine Erklärung, ob diese Serie ganz oder teilweise zurückgezahlt wird und im letzteren Fall den Gesamtnennbetrag der zurückzuzahlenden Schuldverschreibungen; und
- (iii) den maßgeblichen Rückzahlungstag, der nicht weniger als 20 und nicht mehr als 40 Tage nach dem Tag der Kündigung durch die Emittentin gegenüber den Gläubigern liegen darf.
- (c) Wenn die Schuldverschreibungen nur teilweise zurückgezahlt werden, werden die zurückzuzahlenden Schuldverschreibungen in Übereinstimmung mit den Regeln des betreffenden Clearingsystems ausgewählt. **[Falls die Schuldverschreibungen in Form einer NGN begeben werden, ist folgendes anwendbar:** Für das technische Verfahren der ICSDs wird im Fall einer teilweisen Rückzahlung der entstehende Rückzahlungsbetrag entweder als reduzierter Nennbetrag oder als Poolfaktor nach Ermessen der ICSDs in das Register der ICSDs aufgenommen.])

**[Falls die Emittentin das Wahlrecht hat, die Schuldverschreibungen vorzeitig bei Eintritt eines Transaktions-Ereignisses zurückzuzahlen, ist folgendes anwendbar:**

- [(7)] Vorzeitige Rückzahlung nach Wahl der Emittentin bei Eintritt eines Transaktions-Ereignisses.
- (a) Die Emittentin kann, nachdem ein Transaktions-Ereignis aufgetreten ist und sie gemäß Absatz (b) gekündigt hat, die Schuldverschreibungen insgesamt an dem Ereignis-Rückzahlungstag zum Ereignis-Rückzahlungsbetrag, wie nachfolgend angegeben, nebst etwaigen bis zum Ereignis-Rückzahlungstag (ausschließlich) aufgelaufenen Zinsen zurückzahlen.

Die Emittentin kann auf ihr Recht zur vorzeitigen Kündigung der Schuldverschreibungen aufgrund eines Transaktions-Ereignisses durch Bekanntmachung gemäß § 12 verzichten.

**[Falls der Gläubiger ein Wahlrecht hat, die Schuldverschreibungen vorzeitig zu kündigen, ist folgendes anwendbar:** Der Emittentin steht dieses Wahlrecht nicht in Bezug auf eine Schuldverschreibung zu, deren Rückzahlung bereits der Gläubiger in Ausübung seines Wahlrechts nach § 5[(8)]

§ 5[(8)].]

(b) Notice of redemption shall be given by the Issuer to the Holders of the Notes in accordance with § 12. Such notice shall specify:

- (i) the series of Notes subject to redemption;
- (ii) the Event Redemption Date, which shall be not less than 30 days nor more than 60 days after the date on which notice of the occurrence of the Transaction Trigger Event is given by the Issuer to the Holders; and
- (iii) the Event Redemption Amount at which such Notes are to be redeemed.

(c) Whereby:

**Event Redemption Amount** means [insert amount per Note].

**Event Redemption Date** means the date fixed for redemption of the Notes pursuant to § 5 [(7)] (b).

**Transaction** means [insert description of envisaged acquisition transaction for which the Notes are intended to be issued for refinancing purposes].

**Transaction Trigger Event** means a notice given by the Issuer to the Holders [in the case of a Transaction Trigger Cut-off Date insert: on or prior to [Transaction Trigger Cut-off Date]] in accordance with § 12 that the Transaction has been terminated prior to completion and the Issuer has publicly stated that it no longer intends to pursue the Transaction.]

**[If the Notes are subject to Early Redemption at the Option of the Holder the following applies:**

[(8)] Early Redemption at the Option of a Holder.

verlangt hat.]

(b) Die Kündigung ist den Gläubigern der Schuldverschreibungen durch die Emittentin gemäß § 12 bekanntzugeben. Sie muss die folgenden Angaben enthalten:

- (i) die zurückzuzahlende Serie von Schuldverschreibungen;
- (ii) den Ereignis-Rückzahlungstag, der nicht weniger als 30 Tage und nicht mehr als 60 Tage nach dem Tag der Mitteilung des Eintritts eines Transaktions-Ereignisses durch die Emittentin gegenüber den Gläubigern liegen darf; und
- (iii) den Ereignis-Rückzahlungsbetrag, zu dem die Schuldverschreibungen zurückgezahlt werden.

(c) Dabei gilt:

**Ereignis-Rückzahlungsbetrag** bezeichnet [Betrag pro Schuldverschreibung einfügen].

**Ereignis-Rückzahlungstag** bezeichnet den Tag, der für die Rückzahlung der Schuldverschreibungen gemäß § 5 [(7)] (b) festgesetzt wurde.

**Transaktion** bezeichnet [Beschreibung der geplanten Akquisitionstransaktion für deren Finanzierung die Schuldverschreibungen begeben werden].

**Transaktions-Ereignis** bezeichnet die Mitteilung der Emittentin [Im Fall eines Transaktions-Stichtages, einfügen: an oder vor dem [Transaktions-Stichtag]] an die Gläubiger gemäß § 12, dass die Transaktion vor ihrem Abschluss abgebrochen wurde und die Emittentin öffentlich erklärt hat, dass sie nicht länger beabsichtigt, die Transaktion zu verfolgen.]

**[Falls der Gläubiger ein Wahlrecht hat, die Schuldverschreibungen vorzeitig zu kündigen, ist folgendes anwendbar:**

[(8)] Vorzeitige Rückzahlung nach Wahl des Gläubigers.

- (a) The Issuer shall, at the option of the Holder of any Note, redeem such Note on the Put Redemption Date(s) at the Put Redemption Amount(s) set forth below together with accrued interest, if any, to (but excluding) the Put Redemption Date.

| Put Redemption Date(s)           | Put Redemption Amount(s)          |
|----------------------------------|-----------------------------------|
| <b>[Put Redemption Dates(s)]</b> | <b>[Put Redemption Amount(s)]</b> |
| [•]                              | [•]                               |
| [•]                              | [•]                               |

The Holder may not exercise such option in respect of any Note which is the subject of the prior exercise by the Issuer of any of its options to redeem such Note under this § 5.

- (b) In order to exercise such option, the Holder must, not less than **[Minimum Notice to Issuer]** nor more than **[Maximum Notice to Issuer]** days before the Put Redemption Date on which such redemption is required to be made as specified in the Put Redemption Notice (as defined below), submit during normal business hours at the specified office of the Fiscal Agent a duly completed early redemption notice (**Put Redemption Notice**) in the form available from the specified offices of the Fiscal Agent and the Paying Agent. The Put Redemption Notice must specify (i) the principal amount of the Notes in respect of which such option is exercised, and (ii) the securities identification number of such Notes, if any. No option so exercised may be revoked or withdrawn. The Issuer shall only be required to redeem Notes in respect of which such option is exercised against delivery of such Notes to the Issuer or to its order.]

- (a) Die Emittentin hat eine Schuldverschreibung nach Ausübung des entsprechenden Wahlrechts durch den Gläubiger am/an den Wahl-Rückzahlungstag(en) (Put) zum/zu dem/den Wahl-Rückzahlungsbetrag/beträgen (Put), wie nachfolgend angegeben nebst etwaigen bis zum Wahl-Rückzahlungstag (Put) (ausschließlich) aufgelaufener Zinsen zurückzuzahlen.

| Wahl-Rückzahlungstag(e) (Put)     | Wahl-Rückzahlungsbetrag/beträge (Put)    |
|-----------------------------------|------------------------------------------|
| <b>[Wahl- Rückzahlungstag(e)]</b> | <b>[Wahl-Rückzahlungsbetrag/beträge]</b> |
| [•]                               | [•]                                      |
| [•]                               | [•]                                      |

Dem Gläubiger steht dieses Wahlrecht nicht in Bezug auf eine Schuldverschreibung zu, deren Rückzahlung die Emittentin zuvor in Ausübung eines ihrer Wahlrechte nach diesem § 5 verlangt hat.

- (b) Um dieses Wahlrecht auszuüben, hat der Gläubiger nicht weniger als **[Mindestkündigungsfrist]** und nicht mehr als **[Höchstkündigungsfrist]** Tage vor dem Wahl-Rückzahlungstag (Put), an dem die Rückzahlung gemäß der Rückzahlungs-Ausübungserklärung (wie nachfolgend definiert) erfolgen soll, der bezeichneten Geschäftsstelle der Emissionsstelle während der normalen Geschäftszeiten eine ordnungsgemäß ausgefüllte Mitteilung zur vorzeitigen Rückzahlung (die **Rückzahlungs-Ausübungserklärung**), wie sie bei den bezeichneten Geschäftsstellen der Emissionsstelle und der Zahlstelle erhältlich ist, zu übermitteln. Die Rückzahlungs-Ausübungserklärung hat anzugeben: (i) den Nennbetrag der Schuldverschreibungen, für die das Wahlrecht ausgeübt wird und (ii) die Wertpapier-Kenn-Nummer dieser Schuldverschreibungen (soweit vergeben). Die Ausübung des Wahlrechts kann nicht widerrufen werden. Die Rückzahlung der Schuldverschreibungen, für welche das Wahlrecht ausgeübt worden ist, erfolgt nur gegen Lieferung der Schuldverschreibungen an die Emittentin oder deren Order.]

**§ 6**  
**(THE FISCAL AGENT[, ] [AND] THE PAYING AGENT [AND THE CALCULATION AGENT])**

(1) Appointment; Specified Office.

The initial fiscal agent (the **Fiscal Agent**) and the initial paying agent (the **Paying Agent**) and its initial specified office shall be:

Deutsche Bank Aktiengesellschaft  
Trust & Agency Services  
Taunusanlage 12  
60325 Frankfurt am Main  
Federal Republic of Germany

*[If the Notes are subject to Early Redemption at the Option of the Issuer (Make-Whole), the following shall apply:*

The initial calculation agent (the **Calculation Agent**) and its initial specified office shall be:

[•]]

The Fiscal Agent[, ] [and] the Paying Agent [and the Calculation Agent] reserve the right at any time to change their respective specified offices to some other specified office in the same country.

(2) Variation or Termination of Appointment.

The Issuer reserves the right at any time to vary or terminate the appointment of the Fiscal Agent or any Paying Agent [or the Calculation Agent] and to appoint another Fiscal Agent or additional or other Paying Agents [or another Calculation Agent]. The Issuer shall at all times maintain (i) a Fiscal Agent *[in the case of Notes listed on a stock exchange the following applies: [, ] [and] (ii) so long as the Notes are listed on the [name of Stock Exchange], a Paying Agent (which may be the Fiscal Agent) with a specified office in [location of Stock Exchange] and/or in such other place as may be required by the rules of such stock exchange] [, ] [and] [(iii)] a Paying Agent in an EU Member State, if possible, that will not be obliged to withhold or deduct tax in connection with any payment made in relation to the Notes unless the Paying Agent would be so obliged in each other EU Member State if it were located there, [if the Notes are subject to Early Redemption at the Option of the Issuer (Make-Whole), the following shall apply: [, ] [and] [(iv)] a Calculation Agent] [in the case of payments in*

**§ 6**  
**(DIE EMISSIONSSTELLE[, ] [UND] DIE ZAHLSTELLE [UND DIE BERECHNUNGSSTELLE])**

(1) Bestellung; bezeichnete Geschäftsstelle.

Die anfänglich bestellte Emissionsstelle (die **Emissionsstelle**) und die anfänglich bestellte Zahlstelle (die **Zahlstelle**) und ihre bezeichnete Geschäftsstelle lautet wie folgt:

Deutsche Bank Aktiengesellschaft  
Trust & Agency Services  
Taunusanlage 12  
60325 Frankfurt am Main  
Deutschland

*[Falls die Emittentin das Wahlrecht hat, die Schuldverschreibungen vorzeitig zurück-zuzahlen (Make-Whole), ist folgendes anwendbar:*

Die anfänglich bestellte Berechnungsstelle (die **Berechnungsstelle**) und ihre bezeichnete Geschäftsstelle lautet wie folgt:

[•]]

Die Emissionsstelle[, ] [und] die Zahlstelle [und die Berechnungsstelle] behalten sich das Recht vor, jederzeit ihre jeweiligen bezeichneten Geschäftsstellen durch eine andere bezeichnete Geschäftsstelle in demselben Land zu ersetzen.

(2) Änderung der Bestellung oder Abberufung.

Die Emittentin behält sich das Recht vor, jederzeit die Bestellung der Emissionsstelle oder einer Zahlstelle [oder der Berechnungsstelle] zu ändern oder zu beenden und eine andere Emissionsstelle oder zusätzliche oder andere Zahlstellen [oder eine andere Berechnungsstelle] zu bestellen. Die Emittentin wird zu jedem Zeitpunkt (i) eine Emissionsstelle unterhalten *[im Fall von Schuldverschreibungen, die an einer Börse notiert sind, ist folgendes anwendbar: [, ] [und] (ii) solange die Schuldverschreibungen an der [Name der Börse] notiert sind, eine Zahlstelle (die die Emissionsstelle sein kann) mit bezeichneter Geschäftsstelle in [Sitz der Börse] und/oder an solchen anderen Orten unterhalten, die die Regeln dieser Börse verlangen] [, ] [und] [(iii)] eine Zahlstelle in einem Mitgliedsstaat der Europäischen Union, sofern dies möglich ist, unterhalten, die nicht zum Einbehalt oder Abzug von Quellensteuern oder sonstigen Abzügen verpflichtet ist, es sei denn, dass eine solche Einbehalt- oder Abzugspflicht auch in allen anderen Mitgliedsstaaten der Europäischen Union*

*United States dollar the following applies:* and [(v)] if payments at or through the offices of all Paying Agents outside the United States (as defined in § 1(6)) become illegal or are effectively precluded because of the imposition of exchange controls or similar restrictions on the full payment or receipt of such amounts in United States dollar, a Paying Agent with a specified office in New York City]. Any variation, termination, appointment or change shall only take effect (other than in the case of insolvency, when it shall be of immediate effect) after not less than 30 nor more than 45 days' prior notice thereof shall have been given to the Holders in accordance with § 12.

(3) Agent of the Issuer.

The Fiscal Agent[,] [and] the Paying Agent [and the Calculation Agent] act solely as the agents of the Issuer and do not assume any obligations towards or relationship of agency or trust for any Holder.

**§ 7  
(TAXATION)**

*[In the case of Notes issued by Fresenius SE & Co. KGaA, the following applies:*

All payments of principal and interest made by the Issuer in respect of the Notes to the Holders shall be made free and clear of, and without withholding or deduction for, any present or future taxes or duties of whatever nature imposed or levied by way of deduction or withholding by or on behalf of (1) the Federal Republic of Germany or any authority therein or thereof having power to tax, (2) any jurisdiction from or through which payment on the Notes is made, or any political subdivision or governmental authority thereof or therein having the power to tax and/or (3) any other jurisdiction in which the payor is organized or otherwise considered to be resident or doing business for tax purposes, or any political subdivision or governmental authority thereof or therein having the power to tax (each a **Relevant Taxing**

bestünde *[falls die Emittentin das Wahlrecht hat, die Schuldverschreibungen vorzeitig zurückzahlen (Make-Whole), ist folgendes anwendbar:* [.] [und] [(iv)] eine Berechnungsstelle unterhalten] *[im Fall von Zahlungen in US-Dollar ist folgendes anwendbar:* und [(v)] falls Zahlungen bei den oder durch die Geschäftsstellen aller Zahlstellen außerhalb der Vereinigten Staaten (wie in § 1(6) definiert) aufgrund der Einführung von Devisenbeschränkungen oder ähnlichen Beschränkungen hinsichtlich der vollständigen Zahlung oder des Empfangs der entsprechenden Beträge in US-Dollar widerrechtlich oder tatsächlich ausgeschlossen werden, eine Zahlstelle mit bezeichneter Geschäftsstelle in New York City unterhalten]. Eine Änderung, Abberufung, Bestellung oder ein sonstiger Wechsel wird nur wirksam (außer im Insolvenzfall, in dem eine solche Änderung sofort wirksam wird), sofern die Gläubiger hierüber gemäß § 12 vorab unter Einhaltung einer Frist von mindestens 30 und nicht mehr als 45 Tagen informiert wurden.

(3) Erfüllungsgehilfe(n) der Emittentin.

Die Emissionsstelle[,] [und] die Zahlstelle [und die Berechnungsstelle] handeln ausschließlich als Erfüllungsgehilfen der Emittentin und übernehmen keinerlei Verpflichtungen gegenüber den Gläubigern und es wird kein Auftrags- oder Treuhandverhältnis zwischen ihnen und den Gläubigern begründet.

**§ 7  
(STEUERN)**

*[Im Fall von Schuldverschreibungen, die von Fresenius SE & Co. KGaA begeben werden, ist folgendes anwendbar:*

Alle in Bezug auf die Schuldverschreibungen von der Emittentin an die Gläubiger zahlbaren Kapital- oder Zinsbeträge werden ohne Einbehalt oder Abzug an der Quelle für oder wegen gegenwärtiger oder zukünftiger Steuern oder Abgaben gleich welcher Art gezahlt, die von oder im Namen (1) der Bundesrepublik Deutschland oder einer dort zur Steuererhebung ermächtigten Behörde, (2) einer Rechtsordnung, aus der bzw. über die eine Zahlung auf die Schuldverschreibungen geleistet wird, oder einer dort zur Steuererhebung ermächtigten Gebietskörperschaft oder Behörde, und/oder (3) einer anderen Rechtsordnung, in der die zahlende Partei errichtet ist oder anderweitig als gebietsansässig gilt oder im steuerlichen Sinn geschäftlich tätig ist, oder einer dort zur Steuererhebung ermächtigten

**Jurisdiction**), unless such deduction or withholding is required by law. In that event the Issuer shall pay such additional amounts (the **Additional Amounts**) as shall result in receipt by the Holders of such amounts as would have been received by them had no such withholding or deduction been required, except that no Additional Amounts shall be payable with respect to:

- (a) taxes or duties which are payable by any Person acting as custodian bank or collecting agent on behalf of a Holder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments of principal or interest made by it; or
- (b) payments that would not have been so imposed but for the existence of any present or former connection between such Holder (or between a fiduciary, settlor, beneficiary, member or shareholder of, or a person having a power over, such Holder) and any Relevant Taxing Jurisdiction including, without limitation, such Holder (or such fiduciary, settlor, beneficiary, member, shareholder or person having such a power) being or having been a citizen or resident or treated as a resident of, being or having been engaged in a trade or business in, or having or having had a permanent establishment in, a Relevant Taxing Jurisdiction other than any connections arising solely from a Holder acquiring, holding or disposing of, receiving any payment under or with respect to or enforcing a Note; or
- (c) payments to, or to a third party on behalf of, a Holder where no such withholding or deduction would have been required to be made if the Notes were credited at the time of payment to a securities deposit account with a bank, financial services institution,

Gebietskörperschaft oder Behörde (jeweils eine **Relevante Steuerjurisdiktion**) im Wege des Abzugs oder Einbehalts auferlegt oder erhoben werden, es sei denn, ein solcher Abzug oder Einbehalt ist gesetzlich vorgeschrieben. In diesem Fall wird die Emittentin diejenigen zusätzlichen Beträge (**Zusätzliche Beträge**) zahlen, die erforderlich sind, damit die den Gläubigern zufließenden Nettobeträge nach diesem Einbehalt oder Abzug jeweils den Beträgen an Kapital und Zinsen entsprechen, die ohne einen solchen Einbehalt oder Abzug von den Gläubigern erhalten worden wären; jedoch sind solche Zusätzlichen Beträge nicht zu zahlen in Bezug auf:

- (a) Steuern oder Abgaben, die von einer als Depotbank oder Inkassobeauftragter eines Gläubigers handelnden Person oder auf eine sonstige Weise zu entrichten sind, die keinen Abzug oder Einbehalt von Zahlungen von Kapital oder Zinsen durch die Emittentin darstellen; oder
- (b) Zahlungen, die nicht erhoben worden wären, wenn nicht (i) eine gegenwärtige oder ehemalige Beziehung zwischen dem betreffenden Gläubiger (oder einem Treuhänder, Treugeber, Begünstigten, Mitglied oder Gesellschafter dieses Gläubigers oder einer Person, die beherrschenden Einfluss auf diesen Gläubiger hat) und einer Relevanten Steuerjurisdiktion bestehen würde, unter anderem in der Form, dass der betreffende Gläubiger (bzw. Treuhänder, Treugeber, Begünstigte, Mitglied, Gesellschafter oder die Person, die solchen Einfluss hat) Staatsbürger einer Relevanten Steuerjurisdiktion ist oder war oder dort ansässig ist oder war oder als dort ansässig gilt oder galt oder dort ein Gewerbe oder eine Geschäftstätigkeit betreibt oder betrieben hat oder dort eine Betriebsstätte unterhält oder unterhalten hat, mit Ausnahme von Beziehungen, die allein dadurch entstehen, dass ein Gläubiger eine Schuldverschreibung erwirbt, hält oder veräußert bzw. eine Zahlung darunter oder in Bezug auf diese erhält oder Ansprüche darauf geltend macht; oder
- (c) Zahlungen an den Gläubiger oder an einen Dritten für den Gläubiger, falls kein Einbehalt oder Abzug hätte erfolgen müssen, wenn die Schuldverschreibung zum Zeitpunkt der fraglichen Zahlung einem Depotkonto bei einer bzw. einem



securities trading business or securities trading bank, in each case outside the Relevant Taxing Jurisdiction; or

- (d) payments where such withholding or deduction is imposed pursuant to (i) any European Union Directive or Regulation concerning the taxation of savings, or (ii) any international treaty or understanding relating to such taxation and to which the Relevant Taxing Jurisdiction or the European Union is a party/are parties, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding, or (iv) the Luxembourg law of December 23, 2005; or
- (e) payments to the extent such withholding or deduction is payable by or on behalf of a Holder who could lawfully mitigate (but has not so mitigated) such withholding or deduction by complying or procuring that any third party complies with any statutory requirements or by making or procuring that a third party makes a declaration of non-residence or other similar claim for exemption to any tax authority in the place where the payment is effected; or
- (f) payments to the extent such withholding or deduction is payable by or on behalf of a Holder who would have been able to mitigate such withholding or deduction by effecting a payment via another Paying Agent in a Member State of the European Union, not obliged to withhold or deduct tax; or
- (g) payments to the extent such withholding or deduction is for or on account of the presentation by the Holder of any Note for payment on a date more than 30 days after the date on which such payment became due and payable or the date on which payment thereof is duly provided for, whichever occurs later; or

nicht in der Relevanten Steuerjurisdiktion ansässigen Bank, Finanzdienstleistungsinstitut, Wertpapierhandelsunternehmen oder Wertpapierhandelsbank gutgeschrieben gewesen wäre; oder

- (d) falls der Einbehalt oder Abzug gemäß (i) einer Richtlinie oder Verordnung der Europäischen Union zur Zinsbesteuerung oder (ii) einem internationalen Abkommen oder Übereinkommen zu einer solchen Besteuerung, bei dem die Relevante Steuerjurisdiktion oder die Europäische Union Parteien sind, oder (iii) einem diese Richtlinie oder Verordnung oder dieses Abkommen oder Übereinkommen umsetzenden oder sie befolgenden oder zu ihrer Befolgung erlassenen Gesetz, oder (iv) dem Luxemburger Gesetz vom 23. Dezember 2005 erhoben wird; oder
- (e) soweit der Einbehalt oder Abzug von dem Gläubiger oder von einem Dritten für den Gläubiger zahlbar ist, der einen solchen Einbehalt oder Abzug dadurch rechtmäßigerweise hätte vermindern können (aber nicht vermindert hat), dass er gesetzliche Vorschriften beachtet, oder dafür sorgt, dass Dritte dieses tun, oder dadurch dass er eine Nicht-ansässigkeitserklärung oder einen ähnlichen Antrag auf Quellensteuerbefreiung gegenüber der am Zahlungsort zuständigen Steuerbehörde; abgibt oder dafür sorgt, dass dies durch einen Dritten erfolgt, oder
- (f) soweit der Einbehalt oder Abzug von dem Gläubiger oder von einem Dritten für den Gläubiger vorzunehmen ist, der einen solchen Einbehalt oder Abzug durch die Bewirkung einer Zahlung über eine andere Zahlstelle in einem Mitgliedsstaat der Europäischen Union, welche nicht zu einem solchen Einbehalt oder Abzug verpflichtet ist, hätte vermindern können; oder
- (g) soweit der Einbehalt oder Abzug für einen Gläubiger oder dessen Rechnung vorzunehmen ist, der Schuldverschreibungen mehr als 30 Tage nach dem Tag, an dem eine Zahlung unter den Schuldverschreibungen fällig und zahlbar wurde bzw., soweit dies später eintritt, nach dem Tag, an dem die Zahlung ordnungsgemäß vorgenommen wurde,

vorgelegt hat; oder

- (h) payments to the extent such withholding or deduction is required pursuant to Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986, as amended (the **Internal Revenue Code**), any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Internal Revenue Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Internal Revenue Code; or

- (i) any combination of items (a)-(h);

nor shall any Additional Amounts be paid with respect to any payment on a Note to a Holder who is a fiduciary or partnership or who is other than the sole beneficial owner of such payment to the extent such payment would be required by the laws of the Relevant Taxing Jurisdiction to be included in the income, for tax purposes, of a beneficiary or settlor with respect to such fiduciary or a member of such partnership or a beneficial owner who would not have been entitled to such Additional Amounts had such beneficiary, settlor, member or beneficial owner been the Holder of the Note.]

***[In the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:***

All payments of principal and interest made by the Issuer in respect of the Notes to the Holders shall be made free and clear of, and without withholding or deduction for, any present or future taxes or duties of whatever nature imposed or levied by way of deduction or withholding by or on behalf of (1) the Republic of Ireland or the Federal Republic of Germany or any authority therein or thereof having power to tax (2) any jurisdiction from or through which payment on the Notes or the Guarantee is made, or any political subdivision or governmental authority thereof or therein having the power to tax and/or (3) any other jurisdiction in which the payor is organized or otherwise considered to be

- (h) soweit der Einbehalt oder Abzug gemäß §§ 1471 bis 1474 des U.S. Internal Revenue Code von 1986 in seiner jeweils gültigen Fassung (der **Internal Revenue Code**), jeder gegenwärtigen oder zukünftigen Verordnung oder offiziellen Auslegung davon, jeder Vereinbarung, die gemäß § 1471(b) des Internal Revenue Codes eingegangen wurde oder jeder steuerlichen oder regulatorischen Gesetzgebung, sowie steuerlichen und regulatorischen Gesetzen oder Vorgehensweisen, die nach einem völkerrechtlichen Vertrag, der zur Umsetzung der Bestimmungen des Internal Revenue Codes geschlossen wurde, vorzunehmen ist; oder

- (i) jegliche Kombination der Absätze (a)-(h).

Zudem werden keine Zusätzlichen Beträge im Hinblick auf Zahlungen auf die Schuldverschreibungen an einen Gläubiger gezahlt, welcher die Zahlung als Treuhänder oder Personengesellschaft oder als sonstiger nicht alleiniger wirtschaftlicher Eigentümer erhält, soweit nach den Gesetzen der Relevanten Steuerjurisdiktion(en) eine solche Zahlung für Steuerzwecke dem Einkommen des Begünstigten bzw. Gründers eines Treuhandvermögens oder dem Gesellschafter der Personengesellschaft zugerechnet würde, der jeweils selbst nicht zum Erhalt von Zusätzlichen Beträgen berechtigt gewesen wäre, wenn der Begünstigte, Gründer eines Treuhandvermögens, Gesellschafter oder wirtschaftliche Eigentümer unmittelbarer Gläubiger der Schuldverschreibungen wäre.]

***[Im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:***

Alle in Bezug auf die Schuldverschreibungen von der Emittentin an die Gläubiger zahlbaren Kapital- oder Zinsbeträge werden ohne Einbehalt oder Abzug an der Quelle für oder wegen gegenwärtiger oder zukünftiger Steuern oder Abgaben gleich welcher Art gezahlt, die von oder im Namen (1) der Republik Irland oder der Bundesrepublik Deutschland oder einer dort zur Steuererhebung ermächtigten Behörde, oder (2) einer Rechtsordnung, aus der bzw. über die eine Zahlung auf die Schuldverschreibungen oder die Garantie geleistet wird, oder einer dort zur Steuererhebung ermächtigten Gebietskörperschaft oder Behörde, und/oder (3) einer anderen Rechtsordnung, in der die

resident or doing business for tax purposes, or any political subdivision or governmental authority thereof or therein having the power to tax (each a **Relevant Taxing Jurisdiction**), unless such deduction or withholding is required by law. In that event the Issuer shall pay such additional amounts (the **Additional Amounts**) as shall result in receipt by the Holders of such amounts as would have been received by them had no such withholding or deduction been required, except that no Additional Amounts shall be payable with respect to

- (a) taxes or duties which are payable by any Person acting as custodian bank or collecting agent on behalf of a Holder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer or the Guarantor, as applicable, from payments of principal or interest made by it; or
- (b) payments that would not have been so imposed but for the existence of any present or former connection between such Holder (or between a fiduciary, settlor, beneficiary, member or shareholder of, or a person having a power over, such Holder) and any Relevant Taxing Jurisdiction including, without limitation, such Holder (or such fiduciary, settlor, beneficiary, member, shareholder or person having such a power) being or having been a citizen or resident or treated as a resident of, being or having been engaged in a trade or business in, or having or having had a permanent establishment in, a Relevant Taxing Jurisdiction other than any connections arising solely from a Holder acquiring, holding or disposing of, receiving any payment under or with respect to or enforcing a Note or the Guarantee; or

zahlende Partei errichtet ist oder anderweitig als gebietsansässig gilt oder im steuerlichen Sinn geschäftlich tätig ist, oder einer dort zur Steuererhebung ermächtigten Gebietskörperschaft oder Behörde (jeweils eine **Relevante Steuerjurisdiktion**) im Wege des Abzugs oder Einbehalts auferlegt oder erhoben werden, es sei denn, ein solcher Abzug oder Einbehalt ist gesetzlich vorgeschrieben. In diesem Fall wird die Emittentin diejenigen zusätzlichen Beträge (**Zusätzliche Beträge**) zahlen, die erforderlich sind, damit die den Gläubigern zufließenden Nettobeträge nach diesem Einbehalt oder Abzug jeweils den Beträgen an Kapital und Zinsen entsprechen, die ohne einen solchen Einbehalt oder Abzug von den Gläubigern erhalten worden wären; jedoch sind solche Zusätzlichen Beträge nicht zu zahlen:

- (a) Steuern oder Abgaben, die von einer als Depotbank oder Inkassobeauftragter eines Gläubigers handelnden Person oder auf eine sonstige Weise zu entrichten sind, die keinen Abzug oder Einbehalt von Zahlungen von Kapital oder Zinsen durch die Emittentin bzw. der Garantin darstellen; oder
- (b) Zahlungen, die nicht erhoben worden wären, wenn nicht (i) eine gegenwärtige oder ehemalige Beziehung zwischen dem betreffenden Gläubiger (oder einem Treuhänder, Treugeber, Begünstigten, Mitglied oder Gesellschafter dieses Gläubigers oder einer Person, die beherrschenden Einfluss auf diesen Gläubiger hat) und einer Relevanten Steuerjurisdiktion bestehen würde, unter anderem in der Form, dass der betreffende Gläubiger (bzw. Treuhänder, Treugeber, Begünstigte, Mitglied, Gesellschafter oder die Person, die solchen Einfluss hat) Staatsbürger einer Relevanten Steuerjurisdiktion ist oder war oder dort ansässig ist oder war oder als dort ansässig gilt oder galt oder dort ein Gewerbe oder eine Geschäftstätigkeit betreibt oder betrieben hat oder dort eine Betriebsstätte unterhält oder unterhalten hat, mit Ausnahme von Beziehungen, die allein dadurch entstehen, dass ein Gläubiger eine Schuldverschreibung oder Ansprüche aus der Garantie erwirbt, hält oder veräußert bzw. eine Zahlung darunter oder in Bezug auf diese erhält oder Ansprüche darauf geltend macht; oder

- (c) payments to, or to a third party on behalf of, a Holder where no such withholding or deduction would have been required to be made if the Notes were credited at the time of payment to a securities deposit account with a bank, financial services institution, securities trading business or securities trading bank, in each case outside the Relevant Taxing Jurisdiction; or
- (d) payments where such withholding or deduction is imposed pursuant to (i) any European Union Directive or Regulation concerning the taxation of savings, or (ii) any international treaty or understanding relating to such taxation and to which the Relevant Taxing Jurisdiction or the European Union is a party/are parties, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding, or (iv) the Luxembourg law of December 23, 2005; or
- (e) payments to the extent such withholding or deduction is payable by or on behalf of a Holder who could lawfully mitigate (but has not so mitigated) such withholding or deduction by complying or procuring that any third party complies with any statutory requirements or by making or procuring that a third party makes a declaration of non-residence or other similar claim for exemption to any tax authority in the place where the payment is effected; or
- (f) payments to the extent such withholding or deduction is payable by or on behalf of a Holder who would have been able to mitigate such withholding or deduction by effecting a payment via another paying agent in a Member State of the European Union, not obliged to withhold or deduct tax; or
- (g) payments to the extent such withholding or deduction is for or on account of the presentation by the Holder of any Note for payment on a date more than 30 days after
- (c) Zahlungen an den Gläubiger oder an einen Dritten für den Gläubiger, falls kein Einbehalt oder Abzug hätte erfolgen müssen, wenn die Schuldverschreibung zum Zeitpunkt der fraglichen Zahlung einem Depotkonto bei einer bzw. einem nicht in der Relevanten Steuerjurisdiktion ansässigen Bank, Finanzdienstleistungsinstitut, Wertpapierhandelsunternehmen oder Wertpapierhandelsbank gutgeschrieben gewesen wäre; oder
- (d) falls der Einbehalt oder Abzug gemäß (i) einer Richtlinie oder Verordnung der Europäischen Union zur Zinsbesteuerung oder (ii) einem internationalen Abkommen oder Übereinkommen zu einer solchen Besteuerung, bei dem die Relevante Steuerjurisdiktion oder die Europäische Union Parteien sind, oder (iii) einem diese Richtlinie oder Verordnung oder dieses Abkommen oder Übereinkommen umsetzenden oder sie befolgenden oder zu ihrer Befolgung erlassenen Gesetz, oder (iv) dem Luxemburger Gesetz vom 23. Dezember 2005 erhoben wird; oder
- (e) soweit der Einbehalt oder Abzug von dem Gläubiger oder von einem Dritten für den Gläubiger zahlbar ist, der einen solchen Einbehalt oder Abzug dadurch rechtmäßigerweise hätte vermindern können (aber nicht vermindert hat), dass er gesetzliche Vorschriften beachtet, oder dafür sorgt, dass Dritte dieses tun, oder dadurch dass er eine Nicht-ansässigkeitserklärung oder einen ähnlichen Antrag auf Quellensteuerbefreiung gegenüber der am Zahlungsort zuständigen Steuerbehörde; abgibt oder dafür sorgt, dass dies durch einen Dritten erfolgt, oder
- (f) soweit der Einbehalt oder Abzug von dem Gläubiger oder von einem Dritten für den Gläubiger vorzunehmen ist, der einen solchen Einbehalt oder Abzug durch die Bewirkung einer Zahlung über eine andere Zahlstelle in einem Mitgliedsstaat der Europäischen Union, welche nicht zu einem solchen Einbehalt oder Abzug verpflichtet ist, hätte vermindern können; oder
- (g) soweit der Einbehalt oder Abzug für einen Gläubiger oder dessen Rechnung vorzunehmen ist, der Schuldverschreibungen mehr als 30 Tage nach

the date on which such payment became due and payable or the date on which payment thereof is duly provided for, whichever occurs later; or

- (h) payments to the extent such withholding or deduction is required pursuant to Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986, as amended (the **Internal Revenue Code**), any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Internal Revenue Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Internal Revenue Code; or

- (i) any combination of items (a)-(h);

nor shall any Additional Amounts be paid with respect to any payment on a Note to a Holder who is a fiduciary or partnership or who is other than the sole beneficial owner of such payment to the extent such payment would be required by the laws of the Relevant Taxing Jurisdictions to be included in the income, for tax purposes, of a beneficiary or settlor with respect to such fiduciary or a member of such partnership or a beneficial owner who would not have been entitled to such Additional Amounts had such beneficiary, settlor, member or beneficial owner been the Holder of the Note.]

For the avoidance of doubt: No Additional Amounts will be paid with respect to German *Kapitalertragsteuer* (including *Abgeltungsteuer*) to be deducted or withheld pursuant to the German Income Tax Act, even if the deduction or withholding has to be made by the Issuer or its representative, and the German Solidarity Surcharge (*Solidaritätszuschlag*) or any other tax which may substitute the German *Kapitalertragsteuer* or *Solidaritätszuschlag*, as the case may be.

dem Tag, an dem eine Zahlung unter den Schuldverschreibungen fällig und zahlbar wurde bzw., soweit dies später eintritt, nach dem Tag, an dem die Zahlung ordnungsgemäß vorgenommen wurde, vorgelegt hat; oder

- (h) soweit der Einbehalt oder Abzug gemäß §§ 1471 bis 1474 des U.S. Internal Revenue Code von 1986 in seiner jeweils gültigen Fassung (der **Internal Revenue Code**), jeder gegenwärtigen oder zukünftigen Verordnung oder offiziellen Auslegung davon, jeder Vereinbarung, die gemäß § 1471(b) des Internal Revenue Codes eingegangen wurde oder jeder steuerlichen oder regulatorischen Gesetzgebung, sowie steuerlichen und regulatorischen Gesetzen oder Vorgehensweisen, die nach einem völkerrechtlichen Vertrag, der zur Umsetzung der Bestimmungen des Internal Revenue Codes geschlossen wurde, vorzunehmen ist; oder

- (i) jegliche Kombination der Absätze (a)-(h).

Zudem werden keine Zusätzlichen Beträge im Hinblick auf Zahlungen auf die Schuldverschreibungen an einen Gläubiger gezahlt, welcher die Zahlung als Treuhänder oder Personengesellschaft oder als sonstiger nicht alleiniger wirtschaftlicher Eigentümer erhält, soweit nach den Gesetzen der Relevanten Steuerjurisdiktion(en) eine solche Zahlung für Steuerzwecke dem Einkommen des Begünstigten bzw. Gründers eines Treuhandvermögens oder dem Gesellschafter der Personengesellschaft zugerechnet würde, der jeweils selbst nicht zum Erhalt von Zusätzlichen Beträgen berechtigt gewesen wäre, wenn der Begünstigte, Gründer eines Treuhandvermögens, Gesellschafter oder wirtschaftliche Eigentümer unmittelbarer Gläubiger der Schuldverschreibungen wäre.]

Zur Klarstellung: Keine Zusätzlichen Beträge werden gezahlt in Bezug auf die deutsche Kapitalertragsteuer (inklusive der sog. Abgeltungsteuer), die nach dem deutschen Einkommensteuergesetz abgezogen oder einbehalten wird, auch wenn der Abzug oder Einbehalt durch die Emittentin oder ihren Vertreter vorzunehmen ist, und den deutschen Solidaritätszuschlag oder jede andere Steuer, welche die deutsche Kapitalertragsteuer bzw. den Solidaritätszuschlag ersetzen sollte.

**§ 8  
(PRESENTATION PERIOD)**

The presentation period provided in § 801 paragraph 1, sentence 1 BGB (German Civil Code) is reduced to ten years for the Notes.

**§ 9  
(EVENTS OF DEFAULT)**

(1) Events of default.

Each Holder shall be entitled to declare due and payable by notice to the Fiscal Agent its entire claims arising from the Notes and demand immediate redemption thereof at the principal amount together with accrued interest (if any) to (but excluding) the date of repayment, in the event that:

- (a) the Issuer fails to pay principal or interest under the Notes within 30 days from the relevant due date, or
- (b) *[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies: the Guarantor fails to pay amounts payable under the Guarantee within 30 days from the relevant due date, or]*
- (c) the Issuer fails to duly perform any other material obligation arising from the Notes *[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies: or the Guarantor fails to perform any other material obligation arising from the Guarantee]* and such failure continues unremedied for more than 60 days after the Fiscal Agent has received a request thereof in the manner set forth in § 9(3) from a Holder to perform such obligation; or
- (d) any Capital Market Indebtedness of the Issuer or any Material Subsidiary *[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies: or the Guarantor]* becomes prematurely repayable as a result of a default in respect of the terms thereof, or the Issuer or any Material Subsidiary *[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the*

**§ 8  
(VORLEGUNGSFRIST)**

Die in § 801 Absatz 1 Satz 1 BGB bestimmte Vorlegungsfrist wird für die Schuldverschreibungen auf zehn Jahre verkürzt.

**§ 9  
(KÜNDIGUNG)**

(1) Kündigungsgründe.

Jeder Gläubiger ist berechtigt, seine sämtlichen Forderungen aus den Schuldverschreibungen durch Kündigung gegenüber der Emissionsstelle fällig zu stellen und die unverzügliche Rückzahlung zum Nennbetrag, zuzüglich etwaiger bis zum Tag der Rückzahlung (ausschließlich) aufgelaufener Zinsen zu verlangen, falls:

- (a) die Emittentin auf die Schuldverschreibungen Kapital oder Zinsen nicht innerhalb von 30 Tagen nach dem betreffenden Fälligkeitstag zahlt; oder
- (b) *[im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar: die Garantin auf die Garantie zahlbare Beträge nicht innerhalb von 30 Tagen nach dem Fälligkeitstag zahlt; oder]*
- (c) die Emittentin die ordnungsgemäße Erfüllung irgendeiner anderen wesentlichen Verpflichtung aus den Schuldverschreibungen unterlässt *[im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar: oder die Garantin die Erfüllung irgendeiner anderen wesentlichen Verpflichtung aus der Garantie unterlässt]* und die Unterlassung jeweils länger als 60 Tage fort dauert, nachdem die Emissionsstelle eine Aufforderung in der in § 9(3) vorgesehenen Art und Weise von dem Gläubiger erhalten hat, die Verpflichtung zu erfüllen; oder
- (d) eine Kapitalmarktverbindlichkeit der Emittentin oder einer Wesentlichen Tochtergesellschaft *[im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar: oder der Garantin]* vorzeitig zahlbar wird aufgrund einer Pflichtverletzung aus dem dieser Kapitalmarktverbindlichkeit zugrunde liegenden Vertrag oder die Emittentin oder

**following applies:** or the Guarantor] fails to fulfill any payment obligation in excess of EUR 75,000,000 or the equivalent thereof under any Capital Market Indebtedness or under any guarantees or suretyships given for any Capital Market Indebtedness of others within 30 days from its due date or, in the case of such guarantee or suretyship, within 30 days of such guarantee or suretyship being invoked, unless the Issuer or the relevant Material Subsidiary **[in the case of Notes issued by Fresenius Ireland Fresenius Ireland II, the following applies:** or the Guarantor] contests in good faith that such payment obligation exists or is due or that such guarantee or suretyship has been validly invoked or if a security granted therefor is enforced on behalf of or by the creditor(s) entitled thereto; or

- (e) the Issuer or any Material Subsidiary **[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:** or the Guarantor] announces its inability to meet its financial obligations or ceases its payments generally; or
- (f) a court opens insolvency proceedings against the Issuer **[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:** (including, but not limited to, proceedings for the appointment of a liquidator or examiner to the Issuer) or the Guarantor] and such proceedings are instituted and have not been discharged or stayed within 90 days, or the Issuer **[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:** or the Guarantor] applies for or institutes such proceedings; or

eine Wesentliche Tochtergesellschaft **[im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:** oder die Garantin] eine Zahlungsverpflichtung in Höhe oder im Gegenwert von mehr als EUR 75.000.000 aus einer Kapitalmarktverbindlichkeit oder aufgrund einer Bürgschaft oder Garantie, die für Kapitalmarktverbindlichkeiten Dritter gegeben wurde, nicht innerhalb von 30 Tagen nach ihrer Fälligkeit bzw. im Fall einer Bürgschaft oder Garantie nicht innerhalb von 30 Tagen nach Inanspruchnahme aus dieser Bürgschaft oder Garantie erfüllt, es sei denn, die Emittentin oder die betreffende Wesentliche Tochtergesellschaft **[im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:** oder die Garantin] bestreitet in gutem Glauben, dass diese Zahlungsverpflichtung besteht oder fällig ist bzw. diese Bürgschaft oder Garantie berechtigterweise geltend gemacht wird, oder falls eine für solche Verbindlichkeiten bestellte Sicherheit für die oder von den daraus berechtigten Gläubiger(n) in Anspruch genommen wird; oder

- (e) die Emittentin oder eine Wesentliche Tochtergesellschaft **[im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:** oder die Garantin] gibt ihre Zahlungsunfähigkeit bekannt oder stellt ihre Zahlungen ein; oder
- (f) ein Gericht ein Insolvenzverfahren gegen die Emittentin **[im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:** (einschließlich eines Verfahrens zur Bestellung eines Insolvenzverwalters (*liquidator*) oder eines Examiners in Bezug auf die Emittentin) oder die Garantin] eröffnet, und ein solches Verfahren eingeleitet und nicht innerhalb von 90 Tagen aufgehoben oder ausgesetzt worden ist, oder die Emittentin **[im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:** oder die

- (g) the Issuer [*in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:* or the Guarantor] enters into liquidation unless this is done in connection with a merger or other form of combination with another company and such company assumes all obligations contracted by the Issuer in connection with the Notes [*in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:* or the Guarantor] in connection with the Guarantee][.] [; or]

- (h) [*in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:* the Guarantee shall cease to be in full force and effect in accordance with its terms for any reason except pursuant to these Terms and Conditions or the satisfaction in full of all the obligations thereunder or shall be declared invalid or unenforceable other than as contemplated by its terms, or the Guarantor shall repudiate, deny or disaffirm any of its obligations thereunder or under the Terms and Conditions.]

**Material Subsidiary** means any Subsidiary of Fresenius SE & Co. KGaA which:

- (a) has unconsolidated EBITDA representing 5% or more of the EBITDA of Fresenius SE & Co. KGaA and its subsidiaries on a consolidated basis (provided that for these purposes Fresenius Medical Care AG & Co. KGaA and its subsidiaries are regarded as Subsidiaries of Fresenius SE & Co. KGaA); or
- (b) has unconsolidated gross assets representing 5% or more of the gross assets of Fresenius SE & Co. KGaA and its

Garantin] die Eröffnung eines solchen Verfahrens beantragt oder einleitet; oder

- (g) die Emittentin [*im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:* oder die Garantin] in Liquidation tritt, es sei denn, dies geschieht im Zusammenhang mit einer Verschmelzung oder einer anderen Form des Zusammenschlusses mit einer anderen Gesellschaft und die andere oder neue Gesellschaft übernimmt alle Verpflichtungen, die die Emittentin im Zusammenhang mit den Schuldverschreibungen [*im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:* oder die Garantin im Zusammenhang mit der Garantie] eingegangen ist[.] [; oder]

- (h) [*im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:* die Garantie aus irgendeinem Grund nicht mehr gemäß ihren Bedingungen uneingeschränkt wirksam ist, es sei denn, dies beruht auf diesen Emissionsbedingungen oder der vollständigen Erfüllung aller diesbezüglichen Verpflichtungen, oder aus anderen Gründen als in ihren Bedingungen festgelegt für unwirksam oder undurchsetzbar erklärt wird, oder die Garantin eine ihrer Verpflichtungen aus der Garantie oder aus den Emissionsbedingungen zurückweist, leugnet oder ablehnt.]

**Wesentliche Tochtergesellschaft** bezeichnet eine Tochtergesellschaft von Fresenius SE & Co. KGaA:

- (a) deren unkonsolidiertes EBITDA 5% oder mehr des EBITDA der Fresenius SE & Co. KGaA und ihrer Tochtergesellschaften auf einer konsolidierten Basis darstellt (wobei für diese Zwecke die Fresenius Medical Care AG & Co. KGaA und ihre Tochtergesellschaften als Tochtergesellschaften der Fresenius SE & Co. KGaA gelten), oder
- (b) deren unkonsolidiertes Bruttovermögen 5% oder mehr des Bruttovermögens der Fresenius SE & Co. KGaA und ihrer



subsidiaries on a consolidated basis (provided that for these purposes Fresenius Medical Care AG & Co. KGaA and its subsidiaries are regarded as Subsidiaries of Fresenius SE & Co. KGaA),

in each case as determined by reference to the latest audited annual financial statements prepared in accordance with IFRS.

**EBITDA** means operating income plus depreciation and amortization and is derived from the operating income determined in accordance with IFRS.

(2) No Termination.

The right to declare Notes due shall terminate if the situation giving rise to it has been cured before the right is exercised.

(3) Notice.

Any default notice in accordance with § 9(1) shall be made at least in text form (section 126b of the German Civil Code, *Bürgerliches Gesetzbuch*) to the specified office of the Fiscal Agent together with evidence by means of a certificate of the Holder's Custodian (as defined in § [13][14](3)) that such Holder, at the time of such notice, is a holder of the relevant Notes.

(4) Quorum.

In the events specified in subparagraph (1)(c) and/or (d), any notice declaring Notes due shall, unless at the time such notice is received any of the events specified in subparagraph (1) (a), (b) and (e) through (g) entitling Holders to declare their Notes due has occurred, become effective only when the Fiscal Agent has received such default notices from the Holders representing at least 25% of the aggregate principal amount of Notes then outstanding.

**§ 10  
(SUBSTITUTION)**

(1) Substitution.

The Issuer (reference to which shall always include any previous Substitute Debtor (as defined below)) may, at any time, if no payment of principal or of interest on any of the Notes is in default, without the consent of the Holders, substitute for the Issuer *[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies: Fresenius SE*

Tochtergesellschaften auf einer konsolidierten Basis darstellt (wobei für diese Zwecke die Fresenius Medical Care AG & Co. KGaA und ihre Tochtergesellschaften als Tochtergesellschaften der Fresenius SE & Co. KGaA gelten),

in allen Fällen bestimmt nach dem letzten geprüften Jahresabschluss, die in Übereinstimmung mit IFRS erstellt wurden.

**EBITDA** entspricht dem Operativen Ergebnis zuzüglich Abschreibungen und wird von dem nach IFRS ermittelten Operativen Ergebnis abgeleitet.

(2) Keine Kündigung.

Das Kündigungsrecht erlischt, falls der Kündigungsgrund vor Ausübung des Rechts geheilt wurde.

(3) Kündigungserklärung.

Eine Kündigungserklärung gemäß § 9(1) hat in der Weise zu erfolgen, dass der Gläubiger bei der angegebenen Geschäftsstelle der Emissionsstelle eine entsprechende Erklärung zumindest in Textform (§ 126b Bürgerliches Gesetzbuch) übergibt und dabei durch eine Bescheinigung seiner Depotbank (wie in § [13][14](3) definiert) nachweist, dass er die betreffenden Schuldverschreibungen zum Zeitpunkt der Erklärung hält.

(4) Quorum.

In den Fällen gemäß Absatz (1)(c) und/oder (d) wird eine Kündigungserklärung, sofern nicht bei deren Eingang zugleich einer der in Absatz (1)(a), (b) und (e) bis (g) bezeichneten Kündigungsgründe vorliegt, erst wirksam, wenn bei der Emissionsstelle Kündigungserklärungen von Gläubigern im Nennbetrag von mindestens 25% des Gesamtnennbetrages der zu diesem Zeitpunkt noch insgesamt ausstehenden Schuldverschreibungen eingegangen sind.

**§ 10  
(ERSETZUNG)**

(1) Ersetzung

Die Emittentin (wobei eine Bezugnahme auf die Emittentin auch alle früheren Nachfolgeschuldner (wie nachfolgend definiert) umfasst) ist jederzeit berechtigt, wenn kein Zahlungsverzug hinsichtlich Kapital oder Zinsen auf die Schuldverschreibungen vorliegt, ohne weitere Zustimmung der Gläubiger *[im Fall von Schuldverschreibungen, die von Fresenius*

& Co. KGaA or] any Affiliate (as defined below) of Fresenius SE & Co. KGaA as the principal debtor in respect of all obligations arising from or in connection with the Notes (any such company, the **Substitute Debtor**), provided that:

- (a) the Substitute Debtor assumes all obligations of the Issuer in respect of the Notes and is in a position to fulfill all payment obligations arising from or in connection with the Notes in the Specified Currency without, subject to lit. (e) below, the necessity of any taxes or duties levied by the country or jurisdiction in which the Substitute Debtor is domiciled (other than taxes which would also be levied in the absence of such substitution) to be withheld or deducted at source and to transfer all amounts which are required therefore to the Paying Agent without any restrictions, and that in particular all necessary authorizations to this effect by any competent authority have been obtained, and, to the extent service of process must be effected to the Substitute Debtor outside of Germany, a service of process agent in Germany is appointed;
- (b) *[In the case of Notes issued by Fresenius SE & Co. KGaA, the following applies: the Issuer] [in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies: the Guarantor if it is not itself the Substitute Debtor] irrevocably and unconditionally guarantees in favor of each Holder the payment of all sums payable by the Substitute Debtor in respect of the Notes on terms equivalent to the terms of the [in the case of Notes issued by Fresenius SE & Co. KGaA, the following applies: form of the guarantee in respect of the notes to be issued by an Issuer other than Fresenius SE & Co. KGaA under the Debt Issuance Programme] [in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies: the Guarantee] (the Substitution*

**Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:** Fresenius SE & Co. KGaA oder] ein mit der Fresenius SE & Co. KGaA verbundenes Unternehmen (wie nachfolgend definiert) an ihrer Stelle als Hauptschuldnerin (ein solches Unternehmen ist die **Nachfolgeschuldnerin**) für alle Verpflichtungen aus und im Zusammenhang mit den Schuldverschreibungen einzusetzen, vorausgesetzt, dass:

- (a) die Nachfolgeschuldnerin alle Verpflichtungen der Emittentin im Zusammenhang mit den Schuldverschreibungen rechtswirksam übernimmt und sie sämtliche sich aus oder im Zusammenhang mit den Schuldverschreibungen ergebenden Zahlungsverpflichtungen in der Festgelegten Währung ohne die Notwendigkeit (vorbehaltlich Buchstabe (e)) einer Einbehaltung an der Quelle oder des Abzugs irgendwelcher Steuern oder Abgaben in dem Land oder Hoheitsgebiet, in dem die Nachfolgeschuldnerin ihren Sitz hat (mit Ausnahme von Steuern, die auch angefallen wären, wäre die Ersetzung nicht erfolgt), erfüllen sowie die hierzu erforderlichen Beträge ohne Beschränkungen an die Zahlstelle transferieren kann und sie insbesondere jede hierfür notwendige Genehmigung der Behörden ihres Landes erhalten hat, und, sofern eine Zustellung an die Nachfolgeschuldnerin außerhalb von Deutschland erfolgen müsste, ein Zustellungsbevollmächtigter in Deutschland bestellt wird;
- (b) *[Im Fall von Schuldverschreibungen, die von Fresenius SE & Co. KGaA begeben werden, ist folgendes anwendbar: die Emittentin] [im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar: die Garantin, falls sie nicht selbst die Nachfolgeschuldnerin ist,] unwiderruflich und unbedingt gegenüber den Gläubigern die Zahlung aller von der Nachfolgeschuldnerin auf die Schuldverschreibungen zahlbaren Beträge zu Bedingungen garantiert, [im Fall von Schuldverschreibungen, die von Fresenius SE & Co. KGaA begeben werden, ist folgendes anwendbar: die den Bedingungen der Garantie hinsichtlich der Schuldverschreibungen, die von einer anderen Emittentin als Fresenius SE & Co.*

*Guarantee*);

- (c) the Substitute Debtor and the Issuer have obtained all necessary governmental and regulatory approvals and consents for such substitution and for the giving by *[in the case of Notes issued by Fresenius SE & Co. KGaA, the following applies: the Issuer] [in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies: the Guarantor if it is not itself the Substitute Debtor]* of the Substitution Guarantee in respect of the obligations of the Substitute Debtor, that the Substitute Debtor has obtained all necessary governmental and regulatory approvals and consents for the performance by the Substitute Debtor of its obligations under the Notes, and that all such approvals and consents are in full force and effect and that the obligations assumed by the Substitute Debtor and the Substitution Guarantee given by *[in the case of Notes issued by Fresenius SE & Co. KGaA, the following applies: the Issuer] [in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies: the Guarantor if it is not itself the Substitute Debtor]* are each valid and binding in accordance with their respective terms and enforceable by each Holder;
- (d) § 9 shall be deemed to be amended so that it shall also be an Event of Default under such provision if the Substitution Guarantee shall cease to be valid or binding on or enforceable against *[in the case of Notes issued by Fresenius SE & Co. KGaA, the following applies: the Issuer] [in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the*

KGaA unter dem Debt Issuance Programme begeben werden,] *[im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar: die den Bedingungen der Garantie,] entsprechen (die Ersetzungsgarantie); und*

- (c) die Nachfolgeschuldnerin und die Emittentin alle für die Ersetzung und *[im Fall von Schuldverschreibungen, die von Fresenius SE & Co. KGaA begeben werden, ist folgendes anwendbar: die Emittentin] [im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar: die Garantin, falls sie nicht selbst die Nachfolgeschuldnerin ist,] alle für die Abgabe der Ersetzungsgarantie notwendigen Genehmigungen und Einverständniserklärungen von Regierungsstellen und Aufsichtsbehörden erhalten haben, die Nachfolgeschuldnerin alle für die Erfüllung ihrer Verpflichtungen aus den Schuldverschreibungen notwendigen Genehmigungen und Einverständniserklärungen von Regierungsstellen und Aufsichtsbehörden erhalten hat und weiterhin sämtliche dieser Genehmigungen und Einverständniserklärungen in vollem Umfang gültig und wirksam sind und zudem die Verpflichtungen der Nachfolgeschuldnerin und die von *[im Fall von Schuldverschreibungen, die von Fresenius SE & Co. KGaA begeben werden, ist folgendes anwendbar: der Emittentin] [im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar: der Garantin, falls sie nicht selbst die Nachfolgeschuldnerin ist,] begebene Ersetzungsgarantie jeweils gemäß ihren Bestimmungen wirksam und rechtsverbindlich und durch jeden Gläubiger durchsetzbar sind;**
- (d) § 9 dergestalt als ergänzt gilt, dass ein zusätzlicher Kündigungsgrund unter dieser Bestimmung der Wegfall der Wirksamkeit, Rechtsverbindlichkeit oder Durchsetzbarkeit der Ersetzungsgarantie gegen *[im Fall von Schuldverschreibungen, die von Fresenius SE & Co. KGaA begeben werden, ist folgendes anwendbar: die Emittentin] [im*

*following applies:* the Guarantor if it is not itself the Substitute Debtor];

- (e) the Substitute Debtor undertakes to reimburse any Holder for such taxes, fees or duties which may be imposed upon such Holder in connection with any payments on the Notes (including taxes or duties being deducted or withheld at source), upon conversion or otherwise, as a consequence of the assumption of the Issuer's obligations by the Substitute Debtor, provided that such undertaking shall be limited to amounts that would not have been imposed upon the Holder had such substitution not occurred; and
- (f) there shall have been delivered to the Fiscal Agent one opinion for each jurisdiction affected of lawyers of recognized standing to the effect that subparagraphs (a) through (e) above have been satisfied.

