

Invitation

to the annual shareholders' meeting

ISIN DE0005550602 and DE0005550636

of Drägerwerk AG & Co, KGaA,

Lübeck, Germany

We would like to invite our shareholders to the annual shareholders' meeting at the Lübeck Musik- und Kongresshalle, Willy-Brandt-Allee 10, 23554 Lübeck, Germany, on Friday, May 7, 2010, at 10:00 hours.

## **Agenda**

- 1. Presentation of the single entity financial statements of Drägerwerk AG & Co. KGaA and the group financial statements as of December 31, 2009, as approved by the Supervisory Board, the management report of Drägerwerk AG & Co. KGaA and the management report of the Dräger Group, the voluntary report of the general partner on the disclosures pursuant to Secs. 289 (4) and 315 (4) HGB (Handelsgesetzbuch: German Commercial Code), the report of the Supervisory Board and the report of the Joint Committee; resolution on the approval of the single entity financial statements of Drägerwerk AG & Co. KGaA as of December 31, 2009.**

The general partner and the Supervisory Board propose approving the single entity financial statements of Drägerwerk AG & Co. KGaA as of December 31, 2009, in their current form.

The documents presented for point 1 of the agenda are available on the company website at [www.draeger.com/GC/de/investoren/hauptversammlung/](http://www.draeger.com/GC/de/investoren/hauptversammlung/) from the date of the convocation of the annual shareholders' meeting. This also applies to the general partner's proposal concerning the appropriation of net

earnings. The documents are also available for perusal at the annual shareholders' meeting on May 7, 2010, and are going to be verbally explained.

With exception of the resolution on the approval of the annual financial statements pursuant to Sec. 286 (1) Sentence 1 AktG (Aktiengesetz: German Stock Corporation Act), no other resolution of the annual shareholders' meeting is intended under point 1 on the agenda. The Supervisory Board has approved the group financial statements pursuant to Sec. 171 AktG. There are no conditions pursuant to Sec. 173 (1) AktG under which the annual shareholders' meeting would have to pass a resolution on the approval of the group financial statements. A resolution on the appropriation of net earnings is part of point 2 on the agenda.

## **2. Resolution on the appropriation of net earnings of Drägerwerk AG & Co. KGaA**

Net earnings for fiscal year 2009 amount to EUR 60,978,939.28.

The general partner and the Supervisory Board propose the following appropriation of net earnings:

Dividend distribution of

EUR 0.40 per preferred share eligible – total EUR 2,540,000.00 –  
for a dividend

EUR 0.34 per common share eligible – total EUR 2,159,000.00 –  
for a dividend

The remaining amount of EUR 56,279,939.28 is carried forward to new account.

The dividend is payable on May 10, 2010.

**3. Resolution on the approval of the actions of the general partner in fiscal year 2009**

The general partner and the Supervisory Board propose approving the actions of the general partner in fiscal year 2009.

**4. Resolution on the approval of the actions of the Supervisory Board in fiscal year 2009**

The general partner and the Supervisory Board propose approving the actions of the Supervisory Board members in fiscal year 2009.

**5. Resolution on Supervisory Board remuneration**

The general partner and the Supervisory Board propose setting Supervisory Board remuneration for fiscal year 2009 at EUR 346,000.00 pursuant to Sec. 21 (1) of the articles of association.

**6. Selecting the auditor for the single entity and group financial statements 2010 and the auditor for the half-yearly financial report (in the case of an interim audit)**

The Supervisory Board propose, in line with the recommendations of the Audit Committee, appointing PricewaterhouseCoopers Aktiengesellschaft, Hamburg, Germany, as the auditor of the single entity and group financial statements 2010 as well as the auditor of the condensed financial statements and the half-yearly financial report as of June 30, 2010, should such interim audits be decided upon.

**7. Resolution on the authorization of and instructions for issuing warrant bonds with option rights and excluding subscription rights, and the**

**creation of conditional capital as well as amendments to the articles of association**

The general partner and the Supervisory Board propose passing the following resolution:

- a) Authorization of and instructions for issuing warrant bonds with option rights guaranteed in the form of warrants and the exclusion of subscription rights
  - aa) Extent and term of authorization, instructions and exclusion of subscription rights

The general partner is authorized and instructed to issue 25 bearer warrant bonds with a total nominal value of EUR 1,250,000 and a nominal value of EUR 50,000 per unit ("**warrant bonds**") to Siemens Beteiligungen Inland GmbH ("**Siemens**"), headquartered in Munich, in one tranche. These warrant bonds can also be issued to a Siemens group company within the meaning of Secs. 15 et seq. AktG, which is to be named by Siemens.

The warrant bonds are to be issued with an option right guaranteed in the form of a warrant, which entitles the holder to obtain 50,000 new no-par preferred bearer shares (no-par shares) of the company within the meaning of Secs. 6 (1) and 7 (1) in conjunction with Sec. 34 of the articles of association ("**preferred shares**") with a share of EUR 128,000 in capital stock, which entitles the holders of all 25 warrants to receive a total of 1,250,000 preferred shares with a total share of EUR 3,200,000 in capital stock.

