Base Prospectus
May 19, 2020

This document constitutes the base prospectus for the purposes of Article 8(1) of Regulation (EU) 2017/1129 of the European Parliament and of the Council of June 14, 2017 (the ***Prospectus Regulation***) in respect of non-equity securities within the meaning of Article 2(c) of the Prospectus Regulation, as amended (the ***Non-Equity Securities***) of Fresenius Medical Care AG & Co. KGaA (the ***Prospectus***).

Fresenius Medical Care AG & Co. KGaA
(Hof an der Saale, Federal Republic of Germany)
as ***Issuer***

EUR 10,000,000,000
Debt Issuance Program
(the ***Program***)

Fresenius Medical Care Holdings, Inc. (the ***Guarantor***), unconditionally and irrevocably guarantees the due payment of interest and principal and additional amounts, if any, for the Notes (as defined below) (the ***Guarantee***). This Guarantee provides for a release mechanism in certain circumstances as further described in the Guarantee.

This Prospectus has been approved by the *Commission de Surveillance du Secteur Financier* (the ***CSSF***) of the Grand Duchy of Luxembourg (***Luxembourg***) in its capacity 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 economic or financial opportunity of the operation or the quality and solvency of the Issuer or of the quality of the Notes that are the subject of this Prospectus. Investors should make their own assessment as to the suitability of investing in the Notes.

Application has been made to list the notes issued under the Program (the ***Notes***) on the official list of the Luxembourg Stock Exchange (*Bourse de Luxembourg*) and to admit the Notes to trading on the regulated market of the Luxembourg Stock Exchange. The Luxembourg Stock Exchange's regulated market is a regulated market for the purposes of Directive 2014/65/EU of the European Parliament and of the Council of May 15, 2014 on markets in financial instruments, as amended (***MiFID II***). However, Notes may also be issued under the Program which are listed on a stock exchange other than the Luxembourg Stock Exchange or which are not listed on any stock exchange.

The Issuer has requested the CSSF in its capacity as competent authority under the Prospectus Regulation and the Luxembourg law relating to prospectuses for securities dated July 16, 2019, as amended (*Loi du 16 juillet 2019 relative aux prospectus pour valeurs mobilières et portant mise en œuvre du règlement (UE) 2017/1129*) (the ***Prospectus Act***) to provide the competent authorities in the Federal Republic of Germany (***Germany***) with a certificate of approval attesting that the Prospectus has been drawn up in accordance with the Prospectus Regulation (a ***Notification***). The Issuer may request the CSSF to provide competent authorities in additional member states within the European Economic Area (the ***EEA***) with a Notification.

Prospective purchasers of the Notes should refer to the Risk Factors disclosed on pages 11 *et seq*. of the Prospectus.

Arranger
Deutsche Bank

Dealers

Barclays
Crédit Agricole CIB
HSBC
J.P. Morgan
Commerzbank
Deutsche Bank
ING
Société Générale Corporate & Investment Banking

The Prospectus will be published in electronic form on the website of the Luxembourg Stock Exchange (*www.bourse.lu*). It is valid for a period of twelve months from its date of approval. The validity ends upon expiration of May 19, 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 Medical Care AG & Co. KGaA (the ***Issuer*** and, together with its consolidated group companies, the ***Group***, also referred to as ***we***, ***us*** or ***our***), with its registered seat (*Sitz*) in Hof an der Saale, Germany, and its registered office in Bad Homburg vor der Höhe, Germany, and the Guarantor accept responsibility for the information given in the Prospectus and for the information which will be contained in the Final Terms (as defined below).

The Issuer and the Guarantor hereby declare that, having taken all reasonable care to ensure that such is the case, the information contained in the Prospectus for which they are responsible is, to the best of their knowledge, in accordance with the facts and contains no omission likely to affect its import.

By approving the Prospectus, the CSSF assumes no responsibility as to the economic and financial soundness of the transactions under the Program and the quality or solvency of the Issuer in line with the provisions of Article 6(4) of the Prospectus Act.

NOTICE

The 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 of Notes***), together with the relevant final terms (the ***Final Terms***). Full information on the Issuer and any Tranche of Notes is only available on the basis of the combination of the Prospectus and the relevant Final Terms.

The Issuer has confirmed to the Dealers (as defined herein) that the Prospectus contains all information with regard to the Issuer, the Guarantor and the Notes which is necessary to enable investors to make an informed assessment of the assets and liabilities, financial position, profit and losses and prospects of the Issuer and the rights attaching to the Notes which is material in the context of the Program; that the information contained herein with respect to the Issuer, 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 Issuer, the Guarantor or the Notes, the omission of which would make the Prospectus as a whole or any of such information or the expression of any such opinions or intentions misleading; that the Issuer has made all reasonable enquiries to ascertain all facts material for the purposes aforesaid.

The Issuer has undertaken with the Dealers to supplement the Prospectus in accordance with Article 23 of the Prospectus Regulation or publish a new prospectus in the event of any significant new factor, material mistake or material inaccuracy relating to the information included in the Prospectus in respect of Notes issued on the basis of the Prospectus which may affect the assessment of the Notes and which arises or is noted between the time when the Prospectus has been approved and the closing of the offer period for any Tranche of Notes or the time when trading of any Tranche of Notes on a regulated market begins in respect of Notes issued on the basis of the Prospectus, whichever occurs later.

No person has been authorized to give any information which is not contained in or not consistent with the Prospectus or any other document entered into in relation to the Program or any information supplied by the Issuer or the Guarantor 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 Issuer, the Guarantor the Dealers or any of them.

To the extent permitted by law, neither the Arranger (as defined herein) nor any Dealer nor any other person mentioned in the Prospectus, excluding the Issuer and the Guarantor, is responsible for the information contained in the 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 Prospectus is valid for twelve months following the date of its approval and the Prospectus and any supplement hereto as well as any Final Terms reflects the status as of their respective dates of issue. The delivery of the 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 Issuer since such date or that any other information supplied in connection with the Program 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.

The distribution of the Prospectus and any Final Terms and the offering, sale and delivery of Notes in certain jurisdictions may be restricted by law. Persons in possession of the Prospectus or any Final Terms are required to inform themselves about and observe any such restrictions. For a description of the restrictions applicable in the United States of America (the ***United States*** or ***U.S.***), the EEA in general, the United Kingdom, Luxembourg, Japan, and Singapore see "Selling Restrictions" below. 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 within the United States or to U.S. persons.

Product classification requirements in Singapore: The Notes are prescribed capital markets products (as defined in the Securities and Futures (Capital Markets Products) Regulations 2018) and Excluded Investment Products (as defined in MAS Notice SFA 04-N12: Notice on the Sale of Investment Products and MAS Notice FAA-N16: Notice on Recommendations on Investment Products).

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 (each 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 under Commission Delegated Directive (EU) 2017/593 of April 7, 2016 (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.

If the Final Terms in respect of any Notes include a legend entitled "*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 EEA or in the United Kingdom (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 Directive (EU) 2016/97 of the European Parliament and of the Council of January 20, 2016 on insurance distribution (recast), 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. Consequently, no key information document required by Regulation (EU) No 1286/2014 of the European Parliament and of the Council of November 26, 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs), 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 will not be 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 the Prospectus in the German language constitutes a translation, except that (i) in respect of the issue of any Tranche of Notes under the Program, the German text of the terms and conditions of the Notes set forth below (the ***Terms and Conditions***) may be controlling and binding if so specified in the relevant Final Terms, (ii) in respect of the German law governed Guarantee (including the negative pledge contained therein), the German language version is always controlling and binding, and (iii) the consolidated financial statements of the Issuer which are incorporated by reference into the Prospectus are in German.

The Prospectus and any supplement hereto may only be used for the purpose for which it has been published.

Each Dealer and/or each further financial intermediary subsequently reselling or finally placing Notes issued under the Program is entitled to use the Prospectus as set out in "*Consent to the Use of the Prospectus*" below.

Neither the Prospectus nor any Final Terms may 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.

Neither the Prospectus, nor any supplement thereto nor any Final Terms 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 PROGRAM, THE DEALER OR DEALERS (IF ANY) NAMED AS STABILIZING MANAGER(S) IN THE APPLICABLE FINAL TERMS (OR PERSONS ACTING ON BEHALF OF A STABILIZING MANAGER(S)) MAY OVER-ALLOT NOTES OR EFFECT TRANSACTIONS WITH A VIEW TO SUPPORTING THE PRICE OF THE NOTES AT A LEVEL HIGHER THAN THAT WHICH MIGHT OTHERWISE PREVAIL. HOWEVER, STABILIZATION MAY NOT NECESSARILY OCCUR. ANY STABILIZATION 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 STABILIZATION ACTION OR OVER-ALLOTMENT MUST BE CONDUCTED BY THE RELEVANT STABILIZING MANAGER(S) (OR PERSON(S) ACTING ON BEHALF OF ANY STABILIZING MANAGER(S)) IN ACCORDANCE WITH ALL APPLICABLE LAWS AND RULES.

ANY U.S. PERSON WHO HOLDS AN OBLIGATION UNDER THIS PROGRAM 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.

In the 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. All references to ***$***, ***US$*** or ***USD*** are the US dollar, the official currency of the United States.

A Tranche 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 the Prospectus on the market environment, market developments, growth rates, market trends and competition in the markets in which the Issuer and the

Guarantor operate is taken either (i) from publicly available sources, including, but not limited to, third-party studies, or (ii) from the Issuer's own estimates prepared using the Issuer's Market & Competitor Survey (***MCS***) which has been developed to obtain and manage information on the status and development of global, regional and national dialysis markets. The Issuer uses the MCS as a tool to collect, analyze and communicate current and essential information on the dialysis market, developing trends, the Group's market position and those of its competitors (please see "*Business of the Group – Major Markets and Competitive Position*"). The information from third-party sources that is cited here has been reproduced accurately. As far as the Issuer and the Guarantor 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.

The 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 Issuer's internal estimates and, as such, may differ from the estimates made by the Issuer's competitors or from data collected in the future by market research firms or other independent sources. To the extent the Issuer derived or summarized the market information contained in the Prospectus from a number of different studies, an individual study is not cited unless the respective information can be taken from it directly.

Neither the Issuer nor the Guarantor have independently verified the market data and other information on which third parties have based their studies or the external sources on which the Issuer's own estimates are based. Therefore, neither the Issuer nor the Guarantor assume any responsibility for the accuracy of the information on the market environment, market developments, growth rates, market trends and competitive situation presented in the Prospectus from third-party studies or the accuracy of the information on which the Issuer's own estimates are based. Any statements regarding the market environment, market developments, growth rates, market trends and competitive situation presented in the Prospectus regarding the Group and its operating divisions contained in the Prospectus are based on the Issuer's own estimates and/or analysis unless other sources are specified.

The information on any websites included in the Prospectus, except for the website of the Luxembourg Stock Exchange (*www.bourse.lu*) in the context of the documents incorporated by reference, does not form part of the Prospectus and has not been scrutinized or approved by the CSSF.

The Final Terms in respect of any of the Notes offered on the basis of the Prospectus may specify that amounts payable under floating rate Notes are calculated by reference to (i) the Euro Interbank Offered Rate (***EURIBOR***), which as at the date of the Prospectus is provided by the European Money Markets Institute (***EMMI***), or (ii) the London Interbank Offered Rate (***LIBOR***), which at the date of the Prospectus is provided by the ICE Benchmark Administration Limited (***IBA***). As at the date of the Prospectus, IBA appears whereas EMMI does not 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 Regulation (EU) 2016/1011 of the European Parliament and of the Council of June 8, 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds (the ***Benchmark Regulation***). As far as the Issuer is aware, the transitional provisions in Article 51 of the Benchmark Regulation apply, such that EMMI is not currently required, or may not be required at the date of the relevant Final Terms, to obtain authorization or registration (or, if located outside the European Union, recognition, endorsement or equivalence). The registration status of any administrator under the Benchmark Regulation is a matter of public record and save where required by applicable law the Issuer does not intend to include in the relevant Final Terms any information on the registration status of any administrator.

FORWARD-LOOKING STATEMENTS

The 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 forecasts of future results and estimates of amounts not yet de-

terminable or foreseeable. These forward-looking statements are identified by the use of terms and phrases such as "*outlook*", "*anticipate*", "*believe*", "*could*", "*estimate*", "*expect*", "*intend*", "*may*", "*plan*", "*predict*", "*project*", "*seek*", "*will*" and similar terms and phrases, including references and assumptions. This applies, in particular, to statements in the Prospectus containing information on future earning capacity, plans and expectations regarding the 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 the Prospectus are based on current estimates and assumptions that the Issuer makes to the best of its present knowledge. These forward-looking statements are subject to risks, uncertainties and other factors which could cause actual results, including the Group's financial condition and results of operations, to differ materially from and be worse than results that have expressly or implicitly been suggested or described in these forward-looking statements. The Group's business is also subject to a number of risks and uncertainties that could cause a forward-looking statement, estimate or prediction in the Prospectus to become inaccurate. Accordingly, investors are strongly advised to read the sections "RISK FACTORS", "GENERAL INFORMATION ON THE ISSUER", "GENERAL INFORMATION ON THE GUARANTOR" and "BUSINESS OF THE GROUP" of the Prospectus. These sections include more detailed descriptions of factors that might have an impact on the Group's business and the markets in which it operates. In light of the risks, uncertainties and assumptions contained therein, future events described in the Prospectus may not occur. In addition, neither the Issuer 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 (***Non-GAAP Measures***) 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***) or any other generally accepted accounting principles (***GAAP***). Such Non-GAAP Measures 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 or incorporated by reference in the Prospectus. Investors are cautioned not to place undue reliance on these Non-GAAP Measures and are also advised to review them in conjunction with the financial statements of the Issuer and the related notes thereto, incorporated by reference in this Prospectus.

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GENERAL DESCRIPTION OF THE PROGRAM

Under this EUR 10,000,000,000 Debt Issuance Program, the Issuer may from time to time issue Notes with a minimum denomination of at least EUR 1,000 (or near equivalent in another currency on the issue date) to one or more of the Dealers (as defined herein). The maximum aggregate principal amount of the Notes from time to time outstanding under the Program (the ***Program Amount***) will not exceed EUR 10,000,000,000 (or nearly equivalent in another currency). The Issuer may increase the Program Amount in accordance with the terms of the Dealer Agreement (as defined below) from time to time.

Notes will be issued on a continuous basis in Tranches of Notes, each Tranche of Notes consisting of Notes which are identical in all respects. One or more Tranches of Notes, 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 of Notes (each a ***Series of Notes***). Further Notes may be issued as part of existing Series of Notes. The specific terms of each Tranche of Notes will be set forth in the applicable Final Terms. The Final Terms of the Notes listed on the official list and admitted to trading on the regulated market of the Luxembourg Stock Exchange or publicly offered in Luxembourg will be displayed on the website of the Luxembourg Stock Exchange (*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 EEA other than Luxembourg, the Final Terms will be displayed on the website of the Issuer (*www.freseniusmedicalcare.com*).

Subject to any applicable legal or regulatory restrictions, and requirements of relevant central banks, the Notes may be issued in euro or any other currency. The Notes are freely transferable and may be offered to qualified and non-qualified investors. The Notes will be issued with a maturity of twelve months or more.

The yield for Notes with fixed interest rates is calculated in accordance with the method of the International Capital Markets Association (***ICMA***) 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.

Issue Procedures

General

The Issuer and the relevant Dealer(s) will agree on the terms and conditions applicable to each particular Tranche of Notes (the ***Conditions***). The Conditions will be constituted by the Terms and Conditions of the Notes set forth below, 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 (each an ***Option***):

– Terms and Conditions for Notes with fixed interest rates (the ***Option I***); and

– Terms and Conditions for Notes with floating interest rates (the ***Option II***).

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 of Notes. 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 Germany, or (ii) initially 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 offices of the Fiscal Agent and the Issuer as specified on the back of the Prospectus.

– In other cases, the Issuer will elect either German or English to be the controlling language.

RISK FACTORS

Before deciding whether to purchase any Notes, prospective investors should carefully review and consider the following risk factors and the other information contained in the Prospectus or incorporated by reference into the 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 the Issuer or the Guarantor and may affect the Issuer's and/or the Guarantor's ability to fulfill their obligations under the Notes and the Guarantee, as applicable. Investing in the Notes could involve additional risks and uncertainties of which the Issuer and/or the Guarantor may not be currently aware, or which the Issuer and/or the Guarantor may currently not consider material on the basis of their regular risk assessments. The risks to which the business of the Issuer and/or the Guarantor is exposed may result in inaccuracies in risk assessments or other forward-looking statements. An investment in the Notes is only suitable for investors experienced in financial matters who are in a position to fully assess the risks relating to such an investment and who have sufficient financial means to absorb any potential loss stemming therefrom.

I. Risks relating to the Issuer and the Group

The risk factors relating to the Issuer and the Group are presented in the following categories depending on their nature with the most material risk factor presented first in each category:

1. Risks relating to legal and regulatory matters
2. Risks relating to internal control and governance
3. Risks relating to our business activities and industry
4. Risks relating to taxation and accounting
5. Risks relating to our financial condition and corporate structure

1. Risks relating to legal and regulatory matters

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 has publicly announced its desire to pursue significant changes to existing health care programs, although the administration has recently stated that any efforts on its part to do so are likely to be deferred until after the 2020 elections in the U.S. Certain health insurance provisions of the Patient Protection and Affordable Care Act of 2010 (Pub.L. 111-148), as amended by the Health Care and Education Reconciliation Act (Pub.L. 111-152) (collectively, ***ACA***) are targets for change. Changes of such nature could have significant effects on our businesses, both positive and negative, but the outcomes are impossible to predict.

In October of 2017, the Trump administration discontinued making cost-sharing reduction (***CSR***) reimbursements to insurers, arguing that Congress had failed to appropriate funding for them. In response, many state departments of insurance (***DOIs***) either allowed or required insurers to mitigate their losses by increasing the 2018 premiums on their ACA plans. Many insurers also mitigated the impact to consumers by "silver loading", a practice whereby the full premium increase attributable to the loss of CSR payments is applied to their silver-level plans. Silver loading mitigated the impact of premium increases to consumers. In 2019 and 2020, all states either permit or required silver loading. We cannot predict how the ongoing litigation over the U.S. federal government's obligation to pay the CSRs 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. See "*Changes in reimbursement and/or governmental regulations for health care could materially decrease our revenues and operating profit*."

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

We receive reimbursement for our health care services from both public, government-sponsored payors and private, commercial payors. A large portion of our businesses is reimbursed by government payors, in particular the Medicare and Medicaid program in the U.S. For both fiscal years ended December 31, 2019 and 2018, approximately 33% of our consolidated revenues resulted from Medicare and Medicaid reimbursement. 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, and policy. For example, the Budget Control Act of 2011 (***BCA***) effected a 2% reduction to Medicare payments and subsequent activity in Congress, a USD 1.2 trillion sequester (across-the-board spending cuts) in discretionary programs, took effect on April 1, 2013, which continues in force. The 2% sequestration has been temporarily suspended from May 1, 2020 through December 31, 2020. In addition, options to restructure the Medicare program in the direction of a defined contribution, "premium support" model and to shift Medicaid funding to a block grant or per capita arrangement, with greater flexibility for the states, are also being 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.

Government reimbursement programs generally pay less than private insurance. In addition, we 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 we receive from private payors generate a substantial portion of the profits we report.

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

- we may be subject to reductions in reimbursement from private payors, including, for example, through their use of lower contract rates allowed charges rather than rates based on our billed charges;
- we may experience a reduction in our 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, including relative to products on and off the health care exchanges established by the ACA;
- a portion of our 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 our services. There can be no assurance that we can achieve future price increases from private insurers and integrated care organizations offering private insurance coverage to our patients; or
- if efforts to restrict or eliminate the charitable funding of patient insurance premiums are successful, our patients with coverage under publicly funded programs like Medicare may be unable to continue to

pay the premiums for that coverage and may become uninsured for dialysis services. In addition, a portion of our patients who are currently covered by private insurers may be unable to continue to pay the premiums for that coverage and may become uninsured for dialysis services or may elect to transition to government funded reimbursement programs that reimburse us at lower rates for our services.

In addition to the foregoing factors, the health care insurance industry is experiencing continuing consolidation among insurers and pharmacy benefit managers, including increasing buyer power and impacts on referral streams. Such consolidation could have a material adverse effect on our ability to negotiate favorable coverage terms and reimbursement rates.

If we do not comply with the numerous governmental regulations applicable to our business, we could suffer adverse legal consequences, including exclusion from government health care reimbursement programs or termination of our authority to conduct business, any of which would result in a material decrease in our revenue; this regulatory environment also exposes us to claims and litigation, including "whistle-blower" suits.

Our operations in both our health care services business and our products business are subject to extensive governmental regulation in virtually every country in which we operate. We are also subject to other laws of general applicability, including antitrust laws. The applicable regulations, which differ from country to country, cover areas that include:

- regulatory approvals for products or product improvements;
- regulatory approvals and oversight of clinical and certain non-clinical research and development activities;
- the quality, safety and efficacy of medical and pharmaceutical products and supplies;
- the operation and licensure of manufacturing facilities, laboratories, dialysis clinics and other health care facilities;
- product labeling, advertising and other promotion;
- accurate reporting and billing for government and third-party reimbursement, including accurate and complete medical records to support such billing and, in the U.S., the obligation to report and return overpayments within 60 days of the time that the overpayment is identified and quantified;
- the discounting of reimbursed drug and medical device products and the reporting of drug prices to government authorities;
- the collection, dissemination, access, use, security and privacy of protected health information or other protected data; and
- compensation of medical directors and other financial arrangements with physicians and other referral sources.

Failure to comply with one or more of these laws or regulations may give rise to a number of adverse legal consequences. These include, in particular, loss or suspension of federal certifications, loss or suspension of licenses under the laws of any state or governmental authority from which we generate substantial revenues, monetary and administrative penalties, product recalls, increased costs for compliance with government orders, complete or partial exclusion from government reimbursement programs, refunds of payments received from government payors and government health care program beneficiaries due to failures to meet applicable requirements or complete or partial curtailment of our authority to conduct business. Any of these consequences could have a material adverse impact on our business, financial condition and results of operations.

Our medical devices and drug products are subject to detailed, rigorous and frequently changing regulation by numerous national, supranational, federal and state authorities. In addition, our facilities and procedures and those of our suppliers are subject to periodic inspection by various regulatory authorities which may suspend,

revoke, or adversely amend the authority necessary for research, manufacture, marketing, or sale of our products and those of our suppliers. We and our 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 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 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, in combination or alone, could disrupt our business and have a material adverse impact on our business, financial condition and results of operations.

We operate many facilities and engage with other business associates to help carry out our 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 their business associates. The Issuer relies on its management structure, regulatory and legal resources and the effective operation of our compliance programs to direct, manage and monitor our operations to comply with government regulations. If employees were to deliberately, recklessly or inadvertently fail to adhere to these regulations, then our authority to conduct business could be terminated and our operations could be significantly curtailed. Any such terminations or reductions could materially reduce our revenues. If we fail to identify in our diligence process or to promptly remediate any non-compliant business practices in companies that we acquire, we could be subject to penalties, claims for repayment or other sanctions. Any such terminations or reductions could materially reduce our revenues, with a resulting material adverse impact on our business, financial condition and results of operations.

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, subpoenas, other inquiries, claims and litigation relating to our 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 "whistleblower" actions brought by private plaintiffs under the False Claims Act, which are initially filed under seal. We are the subject of a number of governmental inquiries and civil suits by the federal government and private plaintiffs.

In addition, future legislative or regulatory changes could affect procedures or decision making for approving medical device or drug products. Any such legislation or regulations, if enacted or promulgated, could result in a delay or denial of regulatory approval for our products. If any of our products do not receive regulatory approval, or there is a delay in obtaining approval, this also could have a material adverse impact on our business, financial condition and results of operations.

Cyber attacks or other privacy and data security incidents that result in privacy and data breaches could disrupt our operations or result in the unintended disclosure and access of sensitive personal information or proprietary or confidential information. If we are unable to protect our information technology security systems and rely on our third-party service providers to protect their systems against such attacks and other incidents, we could be exposed to significant regulatory fines or penalties, liability or reputational damage, or experience a material adverse impact on our business, financial condition and results of operations.

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 both internally and externally with third-party service providers.

A cyber-attack may penetrate our security controls and result in the misappropriation or compromise of 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. We handle the personal information of our patients and beneficiaries, Patient Personal Data (***PPD***), throughout the United States and other parts of the world. On occasion, we or our business associates may experience a breach under the U.S. Health Insurance Portability and Accountability Act Privacy and Security Rules, the EU's General Data Protection Regulation and or other similar laws (the ***Data Protection Laws***), including the following events:

- impermissible use, access, or disclosure of unsecured PPD,
- a breach under Data Protection Laws when we or our 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.

As we increase the amount of sensitive personal information that we store and share digitally, our exposure to these privacy and data breaches and 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. There are no assurances that our security technologies, processes and procedures that we or our outside service providers have implemented to protect sensitive personal information and proprietary or confidential information and to build security into the design of our products 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 third-party business associates or vendors that utilize and store such personal information on our behalf, could adversely affect 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 have a material adverse impact 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 that we operate 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 we own and operate or to other physicians who refer patients to those centers or other centers we own and operate. Because our relationships with physicians are governed by the federal and state anti-kickback statutes, we have structured our joint venture arrangements to comply with many of the criteria for safe harbor protection under the U.S. Federal Anti-Kickback Statute; however, our investments in these joint venture arrangements do not satisfy all elements of such safe harbor. While we have established comprehensive compliance policies, procedures and programs to ensure ethical and compliant joint venture business operations, if one or more of our joint ventures were found to be in violation of the Anti-Kickback Statute, the Stark Law or other similar laws worldwide, we could be required to restructure or terminate them. We also could be required to repay to Medicare, Medicaid as well as other federal health care program amounts pursuant to any prohibited referrals, and we could be subject to criminal and monetary penalties and exclusion from federal and state health care programs. Imposition of any of these penalties could have a material adverse impact on our business, financial condition and results of operations.

If we are unable to secure appropriate reimbursement arrangements for the pharmaceuticals we provide in our dialysis clinics, our business could be adversely affected.

We are subject to audits and reviews by enforcement authorities for compliance with applicable drug regulations. These audits or reviews may impact our participation in reimbursement programs globally, including Medicare and Medicaid programs in the U.S., 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 our business and results of operations.

Additionally, within the U.S. reimbursement system, we receive reimbursement for the treatment of Medicare patients based upon the End-Stage Renal Disease Prospective Payment System (***ESRD PPS***) rates as determined by the Centers for Medicare and Medicaid Services (***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 the bundle are transitioned for inclusion within the bundle. Recently, CMS clarified that once any non-oral end-stage renal disease (***ESRD***)-related drug in a category previously considered oral only is approved by the U.S. Food and Drug Administration (***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 of a "transitional drug add-on payment adjustment" for three years. During this transition period, CMS will not pay outlier payments for these drugs. If we are unable to secure appropriate reimbursement arrangements for the pharmaceuticals we provide in our dialysis clinics, we could experience a material adverse effect on our 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 our results of operations.

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 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. Health care products may 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. We cannot assure that such claims will not be asserted against us, or, for example, 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 impact on our business, financial condition and results of operations. While personal injury litigation involving our acid concentrate product was substantially resolved by settlement consummated in November 2017, we and certain of our 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, the Guarantor, our largest subsidiary, is 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 impact on our business, financial condition and results of operations. Liability claims, regardless of their merit or eventual outcome, also may have a material adverse effect on our business and result in a loss of customer confidence in us or our products, which could have a material adverse impact on our business, financial condition and results of operations.

2. Risks relating to internal control and governance

We operate in many different jurisdictions and we could be adversely affected by violations of the U.S. Foreign Corrupt Practices Act and similar worldwide anti-corruption 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 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 and their agents. We cannot assure you that our internal control policies and procedures always will protect us from deliberate, reckless or inadvertent acts of our employees or agents that contravene our compliance policies or violate applicable laws. Our continued expansion, including in developing countries, could increase the risk of such violations in the future. Violations of these laws, or allegations of such violations, could disrupt our business and result in a material adverse impact on our business, financial condition and results of operations.

Beginning in 2012, we received certain communications alleging conduct in countries outside the United States that might violate the FCPA or other anti-bribery laws. We conducted investigations with the assistance of outside counsel and, in a continuing dialogue, advised the U.S. Securities and Exchange Commission (***SEC***) and the U.S. Department of Justice (***DOJ***) about these investigations. The DOJ and the SEC also conducted their own investigations, in which we cooperated.

In the course of this dialogue, we identified and reported to the DOJ and the SEC, and took remedial actions with respect to, conduct that resulted in the DOJ and the SEC seeking monetary penalties including disgorgement of profits and other remedies. This conduct revolved principally around our products business in countries outside the United States.

In 2015, the Issuer self-reported to the German prosecutor conduct with a potential nexus to Germany and continues to cooperate with government authorities in Germany in their review of the conduct that prompted the Issuer's and government investigations.

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

We have identified material weaknesses in our internal control over financial reporting that could, if not remediated, adversely affect our ability to accurately report our financial condition and results of operations.

In the third quarter of the fiscal year ended December 31, 2019, we identified a material weakness in our internal control over financial reporting and our management concluded that we did not maintain effective in-

ternal control over financial reporting as of December 31, 2018. We reported this determination in an amendment to our Annual Report on Form 20-F for the fiscal year ended December 31, 2018, in which we amended Management's Annual Report on Internal Control Over Financial Reporting and KPMG, the Issuer's auditors for the fiscal year ended December 31, 2018, issued an attestation report expressing an adverse opinion on the effectiveness of internal control over financial reporting.

A material weakness in internal control over financial reporting is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis. Issuer's management did not design and maintain effective internal controls relating to revenue recognition, specifically for estimating the transaction price and constraining the variable consideration of the transaction price for certain fee-for-service revenue arrangements under legal consideration and timely adjusting the constraint of variable consideration when new information arose. Multiple sources of information are utilized in assessing the appropriateness of variable consideration and the related estimate of transaction price under IFRS 15 ("Revenue from Contracts with Customers"), however the Issuer did not have effective oversight controls in assessing the weighting of such information as an input into revenue recognition. As such, the Issuer did not appropriately constrain certain fee-for-service revenue arrangements under IFRS 15 resulting in immaterial errors to accounts receivable and revenue from specific fee-for-service arrangements in our consolidated financial statements for the fiscal year ended December 31, 2018. These immaterial errors did not, individually or in the aggregate, result in a material misstatement of the Issuer's consolidated financial statements and disclosures for any periods through and including the fiscal year ended December 31, 2019. However, this control deficiency could have resulted in a material misstatement to our annual or interim consolidated financial statements that would not be prevented or detected. Remediation efforts began in 2019 and are ongoing. The control deficiency did not result in errors to accounts receivable and revenue from specific fee-for-service arrangements in the Issuer's consolidated financial statements for the three months ended March 31, 2020. However, the material weakness continues to exist and will not be considered remediated until the applicable controls operate for a sufficient period of time and management has concluded, through testing, that these controls are operating effectively. Any failure to implement or maintain required improved controls, or any difficulties we encounter in their implementation, could result in additional material weaknesses or misstatements in our consolidated financial statements.

3. Risks relating to our business activities and industry

We are subject to risks associated with public health crises and epidemics/pandemics, such as the global spread of the COVID-19 pandemic which may result in increased costs and restrictions on our business activities and the business activities of our suppliers and our customers, resulting in a material adverse effect on our business, results of operations and financial condition.

Our global operations expose us to risks associated with public health crises and epidemics/pandemics, such as the rapid global spread of the on-going worldwide severe acute respiratory syndrome coronavirus 2 (***COVID-19***) pandemic. The COVID-19 pandemic has resulted in a material deterioration of the conditions for the global economy and financial markets have been materially affected which may, as a result, adversely affect our business, results of operations and financial condition. While the financial impact of COVID-19 on us has not been significant to date, it is currently impossible to estimate or quantify the extent of its prospective negative effects on our business, results of operations and financial condition. The COVID-19 pandemic may have an adverse impact on our operations, manufacturing, supply chains and distribution channels and increase our expenses, including as a result of impacts associated with preventive and precautionary measures that we, our suppliers, customers and other businesses or governments impose on a local, regional, national or international level. Due to these impacts and measures, we are incurring incremental expenses to provide care to our patients and we are experiencing both reductions and increases in demand for certain of our products as health care customers

re-prioritize the treatment of patients. We expect to continue to experience significant and unpredictable expenses, reductions and increases in the immediately foreseeable future. In addition to existing travel restrictions, countries may continue to close borders, restrict certain product flows, impose prolonged quarantines and further restrict travel, which may significantly impact the ability of our employees to produce products or provide services, or may significantly hamper our products from moving through the supply chain.

In addition to the effects on our health care products business, given the already compromised health condition of our typical dialysis patients, our patients represent a heightened at-risk population, particularly during a public health crisis, such as the COVID-19 outbreak. Our in-center and home hemodialysis patients must receive their life-saving dialysis treatment several days a week for three to four hours at a time, which presents a unique challenge for patients and their care teams. We must ensure that there are enough clinical staff, including nurses, social workers, dietitians, care technicians and available space to treat all of our patients, including those who are or may be infected with COVID-19, in a manner that does not unnecessarily expose our care teams or other patients for whom we provide dialysis services. We have incurred, and expect to continue to incur, extra costs in establishing isolated treatment areas for COVID-positive and suspected patients and implementing other precautions as well as incur costs to identify, contain and remedy the impact in the event that a staff member or patient is determined to have developed COVID-19. It appears that COVID-19 has resulted in a significant increase in persons experiencing temporary renal failure, and we could incur additional staffing costs required to meet the resulting increased demand for dialysis treatment and/or to provide equipment and medical staff needed for emergency treatments, for example in hospitals. To the extent that the COVID-19 pandemic increases the historical normal mortality rate in our patient population, our near-term operating results may be materially and adversely affected. COVID-19 has resulted, and may continue to result, in more of our dialysis patients requiring hospitalization, which could also materially and adversely affect our financial results, including those of our value-based and shared risk products and services.

In the US, the Coronavirus Aid, Relief, and Economic Security Act (***CARES Act***) has been enacted to mitigate certain adverse financial impacts of the pandemic, including impacts in the health care sector. Additional funding provided under the CARES Act provides some financial support to our business in the U.S. through suspension of the 2% Medicare payment sequestration reduction from May to December 2020, accelerated and advance payments of Medicare reimbursement and grants to defray expenses and mitigate the loss of revenues related to the COVID-19 pandemic. However, these measures may not fully offset potential lost revenues and increased costs. Further legislation and amendments to existing legislation intended to fight the COVID-19 pandemic and its adverse economic consequences can be expected in the markets in which we operate. As the COVID-19 pandemic is prolonged, the risk of further government intervention or measures to counteract the pandemic could impact our business globally. It is currently not possible to estimate or to quantify any effects of such legislative measures on our business.

Furthermore, the outbreak of COVID-19 could disrupt our operations due to absenteeism among our workforce. As a result of these and potentially other factors, and given the rapid and evolving nature of the virus, COVID-19 could negatively affect our results, and it is uncertain how COVID-19 will affect our global operations generally if these impacts persist or are exacerbated over an extended period of time. Any of these impacts 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 our health care service businesses and facilities or cease purchasing or prescribing our products, our revenues would decrease.

In providing services within our health care business, we depend upon patients choosing our health care facilities as the location for their care. Patients may select a facility 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

an ESRD 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 our dialysis clinics, a relatively small number of physicians often account for the referral of all or a significant portion of the patient base. We have no ability to dictate these recommendations and referrals. If a significant number of physicians or other referral sources cease referring their patients to our facilities or stop purchasing or prescribing our dialysis products, this would reduce our health care revenue and could materially adversely affect our overall operations.

We face specific risks from international operations.

We operate dialysis clinics in around 50 countries and sell a range of products and services to customers in approximately 150 countries. Our international operations are subject to a number of risks, including but not limited to the following:

- the economic and political situation in certain countries could deteriorate or become unstable;
- fluctuations in exchange rates could adversely affect profitability;
- we could face difficulties in enforcing and collecting accounts receivable under some countries' legal systems;
- local regulations could restrict our ability to obtain a direct ownership interest in dialysis clinics or other operations;
- some countries or economic unions may impose charges or restrictions, such as local content requirements, which restrict the importation of our products;
- potential increases in tariffs and trade barriers that could result from withdrawal by the United States or other countries from multilateral trade agreements or the imposition of retaliatory tariffs and other countermeasures in the wake of trade disputes;
- transportation delays or interruptions;
- growth and expansion into emerging markets 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;
- failure to prevail in competitive contract tenders; and
- global epidemics and/or readily transmittable diseases, such as COVID-19, may cause disruptions in our ability to provide health care services or produce dialysis products.

Any one or more of these or other factors relevant to international operations could increase our costs, reduce our revenues, or disrupt our operations, with possible material adverse impact on our business and financial condition.

We conduct humanitarian-related business directly or indirectly in sanctioned countries. In case of a violation of applicable economic sanctions or export controls laws and regulations, we could be subject to enforcement actions. Possible enforcement actions vary between jurisdictions and depend on the factual circumstances of the given violation, but could include criminal penalties, imprisonment of responsible individuals, administrative or civil penalties, restricted access to certain markets and reputational harm, among others. Our internal control policies and procedures may not protect us from deliberate, reckless or inadvertent acts of our employees or agents that contravene our compliance policies or violate applicable laws.

If we fail to estimate, price for and manage medical costs in an effective manner, the profitability of our value-based products and services could decline and could materially and adversely affect our results of operations, financial position and cash flows.

The reserves that we establish in connection with the operation of our value-based arrangements and shared risk products are based upon assumptions and judgments concerning a number of factors, including trends in health care costs, expenses and other factors. To the extent the actual claims experience is less favorable than estimated based on our underlying assumptions, our incurred losses would increase, and future earnings could be adversely affected.

Through our value-based agreements and shared risk products, we assume the risk of both medical and administrative costs for certain patients in return for fixed periodic payments from governmental and commercial insurers. Specifically, in the U.S., our participation in various value-based programs includes the Centers for Medicare and Medicaid Services Comprehensive ESRD Care initiative and capitation or shared savings agreements with commercial insurers in which the Guarantor receives a fixed fee to cover all or a defined portion of the medical costs of a defined population of patients. We previously participated in the CMS Bundled Payments for Care Improvement (***BPCI***) program until we divested our controlling interest in Sound Inpatient Physicians, Inc. (***Sound***) on June 28, 2018. We also participated in Medicare Advantage chronic special needs plans, until December 31, 2018.

Our profitability in our value-based agreements and shared risk products is dependent in part upon our ability to manage a patient's care, to collaborate with our payer partners, to coordinate with other health care providers and to find cost efficient, medically appropriate sites of service for our patients. Any failure to do so would limit our ability to improve the quality of patient care and health outcomes and to reduce medically unnecessary costs, which could lead to poorer performance under value-based payment arrangements.

CMS relied on authority granted by the ACA to implement the Comprehensive ESRD Care Model, which seeks to deliver better health outcomes for ESRD patients while lowering CMS' costs. Although Congress' 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. In addition, while we have applied for participation in CMS' Comprehensive Kidney Care Contracting (***CKCC***) model, we do not yet know whether or to what extent our applications will be accepted, whether the terms of such model will be developed by CMS in a manner acceptable to warrant our continued participation, and whether, if we do decide to participate, we and our partners will be able to deliver better health outcomes while lowering CMS' costs.

Our growth depends, in part, on our ability to develop our core dialysis business.

The health care industry experiences continuing consolidation particularly among health care providers. 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 as well as develop our core dialysis business depends, in part, on the availability of financial resources and the current restrictions imposed by competition laws as well as existing credit agreements. The integration of acquired businesses may cause problems, e.g., by assuming unknown liabilities, underperformance subsequent to integration, associated requirements from competition authorities, or non-compliant business practices not disclosed by the seller or not uncovered during due diligence. We also compete with other health care companies in seeking suitable acquisition targets and developing our core dialysis business. Any or all of these factors generally could have a material adverse effect on our future growth, including growth of our product sales.

Our pharmaceutical product business could lose sales to generic drug manufacturers or new branded drugs.

Our branded pharmaceutical product business is subject to significant risk as a result of competition from manufacturers of generic drugs and other new competing medicines or therapies. The expiration or loss of patent protection for one of our products, the "at-risk" launch by a generic manufacturer of a generic version of one of our branded pharmaceutical products or the launch of new branded drugs that compete with one or more of our products could result in the loss of a major portion of sales of that branded pharmaceutical product in a very short time period, which could materially and adversely affect our business, financial condition and results of operations.

Our competitors could develop superior technology or otherwise take advantage of new competitive developments that impact our sales.

We face numerous competitors in both our health care services business and our dialysis products business, some of which may possess substantial financial, marketing or research and development resources. Competition from new and existing competitors, and especially new competitive developments such as increasing disruption in the health care industry, and innovations in technology and care delivery models could materially adversely affect the future pricing and sale of our products and services. In particular, technological innovation has historically been a significant competitive factor in the dialysis products business. The introduction of new products or services by competitors could render one or more of our products or services less competitive or even obsolete, which could also affect our sales and distribution of pharmaceuticals for which, to some extent, we are obligated to make certain minimum annual royalty payments.

Global economic conditions as well as disruptions in financial markets may 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 our business, we are reliant on capital markets, as are our renal product customers and commercial health care insurers. Limited or more expensive access to capital in the financial markets could adversely affect our business and profitability. Among other things, the potential decline in federal and state revenues in an economic slowdown or recession may create additional pressures to contain or reduce reimbursements for our services from public payors around the world, including Medicare, Medicaid in the United States and other government sponsored programs in the United States and other countries around the world.

Devaluation of currencies and worsening economic conditions, including inflationary cost increases in various markets in connection with deteriorating country credit 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, or have a negative impact on our investments and external partnerships. 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 as access to these capital markets is restricted. Most recently, the rapid global spread of the COVID-19 pandemic has resulted in a material deterioration of the conditions for the global economy and financial markets have been materially and adversely affected which could have adverse effects on our financial condition and our liquidity.

Job losses or increases in the unemployment rate in the United States may result in a smaller percentage of our patients being covered by employer group health plans and a larger percentage being covered by lower paying Medicare and Medicaid programs. Unemployment rates globally have been impacted by the COVID-19 outbreak, which adversely affected the global economy and could, should the effects continue, result in an economic downturn that may adversely impact our operating results. The extent to which the COVID-19 outbreak impacts our business, results of operations and financial condition will depend on future developments,

which are highly uncertain and cannot be predicted. To the extent that our commercial payors are negatively impacted by a decline in the economy, including the projected decline resulting from the COVID-19 pandemic, we may experience further pressure on commercial rates, a further slowdown in collections and a reduction in the amounts we expect to collect.

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 continue to have a material adverse effect on our businesses and results of operations.

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.

Our business is dependent on the reliable supply of several raw materials for production and service purposes. If we are unable to obtain sufficient quantities of these raw materials at times of limited availability of such materials, this could result in delays in production and hence have an adverse effect on our results of operations. Similarly, price increases by suppliers and the inability to access new products or technology could also adversely affect our results of operations.

Our procurement risk mitigation efforts include (i) the development of partnerships with strategic suppliers through framework contracts, (ii) where reasonably practicable, at least two sources for all supply and price-critical primary products (*dual sourcing, multiple sourcing*), and (iii) measures to prevent loss of suppliers, such as risk analyses as well as continuous supply chain monitoring. Any failure of these measures to mitigate disruptive goods shortages and potential price increases or to allow access to favorable new product and technology developments could have an adverse impact on our business and financial condition.

Measures taken by governmental authorities and private actors to limit the spread of the COVID-19 virus have interfered, and may continue to interfere, with the ability of the Group's employees, suppliers, and other business providers to carry out their assigned tasks or supply materials at ordinary levels of performance. While the financial impact of these actions on the Group has not been material to date, given the rapid spread and evolving nature of the virus, it is uncertain how COVID-19 will affect our global operations generally if these actions persist or are expanded over an extended period of time.

Any material disruption in federal government operations and funding could have a material adverse impact on our business, financial condition and results of operations.

A substantial portion of our revenues is dependent on health care program reimbursement, and any disruptions in government operations could have a material adverse impact on our business, financial condition and results of operations. If the governments with which we do business default on their debts, 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 government shutdown, government default on debt and/or failure of governments to enact annual appropriations could have a material adverse impact on our business, financial condition and results of operations. Additionally, material disruptions in 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.

If we are unable to attract and retain skilled medical, technical and engineering personnel, or if legislative, union, or other labor-related activities or changes result in significant increases in our operating costs or decreases in productivity, we may be unable to manage our growth or continue our technological development.

Our continued growth in the health care business will depend upon our ability to attract and retain skilled workforce, including highly skilled nurses and other medical personnel. Competition for those employees is intense and shortages for these sought-after employees, such as nurses, or skilled engineers and research and development personnel, may increase our personnel and recruiting costs and/or impair our reputation for production of technologically advanced products. Moreover, we believe that future success in the provider 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 health care products business depends on the development of new products, technologies and treatment concepts to be competitive, and for that we need to attract the best and most talented people, especially in research and development. Additionally, in recruiting, employing and retaining personnel, we may be exposed to increasing risks relating to various labor and staffing laws, legislative, union, or other labor-related activities or changes. Further, these factors could impact the integration of 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.

4. Risks relating to taxation and accounting

There are significant risks associated with estimating the amount of health care service revenues that we recognize that could impact the timing of our recognition of revenues or have a significant impact on our operating results and financial condition.

There are significant risks associated with estimating the amount of revenues from health care services that we recognize in a reporting period.

- The billing and collection process is complicated due to a number of factors including insurance coverage changes, geographic coverage differences, differing interpretations of plan benefits and managed care contracts, and uncertainty about reimbursement from payers with whom we are not contracted.
- Laws and regulations governing Medicare, Medicaid and other federal programs are extremely complex, changing and subject to interpretation.
- Determining applicable primary and secondary coverage for an extensive number of patients at any point in time, together with the changes in patient coverage that occur each month or changes in plan benefits, requires complex, resource-intensive processes. Errors in determining the correct coordination of benefits may result in refunds to payors.
- The complexity of estimating revenues from a primary payor also brings complexity to estimating revenues from secondary payors and patients.
- Collections, refunds and payor retractions may continue to occur for up to three years or longer after services are provided.

If our estimates of revenues are materially inaccurate, it could impact the timing and amount of our recognition of revenues and have a significant impact on our operating results and financial condition. For further information, see "*Risks relating to the Issuer and the Group – Risks Relating to internal control and governance – We have identified material weaknesses in our internal control over financial reporting that could, if not remediated, adversely affect our ability to accurately report our financial condition and results of operations*."

Diverging views of fiscal authorities could require us to make additional tax payments.

We are subject to ongoing tax audits in Germany, the U.S. 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 business, financial condition and results of operations in the relevant reporting period.

A dependency on the payment behavior and decision-making of our business partners can affect the collectability of accounts receivable.

Our health care product business and our dialysis services business differ across the regions in which we operate. In many cases, our products and services are paid, either directly or indirectly, by government institutions. We believe the risk of default from a government payor is generally low to moderate worldwide which could, however, prove to be wrong. On a country level, the payor base is characterized by distinct customer or payor groups which can range in volume from a few customers to a considerable amount of customer types which have varying levels of risk associated with default or non-payment of receivables as well as risks for dependencies based upon the competition within low volume customer base environments. In certain cases, a resulting dependency on the payment behavior and decision-making of our business partners can affect the collectability of accounts receivable and can adversely affect our business, results of operations and financial condition. Our measures aiming to mitigate these risks by actively negotiating long-term contracts with major customers, targeted marketing activities, developing new product and pricing models as well as improving the quality of our services and products, could be insufficient or ineffective.

5. Risks relating to our financial condition and corporate structure

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 Issuer.

Certain of our debt instruments, such as the credit facilities agreement entered into in 2012 and amended from time to time (the ***Amended 2012 Credit Agreement***) and some of our outstanding bonds not issued under the Program include covenants that require us to maintain a certain financial ratio or to meet other financial tests in order to incur indebtedness. Under the Amended 2012 Credit Agreement, we are obligated to maintain a maximum consolidated net leverage ratio.

Other covenants in one or more of each of these agreements restrict or have the effect of restricting our ability to, among other things, dispose of assets, incur debt and create liens. All of these covenants are subject to a number of important exceptions and qualifications. However, a breach of any of the covenants or conditions of our financing arrangements 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 our other financing arrangements.

The covenants limiting our ability to incur unsecured debt contained in some of our outstanding bonds are currently suspended and will remain so as long as two of the three ratings assigned to these bonds by Standard & Poor's Credit Market Services Europe Limited (*Zweigniederlassung Deutschland*) (***S&P***), Moody's Deutschland GmbH (***Moody's***) and Fitch Ratings Limited (***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.

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 Amended 2012 Credit Agreement or other financing arrangements, and such indebtedness is permitted to be incurred under our outstanding bonds. If additional debt is added to our current debt levels, the related risks that we now face could intensify.

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.

II. Risks relating to the Notes

The risk factors relating to the Notes are presented in the following categories depending on their nature with the most material risk factor presented first in each category:

1. Risks relating to each investor's circumstances and financial condition
2. Risks relating to the nature and ranking of the Notes
3. Risks relating to the Guarantor and the Guarantee

1. Risks relating to each investor's circumstances and financial condition

The Notes may not be a suitable investment for all investors. Each potential investor in the Notes must determine the suitability of that investment in light of its own circumstances.

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 or incorporated by reference in this Prospectus or any applicable supplement to the 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, including potential tax implications and risks.

The investment activities of certain investors are subject to investment laws and regulations, or review or regulation by certain authorities. Each potential investor should consult its legal advisers to determine whether and to what extent (i) the Notes are permitted investments for it, (ii) where relevant, the Notes can be used as collateral for various types of borrowing and (iii) other restrictions apply to its purchase or pledge of any Notes. Financial institutions should consult their legal advisers or the appropriate regulators to determine the appropriate treatment of the Notes under any applicable risk-based capital or similar rules.

2. Risks relating to the nature and ranking of the Notes

The Notes are structurally subordinated to the claims of other creditors of non-guarantors within the Group.

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 (structural subordination). However, holders of the Notes (the ***Holders***) will have direct claims against the Guarantor itself under the Guarantee issued by the Guarantor guaranteeing the Notes on a senior unsecured basis.

Accordingly, the Notes will be structurally subordinated to all creditors, including trade creditors, of the Issuer's subsidiaries (other than the Guarantor), and the aggregate debt of non-guarantor subsidiaries of Guarantor. The Notes will effectively be *pari passu* with the bonds of the Group's financing subsidiaries due to the Issuer's guarantee of the bonds. Any right of the Issuer or the Guarantor to receive assets of their respective subsidiaries 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 the subsidiary's creditors, except to the extent the Issuer's or the Guarantor's claims do not result from (i) their respective shareholdings, (ii) shareholder loans (or their economic equivalent) subordinated by law, or (iii) contractually subordinated claims, in which case

their 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 Issuer or the Guarantor.

The Notes and the Guarantee will be effectively subordinated to secured debt of the Issuer and the Guarantor to the extent such debt is secured by assets that are not also securing the Notes.

Although the Terms and Conditions restrict the Issuer's and, under certain circumstances, its subsidiaries' ability to provide security for the benefit of capital market indebtedness and require the Issuer and, under certain circumstances, its subsidiaries to secure the Notes equally if they provide security for the benefit of capital market indebtedness, the requirement to provide equal security to the Notes is subject to a number of significant exceptions and carve-outs, including but not limited to security for capital market indebtedness. To the extent the Issuer or Guarantor provide 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 and would be *pari passu* with such other debt to the extent the security did not satisfy such indebtedness.

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

The Issuer and the Guarantor both rely on distributions from their subsidiaries to meet their payment obligations.

The Issuer acts as the ultimate holding company for the Group and the Guarantor acts as the holding company for the U.S. subsidiaries of the Group. Neither the Issuer nor the Guarantor have a material amount of independent operations, and derive substantially all of their consolidated revenue from their direct or indirect operating subsidiaries. Consequently, each of the Issuer's and the Guarantor's cash flow and their ability to meet their obligations under the Notes are dependent upon the profitability and cash flow of their subsidiaries and payments by such respective subsidiaries to the Issuer and the Guarantor in the form of loans, dividends, fees, rental payments, or otherwise, as well as the Issuer's and the Guarantor's own credit arrangements. These are, in turn, subject to many of the same risks, limitations and uncertainties relating to the Issuer and Guarantor described elsewhere in this risk factor section.

The ability of its subsidiaries to make payments to the Issuer 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 will be a party. Any failure to comply with such covenants and restrictions could delay or preclude the distribution of dividend payments or any other similar payments to the Issuer and/or the Guarantor.

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

Upon the occurrence of specific change of control events, followed by a ratings decline, 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 to offer to purchase our outstanding bonds and all Notes issued under the Program. 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 all 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.

Notes may be denominated in a foreign currency.

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 and the redemption-value in domestic currency of such Notes. Changes in currency exchange rates result from various factors, such as the development of interest rates, 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.

The Issuer may redeem the Notes early.

The applicable Final Terms will indicate if the Issuer has the right to call the Notes prior to maturity (optional call right) on one or several dates determined beforehand for reasons of taxation, for regulatory reasons or for other reasons, or whether the Notes will be subject to early redemption upon the occurrence of an event specified in the Final Terms (early redemption event), irrespective of market interest rates. If the applicable Final Terms indicate that payments on Notes are linked to a benchmark, the Issuer may also have the right to redeem the Notes in case of a discontinuation of such benchmark. In addition, the Issuer will always have the right to redeem the Notes if the 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 Issuer redeems the Notes prior to maturity or the Notes are subject to early redemption due to an early redemption event, a Holder of such Notes is exposed to the risk that due to such early redemption his investment might have a lower than expected yield. The Issuer can be expected to exercise his optional call right and redeem the Notes when its cost of borrowing is lower than the interest rate on the Notes. At those times, an investor generally would not be able to reinvest the redemption proceeds at an effective interest rate as high as the interest rate on the Notes being redeemed and may only be able to do so at a significantly lower rate. In addition, the Issuer can be expected to exercise his optional call right if the yield on comparable Notes in the capital market has fallen which means that the investor may only be able to reinvest the redemption proceeds in comparable Notes with a lower yield. Potential investors should consider reinvestment risk in light of other investments available at that time. It should be noted that the Issuer may exercise any call right irrespective of market interest rates on a call date.

Notes which include a redemption option by the Issuer are likely to have a lower market value than similar securities which do not contain an Issuer redemption option. An optional redemption feature is likely to limit the market value of the Notes. During any period when the Issuer may elect to redeem the Notes, the market value of those Notes generally will not rise substantially above the price at which they may be redeemed. This may also be the case prior to any redemption period.

In addition, investors who have purchased the Notes at a price above par are exposed to the risk that they lose part of their investment in the case of an early redemption of the Notes at par.

The development of market prices of the Notes, in particular with regard to fixed rate Notes and floating rate 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 the risk of an unfavorable development of market prices of their Notes which materialize 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.

In particular, a Holder of a fixed rate Note is exposed to the risk that the price of such Note falls as a result of an increase in the market interest rate levels. 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 in 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 of comparable issues. 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 of comparable issues. 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.