For purposes of this § 10, *Affiliate* shall mean any affiliated company (*verbundenes Unternehmen*) within the meaning of sections 15 et seq. of the German Stock Corporation Act (*Aktiengesetz*) held by Fresenius SE & Co. KGaA.

(2) Discharge from Obligations. References.

Upon a substitution in accordance with this § 10, the Substitute Debtor shall be deemed to be named in the Notes as the principal debtor in place of the Issuer as issuer and the Notes shall thereupon be deemed to be amended to give effect to the substitution including that the relevant jurisdiction in relation to the Issuer in § 7 shall be the Substitute Debtor's country of domicile for tax purposes. Furthermore, in the event of such substitution the following shall apply:

**[In the case of Notes issued by Fresenius SE & Co. KGaA, the following applies:**

- (a) in § 7 and § 5(2) an alternative reference to the Federal Republic of Germany shall be deemed to have been included in addition to the reference according to the preceding sentence to the country of domicile or residence for taxation purposes of the

**Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:** die Garantin, falls sie nicht selbst die Nachfolgeschuldnerin ist,] ist;

- (e) die Nachfolgeschuldnerin sich verpflichtet, jedem Gläubiger alle Steuern, Gebühren oder Abgaben zu erstatten, die ihm im Zusammenhang mit Zahlungen auf die Schuldverschreibungen (einschließlich Steuern und Abgaben, die an der Quelle abgeführt oder einbehalten wurden), durch den Schuldnerwechsel oder in anderer Weise infolge der Schuldübernahme durch die Nachfolgeschuldnerin auferlegt werden, vorausgesetzt, dass sich die Verpflichtung auf Beträge beschränkt, die der Gläubiger ohne die Ersetzung der Emittentin nicht hätte tragen müssen; und
- (f) der Emissionsstelle jeweils ein Rechtsgutachten bezüglich der betroffenen Rechtsordnungen von anerkannten Rechtsanwälten vorgelegt wurden, die bestätigen, dass die Bestimmungen in den vorstehenden Unterabsätzen (a) bis (e) erfüllt wurden.

Für Zwecke dieses § 10 bedeutet **verbundenes Unternehmen** jedes von Fresenius SE & Co. KGaA gehaltene verbundene Unternehmen im Sinne der §§ 15 f. Aktiengesetz.

(2) Schuldbefreiung. Bezugnahmen.

Nach einer Ersetzung gemäß dieses § 10 gilt die Nachfolgeschuldnerin als in den Schuldverschreibungen an Stelle der Emittentin als Hauptschuldnerin bestimmt und die Schuldverschreibungen gelten als dementsprechend ergänzt, um der Ersetzung zur Durchsetzung zu verhelfen, und als die relevante Steuerjurisdiktion in Bezug auf § 7 gilt die Jurisdiktion, in der die Nachfolgeschuldnerin steuerlich ansässig ist. Des Weiteren gilt im Fall einer Ersetzung folgendes:

**[Im Fall von Schuldverschreibungen, die von Fresenius SE & Co. KGaA begeben werden, ist folgendes anwendbar:**

- (a) in § 7 und § 5(2) gilt eine alternative Bezugnahme auf die Bundesrepublik Deutschland als aufgenommen (zusätzlich zu der Bezugnahme nach Maßgabe des vorstehenden Satzes auf das Land, in dem die Nachfolgeschuldnerin ihren Sitz oder

Substitute Debtor;

- (b) in § 9(1)(c) to (g) an alternative reference to the Issuer in its capacity as guarantor shall be deemed to have been included in addition to the reference to the Substitute Debtor.]

***[In the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:***

In § 7 and § 5(2) an alternative reference to the Republic of Ireland shall be deemed to have been included in addition to the reference according to the preceding sentence to the country of domicile or residence for taxation purposes of the Substitute Debtor.]

Any such substitution, together with the notice referred to in subparagraph (3) below, shall, in the case of the substitution of any other company as principal debtor, operate to release the Issuer as issuer from all of its obligations as principal debtor in respect of the Notes.

- (3) Notification to Holders.

Not later than 15 Payment Business Days after effecting the substitution, the Substitute Debtor shall give notice thereof to the Holders and, if any Notes are listed on any stock exchange, to such stock exchange in accordance with § 12 and to any other person or authority as required by applicable laws or regulations.

## **§ 11 (FURTHER ISSUES, PURCHASES AND CANCELLATION)**

- (1) Further Issues.

The Issuer may from time to time, without the consent of the Holders, issue further Notes having the same terms and conditions as the Notes in all respects (or in all respects except for the issue date, interest commencement date and/or issue price) so as to form a single series with the Notes.

- (2) Purchases.

The Issuer may at any time purchase Notes in the open market or otherwise and at any price. Notes purchased by the Issuer may, at the option of the Issuer, be held, resold or surrendered to the Fiscal Agent for cancellation. If purchases are made by tender, tenders for such Notes must be made available to all Holders of such Notes

Steuersitz hat);

- (b) in § 9(1)(c) bis (g) gilt eine alternative Bezugnahme auf die Emittentin in ihrer Eigenschaft als Garant als aufgenommen (zusätzlich zu der Bezugnahme auf die Nachfolgeschuldnerin).]

***[Im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:***

in § 7 und § 5(2) gilt eine alternative Bezugnahme auf die Republik Irland als aufgenommen (zusätzlich zu der Bezugnahme nach Maßgabe des vorstehenden Satzes auf das Land, in dem die Nachfolgeschuldnerin ihren Sitz oder Steuersitz hat).]

Jede Ersetzung zusammen mit der Mitteilung gemäß Absatz 3 dieser Bestimmung befreit, im Fall der Einsetzung einer anderen Gesellschaft als Hauptschuldnerin, die Emittentin von allen Verbindlichkeiten, die sie als Hauptschuldnerin unter den Schuldverschreibungen hatte.

- (3) Benachrichtigung der Gläubiger.

Spätestens 15 Zahltag nach Durchführung der Ersetzung wird die Nachfolgeschuldnerin dies den Gläubigern und, sollten die Schuldverschreibungen an einer Börse notiert sein, dieser Börse gemäß § 12 mitteilen und jede andere Person oder Stelle, gemäß den anwendbaren Gesetzen und Regelungen informieren.

## **§ 11 (BEGEBUNG WEITERER SCHULDVERSCHREIBUNGEN, ANKAUF UND ENTWERTUNG)**

- (1) Begebung weiterer Schuldverschreibungen.

Die Emittentin ist berechtigt, jederzeit ohne Zustimmung der Gläubiger weitere Schuldverschreibungen mit gleicher Ausstattung (gegebenenfalls mit Ausnahme des Tags der Begebung, des Verzinsungsbeginns und/oder des Ausgabepreises) in der Weise zu begeben, dass sie mit diesen Schuldverschreibungen eine einheitliche Serie bilden.

- (2) Ankauf.

Die Emittentin ist berechtigt, jederzeit Schuldverschreibungen im Markt oder anderweitig zu jedem beliebigen Preis zu kaufen. Die von der Emittentin erworbenen Schuldverschreibungen können nach Wahl der Emittentin von ihr gehalten, weiterverkauft oder bei der Emissionsstelle zwecks Entwertung

alike.

(3) Cancellation.

All Notes redeemed in full shall be cancelled forthwith and may not be reissued or resold.

**§ 12  
(NOTICES)**

*[In the case of Notes which are listed on the official list of the Luxembourg Stock Exchange and admitted to trading on the regulated market of the Luxembourg Stock Exchange the following applies:]*

(1) Publication.

As long as the Notes are listed on the official list of the Luxembourg Stock Exchange and admitted to trading on the regulated market of the Luxembourg Stock Exchange (and as long as the rules and regulations of the Luxembourg Stock Exchange so require), all notices concerning the Notes will be made by means of electronic publication on the internet website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)). Any notice will be deemed to have been validly given on the third day following the date of such publication (or, if published more than once, on the third day following the date of the first such publication).

(2) Notification to Clearing System.

So long as any Notes are listed on the official list of the Luxembourg Stock Exchange and admitted to trading on the regulated market of the Luxembourg Stock Exchange, subparagraph (1) shall apply. If the Rules of the Luxembourg Stock Exchange otherwise so permit, the Issuer may deliver the relevant notice to the Clearing System for communication by the Clearing System to the Holders, in lieu of publication as set forth in subparagraph (1) above; any such notice shall be deemed to have been given on the seventh day after the day on which the said notice was given to the Clearing System.]

*[In the case of Notes which are listed on another stock exchange the following applies:]*

(1) Publication.

All notices concerning the Notes will be made by means of electronic publication on the internet website of the stock exchange with

eingereicht werden. Sofern diese Käufe durch öffentliches Angebot erfolgen, muss dieses Angebot allen Gläubigern gemacht werden.

(3) Entwertung.

Sämtliche vollständig zurückgezahlten Schuldverschreibungen sind unverzüglich zu entwerten und können nicht wiederbegeben oder wiederverkauft werden.

**§ 12  
(MITTEILUNGEN)**

*[Im Fall von Schuldverschreibungen, die im amtlichen Kursblatt (official list) der Luxemburger Börse notiert und zum Handel im regulierten Markt der Luxemburger Börse zugelassen sind, ist folgendes anwendbar:]*

(1) Bekanntmachung.

Solange Schuldverschreibungen im amtlichen Kursblatt (official list) der Luxemburger Börse notiert und zum Handel im regulierten Markt der Luxemburger Börse zugelassen sind, sind alle die Schuldverschreibungen betreffenden Mitteilungen auf der Internetseite der Luxemburger Börse ([www.bourse.lu](http://www.bourse.lu)) zu veröffentlichen. Jede derartige Mitteilung gilt mit dem dritten Tag nach dem Tag der Veröffentlichung (oder bei mehreren Veröffentlichungen mit dem dritten Tag nach dem Tag der ersten solchen Veröffentlichung) als wirksam erfolgt.

(2) Mitteilungen an das Clearingsystem.

Solange Schuldverschreibungen im amtlichen Kursblatt (official list) der Luxemburger Börse notiert und zum Handel im regulierten Markt der Luxemburger Börse zugelassen sind, sind alle die Schuldverschreibungen betreffenden Mitteilungen gemäß Absatz 1 bekanntzumachen. Soweit die Regeln der Luxemburger Börse dies zulassen, kann die Emittentin eine Veröffentlichung nach Absatz 1 durch eine Mitteilung an das Clearing System zur Weiterleitung an die Gläubiger ersetzen; jede derartige Mitteilung gilt am siebten Tag nach dem Tag der Mitteilung an das Clearing System als den Gläubigern mitgeteilt.]

*[Im Fall von Schuldverschreibungen, die an einer anderen Börse notiert sind, ist folgendes anwendbar:]*

(1) Bekanntmachung.

Alle die Schuldverschreibungen betreffenden Mitteilungen sind auf der Internetseite der Börse, an der die Emittentin das Listing der

respect to which the Issuer applied for listing of the Notes, as long as the Notes are listed on such stock exchange and if the rules of such stock exchange so permit. Any such notice will be deemed to have been validly given on the third day following the date of such publication (or, if published more than once, on the third day following the date of the first such publication).

(2) Notification to Clearing System.

So long as any Notes are listed on such a stock exchange, subparagraph (1) shall apply. If the rules of such stock exchange otherwise so permit, the Issuer may deliver the relevant notice to the Clearing System for communication by the Clearing System to the Holders, in lieu of publication as set forth in subparagraph (1) above; any such notice shall be deemed to have been given on the seventh day after the day on which the said notice was given to the Clearing System.]

*[In the case of Notes which are unlisted the following applies:*

(3) Notification to Clearing System.

The Issuer will deliver all notices to the Clearing System for communication by the Clearing System to the Holders. Any such notice shall be deemed to have been given to the Holders on the seventh day after the day on which the said notice was given to the Clearing System.]

*[In the case of Notes that provide for Resolutions of Holders the following applies:*

**§ 13  
AMENDMENTS TO THE TERMS AND  
CONDITIONS BY RESOLUTION OF THE  
HOLDERS, HOLDERS' REPRESENTATIVE  
[IN THE CASE OF NOTES ISSUED BY  
FRESENIUS IRELAND OR FRESENIUS  
IRELAND II, THE FOLLOWING APPLIES;,  
AMENDMENT OF THE GUARANTEE]**

(1) Resolutions of Holders.

The Holders may with consent of the Issuer (if required) by a majority resolution pursuant to section 5 et seqq. of the German Act on Issues of Debt Securities (Gesetz über Schuldverschreibungen aus Gesamtemissionen) (the *SchVG*), as amended from time to time, agree to amendments of the Terms and Conditions or resolve any other matters provided for by the SchVG. In particular, the Holders may

Notes veranlasst hat zu veröffentlichen, solange die Schuldverschreibungen an dieser Börse notiert sind und die Regeln dieser Börse dies zulassen. Jede derartige Mitteilung gilt mit dem dritten Tag nach dem Tag der Veröffentlichung (oder bei mehreren Veröffentlichungen mit dem dritten Tag nach dem Tag der ersten solchen Veröffentlichung) als wirksam erfolgt.

(2) Mitteilungen an das Clearingsystem.

Solange Schuldverschreibungen an dieser Börse notiert sind, sind alle die Schuldverschreibungen betreffenden Mitteilungen gemäß Absatz 1 bekanntzumachen. Soweit die Regeln dieser Börse dies zulassen, kann die Emittentin eine Veröffentlichung nach Absatz 1 durch eine Mitteilung an das Clearing System zur Weiterleitung an die Gläubiger ersetzen; jede derartige Mitteilung gilt am siebten Tag nach dem Tag der Mitteilung an das Clearing System als den Gläubigern mitgeteilt.]

*[Im Fall von Schuldverschreibungen, die nicht an einer Börse notiert sind, ist folgendes anwendbar:*

(3) Mitteilungen an das Clearing System.

Die Emittentin wird alle die Schuldverschreibungen betreffenden Mitteilungen an das Clearing System zur Weiterleitung an die Gläubiger übermitteln. Jede derartige Mitteilung gilt am siebten Tag nach dem Tag der Mitteilung an das Clearing System als den Gläubigern mitgeteilt.]

*[Im Fall von Schuldverschreibungen, die Beschlüsse der Gläubiger vorsehen, ist folgendes anwendbar:*

**§ 13  
ÄNDERUNG DER EMISSIONSBEDINGUNGEN  
DURCH BESCHLUSS DER GLÄUBIGER;  
GEMEINSAMER VERTRETER [IM FALL VON  
SCHULDVERSCHREIBUNGEN, DIE VON  
FRESENIUS IRELAND ODER FRESENIUS  
IRELAND II BEGEBEN WERDEN, IST  
FOLGENDES ANWENDBAR; ÄNDERUNG  
DER GARANTIE]**

(1) Beschlüsse durch die Gläubiger.

Die Gläubiger können mit Zustimmung der Emittentin (soweit erforderlich) aufgrund Mehrheitsbeschlusses nach Maßgabe der §§ 5 ff. des Gesetzes über Schuldverschreibungen aus Gesamtemissionen (das *SchVG*) in seiner jeweils gültigen Fassung die Emissionsbedingungen ändern oder sonstige Maßnahmen gemäß dem SchVG beschließen. Die Gläubiger können insbesondere einer

consent to amendments which materially change the substance of the Terms and Conditions, including such measures as provided for under section 5 paragraph 3 SchVG by resolutions passed by such majority of the votes of the Holders as stated under § 13(2) below. A duly passed majority resolution shall be binding upon all Holders.

(2) Majority.

Except as provided by the following sentence and provided that the quorum requirements are being met, the Holders may pass resolutions by simple majority of the voting rights participating in the vote. Resolutions which materially change the substance of the Terms and Conditions, in particular in the cases of section 5 paragraph 3 numbers 1 through 9 SchVG, or relating to material other matters may only be passed by a majority of at least 75% of the voting rights participating in the vote (a **Qualified Majority**).

(3) Passing of resolutions.

The Holders can pass resolutions in a meeting (*Gläubigerversammlung*) in accordance with section 5 et seqq. of the SchVG or by means of a vote without a meeting (*Abstimmung ohne Versammlung*) in accordance with section 18 and section 5 et seqq. of the SchVG.

(4) Meeting.

Attendance at the meeting and exercise of voting rights is subject to the Holders' registration. The registration must be received at the address stated in the convening notice no later than the third day preceding the meeting. As part of the registration, Holders must demonstrate their eligibility to participate in the vote by means of a special confirmation of the Custodian in accordance with § 14(3)(i)(a) and (b) hereof in text form and by submission of a blocking instruction by the Custodian stating that the relevant Notes are not transferable from and including the day such registration has been sent until and including the stated end of the meeting.

(5) Vote without a meeting.

Together with casting their votes Holders must demonstrate their eligibility to participate in the vote by means of a special confirmation of the Custodian in accordance with § 14(3)(i)(a) and

Änderung wesentlicher Inhalte der Emissionsbedingungen, einschließlich der in § 5 Abs. 3 SchVG vorgesehenen Maßnahmen durch Beschlüsse mit den in dem nachstehenden § 13(2) genannten Mehrheiten zustimmen. Ein ordnungsgemäß gefasster Mehrheitsbeschluss ist für alle Gläubiger verbindlich.

(2) Mehrheit.

Vorbehaltlich des nachstehenden Satzes und der Erreichung der erforderlichen Beschlussfähigkeit, beschließen die Gläubiger mit der einfachen Mehrheit der an der Abstimmung teilnehmenden Stimmrechte. Beschlüsse, durch welche der wesentliche Inhalt der Emissionsbedingungen, insbesondere in den Fällen des § 5 Abs. 3 Nummern 1 bis 9 SchVG, geändert wird, bedürfen zu ihrer Wirksamkeit einer Mehrheit von mindestens 75% der an der Abstimmung teilnehmenden Stimmrechte (eine **Qualifizierte Mehrheit**).

(3) Beschlussfassung.

Die Gläubiger können Beschlüsse in einer Gläubigerversammlung gemäß §§ 5 ff. SchVG oder im Wege einer Abstimmung ohne Versammlung gemäß § 18 und § 5 ff. SchVG fassen.

(4) Gläubigerversammlung.

Die Teilnahme an der Gläubigerversammlung und die Ausübung der Stimmrechte ist von einer vorherigen Anmeldung der Gläubiger abhängig. Die Anmeldung muss unter der in der Bekanntmachung der Einberufung mitgeteilten Adresse spätestens am dritten Tag vor der Gläubigerversammlung zugehen. Mit der Anmeldung müssen die Gläubiger ihre Berechtigung zur Teilnahme an der Abstimmung durch einen in Textform erstellten besonderen Nachweis der Depotbank gemäß § 14(3)(i)(a) und (b) und durch Vorlage eines Sperrvermerks der Depotbank, aus dem hervorgeht, dass die betreffenden Schuldverschreibungen ab dem Tag der Absendung der Anmeldung (einschließlich) bis zum angegebenen Ende der Gläubigerversammlung (einschließlich) nicht übertragbar sind, nachweisen.

(5) Abstimmung ohne Versammlung.

Zusammen mit der Stimmabgabe müssen die Gläubiger ihre Berechtigung zur Teilnahme an der Abstimmung durch einen in Textform erstellten besonderen Nachweis der Depotbank



(b) hereof in text form and by submission of a blocking instruction by the Custodian stating that the relevant Notes are not transferable from and including the day such votes have been cast until and including the day the voting period ends.

(6) Second meeting.

If it is ascertained that no quorum exists for the meeting pursuant to § 13(4) or the vote without a meeting pursuant to § 13(5), in case of a meeting the chairman (*Vorsitzender*) may convene a second meeting in accordance with section 15 paragraph 3 sentence 2 of the SchVG or in case of a vote without a meeting the scrutineer (*Abstimmungsleiter*) may convene a second meeting within the meaning of section 15 paragraph 3 sentence 3 of the SchVG. Attendance at the second meeting and exercise of voting rights is subject to the Holders' registration. The provisions set out in § 13(4) sentence 3 shall apply mutatis mutandis to the Holders' registration for a second meeting.

(7) Holders' representative.

**[If no Holders' Representative is designated in the Terms and Conditions of the Notes the following applies:** The Holders may by majority resolution provide for the appointment or dismissal of a joint representative (the **Holders' Representative**), the duties and responsibilities and the powers of such Holders' Representative, the transfer of the rights of the Holders to the Holders' Representative and a limitation of liability of the Holders' Representative. Appointment of a Holders' Representative may only be passed by a Qualified Majority if such Holders' Representative is to be authorised to consent, in accordance with § 13(2) hereof, to a material change in the substance of the Terms and Conditions.]

**[If the Holders' Representative is appointed in the Terms and Conditions of the Notes, the following applies:** The joint representative (the Holders' Representative) shall be [name]. The Holders' Representative shall have the duties and responsibilities and powers provided for by law. The liability of the Holders' Representative shall be limited to ten times of the amount of its annual remuneration, unless the Holders' Representative has acted willfully or with gross negligence. The provisions of the SchVG apply

gemäß § 14(3)(i)(a) und (b) und durch Vorlage eines Sperrvermerks der Depotbank, aus dem hervorgeht, dass die betreffenden Schuldverschreibungen ab dem Tag der Stimmabgabe (einschließlich) bis zum letzten Tag des Abstimmungszeitraums (einschließlich) nicht übertragbar sind, nachweisen.

(6) Zweite Versammlung.

Wird für die Gläubigerversammlung gemäß § 13(4) oder die Abstimmung ohne Versammlung gemäß § 13(5) die mangelnde Beschlussfähigkeit festgestellt, kann – im Fall der Gläubigerversammlung – der Vorsitzende eine zweite Versammlung im Sinne von § 15 Abs. 3 Satz 2 SchVG und – im Fall der Abstimmung ohne Versammlung – der Abstimmungsleiter eine zweite Versammlung im Sinne von § 15 Abs. 3 Satz 3 SchVG einberufen. Die Teilnahme an der zweiten Versammlung und die Ausübung der Stimmrechte sind von einer vorherigen Anmeldung der Gläubiger abhängig. Für die Anmeldung der Gläubiger zu einer zweiten Versammlung gilt § 13(4) Satz 3 entsprechend.

(7) Gemeinsamer Vertreter.

**[Im Fall, dass kein Gemeinsamer Vertreter in den Emissionsbedingungen der Schuldverschreibungen bestimmt ist, ist folgendes anwendbar:** Die Gläubiger können durch Mehrheitsbeschluss einen gemeinsamen Vertreter (der **Gemeinsame Vertreter**) bestellen oder abberufen, die Pflichten, Verantwortlichkeiten und Rechte eines solchen Gemeinsamen Vertreters festlegen, die Übertragung der Rechte der Gläubiger auf den Gemeinsamen Vertreter sowie die Haftungsbegrenzung des Gemeinsamen Vertreters bestimmen. Die Bestellung eines Gemeinsamen Vertreters bedarf einer Qualifizierten Mehrheit, wenn der Gemeinsame Vertreter in Übereinstimmung mit § 13(2) autorisiert ist, einer wesentlichen Änderung des Charakters der Emissionsbedingungen zuzustimmen.]

**[Im Fall, dass ein Gemeinsamer Vertreter in den Emissionsbedingungen bestimmt wird, ist folgendes anwendbar:** Der gemeinsame Vertreter (der **Gemeinsame Vertreter**) ist [Name]. Der Gemeinsame Vertreter hat die Pflichten und Verantwortlichkeiten und Rechte, die ihm von Gesetzes wegen zustehen. Die Haftung des Gemeinsamen Vertreters ist auf den zehnfachen Betrag seiner jährlichen Vergütung begrenzt, es sei denn, der Gemeinsame Vertreter hat vorsätzlich oder grob fahrlässig gehandelt.

with respect to the dismissal of the Holders' Representative and the other rights and obligations of the Holders' Representative.]

(8) Publication.

Any notices concerning this § 13 shall be made exclusively pursuant to the provisions of the SchVG.

***[In the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:***

(9) Amendment of the Guarantee.

The provisions set out above applicable to the amendment of the Terms and Conditions of the Notes shall apply mutatis mutandis to the Guarantee.]

**§ 14**

**(APPLICABLE LAW, PLACE OF JURISDICTION AND ENFORCEMENT)**

(1) Applicable Law.

The Notes, as to form and content, and all rights and obligations of the Holders and the Issuer, shall be governed in every respect by German law.

(2) Submission to Jurisdiction.

Subject to any mandatory jurisdiction for specific proceedings under the SchVG, the District Court (*Landgericht*) in Frankfurt am Main shall have non-exclusive jurisdiction for any action or other legal proceedings (*Proceedings*) arising out of or in connection with the Notes.

(3) Enforcement.

Any Holder of Notes may in any proceedings against the Issuer ***[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:*** or the Guarantor] or to which such Holder and the Issuer ***[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:*** or the Guarantor] are parties, protect and enforce in his own name his rights arising under such Notes on the basis of (i) a statement issued by the Custodian with whom such Holder maintains a securities account in respect of the Notes (a) stating the full name and address of the Holder, (b) specifying the aggregate principal amount of Notes credited to such securities account on the date of such statement and (c) confirming that

Die Vorschriften des SchVG gelten im Hinblick auf die Abberufung des Gemeinsamen Vertreters und die sonstigen Rechte und Pflichten des Gemeinsamen Vertreters.]

(8) Veröffentlichung.

Alle Bekanntmachungen diesen § 13 betreffend erfolgen ausschließlich gemäß den Bestimmungen des SchVG.

***[Im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:***

(9) Änderung der Garantie.

Die oben aufgeführten auf die Änderung der Emissionsbedingungen der Schuldverschreibungen anwendbaren Bestimmungen gelten entsprechend für die Bestimmungen der Garantie.]

**§ 14**

**(ANWENDBARES RECHT, GERICHTSSTAND UND GERICHTLICHE GELTENDMACHUNG)**

(1) Anwendbares Recht.

Form und Inhalt der Schuldverschreibungen sowie die Rechte und Pflichten der Gläubiger und der Emittentin bestimmen sich in jeder Hinsicht nach deutschem Recht.

(2) Gerichtsstand.

Vorbehaltlich eines zwingenden Gerichtsstandes für besondere Rechtsstreitigkeiten im Zusammenhang mit dem SchVG, ist das Landgericht Frankfurt am Main nicht ausschließlich zuständig für sämtliche im Zusammenhang mit den Schuldverschreibungen entstehenden Klagen oder sonstige Verfahren (*Rechtsstreitigkeiten*).

(3) Gerichtliche Geltendmachung.

Jeder Gläubiger von Schuldverschreibungen ist berechtigt, in jedem Rechtsstreit gegen die Emittentin ***[im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:*** oder die Garantin] oder in jedem Rechtsstreit, in dem der Gläubiger und die Emittentin ***[im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:*** oder die Garantin] Partei sind, seine Rechte aus diesen Schuldverschreibungen im eigenen Namen auf der folgenden Grundlage zu schützen oder geltend zu machen: (i) er bringt eine Bescheinigung der Depotbank bei, bei der er für

the Custodian has given written notice to the Clearing System containing the information pursuant to (a) and (b) which has been confirmed by the Clearing System; (ii) a copy of the Note in global form certified as being a true copy by a duly authorized officer of the Clearing System or a depositary of the Clearing System, without the need for production in such proceedings of the actual records or the global note representing the Notes or (iii) any other means of proof permitted in legal proceedings in the country of enforcement. For purposes of the foregoing, **Custodian** means any bank or other financial institution of recognized standing authorized to engage in securities custody business with which the Holder maintains a securities account in respect of the Notes and which maintains an account with the Clearing System, and includes the Clearing System. Each Holder may, without prejudice to the foregoing, protect and enforce his rights under these Notes also in any other way which is admitted in the country of the Proceedings.

*[In the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:*

- (4) Appointment of Authorized Agent.

For any Proceedings before German courts, the Issuer has appointed Fresenius SE & Co. KGaA, Else-Kröner-Strasse 1, 61352 Bad Homburg vor der Höhe, Federal Republic of Germany, as its authorized agent for service of process in Germany.]

#### § 15 (LANGUAGE)

*[If the Terms and Conditions are to be in the German language with an English language translation, the following applies:*

These Terms and Conditions are written in the

die Schuldverschreibungen ein Wertpapierdepot unterhält, welche (a) den vollständigen Namen und die vollständige Adresse des Gläubigers enthält, (b) den Gesamtnennbetrag der Schuldverschreibungen bezeichnet, die unter dem Datum der Bestätigung auf dem Wertpapierdepot verbucht sind und (c) bestätigt, dass die Depotbank gegenüber dem Clearingsystem eine schriftliche Erklärung abgegeben hat, die die vorstehend unter (a) und (b) bezeichneten Informationen enthält und einen Bestätigungsvermerk des Clearingsystems trägt; (ii) er legt eine Kopie der die betreffenden Schuldverschreibungen verbrieften Globalurkunde vor, deren Übereinstimmung mit dem Original eine vertretungsberechtigte Person des Clearingsystems oder des Verwahrers des Clearingsystems bestätigt hat, ohne dass eine Vorlage der Originalbelege oder der die Schuldverschreibungen verbrieften Globalurkunde in einem solchen Verfahren erforderlich wäre oder (iii) auf jede andere Weise, die im Lande der Geltendmachung prozessual zulässig ist. Für die Zwecke des Vorstehenden bezeichnet **Depotbank** jede Bank oder ein sonstiges anerkanntes Finanzinstitut, das berechtigt ist, das Wertpapierverwahrungsgeschäft zu betreiben und bei der/dem der Gläubiger ein Wertpapierdepot für die Schuldverschreibungen unterhält und ein Konto beim Clearingsystem unterhält, einschließlich des Clearingsystems. Jeder Gläubiger kann unbeschadet des Vorstehenden seine Rechte aus diesen Schuldverschreibungen auch auf jede andere Weise schützen und durchsetzen, die im Land des Verfahrens zulässig ist.

*[Im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:*

- (4) Bestellung von Zustellungsbevollmächtigten.

Für etwaige Rechtsstreitigkeiten vor deutschen Gerichten hat die Emittentin die Fresenius SE & Co. KGaA, Else-Kröner-Strasse 1, 61352 Bad Homburg vor der Höhe, Bundesrepublik Deutschland, zu ihrer Zustellungsbevollmächtigten in Deutschland bestellt.]

#### § 15 (SPRACHE)

*[Falls die Emissionsbedingungen in deutscher Sprache mit einer Übersetzung in die englische Sprache abgefasst sind, ist folgendes anwendbar:*

Diese Emissionsbedingungen sind in deutscher

German language and provided with an English language translation. The German text shall be controlling and binding. The English language translation is provided for convenience only.]

***[If the Terms and Conditions are to be in the English language with a German language translation, the following applies:***

These Terms and Conditions are written in the English language and provided with German language translation. The English text shall be controlling and binding. The German language translation is provided for convenience only.]

***[If the Terms and Conditions are to be in the English language only, the following applies:***

These Terms and Conditions are written in the English language only.]

***[If the Notes are publicly offered in whole or in part in Germany or distributed in whole or in part to non-professional investors in Germany with English language Conditions, the following applies:***

Eine deutsche Übersetzung der Emissionsbedingungen wird bei der Fresenius SE & Co. KGaA, Else-Kröner-Strasse 1, 61352 Bad Homburg vor der Höhe, zur kostenlosen Ausgabe bereitgehalten.]

Sprache abgefasst. Eine Übersetzung in die englische Sprache ist beigelegt. Der deutsche Text ist bindend und maßgeblich. Die Übersetzung in die englische Sprache ist unverbindlich.]

***[Falls die Emissionsbedingungen in englischer Sprache mit einer Übersetzung in die deutsche Sprache abgefasst sind, ist folgendes anwendbar:***

Diese Emissionsbedingungen sind in englischer Sprache abgefasst. Eine Übersetzung in die deutsche Sprache ist beigelegt. Der englische Text ist bindend und maßgeblich. Die Übersetzung in die deutsche Sprache ist unverbindlich.]

***[Falls die Emissionsbedingungen ausschließlich in deutscher Sprache abgefasst sind, ist folgendes anwendbar:***

Diese Emissionsbedingungen sind ausschließlich in deutscher Sprache abgefasst.]

**OPTION II – Terms and Conditions that apply to Notes with floating interest rate /  
Emissionsbedingungen für Schuldverschreibungen mit variabler Verzinsung**

**TERMS AND CONDITIONS**

**§ 1**

**(CURRENCY, DENOMINATION, FORM)**

(1) Currency; Denomination.

This series of Notes (the *Notes*) of [Fresenius SE & Co. KGaA][Fresenius Finance Ireland Public Limited Company][Fresenius Finance Ireland II Public Limited Company] ([*Fresenius SE & Co. KGaA*][*Fresenius Ireland*][*Fresenius Ireland II*] or the *Issuer*) is being issued in [*Specified Currency*] (the *Specified Currency*) in the aggregate principal amount [*in the case the Global Note is an NGN the following applies: (subject to § 1(3))*] of [*aggregate principal amount*] (in words: [*aggregate principal amount in words*]) in the denomination of [*Specified Denomination*] (the *Specified Denomination*).

(2) Form.

The Notes are being issued in bearer form.

*[In the case of Notes which are represented by a Permanent Global Note the following applies:*

(3) Permanent Global Note.

The Notes are represented by a permanent global note (the *Permanent Global Note* or the *Global Note*) without coupons. The Permanent Global Note shall be signed manually by authorized signatories of the Issuer and shall be authenticated by or on behalf of the Fiscal Agent. Definitive Notes and interest coupons will not be issued.]

*[In the case of Notes which are initially represented by a Temporary Global Note the following applies:*

(3) Temporary Global Note – Exchange.

(a) The Notes are initially represented by a temporary global note (the *Temporary Global Note*) without coupons. The Temporary Global Note will be exchangeable for Notes in Specified Denominations represented by a permanent global note (the *Permanent Global Note*

**EMISSIONSBEDINGUNGEN**

**§ 1**

**(WÄHRUNG, STÜCKELUNG, FORM)**

(1) Währung; Stückelung.

Diese Serie von Schuldverschreibungen (die *Schuldverschreibungen*) der [Fresenius SE & Co. KGaA][Fresenius Finance Ireland Public Limited Company][Fresenius Finance Ireland II Public Limited Company] ([*Fresenius SE & Co. KGaA*][*Fresenius Ireland*][*Fresenius Ireland II*] oder die *Emittentin*) wird in [*Festgelegte Währung*] (die *Festgelegte Währung*) im Gesamtnennbetrag [*falls die Globalurkunde eine NGN ist, ist folgendes anwendbar: (vorbehaltlich § 1(3))*] von [*Gesamtnennbetrag*] (in Worten: [*Gesamtnennbetrag in Worten*]) in einer Stückelung von [*Festgelegte Stückelung*] (die *Festgelegte Stückelung*) begeben.

(2) Form.

Die Schuldverschreibungen lauten auf den Inhaber.

*[Im Fall von Schuldverschreibungen, die durch eine Dauerglobalurkunde verbrieft sind, ist folgendes anwendbar:*

(3) Dauerglobalurkunde.

Die Schuldverschreibungen sind durch eine Dauerglobalurkunde (die *Dauerglobalurkunde* oder die *Globalurkunde*) ohne Zinsscheine verbrieft. Die Dauerglobalurkunde trägt die eigenhändigen Unterschriften ordnungsgemäß bevollmächtigter Vertreter der Emittentin und ist von der Emissionsstelle oder in deren Namen mit einer Kontrollunterschrift versehen. Einzelurkunden und Zinsscheine werden nicht ausgegeben.]

*[Im Fall von Schuldverschreibungen, die anfänglich durch eine vorläufige Globalurkunde verbrieft sind, ist folgendes anwendbar:*

(3) Vorläufige Globalurkunde – Austausch.

(a) Die Schuldverschreibungen sind anfänglich durch eine vorläufige Globalurkunde (die *vorläufige Globalurkunde*) ohne Zinsscheine verbrieft. Die vorläufige Globalurkunde wird gegen Schuldverschreibungen in den Festgelegten Stückelungen, die durch eine

and together with the Temporary Global Note, the *Global Notes*) without coupons. **[In the case of Euroclear and CBL and if the Global Note is an NGN the following applies:** The details of such exchange shall be entered in the records of the ICSDs (as defined below).] The Global Notes shall each be signed manually by authorized signatories of the Issuer and shall each be authenticated by or on behalf of the Fiscal Agent. Definitive Notes and interest coupons will not be issued.

- (b) The Temporary Global Note shall be exchanged for the Permanent Global Note on a date (the **Exchange Date**) not earlier than 40 days after the date of issue of the Notes. Such exchange shall only be made upon delivery of certifications to the effect that the beneficial owner or owners of the Notes is not a U.S. person (other than certain financial institutions or certain persons holding Notes through such financial institutions). Payment of interest on Notes represented by a Temporary Global Note will be made only after delivery of such certifications. A separate certification shall be required in respect of each such payment of interest. Any such certification received on or after the 40<sup>th</sup> day after the date of issue of the Notes will be treated as a request to exchange the Temporary Global Note pursuant to subparagraph (b) of this § 1(3). Any Notes delivered in exchange for the Temporary Global Note shall be delivered only outside of the United States (as defined in § 1(6)).]

(4) Clearing System.

Each Global Note will be kept in custody by or on behalf of the Clearing System until all obligations of the Issuer under the Notes have been satisfied. **Clearing System** means **[if more than one Clearing System, the following applies:** each of] the following: [Clearstream

Dauerglobalurkunde (die **Dauerglobalurkunde** und zusammen mit der vorläufigen Globalurkunde, die **Globalurkunden**) ohne Zinsscheine verbrieft sind, ausgetauscht. **[Im Fall von Euroclear und CBL und wenn die Globalurkunde eine NGN ist, ist folgendes anwendbar:** Die Einzelheiten eines solchen Austausches werden in die Aufzeichnungen der ICSDs (wie nachstehend definiert) aufgenommen.] Die Globalurkunden tragen jeweils die eigenhändigen Unterschriften ordnungsgemäß bevollmächtigter Vertreter der Emittentin und sind jeweils von der Emissionsstelle oder in deren Namen mit einer Kontrollunterschrift versehen. Einzelurkunden und Zinsscheine werden nicht ausgegeben.

- (b) Die vorläufige Globalurkunde wird an einem Tag (der **Austauschtag**) gegen die Dauerglobalurkunde ausgetauscht, der nicht weniger als 40 Tage nach dem Tag der Begebung der Schuldverschreibungen liegt. Ein solcher Austausch darf nur nach Vorlage von Bescheinigungen erfolgen, wonach der oder die wirtschaftlichen Eigentümer der Schuldverschreibungen keine U.S.-Personen sind (ausgenommen bestimmte Finanzinstitute oder bestimmte Personen, die Schuldverschreibungen über solche Finanzinstitute halten). Solange die Schuldverschreibungen durch eine vorläufige Globalurkunde verbrieft sind, werden Zinszahlungen erst nach Vorlage dieser Bescheinigungen vorgenommen. Eine gesonderte Bescheinigung ist für jede solche Zinszahlung erforderlich. Jede Bescheinigung, die am oder nach dem 40. Tag nach dem Tag der Begebung der Schuldverschreibungen eingeht, wird als ein Ersuchen behandelt werden, diese vorläufige Globalurkunde gemäß Absatz (b) dieses § 1(3) auszutauschen. Schuldverschreibungen, die im Austausch für die vorläufige Globalurkunde geliefert werden, dürfen nur außerhalb der Vereinigten Staaten (wie in § 1(6) definiert) geliefert werden.]

(4) Clearingsystem.

Die Globalurkunde wird solange von einem oder im Namen eines Clearingsystems verwahrt, bis sämtliche Verbindlichkeiten der Emittentin aus den Schuldverschreibungen erfüllt sind. **Clearingsystem** bedeutet **[bei mehr als einem Clearingsystem ist folgendes anwendbar:**

Banking Aktiengesellschaft, Frankfurt am Main (**CBF**)] [Clearstream Banking, société anonyme Luxembourg (**CBL**)] [and] [Euroclear Bank SA/NV Brussels as operator of the Euroclear System (**Euroclear**)] and any successor in such capacity. **[In the case of CBL and Euroclear as Clearing System the following applies: International Central Securities Depositary or ICSD means each of CBL and Euroclear (together, the ICSDs).]**

**[In the case of Notes kept in custody on behalf of the ICSDs and the global note is a NGN, the following applies:** The Notes are issued in new global note (**NGN**) form and are kept in custody by a common safekeeper on behalf of both ICSDs.

The principal amount of Notes represented by the Global Note shall be the aggregate amount from time to time entered in the records of both ICSDs. The records of the ICSDs (which expression means the records that each ICSD holds for its customers which reflect the amount of such customer's interest in the Notes) shall be conclusive evidence of the principal amount of Notes represented by the Global Note and, for these purposes, a statement issued by an ICSD stating the principal amount of Notes so represented at any time shall be conclusive evidence of the records of the relevant ICSD at that time.

On any redemption or interest being made in respect of, or purchase and cancellation of, any of the Notes represented by the Global Note the Issuer shall procure that details of any redemption, payment or purchase and cancellation (as the case may be) in respect of the Global Note shall be entered *pro rata* in the records of the ICSDs and, upon any such entry being made, the principal amount of the Notes recorded in the records of the ICSDs and represented by the Global Note shall be reduced by the aggregate principal amount of the Notes so redeemed or purchased and cancelled.]

**[In the case of Notes kept in custody on behalf of the ICSDs and the global note is a CGN, the following applies:** The Notes are issued in classical global note (**CGN**) form and are kept in

jeweils] folgendes: [Clearstream Banking Aktiengesellschaft, Frankfurt am Main (**CBF**)] [Clearstream Banking, société anonyme, Luxemburg (**CBL**)] [und] [Euroclear Bank SA/NV Brüssel, als Betreiberin des Euroclear Systems (**Euroclear**)] sowie jeder Funktionsnachfolger. **[Im Fall von CBL oder Euroclear als Clearingsystem ist folgendes anwendbar: International Central Securities Depositary oder ICSD bezeichnet jeweils CBL und Euroclear (zusammen die ICSDs).]**

**[Im Fall von Schuldverschreibungen, die im Namen der ICSDs verwahrt werden, und falls die Globalurkunde eine NGN ist, ist folgendes anwendbar:** Die Schuldverschreibungen werden in Form einer New Global Note (NGN) ausgegeben und von einer gemeinsamen Verwahrstelle im Namen beider ICSDs verwahrt.

Der Nennbetrag der durch die Globalurkunde verbrieften Schuldverschreibungen entspricht dem jeweils in den Registern beider ICSDs eingetragenen Gesamtbetrag. Die Register der ICSDs (unter denen man die Register versteht, die jeder ICSD für seine Kunden über den Betrag ihres Anteils an den Schuldverschreibungen führt) sind schlüssiger Nachweis über den Nennbetrag der durch die Globalurkunde verbrieften Schuldverschreibungen und eine zu diesen Zwecken von einem ICSD jeweils ausgestellte Bestätigung mit dem Nennbetrag der so verbrieften Schuldverschreibungen ist zu jedem Zeitpunkt ein schlüssiger Nachweis über den Inhalt des Registers des jeweiligen ICSD.

Bei Rückzahlung oder Zinszahlung bezüglich der durch die Globalurkunde verbrieften Schuldverschreibungen bzw. bei Kauf und Entwertung der durch die Globalurkunde verbrieften Schuldverschreibungen stellt die Emittentin sicher, dass die Einzelheiten über jede Rückzahlung und Zahlung bzw. Kauf und Entwertung bezüglich der Globalurkunden *pro rata* in die Unterlagen der ICSDs eingetragen werden, und nach dieser Eintragung vom Nennbetrag der in die Register der ICSDs aufgenommenen und durch die Globalurkunde verbrieften Schuldschreibungen der Gesamtnennbetrag der zurückgezählten bzw. gekauften und entwerteten Schuldverschreibungen abgezogen wird.]

**[Im Fall von Schuldverschreibungen, die im Namen der ICSDs verwahrt werden, und falls die Globalurkunde eine CGN ist, ist folgendes anwendbar:** Die Schuldverschreibungen werden

custody by a common depositary on behalf of both ICSDs.]

(5) Holder of Notes.

**Holder** means any holder of a proportionate co-ownership or other beneficial interest or right in the Notes.

**[In the case the Temporary Global Note is a NGN, the following applies:** On an exchange of a portion only of the Notes represented by a Temporary Global Note, the Issuer shall procure that details of such exchange shall be entered *pro rata* in the records of the ICSDs.]

(6) United States.

For the purposes of these Terms and Conditions, **United States** means the United States of America (including the States thereof and the District of Columbia) and its possessions (including Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and Northern Mariana Islands).

**[In case Book-Entry Register with CBF is provided in the Final Terms, the following applies:**

(7) Book-Entry Register.

The Issuer and CBF have agreed that CBF will act as the Issuer's book-entry registrar in respect of the Notes. In such capacity and without prejudice to the issuance of the Notes in bearer form and their status as notes in bearer form under German law, CBF has agreed, as agent of the Issuer, to maintain records of the Notes credited to the accounts of the accountholders of CBF.]

§ 2

(STATUS, NEGATIVE PLEDGE  
[IN THE CASE OF NOTES ISSUED BY  
FRESENIUS IRELAND OR FRESENIUS  
IRELAND II, THE FOLLOWING APPLIES: ,  
GUARANTEE])

(1) Status.

The obligations under the Notes constitute unsecured and unsubordinated obligations of the Issuer ranking *pari passu* among themselves and

in Form einer Classical Global Note (CGN) ausgegeben und von einer gemeinsamen Verwahrstelle im Namen beider ICSDs verwahrt.]

(5) Gläubiger von Schuldverschreibungen.

**Gläubiger** bedeutet jeder Inhaber eines Miteigentumsanteils oder anderen vergleichbaren Rechts an den Schuldverschreibungen.

**[Falls die Globalurkunde eine NGN ist, ist folgendes anwendbar:** Bei Austausch nur eines Teils von Schuldverschreibungen, die durch eine vorläufige Globalurkunde verbrieft sind, wird die Emittentin sicherstellen, dass die Einzelheiten dieses Austauschs *pro rata* in die Register der ICSDs aufgenommen werden.]

(6) Vereinigte Staaten.

Für die Zwecke dieser Emissionsbedingungen bezeichnet **Vereinigte Staaten** die Vereinigten Staaten von Amerika (einschließlich deren Bundesstaaten und des District of Columbia) sowie deren Territorien (einschließlich Puerto Rico, der U.S. Virgin Islands, Guam, American Samoa, Wake Island und Northern Mariana Islands).

**[Falls in den Endgültigen Bedingungen eine Eintragung im Effktengiro-Register bei CBF vorgesehen ist, gilt Folgendes:**

(7) Effktengiro-Register

Die Emittentin und CBF haben vereinbart, dass CBF zum Effktengiro-Registrar der Emittentin bezüglich der Schuldverschreibungen bestellt wird. In dieser Funktion und unbeschadet der Emission der Schuldverschreibungen sowie deren Status als Inhaberpapiere nach deutschem Recht hat CBF zugesagt, als Beauftragte der Emittentin in den Büchern der CBF Aufzeichnungen über die Schuldverschreibungen, die auf den Konten der CBF-Kontoinhaber gutgeschrieben sind, zu führen.]

§ 2

(STATUS, NEGATIVVERPFLICHTUNG  
[IM FALL VON SCHULDVERSCHREIBUNGEN,  
DIE VON FRESENIUS IRELAND ODER  
FRESENIUS IRELAND II BEGEBEN WERDEN,  
IST FOLGENDES ANWENDBAR: ,  
GARANTIE])

(1) Status.

Die Schuldverschreibungen begründen nicht besicherte und nicht nachrangige Verbindlichkeiten der Emittentin, die



*pari passu* with all other present or future unsecured and unsubordinated obligations of the Issuer, unless such obligations are accorded priority under mandatory provisions of statutory law.

(2) Negative Pledge.

So long as any of the Notes remain outstanding, but only up to the time all amounts of principal and interest have been placed at the disposal of the Fiscal Agent, the Issuer undertakes **[in the case of Notes issued by Fresenius SE & Co. KGaA, the following applies:** (i)] not to grant or permit to subsist any mortgage, land charge, lien or any other security right in rem (*dingliches Sicherungsrecht*) (the **Security Interest**) over any or all of its present or future assets, as security for any present or future Capital Market Indebtedness **[in the case of Notes issued by Fresenius SE & Co. KGaA, the following applies:** and (ii) to procure, to the extent legally possible, that none of its Subsidiaries will grant or permit to subsist any Security Interest over any or all of its present or future assets, as security for any present or future Capital Market Indebtedness,] without at the same time having the Holders share equally and rateably in such Security Interest. This undertaking shall not apply with respect to any Security Interest which (i) is provided over any of the Issuer's claims **[in the case of Notes issued by Fresenius SE & Co. KGaA, the following applies:** or claims of any of its Subsidiaries] against any affiliated companies within the meaning of sections 15 et seq. of the German Stock Corporation Act (*Aktiengesetz*) or any third party, which claims exist now or arise at any time in the future, as a result of the passing on of the proceeds from the sale by the issuer of any securities, provided that any such security serves to secure obligations under such securities issued by the Issuer **[in the case of Notes issued by Fresenius SE & Co. KGaA, the following applies:** or by any of its Subsidiaries], (ii) is existing on assets at the time of the acquisition thereof by the Issuer **[in the case of Notes issued by Fresenius SE & Co. KGaA, the following applies:** or by any of its Subsidiaries] or is existing over assets of a newly acquired company which becomes a member of the Fresenius Group, (iii) is existing on the issue date of the Notes, (iv) secures a Capital Market Indebtedness existing at the time of acquisition that becomes an obligation of the Issuer or of any company within the Fresenius Group as a consequence of such acquisition,

untereinander und mit allen anderen gegenwärtigen und künftigen nicht besicherten und nicht nachrangigen Verbindlichkeiten der Emittentin gleichrangig sind, soweit diesen Verbindlichkeiten nicht durch zwingende gesetzliche Bestimmungen ein Vorrang eingeräumt wird.

(2) Negativverpflichtung.

Die Emittentin verpflichtet sich, solange Schuldverschreibungen ausstehen, jedoch nur bis zu dem Zeitpunkt, an dem alle Beträge an Kapital und Zinsen der Emissionsstelle zur Verfügung gestellt worden sind, **[bei von Fresenius SE & Co. KGaA begebenen Schuldverschreibungen, ist folgendes anwendbar:** (i)] keine Grundpfandrechte, Pfandrechte oder sonstigen dinglichen Sicherungsrechte (ein **Sicherungsrecht**) an gegenwärtigen oder zukünftigen Teilen ihres Vermögens oder ihres Vermögens insgesamt zur Sicherung der gegenwärtigen oder zukünftigen Kapitalmarktverbindlichkeiten zu bestellen oder fortbestehen zu lassen, **[bei von Fresenius SE & Co. KGaA begebenen Schuldverschreibungen, ist folgendes anwendbar:** und (ii) soweit rechtlich möglich, zu veranlassen, dass keine ihrer Tochtergesellschaften Sicherungsrechte an gegenwärtigen oder zukünftigen Teilen ihres Vermögens oder ihres Vermögens insgesamt zur Sicherung der gegenwärtigen oder zukünftigen Kapitalmarktverbindlichkeiten bestellt oder fortbestehen lässt,] ohne jeweils die Gläubiger zur gleichen Zeit auf gleiche Weise und anteilig an diesen Sicherungsrechten teilhaben zu lassen. Diese Verpflichtung gilt nicht in Bezug auf Sicherungsrechte, die (i) an gegenwärtigen oder zukünftigen Ansprüchen der Emittentin **[bei von Fresenius SE & Co. KGaA begebenen Schuldverschreibungen, ist folgendes anwendbar:** oder Ansprüchen einer ihrer Tochtergesellschaften] gegen verbundene Unternehmen im Sinne der §§ 15 f. Aktiengesetz oder gegen Dritte aufgrund von einer Übertragung von Erlösen aus dem Verkauf von Wertpapieren bestehen, soweit diese Sicherheiten zur Sicherung von Verpflichtungen aus diesen durch die Emittentin **[bei von Fresenius SE & Co. KGaA begebenen Schuldverschreibungen, ist folgendes anwendbar:** oder durch eine ihrer Tochtergesellschaften] ausgegebenen Wertpapieren dienen, (ii) an Vermögensgegenständen bestellt sind, die bereits zum Zeitpunkt des Erwerbs des betreffenden Vermögensgegenstandes durch die Emittentin **[bei von Fresenius SE & Co. KGaA begebenen Schuldverschreibungen, ist**

provided that such Capital Market Indebtedness was not created in contemplation of such acquisition (v) is mandatory pursuant to applicable laws or required as a prerequisite for obtaining any governmental approvals, (vi) is provided in connection with any issuance of asset backed securities by the Issuer [*in the case of Notes issued by Fresenius SE & Co. KGaA, the following applies:* or by any of its Subsidiaries], (vii) is provided in respect of any issuance of asset backed securities made by a special purpose vehicle where the Issuer [*in the case of Notes issued by Fresenius SE & Co. KGaA, the following applies:* or any of its Subsidiaries] is the originator of the underlying assets, (viii) is provided in connection with the renewal, extension or replacement of any security pursuant to foregoing (i) through (vii) and, (ix) secures Capital Market Indebtedness the principal amount of which (when aggregated with the principal amount of any other Capital Market Indebtedness which has the benefit of a security other than any permitted under the subparagraphs (i) to (viii) above) does not exceed EUR 100,000,000 (or its equivalent in other currencies at any time).

