



– CONVENIENCE TRANSLATION –

## INVITATION TO THE ANNUAL GENERAL MEETING

FRESENIUS SE & Co. KGaA  
Bad Homburg v.d.H.

**ISIN: DE0005785604 // German Security Identification Number (WKN):  
578560**

**ISIN: DE0005785620 // WKN: 578562**

**ISIN: DE000A1RFH59 // WKN: A1RFH5**

We hereby invite our shareholders to the

### **Annual General Meeting**

to be held on Friday, May 17, 2013, at 10 a.m. at the Congress Center Messe Frankfurt,  
Ludwig-Erhard-Anlage 1, 60327 Frankfurt am Main.

### **Agenda**

- 1. Presentation of the Annual Financial Statements and the Consolidated Financial Statements each approved by the Supervisory Board, the Management Reports for Fresenius SE & Co. KGaA and the Group, the Explanatory Report of the General Partner on the Disclosures according to sec. 289 paras. 4 and 5 and sec. 315 para. 4 German Commercial Code (*Handelsgesetzbuch*) and the Report of the Supervisory Board of Fresenius SE & Co. KGaA for the Financial Year 2012; Resolution on the Approval of the Annual Financial Statements of Fresenius SE & Co. KGaA for the Financial Year 2012**

The Supervisory Board approved the annual financial statements drawn up by the General Partner and the consolidated financial statements according to sec. 171 of the German Stock Corporation Act (*Aktiengesetz*). The annual financial statements are to be formally approved by the General Meeting according to sec. 286 para. 1 of the German Stock Corporation Act; the afore-mentioned documents are to be made available to the General Meeting without the passing of any additional resolution being required.

The General Partner and the Supervisory Board propose that the annual financial statements of Fresenius SE & Co. KGaA for the financial year 2012 as presented, showing a distributable profit of Euro 196,035,999.39, be approved.

- 2. Resolution on the Allocation of the Distributable Profit**

The General Partner and the Supervisory Board propose to allocate the distributable profit of Fresenius SE & Co. KGaA in the amount of Euro 196,035,999.39, shown in the annual financial statements for the financial year 2012, as follows:

Payment of a dividend of Euro 1.10 per share  
on the 178,188,260 shares entitled to a dividend Euro 196,007,086.00

The dividend is payable on May 20, 2013.

Balance to be carried forward	Euro	<u>28,913.39</u>
	Euro	196,035,999.39

### **3. Resolution on the Approval of the Actions of the General Partner for the Fiscal Year 2012**

The General Partner and the Supervisory Board propose to approve the actions of the General Partner for the fiscal year 2012.

### **4. Resolution on the Approval of the Actions of the Supervisory Board for the Fiscal Year 2012**

The General Partner and the Supervisory Board propose to approve the actions of the members of the Supervisory Board of the Company for the fiscal year 2012.

### **5. Election of the Auditor and Group Auditor for the Fiscal Year 2013**

Upon recommendation of its Audit Committee, the Supervisory Board proposes to elect KPMG AG Wirtschaftsprüfungsgesellschaft, Berlin, as the auditor and group auditor for the fiscal year 2013.

### **6. Resolution on the Approval of the Amended System of Compensation of the Members of the Management Board of the General Partner**

The shareholders of Fresenius SE & Co. KGaA approved in the last year's Annual General Meeting on May 11, 2012 with a vast majority (approximately 97.00% of the votes cast) the at this time applicable system of compensation of the members of the Management Board of Fresenius Management SE, the General Partner of Fresenius SE & Co. KGaA. The Supervisory Board of Fresenius Management SE resolved further adjustments to the system of Management Board compensation. These adjustments are to become effective when the amendment to the Articles of Association as proposed under agenda item 8 b) (cc) is entered into the Commercial Register. Against this background, the amended system of compensation of the members of the Management Board of the General Partner is again submitted for approval to the Annual General Meeting, in accordance with sec. 120 para. 4 of the German Stock Corporation Act.

The amended compensation system, which is subject to the aforementioned approval, is further described on pages 28 et seq. of the annual report 2012 of Fresenius SE & Co. KGaA. The compensation report is part of the annual report and is available for inspection by the shareholders at the offices of Fresenius SE & Co. KGaA (Else-Kröner-Straße 1, 61352 Bad Homburg v.d.H.). Shareholders can receive a copy of the documents free of charge upon request. The annual report is also available on the website [www.fresenius.com](http://www.fresenius.com), see Investor Relations / Publications. The documents will also be available at the Annual General Meeting at the information desk.

The General Partner and the Supervisory Board propose to approve the system of compensation of the members of the Management Board of the General Partner of Fresenius SE & Co. KGaA described in the compensation report on pages 28 et seq. of the annual report 2012.

## **7. Resolution on the Cancellation of the Existing Authorized Capital I and on the Creation of a New Authorized Capital I and a Corresponding Amendment to the Articles of Association**

Article 4 (4) of the Articles of Association of Fresenius SE & Co. KGaA authorizes the General Partner to increase the share capital of the company by up to 26,520,000.00 euros (Authorized Capital I) by issuing new ordinary bearer shares against cash and/or contributions in kind, with the approval of the Supervisory Board. This Authorized Capital I shall be cancelled.

A new Authorized Capital I of up to 40,320,000.00 euros shall be created in order to ensure sufficient future flexibility for financing the growth of the company for the General Partner.

The General Partner and the Supervisory Board propose the following resolution:

- a) The hitherto unused authorization to increase the share capital in Article 4 (4) of the Articles of Association (Authorized Capital I) shall be cancelled with effect from the registration of the new Article 4 (4) of the Articles of Association in the Commercial Register and the suspension of Article 4 (4) of the Articles of Association.

The General Partner is instructed to only apply to register the above resolution to cancel the Authorized Capital I contained in Article 4 (4) of the Articles of Association in the Commercial Register once it has been confirmed that the creation of the new Authorized Capital I resolved below shall be registered in the Commercial Register with the relevant amendment to the Articles of Association at the same time as the registration, or immediately after the registration.

The General Partner, with the approval of the Supervisory Board, shall be entitled to increase the company's share capital to a total of 40,320,000 euros (Authorized Capital I) through one or more issue(s) of new ordinary bearer shares against cash and/or contributions in kind. The number of shares must increase in the same proportion as the share capital. The shareholders shall be granted subscription rights in principle; the subscription rights may also be granted in such a way that new shares are taken up by a credit institution or a company operating according to sec. 53 para. 1 sent. 1 or sec. 53b para 1 sent. 1 or para. 7 of the German Banking Act (Kreditwesengesetz) (financial institution) or a consortium consisting of such credit or financial institutions with the obligation to offer the shares to the shareholders for subscription.