There is no active public trading market for the Notes.

Application has been made to the Luxembourg Stock Exchange for Notes issued under this Program to be admitted to trading on the regulated market of the Luxembourg Stock Exchange and to be listed on the official list of the Luxembourg Stock Exchange. In addition, the Program 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, however, be more difficult to obtain which may affect the liquidity of the Notes adversely.

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.

Specific risks regarding floating rate Notes linked to LIBOR, EURIBOR and other interest rate benchmarks

Furthermore, so-called benchmarks and other indices such as the EURIBOR and the LIBOR and other indices which are deemed "benchmarks" (each a ***Benchmark*** and together the ***Benchmarks***), to which the interest of floating rate notes might be linked to, 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 while others are still to be implemented.

Key international proposals for reform of Benchmarks include (i) IOSCO's Principles for Oil Price Reporting Agencies (October 2012) and Principles for Financial Benchmarks (July 2013), (ii) ESMA-EBA's Principles for Benchmark-Setting Processes in the EU (June 2013), and (iii) the Benchmark Regulation. In addition to the aforementioned reforms, there are numerous other proposals, initiatives and investigations which may impact Benchmarks.

Following the implementation of such potential reforms, the manner of administration of Benchmarks may change, with the result that they perform differently than in the past, or Benchmarks could be eliminated entirely, or become otherwise unavailable, or there could be consequences which cannot be predicted. 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 obtaining exposure to 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. Such factors may have the effect of discouraging market participants from continuing to administer or participate in certain Benchmarks, trigger changes in the rules or methodologies used in certain Benchmarks or lead to the disappearance of certain Benchmarks. 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.

Investors should be aware that, if a Benchmark were discontinued or otherwise unavailable, the rate of interest on floating rate notes which reference such Benchmark will be determined for the relevant interest period by the fallback provisions applicable to such Notes. The Terms and Conditions of the Notes also provide for certain fallback arrangements in the event that a published Benchmark, such as LIBOR or EURIBOR (including any page on which such Benchmark may be published (or any successor page)) becomes unavailable.

In certain circumstances, the ultimate fallback for determining the rate of interest for a particular interest period may result in the rate of interest for the last preceding interest period being used. This may result in the effective application of a fixed rate for floating rate notes based on the rate which was last observed on the relevant screen page for the purposes of determining the rate of interest in respect of an interest period.

If, in accordance with the provisions contained in the Terms and Condition, a Replacement Offered Interest Rate (as defined in the Terms and Conditions) has been determined, an Adjustment Spread (as defined in the Terms and Conditions) may be applied to such Replacement Offered Interest Rate. Such an Adjustment Spread may not be effective to reduce or eliminate economic prejudice to Holders. The application of an Adjustment Spread, if any, to a Replacement Offered Interest Rate may still result in floating rate notes originally referencing a Benchmark to perform differently (which may include payment of a lower rate of interest) than they would if the Benchmark were to continue to apply in its current form.

In addition, other amendments to the Terms and Conditions of the floating rate notes might be necessary to enable the operation of the Replacement Offered Interest Rate (which may include, without limitation, adjustments to the applicable business day convention, the definition of business day, the interest determination date, the day count fraction and any methodology or definition for obtaining or calculating the Replacement Reference Rate). No consent of the Holders shall be required in connection with effecting any relevant Replacement Offered Interest Rate or any other related adjustments and/or amendments described above.

Any such consequences could have a material adverse effect on the value of and return on any such Notes. Moreover, any of the above matters or any other significant change to the setting or existence of any relevant rate could affect the ability of the Issuer to meet its obligations under the floating rate notes or could have a material adverse effect on the value or liquidity of, and the amount payable under, the floating rate notes.

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 for determining a Benchmark could have an effect on the value of any Notes whose interest references a Benchmark, investors should be aware that they face the risk that any changes to the relevant Benchmark may have a material adverse effect on the value of and the amount payable under Notes whose rate of interest references a Benchmark.

If a Benchmark were to be discontinued or otherwise unavailable, the rate of interest for the floating rate Notes which are linked to such Benchmark will be determined for the relevant period by the fall-back provisions applicable to such floating rate Notes, which in the end could result in the same rate being applied until maturity of the floating rate Notes, effectively turning the floating rate of interest into a fixed rate of interest. Any of the foregoing could have a material adverse effect on the value or liquidity of, and the amounts payable on such floating rate Notes whose rate of interest is linked to a discontinued Benchmark.

Any Holder is 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.

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 Issuer and/or the 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 the relevant Guarantors prior to the amendment taking effect. According to the German Act on Debt Securities (*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.

If a Holders' Representative is appointed, a Holder may be deprived of its individual right to pursue and enforce its rights under the Terms and Conditions against the Issuer or the Guarantor.

If the Notes provide that the Holders of a series of Notes are entitled to appoint a Holders' representative (the ***Holders' Representative***) by a majority resolution of such Holders or if a Holders' 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 the Guarantor,

such right passing to the Holders' Representative who is then exclusively responsible to claim and enforce the rights of all the Holders of the relevant series of Notes.

Holders may not be able to accelerate their Notes upon the occurrence of certain events of default if the default notices are not delivered by the quorum of Holders required under the SchVG or if such acceleration is rescinded by majority resolution of the Holders.

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 SchVG, even if a default notice is given by a sufficient number of Holders, 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.

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.

3. Risks relating to the Guarantor and the Guarantee

U.S. federal and state laws allow courts, under specific circumstances, to declare the Guarantee void and to require Holders to return payments received from the Guarantor.

Insolvency proceedings with regard to the Guarantor would most likely be based on and governed by the insolvency laws of the United States, either federal bankruptcy laws under title 11 of the United States Code (the ***U.S. Bankruptcy Code***) or any applicable state law insolvency proceedings.

Under the U.S. Bankruptcy Code or comparable provisions of state fraudulent transfer laws, the issuance of the Guarantee could be voided, or claims in respect of liens or obligations evidenced thereby could be subordinated to all of the other debts and other liabilities of the Guarantor, if, among other things, at the time the Guarantor issued the Guarantee, the Guarantor (a) intended to hinder, delay or defraud any present or future creditor; or (b) received less than reasonably equivalent value or fair consideration for the incurrence of such indebtedness and, in the case of (b) the Guarantor:

- was insolvent or rendered insolvent by reason of such incurrence;
- was engaged (or about to be engaged) in a business or transaction for which the Guarantor's remaining assets constituted unreasonably small capital; or

- intended to incur, or believed that it would incur, debts beyond its ability to pay such debts as they mature.

The measures of insolvency for purposes of determining whether a fraudulent transfer occurred vary depending upon the law applied in any proceeding with respect to the foregoing. Generally, however, the Guarantor could be considered insolvent if:

- the sum of its debts, including contingent liabilities, was greater than the fair value of all of its assets;
- the present fair saleable value of its assets was less than the amount that would be required to pay its probable liabilities on its existing debts, including contingent liabilities, as they become absolute and mature; or
- it could not pay its debts as they become due.

We cannot assure you as to what standard a court would apply in order to determine whether the Guarantor was 'insolvent' as of the date the Guarantee was issued, and we cannot assure you that, regardless of the method of valuation, a court would not determine that the Guarantor was insolvent on that date. The Guarantee could be subject to the claim that, since the Guarantee was incurred for our benefit, the obligations of the Guarantor thereunder were incurred for less than reasonably equivalent value or fair consideration.

The Guarantee entered into by the Guarantor will contain a provision intended to limit the Guarantor's liability to the maximum amount that it could incur without causing the incurrence of obligations under the Guarantee to be fraudulent transfers. However, it is not assured that this limitation will protect the Guarantee from fraudulent transfer challenges or, if it does, that the remaining amount due and collectible under the Subsidiary Guarantee would suffice, if necessary, to pay the Notes in full when due.

The Guarantor obtains substantially all of its income from its subsidiaries, and the holding company structure may limit the Guarantor's ability to benefit from the assets of its subsidiaries. In addition, the Guarantee will be effectively subordinated to the Guarantor's debt to the extent such debt is secured by assets that are not also securing the Notes.

The Guarantor is an indirect and wholly-owned subsidiary of the Issuer and functions exclusively as principal holding company for our North American business operations. It has no independent material operations, and derives substantially all of its revenue and cash from its operating subsidiaries. The Guarantor's ability to meet its obligations on its Note Guarantee is dependent upon the profitability and cash flow of its subsidiaries and payments by such subsidiaries to it in the form of loans, dividends, fees, or otherwise, which are in turn subject to many of the same limitations, risks and uncertainties described above.

No other subsidiaries of the Issuer or the Guarantor will guarantee the Notes. Certain of the non-guarantor subsidiaries are obligors under other indebtedness and may incur additional indebtedness in the future. In addition to our senior indebtedness, our non-guarantor subsidiaries have liabilities which would be structurally senior to the Notes and the Note Guarantees. Holders of the Notes will not have any direct claim on the cash flow or assets of our non-guarantor subsidiaries and such subsidiaries will have no obligation, contingent or otherwise, to pay amounts due under the Notes or the Note Guarantees or to make funds available to us or the other guarantors to satisfy those payments.

To the extent the Guarantor or any of its subsidiaries provide security interest over their assets for the benefit of other debt without also securing the Notes, the Guarantee could be effectively junior to such debt to the extent of such assets. As a result, holders of (present or future) secured debt of the Guarantor may recover disproportionately more on their claims than the Holders in an insolvency, bankruptcy or similar proceeding of

the Guarantor. The Guarantor may not have sufficient assets remaining to make payments under the Guarantee.

In the event of a bankruptcy, liquidation, dissolution, reorganization or similar proceeding, the guarantors' right to receive any assets of any of its respective subsidiaries or other affiliates, as well as the right of the holders of the Notes to participate in the distribution of or realize proceeds from those assets, will be structurally subordinated to the claims of creditors of those subsidiaries and affiliates, including their trade creditors and holders of other indebtedness of our subsidiaries. Accordingly, there might be only a limited amount of assets available to satisfy your claims as a holder of the Notes against the Guarantor upon an acceleration of the maturity of the Notes.

The Issuer is not restricted from incurring additional debt. The proceeds from the enforcement of the Guarantee may not be sufficient to satisfy the obligations under the Notes.

The Notes will be guaranteed by the Guarantee as specified in the Terms and Conditions. However, the Terms and Conditions will allow both the Issuer and the Guarantor to incur additional indebtedness in the future, which may be secured. Any such incurrence of additional indebtedness could accentuate the risks to Holders of the Notes. 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.

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

The Guarantee will constitute a contract for the benefit of the Holders as third party beneficiaries in accordance with Section 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.

CONSENT TO THE USE OF 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 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 12(1) of the Prospectus Regulation. The 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 web site of the Luxembourg Stock Exchange (*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.

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.

GENERAL INFORMATION ON THE ISSUER

General Information

The legal name of the Issuer is "Fresenius Medical Care AG & Co. KGaA". The Issuer and its subsidiaries conduct their business under the commercial name "Fresenius Medical Care".

The Issuer is a holding company organized and existing under the laws of Germany. The Issuer was originally incorporated on August 5, 1996 as a stock corporation and transformed into a partnership limited by shares (*Kommanditgesellschaft auf Aktien*) with a German stock corporation (*Aktiengesellschaft*) as a general partner upon registration on February 10, 2006.

The Issuer has its registered office (*Sitz*) in Hof an der Saale, Germany, and is registered with the commercial register of the local court (*Amtsgericht*) of Hof an der Saale, Germany, under the registration number HRB 4019. Its registered business address is Else-Kröner-Straße 1, 61352 Bad Homburg vor der Höhe, Germany, and its telephone number is +49-6172-609-0. The Legal Entity Identifier (***LEI***) of the Issuer is 549300CP8NY40UP89Q40. The website of the Issuer is *'www.freseniusmedicalcare.com*'. The information on this website does not form part of the Prospectus and has not been scrutinized or approved by the CSSF.

Corporate Purpose

Under Article 2 of its articles of association, the objects of the Issuer are:

- the development, production and distribution of, as well as the trading in, products, systems and procedures in the areas of medical care and health care, including dialysis and associated forms of treatment, as well as the provision of any services in such areas;
- the projecting, planning, establishment, acquisition and operation of health care businesses, including dialysis centers, also in separate enterprises or through third parties as well as the participation in such dialysis centers;
- the development, production and distribution of other pharmaceutical products and the provision of services in this field;
- the provision of advice in the medical and pharmaceutical areas as well as scientific information and documentation;
- the provision of laboratory services for dialysis and non-dialysis patients and homecare medical services.

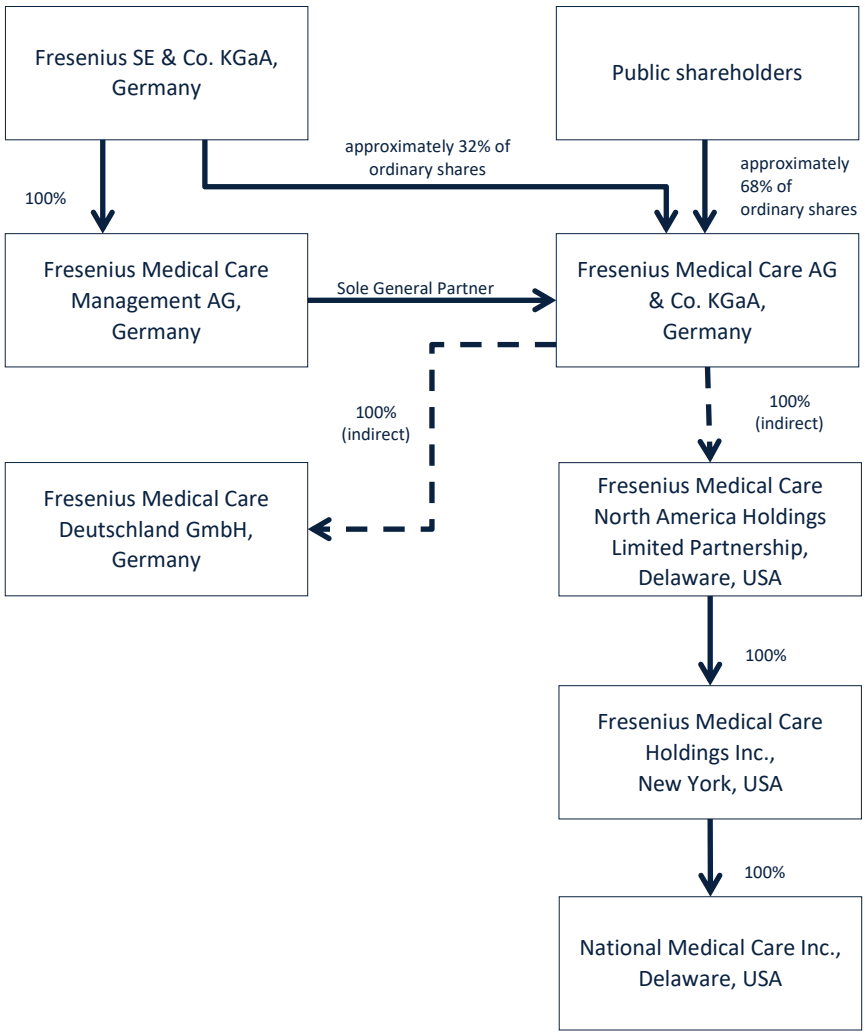
The articles of association provide that the Issuer will operate itself or through subsidiaries at home and abroad. Under Article 2 of the articles of association, the Issuer shall be entitled to enter into any and all business transactions and take any and all measures which seem to be necessary or useful to achieve the objects of the Issuer and may, in particular, participate in other enterprises of the same or similar kind, take over the management and/or the representation of such enterprises, transfer company divisions, including essential company divisions, to enterprises in which it holds an interest and establish branches at home and abroad.

Principal Activities

The Issuer's principal activity is to act as holding company for its subsidiaries, which provide dialysis care and related services to persons who suffer from ESRD as well as other health care services, and which develop and manufacture a wide variety of health care products, which include both dialysis and non-dialysis products. For details on the Issuer's principal activities, please refer to "*Business of the Group*" below.

Organizational Structure

The following diagram depicts in abbreviated form, the corporate structure of the Issuer and its significant subsidiaries (as defined by the Securities & Exchange Commission's Regulation S-X rule 1-02(w)) as of the date of the Prospectus:



Management and Supervisory Bodies, Board Practices

General

The Issuer acts as ultimate holding company of the Group. As a partnership limited by shares (*Kommanditgesellschaft auf Aktien*) under the German Stock Corporation Act (*Aktiengesetz* – ***AktG***) with a German stock corporation (*Aktiengesellschaft*) as general partner, the corporate bodies of the Issuer are the general partner, the supervisory board (the ***Supervisory Board***) and the general meeting of shareholders.

The Issuer's sole general partner is Fresenius Medical Care Management AG (the ***General Partner***), a wholly-owned subsidiary of Fresenius SE & Co. KGaA (***Fresenius SE***). The General Partner is required to devote itself exclusively to the management of the Issuer. The General Partner has a supervisory board and a management board. These two boards are separate and no individual may simultaneously serve as a member on both boards. A person may, however, serve on both the supervisory board of the General Partner and on the Super-

visory Board.

Management Board of the General Partner

Each member of the management board of the General Partner (the ***Management Board***) is appointed by the supervisory board of the General Partner for a maximum term of five years and is eligible for reappointment thereafter. Their terms of office expire in the years listed below.

The table below provides names, positions and terms of office of the current members of the Management Board and their ages at the date of the Prospectus:

Name	**Position**	**Year term expires**
Mr. Rice Powell	Chief Executive Officer and Chairman of the Management Board	2022
Ms. Helen Giza	Chief Financial Officer	2022
Mr. William Valle	Chief Executive Officer for the North America Segment	2020
Dr. Olaf Schermeier	Chief Executive Officer of Global Research & Development	2021
Mr. Kent Wanzek	Chief Executive Officer of Global Manufacturing, Quality & Supply	2022
Mr. Harry de Wit	Chief Executive Officer for the Asia-Pacific Segment	2023
Dr. Katarzyna Mazur-Hofsäß	Chief Executive Officer for the EMEA Segment	2021
Franklin W. Maddux, MD	Global Chief Medical Officer	2022

MR. RICE POWELL has been with the Group since 1997. He became Chairman and Chief Executive Officer of the Management Board of the General Partner effective January 1, 2013. Mr. Powell is also a member of the Management Board of Fresenius Management SE and of the Board of Administration of Vifor Fresenius Medical Care Renal Pharma, Ltd., Switzerland. Mr. Powell was the Chief Executive Officer and director of Fresenius Medical Care North America (***FMCNA***) until December 31, 2012. Mr. Powell has more than 40 years of experience in the health care industry, which includes various positions with Baxter International Inc., Biogen Inc., and Ergo Sciences Inc.

MS. HELEN GIZA was appointed Chief Financial Officer of the Management Board of the General Partner effective November 1, 2019. Prior to joining Fresenius Medical Care, Ms. Giza held a number of key international finance and controlling positions at Takeda Pharmaceuticals, TAP Pharmaceuticals and Abbott Laboratories.

MR. WILLIAM VALLE was appointed Chief Executive Officer for FMCNA effective January 2017 and a member of the Management Board of the General Partner on February 17, 2017. Prior to that, Mr. William Valle was executive vice president responsible for the dialysis service business and vascular access business of FMCNA from 2014 to 2017. Mr. Valle joined FMCNA in 2009 and has approximately 30 years of experience in the dialysis industry, holding executive positions in sales, marketing and business development at several dialysis companies including Gambro Healthcare, Inc.

DR. OLAF SCHERMEIER was appointed Chief Executive Officer for Global Research and Development on March

1, 2013. Dr. Schermeier serves on the supervisory board of Xenios AG. Prior to the Issuer, Dr. Schermeier served as President of Global Research and Development for Dräger Medical, Lübeck, Germany. Dr. Schermeier has many years of experience in various areas of the health care industry, among others at Charité clinic and at Biotronik, Germany.

MR. KENT WANZEK has been with the Group since 2003. Mr. Wanzek has been a member of the Management Board of the General Partner since January 1, 2010 with responsibility for Global Manufacturing, Quality & Supply and prior to joining the Management Board had been in charge of North American operations for the Renal Therapies Group at Fresenius Medical Care North America since 2004. Mr. Wanzek held several senior executive positions with companies in the health care industry, including Philips Medical Systems, Perkin-Elmer, Inc. and Baxter Healthcare Corporation.

MR. HARRY DE WIT assumed the role of Chief Executive Officer for the Asia-Pacific Segment on April 1, 2016. Mr. de Wit has worked in the medical device industry for more than 25 years. Mr. de Wit holds a master's degree in Medicine from the VU University of Amsterdam in the Netherlands and a Bachelor of Science in Physiotherapy from the School of Physiotherapy of Den Bosch in the Netherlands. Mr. de Wit has been a non-executive member of the Board of Directors of New Asia Investments Pte Ltd. since March 25, 2014.

DR. KATARZYNA MAZUR-HOFSÄß assumed the role of Chief Executive Officer for the Europe, the Middle-East and Africa (together ***EMEA***) Segment on September 1, 2018. Before joining the Group, she had been president for EMEA at the med-tech company Zimmer Biomet since 2013. She has 25 years of professional experience and held various positions in the medical and pharmaceutical industry from her positions, among others at Abbott Laboratories and Roche.

FRANKLIN W. MADDUX, M.D. was appointed Global Chief Medical Officer in 2019 and appointed to the Management Board on January 1, 2020. He is an expert nephrologist, IT entrepreneur and health care executive with more than 30 years of experience in health care. He joined the Issuer in 2009 and was appointed Executive Vice President for Clinical & Scientific Affairs and Chief Medical Officer for FMCNA in 2011, where he was responsible for the delivery of high-quality, value-based care for the largest integrated renal care network on the continent.

The business address of all members of our Management Board and Supervisory Board is Else-Kröner-Strasse 1, 61352 Bad Homburg, Germany.

Supervisory Board of the General Partner

The supervisory board of the General Partner consists of six members who are elected by Fresenius SE (acting through its general partner, Fresenius Management SE), the sole shareholder of the General Partner. Pursuant to a pooling agreement for the benefit of the public holders of our shares, at least one-third (but no fewer than two) of the members of the General Partner's supervisory board are required to be independent directors as defined in the pooling agreement, i.e., persons with no substantial business or professional relationship with us, Fresenius SE, the General Partner, or any affiliate of any of them. For details, see "*Pooling Arrangements*" below.

Unless resolved otherwise by Fresenius SE in the general meeting of shareholders of the General Partner, the terms of each of the members of the supervisory board of the General Partner will expire at the end of the general meeting of shareholders held during the fourth fiscal year following the year in which the General Partner supervisory board member was elected by Fresenius SE, but not counting the fiscal year in which such member's term begins. Fresenius SE, as the sole shareholder of the General Partner, is at any time entitled to re-appoint members of the General Partner's supervisory board. The most recent election of members of the

General Partner's supervisory board took place in May 2016. Members of the General Partner's supervisory board may be removed only by a court decision or a by resolution of Fresenius SE in its capacity as sole shareholder of the General Partner. Neither our shareholders nor our separate Supervisory Board has any influence on the appointment of the supervisory board of the General Partner.

The General Partner's supervisory board ordinarily acts by simple majority vote and the Chairman has a tie-breaking vote in case of any deadlock. The principal function of the General Partner's supervisory board is to appoint and to supervise the General Partner's management board in its management of the Group, and to approve mid-term planning, dividend payments and other matters which are not in the ordinary course of business and are of fundamental importance to us. The General Partner's supervisory board is also responsible for determining the compensation for the individual members of the Management Board as well as determining and reviewing the compensation system for the members of the Management Board.

The table below provides the names of the current members of the supervisory board of the General Partner and their ages. Dr. Schenk, Mr. Classon, and Mr. Johnston are also members of the Supervisory Board of the Issuer. See "*Supervisory Board*" below.

Name	**Function**
Mr. Stephan Sturm	Chairman[(1)]
Dr. Dieter Schenk	Vice Chairman[(1),(4)]
Dr. Gerd Krick	Member[(1)]
Mr. Rolf A. Classon	Member[(1),(2),(3),(4)]
Mr. William P. Johnston	Member[(1),(2),(3),(4)]
Ms. Rachel Empey	Member

(1) Member of the Human Resources Committee of the supervisory board of the General Partner.

(2) Member of the Audit and Corporate Governance Committee of the Supervisory Board of the Issuer. See "*Board Practices*," below.

(3) Independent director for purposes of our pooling agreement.

(4) Member of the Regulatory and Reimbursement Assessment Committee of the supervisory board of the General Partner. See "*Board Practices*," below.

MR. STEPHAN STURM has been Chairman of the Management Board of Fresenius Management SE since July 1, 2016, after serving for over 11 years as Fresenius Management SE's Chief Financial Officer. Prior to joining Fresenius in 2005, he was a Managing Director of Credit Suisse First Boston (***CSFB***), from 2000 as Head of Investment Banking for Germany and Austria, and also served on CSFB's European Management Committee. During his more than 13 years in investment banking, Stephan Sturm held various executive positions with BHF-Bank, Union Bank of Switzerland and CSFB in Frankfurt and London. Prior to entering investment banking in 1991, he was a management consultant at McKinsey & Co in Duesseldorf and Frankfurt. Mr. Stephan Sturm holds a degree in Business from Mannheim University. Additionally, Mr. Sturm is the Chairman of the supervisory board of Fresenius Kabi AG, Vice Chairman of the supervisory board of Vamed AG, Austria as well as a member of the supervisory board of Deutsche Lufthansa AG.

DR. DIETER SCHENK has been Vice Chairman of the supervisory board of the General Partner since 2005 and is Vice Chairman of the supervisory board of Fresenius Management SE. Dr. Schenk was elected as the Chairman of our Supervisory Board in 2018; previously Dr. Schenk served as the Vice Chairman of our Supervisory Board. He is an attorney and tax advisor and was a partner in the law firm Noerr LLP (formerly Nörr Stiefenhofer Lutz) from 1986 until December 31, 2017. Additionally, he also serves as the Chairman of the supervisory board of Gabor Shoes AG, HWT invest AG (formerly Bank Schilling & Co. AG) and TOPTICA Photonics AG. Dr. Schenk is

also Chairman of the Foundation Board of Else Kröner-Fresenius-Stiftung, the sole shareholder of Fresenius Management SE, which is the sole general partner of Fresenius SE & Co. KGaA.

DR. GERD KRICK has been a member of the supervisory board of the General Partner since December 2005 and was Chairman of the Issuer's Supervisory Board until the end of the annual general meeting (***AGM***) of the Issuer on May 17, 2018. He is the Chairman of the supervisory board of Fresenius Management SE and of Fresenius SE & Co. KGaA. Additionally, Dr. Krick is also Chairman of the supervisory board of Vamed AG, Austria.

MR. ROLF A. CLASSON has been a member of the supervisory board of the General Partner since July 7, 2011 and a member of our Supervisory Board since May 12, 2011. Mr. Classon also has served on the Board of Directors of Catalent Inc since August 2014 and as a member of the Board of Directors of Perrigo Company plc, since May 8, 2017. Mr. Classon was the Chairman of the Board of Directors for Hill-Rom Holdings, Inc. until March 6, 2018 as well as the Chairman of the Board of Directors for Tecan Group Ltd. until April 18, 2018.

MR. WILLIAM P. JOHNSTON has been a member of the supervisory board of the General Partner since May 2006 and also serves on our Supervisory Board. Mr. Johnston has been an Operating Executive of The Carlyle Group since June 2006.

MS. RACHEL EMPEY became the Chief Financial Officer of Fresenius Management SE on August 1, 2017 and member of the supervisory board of the General Partner on September 1, 2017. Prior to August 1, 2017, she served as Chief Financial and Strategy Officer of Telefónica Deutschland Holding AG and member of the Telefónica Deutschland Management Board, starting in 2011. Previously, Ms. Empey held a number of key international finance and controlling positions in the Telefónica group. She started her career as an audit executive at Ernst & Young and business analyst at Lucent Technologies. Ms. Empey is a chartered accountant and holds an MA (Hons) in Mathematical Sciences from the University of Oxford. Additionally, Ms. Empey has been the Vice Chairman of the supervisory board of Fresenius Kabi AG since October 2017 and has served on the Board of Directors of Inchcape plc since May 2016.

Supervisory Board

Our Supervisory Board consists of six members who are elected by the shareholders of the Issuer in a general meeting. Generally, the terms of office of the members of the Supervisory Board will expire at the end of the general meeting of shareholders of the Issuer, in which the shareholders discharge the Supervisory Board for the fourth fiscal year following the year in which they were elected, but not counting the fiscal year in which such member's term begins. The next regular elections will take place in 2021. Before the expiration of their term, members of the Supervisory Board may be removed only by a court decision or by a resolution of the shareholders of the Issuer with a majority of three quarters of the votes cast at such general meeting.

Fresenius SE, as the sole shareholder of the General Partner is barred from voting for election and/or removal of members of the Supervisory Board as well as from voting on discharge of the Supervisory Board, but it nevertheless has and will retain significant influence over the membership of the Supervisory Board in the foreseeable future.

The current Supervisory Board consists of six persons, three of whom – Messrs. Schenk (Chairman), Classon (Vice Chairman) and Johnston – are also members of the supervisory board of our General Partner. For information regarding those members of the supervisory board, see "*Supervisory Board of the General Partner*" above.

MS. PASCALE WITZ, 53, has been a member of the Supervisory Board since May 12, 2016. Ms. Witz was the Executive Vice President of Global Diabetes and Cardiovascular of Sanofi S.A. as well as on Sanofi's executive

committee (equivalent to management board), prior to which she held other executive positions in Sanofi S.A. and with GE Healthcare and Becton Dickinson. Ms. Witz has served on the Board of Directors of Regulus Therapeutics Inc. since June 1, 2017, Horizon Pharma plc since August 3, 2017 and Perkin Elmer Inc. since October 30, 2017. Additionally, Ms. Witz is president of PWH ADVISORS SASU, since November 2016, and the CEO of PWH ADVISORS LLC.

PROF. DR. GREGOR ZÜND, 60, has been appointed as a new member of the Supervisory Board on October 29, 2018. Prof. Dr. Zünd has been Chief Executive Officer of the University Hospital of Zurich since 2016. As Director of Research and Education he has been a member of the hospital's executive board since 2008. In parallel, he has been Managing Director of the Center for Clinical Research and Head of the Surgical Research department at University Hospital Zurich. Until 2001, Prof. Dr. Zünd was Senior Physician at the Clinic for Cardiovascular Surgery at University Hospital Zurich. He spent several years at Texas Medical Center, Houston, and at Harvard Medical School, Boston. Prof. Dr. Zünd is Professor ad personam at the University of Zurich.

DR. DOROTHEA WENZEL, 50, became a member of the Supervisory Board effective May 16, 2019 and is currently the Executive Vice President and Head of the Global Business Unit Surface Solutions at Merck KGaA. Dr. Wenzel has previously held a number of finance and business positions in the health care industry at Merck KGaA, AXA Krankenversicherung AG and Medvantis Holding AG. Dr. Wenzel was also a Member of the Staff of the Committee for the Sustainability of the Financing of the Social Security Systems of the Federal Ministry of Health (Germany). Dr. Wenzel holds a doctorate in Health Economics and a diploma in business & computer sciences from the Technical University of Darmstadt.

The principal function of the Supervisory Board is to oversee the management of the Issuer but, in this function, the supervisory board of a partnership limited by shares has less power and scope for influence than the supervisory board of a stock corporation. The Supervisory Board is not entitled to appoint the General Partner or its executive bodies, nor may it subject the General Partner's management measures to its consent or issue rules of procedure for the general partner. Only the supervisory board of the General Partner, elected solely by Fresenius SE, has the authority to appoint or remove members of the General Partner's Management Board. Among other matters, the Supervisory Board will, together with the General Partner, determine the agenda for the AGM and make recommendations with respect to the approval of the Issuer's financial statements and dividend proposals. The Supervisory Board will also propose nominees for election as members of the Supervisory Board. The Audit and Corporate Governance Committee also recommends to the Supervisory Board a candidate as the Issuer's auditor to audit our German statutory financial statements to be proposed by the Supervisory Board to our shareholders for approval and, as required by the SEC and NYSE audit committee rules, retains the services of our independent auditors to audit our IFRS financial statements included in the periodic reports that we file with the SEC.

The business address of all members of the Supervisory Board is Else-Kröner-Straße 1, 61352 Bad Homburg vor der Höhe, Germany.

Conflicts of Interest of the Members of the Corporate Bodies

Some members of Management Board and other members of the Issuer's management are also members of the management board and/or members of the management of subsidiaries of the Issuer. The Chief Executive Officer of the Management Board also serves on the management board of the general partner of Fresenius SE. As described above, some members of the supervisory board of the General Partner also serve on the Supervisory Board, and the Chairman of the supervisory board of the General Partner is also the Chief Executive Officer of the management board of the general partner of Fresenius SE. Dr. Dieter Schenk, the Chairman of our Supervisory Board and Vice Chairman of the supervisory board of the General Partner, is Chairman of the foundation board of the Else Kröner-Fresenius-Stiftung, the sole shareholder of Fresenius Management SE as

well as a shareholder of Fresenius SE & Co. KGaA. He is also a member and chairman of the foundation board's steering committee, which, since the termination of the execution of the estate of Mrs. Else Kröner in June 2018, carries out the tasks previously performed by the executors and which include the administration of the Else Kröner-Fresenius-Stiftung's participation in Fresenius SE & Co. KGaA and the exercise of the voting rights attached thereto.

Although the interests of the Issuer 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 Fresenius SE in the Issuer and Fresenius SE's ownership of the Issuer's General Partner. The German Stock Corporation Act and the German Corporate Governance Code (*Deutsche Corporate Governance Kodex*, the ***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 the General Partner towards the Issuer and their private interests or other obligations. As far as the Issuer is aware, there are no other potential conflicts of interests between the obligations of the members of the Supervisory Board of the Issuer towards the Issuer and its private interests.

Board Practices

Determination of the compensation system and of the compensation to be granted to the members of the Management Board is made by the full supervisory board of the General Partner. It is assisted in these matters, particularly evaluation and assessment of the compensation of the members of the General Partner's management board, by the Human Resources Committee of the General Partner's supervisory board, the members of which are currently Stephan Sturm (Chairman), Dr. Gerd Krick (Vice Chairman), Rolf A. Classon, William P. Johnston, and Dr. Dieter Schenk.

The Audit and Corporate Governance Committee of the Supervisory Board currently consists of Rolf A. Classon (Chairman since January 1, 2020), William P. Johnston (Vice Chairman since December 31, 2019), and Pascale Witz, all of whom are independent directors for purposes of SEC Rule 10A-3 and NYSE Rule 303A.06. The primary function of the Audit and Corporate Governance Committee is to assist the Supervisory Board in fulfilling its oversight responsibilities, primarily through:

- overseeing the Issuer's accounting and financial reporting processes, the performance of the internal audit function and the effectiveness of the internal control systems;
- overseeing the independence and performance of the Issuer's outside auditors;
- overseeing the effectiveness of the Issuer's systems and processes utilized to comply with relevant legal and regulatory standards for global health care companies, including adherence to the Issuer's Code of Ethics and Business Conduct;
- overseeing the effectiveness of the Issuer's risk management system;
- overseeing the Issuer's corporate governance performance according to the Code;
- providing an avenue of communication among the outside auditors, management and the Supervisory Board;
- overseeing the Issuer's relationship with Fresenius SE and its affiliates and reviewing the report of the General Partner on relations with related parties and for reporting to the overall Supervisory Board thereon;

- recommending to the Supervisory Board a candidate as an independent auditor to audit the German statutory financial statements (to be proposed by the Supervisory Board for election by our shareholders at our AGM) and approval of their fees;
- retaining the services of the Issuer's independent auditors to audit our consolidated financial statements and approval of their fees; and
- pre-approval of all audit and non-audit services performed by the Issuer's independent auditors.

The Audit and Corporate Governance Committee has also been in charge of conducting the internal investigation described in "*Business of the Group – Regulatory and Legal Matters – Legal Proceedings*" below.

In 2005, we established a joint committee (the ***Joint Committee***) (*Gemeinsamer Ausschuss*) of the Issuer consisting of four members, two of which are members of the supervisory board of the General Partner, designated by the General Partner, and two of which are members of our Supervisory Board elected by the AGM. The two members from the supervisory board of the General Partner are Dr. Gerd Krick and Stephan Sturm. The two members from our Supervisory Board are Rolf A. Classon and William P. Johnston. The Joint Committee advises on and approves certain extraordinary management measures, including:

- transactions between us and Fresenius SE and its subsidiaries if considerable importance is attributed to them and the value exceeds 0.25% of the Issuer's consolidated revenue, and
- acquisitions and sales of significant participations and parts of companies, the spin-off of significant parts of the Issuer's business, initial public offerings of significant subsidiaries and similar matters. A matter is "significant" for purposes of this approval requirement if 40% of the Issuer's consolidated revenues, the Issuer's consolidated balance sheet total assets or consolidated profits, determined by reference to the arithmetic average of the said amounts shown in the Issuer's audited consolidated accounts for the previous three fiscal years, are affected by the matter.

Furthermore, a nomination committee of the Supervisory Board prepares candidate proposals for the Supervisory Board and suggests suitable candidates to the Supervisory Board and for its election proposals to the General Meeting. The nomination committee of the Supervisory Board currently consists of Rolf A. Classon (Chairman) and Dr. Dieter Schenk (Vice Chairman).

The supervisory board of our General Partner is supported by a Regulatory and Reimbursement Assessment Committee, whose members are currently William P. Johnston (Chairman since January 1, 2020), Rolf A. Classon (Vice Chairman since January 1, 2020), and Dr. Dieter Schenk. The primary function of this committee is to assist and to represent the supervisory board in fulfilling its responsibilities, primarily through assessing the Group's affairs in the area of its regulatory obligations and reimbursement structures for dialysis services. In the United States, these reimbursement regulations are mandated by the U.S. Department of Health and Human Services (HHS) and CMS for dialysis services. Similar regulatory agencies exist country by country in the international regions to address the conditions for payment of dialysis treatments. Furthermore, the supervisory board of the General Partner has its own nomination committee, which consists of Stephan Sturm (Chairman), Dr. Gerd Krick and Dr. Dieter Schenk.

We are exempt from the NYSE rule requiring companies listed on that exchange to maintain compensation committees and nominating committees consisting of independent directors.

Pooling Agreement

Prior to the transformation of legal form of the Issuer from a German Stock Corporation (*Aktiengesellschaft*) to a partnership limited by shares (*Kommanditgesellschaft auf Aktien*) which became effective in February 2006, the Issuer, Fresenius SE and the independent directors (as defined in the pooling agreements referred to be-

low) of the Issuer were parties to two pooling agreements for the benefit of the holders of our ordinary shares and the holders of our preference shares (other than Fresenius SE and its affiliates). Upon consummation of the transformation in February 2006 and completion of the conversion offer made to holders of our preference shares in connection with the transformation, the Issuer entered into a pooling agreement (the ***Pooling Agreement***) that the Issuer believes provides similar benefits for its shareholders. The following is a summary of the material provisions of the Pooling Agreement which we have entered into with Fresenius SE and the independent directors on the General Partner's supervisory board. The description is qualified in its entirety by the complete text of the Pooling Arrangements, as amended in 2016, a copy of which is on file with the SEC.

General

The Pooling Agreement was originally entered into for the benefit of all persons who, from time to time, beneficially own our ordinary shares and our preference shares, including owners of American Depositary Shares (***ADSs***) evidencing such shares, other than Fresenius SE and its affiliates or their agents and representatives. Beneficial ownership is determined in accordance with the beneficial ownership rules of the SEC. Upon completion of the mandatory exchange of our remaining outstanding preference shares for ordinary shares in 2013, our share capital consists solely of ordinary shares and the Issuer's Pooling Agreement commitments described below for the benefit of holders of our preference shares and preference share ADSs terminated.

Under the Pooling Agreement, no less than one-third of the supervisory board of the General Partner must be independent directors, and there must be at least two independent directors. Independent directors on the General Partner's supervisory board are persons without a substantial business or professional relationship with us, Fresenius SE, or any affiliate of either, other than as a member of the Supervisory Board or as a member of the supervisory board of the General Partner. The provisions of the Pooling Agreement relating to independent directors are in addition to the requirement of Rule 10A-3 under the U.S. Securities Exchange Act of 1934 (the ***Exchange Act***) that our audit committee be composed solely of independent directors as defined in that rule. We have identified the members of the General Partner’s supervisory board who are independent for purposes of the Pooling Agreement in "Supervisory Board of the General Partner" above.

Additionally, under the Pooling Agreement, the Issuer, our affiliates, the General Partner and Fresenius SE, as well as their affiliates, must comply with all provisions of German law regarding: any merger, consolidation, sale of all or substantially all assets, recapitalization, other business combination, liquidation or other similar action not in the ordinary course of our business, any issuance of shares of our voting capital stock representing more than 10% of our total voting capital stock outstanding, and any amendment to our articles of association which adversely affects any holder of ordinary shares.

Lastly, the Issuer and the General Partner and Fresenius SE have agreed that while the Pooling Agreement is in effect, a majority of the independent directors must approve any transaction or contract, or any series of related transactions or contracts, between Fresenius SE, the General Partner or any of their affiliates (other than us or our controlled affiliates), on the one hand, and us or our controlled affiliates, on the other hand, which involves aggregate payments in any calendar year in excess of EUR 5 million for each individual transaction or contract, or a related series of transactions or contracts, though limitations apply with regards to agreements included in previously approved business plans.

Listing of American depositary shares; SEC filings

During the term of the Pooling Agreement, Fresenius SE has agreed to use its best efforts to exercise its rights as the direct or indirect holder of the General Partner’s interest in the Issuer to cause the Issuer to, and the Issuer has agreed to:

- maintain the effectiveness of the deposit agreement for the ordinary shares, or a similar agreement, and to assure that the ADSs evidencing the ordinary shares are listed on either the New York Stock Exchange or the Nasdaq Stock Market;
- file all reports, required by the New York Stock Exchange or the Nasdaq Stock Market, as applicable, the Securities Act, the Exchange Act and all other applicable laws;
- prepare all financial statements required for any SEC filing in accordance with U.S. GAAP or, as permitted by amendments made in 2016, IFRS;
- on an annual basis, prepare audited consolidated financial statements, and, on a quarterly basis, prepare and furnish to the SEC under cover of a Form 6-K, consolidated financial statements in each case prepared in accordance with U.S. GAAP or, as permitted by amendments made in 2016, IFRS;
- furnish certain materials to the SEC with respect to annual and special shareholder meetings under cover of Form 6-K and make the materials available to the depositary for distribution to holders of Ordinary Share ADSs; and
- make available to the depositary for distribution to holders of ADSs representing the ordinary shares on an annual basis, a copy of any report prepared by the supervisory board or the supervisory board of the general partner and provided to the Issuer's shareholders generally pursuant to Section 314(2) of the AktG, or any successor provision. These reports concern the results of the supervisory board's examination of the managing board's report on its relation with affiliated enterprises.

Term

The pooling agreement will terminate if:

- Fresenius SE or its affiliates acquire all our voting shares;
- Fresenius SE's beneficial ownership of our outstanding share capital is reduced to less than 25%;
- Fresenius SE or an affiliate of Fresenius SE ceases to own the shares in our General Partner; or
- We no longer meet the minimum threshold for obligatory registration of the ordinary shares or ADSs representing our ordinary shares under Section 12(g)(1) of the Exchange Act and Rule 12g-1 thereunder.

Amendment

FMC-AG & Co. KGaA and a majority of the independent directors on the General Partner's supervisory board may amend the pooling agreement, provided, that beneficial owners of 75% of the ordinary shares held by shareholders other than Fresenius SE and its affiliates at a general meeting of shareholders approve such amendment.

Enforcement; governing law

The pooling agreement is governed by New York law and may be enforced in the state and federal courts of New York. The Issuer and Fresenius SE have confirmed their intention to abide by the terms of the pooling agreement as described above.

Corporate Governance

The German Corporate Governance Code (*Deutsche Corporate Governance Kodex*, *Code*) contains recommendations and suggestions for managing and monitoring listed companies in Germany. It is based on internation-

ally and nationally recognized standards for good and responsible corporate governance. The purpose of the Code is to make the German corporate governance system transparent for investors. The Code was passed by the Government Commission of the German Code (the ***Comission***) on February 26, 2002 and was amended on February 7, 2017. The Comission adopted a new version of the Code on December 16, 2019 which came into force with the subsequent publication in the Federal Gazette (*Bundesanzeiger*) on March 20, 2020.

There is no legal obligation to comply with the recommendations or suggestions of the 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 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 Code.

The Supervisory Board and the Management Board have adopted the following declaration of conformity (*Entsprechenserklärung*) in December 2019, and have made it available to shareholders. This declaration, as well as past declarations, is available on the Issuer's website (*www.freseniusmedicalcare.com*) under the heading "Investors/Corporate Governance":

"The Management Board of the general partner of Fresenius Medical Care AG & Co. KGaA, Fresenius Medical Care Management AG, (hereafter: the Management Board) and the Supervisory Board of Fresenius Medical Care AG & Co. KGaA declare that since issuance of the previous declaration of compliance in October 2019 the recommendations of the "German Corporate Governance Code Government Commission" published by the Federal Ministry of Justice and Consumer Protection in the official section of the Federal Gazette (hereafter: the Code) in the version of February 7, 2017 since publication thereof in the Federal Gazette have been met and will be met in the future.

Only the following recommendations of the Code in its version of February 7, 2017 have not been met and will not be met to the extent described below:

- Code number 4.2.3 paragraph 2 sentence 6: Caps regarding specific compensation amounts

  Pursuant to Code number 4.2.3 paragraph 2 sentence 6, the amount of compensation for Management Board members shall be capped, both overall and for variable compensation components.

  This recommendation is not met. The service agreements with members of the Management Board do not provide for caps regarding specific amounts for all compensation components and accordingly not for caps regarding specific amounts for the overall compensation. The performance-oriented short-term compensation (*variable bonus*) is capped. As regards stock options, phantom stock and performance shares as compensation components with long-term incentives, the service agreements with members of the Management Board do provide for a possibility of limitation but not for caps regarding specific amounts. Introducing caps regarding specific amounts in relation to such stock-based compensation components would contradict the basic idea of the members of the Management Board participating appropriately in the economic risks and opportunities of the Issuer. Instead of that, the Issuer pursues a flexible concept considering each individual case. In situations of extraordinary developments in relation to the stock-based compensation which are not related to the performance of the Management Board, the Supervisory Board may cap the stock-based compensation.

- Code number 4.2.3 paragraph 4: Severance payment cap

Pursuant to Code number 4.2.3 paragraph 4, in concluding Management Board contracts, care shall be taken to ensure that payments made to a Management Board member on premature termination of his/her contract, including fringe benefits, do not exceed the value of two years' compensation (severance payment cap) and compensate no more than the remaining term of the employment contract. The severance payment cap shall be calculated on the basis of the total compensation for the past full fiscal year and if appropriate also the expected total compensation for the current fiscal year.

These recommendations are not met insofar as the employment contracts of the members of the Management Board do partially not contain severance payment arrangements for the case of premature termination of the contract and consequentially do not contain a limitation of any severance payment amount insofar. Uniform severance payment arrangements of this kind would contradict the concept practiced by the Issuer in accordance with the German Stock Corporation Act according to which employment contracts of the members of the Management Board are, in principle, concluded for the period of their appointment. They would also not allow for a well-balanced assessment in the individual case.

- Code number 4.2.5 paragraph 3: Presentation in the compensation report

  Pursuant to Code number 4.2.5 paragraph 3, the presentation of the compensation for each individual member of the Management Board in the compensation report shall inter alia present the maximum and minimum achievable compensation for variable compensation components by using corresponding model tables.

  The Issuer, in deviation from Code number 4.2.3 paragraph 2 sentence 6, does not provide for caps regarding specific amounts for all variable compensation components and, therefore, does not provide for caps regarding specific amounts for the overall compensation. In this respect, the compensation report cannot meet the recommendations of the code. Irrespective thereof, the Issuer will continue to present its compensation system and the amounts paid to members of the Management Board in its compensation report in a comprehensive and transparent manner. The compensation report will include tables relating to the value of the benefits granted as well as to the allocation in the year under review which follow the structure and largely also the specifications of the model tables.

- Code number 5.1.2 paragraph 2 sentence 3: Age limit for members of the Management Board

  Pursuant to Code number 5.1.2 paragraph 2 sentence 3 an age limit shall be specified for members of the Management Board. As in the past, the Issuer will refrain from determining an age limit for members of the Management Board in the future. 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 and their consideration when making election proposals

  Pursuant to Code number 5.4.1 paragraph 2 and paragraph 4, the Supervisory Board shall specify concrete objectives regarding its composition and shall prepare a profile of skills and expertise for the entire Supervisory Board. Within the company-specific situation the composition of the Supervisory Board shall reflect appropriately the international activities of the company, potential conflicts of interest, the number of independent Supervisory Board members within the meaning of Code number 5.4.2, an age limit and a regular limit to Supervisory Board members' term of office, both to be specified, as well as diversity. Proposals by the Supervisory Board to the General Meeting shall take these targets into account, while simultaneously aiming at fulfilling the profile of skills and expertise of the entire Superviso-

ry Board. The status of the implementation shall be published in the Corporate Governance Report. These recommendations are partly not met.

The composition of the Supervisory Board needs to be aligned to the enterprise's interest and has to ensure the effective oversight of and consultation with the Management Board. Hence, it is a matter of principle and of prime importance that each member is suitably qualified. When discussing its election proposals to the General Meeting, the Supervisory Board will take into account the international activities of the enterprise, potential conflicts of interest, the number of independent Supervisory Board members within the meaning of Code number 5.4.2, and diversity, while simultaneously aiming at fulfilling the profile of skills and expertise of the entire Supervisory Board.

In the enterprise's interest not to limit the selection of qualified candidates in a general way, the Supervisory Board, however, confines itself to pursue self-defined targets for the representation of female Supervisory Board members and particularly refrains from an age limit and from a duration limit on the term of membership. Instead, the Supervisory Board shall also consist of members with long-term experience and thus individuals who are generally older in order to ensure a balanced ratio of Supervisory Board members of diverse age and various terms of membership."

The compensation report of the Issuer for 2019 which is referenced in the declaration of conformity above is available on the website of the Issuer (*www.freseniusmedicalcare.com*) under "*Investors – Corporate Governance – Declaration on Corporate Governance – Compensation Report*". This compensation report does not form a part of this Prospectus and is not incorporated by reference into the Prospectus.

Pursuant to the act on the equal participation of women and men in executive positions in private companies, the Supervisory Board is required to define targets for the inclusion of women on the Supervisory Board as well as an adequate implementation period to achieve these targets. The Supervisory Board resolved to set the target for women as Supervisory Board members at two until June 30, 2017. By resolution passed on May 9, 2017, the Supervisory Board has set this target at 30% and has defined an implementation period ending on May 9, 2022. With Dr. Dorothea Wenzel and Ms. Pascale Witz serving as members of the Supervisory Board, the Supervisory Board is currently achieving its target. See "*General Information on the Issuer – Management and Supervisory Bodies, Board Practices – Supervisory Board*." The legislation does not require that companies in our legal form define targets for women's participation on the Management Board.

Share Capital

The Issuer's registered share capital (*Grundkapital*) consists solely of ordinary shares without par value (*Stückaktien*) and a nominal value of EUR 1.00 each. These shares are issued in bearer form (*Inhaberaktien*) and are fully paid up. As of May 11, 2020, the Issuer's share capital consisted of 304,492,501 bearer shares (the ***Ordinary Shares***) including 11,795,102 treasury shares. Excluding the treasury shares, the Issuer had 292,697,399 outstanding shares as of May 11, 2020.

On February 20, 2019, the Issuer announced a share repurchase program to be carried out in several tranches with an aggregate volume of up to EUR 1 billion over two years, making use of the authorization granted by the General Meeting on May 12, 2016 to acquire its own shares pursuant to section 71 para. 1 no. 8 of the German Stock Corporation Act (*Aktiengesetz — AktG*). During the period from March 12, 2019 until and including May 10, 2019, the Issuer completed the first two tranches of the share repurchase program with a repurchase volume of 3,770,772 Ordinary Shares (approximately 1.24% of the Issuer's share capital) for an average weighted stock price of EUR 71.55 and a total purchase price of EUR 269.8 million. Between 17 June 2019 and April 1, 2020, the Issuer repurchased 10,795,151 additional Ordinary Shares (approximately 3,55% of the Issuer's share capital) in several tranches for a weighted stock price of EUR 63.50 and a total purchase price of

EUR 685.5 million. The total number of shares purchased will be used solely to either reduce the registered share capital of the Issuer by cancellation of the acquired shares, or to fulfill employee participation programs of the Issuer. The shares were repurchased on the stock exchange via the XETRA trading system and/or via selected multilateral trading facilities (each a ***MTF***). Pursuant to the conditions of the repurchase authorization granted by the Issuer's General Meeting on May 12, 2016, the price per share paid by the Issuer, excluding ancillary transaction costs, did not exceed or fall short of the market price of the Issuer's shares (determined by the opening auction on the exchange trading day in the XETRA trading system) by more than 10%.

Fiscal Year

The fiscal year of the Issuer is the calendar year.

Auditors

Until December 31, 2019, KPMG AG Wirtschaftsprüfungsgesellschaft, The Squaire, Am Flughafen, 60549 Frankfurt am Main, Germany (***KPMG***), a member of the German Chamber of Public Accountants (*Wirtschaftsprüferkammer*), Berlin, was the auditor of the consolidated financial statements of the Issuer for the fiscal years ended December 31, 2019 and 2018.

KPMG audited the consolidated financial statements of the Issuer as of and for each of the fiscal years ended December 31, 2019 and 2018, which were both prepared in accordance with IFRS. An unqualified auditor's report (*Bestätigungsvermerk*) was issued in respect of each of the consolidated financial statements of the Issuer mentioned above, which have been incorporated by reference in the Prospectus.

Our Audit and Corporate Governance Committee has nominated PricewaterhouseCoopers GmbH Wirtschaftsprüfungsgesellschaft (***PwC***), a member of the German Chamber of Public Accountants (*Wirtschaftsprüferkammer*), Berlin, as statutory auditor for the consolidated financial statements of the Issuer for the fiscal year ended December 31, 2020. Our 2020 AGM will resolve upon the appointment of PwC.

Major Shareholders

Based on notices the Issuer received pursuant to Section 33 et seq. of the German Securities Trading Act (*Wertpapierhandelsgesetz* – ***WpHG***) through May 11, 2020 from the shareholders listed below, they held, as per the day of the notice, (directly or indirectly) three percent or more of its outstanding voting rights:

- According to a release pursuant to Section 40 para. 1 of the WpHG filed by BlackRock, Inc. on April 3, 2020, the various BlackRock entities named in the release pursuant to Section 40 para. 1 of the WpHG are the beneficial owners of a total of 9,503,066 shares, or 3.12% of our shares.
- According to a release pursuant to Section 40 para. 1 of the WpHG filed by Artisan Partners Asset Management Inc. on March 20, 2020, Artisan Partners Limited Partnership is the beneficial owner of a total of 9,309,206 shares, or 3.06% of our shares.
- We have been informed that as of May 11, 2020, Fresenius SE owned 32.2% of our shares. As the sole shareholder of our General Partner, Fresenius SE is barred from voting its shares on certain matters. Subject to any applicable statutory limitations, all of our outstanding shares have the same voting rights.