For purposes of these Terms and Conditions, **Capital Market Indebtedness** means any obligation for the payment of borrowed money which is evidenced by a certificate of indebtedness (*Schuldscheindarlehen*) or which is represented by any bond or debt security with an original maturity of more than one year which is, or is intended to be, or is capable of being listed or traded on a stock exchange or other recognized securities market.

**Fresenius Group** means Fresenius SE & Co. KGaA and its Subsidiaries on a consolidated basis.

**folgendes anwendbar:** oder durch eine ihrer Tochtergesellschaften] bestanden, oder am Vermögen einer neu erworbenen Gesellschaft bestehen, die Mitglied des Fresenius-Konzerns wird, (iii) zum Ausgabetag der Schuldverschreibungen bestehen, (iv) eine im Zeitpunkt einer Akquisition bestehende Kapitalmarktverbindlichkeit besichern, die infolge der Akquisition eine Verpflichtung der Emittentin oder einer Gesellschaft des Fresenius-Konzerns wird, sofern diese Kapitalmarktverbindlichkeit nicht im Hinblick auf diese Akquisition begründet wurde, (v) aufgrund anwendbaren Rechts gesetzlich vorgeschriebene Sicherheiten sind oder solche, deren Bestehen eine Voraussetzung zur Erteilung einer behördlichen Genehmigung sind, (vi) im Zusammenhang mit durch die Emittentin [*bei von Fresenius SE & Co. KGaA begebenen Schuldverschreibungen, ist folgendes anwendbar:* oder durch eine ihrer Tochtergesellschaften] begebenen asset backed securities (ABS) stehen, (vii) im Zusammenhang mit durch Zweckgesellschaften begebenen asset backed securities (ABS) stehen, bei denen die Emittentin [*bei von Fresenius SE & Co. KGaA begebenen Schuldverschreibungen, ist folgendes anwendbar:* oder eine ihrer Tochtergesellschaften] der Originator der zugrundeliegenden Vermögensgegenstände ist, (viii) der Erneuerung, Verlängerung oder dem Austausch irgendeiner Sicherheit gemäß vorstehend (i) bis (vii) dienen und (ix) Kapitalmarktverbindlichkeiten besichern, deren Kapitalbetrag (bei Aufaddierung auf den Kapitalbetrag sonstiger Kapitalmarktverbindlichkeiten, für die andere Sicherheiten als die nach (i) bis (viii) zulässigen bestehen) EUR 100.000.000 (oder deren jeweiligen Gegenwert in anderen Währungen) nicht überschreitet.

Im Sinne dieser Emissionsbedingungen bezeichnet **Kapitalmarktverbindlichkeit** jede Verbindlichkeit zur Rückzahlung aufgenommenen Geldbeträge, die durch Schuldscheindarlehen dokumentiert ist oder durch Schuldverschreibungen oder sonstige Wertpapiere mit einer ursprünglichen Laufzeit von mehr als einem Jahr, die an einer Börse oder an einem anderen anerkannten Wertpapiermarkt zugelassen oder gehandelt werden oder zugelassen oder gehandelt werden können, verbrieft, verkörpert oder dokumentiert ist.

**Fresenius-Konzern** bezeichnet Fresenius SE & Co. KGaA und ihre Tochtergesellschaften auf konsolidierter Basis.

***[In the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:***

**(3) Guarantee and Negative Pledge.**

- (a) Fresenius SE & Co. KGaA (the **Guarantor**) has given an unconditional and irrevocable guarantee (the **Guarantee**) for the due and punctual payment of principal of, and interest on, and any other amounts payable under any Notes. The Guarantee constitutes a contract for the benefit of the Holders from time to time as third party beneficiaries in accordance with § 328 paragraph 1 of the German Civil Code (*Bürgerliches Gesetzbuch*)<sup>1</sup>, giving rise to the right of each Holder to require performance of the Guarantee directly from the Guarantor and to enforce the Guarantee directly against the Guarantor. Copies of the Guarantee may be obtained free of charge at the specified office of the Fiscal Agent.
- (b) The Guarantor has undertaken in the Guarantee, as long as any of the Notes remain outstanding, but only up to the time all amounts of principal and interest have been placed at the disposal of the Fiscal Agent, (i) not to grant or permit to subsist any Security Interest over any or all of its present or future assets, as security for any present or future Capital Market Indebtedness (as defined in § 2(2)), and (ii) to procure, to the extent legally possible, that none of its Subsidiaries will grant or permit to subsist any Security Interest over any or all of its present or future assets, as security for any present or future Capital Market Indebtedness without at the same time having the Holders share equally and rateably in such Security Interest. This undertaking shall not apply with respect to any Security Interest which (i) is provided over any of the Guarantor's claims or claims of any of its Subsidiaries against any affiliated companies within the meaning of sections 15 et seq. of the German Stock Corporation Act (*Aktiengesetz*) or any third party, which claims exist now or arise at any time in the future, as a result of the passing on of the proceeds from the sale by the issuer of any securities, provided that any such security serves to secure obligations under such securities issued by

***[Im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:***

**(3) Garantie und Negativverpflichtung.**

- (a) Fresenius SE & Co. KGaA (die **Garantin**) hat eine unbedingte und unwiderrufliche Garantie (die **Garantie**) für die ordnungsgemäße und pünktliche Zahlung von Kapital und Zinsen und allen anderen zu zahlenden Beträgen unter den Schuldverschreibungen übernommen. Die Garantie stellt einen Vertrag zugunsten der Gläubiger als begünstigte Dritte im Sinne des § 328 Absatz 1 BGB dar, der jedem Gläubiger das Recht gibt, Erfüllung der in der Garantie übernommenen Verpflichtungen unmittelbar von der Garantin zu verlangen und diese Verpflichtungen unmittelbar gegen die Garantin durchzusetzen. Kopien der Garantie können kostenlos bei der bezeichneten Geschäftsstelle der Emissionsstelle bezogen werden.
- (b) Die Garantin hat sich in der Garantie verpflichtet, solange Schuldverschreibungen ausstehen, jedoch nur bis zu dem Zeitpunkt, an dem alle Beträge an Kapital und Zinsen der Emissionsstelle zur Verfügung gestellt worden sind, (i) keine Sicherungsrechte an gegenwärtigen oder zukünftigen Teilen ihres Vermögens oder ihres Vermögens insgesamt zur Sicherung gegenwärtiger oder zukünftiger Kapitalmarktverbindlichkeiten (wie in § 2(2) definiert) zu bestellen oder fortbestehen zu lassen und (ii) soweit rechtlich möglich, zu veranlassen, dass keine ihrer Tochtergesellschaften Sicherungsrechte an gegenwärtigen oder zukünftigen Teilen ihres Vermögens oder ihres Vermögens insgesamt zur Sicherung der gegenwärtigen oder zukünftigen Kapitalmarktverbindlichkeiten, bestellt oder fortbestehen lässt, ohne jeweils die Gläubiger zur gleichen Zeit auf gleiche Weise und anteilig an diesen Sicherungsrechten teilhaben zu lassen. Diese Verpflichtung gilt nicht in Bezug auf Sicherungsrechte, die (i) an gegenwärtigen oder zukünftigen Ansprüchen der Garantin oder Ansprüchen einer ihrer Tochtergesellschaften gegen verbundene Unternehmen im Sinne der §§ 15 f.

<sup>1</sup> An English language convenience translation of § 328 paragraph 1 BGB (German Civil Code) reads as follows: A contract may stipulate performance for the benefit of a third party, to the effect that the third party acquires the right directly to demand performance.

the Guarantor or by any of its Subsidiaries, (ii) is existing on assets at the time of the acquisition thereof by the Guarantor or by any of its Subsidiaries or is existing over assets of a newly acquired company which becomes a member of the Fresenius Group (iii) is existing on the issue date of the Notes, (iv) secures a Capital Market Indebtedness existing at the time of acquisition that becomes an obligation of the Guarantor or of any company within the Fresenius Group as a consequence of such acquisition, provided that such Capital Market Indebtedness was not created in contemplation of such acquisition, (v) is mandatory pursuant to applicable laws or required as a prerequisite for obtaining any governmental approvals, (vi) is provided in connection with any issuance of asset backed securities by the Guarantor or by any of its Subsidiaries, (vii) is provided in respect of any issuance of asset backed securities made by a special purpose vehicle where the Guarantor or any of its Subsidiaries is the originator of the underlying assets, (viii) is provided in connection with the renewal, extension or replacement of any security pursuant to foregoing (i) through (vii) and, (ix) secures Capital Market Indebtedness the principal amount of which (when aggregated with the principal amount of any other Capital Market Indebtedness which has the benefit of a security other than any permitted under the sub-paragraphs (i) to (viii) above) does not exceed EUR 100,000,000 (or its equivalent in other currencies at any time).]

**Subsidiary** means, with respect to any Person, any corporation, limited liability company, association, partnership or other business entity whose results of operations are consolidated in accordance with IFRS with those of:

Aktiengesetz oder gegen Dritte aufgrund von einer Übertragung von Erlösen aus dem Verkauf von Wertpapieren bestehen, soweit diese Sicherheiten zur Sicherung von Verpflichtungen aus diesen durch die Garantin oder durch eine ihrer Tochtergesellschaften ausgegebenen Wertpapieren dienen, (ii) an Vermögensgegenständen bestellt sind, die bereits zum Zeitpunkt des Erwerbs des betreffenden Vermögensgegenstandes durch die Garantin oder durch eine ihrer Tochtergesellschaften bestanden, oder am Vermögen einer neu erworbenen Gesellschaft bestehen, die Mitglied des Fresenius-Konzerns wird, (iii) zum Ausgabetag der Schuldverschreibungen bestehen, (iv) eine im Zeitpunkt einer Akquisition bestehende Kapitalmarktverbindlichkeit besichern, die infolge der Akquisition eine Verpflichtung der Garantin oder einer Gesellschaft des Fresenius-Konzerns wird, sofern diese Kapitalmarktverbindlichkeit nicht im Hinblick auf diese Akquisition begründet wurde, (v) aufgrund anwendbaren Rechts gesetzlich vorgeschriebene Sicherheiten sind oder solche, deren Bestehen eine Voraussetzung zur Erteilung einer behördlichen Genehmigung sind, (vi) im Zusammenhang mit durch die Garantin oder durch eine ihrer Tochtergesellschaften begebenen asset backed securities (ABS) stehen, (vii) im Zusammenhang mit durch Zweckgesellschaften begebenen asset backed securities (ABS) stehen, bei denen die Garantin oder eine ihrer Tochtergesellschaften der Originator der zugrundeliegenden Vermögensgegenstände ist, (viii) der Erneuerung, Verlängerung oder dem Austausch irgendeiner Sicherheit gemäß vorstehend (i) bis (vii) dienen und (ix) Kapitalmarktverbindlichkeiten besichern, deren Kapitalbetrag (bei Aufaddierung auf den Kapitalbetrag sonstiger Kapitalmarktverbindlichkeiten, für die andere Sicherheiten als die nach (i) bis (viii) zulässigen bestehen) EUR 100.000.000 (oder deren jeweiligen Gegenwert in anderen Währungen) nicht überschreitet.]

**Tochtergesellschaft** bezeichnet in Bezug auf einen Rechtsträger, eine Kapitalgesellschaft, eine Gesellschaft mit Haftungsbeschränkung, eine Vereinigung, eine Personengesellschaft oder ein sonstiges Unternehmen, dessen Ergebnisse gemäß IFRS mit den Ergebnissen

- (a) such Person;
- (b) such Person and one or more Subsidiaries of such Person; or
- (c) one or more Subsidiaries of such Person;

provided, however, that this definition of Subsidiaries shall exclude Fresenius Medical Care AG & Co. KGaA and its Subsidiaries.

**IFRS** refers to International Financial Reporting Standards of the International Accounting Standards Board, as adopted by the European Union.

### § 3 (INTEREST)

#### (1) Interest Payment Dates.

- (a) The Notes shall bear interest on their principal amount from (and including) **[Interest Commencement Date]** (the **Interest Commencement Date**) to (but excluding) the first Interest Payment Date and thereafter from (and including) each Interest Payment Date to (but excluding) the next following Interest Payment Date. Interest on the Notes shall be payable in arrear on each Interest Payment Date.

- (b) **Interest Payment Date** means

**[In case of Specified Interest Payment Dates, the following applies: each [Specified Interest Payment Dates].]**

**[In case of Specified Interest Periods, the following applies: each date which (except as otherwise provided in these Terms and Conditions) falls [number] [weeks] [months] after the preceding Interest Payment Date or, in the case of the first Interest Payment Date, after the Interest Commencement Date.]**

- (c) If any Interest Payment Date would otherwise fall on a day which is not a Business Day (as defined below), it shall be:

**[In case of Modified Following Business Day Convention, the following applies:**

folgender Personen konsolidiert werden:

- (a) dieses Rechtsträgers;
- (b) dieses Rechtsträgers und einer oder mehreren Tochtergesellschaften dieses Rechtsträgers; oder
- (c) einer oder mehrerer Tochtergesellschaften dieses Rechtsträgers,

wobei jedoch diese Definition von Tochtergesellschaft die Fresenius Medical Care AG & Co. KGaA und ihre Tochtergesellschaften ausschließt.

**IFRS** bezeichnet die International Financial Reporting Standards des International Accounting Standards Board, wie sie von der Europäischen Union anerkannt werden.

### § 3 (ZINSEN)

#### (1) Zinszahlungstage.

- (a) Die Schuldverschreibungen werden bezogen auf ihren Nennbetrag vom **[Verzinsungsbeginn]** (der **Verzinsungsbeginn**) (einschließlich) bis zum ersten Zinszahlungstag (ausschließlich) und danach von jedem Zinszahlungstag (einschließlich) bis zum nächstfolgenden Zinszahlungstag (ausschließlich) verzinst. Die Zinsen auf die Schuldverschreibungen sind nachträglich an jedem Zinszahlungstag zahlbar.

- (b) **Zinszahlungstag** bedeutet

**[Im Fall von festgelegten Zinszahlungstagen ist folgendes anwendbar: jeder [festgelegte Zinszahlungstage].]**

**[Im Fall von festgelegten Zinsperioden ist folgendes anwendbar: (soweit diese Emissionsbedingungen keine abweichenden Bestimmungen vorsehen) jeweils der Tag, der [Zahl] [Wochen] [Monate] nach dem vorausgehenden Zinszahlungstag liegt, oder im Fall des ersten Zinszahlungstages, nach dem Verzinsungsbeginn.]**

- (c) Fällt ein Zinszahlungstag auf einen Tag, der kein Geschäftstag (wie nachfolgend definiert) ist, so wird der Zinszahlungstag

**[Im Fall der modifizierten folgender Geschäftstag-Konvention ist folgendes**

postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event the Interest Payment Date shall be the immediately preceding Business Day.]

*[In case of FRN Convention, the following applies:* postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event (i) the Interest Payment Date shall be the immediately preceding Business Day and (ii) each subsequent Interest Payment Date shall be the last Business Day in the month which falls *[insert number]* [months] *[insert other specified periods]* after the preceding applicable Interest Payment Date.]

*[In case of Following Business Day Convention, the following applies:* postponed to the next day which is a Business Day.]

*[In case of Preceding Business Day Convention, the following applies:* the immediately preceding Business Day.]

- (d) In this § 3, **Business Day** means a day (other than a Saturday or a Sunday)

*[In case the Notes are not denominated in Euro, the following applies:* on which commercial banks are generally open for business, and foreign exchange markets settle payments in *[relevant financial centre(s)]*].][and]

*[In case the Clearing System and TARGET shall be operational, the following applies:* on which the Clearing System as well as all relevant parts of the Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2) are operational to effect the relevant payment.]

- (2) Rate of Interest.

*[In case the offered quotation for deposits in the Specified Currency is EURIBOR, the following applies:*

The rate of interest (the **Rate of Interest**) for each Interest Period (as defined below) will, except as provided below or in § 3(3) *[in case*

**anwendbar:** auf den nächstfolgenden Geschäftstag verschoben, es sei denn, jener würde dadurch in den nächsten Kalendermonat fallen; in diesem Fall wird der Zinszahlungstag auf den unmittelbar vorhergehenden Geschäftstag vorgezogen.]

*[Im Fall der FRN-Konvention ist folgendes anwendbar:* auf den nächstfolgenden Geschäftstag verschoben, es sei denn, jener würde dadurch in den nächsten Kalendermonat fallen; in diesem Fall (i) wird der Zinszahlungstag auf den unmittelbar vorhergehenden Geschäftstag vorgezogen und (ii) ist jeder nachfolgende Zinszahlungstag der jeweils letzte Geschäftstag des Monats, der *[Zahl einfügen]* [Monate] *[andere festgelegte Zeiträume einfügen]* nach dem vorhergehenden anwendbaren Zinszahlungstag liegt.]

*[Im Fall der folgender Geschäftstag-Konvention ist folgendes anwendbar:* auf den nachfolgenden Geschäftstag verschoben.]

*[Im Fall der vorhergehender Geschäftstag-Konvention ist folgendes anwendbar:* auf den unmittelbar vorhergehenden Geschäftstag vorgezogen.]

- (d) In diesem § 3 bezeichnet **Geschäftstag** einen Tag (außer einem Samstag oder Sonntag),

*[Im Fall von nicht auf Euro lautenden Schuldverschreibungen ist folgendes anwendbar:* an dem Geschäftsbanken allgemein für Geschäfte in *[relevante(s) Finanzzentrum(en)]* geöffnet sind und Devisenmärkte Zahlungen in *[relevante(s) Finanzzentrum(en)]* abwickeln].][und]

*[Falls das Clearingsystem und TARGET betriebsbereit sein müssen, ist folgendes anwendbar:* an dem das Clearingsystem sowie alle betroffenen Bereiche des Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2) betriebsbereit sind, um die betreffende Zahlung abzuwickeln.]

- (2) Zinssatz.

*[Falls der Angebotssatz für Einlagen in der Festgelegten Währung EURIBOR ist, ist folgendes anwendbar:*

Der Zinssatz (der **Zinssatz**) für jede Zinsperiode (wie nachstehend definiert) ist, sofern nachstehend oder in § 3(3) *[im Fall eines*

*of Minimum Rate of Interest or Maximum Rate of Interest the following applies:* or § 3(4)], be the offered quotation (expressed as a percentage rate per annum) for deposits in the Specified Currency for that Interest Period which appears on the Screen Page as of 11:00 a.m. (Brussels time) on the Interest Determination Date (as defined below) *[in case of a Margin the following applies:* [plus] [minus] the Margin (as defined below)], all as determined by the Calculation Agent (as defined in § 6).

**Interest Period** means each period from (and including) the Interest Commencement Date to (but excluding) the first Interest Payment Date and from (and including) each Interest Payment Date to (but excluding) the following Interest Payment Date.

**Interest Determination Date** means the second TARGET2 Business Day prior to the commencement of the relevant Interest Period. **TARGET2 Business Day** means a day (other than a Saturday or Sunday) on which the Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2) is open.

*[In case of a Margin, the following applies:* **Margin** means [insert relevant Margin]% per annum.]

**Screen Page** means the Reuters screen page EURIBOR01 or the relevant successor page on that service or on any other service as may be nominated as the information vendor for the purposes of displaying rates or prices comparable to the relevant offered quotation.

If the Screen Page is not available or if no such quotation appears at such time, in each case for reasons other than the occurrence of a Suspension Event (as defined below), the Calculation Agent shall request each of the Reference Banks (as defined below) to provide the Calculation Agent with its offered quotation (expressed as a percentage rate *per annum*) for deposits in the Specified Currency for the relevant Interest Period and in a representative amount to prime banks in the interbank market in the Euro-Zone at approximately 11.00 a.m. (Brussels time) on the Interest Determination Date. If two or more of the Reference Banks provide the Calculation Agent with such offered

*Mindestzinssatzes oder Höchstzinssatzes ist folgendes anwendbar:* oder § 3(4)] nichts Abweichendes bestimmt wird, der Angebotssatz (ausgedrückt als Prozentsatz per annum) für Einlagen in der Festgelegten Währung für die jeweilige Zinsperiode, der auf der Bildschirmseite am Zinsfestlegungstag (wie nachstehend definiert) um ca. 11.00 Uhr (Brüsseler Ortszeit) angezeigt wird *[im Fall einer Marge, ist folgendes anwendbar:* [zuzüglich] [abzüglich] der Marge (wie nachstehend definiert)], wobei alle Festlegungen durch die Berechnungsstelle (wie in § 6 definiert) erfolgen.

**Zinsperiode** bezeichnet jeweils den Zeitraum vom Verzinsungsbeginn (einschließlich) bis zum ersten Zinszahlungstag (ausschließlich) bzw. von jedem Zinszahlungstag (einschließlich) bis zum jeweils darauffolgenden Zinszahlungstag (ausschließlich).

**Zinsfestlegungstag** bezeichnet den zweiten TARGET2-Geschäftstag vor Beginn der jeweiligen Zinsperiode. **TARGET2-Geschäftstag** bezeichnet einen Tag (außer einem Samstag oder Sonntag), an dem das Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2) betriebsbereit ist.

*[Im Fall einer Marge ist folgendes anwendbar:* Die **Marge** beträgt [entsprechende Marge einfügen]% per annum.]

**Bildschirmseite** bedeutet Reuters Bildschirmseite EURIBOR01 oder die jeweilige Nachfolgeside, die vom selben System angezeigt wird oder aber von einem anderen System, das zum Vertreiber von Informationen zum Zwecke der Anzeigen von Sätzen oder Preisen ernannt wurde, die mit dem betreffenden Angebotssatz vergleichbar sind.

Sollte die Bildschirmseite nicht zur Verfügung stehen oder wird zu der genannten Zeit kein Angebotssatz angezeigt und beruht dies jeweils auf anderen Gründen als dem Eintritt eines Einstellungs-Ereignisses (wie nachstehend definiert), wird die Berechnungsstelle von den Referenzbanken (wie nachstehend definiert) deren jeweilige Angebotssätze (jeweils als Prozentsatz *per annum* ausgedrückt) für Einlagen in der festgelegten Währung für die betreffende Zinsperiode und über einen repräsentativen Betrag gegenüber führenden Banken im Interbanken-Markt in der Euro-Zone um ca. 11.00 (Brüsseler Ortszeit) am Zinsfestlegungstag anfordern. Falls zwei oder

quotations, the Rate of Interest for such Interest Period shall be the arithmetic mean (rounded if necessary to the nearest one thousandth of a percentage point, with 0.0005 being rounded upwards) of such offered quotations [*in case of a Margin the following applies*: [plus] [minus] the Margin], all as determined by the Calculation Agent.

If on any Interest Determination Date only one or none of the Reference Banks provides the Calculation Agent with such offered quotations as provided in the preceding paragraph, the Rate of Interest for the relevant Interest Period shall be the rate per annum which the Calculation Agent determines as being the arithmetic mean (rounded if necessary to the nearest one thousandth of a percentage point, with 0.0005 being rounded upwards) of the rates, as communicated to (and at the request of) the Calculation Agent by the Reference Banks or any two or more of them, at which such banks were offered, as at 11.00 a.m. (Brussels time) on the relevant Interest Determination Date, deposits in the Specified Currency for the relevant Interest Period by leading banks in the Euro-Zone interbank market [*in case of a Margin, the following applies*: [plus] [minus] the Margin] or, if fewer than two of the Reference Banks provide the Calculation Agent with such offered rates, the offered rate for deposits in the Specified Currency for the relevant Interest Period, or the arithmetic mean (rounded as provided above) of the offered rates for deposits in the Specified Currency for the relevant Interest Period, at which, on the relevant Interest Determination Date, any one or more banks (which bank or banks is or are in the opinion of the Calculation Agent and the Issuer suitable for such purpose) inform(s) the Calculation Agent it is or they are quoting to leading banks in the Euro-Zone interbank market (or, as the case may be, the quotations of such bank or banks to the Calculation Agent) [*in case of a Margin, the following applies*: [plus] [minus] the Margin]. If the Rate of Interest cannot be determined in accordance with the foregoing provisions of this paragraph, the Rate of Interest shall be the offered quotation or the arithmetic mean of the offered quotations on the Screen Page, as described above, on the last day preceding the Interest Determination Date on which such quotation was offered [*in case of a Margin, the following applies*: [plus] [minus] the Margin (though substituting, where a different Margin is to be

mehr Referenzbanken der Berechnungsstelle solche Angebotssätze nennen, ist der Zinssatz für die betreffende Zinsperiode das arithmetische Mittel (falls erforderlich, auf- oder abgerundet auf das nächste ein Tausendstel Prozent, wobei 0,0005 aufgerundet wird) dieser Angebotssätze [*im Fall einer Marge ist folgendes anwendbar*: [zuzüglich] [abzüglich] der Marge], wobei alle Festlegungen durch die Berechnungsstelle erfolgen.

Falls an einem Zinsfestlegungstag nur eine oder keine der Referenzbanken der Berechnungsstelle solche im vorstehenden Absatz beschriebenen Angebotssätze nennt, ist der Zinssatz für die betreffende Zinsperiode der Satz *per annum*, den die Berechnungsstelle als das arithmetische Mittel (falls erforderlich, auf- oder abgerundet auf das nächste ein Tausendstel Prozent, wobei 0,0005 aufgerundet wird) der Angebotssätze ermittelt, die die Referenzbanken oder zwei oder mehr von diesen der Berechnungsstelle auf ihre Anfrage als den jeweiligen Satz nennen, zu dem ihnen um 11.00 Uhr (Brüsseler Ortszeit) am betreffenden Zinsfestlegungstag Einlagen in der festgelegten Währung für die betreffende Zinsperiode von führenden Banken am Interbankenmarkt in der Euro-Zone [*im Fall einer Marge ist folgendes anwendbar*: [zuzüglich] [abzüglich] der Marge] angeboten wurden; falls weniger als zwei der Referenzbanken der Berechnungsstelle solche Angebotssätze nennen, dann ist der Zinssatz für die betreffende Zinsperiode der Angebotssatz für Einlagen in der festgelegten Währung für die betreffende Zinsperiode oder das arithmetische Mittel (gerundet wie oben beschrieben) der Angebotssätze für Einlagen in der festgelegten Währung für die betreffende Zinsperiode, den bzw. die eine oder mehrere Banken (die nach Ansicht der Berechnungsstelle und der Emittentin für diesen Zweck geeignet sind) der Berechnungsstelle als Sätze bekannt geben, die sie an dem betreffenden Zinsfestlegungstag gegenüber führenden Banken am Euro-Zone-Interbanken-Markt nennen (bzw. den diese Banken gegenüber der Berechnungsstelle nennen) [*im Fall einer Marge ist folgendes anwendbar*: [zuzüglich] [abzüglich] der Marge]. Für den Fall, dass der Zinssatz nicht gemäß den vorstehenden Bestimmungen dieses Absatzes ermittelt werden kann, ist der Zinssatz der Angebotssatz oder das arithmetische Mittel der Angebotssätze auf der Bildschirmseite, wie vorstehend beschrieben, an dem letzten Tag vor dem Zinsfestlegungstag, an dem ein solcher Angebotssatz angezeigt wurde [*im Fall einer Marge ist folgendes anwendbar*: [zuzüglich]



applied to the relevant Interest Period from that which applied to the last preceding Interest Period, the Margin relating to the relevant Interest Period in place of the Margin relating to that last preceding Interest Period)].

**Reference Banks** means four major banks in the interbank market in the Euro-Zone.

**representative amount** means an amount that is representative for a single transaction in the relevant market at the relevant time.

**Euro-Zone** means the region comprised of those Member States of the European Union that have adopted, or will have adopted from time to time, the single currency in accordance with the Treaty establishing the European Community (signed in Rome on March 25, 1957), as amended by the Treaty on European Union (signed in Maastricht on February 7, 1992) and the Amsterdam Treaty of October 2, 1997, as further amended from time to time.]

*[In case the offered quotation for deposits in the Specified Currency is LIBOR, the following applies:*

The rate of interest (the **Rate of Interest**) for each Interest Period (as defined below) will, except as provided below or in § 3(3) *[in case of Minimum Rate of Interest or Maximum Rate of Interest the following applies:* or § 3(4)], be the offered quotation (expressed as a percentage rate per annum) for deposits in the Specified Currency for that Interest Period which appears on the Screen Page as of 11:00 a.m. (London time) on the Interest Determination Date (as defined below) *[in case of a Margin the following applies:* [plus] [minus] the Margin (as defined below)], all as determined by the Calculation Agent (as defined in § 6).

**Interest Period** means each period from (and including) the Interest Commencement Date to (but excluding) the first Interest Payment Date and from (and including) each Interest Payment Date to (but excluding) the following Interest Payment Date.

**Interest Determination Date** means the [first] [second] *[relevant financial centre(s)]* Business Day [prior to the commencement] of the relevant Interest Period. *[relevant financial centre(s)] Business Day* means a day (other

[abzüglich] der Marge (wobei jedoch, falls für die betreffende Zinsperiode eine andere Marge als für die unmittelbar vorhergehende Zinsperiode gilt, die Marge der betreffenden Zinsperiode an die Stelle der Marge für die vorangegangenen Zinsperiode tritt)].

**Referenzbanken** bezeichnet vier Großbanken im Interbanken-Markt in der Euro-Zone.

**repräsentativer Betrag** bedeutet ein Betrag, der zu der jeweiligen Zeit in dem jeweiligen Markt für eine einzelne Transaktion repräsentativ ist.

**Euro-Zone** bezeichnet das Gebiet derjenigen Mitgliedstaaten der Europäischen Union, die gemäß dem Vertrag über die Gründung der Europäischen Gemeinschaft (unterzeichnet in Rom am 25. März 1957), geändert durch den Vertrag über die Europäische Union (unterzeichnet in Maastricht am 7. Februar 1992) und den Amsterdamer Vertrag vom 2. Oktober 1997, in seiner jeweiligen Fassung, eine einheitliche Währung eingeführt haben oder jeweils eingeführt haben werden.]

*[Falls der Angebotssatz für Einlagen in der Festgelegten Währung LIBOR ist, ist folgendes anwendbar:*

Der Zinssatz (der **Zinssatz**) für jede Zinsperiode (wie nachstehend definiert) ist, sofern nachstehend oder in § 3(3) *[im Fall eines Mindestzinssatzes oder Höchstzinssatzes ist folgendes anwendbar:* oder § 3(4)] nichts Abweichendes bestimmt wird, der Angebotssatz (ausgedrückt als Prozentsatz *per annum*) für Einlagen in der Festgelegten Währung für die jeweilige Zinsperiode, der auf der Bildschirmseite am Zinsfestlegungstag (wie nachstehend definiert) um ca. 11.00 Uhr (London Ortszeit) angezeigt wird *[im Fall einer Marge, ist folgendes anwendbar:* [zuzüglich] [abzüglich] der Marge (wie nachstehend definiert)], wobei alle Festlegungen durch die Berechnungsstelle (wie in § 6 definiert) erfolgen.

**Zinsperiode** bezeichnet jeweils den Zeitraum vom Verzinsungsbeginn (einschließlich) bis zum ersten Zinszahlungstag (ausschließlich) bzw. von jedem Zinszahlungstag (einschließlich) bis zum jeweils darauffolgenden Zinszahlungstag (ausschließlich).

**Zinsfestlegungstag** bezeichnet den [ersten] [zweiten] *[relevante(s) Finanzzentrum(en)]* Geschäftstag [vor Beginn] der jeweiligen Zinsperiode. *[relevante(s) Finanzzentrum(en)]-Geschäftstag* bezeichnet einen Tag (außer

than a Saturday or Sunday) on which commercial banks are open for business (including dealings in foreign exchange and foreign currency) in **[relevant financial centre(s)]**.

**[In case of a Margin the following applies:** *Margin* means **[insert relevant Margin]**% per annum.]

**Screen Page** means the Reuters screen page LIBOR01 or the relevant successor page on that service or on any other service as may be nominated as the information vendor for the purposes of displaying rates or prices comparable to the relevant offered quotation.

If the Screen Page is not available or if no such quotation appears at such time, in each case for reasons other than the occurrence of a Suspension Event (as defined below), the Calculation Agent shall request each of the Reference Banks (as defined below) to provide the Calculation Agent with its offered quotation (expressed as a percentage rate *per annum*) for deposits in the Specified Currency for the relevant Interest Period and in a representative amount to prime banks in the London interbank market at approximately 11.00 a.m. (London time) on the Interest Determination Date. If two or more of the Reference Banks provide the Calculation Agent with such offered quotations, the Rate of Interest for such Interest Period shall be the arithmetic mean (rounded if necessary to the nearest one hundred-thousandth of a percentage point, with 0.000005 being rounded upwards) of such offered quotations **[in case of a Margin, the following applies:** [plus] [minus] the Margin], all as determined by the Calculation Agent.

If on any Interest Determination Date only one or none of the Reference Banks provides the Calculation Agent with such offered quotations as provided in the preceding paragraph, the Rate of Interest for the relevant Interest Period shall be the rate per annum which the Calculation Agent determines as being the arithmetic mean (rounded if necessary to the nearest one hundred-thousandth of a percentage point, with 0.000005 being rounded upwards) of the rates, as communicated to (and at the request of) the Calculation Agent by the Reference Banks or any two or more of them, at which such banks

einem Samstag oder Sonntag), an dem Geschäftsbanken in **[relevante(s) Finanzzentrum(en)]** für Geschäfte (einschließlich Devisen- und Sortengeschäfte) geöffnet sind.

**[Im Fall einer Marge ist folgendes anwendbar:** Die *Marge* beträgt **[entsprechende Marge einfügen]**% per annum.]

**Bildschirmseite** bedeutet Reuters Bildschirmseite LIBOR01 oder die jeweilige Nachfolgeside, die vom selben System angezeigt wird oder aber von einem anderen System, das zum Vertreter von Informationen zum Zwecke der Anzeigen von Sätzen oder Preisen ernannt wurde, die mit dem betreffenden Angebotssatz vergleichbar sind.

Sollte die Bildschirmseite nicht zur Verfügung stehen oder wird zu der genannten Zeit kein Angebotssatz angezeigt und beruht dies jeweils auf anderen Gründen als dem Eintritt eines Einstellungs-Ereignisses (wie nachstehend definiert), wird die Berechnungsstelle von den Referenzbanken (wie nachstehend definiert) deren jeweilige Angebotssätze (jeweils als Prozentsatz *per annum* ausgedrückt) für Einlagen in der festgelegten Währung für die betreffende Zinsperiode und über eine repräsentativen Betrag gegenüber führenden Banken im Londoner Interbanken-Markt um ca. 11.00 (Londoner Ortszeit) am Zinsfestlegungstag anfordern. Falls zwei oder mehr Referenzbanken der Berechnungsstelle solche Angebotssätze nennen, ist der Zinssatz für die betreffende Zinsperiode das arithmetische Mittel (falls erforderlich, auf- oder abgerundet auf das nächste ein Hunderttausendstel Prozent, wobei 0,000005 aufgerundet wird) dieser Angebotssätze **[im Fall einer Marge ist folgendes anwendbar:** [zuzüglich] [abzüglich] der Marge], wobei alle Festlegungen durch die Berechnungsstelle erfolgen.

Falls an einem Zinsfestlegungstag nur eine oder keine der Referenzbanken der Berechnungsstelle solche im vorstehenden Absatz beschriebenen Angebotssätze nennt, ist der Zinssatz für die betreffende Zinsperiode der Satz *per annum*, den die Berechnungsstelle als das arithmetische Mittel (falls erforderlich, auf- oder abgerundet auf das nächste ein Hunderttausendstel Prozent, wobei 0,0000005 aufgerundet wird) der Angebotssätze ermittelt, die die Referenzbanken oder zwei oder mehr von diesen der Berechnungsstelle auf ihre Anfrage als den jeweiligen Satz nennen, zu dem

were offered, as at 11.00 a.m. (London time) on the relevant Interest Determination Date, deposits in the Specified Currency for the relevant Interest Period by leading banks in the London interbank market [*in case of a Margin, the following applies:* [plus] [minus] the Margin] or, if fewer than two of the Reference Banks provide the Calculation Agent with such offered rates, the offered rate for deposits in the Specified Currency for the relevant Interest Period, or the arithmetic mean (rounded as provided above) of the offered rates for deposits in the Specified Currency for the relevant Interest Period, at which, on the relevant Interest Determination Date, any one or more banks (which bank or banks is or are in the opinion of the Calculation Agent and the Issuer suitable for such purpose) inform(s) the Calculation Agent it is or they are quoting to leading banks in the London interbank market (or, as the case may be, the quotations of such bank or banks to the Calculation Agent) [*in case of a Margin, the following applies:* [plus] [minus] the Margin]. If the Rate of Interest cannot be determined in accordance with the foregoing provisions of this paragraph, the Rate of Interest shall be the offered quotation or the arithmetic mean of the offered quotations on the Screen Page, as described above, on the last day preceding the Interest Determination Date on which such quotation was offered [*in case of a Margin, the following applies:* [plus] [minus] the Margin (though substituting, where a different Margin is to be applied to the relevant Interest Period from that which applied to the last preceding Interest Period, the Margin relating to the relevant Interest Period in place of the Margin relating to that last preceding Interest Period)].

**Reference Banks** means four major banks in the London interbank market.

**representative amount** means an amount that is representative for a single transaction in the relevant market at the relevant time.]

(3) Suspension Event.

If the Issuer determines (in consultation with the Calculation Agent) that a Suspension Event has occurred on or prior to an Interest Determination Date, the following shall apply:

- (a) The Offered Interest Rate for the Interest Period following such Interest Determination Date and each subsequent Interest Period (unless a new Suspension

ihnen um 11.00 Uhr (Londoner Ortszeit) am betreffenden Zinsfestlegungstag Einlagen in der festgelegten Währung für die betreffende Zinsperiode von führenden Banken am Interbankenmarkt in London [*im Fall einer Marge ist folgendes anwendbar:* [zuzüglich] [abzüglich] der Marge] angeboten wurden; falls weniger als zwei der Referenzbanken der Berechnungsstelle solche Angebotssätze nennen, dann ist der Zinssatz für die betreffende Zinsperiode der Angebotssatz für Einlagen in der festgelegten Währung für die betreffende Zinsperiode oder das arithmetische Mittel (gerundet wie oben beschrieben) der Angebotssätze für Einlagen in der festgelegten Währung für die betreffende Zinsperiode, den bzw. die eine oder mehrere Banken (die nach Ansicht der Berechnungsstelle und der Emittentin für diesen Zweck geeignet sind) der Berechnungsstelle als Sätze bekannt geben, die sie an dem betreffenden Zinsfestlegungstag gegenüber führenden Banken am Londoner Interbanken-Markt nennen (bzw. den diese Banken gegenüber der Berechnungsstelle nennen) [*im Fall einer Marge ist folgendes anwendbar:* [zuzüglich] [abzüglich] der Marge]. Für den Fall, dass der Zinssatz nicht gemäß den vorstehenden Bestimmungen dieses Absatzes ermittelt werden kann, ist der Zinssatz der Angebotssatz oder das arithmetische Mittel der Angebotssätze auf der Bildschirmseite, wie vorstehend beschrieben, an dem letzten Tag vor dem Zinsfestlegungstag, an dem ein solcher Angebotssatz angezeigt wurde [*im Fall einer Marge ist folgendes anwendbar:* [zuzüglich] [abzüglich] der Marge (wobei jedoch, falls für die betreffende Zinsperiode eine andere Marge als für die unmittelbar vorhergehende Zinsperiode gilt, die Marge der betreffenden Zinsperiode an die Stelle der Marge für die vorangegangenen Zinsperiode tritt)].

**Referenzbanken** bezeichnet vier Großbanken im Londoner Interbanken-Markt.

**repräsentativer Betrag** bedeutet ein Betrag, der zu der jeweiligen Zeit in dem jeweiligen Markt für eine einzelne Transaktion repräsentativ ist.]

(3) Einstellungs-Ereignis.

Stellt die Emittentin (in Abstimmung mit der Berechnungsstelle) fest, dass vor oder an einem Zinsfestlegungstag ein Einstellungs-Ereignis eingetreten ist, gilt Folgendes:

- (a) Der Angebotszinssatz für die auf den Zinsfestlegungstag folgende Zinsperiode und jede nachfolgende Zinsperiode (es sei denn, es tritt in der Folge ein neues

Event occurs thereafter) shall be the Replacement Offered Interest Rate (as defined below), adjusted, if necessary, by any Adjustment Spread (as defined below). The Issuer will inform the Calculation Agent thereof and shall, in accordance with § 12 of these Terms and Conditions, notify the Replacement Offered Interest Rate, any Adjustment Spread and the Adjustments (as defined below) and all of these determinations (as well as any amendment of the Interest Determination Date if so determined) shall become binding on the Issuer and the Holders with effect from the relevant Interest Determination Date as from the effectiveness of such notice.

- (b) If a Replacement Offered Interest Rate referred to in § 3(3)(a) is not available, the Issuer, after consultation with the Independent Advisor (as defined below), will determine the Alternative Offered Interest Rate (as defined below) and any Alternative Adjustment Spread (as defined below). In such case, the Offered Interest Rate for the Interest Period following the Interest Determination Date and each subsequent Interest Period (unless a new Suspension Event occurs thereafter) shall be the Alternative Offered Interest Rate, adjusted, if necessary, by any Alternative Adjustment Spread. The Issuer will inform the Calculation Agent thereof and shall, in accordance with § 12 of these Terms and Conditions, notify the Alternative Offered Interest Rate, any Alternative Adjustment Spread and the Adjustments.
- (c) If, by the fifth Business Day prior to the relevant Interest Determination Date, neither a Replacement Offered Interest Rate has been identified pursuant to § 3(3)(a) nor an Alternative Offered Interest Rate has been determined pursuant to § 3(3)(b) above, the Offered Interest Rate for the Interest Period following the relevant Interest Determination Date shall be the Offered Interest Rate for the immediately preceding Interest Period. If the Offered Interest Rate is applied pursuant to this § 3(3)(c), § 3(3) shall be applied again for the determination of the Offered Interest Rate for the next subsequent Interest Period.

Einstellungs-Ereignis ein) ist der Ersatz-Angebotszinssatz (wie nachstehend definiert), der gegebenenfalls durch eine etwaige Anpassungsspanne (wie nachstehend definiert) angepasst wird. Die Emittentin wird die Berechnungsstelle hierüber informieren und den Ersatz-Angebotszinssatz, die etwaige Anpassungsspanne und die Anpassungen (wie nachstehend definiert) gemäß § 12 dieser Emissionsbedingungen bekanntmachen und diese (sowie eine etwaige Änderung des Zinsfestlegungstags, falls dies so bestimmt wird) werden mit Wirksamwerden der Bekanntmachung für die Emittentin und die Gläubiger mit Wirkung ab dem relevanten Zinsfestlegungstag verbindlich.

- (b) Soweit ein Ersatz-Angebotszinssatz gemäß § 3(3)(a) nicht zur Verfügung steht, wird die Emittentin nach Konsultation mit dem Unabhängigen Sachverständigen (wie nachstehend definiert) den Alternativ-Angebotszinssatz (wie nachstehend definiert) und eine etwaige Alternativ-Anpassungsspanne (wie nachstehend definiert) festlegen. In diesem Fall wird der Angebotszinssatz für die auf den Zinsfestlegungstag folgende Zinsperiode und jede nachfolgende Zinsperiode (es sei denn, es tritt in der Folge ein neues Einstellungs-Ereignis ein) der Alternativ-Angebotszinssatz, der gegebenenfalls durch eine etwaige Alternativ-Anpassungsspanne angepasst wird, sein. Die Emittentin wird die Berechnungsstelle hierüber informieren und den Alternativ-Angebotszinssatz, die etwaige Alternativ-Anpassungsspanne und die Anpassungen gemäß § 12 dieser Emissionsbedingungen bekanntgeben.
- (c) Wenn bis zum fünften Geschäftstag vor dem betreffenden Zinsfestlegungstag weder ein Ersatz-Angebotszinssatz gemäß § 3(3)(a) ermittelt noch ein Alternativ-Angebotszinssatz entsprechend des vorstehenden § 3(3)(b) festgelegt wurde, ist der Angebotszinssatz für die auf den relevanten Zinsfestlegungstag folgende Zinsperiode der für die unmittelbar vorangehende Zinsperiode bestimmte Angebotszinssatz. Falls der Angebotszinssatz gemäß diesem § 3(3)(c) zur Anwendung kommt, wird für die Bestimmung des Angebotszinssatzes für die nächste folgende Zinsperiode § 3(3) erneut angewendet.

For the purposes of sentence 1 of this § 3(3)(c) and determining whether, by the second Business Day prior to the relevant Interest Determination Date, a Replacement Offered Interest Rate has been identified pursuant to § 3(3)(a) or an Alternative Offered Interest Rate has been determined pursuant to § 3(3)(b), it will be irrelevant whether the respective notices in accordance with § 12 of these Terms and Conditions have already been given or not.

(d) Certain definitions.

**Suspension Event** means with respect to the Offered Interest Rate one of the following events:

- (i) the Offered Interest Rate has not been published on the Screen Page during the last ten Business Days prior to and including the relevant Interest Determination Date; or
- (ii) the occurrence of the date, as publicly announced by, or, as the case may be, determinable based upon the public announcement by, the administrator of the Offered Interest Rate, the regulatory supervisor responsible for the administrator or the central bank responsible for the Specified Currency that the administrator of the Offered Interest Rate has suspended or will suspend permanently or indefinitely the Offered Interest Rate, its calculation and/or publication (if at the time of such announcement no successor administrator has been appointed that will continue the calculation and/or publication of the Offered Interest Rate); or
- (iii) the occurrence of the date, as publicly announced by, or, as the case may be, determinable based upon the public announcement by, the administrator of the Offered Interest Rate, the regulatory supervisor responsible for the administrator or the central bank responsible for the Specified Currency that there will be a material change in the methodology of determining the Offered Interest Rate; or

Für die Zwecke von Satz 1 dieses § 3(3)(c) und die Bestimmung ob bis zum zweiten Geschäftstag vor dem betreffenden Zinsfestlegungstag ein Ersatz-Angebotszinssatz gemäß § 3(3)(a) ermittelt oder ein Alternativ-Angebotszinssatz gemäß § 3(3)(b) festgelegt wurde, kommt es nicht darauf an, ob die diesbezüglichen Bekanntmachungen gemäß § 12 dieser Emissionsbedingungen bereits erfolgt sind oder nicht.

(d) Bestimmte Begriffsbestimmungen.

**Einstellungs-Ereignis** bezeichnet in Bezug auf den Angebotszinssatz eines der nachfolgenden Ereignisse:

- (i) der Angebotszinssatz wurde in den letzten zehn Geschäftstagen vor dem und bis einschließlich zum relevanten Zinsfestlegungstag nicht auf der Bildschirmseite veröffentlicht; oder
- (ii) der Eintritt des durch den Administrator des Angebotszinssatzes, die für den Administrator zuständige Aufsichtsbehörde oder die für die festgelegte Währung zuständige Zentralbank öffentlich bekannt gegebenen Tages bzw. des auf Grundlage der öffentlichen Bekanntmachung bestimmbareren Tages, dass der Administrator des Angebotszinssatzes den Angebotszinssatz, seine Berechnung und/oder seine Veröffentlichung dauerhaft oder auf unbestimmte Zeit eingestellt hat oder einstellen wird (wenn zum Zeitpunkt dieser Bekanntmachung kein Nachfolgeadministrator ernannt worden ist, der die Berechnung und/oder Veröffentlichung des Angebotszinssatzes fortsetzen wird); oder
- (iii) der Eintritt des durch den Administrator des Angebotszinssatzes, die für den Administrator zuständige Aufsichtsbehörde oder die für die festgelegte Währung zuständige Zentralbank öffentlich bekannt gegebenen Tages bzw. des auf Grundlage der öffentlichen Bekanntmachung bestimmbareren Tages, von dem an eine wesentliche Änderung der Methode zur Festlegung des Angebotszinssatzes wirksam wird; oder

- (iv) the occurrence of the date, as publicly announced by, or, as the case may be, determinable based upon the public announcement by the administrator of the Offered Interest Rate, by the regulatory supervisor responsible for the administrator or by the central bank responsible for the Specified Currency that the use of the Offered Interest Rate is generally prohibited; or
- (v) the publication by the Issuer of a notice pursuant to § 12 of these Terms and Conditions that the use of the Offered Interest Rate to calculate the Interest Rate has become unlawful for the Issuer, the Calculation Agent or any Paying Agent.

**Replacement Offered Interest Rate** means a successor or replacement of the Offered Interest Rate officially recommended by the Nominating Body (as defined below).

**Adjustment Spread** means the difference (positive or negative) or the result of the application of a formula or methodology to determine such difference that is recommended by the Nominating Body in connection with the replacement of the Offered Interest Rate by the Replacement Offered Interest Rate.

**Adjustments** means the amendments to the Terms and Conditions (i) in the case of a Replacement Offered Interest Rate, as determined by the Issuer in consultation with the Calculation Agent, and (ii) in the case of an Alternative Offered Interest Rate, as determined by the Issuer after consultation with the Independent Advisor, being necessary to ensure the proper application of the Replacement Offered Interest Rate and the Adjustment Spread or the proper application of the Alternative Offered Interest Rate and the Alternative Adjustment Spread. The Adjustments may extend to, inter alia, provisions relating to the applicable Business Day Convention, the definitions of the terms "Screen Page", "Business Day", "Interest Payment Date", "Interest Period", "Day Count Fraction" and/or "Interest Determination Date" (including the determination of whether the Offered Interest Rate is determined on

- (iv) der Eintritt des durch den Administrator des Angebotszinssatzes, die für den Administrator zuständige Aufsichtsbehörde oder die für die festgelegte Währung zuständige Zentralbank öffentlich bekannt gegebenen Tages bzw. des auf Grundlage der öffentlichen Bekanntmachung bestimmbaren Tages, von dem an die Nutzung des Angebotszinssatzes allgemein verboten ist; oder
- (v) die Veröffentlichung einer Mitteilung durch die Emittentin gemäß § 12 dieser Emissionsbedingungen dass die Verwendung des Angebotszinssatzes zur Berechnung des Zinssatzes für die Emittentin, die Berechnungsstelle oder eine Zahlstelle rechtswidrig geworden ist.

**Ersatz-Angebotszinssatz** bezeichnet einen Nachfolger oder Ersatz des Angebotszinssatzes, der offiziell durch die Nominierungsstelle (wie nachstehend definiert) empfohlen wurde.

**Anpassungsspanne** bezeichnet die Differenz (positiv oder negativ) oder das Ergebnis der Anwendung einer Formel oder Methode zur Bestimmung einer solchen Differenz, die im Zusammenhang mit der Ersetzung des Angebotszinssatzes durch den Ersatz-Angebotszinssatz von der Nominierungsstelle empfohlen wird.

**Anpassungen** bezeichnet die Änderungen hinsichtlich der Emissionsbedingungen, die (i) im Falle eines Ersatz-Angebotszinssatzes nach Feststellung der Emittentin in Abstimmung mit der Berechnungsstelle und (ii) im Falle eines Alternativ-Angebotszinssatzes nach Feststellung durch die Emittentin nach Konsultation mit dem Unabhängigen Sachverständigen notwendig sind, um die ordnungsgemäße Anwendung des Ersatz-Angebotszinssatzes und der Anpassungsspanne oder die ordnungsgemäße Anwendung des Alternativ-Angebotszinssatzes und der Alternativ-Anpassungsspanne zu gewährleisten. Die Anpassungen können u.a. Regelungen bezüglich der anwendbaren Geschäftstag-Konvention, der Definitionen der Begriffe „Bildschirmseite“, „Geschäftstag“, „Zinszahlungstag“, „Zinsperiode“, „Zinstagequotient“ und/oder „Zinsfestlegungstag“ (einschließlich der

a forward looking or backward looking basis) and any methodology or definition for obtaining or calculating the Replacement Offered Interest Rate or the Alternative Offered Interest Rate.

**Nominating Body** means (1) the central bank for the currency in which the Offered Interest Rate is presented or a central bank or other regulatory supervisor responsible for the supervision of the administrator of the Offered Interest Rate; or (2) any working group or committee assisted, co-chaired or endorsed by (a) the central bank for the currency in which the Offered Interest Rate is denominated, (b) any central bank or other regulatory supervisor responsible for the supervision of the administrator of the Offered Interest Rate, (c) any group of the aforementioned central banks or other regulatory supervisors, or (d) the Financial Stability Board or any part thereof.

**Independent Advisor** means an independent financial institution of international reputation or another independent financial advisor with experience in international capital markets, in each case appointed by the Issuer. The Issuer shall employ reasonable efforts to effect the appointment of an Independent Advisor on commercially reasonable terms; if no such appointment is possible, the function of the Independent Advisor under these conditions shall be omitted.

**Alternative Offered Interest Rate** means a publicly available alternative offered interest rate quotation that is intended to allow financial instruments or contracts, such as, but not limited to, debt securities, to use such alternative offered interest rate quotation for determining floating rates of interest (or related interest components) in the Specified Currency.

**Alternative Adjustment Spread** means the difference (which may be positive or negative) or the result of the application of a formula or methodology for calculating such a difference to be applied to the

Festlegung ob der Angebotszinssatz vorwärts- oder rückwärtsgerichtet bestimmt wird) sowie jeder Methode oder Definition, um den Ersatz-Angebotszinssatz oder den Alternativ-Angebotszinssatz zu erhalten oder zu berechnen, umfassen.

**Nominierungsstelle** bezeichnet (1) die Zentralbank für die Währung in der der Angebotszinssatz dargestellt wird oder eine Zentralbank oder andere Aufsichtsbehörde, die für die Aufsicht des Administrators des Angebotszinssatzes zuständig ist; oder (2) jede Arbeitsgruppe oder jeder Ausschuss, die/der von (a) der Zentralbank für die Währung in der der Angebotszinssatz dargestellt wird, (b) einer Zentralbank oder anderen Aufsichtsbehörde, die für die Aufsicht des Administrators des Angebotszinssatzes zuständig ist, (c) einer Gruppe der zuvor genannten Zentralbanken oder anderer Aufsichtsbehörden oder (d) dem Finanzstabilitätsrat (*Financial Stability Board*) oder Teilen davon unterstützt, (mit)geleitet oder befürwortet wird

**Unabhängiger Sachverständiger** bezeichnet ein von der Emittentin für die Wahrnehmung der ihr nach diesen Emissionsbedingungen zugewiesenen Funktionen ernanntes unabhängiges Finanzinstitut mit internationalem Ansehen oder einen anderen unabhängigen Finanzberater mit Erfahrung in internationalen Kapitalmärkten. Die Emittentin ist zu ihren zumutbaren Bemühungen verpflichtet, um die Beauftragung eines Unabhängigen Sachverständigen zu wirtschaftlich angemessenen Bedingungen zu bewirken; ist dies nicht möglich, entfällt die Funktion des Unabhängigen Sachverständigen nach Maßgabe dieser Emissionsbedingungen.