However, the General Partner is authorized to exclude the shareholders' subscription rights with the consent of the Supervisory Board in the following cases:

- to eliminate fractional amounts;
- in the case of a capital increase for cash, if the issue price does not fall significantly below the stock market price of the shares already listed at the time the issue price is fixed with final effect by the General Partner, and the proportionate amount of the shares issued with exclusion of subscription rights does not exceed 10% of the share capital either at the time of the resolution on the authorization or at the time of utilization of the authorization. If during the period of validity of the Authorized Capital I until its utilization, other authorizations concerning the issue or the sale of the shares of the company or the issue of rights which authorize or bind to the subscription of shares of the company, are used and thereby the right of subscription is excluded in direct or analogous application of sec. 186 para. 3 sent. 4 German Stock Corporation Act, this has to be taken into consideration with regard to the abovementioned 10% limit;

- in the case of a capital increase for contributions in kind for the purpose of acquiring a company, parts of a company or investing in a company.

The General Partner may only exercise the aforementioned powers to exclude subscription rights to the extent that the proportional amount of all shares issued subject to an exclusion of subscription rights does not exceed 20% of the share capital, neither at the time when the authorizing resolution is adopted nor at the time when these powers are exercised. If, during the period of validity of the Authorized Capital I until its utilization, other authorizations concerning the issue or the sale of the shares of the company or the issue of rights, which authorize or bind to the subscription of shares of the company, are used and thereby exclude the right of subscription, this has to be taken into consideration with regard to the abovementioned 20% limit.

The General Partner is authorized to determine the further details regarding the implementation of the capital increases from the Authorized Capital I with the consent of the Supervisory Board. The Supervisory Board is authorized to amend Article 4 (4) and Article 4 (1) after complete or partial implementation of the increase of the share capital using the Authorized Capital I or after the expiry of the authorization period according to the amount of the capital increase from the Authorized Capital I.

- b) A new Authorized Capital I of 40,320,000 euros shall be created. A new paragraph (4) with the following wording shall be inserted into Article 4 of the Articles of Association of Fresenius SE & Co. KGaA to replace the previous paragraph (4):

“The General Partner, with the approval of the Supervisory Board, is entitled to increase the company's share capital to a total of 40,320,000 euros (Authorized Capital I) through one or more issue(s) of new ordinary bearer shares against cash and/or contributions in kind. The number of shares must increase in the same proportion as the share capital. The shareholders shall be granted subscription rights in principle; the subscription rights may also be granted in such a way that new shares are taken up by a credit institution or a company operating according to sec. 53 para 1 sent. 1 or sec. 53b para. 1 sent. 1 or para 7 of the German Banking Act (Kreditwesengesetz) (financial institution) or a consortium consisting of such credit or financial institutions with the obligation to offer the shares to the shareholders for subscription.

However, the General Partner is authorized to exclude the shareholders' subscription rights with the consent of the Supervisory Board in the following cases:

- to eliminate fractional amounts;
- in the case of a capital increase for cash, if the issue price does not fall significantly below the stock market price of the shares already listed at the time the issue price is fixed with final effect by the General Partner, and the proportionate amount of the shares issued with exclusion of subscription rights does not exceed 10% of the share capital either at the time of the resolution on the authorization or at the time of utilization of the authorization. If, during the period of validity of the Authorized Capital I until its utilization other authorizations concerning the issue or the sale of the shares of the company or the issue of rights which authorize or bind to the subscription of shares of the company are used and thereby the right of subscription is excluded in direct or analogous application of sec. 186 para. 3 sent. 4 German Stock Corporation, this has to be taken into consideration with regard to the abovementioned 10% limit;

- in the case of a capital increase for contributions in kind for the purpose of acquiring a company, parts of a company or investing in a company.

The General Partner may only exercise the aforementioned powers to exclude subscription rights to the extent that the proportional amount of all shares issued subject to an exclusion of subscription rights does not exceed 20% of the share capital, neither at the time when the authorizing resolution is adopted nor at the time when these powers are exercised. If, during the period of validity of the Authorized Capital I until its utilization, other authorizations concerning the issue or the sale of the shares of the company or the issue of rights, which authorize or bind to the subscription of shares of the company, are used and thereby the right of subscription is excluded, this has to be taken into consideration with regard to the abovementioned 20% limit.

The General Partner is authorized to determine the further details regarding the implementation of the capital increases from the Authorized Capital I with the consent of the Supervisory Board. The Supervisory Board is authorized to amend Article 4 (4) and Article 4 (1) after complete or partial implementation of the increase of the share capital using the Authorized Capital I or after the expiration of the authorization period according to the amount of the capital increase from the Authorized Capital I."

In accordance with sec. 186 para. 4 sent. 2 of the German Stock Corporation Act in conjunction with sec. 203 para 2 sent. 2 of the German Stock Corporation Act, the General Partner shall submit a written report on the reasons for the authorization to exclude subscription rights. The contents of the report can be found in the Annex to this invitation to the Annual General Meeting.

## **8. Resolutions on the Cancellation of a Conditional Capital and on a Corresponding Amendment to the Articles of Association as well as on the Authorization for the Granting of Subscription Rights to Managerial Staff Members (*Führungskräfte*) and Members of the Management of Fresenius SE & Co. KGaA or an Affiliated Company (Stock Option Program 2013) and on the creation of Conditional Capital to Provide for the Stock Option Program 2013 as well as on a Corresponding Amendment to the Articles of Association**

### **a) Resolution on the cancellation of the Conditional Capital I and on the corresponding amendment to the Articles of Association**

The Stock Option Program from 1998 has expired. In this respect, no additional stock options can be exercised. Therefore, the remaining conditional capital as stated in Article 4 (5) of the Company's Articles of Association is no longer required and can be cancelled in order to simplify the capital structure of the Company.

The General Partner and the Supervisory Board propose the following resolution:

- aa) The conditional increase of the Company's share capital as currently stated in Article 4 (5) of the Articles of Association (Conditional Capital I) shall be cancelled.
- bb) Article 4 (5) of the Articles of Association shall be cancelled.

Article 4 (6) of the Articles of Association becomes Article 4 (5). The wording "Conditional Capital II" contained in the parentheses of this provision shall be adapted to "Conditional Capital I". The wording in the Articles of Association shall be as follows:

"(5) The share capital of the Company is conditionally increased by up to 2,976,630.00 euros, divided into 2,976,630 shares, by the issue of new ordinary bearer shares (Conditional Capital I). The conditional capital increase will only be implemented to the extent that, in accordance with the Stock Option Program resolution by the General Meeting of Fresenius AG of May 28, 2003 and taking account of the amendment resolution of the General Meeting of December 4, 2006 required due to the new division of the share capital and of the conversion resolution of the General Meeting of May 12, 2010, convertible bonds have been issued and the holders of these convertible bonds exercise their right of conversion. The new ordinary bearer shares shall participate in the profits from the start of the financial year in which they are issued."