All notifications made by shareholders in accordance with the WpHG are published on the website of the Issuer (*www.freseniusmedicalcare.com*) under "*Investors – Shares – Shareholder Structure*".

Except for the major shareholders mentioned above, there are no other persons that have major holdings within the meaning of Article 8 or Article 9 of the Luxembourg law of 11 January 2008 on transparency requirements for issuers of securities, as amended. The remaining shares of the Issuer are in free float. There are no multiple voting rights.

Historical Financial Information

The consolidated financial statements of the Issuer as of and for each of the fiscal years ended December 31, 2019 and 2018, which were prepared in accordance with IFRS, with a respective auditor's report (*Bestätigungsvermerk*) thereon, as well as the unaudited consolidated interim financial statements of the Issuer as of and for the three months ended March 31, 2020, which were prepared in accordance with IAS 34, are incorporated by reference into the Prospectus.

Presentation of Financial Information for the Issuer

General Information

The Issuer's consolidated financial statements and other financial information contained in, or incorporated by reference into, the Prospectus have been prepared in accordance with IFRS. The Issuer uses IFRS to comply with the reporting requirements of the German Commercial Code (*Handelsgesetzbuch*) and other German laws, and in connection with its periodic reports with the SEC. The Guarantor prepares its consolidated financial statements in accordance with U.S. GAAP.

Financial statements and other financial information prepared in accordance with IFRS or national GAAP are not necessarily comparable to, and could differ from, financial statements and other financial information prepared in accordance with U.S. GAAP. For a discussion of some of the significant differences between IFRS and U.S. GAAP, see "*Differences between U.S. GAAP and IFRS Financial Information*" below.

Certain numerical data, financial information and market data in the 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.

Differences between U.S. GAAP and IFRS financial information

Financial statements and other financial information prepared in accordance with U.S. GAAP are not comparable to, and could differ from, financial statements and other financial information prepared in accordance with IFRS. Some of the principal differences between the presentation of financial information under U.S. GAAP and IFRS are due to the differing cumulative actuarial gains and losses for pensions, recognition of gains from sale and lease back transactions, contingent purchase considerations, obligations from stock incentive plans, research and development costs and differences in recording liabilities and expenses resulting from the different accounting treatment for the recognition of leases. Additional differences for income taxes result from the different accounting treatment of intercompany transactions with equity method investees. Moreover, differences for the assets result from the different accounting treatment of the sale of receivables.

Selected Financial Information for the Issuer

The selected consolidated financial information below (including ratios) has been derived from our consolidated financial statements prepared in accordance with IFRS. The below tables summarize the consolidated financial information as of and for the three months ended March 31, 2020 and 2019 and as of and for each of the fiscal years ended December 31, 2019 and 2018. KPMG has audited and issued an unqualified auditor's report with respect to each of the consolidated financial statements as of and for the fiscal years ended December 31, 2019 and 2018. The selected consolidated financial information as of and for the three months ended March 31, 2019 has been derived from our unaudited consolidated interim financial statements as of and for the three months ended March 31, 2020.

You should read this information together with the Issuer's consolidated financial statements incorporated by reference in the Prospectus. Furthermore, you should regard the selected financial and business data below only as an introduction and should base your investment decision on a review of the entire Prospectus.

Selected Consolidated Statements of Income Data

	For the three months ended March 31,		For the fiscal year ended December 31,	
in € millions, except share and per share amounts	**2020 (unaudited)**	**2019 (unaudited)**	**2019 (audited)**	**2018 (audited)**
Revenue	**4,488**	**4,133**	**17,477**	**16,547**
Cost of revenues	3,077	2,867	12,081	11,392
Gross profit	**1,411**	**1,265**	**5,396**	**5,155**
Selling, general and administrative expenses	854	720[(1)]	3,061	2,885
(Gain) loss related to divestitures of Care Coordination	(24)	-	(29)	(809)
Research and development	46	29[(1)]	168	114
Income from equity method investees	(20)	(20)	(74)	(73)
Operating income	555	537	2,270	3,038
Interest expense, net	104	108	429	301
Income before income taxes	**451**	**429**	**1,841**	**2,737**
Net income attributable to shareholders of the Issuer	**283**	**271**	**1,200**	**1,982**
Basic earnings per share	**0.95**	**0.88**	**3.96**	**6.47**
Fully diluted earnings per share	**0.95**	**0.88**	**3.96**	**6.45**

(1) In comparison to our unaudited consolidated interim financial statements as of and for the three months ended March 31, 2019, "Research and development" expenses in the amount of EUR 5 million have been reclassified as "Selling, general and administrative expenses" in order to conform to the current year's presentation.

Selected Consolidated Balance Sheet Data

In € millions	As of March 31, 2020 (unaudited)	As of December 31, 2019 (audited, unless stated otherwise)	As of December 31, 2018 (audited, unless stated otherwise)
Current assets	7,856	7,165	7,847
Total assets	**34,072**	**32,935**	**26,242**
Current liabilities	8,602	7,007	6,268
Long-term debt, less current portion	5,803	6,458	5,046
Total liabilities	**20,802**	**19,707**	**13,340**
Net debt (unaudited)[(1)]	**13,172**	**12,774**	**5,400**
Capital stock - nominal value	304[(2)]	304[(3)]	308[(4)]
Total equity	**13,270**	**13,227**	**12,902**

(1) Net debt, a Non-GAAP Measure (as defined below), is defined as the sum of our debt and lease liabilities less our cash and cash equivalents. For details see footnote 9 to the table under "*—Selected KPIs and Non-GAAP Measures*" below.

(2) Representing 304,444,441 ordinary bearer shares with no par value, each with a nominal value of EUR 1.00 per share, issued as of March 31, 2020.

(3) Representing 304,436,876 ordinary bearer shares with no par value, each with a nominal value of EUR 1.00 per share, issued as of December 31, 2019.

(4) Representing 307,878,652 ordinary bearer shares with no par value, each with a nominal value of EUR 1.00 per share, issued as of December 31, 2018.

Selected Consolidated Statements of Cash Flow Data

in € millions	For the three months ended March 31, 2020 (unaudited)	For the three months ended March 31, 2019 (unaudited)	For the fiscal year ended December 31, 2019 (audited)	For the fiscal year ended December 31, 2018 (audited)
Net cash provided by (used in) operating activities	584	76	2,567	2,062
Net cash provided by (used in) investing activities	(312)	(2,016)	(3,286)	(245)
Net cash provided by (used in) financing activities	121	722	(467)	(682)
Cash and cash equivalents at end of the period	1,405	959	1,008	2,146

Selected KPIs and Non-GAAP Measures

The following key performance indicators and other financial information set out in the tables below include financial measures that are not defined by IFRS or any other generally accepted accounting principles (***GAAP***) (each a ***Non-GAAP Measure***). We believe this information, along with comparable IFRS measurements, is useful to our investors as it provides a basis for assessing our performance, payment obligations related to performance-based compensation as well as our compliance with covenants. Non-GAAP Measures should not be viewed or interpreted as a substitute for financial information presented in accordance with IFRS. The tables also include reconciliations of the Non-GAAP Measures to the financial measures that the Issuer believes are the most directly comparable measures prepared in accordance with IFRS. The below information as of and for the three months ended March 31, 2019 has been derived from our unaudited consolidated interim financial

statements as of and for the three months ended March 31, 2020. The financial information for the twelve months ended March 31, 2020 is unaudited and has been calculated by taking the interim financial information for the three months ended March 31, 2020 and adding it to the difference between the results of operations for the year ended December 31, 2019 and the three months ended March 31, 2019. The financial information for the twelve months ended March 31, 2019 is also unaudited and has been calculated by taking the interim financial information for the three months ended March 31, 2019 and adding it to the difference between the results of operations for the year ended December 31, 2018 and the three months ended March 31, 2018.

	For the three months ended March 31,		For the fiscal year ended December 31,	
in € millions, except where otherwise specified	**2020 (unaudited)**	**2019 (unaudited)**	**2019 (unaudited)**	**2018 (unaudited)**
Operating income margin (in %)[(1)]	12.4	13.0	13.0	18.4
Delivered Operating Income[(2)]	487	480	2,031	2,794
Capital expenditures, net[(3),(6)]	(280)	(199)	(1,113)	(1,003)
Net cash provided by (used in) operating activities in % of revenue[(4),(6)]	13.0	1.8	14.7	12.5
Free cash flow[(5),(6)]	304	(123)	1,454	1,059
Free cash flow in % of revenue[(6)]	6.8	(3.0)	8.3	6.4
Adjusted EBITDA[(7)]	3,971[(8)]	3,880[(8)]	3,933	3,041
Net leverage ratio[(9)]	3.3	3.2	3.2	1.8

(1) Operating income margin represents the ratio of operating income to revenue. We believe operating income margin shows the profitability of each of our operating segments (not shown here) or our consolidated company.

(2) As a result of the significance of noncontrolling interest holders in our operations, we believe a measure that is meaningful to investors is operating income less net income attributable to noncontrolling interests (***Delivered Operating Income***). Delivered Operating Income approximates the operating income attributable to the shareholders of the Issuer. As such, we believe that operating income is the closest comparable IFRS measure. Below is a table showing the reconciliation of operating income to Delivered Operating Income on a consolidated basis:

	For the three months ended March 31,		For the fiscal year ended December 31,	
In € millions	**2020 (unaudited)**	**2019 (unaudited)**	**2019 (audited, unless stated otherwise)**	**2018 (audited, unless stated otherwise)**
Operating income	555	537	2,270	3,038
less net income attributable to noncontrolling interests	68	57	239	244
Delivered Operating Income (unaudited)	**487**	**480**	**2,031**	**2,794**

(3) Capital expenditures, net is defined as capital expenditures (representing the cash outflow for "purchases of property, plant and equipment" as presented in the consolidated statements of cash flows of the Issuer's consolidated financial statements as of and for the fiscal years ended December 31, 2019 and 2018 and the Issuer's unaudited consolidated financial statements as of and for the three months ended March 31, 2020) less proceeds from sales of property, plant and equipment. Capital Expenditures, net is an indicator used for internal management. It influences the capital invested for replacement and expansion.

(4) Net cash provided by (used in) operating activities is applied to assess whether a business can generate the cash required to make the necessary replacement and expansion of investments. This indicator is impacted by the profitability of our business and the development of working capital, mainly receivables. Net cash provided by (used in) operating activities in percent of revenue shows the percentage of our revenue that is available in terms of financial resources. It is an indicator of our operating financial strength.

(5) Free cash flow (net cash provided by (used in) operating activities after capital expenditures, net, before acquisitions and investments), a Non-GAAP Measure, refers to the cash flow we have at our disposal including cash flows that may be restricted for other

uses, i.e. net cash provided by (used in) operating activities after capital expenditures, before acquisitions and investments. This indicator shows the percentage of revenue available for acquisitions and investments, dividends to shareholders, reducing debt financing or for repurchasing shares. We believe that the IFRS measure most comparable to free cash flow is net cash provided by (used in) operating activities.

(6) The following table shows the cash flow performance indicators for the periods indicated and reconciles free cash flow and free cash flow in percent of revenue to net cash provided by (used in) operating activities and net cash provided by (used in) operating activities in percent of revenue, respectively:

In € millions, except ratios	For the three months ended March 31,		For the fiscal year ended December 31,	
	2020 (unaudited)	2019 (unaudited)	2019 (unaudited, unless stated otherwise)	2018 (unaudited, unless stated otherwise)
Revenue (audited)	**4,488**	**4,133**	**17,477**	**16,547**
Net cash provided by (used in) operating activities (audited)	**584**	**76**	**2,567**	**2,062**
Capital expenditures	(282)	(201)	(1,125)	(1,057)
Proceeds from sale of property, plant and equipment (audited)	2	2	12	54
Capital expenditures, net	(280)	(199)	(1,113)	(1,003)
Free cash flow	**304**	**(123)**	**1,454**	**1,059**
Net cash provided by (used in) operating activities in % of revenue	13.0	1.8	14.7	12.5
Free cash flow in % of revenue	**6.8**	**(3.0)**	**8.3**	**6.4**

(7) Our ***Adjusted EBITDA*** (earnings before interest, taxes, depreciation and amortization as adjusted for acquisitions and divestitures made during the respective year with a purchase price above a EUR 50 million threshold as defined in the Amended 2012 Credit Agreement, non-cash charges and impairment loss), a Non-GAAP Measure, is the basis for determining compliance with certain covenants contained in the Amended 2012 Credit Agreement or may be relevant in other major financing arrangements. It is also relevant in certain of our other major financing arrangements. You should not consider Adjusted EBITDA 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 Adjusted EBITDA are available for management's discretionary use. For example, a substantial portion of such funds are subject to contractual restrictions and functional requirements to fund debt service, capital expenditures and other commitments from time to time as described in more detail elsewhere in the Prospectus and the documents incorporated by reference. The following table shows the reconciliation of our Adjusted EBITDA to net income, which we believe to be the most directly comparable IFRS financial measure:

in € millions	For the twelve months ended March 31,	For the fiscal year ended December 31,	
	2020 (unaudited)	2019 (audited, unless stated otherwise)	2018 (audited, unless stated otherwise)
Net Income	1,461	1,439	2,226
Income tax expense	401	402	511
Interest income	(42)	(62)	(147)
Interest expense	468	491	448
Depreciation and amortization	1,590	1,553	725
Adjustments (unaudited)[(a)]	93	110	(722)
Adjusted EBITDA (unaudited)	**3,971**	**3,933**[(b)]	**3,041**

[(a)] Acquisitions and divestitures made within the last twelve months with a purchase price above a EUR 50 million threshold as defined in the Amended 2012 Credit Agreement (2020: 5 million; 2019: - EUR 71 million; 2018: - EUR 23 million), non-cash charges, primarily related to pension expense (2020: 46 million; 2019: EUR 46 million; 2018: EUR 45 million), impairment loss (2020: 42 million; 2019: EUR 40 million; 2018: EUR 65 million), (gain) loss related to divestitures of Care Coordination activities with a sales price above EUR 50 million (2018: - EUR 809 million) (see note 4 c) of the notes to our consolidated financial statements) and NxStage related transaction costs (2019: EUR 95 million).

[(b)] Adjusted for the effects from the IFRS 16 Implementation. IFRS 16 Implementation includes lease liabilities and lease liabilities from related parties (EUR 4,705 million), other financial liabilities resulting from changes in the accounting treatment for sale-leaseback transactions (EUR 110 million) as

well as the remaining balance of "liabilities from capital leases in accordance with IAS 17" at December 31, 2019, which are included in lease liabilities, but have already been included in debt as of December 31, 2018 (EUR 18 million). Excluding these effects, the Adjusted EBITDA for the fiscal year ended December 31, 2019, amounted to EUR 3,159 million.

(8) Last twelve months.

(9) Our net leverage ratio is a key performance indicator used for internal management. To determine the net leverage ratio, net debt (debt and lease liabilities less cash and cash equivalents) is compared to Adjusted EBITDA. The ratio is an indicator of the length of time the Issuer needs to service the net debt out of its own resources. We believe that the net leverage ratio provides alternative information that management believes to be useful in assessing our ability to meet our payment obligations in addition to considering the absolute amount of our debt. We believe to have a strong market position in a growing, global and mainly non-cyclical market. Furthermore, most of our customers have a high credit rating as the dialysis industry is characterized by stable and sustained cash flows. We believe this enables us to work with a reasonable proportion of debt, through the employment of an extensive mix of debt. The following table shows the reconciliation of our net leverage ratio as of March 31, 2020 and as of December 31, 2019 and 2018:

	As of March 31,	As of December 31,	
in € millions, except ratios	**2020 (unaudited)**	**2019 (unaudited, unless stated otherwise)**	**2018 (unaudited, unless stated otherwise)**
Debt and lease liabilities[(a),(b)]	14,577	13,782	7,546
Less Cash and cash equivalents (audited)	1,405	1,008	2,146
Net debt	**13,172**	**12,774**	**5,400**
Adjusted EBITDA	**3,971[(c)]**	**3,933**	**3,041**
Net leverage ratio	**3.3**	**3.2[(d)]**	**1.8[(e)]**

(a) Debt and lease liabilities includes the following balance sheet line items: short-term debt, short-term debt from related parties, current portion of long-term debt, current portion of long term lease liabilities, current portion of long term lease liabilities from related parties, long-term debt, less current portion, long-term lease liabilities, less current portion and long-term lease liabilities from related parties, less current portion as presented in the consolidated balance sheets of the Issuer's consolidated financial statements as of and for the fiscal years ended December 31, 2019 and 2018 and the Issuer's unaudited consolidated financial statements as of and for the three months ended March 31, 2020.

(b) IFRS 16 Implementation includes lease liabilities and lease liabilities from related parties (EUR 4,705 million), other financial liabilities resulting from changes in the accounting treatment for sale-leaseback transactions (EUR 110 million) as well as the remaining balance of "liabilities from capital leases in accordance with IAS 17" at December 31, 2019, which are included in lease liabilities, but have already been included in debt as of December 31, 2018 (EUR 18 million).

(c) Last twelve months.

(d) Excluding the effects of IFRS 16, the net leverage ratio as of December 31, 2019 was 2.5.

(e) Excludes lease liabilities prior to the IFRS 16 Implementation.

Trend Information

There has been no material adverse change in the prospects of the Issuer since December 31, 2019, the date of its last published audited financial statements. Except as disclosed in this Prospectus, no developments are currently foreseen that are reasonably likely to have a material adverse effect on the prospects of the Issuer. There has not been any significant change in the financial performance of the Group since December 31, 2019, the end of the last financial period for which financial information has been published, to the date of the Prospectus.

Significant Changes in the Financial or Trading Position

There has been no significant change in the financial or trading position of the Issuer since December 31, 2019.

Material Changes in the Borrowing and Funding Structure

Since December 31, 2019, there were the following material changes in the borrowing and funding structure of the Issuer:

On January 31, 2020, the Issuer repaid its equity-neutral convertible bonds with a coupon of 1.125% in the principal amount of EUR 400 million at maturity which were issued on September 19, 2014 at par. In November 2019,

the conversion feature expired and no conversions occurred. The call options on its shares that the Issuer purchased in 2014 to fully offset the economic exposure from the conversion feature also expired in November 2019.

Other than as indicated above, there have been no material changes in the Issuer's borrowing and funding structure since December 31, 2019.

Legal and Arbitration Proceedings

Please refer to "*Business of the Group – Regulatory and Legal Matters – Legal Proceedings*" below.

Material Contracts

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

Recent Events

Please refer to "*Business of the Group – Recent Events*" below.

Rating

The Issuer is rated by the three leading rating agencies:

- Standard & Poor's Credit Market Services Europe Limited (*Zweigniederlassung Deutschland*)[1,2] (*S&P*) has assigned a solicited long-term credit rating of BBB[3] (outlook stable) to the Issuer.[4]
- *Moody's* Deutschland GmbH[5] (*Moody's*) has assigned a solicited long-term credit rating of Baa3[6] (outlook stable) to the Issuer.
- Fitch Ratings Limited[7] (*Fitch*) has assigned a solicited long-term credit rating of BBB-[8] (outlook stable) to the Issuer.

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1 Standard & Poor's Credit Market Services Europe Limited (*Zweigniederlassung Deutschland*) is established in the European Community and is registered under Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies, amended by Regulation (EC) No 513/2011 of the European Parliament and of the Council of 11 May 2011 and by Regulation (EC) 2 No 462/2013 of the European Parliament and of the Council of 21 May 2013 (the CRA Regulation).

2 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 3 the Official Journal of the European Union within 30 days following such update.

3 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 weaken the obligor's capacity 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 rating categories."

4 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.

5 Moody's Deutschland GmbH is established in the European Community and is registered under the CRA Regulation.

6 According to Moody's: "Obligations rated Baa are judged to be medium-grade and subject to moderate credit risk and as such may possess certain speculative characteristics. Moody's appends numerical modifiers 1, 2, and 3 to each generic rating classification […]; and the modifier 3 indicates a ranking in the lower end of that generic rating category."

7 Fitch Ratings Limited is established in the European Community and is registered under the CRA Regulation.

8 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."

GENERAL INFORMATION ON THE GUARANTOR

General Information

The Guarantor is an indirect, wholly-owned subsidiary of the Issuer.

The legal name of the Guarantor is "Fresenius Medical Care Holdings, Inc.". The Guarantor conducts its business under the commercial name "Fresenius Medical Care North America".

The Guarantor was incorporated on March 23, 1988 as W.R. Grace & Co. – New York and is organized and existing under the Business Corporation Law of the State of New York. The State of New York does not issue corporate identification numbers to companies organized under New York law. It subsequently changed its name to W.R. Grace & Co. In September 1996, in connection with the Issuer's acquisition of all of the outstanding common stock of W.R. Grace & Co. (the ***Merger***), it changed its name to Fresenius National Medical Care Holdings, Inc. and in June 1997, it changed its name to Fresenius Medical Care Holdings, Inc.

At the time it was acquired by the Issuer in 1996, the Guarantor was primarily engaged in the packaging and specialty chemicals businesses and, through National Medical Care, Inc. (***NMC*****,*** in the health care business, providing kidney dialysis services, manufacturing products and equipment for dialysis treatment and performing laboratory testing, and home health care services. The Guarantor spun off its non-health care businesses to its shareholders immediately before the Issuer acquired the Guarantor.

The Guarantor's executive offices are located at 920 Winter Street, Waltham, Massachusetts, 02451-1457, United States, and its telephone number is +1 (781) 699-9000. The LEI of the Guarantor is XTHT88D08CLK11B3GJ82. The website of the Guarantor is *'www.freseniusmedicalcare.com*'. Pursuant to Article Second of the Guarantor's restated certificate of incorporation, the Guarantor's business or purposes to be conducted by it is to engage in any lawful act or activity for which corporations may be formed under the New York Business Corporations Law.

Corporate purpose

Under its Restated Certificate of Incorporation, the Guarantor has been organized to engage in any lawful act or activity for which corporations may be organized under the New York Business Corporations Law. The Guarantor is engaged, through subsidiaries, in providing dialysis treatment at its own dialysis clinics, manufacturing dialysis products and supplying those products to its clinics and selling dialysis products to other dialysis service providers, and performing clinical laboratory testing and providing inpatient dialysis services and other services under contract to hospitals.

Principal Activities

The Issuer acts as ultimate holding company of the Group. The Guarantor acts as principal holding company for our North American business operations. The Guarantor operates in the North American market. For details on the Guarantor's principal activities, please refer to "*Business of the Group*" below.

Organizational Structure

Please refer to "*General Information on the Issuer – Organizational Structure*" above.

Share capital

As of December 31, 2019, the Guarantor had an authorized share capital of 300,000,000 shares of common stock, 5,000,000 shares of Class C Preferred Stock, 2,653,560 shares of Class E Preferred Stock, and 2,100,000

shares of Class F Preferred Stock, each such class having a par value of USD 1.00 per share. As of December 31, 2019, the Guarantor had 83,985,000 shares of common stock outstanding and no shares of preferred stock outstanding. All of the outstanding shares of stock of the Guarantor are indirectly owned by the Issuer. The outstanding shares of the Guarantor are fully paid and non-assessable.

Administrative, Management and Supervisory Bodies

The Guarantor has four directors: Rice Powell, Helen Giza, Kent Wanzek and William Valle (CEO). All four are also members of the General Partner's Management Board; Mr. Powell is also a member of the Management Board of the General Partner of Fresenius SE. The business address of the directors is at the executive offices of the General Partner. As a privately held company, the Guarantor is not subject to public corporate governance standards, but as a subsidiary of the Issuer may be indirectly subject to such standards. The Guarantor's board does not have an audit committee.

There are no potential conflicts of interest between the duties of each of the directors of the Guarantor and their private interests or other duties of the directors and their duties vis-à-vis the Guarantor.

At the date of the Prospectus, there are no loans granted or guarantees provided by the Guarantor to any director. As there is no general federal corporation law in the United States, the law of the state of incorporation of a corporation establishes the framework for its corporate governance. The Guarantor's certificate of incorporation is consistent with the Business Corporation Law of the State of New York. The Guarantor's shares are not listed or traded on any stock exchange.

Fiscal Year

The fiscal year of the Guarantor is the calendar year.

Auditors

Until December 31, 2019, KPMG LLP, Two Financial Center, 60 South Street, Boston, Massachusetts 02111, United States (***KPMG LLP***), was the auditor of the consolidated financial statements of the Guarantor for the fiscal years ended December 31, 2019 and 2018.

KPMG LLP audited the consolidated financial statements of the Guarantor as of and for each of the fiscal years ended December 31, 2019 and 2018, which were prepared in accordance with U.S. GAAP. An unqualified auditor's report (*Bestätigungsvermerk*) was issued in respect of the audited consolidated financial statements of the Guarantor mentioned above (which contains an emphasis of matter paragraph that describes the impact of adoption of Accounting Standard Codification 842 – Leases, discussed in note 2(s) to the consolidated financial statements), which have been incorporated by reference in the Prospectus.

Major Shareholders

The Guarantor is an indirect, wholly-owned subsidiary of the Issuer. For details, please refer to "*General Information on the Issuer – Organizational Structure*" above.

Historical Financial Information

The audited consolidated financial statements of the Guarantor as of and for the fiscal years ended December 31, 2019 and 2018, prepared in accordance with U.S. GAAP, and the accompanying auditor's report are incorporated by reference into the Prospectus.

Selected Financial Information for the Guarantor

Selected Consolidated Statements of Income Data

in US$ millions	For the fiscal year ended December 31, 2019 (audited)	2018 (audited)
Health Care revenues, net	12,531	12,592
Medical supplies revenue	1,124	961
Expenses	12,435	11,269
Income before income taxes	1,220	2,283
Net income	973	1,841
Income attributable to non-controlling interests	264	264
Net income attributable to Guarantor	709	1,577

Selected Consolidated Balance Sheets Data

in US$ millions	As of December 31, 2019 (audited, unless stated otherwise)	2018 (audited, unless stated otherwise)
Total assets	25,578	20,592
Total current liabilities	3,379	3,280
Total liabilities	14,012	8,475
Total equity	10,464	11,151
Net debt (unaudited)[(1)]	10,293	3,081

(1) Net debt is a Non-GAAP Measure. We define net debt as the sum of the Guarantor's debt and lease liabilities less the Guarantor's cash and cash equivalents. The Guarantor's debt and lease liabilities include the following balance sheet line items: current borrowings from affiliates, current portion of lease liabilities, short-term borrowings, current portion of long-term debt, long-term debt, noncurrent borrowings from affiliates and long-term lease liabilities as presented in the consolidated balance sheets of the Guarantor's consolidated financial statements as of and for the fiscal years ended December 31, 2019 and 2018.

Selected Consolidated Statements of Cash Flow Data

in US$ millions	For the fiscal year ended December 31, 2019 (audited)	2018 (audited)
Net cash provided by (used in) operating activities	1,504	1,480
Net cash provided by (used in) investing activities	(3,116)	922
Net cash provided by (used in) financing activities	237	(1,185)
Cash and cash equivalents at end of the period	467	1,848

Trend Information

There has been no material adverse change in the prospects of the Guarantor since December 31, 2019. Except as disclosed in this Prospectus, no developments are currently foreseen that are reasonably likely to have a material adverse effect on the prospects of the Guarantor.

Material Changes in the Borrowing and Funding Structure

Since December 31, 2019, there have been no material changes in the Guarantor's borrowing and funding structure.

Significant Changes in the Financial or Trading Position

There has been no significant change in the financial or trading position of the Guarantor since December 31, 2019.

Legal and Arbitration Proceedings

Please refer to "*Business of the Group – Regulatory and Legal Matters – Legal Proceedings*" below as well as to note (17) of the audited consolidated financial statements of the Guarantor as of and for the fiscal years ended December 31, 2019 and 2018, prepared in accordance with U.S. GAAP, which have been incorporated by reference into the Prospectus.

Material Contracts

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

Recent Events

Please refer to "*Business of the Group – Recent Events*" below.

Rating

As of the date of the Prospectus, the Guarantor has been assigned a credit rating by Moody's Deutschland GmbH of Baa3[9] with a stable outlook[10].

According to Moody's Deutschland GmbH, the Baa3 long term issuer rating assigned to the Guarantor reflects the Guarantor's standalone credit profile but also the fact that the Guarantor is a material subsidiary of the Issuer, as this entity owns and consolidates all the US operating subsidiaries of the parent. The Guarantor, together with its consolidated subsidiaries, generates around 70% of the Group's consolidated sales and EBITDA.

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9 Moody's Deutschland GmbH is established in the European Union and is registered under the CRA Regulation. According to Moody's: "Obligations rated Baa are judged to be medium-grade and subject to moderate credit risk and as such may possess certain speculative characteristics. Moody's appends numerical modifiers 1, 2, and 3 to each generic rating classification […]; and the modifier 3 indicates a ranking in the lower end of that generic rating category."

10 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.

BUSINESS OF THE GROUP

OVERVIEW

We are the world's largest kidney dialysis company, based on publicly reported revenue and number of patients treated. We provide dialysis care and related care services to patients with ESRD, as well as other health care services (***Care Coordination***). We also develop, manufacture and distribute a wide variety of health care products, which includes dialysis and non-dialysis products. Our dialysis products include hemodialysis machines, peritoneal cyclers, dialyzers, peritoneal solutions, hemodialysis concentrates, solutions and granulates, bloodlines, renal pharmaceuticals and systems for water treatment. Our non-dialysis products include acute cardiopulmonary and apheresis products. We supply dialysis clinics we own, operate or manage with a broad range of products and also sell dialysis products to other dialysis service providers.

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 which we referred to as "hospital related physician services." Our Care Coordination services together with dialysis care and related services represent our health care services.

On February 21, 2019, we completed the acquisition of NxStage Medical, Inc. (***NxStage***), a U.S.-based medical technology and services company that develops, produces and markets an innovative product portfolio of medical devices for use in home dialysis and in the critical care setting. This acquisition enables us and our subsidiaries to further leverage our manufacturing, supply chain and marketing competencies across the dialysis products, services and care coordination businesses in a less labor- and capital-intensive care setting.

OUR STRUCTURE

Our operating segments are the North America Segment, the EMEA Segment, the Asia-Pacific Segment and the Latin America Segment. The operating segments are determined based upon how we manage our businesses with geographical responsibilities. All segments are primarily engaged in providing health care services and the distribution of products and equipment for the treatment of ESRD and other extracorporeal therapies.

The following table summarizes revenues as well as growth rates (including rates at non-GAAP Constant Currency) for our North America Segment, EMEA Segment, Asia-Pacific Segment and our Latin America Segment in our major categories of activity, health care services and health care products.

	2019	2018	Growth	Growth at Constant Currency[(1),(2)]
(in € millions)				
Total				
Health care services	13,872	13,264	5%	1%
Health care products	3,605	3,283	10%	8%
	17,477	16,547	6%	2%
North America Segment				
Health care services	11,157	10,725	4%	-1%
Health care products	1,038	845	23%	16%
	12,195	11,570	5%	0%

EMEA Segment				
Health care services	1,354	1,274	6%	7%
Health care products	1,339	1,313	2%	2%
	2,693	2,587	4%	4%
Asia-Pacific Segment				
Health care services	862	776	11%	7%
Health care products	997	913	9%	8%
	1,859	1,689	10%	7%
Latin America Segment				
Health care services	499	489	2%	25%
Health care products	210	197	6%	12%
	709	686	3%	21%

(1) The items above in the column headed "Growth at Constant Currency" reflect the impact of translating local currencies to our reporting currency for financial reporting purposes. We calculate these Non-GAAP Measures at constant exchange rates to show changes in the line items without giving effect to period-to-period currency fluctuations. Under IFRS, amounts received in local (non-euro) currency are translated into euro at the average exchange rate for the period presented. Once we translate the local currency for the constant currency, we calculate the change, as a percentage, of the current period calculated using the prior period exchange rates versus the prior period. This resulting percentage is a Non-GAAP Measure (as defined above under "*General Information on the Issuer – Selected KPIs and Non-GAAP Measures*") referring to a change as a percentage at constant currency.

(2) We believe that the measures at Constant Currency (*Non-GAAP Measure*) are useful to investors, lenders and other creditors because such information enables them to gauge the impact of currency fluctuations on our revenue, operating income, net income attributable to shareholders of the Issuer and other items from period to period. However, we limit our use of Constant Currency period-over-period changes to a measure for the impact of currency fluctuations on the translation of local currency into euro. We do not evaluate our results and performance without considering both Constant Currency period-over-period changes and changes in accordance with IFRS. We caution the readers to follow a similar approach by considering data on Constant Currency period-over-period changes only in addition to, and not as a substitute for or superior to, changes in accordance with IFRS. We present the growth rate derived from IFRS measures next to the growth rate derived from Non-GAAP Measures. As the reconciliation is inherent in the disclosure, we believe that a separate reconciliation would not provide any additional benefit.

OUR SERVICES, PRODUCTS AND BUSINESS PROCESSES

End-Stage Renal Disease (***ESRD***) is the stage of advanced chronic kidney disease characterized by the irreversible loss of kidney function and requires regular dialysis treatment or kidney transplantation to sustain life. A normally functioning human kidney removes waste products and excess water from the blood, which prevents toxin buildup, water overload and the eventual poisoning of the body. Most patients suffering from ESRD must rely on dialysis, which is the removal of toxic waste products and excess fluids from the body by artificial means. A number of conditions – diabetes, hypertension, glomerulonephritis and inherited diseases – can cause chronic kidney disease. The majority of people with ESRD acquire the disease as a complication of one or more of these primary conditions.

As a leading global health care company, we offer health care services and products in approximately 150 countries with a focus on the following areas:

- Hemodialysis – treatment in specialized clinics;
- Peritoneal dialysis – treatments largely administered by patients primarily at home;
- Home hemodialysis – treatment administered by patients at home;
- Acute dialysis – in case of a sudden loss of renal function, typically in a hospital inpatient setting;
- Dialysis drugs – expanding our product range; and
- Additional services under Care Coordination.

Dialysis Treatment Options for ESRD

There are currently only two methods for treating ESRD: dialysis and kidney transplantation.

At the end of 2019, about 4.3 million patients regularly underwent dialysis treatment or received an organ donation. For dialysis treatment, we distinguish between two types: hemodialysis and peritoneal dialysis. In hemodialysis, a hemodialysis machine controls the flow of blood from the patient, the blood is cleansed by means of a specially designed filter known as a dialyzer and then pumped back into the body. With peritoneal dialysis, the patient introduces a dialysis solution into his or her abdominal cavity and the patient's peritoneum is used as a dialyzing membrane. We provide dialysis services and products for both therapy methods.

For many years now, the number of donated organs worldwide has been significantly lower than the number of patients on transplant waiting lists. Despite extensive efforts by regional initiatives to increase awareness of kidney donation and the willingness to donate, the share of patients receiving kidney transplantation compared with other treatment methods has remained relatively unchanged over the past ten years. Due to the scarcity of compatible kidneys for transplant, most patients suffering from ESRD rely on dialysis, as demonstrated in the following table:

Patients with chronic kidney failure

As of December 31, 2019		**% of**
Patients with chronic kidney failure	**4,348,000**	**100%**
of which patients with transplants	815,000	19%
Of which dialysis patients	**3,533,000**	**81%**
Hemodialysis	3,143,000	72%
Peritoneal dialysis	390,000	9%

The prevalence of chronic kidney failure varies between regions. There are several reasons for this variance:

- The countries differ demographically, as age structures in the population vary worldwide.
- The prevalence of risk factors for kidney disease, such as diabetes and high blood pressure, varies widely.
- The genetic predisposition for kidney disease also differs significantly around the world.
- Access to dialysis remains restricted in many countries, meaning that many patients suffering from chronic kidney failure are not treated and therefore do not appear in prevalence statistics.
- Cultural factors, such as nutrition, play a role.

The number of dialysis patients rose by around 6% in 2019. The growth rate was lower in countries such as the U.S., Japan, and Western and Central Europe than in economically weaker regions, where it is generally above 6%.

In 2019, most dialysis patients were treated in one of approximately 45,600 dialysis centers worldwide, with an average of more than 75 patients per center. However, this figure varies considerably from country to country.

Hemodialysis is by far the most common form of therapy for chronic kidney failure. A total of 88% of dialysis patients were treated in this way at dialysis centers in 2019. Home hemodialysis is an alternative to treatment at a

dialysis center. Although adoption has been limited to date, the number of home hemodialysis patients is rising continuously. A total of around 1% of all patients are currently treated in this way. In the year under review, 11% of all dialysis patients were treated with peritoneal dialysis, usually at home. Accordingly, 12% of our dialysis patients were treated with home dialysis.

Hemodialysis. Hemodialysis removes toxins and excess fluids from the blood in a process in which the blood flows outside the body through plastic tubes known as bloodlines into a specially designed filter, called a dialyzer. The dialyzer separates waste products and excess water from the blood. Dialysis solution flowing through the dialyzer carries away the waste products and excess water, and supplements the blood with solutes which must be added due to renal failure. The treated blood is returned to the patient. The hemodialysis machine pumps blood, adds anti-coagulants, regulates the purification process and controls the mixing of dialysis solution and the rate of its flow through the system. This machine can also monitor and record the patient's vital signs.

The majority of hemodialysis patients receive treatment at outpatient dialysis clinics, such as ours, where hemodialysis treatments are administered with the assistance of a nurse or dialysis technician under the general supervision of a physician. Hemodialysis patients generally receive treatment three times per week, typically for three to five hours per treatment.

Peritoneal dialysis. Peritoneal dialysis removes toxins from the blood using the peritoneum, the membrane lining covering the internal organs located in the abdominal area, as a filter. Most peritoneal dialysis patients administer their own treatments in their own homes and workplaces, either by a treatment known as continuous ambulatory peritoneal dialysis (***CAPD***), or by a treatment known as continuous cycling peritoneal dialysis (***CCPD***), also called automated peritoneal dialysis (***APD***). In both of these treatments, a surgically implanted catheter provides access to the peritoneal cavity. Using this catheter, the patient introduces a sterile dialysis solution from a solution bag through a tube into the peritoneal cavity. The peritoneum operates as the filtering membrane and, after a specified dwell time, the solution is drained and disposed. A typical CAPD peritoneal dialysis program involves the introduction and disposal of dialysis solution four times a day. With CCPD, a machine pumps or "cycles" solution to and from the patient's peritoneal cavity while the patient sleeps. During the day, one and a half to two liters of dialysis solution remain in the abdominal cavity of the patient. The human peritoneum can be used as a dialyzer only for a limited period of time, ideally only if the kidneys are still functioning to some extent.

Dialysis Services

We provide dialysis treatment and related laboratory and diagnostic services through our global network of 3,994 outpatient dialysis clinics in 2019 (3,928 outpatient dialysis clinics in 2018). At our clinics, we provide hemodialysis treatments at individual stations through the use of dialysis machines and disposable products. In hemodialysis treatment, a nurse connects the patient to the dialysis machine via bloodlines, and monitors the dialysis equipment and the patient's vital signs. The capacity of a clinic is a function of the number of stations and additional factors such as type of treatment, patient requirements, length of time per treatment, and local operating practices and ordinances regulating hours of operation.

As part of the dialysis therapy, we provide a variety of services to ESRD patients at our dialysis clinics in the U.S. These services include administering erythropoietin stimulating agents (***ESAs***), which are synthetic engineered hormones that stimulate the production of red blood cells. ESAs are used to treat anemia, a medical complication that ESRD patients frequently experience. We administer ESAs to most of our patients in the U.S. ESAs have historically constituted a material portion of our overall costs of treating our ESRD patients.

Our clinics also offer services for home dialysis patients, the majority of whom receive PD dialysis treatment. Moreover, the acquisition of NxStage in February 2019 enables the Issuer and its subsidiaries to offer a prod-

uct portfolio of medical devices for use in home dialysis and in the critical care setting. For these patients, we provide materials, training and patient support services, including clinical monitoring, follow-up assistance and arranging for delivery of the supplies to the patient's residence.

We also provide dialysis services under contract to hospitals in the U.S. on an "as needed" basis for hospitalized ESRD patients and for patients suffering from acute kidney failure. Acute kidney failure can result from trauma, or similar causes, and requires dialysis until the patient's kidneys recover their normal function. We provide 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 prepared using our MCS (see "*Notice,*" above and "*Major markets and Competitive Position*" below), publicly available market data and our data of significant competitors, we are the world's largest manufacturer and distributor of equipment and related products for hemodialysis and the second largest manufacturer and distributer of peritoneal dialysis products, measured by publicly reported revenues. We sell our health care products to customers in around 150 countries and we also use them in our own health care service operations. Most of our customers are dialysis clinics. For the year 2019, dialysis products accounted for 21% of our consolidated total revenue.

We produce and distribute a wide range of machines and disposables for HD, PD and acute dialysis.

Hemodialysis Products

Our advanced line of hemodialysis machines includes four series: 2008, 4008, 5008 and 6008. We developed the 4008 and 5008 series for our markets outside of North America and the 2008 series for the North American market. In 2016, we introduced the 6008 series with the launch of our 6008 CAREsystem.

We also produce the 2008K@home in North America and 4008S and 5008S outside of EMEA for patients to perform the dialysis treatment in the comfort of their home. In 2019, we completed our acquisition of NxStage, which broadens our offerings of home hemodialysis treatment options.

In January 2019, we launched the 4008A dialysis machine which was designed to meet the needs of emerging markets. With the launch of the 4008A, we aim to improve the accessibility to life-sustaining dialysis treatment for ESRD patients in these countries. The 4008A dialysis machine incorporates our high-quality therapy standards while minimizing costs for health care systems and has been deployed primarily in India with further access in other countries across the Asia-Pacific region to follow.

The machines produced within these four series are set forth below:

Our various models of these machine series utilize our latest research and development efforts to improve the dialysis process. Examples of these improvements include the addition of Clinical Data eXchange™ (***CDX***), which allows the clinician to access Medical Information System (MIS) data directly from the dialysis station. In addition, the 2008K@home Wet Alert option provides a wireless wetness detector for the identification of blood leakage during dialysis.

Other features of our range of dialysis machines include:

- Volumetric dialysate balancing and ultrafiltration control system
- Modular design
- Sophisticated microprocessor controls, touch screen interfaces, displays and/or readout panels that are adaptable to local language requirements
- Compatibility with all manufacturers' dialyzers and a variety of bloodlines and dialysis solutions
- bi*b*ag® Online Dry Bicarbonate Concentrate system, which produces bicarbonate concentrate directly in the machine eliminating the need for liquid bicarbonate jugs or a central bicarbonate system
- Auto Flow, Eco Flow, Adapted Flow and Idle mode enable dialysate savings
- Battery backup which continues operations of the blood circuit and all protective systems up to 20 minutes following a power failure
- Online Clearance Monitoring with the measurement of dialyzer clearance for quality assurance
- CDX, which eliminates the loss of valuable treatment space allocated to MIS systems and carts
- Online data collection capabilities and computer interfacing with our Therapy Data Management System (TDMS) and/or medical information systems
- Monitoring and assessment of prescribed therapy
- Capability to connect a large number of hemodialysis machines and peripheral devices, such as patient scales, blood chemistry analyzers and blood pressure monitors, to a computer network
- Entry of nursing records automatically at bedside
- Adaptability to new data processing devices and trends
- Recording and analysis of trends in medical outcome factors in hemodialysis patients.
- Performance of home hemodialysis with remote monitoring by a staff caregiver

Dialyzers

Dialyzers are specialized filters that remove waste products, toxins and excess water from the blood during dialysis. We estimate that we are the leading worldwide producer of polysulfone dialyzers. We manufacture our F-Series and premium FX class® series of dialyzers including our Hemoflow and Optiflux® Series, the leading dialyzer brand in the US. Our Fresenius Polysulfone® and Helixone® membranes are produced from highly biocompatible synthetic materials. For example, the Helixone®plus membrane used in our FX CorDiax dialyzer selectively filters out toxins such as phosphates to reduce the risk of cardiovascular diseases.

Home Dialysis Products

We offer a full line of home dialysis therapy, products, services and solutions for 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.

Our PD fluid portfolio has a wide range of advantages for patients including:

- *Fewer possibilities for touch contamination.* Our unique PIN and DISC technology simplifies the fluid exchange and minimizes the risk of infection, particularly in the disconnection step in which the *stay•safe*® patient connector is closed automatically without any direct touch intervention.
- *Optimal biocompatibility*. Outside of the North America Segment, our PD *stay•safe*® balance and *stay•safe*® bicaVera® solutions are pH neutral and have ultra-low glucose degradation product contents reducing the advanced glycation end-product (***AGE***) formation and aiming for better preservation of the peritoneal membrane and allowing for the protection of residual renal function of PD patients.
- *Environmentally friendly material:* Outside of the North America Segment, our *stay•safe*® system is made of Biofine®, a material developed by Fresenius, which is PVC free and requires less energy to manufacture, generates less waste and is easy to recycle.

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 our product line, which includes our *sleep•safe* cycler*, sleep•safe harmony* cycler and Liberty® cycler, offers many benefits to PD patients:

- *Improved quality of life.* The patient is treated at night which can enable a more normal life during the day without fluid exchange every few hours.
- *Improved adequacy of dialysis*. By adjusting the parameters of treatment, it is possible to provide more dialysis to the patient compared to CAPD therapy. This therapy offers important options to physicians such as improving the delivered dose of dialysis for certain patients.
- *Personalized APD*. Adapted APD with the *sleep•safe* cycler and *sleep•safe harmony* cyclers allow patients to be treated using a modified version of APD where short dwell times with small fill volumes are used first to promote ultrafiltration and subsequently longer dwell times and larger fill volumes promote the removal of uremic toxins from the blood. In addition, our newest upgrade to the Liberty cycler, *Liberty Select*, offers many enhancements for a better patient experience, including the ability to customize the therapy to individual patient needs.
- *Patient management software:* We have developed specific patient management software tools to support both CAPD and APD therapies in the different regions of the world. These include: PatientOnLine, IQsystem® and Pack-PD®. In the North America Segment, the Liberty® cycler now offers a modem to our clinics, which allows clinicians to review the home patient's treatment daily in their electronic medical record system. In the EMEA Segment, a connectivity bridge can be provided with a patient card reader and in the clinic PatientOnLine. These tools can be used by physicians and nurses to design and monitor treatment protocols thus ensuring that therapy is optimized and that patient care is maximized. In addition, a new easy to navigate Prescription Calculator is now available as an educational tool to assist nephrologists in designing prescriptions for their patients.
- With our acquisition of NxStage, our hemodialysis products now include NxStage's product offerings that target the home hemodialysis market. The principal product is the NxStage System One, a small, portable, easy-to-use hemodialysis system that is used to perform treatments during the day or at night, while sleeping. The System One is the only portable hemodialysis system that is cleared by the FDA for in-center and hospital use, for home hemodialysis, home nocturnal hemodialysis and solo home hemodialysis. Unlike traditional dialysis systems, the System One does not require any special disinfection and its operation does not require specialized electrical or plumbing infrastructure or modifications to the home.

Acute dialysis products

Acute dialysis is intended to provide a full portfolio of proven blood purification therapies for critically ill patients with Acute Kidney Injury (***AKI***). Our goal is to provide therapies supporting the native dysfunction organ, easy to operate and with a high degree of safety. Our technology and services are based on long experience and know-how gained in providing dialysis products and services to chronic end-stage renal disease patients.

Other Dialysis Products

We manufacture and/or distribute arterial, venous, single needle and pediatric bloodlines. We produce both liquid and dry dialysate concentrates. Liquid dialysate concentrate is mixed with purified water by the hemodialysis machine to produce a dialysis solution, which removes the toxins and excess water from the patient's blood during dialysis. Dry concentrate, developed more recently, is less labor-intensive to use, requires less storage space and may be less prone to bacterial growth than liquid solutions. We also produce 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 our portfolio of therapeutic apheresis products, we offer extracorporeal therapy options for patients who cannot be sufficiently treated through conventional pharmaceutical regimens, including the removal of metabolic products, toxins, autoantibodies and immunocomplexes. This therapy uses selective adsorbers and filters for the cleaning of blood or plasma compartments.

Liver support therapy: With Prometheus®, we offer 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, we acquired Xenios AG, 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 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. On February 25, 2020, we announced that the FDA has cleared Xenios's Novalung®, a heart and lung support system for the treatment of acute respiratory or cardiopulmonary failure. Novalung is the first extracorporeal membrane oxygenation system to be cleared for more than six hours of use as extracorporeal life support. The Issuer expects Novalung to be available within the U.S. mid-year 2020.

Renal Pharmaceuticals

We continue to acquire and in-license renal pharmaceuticals to improve dialysis treatment for our patients. Below are the primary renal pharmaceuticals we have acquired or for which we have obtained licenses for use:

PhosLo®

In November 2006, we acquired PhosLo®, a calcium-based phosphate binder. Phosphate binders keep phosphorus levels in ESRD patients in a healthy range by preventing the body from absorbing phosphorus from foods and assisting the passing of excess phosphorous out of the body. We have 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 our PhosLo® sales in 2009. In October 2009, we launched an authorized generic version of PhosLo® to compete in the generic calcium acetate market. In April 2011, the FDA approved our new drug application for Phoslyra®, a liquid formulation of PhosLo®. We continue to commercialize the authorized generic version of calcium acetate as well as Phoslyra® in the U.S. market.

Venofer® and Ferinject®

In 2008, we 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 Vifor 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 chronic kidney disease (***CKD***) 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 our 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 VFMCRP.

In December 2010, we announced the expansion of our agreements with Vifor Pharma by forming a new renal pharmaceutical company, VFMCRP, with the intention to develop and distribute products focused on addressing distinct complications and areas of chronic kidney disease; renal anemia management, mineral and bone management, kidney function preservation and improvement, conditions associated with kidney impairment and its treatment; and cardio-renal management. The Issuer 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 VFMCRP, 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 VFMCRP in the U.S. and commercial sales of Velphoro® commenced in the first quarter of 2014 in the U.S. market. 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, we further developed our 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 our shared product portfolio, VFMCRP acquired nephrology medicines commercialized by us, including the phosphate binders OsvaRen® and Phosphosorb®. The transfer of the marketing rights was largely

completed during the fourth quarter of 2015, allowing the joint company to further develop its sales and marketing in key European markets.

Shared product portfolio

The core of the VFMCRP model is to in-license products to address complications associated with CKD. VFCMCRP in-licensed Mircera, Retacrit and pipeline products vadadustat, Rayaldee, avacopan, CCX140 and CR845 to address the needs of CKD patients, both in pre-dialysis and on dialysis.

VFMCRP also own the rights to Veltassa® (patiromer), a treatment for hyperkalaemia or elevated potassium levels, outside of the U.S. and Japan.

Care Coordination

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

Pharmacy Services

We offer pharmacy services, mainly in the U.S. These services include providing renal medications and supplies to the homes of patients or to their dialysis clinics directly from renal pharmacists who are specially trained in treating and counseling patients living with kidney disease.

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

We operate physician office-based vascular access centers, mainly in the U.S. We also develop, own and manage 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. Our centers create and coordinate the maintenance of these vascular access sites, helping to ensure maturation before use and good flow of blood. Additionally, our vascular access services provide both cardiovascular and endovascular specialty services. Cardiovascular procedures are similar to the setting of care and scope of services for vascular access procedures discussed above 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)

Prior to June 28, 2018, when we divested our interest in Sound, we employed physicians providing care in hospitals and post-acute care centers. These services utilized a consistent, patient-centered approach that relied on experienced physician leadership and a web-based workflow platform. We also provided intensivist services, which focused on the general medical care of hospitalized patients and the care of critically ill patients, usually in the intensive care unit, and the care of patients in post-acute centers.

Value and risk-based arrangements

We are continuing to expand our 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 us 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 pre-

mium for ESRD beneficiaries generally is very large, capitation programs can drive significant revenue and, when costs are effectively managed, profit opportunities. We have participated recently in the following value-based programs:

- Under CMS's Comprehensive ESRD Care Model (the ***Model***), dialysis providers and physicians have formed entities known as ESRD Seamless Care Organizations (***ESCOs***) as part of a payment and care delivery pilot program that seeks to deliver better health outcomes for Medicare ESRD patients while lowering CMS' costs. Following our initial participation in six ESCOs, we are presently participating in the Model through 23 ESCOs formed at our dialysis facilities. ESCOs that achieve the program's minimum quality thresholds and generate reductions in CMS' cost of care above certain thresholds for the ESRD patients covered by the ESCO will receive a share of the cost savings, which is adjusted based on the ESCO's performance on certain quality metrics. ESCOs that include dialysis chains with more than 200 facilities are required to share in the risk of cost increases and to reimburse CMS a share of any such increases if actual costs rise above set thresholds. Approximately 48,000 patients participated in our ESCOs as of March 2020.

  In November 2017, we announced the results from the first performance year from our ESCOs. The results, which cover the period from October 2015 through December 2016, show improved health outcomes for patients receiving coordinated care through the ESCOs. This success was validated by an independent report, which showed a nearly 9 percent decrease in hospitalization rates for these patients during the same time. In the second performance year (calendar year (***CY***) 2017), our ESCOs together generated more than USD 66.7 million in gross savings, an average of 3.4% reduction in expenditures per patient. CMS has not yet published the final settlement reports for the third performance year (CY 2018). The ESCO pilot program will run until the end of 2020.

- BPCI is a CMS pilot initiative, ended September 30, 2018, with bundled payments for the individual services furnished to Medicare beneficiaries during a single episode of illness or course of treatment, including acute inpatient hospital services, physician services, and post-acute services. BPCI Advanced is a similar follow-on initiative that began October 1, 2018 and is scheduled to extend through December 31, 2023. We commenced participation in several markets under the BPCI in April 2015 through our majority-owned subsidiary, Sound. On June 28, 2018, we divested our controlling interest in Sound.

- We provided Medicare Advantage ESRD Chronic Condition Special Needs Plan (***MA-CSNP***) products in five states until December 31, 2018. MA-CSNPs are Medicare health plans offered by private companies that contract with Medicare to provide Medicare benefits to special needs individuals with specific severe or disabling chronic conditions such as ESRD, with a focus on improving the coordination of care. As a MA-CSNP, we provided health care services and Part D prescription drug coverage as well as received set payments from CMS for the complete care of ESRD patients who enrolled in our MA-CSNP. For each MA-CSNP, we managed medical costs through underwriting criteria, product design, negotiation of favorable provider contracts and care management programs. Total medical costs were affected by the number of individual services rendered, the cost of each service and the type of service rendered. Our revenue on Medicare advantage policies was based on CMS' premiums set for ESRD beneficiaries, based on the average cost of similar beneficiaries in the Medicare program. The benefits, and projected medical costs, of these plans were submitted to CMS in June the year before the contract year.

- We have also entered into sub-capitation and other risk-based and value-based arrangements with certain payors to provide care to commercial and Medicare Advantage ESRD and CKD patients. Under these arrangements, a baseline per patient per month amount is established. If we provide complete care for less than the baseline, we retain the difference. If the cost of complete care exceeds the baseline, we may owe the payor the difference.