Should the company carry out a capital increase using company funds, a stock split or a capital decrease by consolidating shares or recalling shares prior to issuing the warrant bonds with option rights guaranteed in the form of warrants, the general partner is authorized and instructed to adjust the number of preferred shares, which can be obtained through the option rights, accordingly.

The exact provisions of the warrant bonds and the attached option rights guaranteed in the form of warrants are derived from the draft versions of the conditions for warrant bonds ("**conditions for warrant bonds**") and conditions for warrants ("**conditions for warrants**") printed in section "Information on point 7 of the agenda", no. 1 and 2.

The shareholders' subscription rights are excluded.

The general partner is instructed not to use this authorization nor implement these instructions prior to the resolution on the creation of conditional capital, which must be passed pursuant to section b) below, being entered in the commercial register of the company.

The general partner is also instructed to only use this authorization or implement these instructions once the *"Agreement on the termination of the joint venture and agreement on the acquisition and transfer of company shares in Siemens Medical Holding GmbH"* dated December 29, 2009 ("**Acquisition and Transfer agreement**"), has been executed.

Furthermore, the general partner may only use the authorization and implement the instructions if and when the company's capital stock has been increased by issuing at least 1,250,000 new

common shares of the company and this has been entered in the commercial register.

The general partner is instructed to use the authorization for issuing warrant bonds with option rights guaranteed in the form of warrants within three months of the resolution on the creation of conditional capital, which must be passed pursuant to section b) below, being entered in the commercial register. Should it not be possible to use the authorization nor implement the instructions in a way which is legally safe due to one or several lawsuits having been filed against the company, this period is extended until three months after such legal safety has been achieved (i.e. after the legally binding decision of the court). In each case the authorization and instructions expire by May 6, 2015.

- bb) Terms to maturity, repayment, interest and other provisions of the warrant bonds

According to the requirements of the conditions for warrant bonds, the warrant bonds must be repaid at nominal value five years to the day on which the Acquisition and Transfer Agreement has been executed.

According to the requirements of the conditions for warrant bonds, the warrant bonds are to carry interest based on their nominal value from the date they were issued, paid half-yearly. The interest rate corresponds to the offered rate (expressed as an *annual* percentage) for the 6-month EURIBOR plus a margin of 5 percent for the first three years of the term to maturity and a margin of 6 percent for the remaining term to maturity of the warrant bonds.

Further details on the provisions for warrant bonds (such as form of securitization, early repayment, taxation, termination) are stated in the conditions for warrant bonds.

- cc) Subscription price, exercise period and other provisions of the option rights guaranteed in the form of warrants

In line with the conditions for warrants, the subscription price per preferred share amounts to EUR 40.00 (hereinafter also called “**minimum subscription price**”), if the stock exchange reference price (as defined below) is EUR 40.00 or less; if the stock exchange reference price is more than EUR 40.00, the subscription price amounts to the stock exchange reference price plus 5 percent of the stock exchange reference price. Sec. 9 AktG does not apply.

The term

“stock exchange reference price” refers to the arithmetical average of the volume weighted average daily XETRA price of the company’s preferred share of the last fifteen (15) scheduled trading days prior to the warrant issue date;

“warrant issue date” refers to the day on which the company issues the warrants;

“scheduled trading day” refers to each day on which the stock exchange is open for trading and holds regular trading sessions, according to schedule.

If prior to issuing the option rights guaranteed in the form of warrants, the capital stock is increased by more than 1,75 million new shares with subscription rights for preferred shareholders,

the general partner is authorized and instructed to deduct the mathematically calculated subscription right value from the minimum subscription price. The arithmetical average of the corresponding volume weighted average daily XETRA price of the share over the last two scheduled trading days (as defined above) prior to the end of the subscription period for the new shares and their issue price must be used as a reference. When calculating the mathematical subscription right price, only the part of the capital increase pertaining to the number of new shares exceeding 1.75 million is to be taken into account.

Should the company distribute a dividend of more than EUR 0.75 per share prior to issuing the option rights guaranteed in the form of warrants, the general partner is authorized and instructed to reduce the minimum subscription price by the amount that exceeds EUR 0.75.

Should the company carry out a capital increase using company funds, a stock split or a capital decrease by consolidating shares or recalling shares prior to issuing the warrant bonds with option rights guaranteed in the form of warrants, the general partner is authorized and instructed to adjust the number of preferred shares, which can be obtained through the option rights, (point aa)) as well as the minimum subscription price accordingly.

According to the requirements of the conditions for warrants, the option rights guaranteed in the form of warrants must be exercised within a period of five years to the day on which the Acquisition and Transfer Agreement has been executed (exercise period).

However, the option rights may not be exercised in the following periods:

- (i) five days prior and three business days after the company's annual shareholders' meeting (excluding the day of the meeting);
- (ii) 15 business days prior to the end of the company's fiscal year, and
- (iii) from the day on which the company publishes an offer to its shareholders for acquiring (I) new shares or (II) bonds with conversion or option rights or (III) option rights in the electronic Federal Gazette (Bundesanzeiger) and/or any other medium until the last day of the subscription right exercise period (including the first and last day).