Article 4 (7) of the Articles of Association becomes Article 4 (6). The wording "Conditional Capital III" contained in the parentheses of this provision shall be adapted to "Conditional Capital II". The wording in the Articles of Association shall be as follows:

"(6) The share capital of the Company is conditionally increased by up to 6,024,524.00 euros, divided into 6,024,524 shares by the issue of new ordinary bearer shares (Conditional Capital II). The conditional capital increase will only be implemented to the extent that, in accordance with the Stock Option Program 2008 resolution by the General Meeting of May 21, 2008 and taking account of the conversion resolution of the General Meeting of May 12, 2010, subscription rights have been issued or will be issued and the holders of these subscription rights exercise their rights, and the Company does not grant any shares to satisfy the subscription rights nor exercise its right to cash compensation, whereas the General Partner's Supervisory Board shall be exclusively competent regarding the granting and settlement of subscription rights to members of the General Partner's Management Board. The new ordinary bearer shares shall participate in the profits from the start of the financial year in which they are issued."

Article 4 (8) of the Articles of Association becomes Article 4 (7). The wording "Conditional Capital IV" contained in the parentheses of this provision shall be adapted to "Conditional Capital III". The reference to "Article 4 (8)" contained in this provision shall be amended to "Article 4 (7)". The wording in the Articles of Association shall be as follows:

"(7) The company's share capital has been conditionally increased by up to 16,323,734.00 euros through the issue of up to 16,323,734 new ordinary bearer shares. The conditional capital increase shall only be implemented to the extent that the holders of convertible bonds issued for cash or of warrants from option bonds issued for cash by Fresenius SE & Co. KGaA or an affiliated company up until May 10, 2017, on the basis of the authorization granted to the General Partner by the General Meeting of May 11, 2012, exercise their conversion or option rights and as long as no other forms of settlement are used (Conditional Capital III). The new ordinary bearer shares shall participate in the profits from the start of the financial year in which they are issued.

The General Partner is authorized to determine the further details regarding the implementation of the conditional capital increase with the consent of the Supervisory Board. The Supervisory Board is authorized to amend Article 4 (7) of the Articles of Association in accordance with the utilization of Conditional Capital III. The same applies if the powers to issue convertible/option bonds are not exercised after the end of the

authorization period and if Conditional Capital III is not utilized after the expiry of all conversion and option periods."

The numbering and wording of Article 4 (9) of the Articles of Association remain unchanged.

**b) Resolution on the authorization to grant subscription rights to managerial staff members (*Führungskräfte*) and members of the management of Fresenius SE & Co. KGaA or an affiliated company (Stock Option Program 2013) and on the creation of Conditional Capital to provide for the Stock Option Program 2013 as well as on a corresponding amendment to the Articles of Association**

The General Partner and the Supervisory Board propose the following resolution:

aa) Authorization to grant subscription rights for ordinary bearer shares

The General Partner is authorized to issue up to 8,400,000 subscription rights for up to 8,400,000 non-par value ordinary bearer shares of the Company until May 16, 2018, in accordance with the following provisions. The authorization shall fall to the Supervisory Board alone, if members of the Management Board of the General Partner are affected.

The principles for the issue of the subscription rights are as follows:

(1) Entitled persons/ Distribution of subscription rights

Subscription rights may only be issued to members of the Management Board of Fresenius Management SE in their capacity as members of the management body of the General Partner of the Company, to members of the management of affiliated companies and managerial staff members (*Führungskräfte*) of the Company and affiliated companies. Members of management and employees of Fresenius Medical Care AG & Co. KGaA and affiliated companies that are only affiliated with the Company through Fresenius Medical Care AG & Co. KGaA are excluded. The exact group of entitled persons and the scope of subscription rights to be granted to each of them shall be determined by the General Partner. This determination and issue of the subscription rights shall be under the exclusive decision of its Supervisory Board, if members of the Management Board of the General Partner are expected to receive subscription rights.

The total volume of subscription rights is apportioned to the groups of entitled persons as follows:

- Members of the Management Board of the General Partner receive a total maximum of up to 1,600,000 subscription rights.
- Members of the management of affiliated companies receive a total maximum of up to 4,400,000 subscription rights.
- Managerial staff members (*Führungskräfte*) of the Company and affiliated companies receive a total maximum of up to 2,400,000 subscription rights.

The entitled persons always only receive subscription rights as members of one group. Double grants are not admissible. The entitled persons must, at the time of the granting of the

subscription rights, be in an employment or service relationship with the Company or an affiliated company.

- (2) Granting of subscription rights (Acquisition period), issue date and content of subscription rights

The granting of subscription rights shall be made in five annual tranches, each on the last Monday in July or the first Monday in December. If the amendment to the Articles of Association as stated under lit. cc) is not entered in the Commercial Register prior to July 29, 2013, the first granting of subscription rights shall take place on the first working day of the calendar month following the entry in the Commercial Register.

Each subscription right entitles the holder to one non-par value ordinary bearer share of the Company in return for payment of the exercise price specified under (3) and has a term of eight years.

The subscription conditions may provide that, in fulfillment of the subscription rights, the Company may, at its discretion, grant the entitled persons treasury shares in place of new shares out of conditional capital; to the extent the entitled persons are members of the Management Board of the General Partner, its Supervisory Board shall resolve on this. The acquisition of treasury shares for this alternative satisfaction of the subscription rights must comply with the statutory provisions. No authorization to acquire treasury shares is granted by this resolution.

- (3) Exercise price (issue price) and success target

The exercise price of a subscription right shall be the volume-weighted average stock market price of the non-par value ordinary bearer share of the Company in the electronic "Xetra" trading of Deutsche Börse AG in Frankfurt am Main or a comparable successor system over the last 30 calendar days prior to the date of allocation of the subscription right. The minimum exercise price is the proportionate amount of the capital of the Company attributed to each non-par value ordinary share (sec. 9 para. 1 German Stock Corporation Act).

It is a condition for the exercise of subscription rights in each case that the annual success target is achieved within the four-year waiting period specified under (4). The success target is achieved if either the adjusted Group net income (earnings attributable to the shareholders of the Company) of the Company has increased by at least eight per cent per annum in comparison to the previous year in each case within the waiting period, or - if this is not the case - the compounded annual growth rate of the adjusted Group net income of the Company during the four years of the waiting period amounts to at least eight per cent. A currency adjustment is performed for all companies incorporated in the consolidated financial statement with a functional currency other than the reporting currency (EURO) by translating the items of the profit and loss statements at the average exchange rate for the year of the consolidated financial statements that are the basis for the comparison.

The determination of the adjusted Group net income (currency-adjusted) and changes compared to the adjusted Group net income (without currency adjustment) of the relevant comparison year will



be verified in a binding manner by the company auditors on the basis of the audited consolidated financial statements with regard to the issue of the admissibility of exercising the subscription rights.