Urgent care services

We operate 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, our urgent care centers also provide physicals, occupational medicine services, pre-operative exams and vaccinations. In 2019, we divested the MedSpring Urgent Care Centers in Texas.

Physician nephrology and cardiology services

We manage and operate nephrology and cardiology physician practices in the United States.

Care Coordination activities outside the United States:

Ambulant treatment services

In the Asia-Pacific Segment, we are the majority stakeholder in Cura, a leading operator of day hospitals in Australia. We also operate seven renal hospitals in China whose service scope includes inpatient and outpatient facilities focused on kidney disease. Additionally, we have care coordination activities in other parts of the region which include comprehensive and specialized health check-ups centers, vascular access and other chronic treatment services.

For additional information regarding Care Coordination, see "*Regulatory and legal matters - Reimbursement - U.S.*" below as well as "*Risk Factors – Risks relating to the Issuer and the Group – Risks relating to our business activities and industry – If we fail to estimate, price for and manage our medical costs in an effective manner, the profitability of our value-based products and services could decline and could materially and adversely affect our results of operations, financial position and cash flows."* above.

Major Markets and Competitive Position

To obtain and manage information on the status and development of global, regional and national markets we have developed our Market & Competitor Survey, or MCS. We use the MCS as a tool to collect, analyze and communicate current and essential information on the dialysis market, developing trends, our market position and those of our 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. The survey has been refined since inception to facilitate access to more detailed information and to reflect changes in the development of therapies and products as well as changes to the structure of our competitive environment. The questionnaires are distributed to professionals in the field of dialysis who are in a position to provide ESRD-relevant country specific information themselves or who can coordinate appropriate input from contacts with the relevant know-how in each country. The surveys are then centrally validated and checked for consistency by cross-referencing them with the most recent sources of national ESRD information (e.g. registry data or publications if available) and with the results of surveys performed in previous years. All information received is consolidated at a global and regional level and analyzed and reported together with publicly available information published by our competitors. While we believe the information contained in our surveys and competitor publications to be reliable, we have not independently verified the data or any assumptions from which our MCS is derived or on which the estimates they contain are based, and we do not make any representation as to the accuracy of such information. Except as otherwise specified herein, all patient and market data in the Prospectus have been derived using our MCS.

We estimate that the volume of the global dialysis market was EUR 80 billion in 2019 (EUR 74 billion in 2018) comprising approximately EUR 14 billion of dialysis products and approximately EUR 66 billion of dialysis ser-

vices (including administration of dialysis drugs). The currency-adjusted growth rate amounted to 4% during the last year.

We are the world's leading provider of dialysis services with a market share of approximately 10% of the global dialysis patient population through treating 345,096 of the approximately 3.5 million dialysis patients worldwide.

We are also the global market leader for dialysis products. Dialysis products we made for use in our own dialysis centers or for sale to third-party customers accounted for a market share of 36% in 2019 (2018: 35%). In the case of hemodialysis products, we had a 41% share of the global market (2018: 39%) and are also the leader in this field.

Dialyzers for hemodialysis are the largest product group in the dialysis market with a worldwide sales volume of over 350 million units in 2019. We made more than 155 million (around 44%) of these, giving us by far the biggest market share. Hemodialysis machines constitute another key component of our product business. Here, too, we are the market leader. Of the 102,000 machines installed in 2019, according to estimates, we produced around 52,000, or more than 50% (2018: more than 50%).

Furthermore, we hold a strong position in the market for peritoneal dialysis products: Around 17% (2018: around 17%) of all peritoneal dialysis patients use products we made.

The market for dialysis care services in the United States is already highly consolidated. We treat around 38% of all dialysis patients in the United States. Outside the U.S., the dialysis services business is much more fragmented. With around 1,430 dialysis centers and approximately 137,000 patients in around 50 countries, we operate by far the largest network of clinics.

Our competitive environment is described in more detail below:

Health Care Services. We operate in a competitive, international market environment and are, therefore, subject to certain trends, risks and uncertainties that could cause actual results to differ from our projected results. The major trends affecting the markets in which we operate are: the aging population and increased life expectancies, shortage of donor organs for kidney transplants, and increasing incidence and better treatment of and survival of patients with diabetes and hypertension, which frequently precede the onset of ESRD, all of which contribute to patient growth. In the U.S. and other markets in which dialysis is readily available, additional trends are:

Trends in the developed markets:

- improvements in treatment quality, which prolong patient life;
- stronger demand for innovative products and therapies;
- advances in medical technology;
- ongoing cost-containment efforts and ongoing pressure to decrease health care costs, resulting in limited reimbursement rate increases; and
- reimbursement for the majority of treatments by governmental institutions, such as Medicare and Medicaid in the U.S.

Additional trends in emerging markets:

- increasing national incomes and hence higher spending on health care;

- improving standards of living in developing countries, which make life-saving dialysis treatment available;
- consolidation of providers (e.g. hospital chains);
- consolidation of health care insurers with pricing pressure on providers; and
- privatization of health care providers.

The following are our largest competitors in the dialysis services industry:

North America Segment	EMEA Segment	Asia-Pacific Segment	Latin America Segment
DaVita, Inc.	Diaverum S.à r.l.	B. Braun Melsungen AG	Baxter International Inc.
U.S. Renal Care, Inc.	B. Braun Melsungen AG	Nephrocare Health Services Private Limited (NephroPlus)	DaVita, Inc. Diaverum S.à r.l.

U.S. government programs are the primary source of reimbursement for services to the majority of U.S. patients and, as such, competition for patients in the U.S. is based primarily on quality and accessibility of service and the ability to obtain admissions from physicians with privileges at the facilities. However, the extension of periods during which commercial insurers are primarily responsible for reimbursement and the growth of managed care have placed greater emphasis on service costs for patients insured with private insurance.

In most countries other than the U.S., we compete primarily against individual freestanding clinics and hospital-based clinics. In many of these countries, especially the developed countries, governments directly or indirectly regulate prices and the opening of new clinics. Providers compete in all countries primarily on the basis of quality and availability of service and the development and maintenance of relationships with referring physicians.

Laboratory Services: Spectra, our dialysis laboratory subsidiary, competes in the U.S. with large nationwide laboratories, dedicated dialysis laboratories and numerous local and regional laboratories, including hospital laboratories. In the laboratory services market, companies compete on the basis of performance, including quality of laboratory testing, timeliness of reporting test results and cost-effectiveness. We believe that our services are competitive in these areas.

Products: We compete globally in the product market which is largely segmented between hemodialysis, peritoneal dialysis and renal pharmaceuticals. Our competitors include:

- Baxter International, Inc.
- Asahi Kasei Medical Corporation
- Medtronic Plc.
- B. Braun Melsungen AG
- Nipro Corporation
- Nikkiso Co., Ltd.
- Terumo Corporation

- Kawasumi Laboratories Incorporated
- Quanta Dialysis Technologies Ltd.
- Outset Medical, Inc.
- Fuso Pharmaceuticals Industries Ltd.
- Toray Industries, Inc.
- Amgen, Inc. (Amgen)
- Sanofi Genzyme (a subsidiary of Sanofi S.A.) and
- Akebia Therapeutics, Inc.

We have invested significantly in developing proprietary processes, technologies and manufacturing equipment which we believe provide a competitive advantage in manufacturing our products.

Our strategy and competitive strengths

“Creating a future worth living. For patients. Worldwide. Every day." This vision guides us in our efforts to give our patients around the world a better life by offering them high-quality products and outstanding health care. It is based on our core values: collaborative, proactive, reliable, excellent.

Strategic core competencies

We aim to further consolidate our expertise as the world’s leading provider of top-quality dialysis treatments and health care products and to apply them as a basis for sustainable, profitable growth. Moreover, in the area of Care Coordination, our goal is to provide holistic care and improve outcomes for patients as well as payors while increasing our corporate value in the long term. Our strategic plan is based on four core competencies:

Innovating products

Developing innovative products to achieve even better outcomes for our patients is an inherent part of our strategy of sustainable and profitable growth. We leverage our technology leadership position in dialysis to enhance treatment options in such a way that both patients and health care systems can benefit. This is also why we are committed to further expanding home dialysis. In addition, we are constantly striving to identify new business opportunities in value-added technologies and approaches, for example through our venture capital company Fresenius Medical Care Ventures GmbH.

Operating outpatient facilities

By leveraging our experience gained in our proprietary dialysis clinics (3,994 in 2019) in around 50 countries, we have the knowledge to operate and manage stand-alone outpatient clinics efficiently and capture economies of scale. We are continuously optimizing and modernizing our processes and administrative structures.

Standardizing medical procedures

Our goal is to standardize medical treatments and clinical processes while continuing to ensure high-quality clinical outcomes. In 2019, we established the Global Medical Office with the aim of enhancing knowledge transfer across the Issuer. By adding the Global Chief Medical Officer to the Management Board as of January 1, 2020, we are underlining the importance of interlinking clinical science with therapy. With over 52 million dialysis treatments performed per year, we have one of the largest dialysis databases worldwide. We intend to

use this information to standardize medical setups, open new clinics and integrate acquired clinics into our network based on proven and efficient concepts.

Coordinating patients efficiently

In an environment of growing patient numbers and changing health care systems, we see significant potential in providing value-based care – especially in the U.S. This approach focuses on selling solutions, providing holistic care and receiving outcome-based reimbursement rather than offering single products or services.

Depending on the type of health care network in which we participate, we coordinate the care of our patients with other providers including physicians and other health care facilities. We then use the accumulated patient information to create predictive analytics.

Global Efficiency Program

In 2017, we announced the second phase of our Global Efficiency Program (***GEP II***). The program's objectives are to identify and realize further efficiency potential and enhance our overall competitiveness. The expected range of sustained cost improvements is EUR 150 million to EUR 200 million per annum by the end of 2020.

Customers, marketing, distribution and service

We sell most of our products to dialysis clinics, hospitals and specialized treatment clinics. Close interaction between our sales and marketing as well as research and development (***R&D***) personnel enables us to integrate concepts and ideas that originate in the field into product development. We maintain a direct sales force of trained salespersons engaged in the sale of hemodialysis and peritoneal dialysis as well as acute dialysis products and products for critical care. Sales and Marketing engages in direct promotional efforts, including visits to physicians, clinical specialists, hospitals, clinics and dialysis clinics, and represents us at industry trade shows. Our clinical nurses provide clinical support, training and assistance to customers and assist our sales force. We offer customer service, training and education in the applicable local language, and technical support such as field service, repair shops, maintenance, and warranty regulation for each country in which we sell dialysis products.

In our basic distribution system, we ship products from factories to central warehouses which are frequently located near the factories. From these central warehouses, we distribute our dialysis and non-dialysis products to regional warehouses. We also distribute home hemodialysis and peritoneal dialysis products to patients at home or their travel destination, and ship hemodialysis products directly to dialysis clinics and other customers. Additionally, local sales forces, independent distributors, dealers and sales agents sell all our products.

Patient, physician and other relationships

We believe that our success in establishing and maintaining health care centers, both in the U.S. and in other countries, depends significantly on our ability to obtain the acceptance of and referrals from local physicians, hospitals and integrated care organizations. Our ability to provide high-quality dialysis care and to fulfill the requirements of patients and doctors depends significantly on our ability to enlist nephrologists for our dialysis clinics and receive referrals from nephrologists, hospitals and general practitioners.

Medicare program regulations rely on Conditions for Coverage rules for ESRD facilities which require that each dialysis clinic have a medical director who is responsible for overseeing the delivery of patient care and outcomes at the dialysis clinic. The medical director must be board-certified or board eligible in internal medicine or pediatrics, have completed a board-approved training program in nephrology and have at least twelve months of experience providing care to patients undergoing dialysis. We have engaged physicians or groups of physicians to serve as medical directors for our outpatient dialysis centers, home dialysis programs, and inpa-

tient dialysis service relationships with hospitals. The compensation of our medical directors and other contracted physicians is negotiated individually and depends in general on local factors such as competition, the professional qualification of the physicians, the physicians' experience and tasks as well as the size and the offered services of the clinic. The total annual compensation of the medical directors and the other contracted physicians is stipulated at least one year in advance and the medical directors agree to seek to continue to improve quality, safety and efficiency. We believe that the compensation of our medical directors is consistent with the fair market value of their services.

Almost all contracts we enter into with our medical directors in the United States, as well as the typical contracts which we obtain when acquiring existing clinics, contain non-competition clauses concerning certain activities in defined areas for a defined period of time. These non-compete agreements restrict the physicians from owning or providing medical director services to other outpatient dialysis centers, but these clauses do not restrict the physicians from performing patient services directly at other locations/areas or referring patients to other facilities. We do not require physicians to send patients to us or to specific clinics.

In addition to our dialysis clinics, a number of our other health care centers employ or contract with physicians to provide professional and administrative services. We have financial relationships with these physicians in the form of compensation arrangements for the services rendered. These contractual arrangements are designed to comply with federal and state laws applicable to financial relationships with physicians, such as the Stark Law and the Anti-Kickback Statute.

A number of the dialysis clinics and other health care centers we operate are owned, or managed, by joint ventures in which we hold a controlling interest and one or more hospitals, physicians or physician practice groups hold a minority interest. We have granted holders of these minority interests put options under which we could be required to purchase all or part of the minority owners' noncontrolling interests. We also have agreements with physicians to provide management and administrative services at health care centers in which physicians or physician groups hold an ownership interest and agreements with physicians to provide professional services at such health care centers. Our relationships with physicians and other referral sources relating to these joint ventures must comply with the federal Anti-Kickback Statute and Stark Law. There is a safe harbor under the Anti-Kickback Statute for certain investment interests in small entities. Our joint ventures have been designed to comply with the federal Anti-Kickback Statute and Stark Law, but they do not satisfy all of the requirements for safe harbor protection. Failure to comply with a safe harbor does not render an arrangement illegal under the federal Anti-Kickback Statute and, therefore, physician joint ventures that fall outside the safe harbors are not, by definition, prohibited by law. See "*Risk Factors – Risks relating to the Issuer and the Group – Risks relating to legal and regulatory matters – If our joint ventures violate the law, our business could be adversely affected*."

Acquisitions and investments

A significant factor in the growth in our revenue and operating earnings in prior years has been our ability to acquire health care businesses, particularly dialysis clinics, on reasonable terms. In the U.S., doctors might decide to sell their clinics to obtain relief from day-to-day administrative responsibilities and changing governmental regulations, to focus on patient care and to realize a return on their investment. Outside of the U.S., doctors might determine to sell to us and/or enter into joint ventures or other relationships with us to achieve the same goals and to gain a partner with extensive expertise in dialysis products and services. Privatization of health care in Eastern Europe and Asia could present additional acquisition opportunities. We believe we are also viewed as a valuable strategic health care partner outside the dialysis business due to our experience in managing chronic disease for dialysis patients and our record of improving quality and patient satisfaction and reducing the overall cost of care, and our leadership in advancing innovation and improvement in health care.

Procurement and production

We operate production facilities worldwide to meet the demand for our dialysis products and other health care products. We have invested significantly in developing proprietary processes, technologies and manufacturing equipment resulting in a competitive advantage in manufacturing our products. Production facilities and distribution centers are strategically located. This helps to reduce transportation costs and facilitate the distribution of products to our customers.

We produce and assemble hemodialysis machines and peritoneal dialysis cyclers in our Schweinfurt, Germany and our Concord, California, U.S. facilities. We manufacture and assemble dialyzers and polysulfone membranes in our Ogden, U.S., St. Wendel, Germany, L'Arbresle, France, Vrsac, Serbia (dialyzers), Buzen, Japan (dialyzers) and Changshu, China (dialyzers) facilities and at production facilities of our joint venture in Inukai, Japan. We manufacture hemodialysis concentrate products at various facilities worldwide, including France, Germany, Great Britain, Spain, Turkey, Serbia, Argentina, Brazil, Colombia, Ecuador, Australia, China, Malaysia, Canada, Mexico and the U.S. We manufacture PD solutions in North America, Europe, Latin America, and Asia, with two of our largest plants in Germany and the U.S. Additionally, we manufacture bloodlines in Mexico, China, Italy and Turkey. Our Reynosa, Mexico plant is the world's largest (by volume) bloodline manufacturing facility.

The Global Manufacturing, Quality and Supply (***GMQS***) division manages the procurement of raw materials and semi-finished goods as well as the manufacturing and distribution of renal products. This center-led approach enables us to:

- enhance the efficiency of our processes,
- optimize cost structures,
- improve returns on our capital invested in manufacturing,
- respond quickly, and
- fulfill our commitment to meeting high quality and safety standards.

With a focus on quality, costs and availability, GMQS has introduced a stable infrastructure with efficient processes and systems over the last several years. All production sites follow the Lean Manufacturing approach which, in North America and our Schweinfurt plant, includes the "Lean Six Sigma" management system. The focus of Lean Manufacturing and Six Sigma is continuous improvement of manufacturing processes to achieve a low defect rate resulting in improved product quality, while reducing manufacturing time.

We have been successful in harmonizing all local Quality Management Systems (***QMS***) in all manufacturing and development sites of our EMEA Segment, Latin America Segment and Asia-Pacific Segment under one Consolidated QMS (***CQMS***). The CQMS fulfills ISO 13485:2016 and ISO 9001:2015 standards and has been implemented during 2019 in the EMEA Segment, Latin America Segment and Asia-Pacific Segment design and manufacturing sites. (See also "*Regulatory and Legal Matters – Facilities and Operational Regulation*" below). Every medical device plant within our EMEA Segment, Latin America Segment and Asia-Pacific Segment has a local QMS directed by CQMS that is certified either to ISO 13485:2016 and/or ISO 9001:2015. Where applicable, each plant also complies with the Medical Device Directive 93/42/EEC and additional national requirements based upon target markets and countries of manufacturing. The QMS of each site is reviewed through periodic management review, internal corporate and internal local audits.

All certified plants have successfully passed the annual ISO 13485, ISO 9001 external QMS audits and authority inspections for maintaining their required certifications and licenses.

Our procurement policy combines worldwide sourcing of high-quality materials with the establishment of long-term supplier relationships. Additionally, we strive to ensure that purchased materials comply with the quality specifications and safety standards required for our dialysis products. We outsource only after we have qualified suppliers, ensuring they meet our requirements. Interactive Supplier Relationship management and risk management systems connect all our global procurement activities to ensure global transparency, standardized processes and constant monitoring of our projects and supplier-related activities.

We focus on further optimizing procurement logistics and reducing total purchasing costs. Corporate frame contracts for the majority of our manufacturers of semi-finished goods and raw materials will enable us to improve purchasing terms for our complete network. We are continuously intensifying, where appropriate, our use of web-based procurement tools to increase agility and global transparency. Our sophisticated routing software enables us to distribute our supplies to best accommodate customer requests while maintaining operational efficiency. Additionally, we have an automated replenishment control in our national warehouses that allows the warehouses to be refilled when their inventory reaches a preset defined minimum level and allows us to continue to improve our operational efficiency.

Quality assurance and quality management in dialysis care

Our clinics work in conformance with the generally accepted quality standards of the industry, particularly the Kidney Disease Outcomes Quality Initiative (***KDOQI***) guidelines from the United States, the European Renal Best Practice standard (***ERBP***) and increasingly, Kidney Disease: Improving Global Outcomes (***KDIGO***), an industry initiative for global clinical practice guidelines. Clinical data management systems are used to routinely collect certain medical parameters, which we evaluate in anonymized form in compliance with these guidelines.

At each of our North America Segment dialysis clinics, a quality assurance committee is responsible for reviewing quality of care data, choosing local quality improvement projects and monitoring the progress towards achieving the quality targets which are informed by KDOQI, KDIGO and the Quality Agenda established by the FMCNA Medical Office. A rigorous scoring system, Clinical Quality Score or CQS, reports trends in outcomes and performance comparison among all levels of the organization. Visual representation of key performance indicators can be viewed in increasing levels of detail to provide transparency of results. In 2019, we continued to develop and implement programs and tools to assist in achieving our quality goals. These include treatment algorithms based on best medical evidence, outlier management teams, and technology to highlight opportunities for improvement at the dialysis chairside.

The Medicare Improvements for Patients and Providers Act of 2008 (***MIPPA***) created the ESRD quality incentive program under which dialysis facilities in the United States that fail to achieve annual quality standards established by CMS could have base payments reduced in a subsequent year by up to 2%. These programs blend the CMS quality standard measures against the industry baselines to attempt the improvement in quality through a pay for performance program that operates as a part of the ESRD PPS.

In our EMEA Segment, our quality management activities are primarily focused on comprehensive development and implementation of a health care services QMS as part of an Integrated Management System (***IMS***). Our goals in this area include meeting quality requirements for our dialysis clinics and environmental concerns. This approach results in an IMS structure that closely reflects existing corporate processes. We are also able to use the IMS to fulfill many legal and normative regulations covering service lines. In addition, the IMS standard offers a highly flexible structure that allows us to adapt to future regulations.

Our IMS fulfills the ISO-Norm 9001:2015 requirements for QMSs and links it with the ISO-Norm 14001:2015 for environmental management systems. Additionally, the IMS conforms to the requirements of ISO-Norm 13485:2016 and the Medical Device Directive 93/42/EEC. We are continuing to transition to the new Medical

Device Regulation (***MDR***). Our conformation with the regulations will be included as part of the audit program for 2019. Currently, dialysis clinics in 17 countries within our EMEA region have QMSs which are certified according to the quality management standard ISO 9001:2015.

Additionally, we have a comprehensive program, NephroCare Excellence, in our EMEA region. NephroCare is our service that provides complete life-saving treatments for renal failure at the point of care using advanced technologies and listening to and understanding our patients' needs to enable the best therapies, ensure a high-quality of care and empower patients.

Our principal focus of our clinical research includes the development of new products, technologies and treatment concepts to optimize treatment quality, safety and efficiency for kidney failure patients. This includes steps and processes for the reduction in the costs of providing care for our patients.

Environmental management

We have integrated environmental protection targets into our operations. To reach these goals, our IMS in the EMEA Segment has been in use at certain of our production facilities as well as at a number of dialysis clinics. IMS fulfills the requirements of QMSs as well as environmental management. Environmental goals are set, adhered to and monitored during all stages of the lives of our products, from their development to their disposal.

We continually seek to improve our production processes for environmental compatibility, which frequently generates cost savings.

In some of our dialysis facilities, we establish, depending on the particular facility and circumstance, a priority environmental protection target on which our dialysis clinics concentrate for at least one year. Environmental performance in other dialysis facilities is used as the basis for comparisons and targets. Improvements are implemented on a site-by-site basis after evaluation of the site's performance.

In our European clinics, we maintained our environmental management system in dialysis clinic organizations and we continued to monitor and assess the management system performance in clinics where it was previously implemented. Currently, dialysis clinics in 14 countries in our European region are certified according to the revised environmental management standard ISO 14001:2015. We continued to roll out the integrated software solution e-con 5 for the management of eco-controlling data in over 700 clinics in the EMEA Segment and the Latin America Segment. This software is intended to monitor and reduce consumption of resources and generation of wastes while increasing the eco-controlling data quality and possibilities for data analysis at the place of origin.

In our North America Segment dialysis clinics, we implemented recycling programs for corrugated materials and hemodialysis machines. Targeted environmental performance criteria in other locations include fresh water consumption and improved separation of waste. We achieved ISO 14001:2015 certification for two dialysis clinics as well as one manufacturing facility in the North America Segment as of December 31, 2018.

In our dialysis centers in the Asia-Pacific Segment, we are enhancing our tracking of environmental performance measures, such as energy and water usage. Pilot programs are underway in Australia to explore the use of solar panels in order to augment, or fully meet, the power requirements of certain centers. Similarly, work is underway to determine whether, with the use of a family of systems that shred and autoclave medical waste into a sterile "non-infectious" confetti-like chaff, dialysis plastic waste could be incorporated into concrete to reduce the amount of waste that enters landfills.

Patents and licenses

As the owner of patents or licensee under patents throughout the world, we currently hold rights in over 10,600 patents and patent applications in major markets.

Technologies that are the subject of granted patents or pending patent applications and that relate to dialyzers include aspects of our FX dialyzers.

Other patents and pending patent applications relate to components of our 5008 dialysis equipment series, including, for example, the pump technology, extracorporeal blood pressure measurement and the connector system for our proprietary bicarbonate concentrate container.

Our 6008 therapy system is protected by more than 80 patent families that protect the disposable, the machine or the entire system. A number of applications or issued patents exist for the North American 2008T HD machine including, for example, the CDX system for the display of medical information directly on the 2008T screen, a wireless wetness detector for sensing line disconnect, an improved Crit-Line hematocrit measuring system and a U. S. version of the bicarbonate concentrate container filling system.

The 4008A dialysis machine, recently launched in China as well as in India, provides basic, reliable dialysis treatments and includes more than 10 new inventions with patent protection. The inventions refer for example to optimizing the device design without reduction of safety and quality of the device.

Applications are also pending or were recently issued relating to our next generation peritoneal dialysis cycler which has a number of innovative attributes such as greatly reduced size and an innovative pumping system.

We believe that our success will continue to depend significantly on our technology. As a standard practice, we obtain the legal protections we believe are appropriate for our intellectual property. Nevertheless, we are in a position to successfully market a material number of products for which patent protection has lapsed or where only particular features are patented. We believe that even after the expiration of some of our patents, our proprietary know how for the manufacturing of our products and our continuous efforts in obtaining targeted patent protection for newly developed upgraded products will continue to provide us with a competitive advantage. From time to time our patents may be infringed by third parties and in such case we will assert and enforce our rights. Initially registered patents may also be subject to invalidation claims made by competitors in formal proceedings (oppositions, trials, re-examinations, etc.) either in part or in whole. In addition, technological developments could suddenly and unexpectedly reduce the value of some of our existing intellectual property.

Trademarks

As the owner of trademarks or licensee under trademarks throughout the world, we currently hold rights in over 2,900 registered trademarks or trademark applications covering inter alia our key products in major markets.

Fresenius SE continues to own the name and mark "Fresenius" and several marks containing “Fresenius” (hereinafter referred to as ***Fresenius Marks***). Fresenius SE and Fresenius Medical Care Deutschland GmbH (***D-GmbH***), one of our German subsidiaries have entered into agreements containing the following provisions. Fresenius SE has granted to our subsidiary D-GmbH, for our benefit and that of our affiliates, an exclusive, worldwide, royalty-free, perpetual license to use "Fresenius Medical Care" in our names, and to use the Fresenius marks, including some combination marks containing the Fresenius name that were used by the worldwide dialysis business of Fresenius SE, and the "Fresenius Marks" name as a trademark, in all aspects of the renal business. D-GmbH, for our benefit and that of our affiliates, has also been granted a worldwide, royalty-free, perpetual license to use the Fresenius Marks in the former NMC non-renal business if it is used as

part of a trademark containing the words “Fresenius Medical Care” together with one or more descriptive words, such as "Fresenius Medical Care Vascular Care" or "Fresenius Medical Care Physician Services".

We and our affiliates have the right to use "Fresenius Marks" in other medical businesses only with the consent of Fresenius SE. Fresenius SE may not unreasonably withhold its consent. Fresenius SE will not use or license third parties to use the Fresenius Marks in the renal business worldwide and will not use the Fresenius Marks alone or in combination with any other words in the U.S. and Canada, except in combination with one or more additional words such as "Pharma Home Care" as a service mark in connection with its home care business.

Other intellectual property

Some of the patents, patent applications, inventions, know-how and trade secrets that Fresenius Worldwide Dialysis used prior to our formation were also used by other divisions of Fresenius SE. For Biofine® , the polyvinyl chloride-free packaging material, Fresenius SE has granted to D-GmbH, for our benefit and for the benefit of our affiliates, an exclusive license for the renal business and a non-exclusive license for all other fields except other non-renal medical businesses. D-GmbH and Fresenius SE share equally any royalties from licenses of the Biofine® intellectual property by either D-GmbH or by Fresenius SE to third parties outside the renal business and the other non-renal medical businesses. In addition, Fresenius SE transferred to D-GmbH the other patents, patent applications, inventions, know-how and trade secrets that were used predominantly in Fresenius SE’s dialysis business. In certain cases Fresenius Worldwide Dialysis and the other Fresenius SE divisions as a whole each paid a significant part of the development costs for patents, patent applications, inventions, know-how and trade secrets that were used by both prior to the Merger. Where D-GmbH acquired those jointly funded patents, patent applications, inventions, know-how and trade secrets, D-GmbH licensed them back to Fresenius SE exclusively in the other non-renal medical businesses and non-exclusively in all other fields. Where Fresenius SE retained the jointly funded patents, patent applications, inventions, know-how and trade secrets, Fresenius SE licensed them to D-GmbH exclusively in the renal business and non-exclusively in all other fields.

Risk management

We see risk management as the ongoing task of determining, analyzing and evaluating the spectrum of potential and actual risks in the Issuer and its environment and, where possible, taking pre-emptive and corrective action. Our risk management system, which is described in more detail below, provides us with a basis for doing so. It enables management to identify at an early stage risks that could jeopardize our growth or going concern, and to take steps to minimize any negative impact. As such, it is an important component of the Issuer’s management and governance.

The main objective of the risk management system is to identify potential risks as early as possible to assess their impact on business activities and to enable us, where necessary, to take appropriate countermeasures. As internal and external requirements and conditions are continually changing, we are constantly adapting our risk management system.

The design of the internal risk management system is based on the Enterprise Risk Management Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission. Opportunities are not covered by the implemented risk management system.

In the risk management system, risk coordinators within the regions and in selected functions coordinate risk management activities utilizing risk management software. These activities address potential as well as existing short-term as well as mid-term risks. Semiannually, identified risk information is processed by the risk coordinators and discussed in regional/functional risk committees. Subsequently, the corporate risk management team gathers the risks from regions and functions, analyzes and discusses them in the corporate risk

committee and communicates the compiled results to the Management Board. The main focus lies with material risks above a defined threshold.

Risks classified as high, whether newly identified or already known risks which changed their status to high in the period, are promptly reported to the Management Board and to corporate risk management to ensure an adequate response and mitigation of the risk. The effectiveness of the risk management system is monitored by the Audit and Corporate Governance Committee of the Supervisory Board.

In addition to risk reporting, traditional reporting to management is an important tool for managing and controlling risks, as well as for taking preventive measures in a timely manner. Therefore, our Management Board is informed on a monthly basis about the industry situation, our operating and non-operating business and the outcome of analyses of our earnings and financial position, as well as of our assets position on a quarterly basis.

The Global Internal Audit department is regularly informed about the results of the risk management system. This department determines risk focus areas and audits a selected number of departments, subsidiaries and information technology applications worldwide each year. Determined risk focus areas are audited across all business segments. The department works according to the internationally accepted standards of the Institute of Internal Auditors, which was confirmed by a quality assessment in 2017. The scope of internal auditing is widespread and involves, among other activities, periodic assessment of the effectiveness of controls (including legal compliance controls) over business processes, information technology security, the reliability of financial reporting and compliance with accounting regulations and internal policies. Our locations and units to be audited are determined annually on the basis of a selection model taking various risks into consideration. This annual audit plan is reviewed and approved by the Management Board and the Audit and Corporate Governance Committee of the Supervisory Board. All audit reports with material observations are presented to the Management Board.

The Global Internal Audit department is also responsible for monitoring the implementation of measures mitigating identified deficiencies. The Management Board is informed about the mitigation status on a quarterly basis. The Audit and Corporate Governance Committee of the Supervisory Board is also informed of the audit results. In 2019, a total of 43 audits were carried out.

As a company required to file reports under the Exchange Act, we are subject to the provisions of the Sarbanes-Oxley Act of 2002 applicable to foreign private issuers including the requirement to maintain disclosure controls and procedures, and to provide an annual assessment of our internal controls. The internal control system over financial reporting follows the criteria established in Internal Control – Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (***COSO***). The Issuer's review of the internal control system over financial reporting complies with a specific SEC guideline (Guidance Regarding Management's Report on Internal Control Over Financial Reporting) and is conducted with software support. Initially, regional project teams coordinate the assessment of the internal control system in each region, after which the results are consolidated for the Issuer and its subsidiaries. Based upon this assessment, management evaluates the effectiveness of the internal control system for each fiscal year. External advisers are consulted as needed. A corporate steering committee meets several times per year to review changes and new requirements of the Sarbanes-Oxley Act of 2002, to discuss possible control deficiencies and derive further measures. In addition, in its meetings, the Audit and Corporate Governance Committee of the Supervisory Board is informed regularly of the results of management's assessment.

During the third quarter of the fiscal year ended December 31, 2019, we identified a material weakness in internal control relating to revenue recognition, specifically for estimating the transaction price and constraining the variable consideration of the transaction price for certain fee-for-service revenue arrangements under le-

gal consideration and timely adjusting the constraint of variable consideration when new information arises and determined that this material weakness existed as of December 31, 2018. The material weakness continues to exist as of the date of this Prospectus. Consistent with the Issuer's assessment, KPMG, the Issuer's auditors, for the fiscal year ended December 31, 2019, issued an attestation report expressing an adverse opinion on the effectiveness of internal control over financial reporting, with respect to this material weakness, which is included in the Form 20-F for the fiscal year ended December 31, 2019 as filed with the SEC. See also "*Risk Factors – Risks relating to the Issuer and the Group – Risks Relating to internal control and governance – We have identified material weaknesses in our internal control over financial reporting that could, if not remediated, adversely affect our ability to accurately report our financial condition and results of operations*."

Regulatory and legal matters

Regulatory and compliance overview

Our operations are subject to extensive governmental regulation by virtually every country in which we operate including, most notably, in the U.S., at the federal, state and local levels. Although these regulations differ from country to country, in general, non-U.S. regulations are designed to accomplish the same objectives as U.S. regulations governing the operation of health care centers, laboratories and manufacturing facilities, the provision of high quality health care for patients, compliance with labor and employment laws, the maintenance of occupational, health, safety and environmental standards and the provision of accurate reporting and billing for payments and/or reimbursement. In the U.S., some states establish regulatory processes that must be satisfied prior to the establishment of new health care centers. Outside the U.S., each country has its own payment and reimbursement rules and procedures, and some countries prohibit private ownership of health care providers or establish other regulatory barriers to direct ownership by foreign companies.

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

- failure to receive required licenses, certifications, clearances or other approvals for new or existing services, facilities, or products or significant delays in such receipt;
- complete or partial loss of various certifications, licenses, or other permits required under governmental authority by withdrawal, revocation, suspension, or termination or restrictions of such certificates and licenses by the imposition of additional requirements or conditions, or the initiation of proceedings possibly leading to such restrictions or the partial or complete loss of the required certificates, licenses or permits;
- recoupment of payments received from government payors and government health care program beneficiaries because of any failures to meet applicable requirements;
- a non-appealable finding of material violations of applicable health care or other laws; and
- changes resulting from health care reform or other government actions that restrict our operations, reduce reimbursement or reduce or eliminate coverage for particular products or services we provide.

We must comply with all U.S., German and other legal and regulatory requirements under which we operate, including the U.S. federal Medicare and Medicaid Fraud and Abuse Amendments of 1977, as amended, generally referred to as the ***Anti-Kickback Statute***, the federal False Claims Act, the federal restrictions on certain physician referrals, commonly known as the ***Stark Law***, the U.S. Civil Monetary Penalties Law, including the prohibition on inducements to patients to select a particular health care provider, U.S. federal rules protecting the privacy and security of patient medical information, as promulgated under the Health Insurance Portability and Accounta-

bility Act of 1996 (***HIPAA***) and, as amended by the Health Information Technology for Economic and Clinical Health (***HITECH***) Act (enacted as part of the American Recovery and Reinvestment Act of 2009), and other fraud and abuse laws and similar state statutes, as well as similar laws in other countries.

As a global health care company, we are subject to laws and regulations concerning privacy and data protection. These laws and regulations govern, amongst other elements, the collection, use, disclosure, retention, and transfer of personal data. For example, the European Union's General Data Protection Regulation, which became effective in May 2018, imposes substantial new worldwide obligations on the processing of personal data. These laws continue to develop globally and differ from jurisdiction to jurisdiction, which increases the complexity and costs of our global data protection and security compliance programs. Because of varying legal requirements across the world, the FME Global Privacy Foundation establishes a set of requirements to help ensure appropriate use of personal data throughout its life cycle. While the Foundation creates a baseline compliance requirement for all of our subsidiaries and personnel, we also intend to comply with the requirements of all applicable local laws that impose other or stricter standards.

A number of states in which we operate have laws that prohibit business entities, such as the Issuer, the Guarantor and their subsidiaries, from practicing medicine, employing physicians to practice medicine or exercising control over medical decisions by physicians (known collectively as the corporate practice of medicine prohibition). These states also prohibit entities from engaging in certain arrangements, such as fee-splitting, with physicians. Additional state and local laws and regulations require us to maintain certain licenses and certifications to operate our facilities and/or manufacture and distribute our products and services.

The Patient Protection and Affordable Care Act (Pub.L. 111-148), as amended by the Health Care and Education Reconciliation Act (Pub.L. 111-152) enacted in the U.S. in 2010 and other recent laws expanded the reach of many of these laws and expanded federal enforcement authority. Moreover, there can be no assurance that applicable laws, or the regulations thereunder, will not be amended, or that enforcement agencies or the courts will not make interpretations inconsistent with our own, any one of which could have a material adverse effect on our business, reputation, financial condition and operating results. Sanctions for violations of these statutes may include criminal or civil penalties, such as imprisonment, fines or forfeitures, denial of payments, and suspension or exclusion from the Medicare and Medicaid programs. In the U.S., some of these laws have been broadly interpreted by a number of courts, and significant government funds and personnel have been devoted to their enforcement because such enforcement has become a high priority for the federal government and some states. We, and the health care industry in general, will continue to be subject to extensive federal, state and foreign regulation, the full scope of which cannot be predicted. In addition, the U.S. Congress and federal and state regulatory agencies continue to consider modifications to health care laws that may create further restrictions. In particular, the Trump Administration has publicly announced its intention to pursue significant changes to existing health care insurance programs. In addition, proposals to restructure the Medicare program in the direction of a defined-contribution, premium support model and to shift Medicaid funding to a block grant or per capita arrangement, with greater flexibility for the states, may also be considered. Changes of this nature could have significant effects on our businesses, but, due to the continued uncertainty about the implementation of the ACA, including potential further legal challenges to or significant modifications to or repeal of that legislation, the outcomes and impact of such changes on our business, financial condition and results of operations are currently impossible to quantify or predict.

We maintain a comprehensive worldwide compliance program under the overall supervision of our chief compliance officer. The program includes a compliance staff, a written code of conduct applicable worldwide, training programs, regulatory compliance policies and procedures including corrective action for failure to follow policies, provisions for anonymous reporting of suspected violations of applicable laws or company policies, and periodic internal audits of our compliance procedures. We operate many facilities throughout the United States and other countries in which we do business. In such a decentralized system, it is often difficult to main-

tain the desired level of oversight and control over the thousands of individuals employed by many affiliated companies. We rely on our management structure, regulatory and legal resources, and the effective operation of our compliance program to direct, manage and monitor the activities of these employees. If our employees or their agents or subcontractors, deliberately or inadvertently, were to submit inadequate or incorrect billings to any federally-funded health care program, or engage in unlawful conduct with physicians or other referral sources or vendors with which we do business, the actions of such persons could subject us and our subsidiaries to liability under the Federal Food, Drug, and Cosmetic Act, Anti-Kickback Statute, the Stark Law, the False Claims Act or the Foreign Corrupt Practices Act, among other laws. See "*Business of the Group – Regulatory and Legal Matters – Legal Proceedings*" below.

Product regulation

U.S. pharmaceuticals

In the U.S. numerous regulatory bodies, including the FDA and comparable state regulatory agencies impose requirements on certain of our subsidiaries as a manufacturer, distributor and a seller of drug products under their jurisdiction. Some of the products our subsidiaries manufacture and/or distribute are subject to regulation under the Federal Food, Drug, and Cosmetic Act of 1938, as amended (***FDCA***) and FDA's implementing regulations. They include our peritoneal dialysis and saline solutions, PhosLo® (calcium acetate), Phoslyra® (calcium acetate oral solution), Venofer® (iron sucrose injection, USP), and Velphoro (sucroferric oxyhydroxide). Many of these requirements are similar to those for devices, as described below. We are required to register as an establishment with the FDA, submit listings for drug products in commercial distribution and comply with regulatory requirements governing product approvals, drug manufacturing, labelling, promotion, distribution, post market safety reporting and recordkeeping. We are subject to periodic inspections by the FDA and other authorities for compliance with inspections as well as with federal Centers for Medicare and Medicaid Services average sales price reporting, medical drug rebate program and other requirements. Our pharmaceutical products must be manufactured in accordance with current Good Manufacturing Practices (***cGMP***). We are required to provide information to the FDA whenever we become aware of a report of an adverse drug experience associated with the use of one of our drug products that is both serious and unexpected, as defined in FDA regulations and guidance. We are required to notify the FDA of certain product quality issues. In addition, as with the marketing of our medical devices, in order to obtain marketing approval of our drug products we must satisfy mandatory procedures and safety and efficacy requirements. Furthermore, the FDA prohibits our products division from marketing or promoting our pharmaceutical products in a false or misleading manner and from otherwise misbranding or adulterating them. Finally, if the FDA believes that a company is not in compliance with applicable drug regulations, it has similar enforcement authorities as those discussed below with respect to medical devices, including under the administrative, civil, and criminal penalty provisions of the FDCA. Other state and federal regulatory and enforcement agencies have authority to enforce related fraud, consumer protection, privacy, and other laws. The Trump Administration has announced its intention to simplify and accelerate the process for approval of new drugs. We cannot predict whether or when any such changes will be adopted, or what they will accomplish.

Pharmaceuticals outside the U.S.

Some of our products, such as peritoneal dialysis solutions and PhosLo® and Phoslyra®, are considered medicinal products subject to the specific drug law provisions in various countries. The European Union has issued several directives and regulations on medicinal products, including a directive on medicinal products for human use, No. 2001/83/EC (November 6, 2001), as amended. Each member of the European Union is responsible for conforming its law to comply with this directive. In Germany, the German Drug Law

(*Arzneimittelgesetz*) (***AMG***), which implements several European Union requirements, is the primary regulation applicable to medicinal products.

The provisions of the German Drug Law are comparable with the legal standards in all other European countries. As in many other countries, the AMG provides that a medicinal product may only be placed on the market if it has been granted a corresponding marketing authorization. Such marketing authorization is granted by the licensing authorities only if the quality, efficacy and safety of the medicinal product have been scientifically proven. Medicinal products marketed on the basis of a corresponding marketing authorization are subject to ongoing control by the competent authorities. The marketing authorization may also be subsequently restricted or made subject to specific requirements.

The production of medicinal products requires a corresponding manufacturing license which is granted by the competent authorities of the relevant EU Member State for a specific manufacturing facility and for specific medicinal products and forms of medicinal products. The manufacturing license is granted only if the manufacturing facility, production techniques and production processes comply with the national drug law requirements, with the principles and guidelines of EU-Good Manufacturing Practice (***EU-GMP***) as well as the terms of the particular marketing authorization. International guidelines also govern the manufacture of medicinal products and, in many cases, overlap with national requirements. Material regulations concerning manufacture and registration related to medicinal products have been issued by the European Commission (***EC***) and the International Council on Harmonisation of Technical Requirements for Pharmaceuticals for Human Use (***ICH***). The Pharmaceutical Inspection Co-operation Scheme (***PIC/S***), an international informal cooperative arrangement between regulatory authorities, aims at harmonizing inspection procedures by developing common standards in the field of good manufacturing practices and by providing training opportunities to inspectors. Among other things, the EC, PIC/S and ICH establish requirements for good manufacturing practices, many of which are then adopted at the national level. Another international standard, which is non-binding for medicinal products, is the ISO9001:2015 system for assuring quality management system requirements. This system has a broader platform than EU-GMP, which is more detailed and is primarily acknowledged outside the field of medicinal products, e.g., with respect to medical devices.

U.S. medical devices

Our subsidiaries engaged in the manufacture of medical devices are required to register with the FDA as device manufacturers and submit listing information for devices in commercial distribution. As a manufacturer of medical devices, we are subject to requirements governing premarket approval and clearance, labelling, promotion, clinical research, medical device adverse event reporting, manufacturing practices, reporting of corrections and removals, and recordkeeping, and we are subject to periodic inspection by the FDA for compliance with these requirements. With respect to manufacturing, we are subject to FDA's Quality System Regulation (21 C.F.R. Part 820) and related FDA guidance, which requires us to manufacture products in accordance with cGMP, including standards governing product design. The medical device reporting regulations and guidance require that we report to the FDA whenever we receive or become aware of information that reasonably suggests that a device may have caused or contributed to a death or serious injury, or that a device has malfunctioned and a device or similar device would be likely to cause or contribute to a death or serious injury if the malfunction were to recur. FDA regulations also may require us to conduct product recalls and take certain other product corrective actions in response to potential quality issues. In addition, the FDA prohibits our products division from promoting our manufactured products for unapproved or uncleared indications or in a false or misleading manner. We are also prohibited from promoting unapproved or uncleared drugs or devices more generally. Finally, as with our pharmaceutical products, states impose additional requirements on our drug and device manufacturing and distri-

bution activities, including requiring additional state licenses. We are subject to periodic inspections by the FDA and other authorities for compliance with these requirements.

Medical devices outside the U.S.

In Europe, the requirements to be satisfied by medical devices are laid down in three European directives to be observed by all Member States and all Member States of the EEA, as well as all future accession states: (1) Directive 90/385/EEC of June 20, 1990 relating to active implantable medical devices, as last amended (***AIMD Directive***), (2) Directive 93/42/EEC of June 14, 1993 relating to medical devices, as last amended (***MD Directive***), and (3) Directive 98/79/EC of October 27, 1998 relating to in vitro diagnostic medical devices as last amended (***IVD Directive***). In addition, Directive 2001/95/EC of December 3, 2001, as last amended, concerning product safety should be noted. The MD Directive, has been amended, 2007/47/EC, with the intention to achieve improvements, including in the following areas: clinical assessment by specification of the requirements in more detail; monitoring of the devices after their placing on the market; and decision making by enabling the EC to make binding decisions in case of contradictory opinions of states regarding the classification of a product as a medical device. In the future, the industry will face increasing requirements for medical devices under the new MDR, which came into force on May 25, 2017 and includes a transition period of 3 years for most provisions, after which the MDR will repeal the MD Directive and the AIMD Directive. Although the MDR is self-binding in all member states of the EU, numerous acts of the EC and of national legislation in each member state are necessary to fully implement the new legal provisions. These new provisions essentially include higher safety standards to be met by medical devices and therefore require a new conformity evaluation and re-certification of all medical devices regardless of whether they have already been placed on the market. There can be a prolonged transition phase, based on a valid EC certificate according to MD Directive, which will allow manufacturers until May 2024, at the latest, to continue to place their medical devices on the market and to align them with the MDR. The IVD Directive will be repealed by Regulation (EU) 2017/746 on in vitro diagnostic medical devices, which also came into force in May 25, 2017 and provides for a transition period of 5 years.

According to the current EU directives relating to medical devices, the CE mark shall serve as a general product passport for all Member States of the EU and the EEA. Upon receipt of a CE certificate for a product according to the applicable conformity assessment procedure, e.g. a certified full quality management system for medical devices according to ISO 13485:2016, and the documented declaration and proof of conformity of our products to the harmonized European norms (Declaration of Conformity), we as the legal manufacturer are able to mark products as being in compliance with the EU requirements. If able to do so, the manufacturer must place a CE mark on the products. Medical devices that do not bear the CE mark cannot be imported, sold or distributed within the EU.

Clinical Research

Our subsidiaries engaged in the manufacture and sale of drugs and devices, when engaged in clinical research involving investigational products, are subject to FDA and other requirements governing the conduct of clinical research, including Good Clinical Practice (GCP) standards. Similarly, our subsidiaries involved in the provision of clinical development services may also be subject to FDA and other requirements governing the conduct of clinical research depending on the nature of the research involved.

FDA enforcement action

If the FDA believes that a regulated company is not in compliance with applicable laws and regulations, it can pursue various administrative and enforcement actions, including, for example, issuing an untitled or warning letter, initiating a seizure action, or seeking an injunction. Among other things, these actions can

result in the assessment of administrative penalties, product recalls, and civil or criminal enforcement. Such actions could also lead to additional enforcement by other state or federal government agencies as well as law suits by patients or shareholders.

On April 6, 2011, the FDA issued to us a warning letter alleging that we marketed certain blood tubing sets without required premarket 510(k) clearance, in response to which we ceased marketing and distributing those blood tubing sets that were the subject of a January 2011 recall. We received 510(k) clearance for the blood tubing set product from the FDA on June 15, 2012 and subsequently recommenced marketing and distribution of these products. In addition, we have completed a comprehensive review of our 510(k) filings and submitted our findings to the FDA, and we continue to work with the FDA regarding effective submission strategies for certain product lines.

On March 29, 2012, we issued an urgent product notification regarding our NaturaLyte® Liquid and Granuflo® acid concentrate products that are used as one component of dialysate. The notification, which was also incorporated into revised product labels, reflected a memorandum issued by the Fresenius Medical Services Chief Medical Office in November 2011 and cautioned clinicians about possible risks for acid-base management in patients associated with inappropriate prescription of these products. The FDA subsequently classified the notification and related labelling revisions as a Class I recall, and issued its own Safety Communication warning to physicians about the need to prescribe all acid concentrate products currently available on the market appropriately. See "*Business of the Group – Regulatory and Legal Matters – Legal Proceedings*" below for additional information and for information relating to our NaturaLyte® Liquid and Granuflo® acid concentrate products.

After reconsideration of the November 2011 memorandum, the FDA in May 2014 permitted us to withdraw the March 29, 2012 notification and to revise its product labels consistently with that withdrawal. The FDA has not requested any change in the composition of our acid concentrate products, nor has it requested any return or removal of products in connection with the controversy surrounding the November 2011 memorandum. The FDA's Safety Communication directed at all dialysate products remains in effect. Wrongful death, personal injury, and other litigation predicated on the November 2011 memorandum was substantially resolved by settlement consummated in November 2017. See "*Business of the Group – Regulatory and Legal Matters – Legal Proceedings*" below.

We cannot assure that all necessary regulatory clearances or approvals, including those for new products or product improvements, will be granted on a timely basis, if at all. Delays in or failure to receive clearance or approval or delays in or failures to carry out product recalls may result in liability and reputational harm and may materially adversely affect our operating results. If at any time the FDA believes we are not in compliance with applicable laws and regulations, the FDA could take administrative, civil, or criminal enforcement action, resulting in liability and reputational harm, which could materially affect our operating results.

Sales of dialysis products to Iran

We actively employ comprehensive policies, procedures and systems to ensure compliance with applicable controls and economic sanctions laws. We have allocated resources to design, implement and maintain a compliance program specific to our U.S. and non-U.S. activities. At the same time, our dedication to providing its life-saving dialysis products to patients and sufferers of end-stage renal disease extends worldwide, including conducting humanitarian-related business with distributors in Iran in compliance with applicable law. In particular, our product sales to Iran from Germany are not subject to the EU's restrictive measures against Iran established by Council Regulation (EU) No. 267/2012 of March 23, 2012, as last amended by Commission Implementing Regulation (EU) 2019/1163 of July 5, 2019, as our products sold to

Iran do not fall within the scope of the EU sanctions and none of the end users or any other person or organization involved is listed on the relevant EU sanctions lists. Because our sales to Iran were and are made solely by its German subsidiaries, the sales are not subject to the Iranian Transactions and Sanctions Regulations, 31 C.F.R Part 560 ***(ITSR***), and are not eligible for licenses from the U.S. Treasury Department's Office of Foreign Assets Control (***OFAC***) pursuant to the Trade Sanctions Reform and Export Enhancement Act of 2000. Also, ITSR § 560.215(a) is not applicable in the present case because we do not have a U.S. parent company and is not in any other way owned or controlled by a United States person, as those terms are used in ITSR § 560.215(a), and our affiliates involved in Iran-related transactions are also not "owned or controlled" by a United States person. That we have a U.S. subsidiary does not cause the ITSR to apply to our Iran-related transactions (because the sales by our non-U.S. affiliates are outside the scope of ITSR §560.215(a)). In any case, OFAC's public guidance provides that sales of medical devices to Iran by non-U.S. companies are generally subject to humanitarian exceptions under U.S. sanctions targeting Iran.

During the fiscal year ended December 31, 2019, we sold approximately EUR 1 million of dialysis products to independent Iranian distributors and other foreign distributors for resale, processing and assembling in Iran. The products included fibre bundles, hemodialysis concentrates, dialysis machines and parts, and related disposable supplies. The sales of these products generated approximately EUR 300,000 in operating income. All such sales were made by our German subsidiaries. Based on information available to us, we believe that most if not all products were eventually sold to hospitals in Iran through state purchasing organizations affiliated with the Iranian Ministry of Health and were therefore sales to the "Government of Iran" as defined in ITSR § 560.304. The Issuer's 2019 sales to Iran represent 0.01% of its total revenues. Neither the Issuer nor the Guarantor have subsidiaries, affiliates or offices, or have any direct investment or own any assets, in Iran. In light of the humanitarian nature of its products and the patient communities that benefit from our products, we expect to continue selling dialysis products to Iran, provided such sales continue to be permissible under applicable export control and economic sanctions laws and regulations.

Potential changes impacting our private payors

On August 18, 2016, CMS issued a request for information (***RFI***) seeking public comment about providers' alleged steering of patients inappropriately to individual plans offered on the Patient Protection and Affordable Care Act individual health insurance market. The Guarantor and other dialysis providers, commercial insurers and other industry participants responded to the RFI, and in that response, we reported that we do not engage in such steering. On December 14, 2016, CMS published an Interim Final Rule (***IFR***) titled "Medicare Program; Conditions for Coverage for End-Stage Renal Disease Facilities-Third Party Payment" that would amend the Conditions for Coverage for dialysis providers, like the Guarantor. The IFR would have effectively enabled insurers to reject premium payments made by patients who received grants for individual market coverage from the American Kidney Fund (***AKF***) and therefore, could have resulted in those patients losing their individual market health insurance coverage. The loss of individual market coverage for these patients would have had a material and adverse impact on our operating results. See "*Risk Factors – Changes in reimbursement and/or governmental regulations for health care could materially decrease our revenues and operating profit*". On January 25, 2017, a federal district court in Texas, responsible for litigation initiated by a patient advocacy group and dialysis providers including the Guarantor, preliminarily enjoined CMS from implementing the IFR (Dialysis Patient Citizens v. Burwell (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 in the fall of 2017 which they ultimately did not publish. Plaintiffs in the litigation, including the Guarantor, consented to the stay, which was granted by the court.

Separately, HHS has drafted a new proposed rule "Conditions for Coverage for End-Stage Renal Disease Facilities – Third Party Payments'' (CMS-3337-P). While the proposed rule has been under review by the Office of Management and Budget since June 2019, and HHS identified a target date of (11/00/19) for publication, the proposed rule has not yet been published for comment.

The operation of charitable assistance programs like that of the AKF is also receiving increased attention by state insurance regulators and legislators. The result may be a regulatory framework that differs from state to state. Even in the absence of the IFR or similar state actions, insurers are likely to continue efforts to thwart charitable premium assistance to our patients for individual market plans and other insurance coverages. If successful in a material area or scope of our U.S. operations, these efforts would have a material adverse impact on our business and operating results.