**Alternativ-Angebotszinssatz** bezeichnet einen öffentlich verfügbaren alternativen Angebotszinssatz, der dafür vorgesehen ist, dass Finanzinstrumente oder -verträge, wie u.a. in Form von Schuldverschreibungen, diesen bei der Bestimmung von variablen Zinssätzen (oder dazugehörigen Zinskomponenten) in der festgelegten Währung verwenden können.

**Alternativ-Anpassungsspanne** bezeichnet die Differenz (positiv oder negativ) oder das Ergebnis der Anwendung einer Formel oder Methode zur Bestimmung einer solchen Differenz, die nach Festlegung durch die

Alternative Offered Interest Rate as determined by the Issuer after consultation with the Independent Advisor, to reduce or eliminate, to the extent reasonably possible, any shift in the economic value between the Issuer and the Holders which would arise without such adjustment as a result of the replacement of the Offered Interest Rate by the Alternative Offered Interest Rate (including, but not limited to, that the Alternative Offered Interest Rate is a risk-free rate).

**Offered Interest Rate** means the offered quotation specified in the Final Terms and, following the occurrence of a Suspension Event, the relevant Replacement Offered Interest Rate or, as applicable, the relevant Alternative Offered Interest Rate or, as applicable, the Offered Interest Rate for the immediately preceding Interest Period, as determined at the relevant time in accordance with this § 3(3).

*[In case of a Minimum Rate of Interest, the following applies:*

(4) Minimum Rate of Interest.

If the Rate of Interest in respect of any Interest Period determined in accordance with the above provisions is less than [**Minimum Rate of Interest**], the Rate of Interest for such Interest Period shall be [**Minimum Rate of Interest**].]

*[In case of a Maximum Rate of Interest the following applies:*

(4) Maximum Rate of Interest.

If the Rate of Interest in respect of any Interest Period determined in accordance with the above provisions is greater than [**Maximum Rate of Interest**], the Rate of Interest for such Interest Period shall be [**Maximum Rate of Interest**].]

[(5)] Interest Amount.

The Calculation Agent will, on or as soon as practicable after each time at which the Rate of Interest is to be determined, determine the Rate of Interest and calculate the amount of interest (the **Interest Amount**) payable on the Notes in respect of each Specified Denomination for the relevant Interest Period. Each Interest Amount shall be calculated by applying the Rate of Interest and the Day Count Fraction (as defined below) to each Specified Denomination and rounding the resultant figure to the nearest unit

Emittentin nach Konsultation mit dem Unabhängigen Sachverständigen auf den Alternativ-Angebotszinssatz anzuwenden ist, um eine Verlagerung des wirtschaftlichen Wertes zwischen der Emittentin und den Gläubigern, die ohne diese Anpassung infolge der Ersetzung des Angebotszinssatzes durch den Alternativ-Angebotszinssatz entstehen würde (einschließlich, aber ohne hierauf begrenzt zu sein, infolgedessen, dass der Alternativ-Angebotszinssatz eine risikofreie Rate ist), soweit sinnvollerweise möglich, zu reduzieren oder auszuschließen.

**Angebotszinssatz** bezeichnet den in den Endgültigen Bedingungen festgelegten Angebotssatz bzw., nach Eintritt eines Einstellungs-Ereignisses, den betreffenden Ersatz-Angebotszinssatz oder, falls anwendbar, den betreffenden Alternativ-Angebotszinssatz oder, falls anwendbar, den Angebotszinssatz für die unmittelbar vorangehende Zinsperiode, wie zur jeweiligen Zeit nach Maßgabe dieses § 3(3) bestimmt.

*[Im Fall eines Mindestzinssatzes ist folgendes anwendbar:*

(4) Mindestzinssatz.

Wenn der gemäß den obigen Bestimmungen für eine Zinsperiode ermittelte Zinssatz niedriger ist als [**Mindestzinssatz**], so ist der Zinssatz für diese Zinsperiode [**Mindestzinssatz**].]

*[Im Fall eines Höchstzinssatzes ist folgendes anwendbar:*

(4) Höchstzinssatz.

Wenn der gemäß den obigen Bestimmungen für eine Zinsperiode ermittelte Zinssatz höher ist als [**Höchstzinssatz**], so ist der Zinssatz für diese Zinsperiode [**Höchstzinssatz**].]

[(5)] Zinsbetrag.

Die Berechnungsstelle wird zu oder baldmöglichst nach jedem Zeitpunkt, an dem der Zinssatz zu bestimmen ist, den Zinssatz bestimmen und den auf die Schuldverschreibungen zahlbaren Zinsbetrag in Bezug auf jede Festgelegte Stückelung (der **Zinsbetrag**) für die entsprechende Zinsperiode berechnen. Der Zinsbetrag wird ermittelt, indem der Zinssatz und der Zinstagequotient (wie nachfolgend definiert) auf jede Festgelegte Stückelung angewendet werden, wobei der



of the Specified Currency, with 0.5 of such unit being rounded upwards.

[(6)] Notification of Rate of Interest and Interest Amount.

The Calculation Agent will cause the Rate of Interest, each Interest Amount for each Interest Period, each Interest Period and the relevant Interest Payment Date to be notified to the Issuer **[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:** and the Guarantor] and to the Holders in accordance with § 12 as soon as possible after their determination, but in no event later than the fourth [TARGET2] **[relevant financial centre(s)]** Business Day (as defined in § 3(2)) thereafter and if required by the rules of any stock exchange on which the Notes are from time to time listed, to such stock exchange as soon as possible after their determination, but in no event later than the first day of the relevant Interest Period. Each Interest Amount and Interest Payment Date so notified may subsequently be amended (or appropriate alternative arrangements made by way of adjustment) without notice in the event of an extension or shortening of the Interest Period. Any such amendment will be promptly notified to any stock exchange on which the Notes are then listed and to the Holders in accordance with § 12.

[(7)] Determinations Binding.

All certificates, communications, opinions, determinations, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of this § 3 by the Calculation Agent shall (in the absence of manifest error) be binding on the Issuer, **[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:** the Guarantor,] the Fiscal Agent, the Paying Agents and the Holders.

[(8)] Accrual of Interest.

The Notes shall cease to bear interest from the expiry of the day preceding the day on which they are due for redemption. If the Issuer for any reason fails to redeem the Notes when due, interest shall continue to accrue at the default

resultierende Betrag auf die kleinste Einheit der Festgelegten Währung auf- oder abgerundet wird, wobei 0,5 solcher Einheiten aufgerundet werden.

[(6)] Mitteilung von Zinssatz und Zinsbetrag.

Die Berechnungsstelle wird veranlassen, dass der Zinssatz, der Zinsbetrag für die jeweilige Zinsperiode, die jeweilige Zinsperiode und der betreffende Zinszahlungstag der Emittentin **[bei von Fresenius Ireland oder Fresenius Ireland II begebenen Schuldverschreibungen, ist folgendes anwendbar:** und der Garantin] sowie den Gläubigern gemäß § 12 baldmöglichst, aber keinesfalls später als am vierten auf die Berechnung jeweils folgenden [TARGET2] **[relevante(s) Finanzzentrum(en)]** Geschäftstag (wie in § 3(2) definiert) sowie jeder Börse, an der die betreffenden Schuldverschreibungen zu diesem Zeitpunkt notiert sind und deren Regeln eine Mitteilung an die Börse verlangen, baldmöglichst nach der Bestimmung, aber keinesfalls später als am ersten Tag der jeweiligen Zinsperiode mitgeteilt werden. Im Fall einer Verlängerung oder Verkürzung der Zinsperiode können der mitgeteilte Zinsbetrag und Zinszahlungstag ohne Vorankündigung nachträglich geändert (oder andere geeignete Anpassungsregelungen getroffen) werden. Jede solche Änderung wird umgehend allen Börsen, an denen die Schuldverschreibungen zu diesem Zeitpunkt notiert sind, sowie den Gläubigern gemäß § 12 mitgeteilt.

[(7)] Verbindlichkeit der Festsetzungen.

Alle Bescheinigungen, Mitteilungen, Gutachten, Festsetzungen, Berechnungen, Quotierungen und Entscheidungen, die von der Berechnungsstelle für die Zwecke dieses § 3 gemacht, abgegeben, getroffen oder eingeholt werden, sind (sofern nicht ein offensichtlicher Irrtum vorliegt) für die Emittentin, **[bei von Fresenius Ireland oder Fresenius Ireland II begebenen Schuldverschreibungen, ist folgendes anwendbar:** die Garantin,], die Emissionsstelle, die Zahlstellen und die Gläubiger bindend.

[(8)] Auflaufende Zinsen.

Der Zinslauf der Schuldverschreibungen endet mit Ablauf des Tages, der dem Tag vorangeht, an dem sie zur Rückzahlung fällig werden. Falls die Emittentin die Schuldverschreibungen bei Fälligkeit aus irgendeinem Grund nicht

rate of interest established by statutory law<sup>2</sup> on the outstanding aggregate principal amount of the Notes from (and including) the due date to (but excluding) the day on which such redemption payment is made to the Holders.

[(9)] Day Count Fraction.

**Day Count Fraction** means with regard to the calculation of the amount of interest on the Notes for any period of time (the **Calculation Period**):

**[In case of Actual/365 or Actual/Actual (ISDA) the following applies:**

the actual number of days in the Calculation Period divided by 365 (or, if any portion of that Calculation Period falls in a leap year, the sum of (A) the actual number of days in that portion of the Calculation Period falling in a leap year divided by 366 and (B) the actual number of days in that portion of the Calculation Period falling in a non-leap year divided by 365).]

**[In the case of Actual/365 (Fixed) the following applies:**

the actual number of days in the Calculation Period divided by 365.]

**[In the case of Actual/360 the following applies:**

the actual number of days in the Calculation Period divided by 360.]

**§ 4  
(PAYMENTS)**

- (1) Payment of Principal and Payment of Interest.
  - (a) Payment of principal in respect of the Notes shall be made, subject to subparagraph (2) below, to the Clearing System or to its order for credit to the accounts of the relevant account holders of the Clearing System.
  - (b) Payment of Interest on the Notes shall be made, subject to subparagraph (2), to the Clearing System or to its order for credit to the accounts of the relevant account holders

zurückzahlt, wird der ausstehende Gesamtnennbetrag der Schuldverschreibungen von dem Tag der Fälligkeit (einschließlich) bis zum Tag der vollständigen Rückzahlung an die Gläubiger (ausschließlich) mit dem gesetzlich bestimmten Verzugszins<sup>3</sup> verzinst.

[(9)] Zinstagequotient.

**Zinstagequotient** bezeichnet im Hinblick auf die Berechnung von Zinsbeträgen auf die Schuldverschreibungen für einen beliebigen Zeitraum (der **Zinsberechnungszeitraum**):

**[Im Fall von Actual/365 oder Actual/Actual, ist folgendes anwendbar:**

die tatsächliche Anzahl von Tagen im Zinsberechnungszeitraum dividiert durch 365 (oder, falls ein Teil dieses Zinsberechnungszeitraumes in ein Schaltjahr fällt, die Summe aus (A) der tatsächlichen Anzahl der in das Schaltjahr fallenden Tage des Zinsberechnungszeitraumes, dividiert durch 366, und (B) die tatsächliche Anzahl der nicht in das Schaltjahr fallenden Tage des Zinsberechnungszeitraums, dividiert durch 365).]

**[Im Fall von Actual/365 (Fixed), ist folgendes anwendbar:**

die tatsächliche Anzahl von Tagen im Zinsberechnungszeitraum, dividiert durch 365.]

**[Im Fall von Actual/360, ist folgendes anwendbar:**

die tatsächliche Anzahl von Tagen im Zinsberechnungszeitraum, dividiert durch 360.]

**§ 4  
(ZAHLUNGEN)**

- (1) Zahlungen auf Kapital und Zahlung von Zinsen.
  - (a) Zahlungen von Kapital auf die Schuldverschreibungen erfolgen nach Maßgabe des nachstehenden Absatzes (2) an das Clearingsystem oder dessen Order zur Gutschrift auf den Konten der jeweiligen Kontoinhaber des Clearingsystems.
  - (b) Die Zahlung von Zinsen auf die Schuldverschreibungen erfolgt nach Maßgabe des nachstehenden Absatzes (2) an das Clearingsystem oder dessen Order

<sup>2</sup> The default rate of interest established by statutory law is five percentage points above the basis rate of interest published by *Deutsche Bundesbank* from time to time, §§ 288 paragraph 1, 247 paragraph 1 of the German Civil Code.

<sup>3</sup> Der gesetzliche Verzugszinssatz beträgt für das Jahr fünf Prozentpunkte über dem von der Deutsche Bundesbank von Zeit zu Zeit veröffentlichten Basiszinssatz, §§ 288 Absatz 1, 247 Absatz 1 BGB.

of the Clearing System.

**[In the case of interest payable on a Temporary Global Note, the following applies:** Payment of interest on Notes represented by the Temporary Global Note shall be made, subject to subparagraph (2), to the Clearing System or to its order for credit to the accounts of the relevant account holders of the Clearing System, upon due certification as provided in § 1(3)(b).]

(2) Manner of Payment.

Subject to applicable fiscal and other laws and regulations, payments of amounts due in respect of the Notes shall be made in the Specified Currency.

(3) Discharge.

The Issuer **[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:** or, as the case may be, the Guarantor] shall be discharged by payment to, or to the order of, the Clearing System.

(4) Payment Business Day.

If the date for payment of any amount in respect of any Note is not a Payment Business Day then the Holder shall not be entitled to payment until the next such day in the relevant place and shall not be entitled to further interest or other payment in respect of such delay.

For these purposes, **Payment Business Day** means any day which is

**[In the case the Notes are not denominated in Euro the following applies:** a day (other than a Saturday or a Sunday) on which commercial banks and foreign exchange markets settle payments in **[relevant financial center(s)]**].][and]]

**[In the case the Clearing System and TARGET shall be open the following applies:** a day (other than a Saturday or a Sunday) on which the Clearing System as well as all relevant parts of TARGET2 are operational to forward the relevant payment.]

zur Gutschrift auf den Konten der jeweiligen Kontoinhaber des Clearingsystems.

**[Im Fall von Zinszahlungen auf eine vorläufige Globalurkunde ist folgendes anwendbar:** Die Zahlung von Zinsen auf Schuldverschreibungen, die durch die vorläufige Globalurkunde verbrieft sind, erfolgt nach Maßgabe des nachstehenden Absatzes (2) an das Clearingsystem oder dessen Order zur Gutschrift auf den Konten der jeweiligen Kontoinhaber des Clearingsystems, und zwar nach ordnungsgemäßer Bescheinigung gemäß § 1(3)(b).]

(2) Zahlungsweise.

Vorbehaltlich geltender steuerlicher und sonstiger gesetzlicher Regelungen und Vorschriften erfolgen zu leistende Zahlungen auf die Schuldverschreibungen in der Festgelegten Währung.

(3) Erfüllung.

Die Emittentin **[bei von Fresenius Ireland oder Fresenius Ireland II begebenen Schuldverschreibungen, ist folgendes anwendbar:** bzw. die Garantin] wird durch Leistung der Zahlung an das Clearingsystem oder dessen Order von ihrer Zahlungspflicht befreit.

(4) Zahltag.

Fällt der Fälligkeitstag einer Zahlung in Bezug auf eine Schuldverschreibung auf einen Tag, der kein Zahltag ist, dann hat der Gläubiger keinen Anspruch auf Zahlung vor dem nächsten Zahltag am jeweiligen Geschäftsort. Der Gläubiger ist nicht berechtigt, weitere Zinsen oder sonstige Zahlungen aufgrund dieser Verspätung zu verlangen.

Für diese Zwecke bezeichnet **Zahltag** einen Tag,

**[Im Fall von nicht auf Euro lautenden Schuldverschreibungen, ist folgendes anwendbar:** der ein Tag (außer einem Samstag oder Sonntag) ist, an dem Geschäftsbanken und Devisenmärkte Zahlungen in **[relevante(s) Finanzzentrum(en)]** abwickeln.][und]]

**[Falls das Clearingsystem und TARGET offen sein müssen, ist folgendes anwendbar:** der ein Tag (außer einem Samstag oder Sonntag) ist, an dem das Clearingsystem sowie alle betroffenen Bereiche des TARGET2 betriebsbereit sind, um die betreffenden Zahlungen weiterzuleiten.]

(5) References to Principal and Interest.

References in these Terms and Conditions to principal in respect of the Notes shall be deemed to include, as applicable: *[if the Notes are redeemable at the option of the Issuer for other than tax reasons or reasons of minimal outstanding principal amount, the following applies: the Call Redemption Amount of the Notes;] [If the Notes are subject to Early Redemption at the Option of the Issuer upon the occurrence of a Transaction Trigger Event the following applies: the Event Redemption Amount of the Notes;] [if the Notes are redeemable at the option of the Holder other than for reason of a Change of Control the following applies: the Put Redemption Amount of the Notes;]* and any premium and any other amounts which may be payable under or in respect of the Notes. References in these Terms and Conditions to interest in respect of the Notes shall be deemed to include, as applicable, any Additional Amounts which may be payable under § 7.

(6) Deposit of Principal and Interest.

The Issuer *[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:* or, as the case may be, the Guarantor] may deposit with the local court (Amtsgericht) in Frankfurt/Main principal or interest not claimed by Holders within twelve months after the Maturity Date, even though such Holders may not be in default of acceptance of payment. If and to the extent that the deposit is effected and the right of withdrawal is waived, the respective claims of such Holders against the Issuer shall cease.

**§ 5  
(REDEMPTION)**

(1) Final Redemption.

Unless previously redeemed in whole or in part or purchased and cancelled, the Notes shall be redeemed at principal amount on the Interest Payment Date falling in *[Redemption Month]* (the *Maturity Date*).

(2) Early Redemption for Reasons of Taxation.

(5) Bezugnahmen auf Kapital und Zinsen.

Bezugnahmen in diesen Emissionsbedingungen auf Kapital der Schuldverschreibungen schließen, soweit anwendbar, die folgenden Beträge ein: *[falls die Emittentin das Wahlrecht hat, die Schuldverschreibungen aus anderen als steuerlichen Gründen oder aufgrund eines geringfügig ausstehendem Nennbetrag vorzeitig zurückzuzahlen, ist folgendes anwendbar: den Wahl-Rückzahlungsbetrag (Call) der Schuldverschreibungen;] [falls die Emittentin das Wahlrecht hat, die Schuldverschreibungen vorzeitig bei Eintritt eines Transaktions-Ereignisses zurückzuzahlen, ist folgendes anwendbar: den Ereignis-Rückzahlungsbetrag der Schuldverschreibungen;] [falls der Gläubiger ein Wahlrecht hat, die Schuldverschreibungen, außer bei Vorliegen eines Kontrollwechsels, vorzeitig zu kündigen, ist folgendes anwendbar: den Wahl- Rückzahlungsbetrag (Put) der Schuldverschreibungen;]* sowie jeden Aufschlag sowie sonstige auf oder in Bezug auf die Schuldverschreibungen zahlbaren Beträge. Bezugnahmen in diesen Emissionsbedingungen auf Zinsen auf die Schuldverschreibungen sollen, soweit anwendbar, sämtliche gemäß § 7 zahlbaren Zusätzlichen Beträge einschließen.

(6) Hinterlegung von Kapital und Zinsen.

Die Emittentin *[bei von Fresenius Ireland oder Fresenius Ireland II begebenen Schuldverschreibungen, ist folgendes anwendbar:* bzw. die Garantin] ist berechtigt, beim Amtsgericht Frankfurt am Main Zins- oder Kapitalbeträge zu hinterlegen, die von den Gläubigern nicht innerhalb von zwölf Monaten nach dem Fälligkeitstag beansprucht worden sind, auch wenn die Gläubiger sich nicht in Annahmeverzug befinden. Soweit eine solche Hinterlegung erfolgt, und auf das Recht der Rücknahme verzichtet wird, erlöschen die diesbezüglichen Ansprüche der Gläubiger gegen die Emittentin.

**§ 5  
(RÜCKZAHLUNG)**

(1) Rückzahlung bei Endfälligkeit.

Soweit nicht zuvor bereits ganz oder teilweise zurückgezahlt oder angekauft und entwertet, werden die Schuldverschreibungen zu ihrem Nennbetrag am in den *[Rückzahlungsmonat]* fallenden Zinszahlungstag (der *Fälligkeitstag*) zurückgezahlt.

(2) Vorzeitige Rückzahlung aus steuerlichen

If as a result of any change in, or amendment to, the laws or regulations of any Relevant Taxing Jurisdiction (as defined in § 7 herein) or any political subdivision or taxing authority thereto or therein affecting taxation or the obligation to pay duties of any kind, or any change in, or amendment to, an official interpretation or application of such laws or regulations, which amendment or change is effective on or after the date on which the last tranche of this series of Notes was issued, the Issuer **[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:** or the Guarantor, as the case may be,] is required to pay Additional Amounts (as defined in § 7 herein) on the next succeeding Interest Payment Date (as defined in § 3(1)), and this obligation cannot be avoided by the use of reasonable measures available to the Issuer **[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:** or the Guarantor, as the case may be,] the Notes may be redeemed, in whole but not in part, at the option of the Issuer, upon not more than 60 days' nor less than 30 days' prior notice of redemption given to the Fiscal Agent and, in accordance with § 12 to the Holders, at their principal amount, together with interest (if any) accrued to the date fixed for redemption (excluding).

However, no such notice of redemption may be given (i) earlier than 90 days prior to the earliest date on which the Issuer **[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:** or the Guarantor] would be obligated to pay such Additional Amounts were a payment in respect of the Notes **[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:** or the Guarantee] then due, or (ii) if at the time such notice is given, such obligation to pay such Additional Amounts does not remain in effect. The date fixed for redemption must be an Interest Payment Date.

Gründen.

Die Schuldverschreibungen können insgesamt, jedoch nicht teilweise, nach Wahl der Emittentin mit einer Kündigungsfrist von nicht mehr als 60 und nicht weniger als 30 Tagen durch Erklärung gegenüber der Emissionsstelle und Benachrichtigung gemäß § 12 gegenüber den Gläubigern vorzeitig gekündigt und zu ihrem Nennbetrag zuzüglich etwaiger bis zum für die Rückzahlung festgesetzten Tag (ausschließlich) aufgelaufener Zinsen zurückgezahlt werden, falls die Emittentin **[bei von Fresenius Ireland oder Fresenius Ireland II begebenen Schuldverschreibungen, ist folgendes anwendbar:** oder die Garantin] als Folge einer Änderung oder Ergänzung der Steuer- oder Abgabengesetze und -vorschriften einer Relevanten Steuerjurisdiktion (wie in § 7 dieser Bedingungen definiert) oder deren politischen Untergliederungen oder Steuerbehörden oder als Folge einer Änderung oder Ergänzung der Anwendung oder der offiziellen Auslegung dieser Gesetze und Vorschriften (vorausgesetzt, diese Änderung oder Ergänzung wird am oder nach dem Tag, an dem die letzte Tranche dieser Serie von Schuldverschreibungen begeben wird, wirksam) am nächstfolgenden Zinszahlungstag (wie in § 3(1) definiert) zur Zahlung von Zusätzlichen Beträgen (wie in § 7 dieser Bedingungen definiert) verpflichtet sein wird und diese Verpflichtung nicht durch das Ergreifen zumutbarer, der Emittentin **[bei von Fresenius Ireland oder Fresenius Ireland II begebenen Schuldverschreibungen, ist folgendes anwendbar:** oder der Garantin] zur Verfügung stehender Maßnahmen vermieden werden kann.

Eine solche Kündigung darf allerdings nicht (i) früher als 90 Tage vor dem frühestmöglichen Termin erfolgen, an dem die Emittentin **[bei von Fresenius Ireland oder Fresenius Ireland II begebenen Schuldverschreibungen, ist folgendes anwendbar:** oder die Garantin] verpflichtet wäre, solche Zusätzlichen Beträge zu zahlen, falls eine Zahlung auf die Schuldverschreibungen **[bei von Fresenius Ireland oder Fresenius Ireland II begebenen Schuldverschreibungen, ist folgendes anwendbar:** oder die Garantie] dann fällig sein würde, oder (ii) erfolgen, wenn zu dem Zeitpunkt, zu dem die Kündigung erklärt wird, die Verpflichtung zur Zahlung von Zusätzlichen Beträgen nicht mehr wirksam ist. Der für die Rückzahlung festgelegte Termin muss ein Zinszahlungstag sein.

Any such notice shall be given in accordance with § 12. It shall be irrevocable, must specify the date fixed for redemption and must set forth a statement in summary form of the facts constituting the basis for the right of the Issuer so to redeem.

Before the publication of any notice of redemption pursuant to this paragraph, the Issuer shall deliver to the Fiscal Agent a certificate signed by an executive director of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer so to redeem have occurred, and an opinion of independent legal or tax advisers of recognized standing to the effect that the Issuer **[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:** or the Guarantor, as the case may be,] has or will become obliged to pay such Additional Amounts as a result of such change or amendment.

**[If the Notes are subject to Early Redemption at the Option of the Issuer for Reasons of Minimal Outstanding Principal Amount, the following applies:**

- (3) Early Redemption at the Option of the Issuer for Reasons of Minimal Outstanding Principal Amount.

If 80% or more in principal amount of the Notes then outstanding have been redeemed or purchased by the Issuer **[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:**, Fresenius SE & Co. KGaA] or any Subsidiary of Fresenius SE & Co. KGaA, the Issuer may, on not less than 30 or more than 60 days' notice to the Holders of Notes redeem, at its option, the remaining Notes as a whole at their principal amount, together with interest (if any) accrued to the date fixed for redemption (excluding).]

**[If the Notes are subject to Early Redemption at the Option of the Issuer upon the occurrence of a Suspension Event, the following applies:**

Eine solche Kündigung ist gemäß § 12 bekanntzumachen. Sie ist unwiderruflich, muss den für die Rückzahlung festgelegten Termin nennen und eine zusammenfassende Erklärung enthalten, welche die das Rückzahlungsrecht der Emittentin begründenden Umständen darlegt.

Vor Bekanntgabe einer Mitteilung über eine Rückzahlung gemäß diesen Bestimmungen hat die Emittentin der Emissionsstelle eine von einem Mitglied der Geschäftsleitung der Emittentin unterzeichnete Bescheinigung zukommen zu lassen, der zufolge die Emittentin berechtigt ist, eine entsprechende Rückzahlung zu leisten, und in der nachvollziehbar dargelegt ist, dass die Bedingungen für das Recht der Emittentin zur Rückzahlung gemäß diesen Bestimmungen erfüllt sind; zusätzlich hat die Emittentin ein von unabhängigen und anerkannten Rechts- oder Steuerberatern erstelltes Gutachten vorzulegen, demzufolge die Emittentin **[bei von Fresenius Ireland oder Fresenius Ireland II begebenen Schuldverschreibungen, ist folgendes anwendbar:** oder die Garantin] in Folge einer entsprechenden Änderung oder Ergänzung zur Zahlung Zusätzlicher Beträge verpflichtet ist oder sein wird.

**[Falls die Schuldverschreibungen nach Wahl der Emittentin bei geringfügig ausstehendem Nennbetrag vorzeitig kündbar sind, ist folgendes anwendbar:**

- (3) Vorzeitige Rückzahlung nach Wahl der Emittentin bei geringfügig ausstehendem Nennbetrag.

Wenn 80% oder mehr des Nennbetrags der dann ausstehenden Schuldverschreibungen durch die Emittentin **[im Fall von Schuldverschreibungen, die von der Fresenius Ireland oder der Fresenius Ireland II begeben werden, ist folgendes anwendbar:**, Fresenius SE & Co. KGaA] oder eine Tochtergesellschaft von Fresenius SE & Co. KGaA zurückgezahlt oder zurückerworben wurde, ist die Emittentin berechtigt, nach ihrer Wahl alle ausstehenden Schuldverschreibungen mit einer Frist von mindestens 30 und höchstens 60 Tagen gegenüber den Gläubigern zu kündigen und zum Nennbetrag zuzüglich etwaiger bis zum Rückzahlungstag (ausschließlich) aufgelaufener Zinsen zurück zu zahlen.]

**[Falls die Schuldverschreibungen nach Wahl der Emittentin bei Eintritt eines Einstellungs-Ereignisses vorzeitig kündbar sind, ist folgendes anwendbar:**

- (4) Early Redemption at the Option of the Issuer upon the occurrence of a Suspension Event.

If a Suspension Event has occurred and it is not possible, in the Issuer's opinion, to determine a Replacement Offered Interest Rate in accordance with § 3(3)(a) or an Alternative Offered Interest Rate in accordance with § 3(3)(b), the Issuer may, on not less than 30 or more than 60 days' notice to the Holders, redeem, at its option, all of the Notes at their principal amount, together with interest (if any) accrued to the date fixed for redemption (excluding).]

***[If the Holders may request the repurchase of the Notes upon a Change of Control, the following applies:***

- (5) Early Redemption at the Option of the Holders upon a Change of Control.

Each Holder of the Notes, upon the occurrence of a Change of Control Triggering Event, will have the right (unless, prior to the giving of the Put Event Notice referred to below, the Issuer gives notice to redeem the Notes in accordance with § 5(2), i.e. for taxation reasons) to require that the Issuer repurchases such Holder's Notes on the Optional Redemption Date at a purchase price in cash equal to 101% of the principal amount together with interest (if any) accrued to the Optional Redemption Date (excluding).

In this context the following provisions apply:

***Change of Control Triggering Event*** means the occurrence of a Change of Control together with a Ratings Decline.

***Rating Agency*** means (1) S&P Global Inc. and its subsidiaries or successors (***S&P***), (2) Moody's Investors Service Inc. and its subsidiaries or successors (***Moody's***), and (3) Fitch Ratings Ltd. and its subsidiaries or successors (***Fitch***), or (4) if S&P, Moody's or Fitch, or all three shall not make a rating of Fresenius SE & Co. KGaA publicly available, a European-wide reputable securities rating agency or agencies, as the case may be, selected by Fresenius SE & Co. KGaA, which shall be substituted for S&P, Moody's or Fitch or all three, as the case may be.

***Ratings Decline*** means that if, at the time of the occurrence of a Change of Control, Fresenius SE

- (4) Vorzeitige Rückzahlung nach Wahl der Emittentin bei Eintritt eines Einstellungs-Ereignisses.

Falls ein Einstellungs-Ereignis eingetreten ist und es nach Auffassung der Emittentin nicht möglich ist, einen Ersatz-Angebotssatz gemäß § 3(3)(a) oder einen Alternativ-Angebotssatz gemäß § 3(3)(b) zu bestimmen, ist die Emittentin berechtigt, nach ihrer Wahl die Schuldverschreibungen insgesamt mit einer Frist von mindestens 30 und höchstens 60 Tagen gegenüber den Gläubigern zu kündigen und zum Nennbetrag, nebst etwaiger bis zum Rückzahlungstag (ausschließlich) aufgelaufener Zinsen zurückzahlen.]

***[Falls die Gläubiger bei Vorliegen eines Kontrollwechsels den Ankauf der Schuldverschreibungen verlangen können, ist folgendes anwendbar:***

- (5) Vorzeitige Rückzahlung nach Wahl der Gläubiger bei Vorliegen eines Kontrollwechsels.

Falls ein Kontrollwechselereignis stattfindet, hat jeder Gläubiger das Recht (soweit die Emittentin nicht bereits vor Abgabe der Vorzeitigen Rückkaufgrunderklärung (wie nachstehend definiert) die Rückzahlung gemäß § 5(2), d.h. aus steuerlichen Gründen, erklärt hat) von der Emittentin am Stichtag den Rückkauf seiner Schuldverschreibungen zu einem Kaufpreis von 101% des Nennbetrags zuzüglich etwaiger bis zum Stichtag (ausschließlich) aufgelaufener Zinsen zu verlangen.

In diesem Zusammenhang finden die folgenden Vorschriften Anwendung:

Ein ***Kontrollwechselereignis*** liegt vor, wenn ein Kontrollwechsel zusammen mit einer Ratingherabstufung eintreten.

***Ratingagentur*** bezeichnet (1) S&P Global Inc. sowie deren Tochter- oder Nachfolgesellschaften (***S&P***), (2) Moody's Investors Service Inc. sowie deren Tochter- oder Nachfolgesellschaften (***Moody's***), (3) Fitch Ratings Ltd. sowie deren Tochter- oder Nachfolgesellschaften (***Fitch***), oder (4) falls S&P, Moody's oder Fitch oder alle drei kein Rating für Fresenius SE & Co. KGaA öffentlich zur Verfügung stellen, eine Ratingagentur oder Ratingagenturen mit europaweitem Ansehen, die von Fresenius SE & Co. KGaA ausgewählt wird und S&P, Moody's oder Fitch oder alle diese Agenturen ersetzt.

Eine ***Ratingherabstufung*** liegt vor, falls Fresenius SE & Co. KGaA (aufgrund einer

& Co. KGaA has been, from any Rating Agency it has solicited, (a) rated Investment Grade and such rating from any Rating Agency is, within 120 days from such time, either downgraded to a non-investment grade rating or withdrawn and is not within such 120-day period subsequently (in the case of a downgrade) upgraded to Investment Grade by such Rating Agency or (in the case of withdrawal) replaced by an Investment Grade rating from any other Rating Agency; or (b) rated below Investment Grade and such rating from any Rating Agency is, within 120 days from such time, downgraded by one or more gradations (including gradations within Rating Categories as well as between Rating Categories) and is not within such 120-day period subsequently upgraded to its earlier credit rating or better by such Rating Agency, provided that if at the time of the occurrence of the Change of Control Fresenius SE & Co. KGaA carries a rating from more than one Rating Agency, at least one of which is Investment Grade, then sub-paragraph (a) will apply; and in making the relevant decision(s) referred to above, the relevant Rating Agency announces publicly or confirms in writing to Fresenius SE & Co. KGaA that such decision(s) resulted, in whole or in part, from the occurrence of the Change of Control.

Provided however that, no Ratings Decline will occur if at the end of the 120-day period Fresenius SE & Co. KGaA has been rated by at least two Rating Agencies, it has solicited, Investment Grade.

**Rating Category** means:

- (a) with respect to S&P or Fitch, any of the following categories: BB, B, CCC, CC, C and D (or equivalent successor categories),
- (b) with respect to Moody's, any of the following categories: Ba, B, Caa, Ca, C and D (or equivalent successor categories), and
- (c) the equivalent of any such category of S&P, Moody's or Fitch used by another rating agency in determining whether the rating of Fresenius SE & Co. KGaA has

Beauftragung durch Fresenius SE & Co. KGaA) bei Eintritt des Kontrollwechsels von einer Ratingagentur (a) mit Investment Grade bewertet ist und dieses Rating von einer Ratingagentur innerhalb von 120 Tagen nach dem Kontrollwechsel zu einem non-investment grade Rating herabgestuft oder das Rating zurückgezogen wurde und nicht innerhalb dieser 120-Tagesperiode anschließend (im Falle einer Herabstufung) durch diese Ratingagentur wieder auf ein Investment Grade Rating heraufgestuft oder (im Falle eines Zurückziehens) durch das Investment Grade Rating einer anderen Ratingagentur ersetzt wurde; oder (b) unterhalb von Investment Grade bewertet ist und dieses Rating von einer Ratingagentur innerhalb von 120 Tagen nach dem Kontrollwechsel um eine oder mehrere Stufen (einschließlich Untergliederungen innerhalb von sowie zwischen Ratingkategorien) herabgestuft und nicht innerhalb dieser 120-Tagesperiode anschließend wieder auf das ursprüngliche oder ein besseres Rating durch diese Ratingagentur heraufgestuft wurde; wobei, falls Fresenius SE & Co. KGaA zum Zeitpunkt des Eintritts des Kontrollwechsels über ein Rating von mehr als einer Ratingagentur verfügt, von denen mindestens eines ein Investment Grade Rating ist, Absatz (a) Anwendung findet; und im Zusammenhang mit einer der oben genannten Entscheidungen die betreffende Ratingagentur öffentlich bekannt macht oder gegenüber Fresenius SE & Co. KGaA schriftlich bestätigt, dass diese Entscheidung ganz oder teilweise auf den Kontrollwechsel zurückzuführen ist.

Eine Ratingherabstufung liegt jedoch nicht vor, falls Fresenius SE & Co. KGaA (aufgrund einer Beauftragung durch Fresenius SE & Co. KGaA) am Ende der 120-Tagesperiode von mindestens zwei Ratingagenturen mit Investment Grade bewertet wird.

**Ratingkategorie** bezeichnet:

- (a) in Bezug auf S&P oder Fitch eine der folgenden Kategorien: BB, B, CCC, CC, C und D (bzw. entsprechende Nachfolgekategorien);
- (b) in Bezug auf Moody's eine der folgenden Kategorien: Ba, B, Caa, Ca, C und D (bzw. entsprechende Nachfolgekategorien); und
- (c) diesen Kategorien von S&P oder Moody's oder Fitch entsprechende Ratingkategorien einer anderen Ratingagentur. Bei der Bestimmung, ob das



decreased by one or more gradations, gradations within rating categories (+ and - for S&P, 1, 2 and 3 for Moody's, + and - for Fitch; or the equivalent gradations for another rating agency) shall be taken into account (e.g., with respect to S&P, a decline in a rating from BB+ to BB, as well as from BB- to B+, will constitute a decrease of one gradation).

**Investment Grade** means a rating of (i) BBB- or higher by S&P and Fitch and, (ii) Baa3 or higher by Moody's, or the equivalent of such ratings by S&P, Moody's or Fitch and the equivalent in respect of rating categories of any Rating Agencies substituted for S&P, Moody's or Fitch.

A **Change of Control** means the occurrence of one or more of the following events:

- (a) so long as Fresenius SE & Co. KGaA is organized as a KGaA, if the General Partner of Fresenius SE & Co. KGaA charged with the management of Fresenius SE & Co. KGaA shall at any time fail to be a Subsidiary of Else Kröner-Fresenius-Stiftung, or if Else Kröner-Fresenius-Stiftung shall fail at any time to own or control more than 10% of the capital stock with ordinary voting power in Fresenius SE & Co. KGaA;
- (b) if Fresenius SE & Co. KGaA is no longer organized as a KGaA, any event the result of which is that (A) any person or group (**Relevant Person(s)**) acting in concert (as defined in § 30 (2) of the German Securities Acquisition and Takeover Act (*Wertpapiererwerbs- und Übernahmegesetz*)) or any person or group acting on behalf of any such Relevant Person(s), other than the Permitted Holder, is or becomes the direct or indirect legal or beneficial ownership or any legal or beneficial entitlement (as defined in § 34 of the German Securities Trading Act (*Wertpapierhandelsgesetz*)) of, in the aggregate, more than 50% of the voting shares of Fresenius SE & Co. KGaA; or

Rating von Fresenius SE & Co. KGaA um eine oder mehrere Stufen herabgestuft wurde, werden die jeweiligen Ratingkategorien weiter untergliedernde Zusätze („+“ und „-“ bei S&P, „1“, „2“ und „3“ bei Moody's, „+“ und „-“ bei Fitch bzw. entsprechende Zusätze anderer Ratingagenturen) berücksichtigt (z. B. entspricht bei S&P eine Ratingänderung von BB+ auf BB oder von BB- auf B+ jeweils einer Herabstufung um eine Stufe).

**Investment Grade** bezeichnet ein Rating von (i) BBB- oder höher im Fall von S&P und Fitch und (ii) Baa3 oder höher im Fall von Moody's, oder das entsprechende Äquivalent dieser Ratings im Fall von S&P, Moody's oder Fitch sowie das entsprechende Äquivalent in den Ratingkategorien einer anderen Ratingagentur, durch die S&P, Moody's oder Fitch ersetzt wurde.

Ein **Kontrollwechsel** bezeichnet den Eintritt eines oder mehrerer der folgenden Ereignisse:

- (a) so lange Fresenius SE & Co. KGaA die Rechtsform einer KGaA hat: Wenn es sich bei dem mit der Geschäftsführung von Fresenius SE & Co. KGaA beauftragten Komplementär der Gesellschaft zu irgendeinem Zeitpunkt nicht um eine Tochtergesellschaft der Else Kröner-Fresenius-Stiftung handelt oder wenn die Else Kröner-Fresenius-Stiftung zu irgendeinem Zeitpunkt nicht mehr als 10 % des stimmberechtigten Grundkapitals an Fresenius SE & Co. KGaA hält und kontrolliert;
- (b) wenn Fresenius SE & Co. KGaA nicht mehr die Rechtsform einer KGaA hat, ein Ereignis, in dessen Folge (A) eine Person oder mehrere Personen (**Relevante Personen**), die abgestimmt handeln (wie in § 30 (2) Wertpapiererwerbs- und Übernahmegesetz definiert), oder einer oder mehrere Dritte, die im Auftrag einer solchen Relevanten Personen handeln, mit Ausnahme des Zulässigen Inhabers, unmittelbar oder mittelbar rechtliches oder wirtschaftliches Eigentum in jedweder Form bzw. die unmittelbare oder mittelbare rechtliches oder wirtschaftliche Verfügungsbefugnis in jedweder Form (wie in § 34 Wertpapierhandelsgesetz beschrieben) an insgesamt mehr als 50% der stimmberechtigten Aktien der Fresenius SE & Co. KGaA erlangen; oder

- (c) any sale, lease, exchange or other transfer (in one transaction or a series of related transactions) of all or substantially all of the assets of Fresenius SE & Co. KGaA to any Relevant Person or any person or group acting on behalf of any such Relevant Person(s).

**General Partner** means Fresenius Management SE, a *societas europaea* organized under the laws of Germany, including its successors and assigns and other Persons, in each case who serve as the general partner (*persönlich haftender Gesellschafter*) of Fresenius SE & Co. KGaA from time to time.

**Person** means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, government or any agency, instrumentality or political subdivision thereof, or any other entity.

**Permitted Holder** means Else Kröner-Fresenius-Stiftung and any of its Affiliates.

**Affiliate** of any specified Person means:

- (a) any other Person, directly or indirectly, controlling or controlled by, or
- (b) under direct or indirect common control with such specified Person.

For the purposes of this definition, “control” when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise (section 15 of the German Stock Corporation Act (*Aktiengesetz*); and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

Within 30 days upon the Issuer becoming aware that a Change of Control Triggering Event has occurred, the Issuer shall give notice (a **Put Event Notice**) to the Holders in accordance with § 12 stating:

- (c) ein Verkauf, ein Leasing, ein Tausch oder eine sonstige Übertragung (im Rahmen einer einzigen Transaktion oder einer Reihe miteinander zusammenhängender Transaktionen) aller oder aller wesentlichen Vermögenswerte der Fresenius SE & Co. KGaA an eine oder mehrere Relevante Personen, oder einen oder mehrere Dritte, die im Auftrag solcher Relevanten Personen handeln.

**Komplementär** bezeichnet die Fresenius Management SE, eine *societas europaea* nach deutschem Recht, sowie ihre Nachfolger, Abtretungsempfänger und sonstige Personen, die zum jeweiligen Zeitpunkt als persönlich haftender Gesellschafter von Fresenius SE & Co. KGaA auftreten.

**Person** bezeichnet eine natürliche Person, eine Körperschaft, eine Personengesellschaft, ein Joint Venture, eine Vereinigung, eine Aktiengesellschaft, einen Trust, eine Einrichtung ohne eigene Rechtspersönlichkeit, eine staatliche Stelle oder Behörde, eine Gebietskörperschaft oder einen sonstigen Rechtsträger.

**Zulässiger Inhaber** bezeichnet die Else Kröner-Fresenius-Stiftung und alle mit ihr verbundenen Personen.

**Verbundene Person** einer bestimmten Person bezeichnet:

- (a) jede andere Person, die diese Person direkt oder indirekt kontrolliert bzw. direkt oder indirekt von ihr kontrolliert wird, oder
- (b) mit dieser bestimmten Person unter direkter oder indirekter gemeinsamer Kontrolle steht.

Für den Zweck dieser Definition bezeichnet „Kontrolle“ bei Verwendung in Bezug auf eine Person die Befugnis, deren Geschäftsführung und Unternehmenspolitik direkt oder indirekt zu bestimmen (§ 15 Aktiengesetz), sei es durch den Besitz von stimmberechtigten Kapitalanteilen, eine vertragliche Festlegung oder anderweitig, und die Bedeutung der Begriffe „kontrolliert“ und „kontrollieren“ ist entsprechend zu verstehen.

Innerhalb von 30 Tagen, nachdem die Emittentin von einem Kontrollwechselereignis Kenntnis erlangt hat, wird die Emittentin dies den Gläubigern gemäß § 12 bekannt machen (**Vorzeitige Rückkaufsgrunderklärung**) und dabei folgendes mitteilen:

- (a) that a Change of Control Triggering Event has occurred;
- (b) the circumstances and relevant facts regarding such Change of Control Triggering Event;
- (c) the repurchase date (which shall be no earlier than 30 days nor later than 60 days from the date such Put Event Notice is given) (the **Optional Redemption Date**);
- (d) that each Note will be subject to repurchase only in integral multiples the Specified Denomination; and
- (e) the instructions determined by the Issuer that a Holder must follow in order to have its Notes purchased pursuant to this § 5(4).

In order to exercise such option, the Holder must submit during normal business hours at the specified office of the Fiscal Agent a duly completed option exercise notice in the form available from the specified office of the Fiscal Agent within the period of 20 days after a Put Event Notice is given. No option so exercised may be revoked or withdrawn without the prior consent of the Issuer.]

**[If the Notes are subject to Early Redemption at the Option of the Issuer the following applies:**

[(5)] Early Redemption at the Option of the Issuer.

- (a) The Issuer may, upon notice given in accordance with clause (b), redeem all or some only of the Notes within the Call Redemption Period(s) at the Call Redemption Amount(s) set forth below together with accrued interest, if any, to (but excluding) the relevant redemption date.

Call Redemption  
Period(s)

**[Call Redemption  
Period(s)]**  
[●]

Call Redemption  
Amount(s)

**[Call Redemption  
Amount(s)]**  
[●]

- (a) dass ein Kontrollwechselereignis eingetreten ist;
- (b) die Umstände und relevanten Informationen bezüglich des Kontrollwechselereignisses;
- (c) den Tag des Rückkaufs (der nicht früher als 30 und nicht später als 60 Tage nach dem Tag, an dem die Vorzeitige Rückkaufsgrunderklärung erfolgt, liegen darf) (der **Stichtag**);
- (d) dass die Schuldverschreibungen nur in ganzen Vielfachen der Festgelegten Stückelung zurückgekauft werden; und
- (e) die Anweisungen, die ein Gläubiger befolgen muss, damit die Schuldverschreibungen gemäß diesem § 5(4) zurückgekauft werden.

Um ein solches Recht auszuüben, muss ein Gläubiger während der allgemeinen Geschäftszeiten bei der angegebenen Geschäftsstelle der Emissionsstelle eine vollständig ausgefüllte Ausübungserklärung in der durch die Emissionsstelle bereitgestellten Form innerhalb eines Zeitraums von 20 Tagen nach Bekanntmachung der Vorzeitigen Rückzahlungserklärung übermitteln. Kein in dieser Form ausgeübtes Recht kann ohne vorherige Zustimmung der Emittentin widerrufen oder zurückgezogen werden.]

**[Falls die Emittentin das Wahlrecht hat, die Schuldverschreibungen vorzeitig zurückzahlen, ist folgendes anwendbar:**

[(5)] Vorzeitige Rückzahlung nach Wahl der Emittentin.

- (a) Die Emittentin kann, nachdem sie gemäß Absatz (b) gekündigt hat, die Schuldverschreibungen insgesamt oder teilweise innerhalb des/der Wahl-Rückzahlungszeitraums/räume (Call) zum/zu den Wahl-Rückzahlungsbetrag/beträgen (Call), wie nachfolgend angegeben, nebst etwaigen bis zum maßgeblichen Rückzahlungstag (ausschließlich) aufgelaufenen Zinsen zurückzahlen.

Wahl-Rück-  
zahlungszeitraum/räume  
(Call)

**[Wahl-Rückzahlungs-  
zeitraum/ räume]**  
[●]

Wahl-Rück-  
zahlungsbetrag/  
beträge (Call)

**[Wahl-Rückzahlungs-  
betrag/beträge]**  
[●]

[•]

[•]

***[If Notes are subject to Early Redemption at the Option of the Holder, the following applies:***

The Issuer may not exercise such option in respect of any Note which is the subject of the prior exercise by the Holder thereof of its option to require the redemption of such Note under subparagraph [(7)] of this § 5.]

(b) Notice of redemption shall be given by the Issuer to the Holders of the Notes in accordance with § 12. Such notice shall specify:

- (i) the series of Notes subject to redemption;
- (ii) whether such series is to be redeemed in whole or in part only and, if in part only, the aggregate principal amount of the Notes which are to be redeemed;
- (iii) the relevant redemption date, which shall be not less than 20 nor more than 40 days after the date on which notice is given by the Issuer to the Holders; and

(iv) the Call Redemption Amount at which such Notes are to be redeemed.

(c) In the case of a partial redemption of Notes, Notes to be redeemed shall be selected in accordance with the rules of the relevant Clearing System. ***[In the case of Notes in NGN form, the following applies:*** For technical procedure of the ICSDs, in the case of a partial redemption the outstanding redemption amount will be reflected in the records of the ICSDs as either a reduction in nominal amount or as a pool factor, at the discretion of the ICSDs.]]

***[If the Notes are subject to Early Redemption at the Option of the Issuer upon the occurrence of a Transaction Trigger Event the following applies:***

[(6)] Early Redemption at the Option of the Issuer upon the occurrence of a Transaction Trigger Event.

(a) Upon the occurrence of a Transaction Trigger Event, the Issuer may, upon notice

[•]

[•]

***[Falls der Gläubiger ein Wahlrecht hat, die Schuldverschreibungen vorzeitig zu kündigen, ist folgendes anwendbar:*** Der Emittentin steht dieses Wahlrecht nicht in Bezug auf eine Schuldverschreibung zu, deren Rückzahlung bereits der Gläubiger in Ausübung seines Wahlrechts nach Absatz [(7)] dieses § 5 verlangt hat.]

(b) Die Kündigung ist den Gläubigern der Schuldverschreibungen durch die Emittentin gemäß § 12 bekanntzugeben. Sie muss die folgenden Angaben enthalten:

- (i) die zurückzuzahlende Serie von Schuldverschreibungen;
- (ii) eine Erklärung, ob diese Serie ganz oder teilweise zurückgezahlt wird und im letzteren Fall den Gesamtnennbetrag der zurückzuzahlenden Schuldverschreibungen;
- (iii) den maßgeblichen Rückzahlungstag, der nicht weniger als 20 und nicht mehr als 40 Tage nach dem Tag der Kündigung durch die Emittentin gegenüber den Gläubigern liegen darf; und

(iv) den Wahl-Rückzahlungsbetrag (Call), zu dem die Schuldverschreibungen zurückgezahlt werden.

(c) Wenn die Schuldverschreibungen nur teilweise zurückgezahlt werden, werden die zurückzuzahlenden Schuldverschreibungen in Übereinstimmung mit den Regeln des betreffenden Clearingsystems ausgewählt. ***[Falls die Schuldverschreibungen in Form einer NGN begeben werden, ist folgendes anwendbar:*** Für das technische Verfahren der ICSDs wird im Fall einer teilweisen Rückzahlung der entstehende Rückzahlungsbetrag entweder als reduzierter Nennbetrag oder als Poolfaktor nach Ermessen der ICSDs in das Register der ICSDs aufgenommen.]]

***[Falls die Emittentin das Wahlrecht hat, die Schuldverschreibungen vorzeitig bei Eintritt eines Transaktions-Ereignisses zurückzuzahlen, ist folgendes anwendbar:***

[(6)] Vorzeitige Rückzahlung nach Wahl der Emittentin bei Eintritt eines Transaktions-Ereignisses.

(a) Die Emittentin kann, nachdem ein Transaktions-Ereignis aufgetreten ist und

given in accordance with clause (b), redeem all of the Notes on the Event Redemption Date at the Event Redemption Amount together with interest (if any) to the Event Redemption Date (excluding).

The Issuer may waive its right to call the Notes for redemption based on a Transaction Trigger Event by giving notice in accordance with § 12.

***[If the Notes are subject to Early Redemption at the Option of the Holder the following applies:*** The Issuer may not exercise such option in respect of any Note which is the subject of the prior exercise by the Holder thereof of its option to require the redemption of such Note under § 5[(7)].]

- (b) Notice of redemption shall be given by the Issuer to the Holders of the Notes in accordance with § 12. Such notice shall specify:
- (i) the series of Notes subject to redemption;
  - (ii) the Event Redemption Date, which shall be not less than 30 days nor more than 60 days after the date on which notice of the occurrence of the Transaction Trigger Event is given by the Issuer to the Holders; and
  - (iii) the Event Redemption Amount at which such Notes are to be redeemed.

- (c) Whereby:

***Event Redemption Amount*** means [insert amount per Note].

***Event Redemption Date*** means the date fixed for redemption of the Notes pursuant to § 5 [(6)] (b).

***Transaction*** means [insert description of envisaged acquisition transaction for which the Notes are intended to be issued for refinancing purposes].

***Transaction Trigger Event*** means a notice

sie gemäß Absatz (b) gekündigt hat, die Schuldverschreibungen insgesamt an dem Ereignis-Rückzahlungstag zum Ereignis-Rückzahlungsbetrag, wie nachfolgend angegeben, nebst etwaigen bis zum Ereignis-Rückzahlungstag (ausschließlich) aufgelaufenen Zinsen zurückzahlen.

Die Emittentin kann auf ihr Recht zur vorzeitigen Kündigung der Schuldverschreibungen aufgrund eines Transaktions-Ereignisses durch Bekanntmachung gemäß § 12 verzichten.

***[Falls der Gläubiger ein Wahlrecht hat, die Schuldverschreibungen vorzeitig zu kündigen, ist folgendes anwendbar:*** Der Emittentin steht dieses Wahlrecht nicht in Bezug auf eine Schuldverschreibung zu, deren Rückzahlung bereits der Gläubiger in Ausübung seines Wahlrechts nach § 5[(7)] verlangt hat.]

- (b) Die Kündigung ist den Gläubigern der Schuldverschreibungen durch die Emittentin gemäß § 12 bekanntzugeben. Sie muss die folgenden Angaben enthalten:
- (i) die zurückzuzahlende Serie von Schuldverschreibungen;
  - (ii) den Ereignis-Rückzahlungstag, der nicht weniger als 30 Tage und nicht mehr als 60 Tage nach dem Tag der Mitteilung des Eintritts eines Transaktions-Ereignisses durch die Emittentin gegenüber den Gläubigern liegen darf; und
  - (iii) den Ereignis-Rückzahlungsbetrag, zu dem die Schuldverschreibungen zurückgezahlt werden.

- (c) Dabei gilt:

***Ereignis-Rückzahlungsbetrag*** bezeichnet [Betrag pro Schuldverschreibung einfügen].

***Ereignis-Rückzahlungstag*** bezeichnet den Tag, der für die Rückzahlung der Schuldverschreibungen gemäß § 5 [(6)] (b) festgesetzt wurde.

***Transaktion*** bezeichnet [Beschreibung der geplanten Akquisitionstransaktion für deren Finanzierung die Schuldverschreibungen begeben werden].

***Transaktions-Ereignis*** bezeichnet die

given by the Issuer to the Holders [*in the case of a Transaction Trigger Cut-off Date insert:* on or prior to [*Transaction Trigger Cut-off Date*]] in accordance with § 12 that the Transaction has been terminated prior to completion and the Issuer has publicly stated that it no longer intends to pursue the Transaction.]

*[If the Notes are subject to Early Redemption at the Option of the Holder the following applies:*

[(7)] Early Redemption at the Option of a Holder.