If the success target within the four-year waiting period is not achieved for the individual years or for the compounded annual growth rate, the subscription rights issued in each case are forfeited in proportion to the non-achievement of the success target within the waiting period, i.e. by one quarter, two quarters, three quarters, or completely.

The adjusted Group net income of the Company shall be calculated following the U.S. GAAP (Generally Accepted Accounting Principles) methodology as follows:

The adjusted Group net income of the Company corresponds to the Group net income (earnings attributable to the shareholders of the Company) shown in the consolidated financial statements of the Company,

- (i) to which is added the costs shown in the relevant consolidated financial statement for:
    - - provided that the costs occur only once - the purchase, integration and financing of companies or parts of companies, including the costs in connection with
      - justified liability exposure in existence prior to the time of acquisition and/or
      - the sale of companies or parts of companies irrespective of whether this was initiated by the competent anti-trust authority or not;
    - extraordinary items within the meaning of the U.S. GAAP;
    - changes to U.S. GAAP accounting principles in the first year after such policies become effective; and
    - tax effects in respect to the above mentioned points; and
  - (ii) from which is subtracted any earnings shown in the consolidated financial statements in each case by reference to the following:
    - the sale of companies or parts of companies irrespective of whether this was initiated by the competent anti-trust authority or not;
    - extraordinary items as defined under the U.S. GAAP accounting principles;
    - changes to U.S. GAAP accounting principles in the first year after such policies become effective; and
    - tax effects in respect to the above mentioned points.
- (4) Waiting period for initial exercise, exercise periods and black-out periods

The waiting period to the initial exercise date is four years from the allocation date of the relevant subscription right. On expiry of the waiting period, all subscription rights for which the success target under (3) has been achieved may be exercised at any time until the end of the relevant period specified under (2), with the exception of black-out periods.

Black-out periods include the following:

- the period from the December 15 to January 15;
- the period from the 21<sup>st</sup> calendar day before a Company's General Meeting until the end of the day of the General Meeting;
- the period from the day on which the Company publishes an offer to its shareholders to subscribe for new shares in a stock exchange gazette (*Börsenpflichtblatt*) or the Federal Gazette up to the day on which the Company shares entitled to be subscribed are listed as "ex subscription right" for the first time on the Frankfurt Stock Exchange, and
- the period from the 15<sup>th</sup> calendar day prior to the publication of the quarterly results or the annual results until the publication of the quarterly results or the annual results.

The above mentioned black-out periods always include the relevant start date and end date. In addition, any restrictions under general legal provisions, in particular the German Securities Trading Act, are to be observed. If the Management Board of the General Partner is affected, its Supervisory Board shall determine other black-out periods and provide notification of these periods well in advance. If other entitled persons are affected this task shall fall to the General Partner.

(5) Adjustment in case of capital measures/protection against dilution

If the Company, during the term of the subscription rights, while granting a direct or indirect subscription right to its shareholders, increases its share capital issuing new shares or issues bonds with conversion or option rights and the fixed issue, conversion or option prices per share are less than the exercise price of subscription rights, or distributes an extraordinarily high dividend ("super dividend"), the General Partner or, if members of the Management Board of the General Partner are affected, its Supervisory Board, is entitled to establish financial equality for the entitled persons. This equality may be established by reducing the exercise price or adjusting the number of subscription rights or a combination of both. The entitled persons have no right to such financial equality. No equalization will be granted in the event of the issue of shares, conversion bonds or options rights in the course of equity based incentive programs of the Company.

In the event of a capital increase from Company funds by the issue of new shares, the conditional capital will increase in proportion to the share capital in accordance with sec. 218 German Stock Corporation Act. The right of entitled persons to purchase new shares by exercising subscription rights shall increase in the same proportion. The exercise price per share will be reduced in the same proportion. If the capital increase out of Company funds takes place

without the issue of new shares (sec. 207 para. 2 sent. 2 German Stock Corporation Act), the subscription rights and the exercise price remain unchanged.

In the event of a capital reduction, no adjustment of the exercise price or the subscription right ratio shall take place if the capital reduction does not change the total number of shares or the reduction is associated with a repayment of capital or with the acquisition of treasury shares against payment. In the case of a capital reduction by merging shares without capital redemption and in the case of an increase in the number of shares without any change in capital (share split), the number of shares which can be acquired for each subscription right at the exercise price shall be reduced or increased in proportion to the capital reduction or share split. The exercise price for one share shall be adjusted in the same proportion.

If an adjustment takes place in accordance with the above paragraphs, fractions of shares will not be granted on the exercise of subscription rights. No cash compensation will be granted.

(6) Non-transferability; cancellation of subscription rights

The subscription rights will be granted as non-transferable subscription rights. The subscription rights, with the exception of an inheritance, may not be transferred or sold, and may not be pledged or charged in any other manner. All non-exercised subscription rights are cancelled without compensation on expiry of eight years after the date of issue. In cases where the employment relationship ends as a result of death, incapacity, retirement, dismissal or otherwise without dismissal, and if the entitled person, after the end of the employment relationship, assumes employment with Fresenius Medical Care AG & Co. KGaA or an affiliated company of Fresenius Medical Care AG & Co. KGaA, special rules may be provided for the cancellation of subscription rights in the subscription right conditions.

(7) Provision for further details

The General Partner is authorized to determine the other details regarding the issue of shares out of the conditional capital and the additional conditions of the Stock Option Program 2013, in particular, the subscription conditions for entitled persons. In so far as the members of the Management Board of the General Partner are affected, the decisions shall be reached exclusively by its Supervisory Board. The further details include, in particular, provisions on the distribution of subscription rights within the groups of entitled persons, provisions on taxes and costs, the procedure for the allocation to the individual entitled persons and the exercising of subscription rights, provisions in relation to the cancellation of subscription rights in the event of the termination of the employment relationship, provisions that enable income from exercising subscription rights to be capped in case of extraordinary developments and further procedural rules.

bb) Conditional Capital

The share capital of the Company is conditionally increased by up to 8,400,000.00 euros by the issuance of up to 8,400,000 new ordinary bearer shares (Conditional Capital IV). The conditional capital increase will

only be implemented to the extent that subscription rights have been or will be issued in accordance with the Stock Option Program 2013 under this resolution, the holders of subscription rights exercise their rights and the Company does not grant treasury shares to satisfy the subscription rights, whereby the General Partner's Supervisory Board shall be exclusively competent regarding the granting and settlement of subscription rights to members of the General Partner's Management Board. The new ordinary bearer shares shall participate in the profits from the start of the financial year in which they are issued.

cc) Amendment to the Articles of Association

Article 4 (8) of the Articles of Association shall read as follows:

"The share capital of the Company is conditionally increased by up to 8,400,000.00 euros by the issuance of up to 8,400,000 new ordinary bearer shares (Conditional Capital IV). The conditional capital increase will only be implemented to the extent that subscription rights have been or will be issued in accordance with the Stock Option Program 2013 as resolved by the General Meeting on May 17, 2013, the holders of subscription rights exercise their rights and the Company does not grant treasury shares to satisfy the subscription rights, whereas the General Partner's Supervisory Board shall be exclusively competent regarding the granting and settlement of subscription rights to members of the General Partner's Management Board. The new ordinary bearer shares shall participate in the profits from the start of the financial year in which they are issued."

