

- convenience translation -

Joint Report

of the Management Board of the General Partner of

Fresenius Medical Care AG & Co. KGaA, Fresenius Medical Care Management AG,

and

the Management Board of Fresenius Medical Care Beteiligungsgesellschaft mbH

pursuant to sections 295 (1) sentence 2, 293a of the German Stock Corporation Act

on the amendment of the Profit and Loss Transfer Agreement of 23 December 1997

I. General Remarks

With effect as of 1 January 1998, a profit and loss transfer agreement (the “**Profit and Loss Transfer Agreement**”) exists between Fresenius Medical Care AG & Co. KGaA (hereinafter also the “**Controlling Entity**”) and Fresenius Medical Care Beteiligungsgesellschaft mbH (hereinafter also the “**Controlled Entity**”). The Profit and Loss Transfer Agreement was entered into between the Controlling Entity in its previous legal form as Fresenius Medical Care AG and the Controlled Entity (at that time operating under the company name of Fresenius Beteiligungs GmbH and having its registered office in Oberursel) on 23 December 1997. The conclusion of the Profit and Loss Transfer Agreement in particular served the purpose of establishing a fiscal unity for income tax purposes pursuant to sections 14, 17 of the German Corporate Income Tax Act (*Körperschaftsteuergesetz – KStG*), which allowed for a combined income taxation of Fresenius Medical Care Beteiligungsgesellschaft mbH as Controlled Entity and Fresenius Medical Care AG & Co. KGaA as Controlling Entity.

On the occasion of the amendments to the provisions of the German Corporate Income Tax Act following the Act on the Modification and Simplification of Company Taxation and of the Tax Treatment of Travel Expenses (*Gesetz zur Änderung und Vereinfachung der Unternehmensbesteuerung und des steuerlichen Reisekostenrechts*) as of 20 February 2013, the Controlling Entity and the Controlled Entity have entered into an amendment agreement to the Profit and Loss Transfer Agreement on 12 March 2014 (the “**Amendment Agreement**”); the provisions of the Amendment Agreement will be explained in further detail under section V. of this report.

The Amendment Agreement will be presented for approval to the General Meeting of Fresenius Medical Care AG & Co. KGaA on 15 May 2014 under agenda item 6. In order to inform the shareholders of Fresenius Medical Care AG & Co. KGaA and for preparation purposes with regard to their resolution, the Management Board of the General Partner of Fresenius Medical Care AG & Co. KGaA, Fresenius Medical Care Management AG, and the management board of Fresenius Medical Care Beteiligungsgesellschaft mbH jointly report on the Amendment Agreement pursuant to sections 295 (1) sentence 2, 293a of the German Stock Corporation Act (*Aktiengesetz - AktG*) as follows:

II. Parties to the Amendment Agreement

1. Fresenius Medical Care AG & Co. KGaA

Fresenius Medical Care AG & Co. KGaA is a listed partnership limited by shares (*Kommanditgesellschaft auf Aktien*) with registered offices in Hof an der Saale and is registered in the commercial register of the local court (*Amtsgericht*) in Hof under HRB 4019. General Partner of Fresenius Medical Care AG & Co. KGaA is Fresenius Medical Care Management AG, which also has its registered offices in Hof an der Saale and is registered in the commercial register of the local court in Hof under HRB 3894. The General Partner manages the business activities of Fresenius Medical Care AG & Co. KGaA whose Articles provide for the following corporate purposes: (a) the develop-

ment, production and distribution of as well as the trading in health care products, systems and procedures, including dialysis, (b) 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, (c) the development, production and distribution of other pharmaceutical products and the provision of services in this field, (d) the provision of advice in the medical and pharmaceutical area as well as scientific information and documentation, (e) the provision of laboratory services for dialysis and non-dialysis patients and homecare medical services. At the time of the conclusion of the Profit and Loss Transfer Agreement, Fresenius Medical Care AG & Co. KGaA still operated under the company name of Fresenius Medical Care AG. The change of legal form into its current legal form as partnership limited by shares was resolved by the General Meeting on 30 August 2005 and became effective upon entry in the commercial register of the local court in Hof on 10 February 2006.

2. Fresenius Medical Care Beteiligungsgesellschaft mbH

Fresenius Medical Care Beteiligungsgesellschaft mbH, having its registered offices in Bad Homburg v. d. Höhe, is registered in the commercial register of the local court in Bad Homburg under HRB 3938. Its Articles define the corporate purpose of Fresenius Medical Care Beteiligungsgesellschaft mbH as the investment in as well as the formation of joint ventures with domestic and foreign companies of all sorts, especially in the areas of pharmaceutical and medical engineered production, trade and sales companies as well as the acquisition and the transfer of know-how and licenses and the trade of goods of all sorts. At the time of the conclusion of the Profit and Loss Transfer Agreement, Fresenius Medical Care Beteiligungsgesellschaft mbH operated under the company name of Fresenius Beteiligungs GmbH and had its registered offices in Oberursel. By resolution of its shareholder meeting on 26 April 1999, its registered offices were transferred to Bad Homburg v. d. Höhe and by resolution of its shareholder meeting of 18 August 2003, its company name was changed to Fresenius Medical Care Beteiligungsgesellschaft mbH.

III. Conclusion and effectiveness of the amendment agreement

On 12 March 2014 Fresenius Medical Care AG & Co. KGaA and Fresenius Medical Care Beteiligungsgesellschaft mbH entered into the Amendment Agreement.

In order to become effective, the Amendment Agreement requires the approval of the General Meeting of Fresenius Medical Care AG & Co. KGaA. The General Partner and the Supervisory Board of Fresenius Medical Care AG & Co. KGaA will therefore propose to the ordinary General Meeting on 15 May 2014 to approve the Amendment Agreement.