- (a) The Issuer shall, at the option of the Holder of any Note, redeem such Note on the Put Redemption Date(s) at the Put Redemption Amount(s) set forth below together with accrued interest, if any, to (but excluding) the Put Redemption Date.

| Put Redemption Date(s)           | Put Redemption Amount(s)          |
|----------------------------------|-----------------------------------|
| <b>[Put Redemption Dates(s)]</b> | <b>[Put Redemption Amount(s)]</b> |
| [•]                              | [•]                               |
| [•]                              | [•]                               |

The Holder may not exercise such option in respect of any Note which is the subject of the prior exercise by the Issuer of any of its options to redeem such Note under this § 5.

- (b) In order to exercise such option, the Holder must, not less than [*Minimum Notice to Issuer*] nor more than [*Maximum Notice to Issuer*] days before the Put Redemption Date on which such redemption is required to be made as specified in the Put Redemption Notice (as defined below), submit during normal business hours at the specified office of the Fiscal Agent a duly completed early redemption notice (**Put Redemption Notice**) in the form available from the specified offices of the Fiscal Agent and the Paying Agent. The Put Redemption Notice must specify (i) the principal amount of the Notes in respect of which such option is exercised, and (ii) the securities identification number of such Notes, if any. No option so exercised may be revoked or withdrawn. The Issuer shall

Mitteilung der Emittentin [*Im Fall eines Transaktions-Stichtages, einfügen:* an oder vor dem [*Transaktions-Stichtag*]] an die Gläubiger gemäß § 12, dass die Transaktion vor ihrem Abschluss abgebrochen wurde und die Emittentin öffentlich erklärt hat, dass sie nicht länger beabsichtigt, die Transaktion zu verfolgen.]

*[Falls der Gläubiger ein Wahlrecht hat, die Schuldverschreibungen vorzeitig zu kündigen, ist folgendes anwendbar:*

[(7)] Vorzeitige Rückzahlung nach Wahl des Gläubigers.

- (a) Die Emittentin hat eine Schuldverschreibung nach Ausübung des entsprechenden Wahlrechts durch den Gläubiger am/an den Wahl-Rückzahlungstag(en) (Put) zum/zu dem/den Wahl-Rückzahlungsbetrag/beträgen (Put), wie nachfolgend angegeben nebst etwaigen bis zum Wahl-Rückzahlungstag (Put) (ausschließlich) aufgelaufener Zinsen zurückzuzahlen.

| Wahl-Rückzahlungstag(e) (Put)     | Wahl-Rückzahlungsbetrag/beträge (Put)    |
|-----------------------------------|------------------------------------------|
| <b>[Wahl- Rückzahlungstag(e)]</b> | <b>[Wahl-Rückzahlungsbetrag/beträge]</b> |
| [•]                               | [•]                                      |
| [•]                               | [•]                                      |

Dem Gläubiger steht dieses Wahlrecht nicht in Bezug auf eine Schuldverschreibung zu, deren Rückzahlung die Emittentin zuvor in Ausübung eines ihrer Wahlrechte nach diesem § 5 verlangt hat.

- (b) Um dieses Wahlrecht auszuüben, hat der Gläubiger nicht weniger als [*Mindestkündigungsfrist*] und nicht mehr als [*Höchstkündigungsfrist*] Tage vor dem Wahl-Rückzahlungstag (Put), an dem die Rückzahlung gemäß der Rückzahlungs-Ausübungserklärung (wie nachfolgend definiert) erfolgen soll, der bezeichneten Geschäftsstelle der Emissionsstelle während der normalen Geschäftszeiten eine ordnungsgemäß ausgefüllte Mitteilung zur vorzeitigen Rückzahlung (die **Rückzahlungs-Ausübungserklärung**), wie sie bei den bezeichneten Geschäftsstellen der Emissionsstelle und der Zahlstelle erhältlich ist, zu übermitteln. Die Rückzahlungs-Ausübungserklärung hat anzugeben: (i) den Nennbetrag der Schuldverschreibungen, für die das

only be required to redeem Notes in respect of which such option is exercised against delivery of such Notes to the Issuer or to its order.]

## § 6

### (THE FISCAL AGENT, THE PAYING AGENT AND THE CALCULATION AGENT)

#### (1) Appointment; Specified Office.

The initial fiscal agent (the *Fiscal Agent*) and the initial paying agent (the *Paying Agent*) and its initial specified office shall be:

Deutsche Bank Aktiengesellschaft  
Trust & Agency Services  
Taunusanlage 12  
60325 Frankfurt am Main  
Federal Republic of Germany

The initial calculation agent (the *Calculation Agent*) and its initial specified office shall be:

[•]

The Fiscal Agent, the Paying Agent and the Calculation Agent reserve the right at any time to change their respective specified offices to some other specified office in the same country.

#### (2) Variation or Termination of Appointment.

The Issuer reserves the right at any time to vary or terminate the appointment of the Fiscal Agent or any Paying Agent or the Calculation Agent and to appoint another Fiscal Agent or additional or other Paying Agents or another Calculation Agent. The Issuer shall at all times maintain (i) a Fiscal Agent [*in the case of Notes listed on a stock exchange the following applies*: [,] [and] (ii) so long as the Notes are listed on the [*name of Stock Exchange*], a Paying Agent (which may be the Fiscal Agent) with a specified office in [*location of Stock Exchange*] and/or in such other place as may be required by the rules of such stock exchange] [,] [and] [(iii)] a Paying Agent in an EU Member State, if possible, that will not be obliged to withhold or deduct tax in connection with any payment made in relation to the Notes unless the Paying Agent would be so obliged in each other

Wahlrecht ausgeübt wird und (ii) die Wertpapier-Kenn-Nummer dieser Schuldverschreibungen (soweit vergeben). Die Ausübung des Wahlrechts kann nicht widerrufen werden. Die Rückzahlung der Schuldverschreibungen, für welche das Wahlrecht ausgeübt worden ist, erfolgt nur gegen Lieferung der Schuldverschreibungen an die Emittentin oder deren Order.]

## § 6

### (DIE EMISSIONSSTELLE, DIE ZAHLSTELLE UND DIE BERECHNUNGSSTELLE)

#### (1) Bestellung; bezeichnete Geschäftsstelle.

Die anfänglich bestellte Emissionsstelle (die *Emissionsstelle*) und die anfänglich bestellte Zahlstelle (die *Zahlstelle*) und ihre bezeichnete Geschäftsstelle lautet wie folgt:

Deutsche Bank Aktiengesellschaft  
Trust & Agency Services  
Taunusanlage 12  
60325 Frankfurt am Main  
Deutschland

Die anfänglich bestellte Berechnungsstelle (die *Berechnungsstelle*) und ihre bezeichnete Geschäftsstelle lautet wie folgt:

[•]

Die Emissionsstelle, die Zahlstelle und die Berechnungsstelle behalten sich das Recht vor, jederzeit ihre jeweiligen bezeichneten Geschäftsstellen durch eine andere bezeichnete Geschäftsstelle in demselben Land zu ersetzen.

#### (2) Änderung der Bestellung oder Abberufung.

Die Emittentin behält sich das Recht vor, jederzeit die Bestellung der Emissionsstelle oder einer Zahlstelle oder der Berechnungsstelle zu ändern oder zu beenden und eine andere Emissionsstelle oder zusätzliche oder andere Zahlstellen oder eine andere Berechnungsstelle zu bestellen. Die Emittentin wird zu jedem Zeitpunkt (i) eine Emissionsstelle unterhalten [*im Fall von Schuldverschreibungen, die an einer Börse notiert sind, ist folgendes anwendbar*]: [,] [und] (ii) solange die Schuldverschreibungen an der [*Name der Börse*] notiert sind, eine Zahlstelle (die die Emissionsstelle sein kann) mit bezeichneter Geschäftsstelle in [*Sitz der Börse*] und/oder an solchen anderen Orten unterhalten, die die Regeln dieser Börse verlangen] [,] [und] [(iii)] eine Zahlstelle in einem Mitgliedsstaat der Europäischen Union, sofern dies möglich ist, unterhalten, die nicht

EU Member State if it were located there, [.]and [(iv)] a Calculation Agent ***[in the case of payments in United States dollar the following applies:*** and [(v)] if payments at or through the offices of all Paying Agents outside the United States (as defined in § 1(6)) become illegal or are effectively precluded because of the imposition of exchange controls or similar restrictions on the full payment or receipt of such amounts in United States dollar, a Paying Agent with a specified office in New York City]. Any variation, termination, appointment or change shall only take effect (other than in the case of insolvency, when it shall be of immediate effect) after not less than 30 nor more than 45 days' prior notice thereof shall have been given to the Holders in accordance with § 12.

(3) Agent of the Issuer.

The Fiscal Agent, the Paying Agent and the Calculation Agent act solely as the agents of the Issuer and do not assume any obligations towards or relationship of agency or trust for any Holder.

**§ 7  
(TAXATION)**

***[In the case of Notes issued by Fresenius SE & Co. KGaA, the following applies:***

All payments of principal and interest made by the Issuer in respect of the Notes to the Holders shall be made free and clear of, and without withholding or deduction for, any present or future taxes or duties of whatever nature imposed or levied by way of deduction or withholding by or on behalf of (1) the Federal Republic of Germany or any authority therein or thereof having power to tax, (2) any jurisdiction from or through which payment on the Notes is made, or any political subdivision or governmental authority thereof or therein having the power to tax and/or (3) any other jurisdiction in which the payor is organized or otherwise considered to be resident or doing business for tax purposes, or any political subdivision or

zum Einbehalt oder Abzug von Quellensteuern oder sonstigen Abzügen verpflichtet ist, es sei denn, dass eine solche Einbehalts- oder Abzugspflicht auch in allen anderen Mitgliedsstaaten der Europäischen Union bestünde [.]und [(iv)] eine Berechnungsstelle unterhalten ***[im Fall von Zahlungen in US-Dollar ist folgendes anwendbar:*** und [(v)] falls Zahlungen bei den oder durch die Geschäftsstellen aller Zahlstellen außerhalb der Vereinigten Staaten (wie in § 1(6) definiert) aufgrund der Einführung von Devisenbeschränkungen oder ähnlichen Beschränkungen hinsichtlich der vollständigen Zahlung oder des Empfangs der entsprechenden Beträge in US-Dollar widerrechtlich oder tatsächlich ausgeschlossen werden, eine Zahlstelle mit bezeichneter Geschäftsstelle in New York City unterhalten]. Eine Änderung, Abberufung, Bestellung oder ein sonstiger Wechsel wird nur wirksam (außer im Insolvenzfall, in dem eine solche Änderung sofort wirksam wird), sofern die Gläubiger hierüber gemäß § 12 vorab unter Einhaltung einer Frist von mindestens 30 und nicht mehr als 45 Tagen informiert wurden.

(3) Erfüllungsgehilfe(n) der Emittentin.

Die Emissionsstelle, die Zahlstelle und die Berechnungsstelle handeln ausschließlich als Erfüllungsgehilfen der Emittentin und übernehmen keinerlei Verpflichtungen gegenüber den Gläubigern und es wird kein Auftrags- oder Treuhandverhältnis zwischen ihnen und den Gläubigern begründet.

**§ 7  
(STEUERN)**

***[Im Fall von Schuldverschreibungen, die von Fresenius SE & Co. KGaA begeben werden, ist folgendes anwendbar:***

Alle in Bezug auf die Schuldverschreibungen von der Emittentin an die Gläubiger zahlbaren Kapital- oder Zinsbeträge werden ohne Einbehalt oder Abzug an der Quelle für oder wegen gegenwärtiger oder zukünftiger Steuern oder Abgaben gleich welcher Art gezahlt, die von oder im Namen (1) der Bundesrepublik Deutschland oder einer dort zur Steuererhebung ermächtigten Behörde, (2) einer Rechtsordnung, aus der bzw. über die eine Zahlung auf die Schuldverschreibungen geleistet wird, oder einer dort zur Steuererhebung ermächtigten Gebietskörperschaft oder Behörde, und/oder (3) einer anderen Rechtsordnung, in der die zahlende Partei errichtet ist oder anderweitig als gebietsansässig gilt oder im steuerlichen Sinn



governmental authority thereof or therein having the power to tax (each a **Relevant Taxing Jurisdiction**), unless such deduction or withholding is required by law. In that event the Issuer shall pay such additional amounts (the **Additional Amounts**) as shall result in receipt by the Holders of such amounts as would have been received by them had no such withholding or deduction been required, except that no Additional Amounts shall be payable with respect to:

- (a) taxes or duties which are payable by any Person acting as custodian bank or collecting agent on behalf of a Holder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments of principal or interest made by it; or
- (b) payments that would not have been so imposed but for the existence of any present or former connection between such Holder (or between a fiduciary, settlor, beneficiary, member or shareholder of, or a person having a power over, such Holder) and any Relevant Taxing Jurisdiction including, without limitation, such Holder (or such fiduciary, settlor, beneficiary, member, shareholder or person having such a power) being or having been a citizen or resident or treated as a resident of, being or having been engaged in a trade or business in, or having or having had a permanent establishment in, a Relevant Taxing Jurisdiction other than any connections arising solely from a Holder acquiring, holding or disposing of, receiving any payment under or with respect to or enforcing a Note; or
- (c) payments to, or to a third party on behalf of, a Holder where no such withholding or deduction would have been required to be made if the Notes were credited at the time

geschäftlich tätig ist, oder einer dort zur Steuererhebung ermächtigten Gebietskörperschaft oder Behörde (jeweils eine **Relevante Steuerjurisdiktion**) im Wege des Abzugs oder Einbehalts auferlegt oder erhoben werden, es sei denn, ein solcher Abzug oder Einbehalt ist gesetzlich vorgeschrieben. In diesem Fall wird die Emittentin diejenigen zusätzlichen Beträge (**Zusätzliche Beträge**) zahlen, die erforderlich sind, damit die den Gläubigern zufließenden Nettobeträge nach diesem Einbehalt oder Abzug jeweils den Beträgen an Kapital und Zinsen entsprechen, die ohne einen solchen Einbehalt oder Abzug von den Gläubigern erhalten worden wären; jedoch sind solche Zusätzlichen Beträge nicht zu zahlen in Bezug auf:

- (a) Steuern oder Abgaben, die von einer als Depotbank oder Inkassobeauftragter eines Gläubigers handelnden Person oder auf eine sonstige Weise zu entrichten sind, die keinen Abzug oder Einbehalt von Zahlungen von Kapital oder Zinsen durch die Emittentin darstellen; oder
- (b) Zahlungen, die nicht erhoben worden wären, wenn nicht (i) eine gegenwärtige oder ehemalige Beziehung zwischen dem betreffenden Gläubiger (oder einem Treuhänder, Treugeber, Begünstigten, Mitglied oder Gesellschafter dieses Gläubigers oder einer Person, die beherrschenden Einfluss auf diesen Gläubiger hat) und einer Relevanten Steuerjurisdiktion bestehen würde, unter anderem in der Form, dass der betreffende Gläubiger (bzw. Treuhänder, Treugeber, Begünstigte, Mitglied, Gesellschafter oder die Person, die solchen Einfluss hat) Staatsbürger einer Relevanten Steuerjurisdiktion ist oder war oder dort ansässig ist oder war oder als dort ansässig gilt oder galt oder dort ein Gewerbe oder eine Geschäftstätigkeit betreibt oder betrieben hat oder dort eine Betriebsstätte unterhält oder unterhalten hat, mit Ausnahme von Beziehungen, die allein dadurch entstehen, dass ein Gläubiger eine Schuldverschreibung erwirbt, hält oder veräußert bzw. eine Zahlung darunter oder in Bezug auf diese erhält oder Ansprüche darauf geltend macht; oder
- (c) Zahlungen an den Gläubiger oder an einen Dritten für den Gläubiger, falls kein Einbehalt oder Abzug hätte erfolgen müssen, wenn die Schuldverschreibung

of payment to a securities deposit account with a bank, financial services institution, securities trading business or securities trading bank, in each case outside the Relevant Taxing Jurisdiction; or

- (d) payments where such withholding or deduction is imposed pursuant to (i) any European Union Directive or Regulation concerning the taxation of savings, or (ii) any international treaty or understanding relating to such taxation and to which the Relevant Taxing Jurisdiction or the European Union is a party/are parties, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding, or (iv) the Luxembourg law of December 23, 2005; or
- (e) payments to the extent such withholding or deduction is payable by or on behalf of a Holder who could lawfully mitigate (but has not so mitigated) such withholding or deduction by complying or procuring that any third party complies with any statutory requirements or by making or procuring that a third party makes a declaration of non-residence or other similar claim for exemption to any tax authority in the place where the payment is effected; or
- (f) payments to the extent such withholding or deduction is payable by or on behalf of a Holder who would have been able to mitigate such withholding or deduction by effecting a payment via another Paying Agent in a Member State of the European Union, not obliged to withhold or deduct tax; or
- (g) payments to the extent such withholding or deduction is for or on account of the presentation by the Holder of any Note for payment on a date more than 30 days after the date on which such payment became due and payable or the date on which payment thereof is duly provided for,

zum Zeitpunkt der fraglichen Zahlung einem Depotkonto bei einer bzw. einem nicht in der Relevanten Steuerjurisdiktion ansässigen Bank, Finanzdienstleistungsinstitut, Wertpapierhandelsunternehmen oder Wertpapierhandelsbank gutgeschrieben gewesen wäre; oder

- (d) falls der Einbehalt oder Abzug gemäß (i) einer Richtlinie oder Verordnung der Europäischen Union zur Zinsbesteuerung oder (ii) einem internationalen Abkommen oder Übereinkommen zu einer solchen Besteuerung, bei dem die Relevante Steuerjurisdiktion oder die Europäische Union Parteien sind, oder (iii) einem diese Richtlinie oder Verordnung oder dieses Abkommen oder Übereinkommen umsetzenden oder sie befolgenden oder zu ihrer Befolgung erlassenen Gesetz, oder (iv) dem Luxemburger Gesetz vom 23. Dezember 2005 erhoben wird; oder
- (e) soweit der Einbehalt oder Abzug von dem Gläubiger oder von einem Dritten für den Gläubiger zahlbar ist, der einen solchen Einbehalt oder Abzug dadurch rechtmäßigerweise hätte vermindern können (aber nicht vermindert hat), dass er gesetzliche Vorschriften beachtet, oder dafür sorgt, dass Dritte dieses tun, oder dadurch dass er eine Nicht-ansässigkeitserklärung oder einen ähnlichen Antrag auf Quellensteuerbefreiung gegenüber der am Zahlungsort zuständigen Steuerbehörde; abgibt oder dafür sorgt, dass dies durch einen Dritten erfolgt, oder
- (f) soweit der Einbehalt oder Abzug von dem Gläubiger oder von einem Dritten für den Gläubiger vorzunehmen ist, der einen solchen Einbehalt oder Abzug durch die Bewirkung einer Zahlung über eine andere Zahlstelle in einem Mitgliedsstaat der Europäischen Union, welche nicht zu einem solchen Einbehalt oder Abzug verpflichtet ist, hätte vermindern können; oder
- (g) soweit der Einbehalt oder Abzug für einen Gläubiger oder dessen Rechnung vorzunehmen ist, der Schuldverschreibungen mehr als 30 Tage nach dem Tag, an dem eine Zahlung unter den Schuldverschreibungen fällig und zahlbar wurde bzw., soweit dies später eintritt, nach

whichever occurs later; or

- (h) payments to the extent such withholding or deduction is required pursuant to Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986, as amended (the **Internal Revenue Code**), any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Internal Revenue Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Internal Revenue Code; or

- (i) any combination of items (a)-(h);

nor shall any Additional Amounts be paid with respect to any payment on a Note to a Holder who is a fiduciary or partnership or who is other than the sole beneficial owner of such payment to the extent such payment would be required by the laws of the Relevant Taxing Jurisdiction to be included in the income, for tax purposes, of a beneficiary or settlor with respect to such fiduciary or a member of such partnership or a beneficial owner who would not have been entitled to such Additional Amounts had such beneficiary, settlor, member or beneficial owner been the Holder of the Note.]

***[In the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:***

All payments of principal and interest made by the Issuer in respect of the Notes to the Holders shall be made free and clear of, and without withholding or deduction for, any present or future taxes or duties of whatever nature imposed or levied by way of deduction or withholding by or on behalf of (1) the Republic of Ireland or the Federal Republic of Germany or any authority therein or thereof having power to tax (2) any jurisdiction from or through which payment on the Notes or the Guarantee is made, or any political subdivision or governmental authority thereof or therein having the power to

dem Tag, an dem die Zahlung ordnungsgemäß vorgenommen wurde, vorgelegt hat; oder

- (h) soweit der Einbehalt oder Abzug gemäß §§ 1471 bis 1474 des U.S. Internal Revenue Code von 1986 in seiner jeweils gültigen Fassung (der **Internal Revenue Code**), jeder gegenwärtigen oder zukünftigen Verordnung oder offiziellen Auslegung davon, jeder Vereinbarung, die gemäß § 1471(b) des Internal Revenue Codes eingegangen wurde oder jeder steuerlichen oder regulatorischen Gesetzgebung, sowie steuerlichen und regulatorischen Gesetzen oder Vorgehensweisen, die nach einem völkerrechtlichen Vertrag, der zur Umsetzung der Bestimmungen des Internal Revenue Codes geschlossen wurde, vorzunehmen ist; oder

- (i) jegliche Kombination der Absätze (a)-(h).

Zudem werden keine Zusätzlichen Beträge im Hinblick auf Zahlungen auf die Schuldverschreibungen an einen Gläubiger gezahlt, welcher die Zahlung als Treuhänder oder Personengesellschaft oder als sonstiger nicht alleiniger wirtschaftlicher Eigentümer erhält, soweit nach den Gesetzen der Relevanten Steuerjurisdiktion(en) eine solche Zahlung für Steuerzwecke dem Einkommen des Begünstigten bzw. Gründers eines Treuhandvermögens oder dem Gesellschafter der Personengesellschaft zugerechnet würde, der jeweils selbst nicht zum Erhalt von Zusätzlichen Beträgen berechtigt gewesen wäre, wenn der Begünstigte, Gründer eines Treuhandvermögens, Gesellschafter oder wirtschaftliche Eigentümer unmittelbarer Gläubiger der Schuldverschreibungen wäre.].

***[Im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:***

Alle in Bezug auf die Schuldverschreibungen von der Emittentin an die Gläubiger zahlbaren Kapital- oder Zinsbeträge werden ohne Einbehalt oder Abzug an der Quelle für oder wegen gegenwärtiger oder zukünftiger Steuern oder Abgaben gleich welcher Art gezahlt, die von oder im Namen (1) der Republik Irland oder der Bundesrepublik Deutschland oder einer dort zur Steuererhebung ermächtigten Behörde, oder (2) einer Rechtsordnung, aus der bzw. über die eine Zahlung auf die Schuldverschreibungen oder die Garantie geleistet wird, oder einer dort zur Steuererhebung ermächtigten

tax and/or (3) any other jurisdiction in which the payor is organized or otherwise considered to be resident or doing business for tax purposes, or any political subdivision or governmental authority thereof or therein having the power to tax (each a **Relevant Taxing Jurisdiction**), unless such deduction or withholding is required by law. In that event the Issuer shall pay such additional amounts (the **Additional Amounts**) as shall result in receipt by the Holders of such amounts as would have been received by them had no such withholding or deduction been required, except that no Additional Amounts shall be payable with respect to

- (a) taxes or duties which are payable by any Person acting as custodian bank or collecting agent on behalf of a Holder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer or the Guarantor, as applicable, from payments of principal or interest made by it; or
- (b) payments that would not have been so imposed but for the existence of any present or former connection between such Holder (or between a fiduciary, settlor, beneficiary, member or shareholder of, or a person having a power over, such Holder) and any Relevant Taxing Jurisdiction including, without limitation, such Holder (or such fiduciary, settlor, beneficiary, member, shareholder or person having such a power) being or having been a citizen or resident or treated as a resident of, being or having been engaged in a trade or business in, or having or having had a permanent establishment in, a Relevant Taxing Jurisdiction other than any connections arising solely from a Holder acquiring, holding or disposing of, receiving any payment under or with respect to or enforcing a Note or the Guarantee; or

Gebietskörperschaft oder Behörde, und/oder (3) einer anderen Rechtsordnung, in der die zahlende Partei errichtet ist oder anderweitig als gebietsansässig gilt oder im steuerlichen Sinn geschäftlich tätig ist, oder einer dort zur Steuererhebung ermächtigten Gebietskörperschaft oder Behörde (jeweils eine **Relevante Steuerjurisdiktion**) im Wege des Abzugs oder Einbehalts auferlegt oder erhoben werden, es sei denn, ein solcher Abzug oder Einbehalt ist gesetzlich vorgeschrieben. In diesem Fall wird die Emittentin diejenigen zusätzlichen Beträge (**Zusätzliche Beträge**) zahlen, die erforderlich sind, damit die den Gläubigern zufließenden Nettobeträge nach diesem Einbehalt oder Abzug jeweils den Beträgen an Kapital und Zinsen entsprechen, die ohne einen solchen Einbehalt oder Abzug von den Gläubigern erhalten worden wären; jedoch sind solche Zusätzlichen Beträge nicht zu zahlen:

- (a) Steuern oder Abgaben, die von einer als Depotbank oder Inkassobeauftragter eines Gläubigers handelnden Person oder auf eine sonstige Weise zu entrichten sind, die keinen Abzug oder Einbehalt von Zahlungen von Kapital oder Zinsen durch die Emittentin bzw. der Garantin darstellen; oder
- (b) Zahlungen, die nicht erhoben worden wären, wenn nicht (i) eine gegenwärtige oder ehemalige Beziehung zwischen dem betreffenden Gläubiger (oder einem Treuhänder, Treugeber, Begünstigten, Mitglied oder Gesellschafter dieses Gläubigers oder einer Person, die beherrschenden Einfluss auf diesen Gläubiger hat) und einer Relevanten Steuerjurisdiktion bestehen würde, unter anderem in der Form, dass der betreffende Gläubiger (bzw. Treuhänder, Treugeber, Begünstigte, Mitglied, Gesellschafter oder die Person, die solchen Einfluss hat) Staatsbürger einer Relevanten Steuerjurisdiktion ist oder war oder dort ansässig ist oder war oder als dort ansässig gilt oder galt oder dort ein Gewerbe oder eine Geschäftstätigkeit betreibt oder betrieben hat oder dort eine Betriebsstätte unterhält oder unterhalten hat, mit Ausnahme von Beziehungen, die allein dadurch entstehen, dass ein Gläubiger eine Schuldverschreibung oder Ansprüche aus der Garantie erwirbt, hält oder veräußert bzw. eine Zahlung darunter oder in Bezug auf diese erhält oder Ansprüche darauf

- geltend macht; oder
- (c) payments to, or to a third party on behalf of, a Holder where no such withholding or deduction would have been required to be made if the Notes were credited at the time of payment to a securities deposit account with a bank, financial services institution, securities trading business or securities trading bank, in each case outside the Relevant Taxing Jurisdiction; or
  - (d) payments where such withholding or deduction is imposed pursuant to (i) any European Union Directive or Regulation concerning the taxation of savings, or (ii) any international treaty or understanding relating to such taxation and to which the Relevant Taxing Jurisdiction or the European Union is a party/are parties, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding, or (iv) the Luxembourg law of December 23, 2005; or
  - (e) payments to the extent such withholding or deduction is payable by or on behalf of a Holder who could lawfully mitigate (but has not so mitigated) such withholding or deduction by complying or procuring that any third party complies with any statutory requirements or by making or procuring that a third party makes a declaration of non-residence or other similar claim for exemption to any tax authority in the place where the payment is effected; or
  - (f) payments to the extent such withholding or deduction is payable by or on behalf of a Holder who would have been able to mitigate such withholding or deduction by effecting a payment via another paying agent in a Member State of the European Union, not obliged to withhold or deduct tax; or
  - (g) payments to the extent such withholding or deduction is for or on account of the
- (c) Zahlungen an den Gläubiger oder an einen Dritten für den Gläubiger, falls kein Einbehalt oder Abzug hätte erfolgen müssen, wenn die Schuldverschreibung zum Zeitpunkt der fraglichen Zahlung einem Depotkonto bei einer bzw. einem nicht in der Relevanten Steuerjurisdiktion ansässigen Bank, Finanzdienstleistungsinstitut, Wertpapierhandelsunternehmen oder Wertpapierhandelsbank gutgeschrieben gewesen wäre; oder
  - (d) falls der Einbehalt oder Abzug gemäß (i) einer Richtlinie oder Verordnung der Europäischen Union zur Zinsbesteuerung oder (ii) einem internationalen Abkommen oder Übereinkommen zu einer solchen Besteuerung, bei dem die Relevante Steuerjurisdiktion oder die Europäische Union Parteien sind, oder (iii) einem diese Richtlinie oder Verordnung oder dieses Abkommen oder Übereinkommen umsetzenden oder sie befolgenden oder zu ihrer Befolgung erlassenen Gesetz, oder (iv) dem Luxemburger Gesetz vom 23. Dezember 2005 erhoben wird; oder
  - (e) soweit der Einbehalt oder Abzug von dem Gläubiger oder von einem Dritten für den Gläubiger zahlbar ist, der einen solchen Einbehalt oder Abzug dadurch rechtmäßigerweise hätte vermindern können (aber nicht vermindert hat), dass er gesetzliche Vorschriften beachtet, oder dafür sorgt, dass Dritte dieses tun, oder dadurch dass er eine Nicht-ansässigkeitserklärung oder einen ähnlichen Antrag auf Quellensteuerbefreiung gegenüber der am Zahlungsort zuständigen Steuerbehörde; abgibt oder dafür sorgt, dass dies durch einen Dritten erfolgt, oder
  - (f) soweit der Einbehalt oder Abzug von dem Gläubiger oder von einem Dritten für den Gläubiger vorzunehmen ist, der einen solchen Einbehalt oder Abzug durch die Bewirkung einer Zahlung über eine andere Zahlstelle in einem Mitgliedsstaat der Europäischen Union, welche nicht zu einem solchen Einbehalt oder Abzug verpflichtet ist, hätte vermindern können; oder
  - (g) soweit der Einbehalt oder Abzug für einen Gläubiger oder dessen Rechnung

presentation by the Holder of any Note for payment on a date more than 30 days after the date on which such payment became due and payable or the date on which payment thereof is duly provided for, whichever occurs later; or

- (h) payments to the extent such withholding or deduction is required pursuant to Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986, as amended (the *Internal Revenue Code*), any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Internal Revenue Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Internal Revenue Code; or

- (i) any combination of items (a)-(h);

nor shall any Additional Amounts be paid with respect to any payment on a Note to a Holder who is a fiduciary or partnership or who is other than the sole beneficial owner of such payment to the extent such payment would be required by the laws of the Relevant Taxing Jurisdictions to be included in the income, for tax purposes, of a beneficiary or settlor with respect to such fiduciary or a member of such partnership or a beneficial owner who would not have been entitled to such Additional Amounts had such beneficiary, settlor, member or beneficial owner been the Holder of the Note.]

For the avoidance of doubt: No Additional Amounts will be paid with respect to German *Kapitalertragsteuer* (including *Abgeltungsteuer*) to be deducted or withheld pursuant to the German Income Tax Act, even if the deduction or withholding has to be made by the Issuer or its representative, and the German Solidarity Surcharge (*Solidaritätszuschlag*) or any other tax which may substitute the German *Kapitalertragsteuer* or *Solidaritätszuschlag*, as the case may be.

vorzunehmen ist, der Schuldverschreibungen mehr als 30 Tage nach dem Tag, an dem eine Zahlung unter den Schuldverschreibungen fällig und zahlbar wurde bzw., soweit dies später eintritt, nach dem Tag, an dem die Zahlung ordnungsgemäß vorgenommen wurde, vorgelegt hat; oder

- (h) soweit der Einbehalt oder Abzug gemäß §§ 1471 bis 1474 des U.S. Internal Revenue Code von 1986 in seiner jeweils gültigen Fassung (der *Internal Revenue Code*), jeder gegenwärtigen oder zukünftigen Verordnung oder offiziellen Auslegung davon, jeder Vereinbarung, die gemäß § 1471(b) des Internal Revenue Codes eingegangen wurde oder jeder steuerlichen oder regulatorischen Gesetzgebung, sowie steuerlichen und regulatorischen Gesetzen oder Vorgehensweisen, die nach einem völkerrechtlichen Vertrag, der zur Umsetzung der Bestimmungen des Internal Revenue Codes geschlossen wurde, vorzunehmen ist; oder

- (i) jegliche Kombination der Absätze (a)-(h).

Zudem werden keine Zusätzlichen Beträge im Hinblick auf Zahlungen auf die Schuldverschreibungen an einen Gläubiger gezahlt, welcher die Zahlung als Treuhänder oder Personengesellschaft oder als sonstiger nicht alleiniger wirtschaftlicher Eigentümer erhält, soweit nach den Gesetzen der Relevanten Steuerjurisdiktion(en) eine solche Zahlung für Steuerzwecke dem Einkommen des Begünstigten bzw. Gründers eines Treuhandvermögens oder dem Gesellschafter der Personengesellschaft zugerechnet würde, der jeweils selbst nicht zum Erhalt von Zusätzlichen Beträgen berechtigt gewesen wäre, wenn der Begünstigte, Gründer eines Treuhandvermögens, Gesellschafter oder wirtschaftliche Eigentümer unmittelbarer Gläubiger der Schuldverschreibungen wäre.]

Zur Klarstellung: Keine Zusätzlichen Beträge werden gezahlt in Bezug auf die deutsche Kapitalertragsteuer (inklusive der sog. Abgeltungsteuer), die nach dem deutschen Einkommensteuergesetz abgezogen oder einbehalten wird, auch wenn der Abzug oder Einbehalt durch die Emittentin oder ihren Vertreter vorzunehmen ist, und den deutschen Solidaritätszuschlag oder jede andere Steuer, welche die deutsche Kapitalertragsteuer bzw. den Solidaritätszuschlag ersetzen sollte.

**§ 8  
(PRESENTATION PERIOD)**

The presentation period provided in § 801 paragraph 1, sentence 1 BGB (German Civil Code) is reduced to ten years for the Notes.

**§ 9  
(EVENTS OF DEFAULT)**

(1) Events of default.

Each Holder shall be entitled to declare due and payable by notice to the Fiscal Agent its entire claims arising from the Notes and demand immediate redemption thereof at the principal amount together with accrued interest (if any) to (but excluding) the date of repayment, in the event that:

- (a) the Issuer fails to pay principal or interest under the Notes within 30 days from the relevant due date, or
- (b) *[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies: the Guarantor fails to pay amounts payable under the Guarantee within 30 days from the relevant due date, or]*
- (c) the Issuer fails to duly perform any other material obligation arising from the Notes *[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies: or the Guarantor fails to perform any other material obligation arising from the Guarantee]* and such failure continues unremedied for more than 60 days after the Fiscal Agent has received a request thereof in the manner set forth in § 9(3) from a Holder to perform such obligation; or
- (d) any Capital Market Indebtedness of the Issuer or any Material Subsidiary *[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies: or the Guarantor]* becomes prematurely repayable as a result of a default in respect of the terms thereof, or the Issuer or any Material Subsidiary *[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the*

**§ 8  
(VORLEGUNGSFRIST)**

Die in § 801 Absatz 1 Satz 1 BGB bestimmte Vorlegungsfrist wird für die Schuldverschreibungen auf zehn Jahre verkürzt.

**§ 9  
(KÜNDIGUNG)**

(1) Kündigungsgründe.

Jeder Gläubiger ist berechtigt, seine sämtlichen Forderungen aus den Schuldverschreibungen durch Kündigung gegenüber der Emissionsstelle fällig zu stellen und die unverzügliche Rückzahlung zum Nennbetrag, zuzüglich etwaiger bis zum Tag der Rückzahlung (ausschließlich) aufgelaufener Zinsen zu verlangen, falls:

- (a) die Emittentin auf die Schuldverschreibungen Kapital oder Zinsen nicht innerhalb von 30 Tagen nach dem betreffenden Fälligkeitstag zahlt; oder
- (b) *[im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar: die Garantin auf die Garantie zahlbare Beträge nicht innerhalb von 30 Tagen nach dem Fälligkeitstag zahlt; oder]*
- (c) die Emittentin die ordnungsgemäße Erfüllung irgendeiner anderen wesentlichen Verpflichtung aus den Schuldverschreibungen unterlässt *[im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar: oder die Garantin die Erfüllung irgendeiner anderen wesentlichen Verpflichtung aus der Garantie unterlässt]* und die Unterlassung jeweils länger als 60 Tage fort dauert, nachdem die Emissionsstelle eine Aufforderung in der in § 9(3) vorgesehenen Art und Weise von dem Gläubiger erhalten hat, die Verpflichtung zu erfüllen; oder
- (d) eine Kapitalmarktverbindlichkeit der Emittentin oder einer Wesentlichen Tochtergesellschaft *[im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar: oder der Garantin]* vorzeitig zahlbar wird aufgrund einer Pflichtverletzung aus dem dieser Kapitalmarktverbindlichkeit zugrunde liegenden Vertrag oder die Emittentin oder

**following applies:** or the Guarantor] fails to fulfill any payment obligation in excess of EUR 75,000,000 or the equivalent thereof under any Capital Market Indebtedness or under any guarantees or suretyships given for any Capital Market Indebtedness of others within 30 days from its due date or, in the case of such guarantee or suretyship, within 30 days of such guarantee or suretyship being invoked, unless the Issuer or the relevant Material Subsidiary **[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:** or the Guarantor] contests in good faith that such payment obligation exists or is due or that such guarantee or suretyship has been validly invoked or if a security granted therefor is enforced on behalf of or by the creditor(s) entitled thereto; or

- (e) the Issuer or any Material Subsidiary **[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:** or the Guarantor] announces its inability to meet its financial obligations or ceases its payments generally; or
- (f) a court opens insolvency proceedings against the Issuer **[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:** (including, but not limited to, proceedings for the appointment of a liquidator or examiner to the Issuer) or the Guarantor] and such proceedings are instituted and have not been discharged or stayed within 90 days, or the Issuer **[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:** or the Guarantor] applies for or institutes such proceedings; or

eine Wesentliche Tochtergesellschaft **[im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:** oder die Garantin] eine Zahlungsverpflichtung in Höhe oder im Gegenwert von mehr als EUR 75.000.000 aus einer Kapitalmarktverbindlichkeit oder aufgrund einer Bürgschaft oder Garantie, die für Kapitalmarktverbindlichkeiten Dritter gegeben wurde, nicht innerhalb von 30 Tagen nach ihrer Fälligkeit bzw. im Fall einer Bürgschaft oder Garantie nicht innerhalb von 30 Tagen nach Inanspruchnahme aus dieser Bürgschaft oder Garantie erfüllt, es sei denn, die Emittentin oder die betreffende Wesentliche Tochtergesellschaft **[im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:** oder die Garantin] bestreitet in gutem Glauben, dass diese Zahlungsverpflichtung besteht oder fällig ist bzw. diese Bürgschaft oder Garantie berechtigterweise geltend gemacht wird, oder falls eine für solche Verbindlichkeiten bestellte Sicherheit für die oder von den daraus berechtigten Gläubiger(n) in Anspruch genommen wird; oder

- (e) die Emittentin oder eine Wesentliche Tochtergesellschaft **[im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:** oder die Garantin] gibt ihre Zahlungsunfähigkeit bekannt oder stellt ihre Zahlungen ein; oder
- (f) ein Gericht ein Insolvenzverfahren gegen die Emittentin **[im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:** (einschließlich eines Verfahrens zur Bestellung eines Insolvenzverwalters (*liquidator*) oder eines Examiners in Bezug auf die Emittentin) oder die Garantin] eröffnet, und ein solches Verfahren eingeleitet und nicht innerhalb von 90 Tagen aufgehoben oder ausgesetzt worden ist, oder die Emittentin **[im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:** oder die



- (g) the Issuer [*in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:* or the Guarantor] enters into liquidation unless this is done in connection with a merger or other form of combination with another company and such company assumes all obligations contracted by the Issuer in connection with the Notes [*in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:* or the Guarantor in connection with the Guarantee]; or

- (h) [*in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:* the Guarantee shall cease to be in full force and effect in accordance with its terms for any reason except pursuant to these Terms and Conditions or the satisfaction in full of all the obligations thereunder or shall be declared invalid or unenforceable other than as contemplated by its terms, or the Guarantor shall repudiate, deny or disaffirm any of its obligations thereunder or under the Terms and Conditions.]

**Material Subsidiary** means any Subsidiary of Fresenius SE & Co. KGaA which:

- (a) has unconsolidated EBITDA representing 5% or more of the EBITDA of Fresenius SE & Co. KGaA and its subsidiaries on a consolidated basis (provided that for these purposes Fresenius Medical Care AG & Co. KGaA and its subsidiaries are regarded as Subsidiaries of Fresenius SE & Co. KGaA); or
- (b) has unconsolidated gross assets representing 5% or more of the gross assets of Fresenius SE & Co. KGaA and its subsidiaries on a consolidated basis

Garantin] die Eröffnung eines solchen Verfahrens beantragt oder einleitet; oder

- (g) die Emittentin [*im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:* oder die Garantin] in Liquidation tritt, es sei denn, dies geschieht im Zusammenhang mit einer Verschmelzung oder einer anderen Form des Zusammenschlusses mit einer anderen Gesellschaft und die andere oder neue Gesellschaft übernimmt alle Verpflichtungen, die die Emittentin im Zusammenhang mit den Schuldverschreibungen [*im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:* oder die Garantin im Zusammenhang mit der Garantie] eingegangen ist; oder

- (h) [*im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:* die Garantie aus irgendeinem Grund nicht mehr gemäß ihren Bedingungen uneingeschränkt wirksam ist, es sei denn, dies beruht auf diesen Emissionsbedingungen oder der vollständigen Erfüllung aller diesbezüglichen Verpflichtungen, oder aus anderen Gründen als in ihren Bedingungen festgelegt für unwirksam oder undurchsetzbar erklärt wird, oder die Garantin eine ihrer Verpflichtungen aus der Garantie oder aus den Emissionsbedingungen zurückweist, leugnet oder ablehnt.]

**Wesentliche Tochtergesellschaft** bezeichnet eine Tochtergesellschaft von Fresenius SE & Co. KGaA:

- (a) deren unkonsolidiertes EBITDA 5% oder mehr des EBITDA der Fresenius SE & Co. KGaA und ihrer Tochtergesellschaften auf einer konsolidierten Basis darstellt (wobei für diese Zwecke die Fresenius Medical Care AG & Co. KGaA und ihre Tochtergesellschaften als Tochtergesellschaften der Fresenius SE & Co. KGaA gelten), oder
- (b) deren unkonsolidiertes Bruttovermögen 5% oder mehr des Bruttovermögens der Fresenius SE & Co. KGaA und ihrer Tochtergesellschaften auf einer

(provided that for these purposes Fresenius Medical Care AG & Co. KGaA and its subsidiaries are regarded as Subsidiaries of Fresenius SE & Co. KGaA),

in each case as determined by reference to the latest audited annual financial statements prepared in accordance with IFRS.

**EBITDA** means operating income plus depreciation and amortization and is derived from the operating income determined in accordance with IFRS.

(2) No Termination.

The right to declare Notes due shall terminate if the situation giving rise to it has been cured before the right is exercised.

(3) Notice.

Any default notice in accordance with § 9(1) shall be made at least in text form (section 126b of the German Civil Code, *Bürgerliches Gesetzbuch*) to the specified office of the Fiscal Agent together with evidence by means of a certificate of the Holder's Custodian (as defined in § [13][14](3)) that such Holder, at the time of such notice, is a holder of the relevant Notes.

(4) Quorum.

In the events specified in subparagraph (1)(c) and/or (d), any notice declaring Notes due shall, unless at the time such notice is received any of the events specified in subparagraph (1) (a), (b) and (e) through (g) entitling Holders to declare their Notes due has occurred, become effective only when the Fiscal Agent has received such default notices from the Holders representing at least 25% of the aggregate principal amount of Notes then outstanding.

**§ 10  
(SUBSTITUTION)**

(1) Substitution.

The Issuer (reference to which shall always include any previous Substitute Debtor (as defined below)) may, at any time, if no payment of principal of or interest on any of the Notes is in default, without the consent of the Holders, substitute for the Issuer [*in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies*: Fresenius SE & Co. KGaA or] any Affiliate (as defined

konsolidierten Basis darstellt (wobei für diese Zwecke die Fresenius Medical Care AG & Co. KGaA und ihre Tochtergesellschaften als Tochtergesellschaften der Fresenius SE & Co. KGaA gelten),

in allen Fällen bestimmt nach dem letzten geprüften Jahresabschluss, die in Übereinstimmung mit IFRS erstellt wurden.

**EBITDA** entspricht dem Operativen Ergebnis zuzüglich Abschreibungen und wird von dem nach IFRS ermittelten Operativen Ergebnis abgeleitet.

(2) Keine Kündigung.

Das Kündigungsrecht erlischt, falls der Kündigungsgrund vor Ausübung des Rechts geheilt wurde.

(3) Kündigungserklärung.

Eine Kündigungserklärung gemäß § 9(1) hat in der Weise zu erfolgen, dass der Gläubiger bei der angegebenen Geschäftsstelle der Emissionsstelle eine entsprechende Erklärung zumindest in Textform (§ 126b Bürgerliches Gesetzbuch) übergibt und dabei durch eine Bescheinigung seiner Depotbank (wie in § [13][14](3) definiert) nachweist, dass er die betreffenden Schuldverschreibungen zum Zeitpunkt der Erklärung hält.

(4) Quorum.

In den Fällen gemäß Absatz (1)(c) und/oder (d) wird eine Kündigungserklärung, sofern nicht bei deren Eingang zugleich einer der in Absatz (1)(a), (b) und (e) bis (g) bezeichneten Kündigungsgründe vorliegt, erst wirksam, wenn bei der Emissionsstelle Kündigungserklärungen von Gläubigern im Nennbetrag von mindestens 25% des Gesamtnennbetrages der zu diesem Zeitpunkt noch insgesamt ausstehenden Schuldverschreibungen eingegangen sind.

**§ 10  
(ERSETZUNG)**

(1) Ersetzung

Die Emittentin (wobei eine Bezugnahme auf die Emittentin auch alle früheren Nachfolgeschuldner (wie nachfolgend definiert) umfasst) ist jederzeit berechtigt, wenn kein Zahlungsverzug hinsichtlich Kapital oder Zinsen auf die Schuldverschreibungen vorliegt, ohne weitere Zustimmung der Gläubiger [*im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben*

below) of Fresenius SE & Co. KGaA as the principal debtor in respect of all obligations arising from or in connection with the Notes (any such company, the **Substitute Debtor**), provided that:

- (a) the Substitute Debtor assumes all obligations of the Issuer in respect of the Notes and is in a position to fulfill all payment obligations arising from or in connection with the Notes in the Specified Currency without, subject to lit. (e) below, the necessity of any taxes or duties levied by the country or jurisdiction in which the Substitute Debtor is domiciled (other than taxes which would also be levied in the absence of such substitution) to be withheld or deducted at source and to transfer all amounts which are required therefore to the Paying Agent without any restrictions, and that in particular all necessary authorizations to this effect by any competent authority have been obtained, and, to the extent service of process must be effected to the Substitute Debtor outside of Germany, a service of process agent in Germany is appointed;
- (b) *[In the case of Notes issued by Fresenius SE & Co. KGaA, the following applies: the Issuer] [in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies: the Guarantor if it is not itself the Substitute Debtor] irrevocably and unconditionally guarantees in favor of each Holder the payment of all sums payable by the Substitute Debtor in respect of the Notes on terms equivalent to the terms of the [in the case of Notes issued by Fresenius SE & Co. KGaA, the following applies: form of the guarantee in respect of the notes to be issued by an Issuer other than Fresenius SE & Co. KGaA under the Debt Issuance Programme] [in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies: the Guarantee] (the **Substitution Guarantee**);*

**werden, ist folgendes anwendbar:** Fresenius SE & Co. KGaA oder] ein mit der Fresenius SE & Co. KGaA verbundenes Unternehmen (wie nachfolgend definiert) an ihrer Stelle als Hauptschuldnerin (ein solches Unternehmen ist die **Nachfolgeschuldnerin**) für alle Verpflichtungen aus und im Zusammenhang mit den Schuldverschreibungen einzusetzen, vorausgesetzt, dass:

- (a) die Nachfolgeschuldnerin alle Verpflichtungen der Emittentin im Zusammenhang mit den Schuldverschreibungen rechtswirksam übernimmt und sie sämtliche sich aus oder im Zusammenhang mit den Schuldverschreibungen ergebenden Zahlungsverpflichtungen in der Festgelegten Währung ohne die Notwendigkeit (vorbehaltlich Buchstabe (e)) einer Einbehaltung an der Quelle oder des Abzugs irgendwelcher Steuern oder Abgaben in dem Land oder Hoheitsgebiet, in dem die Nachfolgeschuldnerin ihren Sitz hat (mit Ausnahme von Steuern, die auch angefallen wären, wäre die Ersetzung nicht erfolgt), erfüllen sowie die hierzu erforderlichen Beträge ohne Beschränkungen an die Zahlstelle transferieren kann und sie insbesondere jede hierfür notwendige Genehmigung der Behörden ihres Landes erhalten hat, und, sofern eine Zustellung an die Nachfolgeschuldnerin außerhalb von Deutschland erfolgen müsste, ein Zustellungsbevollmächtigter in Deutschland bestellt wird;
- (b) *[Im Fall von Schuldverschreibungen, die von Fresenius SE & Co. KGaA begeben werden, ist folgendes anwendbar: die Emittentin] [im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar: die Garantin, falls sie nicht selbst die Nachfolgeschuldnerin ist,] unwiderruflich und unbedingt gegenüber den Gläubigern die Zahlung aller von der Nachfolgeschuldnerin auf die Schuldverschreibungen zahlbaren Beträge zu Bedingungen garantiert, [im Fall von Schuldverschreibungen, die von Fresenius SE & Co. KGaA begeben werden, ist folgendes anwendbar: die den Bedingungen der Garantie hinsichtlich der Schuldverschreibungen, die von einer anderen Emittentin als Fresenius SE & Co. KGaA unter dem Debt Issuance*

- Programme begeben werden,] ***[im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:*** die den Bedingungen der Garantie,] entsprechen (die *Ersetzungsgarantie*); und
- (c) the Substitute Debtor and the Issuer have obtained all necessary governmental and regulatory approvals and consents for such substitution and for the giving by ***[in the case of Notes issued by Fresenius SE & Co. KGaA, the following applies:*** the Issuer] ***[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:*** the Guarantor if it is not itself the Substitute Debtor] of the Substitution Guarantee in respect of the obligations of the Substitute Debtor, that the Substitute Debtor has obtained all necessary governmental and regulatory approvals and consents for the performance by the Substitute Debtor of its obligations under the Notes, and that all such approvals and consents are in full force and effect and that the obligations assumed by the Substitute Debtor and the Substitution Guarantee given by ***[in the case of Notes issued by Fresenius SE & Co. KGaA, the following applies:*** the Issuer] ***[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:*** the Guarantor if it is not itself the Substitute Debtor] are each valid and binding in accordance with their respective terms and enforceable by each Holder;
- (d) § 9 shall be deemed to be amended so that it shall also be an Event of Default under such provision if the Substitution Guarantee shall cease to be valid or binding on or enforceable against ***[in the case of Notes issued by Fresenius SE & Co. KGaA, the following applies:*** the Issuer] ***[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:*** the Guarantor if it is not
- (c) die Nachfolgeschuldnerin und die Emittentin alle für die Ersetzung und ***[im Fall von Schuldverschreibungen, die von Fresenius SE & Co. KGaA begeben werden, ist folgendes anwendbar:*** die Emittentin] ***[im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:*** die Garantin, falls sie nicht selbst die Nachfolgeschuldnerin ist,] alle für die Abgabe der Ersetzungsgarantie notwendigen Genehmigungen und Einverständniserklärungen von Regierungsstellen und Aufsichtsbehörden erhalten haben, die Nachfolgeschuldnerin alle für die Erfüllung ihrer Verpflichtungen aus den Schuldverschreibungen notwendigen Genehmigungen und Einverständniserklärungen von Regierungsstellen und Aufsichtsbehörden erhalten hat und weiterhin sämtliche dieser Genehmigungen und Einverständniserklärungen in vollem Umfang gültig und wirksam sind und zudem die Verpflichtungen der Nachfolgeschuldnerin und die von ***[im Fall von Schuldverschreibungen, die von Fresenius SE & Co. KGaA begeben werden, ist folgendes anwendbar:*** der Emittentin] ***[im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:*** der Garantin, falls sie nicht selbst die Nachfolgeschuldnerin ist,] begebene Ersetzungsgarantie jeweils gemäß ihren Bestimmungen wirksam und rechtsverbindlich und durch jeden Gläubiger durchsetzbar sind;
- (d) § 9 dergestalt als ergänzt gilt, dass ein zusätzlicher Kündigungsgrund unter dieser Bestimmung der Wegfall der Wirksamkeit, Rechtsverbindlichkeit oder Durchsetzbarkeit der Ersetzungsgarantie gegen ***[im Fall von Schuldverschreibungen, die von Fresenius SE & Co. KGaA begeben werden, ist folgendes anwendbar:*** die Emittentin] ***[im Fall von Schuldverschreibungen, die von***

itself the Substitute Debtor];

- (e) the Substitute Debtor undertakes to reimburse any Holder for such taxes, fees or duties which may be imposed upon such Holder in connection with any payments on the Notes (including taxes or duties being deducted or withheld at source), upon conversion or otherwise, as a consequence of the assumption of the Issuer's obligations by the Substitute Debtor, provided that such undertaking shall be limited to amounts that would not have been imposed upon the Holder had such substitution not occurred; and
- (f) there shall have been delivered to the Fiscal Agent one opinion for each jurisdiction affected of lawyers of recognized standing to the effect that subparagraphs (a) through (e) above have been satisfied.

For purposes of this § 10, *Affiliate* shall mean any affiliated company (*verbundenes Unternehmen*) within the meaning of sections 15 et seq. of the German Stock Corporation Act (*Aktiengesetz*) held by Fresenius SE & Co. KGaA.

(2) Discharge from Obligations. References.

Upon a substitution in accordance with this § 10, the Substitute Debtor shall be deemed to be named in the Notes as the principal debtor in place of the Issuer as issuer and the Notes shall thereupon be deemed to be amended to give effect to the substitution including that the relevant jurisdiction in relation to the Issuer in § 7 shall be the Substitute Debtor's country of domicile for tax purposes. Furthermore, in the event of such substitution the following shall apply:

**[In the case of Notes issued by Fresenius SE & Co. KGaA, the following applies:**

- (a) in § 7 and § 5(2) an alternative reference to the Federal Republic of Germany shall be deemed to have been included in addition to the reference according to the preceding sentence to the country of domicile or residence for taxation purposes of the

***Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:*** die Garantin, falls sie nicht selbst die Nachfolgeschuldnerin ist,] ist;

- (e) die Nachfolgeschuldnerin sich verpflichtet, jedem Gläubiger alle Steuern, Gebühren oder Abgaben zu erstatten, die ihm im Zusammenhang mit Zahlungen auf die Schuldverschreibungen (einschließlich Steuern und Abgaben, die an der Quelle abgeführt oder einbehalten wurden), durch den Schuldnerwechsel oder in anderer Weise infolge der Schuldübernahme durch die Nachfolgeschuldnerin auferlegt werden, vorausgesetzt, dass sich die Verpflichtung auf Beträge beschränkt, die der Gläubiger ohne die Ersetzung der Emittentin nicht hätte tragen müssen; und
- (f) der Emissionsstelle jeweils ein Rechtsgutachten bezüglich der betroffenen Rechtsordnungen von anerkannten Rechtsanwälten vorgelegt wurden, die bestätigen, dass die Bestimmungen in den vorstehenden Unterabsätzen (a) bis (e) erfüllt wurden.