The General Partner of the Company is hereby instructed to apply for the registration of the aforementioned amendment of the Articles of Association in the Commercial Register so that the registration of the amendment of the Articles of Association as proposed under lit. a) is registered first. In case the amendment as proposed under lit. a) is not entered into the Commercial Register by July 29, 2013, the General Partner may apply for registration of the afore-mentioned amendment of the Articles of Association irrespective of the afore-mentioned order. In this case, the Supervisory Board is authorized to amend the Articles of Association in accordance with the order of the subsections of Article 4 of the Articles of Association effective at the time.

The General Partner has submitted a written report on the Stock Option Program 2013 and the Conditional Capital IV. The contents of the report can be found in the Annex to this invitation to the Annual General Meeting.

**Total Number of Shares and Voting Rights**

At the time the General Meeting is convened, 178,277,853 shares out of a total of 178,277,853 shares issued carry rights of participation and voting rights.

**Participation in the General Meeting and Exercise of Voting Rights**

Shareholders who wish to participate in the Annual General Meeting or to exercise their voting rights must register for the Annual General Meeting and prove their eligibility.

The registration and proof of eligibility must be received by the company at

Fresenius SE & Co. KGaA  
c/o Deutsche Bank AG  
Securities Production  
General Meetings  
Postfach 20 01 07  
60605 Frankfurt am Main

Facsimile: +49 69 12012-86045  
E-mail: WP.HV@Xchanging.com

at least 6 days prior to the General Meeting, i.e. no later than May 10, 2013, 24:00 hours CEST. For the purpose of proving eligibility, a special proof of share ownership issued by the custodian in writing (*Textform*) in the German or English language is sufficient. The proof of share ownership has to relate to the beginning of April 26, 2013, i.e. 0:00 hours CEST (record date). The shareholder or his authorized representative shall receive an admission ticket for the Annual General Meeting against submission of the proof of share ownership.

In relation to the Company, a shareholder will only be deemed a shareholder entitled to participate in the meeting and to exercise voting rights if the shareholder has submitted the special proof of share ownership. The entitlement to participate in the meeting and the scope of the voting rights are exclusively determined by the proven shares owned on the record date. The record date shall not lead to a blocking period during which it is not allowed to sell shares. Even in the event of a full or partial sale of the shareholding following the record date, only the shares owned by the shareholder on the record date will be relevant for the participation in the meeting and the scope of the voting rights, i.e. a sale of shares, if any, after the record date will not affect the entitlement to participate in the meeting and the scope of the voting rights. This also applies *mutatis mutandis* if (additional) shares are purchased after the record date. Persons who do not own any shares on the record date and become shareholders only after the record date, are not entitled to participate in the meeting and to exercise voting rights. The record date does not constitute a relevant date with respect to the entitlement to dividends.

Each share grants one vote in the Annual General Meeting.

**Voting Procedure*****Voting by proxies***

A shareholder may also instruct an authorized representative, e.g. the custodian bank, an association of shareholders or any other person of his choice, to exercise his voting right in the Annual General Meeting. A registration of the shareholder, including proof of share ownership, in due time in accordance with the aforesaid will also be necessary in case of a voting by proxy.

Pursuant to sec. 134 para. 3 sent. 3 in conjunction with sec. 278 para. 3 of the German Stock Corporation Act, the power of attorney must be granted and revoked, and the

authorization evidenced, to the Company in writing (*Textform*) (sec. 126b German Civil Code (*Bürgerliches Gesetzbuch*)). Shareholders who wish to authorize a proxy should use the form of the power of attorney they will receive together with the admission ticket. The power of attorney respectively the evidence of the authorization must either be shown on the day of the General Meeting or be sent to the Company at the following address:

Fresenius SE & Co. KGaA  
Investor Relations  
Else-Kröner-Straße 1  
61352 Bad Homburg v.d.H.  
Facsimile: +49 (0) 61 72 / 608-24 88  
E-mail: ir-fre@fresenius.com

If the power of attorney or the proof of the power of attorney is submitted to the Company in advance, we request that this be done by 6 p.m. CEST on Wednesday, May 15, 2013, for organizational reasons.

Pursuant to Article 15 para. (4) sent. 3 of the Articles of Association it is determined that a power of attorney can be revoked by appearing in person at the Annual General Meeting.

If the power of attorney is granted to a credit institution, an association of shareholders or any other individual or institution treated as equivalent to the aforesaid pursuant to sec. 135 para. 8 and para. 10 in conjunction with sec. 125 para. 5 of the German Stock Corporation Act and sec. 278 para. 3 of the German Stock Corporation Act, it shall be sufficient pursuant to sec. 135 para. 1 sent. 2 of the German Stock Corporation Act if the power of attorney is kept by the proxy in a verifiable form. Such power of attorney must be complete and may only contain declarations associated with the exercise of voting rights. Shareholders wishing to appoint a credit institution, an association of shareholders or any other individual or institution treated as equivalent to the aforesaid as proxy are asked to agree with the same on the form of the power of attorney.

### ***Voting by Company proxies***

In addition, the Company offers its shareholders to authorize company-nominated employees, who are bound by instructions given to them (*weisungsgebundene Stimmrechtsvertreter*), as proxies for the exercise of voting rights already prior to the Annual General Meeting. Those shareholders who wish to grant a power of attorney to the proxies nominated by the Company also have to register for the Annual General Meeting and prove their eligibility as aforesaid. The power of attorney and the instructions to the proxies named by the Company shall be in writing (*Textform*) and must be granted by using the form the shareholders receive together with the admission ticket to the Annual General Meeting. The completed form may also be submitted to the Company prior to the Annual General Meeting at the following address:

Fresenius SE & Co. KGaA  
Investor Relations  
Else-Kröner-Straße 1  
61352 Bad Homburg v.d.H.  
Facsimile: +49 (0) 61 72 / 608-24 88  
E-mail: ir-fre@fresenius.com

In this case the form must be received by the Company by 6 p.m. CEST on Wednesday, May 15, 2013, for organizational reasons. This does not affect the option of authorizing the company-nominated proxies even as the Annual General Meeting is in progress.