Furthermore, the Amendment Agreement requires the approval of the shareholder meeting of Fresenius Medical Care Beteiligungsgesellschaft mbH to become effective. The Amendment Agreement will be presented for approval to the shareholder meeting of Fresenius Medical Care Beteiligungsgesellschaft mbH presumably held on 17 March

2014. To become effective, the Amendment Agreement finally must be entered into the commercial register of the local court in Bad Homburg as the competent commercial register for Fresenius Medical Care Beteiligungsgesellschaft mbH.

IV. Legal and economic reasons for the conclusion of the Amendment Agreement

In section 1 (4), the Profit and Loss Transfer Agreement in its version effective as of 1 January 1998 includes a provision on loss compensation of the Controlled Entity by the Controlling Entity. In accordance with this provision, losses are compensated “pursuant to section 302 AktG”.

In order to be able to continue the fiscal unity for income tax purposes established by the conclusion of the Profit and Loss Transfer Agreement between Fresenius Medical Care AG & Co. KGaA and Fresenius Medical Care Beteiligungsgesellschaft mbH in the future in full accordance with the relevant fiscal requirements, the existing Profit and Loss Transfer Agreement shall be amended with regard to a legislative change which became effective within the last business year: By amending the relevant statutory provision (section 17 sentence 2 no. 2 KStG), the Act on the Modification and Simplification of Company Taxation and of the Tax Treatment of Travel Expenses as of 20 February 2013 provides, inter alia, that profit and loss transfer agreements with controlled entities in the legal form of a limited liability partnership (*Gesellschaft mit beschränkter Haftung – GmbH*) must in the future include a reference to the provisions on loss compensation pursuant to sections 302 AktG, as amended from time to time, in order to continue to fulfil the requirements of a fiscal unity for income tax purposes. These demands shall be met by conclusion of the Amendment Agreement.

V. Explanation of the provisions of the Amendment Agreement in detail

The particulars of the Amendment Agreement are as follows:

1. Adjustment to the parties’ names and the registered offices of the Controlled Entity

With a view to the change of company name of the Controlled Entity and the change of legal form of the Controlling Entity described under section II. above, the names of the parties as stated in the Profit and Loss Transfer Agreement are adjusted and updated throughout the Profit and Loss Transfer Agreement. The company name of the Controlling Entity is “Fresenius Medical Care AG & Co. KGaA” and the company name of the Controlled Entity is “Fresenius Medical Care Beteiligungsgesellschaft mbH”. With regard to the transfer of the Controlled Entity’s registered offices after the conclusion of the Profit and Loss Transfer Agreement as described under section II. above, its registered offices are changed to “Bad Homburg v. d. Höhe”.

2. Adjustment of the existing provision on loss compensation

With regard to the legislative change further explained under clause IV. above, the provision on loss compensation as set out in section 1 (4) of the Profit and Loss Transfer Agreement is amended by adding a corresponding reference to section 302 AktG, as amended from time to time. The revised provision will then read as follows: “The compensation of losses occurs pursuant to section 302 AktG, as amended from time to time.”

3. Deletion of the interest clause as currently included

In section 1 (5) sentence 1, the Profit and Loss Transfer Agreement provides that from the balance sheet date onwards, the amount to be transferred according to contractual provisions accrues interest at a rate of 3% p.a. above the discount interest rate of the German Federal Bank (*Diskontsatz der Deutschen Bundesbank*). For the purposes of easier handling, Fresenius Medical Care AG & Co. KGaA and Fresenius Medical Care Beteiligungsgesellschaft mbH have agreed to amend the Profit and Loss Transfer Agreement by deleting this interest clause. No economic consequences arise from this deletion since the accrual of interest does not impact the net profits/net losses of Fresenius Medical Care AG & Co. KGaA. The profit and loss transfer agreed upon by the parties will cause the net total between interest income and interest expenditure on the one hand and profit and loss transfer on the other hand to remain unchanged.

4. Further editorial amendment

Section 2 (2) of the Profit and Loss Transfer Agreement states in a declaratory manner that the Controlling Entity and the Controlled Entity will present the Profit and Loss Transfer Agreement for approval “to their respective bodies of shareholder representation (General Meeting/Supervisory Board) for the purpose of approval”. By way of the Amendment Agreement, the words “(General Meeting/Supervisory Board)” set in brackets are deleted entirely in order to achieve a wording without reference to a specific legal form.

All other provisions of the Profit and Loss Transfer Agreement remain unchanged.

VI. No compensation and settlement claims

Since Fresenius Medical Care Beteiligungsgesellschaft mbH has no other shareholders than Fresenius Medical Care AG & Co. KGaA, Fresenius Medical Care AG & Co. KGaA continues not to be under an obligation to make compensation or settlement payments (sections 304, 305 AktG).

VII. No audit of the agreement

As all shares in Fresenius Medical Care Beteiligungsgesellschaft mbH are held by Fresenius Medical Care AG & Co. KGaA, an audit of the Amendment Agreement by an auditor appointed by the court (contract auditor) pursuant to sections 295 (1) sentence 2, 293b et seqq. AktG is not required.

Bad Homburg v. d. Höhe, on 12 March 2014

Fresenius Medical Care AG & Co. KGaA
represented by its General Partner
Fresenius Medical Care Management AG

The Management Board

signed Rice Powell

signed Michael Brosnan

signed Roberto Fusté

signed Dr Emanuele Gatti

signed Ronald Kuerbitz

signed Dr Rainer Runte

signed Dr Olaf Schermeier

signed Kent Wanzek

Bad Homburg v. d. Höhe, on 12 March 2014

Fresenius Medical Care Beteiligungsgesellschaft mbH

The Management Board

signed Michael Brosnan

signed Dr Emanuele Gatti

signed Dr Rainer Runte