The term "business day" refers to any day on which the commercial banks in Frankfurt/Main, Germany, are open for business.

The subscription price must always be paid in full and in cash. It is not possible to pay part or all of the subscription price for one or more preferred shares by transferring warrant bonds to the company.

If Siemens exercises any option rights, it is entitled (but not obliged) to pay part or all of the subscription price in kind by relieving the company of the following monetary liabilities to Siemens:

- (i) Relieving the company from its monetary liability of EUR 18,750,000 (tranche I payment) under the *Deferred Payment Agreement* (extension agreement) from December 29, 2009, between the company and Siemens ("**deferred payment agreement**"), including interest

liabilities arising from this liability which have not yet been incurred.

Relief can also be offered for already incurred but as yet unpaid interest liabilities, which increases the total amount of the offered relief accordingly;

and/or

- (ii) Relieving the company from its monetary liability of EUR 40,000,000 (tranche II payment) under the *deferred payment agreement*, including interest liabilities arising from this liability which have not yet been incurred.

Relief can also be offered for already incurred but as yet unpaid interest liabilities, which increases the total amount of the offered relief accordingly.

The monetary liability's fair value at the time the options are being exercised is material to the amount of relief offered. If the subscription price exceeds the monetary liabilities' total fair value, the difference must be paid in cash. If the monetary liabilities' fair values exceed the subscription price, relief is offered on a pro rata basis. As long as the monetary liabilities are not due at the time the options are being exercised, the entitlement to payment in kind remains, on the condition of the company's approval.

The above rules on payment in kind for exercising the option rights must also be applied if the option rights are exercised by a Siemens group company within the meaning of Secs. 15 et seq. AktG and the company's monetary liabilities to Siemens have been transferred in full to this company and this company, in its

role as new creditor, is therefore entitled to them at the time the options are being exercised.

Further details on the provisions of the option rights guaranteed in the form of warrants (such as details on the type of guarantee, exercising the option right, the technical process, dilution protection after the option rights guaranteed in the form of warrants have been issued, particularly in the case of capital increases or decreases carried out at a later date) can be found in the conditions for warrants.

- dd) Issuing the warrant bonds and option rights guaranteed in the form of warrants in return for compensation in kind

The warrant bonds with option rights guaranteed in the form of warrants are issued in accordance with the following provisions in return for compensation in kind, payable by Siemens at the time the warrant bonds with option rights guaranteed in the form of warrants are being issued:

- (i) Issuing the warrant bonds to the total nominal value of EUR 1,250,000:

The warrant bonds with a total nominal value of EUR 1,250,000 are issued in return for cash compensation of EUR 1,250,000. However, payment can also be made by offsetting the nominal amount of EUR 1,250,000 against the company's monetary liability to Siemens for the tranche III payment under the *deferred payment agreement* in the amount of EUR 9,750,000, whereby the interest liabilities arising from this partial amount, which have not yet been incurred, expire at the same time. Any unpaid payment liabilities relating to this partial amount may not be offset.

- (ii) Issuing the option rights guaranteed in the form of warrants, which are attached to warrant bonds and entitle the holder to obtain a total of 1,250,000 preferred company shares:

The option rights are granted in return for the following compensation in kind:

- (a) Relieving the company of its monetary liability to Siemens, described in more detail in the section “Information on point 7 on the agenda”, no. 3 b) aa) (“virtual” share options).
- (b) Partially relieving the company of its monetary liability of EUR 9,750,000 to Siemens for the tranche III payment under the *deferred payment agreement* to such an extent as is described in more detail in section “Information on point 7 on the agenda”, no. 3 b) bb). The partial relief is limited to a maximum nominal value of EUR 8,500,000. This relief includes interest liabilities arising from the monetary liability, which have not yet been incurred, which relate to the part of the monetary liability that the relief applies to; existing but as yet unpaid payment liabilities are excluded from the relief.

The above rules on payment in kind for issuing the warrant bonds with option rights guaranteed in the form of warrants must also be applied if the warrant bonds with option rights are issued to a Siemens group company within the meaning of Secs. 15 et seq. AktG and the company’s monetary liabilities to Siemens have been transferred in full to this company and this company,

in its role as new creditor, is therefore entitled to them at the time the warrant bonds are being issued.

ee) The general partner is authorized to determine further details on the issuance and provisions of the warrant bonds and option rights guaranteed in the form of warrants in addition to those stated in the conditions for warrant bonds and the conditions for warrants.

b) Conditional capital

The capital stock is being conditionally increased up to around EUR 3,200,000 by issuing up to 1,250,000 new no-par preferred bearer shares (no-par shares) of the company within the meaning of Secs. 6 (1) and 7 (1) in conjunction with Sec 34 of the articles of association.