The Company proxies are to vote in accordance with the instructions issued by the shareholders. If no instructions are issued, the power of attorney shall be invalid. Please note that the proxies are unable to accept any authority or instructions for exercising the right to speak and to ask questions, to submit motions or to file objections against shareholders' resolutions adopted at the General Meeting and that proxies will always abstain from voting in respect of resolutions proposed by shareholders during the General Meeting which have not been announced prior to the General Meeting.

## Shareholder Rights

### ***Motions by shareholders to amend the agenda pursuant to sec. 122 para. 2 in conjunction with sec. 278 para. 3 of the German Stock Corporation Act***

Shareholders whose aggregate shareholding equals or exceeds 5% of the share capital or a pro-rata amount of Euro 500,000 may request that items be included in the agenda and published. Any such request must be made in writing to:

Fresenius SE & Co. KGaA  
Management Board of the General Partner  
Fresenius Management SE  
Attn.: Dr. Jürgen Götz  
Else-Kröner-Straße 1  
61352 Bad Homburg v.d.H.

The request must be received by the Company at least 30 days prior to the meeting at the address mentioned above, i.e. the request must be received by April 16, 2013, 24:00 hours CEST. Each new item must be substantiated or accompanied by a proposal for resolution.

### ***Motions and election proposals by shareholders pursuant to secs. 126 para. 1 and 127 in conjunction with sec. 278 para. 3 of the German Stock Corporation Act***

Shareholders may file motions regarding individual agenda items (cf. sec. 126 para. 1 of the German Stock Corporation Act in conjunction with sec. 278 para. 3 of the German Stock Corporation Act); this also applies to proposals for the election of members of the Supervisory Board or of auditors (cf. sec. 127 in conjunction with sec. 278 para. 3 of the German Stock Corporation Act).

Pursuant to sec. 126 para. 1 in conjunction with sec. 278 para. 3 of the German Stock Corporation Act, motions by shareholders, including the shareholder's name, a statement of grounds for the motion and any comments of the management, if any, are to be made available to the relevant authorized persons listed in sec. 125 paras. 1 to 3 in conjunction with sec. 278 para. 3 of the German Stock Corporation Act (as for example shareholders, among others, who so request) in accordance with the conditions set forth therein, provided that the shareholder has sent a counter motion opposed to a proposal of the General Partner and/or the Supervisory Board in respect of a certain agenda item, including a statement of grounds for the counter motion, to the company at the address set forth below, no later than 14 days prior to the General Meeting, i.e. the counter motion must be received by May 2, 2013, 24:00 hours CEST. The aforementioned information must be made available via the Company's website. A counter motion need not be made available if one of the exceptions pursuant to sec. 126 para. 2 in conjunction with sec. 278 para. 3 of the German Stock Corporation Act applies. The statement of grounds need not be made available if it exceeds a total of 5,000 characters.

The right of each shareholder to make counter motions regarding the various agenda items during the General Meeting without a prior communication to the Company remains unaffected. Please note that any counter motions which have been sent to the Company in advance and in due time will only be considered in the General Meeting if they are made orally during such meeting.

No statement of grounds need be provided for election proposals made by shareholders pursuant to sec. 127 in conjunction with sec. 278 para. 3 of the German Stock Corporation Act. Election proposals need not be made available if they do not contain the name, the exercised profession and the place of residence of the nominees and, in case of an election of members of the Supervisory Board, information on their membership in other supervisory boards the constitution of which is required by law (cf. sec. 127 sent. 3



in conjunction with sec. 124 para. 3 and sec. 125 para. 1 sent. 5 of the German Stock Corporation Act in conjunction with sec. 278 para. 3 of the German Stock Corporation Act). Pursuant to sec. 127 sent. 1 in conjunction with sec. 126 para. 2 of the German Stock Corporation Act in conjunction with sec. 278 para. 3 of the German Stock Corporation Act, there are further circumstances under which election proposals do not need to be made available via the website. In all other respects, the requirements and provisions for making motions available apply mutatis mutandis.

Any motions or election proposals of shareholders pursuant to sec. 126 para. 1 and sec. 127 in conjunction with sec. 278 para. 3 of the German Stock Corporation Act shall be sent exclusively to:

Fresenius SE & Co. KGaA  
Investor Relations  
Else-Kröner-Straße 1  
61352 Bad Homburg v.d.H.  
Facsimile: +49 (0) 61 72 / 608-24 88  
E-mail: ir-fre@fresenius.com

Any motions and election proposals of shareholders which are to be made available will be published in accordance with the aforesaid conditions on the Company's website at [www.fresenius.com](http://www.fresenius.com) under Investor Relations/Annual General Meeting. Comments of the management, if any, will also be published on that website.

***Information right pursuant to sec. 131 para 1 in conjunction with sec. 278 para. 3 of the German Stock Corporation Act***

At the General Meeting, each shareholder shall, upon request, be provided with information regarding the matters of the Company by the General Partner, to the extent such information is necessary for a proper evaluation of the relevant item on the agenda (cf. sec. 131 para 1 in conjunction with sec. 278 para. 3 of the German Stock Corporation Act). The General Partner's duty to provide information also extends to the Company's legal and business relationships with any affiliated company as well as to the situation of the Group and the companies included in the consolidated financial statements. Any request for information must, in principle, be made orally at the General Meeting during the discussion.

The information shall comply with the principles of conscientious and accurate accounting. The General Partner may refuse to provide information under the conditions set forth in sec. 131 para. 3 in conjunction with sec. 278 para. 3 German Stock Corporate Act. Pursuant to Article 17 para. (2) of the Articles of Association, the chairman of the meeting may reasonably restrict the time granted to shareholders within the scope of their right to ask questions and to speak; in particular, he shall have the right to determine a reasonable time frame for the conduct of the General Meeting, for individual agenda items, or for individual speakers either at the beginning or during the General Meeting.