Für Zwecke dieses § 10 bedeutet ***verbundenes Unternehmen*** jedes von Fresenius SE & Co. KGaA gehaltene verbundene Unternehmen im Sinne der §§ 15 f. Aktiengesetz.

(2) Schuldbefreiung. Bezugnahmen.

Nach einer Ersetzung gemäß dieses § 10 gilt die Nachfolgeschuldnerin als in den Schuldverschreibungen an Stelle der Emittentin als Hauptschuldnerin bestimmt und die Schuldverschreibungen gelten als dementsprechend ergänzt, um der Ersetzung zur Durchsetzung zu verhelfen, und als die relevante Steuerjurisdiktion in Bezug auf § 7 gilt die Jurisdiktion, in der die Nachfolgeschuldnerin steuerlich ansässig ist. Des Weiteren gilt im Fall einer Ersetzung folgendes:

***[Im Fall von Schuldverschreibungen, die von Fresenius SE & Co. KGaA begeben werden, ist folgendes anwendbar:***

- (a) in § 7 und § 5(2) gilt eine alternative Bezugnahme auf die Bundesrepublik Deutschland als aufgenommen (zusätzlich zu der Bezugnahme nach Maßgabe des vorstehenden Satzes auf das Land, in dem die Nachfolgeschuldnerin ihren Sitz oder

Substitute Debtor;

- (b) in § 9(1)(c) to (g) an alternative reference to the Issuer in its capacity as guarantor shall be deemed to have been included in addition to the reference to the Substitute Debtor.]

***[In the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:***

In § 7 and § 5(2) an alternative reference to the Republic of Ireland shall be deemed to have been included in addition to the reference according to the preceding sentence to the country of domicile or residence for taxation purposes of the Substitute Debtor.]

Any such substitution, together with the notice referred to in subparagraph (3) below, shall, in the case of the substitution of any other company as principal debtor, operate to release the Issuer as issuer from all of its obligations as principal debtor in respect of the Notes.

- (3) Notification to Holders.

Not later than 15 Payment Business Days after effecting the substitution, the Substitute Debtor shall give notice thereof to the Holders and, if any Notes are listed on any stock exchange, to such stock exchange in accordance with § 12 and to any other person or authority as required by applicable laws or regulations.

## **§ 11 (FURTHER ISSUES, PURCHASES AND CANCELLATION)**

- (1) Further Issues.

The Issuer may from time to time, without the consent of the Holders, issue further Notes having the same terms and conditions as the Notes in all respects (or in all respects except for the issue date, interest commencement date and/or issue price) so as to form a single series with the Notes.

- (2) Purchases.

The Issuer may at any time purchase Notes in the open market or otherwise and at any price. Notes purchased by the Issuer may, at the option of the Issuer, be held, resold or surrendered to the Fiscal Agent for cancellation. If purchases are made by tender, tenders for such Notes must be made available to all Holders of such Notes

Steuersitz hat);

- (b) in § 9(1)(c) bis (g) gilt eine alternative Bezugnahme auf die Emittentin in ihrer Eigenschaft als Garant als aufgenommen (zusätzlich zu der Bezugnahme auf die Nachfolgeschuldnerin).]

***[Im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:***

in § 7 und § 5(2) gilt eine alternative Bezugnahme auf die Republik Irland als aufgenommen (zusätzlich zu der Bezugnahme nach Maßgabe des vorstehenden Satzes auf das Land, in dem die Nachfolgeschuldnerin ihren Sitz oder Steuersitz hat).]

Jede Ersetzung zusammen mit der Mitteilung gemäß Absatz 3 dieser Bestimmung befreit, im Fall der Einsetzung einer anderen Gesellschaft als Hauptschuldnerin, die Emittentin von allen Verbindlichkeiten, die sie als Hauptschuldnerin unter den Schuldverschreibungen hatte.

- (3) Benachrichtigung der Gläubiger.

Spätestens 15 Zahltag nach Durchführung der Ersetzung wird die Nachfolgeschuldnerin dies den Gläubigern und, sollten die Schuldverschreibungen an einer Börse notiert sein, dieser Börse gemäß § 12 mitteilen und jede andere Person oder Stelle, gemäß den anwendbaren Gesetzen und Regelungen informieren.

## **§ 11 (BEGEBUNG WEITERER SCHULDVERSCHREIBUNGEN, ANKAUF UND ENTWERTUNG)**

- (1) Begebung weiterer Schuldverschreibungen.

Die Emittentin ist berechtigt, jederzeit ohne Zustimmung der Gläubiger weitere Schuldverschreibungen mit gleicher Ausstattung (gegebenenfalls mit Ausnahme des Tags der Begebung, des Verzinsungsbeginns und/oder des Ausgabepreises) in der Weise zu begeben, dass sie mit diesen Schuldverschreibungen eine einheitliche Serie bilden.

- (2) Ankauf.

Die Emittentin ist berechtigt, jederzeit Schuldverschreibungen im Markt oder anderweitig zu jedem beliebigen Preis zu kaufen. Die von der Emittentin erworbenen Schuldverschreibungen können nach Wahl der Emittentin von ihr gehalten, weiterverkauft oder bei der Emissionsstelle zwecks Entwertung

alike.

(3) Cancellation.

All Notes redeemed in full shall be cancelled forthwith and may not be reissued or resold.

**§ 12  
(NOTICES)**

*[In the case of Notes which are listed on the official list of the Luxembourg Stock Exchange and admitted to trading on the regulated market of the Luxembourg Stock Exchange, the following applies:]*

(1) Publication.

As long as the Notes are listed on the official list of the Luxembourg Stock Exchange and admitted to trading on the regulated market of the Luxembourg Stock Exchange (and as long as the rules and regulations of the Luxembourg Stock Exchange so require), all notices concerning the Notes will be made by means of electronic publication on the internet website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)). Any notice will be deemed to have been validly given on the third day following the date of such publication (or, if published more than once, on the third day following the date of the first such publication).

(2) Notification to Clearing System.

So long as any Notes are listed on the official list of the Luxembourg Stock Exchange and admitted to trading on the regulated market of the Luxembourg Stock Exchange, subparagraph (1) shall apply. If the Rules of the Luxembourg Stock Exchange otherwise so permit, the Issuer may deliver the relevant notice to the Clearing System for communication by the Clearing System to the Holders, in lieu of publication as set forth in subparagraph (1) above; any such notice shall be deemed to have been given on the seventh day after the day on which the said notice was given to the Clearing System.]

*[In the case of Notes which are listed on another stock exchange the following applies:]*

(3) Publication.

All notices concerning the Notes will be made by means of electronic publication on the internet website of the stock exchange with

eingereicht werden. Sofern diese Käufe durch öffentliches Angebot erfolgen, muss dieses Angebot allen Gläubigern gemacht werden.

(3) Entwertung.

Sämtliche vollständig zurückgezahlten Schuldverschreibungen sind unverzüglich zu entwerten und können nicht wiederbegeben oder wiederverkauft werden.

**§ 12  
(MITTEILUNGEN)**

*[Im Fall von Schuldverschreibungen, die im amtlichen Kursblatt (official list) der Luxemburger Börse notiert und zum Handel im regulierten Markt der Luxemburger Börse zugelassen sind, ist folgendes anwendbar:]*

(1) Bekanntmachung.

Solange Schuldverschreibungen im amtlichen Kursblatt (official list) der Luxemburger Börse notiert und zum Handel im regulierten Markt der Luxemburger Börse zugelassen sind, sind alle die Schuldverschreibungen betreffenden Mitteilungen auf der Internetseite der Luxemburger Börse ([www.bourse.lu](http://www.bourse.lu)) zu veröffentlichen. Jede derartige Mitteilung gilt mit dem dritten Tag nach dem Tag der Veröffentlichung (oder bei mehreren Veröffentlichungen mit dem dritten Tag nach dem Tag der ersten solchen Veröffentlichung) als wirksam erfolgt.

(2) Mitteilungen an das Clearingsystem.

Solange Schuldverschreibungen im amtlichen Kursblatt (official list) der Luxemburger Börse notiert und zum Handel im regulierten Markt der Luxemburger Börse zugelassen sind, sind alle die Schuldverschreibungen betreffenden Mitteilungen gemäß Absatz 1 bekanntzumachen. Soweit die Regeln der Luxemburger Börse dies zulassen, kann die Emittentin eine Veröffentlichung nach Absatz 1 durch eine Mitteilung an das Clearing System zur Weiterleitung an die Gläubiger ersetzen; jede derartige Mitteilung gilt am siebten Tag nach dem Tag der Mitteilung an das Clearing System als den Gläubigern mitgeteilt.]

*[Im Fall von Schuldverschreibungen, die an einer anderen Börse notiert sind, ist folgendes anwendbar:]*

(3) Bekanntmachung.

Alle die Schuldverschreibungen betreffenden Mitteilungen sind auf der Internetseite der Börse, an der die Emittentin das Listing der

respect to which the Issuer applied for listing of the Notes, as long as the Notes are listed on such stock exchange and if the rules of such stock exchange so permit. Any such notice will be deemed to have been validly given on the third day following the date of such publication (or, if published more than once, on the third day following the date of the first such publication).

(4) Notification to Clearing System.

So long as any Notes are listed on such a stock exchange, subparagraph (1) shall apply. If the rules of such stock exchange otherwise so permit, the Issuer may deliver the relevant notice to the Clearing System for communication by the Clearing System to the Holders, in lieu of publication as set forth in subparagraph (1) above; any such notice shall be deemed to have been given on the seventh day after the day on which the said notice was given to the Clearing System.]

*[In the case of Notes which are unlisted the following applies:*

(5) Notification to Clearing System.

The Issuer will deliver all notices to the Clearing System for communication by the Clearing System to the Holders. Any such notice shall be deemed to have been given to the Holders on the seventh day after the day on which the said notice was given to the Clearing System.]

*[In the case of Notes that provide for Resolutions of Holders the following applies:*

**§ 13**

**AMENDMENTS TO THE TERMS AND CONDITIONS BY RESOLUTION OF THE HOLDERS, HOLDERS' REPRESENTATIVE  
[IN THE CASE OF NOTES ISSUED BY FRESANIUS IRELAND OR FRESANIUS IRELAND II, THE FOLLOWING APPLIES; AMENDMENT OF THE GUARANTEE]**

(1) Resolutions of Holders.

The Holders may with consent of the Issuer (if required) by a majority resolution pursuant to section 5 et seqq. of the German Act on Issues of Debt Securities (Gesetz über Schuldverschreibungen aus Gesamtemissionen) (the *SchVG*), as amended from time to time, agree to amendments of the Terms and Conditions or resolve any other matters provided for by the SchVG. In particular, the Holders may

Notes veranlasst hat zu veröffentlichen, solange die Schuldverschreibungen an dieser Börse notiert sind und die Regeln dieser Börse dies zulassen. Jede derartige Mitteilung gilt mit dem dritten Tag nach dem Tag der Veröffentlichung (oder bei mehreren Veröffentlichungen mit dem dritten Tag nach dem Tag der ersten solchen Veröffentlichung) als wirksam erfolgt.

(4) Mitteilungen an das Clearingsystem.

Solange Schuldverschreibungen an dieser Börse notiert sind, sind alle die Schuldverschreibungen betreffenden Mitteilungen gemäß Absatz 1 bekanntzumachen. Soweit die Regeln dieser Börse dies zulassen, kann die Emittentin eine Veröffentlichung nach Absatz 1 durch eine Mitteilung an das Clearing System zur Weiterleitung an die Gläubiger ersetzen; jede derartige Mitteilung gilt am siebten Tag nach dem Tag der Mitteilung an das Clearing System als den Gläubigern mitgeteilt.]

*[Im Fall von Schuldverschreibungen, die nicht an einer Börse notiert sind, ist folgendes anwendbar:*

(5) Mitteilungen an das Clearing System.

Die Emittentin wird alle die Schuldverschreibungen betreffenden Mitteilungen an das Clearing System zur Weiterleitung an die Gläubiger übermitteln. Jede derartige Mitteilung gilt am siebten Tag nach dem Tag der Mitteilung an das Clearing System als den Gläubigern mitgeteilt.]

*[Im Fall von Schuldverschreibungen, die Beschlüsse der Gläubiger vorsehen, ist folgendes anwendbar:*

**§ 13**

**ÄNDERUNG DER EMISSIONSBEDINGUNGEN DURCH BESCHLUSS DER GLÄUBIGER; GEMEINSAMER VERTRETER [IM FALL VON SCHULDVERSCHREIBUNGEN, DIE VON FRESANIUS IRELAND ODER FRESANIUS IRELAND II BEGEBEN WERDEN, IST FOLGENDES ANWENDBAR; ÄNDERUNG DER GARANTIE]**

(1) Beschlüsse durch die Gläubiger.

Die Gläubiger können mit Zustimmung der Emittentin (soweit erforderlich) aufgrund Mehrheitsbeschlusses nach Maßgabe der §§ 5 ff. des Gesetzes über Schuldverschreibungen aus Gesamtemissionen (das *SchVG*) in seiner jeweils gültigen Fassung die Emissionsbedingungen ändern oder sonstige Maßnahmen gemäß dem SchVG beschließen. Die Gläubiger können insbesondere einer



consent to amendments which materially change the substance of the Terms and Conditions, including such measures as provided for under section 5 paragraph 3 SchVG by resolutions passed by such majority of the votes of the Holders as stated under § 13(2) below. A duly passed majority resolution shall be binding upon all Holders.

(2) Majority.

Except as provided by the following sentence and provided that the quorum requirements are being met, the Holders may pass resolutions by simple majority of the voting rights participating in the vote. Resolutions which materially change the substance of the Terms and Conditions, in particular in the cases of section 5 paragraph 3 numbers 1 through 9 SchVG, or relating to material other matters may only be passed by a majority of at least 75% of the voting rights participating in the vote (a **Qualified Majority**).

(3) Passing of resolutions.

The Holders can pass resolutions in a meeting (*Gläubigerversammlung*) in accordance with section 5 et seqq. of the SchVG or by means of a vote without a meeting (*Abstimmung ohne Versammlung*) in accordance with section 18 and section 5 et seqq. of the SchVG.

(4) Meeting.

Attendance at the meeting and exercise of voting rights is subject to the Holders' registration. The registration must be received at the address stated in the convening notice no later than the third day preceding the meeting. As part of the registration, Holders must demonstrate their eligibility to participate in the vote by means of a special confirmation of the Custodian in accordance with § 14(3)(i)(a) and (b) hereof in text form and by submission of a blocking instruction by the Custodian stating that the relevant Notes are not transferable from and including the day such registration has been sent until and including the stated end of the meeting.

(5) Vote without a meeting.

Together with casting their votes Holders must demonstrate their eligibility to participate in the vote by means of a special confirmation of the Custodian in accordance with § 14(3)(i)(a) and

Änderung wesentlicher Inhalte der Emissionsbedingungen, einschließlich der in § 5 Abs. 3 SchVG vorgesehenen Maßnahmen durch Beschlüsse mit den in dem nachstehenden § 13(2) genannten Mehrheiten zustimmen. Ein ordnungsgemäß gefasster Mehrheitsbeschluss ist für alle Gläubiger verbindlich.

(2) Mehrheit.

Vorbehaltlich des nachstehenden Satzes und der Erreichung der erforderlichen Beschlussfähigkeit, beschließen die Gläubiger mit der einfachen Mehrheit der an der Abstimmung teilnehmenden Stimmrechte. Beschlüsse, durch welche der wesentliche Inhalt der Emissionsbedingungen, insbesondere in den Fällen des § 5 Abs. 3 Nummern 1 bis 9 SchVG, geändert wird, bedürfen zu ihrer Wirksamkeit einer Mehrheit von mindestens 75% der an der Abstimmung teilnehmenden Stimmrechte (eine **Qualifizierte Mehrheit**).

(3) Beschlussfassung.

Die Gläubiger können Beschlüsse in einer Gläubigerversammlung gemäß §§ 5 ff. SchVG oder im Wege einer Abstimmung ohne Versammlung gemäß § 18 und § 5 ff. SchVG fassen.

(4) Gläubigerversammlung.

Die Teilnahme an der Gläubigerversammlung und die Ausübung der Stimmrechte ist von einer vorherigen Anmeldung der Gläubiger abhängig. Die Anmeldung muss unter der in der Bekanntmachung der Einberufung mitgeteilten Adresse spätestens am dritten Tag vor der Gläubigerversammlung zugehen. Mit der Anmeldung müssen die Gläubiger ihre Berechtigung zur Teilnahme an der Abstimmung durch einen in Textform erstellten besonderen Nachweis der Depotbank gemäß § 14(3)(i)(a) und (b) und durch Vorlage eines Sperrvermerks der Depotbank, aus dem hervorgeht, dass die betreffenden Schuldverschreibungen ab dem Tag der Absendung der Anmeldung (einschließlich) bis zum angegebenen Ende der Gläubigerversammlung (einschließlich) nicht übertragbar sind, nachweisen.

(5) Abstimmung ohne Versammlung.

Zusammen mit der Stimmabgabe müssen die Gläubiger ihre Berechtigung zur Teilnahme an der Abstimmung durch einen in Textform erstellten besonderen Nachweis der Depotbank

(b) hereof in text form and by submission of a blocking instruction by the Custodian stating that the relevant Notes are not transferable from and including the day such votes have been cast until and including the day the voting period ends.

(6) Second meeting.

If it is ascertained that no quorum exists for the meeting pursuant to § 13(4) or the vote without a meeting pursuant to § 13(5), in case of a meeting the chairman (*Vorsitzender*) may convene a second meeting in accordance with section 15 paragraph 3 sentence 2 of the SchVG or in case of a vote without a meeting the scrutineer (*Abstimmungsleiter*) may convene a second meeting within the meaning of section 15 paragraph 3 sentence 3 of the SchVG. Attendance at the second meeting and exercise of voting rights is subject to the Holders' registration. The provisions set out in § 13(4) sentence 3 shall apply mutatis mutandis to the Holders' registration for a second meeting.

(7) Holders' representative.

**[If no Holders' Representative is designated in the Terms and Conditions of the Notes the following applies:** The Holders may by majority resolution provide for the appointment or dismissal of a joint representative (the **Holders' Representative**), the duties and responsibilities and the powers of such Holders' Representative, the transfer of the rights of the Holders to the Holders' Representative and a limitation of liability of the Holders' Representative. Appointment of a Holders' Representative may only be passed by a Qualified Majority if such Holders' Representative is to be authorised to consent, in accordance with § 13(2) hereof, to a material change in the substance of the Terms and Conditions.]

**[If the Holders' Representative is appointed in the Terms and Conditions of the Notes, the following applies:** The joint representative (the Holders' Representative) shall be [name]. The Holders' Representative shall have the duties and responsibilities and powers provided for by law. The liability of the Holders' Representative shall be limited to ten times of the amount of its annual remuneration, unless the Holders' Representative has acted willfully or with gross negligence. The provisions of the SchVG apply

gemäß § 14(3)(i)(a) und (b) und durch Vorlage eines Sperrvermerks der Depotbank, aus dem hervorgeht, dass die betreffenden Schuldverschreibungen ab dem Tag der Stimmabgabe (einschließlich) bis zum letzten Tag des Abstimmungszeitraums (einschließlich) nicht übertragbar sind, nachweisen.

(6) Zweite Versammlung.

Wird für die Gläubigerversammlung gemäß § 13(4) oder die Abstimmung ohne Versammlung gemäß § 13(5) die mangelnde Beschlussfähigkeit festgestellt, kann – im Fall der Gläubigerversammlung – der Vorsitzende eine zweite Versammlung im Sinne von § 15 Abs. 3 Satz 2 SchVG und – im Fall der Abstimmung ohne Versammlung – der Abstimmungsleiter eine zweite Versammlung im Sinne von § 15 Abs. 3 Satz 3 SchVG einberufen. Die Teilnahme an der zweiten Versammlung und die Ausübung der Stimmrechte sind von einer vorherigen Anmeldung der Gläubiger abhängig. Für die Anmeldung der Gläubiger zu einer zweiten Versammlung gilt § 13(4) Satz 3 entsprechend.

(7) Gemeinsamer Vertreter.

**[Im Fall, dass kein Gemeinsamer Vertreter in den Emissionsbedingungen der Schuldverschreibungen bestimmt ist, ist folgendes anwendbar:** Die Gläubiger können durch Mehrheitsbeschluss einen gemeinsamen Vertreter (der **Gemeinsame Vertreter**) bestellen oder abberufen, die Pflichten, Verantwortlichkeiten und Rechte eines solchen Gemeinsamen Vertreters festlegen, die Übertragung der Rechte der Gläubiger auf den Gemeinsamen Vertreter sowie die Haftungsbegrenzung des Gemeinsamen Vertreters bestimmen. Die Bestellung eines Gemeinsamen Vertreters bedarf einer Qualifizierten Mehrheit, wenn der Gemeinsame Vertreter in Übereinstimmung mit § 13(2) autorisiert ist, einer wesentlichen Änderung des Charakters der Emissionsbedingungen zuzustimmen.]

**[Im Fall, dass ein Gemeinsamer Vertreter in den Emissionsbedingungen bestimmt wird, ist folgendes anwendbar:** Der gemeinsame Vertreter (der **Gemeinsame Vertreter**) ist [Name]. Der Gemeinsame Vertreter hat die Pflichten und Verantwortlichkeiten und Rechte, die ihm von Gesetzes wegen zustehen. Die Haftung des Gemeinsamen Vertreters ist auf den zehnfachen Betrag seiner jährlichen Vergütung begrenzt, es sei denn, der Gemeinsame Vertreter hat vorsätzlich oder grob fahrlässig gehandelt.

with respect to the dismissal of the Holders' Representative and the other rights and obligations of the Holders' Representative.]

(8) Publication.

Any notices concerning this § 13 shall be made exclusively pursuant to the provisions of the SchVG.

***[In the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:***

(9) Amendment of the Guarantee.

The provisions set out above applicable to the amendment of the Terms and Conditions of the Notes shall apply mutatis mutandis to the Guarantee.]

**§ 14**

**(APPLICABLE LAW, PLACE OF JURISDICTION AND ENFORCEMENT)**

(1) Applicable Law.

The Notes, as to form and content, and all rights and obligations of the Holders and the Issuer, shall be governed in every respect by German law.

(2) Submission to Jurisdiction.

Subject to any mandatory jurisdiction for specific proceedings under the SchVG, the District Court (*Landgericht*) in Frankfurt am Main shall have non-exclusive jurisdiction for any action or other legal proceedings (*Proceedings*) arising out of or in connection with the Notes.

(3) Enforcement.

Any Holder of Notes may in any proceedings against the Issuer ***[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:*** or the Guarantor] or to which such Holder and the Issuer ***[in the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:*** or the Guarantor] are parties, protect and enforce in his own name his rights arising under such Notes on the basis of (i) a statement issued by the Custodian with whom such Holder maintains a securities account in respect of the Notes (a) stating the full name and address of the Holder, (b) specifying the aggregate principal amount of Notes credited to such securities account on the date of such statement and (c) confirming that

Die Vorschriften des SchVG gelten im Hinblick auf die Abberufung des Gemeinsamen Vertreters und die sonstigen Rechte und Pflichten des Gemeinsamen Vertreters.]

(8) Veröffentlichung.

Alle Bekanntmachungen diesen § 13 betreffend erfolgen ausschließlich gemäß den Bestimmungen des SchVG.

***[Im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:***

(9) Änderung der Garantie.

Die oben aufgeführten auf die Änderung der Emissionsbedingungen der Schuldverschreibungen anwendbaren Bestimmungen gelten entsprechend für die Bestimmungen der Garantie.]

**§ 14**

**(ANWENDBARES RECHT, GERICHTSSTAND UND GERICHTLICHE GELTENDMACHUNG)**

(1) Anwendbares Recht.

Form und Inhalt der Schuldverschreibungen sowie die Rechte und Pflichten der Gläubiger und der Emittentin bestimmen sich in jeder Hinsicht nach deutschem Recht.

(2) Gerichtsstand.

Vorbehaltlich eines zwingenden Gerichtsstandes für besondere Rechtsstreitigkeiten im Zusammenhang mit dem SchVG, ist das Landgericht Frankfurt am Main nicht ausschließlich zuständig für sämtliche im Zusammenhang mit den Schuldverschreibungen entstehenden Klagen oder sonstige Verfahren (*Rechtsstreitigkeiten*).

(3) Gerichtliche Geltendmachung.

Jeder Gläubiger von Schuldverschreibungen ist berechtigt, in jedem Rechtsstreit gegen die Emittentin ***[im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:*** oder die Garantin] oder in jedem Rechtsstreit, in dem der Gläubiger und die Emittentin ***[im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:*** oder die Garantin] Partei sind, seine Rechte aus diesen Schuldverschreibungen im eigenen Namen auf der folgenden Grundlage zu schützen oder geltend zu machen: (i) er bringt eine Bescheinigung der Depotbank bei, bei der er für

the Custodian has given written notice to the Clearing System containing the information pursuant to (a) and (b) which has been confirmed by the Clearing System; (ii) a copy of the Note in global form certified as being a true copy by a duly authorized officer of the Clearing System or a depositary of the Clearing System, without the need for production in such proceedings of the actual records or the global note representing the Notes or (iii) any other means of proof permitted in legal proceedings in the country of enforcement. For purposes of the foregoing, **Custodian** means any bank or other financial institution of recognized standing authorized to engage in securities custody business with which the Holder maintains a securities account in respect of the Notes and which maintains an account with the Clearing System, and includes the Clearing System. Each Holder may, without prejudice to the foregoing, protect and enforce his rights under these Notes also in any other way which is admitted in the country of the Proceedings.

*[In the case of Notes issued by Fresenius Ireland or Fresenius Ireland II, the following applies:*

- (4) Appointment of Authorized Agent.

For any Proceedings before German courts, the Issuer has appointed Fresenius SE & Co. KGaA, Else-Kröner-Strasse 1, 61352 Bad Homburg vor der Höhe, Federal Republic of Germany, as its authorized agent for service of process in Germany.]

#### § 15 (LANGUAGE)

*[If the Terms and Conditions are to be in the German language with an English language translation, the following applies:*

These Terms and Conditions are written in the

die Schuldverschreibungen ein Wertpapierdepot unterhält, welche (a) den vollständigen Namen und die vollständige Adresse des Gläubigers enthält, (b) den Gesamtnennbetrag der Schuldverschreibungen bezeichnet, die unter dem Datum der Bestätigung auf dem Wertpapierdepot verbucht sind und (c) bestätigt, dass die Depotbank gegenüber dem Clearingsystem eine schriftliche Erklärung abgegeben hat, die die vorstehend unter (a) und (b) bezeichneten Informationen enthält und einen Bestätigungsvermerk des Clearingsystems trägt; (ii) er legt eine Kopie der die betreffenden Schuldverschreibungen verbriefenden Globalurkunde vor, deren Übereinstimmung mit dem Original eine vertretungsberechtigte Person des Clearingsystems oder des Verwahrers des Clearingsystems bestätigt hat, ohne dass eine Vorlage der Originalbelege oder der die Schuldverschreibungen verbriefenden Globalurkunde in einem solchen Verfahren erforderlich wäre oder (iii) auf jede andere Weise, die im Lande der Geltendmachung prozessual zulässig ist. Für die Zwecke des Vorstehenden bezeichnet **Depotbank** jede Bank oder ein sonstiges anerkanntes Finanzinstitut, das berechtigt ist, das Wertpapierverwahrungsgeschäft zu betreiben und bei der/dem der Gläubiger ein Wertpapierdepot für die Schuldverschreibungen unterhält und ein Konto beim Clearingsystem unterhält, einschließlich des Clearingsystems. Jeder Gläubiger kann unbeschadet des Vorstehenden seine Rechte aus diesen Schuldverschreibungen auch auf jede andere Weise schützen und durchsetzen, die im Land des Verfahrens zulässig ist.

*[Im Fall von Schuldverschreibungen, die von Fresenius Ireland oder Fresenius Ireland II begeben werden, ist folgendes anwendbar:*

- (4) Bestellung von Zustellungsbevollmächtigten.

Für etwaige Rechtsstreitigkeiten vor deutschen Gerichten hat die Emittentin die Fresenius SE & Co. KGaA, Else-Kröner-Strasse 1, 61352 Bad Homburg vor der Höhe, Bundesrepublik Deutschland, zu ihrer Zustellungsbevollmächtigten in Deutschland bestellt.]

#### § 15 (SPRACHE)

*[Falls die Emissionsbedingungen in deutscher Sprache mit einer Übersetzung in die englische Sprache abgefasst sind, ist folgendes anwendbar:*

Diese Emissionsbedingungen sind in deutscher

German language and provided with an English language translation. The German text shall be controlling and binding. The English language translation is provided for convenience only.]

***[If the Terms and Conditions are to be in the English language with a German language translation, the following applies:***

These Terms and Conditions are written in the English language and provided with German language translation. The English text shall be controlling and binding. The German language translation is provided for convenience only.]

***[If the Terms and Conditions are to be in the English language only, the following applies:***

These Terms and Conditions are written in the English language only.]

***[If the Notes are publicly offered in whole or in part in Germany or distributed in whole or in part to non-professional investors in Germany with English language Conditions, the following applies:***

Eine deutsche Übersetzung der Emissionsbedingungen wird bei der Fresenius SE & Co. KGaA, Else-Kröner-Strasse 1, 61352 Bad Homburg vor der Höhe, zur kostenlosen Ausgabe bereitgehalten.]

Sprache abgefasst. Eine Übersetzung in die englische Sprache ist beigelegt. Der deutsche Text ist bindend und maßgeblich. Die Übersetzung in die englische Sprache ist unverbindlich.]

***[Falls die Emissionsbedingungen in englischer Sprache mit einer Übersetzung in die deutsche Sprache abgefasst sind, ist folgendes anwendbar:***

Diese Emissionsbedingungen sind in englischer Sprache abgefasst. Eine Übersetzung in die deutsche Sprache ist beigelegt. Der englische Text ist bindend und maßgeblich. Die Übersetzung in die deutsche Sprache ist unverbindlich.]

***[Falls die Emissionsbedingungen ausschließlich in deutscher Sprache abgefasst sind, ist folgendes anwendbar:***

Diese Emissionsbedingungen sind ausschließlich in deutscher Sprache abgefasst.]

## FORM OF FINAL TERMS

In case of Notes admitted to trading on the Luxembourg Stock Exchange or publicly offered in the Grand Duchy of Luxembourg, the Final Terms will be displayed on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)). In case of Notes listed on any other stock exchange or publicly offered in one or more member states of the European Economic Area other than Grand Duchy of Luxembourg, the Final Terms will be displayed on the website of Fresenius ([www.fresenius.com](http://www.fresenius.com)).

**[MiFID II PRODUCT GOVERNANCE / PROFESSIONAL INVESTORS AND ECPS ONLY TARGET MARKET** – Solely for the purposes of [the/each] manufacturer's product approval process, the target market assessment in respect of the Notes has led to the conclusion that: (i) the target market for the Notes is eligible counterparties and professional clients only, each as defined in Directive 2014/65/EU (as amended, **MiFID II**); and (ii) all channels for distribution of the Notes to eligible counterparties and professional clients are appropriate. Any person subsequently offering, selling or recommending the Notes (a **distributor**) should take into consideration the manufacturer['s/s'] target market assessment; however, a distributor subject to MiFID II is responsible for undertaking its own target market assessment in respect of the Notes (by either adopting or refining the manufacturer['s/s'] target market assessment) and determining appropriate distribution channels. [Fresenius SE & Co. KGaA is not]<sup>1</sup> [None of Fresenius SE & Co. KGaA and [Fresenius Finance Ireland Public Limited Company] [Fresenius Finance Ireland II Public Limited Company] is]<sup>2</sup> a manufacturer or distributor for the purposes of the MiFID Product Governance Rules.]<sup>3</sup> [•]

**[MiFID II PRODUKTÜBERWACHUNGSPFLICHTEN / ZIELMARKT PROFESSIONELLE INVESTOREN UND GEEIGNETE GEGENPARTEIEN** – Die Zielmarktbestimmung im Hinblick auf die Schuldverschreibungen hat – ausschließlich für den Zweck des Produktgenehmigungsverfahrens [des/jedes] Konzepteurs – zu dem Ergebnis geführt, dass: (i) der Zielmarkt für die Schuldverschreibungen ausschließlich geeignete Gegenparteien und professionelle Kunden, jeweils im Sinne der Richtlinie 2014/65/EU (in der jeweils gültigen Fassung, **MiFID II**), umfasst und (ii) alle Kanäle für den Vertrieb der Schuldverschreibungen an geeignete Gegenparteien und professionelle Kunden angemessen sind. Jede Person, die in der Folge die Schuldverschreibungen anbietet, verkauft oder empfiehlt (ein **Vertriebsunternehmen**) soll die Beurteilung des Zielmarkts [des/der] Konzepteur[s/e] berücksichtigen; ein Vertriebsunternehmen, welches MiFID II unterliegt, ist indes dafür verantwortlich, seine eigene Zielmarktbestimmung im Hinblick auf die Schuldverschreibungen durchzuführen (entweder durch die Übernahme oder durch die Präzisierung der Zielmarktbestimmung [des/der] Konzepteur[s/e]) und angemessene Vertriebskanäle zu bestimmen. [Fresenius SE & Co. KGaA ist kein]<sup>4</sup> [Weder Fresenius SE & Co. KGaA noch [Fresenius Finance Ireland Public Limited Company] [Fresenius Finance Ireland II Public Limited Company] sind ein]<sup>5</sup> Konzepteur oder ein Vertriebsunternehmen für Zwecke der MiFID Bestimmungen zu Produktüberwachungspflichten.]<sup>6</sup> [•]

**[MiFID II PRODUCT GOVERNANCE / RETAIL INVESTORS, PROFESSIONAL INVESTORS AND ECPS TARGET MARKET** – Solely for the purposes of [the/each] manufacturer's product approval process, the target market assessment in respect of the Notes has led to the conclusion that: (i) the target market for the Notes is eligible counterparties, professional clients and retail clients, each as defined in Directive 2014/65/EU (as amended, **MiFID II**); **EITHER**<sup>7</sup> [and (ii) all channels for distribution of the Notes are appropriate[, including investment advice, portfolio management, non-advised sales and pure execution services] **OR**<sup>8</sup> [(ii) all channels for distribution to eligible counterparties and professional clients are appropriate; and (iii) the following channels for distribution of the Notes to retail clients are appropriate - investment advice[,/ and] portfolio management[,/ and] non-advised sales ][and pure execution services]], subject to the distributor's suitability and appropriateness obligations under

<sup>1</sup> Include in case Fresenius SE & Co. KGaA is the issuer of the relevant Notes.

<sup>2</sup> Include in case Fresenius Finance Ireland Public Limited Company or Fresenius Finance Ireland II Public Limited Company is the issuer of the relevant Notes.

<sup>3</sup> Include legend in case MiFID II target market assessment in respect of the Notes is "Professional Investors and Eligible Counterparties only."

<sup>4</sup> Einfügen, wenn Fresenius SE & Co. KGaA die Emittentin der betreffenden Schuldverschreibungen ist.

<sup>5</sup> Einfügen, wenn Fresenius Finance Ireland Public Limited Company oder Fresenius Finance Ireland II Public Limited Company die Emittentin der betreffenden Schuldverschreibungen ist.

<sup>6</sup> Legende einsetzen, wenn MiFID II Zielmarktbestimmung im Hinblick auf die Schuldverschreibungen ergeben hat "Ausschließlich Professionelle Investoren und Geeignete Gegenparteien".

<sup>7</sup> Include for Notes that are not ESMA complex pursuant to the Guidelines on complex debt instruments and structured deposits (ESMA/2015/1787) (the **ESMA Guidelines**).

<sup>8</sup> Include for Notes that are ESMA complex pursuant to the ESMA Guidelines. This list may need to be amended, for example, if advised sales are deemed necessary. If there are advised sales, a determination of suitability and appropriateness will be necessary. In addition, if the Notes constitute "complex" products, pure execution services to retail clients are not permitted without the need to make the determination of appropriateness required under Article 25(3) of MiFID II.

MiFID II, as applicable]] [Consider any negative target market]. Any person subsequently offering, selling or recommending the Notes (a **distributor**) should take into consideration the manufacturer['s/s'] target market assessment; however, a distributor subject to MiFID II is responsible for undertaking its own target market assessment in respect of the Notes (by either adopting or refining the manufacturer['s/s'] target market assessment) and determining appropriate distribution channels[, subject to the distributor's suitability and appropriateness obligations under MiFID II, as applicable].<sup>9</sup> [Fresenius SE & Co. KGaA is not]<sup>10</sup> [None of Fresenius SE & Co. KGaA and [Fresenius Finance Ireland Public Limited Company] [Fresenius Finance Ireland II Public Limited Company] is]<sup>11</sup> a manufacturer or distributor for the purposes of the MiFID Product Governance Rules.]<sup>12</sup> [•]

**[MiFID II PRODUKTÜBERWACHUNGSPFLICHTEN / ZIELMARKT KLEINANLEGER, PROFESSIONELLE INVESTOREN UND GEEIGNETE GEGENPARTEIEN** - Die Zielmarktbestimmung im Hinblick auf die Schuldverschreibungen hat – ausschließlich für den Zweck des Produktgenehmigungsverfahrens [des/jedes] Konzepteurs – zu dem Ergebnis geführt, dass (i) der Zielmarkt für die Schuldverschreibungen geeignete Gegenparteien, professionelle Kunden und Kleinanleger, jeweils im Sinne der Richtlinie 2014/65/EU (in der jeweils gültigen Fassung, **MiFID II**), umfasst; **ENTWEDER** <sup>13</sup> [und (ii) alle Kanäle für den Vertrieb der Schuldverschreibungen angemessen sind, einschließlich Anlageberatung, Portfolio-Management, Verkäufe ohne Beratung und reine Ausführungsdienstleistungen] **ODER** <sup>14</sup> [und (ii) alle Kanäle für den Vertrieb der Schuldverschreibungen an professionelle Investoren und geeignete Gegenparteien angemessen sind die folgenden Kanäle für den Vertrieb der Schuldverschreibungen an Kleinanleger angemessen sind - Anlageberatung[,/ und] Portfolio-Management[,/ und][ Verkäufe ohne Beratung ][und reine Ausführungsdienstleistungen][, nach Maßgabe der Pflichten des Vertriebsunternehmens unter MiFID II im Hinblick auf Geeignetheit bzw. Angemessenheit]] [Bitte jegliche negativen Zielmärkte berücksichtigen]. Jede Person, die in der Folge die Schuldverschreibungen anbietet, verkauft oder empfiehlt (ein **Vertriebsunternehmen**) soll die Beurteilung des Zielmarkts [des/der] Konzepteur[s/e] berücksichtigen; ein Vertriebsunternehmen, welches MiFID II unterliegt, ist indes dafür verantwortlich, seine eigene Zielmarktbestimmung im Hinblick auf die Schuldverschreibungen durchzuführen (entweder durch die Übernahme oder durch die Präzisierung der Zielmarktbestimmung [des/der] Konzepteur[s/e]) und angemessene Vertriebskanäle[ nach Maßgabe der Pflichten des Vertriebsunternehmens unter MiFID II im Hinblick auf Geeignetheit bzw. Angemessenheit]<sup>15</sup>, zu bestimmen. [Fresenius SE & Co. KGaA ist kein]<sup>16</sup> [Weder Fresenius SE & Co. KGaA noch [Fresenius Finance Ireland Public Limited Company] [Fresenius Finance Ireland II Public Limited Company] sind ein] <sup>17</sup> Konzepteur oder ein Vertriebsunternehmen für Zwecke der MiFID Bestimmungen zu Produktüberwachungspflichten.]<sup>18</sup> [•]

**[PROHIBITION OF SALES TO EEA AND UK RETAIL INVESTORS** – The Notes are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available to any retail investor in the European Economic Area (**EEA**) or in the United Kingdom (**UK**). For these purposes, a retail investor means a person who is one (or more) of: (i) a retail client as defined in point (11) of Article 4(1) of Directive 2014/65/EU (as amended, **MiFID II**); (ii) a customer within the meaning of Directive 2016/97/EU (as amended, the **Insurance Distribution Directive**), where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II; or (iii) not a qualified investor as defined in Regulation (EU) No 2017/1129 of the European Parliament and of the Council of June 14, 2017 (as amended, the **Prospectus Regulation**). Consequently, no key information document required by Regulation (EU) No 1286/2014 (as amended or superseded, the **PRIIPs Regulation**) for offering or selling the Notes or otherwise making them available to retail investors in the

<sup>9</sup> If there are advised sales, a determination of suitability will be necessary.

<sup>10</sup> Include in case Fresenius SE & Co. KGaA is the issuer of the relevant Notes.

<sup>11</sup> Include in case Fresenius Finance Ireland Public Limited Company or Fresenius Finance Ireland II Public Limited Company is the issuer of the relevant Notes.

<sup>12</sup> Include legend in case MiFID II target market assessment in respect of the Notes is "Retail Investor Target Market."

<sup>13</sup> Einfügen für Schuldverschreibungen, die nicht nach den Leitlinien zu komplexen Schuldtiteln und strukturierten Einlagen (ESMA/2015/1787) (die **ESMA Leitlinien**) ESMA komplex sind.

<sup>14</sup> Einfügen im Fall von Schuldverschreibungen, die nach den ESMA Leitlinien ESMA komplex sind. Diese Liste muss gegebenenfalls angepasst werden, z.B. wenn Anlageberatung für erforderlich gehalten wird. Im Fall der Anlageberatung ist die Bestimmung der Geeignetheit und Angemessenheit notwendig. Wenn die Schuldverschreibungen "komplexe" Produkte sind, ist außerdem die bloße Ausführung von Kundenaufträgen von Privatanlegern ohne Bestimmung der Angemessenheit nach Art. 25(3) MiFID II nicht zulässig.

<sup>15</sup> Im Fall von Beratungsverkäufen ist eine Angemessenheitsprüfung erforderlich.

<sup>16</sup> Einfügen, wenn Fresenius SE & Co. KGaA die Emittentin der betreffenden Schuldverschreibungen ist.

<sup>17</sup> Einfügen, wenn Fresenius Finance Ireland Public Limited Company oder Fresenius Finance Ireland II Public Limited Company die Emittentin der betreffenden Schuldverschreibungen ist.

<sup>18</sup> Legende einsetzen, wenn MiFID II Zielmarktbestimmung im Hinblick auf die Schuldverschreibungen ergeben hat "Zielmarkt Kleinanleger".

EEA or in the UK has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the EEA or in the UK may be unlawful under the PRIIPs Regulation.]<sup>19</sup>

**[VERBOT DES VERKAUFS AN KLEINANLEGER IM EUROPÄISCHEN WIRTSCHAFTSRAUM UND IM VEREINIGTEN KÖNIGREICH** – Die Schuldverschreibungen sind nicht zum Angebot, zum Verkauf oder zur sonstigen Zurverfügungstellung an Kleinanleger im Europäischen Wirtschaftsraum (EWR) oder im Vereinigten Königreich (VK) bestimmt und sollten Kleinanlegern im EWR oder im VK nicht angeboten, nicht an diese verkauft und diesen auch nicht in sonstiger Weise zur Verfügung gestellt werden. Für die Zwecke dieser Bestimmung bezeichnet der Begriff Kleinanleger eine Person, die eines (oder mehrere) der folgenden Kriterien erfüllt: (i) sie ist ein Kleinanleger im Sinne von Artikel 4 Abs. 1 Nr. 11 der Richtlinie 2014/65/EU (in ihrer jeweils gültigen Fassung, **MiFID II**); (ii) sie ist ein Kunde im Sinne der Richtlinie 2002/92/EG (wie ergänzt oder ersetzt, **IMD**), soweit dieser Kunde nicht als professioneller Kunde im Sinne von Artikel 4 Abs. 1 Nr. 10 MiFID II gilt; oder (iii) sie ist kein qualifizierter Anleger im Sinne der Verordnung (EU) 2017/1129 des Europäischen Parlaments und des Rates vom 14. Juni 2017 (wie von Zeit zu Zeit ergänzt, die **Prospektverordnung**). Entsprechend wurde kein nach der Verordnung (EU) Nr. 1286/2014 (in ihrer jeweils gültigen oder ersetzten Fassung, die **PRIIPs-Verordnung**) erforderliches Basisinformationsblatt für das Angebot oder den Verkauf oder die sonstige Zurverfügungstellung der Schuldverschreibungen an Kleinanleger im EWR oder im VK erstellt; daher kann das Angebot oder der Verkauf oder die sonstige Zurverfügungstellung der Schuldverschreibungen an Kleinanleger im EWR oder im VK nach der PRIIPs-Verordnung rechtswidrig sein.]<sup>20</sup>

[Date]  
[Datum]

## **FINAL TERMS ENDGÜLTIGE BEDINGUNGEN**

[Fresenius SE & Co. KGaA] [Fresenius Finance Ireland Public Limited Company] [Fresenius Finance Ireland II Public Limited Company]

[Title of relevant Series of Notes]

[Bezeichnung der betreffenden Serie der Schuldverschreibung]

Series: [●], Tranche [●]

Serien: [●], Tranche [●]

issued pursuant to the  
begeben aufgrund des

**€10,000,000,000**

**Debt Issuance Programme**

Dated March 30, 2020  
vom 30. März 2020

of  
der

**Fresenius SE & Co. KGaA**

**Fresenius Finance Ireland Public Limited Company**

and  
und

**Fresenius Finance Ireland II Public Limited Company**

Issue Price: [ ] per cent.

Ausgabepreis: [ ]%

<sup>19</sup> To be included in case "Prohibition of Sales to EEA and UK Retail Investors" is selected to be "applicable" in Part II of the Final Terms.

<sup>20</sup> Legende einfügen, sofern in Teil II der Endgültigen Bedingungen "Verbot des Verkaufs an Kleinanleger im Europäischen Wirtschaftsraum und im Vereinigten Königreich" für "anwendbar" erklärt wird.



Issue Date: [ ]<sup>21</sup>  
Begebungstag: [ ]

These are the Final Terms of an issue of Notes under the €10,000,000,000 Debt Issuance Programme of Fresenius SE & Co. KGaA, Fresenius Finance Ireland Public Limited Company and Fresenius Finance Ireland II Public Limited Company (the **Programme**). These Final Terms have been prepared for the purpose of Article 8 of the Regulation (EU) No 2017/1129 of the European Parliament and of the Council of June 14, 2017 (as amended, the **Prospectus Regulation**), and must be read in conjunction with the Base Prospectus dated March 30, 2020 [as supplemented by [a] Supplement[s] dated [●]] (the **Prospectus**). Full information on [Fresenius SE & Co. KGaA] [Fresenius Finance Ireland Public Limited Company] [Fresenius Finance Ireland II Public Limited Company] and the offer of the Notes is only available on the basis of the combination of the Prospectus and these Final Terms. The Prospectus and any supplement thereto are available for viewing in electronic form on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)), and copies may be obtained free of charge from Fresenius SE & Co. KGaA, Else-Kröner-Str. 1, 61352 Bad Homburg vor der Höhe, Germany. [A summary fully completed for the individual issue of the Notes is annexed to these Final Terms.]<sup>22</sup>

*Diese Endgültigen Bedingungen enthalten Angaben zur Emission von Schuldverschreibungen unter dem €10.000.000.000 Debt Issuance Programme der Fresenius SE & Co. KGaA, der Fresenius Finance Ireland Public Limited Company und der Fresenius Finance Ireland II Public Limited Company (das **Programm**). Diese Endgültigen Bedingungen wurden für die Zwecke des Artikels 8 der Verordnung (EU 2017/1129 des Europäischen Parlaments und des Rates vom 14. Juni 2017 (wie von Zeit zu Zeit ergänzt, die **Prospektverordnung**), abgefasst und sind in Verbindung mit dem Basisprospekt vom 30. März 2020[, ergänzt durch [den Nachtrag][die Nachträge] vom [●]] (der **Prospekt**) zu lesen. Vollständige Informationen über [Fresenius SE & Co. KGaA] [Fresenius Finance Ireland Public Limited Company] [Fresenius Finance Ireland II Public Limited Company] und das Angebot der Schuldverschreibungen sind nur verfügbar, wenn die Endgültigen Bedingungen und der Prospekt zusammengekommen werden. Der Prospekt sowie jeder Nachtrag können in elektronischer Form auf der Internetseite der Luxemburger Börse ([www.bourse.lu](http://www.bourse.lu)) eingesehen werden. Kostenlose Kopien sind erhältlich unter Fresenius SE & Co. KGaA, Else-Kröner-Str. 1, 61352 Bad Homburg vor der Höhe, Deutschland. [Eine für die einzelne Emission von Schuldverschreibungen vollständig ausgefüllte Zusammenfassung ist diesen Endgültigen Bedingungen beigelegt.]<sup>22</sup>*

## Part I: TERMS AND CONDITIONS

### Teil I: EMISSIONSBEDINGUNGEN

[A. In the case the options applicable to the relevant Tranche of Notes are to be determined by replicating the relevant provisions set forth in the Prospectus as Option I[A][B] or Option II, including certain further options contained therein, respectively, and completing the relevant placeholders, insert:<sup>23</sup>

*A. Falls die für die betreffende Tranche von Schuldverschreibungen geltenden Optionen durch Wiederholung der betreffenden im Prospekt als Option I[A][B] oder Option II aufgeführten Angaben (einschließlich der jeweils enthaltenen bestimmten weiteren Optionen) bestimmt und die betreffenden Leerstellen vervollständigt werden, einfügen:<sup>23</sup>*

The Terms and Conditions applicable to the Notes (the **Conditions**) [and the [German] [English] language translation thereof,] are as set out below.

*Die für die Schuldverschreibungen geltenden Emissionsbedingungen (die **Bedingungen**) [sowie die [deutschsprachige][englischsprachige] Übersetzung] sind wie nachfolgend aufgeführt.*

<sup>21</sup> The Issue is the date of payment and settlement of the Notes. In the case of free delivery, the Issue Date is the delivery date.  
*Der Tag der Begebung ist der Tag, an dem die Schuldverschreibungen begeben und bezahlt werden. Bei freier Lieferung ist der Tag der Begebung der Tag der Lieferung*

<sup>22</sup> May be deleted in the case of an issue of Notes with a minimum denomination of at least €100,000.

*Kann im Fall einer Emission von Schuldverschreibungen mit einer Mindeststückelung in Höhe von mindestens €100.000 gelöscht werden.*

<sup>23</sup> To be determined in consultation with the Issuer. It is anticipated that this type of documenting the Conditions will be required where the Notes are to be offered to the public, in whole or in part, or to be initially distributed, in whole or in part, to non-qualified investors. Delete all references to Part I B. of the Final Terms including numbered paragraphs and subparagraphs of the Terms and Conditions.  
*In Abstimmung mit der Emittentin festzulegen. Es ist vorgesehen, dass diese Form der Dokumentation der Bedingungen erforderlich ist, wenn die Schuldverschreibungen insgesamt oder teilweise anfänglich an nicht qualifizierte Anleger verkauft oder öffentlich angeboten werden. Alle Bezugnahmen auf Teil I B. der Endgültigen Bedingungen einschließlich der Paragraphen und Absätze der Emissionsbedingungen entfernen.*

[in the case of Notes with fixed interest rates replicate here the relevant provisions of Option I[A][B]<sup>24</sup> including relevant further options contained therein, and complete relevant placeholders]

*[im Fall von Schuldverschreibungen mit fester Verzinsung hier die betreffenden Angaben der Option I[A][B]<sup>26</sup> (einschließlich der betreffenden weiteren Optionen) wiederholen und betreffende Leerstellen vervollständigen]*

[in the case of Notes with floating interest rates replicate here the relevant provisions of Option II including relevant further options contained therein, and complete relevant placeholders]

*[im Fall von Schuldverschreibungen mit variabler Verzinsung hier die betreffenden Angaben der Option II (einschließlich der betreffenden weiteren Optionen) wiederholen und betreffende Leerstellen vervollständigen]*

**[B. In the case the options applicable to the relevant Tranche of Notes are to be determined by referring to the relevant provisions set forth in the Prospectus as Option I[A][B] or Option II, including certain further options contained therein, respectively, insert:**

***B. Falls die für die betreffende Tranche von Schuldverschreibungen geltenden Optionen, die durch Verweisung auf die betreffenden im Prospekt als Option I[A][B] oder Option II aufgeführten Angaben (einschließlich der jeweils enthaltenen bestimmten weiteren Optionen) bestimmt werden, einfügen:***

This Part I. of the Final Terms is to be read in conjunction with the set of Terms and Conditions that apply to Notes with [fixed] [floating] interest rates (the **Terms and Conditions**) set forth in the Prospectus as [Option I[A][B]<sup>26</sup>] [Option II]. Capitalised terms not otherwise defined herein shall have the meanings specified in the Terms and Conditions.

*Dieser Teil I. der Endgültigen Bedingungen ist in Verbindung mit dem Satz der Emissionsbedingungen, der auf Schuldverschreibungen mit [fester] [variabler] Verzinsung Anwendung findet (die **Emissionsbedingungen**), zu lesen, der als [Option I[A][B]<sup>26</sup>] [Option II] im Prospekt enthalten ist. Begriffe, die in den Emissionsbedingungen definiert sind, haben, falls die Endgültigen Bedingungen nicht etwas anderes bestimmen, dieselbe Bedeutung, wenn sie in diesen Endgültigen Bedingungen verwendet werden.*

All references in this Part I. of the Final Terms to numbered paragraphs and subparagraphs are to paragraphs and subparagraphs of the Terms and Conditions.

*Bezugnahmen in diesem Teil I. der Endgültigen Bedingungen auf Paragraphen und Absätze beziehen sich auf die Paragraphen und Absätze der Emissionsbedingungen.*

The blanks in the provisions of the Terms and Conditions, which are applicable to the Notes, shall be deemed to be completed with the information contained in the Final Terms as if such information were inserted in the blanks of such provisions. All provisions in the Terms and Conditions corresponding to items in these Final Terms which are either not selected or not completed or which are deleted shall be deemed to be deleted from the Terms and Conditions applicable to the Notes (the **Conditions**).

*Die Leerstellen in den auf die Schuldverschreibungen anwendbaren Bestimmungen der Emissionsbedingungen gelten als durch die in den Endgültigen Bedingungen enthaltenen Angaben ausgefüllt, als ob die Leerstellen in den betreffenden Bestimmungen durch diese Angaben ausgefüllt wären. Sämtliche Bestimmungen der Emissionsbedingungen, die sich auf Variablen dieser Endgültigen Bedingungen beziehen, die weder angekreuzt noch ausgefüllt oder die gestrichen werden, gelten als in den auf die Schuldverschreibungen anwendbaren Emissionsbedingungen (die **Bedingungen**) gestrichen.*

## **CURRENCY, DENOMINATION, FORM (§ 1)**

### **WÄHRUNG, STÜCKELUNG, FORM (§ 1)**

#### **Currency and Denomination**

#### **Währung und Stückelung**

Specified Currency

[ ] or [symbol]  
(being the lawful currency of [ ])

<sup>24</sup> In case of an increase of an issue of Notes which were originally issued prior to the date of this Prospectus, the Terms and Conditions of the Tranches have to be identical in all respects, but may have different issue dates, interest commencement dates, issue prices and dates for first interest payments.