The conditional capital increase serves to fulfill option rights, which entitle the holders to a total of 1,250,000 new no-par preferred bearer shares (no-par shares) of the company within the meaning of Secs. 6 (1) and 7 (1) in conjunction with Sec 34 of the articles of association, and which are being issued by the company as a result of the resolution by the annual shareholders' meeting on May 7, 2010, on the authorization and instruction of such action, as stated under point 7 a) of this agenda.

The issue and subscription prices of the new preferred shares are calculated according to the provisions of the above-mentioned resolution on the authorization and instructions.

The capital increase from conditional capital must be carried out in cash. If Siemens obtains preferred shares, it is entitled (but not obliged) to pay part or all of the issue price in kind by relieving the company of the following monetary liabilities to Siemens:

- (i) Relieving the company from its monetary liability of EUR 18,750,000 (tranche I payment) under the *deferred payment agreement*, including interest liabilities arising from this liability which have not yet been incurred.

Relief can also be offered for already incurred but as yet unpaid interest liabilities, which increases the total amount of the offered relief accordingly;

and/or

- (ii) Relieving the company from its monetary liability of EUR 40,000,000 (tranche II payment) under the *deferred payment agreement*, including interest liabilities arising from this liability which have not yet been incurred.

Relief can also be offered for already incurred but as yet unpaid interest liabilities, which increases the total amount of the offered relief accordingly.

The financial liability's fair value at the time the options are being exercised is material to the amount of relief offered. If the subscription price exceeds the financial liabilities' total fair value, the difference must be paid in cash. If the financial liabilities' fair values exceed the subscription price, relief is only offered pro rata. As long as the monetary liabilities are not due at the time the options are being exercised, the entitlement to payment in kind remains, on the condition of the company's approval.

The above rules on payment in kind for exercising the option rights must also be applied if the option rights are exercised by a Siemens group company within the meaning of Secs. 15 et seq. AktG and the company's monetary liabilities to Siemens have been transferred in full

to this company and this company, in its role as new creditor, is therefore entitled to them at the time the options are being exercised.

The warrant bonds to the total nominal value of EUR 1,250,000 with option rights guaranteed in the form of warrants, which entitle the holder to obtain a total of 1,250,000 no-par preferred bearer shares (no-par shares) of the company within the meaning of Secs. 6 (1) and 7 (1) in conjunction with Sec. 34 of the articles of association, and which are issued with the purpose of carrying out a conditional capital increase, are issued to Siemens in accordance with the above-mentioned resolution on the authorization and instructions in return for compensation in kind, payable by Siemens at the time of their issue:

- (iii) Issuing the warrant bonds to the total nominal value of EUR 1,250,000:

The warrant bonds with a total nominal value of EUR 1,250,000 are issued in return for cash compensation of EUR 1,250,000. However, payment can also be made by offsetting the nominal amount of EUR 1,250,000 against the company's monetary liability to Siemens for the tranche III payment under the *deferred payment agreement* in the amount of EUR 9,750,000, whereby the interest liabilities arising from this partial amount, which have not yet been incurred, expire at the same time. Any unpaid payment liabilities relating to this partial amount may not be offset.

- (iv) Issuing the option rights guaranteed in the form of warrants, which are attached to warrant bonds and entitle the holder to obtain a total of 1,250,000 preferred company shares:

The option rights are granted in return for the following compensation in kind:

- (a) Relieving the company of its monetary liability to Siemens, described in more detail in the section “Information on point 7 on the agenda”, no. 3 b) aa) (“virtual” share options).
  
- (b) Partially relieving the company of its monetary liability of EUR 9,750,000 to Siemens for the tranche III payment under the *deferred payment agreement* to such an extent as is described in more detail in section “Information on point 7 on the agenda”, no. 3 b) bb). The partial relief is limited to a maximum nominal value of EUR 8,500,000. This relief includes interest liabilities arising from the monetary liability, which have not yet been incurred and relate to the part of the monetary liability that the relief applies to; existing but as yet unpaid payment liabilities are excluded from the relief.

The above rules on payment in kind for issuing the warrant bonds with option rights guaranteed in the form of warrants must also be applied if these are issued to a Siemens group company within the meaning of Secs. 15 et seq. AktG and the company's monetary liabilities to Siemens have been transferred in full to this company and this company, in its role as new creditor, is therefore entitled to them at the time the warrant bonds are being issued.

The conditional capital increase should only be carried out if warrant bonds with option rights guaranteed in the form of warrants are being issued as a result of the resolution by the annual shareholders' meeting on May 7, 2010, on the authorization and instruction of such action and if the warrant holders make use of their option rights and the conditional capital is required to meet these demands.

The new preferred shares, which were issued due to the option rights being exercised, participate in profits from the beginning of the fiscal year in which they were created.

The general partner is authorized, with the approval of the Supervisory Board, to determine the further details of the process relating to the capital increase.

c) Amendment to the articles of association

The following paragraph 5 is added to Sec. 6 of the articles of association (Capital stock):

“The capital stock is being conditionally increased to around EUR 3,200,000 by issuing up to 1,250,000 new no-par preferred bearer shares (no-par shares) of the company within the meaning of Secs. 6 (1) and 7 (1) in conjunction with Sec 34 of the articles of association (conditional capital).