On January 3, 2017, the Guarantor received a subpoena from the United States Attorney for the District of Massachusetts inquiring into its interactions and relationships with AKF, including its charitable contributions to the Fund and the Fund's financial assistance to patients for insurance premiums. The Guarantor cooperated with 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 an order announcing that the United States had declined to intervene on a qui tam complaint underlying the Boston United States Attorney's Office (***USAO***) 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.

U.S. ballot initiatives and other legislation

Further federal or state legislation or regulations may be enacted in the future through legislative and public referendum processes that could substantially modify or reduce the amounts paid for services and products offered by us and our subsidiaries and/or mandate new or alternative operating models and payment models that could present more risk to our health care service operations. Ballot initiatives that are successfully introduced at the state level in the United States require the vote of state citizens to directly adopt or reject proposed new legislation. These ballot initiatives require a material expenditure of resources by us to participate in public discourse regarding the proposed new legislation underlying the initiatives, which if passed, could further regulate multiple aspects of our operations including, for instance, clinic staffing requirements, state inspection requirements and profit margins on commercial business. Efforts to enact new state laws regarding our operations are continuing. 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. 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 positive or adverse effects, possibly material, on our businesses and results of operations.

Environmental regulation

We are subject to a broad range of federal, foreign, state and local laws and regulations relating to pollution and the protection of the environment. These laws regulate, among other things, the discharge of materials into the environment, the handling and disposal of wastes, remediation of contaminated sites and other matters relating to worker, public and consumer health, and safety as well as to the protection of the environment. In addition, we use substances regulated under U.S. and EU environmental laws, primarily in product design as well as manufacturing and sterilization processes. Noncompliance with these regulations can result in significant fines or penalties or limitations on our operations. The applicable environmental, health and safety laws and regulations, and any changes to them or their enforcement, may require us to make material expenditures with respect to ongoing compliance with or remediation under

these laws and regulations or require that we modify our products or processes in a manner that increases our costs or reduces revenues.

An Environmental Management System (***EMS***) based on ISO 14001:2015 has been established in our main European production plants and in a high number of dialysis clinics in the European region. Compliance with environmental laws and regulations is a core objective of our EMS. Internal and external audits are organized and performed to verify compliance with EMS requirements and applicable environmental laws and regulations. For additional information, see "-- Environmental Management," above.

Facilities and operational regulation

U.S.

Federal, state and local regulations (implemented by CMS, FDA, the Occupational Health and Safety Administration (***OSHA***), the Drug Enforcement Administration, and state departments or boards of public health, public welfare, medicine, nursing, pharmacy, and medical assistance, among others) require us to meet various standards relating to, among other things, the management, licensing, safety, security and operation of facilities (including, e.g., laboratories, pharmacies, and clinics), personnel qualifications and licensing, the maintenance of proper records, equipment, and quality assurance programs, and the dispensing, storage, and administration of controlled substances. All of our operations in the U.S. are subject to periodic inspection by federal, state and local agencies to determine if the operations, premises, equipment, personnel and patient care meet applicable standards. To receive Medicare/Medicaid reimbursement, our health care centers, renal diagnostic support business and laboratories must be certified by CMS. While all of our entities that furnish Medicare or Medicaid services maintain and renew the required certifications, material adverse effects on our business, financial condition, and results of operations could potentially occur if certain of those entities lose or are delayed in renewing a certification.

Our operations are subject to various U.S. Department of Transportation, Nuclear Regulatory Commission, Environmental Protection Agency, and OSHA requirements and other federal, state and local hazardous and medical waste disposal laws. As currently in effect, laws governing the disposal of hazardous waste do not classify most of the waste produced in connection with the provision of our health care services as hazardous, although disposal of non-hazardous medical waste is subject to specific state regulation. Our operations are also subject to various air emission and wastewater discharge regulations.

Several states have certificate of need programs regulating the establishment or expansion of health care facilities, including dialysis centers. We believe that we have obtained all necessary approvals for the operation of our health care facilities in accordance with all applicable state certificate of need laws. In states that also have certificate of need programs, the licensure requirements are separate and in addition to the need for certificates of need

Non-U.S.

We are subject to a broad spectrum of regulation in almost all countries. Our operations must comply with various environmental and transportation regulations in the various countries in which we operate. Our manufacturing facilities and dialysis clinics are also subject to various standards relating to, among other things, facilities, management, personnel qualifications and licensing, maintenance of proper records, equipment, quality assurance programs, the operation of pharmacies, the protection of workers from blood-borne diseases and the dispensing of controlled substances. All of our operations may be subject to periodic inspection by various governmental authorities to determine if the operations, premises, equipment, personnel and patient care meet applicable standards. Our dialysis clinic operations and our related activities

generally require licenses, which may be subject to periodic renewal and may be revoked for violation of applicable regulatory requirements.

In addition, many countries impose various investment restrictions on foreign companies. For instance, government approval may be required to enter into a joint venture with a local partner. Some countries do not permit foreign investors to own a majority interest in local companies or require that companies organized under their laws have at least one local shareholder. Investment restrictions therefore affect the corporate structure, operating procedures and other characteristics of our subsidiaries and joint ventures in these and other countries.

In response to the COVID-19 pandemic, on March 2020 the European Commission issued new guidelines to ensure an EU-wide approach to foreign investment screening in a time of public health crisis and related economic vulnerability. The aim is to preserve EU companies and critical assets, notably in areas such as health, medical research, biotechnology and infrastructures that are essential for security and public order, without undermining the EU's general openness to foreign investment. The Commission calls upon Member States that already have an existing screening mechanism in place to make full use of tools available to them under EU and national law to prevent capital flows from non-EU countries that could undermine Europe's security or public order. The Commission also calls on the remaining Member States to set up a fully-fledged screening mechanism and in the meantime to consider all options, in compliance with EU law and international obligations, to address potential cases where the acquisition or control by a foreign investor of a particular business, infrastructure or technology would create a risk to security or public order in the EU.

We believe our facilities are currently in compliance in all material respects with the applicable national and local requirements in the jurisdictions in which they operate.

Reimbursement

As a global company delivering health care and dialysis products, we are represented in around 150 countries worldwide. Consequently, we face the challenge of addressing the needs of a wide variety of stakeholders, such as patients, customers, payors and legislators in very different economic environments and health care systems.

Health care systems and reimbursement structures for ESRD treatment vary significantly by country. In general, the government (in some countries in coordination with private insurers) or social insurance programs pay for health care. Funding is achieved through taxes and other sources of government income, from social security contributions, or a combination of those sources. However, not all health care systems provide for dialysis treatment. In some developing countries, only limited subsidies from government, social insurances or charitable institutions are available, and typically dialysis patients must personally finance all or a substantial share of the treatment cost. Irrespective of the funding structure, in some countries patients in need of dialysis do not receive treatment on a regular basis but rather when the financial resources allow it.

U.S.

Our dialysis clinics provide outpatient hemodialysis treatment and related services for ESRD patients. In the U.S., Medicare pays as the primary insurer for Medicare-eligible individuals under most circumstances. For Medicare primary patients, Medicare pays 80 percent of the prospective payment amount for the ESRD PPS items and services. The beneficiary or third-party insurance payors (including employer-sponsored health insurance plans, commercial insurance carriers and the Medicaid program) on behalf of the beneficiary are responsible for paying the beneficiary’s cost-sharing obligations (typically an annual deductible and 20 percent co-

insurance), subject to the specific coverage policies of such payors. Each third-party payor, including Medicaid, makes payment under contractual or regulatory reimbursement provisions that may or may not cover the full 20 percent co-payment or annual deductible. Where the beneficiary has no third-party insurance or the third-party insurance does not fully cover the co-payment or deductible, the beneficiary is responsible for paying the co-payments or the deductible, which we frequently cannot fully collect despite collection efforts. Medicare Advantage plans are required to pay to their out-of-network providers at least the rate applicable in the traditional Medicare fee-for-service program. As a result, Medicare Advantage plans with which we do not have a contract will pay at least 80 percent of the prospective payment amount for the ESRD PPS items and services we provide their members. We have also entered into network contracts with several Medicare Advantage plans pursuant to which we may be entitled to higher reimbursement than traditional Medicare rates.

Medicare's ESRD Prospective Payment System. Under the ESRD PPS, CMS reimburses dialysis facilities with a single payment for each dialysis treatment, inclusive of (i) all items and services included in the former composite rate, (ii) oral vitamin D analogues, oral levocarnitine, ESAs and other ESRD-related pharmaceuticals (other than vaccines and oral-only drugs) furnished to ESRD patients that were previously reimbursed separately under Part B of the Medicare program, (iii) most dialysis-related diagnostic laboratory tests and (iv) certain other items and services furnished to individuals for the treatment of ESRD.

Payment rates vary by both patient and facility. CMS subjects a base ESRD PPS payment rate to case-mix adjustments that take into account individual patient characteristics (e.g., age, body surface area, body mass) and certain co-morbidities. The base payment rate is also adjusted for (i) certain high cost patient outliers reflecting unusual variations in medically necessary care, (ii) disparately high costs incurred by low volume facilities relative to other facilities, (iii) provision of home dialysis training and (iv) wage-related costs in the geographic area in which the provider is located. The Protecting Access to Medicare Act of 2014 (***PAMA***) provides that rates will be updated by the market basket rate of increase net of multifactor productivity adjustment.

On October 31, 2019, CMS issued a final rule for the ESRD PPS rate for CY 2020. On average, large dialysis organizations will receive a 1.7% increase in payments under this final rule. The base rate per treatment is USD 239.33 which represents a 1.7% increase from the 2019 base rate including the adjustment for the wage index budget-neutrality factor. The 2020 final rule reflects a market basket increase of 2% that is partially offset by a 0.3% multifactor productivity adjustment (as mandated by the ACA) and application of the wage index budget-neutrality adjustment factor of 1.000244. The 2020 ESRD PPS rate retains the 2019 wage index floor of 0.5000. The labor-related portion of the ESRD PPS base rate to which the wage index is applied will be 52.3% in 2020. CMS updated the AKI payment rate for CY 2020 to USD 239.33, which is the same as the base rate finalized under the ESRD PPS for CY 2020. In the final rule, effective January 1, 2020, CMS also revised the transitional drug add-on payment adjustment (***TDAPA***). Under the CY 2019 final rule, all new renal dialysis drugs and biological products became eligible for TDAPA, not just those in new ESRD PPS functional categories. However, in the CY 2020 final rule, CMS narrowed that policy to exclude from eligibility certain non-innovative drugs approved by FDA (e.g., generics, reformulations of existing drugs, and other types of new drug applications that do not represent truly new therapies). In the CY 2019 final rule, CMS also changed the basis of payment for the TDAPA from pricing methodologies under section 1847A of the Act, which includes average sales price (***ASP***) plus 6 percent (***ASP+6***), to 100 percent of ASP (***ASP+0***). However, that change did not apply to calcimimetics under the TDAPA. In the CY 2020 final rule, CMS extended pricing based on ASP+0 to calcimimetics under the TDAPA.

In the CY 2020 ESRD PPS final rule, CMS updated the outlier policy and outlier services fixed-dollar loss (***FDL***) amounts and Medicare Allowable Payment (***MAP***) amounts for adult and pediatric patients, using 2018 claims data. CMS has consistently lowered the MAP amount each year under the ESRD PPS. For CY 2019, outlier payments represented only 0.5 percent of total ESRD payments, and CMS believes that using CY 2018

claims data to update the outlier MAP and FDL amounts for CY 2020 will increase payments for ESRD beneficiaries requiring higher resource utilization in accordance with a target 1 percent outlier percentage.

Sequestration of Medicare payments. On August 2, 2011, the BCA was enacted, raising the U.S. debt ceiling and putting into effect a series of actions for deficit reduction. The BCA, in effect, required automatic across-the-board spending cuts for most government programs over nine fiscal years (2013-2021); these cuts were projected to total USD 1.2 trillion. The first cuts for Medicare payments to providers and suppliers were implemented on April 1, 2013. The Bipartisan Budget Act of 2013 extended the cuts to mandatory spending programs, including Medicare, for an additional two years. The reduction in Medicare payments to providers and suppliers (the ***U.S. Sequestration***) is limited to one adjustment of no more than 2 percent in each year through 2022, rising to 2.9 percent for the first half of the fiscal year 2023 and dropping to 1.11 percent for the second half of the fiscal year 2023. As mandated by PAMA, the reductions pursuant to the U.S. Sequestration for the first six months of 2024 will be 4 percent, and there will be no reductions for the second six months of 2024. The U.S. Sequestration is independent of Medicare's annual inflation update mechanisms, such as the market basket update pursuant to the ESRD PPS.

PAMA also included a provision addressing ESRD-related drugs with only an oral form, which are referred to as ***oral-only*** drugs and which have been paid separately. In the future, these drugs are expected to be reimbursed under the ESRD PPS, and the Secretary of Health and Human Services is expected to adjust the ESRD PPS payment rates to reflect the additional cost to dialysis facilities of providing these medications. Subsequently, the Achieving a Better Life Experience Act of 2014 delayed inclusion of oral-only drugs in the ESRD PPS until January 1, 2025. At present only phosphate binders, including PhosLo®, are considered "oral-only" drugs. As described below, calcimimetics were considered to be oral-only drugs until a non-oral calcimimetic entered the market in 2018.

In a final rule published on November 6, 2015, CMS provided for implementation of the PAMA oral-only provision. 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. However, for at least two years, CMS will pay for both oral and non-oral versions of the drug using a TDAPA. During this transition period, CMS will not pay outlier payments for these drugs, but the agency will collect data reflecting utilization of both the oral and injectable or intravenous forms of the drugs, as well as payment patterns, in order to help determine how to appropriately adjust the ESRD PPS payment rate as these drugs are included in the payment bundle. At the end of this transition period, CMS will incorporate payment for the oral and non-oral versions of the drug in the ESRD PPS payment rates, utilizing a public rulemaking process.

As noted above, the CY 2020 final rule modified the eligibility policy for the TDAPA applicable to renal dialysis drugs and biologicals. The revised drug designation policy, including the revised TDAPA payment policy, took effect January 1, 2020. CMS will pay for Sensipar and Parsabiv™ for the remainder of the transition period based on ASP+0.

The introduction of Parsabiv™, an intravenous calcimimetic, has resulted in changes in how some payors, other than Medicare, arrange for the provision of calcimimetics for their patients. While some patients continue to receive calcimimetics from their pharmacies as a pharmacy benefit, other patients receive calcimimetics from their dialysis providers, as a medical benefit. While we receive additional reimbursement from some payors when these drugs are provided by our clinics, this type of transition from an oral-only drug has not occurred previously and the reimbursement landscape for non-Medicare payors continues to evolve.

Several generic calcimimetic products have been approved by the FDA. The Guarantor has been able to purchase certain of these generic calcimimetic products at rates that are lower than the rate paid for the brand name calcimimetic, Sensipar.

Revisions to Medicare's Physician Fee Schedule. The Medicare and CHIP Reauthorization Act of 2015 (***MACRA***) removed the periodic threat of substantial reductions in payment rates under the Physician Fee Schedule (***PFS***) that could have, if they had been permitted to take effect, significantly affected our businesses and those of our affiliated physicians. MACRA permanently removed the "sustainable growth rate" provision and in its place specified modest increases in PFS payment rates for the next several years. MACRA creates an elaborate scheme of incentive payments and penalty adjustments starting in 2019 based on 2017 physician performance as reflected in various measures of cost, use of health information technology, practice improvement activities, and quality of care and on possible participation in "advanced alternative payment models," such as some accountable care organizations. We cannot predict whether this scheme is likely to have material effects on our revenues and profitability in our nephrology, urgent care, vascular, cardiovascular and endovascular speciality services. Through an annual rule-making cycle, CMS revises PFS payment rates to account for across-the-board updates as well as, from time to time, changes in the evaluation of physician work and practice expenses used to set rates for individual services paid under the PFS. While impacts of large changes are usually spread out over several years, such changes have the potential to affect the rates for specific services that are extensively furnished in our physician businesses and hence to affect materially the revenues of those businesses.

On November 15, 2016, CMS issued the final rule updating the Physician Fee Schedule for CY 2016, in which it substantially reduced the reimbursement rates for certain vascular access services provided in the physician office setting. For the range of procedures provided in a vascular access center, these cuts represent an average reduction of 20.5 percent compared to the prior year. For the most common dialysis access related procedures, the cuts averaged as 32.2 percent compared to the prior year. Azura Vascular Care (previously known as Fresenius Vascular Care) is converting many of its facilities into ambulatory surgery centers. This more regulated model allows Azura Vascular Care to enhance coordination of care and expand services while offering a more specialized and less costly site of service as compared to hospital settings. Converting facilities to ambulatory surgical centers will require capital, take time and be subject to applicable federal and state regulations; certificates of need will be required in some states.

On November 1, 2019, CMS issued the 2020 final rule for hospital outpatient and ambulatory surgery center payment systems. For CY 2020, CMS will continue to pay for services covered by certain dialysis vascular access codes at the Ambulatory Surgical Center (***ASC***) rate. The final rule updating the ASC Fee Schedule for CY 2020 generally increased the reimbursement rates for certain vascular access services. For the range of procedures provided in an ASC, the average increase is 3.4 percent compared to the prior year. CMS also updated the Physician Fee Schedule for CY 2020. For the range of procedures provided in a physician office, the CY 2020 Physician Fee Schedule represents, on average, no change in reimbursement compared to the prior year.

ESRD PPS quality incentive program. The ESRD PPS's Quality Incentive Program (***QIP***) affects Medicare payments based on performance of each facility on a set of quality measures. Based on a prior year's performance, dialysis facilities that fail to achieve the established quality standards have payments for a particular year reduced by up to 2 percent. CMS updates the set of quality measures each year, adding, revising or retiring measures.

In the 2020 ESRD PPS final rule, CMS finalized several programmatic updates to the ESRD QIP and codified data submission requirements for calculating measure scores. Under the ESRD QIP program, CMS assesses the total performance of each facility on measures specified per payment year and applies an appropriate payment reduction to each facility that does not meet a minimum total performance score (***TPS***). For performance year 2022, CMS estimated that a facility must meet or exceed a minimum TPS of 54 in order to avoid a payment reduction. CMS updated the scoring methodology for the National Healthcare Safety Networks Dialysis Event reporting measure to allow new eligible facilities to report data on the measure. The

2020 ESRD PPS final rule automatically advances the performance period and baseline period for each payment year by one year from the previous year, beginning with the PY 2024 payment year. The 2020 ESRD PPS final rule also includes requirements for the Extraordinary Circumstances Exception (***ECE***) process, which grants facilities exceptions to certain reporting requirements in the QIP. In the final rule, CMS converts the Standardized Transfusion Ratio (***STrR***) clinical measure used in the QIP to a reporting measure while it examines the validity of the STrR clinical measure. The final rule also finalizes payment reductions of up to two percent for the PY 2022 ESRD QIP. The total payment reductions for the approximate 1,871 out of 7,386 Medicare-enrolled dialysis facilities expected to receive a payment reduction is approximately USD 18.2 million for the 2020 performance year.

ACA provides for broad health care system reforms, including (i) provisions to facilitate access to private health insurance, (ii) expansion of the Medicaid program, (iii) industry fees on device and pharmaceutical companies based on sales of brand name products to government health care programs, (iv) increases in Medicaid prescription drug rebates, (v) commercial insurance market reforms that protect consumers, such as bans on lifetime and annual limits, coverage of pre-existing conditions, and limits on waiting periods, (vi) provisions encouraging integrated care, efficiency and coordination among providers (vii) provisions for reduction of health care program waste and fraud and (viii) a 2.3 percent excise tax on manufacturers' medical device sales starting in 2013. However, pursuant to the Consolidated Appropriations Act of 2016, enacted December 18, 2015, the medical device excise tax was suspended for all sales of such devices in 2016 and 2017. On January 22, 2018, Congress passed a continuing resolution that further extended this moratorium for 2018 and 2019. In December 2019, Congress passed, and President Trump signed, a full fiscal year 2020 domestic appropriations package that permanently repeals the medical device tax. In 2017, Congress considered legislation to "repeal and replace" ACA and may return to these issues in the future, but we cannot predict what provisions will be affected and what changes will result. Further, the Trump Administration may take various administrative actions that could materially affect how ACA provisions are implemented. We cannot predict the nature, extent, or impact of any such actions.

ACA includes a provision referred to as the individual mandate that requires most U.S. citizens and noncitizens to have health insurance that meets certain specified requirements or be subject to a tax penalty. On December 22, 2017, President Trump signed into law sweeping changes to the U.S. Internal Revenue Code of 1986, as amended. Among the provisions included in the law was an amendment to this ACA provision that reduced to zero the excise tax penalty imposed on individuals who do not obtain minimum essential health care coverage. The provision became effective starting in 2019. The Congressional Budget Office estimated in November of 2017 that elimination of the mandate has the potential to decrease the number of individuals with health insurance by approximately 4 million in 2019 and premiums are likely to increase because healthier individuals are likely to opt out of paying for health insurance without the influence of a penalty. On February 26, 2018, the Texas and Wisconsin Attorneys General, leading a 20-state coalition, filed a lawsuit challenging the constitutionality of the ACA in the Northern District of Texas titled Texas and Wisconsin, et al v. United States, et al (N.D. Tex). The plaintiffs argued that because the amendment "renders legally *impossible* the Supreme Court's prior savings construction of the Affordable Care Act's core provision – the individual mandate – the Court should hold that the ACA is unlawful and enjoin its operations." On December 14, 2018, the Court granted a partial summary judgment finding the individual mandate unconstitutional and the remaining provisions of the ACA inseparable, and therefore invalid, and granted the plaintiffs' claim for declaratory relief in Count 1 of the amended complaint. On December 30, 2018, the Court issued a final judgment on Count 1, which enabled the decision to be appealed. In December 2019, a three judge panel from the United States Court of Appeals for the Fifth Circuit affirmed a district court ruling that found the individual mandate to be unconstitutional because it can no longer be read as a tax, and there is no other constitutional provision that justifies this exercise of congressional power. The case, *Texas v. Azar*, remanded to the district court to provide additional analysis of the other provisions of the ACA as they currently exist. A decision on remand is expected in 2020, and a petition to the Supreme Court is likely to follow, making the outcome of this ACA litigation uncertain for some

time. On December 31, 2018, the Court entered an order staying the remainder of the case pending resolution of the appeal. It is not possible for us to predict the outcome of this lawsuit or what if any impact the elimination of the individual mandate will have on the patients seeking our products and services.

Pharmaceuticals. We participate in the federal Medicaid rebate program established by the Omnibus Budget Reconciliation Act of 1990, as well as several state supplemental rebate programs. We make our pharmaceutical products available to authorized users of the Federal Supply Schedule (***FSS***) of the General Services Administration under an FSS contract negotiated by the Department of Veterans Affairs (***VA***). Under our license to market and distribute the intravenous iron medication Venofer® to freestanding dialysis clinics, we also are considered, for statutory price reporting purposes, to be the manufacturer of Venofer® (when sold by us under one of our national drug codes (***NDCs***)), which is reimbursed under Part B of the Medicare program. Our products also are subject to a federal requirement that any company participating in the Medicaid rebate or Medicare program charge prices comparable to the rebates paid to State Medicaid agencies on purchases under the Public Health Services (***PHS***) pharmaceutical pricing program managed by the HHS (also known as the "340B program" by virtue of the section of the Public Health Service Act *(**PHSA***) that created the program). The PHS pricing program extends these deep discounts on outpatient drugs to a variety of community health clinics and other entities that receive health services grants from the PHS, certain "look alikes," as well as various other providers. ACA expanded the 340B program to include additional providers.

Under the Medicaid rebate program, we pay a rebate to each state Medicaid program based upon sales of our covered outpatient drugs that are separately reimbursed by those programs. ACA increased the minimum federal Medicare rebate percentages, effective January 1, 2010. Rebate calculations and price reporting rules are complex and, in certain respects, subject to interpretations of law, regulation, or policy guidance by us, government or regulatory agencies and the courts. The Medicaid rebate amount is computed each quarter based on our submission to CMS of our current Average Manufacturer Price (***AMP***) and Best Price for our pharmaceutical products. The Veterans Health Care Act imposes a requirement that the prices we charge to certain federal entities under the FSS must be no greater than the Federal Ceiling Price, which is determined by applying a statutory discount to the average price charged to non-federal customers through wholesalers. Because the amount the government pays to reimburse the cost of a drug under Part B of the Medicare program is ordinarily based on the drug's ASP, additional price calculation and reporting obligations are imposed on the manufacturers of Part B drugs under that program (to the extent these manufacturers participate in the Medicaid rebate program, from which an obligation to report Part B drug prices flows). Since Venofer® is covered under Part B, we are responsible for compiling and utilizing a wide range of sales data elements to determine the ASP of Venofer® marketed under our NDC, and reporting it to CMS. The Medicare ESRD PPS system incorporates payment for Venofer® at dialysis facilities.

Government agencies may make changes in program interpretations, requirements or conditions of participation, and retain the right to audit the accuracy of our computations of rebates and pricing, some of which may result in implications (such as recoupment) for amounts previously estimated or paid which may have a material adverse effect on our operating results.

Laboratory tests. Spectra obtains a portion of its revenue from Medicare, which pays for clinical laboratory services provided to dialysis patients in two ways. Payment for most tests is included in the ESRD PPS bundled rate paid to dialysis clinics. The dialysis clinics obtain the laboratory services from laboratories and pay the laboratories for the services. In accordance with industry practice, Spectra usually provides such testing services under capitation agreements with its customers pursuant to which it bills a fixed amount per patient per month to cover the laboratory tests included in the ESRD PPS rate at the frequencies designated in the capitation agreement. Second, the few laboratory tests performed by Spectra for Medicare beneficiaries that are not included in the ESRD PPS bundled rate are billed separately to Medicare. Such tests are paid at 100 percent of

the payment amounts on Medicare's Clinical Laboratory Fee Schedule (***CLFS***), although payment rates are further reduced by a 2% sequestration adjustment that remains in place until further notice.

PAMA requires CMS to substantially revise how payment rates are determined under the CLFS. Through regulations, CMS delayed the effective date of the new payment rates from January 1, 2017 (as required by PAMA) to January 1, 2018. The new rates will be determined based on the median of rates paid by private payors for these tests in the period before the new rates take effect. The new rates will be effective for most tests for a three-year period, with no updates during that period for inflation or other factors. PAMA provides that rate declines will be limited to 10 percent in each of the first three years. Final estimates of the effects of the new rate-setting system on CLFS revenues are not yet available, but in general payment rates for most tests paid on the CLFS will decline. These declines are not expected to directly affect Spectra's principal source of revenue, payments from dialysis facilities for laboratory tests included in the ESRD PPS. We cannot predict whether Spectra may witness indirect effects in future years as the laboratory industry and its customers adjust to the new CLFS rates.

Coordination of benefits. Medicare entitlement begins for most patients at least three months after the initiation of chronic dialysis treatment at a dialysis center. During the first three months, considered to be a waiting period, the patient or patient's insurance, Medicaid or a state renal program is generally responsible for payment.

Patients who are covered by Medicare and are also covered by an employer group health plan (***EGHP***) are subject to a 30-month coordination period during which the EGHP is the primary payor and Medicare the secondary payor. During this coordination period the EGHP pays a negotiated rate or in the absence of such a rate, our standard rate or a rate defined by its plan documents. The EGHP payments are generally higher than the Medicare payment. EGHP insurance, when available, will therefore generally cover as the primary payor for a total of 33 months, including the 3-month waiting period plus the 30-month coordination period. Any significant decreases in EGHP reimbursement rates could have material adverse effects on our provider business and, because the demand for our products is affected by provider reimbursement, on our products business.

Participation in new Medicare payment arrangements. For information on our value-based agreements and health insurance products, see "*Business of the Group – Care Coordination – Value and risk-based arrangements*," above.

Executive order-based models. On July 10, 2019, President Trump signed an Executive Order on advancing kidney health. Among other things, the order instructs the Secretary of HHS to develop new Medicare payment models that will encourage identification and treatment earlier in kidney disease progression as well as increased home dialysis and transplant. One of those models, the ESRD Treatment Choices (***ETC***) model, is a mandatory model that will create financial incentives for home treatment and transplant. This model proposes to apply both positive and negative payment adjustments to claims submitted by physicians and dialysis facilities for home dialysis patients for 3 years. This model also proposes a payment adjustment based on performance. The performance-based adjustment will be based on home dialysis and transplant rates and will range from (8%) to 5% in the first payment year to (13%) and 10% percent in the final payment year. The ETC model initially proposed a start date of January 2020 and would end in 2026, however CMS has postponed the start date of the ETC model. Participants in this model will be selected randomly. Pursuant to the Executive Order, the Secretary also announced voluntary payment models, Kidney Care First (***KCF***) and CKCC (graduated, professional and global) model, which aims to build on the existing Comprehensive End Stage Renal Disease Care model. The voluntary models create financial incentives for health care providers to manage care for Medicare beneficiaries with chronic kidney disease stages 4 and 5 and with ESRD to delay the start of dialysis and to incentivize kidney transplant. The voluntary models allow health care providers to take on various amounts of risk. One model, the CKCC global model, allows renal health care providers to participate by forming an entity

known as a Kidney Care Entity (***KCE***). Through the KCE, renal health care providers take responsibility for 100 percent of the total cost of care for all Medicare Part A and B services for aligned beneficiaries. The KCF model limits participation to nephrologists while the CKCC model requires participation by both nephrologists or nephrology practices and transplant providers. Dialysis providers and other suppliers may participate. Applications for the voluntary models were submitted in January 2020, but CMS has not provided a timeline for when the decisions will be made. We submitted 25 CKCC applications and are also included in four other CKCC applications submitted by nephrologists. Once implemented, the CKCC model is expected to run through 2023. It is too soon to predict the effects on our business of the ETC payment model and the voluntary payment models.

Possible changes in statutes or regulations. Further federal or state legislation or regulations may be enacted in the future 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 payment models for dialysis that could present more risk sharing for dialysis clinics. For example, the Dialysis Patient Access to Integrated-care, Empowerment, Nephrologists, Treatment, and Services Demonstration Act of 2016 (a.k.a., the PATIENTS Act, S.3090/H.R.5942) was introduced in the U.S. Congress during the last session. If enacted, the legislation would, among other things, create a new ESRD-specific model of coordinated care not unlike that of the ESRD Seamless Care Organizations that would be mandated to be Advanced Alternate Payment Models as defined by the Medicare Access and CHIP Reauthorization Act, give enrolled patients supplemental benefits beyond what is available under current Medicare plans and establish incentives for providers, physicians and patients enrolled in the model. Nephrologists who are APM qualified participants would be eligible for the 5% payment bonus and would not be required to comply with MIPS reporting requirements. In addition, in July of 2019, CMS proposed several new mandatory and voluntary models impacting payments to dialysis care though it is unclear when those models will be finalized and how they might change in response to public comments. Other examples include ballot initiatives introduced at the state level which could further regulate clinic staffing requirements, state inspection requirements and commercial reimbursement rates. For example, in 2019, the State of California enacted legislation impacting commercial payment rates in cases where charitable premium assistance is provided to patients, but the effective date of such legislation has been preliminary enjoined. 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 (beyond the State of California), if some form of ballot initiative 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 positive or adverse effects, possibly material, on our businesses and results of operations. See "*Risk Factors – Risks relating to the Issuer and the Group – Risks relating to legal and regulatory matters – 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"* and *"Changes in reimbursement and/or governmental regulations for health care could materially decrease our revenues and operating profit,"* as well as "*— Health care reform*" below.

Non-U.S.

As a global company delivering health care and dialysis products in approximately 150 countries worldwide, we face the challenge of addressing the needs of patients and customers in widely varying economic and health care environments. A country's approach to reimbursement and market pricing is markedly influenced by the type of health care funding system it employs. National insurance systems have been characterized by greater decentralisation and generally a more widespread use of 'fee-for-service' agreements.

In the major European and British Commonwealth countries, health care systems are generally based on one of two funding models. The health care systems of countries such as Germany, France, Belgium, Austria, Czech Re-

public, Poland and Hungary are based on the Bismarck-type system; where a mandatory employer and employee contributions dedicated to health care financing is required. Countries such as the United Kingdom, Canada, Denmark, Finland, Portugal, Sweden and Italy established their national health services using the Beveridge-type system, which provides a national health care system financed by taxes. However, during the last decade, health care financing under many social security systems has also been significantly subsidized with tax money.

In Asia-Pacific, universal health care is at different stages of implementation and, as such, reimbursement mechanisms vary significantly between countries (including variances at the state, provincial or city level). Tax-based health care funding systems are mostly seen in Australia, New Zealand, Hong Kong, Malaysia, Taiwan, and Thailand where governments have more direct levers to manage the provision of health care and have more control on expenditures. Other countries, such as Japan, the Philippines and South Korea (which runs a co-payment scheme), finance health care through social health insurance (***SHI***). Indonesia continues its roadmap towards a comparable universal health care coverage amidst system challenges. Singapore has a multi-tier system with mandatory contribution into medical health plans alongside means-tested subsidies to cover catastrophic illnesses. China's health reforms are underway and the country is positioned to achieve universal health care by 2020.

In Latin America, health care systems are funded by public payors, private payors or a combination of both. For countries such as Argentina, Brazil, Chile, Colombia, Curaçao, Ecuador and Peru, Universal Health Care (***UHC***) covers ESRD for all citizens, funded by employers as well as individual compulsory contributions. In Peru, UHC is not yet fully implemented. Private insurers complement health care coverage, particularly in Argentina, Brazil and Colombia, and may be preferred by patients for a better quality of treatment or convenience. For those countries in Latin America in which we operate, with the exception of Chile, Curaçao, Ecuador and Peru where rates may vary depending upon payors, reimbursement rates are independent of treatment modality. Each payor (public or private) defines its own tariff, subject to a yearly revision to restore the value eroded by inflation. In Colombia, competition bids for lower prices without regard to adjusted tariffs and in Brazil, where public payors represent more than 60% of the share, inflation adjustments for dialysis care services are not often received.

Remuneration for ESRD treatments widely differs between countries but there are three broad types of reimbursement modalities: global budget, fee-for-service reimbursement and a bundled payment or capitation rate paid at predetermined periods. In some cases, reimbursement modalities may also vary within the same country depending on the type of health care provider (public or private). Budget allocation is a reimbursement modality used mainly for public providers in most of European countries where the funding is based on taxation and in some of the countries where it is based on social security. Fee for service, which used to be the most common reimbursement modality for private providers in European and Asia Pacific countries, is increasingly being replaced by periodic reimbursement bundles. These include different components of the ESRD treatment and level of payment is linked to certain quality parameters.

Additionally, in Europe and in some parts of Asia Pacific, operations are increasingly subject to cost management strategies, such as health technology assessments (a strict analysis on the entry of new products and services), which require additional data, reviews and administrative processes, all of which increase the complexity, timing and costs of obtaining product and service reimbursement, simultaneously putting continuous downward pressure towards available reimbursement. In addressing these cost containment pressures, the Issuer is developing more expertise in the health economics and market access field in order to respond, counteract and proactively anticipate health system funding changes that impact our business. The main aim of this development is to demonstrate that our products and services create value for patients and for those who pay for health care. The Issuer advocates to encourage a long-term partnership for sustainable health care financing and value-based payment programs.

Generally, in European countries with established dialysis programs, reimbursements range from USD 70 to more than USD 400 per treatment. In Asia-Pacific and Latin America, reimbursement rates can be significantly lower. Where treatment is reimbursed on a fee-for-service basis, reimbursement rates are sometimes allocated in accordance with the type of treatment performed. However, because the services and costs that are reimbursed differ widely between countries, calculation of an average global reimbursement amount would likely bear little relation to the actual reimbursement system in any one country. Hence, country comparison will be relevant only if it includes an analysis of the cost components covered, including their individual costs, services rendered and the structure of the dialysis clinic in the countries being compared.

Anti-kickback statutes, False Claims Act, Stark Law and other fraud and abuse laws in the United States

Some of our operations are subject to federal and state statutes and regulations governing financial relationships between health care providers and potential referral sources and reimbursement for services and items provided to patients with Medicare, Medicaid and other types of U.S. Government and state government health insurance. Such laws include the Anti-Kickback Statute, the False Claims Act, the Stark Law, and other federal health care fraud and abuse laws and similar state laws. The U.S. Government, many individual states and private third-party risk insurers have devoted increasing resources to combat fraud, waste, and abuse in the health care sector.

The Office of the Inspector General of HHS (***OIG***), state Medicaid fraud control units, and other enforcement agencies have dedicated substantial resources to their efforts to detect arrangements and practices that may violate fraud and abuse laws.

The government's ability to pursue actions against potential violators has been enhanced over the past years, by expanding the government's investigative authority, expanding criminal and administrative penalties, by increasing funding for enforcement and providing the government with expanded opportunities to pursue actions under the federal Anti-Kickback Statute, the False Claims Act, and the Stark Law. For example, ACA narrowed the public disclosure bar under the False Claims Act, allowing increased opportunities for whistleblower litigation. In addition, the legislation modified the intent standard under the federal Anti-Kickback Statute, making it easier for prosecutors to prove that alleged violators had met the requisite knowledge requirement. ACA and implementing regulations also require providers and suppliers to report any Medicare or Medicaid overpayment and return the overpayment on the later of 60 days of identification of the overpayment or the date the cost report is due (if applicable), or else all claims associated with the overpayment will become false claims. The ACA also provides that any claim submitted from an arrangement that violates the Anti-Kickback Statute is a false claim.

Health care reform

In response to increases in health care costs in recent years, there have been, and continue to be, proposals by the federal government, state governments, regulators and third-party payors to control these costs and reform the U.S. health care system. The ACA, enacted in 2010, contained broad health care system reforms, including (i) provisions to facilitate access to affordable health insurance for all Americans, (ii) expansion of the Medicaid program, (iii) an industry fee on pharmaceutical companies starting in 2011 based on sales of brand name pharmaceuticals to government health care programs, (iv) increases in Medicaid prescription drug rebates effective January 1, 2010, (v) commercial insurance market reforms that protect consumers, such as bans on lifetime and annual limits, coverage of pre-existing conditions, and limits on waiting periods, (vi) provisions encouraging integrated care, efficiency and coordination among providers (vii) provisions for reduction of health care program waste and fraud and (viii) a 2.3% excise tax on manufacturers' medical device sales starting in 2013. However, pursuant to the Consolidated Appropriations Act of 2016, which was signed into law

on December 18, 2015, the medical device excise tax was suspended for all sales of such devices in 2016 and 2017. On January 22, 2018, Congress passed a continuing resolution that further extended this moratorium for 2018 and 2019. In December 2019, Congress passed, and President Trump signed, a full fiscal year 2020 domestic appropriations package that permanently repeals the medical device tax. Throughout the years of the Obama Administration, the Republicans in Congress attempted on several occasions to repeal the ACA, recognizing that any such effort would be rejected by a Presidential veto. Similarly, during the 2016 Presidential campaign, Donald Trump called for a repeal and replacement of the ACA. With the election of Trump and with both Houses of Congress retaining a Republican majority, it was widely anticipated that Congress and the President would proceed to repeal and replace the ACA. But despite the fact that Republican leadership in both the House and the Senate has proposed legislation on multiple occasions that would replace the ACA's private insurance market reforms and substantially modify federal funding and other aspects of the Medicaid program, these efforts have been unsuccessful to date. Nevertheless, it is likely that additional attempts will be made in the future. Thus, the outcome of changes in health care policy and law are difficult to predict, and while there may be changes that are both favorable and unfavorable to us, it is possible that the overall impact of certain changes could be materially adverse to our business.

In *National Federation of Independent Business v. Sebelius*, the U.S. Supreme Court affirmed the right of individual states to elect whether or not to participate in ACA's Medicaid expansion. As of October 2017, thirty-two states (including the District of Columbia) elected to expand their programs. Because 19 states declined to participate, the number of uninsured individuals will be greater than originally expected when the ACA was passed. We cannot predict whether additional states will agree to participate in the expansion in future years, presuming that there is no change in the current law.

The Trump Administration and several states led by Republican Governors continue to challenge the constitutionality of the ACA and, in particular, its requirement that all U.S. citizens purchase health coverage, known as the ***individual mandate***. In December 2019, a three-judge panel from the United States Court of Appeals for the Fifth Circuit affirmed a district court ruling that found the mandate to be unconstitutional because it can no longer be read as a tax, and there is no other constitutional provision that justifies this exercise of congressional power. The case, *Texas v. Azar*, remanded to the District Court to provide additional analysis of the other provisions of the ACA as they currently exist. A decision on remand is expected in 2020, and a petition to the Supreme Court is likely to follow, making the outcome of this ACA litigation uncertain for some time. See "*Business of the Group – Regulatory and legal matters – Reimbursement,*" above.

The Trump Administration has made changes in the leadership of CMS and the Department of Health and Human Services and this new leadership has initiated revisions to regulations and sub-regulatory guidance relating to implementation of various provisions of ACA, with or without changes in legislation. Additional changes may continue to occur, regardless whether the ACA is repealed. Significantly, in October 2017, the Trump Administration announced that it would immediately cease paying CSR subsidies to insurers. These subsidies reduce deductibles, coinsurance and copayments for individuals and families at or below 250% of the federal poverty level. Under the law insurers are still mandated to provide lower out-of-pocket costs for low-income individuals; as a result, ending CSR payments has caused many insurers to increase premiums in the individual insurance market to offset the loss of the federal support. In its fiscal year 2019 and 2020 budget proposals, the Trump administration altered course and requested authority to fund CSR payments. The fiscal year 2019 CSR budget proposal was not ultimately included in appropriations authorized by Congress, and we cannot predict whether the inclusion of this funding for 2020 will come to pass. Notwithstanding its fiscal year 2019 and 2020 budget proposals, the Administration has not made any CSR payments since its decision to cease payments in October 2017 and continues to defend against litigation pursued by insurers for unpaid CSR funds. Insurers continue to challenge the Administration's non-payment of CSR subsidies in litigation. Most recently, on October 22, 2019, the U.S. Court of Federal Claims ordered the Administration to make payments of approximately USD 1.6 billion to insurers for unpaid CSRs relating to the 2017 and 2018 plan years (*Common Ground Health Care, et al v. United States*).

The Administration appealed the U.S. Court of Federal Claims order to the United States Court of Federal Appeals for the Federal Circuit on December 16, 2019. CSR-related litigation stemming from the decision to end the payments will likely continue to cause uncertainty for the foreseeable future. Given this uncertainty, some insurers may decide to leave the individual exchanges altogether.

In addition, further regulations may be promulgated in the future that could substantially change the Medicare and Medicaid reimbursement systems, or that could impose additional eligibility requirements for participation in the federal and state health care programs. Moreover, such regulations could alter the current responsibilities of third-party insurance payors (including employer-sponsored health insurance plans, commercial insurance carriers and the Medicaid program) including, without limitation, with respect to cost-sharing. Changes of this nature could have significant effects on our businesses, but, due to the continued uncertainty about the implementation of the ACA, including existing and potential further legal challenges to or significant modifications to or repeal of that legislation (see, for example, the discussion above and under "*Business of the Group – Regulatory and legal matters – Reimbursement*" regarding the proceedings in *Texas v. Azar*), the outcomes and impact of such changes on our business, financial condition and results of operations are impossible to quantify or predict.

In January 2018, the Trump Administration released guidance aimed at allowing states to impose work requirements for Medicaid beneficiaries, a major shift in the design of the health insurance program for the poor and disabled. The Centers for Medicare and Medicaid Services claims that work requirements will help people lead healthier lifestyles. Opponents fear the requirements simply will lead to the poor and disabled losing health benefits. At least twenty states have applied for Medicaid waivers that include work requirements. The Arizona, Indiana, Michigan, Ohio, South Carolina and Utah programs have been approved by CMS, although most are not yet implemented. The Arkansas, Kentucky, Maine and New Hampshire programs have also been approved by CMS, but were subsequently set aside by court orders or refused or rescinded by state officials. The other states who have applied for waivers are Alabama, Georgia, Idaho, Mississippi, Montana, Nebraska, Oklahoma, Tennessee, Virginia and Wisconsin. It is not currently possible to accurately predict the impact such programs will have over time.

Legal Proceedings

The Issuer 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 the Issuer currently deems to be material or noteworthy are described below. The Issuer records its litigation reserves for certain legal proceedings and regulatory matters to the extent that the Issuer determines an unfavorable outcome is probable and the amount of loss can be reasonably estimated. For the other matters described below, the Issuer 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 the Issuer's view of the merits can occur. The Issuer 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 its business, results of operations and financial condition.

Beginning in 2012, the Issuer received certain communications alleging conduct in countries outside the United States that might violate the Foreign Corrupt Practices Act or other anti-bribery laws. We conducted investigations with the assistance of outside counsel and, in a continuing dialogue, advised the SEC and the DOJ about these investigations. The DOJ and the SEC also conducted their own investigations, in which we cooperated.

In the course of this dialogue, the Issuer identified and reported to the DOJ and the SEC, and took remedial actions with respect to, conduct that resulted in the DOJ and the SEC seeking monetary penalties including disgorgement of profits and other remedies. This conduct revolved principally around the Issuer's products business in countries outside the United States.

The Issuer recorded charges of EUR 200 million in 2017 and EUR 77.2 million in 2018 encompassing estimates for the claims from the DOJ and the SEC for profit disgorgement, penalties, certain legal expenses, and other related costs or asset impairments believed likely to be necessary for full and final resolution, by litigation or settlement, of the claims and issues arising from the investigation. The increase recorded in 2018 took into consideration preliminary understandings with the DOJ and the SEC on the financial terms of a potential settlement. Following this increase, which takes into account incurred and anticipated legal expenses, impairments and other costs, the provision totaled EUR 224 million as of December 31, 2018.

On March 29, 2019, the Issuer entered into a non-prosecution agreement with the DOJ and a separate agreement with the SEC intended to resolve fully and finally the claims against the Issuer arising from the investigations. The Issuer paid a combined total in penalties and disgorgement of approximately USD 231.7 million to the DOJ and the SEC in connection with these agreements. The entire amount paid to the DOJ and the SEC was reserved for in charges that the Issuer recorded in 2017 and 2018 and announced in 2018. As part of the settlement, the Issuer agreed to retain an independent compliance monitor for a period of at least 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, the Issuer self-reported to the German prosecutor conduct with a potential nexus to Germany and continues to cooperate with government authorities in Germany in their review of the conduct that prompted the Issuer's and government investigations.

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

Personal injury litigation involving the Guarantor's acid concentrate product, labeled as Granuflo® or Naturalyte®, 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.

The Guarantor's affected insurers agreed to the settlement of the acid concentrate personal injury litigation and funded USD 220 million of the settlement fund under a reciprocal reservation of rights encompassing certain coverage issues raised by insurers and the Guarantor's claims for indemnification of defense costs. The Issuer accrued a net expense of USD 60 million in connection with the settlement, including legal fees and other anticipated costs.

Following entry into the settlement the Guarantor's insurers in the AIG group and the Guarantor 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 the Guarantor for some or all of its USD 220 million outlay; the Guarantor seeks to confirm the AIG group's USD 220 million funding obligation, to recover defense costs already incurred by the Guarantor, 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. (*Na-*

tional 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 the Guarantor or its affiliates under state deceptive practices statutes resting on certain background allegations common to the GranuFlo®/NaturaLyte® personal injury litigation but seeking as a remedy the repayment of sums paid to the Guarantor that are 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. The Caldwell and Blue Cross Louisiana cases are proceeding together in a combined proceeding in federal court in Boston, but are subject to undecided motions for severance and remand. *State of Louisiana ex re. Caldwell and Louisiana Health Service & Indemnity Company v. Fresenius Medical Care Airline, et al 2016 Civ. 11035* (U.S.D.C. D. Mass.). There is no trial date in either case. The Guarantor has increased its litigation reserves to account for anticipated resolution of these claims. However, at the present time there are no agreements in principle for resolving either case and litigation through final adjudication may be required in 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 the Guarantor related to the personal injury settlement, but no other relief. *MSP Recovery Claims Series LLC v. Fresenius Medical Care Holdings,* No. 2018-030366-CA-01 (11th 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 Litigation in Boston. 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 the Guarantor's acid concentrate product. The Guarantor is responding to the amended complaint.

In August 2014, the Guarantor received a subpoena from the United States Attorney for the District of Maryland inquiring into the Guarantor's contractual arrangements with hospitals and physicians involving contracts relating to the management of in-patient acute dialysis services. The Guarantor 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 the Guarantor overbilled Hawaii Medicaid for Liberty's Epogen® administrations to Hawaii Medicaid patients during the period from 2006 through 2010, prior to the time of the Guarantor's acquisition of Liberty. *Hawaii v. Liberty Dialysis – Hawaii, LLC et al.*, Case No. 15-1-1357-07 (Hawaii 1st 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 USD 8 million, but the State seeks civil remedies, interest, fines, and penalties against Liberty and the Guarantor under the Hawaii False Claims Act substantially in excess of the overpayment. After prevailing on motions by Xerox to preclude it from doing so, the Guarantor 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 March 8, 2021.

On August 31, 2015, the Guarantor received a subpoena under the False Claims Act from the United States Attorney for the District of Colorado (Denver) inquiring into the Guarantor's participation in and management of dialysis facility joint ventures in which physicians are partners. The Guarantor continues to cooperate in the

Denver USAO investigation, which has come to focus on purchases and sales of minority interests in ongoing outpatient facilities between the Guarantor and physician groups.

On November 25, 2015, the Guarantor received a subpoena under the False Claims Act from the United States Attorney for the Eastern District of New York (Brooklyn) also inquiring into the Guarantor's involvement in certain dialysis facility joint ventures in New York. On September 26, 2018, the Brooklyn USAO declined to intervene on the qui tam complaint filed under seal in 2014 that gave rise to this investigation. *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 its 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, of utilization and invoicing by the Guarantor's subsidiary Azura Vascular Care for a period beginning after the Guarantor's acquisition of American Access Care LLC (***AAC***) in October 2011. The Guarantor is cooperating in the Brooklyn 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 facilities have 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, the Guarantor 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 Velphoro®. 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. The Guarantor understands that this investigation is substantively independent of the USD 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.). The Guarantor has cooperated in the investigation.

On November 18, 2016, the Guarantor 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. (***Shiel***), which the Guarantor acquired in October 2013. In the course of cooperating in the investigation and preparing to respond to the subpoena, the Guarantor 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, the Guarantor 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 the Guarantor to refund overpayments and to pay related penalties under applicable laws, but the monetary value of such payment demands cannot yet be reasonably estimated. The Guarantor 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, the Guarantor 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, the Guarantor retains responsibility for responding to the Brooklyn investigation and for liabilities arising from conduct occurring after its 2013 acquisition of Shiel and prior to its sale of Shiel to Quest Diagnostics. The Guarantor is cooperating in the investigation.

On December 14, 2016, 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 the Guarantor

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*** or the ***Fund***). 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 the Guarantor.

On January 25, 2017, a federal district court in Texas responsible for litigation initiated by a patient advocacy group and dialysis providers including the Guarantor preliminarily enjoined CMS from implementing the IFR. *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 the Guarantor, consented to the stay, which was granted by the court on June 27, 2017.

On January 3, 2017, the Guarantor received a subpoena from the United States Attorney for the District of Massachusetts under the False Claims Act inquiring into the Guarantor's interactions and relationships with the AKF, including the Guarantor's charitable contributions to the Fund and the Fund's financial assistance to patients for insurance premiums. The Guarantor 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 an order announcing that the United States had declined to intervene on a qui tam complaint underlying the USAO 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 the Guarantor. The demand asserts that the Guarantor 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. The Guarantor 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 the Guarantor and two subsidiaries under the False Claims Act concerning the Guarantor's retail pharmaceutical business. The investigation is exploring allegations related to improper inducements to dialysis patients to fill oral prescriptions through the Guarantor's pharmacy service, improper billing for returned pharmacy products and other allegations similar to those underlying the USD 63.7 million settlement by DaVita Rx in Texas announced on December 14, 2017. *United States ex rel. Gallian*, 2016 Civ. 0943 (N.D. Tex.). The Guarantor 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, ***VFMCRP***) (the joint venture between Vifor Pharma and the Issuer), filed a complaint for patent infringement against Lupin Atlantis Holdings 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 (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 infringement suit is reached that the patents-at-issue are invalid or not infringed. In response to another ANDA being filed 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, the Guarantor 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, Inc. involving transactions between the Guarantor 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. The Guarantor is cooperating in the investigation.

On June 28, 2019, certain subsidiaries of the Guarantor 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. *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 a 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. The Guarantor opposed the motion to dismiss. The court on April 16, 2020 denied the government's motion to dismiss in substantial part and accordingly required the government to answer the Guarantor's complaint and discovery to proceed. The Guarantor 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.

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

The Issuer, 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 its development, manufacture, marketing and distribution of medical products, if such compliance is not maintained, the Issuer could be subject to significant adverse regulatory actions by the FDA and comparable regulatory authorities outside the U.S. These regulatory actions could include warning letters or other enforcement notices from the FDA, and/or comparable foreign regulatory authority which may require the Issuer to expend significant time and resources in order to implement appropriate corrective actions. If the Issuer 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 U.S., 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 the Issuer's products and/or criminal prosecution. The Guarantor is currently engaged in remediation efforts with respect to one pending FDA warning letter. The Issuer must also comply with the laws of the United States, including the federal Anti-Kickback Statute, the federal False Claims Act, the federal Stark Law, the federal Civil Monetary Penalties Law and the federal Foreign Corrupt Practices Act as well as other 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 the Issuer's interpretations or the manner in which it conducts its business. Enforcement has become a high priority for the federal government and some 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 whistleblower actions. By virtue of this regulatory environment, the Issuer'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 the Issuer's compliance with applicable laws and regulations. The Issuer may not always be aware that an inquiry or action has begun, particularly in the case of whistleblower actions, which are initially filed under court seal.

The Issuer operates many facilities and handles the PPD 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, the Issuer or its business associates may experience a breach under the Health Insurance Portability and Accountability Act Privacy Rule and Security Rules, the EU's General Data Protection Regulation and or other Data Protection Laws when there has been impermissible use, access, or disclosure of unsecured PD or when the Issuer 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, the Issuer must comply with applicable breach notification requirements.

The Issuer 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, the Issuer may identify instances where employees or other agents deliberately, recklessly or inadvertently contravene the Issuer's policies or violate applicable law. The actions of such persons may subject the Issuer 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. The Issuer 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 the Issuer 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 the Issuer or any of its subsidiaries in excess of insurance coverage could have a material adverse effect upon it and the results of its operations. Any claims, regardless of their merit or eventual outcome, could have a material adverse effect on the Issuer's reputation and business.

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

In Germany, the tax audits for the years 2006 through 2009 have been substantially completed. The German tax authorities have indicated a re-qualification of dividends received in connection with intercompany mandatorily redeemable preferred shares into fully taxable interest payments for these and subsequent years until 2013. The Issuer has defended its position and will avail itself of appropriate remedies.