**General Meeting Documents**

As of the day of publication of this invitation, the following documents will be available, together with this notice, for inspection by the shareholders at the offices of Fresenius SE & Co. KGaA (Else-Kröner-Straße 1, 61352 Bad Homburg v.d.H.):

- Financial statements of Fresenius SE & Co. KGaA for the year ended December 31, 2012, approved by the Supervisory Board
- Management Report of Fresenius SE & Co. KGaA for the financial year 2012
- IFRS consolidated financial statements of Fresenius SE & Co. KGaA for the year ended December 31, 2012, approved by the Supervisory Board

- IFRS Group management report of Fresenius SE & Co. KGaA for the financial year 2012
- U.S. GAAP annual report 2012 of the Fresenius Group, including, amongst others, the report of the Supervisory Board, the corporate governance declaration and the remuneration report for the financial year 2012
- Proposal of the General Partner and the Supervisory Board on the allocation of the distributable profit for the financial year 2012 ended on December 31, 2012
- Explanatory report of the General Partner relating to the disclosures provided in accordance with secs. 289 paras. 4 and 5, 315 para. 4 of the German Commercial Code

### **Publications on the Website**

The information pursuant to sec. 124a in conjunction with sec. 278 para. 3 of the German Stock Corporation Act regarding the General Meeting (invitation, documents to be made available, forms of proxy and for issuing instructions, applications by shareholders, if applicable, among other things) as well as further explanations concerning the rights of shareholders pursuant to sec. 122 para. 2 in conjunction with sec. 278 para. 3 of the German Stock Corporation Act, and pursuant to secs. 126 para. 1, 127 and 131 para. 1 of the German Stock Corporation Act in conjunction with sec. 278 para. 3 of the German Stock Corporation Act, are made available to shareholders on the Company's website at [www.fresenius.com](http://www.fresenius.com) under Investor Relations/Annual General Meeting. It is intended to broadcast the speech of the Chairman of the Management Board in sound and image on the Internet.

Bad Homburg v.d.H., April 2013

**Fresenius SE & Co. KGaA**

**The General Partner  
Fresenius Management SE  
The Management Board**

## **Annex to the Invitation to the Annual General Meeting on May 17, 2013**

### **General Partner's written report to the Annual General Meeting of Fresenius SE & Co. KGaA regarding item 7 of the agenda pursuant to sec. 186 para. 4 sent. 2 in conjunction with sec. 203 para. 2 sent. 2 German Stock Corporation Act**

In the following, the General Partner shall provide a report pursuant to sec. 186 para. 4 sent. 2 in conjunction with sec. 203 para. 2 sent. 2 German Stock Corporation Act on the reasons for which it is authorized to exclude shareholder subscription rights in certain cases in the event that the Authorized Capital I is utilized. This report is accessible on the Company's internet site [www.fresenius.de](http://www.fresenius.de), in the Investor Relations - General Meeting area, from the date of convocation of the General Meeting. It will also be available in the meeting room for inspection for the duration of the General Meeting.

If the General Partner exercises its right to increase the capital, the General Partner will, in principle, offer to sell the new shares to the shareholders from the Authorized Capital I. However, according to the proposed authorization, the General Partner is entitled to exclude the shareholders' subscription rights in the following cases.

#### **Exclusion of subscription rights to eliminate fractional amounts**

The General Partner, with the consent of the Supervisory Board, is entitled to exclude shareholders' subscription rights to eliminate fractional amounts in order to achieve a non-fractional issue amount and a rounded subscription ratio. The exclusion of the subscription right for fractional amounts is necessary in order ensure that the subscription ratio is simple and practical to implement for increase amounts below the share capital. The shares excluded from shareholders' subscription right as unassigned fractions will either be sold on the stock exchange or otherwise utilized in an optimal manner for the Company. As any exclusion of the subscription rights is only limited to fractional amounts, any potential dilution affect is negligible.

#### **Exclusion of the subscription rights in the event of a capital increase**

An exclusion of the subscription rights in the event of a capital increase against cash with the consent of the Supervisory Board is also permitted if the issue amount of the new shares does not fall significantly below the market price and the proportional amount of the shares issued under the exclusion of the subscription rights does not exceed 10% of the share capital, neither at the time the resolution is reached regarding this authorization nor at the time of utilization. Any sales of treasury shares and any issue of shares from any other authorized capital must be taken into consideration with regard to the 10% limit if they take place during the waiting period of this authorization under the exclusion of the subscription rights pursuant to sec. 186 para. 3 sent. 4 German Stock Corporation Act. Shares that have been or will be issued to service participation certificates and/or bonds with conversion and option rights or a conversion obligation must also be taken into consideration, provided that the participation certificates and/or bonds are issued during the waiting period of this authorization under exclusion of the subscription rights in accordance with sec. 186 para. 3 sent. 4 German Stock Corporation Act.

These requirements correspond to the legislator's valuation in sec. 186 para. 3 sent. 4 German Stock Corporation Act, which shall largely exclude a dilution of the value of the interests held by the current shareholders. A placement of the shares under the exclusion of the subscription rights affords the opportunity to generate a higher inflow of funds than in the case of an issue in which subscription rights are granted. It enables market-sensitive pricing and the highest possible income from sale as the placement can be executed immediately after specifying the issue price. In the event of an offer of sale to all shareholders, the subscription price can be published until no later than three days

prior to the expiration of the subscription period pursuant to sec. 186 para. 2 sent. 2 German Stock Corporation Act. But, even where this room for maneuver is utilized, there would be a risk of a change in price over several days which, in turn, would result in discounts when setting the selling price. The length of the subscription period would also not allow the company to react to favorable market conditions in the short term. The opportunity to execute a capital increase under exclusion of the subscription rights will allow the General Partner of Fresenius SE & Co. KGaA to take the necessary measures to strengthen the equity base for future business development under optimal conditions. The decisive market price is the market price at the time the General Partner effectively sets the sale price. As market volatility may potentially result in short-term price fluctuations, a decision to determine whether an average price over a few days or a price at a certain reference date is to be specified shall not be made in advance. This shall be determined in each individual case.

### **Exclusion of the subscription rights in the event of a capital increase against contributions in kind**

In the event of a capital increase against contributions in kind, the General Partner, with the consent of the Supervisory Board, is entitled to exclude subscription rights, if the Authorized Capital I is used to acquire a company, parts of a company or an interest in a company.

Without the exclusion of subscription rights, the Authorized Capital I could not be used to finance acquisitions for the purpose specified above. The authorization to grant the company's ordinary shares against contributions in kind is expected to give the company the necessary scope to exploit beneficial opportunities to acquire companies, parts of companies or interests in companies both quickly and flexibly. In particular, in order to remain competitive at an international level, the company must always be in a position to act quickly and flexibly on international markets in the interests of their shareholders. The Authorized Capital I in connection with the opportunity to exclude subscription rights in the event of a capital increase against contributions in kind addresses this issue. It provides the opportunity to offer consideration of the company's shares rather than cash in the event that an acquisition opportunity emerges. This protects the liquidity of the company. The debt level will also remain manageable. The pecuniary interests of the shareholders are protected by the obligation placed on the General Partner to issue the new shares at an issue price corresponding to sec. 255 para. 2 German Stock Corporation Act, which is proportional to the value of the contribution in kind when utilizing the authorization. The market price shall be decisive when calculating the value of the shares granted as consideration. However, a schematic link to a market price is not planned, in particular, in order to prevent the results of negotiations being put at risk by fluctuations in the market price.