The conditional capital increase is only carried out to the extent that the holders of option rights guaranteed in the form of warrants from warrant bonds, which are issued by the company as a result of the resolution by the annual shareholders' meeting on May 7, 2010, on the authorization and instructions of such actions, make use of their option rights.

The new preferred shares participate in profits from the beginning of the fiscal year in which they were created.

The general partner is authorized to determine the further details of the process relating to the capital increase.”

d) Authorization of the Supervisory Board to amend the articles of association

The Supervisory Board is authorized to amend Sec. 6 (1) and (5) of the articles of association according to the issuance of the shares offered and carry out any further related amendments, as long as these pertain only to the wording.

This also applies if the authorization is not used or the instructions are not implemented for issuing warrant bonds with option rights guaranteed in the form of warrants within the authorization and implementation periods and if the conditional capital has not been used within the period for exercising the issued option rights guaranteed in the form of warrants.

e) Notification to the commercial register

The general partner is instructed to register the conditional capital increase pursuant to b) and the amendments to the articles of association pursuant to c) with the commercial register in such a way as to ensure that both are only entered once the increase of the company's capital stock by at least EUR 3,200,000 by issuing 1,250,000 new no-par bearer shares (no-par shares) has been entered in the commercial register.

The draft versions of the conditions for warrant bonds and conditions for warrants, the description of the compensation in kind, which Siemens Beteiligungen Inland GmbH, Munich, has to pay upon issuance of the warrant bonds with option rights guaranteed in form of warrants for the acquisition of the option rights, and the report of the general partner pursuant to Secs. 221 (4) Sentence 2 and 186 (4) Sentence 2 AktG are printed in the section "Information on point 7 on the agenda", following the invitation to a separate meeting of preferred shareholders. These documents are available for the perusal of the shareholders at the annual shareholders' meeting and

online at [www.draeger.com/GC/de/investoren/hauptversammlung](http://www.draeger.com/GC/de/investoren/hauptversammlung) as from the convocation of the annual shareholders' meeting.

**8. Resolution on the amendment of the articles of association to comply with VorstAG (Gesetz zur Angemessenheit der Vorstandsvergütung: Act on the Appropriateness of Executive Board Remuneration)**

In order to comply with the Act on the Appropriateness of Executive Board Remuneration (Gesetz zur Angemessenheit der Vorstandsvergütung – VorstAG), which came into effect on August 5, 2009, Sec. 285 Sentence 1 No.9a and Sentences 5 to 9 HGB and Section 314 (1) No.6a and Sentences 5 to 9 HGB have been amended with regard to the disclosures on Executive Board remuneration, which must be included in the notes. For this reason, the obligation of the general partner to disclose the remuneration of its Executive Board members in the notes to the single entity and group financial statements pursuant to the regulations of the VorstAG in the version dated August 3, 2005, which is stated in Sec. 31 (3) Sentence 1 of the articles of association, is to be amended accordingly.

The general partner and the Supervisory Board propose passing the following resolution:

Sec. 31 (3) Sentence 1 of the articles of association will be replaced by an amended version:

“(3) The general partner must disclose the remuneration of its Executive Board members in the notes to the single entity or group financial statements (or another suitable section of the single entity and group financial statements) pursuant to Sec. 285 Sentence 1 No. 9a and Sentences 5 to 8, Sec. 314 (1) No. 6a and Sentences 5 to 8, and Sec. 315a (1) HGB in their respective valid forms, as long as the annual shareholders' meeting has not passed a resolution not to carry out such disclosures.”

**Requirements for participating in the annual shareholders' meeting and exercising potential voting rights**

Common shareholders are entitled (preferred shareholders subject to Sec. 34 (5) of the articles of association) to participate in the annual shareholders' meeting and to exercise their voting rights. However, only shareholders who have registered prior to the annual shareholders' meeting and provided proof of their entitlement to participate and exercise their voting rights are entitled to participate in the annual shareholders' meeting.

The shareholder's proof of entitlement to participate in the annual shareholders' meeting and exercise his or her voting rights must be issued by the bank where his or her account is held. The proof of shareholdings must be written in German or English language and relate to the beginning of the 21st day prior to the annual shareholders' meeting, in other words

**Friday, April 16, 2010, 00:00 hours (midnight)**  
(so-called "proof deadline").

Both registration and proof of shareholding of the preferred shareholders must reach the company at least six days prior to the annual shareholders' meeting (excluding the day of the annual shareholders' meeting and the day of receipt), in other words no later than

**Friday, April 30, 2010, 24:00 hours (midnight)**

at the following address:

Drägerwerk AG & Co, KGaA  
c/o Commerzbank AG  
WASHV dwpbank AG  
Wildunger Strasse 14

60487 Frankfurt/Main, Germany

Fax: +49 (0) 69/ 5099 - 1110

E-mail: hv-eintrittskarten@dwpbank.de

Both registration and proof of shareholding of the common shareholders must reach the company within the same period of time, in other words no later than

**Friday, April 30, 2010, 24:00 hours (midnight)**

at the following address:

Drägerwerk AG & Co, KGaA

Moislinger Allee 53-55

23558 Lübeck, Germany.

The shareholders can order their tickets by filling out the registration form sent to them by their banks and returning these to their banks. The banks will forward the registration forms and proofs of shareholding to the above addresses.