The Issuer is also subject to ongoing and future tax audits in the U.S., Germany and other jurisdictions in the ordinary course of business. Tax authorities routinely pursue adjustments to the Issuer's tax returns and disallowances of claimed tax deductions. When appropriate, the Issuer defends these adjustments and disallow-

ances and asserts its own claims. A successful tax related claim against the Issuer or any of its subsidiaries could have a material adverse effect upon its business, financial condition and results of operations.

Other than those individual contingent liabilities mentioned above, the current estimated amount of the Issuer's other known individual contingent liabilities is immaterial.

RESEARCH AND DEVELOPMENT

Developing innovative products and continuously improving our dialysis treatments are intrinsic elements of our growth strategy. Our worldwide R&D activities, which are centrally managed by the Global Research and Development division (***GRD***), enable us to develop products efficiently and systematically promote the exchange of knowledge and technology between regions.

Global research and development strategy

Health care systems face major financial challenges now and in the long term. This confirms our intention to gear our research and development activities toward developing innovative products that not only meet high quality standards, but are also affordable. As an operator of proprietary dialysis clinics and a provider of products for treating patients at home, we know that these are by no means incompatible aims.

Our R&D strategy is globally oriented, enabling us to respond even better to the worldwide rise in demand for high-quality yet cost-efficient treatment methods. In doing so, we also take regional market conditions into account and offer a differentiated product range. In the future, we intend to deliver innovative, competitive products even more efficiently and strengthen our focus on developing countries.

In addition to R&D activities within our company, we collaborate with external partners with the aim of building a comprehensive innovation and technology network. These partners include numerous academic institutions, such as research institutes at prestigious universities in the U.S. The Renal Research Institute (***RRI***) in New York, a subsidiary of Fresenius Medical Care North America, is a renowned institution in the field of clinical research into all aspects of chronic kidney failure. Together we are working on fundamental issues relating to dialysis treatment. We are also increasingly collaborating with start-ups (including through our subsidiary Fresenius Medical Care Ventures GmbH) with the objective of promoting an open culture of innovation and enabling access to the latest technologies.

Innovations in 2019

To be able to continuously improve our patients' quality of life and the outcomes of their treatment and to ensure our growth in the medium to long-term, we not only work on new products that are close to market launch, but also have an extensive portfolio of innovation projects. These focus on technologies in our core business as well as related areas of strategic interest.

New hemodialysis system in development

In 2019, the U.S. FDA granted breakthrough device designation to a new hemodialysis system, currently in development, that aims to prevent blood clotting without the use of blood thinner medication. The novel system integrates the antithrombogenic additive Endexo® into the manufacturing process of dialyzers and bloodlines. Endexo® is a polymer made of surface modifying molecules that are designed to inhibit the adsorption of protein and platelets. When incorporated into the membrane, this additive creates a modified inner wall that allows blood to pass through more effectively. Citrasate dialysate would be used with the new dialyzers and bloodlines as part of this novel system. The hope is that the new system will help reduce the risk of coagulation and increase hemocompatibility thereby eliminating the need for blood thinners, such as heparin, in most standard dialysis treatments.

Digital health care

Digitization, connectivity and data analysis are key elements of our development strategy. In the future, our devices will be connected to a modern connectivity framework that takes full account of different user needs and therapy options. The aim is to make the processes more efficient and thus achieve ever better treatment outcomes. The data analysis of this framework enables us to offer intelligent products and solutions that illustrate the complexity of treatments and processes internally.

Application tailored to emerging markets

The number of dialysis patients worldwide is expected to increase. Emerging markets need cost-effective programs that help to better manage the entire dialysis treatment process. In response to this need, we are currently developing a digital application tailored to the Asian markets. The app is a cloud-based clinical information system that offers electronic treatment management at a reasonable price, thus increasing the efficiency of work processes in clinics. To test the digital app in its environment, we launched a production pilot in a clinic in India in the third quarter of 2019. Market launch is planned mid/end of 2020.

Research in the field of regenerative medicine

We invest in promising technologies and research approaches in the area of regenerative medicine through Unicyte AG as well as Fresenius Medical Care Ventures. In the fiscal year ended December 31, 2019, we invested EUR 60 million in Unicyte AG (***Unicyte***). Unicyte will primarily use this capital to start clinical trials and establish the corresponding manufacturing processes. Our continued investment in Unicyte shows our commitment to developing the best treatment options for our patients across the entire spectrum of renal therapy.

Our venture capital company Fresenius Medical Care Ventures is increasingly collaborating with start-ups with the aim of promoting an open culture of innovation and gaining access to the latest technologies. In 2019, Fresenius Medical Care Ventures invested in eGenesis, a leading player in field of xenotransplantation of kidneys for patients with advanced renal disease. Xenotransplantation could significantly improve the lives of patients with kidney failure, reduce overall costs and dramatically increase the number of kidneys available for transplant.

R&D resources

R&D expenditure corresponded to around 5% (2018: 3% and 2017: 3%) of our health care product revenue. At the end of 2019, our patent portfolio comprised some 10,658 property rights in approximately 1,518 patent families, i.e. groups of patents linked to the same invention. Our R&D work in the fiscal year ended December 31, 2019, produced around 163 additional patent families. A broad portfolio of patents will provide us with a wide range of treatment options in this competitive area in future.

As of December 31, 2019, 1,157 highly qualified employees (full-time equivalents) worked for Fresenius Medical Care in R&D worldwide (December 31, 2018: 933). They come from various backgrounds: Physicians work side by side with software specialists, business economists and engineers in interdisciplinary teams. More than 680 employees – the majority of our R&D staff – are based in Europe. Most R&D activities are carried out at our facilities in Schweinfurt and Bad Homburg v. d. Höhe (Germany). Other R&D sites are in St. Wendel (Germany), Bucharest (Romania) and Krems (Austria). In the U.S. we maintain centers of excellence for the development of devices in Concord, California, and for dialyzers and other disposable products in Ogden, Utah. Development activities in Shanghai and Changshu (China) are focused on the growing demand for cost-effective dialysis systems in Asia and emerging markets. The Global R&D organization coordinates collaboration and technology exchange among the various sites. Carrying out R&D responsibly is an intrinsic element of our innovative culture.

Expenditures for R&D in € millions		
	2019	**2018**
Total	168	114

EMPLOYEES

As of December 31, 2019, we had 120,659 employees (full-time equivalents) as compared to 112,658 at December 31, 2018, and 114,000 at December 31, 2017. The increase in 2019 was mainly due to our acquisition of NxStage. We are members of the Chemical Industry Employers Association for most sites in Germany and we are bound by union agreements negotiated by the employer's association with the respective union representatives. We generally apply the principles of the association and the related union agreements also for those sites and legal entities where we are not members. These collective bargaining agreements cover all so-called "tariff" employees. We are also party to shop agreements on workplace-related issues, negotiated with works councils at individual facilities that relate to those facilities. In addition, approximately 2% of our U.S. employees are covered by collective bargaining agreements. During the last three fiscal years, we have not suffered any protracted labor-related work disruptions.

INVESTMENTS

Net cash used in investing activities in 2019, 2018 and 2017 was EUR 3,286 million, EUR 245 million and EUR 992 million respectively.

The majority of our capital expenditures were used for maintaining existing clinics, equipping new clinics, maintaining and expanding production facilities (primarily in the North America Segment, Germany and France), capitalization of machines provided to our customers and for Care Coordination as well as capitalization of certain development costs. Capital expenditures were approximately 6%, 6% and 5% of total revenue in 2019, 2018 and 2017 respectively.

Acquisitions during 2019 were primarily driven by the acquisition of NxStage on February 21, 2019 as well as dialysis clinics.

In 2019, we received EUR 60 million from divestitures. These divestitures were mainly related to the divestment of MedSpring Urgent Care Centers in Texas, sales of debt securities, the divestment of a California-based cardiovascular business and B.Braun Medical Inc.'s purchase of NxStage's bloodlines business in connection with our acquisition of NxStage. To ensure our continued growth we continually evaluate our long-term financial planning. We primarily focus on the net leverage ratio and were able to decrease our net leverage ratio over the last two decades from 4.6 in 1996 to 3.2 as of December 31, 2019. Our targeted long-term net leverage ratio range is between 3.0 and 3.5 (including the effects of the implementation of IFRS 16; 2.5 to 3.0 excluding the effects of IFRS 16). In case of large acquisitions, the upper end can be exceeded temporarily. As of March 31, 2020 and December 31, 2019, the net leverage ratio was 3.3 and 3.2 (including the effects of IFRS 16), respectively. Excluding the effects of IFRS 16, the net leverage ratio as of December 31, 2019 was 2.5. For further detail on the Non-GAAP Measure net leverage ratio see "*General Information on the Issuer – Selected KPIs and Non-GAAP Measures*".

Investments in 2018 were primarily driven by debt securities and an equity investment in Humacyte within the North America Segment. The remaining investments in the North America Segment, the EMEA Segment and the Latin America Segment were largely in acquisitions of dialysis clinics as well as license agreements and distribution rights in the North America Segment. In 2018, we received EUR 1,683 million from divestitures mainly related to the divestment of Sound on June 28, 2018, as well as the sale of debt securities in the amount of EUR 150 million.

Investments in 2017 were mainly driven by acquisitions of clinics in the North America Segment and a Care Coordination acquisition in the Asia-Pacific Segment. In 2017, we also received EUR 415 million from divestitures mainly related to the sale of debt securities of EUR 256 million and the divestment of our non-dialysis laboratory testing services business in December 2017.

MATERIAL CONTRACTS

Amended 2012 Credit Agreement

The Issuer, together with other members of the Group, originally entered into a syndicated credit facility of approximately USD 3.85 billion and a 5 year tenor (the ***2012 Credit Agreement***) on October 30, 2012. On November 26, 2014, the 2012 Credit Agreement was amended to increase the total credit facility to approximately USD 4.4 billion and the term was extended for an additional two years until October 30, 2019 (the ***Amended 2012 Credit Agreement***). On July 11, 2017, the Group Members further amended and extended the Amended 2012 Credit Agreement resulting in a total unsecured credit facility of approximately USD 3.9 billion.

The Amended 2012 Credit Agreement contains affirmative and negative covenants with respect to the Group. Under certain circumstances these covenants limit the incurrence of indebtedness and restrict the creation of liens. Under the Amended 2012 Credit Agreement, the Group is required to comply with a maximum consolidated net leverage ratio.

The following table shows the available and outstanding amounts under the Amended 2012 Credit Agreement as of March 31, 2020:

Amended 2012 Credit Agreement - Maximum amount available and balance outstanding

in thousands

	Maximum amount available March 31, 2020		Balance outstanding March 31, 2020 [1],[2]	
Revolving credit USD 2017 / 2022	$ 900,000	€ 821,468	$ 23,176	€ 21,154
Revolving credit EUR 2017 / 2022	€ 600,000	€ 600,000	€ -	€ -
USD term loan 2017 / 2022	$ 1,200,000	€ 1,095,290	$ 1,200,000	€ 1,095,290
EUR term loan 2017 / 2022	€ 280,000	€ 280,000	€ 280,000	€ 280,000
EUR term loan 2017 / 2020	€ 400,000	€ 400,000	€ 400,000	€ 400,000
		€ 3,196,758		**€ 1,796,444**

	Maximum amount available December 31, 2019		Balance outstanding December 31, 2019 [1],[2]	
Revolving credit USD 2017 / 2022	$ 900,000	€ 801,139	$ 138,700	€ 123,464
Revolving credit EUR 2017 / 2022	€ 600,000	€ 600,000	€ -	€ -
USD term loan 2017 / 2022	$ 1,230,000	€ 1,094,891	$ 1,230,000	€ 1,094,891
EUR term loan 2017 / 2022	€ 287,000	€ 287,000	€ 287,000	€ 287,000
EUR term loan 2017 / 2020	€ 400,000	€ 400,000	€ 400,000	€ 400,000
		€ 3,183,030		**€ 1,905,355**

[1] Amounts shown are excluding debt issuance costs.

[2] As of March 31, 2020 and December 31, 2020, the Group had letters of credit outstanding in the amount of approximately USD 1 million (EUR 1 million) under the USD revolving credit facility, which are not included above as part of the balance outstanding at those dates but which reduce available borrowings under the applicable revolving credit facility.

Outstanding Bonds

The following table sets forth information regarding our outstanding bonds as of December 31, 2019. As of the date of the Prospectus, no further bonds have been issued by the Issuer or any of its subsidiaries.

Bonds

in thousands

Issuer/Transaction	Face amount		Maturity
FMC US Finance II, Inc. 2014	$	500,000	October 15, 2020
FMC US Finance, Inc. 2011	$	650,000	February 15, 2021
FMC Finance VII S.A. 2011	€	300,000	February 15, 2021
FMC US Finance II, Inc. 2012	$	700,000	January 31, 2022
Fresenius Medical Care AG & Co. KGaA, 2019	€	650,000	November 29, 2023
FMC US Finance II, Inc. 2014	$	400,000	October 15, 2024
Fresenius Medical Care AG & Co. KGaA, 2018	€	500,000	July 11, 2025
Fresenius Medical Care AG & Co. KGaA, 2019	€	600,000	November 30, 2026
FMC US Finance III, Inc. 2019	$	500,000	June 15, 2029
Fresenius Medical Care AG & Co. KGaA, 2019	€	500,000	November 29, 2029

The Euro-denominated bonds issued in 2018 and 2019 are issued by the Issuer under the Program and guaranteed by the Guarantor. All other bonds issued before 2018, as well as the bonds issued by FMC US Finance III in 2019, were guaranteed by the Issuer and the Guarantor and may be redeemed at the option of the respective issuers at any time at 100% of principal plus accrued interest and a premium calculated pursuant to the terms of the indenture. The holders of our bonds have the right to request that the issuers repurchase the bonds at 101% of principal plus accrued interest upon the occurrence of a change of control of the Issuer followed by a decline in the ratings of the respective bonds.

The Group has agreed to a number of covenants to provide protection to the holders which, under certain circumstances and with certain exceptions for the bonds issued since 2018, limit the ability of the Issuer and its subsidiaries to, among other things, incur debt, incur liens, engage in sale-leaseback transactions and merge or consolidate with other companies or sell assets. The limitation on incurrence of debt in the bonds issued before 2018 was suspended automatically as the rating of the respective bonds reached investment grade status. For additional information regarding the bonds, see Note 14, "Long-term debt" of the audited consolidated financial statements as of and for the fiscal year ended December 31, 2019, incorporated by reference to the Prospectus.

Equity-neutral Convertible Bonds

On September 19, 2014, the Issuer issued EUR 400 million principal amount of equity-neutral convertible bonds with a coupon of 1.125%. The bonds were issued at par and repaid at maturity on January 31, 2020. In November 2019, the conversion feature expired and no conversions occurred. The call options on its shares that the Issuer purchased 2014 to fully offset the economic exposure from the conversion feature also expired in November 2019.

Accounts Receivable Facility

The Group has an Accounts Receivable Facility (the ***Accounts Receivable Facility***) which was refinanced on December 20, 2018, increasing the facility to USD 900 million and extending it until December 20, 2021.

Under the Accounts Receivable Facility, certain receivables are sold to NMC Funding Corporation (***NMC Funding***), a wholly-owned subsidiary. NMC Funding then assigns percentage ownership interests in the accounts receivable to certain bank investors. Under the terms of the Accounts Receivable Facility, NMC Funding retains the right, at any time, to recall all the then outstanding transferred interests in the accounts receivable. Consequently, the receivables remain on the Issuer’s consolidated balance sheet and the proceeds from the transfer of percentage ownership interests are recorded as long-term debt.

The following table shows the available and outstanding amounts under the Accounts Receivable Facility at March 31, 2020 and December 31, 2019:

Accounts Receivable Facility - Maximum amount available and balance outstanding

in thousands

	Maximum amount available March 31, 2020 [1]		Balance outstanding March 31, 2020 [2],[3]	
Accounts Receivable Facility	$ 900,000	€ 821,468	$ 725,750	€ 662,422

	Maximum amount available December 31, 2019 [1]		Balance outstanding December 31, 2019 [2],[3]	
Accounts Receivable Facility	$ 900,000	€ 801,139	$ 427,000	€ 380,096

[1] Subject to availability of sufficient accounts receivable meeting funding criteria.

[2] Amounts shown are excluding debt issuance costs.

[3] The Group had letters of credit outstanding under the Accounts Receivable Facility in the amount of USD 13 million and USD 23 million (EUR 11 million and EUR 21 million) at March 31, 2020 and December 31, 2019, respectively. These letters of credit are not included above as part of the balance outstanding at March 31, 2020 and December 31, 2019; however, they reduce available borrowings under the Accounts Receivable Facility.

Commercial paper program

The Group maintains a commercial paper program under which short-term notes of up to EUR 1 billion can be issued. At March 31, 2020, the outstanding commercial paper amounted to EUR 930 million (December 31, 2019: EUR 1 billion).

Loan Agreement with Fresenius SE

On July 31, 2019, the Issuer and one of its subsidiaries, as borrowers, and Fresenius SE, as lender, amended and restated an unsecured loan agreement to increase the maximum aggregate available amount from USD 400 million to EUR 600 million. The Issuer and one of its subsidiaries may request and receive one or more short-term advances until maturity on July 31, 2022. At March 31, 2020 and December 31, 2019, the Issuer borrowed from Fresenius SE in the amount of EUR 517.6 million on an unsecured basis at an interest rate of 0.930% and EUR 18.9 million on an unsecured basis at an interest rate of 0.930%, respectively.

Credit Lines and other Sources of Liquidity

In addition to the financial liabilities described above, the Group maintains additional credit facilities which have not been utilized, or have been utilized in part. As of March 31, 2020, the financial headroom from unutilized credit facilities amounted to approximately EUR 1.9 billion. The Amended 2012 Credit Agreement accounted for approximately EUR 1.4 billion.

Since March 31, 2020, the Group concluded new committed bilateral credit lines and converted formerly uncommitted bilateral credit lines into committed credit lines, thereby increasing its financial headroom by approximately EUR 500 million in aggregate.

RECENT EVENTS

On March 27, 2020, President Trump signed the CARES Act which provides relief funds to hospitals and other healthcare providers in the U.S. in connection with the impact of the on-going worldwide COVID-19 pandemic. In April 2020, the Group received U.S. federal relief funding under the CARES Act as well as advanced pay-

ments under the CMS Accelerated and Advance Payment program, as provided for by the CARES Act.

We estimate that COVID-19 resulted in a negative impact to net income attributable to shareholders of the Issuer in the amount of EUR 40 million for the three months ended March 31, 2020. For further information on the potential implications of the COVID-19 pandemic on the Issuer and the Group, see "*Risk Factors – Risks relating to our business activities and industry – We are subject to risks associated with public health crises and epidemics/pandemics, such as the global spread of the COVID-19 pandemic which may result in increased costs and restrictions on our business activities and the business activities of our suppliers and our customers, resulting in a material adverse effect on our business, results of operations and financial condition*," "*General Information on the Issuer – Share Capital*" and "*Legal Proceedings*" above.

TERMS AND CONDITIONS OF THE NOTES

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

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

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

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

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

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

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.

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 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.

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.

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, the Prospectus contains placeholders set out in square brackets which include the relevant items that will be completed by the Final Terms.

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 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:

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*:**

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; 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 the 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.]

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 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 der 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 rate

OPTION I – Emissionsbedingungen für Schuldverschreibungen mit fester Verzinsung

§ 1
(CURRENCY, DENOMINATION, FORM)

§ 1
(WÄHRUNG, STÜCKELUNG, FORM)

(1) Currency; Denomination.

This series of Notes (the ***Notes***) of Fresenius Medical Care AG & Co. KGaA (also referred to as 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***

(1) Währung; Stückelung.

Diese Serie von Schuldverschreibungen (die ***Schuldverschreibungen***) der Fresenius Medical Care AG & Co. KGaA (auch als die ***Emittentin*** bezeichnet) 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 [***Festgeleg-***

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*** 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 authenti-

te 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 Dauerglobalurkunde (die ***Dauerglobal-urkunde*** 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) aufgenom-

cated by or on behalf of the Fiscal Agent. Definitive Notes and interest coupons will not be issued.

men.] 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) 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 40th 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)).]

(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) Clearing System.

Each Global Note will be kept in custody by or on behalf of the Clearing System until all

(4) Clearingsystem.

Die Globalurkunde wird solange von einem oder im Namen eines Clearingsystems ver-

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 Banking Aktiengesellschaft, Frankfurt am Main (***CBF***)] [Clearstream Banking S.A. 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 payment of 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

wahrt, bis sämtliche Verbindlichkeiten der Emittentin aus den Schuldverschreibungen erfüllt sind. ***Clearingsystem*** bedeutet [***bei mehr als einem Clearingsystem ist folgendes anwendbar***: jeweils] folgendes: [Clearstream Banking Aktiengesellschaft, Frankfurt am Main (***CBF***)] [Clearstream Banking S.A., 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 Löschung bezüglich der Globalurkunden ***pro***

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 custody by a common depositary on behalf of both ICSDs.]

[***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.]

(5) Holder of Notes.

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

(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 territories and 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

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 zurückgezahlten 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 in Form einer Classical Global Note (***CGN***) ausgegeben und von einer gemeinsamen Verwahrstelle im Namen beider ICSDs verwahrt.]

[***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.]

(5) Gläubiger von Schuldverschreibungen.

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

(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 und Besitztümer (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 Effektengiro-Register bei CBF

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 AND 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 (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 and (ii) to procure, to the extent legally possible, that none of its

vorgesehen ist, ist folgendes anwendbar:

(7) Effektengiro-Register.

Die Emittentin und CBF haben vereinbart, dass CBF zum Effektengiro-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 UND 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, (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 fortbe-

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 or claims of any of its Subsidiaries against any affiliated companies within the meaning of sections 15 et seqq. 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 or by any of its Subsidiaries, (ii) is existing on assets at the time of the acquisition thereof by the Issuer or by any of its Subsidiaries or is existing over assets of a newly acquired company which becomes a member of the Fresenius Medical Care 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 Medical Care 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 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 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 Capi-

stehen 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 Emittentin oder Ansprüchen einer ihrer Tochtergesellschaften gegen verbundene Unternehmen im Sinne der §§ 15 ff. 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 oder durch eine ihrer Tochtergesellschaften ausgegebenen Wertpapieren dienen, (ii) zur Sicherung von Vermögensgegenständen bestellt sind, die bereits zum Zeitpunkt ihres Erwerbs durch die Emittentin oder durch eine ihrer Tochtergesellschaften bestanden, oder am Vermögen einer neu erworbenen Gesellschaft bestehen, die Mitglied des Fresenius Medical Care-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 Medical Care-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 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

tal 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).

die Emittentin 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.

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.

Im Sinne dieser Emissionsbedingungen bezeichnet ***Kapitalmarktverbindlichkeit*** jede Verbindlichkeit zur Rückzahlung aufgenommener 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 Medical Care Group means Fresenius Medical Care AG & Co. KGaA and its Subsidiaries on a consolidated basis.

Fresenius Medical Care-Konzern bezeichnet Fresenius Medical Care AG & Co. KGaA und ihre Tochtergesellschaften auf konsolidierter Basis.

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:

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

(a) such Person;

(a) dieses Rechtsträgers;

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

(b) dieses Rechtsträgers und einer oder mehreren Tochtergesellschaften dieses Rechtsträgers; oder

(c) one or more Subsidiaries of such Person.

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

(3) Guarantee.

Fresenius Medical Care Holdings, Inc. (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***)[1], 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.

(4) Release of Guarantee.

Pursuant to its terms, the Guarantee (but not any payment obligation under the Guarantee which has already become due and payable) will be automatically and unconditionally released (and thereupon shall terminate and be discharged and be of no further force and effect) at any time when the Guarantor is no longer an obligor under the Amended 2012 Credit Agreement (as defined below), provided that, if under the Amended 2012 Credit Agreement, a new guarantee is granted, the Issuer will procure

(c) einer oder mehrerer Tochtergesellschaften dieses Rechtsträgers.

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

(3) Garantie.

Fresenius Medical Care Holdings, Inc. (die ***Garantiegeberin)*** 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 Garantiegeberin zu verlangen und diese Verpflichtungen unmittelbar gegen die Garantiegeberin durchzusetzen. Kopien der Garantie können kostenlos bei der bezeichneten Geschäftsstelle der Emissionsstelle bezogen werden.

(4) Freigabe der Garantie.

Gemäß ihren Bestimmungen wird die Garantie (aber keine Zahlungsverpflichtung im Rahmen der Garantie, die bereits fällig und zahlbar geworden ist) automatisch und unbedingt freigegeben (und gilt von diesem Zeitpunkt an als erloschen und unwirksam), sobald die Garantiegeberin nicht mehr Verpflichtete unter dem Geänderten Kreditvertrag 2012 ist, wobei, sollte unter dem Geänderten Kreditvertrag 2012 (wie nachstehend definiert) eine neue Garantie gestellt werden, die Emittentin sicherstellen wird, dass

[1] 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.

that substantially the same guarantee will also be granted in respect of the obligations under the Notes for the benefit of the Holders.

Amended 2012 Credit Agreement means the Credit Agreement dated as of October 30, 2012 among the Issuer and the Guarantor as borrowers and guarantors, Bank of America N.A. as administrative agent and the lenders named therein, (as amended, restated, modified, extended, renewed and/or supplemented or as refinanced or replaced from time to time).

(5) In case of a release of the Guarantee, the Issuer will notify the Holders pursuant to § 12.

§ 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 arrears 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.]

eine Garantie zu den im Wesentlichen gleichen Bedingungen auch in Ansehung der Schuldverschreibungen zugunsten der Gläubiger gestellt wird.

Geänderter Kreditvertrag 2012 bedeutet der Kreditvertrag vom 30. Oktober 2012 zwischen der Emittentin, der Garantiegeberin als Kreditnehmer und Garanten, der Bank of America N.A., als Verwaltungsagent und den darin genannten Kreditgebern (in der jeweils gültigen Fassung, angepasst, modifiziert, erweitert, erneuert und/oder ergänzt oder refinanziert oder ersetzt).

(5) Im Fall einer Freigabe der Garantie wird die Emittentin dies den Gläubigern gemäß § 12 mitteilen.

§ 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 Bruchteilzinsbetrag 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 Bruchteilzinsbetrag je Festgelegte Stückelung***] je Festgelegte Stückelung.]

(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[2] 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***):

[If the Specified Currency is Euro and if Actual/Actual (ICMA) is applicable the following applies:

(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[3] 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***):

[Falls die Festgelegte Währung Euro ist und Actual/Actual (ICMA) anwendbar ist, ist folgendes anwendbar:

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[2] 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.

[3] 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.

(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

(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

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 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).]

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 Zinsberechnungszeitraums fällt auf den 31. Tag eines Monates, während der erste Tag des Zinsberechnungszeitraumes weder auf den 30. noch auf den 31. Tag eines Monats fällt, in 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).]

[***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).]

[***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 einer am Fälligkeitstag endenden Zinsperiode 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
(PAYMENTS)

§ 4
(ZAHLUNGEN)

(1) Payment of Principal and Payment of Interest.

(1) Zahlungen auf Kapital und Zahlung von Zinsen.

(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.

(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) 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

(b) Die Zahlung von Zinsen auf die Schuldverschreibungen erfolgt nach Maßgabe des nachstehenden Absatzes (2) an das Clearingsystem oder

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).]

(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 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

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) 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 bzw. die Garantiegeberin 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

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].

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 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 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.

(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 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) Deposit of Principal and Interest.

(6) Hinterlegung von Kapital und Zinsen.

The Issuer 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.

Die Emittentin bzw. die Garantiegeberin 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
(REDEMPTION)

§ 5
(RÜCKZAHLUNG)

(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***).

(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) Early Redemption for Reasons of Taxation.

If as a result of any change in, or amendment to, the laws, treaties, regulations or official position 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 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 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

(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 oder die Garantiegeberin als Folge einer Änderung oder Ergänzung der Steuer- oder Abgabengesetze, -abkommen, -vorschriften und offiziellen Verlautbarungen 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

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).

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 oder der Garantiegeberin zur Verfügung stehender Maßnahmen vermieden werden kann.

However, no such notice of redemption may be given (i) earlier than 90 days prior to the earliest date on which the Issuer or the Guarantor would be obligated to pay such Additional Amounts were a payment in respect of the Notes then due, or (ii) if at the time such notice is given, such obligation to pay such Additional Amounts does not remain in effect.

Eine solche Kündigung darf allerdings nicht (i) früher als 90 Tage vor dem frühestmöglichen Termin erfolgen, an dem die Emittentin oder die Garantiegeberin verpflichtet wäre, solche Zusätzlichen Beträge zu zahlen, falls eine Zahlung auf die Schuldverschreibungen 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.

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.

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.

Before the publication of any notice of redemption pursuant to this subparagraph, the Issuer shall deliver to the Fiscal Agent a certificate signed by a member of the managing board of the general partner 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 counsel or tax advisers of recognized standing to the effect that the Issuer 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.

Vor Bekanntgabe einer Mitteilung über eine Rückzahlung gemäß diesen Bestimmungen hat die Emittentin der Emissionsstelle eine von einem Mitglied des Vorstands des Komplementärs 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 oder die Garantiegeberin in Folge einer entsprechenden Änderung oder Ergänzung zur Zahlung Zusätzlicher Beträge verpflichtet

ist oder sein wird.

[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 or any Subsidiary of Fresenius Medical Care AG & Co. KGaA, the Issuer may, on not less than 30 or more than 60 days' notice to the Holders 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).]

[*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 oder eine Tochtergesellschaft der Fresenius Medical Care AG & 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.]

[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:

[*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 Vorschriften Anwendung:

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 subsididaries or successors (***Fitch***), or (4) if S&P, Moody's or Fitch, or all three shall not make rating of Fresenius Medical Care AG & Co. KGaA publicly available, a European-wide reputable securities rating agency or agencies, as the case may be, selected by Fresenius Medical Care AG & 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 (a), at the time of the occurrence of a Change of Control, Fresenius Medical Care AG & Co. KGaA's (i) has been, rated Investment Grade by at least two Rating Agencies and such rating is, within 120 days from such time, either downgraded to a non-investment grade rating or withdrawn by at least two Rating Agencies and is not within such 120-day period subsequently (in the case of a downgrade) upgraded to Investment Grade by two of the three Rating Agencies, or (in the case of withdrawal) replaced by an Investment Grade rating from any other Rating Agency or Rating Agencies; or (ii) 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 a Change of Control Fresenius Medical Care AG & Co. KGaA carries an Investment Grade rating of only one Rating Agency, it shall be sufficient if the requirements under subparagraph (i) are met with respect to such

Ein ***Kontrollwechselereignis*** liegt vor, wenn ein Kontrollwechsel zusammen mit einer Ratingherabstufung eintreten.

Ratingagentur bezeichnet (1) S&P Global Inc. sowie Tochter- oder Nachfolgergesellschaften (***S&P***), (2) Moody's Investors Service Inc. sowie deren Tochter- oder Nachfolgergesellschaften (***Moody's***), (3) Fitch Ratings Limited oder deren entsprechenden Nachfolger sowie deren Tochter- oder Nachfolgergesellschaften (***Fitch***), oder (4) falls S&P, Moody's oder Fitch oder alle drei kein Rating für Fresenius Medical Care AG & Co. KGaA öffentlich zur Verfügung stellen, eine Ratingagentur oder Ratingagenturen mit europaweitem Ansehen, die von Fresenius Medical Care AG & Co. KGaA ausgewählt wird und S&P, Moody's oder Fitch oder alle diese Agenturen ersetzt.

Eine ***Ratingherabstufung*** liegt vor, falls (a) Fresenius Medical Care AG & Co. KGaA bei Eintritt des Kontrollwechsels (i) von mindestens zwei Ratingagenturen mit Investment Grade bewertet ist und diese Ratings von mindestens zwei Ratingagenturen 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 mindestens zwei Ratingagenturen wieder auf ein Investment Grade Rating heraufgestuft oder (im Falle eines Zurückziehens) durch das Investment Grade Rating einer anderen Ratingagentur oder Ratingagenturen ersetzt wurde; oder (ii) 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 Medical Care AG & Co. KGaA zum Eintritt des Kontrollwechsels über ein In-

Rating Agency; and (b) in making any of the decisions referred to above, the relevant Rating Agency announces publicly or confirms in writing to Fresenius Medical Care AG & Co. KGaA that its decision resulted, in whole or in part, from the occurrence of the Change of Control.

vestment-Grade-Rating von nur einer Ratingagentur verfügt, es bereits ausreichend ist, wenn die Voraussetzungen in Unterabsatz (i) im Hinblick auf diese Ratingagentur erfüllt sind; und (b) im Zusammenhang mit einer der oben genannten Entscheidungen die betreffende Ratingagentur öffentlich bekannt macht oder gegenüber Fresenius Medical Care AG & Co. KGaA schriftlich bestätigt, dass ihre Entscheidung ganz oder teilweise auf den Kontrollwechsel zurückzuführen ist.

Provided however that, no Ratings Decline will occur if at the end of the 120-day period Fresenius Medical Care AG & Co. KGaA has been rated by at least two Rating Agencies, it has solicited, Investment Grade.

Eine Ratingherabstufung liegt jedoch nicht vor, falls Fresenius Medical Care AG & Co. KGaA (aufgrund einer Beauftragung durch Fresenius Medical Care AG & Co. KGaA) am Ende der 120-Tagesperiode von mindestens zwei Ratingagenturen mit Investment Grade bewertet wird.

Rating Category means:

Ratingkategorie bezeichnet:

(a) with respect to S&P or Fitch, any of the following categories: BB, B, CCC, CC, C and D (or equivalent successor categories);

(a) in Bezug auf S&P oder Fitch eine der folgenden Kategorien: BB, B, CCC, CC, C und D (bzw. entsprechende Nachfolgekategorien;

(b) with respect to Moody's, any of the following categories: Ba, B, Caa, Ca, C and D (or equivalent successor categories); and

(b) in Bezug auf Moody's eine der folgenden Kategorien: Ba, B, Caa, Ca, C und D (bzw. entsprechende Nachfolgekategorien); und

(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 Medical Care AG & 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).

(c) diesen Kategorien von S&P oder Moody's oder Fitch entsprechende Ratingkategorien einer anderen Ratingagentur. Bei der Bestimmung, ob das Rating von Fresenius Medical Care AG & 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 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.

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.

A ***Change of Control*** means the occurrence of one or more of the following events:

Ein ***Kontrollwechsel*** bezeichnet den Eintritt eines oder mehrerer der folgenden Ereignisse:

(a) so long as Fresenius Medical Care AG & Co. KGaA is organized as a KGaA, if the General Partner of Fresenius Medical Care AG & Co. KGaA charged with the management of Fresenius Medical Care AG & Co. KGaA shall at any time fail to be Fresenius SE & Co. KGaA or a subsidiary of Fresenius SE & Co. KGaA, or if Fresenius SE & Co. KGaA shall fail at any time to own or control, directly or indirectly, more than 25 % of the capital stock with ordinary voting power in Fresenius Medical Care AG & Co. KGaA;

(a) so lange Fresenius Medical Care AG & Co. KGaA die Rechtsform einer KGaA hat: Wenn es sich bei dem mit der Geschäftsführung von Fresenius Medical Care AG & Co. KGaA beauftragten Komplementär der Gesellschaft zu irgendeinem Zeitpunkt nicht um Fresenius SE & Co. KGaA oder eine Tochtergesellschaft der Fresenius SE & Co. KGaA handelt oder wenn Fresenius SE & Co. KGaA zu irgendeinem Zeitpunkt direkt oder indirekt nicht mehr als 25 % des stimmberechtigten Grundkapitals an Fresenius Medical Care AG & Co. KGaA hält und kontrolliert;

(b) if Fresenius Medical Care AG & 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 a Permitted Holder, is or becomes the direct or indirect legal or beneficial ownership or any legal or beneficial entitlement (as defined in § 22 of the German Securities Trading Act (***Wertpapierhandelsgesetz***)) of, in the aggregate, more than 50% of the voting shares of Fresenius Medical Care

(b) wenn Fresenius Medical Care AG & 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 eines 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 § 22 Wertpapierhandelsgesetz beschrieben) an insgesamt mehr als

AG & 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 Medical Care AG & Co. KGaA (held directly or indirectly) to any Relevant Person other than a Permitted Holder, or any person or group acting on behalf of any such Relevant Person(s).

General Partner means Fresenius Medical Care Management AG, a ***stock corporation*** 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 Medical Care AG & 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 Fresenius SE & Co. KGaA and any of its Affiliates, as long as and to the extent Fresenius SE & Co. KGaA or the relevant Affiliate(s) is or are not acting in concert with, or on behalf of, a Relevant Person(s).

Affiliate of any specified Person means:

(a) any other Person, directly or indirectly, controlling or controlled by such

50% der stimmberechtigten Aktien der Fresenius Medical Care AG & 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 (direkt oder indirekt gehalten) der Fresenius Medical Care AG & Co. KGaA an eine oder mehrere Relevante Personen, mit Ausnahme eines Zulässigen Inhabers, oder einen oder mehrere Dritte, die im Auftrag solcher Relevanten Personen handeln.

Komplementär bezeichnet die Fresenius Medical Care Management AG, eine ***Aktiengesellschaft*** nach deutschem Recht, sowie ihre Nachfolger, Abtretungsempfänger und sonstige Personen, die zum jeweiligen Zeitpunkt als persönlich haftender Gesellschafter von Fresenius Medical Care AG & 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 Fresenius SE & Co. KGaA und alle mit ihr verbundenen Personen, sofern und soweit die Fresenius SE & Co. KGaA oder eine oder mehrere mit ihr verbundene Person(en) nicht gemeinsam mit oder im Auftrag einer oder mehrerer Relevanten Person(en) handeln.

Verbundene Person einer bestimmten Person bezeichnet:

(a) jede andere Person, die diese Person direkt oder indirekt kontrolliert bzw. direkt oder indirekt von ihr kontrol-

specified Person, 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:

(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

liert 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 Ge-

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.

The Issuer will comply with the requirements of any applicable securities laws or regulations in connection with an early redemption of Notes at the option of the Holders upon a Change of Control pursuant to this § 5(4). To the extent that the provisions of any securities laws or regulations or applicable stock exchange listing rules conflict with the provisions of this § 5(4), the Issuer will comply with the applicable securities laws, regulations and listing rules and will not be deemed to have breached its obligations under this § 5(4) by virtue thereof.]

[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.

schäftsstelle 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.

Die Emittentin wird die Anforderungen der anwendbaren Wertpapiergesetze oder -vorschriften im Zusammenhang mit einer vorzeitigen Rückzahlung von Schuldverschreibungen nach Wahl der Inhaber bei einem Kontrollwechsel gemäß diesem § 5 Abs. 4 erfüllen. Soweit die Bestimmungen eines Wertpapiergesetzes oder -verordnung oder eines anwendbaren Börsenzulassungsregelwerks im Widerspruch zu den Bestimmungen dieses § 5(4) stehen, wird die Emittentin die anwendbaren Wertpapiergesetze, -verordnungen und -regelwerke einhalten und dies wird nicht als Verletzung ihrer Pflichten aus diesem § 5(4) angesehen werden.]

[*Falls die Emittentin das Wahlrecht hat, die 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.

Call Redemption Period(s)	Call Redemption Amount(s)	Wahl-Rückzahlungszeitraum/räume (Call)	Wahl-Rückzahlungsbetrag/beträge (Call)
[Call Redemption Period(s)]	***[Call Redemption Amount(s)]***	***[Wahl-Rückzahlungszeitraum/räume]***	***[Wahl-Rückzahlungsbetrag/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

[***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) 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 (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 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

(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 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 maßgeblichenRückzahlungstag (ausschließlich) aufgelaufenen Zinsen, zuzüglich des Betrages, um den

(i) die durch die Berechnungsstelle ermittelte Summe der Barwerte der verbleibenden planmäßigen Kapitalrückzahlungenund Zinszahlungen auf die zurückzuzahlenden Schuldverschreibungen (nicht eingerechnet der am Rückzahlungstag aufgelaufene Teil dieserZinszahlungen)vom Rückzahlungstag bis zum

Notes may be redeemed at the option of the Issuer at their principal amount and (y) the Maturity Date, discounted to the redemption date [***in case of discounting on a semi-annual basis, the following applies:*** on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months)] [***in case of discounting on an annual basis, the following applies:*** on an annual basis (assuming a 365-day year or a 366-day year, as the case may be, and the actual number of days elapsed in such year)] at the Benchmark Yield plus [***margin***]*%;* over

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, [***im Fall von halbjährlicher Abzinsung, ist folgendes anwendbar:*** halbjährlich abgezinst auf den Rückzahlungstag (unter der Annahme eines Jahres mit 360 Tagen und zwölf Monaten mit jeweils 30 Tagen)] [***im Fall von jährlicher Abzinsung, ist folgendes anwendbar:*** jährlich abgezinst auf den Rückzahlungstag (unter der Annahme eines 365-Tage Jahres bzw. eines 366-Tage Jahres und der tatsächlichen Anzahl von Tagen, die in einem solchen Jahr abgelaufen sind)] auf Basis der Benchmark-Rendite zuzüglich [***Marge***]%,

(ii) the principal amount of the Notes being redeemed

(ii) den Nennbetrag der zurückzuzahlenden Schuldverschreibungen übersteigt,

(the ***Make-Whole Amount***).

zurückzahlen (der ***Make-Whole Betrag***).

Benchmark Yield means the yield as at the Redemption Calculation Date as appearing 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.

Die ***Benchmark-Rendite*** ist die am Rückzahlungs-Berechnungstag bestehende 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 erachtetet wird, am Rückzahlungs-Berechnungstag auf der Bildschirmseite angezeigt wird.

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

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

source is not available, such other page (if any) from such other informationprovider 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.

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***] [***andereReferenzanleihe***] fällig [***Fälligkeitstermin***] mit ISIN [***ISIN der Referenzanleihe, die beider Preisbestimmungder 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 Finanzmarktpraxis zur Preisbestimmung bei Neuemissionenvon Unternehmensanleihen mit einer bis zum Fälligkeitstag der Schuldverschreibung vergleichbaren Laufzeit verwendet würde.

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)].

Rückzahlungs-Berechnungstag ist der sechste Zahltag vor dem Tag, an dem die Schuldverschreibungen aufgrund eines in diesem § 5[(6)] genannten Ereignisses zurückgezahlt werden.

(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 re-

(b) Die Kündigung ist den Gläubigern der Schuldverschreibungendurch 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 letzterenFall den Gesamtnennbetrag der zurückzuzahlenden Schuldver-

deemed; 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

schreibungen; 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 Rückzahlungderentstehende Rückzahlungsbetragentwederals 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 Schuldver-

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 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) 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 subparagraph [(6)] (b) of this § 5.

Transaction means [insert description of envisaged acquisition transaction

schreibungen 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 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) 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 Absatz [(6)] (b) dieses § 5 festgesetzt wurde.

Transaktion bezeichnet [Beschreibung der geplanten Akquisitionstransaktion

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.

(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)
[Put Redemption Date(s)]	***[Put Redemption Amount(s)]***
[●]	[●]
[●]	[●]

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) 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)
[Wahl-Rückzahlungstag(e)]	***[Wahl-Rückzahlungsbetrag/beträge]***
[●]	[●]
[●]	[●]

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.]

§ 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:

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
(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 bezeich-

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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

nete Geschäftsstelle lautet wie folgt:

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[falls die Emittentin das Wahlrecht hat, die Schuldverschreibungen vorzeitig zurückzuzahlen (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

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.

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) 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.

(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
(TAXATION)

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

§ 7
(STEUERN)

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

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 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 controlling 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 controlling 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 oth-

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 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 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 bzw. die Garantiegeberin 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 beherrschenden Einfluss hat) Staatsbürger einer Relevanten Steuerjurisdiktion ist oder war oder dort ansässig ist oder war oder

er 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 any Guarantee; or

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 die 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

(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) 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 23 December 2005; or

(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) 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

(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 ver-

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 (including, in the case of a payment by a Paying Agent situated in the United States, by providing prior to the receipt of any such payment, a complete, correct and executed IRS Form W-8 or W-9 or successor form, as applicable, with all appropriate attachments); or

mindert 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 (einschließlich, im Falle einer Zahlung durch eine Zahlstelle mit Sitz in den Vereinigten Staaten, durch Bereitstellung eines vollständigen, korrekten und ausgefüllten IRS-Formulars W-8 oder W-9 oder eines Nachfolgeformulars, falls zutreffend, mit allen entsprechenden Anlagen); oder

(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

(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) 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

(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***), or any amended or successor version thereof, any current or

(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***), oder einer geänderten oder nachfolgenden Fassung davon, jeder gegenwärtigen oder zu-

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

künftigen 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) any tax imposed on interest by the United States or any political subdivision or governmental authority thereof or therein by reason of any Holder holding or owning, actually or constructively, 10% or more of the total combined voting power of all classes of stock of the Issuer or the Guarantor entitled to vote; or

(i) jede Steuer, die von den Vereinigten Staaten oder einer ihrer politischen Unterabteilungen oder Regierungsbehörden auf Zinsen erhoben wird, weil ein Inhaber tatsächlich oder konstruktiv 10 % oder mehr der gesamten kombinierten Stimmrechte aller Aktiengattungen der Emittentin oder der Garantiegeberin hält oder besitzt; oder

(j) any tax imposed on interest by the United States or any political subdivision or governmental authority thereof or therein by reason of any Holder being a controlled foreign corporation that is a related person within the meaning of Section 864(d)(4) of the Internal Revenue Code with respect to the Issuer or the Guarantor; or

(j) jede Steuer, die von den Vereinigten Staaten oder einer politischen Unterabteilung oder Regierungsbehörde der Vereinigten Staaten oder darin erhoben wird, weil ein Inhaber eine kontrollierte ausländische Körperschaft ist, die eine verwandte Person im Sinne von Section 864(d)(4) des Internal Revenue Code in Bezug auf die Emittentin oder die Garantiegeberin ist; oder

(k) any tax imposed on interest by the United States or any political subdivision or governmental authority thereof or therein by reason of any Holder being a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business; or

(k) jede Steuer, die von den Vereinigten Staaten oder einer politischen Unterabteilung oder Regierungsbehörde der Vereinigten Staaten oder darin erhoben wird, weil ein Inhaber eine Bank ist, die einen Kredit gemäß einem Kreditvertrag gewährt, der im normalen Geschäftsverkehr abgeschlossen wurde; oder

(l) any combination of items (a)-(k);

(l) jegliche Kombination der Absätze (a)-(k).

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.]

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.]

For the avoidance of doubt: No Additional Amounts will be paid with respect to German capital gains tax (*Kapitalertragsteuer*), including withholding tax (*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 capital gains tax (*Kapitalertragsteuer*) or *solidarity surcharge* (*Solidaritätszuschlag*), as the case may be.

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.

§ 8
(VORLEGUNGSFRIST)

Die in § 801 Absatz 1 Satz 1 BGB bestimmte Vorlegungsfrist wird für die Schuldverschreibungen auf zehn Jahre verkürzt.

§ 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 in-

§ 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,

terest (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) 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 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 of its Material Subsidiaries or the Guarantor (unless the Guarantee has been released in accordance with these Terms and Conditions) becomes prematurely repayable as a result of a default in respect of the terms thereof, or the Issuer or any of its Material Subsidiaries or the Guarantor (unless the Guarantee has been released in accordance with these Terms and Conditions) 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 Materi-

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) die Garantiegeberin 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 und die Unterlassung jeweils länger als 60 Tage fortdauert, 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 ihrer Wesentlichen Tochtergesellschaften oder der Garantiegeberin (es sei denn, die Garantie wurde gemäß diesen Emissionsbedingungen freigegeben) vorzeitig zahlbar wird aufgrund einer Pflichtverletzung aus dem dieser Kapitalmarktverbindlichkeit zugrunde liegenden Vertrag oder die Emittentin oder eine ihrer Wesentlichen Tochtergesellschaften oder die Garantiegeberin (es sei denn, die Garantie wurde gemäß diesen Emissionsbedingungen freigegeben) 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 Fällig-

al Subsidiary 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

keit 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 oder die Garantiegeberin 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) the Issuer or any of its Material Subsidiaries or the Guarantor (unless the Guarantee has been released in accordance with these Terms and Conditions) announces its inability to meet its financial obligations or ceases its payments generally; or

(e) die Emittentin oder eine ihrer Wesentlichen Tochtergesellschaften oder die Garantiegeberin (es sei denn, die Garantie wurde gemäß dieser Emissionsbedingungen freigegeben) gibt ihre Zahlungsunfähigkeit bekannt oder stellt ihre Zahlungen ein; oder

(f) a court opens insolvency proceedings against the Issuer or the Guarantor (unless the Guarantee has been released in accordance with these Terms and Conditions) and such proceedings are instituted and have not been discharged or stayed within 90 days, or the Issuer applies for or institutes such proceedings; or

(f) ein Gericht ein Insolvenzverfahren gegen die Emittentin oder die Garantiegeberin (es sei denn, die Garantie wurde gemäß dieser Emissionsbedingungen freigegeben) eröffnet, und ein solches Verfahren eingeleitet und nicht innerhalb von 90 Tagen aufgehoben oder ausgesetzt worden ist, oder die Emittentin die Eröffnung eines solchen Verfahrens beantragt oder einleitet; oder

(g) the Issuer or the Guarantor (unless the Guarantee has been released in accordance with these Terms and Conditions) 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 or the Guarantor in connection with the Notes or the Guarantee; or

(g) die Emittentin oder die Garantiegeberin (es sei denn, die Garantie wurde gemäß dieser Emissionsbedingungen freigegeben) 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 oder die Garantiegeberin im Zusammenhang mit den Schuldverschreibungen oder

(h) 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 terms of the Guarantee governing the release of the Guarantee 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 Medical Care AG & Co. KGaA which:

(a) has unconsolidated EBITDA representing 5% or more of the EBITDA of Fresenius Medical Care AG & Co. KGaA and its subsidiaries on a consolidated basis; or

(b) has unconsolidated gross assets representing 5% or more of the gross assets of Fresenius Medical Care AG & Co. KGaA and its subsidiaries on a consolidated basis,

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

der Garantie eingegangen ist; oder

(h) die Garantie aus irgendeinem Grund nicht mehr gemäß ihren Bedingungen uneingeschränkt wirksam ist, es sei denn, dies beruht auf diesen Emissionsbedingungen oder den Bedingungen der Garantie bezüglich der Freigabe der Garantie oder der vollständigen Erfüllung aller diesbezüglichen Verpflichtungen, oder aus anderen Gründen als in ihren Bedingungen festgelegt für unwirksam oder undurchsetzbar erklärt wird, oder die Garantiegeberin eine ihrer Verpflichtungen aus der Garantie oder aus den Emissionsbedingungen zurückweist, leugnet oder ablehnt.

Wesentliche Tochtergesellschaft bezeichnet eine Tochtergesellschaft von Fresenius Medical Care AG & Co. KGaA:

(a) deren unkonsolidiertes EBITDA 5% oder mehr des EBITDA der Fresenius Medical Care AG & Co. KGaA und ihrer Tochtergesellschaften auf einer konsolidierten Basis darstellt, oder

(b) deren unkonsolidiertes Bruttovermögen 5% oder mehr des Bruttovermögens der Fresenius Medical Care AG & Co. KGaA und ihrer Tochtergesellschaften auf einer konsolidierten Basis darstellt,

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 ge-

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) of this § 9, 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) of this § 9 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 any Affiliate (as defined below) of Fresenius Medical Care AG & 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:

heilt 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 (§ 126 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) dieses § 9 wird eine Kündigungserklärung, sofern nicht bei deren Eingang zugleich einer der in Absatz (1)(a), (b) und (e) bis (g) dieses § 9 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 ein mit der Fresenius Medical Care AG & 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, voraus-

gesetzt, dass:

(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;

(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) if at the time of such substitution the Issuer is Fresenius Medical Care AG & Co. KGaA, the Issuer irrevocably and unconditionally guarantees (the ***Substitution Guarantee***) 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 Guarantee;

(b) wenn zum Zeitpunkt der Ersetzung Fresenius Medical Care AG & Co. KGaA die Emittentin ist, die Emittentin unwiderruflich und unbedingt gegenüber den Gläubigern die Zahlung aller von der Nachfolgeschuldnerin auf die Schuldverschreibungen zahlbaren Beträge zu Bedingungen garantiert (die ***Ersetzungsgarantie***), die den Bedingungen der Garantie entsprechen;

(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 the Issuer of the Substitution Guarantee in respect of the ob-

(c) die Nachfolgeschuldnerin und die Emittentin alle für die Ersetzung und die Abgabe der Ersetzungsgarantie von der Emittentin notwendigen Genehmigungen und Einverständniserklärungen von Regierungsstellen und

ligations 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 the Issuer are each valid and binding in accordance with their respective terms and enforceable by each Holder;

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 der Emittentin begebene Ersetzungsgarantie gemäß ihren Bestimmungen wirksam und rechtsverbindlich und durch jeden Gläubiger durchsetzbar sind;

(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 Fresenius Medical Care AG & Co. KGaA;

(d) § 9 dergestalt als ergänzt gilt, dass ein zusätzlicher Kündigungsgrund unter dieser Bestimmung der Wegfall der Wirksamkeit, Rechtsverbindlichkeit oder Durchsetzbarkeit der Ersetzungsgarantie gegen Fresenius Medical Care AG & Co. KGaA ist;

(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

(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) 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

(f) der Emissionsstelle jeweils ein Rechtsgutachten bezüglich der betroffenen Rechtsordnungen von anerkannten Rechtsanwälten vorgelegt wurden, die bestätigen, dass die Bestimmungen in den vorstehenden Un-

have been satisfied.

terabsätzen (a) bis (e) erfüllt wurden.

For purposes of this § 10, ***Affiliate*** shall mean any affiliated company (*verbundenes Unternehmen*) within the meaning of sections 15 et seqq. of the German Stock Corporation Act (*Aktiengesetz*) held by Fresenius Medical Care AG & Co. KGaA.

Für Zwecke dieses § 10 bedeutet ***verbundenes Unternehmen*** jedes von Fresenius Medical Care AG & Co. KGaA gehaltene verbundene Unternehmen im Sinne der §§ 15 ff. Aktiengesetz.

(2) Discharge from Obligations. References.

(2) Schuldbefreiung. Bezugnahmen.

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, 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 Substitute Debtor.

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. Desweiteren gilt im Fall einer Ersetzung in § 7 und § 5(2) 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 Steuersitz hat).

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.

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) Notification to Holders.

(3) Benachrichtigung der Gläubiger.

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.

Spätestens 15 Zahltage 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
(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 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 the following applies*:

(1) Publication.

All notices concerning the Notes will be made by means of electronic publication on

§ 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 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 sind, ist folgendes anwendbar*:

(1) Bekanntmachung.

Alle die Schuldverschreibungen betreffenden Mitteilungen sind auf der Internetseite der

the internet website of the Luxembourg Stock Exchange (*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).

Luxemburger Börse (*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) Notification to Clearing System.

So long as any Notes are listed on the official list 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.**]**

(2) Mitteilungen an das Clearingsystem.

Solange Schuldverschreibungen im amtlichen Kursblatt (official list) der Luxemburger Börse notiert 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.**]**

[In the case of Notes which are listed on a stock exchange other than the official list of the Luxembourg Stock Exchange the following applies:

[Im Fall von Schuldverschreibungen, die an einer anderen Börse als im amtlichen Kursblatt (official list) der Luxemburger Börse notiert sind, ist folgendes anwendbar:

(1) Publication.