### **Limitation of the overall scope of capital increases free from subscription rights**

The General Partner may only exercise the aforementioned powers to exclude subscription rights to the extent that the proportional amount of all shares issued subject to an exclusion of subscription rights does not exceed 20% of the share capital, neither at the time when the authorizing resolution is adopted nor at the time when these powers are exercised. This restricts the overall scope of shares that may be issued from Authorized Capital I free from subscription rights. If, during the period of validity of the Authorized Capital I until its utilization, other authorizations concerning the issue or the sale of the shares of the company or the issue of rights, which authorize or bind to the subscription of shares of the company, are used and the right of subscription is thereby excluded, this has to be taken into consideration with regard to the abovementioned 20% limit. In this way, shareholders will be given additional protection against the possible dilution of their existing holdings.

There are currently no plans to utilize the Authorized Capital I. In all cases, the General Partner will carefully check whether the exercise of the authorization to issue new shares and to exclude the subscription rights is in the interests of the Company and its shareholders. It will report to the General Meeting each time these powers are exercised.

**General Partner's written report to the Annual General Meeting of Fresenius SE & Co. KGaA regarding item 8 of the agenda:**

Agenda item 8 lit. b) provides for the creation of a conditional capital and the opportunity to issue subscription rights to the management and managerial staff of the company and domestic and foreign affiliated companies that authorize the holder to purchase ordinary bearer shares of the company (Stock Option Program 2013).

The participation of the management and managerial staff in the company's economic risks and opportunities by granting subscription rights is an important component of an internationally competitive remuneration system. Ultimately, the economic success of the company also depends on its ability to recruit specialists and managerial staff worldwide and ensure that they stay with the company for the long-term.

The company currently has two employee participation programs secured by conditional capital from which no additional subscription rights can be issued; another conditional capital for which exercise rights no longer exist shall be cancelled in accordance with management's proposal under agenda item 8 lit. a).

The proposed Stock Option Program 2013 links the company to its successful employee participation programs in the past. This will also enable the company to offer a remuneration structure for management members and the Group's managerial staff that is competitive at an international level.

The key principles of the resolution proposal can be summarized as follows:

Besides the company management, i.e. the Management Board of the General Partner Fresenius Management SE, and management of affiliated companies, the company's managerial staff and those of affiliated companies will also receive subscription rights. The management and employees of Fresenius Medical Care AG & Co. KGaA and affiliated companies, which are only affiliated with the company through Fresenius Medical Care AG & Co. KGaA, are expressly excluded. Internal share-based remuneration programs have been established for these parties at the level of Fresenius Medical Care AG & Co. KGaA.

The proposed distribution of the available 8,400,000 subscription rights reflects the experience that the company has gained with regard to share-based remuneration programs over the past years. This will be comprised of up to 1,600,000 subscription rights for the General Partner's Management Board and up to 4,400,000 subscription rights for management and managerial staff of domestic and foreign affiliated companies, while the remaining 2,400,000 subscription rights will fall to the company's managerial staff and the managerial staff of domestic and foreign affiliated companies. While the General Partner is responsible for the distribution of subscription rights to members of management of affiliated companies and to company employees and employees of affiliated companies, the General Partner's Supervisory Board shall be responsible for the distribution to the General Partner's Management Board.

The granting of the available 8,400,000 subscription rights shall be made in five annual tranches, each on the last Monday in July or the first Monday in December. It is proposed that the shares from the conditional capital will be used to meet the entitlements from the subscription rights. Alternatively, treasury shares that were previously purchased

based on an authorization resolution, as adopted by the Annual General Meeting 2012 under agenda item 10, may also be used. The option to grant treasury shares instead of conditional capital allows the company to select the most sensible form of servicing the subscription rights with regard to capital market and tax considerations. However, no more than 8,400,000 subscription rights may be issued as part of the Stock Option Program 2013. So, if treasury shares are used, this will reduce the number of shares to be procured from conditional capital accordingly.

The proposal establishes waiting periods prior to exercising the shares in order to highlight the incentive for the long-term increase in the value of the company in the interests of all shareholders. The subscription rights may only be exercised four years after they are issued. In the interests of shareholders to generate a sustainable increase in value of the company, the subscription rights may only be exercised if an ambitious success target is achieved within the waiting period. In the event that this is not accomplished within a given comparison period, the relevant subscription rights will be cancelled to a proportional extent.

As a success target, the management proposes that the adjusted Group net income (earnings attributable to the shareholders of the Company) of the Company must increase by at least eight per cent per annum in comparison to the previous year in each case within the waiting period, or - if this is not the case - the compounded annual growth rate of the adjusted Group net income of the Company during the four years of the waiting period must amount to at least eight per cent. In principle, four comparison periods are therefore decisive each time subscription rights are granted with regard to the issue of exercising the subscription rights.

If the adjusted Group net income (currency-adjusted) has not risen by at least eight percent per year compared to the relevant previous year with regard to one of more of the comparison periods within the waiting period, and if the compounded annual growth rate of the adjusted Group net income in the four-year waiting period does not amount to at least eight percent, the relevant subscription rights issued will be cancelled in proportion to the extent that the success target was not achieved within the waiting period, i.e. by a quarter, two quarters, three quarters or in full.

One-off effects will not be included when determining a success target aligned to the permanent growth of the adjusted Group net income. This will prevent the success target from being achieved or not achieved solely as a result of extraordinary circumstances in the company's consolidated financial statement, which the parties entitled to the Stock Option Program 2013 could not influence, or only slightly, by their performance. For the same reason, it is proposed that currency translation effects will not be borne by the entitled parties. The success target is therefore achieved if the relevant currency-adjusted Group net income has risen by at least eight percent per year or the currency-adjusted compounded annual growth rate is at least eight percent.

If the described exercise conditions are met and if the party entitled to the Stock Option Program 2013 is in a service or employment relationship with the company at the time the subscription rights are exercised, the subscription rights may be exercised at any time up to four years following the expiration of the waiting period with the exclusion of black-out periods. The black-out periods specified in the resolution proposal excludes periods during which the subscription rights can be exercised when the subscription rights may typically be influenced by inside information and are therefore also subject to an exercise ban for reasons under capital market law. Management may also introduce additional black-out periods in justified exceptional cases. For example, this may be necessary if compliance with the statutory regulations (such as securities trading regulations or German Stock Corporation Act requirements) in an appropriate form is otherwise not guaranteed.

Finally, the resolution proposal provides that the General Partner is authorized to specify the further details for granting the subscription rights, for the structure of the subscription rights and for the servicing of the subscription rights with shares, while this authorization will be assumed by the General Partner's Supervisory Board if the General Partner's Management Board is affected. Apart from regulations in the special case of premature withdrawal from the employment relationship, this also includes provisions that provide an option to limit the income from exercising subscription rights for extraordinary developments as well as other procedural regulations.

Bad Homburg v.d.H., April 2013

**Fresenius SE & Co. KGaA**

**The General Partner  
Fresenius Management SE  
The Management Board**