### **Importance of the proof deadline**

From the company's point of view, only shareholders who have provided proof of their shareholding are entitled to participate in the annual shareholders' meeting and exercise their voting rights. The entitlement to participate and the extent of any potential voting rights depend entirely on the shareholding of the shareholder as of the proof deadline. The proof deadline does not restrict the salability of the shareholding. Should part of or the entire shareholding be sold after the proof deadline, only the shareholding as of the proof deadline is relevant to the participation and extent of potential voting rights, i.e. the sale or other kind of transfer of shares after the proof deadline has no effect on the entitlement to participate in the annual shareholders' meeting and the extent of the voting rights. The same applies to

the acquisition of initial and additional shares after the proof deadline. Persons who do not hold any shares as of the proof deadline but acquire shares after this date are not entitled to participate nor exercise their voting rights, unless they become a proxy or legal representative. The proof deadline does not affect the dividend rights.

### **Voting process and participation in the case of a proxy**

Shareholders who do not wish to participate in person at the annual shareholders' meeting are able to appoint a proxy for exercising their voting rights (common shares) and to participate in the annual shareholders' meeting (common and preferred shares). This could be the bank where the account is held, a shareholders' association or any other person of their choice. In this case, timely registration and proof of shareholding are still required pursuant to the above rules.

If the authorization to exercise voting rights is given to any other entity but a bank, shareholders' association or another similar person according to Sec. 135 AktG, the actual authorization as well as any revocation and proof of authorization must be put in writing to the company. Written proof of authorizations to participate in the annual shareholders' meeting without the exercising of voting rights must be provided to the company.

The authorization can be given either to the proxy or the company. A proxy can provide proof of his or her authorization by showing it on the day of the annual shareholders' meeting upon entry. The proof of authorization can be sent by post, fax or electronically (e-mail) to the following address:

Drägerwerk AG & Co, KGaA  
c/o UBJ. GmbH  
Drägerwerk HV 2010  
Kapstadtring 10  
22297 Hamburg, Germany  
Fax: 040 6378-5423  
E-mail: hv@ubj.de

The above address, fax and e-mail can also be used if the authorization is to be given directly to the company; it is not necessary to provide separate proof in this case. An authorization can also be revoked by directly informing the company at the address, fax and email above.

We would like to ask our shareholders to submit any authorizations, proofs of authorization and revocations of authorizations by post or fax by Thursday, May 6, 2010, 18:00 hours (receipt) at the address above.

Shareholders will receive a form of authorization with their ticket, which they will be sent upon registration within the period specified above. This form is also available for download at [www.draeger.com/GC/de/investoren/hauptversammlung/](http://www.draeger.com/GC/de/investoren/hauptversammlung/). If a shareholder authorizes more than one person, the company reserves the right to refuse entry to one or several of these persons.

Banks, shareholders' associations and other similar persons and institutions according to Sec. 135 (8) and (10) in conjunction with Sec. 125 (5) AktG can provide their own form of authorization. We would like to ask our shareholders to agree on the form and procedure of authorization with their proxy or institution in good time. The company does not name a proxy for exercising voting rights at the annual shareholders' meeting.

### **Shareholders' rights**

#### **Motions to amend the agenda pursuant to Sec. 122 (2) AktG**

Shareholders holding common or preferred shares, whose combined interests amount to one-twentieth of the capital stock (EUR 6,502,400 or 2,540,000 shares) or a EUR 500,000 share in capital stock (this represents "quorum" rounded up to the next full number of shares – 195,313 shares), can demand that items be tabled on the agenda and disclosed, pursuant to Sec. 122 (2) AktG. Each new item must be substantiated or include an attached draft resolution. The request is to be directed in

writing to the general partner as the representative body for the company (Drägerwerk AG & Co. KGaA represented by Drägerwerk Verwaltungs AG, Executive Board, Moislinger Allee 53 – 55, 23558 Lübeck) and must be received by the company at least 30 days before the separate meeting (this excludes the day of the separate meeting and the day of receiving the request). The deadline for receipt is therefore:

**Tuesday, April 6, 2010, 24:00 hours (midnight).**

Those submitting a motion must demonstrate that they have held the shares for at least three months. It is uncertain whether the holding period of three months refers to the period prior to the receipt of the motion by the company or the day on which the annual shareholders' meeting is held. In the former case, those submitting a motion must demonstrate that they have held the shares for at least three months prior to the day the company receives the motion. In the latter case, those submitting a motion must demonstrate that they have held the shares since at least February 7, 2010, 00:00 hours. The company will use the more favorable calculation for the shareholder and disclose the motion once evidence has been provided showing that the shares fulfilling the quorum have been held since February 7, 2010, 00:00 hours. Pursuant to Sec. 70 AktG, there are certain possibilities for taking these motions into account.