All notices concerning the Notes will be made by means of electronic publication on the internet website of the stock exchange with respect to which the Issuer applied for listing of the Notes, 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).

(1) Bekanntmachung.

Alle die Schuldverschreibungen betreffenden Mitteilungen sind auf der Internetseite der Börse, an der die Emittentin das Listing der Notes veranlasst hat 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) 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

(2) Mitteilungen an das Clearingsystem.

Solange Schuldverschreibungen an dieser Börse notiert sind, sind alle die Schuldverschreibungen betreffenden Mitteilungen gemäß Absatz 1 bekanntzumachen. Soweit

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:

(1) 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, 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 consent to amendments which materially change the substance of the Terms and Conditions, including such measures as provided for under section 5 paragraph 3 of the SchVG by resolutions passed by such majority of the votes of the Holders as stated under § 13(2) below. A du-

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:

(1) 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, 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 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

ly passed majority resolution shall be binding upon all Holders.

verbindlich.

(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***).

(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) 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.

(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) 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 in accordance with section 10 paragraph 3 of the SchVG.

(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 gemäß § 10 Absatz 3 SchVG nachweisen.

(5) Vote without a meeting.

Together with casting their votes Holders must demonstrate their eligibility to participate in the vote in accordance with § 10

(5) Abstimmung ohne Versammlung.

Zusammen mit der Stimmabgabe müssen die Gläubiger ihre Berechtigung zur Teilnahme an der Abstimmung gemäß § 10 Absatz 3

paragraph 3 of the SchVG.

(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 authorized 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

SchVG 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

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 with respect to the dismissal of the Holders' Representative and the other rights and obligations of the Holders' Representative.]

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. Die Vorschriften des SchVG gelten im Hinblick auf die Abberufung des Gemeinsamen Vertreters und die sonstigen Rechte und Pflichten des Gemeinsamen Vertreters.]

(8) Publication.

Any notices concerning this § 13 shall be made exclusively pursuant to the provisions of the SchVG.

(8) Veröffentlichung.

Alle Bekanntmachungen diesen § 13 betreffend erfolgen ausschließlich gemäß den Bestimmungen des SchVG.

(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.

(9) Änderung der Garantie.

Die oben aufgeführten auf die Änderung der Emissionsbedingungen der Schuldverschreibungen anwendbaren Bestimmungen gelten entsprechend für die Bestimmungen der Garantie.

§ 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.

§ 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) Enforcement.

Any Holder of Notes may in any proceedings against the Issuer or the Guarantor or to which such Holder and the Issuer 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 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.

(3) Gerichtliche Geltendmachung.

Jeder Gläubiger von Schuldverschreibungen ist berechtigt, in jedem Rechtsstreit gegen die Emittentin oder die Garantiegeberin oder in jedem Rechtsstreit, in dem der Gläubiger und die Emittentin oder die Garantiegeberin 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 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.

§ 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 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 Medical Care AG & Co. KGaA, Else-Kröner-Straße 1, 61352 Bad Homburg vor der Höhe, zur kostenlosen Ausgabe bereitgehalten.**]**

§ 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 Sprache abgefasst. Eine Übersetzung in die englische Sprache ist beigefügt. 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 beigefügt. 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

§ 1
(CURRENCY, DENOMINATION, FORM)

(1) Currency; Denomination.

This series of Notes (the ***Notes***) of Fresenius Medical Care AG & Co. KGaA (also referred to as 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:*

OPTION II – Emissionsbedingungen für Schuldverschreibungen mit variabler Verzinsung

§ 1
(WÄHRUNG, STÜCKELUNG, FORM)

(1) Währung; Stückelung.

Diese Serie von Schuldverschreibungen (die ***Schuldverschreibungen***) der Fresenius Medical Care AG & Co. KGaA (auch als die ***Emittentin*** bezeichnet) 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) 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*** 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 certifica-

(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 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

tion received on or after the 40th 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)).**]**

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) 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 Banking Aktiengesellschaft, Frankfurt am Main (***CBF***)**] [**Clearstream Banking S.A. 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

(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***: jeweils**]** folgendes: **[**Clearstream Banking Aktiengesellschaft, Frankfurt am Main (***CBF***)**] [**Clearstream Banking S.A., 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

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 payment of 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 custody by a common depositary on behalf of both ICSDs.**]**

(5) Holder.

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

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 Löschung 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 zurückgezahlten 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 in Form einer Classical Global Note (***CGN***) ausgegeben und von einer gemeinsamen Verwahrstelle im Namen beider ICSDs verwahrt.**]**

(5) Gläubiger.

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

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 territories and 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 AND 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

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 und Besitztümer (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 Effektengiro-Register bei CBF vorgesehen ist, ist folgendes anwendbar*:

(7) Effektengiro-Register.

Die Emittentin und CBF haben vereinbart, dass CBF zum Effektengiro-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 UND 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

obligations are accorded priority under mandatory provisions of statutory law.

gleichrangig sind, soweit diesen Verbindlichkeiten nicht durch zwingende gesetzliche Bestimmungen ein Vorrang eingeräumt wird.

(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 (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 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 or claims of any of its Subsidiaries against any affiliated companies within the meaning of sections 15 et seqq. 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 or by any of its Subsidiaries, (ii) is existing on assets at the time of the acquisition thereof by the Issuer or by any of its Subsidiaries or is existing over assets of a newly acquired company which becomes a member of the Fresenius Medical Care 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 Medical Care Group

(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, (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, 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 oder Ansprüchen einer ihrer Tochtergesellschaften gegen verbundene Unternehmen im Sinne der §§ 15 ff. 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 oder durch eine ihrer Tochtergesellschaften ausgegebenen Wertpapieren dienen, (ii) zur Sicherung von Vermögensgegenständen bestellt sind, die bereits zum Zeitpunkt ihres Erwerbs durch die Emittentin oder durch eine ihrer Tochtergesellschaften bestanden, oder am Vermögen einer neu erworbenen Gesellschaft bestehen, die Mitglied des Fresenius Medical Care-Konzerns wird, (iii)

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 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 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).

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 Medical Care-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 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 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.

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.

Im Sinne dieser Emissionsbedingungen bezeichnet ***Kapitalmarktverbindlichkeit*** jede Verbindlichkeit zur Rückzahlung aufgenommener 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 Medical Care Group means Fresenius Medical Care AG & Co. KGaA and its Subsidiaries on a consolidated basis.

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.

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

(3) Guarantee.

Fresenius Medical Care Holdings, Inc. (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*)[1], giving rise to the right of each Holder to require performance of the Guarantee directly from the Guarantor and

Fresenius Medical Care-Konzern bezeichnet Fresenius Medical Care AG & Co. KGaA und ihre Tochtergesellschaften auf konsolidierter Basis.

Tochtergesellschaft bezeichnet in Bezug auf einen Rechtsträger, eine Kapitalgesellschaft, eine Gesellschaft mit Haftungsbeschränkung, eine Vereinigung, eine Personengesellschaft oder ein sonstiges Unternehmen, dessen Ergebnisse gemäß den 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.

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

(3) Garantie.

Fresenius Medical Care Holdings, Inc. (die ***Garantiegeberin)*** 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 Garantiegeberin zu verlangen

[1] 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.

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.

und diese Verpflichtungen unmittelbar gegen die Garantiegeberin durchzusetzen. Kopien der Garantie können kostenlos bei der bezeichneten Geschäftsstelle der Emissionsstelle bezogen werden.

(4) Release of Guarantee.

Pursuant to its terms, the Guarantee (but not any payment obligation under the Guarantee which has already become due and payable) will be automatically and unconditionally released (and thereupon shall terminate and be discharged and be of no further force and effect) at any time when the Guarantor is no longer an obligor under the Amended 2012 Credit Agreement, provided that, if under the Amended 2012 Credit Agreement, a new guarantee is granted, the Issuer will procure that substantially the same guarantee will also be granted in respect of the obligations under the Notes for the benefit of the Holders.

Amended 2012 Credit Agreement means the Credit Agreement dated as of October 30, 2012 among the Issuer and the Guarantor as borrowers and guarantors, Bank of America N.A. as administrative agent and the lenders named therein, (as amended, restated, modified, extended, renewed and/or supplemented or as refinanced or replaced from time to time).

(4) Freigabe der Garantie.

Gemäß ihren Bestimmungen wird die Garantie (aber keine Zahlungsverpflichtung im Rahmen der Garantie, die bereits fällig und zahlbar geworden ist) automatisch und unbedingt freigegeben (und gilt von diesem Zeitpunkt an als erloschen und unwirksam), sobald die Garantiegeberin nicht mehr Verpflichtete unter dem Geänderten Kreditvertrag 2012 ist, wobei, sollte unter dem Geänderten Kreditvertrag 2012 eine neue Garantie gestellt werden, die Emittentin sicherstellen wird, dass eine Garantie zu den im Wesentlichen gleichen Bedingungen auch in Ansehung der Schuldverschreibungen zugunsten der Gläubiger gestellt wird.

Geänderter Kreditvertrag 2012 bedeutet der Kreditvertrag vom 30. Oktober 2012 zwischen der Emittentin, der Garantiegeberin als Kreditnehmer und Garanten, der Bank of America N.A., als Verwaltungsagent und den darin genannten Kreditgebern (in der jeweils gültigen Fassung, angepasst, modifiziert, erweitert, erneuert und/oder ergänzt oder refinanziert oder ersetzt).

(5) In case of a release of the Guarantee the Issuer will notify the Holders pursuant to § 12.

(5) Im Fall einer Freigabe der Garantie wird die Emittentin dies den Gläubigern gemäß § 12 mitteilen.

§ 3
(INTEREST)

§ 3
(ZINSEN)

(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

(1) Zinszahlungstage.

(a) Die Schuldverschreibungen werden bezogen auf ihren Nennbetrag vom [***Verzinsungsbeginn***] (der ***Verzinsungsbeginn***) (einschließlich) bis zum ersten Zinszahlungstag (ausschließlich) und danach von jedem Zinszah-

including) each Interest Payment Date to (but excluding) the next following Interest Payment Date. Interest on the Notes shall be payable in arrears 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***: 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 [***in-***

lungstag (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 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 Ge-

sert 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.]

[In case the offered quotation for deposits in the Specified Currency is EURIBOR, the following applies:

(2) Rate of Interest.

[In case the offered quotation for deposits in the Specified Currency is EURIBOR, the following applies:

schäftstag 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.]

[Falls der Angebotssatz für Einlagen in der Festgelegten Währung EURIBOR ist, ist folgendes anwendbar:

(2) Zinssatz.

[Falls der Angebotssatz für Einlagen in der Festgelegten Währung EURIBOR ist, ist folgendes anwendbar:

(a) 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. (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.

(a) 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 (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 Nachfolgeseite, 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.

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 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.

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 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.

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 subparagraph, 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

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 Ange-

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 subparagraph, 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 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 25

botssätze 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] [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 (un-

March 1957), as amended by the Treaty on European Union (signed in Maastricht on 7 February 1992) and the Amsterdam Treaty of 2 October 1997, as further amended from time to time.]

[In case the offered quotation for deposits in the Specified Currency is LIBOR, the following applies:

(a) 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 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***.]***

terzeichnet 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:

(a) 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 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*.***]***

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.

Bildschirmseite bedeutet Reuters Bildschirmseite LIBOR01 oder die jeweilige Nachfolgeseite, 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.

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.

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.

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 subparagraph, 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 re-

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 Berech-

quest 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. (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 subparagraph, 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.

nungsstelle auf ihre Anfrage als den jeweiligen Satz nennen, zu dem 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.

representative amount means an amount that is representative for a single transaction in the relevant market at the relevant time.]

repräsentativer Betrag bedeutet ein Betrag, der zu der jeweiligen Zeit in dem jeweiligen Markt für eine einzelne Transaktion repräsentativ ist.]

(3) Suspension Event

If the Issuer determines (in consulation with the Calculation Agent) that a Suspension Event has occured on or prior to an Interest Determination Date, the following shall apply:

(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) The Offered Interest Rate for the Interest Period following such Interest Determination Date and each subsequent Interest Period (unless a new Suspension 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 at least 10 Business Days prior to such Interest Determination Date 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.

(a) 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) ist der Ersatz-Angebotszinssatz (wie nachstehend definiert), der gegebenenfalls durch eine etwaige Anpassungsspanne (wie nachstehend definiert) angepasst wird. Die Emittentin wird die Berechnungsstelle hierüber mindestens 10 Geschäftstage vor obenstehendem Zinsberechnungstag 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) 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

(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

Interest Rate, adjusted, if necessary, by any Alternative Adjustment Spread. The Issuer will notify the Calculation Agent at least 10 Business Days prior to such Interest Determination Date 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.

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 mindestens 10 Geschäftstage vor obenstehendem Zinsberechnungstag informieren und den Alternativ-Angebotszinssatz, die etwaige Alternativ-Anpassungsspanne und die Anpassungen gemäß § 12 dieser Emissionsbedingungen bekanntgeben.

(c) If, by the tenth 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.

(c) Wenn bis zum zehnten Geschäftstag vor dem betreffenden Zinsfestlegungstag weder ein Ersatz-Angebotszinssatz gemäß § 3(3)(a) ermittelt noch ein Alternativ-Angebotszinssatz entsprechend des vorstehendenden § 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 tenth 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.

Für die Zwecke von Satz 1 dieses § 3(3)(c) und die Bestimmung ob bis zum zehnten 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) Certain definitions.

(d) Bestimmte Begriffsbestimmungen

Suspension Event means with respect to the Offered Interest Rate one of the following events:

Einstellungs-Ereignis bezeichnet in Bezug auf den Angebotszinssatz eines der nachfolgenden Ereignisse:

(i) the Offered Interest Rate has not been published on the Screen Page during the last ten Business Days prior to and including the rel-

(i) der Angebotszinssatz wurde in den letzten zehn Geschäftstagen vor dem und bis einschließlich zum relevanten

evant 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

(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.

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 bestimmbaren 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 bestimmbaren Tages, von dem an eine wesentliche Änderung der Methode zur Festlegung des Angebotszinssatzes wirksam wird; oder

(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.

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 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

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 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

group or committee assisted, cochaired 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.

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

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.

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 ihr 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.

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.

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.

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 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

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 Emittentin nach Konsultation mit dem Unabhängigen Sachverständigen auf den Alternativ-Angebotszinssatz anzuwenden ist, um eine Verlagerung des wirtschaftlichen Wertes

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).

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.

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).

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.

(e) Notwithstanding any other provision of this § 3, if in the Calculation Agent's opinion there is any uncertainty between two or more alternative courses of action in making any determination or calculation under this § 3, the Calculation Agent shall promptly notify the Issuer thereof and the Issuer shall direct the Calculation Agent in writing as to which alternative course of action to adopt. If the Calculation Agent is not promptly provided with such direction, or is otherwise unable to make such calculation or determination for any reason, it shall notify the Issuer thereof and the Calculation Agent shall be under no obligation to make such calculation or determination and shall not incur any liability for not doing so.

(e) Unbeschadet anderer Bestimmungen dieses § 3 hat die Berechnungsstelle, wenn nach Ansicht der Berechnungsstelle bei einer Bestimmung oder Berechnung gemäß diesem § 3 eine Unsicherheit zwischen zwei oder mehr Handlungsalternativen besteht, die Emittentin unverzüglich davon in Kenntnis zu setzen, und die Emittentin hat die Berechnungsstelle schriftlich anzuweisen, welche Handlungsalternative zu wählen ist. Wird der Berechnungsstelle eine solche Weisung nicht umgehend erteilt oder ist sie aus irgendeinem Grund nicht in der Lage, eine solche Berechnung oder Bestimmung vorzunehmen, setzt sie die Emittentin davon in Kenntnis, und die Berechnungsstelle ist nicht verpflichtet, eine solche Berechnung oder Bestimmung vorzunehmen, und übernimmt keine Haftung dafür, dass sie dies nicht tut.

(f) Notwithstanding any other provision of this § 3, neither the Calculation Agent nor the Paying Agent shall be obliged to concur with the Issuer in respect of any Benchmark amendments which, in its sole opinion, would have the effect of (i) exposing it to any liability against which it has not been indemnified and/or secured and/or prefunded to

(f) Unbeschadet anderer Bestimmungen dieses § 3 sind weder die Berechnungsstelle noch die Zahlstelle verpflichtet, sich mit der Emittentin in Bezug auf Änderungen der Benchmark einverstanden zu erklären, die nach ihrer alleinigen Auffassung zur Folge hätten, dass sie (i) einer Haftung ausgesetzt wäre, für die sie nicht zu ihrer Zufriedenheit freige-

its satisfaction or (ii) increasing its obligations or duties, or decreasing its rights or protections.

stellt und/oder abgesichert und/oder vorfinanziert wurde, oder (ii) ihre Verpflichtungen oder Pflichten erhöhen oder ihre Rechte oder ihren Schutz verringern würde.

[*In case of a Minimum Rate of Interest the following applies:*

[*Im Fall eines Mindestzinssatzes ist folgendes anwendbar:*

(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***].]

(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***].]

[In case of a Maximum Rate of Interest the following applies:

[Im Fall eines Höchstzinssatzes ist folgendes anwendbar:

(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***].]

(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) [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 of the Specified Currency, with 0.5 of such unit being rounded upwards.

(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 resultierende Betrag auf die kleinste Einheit der Festgelegten Währung auf- oder abgerundet wird, wobei 0,5 solcher Einheiten aufgerundet werden.

(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 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, 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

(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 und der Garantiegeberin 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, die Garantiegeberin, 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 Schuldver-

when due, interest shall continue to accrue at the default rate of interest established by statutory law[2] 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.

schreibungen 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[3] verzinst.

(9) [Day Count Fraction.]

(9) [Zinstagequotient.]

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***):

Zinstagequotient bezeichnet im Hinblick auf die Berechnung von Zinsbeträgen auf die Schuldverschreibungen für einen beliebigen Zeitraum (der ***Zinsberechnungszeitraum***):

[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).]

[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).]

[In the case of Actual/365 (Fixed) the following applies:

the actual number of days in the Calculation Period divided by 365.]

[Im Fall von Actual/365 (Fixed), ist folgendes anwendbar:

die tatsächliche Anzahl von Tagen im Zinsberechnungszeitraum, dividiert durch 365.]

[In the case of Actual/360 the following applies:

the actual number of days in the Calculation Period divided by 360.]

[Im Fall von Actual/360, ist folgendes anwendbar:

die tatsächliche Anzahl von Tagen im Zinsberechnungszeitraum, dividiert durch 360.]

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[2] 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.

[3] 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.

§ 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).]

(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 or, as the case may be, the Guarantor shall be discharged by payment to, or to the order of, the Clearing System.

§ 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) 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 bzw. die Garantiegeberin wird durch Leistung der Zahlung an das Clearingsystem oder dessen Order von ihrer Zahlungspflicht befreit.

(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 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

(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 bei Eintritt eines Transaktions-Ereignisses zurückzuzahlen, ist folgendes anwendbar***: den Ereignis-Rückzahlungsbetrag der Schuldverschreibungen;] [***falls der Gläubiger ein Wahlrecht***

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.

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) Deposit of Principal and Interest.

The Issuer 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.

(6) Hinterlegung von Kapital und Zinsen.

Die Emittentin bzw. die Garantiegeberin 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
(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.

If as a result of any change in, or amendment to, the laws, treaties, regulations or official position 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 du-

§ 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 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

ties 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 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 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).

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 oder die Garantiegeberin als Folge einer Änderung oder Ergänzung der Steuer- oder Abgabengesetze, -abkommen, -vorschriften und offiziellen Verlautbarungen 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 oder der Garantiegeberin zur Verfügung stehender Maßnahmen vermieden werden kann.

However, no such notice of redemption may be given (i) earlier than 90 days prior to the earliest date on which the Issuer or the Guarantor would be obligated to pay such Additional Amounts were a payment in respect of the Notes 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.

Eine solche Kündigung darf allerdings nicht (i) früher als 90 Tage vor dem frühestmöglichen Termin erfolgen, an dem die Emittentin oder die Garantiegeberin verpflichtet wäre, solche Zusätzlichen Beträge zu zahlen, falls eine Zahlung auf die Schuldverschreibungen 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.

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.

Before the publication of any notice of redemption pursuant to this subparagraph, the Issuer shall deliver to the Fiscal Agent a certificate signed by a member of the managing board of the general partner 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 counsel or tax advisers of recognized standing to the effect that the Issuer 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.

Vor Bekanntgabe einer Mitteilung über eine Rückzahlung gemäß diesen Bestimmungen hat die Emittentin der Emissionsstelle eine von einem Mitglied des Vorstands des Komplementärs 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 oder die Garantiegeberin in Folge einer entsprechenden Änderung oder Ergänzung zur Zahlung Zusätzlicher Beträge verpflichtet ist oder sein wird.

[If the Notes are subject to Early Redemption at the Option of the Issuer for Reasons of Minimal Outstanding Principal Amount, the following applies:

***[Falls die Schuldverschreibungen nach Wahl der Emittentin bei geringfügig ausstehendem Nennbetrag vorzeitig kündbar sind, ist folgendes anwendbar*:**

(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 or any Subsidiary of Fresenius Medical Care AG & Co. KGaA, the Issuer may, on not less than 30 or more than 60 days' notice to the Holders 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).]

(3) Vorzeitige Rückzahlung nach Wahl der Emittentin bei geringfügig ausstehendem Nennbetrag.

Wenn 80% oder mehr des Nennbetrags der dann ausstehenden Schuldverschreibungen durch die Emittentin oder eine Tochtergesellschaft der Fresenius Medical Care AG & 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.]

[*If the Notes are subject to Early Redemption at the Option of the Issuer upon the occurrence of a Suspension Event, the following applies:*

[*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

(4) Vorzeitige Rückzahlung nach Wahl der Emittentin bei Eintritt eines Einstellungs-

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 sub-clause § 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) Standard & Poor's Credit Market Services Europe Limited (*Zweigniederlassung* Deutschland) and its successors (***S&P***), (2) Moody's Deutschland GmbH and its successors (***Moody's***), and (3) Fitch Ratings Limited and its successors

Ereignisses.

Falls ein Benchmark-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 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 Vorschriften Anwendung:

Ein ***Kontrollwechselereignis*** liegt vor, wenn ein Kontrollwechsel zusammen mit einer Ratingherabstufung eintreten.

Ratingagentur bezeichnet (1) Standard & Poor's Credit Market Services Europe Limited (*Zweigniederlassung* Deutschland) oder deren entsprechenden Nachfolger (***S&P***), (2) Moody's Deutschland GmbH oder deren entsprechenden Nachfolger (***Moody's***), (3)

(***Fitch***), or (4) if S&P, Moody's or Fitch, or all three shall not make rating of Fresenius Medical Care AG & Co. KGaA publicly available, a European-wide reputable securities rating agency or agencies, as the case may be, selected by Fresenius Medical Care AG & 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 (a), at the time of the occurrence of a Change of Control, Fresenius Medical Care AG & Co. KGaA's (i) has been, rated Investment Grade by at least two Rating Agencies and such rating is, within 120 days from such time, either downgraded to a non-investment grade rating or withdrawn by at least two Rating Agencies and is not within such 120-day period subsequently (in the case of a downgrade) upgraded to Investment Grade by two of the three Rating Agencies, or (in the case of withdrawal) replaced by an Investment Grade rating from any other Rating Agency or Rating Agencies; or (ii) 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 a Change of Control Fresenius Medical Care AG & Co. KGaA carries an Investment Grade rating of only one Rating Agency, it shall be sufficient if the requirements under subparagraph (i) are met with respect to such Rating Agency; and (b) in making any of the decisions referred to above, the relevant Rating Agency announces publicly or confirms in writing to Fresenius Medical Care AG & Co. KGaA that its decision resulted, in whole or in part, from the occurrence of the Change of Control.

Fitch Ratings Limited oder deren entsprechenden Nachfolger (***Fitch***), oder (4) falls S&P, Moody's oder Fitch oder alle drei kein Rating für Fresenius Medical Care AG & Co. KGaA öffentlich zur Verfügung stellen, eine Ratingagentur oder Ratingagenturen mit europaweitem Ansehen, die von Fresenius Medical Care AG & Co. KGaA ausgewählt wird und S&P, Moody's oder Fitch oder alle diese Agenturen ersetzt.

Eine ***Ratingherabstufung*** liegt vor, falls (a) Fresenius Medical Care AG & Co. KGaA bei Eintritt des Kontrollwechsels (i) von mindestens zwei Ratingagenturen mit Investment Grade bewertet ist und diese Ratings von mindestens zwei Ratingagenturen 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 mindestens zwei Ratingagenturen wieder auf ein Investment Grade Rating heraufgestuft oder (im Falle eines Zurückziehens) durch das Investment Grade Rating einer anderen Ratingagentur oder Ratingagenturen ersetzt wurde; oder (ii) 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 Medical Care AG & Co. KGaA zum Eintritt des Kontrollwechsels über ein ein Investment-Grade-Rating von nur einer Ratingagentur verfügt, es bereits ausreichend ist, wenn die Voraussetzungen in Unterabsatz (i) im Hinblick auf diese Ratingagentur erfüllt sind; und (b) im Zusammenhang mit einer der oben genannten Entscheidungen die betreffende Ratingagentur öffentlich bekannt macht oder gegenüber Fresenius Medical Care AG & Co. KGaA schriftlich bestätigt,

dass ihre Entscheidung ganz oder teilweise auf den Kontrollwechsel zurückzuführen ist.

Provided however that, no Ratings Decline will occur if at the end of the 120-day period Fresenius Medical Care AG & Co. KGaA has been rated by at least two Rating Agencies, it has solicited, Investment Grade.

Eine Ratingherabstufung liegt jedoch nicht vor, falls Fresenius Medical Care AG & Co. KGaA (aufgrund einer Beauftragung durch Fresenius Medical Care AG & Co. KGaA) am Ende der 120-Tagesperiode von mindestens zwei Ratingagenturen mit Investment Grade bewertet wird.

Rating Category means:

Ratingkategorie bezeichnet:

(a) with respect to S&P or Fitch, any of the following categories: BB, B, CCC, CC, C and D (or equivalent successor categories);

(a) in Bezug auf S&P oder Fitch eine der folgenden Kategorien: BB, B, CCC, CC, C und D (bzw. entsprechende Nachfolgekategorien;

(b) with respect to Moody's, any of the following categories: Ba, B, Caa, Ca, C and D (or equivalent successor categories); and

(b) in Bezug auf Moody's eine der folgenden Kategorien: Ba, B, Caa, Ca, C und D (bzw. entsprechende Nachfolgekategorien); und

(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 Medical Care AG & 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).

(c) diesen Kategorien von S&P oder Moody's oder Fitch entsprechende Ratingkategorien einer anderen Ratingagentur. Bei der Bestimmung, ob das Rating von Fresenius Medical Care AG & 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 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.

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.

A ***Change of Control*** means the occurrence of one or more of the following events:

Ein ***Kontrollwechsel*** bezeichnet den Eintritt eines oder mehrerer der folgenden Ereignisse:

(a) so long as Fresenius Medical Care AG & Co. KGaA is organized as a KGaA, if the General Partner of Fresenius Medical Care AG & Co. KGaA charged with the management of Fresenius Medical Care AG & Co. KGaA shall at any time fail to be Fresenius SE & Co. KGaA or a subsidiary of Fresenius SE & Co. KGaA, or if Fresenius SE & Co. KGaA shall fail at any time to own or control, directly or indirectly, more than 25 % of the capital stock with ordinary voting power in Fresenius Medical Care AG & Co. KGaA;

(a) so lange Fresenius Medical Care AG & Co. KGaA die Rechtsform einer KGaA hat: Wenn es sich bei dem mit der Geschäftsführung von Fresenius Medical Care AG & Co. KGaA beauftragten Komplementär der Gesellschaft zu irgendeinem Zeitpunkt nicht um Fresenius SE & Co. KGaA oder eine Tochtergesellschaft der Fresenius SE & Co. KGaA handelt oder wenn Fresenius SE & Co. KGaA zu irgendeinem Zeitpunkt direkt oder indirekt nicht mehr als 25 % des stimmberechtigten Grundkapitals an Fresenius Medical Care AG & Co. KGaA hält und kontrolliert;

(b) if Fresenius Medical Care AG & 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 a Permitted Holder, is or becomes the direct or indirect legal or beneficial ownership or any legal or beneficial entitlement (as defined in § 22 of the German Securities Trading Act (*Wertpapierhandelsgesetz*)) of, in the aggregate, more than 50% of the voting shares of Fresenius Medical Care AG & Co. KGaA; or

(b) wenn Fresenius Medical Care AG & 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 eines 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 § 22 Wertpapierhandelsgesetz beschrieben) an insgesamt mehr als 50% der stimmberechtigten Aktien der Fresenius Medical Care AG & Co. KGaA erlangen; oder

(c) any sale, lease, exchange or other transfer (in one transaction or a series of related transactions) of all or sub-

(c) ein Verkauf, ein Leasing, ein Tausch oder eine sonstige Übertragung (im Rahmen einer einzigen Transaktion

stantially all of the assets of Fresenius Medical Care AG & Co. KGaA (held directly or indirectly) to any Relevant Person, other than a Permitted Holder, or any person or group acting on behalf of any such Relevant Person(s).

oder einer Reihe miteinander zusammenhängender Transaktionen) aller oder aller wesentlichen Vermögenswerte (direkt oder indirekt gehalten) der Fresenius Medical Care AG & Co. KGaA an eine oder mehrere Relevante Personen, mit Ausnahme eines Zulässigen Inhabers, oder einen oder mehrere Dritte, die im Auftrag solcher Relevanten Personen handeln.

General Partner means Fresenius Medical Care Management AG, a ***stock corporation*** 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 Medical Care AG & Co. KGaA from time to time.

Komplementär bezeichnet die Fresenius Medical Care Management AG, eine ***Aktiengesellschaft*** nach deutschem Recht, sowie ihre Nachfolger, Abtretungsempfänger und sonstige Personen, die zum jeweiligen Zeitpunkt als persönlich haftender Gesellschafter von Fresenius Medical Care AG & Co. KGaA auftreten.

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.

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.

Permitted Holder means Fresenius SE & Co. KGaA and any of its Affiliates, as long as and to the extent Fresenius SE & Co. KGaA or the relevant Affiliate(s) is or are not acting in concert with, or on behalf of, a Relevant Person(s).

Zulässiger Inhaber bezeichnet die Fresenius SE & Co. KGaA und alle mit ihr verbundenen Personen, sofern und soweit die Fresenius SE & Co. KGaA oder eine oder mehrere mit ihr verbundene Person(en) nicht gemeinsam mit oder im Auftrag einer oder mehrerer Relevanten Person(en) handeln.

Affiliate of any specified Person means:

Verbundene Person einer bestimmten Person bezeichnet:

(a) any other Person, directly or indirectly, controlling or controlled by such specified Person, or

(a) jede andere Person, die diese Person direkt oder indirekt kontrolliert bzw. direkt oder indirekt von ihr kontrolliert wird, oder

(b) under direct or indirect common control with such specified Person.

(b) mit dieser bestimmten Person unter direkter oder indirekter gemeinsamer Kontrolle steht.

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.

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.

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:

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;

(a) dass ein Kontrollwechselereignis eingetreten ist;

(b) the circumstances and relevant facts regarding such Change of Control Triggering Event;

(b) die Umstände und relevanten Informationen bezüglich des Kontrollwechselereignisses;

(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***);

(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) that each Note will be subject to repurchase only in integral multiples the Specified Denomination; and

(d) dass die Schuldverschreibungen nur in ganzen Vielfachen der Festgelegten Stückelung zurückgekauft werden; und

(e) the instructions determined by the Issuer that a Holder must follow in order to have its Notes purchased pursuant to this § 5(4).

(e) die Anweisungen, die ein Gläubiger befolgen muss, damit die Schuldverschreibungen gemäß diesem § 5(4) zurückgekauft werden.

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

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.

without the prior consent of the Issuer.

[The Issuer will comply with the requirements of any applicable securities laws or regulations in connection with an early redemption of Notes at the option of the Holders upon a Change of Control pursuant to this § 5(4). To the extent that the provisions of any securities laws or regulations or applicable stock exchange listing rules conflict with the provisions of this § 5(4), the Issuer will comply with the applicable securities laws, regulations and listing rules and will not be deemed to have breached its obligations under this § 5(4) by virtue thereof.]

[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.

Kein in dieser Form ausgeübtes Recht kann ohne vorherige Zustimmung der Emittentin widerrufen oder zurückgezogen werden.

Die Emittentin wird die Anforderungen der anwendbaren Wertpapiergesetze oder -vorschriften im Zusammenhang mit einer vorzeitigen Rückzahlung von Schuldverschreibungen nach Wahl der Inhaber bei einem Kontrollwechsel gemäß diesem § 5 Abs. 4 erfüllen. Soweit die Bestimmungen eines Wertpapiergesetzes oder -verordnung oder eines anwendbaren Börsenzulassungsregelwerks im Widerspruch zu den Bestimmungen dieses § 5(4) stehen, wird die Emittentin die anwendbaren Wertpapiergesetze, -verord-nungen und -regelwerke einhalten und dies wird nicht als Verletzung ihrer Pflichten aus diesem § 5(4) angesehen werden.]

[*Falls die Emittentin das Wahlrecht hat, die 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.

Call Redemption Period(s)	Call Redemption Amount(s)	Wahl-Rückzahlungszeitraum/räume (Call)	Wahl-Rückzahlungsbetrag/beträge (Call)
[Call Redemption Period(s)]	***[Call Redemption***	***[Wahl-Rückzahlungszeitraum/räume]***	***[Wahl-Rückzahlungsbe-***

	Amount(s)]		***trag/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

[***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 Schuld-

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.]]

verschreibungen 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.]]

[*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 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 subparagraph

[*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 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 Absatz

[(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) 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 subparagraph [(6)] (b) of this § 5.

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

[(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) 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 Absatz [(6)] (b) dieses § 5 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 ver-

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)
[Put Redemption Date(s)]	***[Put Redemption Amount(s)]***
[●]	[●]
[●]	[●]

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

folgen.]

***[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)
[Wahl-Rückzahlungstag(e)]	***[Wahl-Rückzahlungsbetrag/beträge]***
[●]	[●]
[●]	[●]

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

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.]

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,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 & Security Services
Operations Frankfurt
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[,] [and] the Paying Agent [and the Calculation Agent] reserve the right

§ 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 & Security Services
Operations Frankfurt
Taunusanlage 12
60325 Frankfurt am Main
Deutschland

Die anfänglich bestellte Berechnungsstelle (die ***Berechnungsstelle***) und ihre bezeichnete Geschäftsstelle lautet wie folgt:

[●].]

Die Emissionsstelle[,] [und] die Zahlstelle [und die Berechnungsstelle] behalten sich

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, [,] [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.

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 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 Insol-

venzfall, 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) 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.

(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
(TAXATION)

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 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 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:

§ 7
(STEUERN)

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 oder 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 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) 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

(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. die Garantiegeberin darstellen; oder

(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 controlling 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 controlling 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 any Guarantee; or

(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 beherrschenden 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 die 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

(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 fragli-

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

chen Zahlung einem Depotkonto bei einer bzw. einem nicht in der Relevanten Steuerjurisdiktion ansässigen Bank, Finanzdienstleistungsinstitut, Wertpapierhandelsunternehmen oder Wertpapierhandelsbank gutgeschrieben gewesen wäre; oder

(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 23 December 2005; or

(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) 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 (including, in the case of a payment by a Paying Agent situated in the United States, by providing prior to the receipt of any such payment, a complete, correct and executed IRS Form W-8 or W-9 or successor form, as applicable, with all appropriate attachments); or

(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 (einschließlich, im Falle einer Zahlung durch eine Zahlstelle mit Sitz in den Vereinigten Staaten, durch Bereitstellung eines vollständigen, korrekten und ausgefüllten IRS-Formulars W-8 oder W-9 oder eines Nachfolgeformulars, falls zutreffend, mit allen entsprechenden Anlagen);

oder

(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

(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) 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

(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***), or any amended or successor version thereof, 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

(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***), oder einer geänderten oder nachfolgenden Fassung davon, 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) any tax imposed on interest by the United States or any political subdivision or governmental authority thereof or therein by reason of any Holder holding or owning, actually or constructively, 10% or more of the total combined voting power of all classes of stock of the Issuer or the Guarantor entitled to vote; or

(i) jede Steuer, die von den Vereinigten Staaten oder einer ihrer politischen Unterabteilungen oder Regierungsbehörden auf Zinsen erhoben wird, weil ein Inhaber tatsächlich oder konstruktiv 10 % oder mehr der gesamten kombinierten Stimmrechte aller Aktiengattungen der Emittentin oder der Garantiegeberin hält oder besitzt; oder

(j) any tax imposed on interest by the United States or any political subdivision or governmental authority thereof or therein by reason of any Holder being a controlled foreign corporation that is a related person within the meaning of Section 864(d)(4) of the Internal Revenue Code with respect to the Issuer or the Guarantor; or

(j) jede Steuer, die von den Vereinigten Staaten oder einer politischen Unterabteilung oder Regierungsbehörde der Vereinigten Staaten oder darin erhoben wird, weil ein Inhaber eine kontrollierte ausländische Körperschaft ist, die eine verwandte Person im Sinne von Section 864(d)(4) des Internal Revenue Code in Bezug auf die Emittentin oder die Garantiegeberin ist; oder

(k) any tax imposed on interest by the United States or any political subdivision or governmental authority thereof or therein by reason of any Holder being a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business; or

(k) jede Steuer, die von den Vereinigten Staaten oder einer politischen Unterabteilung oder Regierungsbehörde der Vereinigten Staaten oder darin erhoben wird, weil ein Inhaber eine Bank ist, die einen Kredit gemäß einem Kreditvertrag gewährt, der im normalen Geschäftsverkehr abgeschlossen wurde; oder

(l) any combination of items (a)-(k);

(l) jegliche Kombination der Absätze (a)-(k).

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.]

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 Zusätzli-

chen Beträgen berechtigt gewesen wäre, wenn der Begünstigte, Gründer eines Treuhandvermögens, Gesellschafter oder wirtschaftliche Eigentümer unmittelbarer Gläubiger der Schuldverschreibungen wäre.]

For the avoidance of doubt: No Additional Amounts will be paid with respect to German capital gains tax (*Kapitalertragsteuer*), including withholding tax (*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 capital gains tax (*Kapitalertragsteuer*) or *solidarity surcharge* (*Solidaritätszuschlag*), as the case may be.

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.

§ 8
(VORLEGUNGSFRIST)

Die in § 801 Absatz 1 Satz 1 BGB bestimmte Vorlegungsfrist wird für die Schuldverschreibungen auf zehn Jahre verkürzt.

§ 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) the Guarantor fails to pay amounts payable under the Guarantee within

§ 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) die Garantiegeberin auf die Garantie zahlbare Beträge nicht innerhalb von

30 days from the relevant due date, or

30 Tagen nach dem Fälligkeitstag zahlt; oder

(c) the Issuer fails to duly perform any other material obligation arising from the Notes 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

(c) die Emittentin die ordnungsgemäße Erfüllung irgendeiner anderen wesentlichen Verpflichtung aus den Schuldverschreibungen unterlässt und die Unterlassung jeweils länger als 60 Tage fortdauert, 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) any Capital Market Indebtedness of the Issuer or any of its Material Subsidiaries or the Guarantor (unless the Guarantee has been released in accordance with these Terms and Conditions) becomes prematurely repayable as a result of a default in respect of the terms thereof, or the Issuer or any of its Material Subsidiaries or the Guarantor (unless the Guarantee has been released in accordance with these Terms and Conditions) 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 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

(d) eine Kapitalmarktverbindlichkeit der Emittentin oder einer ihrer Wesentlichen Tochtergesellschaften oder der Garantiegeberin (es sei denn, die Garantie wurde gemäß diesen Emissionsbedingungen freigegeben) vorzeitig zahlbar wird aufgrund einer Pflichtverletzung aus dem dieser Kapitalmarktverbindlichkeit zugrunde liegenden Vertrag oder die Emittentin oder eine ihrer Wesentlichen Tochtergesellschaften oder die Garantiegeberin (es sei denn, die Garantie wurde gemäß diesen Emissionsbedingungen freigegeben) 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 oder die Garantiegeberin bestreitet in gutem Glauben, dass diese Zahlungsverpflichtung besteht oder fällig ist bzw. diese Bürgschaft oder Garantie berechtigterweise gel-

tend 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) the Issuer or any of its Material Subsidiaries or the Guarantor (unless the Guarantee has been released in accordance with these Terms and Conditions) announces its inability to meet its financial obligations or ceases its payments generally; or

(e) die Emittentin oder eine ihrer Wesentlichen Tochtergesellschaften oder die Garantiegeberin (es sei denn, die Garantie wurde gemäß dieser Emissionsbedingungen freigegeben) gibt ihre Zahlungsunfähigkeit bekannt oder stellt ihre Zahlungen ein; oder

(f) a court opens insolvency proceedings against the Issuer or the Guarantor (unless the Guarantee has been released in accordance with these Terms and Conditions) and such proceedings are instituted and have not been discharged or stayed within 90 days, or the Issuer applies for or institutes such proceedings; or

(f) ein Gericht ein Insolvenzverfahren gegen die Emittentin oder die Garantiegeberin (es sei denn, die Garantie wurde gemäß dieser Emissionsbedingungen freigegeben) eröffnet, und ein solches Verfahren eingeleitet und nicht innerhalb von 90 Tagen aufgehoben oder ausgesetzt worden ist, oder die Emittentin die Eröffnung eines solchen Verfahrens beantragt oder einleitet; oder

(g) the Issuer or the Guarantor (unless the Guarantee has been released in accordance with these Terms and Conditions) 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 or the Guarantor in connection with the Notes or the Guarantee; or

(g) die Emittentin oder die Garantiegeberin (es sei denn, die Garantie wurde gemäß dieser Emissionsbedingungen freigegeben) 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 oder die Garantiegeberin im Zusammenhang mit den Schuldverschreibungen oder der Garantie eingegangen ist; oder

(h) 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 terms of the Guarantee governing the release of the Guarantee or the satisfaction in full of all the obligations thereunder or shall be declared

(h) die Garantie aus irgendeinem Grund nicht mehr gemäß ihren Bedingungen uneingeschränkt wirksam ist, es sei denn, dies beruht auf diesen Emissionsbedingungen oder den Bedingungen der Garantie bezüglich der Freigabe der Garantie oder der vollständigen Erfüllung aller diesbezüglichen

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 Medical Care AG & Co. KGaA which:

(a) has unconsolidated EBITDA representing 5% or more of the EBITDA of Fresenius Medical Care AG & Co. KGaA and its subsidiaries on a consolidated basis; or

(b) has unconsolidated gross assets representing 5% or more of the gross assets of Fresenius Medical Care AG & Co. KGaA and its subsidiaries on a consolidated basis,

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 Custo-

Verpflichtungen, oder aus anderen Gründen als in ihren Bedingungen festgelegt für unwirksam oder undurchsetzbar erklärt wird, oder die Garantiegeberin eine ihrer Verpflichtungen aus der Garantie oder aus den Emissionsbedingungen zurückweist, leugnet oder ablehnt.

Wesentliche Tochtergesellschaft bezeichnet eine Tochtergesellschaft von Fresenius Medical Care AG & Co. KGaA:

(a) deren unkonsolidiertes EBITDA 5% oder mehr des EBITDA der Fresenius Medical Care AG & Co. KGaA und ihrer Tochtergesellschaften auf einer konsolidierten Basis darstellt, oder

(b) deren unkonsolidiertes Bruttovermögen 5% oder mehr des Bruttovermögens der Fresenius Medical Care AG & Co. KGaA und ihrer Tochtergesellschaften auf einer konsolidierten Basis darstellt,

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 (§ 126 Bürgerliches Gesetzbuch) übergibt und dabei durch

dian (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) of this § 9, 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) of this § 9 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 any Affiliate (as defined below) of Fresenius Medical Care AG & 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

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) dieses § 9 wird eine Kündigungserklärung, sofern nicht bei deren Eingang zugleich einer der in Absatz (1)(a), (b) und (e) bis (g) dieses § 9 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 ein mit der Fresenius Medical Care AG & 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 Fest-

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;

gelegten 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) if at the time of such substitution the Issuer is Fresenius Medical Care AG & Co. KGaA, the Issuer irrevocably and unconditionally guarantees (the ***Substitution Guarantee***) 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 Guarantee;

(b) wenn zum Zeitpunkt der Ersetzung Fresenius Medical Care AG & Co. KGaA die Emittentin ist, die Emittentin unwiderruflich und unbedingt gegenüber den Gläubigern die Zahlung aller von der Nachfolgeschuldnerin auf die Schuldverschreibungen zahlbaren Beträge zu Bedingungen garantiert (die ***Ersetzungsgarantie***), die den Bedingungen der Garantie entsprechen;

(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 the Issuer 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

(c) die Nachfolgeschuldnerin und die Emittentin alle für die Ersetzung und die Abgabe der Ersetzungsgarantie von der Emittentin 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 Um-

Debtor and the Substitution Guarantee given by the Issuer 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 Fresenius Medical Care AG & Co. KGaA;

(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 seqq. of the German Stock Corporation Act (*Aktiengesetz*) held by Fresenius Medical Care AG & Co. KGaA.

fang gültig und wirksam sind und zudem die Verpflichtungen der Nachfolgeschuldnerin und die von der Emittentin begebene Ersetzungsgarantie 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 Fresenius Medical Care AG & Co. KGaA 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 Medical Care AG & Co. KGaA gehaltene verbundene Unternehmen im Sinne der §§ 15 f. Aktiengesetz.

(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, 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 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.

(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. Desweiteren gilt im Fall einer Ersetzung in § 7 und § 5(2) 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 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 Zahltage 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.

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.

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) 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 alike.

(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 eingereicht werden. Sofern diese Käufe durch öffentliches Angebot erfolgen, muss dieses Angebot allen Gläubigern gemacht werden.

(3) Cancellation.

All Notes redeemed in full shall be cancelled forthwith and may not be reissued or resold.

(3) Entwertung.

Sämtliche vollständig zurückgezahlten Schuldverschreibungen sind unverzüglich zu entwerten und können nicht wiederbegeben oder wiederverkauft werden.

§ 12
(NOTICES)

***[In the case of Notes which are listed on the official list of the Luxembourg 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 Luxembourg Stock Exchange (*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

§ 12
(MITTEILUNGEN)

[*Im Fall von Schuldverschreibungen, die im amtlichen Kursblatt (official list) der Luxemburger Börse notiert sind, ist folgendes anwendbar*:

(1) Bekanntmachung.

Alle die Schuldverschreibungen betreffenden Mitteilungen sind auf der Internetseite der Luxemburger Börse (*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

such publication).

(2) Notification to Clearing System.

So long as any Notes are listed on the official list 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 a stock exchange other than the official list of the Luxembourg 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 respect to which the Issuer applied for listing of the Notes, 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

wirksam erfolgt.

(2) Mitteilungen an das Clearingsystem.

Solange Schuldverschreibungen im amtlichen Kursblatt (official list) der Luxemburger Börse notiert 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 als im amtlichen Kursblatt (official list) der Luxemburger 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 Notes veranlasst hat 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.

(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 Gläubi-

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, 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 consent to amendments which materially change the substance of the Terms and Conditions, including such measures as provided for under section 5 paragraph 3 of the 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

ger 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, 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 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.

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 in accordance with section 10 paragraph 3 of the SchVG.

(5) Vote without a meeting.

Together with casting their votes Holders must demonstrate their eligibility to participate in the vote in accordance with § 10

(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 gemäß § 10 Absatz 3 SchVG nachweisen.

(5) Abstimmung ohne Versammlung.

Zusammen mit der Stimmabgabe müssen die Gläubiger ihre Berechtigung zur Teilnahme an der Abstimmung gemäß § 10 Absatz 3

paragraph 3 of the SchVG.

(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 authorized 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

SchVG 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

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 with respect to the dismissal of the Holders' Representative and the other rights and obligations of the Holders' Representative.]

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. Die Vorschriften des SchVG gelten im Hinblick auf die Abberufung des Gemeinsamen Vertreters und die sonstigen Rechte und Pflichten des Gemeinsamen Vertreters.]

(8) Publication.

Any notices concerning this § 13 shall be made exclusively pursuant to the provisions of the SchVG.

(8) Veröffentlichung.

Alle Bekanntmachungen diesen § 13 betreffend erfolgen ausschließlich gemäß den Bestimmungen des SchVG.

(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.

(9) Änderung der Garantie.

Die oben aufgeführten auf die Änderung der Emissionsbedingungen der Schuldverschreibungen anwendbaren Bestimmungen gelten entsprechend für die Bestimmungen der Garantie.

§ 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.

§ 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) Enforcement.

Any Holder of Notes may in any proceedings against the Issuer or the Guarantor or to which such Holder and the Issuer 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 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.

(3) Gerichtliche Geltendmachung.

Jeder Gläubiger von Schuldverschreibungen ist berechtigt, in jedem Rechtsstreit gegen die Emittentin oder die Garantiegeberin oder in jedem Rechtsstreit, in dem der Gläubiger und die Emittentin oder die Garantiegeberin 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 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.

§ 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 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 Medical Care AG & Co. KGaA, Else-Kröner-Straße 1, 61352 Bad Homburg vor der Höhe, zur kostenlosen Ausgabe bereitgehalten.]

§ 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 Sprache abgefasst. Eine Übersetzung in die englische Sprache ist beigefügt. 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 beigefügt. 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

[***MiFID II Product Governance***[4] *– 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* ***[****and retail clients****]****,*** *each as defined in Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments, as amended (****MiFID II****)* ***[****and* ***[●]]****;* ***[EITHER***[5]***:*** *and (ii) all channels for distribution of the Notes are appropriate, including investment advice, portfolio management, non-advised sales and pure execution services****] [OR***[6]***:*** *(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 MiFID II, as applicable****]]****. Any person subsequently offering, selling or recommending the Notes (each 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****]***[7]***.]***

[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 MiFID II; or (ii) a customer within the meaning of Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast), 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. Consequently, no key information document required by Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs), 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.****]***[8]

*In case of Notes listed on the official list and admitted to trading on the regulated market of the Luxembourg Stock Exchange (Bourse de Luxembourg) or publicly offered in the Grand Duchy of Luxembourg (****Luxembourg****), the Final Terms of Notes will be displayed on the website of the Luxembourg Stock Exchange (www.bourse.lu). In case of Notes listed on any other stock exchange or publicly offered in one or more member*

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[4] Include this legend if parties have determined a target market.
Diese Erklärung einfügen, wenn die Parteien einen Zielmarkt bestimmt haben.

[5] 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***) (*i.e.* Notes the Terms and Conditions of which do not provide for a put and/or call right).
Einfügen für Schuldverschreibungen, die nach den Leitlinien zu komplexen Schuldtiteln und strukturierten Einlagen (ESMA/2015/1787) (die ***ESMA Leitlinien****) nicht ESMA komplex sind (also, Schuldverschreiben deren Anleihebedingungen keine Kündigungsrechte seitens der Emittentin und/oder der Anleihegläubiger enthalten).*

[6] 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.

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 auI.3erdem die bloI.3e Ausführung von Kundenaufträgen von Privatanlegern ohne Bestimmung der Angemessenheit nach Art. 25(3) MiFID II nicht zulässig.

[7] If there are advised sales, a determination of suitability will be necessary.
Im Fall von Beratungsverkäufen ist eine Angemessenheitsprüfung erforderlich.

[8] Include this legend if "Applicable" is specified in Part II. C.4 of the Final Terms regarding item "Prohibition of Sales to EEA Retail Investors".

Diese Erklärung einfügen, wenn "Anwendbar" im Teil II. C.4 der Endgültigen Bedingungen im Hinblick auf den Punkt "Verbot des Verkaufs an EWR Privatanleger" ausgewählt wurde.

states of the EEA other than Luxembourg, the Final Terms will be displayed on the website of Fresenius Medical Care (www.freseniusmedicalcare.com).

[**Date**]
*[**Datum**]*

FINAL TERMS
ENDGÜLTIGE BEDINGUNGEN

Fresenius Medical Care AG & Co. KGaA

[Title of relevant Series of Notes]
[*Bezeichnung der betreffenden Serie der Schuldverschreibung*]

Series: [●], Tranche [●]
Serien: [●], Tranche [●]

issued pursuant to the
begeben aufgrund des

EUR 10,000,000,000
Debt Issuance Program

Dated May 19, 2020
vom 19. Mai 2020

of
der

Fresenius Medical Care AG & Co. KGaA

Issue Price: […] percent
Ausgabepreis: […] %

Issue Date […][9]
Begebungstag: […][9]

These are the Final Terms of an issue of Notes under the EUR 10,000,000,000 Debt Issuance Program of Fresenius Medical Care AG & Co. KGaA (the ***Program***). These Final Terms have been prepared for the purpose of Article 8(5) in conjunction with Article 25(4) of the Regulation (EU) 2017/1129 of the European Parliament and of the Council of June 14, 2017, as amended, and must be read in conjunction with the Base Prospectus dated May 19, 2020 [as supplemented by [a] Supplement[s] dated [●]] (the ***Prospectus***). Full information on Fresenius Medical Care AG & Co. KGaA 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*) and copies may be ob-

[9] 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*.

tained free of charge from Fresenius Medical Care AG & Co. KGaA, Else-Kröner-Str. 1, 61352 Bad Homburg vor der Höhe, Germany. [A summary of the individual issue of the Notes is annexed to these Final Terms.][10]

Diese Endgültigen Bedingungen enthalten Angaben zur Emission von Schuldverschreibungen unter dem EUR 10.000.000.000 Debt Issuance Programm der Fresenius Medical Care AG & Co. KGaA (das ***Programm****). Diese Endgültigen Bedingungen wurden für die Zwecke des Artikels 8 Abs. 5 i.V.m. Artikel 25 Abs. 4 der Verordnung (EU) 2017/1129 des Europäischen Parlaments und des Rates vom 14. Juni 2017, in der jeweils geltenden Fassung, abgefasst und sind in Verbindung mit dem Basisprospekt vom 19. Mai 2020 [ergänzt durch [den Nachtrag][die Nachträge] vom [●]] (der* ***Prospekt****) zu lesen. Vollständige Informationen über Fresenius Medical Care AG & Co. KGaA und das Angebot der Schuldverschreibungen sind nur verfügbar, wenn die Endgültigen Bedingungen und der Prospekt zusammengenommen werden. Der Prospekt sowie jeder Nachtrag können in elektronischer Form auf der Internetseite der Luxemburger Börse (www.bourse.lu) und der Internetseite von Fresenius Medical Care (www.freseniusmedicalcare.de) eingesehen werden. Kostenlose Kopien sind erhältlich unter Fresenius Medical Care AG & Co. KGaA, Else-Kröner-Str. 1, 61352 Bad Homburg vor der Höhe, Deutschland. [Eine Zusammenfassung der einzelnen Emission der Schuldverschreibungen ist diesen Endgültigen Bedingungen beigefügt.]*[10]

[The Notes shall be consolidated, form a single series and be interchangeable for trading purposes with the [*insert description of the Series*] on [the Issue Date][exchange of the Temporary Global Note for interests in the Permanent Global Note, as referred to in the Conditions of the Notes, which is expected to occur on or about [*insert date*].]][11]

[*Die Schuldverschreibungen werden mit den [Beschreibung der Serie einfügen] am [Begebungstag][Tag des Umtauschs der Vorläufigen Globalurkunde in Miteigentumsanteile an der Dauerglobalurkunde, wie in den Emissionsbedingungen der Schuldverschreibungen beschrieben, der voraussichtlich am oder um den [Datum einfügen] eintritt,] zusammengefasst und bilden mit diesen eine einheitliche Serie und sind mit diesen fungibel.*][11]

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 or Option II, including certain further options contained therein, respectively, and completing the relevant placeholders, insert:**[12]

A. Falls die für die betreffende Tranche von Schuldverschreibungen geltenden Optionen durch Wiederholung der betreffenden im Prospekt als Option I oder Option II aufgeführten Angaben (einschließlich der jeweils

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[10] Not applicable in the case of an issue of Notes with a minimum denomination of at least EUR 100,000. / *Nicht anwendbar im Fall einer Emission von Schuldverschreibungen mit einer Mindeststückelung in Höhe von mindestens EUR 100.000.*

[11] Only applicable in case of a tap issue. / *Nur anwendbar im Fall einer Aufstockung.*

[12] 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.*

enthaltenen bestimmten weiteren Optionen) bestimmt und die betreffenden Leerstellen vervollständigt werden, einfügen:[12]

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.*

[in the case of Notes with fixed interest rates replicate here the relevant provisions of Option I including relevant further options contained therein, and complete relevant placeholders]

[*im Fall von Schuldverschreibungen mit fester Verzinsung hier die betreffenden Angaben der Option I (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 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 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] [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] [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 […])
	Festgelegte Währung	*[…] oder [Symbol] (das gesetzliche Zahlungsmittel in […])*
	Aggreate 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
Clearing System

☐	Clearstream Banking AG, Frankfurt am Main	
☐	Clearstream Banking S.A., Luxembourg	
☐	Euroclear Bank SA/NV	
☐	Other Clearing System *Anderes Clearingsystem*	*[specify details, including address]* *[Einzelheiten einfügen, einschließlich Adresse]*

Global Note[13]
Globalurkunde

☐	Classical Global Note
☐	New Global Note

Interest (§3)
Zinsen (§ 3)

[13] Complete for Notes kept in custody on behalf of the ICSDs.
Im Fall von Schuldverschreibungen, die im Namen der ICSDs verwahrt werden, ausfüllen.