*Im Fall einer Aufstockung einer Emission von Schuldverschreibungen, die ursprünglich vor dem Datum dieses Prospekts begeben wurden, müssen die Emissionsbedingungen der Tranchen in jeder Hinsicht identisch sein, können aber unterschiedliche Begebungstage, Verzinsungsbeginne, Ausgabepreise und erste Zinszahlungstage haben.*

Festgelegte Währung [ ] oder [Symbol]  
(das gesetzliche Zahlungsmittel in [ ])

Aggregate Principal Amount [ ]  
Gesamtnennbetrag

Aggregate Principal Amount in words [ ]  
Gesamtnennbetrag in Worten

Specified Denomination [ ]  
Stückelung

☐ **Permanent Global Note**  
*Dauerglobalurkunde*

☐ **Temporary Global Note exchangeable for Permanent Global Note**  
*Vorläufige Globalurkunde austauschbar gegen Dauerglobalurkunde*

☐ **Book-Entry Register**  
*Effektengiro-Register*

**Clearing System**  
*Clearingsystem*

☐ Clearstream Banking AG, Frankfurt am Main

☐ Clearstream Banking, société anonyme, Luxembourg

☐ Euroclear Bank SA/NV

☐ Other Clearing System [specify details, including address]  
*Anderes Clearingsystem* [Einzelheiten einfügen, einschließlich Adresse]

**Global Note<sup>25</sup>**  
*Globalurkunde*

☐ Classical Global Note

☐ New Global Note

**INTEREST (§ 3)**  
*ZINSEN (§ 3)*

☐ **Fixed Rate Notes (Option I[A][B])<sup>26</sup>**  
*Festverzinsliche Schuldverschreibungen (Option I[A][B])*

**Rate of Interest and Interest Payment Dates**  
*Zinssatz und Zinszahlungstage*

Rate of Interest [ ]% per annum  
*Zinssatz* [ ]% per annum

Interest Commencement Date [ ]  
*Verzinsungsbeginn*

Interest Payment Date(s) [ ]  
*Zinszahlungstag(e)*

First Interest Payment Date [ ]  
*Erster Zinszahlungstag*

<sup>25</sup> Complete for Notes kept in custody on behalf of the ICSDs.

*Im Fall von Schuldverschreibungen, die im Namen der ICSDs verwahrt werden, ausfüllen.*

<sup>26</sup> Insert "A" or, as applicable, "B" in the case of an increase of an issue of Notes which were originally issued prior to the date of this Prospectus.

*"A" bzw. "B" einfügen im Fall der Aufstockung einer Emission von Schuldverschreibungen, die ursprünglich vor dem Datum dieses Prospekts begeben wurden.*

|                                                                                                                                                      |                                                                                                                                                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Initial Broken Amount(s)<br>(per Specified Denomination)<br><i>Anfängliche(r) Bruchteilzinsbetrag(-beträge)</i><br>(für jede festgelegte Stückelung) | [   ]                                                                                                                                                                                                                                        |
| Interest Payment Date preceding the Maturity Date<br><i>Zinszahlungstag, der dem Fälligkeitstag vorangeht</i>                                        | [   ]                                                                                                                                                                                                                                        |
| Final Broken Amount(s)<br>(per Specified Denomination)<br><i>Abschließende(r) Bruchteilzinsbetrag(-beträge)</i><br>(für jede festgelegte Stückelung) | [   ]                                                                                                                                                                                                                                        |
| Number of regular Interest Payment Dates per calendar year<br><i>Anzahl der regulären Zinszahlungstage im Kalenderjahr</i>                           | [   ]                                                                                                                                                                                                                                        |
| Deemed Interest Payment Date(s)<br><i>Fiktive(r) Zinszahlungstag(e)</i>                                                                              | [   ]                                                                                                                                                                                                                                        |
| <input type="checkbox"/> <b>Floating Rate Notes (Option II)</b><br><i>Variabel verzinsliche Schuldverschreibungen (Option II)</i>                    |                                                                                                                                                                                                                                              |
| <b>Interest Payment Dates</b><br><i>Zinszahlungstage</i>                                                                                             |                                                                                                                                                                                                                                              |
| Interest Commencement Date<br><i>Verzinsungsbeginn</i>                                                                                               | [   ]                                                                                                                                                                                                                                        |
| Specified Interest Payment Dates<br><i>Festgelegte Zinszahlungstage</i>                                                                              | [   ]                                                                                                                                                                                                                                        |
| Specified Interest Period(s)<br><i>Festgelegte Zinsperiode(n)</i>                                                                                    | [   ] [weeks][months]<br>[   ] [Wochen][Monate]                                                                                                                                                                                              |
| <b>Business Day Convention</b><br><i>Geschäftstagskonvention</i>                                                                                     |                                                                                                                                                                                                                                              |
| <input type="checkbox"/> Modified Following Business Day Convention<br><i>Modifizierte folgende Geschäftstag-Konvention</i>                          |                                                                                                                                                                                                                                              |
| <input type="checkbox"/> Floating Rate Note (FRN) Convention (specify period)<br><i>Floating Rate Note (FRN)-Konvention (Zeitraum angeben)</i>       | [   ] [months]<br>[   ] [Monate]                                                                                                                                                                                                             |
| <input type="checkbox"/> Following Business Day Convention<br><i>Folgende Geschäftstag-Konvention</i>                                                |                                                                                                                                                                                                                                              |
| <input type="checkbox"/> Preceding Business Day Convention<br><i>Vorhergehende Geschäftstag-Konvention</i>                                           |                                                                                                                                                                                                                                              |
| <b>Rate of Interest</b><br><i>Zinssatz</i>                                                                                                           |                                                                                                                                                                                                                                              |
| <input type="checkbox"/> EURIBOR                                                                                                                     |                                                                                                                                                                                                                                              |
| <input type="checkbox"/> LIBOR                                                                                                                       |                                                                                                                                                                                                                                              |
| <b>Interest Determination Date</b><br><br><i>Zinsfestlegungstag</i>                                                                                  | [first] [second] [relevant financial centre(s)]<br>Business Day[prior to commencement]<br>of the relevant Interest Period<br>[ersten] [zweiten] [relevante(s)]<br>Finanzzentrum(en)] Geschäftstag<br>[vor Beginn] der jeweiligen Zinsperiode |
| [relevant financial centre(s)] Business Day<br><i>[relevante(s) Finanzzentrum(en)]-Geschäftstag</i>                                                  | [relevant financial centre(s)]<br><i>[relevante(s) Finanzzentrum(en)]</i>                                                                                                                                                                    |

**Specific fallback provision “Reference Rate for the preceding Interest Period”**  
**Besondere Fallbackregelungen “Referenzsatz der vorangegangenen Zinsperiode”**

- ☐ anwendbar  
*applicable*
- ☐ nicht anwendbar  
*not applicable*

**Margin**  
**Marge**

[ ] per cent. per annum  
[ ] % per annum

- ☐ plus  
*plus*
- ☐ minus  
*minus*

**Minimum and Maximum Rate of Interest**  
**Mindest- und Höchstzinssatz**

- ☐ Minimum Rate of Interest  
*Mindestzinssatz*
- ☐ Maximum Rate of Interest  
*Höchstzinssatz*

[ ] per cent. per annum  
[ ] % per annum

[ ] per cent. per annum  
[ ] % per annum

**Day Count Fraction<sup>27</sup>**  
**Zinstagequotient**

- ☐ Actual/365 or Actual/Actual (ISDA)
- ☐ Actual/Actual (ICMA)
- ☐ Actual/365 (Fixed)
- ☐ Actual/360
- ☐ 30/360 or 360/360 (Bond Basis)
- ☐ 30E/360 (Eurobond Basis)

**PAYMENTS (§ 4)**  
**ZAHLUNGEN (§ 4)**

**Payment Business Day**  
**Zahltag**

- ☐ Relevant Financial Centers (specify all) [ ]  
*Relevante Finanzzentren (alle angeben)*
- ☐ TARGET  
*TARGET*

**REDEMPTION (§ 5)**  
**RÜCKZAHLUNG (§ 5)**

**Redemption at Maturity**  
**Rückzahlung bei Endfälligkeit**

Maturity Date<sup>28</sup> [ ]  
*Fälligkeitstag*

---

<sup>27</sup> Complete for all Notes.  
*Für alle Schuldverschreibungen ausfüllen.*

<sup>28</sup> Complete for Fixed Rate Notes.  
*Für festverzinsliche Schuldverschreibungen auszufüllen.*

|                                                                                                                                                                                                                       |                                                                                                                                                                                                                               |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Redemption Month <sup>29</sup><br><i>Rückzahlungsmonat</i>                                                                                                                                                            | [ ]                                                                                                                                                                                                                           |
| <b>Early Redemption</b><br><b><i>Vorzeitige Rückzahlung</i></b>                                                                                                                                                       |                                                                                                                                                                                                                               |
| <b>Early Redemption at the Option of the Issuer for reason of Minimal Outstanding Aggregate Principal Amount</b><br><i>Vorzeitige Rückzahlung nach Wahl der Emittentin bei geringem ausstehendem Gesamtnennbetrag</i> | [Yes/No]<br>[Ja/Nein]                                                                                                                                                                                                         |
| <b>Early Redemption at the Option of the Issuer upon occurrence of a Suspension Event<sup>30</sup></b><br><i>Vorzeitige Rückzahlung nach Wahl der Emittentin bei Eintritt eines Einstellungs-Ereignisses</i>          | [Yes/No]<br>[Ja/Nein]                                                                                                                                                                                                         |
| <b>Early Redemption at the Option of the Holders in case of a change of control</b><br><i>Vorzeitige Rückzahlung nach Wahl der Gläubiger bei Kontrollwechsel</i>                                                      | [Yes/No]<br>[Ja/Nein]                                                                                                                                                                                                         |
| <b>Early Redemption at the Option of the Issuer</b><br><i>Vorzeitige Rückzahlung nach Wahl der Emittentin</i>                                                                                                         | [Yes/No]<br>[Ja/Nein]                                                                                                                                                                                                         |
| <input type="checkbox"/> Call Redemption Period(s) specified<br><i>Wahlrückzahlungszeitraum/räume (Call) festgelegt</i>                                                                                               |                                                                                                                                                                                                                               |
| Call Redemption Period(s)<br><i>Wahlrückzahlungszeitraum/räume (Call)</i>                                                                                                                                             | [ ]                                                                                                                                                                                                                           |
| Call Redemption Amount(s)<br><i>Wahlrückzahlungsbetrag(beträge) (Call)</i>                                                                                                                                            | [ ]                                                                                                                                                                                                                           |
| <input type="checkbox"/> Make-Whole specified <sup>31</sup><br><i>Make-Whole festgelegt</i>                                                                                                                           |                                                                                                                                                                                                                               |
| Margin<br><i>Marge</i>                                                                                                                                                                                                | [margin]%<br>[Marge]%                                                                                                                                                                                                         |
| Benchmark Yield<br><i>Benchmark-Rendite</i>                                                                                                                                                                           | [relevant time]<br>[maßgebliche Uhrzeit]                                                                                                                                                                                      |
| Screen Page<br><br><i>Bildschirmseite</i>                                                                                                                                                                             | [HP (setting “Last Yield To Convention” and using the pricing source “FRNK”)]<br>[other relevant screen page]<br>[HP (Einstellung „Last Yield to Convention“ und Verwendung der Preisquelle „FRNK“)] [andere Bildschirmseite] |
| Benchmark Security<br><i>Benchmarkanleihe</i>                                                                                                                                                                         | [ ]                                                                                                                                                                                                                           |
| ISIN of the reference bond used at pricing the Notes<br><i>ISIN der Referenzanleihe, die bei der Preisbestimmung der Schuldverschreibungen genannt wurde</i>                                                          | [ ]                                                                                                                                                                                                                           |
| Maturity<br><i>Fälligkeitstermin</i>                                                                                                                                                                                  | [ ]                                                                                                                                                                                                                           |
| <b>Early Redemption at the Option of the Issuer upon occurrence of a Transaction Trigger Event</b><br><i>Vorzeitige Rückzahlung nach Wahl der Emittentin bei Eintritt eines Transaktions-Ereignisses</i>              | [Yes/No]<br>[Ja/Nein]                                                                                                                                                                                                         |

<sup>29</sup> Complete for Floating Rate Notes.  
*Für variabel verzinsliche Schuldverschreibungen auszufüllen.*

<sup>30</sup> Complete for Floating Rate Notes only.  
*Nur für variabel verzinsliche Schuldverschreibungen auszufüllen.*

<sup>31</sup> Complete for Fixed Rate Notes only.  
*Nur für festverzinsliche Schuldverschreibungen auszufüllen.*

|                                                                                                                                                                                                                                                                           |                       |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| Event Redemption Amount<br><i>Ereignisrückzahlungsbetrag</i>                                                                                                                                                                                                              | [ ]                   |
| Transaction<br><i>Transaktion</i>                                                                                                                                                                                                                                         | [ ]                   |
| Transaction Trigger Cut-off Date<br><i>Transaktions-Stichtag</i>                                                                                                                                                                                                          | [ ]                   |
| <b>Early Redemption at the Option of a Holder</b><br><b><i>Vorzeitige Rückzahlung nach Wahl des Gläubigers</i></b>                                                                                                                                                        | [Yes/No]<br>[Ja/Nein] |
| Put Redemption Date(s)<br><i>Wahlrückzahlungstag(e) (Put)</i>                                                                                                                                                                                                             | [ ]                   |
| Put Redemption Amount(s)<br><i>Wahlrückzahlungsbetrag(beträge) (Put)</i>                                                                                                                                                                                                  | [ ]                   |
| Minimum Notice <sup>32</sup><br><i>Mindestkündigungsfrist</i>                                                                                                                                                                                                             | [ ] days<br>[ ] Tage  |
| Maximum Notice (not more than 60 days)<br><i>Höchstkündigungsfrist (nicht mehr als 60 Tage)</i>                                                                                                                                                                           | [ ] days<br>[ ] Tage  |
| <b>[PAYING AGENT, FISCAL AGENT, CALCULATION AGENT<sup>33</sup> (§ 7)</b><br><b><i>ZAHLSTELLE, EMISSIONSSTELLE, BERECHNUNGSSTELLE (§ 7)</i></b>                                                                                                                            |                       |
| <b>Calculation Agent</b><br><b><i>Berechnungsstelle</i></b>                                                                                                                                                                                                               | [ ]<br>[ ]            |
| <input type="checkbox"/> Fiscal Agent acting as Calculation Agent<br><i>Emissionsstelle handelnd als Berechnungsstelle]</i>                                                                                                                                               |                       |
| <b>NOTICES (§ 12)</b><br><b><i>MITTEILUNGEN (§ 12)</i></b>                                                                                                                                                                                                                |                       |
| <b>Place and medium of publication</b><br><b><i>Ort und Medium der Bekanntmachung</i></b>                                                                                                                                                                                 |                       |
| <input type="checkbox"/> Website of the Luxembourg Stock Exchange ( <i>www.bourse.lu</i> )<br><i>Internetseite der Luxemburger Börse (www.bourse.lu)</i>                                                                                                                  |                       |
| <input type="checkbox"/> Clearing Systems                                                                                                                                                                                                                                 |                       |
| <b>AMENDMENTS OF THE TERMS AND CONDITIONS</b><br><b>BY RESOLUTIONS OF HOLDERS, JOINT REPRESENTATIVE (§ 13)</b><br><b><i>ÄNDERUNGEN DER EMISSIONSBEDINGUNGEN DURCH</i></b><br><b><i>BESCHLUSS DER GLÄUBIGER, GEMEINSAMER VERTRETER (§ 13)</i></b>                          |                       |
|                                                                                                                                                                                                                                                                           | [Yes/No]<br>[Ja/Nein] |
| <input type="checkbox"/> Appointment of a Holders' Representative by resolution passed by Holders and not in the Terms and Conditions<br><i>Bestellung eines gemeinsamen Vertreters der Gläubiger durch Beschluss der Gläubiger und nicht in den Emissionsbedingungen</i> |                       |
| <input type="checkbox"/> Appointment of a Holders' Representative in the Terms and Conditions<br><i>Bestellung eines gemeinsamen Vertreters der Gläubiger in den Emissionsbedingungen</i>                                                                                 |                       |
| Name and address of the Holders' Representative (specify details)<br><i>Name und Anschrift des gemeinsamen Vertreters (Einzelheiten einfügen)</i>                                                                                                                         |                       |

<sup>32</sup> Euroclear and Clearstream require a minimum notice period of fifteen days.

*Euroclear und Clearstream verlangen eine Mindestkündigungsfrist von fünfzehn Tagen.*

<sup>33</sup> Applicable only for Fixed Rate Notes that are subject to Early Redemption at the Option of the Issuer with payment of a Make-Whole Amount and for Floating Rate Notes.

*Nur anwendbar bei Festverzinslichen Schuldverschreibungen, falls die Emittentin das Wahlrecht hat, die Schuldverschreibungen vorzeitig zum Make-Whole Betrag zurückzuzahlen, sowie bei variabel verzinslichen Schuldverschreibungen.*

**LANGUAGE (§ 15)**

**SPRACHE (§ 15)**

**Language of Conditions<sup>34</sup>**

***Sprache der Bedingungen***

- ☐ German and English (German controlling)  
*Deutsch und Englisch (deutscher Text maßgeblich)*
- ☐ English and German (English controlling)  
*Englisch und Deutsch (englischer Text maßgeblich)*
- ☐ German only  
*ausschließlich Deutsch*
- ☐ English only  
*ausschließlich Englisch]*

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<sup>34</sup> To be determined in consultation with the Issuer. It is anticipated that, subject to any stock exchange or legal requirements applicable from time to time, and unless otherwise agreed, in the case of Notes publicly offered, in whole or in part, in Germany, or distributed, in whole or in part, to non-qualified investors in Germany, German will be the controlling language. If, in the event of such public offer or distribution to non-qualified investors, however, English is chosen as the controlling language, a German language translation of the Conditions will be available from the principal office of Fresenius SE & Co. KGaA.

*In Abstimmung mit der Emittentin festzulegen. Es wird erwartet, dass vorbehaltlich geltender Börsen- oder anderer Bestimmungen und soweit nicht anders vereinbart, die deutsche Sprache für Schuldverschreibungen maßgeblich sein wird, die insgesamt oder teilweise öffentlich zum Verkauf in Deutschland angeboten oder an nicht qualifizierte Anleger in Deutschland verkauft werden. Falls bei einem solchen öffentlichen Verkaufsangebot oder Verkauf an nicht qualifizierte Anleger die englische Sprache als maßgeblich bestimmt wird, wird eine deutschsprachige Übersetzung der Bedingungen bei der Hauptgeschäftsstelle der Fresenius SE & Co. KGaA erhältlich sein.*



**Part II.: ADDITIONAL INFORMATION<sup>35</sup>**  
**Teil II ZUSÄTZLICHE INFORMATIONEN**

**A. Essential information**

**Grundlegende Angaben**

**Interests of Natural and Legal Persons involved in the Issue/Offer**

[None] [specify details]

*Interessen von Seiten natürlicher und juristischer Personen,  
die an der Emission/dem Angebot beteiligt sind*

[Keine] [Einzelheiten einfügen]

**Reasons for the offer<sup>36</sup>**

[specify details]

**Gründe für das Angebot**

[Einzelheiten einfügen]

Estimated net proceeds<sup>37</sup>

[ ]

*Geschätzter Nettobetrag der Erträge*

Estimated total expenses of the issue

[ ]

*Geschätzte Gesamtkosten der Emission*

**Eurosystem eligibility<sup>38</sup>**

**EZB-Fähigkeit**

☐

Intended to be held in a manner which  
would allow Eurosystem eligibility

[Yes/No]

*Soll in EZB-fähiger Weise gehalten werden*

[Ja/Nein]

[Yes. Note that the designation "Yes" simply means that the Notes are intended upon issue to be deposited with in the case of (i) an NGN, one of the ICSDs as common safekeeper or (ii) a CGN, Clearstream Banking AG, Frankfurt, and does not necessarily mean that the Notes will be recognized as eligible collateral for Eurosystem monetary policy and intraday credit operations by the Eurosystem either upon issue or at any or all times during their life. Such recognition will depend upon the ECB being satisfied that Eurosystem eligibility criteria have been met.]

*[Ja. Es ist zu beachten, dass die Bestimmung "Ja" hier lediglich bedeutet, dass die Schuldverschreibungen nach Begebung im Fall (i) einer NGN, bei einem der ICSDs als gemeinsamen Verwahrer oder (ii) einer CGN, bei Clearstream Banking AG, Frankfurt hinterlegt werden sollen, und es bedeutet nicht notwendigerweise, dass die*

<sup>35</sup> There is no obligation to complete Part II. of the Final Terms in its entirety in case of Notes with a Specified Denomination of at least €100,000 or its equivalent in any other currency, provided that such Notes will not be admitted to trading on any regulated market within the European Economic Area or the United Kingdom. To be completed in consultation with the Issuer.

*Es besteht keine Verpflichtung, Teil II. der Endgültigen Bedingungen bei Schuldverschreibungen mit einer festgelegten Stückelung von mindestens €100.000 oder dem Gegenwert in einer anderen Währung vollständig auszufüllen, sofern diese Schuldverschreibungen nicht an einem geregelten Markt innerhalb des Europäischen Wirtschaftsraums oder dem Vereinigten Königreich zum Handel zugelassen werden. In Absprache mit der Emittentin auszufüllen.*

<sup>36</sup> See "Use of Proceeds" wording in the Prospectus. If reasons for the offer are different from general corporate purposes of Fresenius, include those reasons here.

*Siehe Abschnitt "Use of Proceeds" im Prospekt. Sofern die Gründe für das Angebot nicht in allgemeinen Unternehmenszwecken von Fresenius bestehen, sind die Gründe hier anzugeben.*

<sup>37</sup> If proceeds are intended for more than one use they will need to be split out and presented in order of priority.

*Sofern die Erträge für verschiedene Verwendungszwecke bestimmt sind, sind diese aufzuschlüsseln und nach der Priorität der Verwendungszwecke darzustellen.*

<sup>38</sup> Select "Yes" if the Notes are in NGN form and are to be kept in custody by an ICSD as common safekeeper or if the Notes are in CGN form and to be kept in custody by Clearstream Banking AG, Frankfurt. Select "No" if the Notes are in NGN form and are to be kept in custody by the common service provider as common safekeeper.

*"Ja" wählen, falls die Schuldverschreibungen in Form einer NGN begeben und von einem ICSD als common safekeeper gehalten werden sollen oder falls die Schuldverschreibungen in Form einer CGN begeben und von Clearstream Banking AG, Frankfurt gehalten werden sollen. "Nein" wählen, falls die Schuldverschreibungen in Form einer NGN begeben und vom common service provider als common safekeeper gehalten werden sollen.*

*Schuldverschreibungen als geeignete Sicherheit im Sinne der Währungspolitik des Eurosystems und der taggleichen Überziehungen (intraday credit operations) des Eurosystem entweder nach Begebung oder zu einem Zeitpunkt während ihrer Existenz anerkannt werden. Eine solche Anerkennung wird vom Urteil der EZB abhängen, dass die Eurosystemfähigkeitskriterien erfüllt werden.]*

[No. Whilst the designation is specified as "No" at the date of these Final Terms, should the Eurosystem eligibility criteria be amended in the future such that the Notes are capable of meeting them the Notes may then be deposited with one of the ICSDs as common safekeeper. Note that this does not necessarily mean that the Notes will then be recognised as eligible collateral for Eurosystem monetary policy and intraday credit operations by the Eurosystem at any time during their life. Such recognition will depend upon the ECB being satisfied that Eurosystem eligibility criteria have been met.]

*[Nein. Während die Bestimmung am Tag dieser Endgültigen Bedingungen mit "Nein" festgelegt wurde, können die Schuldverschreibungen, sollten die Eurosystemfähigkeitskriterien für die Zukunft derart geändert werden, dass die Schuldverschreibungen fähig sind diese einzuhalten, dann bei einer der ICSDs als gemeinsamer Verwahrer hinterlegt werden. Es ist zu beachten, dass die Schuldverschreibungen als geeignete Sicherheit im Sinne der Währungspolitik des Eurosystems und der taggleichen Überziehungen (intraday credit operations) des Eurosystem entweder nach Begebung oder zu einem Zeitpunkt während ihrer Existenz anerkannt werden. Eine solche Anerkennung wird vom Urteil der EZB abhängen, dass die Eurosystemfähigkeitskriterien erfüllt werden.]*

**B. Information concerning the securities to be offered/admitted to trading**  
**Informationen über die anzubietenden bzw. zum Handel zuzulassenden Wertpapiere**

**Securities Identification Numbers**  
**Wertpapier-Kenn-Nummern**

|                                                                                                                     |        |
|---------------------------------------------------------------------------------------------------------------------|--------|
| [Common Code<br><i>Common Code</i>                                                                                  | [    ] |
| ISIN<br><i>ISIN</i>                                                                                                 | [    ] |
| German Securities Code<br><i>Deutsche Wertpapier-Kenn-Nummer (WKN)</i>                                              | [    ] |
| [Financial Instrument Short Name (FISN)<br><i>Emittenten- und Instrumenten-Kurzname (FISN)</i>                      | [    ] |
| [Classification of Financial Instrument Code (CFI)<br><i>Klassifizierungscode von Finanzinstrumenten (CFI-Code)</i> | [    ] |
| [Any other securities number<br><i>andere Wertpapier-Kenn-Nummer</i>                                                | [    ] |

**Historic Interest Rates and further performance as well as volatility<sup>39</sup>**  
**Zinssätze der Vergangenheit und künftige Entwicklungen sowie ihre Volatilität**

Details of historic [EURIBOR][LIBOR] rates  
and the further performance as well as their volatility  
can be obtained from Reuters [EURIBOR01][LIBOR01][LIBOR02]  
*Einzelheiten zu vergangenen [EURIBOR][LIBOR] Sätzen*  
*und Informationen über künftige Entwicklungen sowie ihre Volatilität*  
*können abgerufen werden unter Reuters [EURIBOR01][LIBOR01][LIBOR02]*

Description of any market disruption or settlement disruption events [Not applicable][Please see  
that effect the [EURIBOR][LIBOR] rates § 3 of the Terms and Conditions]  
*Beschreibung etwaiger Ereignisse, die eine Störung des Marktes oder [Nicht anwendbar]*  
*der Abrechnung bewirken und die [EURIBOR][LIBOR] [Bitte siehe]*  
*Sätze beeinflussen § 3 der Emissionsbedingungen]*

**Yield to final maturity<sup>40</sup>** [ ]  
**Rendite bei Endfälligkeit**

**Resolutions, authorisations and approvals by virtue**  
**of which the Notes will be created** [Specify details]  
*Beschlüsse, Ermächtigungen und Genehmigungen, welche die*  
*Grundlage für die Schaffung der Schuldverschreibungen bilden* [Einzelheiten einfügen]

**C. Terms and conditions of the offer<sup>41</sup>**  
**Bedingungen und Konditionen des Angebots**

**C.1 Conditions, offer statistics, expected timetable and action required to apply**  
**for the offer** [Not applicable]  
*Angebotsstatistiken, erwarteter Zeitplan und erforderliche Maßnahmen*  
*für die Antragstellung* [Nicht anwendbar]

Conditions to which the offer is subject [Specify details]  
*Bedingungen, denen das Angebot unterliegt* [Einzelheiten einfügen]

Total amount of the issue/offer/arrangements and [Specify details]  
time for announcing it to the public  
*Gesamtsumme der Emission/des Angebots/*  
*Vereinbarungen und Zeitpunkt für Ankündigung an das Publikum* [Einzelheiten einfügen]

Time period, including any possible amendments, [Specify details]  
during which the offer will be open  
*Frist - einschließlich etwaiger Änderungen – während*  
*der das Angebot gültig ist* [Einzelheiten einfügen]

Description of the application process [Specify details]  
*Beschreibung des Prozesses für die*  
*Umsetzung des Angebots* [Einzelheiten einfügen]

A description of the possibility to reduce  
subscriptions and the manner for refunding excess  
amount paid by applicants [Specify details]  
*Beschreibung der Möglichkeit zur Reduzierung der*  
*Zeichnungen und der Art und Weise der Erstattung*  
*des zu viel gezahlten Betrags an die Zeichner* [Einzelheiten einfügen]

<sup>39</sup> Only applicable for Floating Rate Notes. Not required for Notes with a Specified Denomination of at least €100,000.  
*Nur bei variabel verzinslichen Schuldverschreibungen anwendbar. Nicht anwendbar auf Schuldverschreibungen mit einer festgelegten*  
*Stückelung von mindestens €100.000.*

<sup>40</sup> Only applicable for Fixed Rate Notes.  
*Gilt nur für festverzinsliche Schuldverschreibungen.*

<sup>41</sup> Complete with respect to Notes with a Specified Denomination of less than €100,000.  
*Bei Schuldverschreibungen mit einer festgelegten Stückelung von weniger als €100.000 auszufüllen.*

|                                                                                                                                                                                    |                                           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|
| Details of the minimum and/or maximum amount of application, (whether in number of Notes or aggregate amount to invest)                                                            | [Specify details]                         |
| <i>Einzelheiten zum Mindest- und/oder Höchstbetrag der Zeichnung (entweder in Form der Anzahl der Schuldverschreibungen oder des aggregierten zu investierenden Betrags)</i>       | [Einzelheiten einfügen]                   |
| Method and time limits for paying up the Notes and or delivery of the Notes                                                                                                        | [Specify details]                         |
| <i>Methode und Fristen für die Ratenzahlung der Schuldverschreibungen und ihre Lieferung</i>                                                                                       | [Einzelheiten einfügen]                   |
| Manner and date in which results of the offer are to be made public                                                                                                                | [Specify details]                         |
| <i>Art und Weise und Termin, auf die bzw. an dem die Ergebnisse des Angebots offen zu legen sind</i>                                                                               | [Einzelheiten einfügen]                   |
| The procedure for the exercise of any right of pre-emption, the negotiability of subscription rights and the treatment of subscription rights not exercised.                       | [Not applicable]                          |
| <i>Verfahren für die Ausübung eines etwaigen Vorzugsrechts, die Marktfähigkeit der Zeichnungsrechte und die Behandlung der nicht ausgeübten Zeichnungsrechte</i>                   | [Nicht anwendbar]                         |
| <b>C.2 Plan of distribution and allotment</b>                                                                                                                                      | [Not applicable]                          |
| <b><i>Plan für die Aufteilung der Wertpapiere und deren Zuteilung</i></b>                                                                                                          | [Nicht anwendbar]                         |
| If the Offer is being made simultaneously in the markets of two or more countries and if a tranche has been or is being reserved for certain of these, indicate such tranche       | [Specify details]                         |
| <i>Erfolgt das Angebot gleichzeitig auf den Märkten zwei oder mehrerer Ländern und wurde/ wird eine bestimmte Tranche einigen dieser Märkte vorbehalten, Angabe dieser Tranche</i> | [Einzelheiten einfügen]                   |
| Process for notification to applicants of the amount allotted and indication whether dealing may begin before notification is made                                                 | [Specify details]                         |
| <i>Verfahren zur Meldung des den Zeichnern zugeteilten Betrags und Angabe, ob eine Aufnahme des Handels vor dem Meldeverfahren möglich ist</i>                                     | [Einzelheiten einfügen]                   |
| <b>C.3 Pricing</b>                                                                                                                                                                 | [Not applicable]                          |
| <b><i>Kursfeststellung</i></b>                                                                                                                                                     | [Nicht anwendbar]                         |
| Issue Price                                                                                                                                                                        | [ ]%                                      |
| <i>Ausgabepreis</i>                                                                                                                                                                | [ ]%                                      |
| Expected price at which the Notes will be offered                                                                                                                                  | [Not applicable][Specify details]         |
| <i>Preis zu dem die Schuldverschreibungen voraussichtlich angeboten werden</i>                                                                                                     | [Nicht anwendbar] [Einzelheiten einfügen] |
| Amount of expenses and taxes charged to the subscriber / purchaser                                                                                                                 | [Not applicable][Specify details]         |
| <i>Kosten/Steuern, die dem Zeichner/Käufer in Rechnung gestellt werden</i>                                                                                                         | [Nicht anwendbar] [Einzelheiten einfügen] |

#### **C.4 Placing and underwriting** **Platzierung und Emission**

Name and address of the co-ordinator(s) of the global offer and of single parts of the offer and, to the extent known to the Issuer or the offeror, or the placers in the various countries where the offer takes place [Not applicable][Specify details]

*Name und Anschrift des Koordinator/der Koordinatoren des globalen Angebots oder einzelner Teile des Angebots und - sofern der Emittentin oder dem Bieter bekannt - Angaben zu den Platzierern in den einzelnen Ländern des Angebots* [Nicht anwendbar] [Einzelheiten einfügen]

#### **Method of distribution** **Vertriebsmethode**

☐ Non-syndicated  
*Nicht syndiziert*

☐ Syndicated  
*Syndiziert*

#### **Subscription Agreement** **Übernahmevertrag**

Date of Subscription Agreement [ ]  
*Datum des Subscription Agreements* [ ]

Material Features of the Subscription Agreement: [ ]  
*Hauptmerkmale des Übernahmevertrages:* [ ]

#### **Management Details including form of commitment<sup>42</sup>** **Einzelheiten bezüglich des Bankenkonsortiums einschließlich der Art der Übernahme**

Specify Management Group or Dealer (names and addresses) [ ]  
*Bankenkonsortium oder Platzeur angeben (Namen und Anschriften)*

☐ firm commitment  
*Feste Zusage*

☐ no firm commitment / best efforts arrangements  
*Keine feste Zusage / zu den bestmöglichen Bedingungen*

#### **Commissions** **Provisionen**

Management/Underwriting Commission (specify) [ ]  
*Management- und Übernahme provision (angeben)*

Selling Concession (specify) [ ]  
*Verkaufsprovision (angeben)*

Listing Commission (specify) [ ]  
*Börsenzulassungsprovision (angeben)*

<sup>42</sup> Not required for Notes with a Specified Denomination of at least €100,000.  
*Nicht erforderlich bei Schuldverschreibungen mit einer festgelegten Stückelung von mindestens €100.000.*

**Stabilising Dealer/Manager**  
**Kursstabilisierender Dealer/Manager**

[insert details/None]  
[Einzelheiten einfügen/Keiner]

**C.5 Public Offer Jurisdictions<sup>43</sup>**  
**Jurisdiktionen für öffentliches Angebot**

Public Offer Jurisdiction(s) [Not applicable]  
[Luxembourg] [and] [Germany]  
[Specify relevant Member State(s) –  
which must be jurisdiction(s) where the Prospectus  
and any supplements have been passported]

*Jurisdiktionen, in denen ein öffentliches Angebot stattfindet* [Nicht anwendbar]  
[Luxembourg] [und] [Deutschland]  
[Relevante(n) Mitgliedstaat(en) einfügen –  
dieser muss eine/diese müssen Jurisdiktion(en) sein,  
in die der Prospekt und etwaige Nachträge notifiziert wurden]

**Prohibition of Sales to EEA and UK Retail Investors**  
**Verbot des Verkaufs an Kleinanleger im**  
**Europäischen Wirtschaftsraum und im Vereinigten Königreich**

[Not applicable] [Applicable]  
[Nicht anwendbar] [Anwendbar]

**D. Listing(s) and admission to trading**  
**Börsenzulassung(en) und Notierungsaufnahme**

[Yes/No]  
[Ja/Nein]

☐ Regulated Market of the Luxembourg Stock Exchange  
*Regulierter Markt der Luxemburger Wertpapierbörse*

☐ Other  
*Sonstige*

[specify details]  
[Einzelheiten angeben]

**Date of admission**  
**Termin der Zulassung**

[ ]

Estimate of the total expenses related to admission to trading<sup>44</sup>  
*Geschätzte Gesamtkosten für die Zulassung zum Handel*

[ ]

All regulated markets or equivalent markets on which, to the knowledge  
of the Issuer, notes of the same class of the notes to be offered or admitted  
to trading are already admitted to trading<sup>45</sup>

*Angabe sämtlicher regulierter oder gleichwertiger Märkte,  
auf denen nach Kenntnis der Emittentin Schuldverschreibungen  
der gleichen Wertpapierkategorie, die zum Handel angeboten  
oder zugelassen werden sollen, bereits zum Handel zugelassen sind*

☐ Regulated Market of the Luxembourg Stock Exchange  
*Regulierter Markt der Luxemburger Wertpapierbörse*

☐ Other  
*Sonstige*

Name and address of the entities which have a firm  
commitment to act as intermediaries in secondary trading,  
providing liquidity through bid and offer rates and description  
of the main terms of their commitment  
*Name und Anschrift der Institute, die aufgrund einer festen*

[Not applicable] [specify details]

<sup>43</sup> Complete with respect to an offer of Notes to the public.

*Bei öffentlichem Angebot von Schuldverschreibungen auszufüllen.*

<sup>44</sup> Not required for Notes with a Specified Denomination of less than €100,000.

*Nicht erforderlich bei Schuldverschreibungen mit einer festgelegten Stückelung von weniger als €100.000.*

<sup>45</sup> In case of a fungible issue, need to indicate that the original notes are already admitted to trading. Not required for Notes with a Specified Denomination of at least €100,000.

*Im Falle einer Aufstockung, die mit einer vorangegangenen Emission fungibel ist, ist die Angabe erforderlich, dass die ursprünglichen Schuldverschreibungen bereits zum Handel zugelassen sind. Nicht erforderlich bei Schuldverschreibungen mit einer festgelegten Stückelung von mindestens €100.000.*

*Zusage als Intermediäre im Sekundärhandel tätig sind und Liquidität mittels Geld- und Briefkursen erwirtschaften, und Beschreibung der Hauptbedingungen der Zusagevereinbarung*

*[Nicht anwendbar] [Einzelheiten einfügen]*

## **E. Additional Information**

### *Zusätzliche Informationen*

#### **Rating of the Notes**

[Not applicable] [ ]

#### **Rating der Schuldverschreibungen**

*[Nicht anwendbar]*[ ]

[Fitch Ratings Limited is established in the United Kingdom and is registered pursuant to Regulation (EC) No 1060/2009 of the European Parliament and of the Council of September 16, 2009 on credit rating agencies, as amended.] [S&P Global Ratings Europe Limited is established in the European Union and is registered pursuant to Regulation (EC) No 1060/2009 of the European Parliament and of the Council of September 16, 2009 on credit rating agencies, as amended.] [Moody's Deutschland GmbH is established in the European Union and is registered pursuant to Regulation (EC) No 1060/2009 of the European Parliament and of the Council of September 16, 2009 on credit rating agencies, as amended.] [specify other rating agency and whether the relevant rating agency is established in the European Community and is registered or has applied for registration pursuant to Regulation (EC) No 1060/2009 of the European Parliament and of the Council of September 16, 2009 on credit rating agencies, as amended.] The European Securities and Markets Authority (**ESMA**) publishes on its website (<http://www.esma.europa.eu/page/List-registered-and-certified-CRAs>) a list of credit rating agencies registered in accordance with the CRA Regulation. That list is updated within five working days following the adoption of a decision under Article 16, 17 or 20 CRA Regulation. The European Commission shall publish that updated list in the Official Journal of the European Union within 30 days following such update.

*[Fitch Ratings Limited hat ihren Sitz in dem Vereinigten Königreich und ist gemäß Verordnung (EG) Nr. 1060/2009 des Europäischen Parlaments und des Rates vom 16. September 2009 über Ratingagenturen (in der geänderten Fassung) registriert.] [S&P Global Ratings Europe Limited hat ihren Sitz in der Europäischen Union und ist gemäß Verordnung (EG) Nr. 1060/2009 des Europäischen Parlaments und des Rates vom 16. September 2009 über Ratingagenturen (in der geänderten Fassung) registriert.] [Moody's Deutschland GmbH hat ihren Sitz in der Europäischen Union und ist gemäß Verordnung (EG) Nr. 1060/2009 des Europäischen Parlaments und des Rates vom 16. September 2009 über Ratingagenturen (in der geänderten Fassung) registriert.] [Einzelheiten einfügen, ob die jeweilige Ratingagentur ihren Sitz in der Europäischen Gemeinschaft hat und gemäß Verordnung (EG) Nr. 1060/2009 des Europäischen Parlaments und des Rates vom 16. September 2009 über Ratingagenturen (in der geänderten Fassung) registriert ist oder die Registrierung beantragt hat.] Die Europäische Wertpapier und Marktaufsichtsbehörde (**ESMA**) veröffentlicht auf ihrer Webseite (<http://www.esma.europa.eu/page/List-registered-and-certified-CRAs>) ein Verzeichnis der nach der Ratingverordnung registrierten Ratingagenturen. Dieses Verzeichnis wird innerhalb von fünf Werktagen nach Annahme eines Beschlusses gemäß Artikel 16, 17 oder 20 der Ratingverordnung aktualisiert. Die Europäische Kommission veröffentlicht das aktualisierte Verzeichnis im Amtsblatt der Europäischen Union innerhalb von 30 Tagen nach der Aktualisierung.*

**F. Information to be provided regarding the consent by the Issuer or person responsible for drawing up the Prospectus and the Final Terms**

***Zur Verfügung zu stellende Informationen über die Zustimmung der Emittentin oder der für die Erstellung des Prospekts und der Endgültigen Bedingungen zuständigen Person***

[Not applicable.][The consent to the use of the Prospectus and these Final Terms for the subsequent resale or final placement of Notes by all financial intermediaries, subject to compliance with the applicable selling restrictions set out in the Prospectus and these Final Terms, is given by the Issuer in relation to [Luxembourg] [and] [Germany].

The subsequent resale or final placement of Notes by financial intermediaries can be made during the offer period. The offer period commences on [●] and ends on [●].

[Such consent is also subject to and given under the condition [●].]

*[Nicht anwendbar.][Die Zustimmung zu der Verwendung des Prospekts und dieser Endgültigen Bedingungen zu der späteren Weiterveräußerung und der endgültigen Platzierung der Schuldverschreibungen durch alle Finanzintermediäre unter Einhaltung aller gemäß dem Prospekt und dieser Endgültigen Bedingungen anwendbaren Veräußerungsbeschränkungen wird von der Emittentin in Bezug auf [Luxemburg] [und] [Deutschland] erteilt.*

*Die spätere Weiterveräußerung und endgültigen Platzierung der Wertpapiere durch Finanzintermediäre kann während der Angebotsfrist erfolgen. Die Angebotsfrist beginnt am [●] und endet am [●].*

*[Ferner erfolgt diese Zustimmung vorbehaltlich [●].]*

**[Third Party Information]**

***Informationen von Seiten Dritter***

With respect to any information included herein and specified to be sourced from a third party (i) the Issuer confirms that any such information has been accurately reproduced and as far as the Issuer is aware and is able to ascertain from information available to it from such third party, no facts have been omitted the omission of which would render the reproduced information inaccurate or misleading and (ii) the Issuer has not independently verified any such information and accepts no responsibility for the accuracy thereof. The following sources were used [●].

*Hinsichtlich der hierin enthaltenen und als solche gekennzeichneten Informationen von Seiten Dritter gilt Folgendes: (i) Die Emittentin bestätigt, dass diese Informationen zutreffend wiedergegeben worden sind und - soweit es der Emittentin bekannt ist und sie aus den von diesen Dritten zur Verfügung gestellten Informationen ableiten konnte - keine Fakten weggelassen wurden, deren Fehlen die reproduzierten Informationen unzutreffend oder irreführend gestalten würden; (ii) die Emittentin hat diese Informationen nicht selbstständig überprüft und übernimmt keine Verantwortung für ihre Richtigkeit. Folgende Quellen wurden verwendet [●].]*

[Fresenius SE & Co. KGaA represented by Fresenius Management SE, its general partner] [Fresenius Finance Ireland Public Limited Company] [Fresenius Finance Ireland II Public Limited Company]

*[Fresenius SE & Co. KGaA vertreten durch Fresenius Management SE, ihrem persönlich haftenden Gesellschafter] [Fresenius Finance Ireland Public Limited Company] [Fresenius Finance Ireland II Public Limited Company]*

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[Name(s) and title(s) of signatory/ies]

*[Name(n) und Titel des/r Unterzeichnenden]*



## **GUARANTEE**

### **GUARANTEE (GERMAN language version)**

#### **GARANTIE**

**der**

**Fresenius SE & Co. KGaA, Bad Homburg vor der Höhe,  
Bundesrepublik Deutschland  
(die *Garantin*)**

**zugunsten der Gläubiger der Schuldverschreibungen (die *Schuldverschreibungen*) der**

**Fresenius Finance Ireland Public Limited Company, Balbriggan, Co. Dublin,  
Irland**

**und der**

**Fresenius Finance Ireland II Public Limited Company, Balbriggan, Co. Dublin,  
Irland**

**(jeweils eine *Emittentin*)**

**im Rahmen des EUR 10.000.000.000 Debt Issuance Programme der Fresenius SE & Co. KGaA, der Fresenius Finance Ireland Public Limited Company und der Fresenius Finance Ireland II Public Limited Company  
(das *Programm*)**

#### **§ 1**

#### **GARANTIE, STATUS**

- (1) Die Garantin garantiert hiermit unbeding und unwiderruflich im Wege eines selbständigen Zahlungsverprechens gegenüber den Gläubigern der im Rahmen des Programms begebenen Schuldverschreibungen (die ***Gläubiger***; die Begriffe "Schuldverschreibungen" und "Gläubiger" beinhalten, soweit sie in dieser Garantie verwendet werden und für die Zwecke dieser Garantie, alle weiteren Schuldverschreibungen, die von der betreffenden Emittentin gemäß § 11(1) der Emissionsbedingungen der Schuldverschreibungen (die ***Emissionsbedingungen***) begeben werden, bzw. alle Gläubiger dieser weiteren Schuldverschreibungen) die ordnungsgemäße und pünktliche Zahlung von Kapital und Zinsen auf die Schuldverschreibungen sowie von jeglichen sonstigen Beträgen, die auf die Schuldverschreibungen zahlbar sind (die ***Garantie***). Diese Garantie ist eine selbständige Garantie, die unabhängig von den Verpflichtungen der betreffenden Emittentin oder der Gesellschaft (mit Ausnahme der Garantin), welche die betreffende Emittentin gemäß § 10 der Emissionsbedingungen ersetzt hat (die ***Nachfolgeschuldnerin***), und unabhängig von der Wirksamkeit und Durchsetzbarkeit der Verpflichtungen der betreffenden Emittentin bzw. der Nachfolgeschuldnerin besteht.
- (2) Der Zweck und das Ziel dieser Garantie ist es sicherzustellen, dass die Gläubiger unter allen Umständen, ob tatsächlicher oder rechtlicher Art, und ungeachtet der Wirksamkeit und Durchsetzbarkeit der Verpflichtungen der betreffenden Emittentin bzw. der Nachfolgeschuldnerin oder irgendwelcher anderer Gründe, aus denen die betreffende Emittentin bzw. die Nachfolgeschuldnerin eine Zahlung nicht leistet, die gemäß den Emissionsbedingungen an die Gläubiger zu leistenden Zahlungen von Kapital, Zinsen und sonstigen Beträgen bei Fälligkeit der jeweiligen Zahlung gemäß den Emissionsbedingungen erhalten.
- (3) Die Garantin verzichtet hiermit ausdrücklich auf alle der betreffenden Emittentin bzw. einer Nachfolgeschuldnerin zustehenden Einreden (***Einreden des Hauptschuldners***), sowie auf die Einreden, welche aus einem Anfechtungs- oder Aufrechnungsrecht der betreffenden Emittentin bzw. der Nachfolgeschuldnerin in Bezug auf die Schuldverschreibungen entstehen. Dieser Verzicht erstreckt sich nicht auf die Aufrechnungseinrede mit Gegenforderungen, die (i) unbestritten oder (ii) rechtskräftig festgestellt sind.

- (4) Die Garantin stimmt ausdrücklich zu, dass die Garantie unabhängig von anderen Sicherheiten ist, welche im Zusammenhang mit den Schuldverschreibungen bestellt werden, und verzichtet auf alle Rechte, die aus der Freigabe einer solchen anderen Sicherheit entstehen.
- (5) Die Zahlungsverpflichtungen der Garantin aus dieser Garantie werden automatisch fällig und zahlbar, sofern und sobald die betreffende Emittentin bzw. eine Nachfolgeschuldnerin eine Zahlung auf die Schuldverschreibungen nicht bei Fälligkeit der jeweiligen Zahlung gemäß den Emissionsbedingungen leistet.
- (6) Kein Gläubiger ist verpflichtet, vor einer Inanspruchnahme der Garantin aus dieser Garantie gerichtliche Schritte gegen eine Person zu ergreifen, andere Rechte geltend zu machen oder andere Sicherheiten zu verwerten oder Zahlungen von einer Person zu verlangen.
- (7) Die Verbindlichkeiten der Garantin aus dieser Garantie sind mindestens gleichrangig mit allen anderen unbesicherten, nicht nachrangigen Verbindlichkeiten der Garantin, soweit diesen Verbindlichkeiten nicht durch zwingende gesetzliche Bestimmungen ein Vorrang eingeräumt wird.
- (8) Diese Garantie erlischt nach der vollständigen und endgültigen Befriedigung aller nach diesem § 1 garantierten Ansprüche (die **Garantierten Verpflichtungen**). Allerdings entfaltet diese Garantie weiterhin volle Wirksamkeit, wenn eine Garantierte Verpflichtung nur vorübergehend befriedigt wurde oder von einem Insolvenzverwalter angefochten werden kann oder anderweitig abgewendet werden kann.

## § 2 NEGATIVVERPFLICHTUNG

Die Garantin verpflichtet sich, solange Schuldverschreibungen ausstehen, jedoch nur bis zu dem Zeitpunkt, an dem alle Beträge an Kapital und Zinsen der Emissionsstelle zur Verfügung gestellt worden sind, keine Sicherungsrechte an gegenwärtigen oder zukünftigen Teilen ihres Vermögens oder ihres Vermögens insgesamt zur Sicherung der gegenwärtigen oder zukünftigen Kapitalmarktverbindlichkeiten zu bestellen oder fortbestehen zu lassen und soweit rechtlich möglich, zu veranlassen, dass keine ihrer Tochtergesellschaften Sicherungsrechte an gegenwärtigen oder zukünftigen Teilen ihres Vermögens oder ihres Vermögens insgesamt zur Sicherung der gegenwärtigen oder zukünftigen Kapitalmarktverbindlichkeiten bestellt oder fortbestehen lässt, ohne jeweils die Gläubiger zur gleichen Zeit auf gleiche Weise und anteilig an diesen Sicherungsrechten teilhaben zu lassen.

Diese Verpflichtung gilt nicht in Bezug auf Sicherungsrechte, die:

- (i) an gegenwärtigen oder zukünftigen Ansprüchen der Garantin oder Ansprüchen einer ihrer Tochtergesellschaften gegen verbundene Unternehmen im Sinne der §§ 15 f. Aktiengesetz oder gegen Dritte aufgrund von einer Übertragung von Erlösen aus dem Verkauf von Wertpapieren bestehen, soweit diese Sicherheiten zur Sicherung von Verpflichtungen aus diesen durch die Garantin oder durch eine ihrer Tochtergesellschaften ausgegebenen Wertpapieren dienen,
- (ii) an Vermögensgegenständen bestellt sind, die bereits zum Zeitpunkt des Erwerbs des betreffenden Vermögensgegenstandes durch die Garantin oder durch eine ihrer Tochtergesellschaften bestanden oder am Vermögen einer neu erworbenen Gesellschaft bestehen, die Mitglied des Fresenius-Konzerns wird,
- (iii) zum Ausgabebetrag der Schuldverschreibungen bestehen,
- (iv) eine im Zeitpunkt einer Akquisition bestehende Kapitalmarktverbindlichkeit besichern, die infolge der Akquisition eine Verpflichtung der Garantin oder einer Gesellschaft des Fresenius-Konzerns wird, sofern diese Kapitalmarktverbindlichkeit nicht im Hinblick auf diese Akquisition begründet wurde,
- (v) aufgrund anwendbaren Rechts gesetzlich vorgeschriebene Sicherheiten sind oder solche, deren Bestehen eine Voraussetzung zur Erteilung einer behördlichen Genehmigung sind,
- (vi) im Zusammenhang mit durch die Garantin oder durch eine ihrer Tochtergesellschaften begebenen asset backed securities (ABS) stehen,
- (vii) im Zusammenhang mit durch Zweckgesellschaften begebenen asset backed securities (ABS) stehen, bei denen die Garantin oder eine ihrer Tochtergesellschaften der Originator der zugrundeliegenden Vermögensgegenstände ist,
- (viii) der Erneuerung, Verlängerung oder dem Austausch irgendeiner Sicherheit gemäß vorstehend (i) bis (vii) dienen und

- (ix) Kapitalmarktverbindlichkeiten besichern, deren Kapitalbetrag (bei Aufaddieren auf den Kapitalbetrag sonstiger Kapitalmarktverbindlichkeiten, für die andere Sicherheiten als die nach (i) bis (viii) zulässigen bestehen) EUR 100.000.000 (oder deren jeweiligen Gegenwert in anderen Währungen) nicht überschreitet.

### § 3 BESTEUERUNG

Alle in Bezug auf die Garantie zahlbaren Beträge werden ohne Einbehalt oder Abzug an der Quelle für oder wegen gegenwärtiger oder zukünftiger Steuern oder Abgaben gleich welcher Art gezahlt, die von oder im Namen (1) der Bundesrepublik Deutschland oder einer dort zur Steuererhebung ermächtigten Behörde, (2) einer Rechtsordnung, aus der bzw. über die eine Zahlung auf die Garantie geleistet wird, oder einer dort zur Steuererhebung ermächtigten Gebietskörperschaft oder Behörde, und/oder (3) einer anderen Rechtsordnung, in der die zahlende Partei errichtet ist oder anderweitig als gebietsansässig gilt oder im steuerlichen Sinn geschäftlich tätig ist, oder einer dort zur Steuererhebung ermächtigten Gebietskörperschaft oder Behörde (jeweils eine **Relevante Steuerjurisdiktion**) im Wege des Abzugs oder Einhalts auferlegt oder erhoben werden, es sei denn, ein solcher Abzug oder Einbehalt ist gesetzlich vorgeschrieben. In diesem Fall wird die Garantin diejenigen zusätzlichen Beträge (**Zusätzliche Beträge**) zahlen, die erforderlich sind, damit die den Gläubigern zufließenden Nettobeträge nach diesem Einbehalt oder Abzug jeweils den Beträgen entsprechen, die ohne einen solchen Einbehalt oder Abzug von den Gläubigern erhalten worden wären; jedoch sind solche Zusätzlichen Beträge nicht zu zahlen in Bezug auf:

- (a) Steuern oder Abgaben, die von einer als Depotbank oder Inkassobeauftragter eines Gläubigers handelnden Person oder auf eine sonstige Weise zu entrichten sind, die keinen Abzug oder Einbehalt von Zahlungen von Kapital oder Zinsen durch die Garantin darstellen; oder
- (b) Zahlungen, die nicht erhoben worden wären, wenn nicht (i) eine gegenwärtige oder ehemalige Beziehung zwischen dem betreffenden Gläubiger (oder einem Treuhänder, Treugeber, Begünstigten, Mitglied oder Gesellschafter dieses Gläubigers oder einer Person, die beherrschenden Einfluss auf diesen Gläubiger hat) und einer Relevanten Steuerjurisdiktion bestehen würde, unter anderem in der Form, dass der betreffende Gläubiger (bzw. Treuhänder, Treugeber, Begünstigte, Mitglied, Gesellschafter oder die Person, die solchen Einfluss hat) Staatsbürger einer Relevanten Steuerjurisdiktion ist oder war oder dort ansässig ist oder war oder als dort ansässig gilt oder galt oder dort ein Gewerbe oder eine Geschäftstätigkeit betreibt oder betrieben hat oder dort eine Betriebsstätte unterhält oder unterhalten hat, mit Ausnahme von Beziehungen, die allein dadurch entstehen, dass ein Gläubiger Ansprüche aus der Garantie erwirbt, hält oder veräußert bzw. eine Zahlung darunter oder in Bezug auf diese erhält oder Ansprüche darauf geltend macht; oder
- (c) Zahlungen an den Gläubiger oder an einen Dritten für den Gläubiger, falls kein Einbehalt oder Abzug hätte erfolgen müssen, wenn die Schuldverschreibung zum Zeitpunkt der fraglichen Zahlung einem Depotkonto bei einer bzw. einem nicht in der Relevanten Steuerjurisdiktion ansässigen Bank, Finanzdienstleistungsinstitut, Wertpapierhandelsunternehmen oder Wertpapierhandelsbank gutgeschrieben gewesen wäre; oder
- (d) falls der Einbehalt oder Abzug gemäß (i) einer Richtlinie oder Verordnung der Europäischen Union zur Zinsbesteuerung oder (ii) einem internationalen Abkommen oder Übereinkommen zu einer solchen Besteuerung, bei dem die Relevante Steuerjurisdiktion oder die Europäische Union Parteien sind, oder (iii) einem diese Richtlinie oder Verordnung oder dieses Abkommen oder Übereinkommen umsetzenden oder sie befolgenden oder zu ihrer Befolgung erlassenen Gesetz, oder (iv) dem Luxemburger Gesetz vom 23. Dezember 2005 erhoben wird, oder
- (e) soweit der Einbehalt oder Abzug von dem Gläubiger oder von einem Dritten für den Gläubiger zahlbar ist, der einen solchen Einbehalt oder Abzug dadurch rechtmäßigerweise hätte vermindern können (aber nicht vermindert hat), dass er gesetzliche Vorschriften beachtet, oder dafür sorgt, dass Dritte dieses tun, oder dadurch dass er eine Nichtansässigkeitserklärung oder einen ähnlichen Antrag auf Quellensteuerbefreiung gegenüber der am Zahlungsort zuständigen Steuerbehörde; abgibt oder dafür sorgt, dass dies durch einen Dritten erfolgt, oder
- (f) soweit der Einbehalt oder Abzug von dem Gläubiger oder von einem Dritten für den Gläubiger vorzunehmen ist, der einen solchen Einbehalt oder Abzug durch die Bewirkung einer Zahlung über eine andere Zahlstelle in einem Mitgliedsstaat der Europäischen Union, welche nicht zu einem solchen Einbehalt oder Abzug verpflichtet ist, hätte vermindern können, oder

- (g) soweit der Einbehalt oder Abzug für einen Gläubiger oder dessen Rechnung vorzunehmen ist, der Schuldverschreibungen mehr als 30 Tage nach dem Tag, an dem eine Zahlung unter den Schuldverschreibungen fällig und zahlbar wurde bzw., soweit dies später eintritt, nach dem Tag, an dem die Zahlung ordnungsgemäß vorgenommen wurde, vorgelegt hat; oder
- (h) soweit der Einbehalt oder Abzug gemäß §§ 1471 bis 1474 des Internal Revenue Code, jeder gegenwärtigen oder zukünftigen Verordnung oder offiziellen Auslegung davon, jeder Vereinbarung, die gemäß § 1471(b) des Internal Revenue Codes eingegangen wurde oder jeder steuerlichen oder regulatorischen Gesetzgebung, sowie steuerlichen und regulatorischen Gesetzen oder Vorgehensweisen, die nach einem völkerrechtlichen Vertrag, der zur Umsetzung der Bestimmungen des Internal Revenue Codes geschlossen wurde, vorzunehmen ist; oder
- (i) jegliche Kombination der Absätze (a)-(h).