### **Shareholder countermotions and nominations pursuant to Secs. 126 (1) and 127 AktG**

Shareholders can submit countermotions to draft resolutions proposed by the general partner and/or Supervisory Board regarding specific items on the agenda. They are also entitled to nominate Supervisory Board members or auditors. Countermotions and nominations pursuant to Secs. 126 (1) and 127 AktG must be sent to the following address:

Drägerwerk AG & Co, KGaA  
Gegenanträge zur Hauptversammlung  
Moislinger Allee 53 – 55

23558 Lübeck, Germany

Fax: +49 (0) 451 – 882-75245

E-mail: [hauptversammlung@draeger.com](mailto:hauptversammlung@draeger.com)

Pursuant to Sec. 126 (1) AktG, the company will publish any countermotions, including the name of the shareholder, the substantiation as well as any comment from management, on the company website at [www.draeger.com/GC/de/investoren/hauptversammlung/](http://www.draeger.com/GC/de/investoren/hauptversammlung/) provided that countermotions with a substantiation are received at least 14 days prior to the date of the separate meeting (this excludes the day of meeting and the day of receiving the request), in other words no later than

**Thursday, April 22, 2010, 24:00 hours (midnight)**

at the aforementioned address. Countermotions addressed otherwise will not be considered.

The company can refrain from publishing a countermotion as stipulated by Sec. 126 (2) AktG, if it would lead to a resolution at the annual shareholders' meeting that is either illegal or contrary to the articles of association. If the countermotion's substantiation exceeds 5,000 characters, it does not need to be published.

Pursuant to Sec. 127 AktG, the meaning of the above sentences also applies to shareholders' nomination of Supervisory Board members or auditors. However, shareholders' nominations do not require a reason and, except in the cases stated under Sec. 126 (2) AktG, do not need to be published if the nomination does not include the name, profession and place of residence of the nominee. Nominations of Supervisory Board members also do not need to be published if they do not include information on the members' memberships of other lawfully formed supervisory boards, and comparable German and foreign boards. The election of Supervisory Board members is not part of the agenda at the annual shareholders' meeting on May 7, 2010.

**Right to information pursuant to Sec. 131 (1) AktG**

Pursuant to Sec. 131 (1) AktG, every shareholder is permitted to request information from the general partner during the annual shareholders' meeting on issues relating to the company, insofar as the information serves to clarify an item on the agenda. The duty to provide information also includes the company's legal and business relationships with group companies and the position of the Group and companies included in the group financial statements, as under point 1 of the agenda the annual shareholders' meeting is also going to be presented with the single entity and group financial statements.

The general partner can refrain from answering certain questions for reasons stated in Sec. Sec. 131 (3) No. 1, 2 and 5 to 7 AktG, e.g. if the information, based on sound business judgment, might negatively impact the company or one of its group companies. Pursuant to Sec. 29 (3) of the articles of association, the chairperson of the annual shareholders' meeting can limit the time allowed for shareholders to ask questions and make statements. The chairperson can also set time restraints for the entire annual shareholders' meeting, certain points on the agenda as well as for individual speakers or petitioners at the start or during the course of the meeting.

**Additional explanations and information on the company website**

Shareholders can access information on the annual shareholders' meeting pursuant to Sec. 124a AktG on the company website at [www.draeger.com/GC/de/investoren/hauptversammlung/](http://www.draeger.com/GC/de/investoren/hauptversammlung/), where additional explanations with regard to shareholders' rights pursuant to Secs. 122 (2), 126 (1), 127, and 131 (1) AktG can also be found.

**Total number of shares and voting rights at the time of the convocation of the annual shareholders' meeting**

The company's capital stock amounts to EUR 32,512,000.00, divided into 6,350,000 common shares with voting rights and 6,350,000 preferred shares without voting

rights. At the time of convocation of the annual shareholders' meeting, the number of company shares therefore totaled 12,700,000 and the number of shares bearing a voting right at the annual shareholders' meeting 6,350,000.

Lübeck, Germany, March 2010

Drägerwerk AG & Co, KGaA

The general partner

Drägerwerk Verwaltungs AG

The Executive Board

## Invitation

to the separate meeting of preferred shareholders

ISIN DE0005550636

Drägerwerk AG & Co, KGaA

Lübeck, Germany

We would like to invite our preferred shareholders to the separate meeting of preferred shareholders at the Lübeck Musik- und Kongresshalle, Willy-Brandt-Allee 10, 23554 Lübeck, Germany, on Friday, May 7, commencing after the annual shareholders' meeting of our company, but at the earliest at 14:00 hours.

The start of the separate meeting of preferred shareholders may be delayed depending on the duration of the annual shareholders' meeting, which commences at 10:00 hours.