☐ **Fixed Rate Notes (Option I)**
Festverzinsliche Schuldverschreibungen (Option I)

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	
Initial Broken Amount(s)	[…]
(per Specified Denomination)	
Anfängliche Bruchteilzinsbetrag(-beträge)	
(für jede festgelegte Stückelung)	
Interest Payment Date preceding the Maturity Date	[…]
Zinszahlungstag, der dem Fälligkeitstag vorangeht	
Final Broken Amount(s)	[…]
(per Specified Denomination]	
Abschließende(r) Bruchteilzinsbetrag(-beträge)	
(für jede festgelegte Stückelung)	
Number of regular Interest Payment Dates per calendar year	[…]
Anzahl der regulären Zinszahlungstage im Kalenderjahr	
Deemed Interest Payment Date(s)[ ]	[…]
Fiktive(r) Zinszahlungstag(e)	

☐ **Floating Rate Notes (Option II)**
Variabel verzinsliche Schuldverschreibungen
(Option II)

Interest Payment Dates
Zinszahlungstage

Interest Commencement Date	
Verzinsungsbeginn	
Specified Interest Payment Dates	[…]
Festgelegte Zinszahlungstage	
Specified Interest Period(s)	[…] [weeks] [months]
Festgelegte Zinsperiode(n)	*[…] [Wochen] [Monate]*

Business Day Convention
Geschäftstagskonvention

☐	Modified Following Business Day Convention	
	Modifizierte folgende Geschäftstag-Konvention	
☐	Floating Rate Note (FRN) Convention (specify period)	[ ] [weeks] [months]
	Floating Rate Note (FRN)-Konvention (Zeitraum angeben)	*[…] [Wochen] [Monate]*
☐	Following Business Day Convention	
	Folgende Geschäftstag-Konvention	
☐	Preceding Business Day Convention	

Vorhergehende Geschäftstag-Konvention

Rate of Interest

Zinssatz

☐ EURIBOR

☐ LIBOR

Interest Determination Date	[first] [second] [relevant financial centre(s)] Business Day [prior to commencement] of the relevant Interest Period
Zinsfestlegungstag	*[ersten] [zweiten] [relevante(s) Finanzzentrum(en)] Geschäftstag [vor Beginn] der jeweiligen Zinsperiode*

[relevant financial centre(s)] Business Day
[relevante(s) Finanzzentrum(en)]-Geschäftstag

[relevant financial centre(s)]
[relevante(s) Finanzzentrum(en)]

Reference Rate for the preceding Interest Period

Referenzzinssatz der vorangegangenen Zinsperiode

☐ applicable / *anwendbar*

☐ not applicable / *nicht anwendbar*

Margin […] per cent, per annum

Marge *[…] % per annum*

☐ plus
plus

☐ minus
minus

Minimum Rate of Interest

Mindestzinssatz

☐ Minimum Rate of Interest […] percent per annum
Mindestzinssatz *[…] % per annum*

☐ Maximum Rate of Interest […] percent per annum
Höchstzinssatz *[…] % per annum*

Day Count Fraction[14]

Zinstagequotient

☐ Actual/365 or Actual/Actual (ISDA)

☐ Actual/Actual (ICMA)

☐ Actual/365 (Fixed)

☐ Actual/360

☐ 30/360 or 260/360 (Bond Basis)

☐ 30E/360 (Eurobond Basis)

PAYMENTS (§ 4)

ZAHLUNGEN (§ 4)

Payment Business Day

Zahltag

☐ Relevant Financial Centers (specify all) […]
Relevante Finanzzentren (alle angeben)

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[14] Complete for all Notes.
Für alle Schuldverschreibungen ausfüllen.

☐ TARGET
TARGET

REDEMPTION (§ 5)
RÜCKZAHLUNG (§ 5)
Redemption at Maturity
Rückzahlung bei Endfälligkeit

Maturity Date[15] *Fälligkeitstag*	[…]
Redemption Month[16] *Rückzahlungsmonat*	[…]

Early Redemption
V*orzeitige Rückzahlung*

Early Redemption at the Option of the Issuer for reason of Minimal Outstanding Principal Amount ***Vorzeitige Rückzahlung nach Wahl der Emittentin bei gering ausstehendem Nennbetrag***	[Yes/No] [*Ja/Nein*]
Early Redemption at the Option of the Issuer upon occurrence of a Suspension Event[17] ***Vorzeitige Rückzahlung nach Wahl der Emittentin bei EIntritt eines Einstellungs-Ereignisses***	[Yes/No] [*Ja/Nein*]
Early Redemption at the Option of the Holders in case of a change of control ***Vorzeitige Rückzahlung nach Wahl der Gläubiger bei Kontrollwechsel***	[Yes/No] [*Ja/Nein*]
Early Redemption at the Option of the Issuer ***Vorzeitige Rückzahlung nach Wahl der Emittentin***	[Yes/No] *[Yes/No]*

☐ Call Redemption Period(s) specified
Wahlrückzahlungszeitraum/räume (Call) festgelegt

Call Redemption Period(s) *Wahlrückzahlungszeitraum/räume (Call)*	[…]
Call Redemption Amount(s) *Wahlrückzahlungsbetrag(beträge) (Call)*	[…]

☐ Make-Whole specified[18]
Make-Whole festgelegt

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[15] Complete for Fixed Rate Notes.
Für festverzinsliche Schuldverschreibungen auszufüllen.

[16] Complete for Floating Rate Notes only.
Nur für variabel verzinsliche Schuldverschreibungen auszufüllen.

[17] Complete for Floating Rate Notes only.
Nur für variabel verzinsliche Schuldverschreibungen auszufüllen.

[18] Complete for Fixed Rate Notes only.
Nur für festverzinsliche Schuldverschreibungen auszufüllen.

Discounting *Abzinsung*	[annual] [semi-annual] *[jährlich] [halb-jährlich]*
Margin *Marge*	[margin]% [Marge]%
Benchmark Yield *Benchmark-Rendite*	[relevant time] *[maßgebliche Uhrzeit]*
Screen Page	[HP (setting "Last Yield To Convention" and using the pricing source "FRNK")] [other relevant screen page]
Bildschirmseite	*[HP (Einstellung "Last Yield to Convention" und Verwendung der Preisquelle "FRNK")] [andere Bildschirmseite]*

Benchmark Security
Benchmarkanleihe

ISIN of the reference bond used at pricing the Notes
ISIN der Referenzanleihe, die bei der Preisbestimmung der Schuldverschreibungen genannt wurde

Percentage
Prozentzahl

Maturity
Fälligkeitstermin

Early Redemption at the Option of the Issuer upon occurrence of a Transaction Trigger Event ***Vorzeitige Rückzahlung nach Wahl der Emittentin bei Eintritt eines Transaktions-Ereignisses.***	[Yes/No] *[Ja/Nein]*
Event Redemption Amount *Ereignisrückzahlungsbetrag*	[…]
Transaction *Transaktion*	[…]
Transaction Trigger Cut-off Date *Transaktions-Stichtag*	[…]
Early Redemption at the Option of a Holder ***Vorzeitige Rückzahlung nach Wahl des Gläubigers***	[Yes/No] *[Ja/Nein]*
Put Redemption Date(s) *Wahlrückzahlungstag(e) (Put)*	[…]
Put Redemption Amount(s) *Wahlrückzahlungsbetrag(beträge) (Put)*	[…]

	Minimum Notice[19]	[…] days
	Mindestkündigungsfrist	*[…] Tage*
	Maximum Notice (not more than 60 days)	[…] days
	Höchstkündigungsfrist (nicht mehr als 60 Tage)	*[…] Tage*

[PAYING AGENT, FISCAL AGENT, CALCULATION AGENT[20] (§ 7)
ZAHLSTELLE, EMISSIONSSTELLE, BERECHNUNGSSTELLE (§ 7)

Calculation Agent		[…]
Berechnungsstelle		*[…]*
☐	Fiscal Agent acting as Calculation Agent *Emissionsstelle handelnd als Berechnungsstelle]*	

NOTICES (§ 12)
MITTEILUNGEN (§ 12)
Place and medium of publication
Ort und Medium der Bekanntmachung

☐	Website of the Luxembourg Stock Exchange (www.bourse.lu) *Internetseite der Luxemburger Börse (www.bourse.lu)*	
☐	Clearing Systems	

AMENDMENTS OF THE TERMS AND CONDITIONS BY RESOLUTIONS OF HOLDERS, JOINT REPRESENTATIVE (§ 13)		**[Yes/No]**
ÄNDERUNGEN DER EMISSIONSBEDINGUNGEN DURCH BESCHLUSS DER GLÄUBIGER, GEMEINSAMER VERTRETER (§ 13)		***[Ja/Nein]***
☐	Appointment of a Holders' Representative by resolution passed by Holders and not in the Terms and Conditions *Bestellung eines gemeinsamen Vertreters der Gläubiger durch Beschluss der Gläubiger und nicht in den Emissionsbedingungen*	
☐	Appointment of a Holders' Representative in the Terms and Conditions *Bestellung eines gemeinsamen Vertreters der Gläubiger in den Emissionsbedingungen* Name and address of the Holders' Representative (specify details) *Name und Anschrift des gemeinsamen Vertreters (Einzelheiten einfügen]*	

LANGUAGE (§ 15)
SPRACHE (§ 15)
Language of Conditions[21]

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[19] Euroclear and Clearstream require a minimum notice period of [fifteen] days.*Euroclear und Clearstream verlangen eine Mindestkündigungsfrist von [fünfzehn] Tagen.*

[20] 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.

[21] 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

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[22]
Ausschließlich Deutsch

☐ English only
Ausschließlich Englisch]

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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 Medical Care AG & 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 Medical Care AG & Co. KGaA erhältlich sein.

[22] Use only in the case of Notes not publicly offered and/or not intended to be listed on any regulated market within the EEA.

Nur im Fall von Schuldverschreibungen zu nutzen, die nicht öffentlich angeboten und nicht an einem geregelten Markt innerhalb des Europäischen Wirtschaftsraums zum Handel zugelassen werden sollen.

Part II.: ADDITIONAL INFORMATION[23]

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 to the public or for the admission to trading and use of proceeds[24]	[specify details]
Gründe für das öffentliche Angebot oder die Zulassung zum Handel und Verwendung der Erlöse	*[Einzelheiten einfügen]*
Estimated net proceeds[25]	[…]
Geschätzter Nettobetrag der Erträge	
[Estimated total expenses of the issue[26]	[…]
Geschätzte Gesamtkosten der Emission]	

Eurosystem eligibility[27]

EZB-Fähigkeit

☐	Intended to be held in a manner which would allow Eurosystem eligibility	[Yes/No]
	Soll in EZB-fähiger Weise gehalten werden	*[Yes/No]*

[Yes. Note that the designation "Yes" in the case of a NGN simply means that the Notes are intended upon issue to be deposited with one of the ICSDs as common

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[23] 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 EUR 100,000 or its equivalent in any other currency, provided that such Notes will not be listed on any regulated market within the EEA. 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 EUR 100.000 oder dem Gegenwert in einer anderen Währung vollständig auszufüllen, sofern diese Schuldverschreibungen nicht an einem geregelten Markt innerhalb des Europäischen Wirtschaftsraums zum Handel zugelassen werden. In Absprache mit der Emittentin auszufüllen.

[24] If reasons for the offer or use of proceeds are different from the disclosure under "Use of Proceeds" in the Prospectus, they need to be included here

Falls andere Gründe für das Angebot oder ein anderer Verwendungszweck der Erträge als im Prospekt unter "Use of Proceeds" dargestellt anwendbar ist, ist dies hier anzugeben.

[25] 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.

[26] Not to be completed in case of Notes with a Specified Denomination of at least EUR 100,000.

Nicht auszufüllen bei Schuldverschreibungen mit einer festgelegten Stückelung von mindestens EUR 100.000.

[27] 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.

safekeeper, 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" im Fall einer NGN lediglich bedeutet, dass die Schuldverschreibungen nach Begebung bei einer der ICSDs als gemeinsamer Verwahrer hinterlegt werden sollen, und es bedeutet nicht notwendigerweise, 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.****]***

[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
W*ertpapier-Kenn-Nummern*

[Common Code *Common Code*	[ ]]
ISIN *ISIN*	**[…]**
German Securities Code *Deutsche Wertpapier-Kenn-Nummer (WKN)*	[…]
[Any other securities number *Andere Wertpapier-Kenn-Nummer*	[…]]

Historic Interest Rates and future performance as well as volatility[28]
Zinssätze der Vergangenheit und künftige Entwicklungen sowie ihre Volatilität

Details of historic [EURIBOR][LIBOR] rates and the future performance as well as their volatility can be obtained (not free of charge) by electronic means from Reuters [EURIBOR01][LIBOR01][LIBOR02]
Einzelheiten zu vergangenen [EURIBOR][LIBOR] Sätzen und Informationen über künftige Wertentwicklungen sowie ihre Volatilität können (nicht kostenfrei) auf elektronischem Weg abgerufen werden unter Reuters EURIBOR01][LIBOR01][LIBOR02]

Description of any market disruption or settlement disruption events that effect the [EURIBOR][LIBOR] rates *Beschreibung etwaiger Ereignisse, die eine Störung des Marktes oder der Abrechnung bewirken und die [EURIBOR] (LIBOR] Sätze beeinflussen der Abrechnung bewirken und die [EURIBOR][LIBOR] beschreiben*	[Not applicable]][Please see § 3 of the Terms and Conditions] *[Nicht anwendbar]* *[Bitte siehe § 3 der Emissionsbedingungen]*

Yield to final maturity[29]
Rendite bei Endfälligkeit

If different from the issuer, the identity and contact details of the offeror of the Notes and/or the person asking for admission to trading, including the legal entity identifier (LEI), if any ***Sofern Anbieter und Emittent nicht identisch sind, Angabe***	[Specify details]

[28] Only applicable for Floating Rate Notes. Not required for Notes with a Specified Denomination of at least EUR 100,000.
Nur bei variabel verzinslichen Schuldverschreibungen anwendbar. Nicht anwendbar auf Schuldverschreibungen mit einer festgelegten Stückelung von mindestens EUR 100.000.

[29] Only applicable for Fixed Rate Notes.
Gilt nur für festverzinsliche Schuldverschreibungen.

der Identität, der Kontaktdaten des Anbieters der Schuldtitel und/oder der die Zulassung zum Handel beantragenden Person einschließlich der Rechtsträgerkennung (LEI), wenn vorhanden	[*Einzelheiten einfügen*]
Representation of non-equity security holders including an identification of the organisation representing the investors and provisions applying to such representation. Indication of the website where the public may have free access to the contracts relation to these forms of representation *Vertretung der Inhaber von Nichtdividendenwerten unter Angabe der die Anleger vertretenden Organisation und der für diese Vertretung geltenden Bestimmungen. Angabe der Website, auf der die Anleger die Verträge, die diese Repräsentationsformen regeln, kostenlos einsehen können*	[Not applicable][Name and address of the Holders' Representative] ***[****Nicht anwendbar][Name und Anschrift des gemeinsamen Vertreters]*
Resolutions, authorizations and approvals by virtue of which the Notes will be created ***Beschlüsse, Ermächtigungen und Genehmigungen, welche die Grundlage für die Schaffung der Schuldverschreibungen bilden***	[Specify details] *[Einzelheiten einfügen]*
C. Terms and conditions of the offer of the Notes to the public[30]*Bedingungen und Konditionen des öffentlichen Angebots von Schuldverschreibungen*	
C.1 Conditions, offer statistics, expected timetable and action required to apply for the offer ***Angebotsstatistiken, erwarteter Zeitplan und erforderliche Maßnahmen für die Antragstellung***	[Not applicable] *[Nicht anwendbar]*
Conditions to which the offer is subject *Bedingungen, denen das Angebot unterliegt*	[Specify details] *[Einzelheiten einfügen]*
Time period, including any possible amendments, during which the offer will be open *Frist - einschließlich etwaiger Änderungen – während der das Angebot gültig ist*	[Specify details] *[Einzelheiten einfügen]*
Description of the application process *Beschreibung des Prozesses für die Umsetzung des Angebots*	[Specify details] *[Einzelheiten einfügen]*
A description of the possibility to reduce subscriptions and the manner for refunding excess amount paid by applicants	[Specify details]

[30] Complete with respect to Notes with a Specified Denomination of less than EUR 100,000.
Bei Schuldverschreibungen mit einer festgelegten Stückelung von weniger als EUR 100.000 auszufüllen.

Beschreibung der Möglichkeit zur Reduzierung der Zeichnungen und der Art und Weise der Erstattung des zu viel gezahlten Betrags an die Zeichner	*[Einzelheiten einfügen]*
Details of the minimum and/or maximum amount of application, (whether in number of Notes or aggregate amount to invest) *Einzelheiten zum Mindest- und/oder Höchstbetrag der Zeichnung (entweder in Form der Anzahl der Schuldverschreibungen oder des aggregierten zu investierenden Betrags)*	[Specify details] *[Einzelheiten einfügen]*
Method and time limits for paying up the Notes and or delivery of the Notes *Methode und Fristen für die Ratenzahlung der Schuldverschreibungen und ihre Lieferung*	[Specify details] *[Einzelheiten einfügen]*
Manner and date in which results of the offer are to be made public *Art und Weise und Termin, auf die bzw. an dem die Ergebnisse des Angebots offen zu legen sind*	[Specify details] *[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. *Verfahren für die Ausübung eines etwaigen Vorzugsrechts, die Marktfähigkeit der Zeichnungsrechte und die Behandlung der nicht ausgeübten Zeichnungsrechte*	[Not applicable] *[Nicht anwendbar]*
C.2 Plan of distribution and allotment **Plan für die Aufteilung der Wertpapiere und deren Zuteilung**	[Not applicable] *[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 *Erfolgt das Angebot gleichzeitig auf den Märkten zwei oder mehrerer Ländern und wurde/ wird eine bestimmte Tranche einigen dieser Märkte vorbehalten, Angabe dieser Tranche*	[Specify details] *[Einzelheiten einfügen]*
Process for notifying applicants of the amount allotted and an indication whether dealing may begin before notification is made *Verfahren zur Meldung gegenüber den Zeichnern über den zugeteilten Betrag und Angabe, ob eine Aufnahme des Handels vor der Meldung möglich ist*	[Specify details] *[Einzelheiten einfügen]*
C.3 Pricing **Kursfeststellung**	[Not applicable] *[Nicht anwendbar]*
Issue Price *Ausgabepreis*	[…] % […] %

Expected price at which the Notes will be offered *Preis zu dem die Schuldverschreibungen voraussichtlich angeboten werden*	[Not applicable][Specify details] *[Nicht anwendbar] [Einzelheiten einfügen]*
Amount of expenses and taxes charged to the subscriber / purchaser *Kosten/Steuern, die dem Zeichner/Käufer in Rechnung gestellt*	[Not applicable][Specify details] *[Nicht anwendbar] [Einzelheiten einfügen]*

C.4 Placing and underwriting
Platzierung und Emission

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 *Name und Anschrift des Koordinators/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*	[Not applicable][Specify details] *[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[31]
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 Be-*	[…]

[31] Not required for Notes with a Specified Denomination of at least EUR 100,000.
Nicht erforderlich bei Schuldverschreibungen mit einer festgelegten Stückelung von mindestens EUR 100.000.

dingungen

Commissions

Provisionen

Management/Underwriting Commission (specify) *Management- und Übernahmeprovision (angeben)*	[…]
Selling Concession (specify) *Verkaufsprovision (angeben)*	[…]
Listing Commission (specify) *Börsenzulassungsprovision (angeben)*	[…]
Prohibition of Sales to EEA and UK Retail Investors[32] *Verbot des Verkaufs an EWR- und UK-Privatanleger*	[Applicable] [Not applicable] *[Anwendbar] [Nicht anwendbar]*
Stabilising Dealer/Manager ***Kursstabilisierender Dealer/Manager***	[insert details/None] *[Einzelheiten einfügen/Keiner]*

C.5 Public Offer Jurisdictions[33]

Jurisdiktionen für öffentliches Angebot

Public Offer Jurisdiction(s) *Jurisdiktionen, in denen ein öffentliches Angebot stattfindet*	[Not applicable] [Luxembourg] [and] [Germany] [Specify relevant Member State(s) – which must be jurisdiction(s) where the Prospectus and any supplements have been passported] *[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]*

D. Listing(s) and admission to trading [Yes/No]

Börsenzulassung(en) und Notierungsaufnahme *[Ja/Nein]*

☐ Regulated Market of the Luxembourg Stock Exchange
Regulierter Markt der Luxemburger Wertpapierbörse

☐ Other [specify details]
Sonstige [*Einzelheiten angeben*]

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[32] Specifiy "Applicable" if the Notes may constitute "packaged" products pursuant to PRIIPs Regulation and no key information document will be prepared.

„Anwendbar" wählen, wenn die Schuldverschreibungen als „verpackte Produkte" nach der PRIIPs Verordung einzuordnen sein könnten und kein Basisinformationsblatt erstellt wird.

[33] Complete with respect to an offer of Notes to the public.

Bei öffentlichem Angebot von Schuldverschreibungen auszufüllen.

Date of admission […]
Termin der Zulassung

Estimate of the total expenses related to admission to trading[34] […]
Geschätzte Gesamtkosten für die Zulassung zum Handel

All regulated markets or third-country markets, SME Growth Market or MTFs on which, to the knowledge of the Issuer, notes of the same class of the notes to be offered to the public or admitted to trading are already admitted to trading[35]
Angabe sämtlicher regulierter Märkte oder Märkte in Drittstaaten, KMU-Wachstumsmärkte oder MTFs, auf denen nach Kenntnis der Emittentin Schuldverschreibungen der gleichen Wertpapierkategorie, die öffentlich angeboten oder zum Handel 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 [Not applicable] [specify details]
Name und Anschrift der Institute, die aufgrund einer festen 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[36] [Not applicable] […]
Rating der Schuldverschreibungen *[Nicht anwendbar] […]*

[Fitch Ratings 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 16 September 2009 on credit

[34] Not required for Notes with a Specified Denomination of less than EUR 100,000.
Nicht erforderlich bei Schuldverschreibungen mit einer festgelegten Stückelung von weniger als EUR 100.000.

[35] 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 EUR 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 EUR 100.000.

[36] Do not complete, if the Notes are not rated on an individual basis. Include a brief explanation of the meaning of the ratings if this has been previously published by the rating provider.
Nicht auszufüllen, wenn kein Einzelrating für die Schuldverschreibungen vorliegt. Kurze Erläuterung der Bedeutung des Ratings einfügen, wenn dieses unlängst von der Ratingagentur erstellt wurde.

rating agencies, as amended.][Standard & Poor's Credit Market Services Europe Limited (Zweigniederlassung Deutschland) 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 16 September 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 16 September 2009 on credit rating agencies, as amended.] [specify other rating agency and whether the relevant rating agency is established in the European Union and is registered or has applied for registration pursuant to Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies, as amended.] The European Securities and Markets Authority (***ESMA***) publishes on its web site (*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 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.] [Standard & Poor's Credit Market Services Europe Limited (Zweigniederlassung Deutschland) 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 Union 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 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 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 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.

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 - wurden keine Fakten unterschlagen, die die wiedergegebenen Informationen unzutreffend oder irreführend gestalten würden; (ii) die Emittentin hat diese Informationen nicht selbständig überprüft und übernimmt keine Verantwortung für ihre Richtigkeit.]

Fresenius Medical Care AG & Co. KGaA represented by Fresenius Medical Care Management AG, its general partner

Fresenius Medical Care AG *& Co. KGaA vertreten durch Fresenius Medical Care Management AG, ihrem persönlich haftenden Gesellschafter*

_____

[Name(s) and title(s) of signatory/ies]
[*Name(n) und Titel des/r Unterzeichnenden*]

_____

[Name(s) and title(s) of signatory/ies]
[*Name(n) und Titel des/r Unterzeichnenden*]

GUARANTEE

(GERMAN LANGUAGE VERSION)

GARANTIE

der

Fresenius Medical Care Holdings, Inc., Waltham, Massachusetts, Vereinigte Staaten von Amerika

(die *Garantiegeberin*)

zugunsten der Gläubiger der Schuldverschreibungen (die *Schuldverschreibungen*) der

Fresenius Medical Care AG & Co. KGaA, Bad Homburg vor der Höhe, Bundesrepublik Deutschland

(die *Emittentin*)

im Rahmen des EUR 10.000.000.000 Debt Issuance Programms der Fresenius Medical Care AG & Co. KGaA

(das *Programm*)

§ 1
GARANTIE, STATUS

(1) Die Garantiegeberin garantiert hiermit unbedingt und unwiderruflich im Wege eines selbständigen Zahlungsversprechens 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 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

(ENGLISH LANGUAGE TRANSLATION)

GUARANTEE

of

Fresenius Medical Care Holdings, Inc., Waltham, Massachusetts, United States of America

(the *Guarantor*)

for the benefit of the holders of the notes (the *Notes*), issued by

Fresenius Medical Care AG & Co. KGaA, Bad Homburg vor der Höhe, Federal Republic of Germany

(the *Issuer*)

under the EUR 10,000,000,000 Debt Issuance Program of Fresenius Medical Care AG & Co. KGaA

(the *Program*)

§ 1
GUARANTEE, STATUS

(1) The Guarantor hereby unconditionally and irrevocably guarantees by way of an independent payment obligation (*selbstständiges Zahlungsversprechen*) to the holders from time to time of any Notes under the Program (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 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 Issuer and shall exist irrespective of the validity and enforceability of the obligations of the Issuer.

Verpflichtungen der Emittentin und unabhängig von der Wirksamkeit und Durchsetzbarkeit der Verpflichtungen der Emittentin 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 Emittentin oder irgendwelcher anderer Gründe, aus denen die Emittentin 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 Garantiegeberin verzichtet hiermit ausdrücklich auf alle der Emittentin zustehenden Einreden (*Einreden des Hauptschuldners*), sowie auf die Einreden, welche aus einem Anfechtungs- oder Aufrechnungsrecht der Emittentin 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 Garantiegeberin 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 Garantiegeberin aus dieser Garantie werden automatisch fällig und zahlbar, sofern und sobald die Emittentin eine Zahlung auf die Schuldverschreibungen nicht bei Fälligkeit der jeweiligen Zahlung gemäß den Emissionsbedingungen leistet.

(6) Die Verbindlichkeiten der Garantiegeberin aus dieser Garantie sind mindestens gleichrangig mit allen anderen nicht nachrangigen und nicht besicherten Verbindlichkeiten der Garantiegeberin, soweit diesen Verbindlichkeiten nicht durch zwingende gesetzliche Bestimmungen

(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 Issuer, or of any other grounds on the basis of which the Issuer 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 Issuer (*Einreden des Hauptschuldners*) as well as any defences arising out of the Issuer'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 Issuer does not make a payment with respect to the Notes when such payment is due and payable pursuant to the Terms and Conditions.

(6) The obligations of the Guarantor under this Guarantee shall rank at least pari passu with all other unsubordinated and unsecured obligations of the Guarantor, unless such obligations are accorded priority under mandatory

ein Vorrang eingeräumt wird.

(7) Diese Garantie erlischt nach Maßgabe des § 3 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.

(8) Diese Garantie ist selbständig und unabhängig von den Verpflichtungen der betreffenden Emittentin oder der Gesellschaft, welche die Emittentin gemäß § 10 der Emissionsbedingungen ersetzt hat (die ***Nachfolgeschuldnerin***). Sie stellt eine dauerhafte Garantie dar und besteht solange fort, bis sämtliche von der betreffenden Emittentin gemäß den Emissionsbedingungen auf die Schuldverschreibungen zahlbaren Beträge, unabhängig von einer vollständigen oder teilweisen Zwischenzahlung oder -begleichung, vollständig gezahlt worden sind.

(9) Kein Gläubiger ist verpflichtet, vor einer Inanspruchnahme der Garantiegeberin 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.

(10) Diese Garantie ist auf einen Betrag begrenzt, der den Höchstbetrag nicht übersteigt, der von der Garantiegeberin garantiert werden kann, ohne die Garantie, soweit sie sich auf die Garantiegeberin bezieht, nach dem anwendbaren Recht in Bezug auf eine betrügerische Übertragung (*fraudulent conveyance*) oder betrügerische Abtretung (*fraudulent transfer*) oder nach ähnlichen Gesetzen, die die Rechte der Gläubiger im Allgemeinen oder unter dem anwendbaren Recht der Rechtsordnung, in der die Garantiegeberin gegründet wurde, betreffen, unwirksam zu machen.

provisions of statutory law.

(7) This Guarantee is discharged (in accordance with § 3) 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.

(8) This Guarantee is independent and separate from the obligations of the Issuer or the company which may have been substituted for the same pursuant to § 10 of the Terms and Conditions (the ***Substitute Debtor***). It constitutes a permanent guarantee and continues to exist until all amounts payable by the issuer in accordance with the terms and conditions of the Notes have been paid in full, irrespective of any full or partial interim payment or settlement.

(9) 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.

(10) This Guarantee is limited in amount to an amount not to exceed the maximum amount that can be guaranteed by the Guarantor without rendering the Guarantee, as it relates to the Guarantor, voidable under applicable law relating to fraudulent conveyance or fraudulent transfer or similar laws affecting the rights of creditors generally or under applicable law of the jurisdiction of incorporation of the Guarantor.

§ 2
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 Einbehalts 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 Garantiegeberin 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 eine Befugnis über diesen Gläubiger verfügt) und einer Relevanten Steuerjurisdiktion bestehen würde, unter anderem in der Form, dass der betreffende Gläubiger (bzw. Treuhänder, Treugeber, Begünstigte, Mitglied, Gesellschafter oder die befugte Person) Staatsbürger einer Relevanten

§ 2
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 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 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

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 Garantie erwirbt, hält oder veräußert bzw. eine Zahlung darunter oder in Bezug auf diese erhält oder Ansprüche darauf geltend macht; oder

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) 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 wären; 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) 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

(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 23 December 2005; or

(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 (einschließlich, im Falle einer

(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 (including, in the case of a payment by a Paying Agent situated in the United States, by providing prior to the receipt of

Zahlung durch eine Zahlstelle mit Sitz in den Vereinigten Staaten, durch Bereitstellung eines vollständigen, korrekten und ausgefüllten IRS-Formulars W-8 oder W-9 oder eines Nachfolgeformulars, falls zutreffend, mit allen entsprechenden Anlagen); oder

any such payment, a complete, correct and executed IRS Form W-8 or W-9 or successor form, as applicable, with all appropriate attachments); or

(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

(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) 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

(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) soweit der Einbehalt oder Abzug gemäß §§ 1471 bis 1474 des Internal Revenue Code, oder einer geänderten oder nachfolgenden Fassung davon, 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

(h) payments to the extent such withholding or deduction is required pursuant to Sections 1471 through 1474 of the Internal Revenue Code, or any amended or successor version thereof, 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;

(i) jede Steuer, die von den Vereinigten Staaten oder einer ihrer politischen Unterabteilungen oder Regierungsbehörden auf Zinsen erhoben wird, weil ein Inhaber tatsächlich oder konstruktiv 10 % oder mehr der gesamten kombinierten Stimmrechte aller Aktiengattungen der Emittentin oder der Garantiegeberin hält oder besitzt; oder

(i) any tax imposed on interest by the United States or any political subdivision or governmental authority thereof or therein by reason of any Holder holding or owning, actually or constructively, 10% or more of the total combined voting power of all classes of stock of the Issuer or the Guarantor entitled to vote; or

(j) jede Steuer, die von den Vereinigten Staaten oder einer politischen Unterabteilung oder Regierungsbehörde der Vereinigten Staaten oder darin erhoben wird, weil ein Inhaber eine kontrollierte ausländische Körperschaft ist, die eine verwandte Person im Sinne von Section 864(d)(4) des Internal Revenue Code in Bezug auf die Emittentin oder die Garantiegeberin ist; oder

(k) jede Steuer, die von den Vereinigten Staaten oder einer politischen Unterabteilung oder Regierungsbehörde der Vereinigten Staaten oder darin erhoben wird, weil ein Inhaber eine Bank ist, die einen Kredit gemäß einem Kreditvertrag gewährt, der im normalen Geschäftsverkehr abgeschlossen wurde; oder

(l) jegliche Kombination der Absätze (a)-(k).

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 Steuergesetze 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 der Garantiegeberin zu zahlen wären. ***Begebungstag*** bezeichnet in Bezug auf eine bestimmte Tranche von Schuldverschreibungen den Begebungstag dieser Schuldverschreibungen.

(j) any tax imposed on interest by the United States or any political subdivision or governmental authority thereof or therein by reason of any Holder being a controlled foreign corporation that is a related person within the meaning of Section 864(d)(4) of the Internal Revenue Code with respect to the Issuer or the Guarantor; or

(k) any tax imposed on interest by the United States or any political subdivision or governmental authority thereof or therein by reason of any Holder being a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business; or

(l) any combination of items (a)-(k);

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 capital gains 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.

§ 3
FREIGABE DER GARANTIE

Die Verpflichtungen der Garantiegeberin aus dieser Garantie (aber keine Zahlungsverpflichtung im Rahmen der Garantie, die bereits fällig und zahlbar geworden ist) werden in folgenden Fällen automatisch und unbedingt freigegeben (und gelten von diesem Zeitpunkt an als erloschen und unwirksam), sobald die Garantiegeberin nicht mehr Verpflichtete unter dem Geänderten Kreditvertrag 2012 ist, wobei, sollte unter dem Geänderten Kreditvertrag 2012 eine neue Garantie gestellt werden, die Emittentin sicherstellen wird, dass eine Garantie zu den im Wesentlichen gleichen Bedingungen auch in Ansehung der Schuldverschreibungen zugunsten der Gläubiger gestellt wird.

Geänderter Kreditvertrag 2012 bedeutet der Kreditvertrag vom 30. Oktober 2012 zwischen der Emittentin, der Garantiegeberin als Kreditnehmer und Garanten, der Bank of America N.A., als Verwaltungsagent und den darin genannten Kreditgebern (in der jeweils gültigen Fassung, angepasst, modifiziert, erweitert, erneuert und/oder ergänzt oder refinanziert oder ersetzt).

§ 3
RELEASE OF GUARANTEE

The obligations of the Guarantor under this Guarantee (but not any payment obligation under the Guarantee which has already become due and payable) will be automatically and unconditionally released (and thereupon shall terminate and be discharged and be of no further force and effect) at any time when the Guarantor is no longer an obligor under the Amended 2012 Credit Agreement, provided that, if under the Amended 2012 Credit Agreement, a new guarantee is granted, the Issuer will procure that substantially the same guarantee will also be granted in respect of the obligations under the Notes for the benefit of the Holders.

Amended 2012 Credit Agreement means the Credit Agreement dated as of October 30, 2012 among the Issuer and the Guarantor as borrowers and guarantors, Bank of America N.A. as administrative agent and the lenders named therein, (as amended, restated, modified, extended, renewed and/or supplemented or as refinanced or replaced from time to time).

§ 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.

§ 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
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, ZUSTELLUNGSBEVOLLMÄCHTIGTER UND GERICHTLICHE GELTENDMACHUNG

(1) Form und Inhalt dieser Garantie sowie die Rechte und Pflichten der Gläubiger und der Garantiegeberin 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 Garantiegeberin zu verlangen und unmittelbar gegen die Garantiegeberin durchzusetzen.

(4) Diese Garantie ist in der deutschen Sprache abgefasst und in die englische Sprache übersetzt. Die deutschsprachige Fassung ist verbindlich und allein maßgeblich.

(5) Unbeschadet irgendeiner anderen nach dem maßgeblichen Recht zulässigen Zustellungsart bestellt die Garantiegeberin hiermit unwiderruflich Fresenius Medical Care AG & Co. KGaA, Else-Kröner-Str. 1, 61352 Bad Homburg vor der Höhe, Deutschland, zu ihrem Empfangsbevollmächtigten für Zustellungen, Mitteilungen und Aufforderungen im Hinblick auf alle die Garantie betreffenden Angelegenheiten (in dieser Eigenschaft der ***Zustellungsbevollmächtigte***) und bestätigt hiermit, dass jede Zustellung,

§ 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, AGENT FOR SERVICE 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 conflict 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) Without prejudice to any other mode of service allowed under any relevant law, the Guarantor hereby irrevocably appoints the Issuer as its agent authorized to receive service of process, notice and demand on its behalf with respect to any matters relating to the Guarantee (in such capacity, the ***Process Agent***) and hereby agrees that any services of process, notice or demand in respect of the Guarantee made or given by a Holder to the Issuer shall be deemed to have been validly

Mitteilung oder Aufforderung im Hinblick auf die Garantie, die von einem Gläubiger gegenüber der Fresenius Medical Care AG & Co. KGaA erfolgt, gegenüber der Garantiegeberin als wirksam erfolgt gilt. Fresenius Medical Care AG & Co. KGaA nimmt ihre Bestellung als Zustellungsbevollmächtigter hiermit an.

made or given to the Guarantor. The Issuer hereby accepts its appointment as Process Agent.

(6) Jeder Gläubiger ist berechtigt, in jedem Rechtsstreit gegen die Garantiegeberin oder in jedem Rechtsstreit, in dem der Gläubiger und die Garantiegeberin 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.

(6) Any Holder 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 vor der Höhe, im [●]

FRESENIUS MEDICAL CARE AG & CO. KGAA

vertreten durch **FRESENIUS MEDICAL CARE MANAGEMENT AG**, ihrem persönlich haftenden Gesellschafter

als Zustellungsbevollmächtigte

Bad Homburg vor der Höhe, [●]

FRESENIUS MEDICAL CARE AG & CO. KGAA

represented by **FRESENIUS MEDICAL CARE MANAGEMENT AG**, its general partner

as Process Agent

_____

Durch: / By:

FRESENIUS MEDICAL CARE HOLDINGS, INC.

als Garantiegeberin

FRESENIUS MEDICAL CARE HOLDINGS, INC.

as Guarantor

_____

Durch: / By:

_____

Durch: / By:

Wir akzeptieren die Bestimmungen der vorstehenden Garantie ohne Obligo, Gewährleistung oder Rückgriff auf uns.

Frankfurt am Main, im Juni 2018

DEUTSCHE BANK AKTIENGESELLSCHAFT

We accept the terms of the above Guarantee without recourse, warranty or liability.

Frankfurt am Main, [●] June 2018

DEUTSCHE BANK AKTIENGESELLSCHAFT

_____

Durch: / By:

_____

Durch: / 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 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 PROPOSED INVESTMENT DOES NOT ATTRACT A TAX REGIME SPECIFIC TO THAT TYPE OF INVESTMENT. HOWEVER, THE TAX LEGISLATION OF THE MEMBER STATE OF PROSPECTIVE PURCHASERS OF NOTES AND/OR OF THE ISSUER'S AND/OR THE GUARANTOR'S COUNTRIES OF INCORPORATION MAY HAVE AN IMPACT ON THE INCOME RECEIVED FROM THE NOTES. PROSPECTIVE PURCHASERS OF NOTES ARE THEREFORE ADVISED TO CONSULT THEIR OWN TAX ADVISORS AS TO THE TAX CONSEQUENCES OF THE PURCHASE, OWNERSHIP AND DISPOSITION OF NOTES INCLUDING THE EFFECT OF ANY STATE OR LOCAL TAXES, UNDER THE TAX LAWS APPLICABLE IN GERMANY AND LUXEMBOURG AND EACH COUNTRY OF WHICH THEY ARE RESIDENTS OR OTHERWISE SUBJECT TO TAXATION.

SUBSCRIPTION AND SALE

Underwriting

The Notes may be issued on a continuing basis to one or more of the Dealers (as defined herein) and any additional Dealer appointed under the Program from time to time by the Issuer, which appointment may be for a specific issue or on an ongoing basis (together, the ***Dealers***). Notes may be distributed by way of public 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.

The Notes may be sold from time to time by the Issuer to one or more of the Dealers. The arrangements under which the Notes may from time to time be agreed to be sold by the Issuer to, and purchased by, the Dealers are set out in a dealer agreement dated on or about the date of the Prospectus (the ***Dealer Agreement***) and made between the Issuer, the Guarantor and the Dealers. Any such agreement will, *inter alia*, make provision for 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 makes provision 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 Program or in relation to a particular Tranche of Notes. A subscription agreement (the ***Subscription Agreement***) prepared in connection with a particular Tranche of Notes will typically be dated on or about the respective date of the 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 preemption, 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.

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 the Issuer or the Guarantor nor any other Dealer shall have any responsibility therefore.

With regard to each Tranche of Notes, 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

Unless the Final Terms in respect of any Notes specify the "*Prohibition of Sales to EEA and UK Retail Investors*" as not applicable, each Dealer has represented and agreed, and each further Dealer appointed under the Program will be required to represent and agree that it has not offered, sold or otherwise made available and will not offer, sell or otherwise make available any Notes which are the subject of the offering contemplated by the Prospectus as completed by the Final Terms in relation thereto to any retail investor in the EEA or in the UK. 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 MiFID II;

(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; and

(b) the expression an ***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 for the Notes.

If the Final Terms in respect of any Notes specify "*Prohibition of Sales to EEA EEA and UK Retail Investors*" as "*Not Applicable*", each Dealer has represented and agreed, and each further Dealer appointed under the Program will be required to represent and agree, in relation to each Member State of the EEA and the UK (each a ***Relevant State***), 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) 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 ***Nonexempt 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) at any time to any legal entity which is a qualified investor as defined in the Prospectus Regulation;

(c) 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 for any such offer; or

(d) 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 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, as amended.

3. United States

(a) With regard to each Tranche of Notes, 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 Clause 4(1)(p) of 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 represent-

ed, 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 restricted 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 of Notes 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 of Notes 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 of Notes.

(d) With regard to each Tranche of Notes, 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 Issuer.

(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 expressly 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 Program will be required to represent and agree, that:

(a) *No deposit-taking:* in relation to Notes which have a maturity of less than one year: (i) it is a person whose ordinary activities involve it in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of its business; and (ii) it has not offered or sold and will not offer or sell any Notes other than to persons: (A) whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of their businesses; or (B) who it is reasonable to expect will acquire, hold, manage or dispose of investments (as principal or agent) for the purposes of their businesses, where the issue of the Notes would otherwise constitute a contravention of Section 19 of the Financial Services and Markets Act 2000 (***FSMA***) by the Issuer;

(b) *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 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 Issuer or the Guarantor; and

(c) *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

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 Prospectus Act, 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 CSSF pursuant to part III of the Prospectus Act; 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 Prospectus Act.

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. Singapore

The Prospectus has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, the Notes may not be offered or sold, or be made the subject of an invitation for subscription or purchase, nor may the Prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of any Notes be circulated or distributed, whether directly or indirectly, to any person in Singapore other than:

(a) to an institutional investor (as defined in the Securities and Futures Act, Chapter 289 of Singapore, as amended or modified (the ***SFA***)) pursuant to Section 274 of the SFA;

(b) to a relevant person (as defined in Section 275(2) of the SFA) 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 and where applicable in accordance with the conditions in Regulation 3 of the Securities and Futures (Classes of Investors) Regulations 2018; or

(c) 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 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 of the trust is an individual who is an accredited investor,

securities (as defined in Section 2(1) of the SFA) or securities-based derivatives contracts (as defined in Section 2(1) of the SFA) of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the Notes pursuant to an offer made under Section 275 of the SFA, except:

(i) to an institutional investor or to a relevant person or to any person arising from an offer referred to in Section 275(1A) or Section 276(4)(i)(B) of the SFA; or

(ii) where no consideration is or will be given for the transfer; or

(iii) where the transfer is by operation of law; or

(iv) as specified in Section 276(7) of the SFA; or

(v) as specified in Regulation 37A of the Securities and Futures (Offers of Investments) (Securities and Securities-based Derivatives Contracts) Regulations 2018.

Product classification requirements in Singapore*: The Notes are prescribed capital markets products (as defined in the Securities and Futures (Capital Markets Products) Regulations 2018) and Excluded Investment Products (as defined in MAS Notice SFA 04-N12: Notice on the Sale of Investment Products and MAS Notice FAA-N16: Notice on Recommendations on Investment Products).*

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 Issuer, the Guarantor and their 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 Issuer, the Guarantor, and their 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 Issuer or Issuer' affiliates or Guarantor's or the Guarantor's affiliates. Certain of the Dealers or their affiliates that have a lending relationship with the Issuer and the Guarantor routinely hedge their credit exposure to the Issuer 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 Program. Any such short positions could adversely affect future trading prices of Notes issued under the Program. 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 Program, if any, will be set out in the relevant Final Terms.

Authorization

The establishment of the Program and the issue of Notes thereunder have been duly authorized by a resolution of the Management Board dated February 27, 2018 and by a resolution of the supervisory board of the General Partner dated March 13, 2018.

The 2020 update of the Program has been duly authorized by a resolution of the Management Board dated March 25, 2020, and by a resolution of the supervisory board of the General Partner dated March 26, 2020.

The granting of the Guarantee has been duly authorized by the board of directors of the Guarantor on June 20, 2018.

Listing and Admission to Trading

Application has been made to the Luxembourg Stock Exchange (*Bourse de Luxembourg*) for the Notes issued under this Program to be admitted to trading on the regulated market of the Luxembourg Stock Exchange and to be listed on the official list of the Luxembourg Stock Exchange.

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

Clearing Systems

The Notes have been accepted for clearance through Clearstream Banking AG, Frankfurt am Main (Mergenthalerallee 61, 65760 Eschborn) (***CBF***), Clearstream Banking S.A., Luxembourg (42 Avenue JF Kennedy, 1855 Luxembourg, Luxembourg) (***CBL***), and Euroclear Bank SA/NV (Boulevard du Roi Albert II, 1210 Brussels, Bel-

gium) (***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 Issuer and from the specified offices of the Fiscal Agent:

(i) the constitutional documents of the Issuer and the Guarantor;

(ii) a copy of the Prospectus;

(iii) the documents incorporated herein by reference;

(iv) a copy of any supplements to the Prospectus; and

(v) a copy of the Guarantee.

Electronic versions of the constitutional documents of the Issuer and the Guarantor are also available on the website of the Issuer (*www.freseniusmedicalcare.com*).

This Prospectus, any document incorporated by reference and any supplement to this Prospectus will be published on the website of the Luxembourg Stock Exchange (*www.bourse.lu*).

In the case of Notes listed on the official list of the Luxembourg Stock Exchange or publicly offered in Luxembourg, the Final Terms will be displayed on the website of the Luxembourg Stock Exchange (*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 EEA other than Luxembourg, the Final Terms will be displayed on the website of the Issuer (*www.freseniusmedicalcare.com*).

Third Party Information:

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 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.

Available Information

The Issuer files annual reports on Form 20-F and furnishes periodic reports on Form 6-K to the SEC, including financial statements prepared in conformity with IFRS. We post these reports on our web site (*www.freseniusmedicalcare.com*) under "*Investors – News & publications – Financial reports*". The reports may be viewed and printed from the web site maintained by the SEC at *www.sec.gov*, which contains reports and other information regarding registrants that file electronically with the SEC. The New York Stock Exchange currently lists American Depositary Shares representing our ordinary shares. Our periodic reports, registration statements and other information that we file with the SEC are also available to the public from commercial document retrieval services.

In addition, the Issuer also prepares annual and interim period reports in conformity with IFRS since 2017. The annual reports contain financial statements examined and reported upon, with opinions expressed by, KPMG as independent auditors. The Issuer publishes the consolidated annual financial statements, according to IFRS on its website and through the Federal Gazette (*Bundesanzeiger*), in accordance with German laws. These annual and quarterly reports to our shareholders are posted on the Issuer's web site at '*https://www.freseniusmedicalcare.com/en/investors/news-publications/financial-reports/*'. Except for the financial statements listed under "Documents Incorporated by Reference", the Issuer in furnishing its web site address in the Prospectus does not intend to incorporate any information on its web site into the Prospectus, and you should not consider any information on the Issuer's web site to be part of the Prospectus.

DOCUMENTS INCORPORATED BY REFERENCE

The specified pages of the following documents which have previously been published or are published simultaneously with the Prospectus and which have been filed with the CSSF are incorporated by reference into and form part of the Prospectus. The page numbers set out below refer to the page numbers in the form of a pdf document available on the website of the Luxembourg Stock Exchange (*www.bourse.lu*):

Fresenius Medical Care AG & Co. KGaA

The unaudited consolidated financial statements (IFRS) of the Issuer as of and for the three months ended March 31, 2020, included in the English-language "Interim Report Q1 2020"

Consolidated Statements of Income	page 39
Consolidated Statements of Comprehensive Income	page 40
Consolidated Balance Sheets	page 41
Consolidated Statements of Cash Flows	page 42
Consolidated Statements of Shareholders' Equity	page 43
Notes to Consolidated Financial Statements	pages 44 to 67

The audited consolidated financial statements (IFRS) of the Issuer as of and for the fiscal year ended December 31, 2019 and 2018, included in the German-language "Geschäftsbericht 2019"

Consolidated Statements of Income	page 166
Consolidated Statements of Comprehensive Income	page 167
Consolidated Balance Sheets	page 168
Consolidated Statements of Cash Flows	page 169
Consolidated Statements of Shareholders' Equity	pages 170 to 171
Notes to Consolidated Financial Statements	pages 172 to 263
Independent Auditor's Report	pages 266 to 273

The audited consolidated financial statements (IFRS) of the Issuer as of and for the fiscal year ended December 31, 2018 and 2017, included in the German-language "Geschäftsbericht 2018"

Consolidated Statements of Income	page 156
Consolidated Statements of Comprehensive Income	page 157
Consolidated Balance Sheets	page 158
Consolidated Statements of Cash Flows	page 159
Consolidated Statements of Shareholders' Equity	pages 160 to 161
Notes to Consolidated Financial Statements	pages 162 to 255
Independent Auditor's Report	pages 258 to 264

Fresenius Medical Care Holdings, Inc.

The audited consolidated financial statements (U.S. GAAP) of the Guarantor as of and for the fiscal years ended December 31, 2019 and 2018

The audited consolidated financial statements (U.S. GAAP) of the Guarantor as of and for the fiscal years ended December 31, 2018 and 2017

Any information in the documents incorporated by reference into the Prospectus which is not included in the above cross-reference list is considered as additional information and is not required by the relevant schedules of the Commission Delegated Regulation (EU) 2019/980.

Any statement contained in the Prospectus or in a document that is incorporated by reference herein will be deemed to be modified or superseded for purposes of the Prospectus to the extent that a statement contained herein or in any other subsequently filed document that also is incorporated by reference herein modifies or supersedes such statement. The modifying or superseding statement need not state that it has modified or superseded a prior statement or include any other information set forth in the document that it modifies or supersedes. The making of a modifying or superseding statement will not be deemed an admission for any purposes that the modified or superseded statement, when made, constituted a misrepresentation, an untrue statement of a material fact or an omission to state a material fact that is required to be stated or that is necessary to make a statement not misleading in light of the circumstances in which it was made. Any such statement so modified or superseded will not be deemed, except as so modified or superseded, to constitute a part of the Prospectus. In this context, please note that the Guarantor had an authorized share capital of 300,000,000 shares of common stock as of December 31, 2019 as stated 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

the Issuer as set out at the end of the Prospectus and will be published on the website of the Luxembourg Stock Exchange (*www.bourse.lu*).

Copies of documents incorporated by reference in the Prospectus may be obtained (without charge) from the registered office of the Issuer and the website of the Luxembourg Stock Exchange (*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*) and can be accessed by using the following hyperlinks:

1. The unaudited consolidated financial statements (IFRS) of the Issuer as of and for the three months ended March 31, 2020, included in the English-language "Interim Report Q1 2020"

   http://dl.bourse.lu/dlp/10bb219851f5944f03a3983d217713b5ec

2. The audited consolidated financial statements (IFRS) of the Issuer as of and for the fiscal year ended December 31, 2019 and 2018, included in the German-language "Geschäftsbericht 2019"

   http://dl.bourse.lu/dlp/1022add1d7ca324a5088227ff43992ae40

3. The audited consolidated financial statements (IFRS) of the Issuer as of and for the fiscal year ended December 31, 2018 and 2017, included in the German-language "Geschäftsbericht 2018"

   http://dl.bourse.lu/dlp/1060d735ac19064b96be79c0a21614aa23

4. The audited consolidated financial statements (U.S. GAAP) of the Guarantor as of and for the fiscal years ended December 31, 2019 and 2018

   http://dl.bourse.lu/dlp/1091589ce43de8465eaf1ddc972e9c4515

5. The audited consolidated financial statements (U.S. GAAP) of the Guarantor as of and for the fiscal years ended December 31, 2018 and 2017

   http://dl.bourse.lu/dlp/1015a8ed1117cf4abd902daeedb3eae51b

NAMES AND ADDRESSES

THE ISSUER

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FISCAL AND PAYING AGENT

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