Zudem werden keine Zusätzlichen Beträge im Hinblick auf Zahlungen auf die Garantie an einen Gläubiger gezahlt, welcher die Zahlung als Treuhänder oder Personengesellschaft oder als sonstiger nicht alleiniger wirtschaftlicher Eigentümer erhält, soweit nach den Gesetzen der Relevanten Steuerjurisdiktion(en) eine solche Zahlung für Steuerzwecke dem Einkommen des Begünstigten bzw. Gründers eines Treuhandvermögens oder dem Gesellschafter der Personengesellschaft zugerechnet würde, der jeweils selbst nicht zum Erhalt von Zusätzlichen Beträgen berechtigt gewesen wäre, wenn der Begünstigte, Gründer eines Treuhandvermögens, Gesellschafter oder wirtschaftliche Eigentümer unmittelbarer Gläubiger der Schuldverschreibungen wäre.

Klarstellend wird darauf hingewiesen, dass die in der Bundesrepublik Deutschland aufgrund von zum Begebungstag geltenden Steuergesetzen auf Ebene der Depotbank derzeit erhobene Kapitalertragsteuer und der darauf jeweils anfallende Solidaritätszuschlag keine Steuer oder sonstige Abgabe im oben genannten Sinne sind, für die Zusätzliche Beträge seitens der Garantin zu zahlen wären. **Begebungstag** bezeichnet in Bezug auf eine bestimmte Tranche von Schuldverschreibungen den Begebungstag dieser Schuldverschreibungen.

#### § 4 BESCHLÜSSE DER GLÄUBIGER — ÄNDERUNGEN DER GARANTIE

Falls die Emissionsbedingungen Mehrheitsbeschlüsse der Gläubiger im Hinblick auf Änderungen dieser Garantie vorsehen, können die Gläubiger durch einen gemäß § 13 der Emissionsbedingungen gefassten Mehrheitsbeschluss Änderungen dieser Garantie in Bezug auf die betreffenden Schuldverschreibungen zustimmen. Eine Verpflichtung zur Leistung kann für die Gläubiger durch Mehrheitsbeschluss nicht begründet werden.

Mehrheitsbeschlüsse der Gläubiger sind für alle Gläubiger gleichermaßen verbindlich. Ein Mehrheitsbeschluss der Gläubiger, der nicht gleiche Bedingungen für alle Gläubiger vorsieht, ist unwirksam, es sei denn die benachteiligten Gläubiger stimmen ihrer Benachteiligung ausdrücklich zu.

#### § 5 DEFINITIONEN

Begriffe, die in dieser Garantie verwendet werden und in den Emissionsbedingungen definiert sind, haben, soweit in dieser Garantie nicht anders angegeben, dieselbe Bedeutung wie in den Emissionsbedingungen.

#### § 6 ANWENDBARES RECHT, GERICHTSSTAND, SPRACHE UND GERICHTLICHE GELTENDMACHUNG

- (1) Form und Inhalt dieser Garantie sowie die Rechte und Pflichten der Gläubiger und der Garantin bestimmen sich nach deutschem Recht, jeweils unter Ausschluss der Grundsätze des Internationalen Privatrechts.
- (2) Gerichtsstand für sämtliche im Zusammenhang mit dieser Garantie entstehenden Klagen oder sonstigen Verfahren ist Frankfurt am Main.
- (3) Diese Garantie stellt einen Vertrag zugunsten Dritter im Sinne des § 328 Abs. 1 BGB dar, der jedem Gläubiger das Recht gibt, die Erfüllung der in dieser Garantie übernommenen Verpflichtungen unmittelbar von der Garantin zu verlangen und diese Garantie unmittelbar gegen die Garantin durchzusetzen.

- (4) Diese Garantie ist in deutscher Sprache abgefasst und in die englische Sprache übersetzt. Die deutschsprachige Fassung ist verbindlich und allein maßgeblich.
- (5) Jeder Gläubiger von Schuldverschreibungen ist berechtigt, in jedem Rechtsstreit gegen die Garantin oder in jedem Rechtsstreit, in dem der Gläubiger und die Garantin Partei sind, seine Rechte aus dieser Garantie im eigenen Namen auf der Grundlage einer Kopie dieser Garantie, die von einer autorisierten Person der Emissionsstelle bestätigt wurde, ohne Vorlage des Originals der Garantie, zu schützen und geltend zu machen.

Bad Homburg, im [●]

FRESENIUS SE & CO. KGAA

vertreten durch FRESENIUS MANAGEMENT SE, ihrem persönlich haftenden Gesellschafter

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Durch:

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Durch:

Wir akzeptieren die Bestimmungen der vorstehenden Garantie ohne Obligo, Gewährleistung oder Rückgriff auf uns.

Frankfurt am Main, im [●]

**DEUTSCHE BANK AKTIENGESellschaft**

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Durch:

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Durch:

**GUARANTEE (ENGLISH LANGUAGE TRANSLATION)**

**GUARANTEE**

**of**

**Fresenius SE & Co. KGaA, Bad Homburg vor der Höhe,  
Federal Republic of Germany  
(the *Guarantor*)**

**for the benefit of the Holders of notes (the *Notes*), issued by**

**Fresenius Finance Ireland Public Limited Company, Balbriggan, Co. Dublin,  
Ireland**

**and**

**Fresenius Finance Ireland II Public Limited Company, Balbriggan, Co. Dublin,  
Ireland**

**(each an *Issuer*)**

**under the EUR 10,000,000,000 Debt Issuance Programme of Fresenius SE & Co. KGaA, Fresenius Finance  
Ireland Public Limited Company and Fresenius Finance Ireland II Public Limited Company  
(the *Programme*)**

**§ 1**

**GUARANTEE, STATUS**

- (1) The Guarantor hereby unconditionally and irrevocably guarantees by way of an independent payment obligation (*selbständiges Zahlungsversprechen*) to the holders from time to time of any Notes under the Programme (the ***Holders*** and the expressions "Notes" and "Holders" as used herein shall, for the purposes of this Guarantee, include any additional Notes issued by the relevant Issuer under § 11(1) of the terms and conditions of the Notes (the ***Terms and Conditions***) and any Holders of any such additional Notes) the due and punctual payment of principal of, and interest on, and any other amounts payable under the Notes (the ***Guarantee***). This Guarantee shall be separate and independent from the obligations of the relevant Issuer or the company (other than the Guarantor) which may have been substituted for the same pursuant to § 10 of the Terms and Conditions (the ***Substitute Debtor***) and shall exist irrespective of the validity and enforceability of the obligations of the relevant Issuer or Substitute Debtor.
- (2) The intent and purpose of this Guarantee is to ensure that the Holders under all circumstances, whether factual or legal, and regardless of the validity and enforceability of the obligations of the relevant Issuer or the Substitute Debtor, or of any other grounds on the basis of which the relevant Issuer or the Substitute Debtor may fail to effect payment, shall receive the amounts payable as principal, interest and other amounts payable to the Holders pursuant to the Terms and Conditions on the due dates as provided for in the Terms and Conditions.
- (3) The Guarantor hereby explicitly waives any personal defences of the relevant Issuer or any Substitute Debtor (*Einreden des Hauptschuldners*) as well as any defences arising out of the relevant Issuer's or Substitute Debtor's right of revocation (*Anfechtbarkeit*) or set-off (*Aufrechenbarkeit*) with respect to the Notes. This waiver shall not apply to any defences relating to any right of set-off with counterclaims that are (i) uncontested (*unbestritten*) or (ii) based on an unappealable (*rechtskräftig festgestellt*) court decision.
- (4) The Guarantor expressly consents to the Guarantee being independent from any other security granted in connection with the Notes and waives any right which might result from the release of any such other security.
- (5) The Guarantor's payment obligations under this Guarantee become automatically due and payable if and when the relevant Issuer or any Substitute Debtor does not make a payment with respect to the Notes when such payment is due and payable pursuant to the Terms and Conditions.

- (6) No Holder will be required to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Guarantor under this Guarantee.
- (7) The obligations of the Guarantor under this Guarantee shall rank at least *pari passu* with all other unsubordinated obligations of the Guarantor, unless such obligations are accorded priority under mandatory provisions of statutory law.
- (8) This Guarantee is discharged upon the full and irrevocable satisfaction of all claims guaranteed pursuant to this § 1 (the **Guaranteed Obligations**). However, if any of the Guaranteed Obligations was only temporarily satisfied or is subject to be set aside by an insolvency administrator (*Anfechtungsrecht*) or can be avoided otherwise, the Guarantee shall continue in full force and effect.

## § 2 NEGATIVE PLEDGE

The Guarantor undertakes, as long as any of the Notes remain outstanding, but only up to the time all amounts of principal and interest have been placed at the disposal of the Fiscal Agent, not to grant or permit to subsist any Security Interest over any or all of its present or future assets, as security for any present or future Capital Market Indebtedness and (ii) to procure, to the extent legally possible, that none of its Subsidiaries will grant or permit to subsist any Security Interest over any or all of its present or future assets, as security for any present or future Capital Market Indebtedness without at the same time having the Holders share equally and rateably in such Security Interest.

This undertaking shall not apply with respect to any Security Interest which:

- (i) is provided over any of the Guarantor's claims or claims of any of its Subsidiaries against any affiliated companies within the meaning of sections 15 et seq. of the German Stock Corporation Act (*Aktiengesetz*) or any third party, which claims exist now or arise at any time in the future, as a result of the passing on of the proceeds from the sale by the issuer of any securities, provided that any such security serves to secure obligations under such securities issued by the Guarantor or by any of its Subsidiaries;
- (ii) is existing on assets at the time of the acquisition thereof by the Guarantor or by any of its Subsidiaries or is existing over assets of a newly acquired company which becomes a member of the Fresenius Group;
- (iii) is existing on the issue date of the Notes;
- (iv) secures Capital Market Indebtedness existing at the time of acquisition that becomes an obligation of the Guarantor or of any company within the Fresenius Group as a consequence of such acquisition, provided that such Capital Market Indebtedness was not created in contemplation of such acquisition;
- (v) is mandatory pursuant to applicable laws or required as a prerequisite for obtaining any governmental approvals;
- (vi) is provided in connection with any issuance of asset backed securities by the Guarantor or by any of its Subsidiaries;
- (vii) is provided in respect of any issuance of asset backed securities made by a special purpose vehicle where the Guarantor or any of its Subsidiaries is the originator of the underlying assets;
- (viii) is provided in connection with the renewal, extension or replacement of any security pursuant to foregoing (i) through (vii); and
- (ix) secures Capital Market Indebtedness the principal amount of which (when aggregated with the principal amount of any other Capital Market Indebtedness which has the benefit of a security other than any permitted under the sub-paragraphs (i) to (viii) above) does not exceed EUR 100,000,000 (or its equivalent in other currencies at any time).

## § 3 TAXATION

All payments of principal and interest made under this Guarantee shall be made free and clear of, and without withholding or deduction for, any present or future taxes or duties of whatever nature imposed or levied by way of deduction or withholding by or on behalf of (1) the Federal Republic of Germany or any authority therein or thereof having power to tax, (2) any jurisdiction from or through which payment on the Guarantee is made, or any political subdivision or governmental authority thereof or therein having the power to tax and/or (3) any other jurisdiction in which the payor is organized or otherwise considered to be resident or doing business for tax purposes, or any

political subdivision or governmental authority thereof or therein having the power to tax (each a **Relevant Taxing Jurisdiction**), unless such deduction or withholding is required by law. In that event the Guarantor shall pay such additional amounts (the **Additional Amounts**) as shall result in receipt by the Holders of such amounts as would have been received by them had no such withholding or deduction been required, except that no Additional Amounts shall be payable with respect to:

- (a) taxes or duties which are payable by any Person acting as custodian bank or collecting agent on behalf of a Holder, or otherwise in any manner which does not constitute a deduction or withholding by the Guarantor, as applicable, from payments made by it; or
- (b) payments that would not have been so imposed but for the existence of any present or former connection between such Holder (or between a fiduciary, settlor, beneficiary, member or shareholder of, or a person having a power over, such Holder) and any Relevant Taxing Jurisdiction including, without limitation, such Holder (or such fiduciary, settlor, beneficiary, member, shareholder or person having such a power) being or having been a citizen or resident or treated as a resident of, being or having been engaged in a trade or business in, or having or having had a permanent establishment in, a Relevant Taxing Jurisdiction other than any connections arising solely from a Holder acquiring, holding or disposing of, receiving any payment under or with respect to or enforcing the Guarantee; or
- (c) payments to, or to a third party on behalf of, a Holder where no such withholding or deduction would have been required to be made if the Notes were credited at the time of payment to a securities deposit account with a bank, financial services institution, securities trading business or securities trading bank, in each case outside the Relevant Taxing Jurisdiction; or
- (d) payments where such withholding or deduction is imposed pursuant to (i) any European Union Directive or Regulation concerning the taxation of savings, or (ii) any international treaty or understanding relating to such taxation and to which the Relevant Taxing Jurisdiction or the European Union is a party/are parties, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding, or (iv) the Luxembourg law of December 23, 2005; or
- (e) payments to the extent such withholding or deduction is payable by or on behalf of a Holder who could lawfully mitigate (but has not so mitigated) such withholding or deduction by complying or procuring that any third party complies with any statutory requirements or by making or procuring that a third party makes a declaration of non-residence or other similar claim for exemption to any tax authority in the place where the payment is effected; or
- (f) payments to the extent such withholding or deduction is payable by or on behalf of a Holder who would have been able to mitigate such withholding or deduction by effecting a payment via another paying agent in a Member State of the European Union, not obliged to withhold or deduct tax; or
- (g) payments to the extent such withholding or deduction is for or on account of the presentation by the Holder of any Note for payment on a date more than 30 days after the date on which such payment became due and payable or the date on which payment thereof is duly provided for, whichever occurs later; or
- (h) payments to the extent such withholding or deduction is required pursuant to Sections 1471 through 1474 of the Internal Revenue Code, any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Internal Revenue Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Internal Revenue Code; or
- (i) any combination of items (a)-(h);

nor shall any Additional Amounts be paid with respect to any payment on the Guarantee to a Holder who is a fiduciary or partnership or who is other than the sole beneficial owner of such payment to the extent such payment would be required by the laws of the Relevant Taxing Jurisdiction to be included in the income, for tax purposes, of a beneficiary or settlor with respect to such fiduciary or a member of such partnership or a beneficial owner who would not have been entitled to such Additional Amounts had such beneficiary, settlor, member or beneficial owner been the Holder of the Note.

For the avoidance of doubt, the withholding tax (*Kapitalertragsteuer*) currently levied in the Federal Republic of Germany at the level of the custodian bank and the solidarity surcharge (*Solidaritätszuschlag*) imposed thereon pursuant to tax law as in effect as of the Issue Date do not constitute a tax or duty as described above in respect of



which Additional Amounts would be payable by the Guarantor. **Issue Date** means in respect of a particular issue of Notes, the issue date of such Notes.

#### **§ 4**

#### **RESOLUTIONS OF HOLDERS – AMENDMENTS TO THE GUARANTEE**

If the Terms and Conditions provide for majority resolutions of Holders in respect of amendments of this Guarantee, the Holders may consent to amendments of this Guarantee by majority resolution passed in accordance with § 13 of the Terms and Conditions with respect to the relevant Notes, provided that no obligation to make any payment or render any other performance shall be imposed on any Holder by majority resolution.

Majority resolutions shall be binding on all Holders. Resolutions which do not provide for identical conditions for all Holders are void, unless Holders who are disadvantaged have expressly consented to their being treated disadvantageously.

#### **§ 5**

#### **DEFINITIONS**

Unless otherwise defined in this Guarantee, terms used herein and defined in the Terms and Conditions shall have the meaning attributed to them in the Terms and Conditions.

#### **§ 6**

#### **APPLICABLE LAW, PLACE OF JURISDICTION, LANGUAGE AND ENFORCEMENT**

- (1) This Guarantee, as to form and content, and all rights and obligations of the Holders and the Guarantor, shall be governed by German law without giving effect to the principles of conflicts of law thereof.
- (2) The place of non-exclusive jurisdiction for any action or other legal proceedings or in connection with this Guarantee shall be Frankfurt am Main.
- (3) This Guarantee constitutes a contract for the benefit of the Holders from time to time as third party beneficiaries in accordance with § 328(1) of the German Civil Code (*Bürgerliches Gesetzbuch*) giving rise to the right of each Holder to require performance of this Guarantee directly from the Guarantor and to enforce this Guarantee directly against the Guarantor.
- (4) This Guarantee is written in the German language and attached hereto is a non-binding English translation.
- (5) Any Holder of Notes may in any proceedings against the Guarantor, or to which such Holder and the Guarantor are parties, protect and enforce in his own name his rights arising under this Guarantee on the basis of a copy of this Guarantee certified by an authorized person of the Fiscal Agent without presentation of the original Guarantee.

Bad Homburg, [●]

**FRESENIUS SE & CO. KGAA**

Represented by **FRESENIUS MANAGEMENT SE**, its general partner

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By:

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By:

We accept the terms of the above Guarantee without recourse, warranty or liability.

Frankfurt am Main, [●]

**DEUTSCHE BANK AKTIENGESELLSCHAFT**

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By:

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By:

## **USE OF PROCEEDS**

Except as disclosed in the relevant Final Terms, as applicable, the net proceeds of the issue of each Tranche of Notes will be applied by the relevant Issuer to meet part of its general corporate purposes. If in respect of any particular issue there is a particular identified use of proceeds, this will be stated in the relevant Final Terms, as applicable.

#### **TAXATION WARNING**

**THE TAX LEGISLATION OF THE STATE OF RESIDENCE OF A PROSPECTIVE PURCHASER OF NOTES OR OF A JURISDICTION WHERE A PROSPECTIVE PURCHASER IS SUBJECT TO TAXATION AND THE TAX LEGISLATION OF THE ISSUER'S AND/OR THE GUARANTOR'S COUNTRY OF INCORPORATION OR COUNTRY OF RESIDENCE MAY HAVE AN IMPACT ON THE INCOME RECEIVED FROM THE NOTES.**

**PROSPECTIVE PURCHASERS OF NOTES ARE ADVISED TO CONSULT THEIR OWN TAX ADVISOR AS TO THE TAX CONSEQUENCES OF THE PURCHASE, OWNERSHIP AND DISPOSITION OF THE NOTES.**

## SUBSCRIPTION AND SALE

### Underwriting

The Notes may be issued on a continuing basis to one or more of the Dealers specified herein and any additional Dealer appointed under the Programme from time to time by the Issuer(s), which appointment may be for a specific issue or on an ongoing basis. Notes may be distributed by way of public offers to qualified investors pursuant to the Prospectus Regulation and/or non-qualified investors, as specified in the relevant Final Terms, or private placements and, in each case, on a syndicated or non-syndicated basis. The method of distribution of each Tranche of Notes will be stated in the relevant Final Terms.

Notes may be sold from time to time by each Issuer to any one or more of the Dealers. The arrangements under which Notes may from time to time be agreed to be sold by the Issuer to, and purchased by, Dealers are set out in a dealer agreement dated on or about March 30, 2020 (the **Dealer Agreement**) and made between the Issuers, the Guarantor and the Dealers. Any such agreement will, *inter alia*, contain provisions dealing with the form and terms and conditions of the relevant Notes, the price at which such Notes will be purchased by the Dealers and the commissions or other agreed deductibles (if any) payable or allowable by the Issuer in respect of such purchase.

The Dealer Agreement provides for the resignation or termination of appointment of existing Dealers and for the appointment of additional or other Dealers either generally in respect of the Programme or in relation to a particular Tranche of Notes. A subscription agreement (the **Subscription Agreement**) prepared in relation to a particular Tranche of Notes will typically be dated on or about the date of the relevant Final Terms applicable to such Tranche of Notes.

### Description of public offer (if any) and offer mechanics

If the Notes are publicly offered, the following details have to be inserted under section "Additional Information" in the Final Terms applicable to a Tranche of Notes: conditions to which the offer is subject, time period, during which the offer will be open, description of the application process, description of the possibility to reduce subscriptions and the manner for refunding excess amount paid by applicants, details of the minimum and/or maximum amount of application, method and time limits for paying up the Notes and for delivery of the Notes, manner and date in which results of the offer are to be made public, procedure for the exercise of any right of pre-emption, the negotiability of subscription rights and the treatment of subscription rights not exercised, various categories of potential investors to which the Notes are offered, process for notification to applicants of the amount allotted and indication whether dealing may begin before notification is made, method of determining the offered price and the process for its disclosure, amount of any expenses and taxes specifically charged to the subscriber or purchaser, name and address of the coordinator(s) of the global offer and of single parts of the offer and, to the extent known to the Issuer or the offeror, or the placers in the various countries where the offer takes place.

### Consent to use the Prospectus

Each Dealer and/or each further financial intermediary subsequently reselling or finally placing the Notes is entitled to use the Prospectus in Luxembourg and Germany or such other Member State whose competent authorities have been notified of the approval of this Prospectus for the subsequent resale or final placement of the relevant Notes during the respective offer period (as determined in the applicable Final Terms) during which subsequent resale or final placement of the relevant Notes can be made, if and to the extent specified in the applicable Final Terms, provided however, that the Prospectus is still valid in accordance with Article 11(1) of the Prospectus Regulation. Each Issuer accepts responsibility for the content of the Prospectus and the applicable Final Terms also with respect to such subsequent resale or final placement of the Notes.

Such consent for the subsequent resale or final placement of Notes by the financial intermediaries may be restricted to certain jurisdictions and subject to conditions as stated in the applicable Final Terms.

The Prospectus may only be delivered to potential investors together with all supplements published before such delivery. Any supplement to the Prospectus is available for viewing in electronic form on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)).

When using the Prospectus, each Dealer and/or relevant further financial intermediary must make certain that it complies with all applicable laws and regulations in force in the respective jurisdictions, including with the

restrictions specified in the "Prohibition of Sales to EEA and UK Retail Investors" legend set out on the cover page of the applicable Final Terms, if any.

**In the event of an offer being made by a Dealer and/or a further financial intermediary, the Dealer and/or the further financial intermediary shall provide information to investors on the terms and conditions of the offer at the time the offer is made.**

**Any Dealer and/or further financial intermediary using the Prospectus has to state on its website that it uses the Prospectus in accordance with this consent and the conditions attached thereto.**

## **Selling Restrictions**

### **1. General**

Each Dealer has represented, warranted and undertaken that it has complied and will comply with all applicable laws and regulations in each country or jurisdiction in or from which it purchases, offers, sells or delivers Notes or possesses, distributes or publishes the Prospectus or any Final Terms or any related offering material and will obtain any consent, approval or permission required by it for the purchase, offer, sale or delivery by it of Notes under the laws and regulations in force in any jurisdiction to which it is subject or in which it makes such purchases, offers, sales or deliveries and neither any of the Issuers or the Guarantor, if applicable, nor any other Dealer shall have any responsibility therefore.

With regard to each Tranche, the relevant Dealer will be required to comply with such other additional restrictions as the Issuer and the relevant Dealer shall agree and as shall be set out in the applicable Final Terms.

### **2. European Economic Area and United Kingdom**

***With regard to each Tranche of Notes in relation to which "Prohibition of Sales to EEA and UK Retail Investors" will be selected to be "not applicable" in Part B of the relevant Final Terms the following restrictions apply:***

In relation to each Member State of the European Economic Area and the United Kingdom (each, a **Relevant State**), each Dealer has represented, warranted and agreed, and each further Dealer appointed under the Programme will be required to represent, warrant and agree, that it has not made and will not make an offer of Notes which are the subject of the offering contemplated by the Prospectus as completed by the Final Terms in relation thereto to the public in that Relevant State except that it may make an offer of such Notes to the public in that Relevant State:

- (a) *Approved prospectus*: if the Final Terms in relation to the Notes specify that an offer of those Notes may be made other than pursuant to Article 1(4) of the Prospectus Regulation in that Relevant State (a **Non-exempt Offer**), following the date of publication of a prospectus in relation to such Notes which has been approved by the competent authority in that Relevant State or, where appropriate, approved in another Relevant State and notified to the competent authority in that Relevant State, provided that any such prospectus has subsequently been completed by the Final Terms contemplating such Non-exempt Offer, in accordance with the Prospectus Regulation, in the period beginning and ending on the dates specified in such prospectus or Final Terms, as applicable and the Issuer has consented in writing to its use for the purpose of that Non-exempt Offer;
- (b) *Qualified investors*: at any time to any legal entity which is a qualified investor as defined in the Prospectus Regulation;
- (c) *Fewer than 150 offerees*: at any time to fewer than 150 natural or legal persons (other than qualified investors as defined in the Prospectus Regulation) subject to obtaining the prior consent of the relevant Dealer or Dealers nominated by the Issuer and/or the Guarantor for any such offer; or
- (d) *Other exempt offers*: at any time in any other circumstances falling within Article 1(4) of the Prospectus Regulation,

provided that no such offer of Notes referred to in (b) to (d) above shall require the relevant Issuer or any Dealer to publish a prospectus pursuant to Article 3 of the Prospectus Regulation or supplement a prospectus pursuant to Article 23 of the Prospectus Regulation.

For the purposes of this provision, the expression an **offer of Notes to the public** in relation to any Notes in any Relevant State means the communication in any form and by any means of sufficient information on the terms of the

offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe for the Notes and the expression **Prospectus Regulation** means Regulation (EU) 2017/1129.

***With regard to each Tranche of Notes in relation to which "Prohibition of Sales to EEA and UK Retail Investors" will be selected to be "applicable" in Part B of the relevant Final Terms the following restrictions apply:***

Each Dealer has represented, warranted and agreed and each further Dealer appointed under the Programme will be required to represent, warrant and agree that it has not offered, sold or otherwise made available and will not offer, sell or otherwise make available any Notes to any retail investor in the European Economic Area and the United Kingdom. For the purposes of this provision:

- (a) the expression **retail investor** means a person who is one (or more) of the following:
  - (i) a retail client as defined in point (11) of Article 4(1) of Directive 2014/65/EU (as amended, **MiFID II**); or
  - (ii) a customer within the meaning of Directive 2017/97/EU (as amended, the **Insurance Distribution Directive**), where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II; or
  - (iii) not a qualified investor as defined in the Prospectus Regulation; and
- (b) the expression **offer** includes the communication in any form and by any means of sufficient information on the terms of the offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe the Notes.

### **3. United States**

- (a) With regard to each Tranche, each Dealer has acknowledged that the Notes have not been and will not be registered under the Securities Act, including Notes in bearer form that are subject to U.S. tax law requirements, and may not be offered or sold within the United States or to U.S. persons except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act. Each Dealer has represented, warranted and undertaken that it has not offered or sold, and will not offer or sell, any Note constituting part of its allotment within the United States except in accordance with Rule 903 of Regulation S under the Securities Act (**Regulation S**). Accordingly, each Dealer further has represented, warranted and undertaken that neither it, nor its affiliates nor any persons acting on its or their behalf have engaged or will engage in any directed selling efforts with respect to any Note. Each Dealer has agreed that it will not offer, sell or deliver any Note in bearer form within the United States or to U.S. persons except as permitted by the Subscription Agreement.

Each Dealer has represented, warranted and undertaken that neither it, nor its affiliates nor any persons acting on its or their behalf have offered or sold or will offer and sell the Notes by means of any form of general solicitation or general advertising (as those terms are used in Rule 502(c) under the Securities Act) in the United States. Each Dealer has further represented, warranted and undertaken that neither it, nor its affiliates nor any persons acting on its or their behalf have made or caused to be made or will make or cause to be made a public offering of the Notes in the United States.

The Notes are subject to U.S. tax law requirements and may not be offered, sold or delivered within the United States or its possessions or to a U.S. person, except in transactions permitted by U.S. tax regulations. Terms used in this paragraph have the meanings given to them by the U.S. Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder.

In addition, until 40 days after the commencement of the offering, an offer or sale of any Note within the United States by any dealer (whether or not participating in the offering) may violate the registration requirements of the Securities Act.

- (b) From and after the time that the Issuer notifies the Dealers in writing that it is no longer able to make the representations set out in the Dealer Agreement, each Dealer (i) acknowledges that the Notes have not been and will not be registered under the Securities Act and may not be offered or sold within the United States

or to, or for the account or benefit of, U.S. persons except in accordance with Regulation S or pursuant to an exemption from the registration requirements of the Securities Act; (ii) has represented, warranted and undertaken that it has not offered, sold or delivered any Notes, and will not offer, sell or deliver any Notes, (x) as part of its distribution at any time or (y) otherwise until 40 days after the later of the commencement of the offering and the closing date, except in accordance with Rule 903 of Regulation S; and accordingly, (iii) further has represented, warranted and undertaken that neither it, nor its affiliates nor any persons acting on its or their behalf have engaged or will engage in any directed selling efforts with respect to any Note, and it and they have complied and will comply with the offering restrictions requirements of Regulation S; and (iv) also has agreed that, at or prior to confirmation of any sale of Notes, it will have sent to each distributor, dealer or person receiving a selling concession, fee or other remuneration that purchases Notes from it during the distribution compliance period a confirmation or notice to substantially the following effect:

"The Notes covered hereby have not been registered under the U.S. Securities Act of 1933, as amended (the *Securities Act*), and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons by any person referred to in Rule 903(b)(2)(iii) of Regulation S under the Securities Act (*Regulation S*) (i) as part of its distribution at any time or (ii) otherwise until 40 days after the later of the commencement of the offering and the closing date, except in either case in accordance with Regulation S. Terms used above have the meanings given to them by Regulation S."

- (c) Each Dealer who has purchased Notes of a Tranche hereunder (or in the case of a sale of a Tranche of Notes issued to or through more than one Dealer, each of such Dealers as to the Notes of such Tranche purchased by or through it or, in the case of a syndicated issue, the relevant Lead Manager) shall determine and notify to the Fiscal Agent and the Issuer the completion of the distribution of the Notes of such Tranche.
- (d) With regard to each Tranche, each Dealer has represented, warranted and undertaken that it has not entered and will not enter into any contractual arrangement with respect to the distribution or delivery of Notes, except with its affiliates or with the prior written consent of the relevant Issuer and the Guarantor, if applicable.
- (e) Notes, other than Notes with an initial maturity of one year or less, will be issued in accordance with the provisions of U.S. Treas. Reg. § 1.163-5(c)(2)(i)(C) (or any successor rules in substantially the same form that are applicable for purposes of Section 4701 of the U.S. Internal Revenue Code of 1986, as amended) (the *C Rules*), or in accordance with the provisions of U.S. Treas. Reg. § 1.163-5(c)(2)(i)(D) (or any successor rules in substantially the same form that are applicable for purposes of Section 4701 of the U.S. Internal Revenue Code of 1986, as amended) (the *D Rules*), as specified in the Final Terms.

In addition, where the C Rules are specified in the Final Terms as being applicable to any Tranche of Notes, Notes must be issued and delivered outside the United States and its possessions in connection with their original issuance. Each Dealer has represented, warranted and undertaken that it, in connection with the original issuance of Notes has not offered sold or delivered and will not offer, sell or deliver, directly or indirectly, Notes within the United States or its possessions in connection with their original issuance. Further, each Dealer has represented, warranted and undertaken in connection with the original issuance of Notes, that it has not communicated, and will not communicate, directly or indirectly, with a prospective purchaser if either such Dealer or such purchaser is within the United States or its possessions and will not otherwise involve its U.S. office in the offer or sale of Notes. Terms used in this paragraph have the meanings given to them by the U.S. Internal Revenue Code and regulations thereunder, including the C Rules and any successor provisions thereto.

In addition, in respect of Notes issued in accordance with the D Rules, each Dealer has represented, warranted and undertaken that:

- (i) except to the extent permitted under the D Rules, (x) it has not offered or sold, and during the restricted period will not offer or sell, directly or indirectly, Notes to a person who is within the United States or its possessions or to a United States person, and (y) such Dealer has not delivered and will not deliver within the United States or its possessions definitive Notes that are sold during the restricted period;



- (ii) it has, and throughout the restricted period will have, in effect procedures reasonably designed to ensure that its employees or agents who are directly engaged in selling Notes are aware that such Notes may not be offered or sold during the restricted period to a person who is within the United States or its possessions or to a United States person, except as permitted by the D Rules;
- (iii) if such Dealer is a United States person, it is acquiring the Notes for purposes of resale in connection with their original issuance, and not for the purpose of resale directly or indirectly to a person within the United States or its possessions or to a United States person, and if such Dealer retains Notes for its own account, it will only do so in accordance with the requirements of the D Rules (or any successor rules in substantially the same form that are applicable for purposes of Section 4701 of the U.S. Internal Revenue Code of 1986, as amended);
- (iv) with respect to each affiliate that acquires from such Dealer Notes for the purposes of offering or selling such Notes during the restricted period, such Dealer either (x) repeats and confirms the representations and agreements contained in sub-clauses (i), (ii) and (iii) of this paragraph (e) on such affiliate's behalf or (y) agrees that it will obtain from such affiliate for the benefit of the Issuer the representations and agreements contained in sub-clauses (i), (ii) and (iii) of this paragraph (e); and
- (v) it shall obtain for the benefit of the Issuer the representations, undertakings and agreements contained in subclauses (i), (ii), (iii) and (iv) of this paragraph (e) from any person other than its affiliate with whom it enters into a written contract (a "distributor" as defined in the D Rules, for the offer or sale during the restricted period of the Notes.

In addition, each Note issued in accordance with the D Rules will bear the following legend:

"ANY UNITED STATES PERSON (AS DEFINED IN THE INTERNAL REVENUE CODE OF THE UNITED STATES OF AMERICA) WHO HOLDS THIS OBLIGATION, DIRECTLY OR INDIRECTLY, WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(J) AND 1287(A) OF THE INTERNAL REVENUE CODE OF THE UNITED STATES OF AMERICA."

Terms used in this paragraph (e) have the meanings given to them by the U.S. Internal Revenue Code of 1986, as amended, and treasury regulations thereunder, including the D Rules and any successor provisions thereto.

Terms used in the paragraphs (a) – (d) have the meanings given to them by Regulation S.

#### **4. United Kingdom**

Each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that:

- (a) *Financial Promotion*: it has only communicated or caused to be communicated and will only communicate or cause to be communicated any invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial Services and Markets Act 2000, as amended (the *FSMA*)) received by it in connection with the issue or sale of any Notes in circumstances in which Section 21 (1) FSMA does not apply to the respective Issuer or the Guarantor; and
- (b) *General Compliance*: it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to any Notes in, from or otherwise involving the United Kingdom.

## 5. *Luxembourg*

The Notes having a maturity of less than 12 months that may qualify as securities and money market instruments in accordance with Article 17 of the Luxembourg Law, may not be offered or sold to the public within the territory of the Grand Duchy of Luxembourg unless:

- (a) an alleviated prospectus has been duly approved by the *Commission de Surveillance du Secteur Financier* pursuant to Part III of the Luxembourg Law; or
- (b) the offer benefits from an exemption to or constitutes a transaction not subject to, the requirement to publish an alleviated prospectus under Part III of the Luxembourg Law.

## 6. *Japan*

The Notes have not been and will not be registered under the Financial Instruments and Exchange Law of Japan (Law No. 25 of 1948, as amended) and, accordingly, each Dealer has undertaken that it will not offer or sell any Notes, directly or indirectly, in Japan or to, or for the benefit of, any Japanese Person or to others for re-offering or resale, directly or indirectly, in Japan or to a Japanese Person except under circumstances which will result in compliance with all applicable laws, regulations and guidelines promulgated by the relevant Japanese governmental and regulatory authorities and in effect at the relevant time. For the purposes of this paragraph, **Japanese Person** shall mean any person resident in Japan, including any corporation or other entity organized under the laws of Japan.

## 7. *Ireland*

Each Dealer has represented, warranted and agreed and each further Dealer appointed under the Programme will be required to represent and agree that it has not offered or sold, and will not offer, sell, underwrite the issue of, or act in Ireland in respect of the Notes, other than in conformity with:

- (a) the provisions of the Prospectus Regulation, the European Union (Prospectus) Regulations 2019 of Ireland and any rules and guidelines issued under Section 1363 of the Companies Act 2014 of Ireland (as amended) by the Central Bank of Ireland (the **Central Bank**);
- (b) the provisions of the Central Bank Acts 1942 to 2018 of Ireland (as amended) and any codes of conduct or rules made under Section 117(1) of the Central Bank Act 1989 (as amended) of Ireland;
- (c) the provisions of the European Union (Markets in Financial Instruments) Regulations 2017 (as amended) (**MiFID Regulations**), including, without limitations, Regulation 5 (Requirement for authorization (and certain provisions concerning MTFs and OTFs)) thereof, or rules or codes of conduct made under the MiFID Regulations and the provisions of the Investor Compensation Act 1998 (as amended);
- (d) the provisions of the Market Abuse Regulation (EU 596/2014) (as amended), the European Union (Market Abuse) Regulations 2016 of Ireland (as amended) and any rules issued by the Central Bank pursuant to Section 1370 of the Companies Act 2014 of Ireland (as amended); and
- (e) in respect of any Notes that have a maturity of less than one year, it shall ensure that the Notes are issued in accordance with an exemption granted by the Central Bank under Section 8(2) of the Central Bank Act 1971 of Ireland (as amended).

## 8. *Switzerland*

Each Dealer has acknowledged, and each further Dealer appointed under the Programme will be required to acknowledge, that with regard to Switzerland the Prospectus is not intended to constitute an offer or solicitation to purchase or invest in the Notes described therein. The Notes may not be publicly offered directly or indirectly, in, into or from Switzerland within the meaning of the Swiss Financial Services Act (**FinSA**) and will not be admitted to trading on any exchange or other trading venue in Switzerland. Neither the Prospectus nor any other offering or marketing material relating to the Notes constitutes a prospectus as such term is understood pursuant to the FinSA and neither the Prospectus nor any other offering or marketing material relating to the Notes may be publicly distributed or otherwise made publicly available in Switzerland.

## 9. *Singapore:*

Each Dealer has acknowledged, and each further Dealer appointed under the Programme will be required to acknowledge, that the Prospectus has not been and will not be registered as a prospectus with the Monetary

Authority of Singapore and the Notes will be offered pursuant to exemptions under the Securities and Futures Act, Chapter 289 of Singapore (the *SFA*). Accordingly, the Prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the Notes may not be circulated or distributed, nor may the Notes be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (1) to an institutional investor under Section 274 of the SFA; (2) to a relevant person pursuant to Section 275(1) of the SFA, or any person pursuant to Section 275(1A) of the SFA, and in accordance with the conditions specified in Section 275 of the SFA or (3) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where the Notes are subscribed or purchased under Section 275 of the SFA by a relevant person which is (a) a corporation (which is not an accredited investor) (as defined in Section 4A of the SFA) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary is an accredited investor, securities or securities-based derivatives contracts (each as defined in Section 2(1) of the SFA) of that corporation or the beneficiaries' rights and interest in that trust shall not be transferable for 6 months after that corporation or that trust has acquired the securities under Section 275 of the SFA except:

- (a) to an institutional investor or to a relevant person defined in Section 275(2) of the SFA, or to any person arising from an offer referred to in Section 275(1A) or Section 276(4)(i)(B) of the SFA;
- (b) where no consideration is or will be given for the transfer;
- (c) where the transfer is by operation of law; or
- (d) as specified in Section 276(7) of the SFA,

as specified in Regulation 37A of the Securities and Futures (Offers of Investments)(Securities and Securities-based Derivatives Contracts) Regulations 2018.

## GENERAL INFORMATION

### Interests of Natural and Legal Persons involved in the Issue/Offer

Certain of the Dealers and their affiliates may be borrowers from or creditors of the Company, Fresenius Ireland, Fresenius Ireland II and its affiliates. In addition, certain Dealers and their affiliates have engaged, and may in the future engage, in investment banking and/or commercial banking transactions with, and may perform services for the Company, Fresenius Ireland, Fresenius Ireland II and its affiliates in the ordinary course of business.

Moreover, in the ordinary course of their business activities, the Dealers and their affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers. Such investments and securities activities may involve securities and/or instruments of the Issuers or Issuers' affiliates or Guarantor's or Guarantor's affiliates. Certain of the Dealers or their affiliates that have a lending relationship with the Issuers and the Guarantor routinely hedge their credit exposure to the Issuers consistent with their customary risk management policies. Typically, such Dealers and their affiliates would hedge such exposure by entering into transactions which consist of either the purchase of credit default swaps or the creation of short positions in securities, including potentially the Notes issued under the Programme. Any such short positions could adversely affect future trading prices of Notes issued under the Programme. The Dealers and their affiliates may also make investment recommendations and/or publish or express independent research views in respect of such securities or financial instruments and may hold, or recommend to clients that they acquire, long and/or short positions in such securities and instruments. Interests of persons involved in a specific issue of Notes under the Programme will be set out in the relevant Final Terms.

### Authorization

The establishment and update of the Programme (including the granting of the Guarantee) and the issue of Notes thereunder have been duly authorised by Fresenius SE & Co. KGaA.

Fresenius SE & Co. KGaA will obtain from time to time all necessary consents, approvals and authorizations in connection with the issue and performance of its obligations under the Notes.

The establishment and update of the Programme and the issue of Notes thereunder have been duly authorised by Fresenius Ireland.

Fresenius Ireland will obtain from time to time all necessary consents, approvals and authorizations in connection with the issue and performance of its obligations under the Notes.

The establishment and update of the Programme and the issue of Notes thereunder have been duly authorised by Fresenius Ireland II.

Fresenius Ireland II will obtain from time to time all necessary consents, approvals and authorizations in connection with the issue and performance of its obligations under the Notes.

### Clearing Systems

The Notes have been accepted for clearance through Clearstream Banking AG, Frankfurt am Main (Mergenthalerallee 61, 65760 Eschborn) (**CBF**), Clearstream Banking société anonyme, Luxembourg (42 Avenue JF Kennedy, 1855 Luxembourg, Luxembourg) (**CBL**) and Euroclear Bank SA/NV (Boulevard du Roi Albert II, 1210 Brussels, Belgium) (**Euroclear**). The appropriate German securities number (**WKN**) (if any), Common Code and ISIN for each Tranche of Notes allocated by CBF, CBL and Euroclear will be specified in the applicable Final Terms. If the Notes are to be cleared through an additional or alternative clearing system the appropriate information will be specified in the applicable Final Terms.

### Documents on Display

So long as Notes are capable of being issued under the Prospectus, copies of the following documents will, when published, be available free of charge during normal business hours from the registered office of the relevant Issuer and from the specified offices of the Fiscal Agent:

- (i) the constitutional documents of each of the Issuers;

- (ii) a copy of this Prospectus;
- (iii) the documents incorporated herein by reference; and
- (iv) a copy of any supplements to this Prospectus.

Electronic versions of the constitutional documents of the Issuers are also available on the Company's website.

This Base Prospectus, any document incorporated by reference and any supplement to this Base Prospectus will be published on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)).

In the case of Notes listed on the official list of the Luxembourg Stock Exchange or publicly offered in the Grand Duchy of Luxembourg, the Final Terms will be displayed on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)). In the case of Notes listed on any other stock exchange or publicly offered in one or more member states of the European Economic Area other than the Grand Duchy of Luxembourg, the Final Terms will be displayed on the website of Fresenius ([www.fresenius.com](http://www.fresenius.com)).

**Third Party Information:**

With respect to any information included herein and specified to be sourced from a third party (i) each Issuer confirms that any such information has been accurately reproduced and as far as each Issuer is aware and is able to ascertain from information available to it from such third party, no facts have been omitted the omission of which would render the reproduced information inaccurate or misleading and (ii) neither any of the Issuers nor any Dealer has independently verified any such information and neither any of the Issuer nor any Dealer accepts any responsibility for the accuracy thereof.

## DOCUMENTS INCORPORATED BY REFERENCE

The following information contained in the following documents which have been published or which are published simultaneously with this Prospectus and filed with the CSSF shall be incorporated by reference in, and form part of, this Prospectus:

### **Fresenius SE & Co. KGaA**

#### ***The IFRS audited consolidated financial statements of Fresenius SE & Co. KGaA as at and for the year ending December 31, 2019 (English language version)***

|                                                |               |
|------------------------------------------------|---------------|
| Consolidated Statement of Income               | page 165      |
| Consolidated Statement of Comprehensive Income | page 166      |
| Consolidated Statement of Financial Position   | page 167      |
| Consolidated Statement of Cash Flows           | pages 168-169 |
| Consolidated Statement of Changes in Equity    | pages 170-171 |
| Consolidated Segment Reporting                 | pages 172-174 |
| Notes to the Consolidated Financial Statements | pages 175-259 |
| Auditor's Report                               | pages 260-265 |

#### ***The IFRS audited consolidated financial statements of Fresenius SE & Co. KGaA as at and for the year ending December 31, 2018 (English language version)***

|                                                |               |
|------------------------------------------------|---------------|
| Consolidated Statement of Income               | page 164      |
| Consolidated Statement of Comprehensive Income | page 164      |
| Consolidated Statement of Financial Position   | page 165      |
| Consolidated Statement of Cash Flows           | pages 166-167 |
| Consolidated Statement of Changes in Equity    | pages 168-169 |
| Consolidated Segment Reporting                 | pages 170-171 |
| Notes to the Consolidated Financial Statements | pages 173-260 |
| Auditor's Report                               | pages 262-269 |

### **Fresenius Finance Ireland Public Limited Company**

#### ***The IFRS audited unconsolidated financial statements of Fresenius Finance Ireland Public Limited Company as at and for the year ending December 31, 2019***

|                                   |             |
|-----------------------------------|-------------|
| Auditors' Report                  | pages 7-10  |
| Statement of Comprehensive Income | page 11     |
| Statement of Financial Position   | page 12     |
| Statement of Changes in Equity    | page 13     |
| Statement of Cash Flows           | page 14     |
| Notes to the Financial Statements | pages 15-30 |

***The IFRS audited unconsolidated financial statements of Fresenius Finance Ireland Public Limited Company as at and for the year ending December 31, 2018***

|                                   |             |
|-----------------------------------|-------------|
| Auditors' Report                  | pages 7-10  |
| Statement of Comprehensive Income | page 11     |
| Statement of Financial Position   | page 12     |
| Statement of Changes in Equity    | page 13     |
| Statement of Cash Flows           | page 14     |
| Notes to the Financial Statements | pages 15-30 |

**Fresenius Finance Ireland II Public Limited Company**

***The IFRS audited unconsolidated financial statements of Fresenius Finance Ireland II Public Limited Company as at and for the year ending December 31, 2019***

|                                   |             |
|-----------------------------------|-------------|
| Auditor's Report                  | pages 6-8   |
| Statement of Comprehensive Income | page 9      |
| Statement of Financial Position   | page 10     |
| Statement of Changes in Equity    | page 11     |
| Statement of Cash Flows           | page 12     |
| Notes to the Financial Statements | pages 13-23 |

***The IFRS audited unconsolidated financial statements of Fresenius Finance Ireland II Public Limited Company as at and for the year ending December 31, 2018***

|                                   |             |
|-----------------------------------|-------------|
| Auditor's Report                  | pages 6-8   |
| Statement of Comprehensive Income | page 9      |
| Statement of Financial Position   | page 10     |
| Statement of Changes in Equity    | page 11     |
| Statement of Cash Flows           | page 12     |
| Notes to the Financial Statements | pages 13-23 |

Any information incorporated by reference into this Prospectus and that is not included in the above cross-reference lists is considered as additional information and is not required by the relevant schedules of the Commission Delegated Regulation (EU) 2019/980.

***Set of Terms and Conditions for Notes with fixed interest rates contained in the Base Prospectus dated January 8, 2019 of Fresenius SE & Co. KGaA, Fresenius Finance Ireland Public Limited Company and Fresenius Finance Ireland II Public Limited Company (English and German language version)***

|                                                                                       |               |
|---------------------------------------------------------------------------------------|---------------|
| Set of Terms and Conditions for Notes with fixed interest rates ( <i>Option I A</i> ) | pages 140-188 |
|---------------------------------------------------------------------------------------|---------------|

Any information contained in, or incorporated by reference into the Base Prospectus dated January 8, 2019 of Fresenius SE & Co. KGaA, Fresenius Finance Ireland Public Limited Company and Fresenius Finance Ireland II Public Limited Company that is not included in the above cross-reference lists is either not relevant for investors or covered elsewhere in this Prospectus.

***Set of Terms and Conditions for Notes with fixed interest rates contained in the Base Prospectus dated April 12, 2019 of Fresenius SE & Co. KGaA, Fresenius Finance Ireland Public Limited Company and Fresenius Finance Ireland II Public Limited Company (English and German language version)***

Set of Terms and Conditions for Notes with fixed interest rates (*Option I B*)

pages 132-180

Any information contained in, or incorporated by reference into the Base Prospectus dated April 12, 2019 of Fresenius SE & Co. KGaA, Fresenius Finance Ireland Public Limited Company and Fresenius Finance Ireland II Public Limited Company that is not included in the above cross-reference lists is either not relevant for investors or covered elsewhere in this Prospectus.

**Availability of documents incorporated by reference**

Any document incorporated herein by reference are available free of charge and may be inspected during usual business hours on any working day from the date hereof for the whole life of the Prospectus at the offices of Fresenius SE & Co. KGaA as set out at the end of this Prospectus and will be published on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)).

Copies of documents incorporated by reference in this Prospectus may be obtained (without charge) from the registered office of the Issuers and the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)).

Electronic versions of the documents incorporated by reference are also available on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)) and can be accessed by using the following hyperlinks:

1. The IFRS audited consolidated financial statements of Fresenius SE & Co. KGaA as at and for the year ending December 31, 2019  
<http://dl.bourse.lu/dlp/103b157ada3206474a92526769956d4b87>
2. The IFRS audited consolidated financial statements of Fresenius SE & Co. KGaA as at and for the year ending December 31, 2018  
<http://dl.bourse.lu/dlp/10e3220af49f9f412a8086b65b4b956d55>
3. The IFRS audited unconsolidated financial statements of Fresenius Finance Ireland Public Limited Company as at and for the year ending December 31, 2019  
<http://dl.bourse.lu/dlp/101249452dba244c98a06c9e85f09a6767>
4. The IFRS audited unconsolidated financial statements of Fresenius Finance Ireland Public Limited Company as at and for the year ending December 31, 2018  
<http://dl.bourse.lu/dlp/10e4aa29f734a74e5caefb10269b159f6b>
5. The IFRS audited unconsolidated financial statements of Fresenius Finance Ireland II Public Limited Company as at and for the year ending December 31, 2019  
<http://dl.bourse.lu/dlp/10c68a6e8f6e4a4a0cab5d78822005f9bf>
6. The IFRS audited unconsolidated financial statements of Fresenius Finance Ireland II Public Limited Company as at and for the year ending December 31, 2018  
<http://dl.bourse.lu/dlp/10a07f13fa7fb941169b8c7e69d2fefb00>
7. Set of Terms and Conditions for Notes with fixed interest rates contained in the Base Prospectus dated January 8, 2019 of Fresenius SE & Co. KGaA, Fresenius Finance Ireland Public Limited Company and Fresenius Finance Ireland II Public Limited Company (English and German language version)  
<http://dl.bourse.lu/dlp/1018c83f8658364f89b8fd6046f7e8128f>
8. The Set of Terms and Conditions for Notes with fixed interest rates contained in the Base Prospectus dated April 12, 2019 of Fresenius SE & Co. KGaA, Fresenius Finance Ireland Public Limited Company and Fresenius Finance Ireland II Public Limited Company (English and German language version)  
<http://dl.bourse.lu/dlp/102cfb9dc82f5b422aa5d32becfe78ba18>



## NAMES AND ADDRESSES

### THE ISSUERS

**Fresenius SE & Co. KGaA**  
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61352 Bad Homburg vor der Höhe  
Federal Republic of Germany

**Fresenius Finance Ireland  
Public Limited Company**  
3A Fingal Bay Business Park,  
Balbriggan, Co. Dublin  
Ireland

**Fresenius Finance Ireland II  
Public Limited Company**  
3A Fingal Bay Business Park,  
Balbriggan, Co. Dublin  
Ireland

### FISCAL AND PAYING AGENT

**Deutsche Bank Aktiengesellschaft**  
Taunusanlage 12  
60325 Frankfurt am Main  
Federal Republic of Germany

### LUXEMBOURG LISTING AGENT

**BNP Paribas Securities Services, Luxembourg Branch**  
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L-1855 Luxembourg  
Luxembourg

### ARRANGER

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### DEALERS

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**Banco Santander, S.A.**  
Ciudad Grupo Santander  
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**Barclays Bank PLC**  
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**Goldman Sachs Bank Europe SE**

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Federal Republic of Germany

**J.P. Morgan Securities plc**

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To the Dealers

as to German law

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**AUDITORS TO THE ISSUERS**

To Fresenius SE & Co. KGaA

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and Fresenius Finance Ireland II Public Limited

Company

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