## Agenda

- 1. Announcement of the resolution passed by the company's annual shareholder's meeting on May 7, 2010, on the authorization of and instructions for issuing warrant bonds with option rights and excluding subscription rights, and the creation of conditional capital as well as amendments to the articles of association**

With regard to point 7 on the agenda, the general partner and Supervisory Board are going to propose to the annual shareholders' meeting on May 7, 2010, to pass a resolution on the authorization of and instructions for issuing warrant bonds with option rights and excluding subscription rights, and the creation of conditional capital as well as amendments to the articles of association. According to this point on the agenda, the separate meeting of preferred shareholders is going to be informed about the outcome of the resolution. The resolution on the preferred shareholders' agreement to this

resolution is included in point 2 on this agenda. This is the draft resolution stated under point 7 on the agenda of the annual shareholders' meeting on May 7, 2010:

The general partner and the Supervisory Board propose passing the following resolution:

- a) Authorization of and instructions for issuing warrant bonds with option rights guaranteed in the form of warrants and the exclusion of subscription rights
  - aa) Extent and term of authorization, instructions and exclusion of subscription rights

The general partner is authorized and instructed to issue 25 bearer warrant bonds with a total nominal value of EUR 1,250,000 and a nominal value of EUR 50,000 per unit ("**warrant bonds**") to Siemens Beteiligungen Inland GmbH ("**Siemens**"), headquartered in Munich, in one tranche. These warrant bonds can also be issued to a Siemens group company within the meaning of Secs. 15 et seq. AktG (Aktiengesetz: German Stock Corporation Act), which is to be named by Siemens.

The warrant bonds are to be issued with an option right guaranteed in the form of a warrant, which entitles the holder to obtain 50,000 new no-par preferred bearer shares (no-par shares) of the company within the meaning of Secs. 6 (1) and 7 (1) in conjunction with Sec. 34 of the articles of association ("**preferred shares**") with a share of EUR 128,000 in capital stock, which entitles the holders of all 25 warrants to receive a total of 1,250,000 preferred shares with a total share of EUR 3,200,000 in capital stock.

Should the company carry out a capital increase using company funds, a stock split or a capital decrease by consolidating shares or recalling shares prior to issuing the warrant bonds with option rights guaranteed in

the form of warrants, the general partner is authorized and instructed to adjust the number of preferred shares, which can be obtained through the option rights, accordingly.

The exact provisions of the warrant bonds and the attached option rights guaranteed in the form of warrants are derived from the draft versions of the conditions for warrant bonds ("**conditions for warrant bonds**") and conditions for warrants ("**conditions for warrants**") printed in section "Information on point 7 of the agenda", no. 1 and 2.

The shareholders' subscription rights are excluded.

The general partner is instructed not to use this authorization nor implement these instructions prior to the resolution on the creation of conditional capital, which must be passed pursuant to section b) below, being entered in the commercial register of the company.

The general partner is also instructed to only use this authorization or implement these instructions once the *"Agreement on the termination of the joint venture and agreement on the acquisition and transfer of company shares in Siemens Medical Holding GmbH"* dated December 29, 2009 ("**Acquisition and Transfer Agreement**"), has been executed.

Furthermore, the general partner may only use the authorization and implement the instructions if and when the company's capital stock has been increased by issuing at least 1,250,000 new common shares of the company and this has been entered in the commercial register.

The general partner is instructed to use the authorization for issuing warrant bonds with option rights guaranteed in the form of warrants within three months of the resolution on the creation of conditional capital, which must be passed pursuant to section b) below, being entered in the commercial register. Should it not be possible to use the

authorization nor implement the instructions in a way which is legally safe due to one or several lawsuits having been filed against the company, this period is extended until three months after such legal safety has been achieved (i.e. after the legally binding decision of the court). In each case the authorization and instructions expire by May 6, 2015.

- bb) Terms to maturity, repayment, interest and other provisions of the warrant bonds

According to the requirements of the conditions for warrant bonds, the warrant bonds must be repaid at nominal value five years to the day on which the Acquisition and Transfer Agreement has been executed.

According to the requirements of the conditions for warrant bonds, the warrant bonds are to carry interest based on their nominal value from the date they were issued, paid half-yearly. The interest rate corresponds to the offered rate (expressed as an *annual* percentage) for the 6-month EURIBOR plus a margin of 5 percent for the first three years of the term to maturity and a margin of 6 percent for the remaining term to maturity of the warrant bonds.

Further details of the provisions for warrant bonds (such as form of securitization, early repayment, taxation, termination) are stated in the conditions for warrant bonds.

- cc) Subscription price, exercise period and other provisions of the option rights guaranteed in the form of warrants

In line with the conditions for warrants, the subscription price per preferred share amounts to EUR 40.00 (hereinafter also called "**minimum subscription price**"), if the stock exchange reference price (as defined below) is EUR 40.00 or less; if the stock exchange reference price is more than EUR 40.00, the subscription price amounts to the

stock exchange reference price plus 5 percent of the stock exchange reference price. Sec. 9 AktG does not apply.

The term

“stock exchange reference price” refers to the arithmetic average of the volume weighted average daily XETRA price of the company’s preferred share of the last fifteen (15) scheduled trading days prior to the warrant issue date;

“warrant issue date” refers to the day on which the company issues the warrants;

“scheduled trading day” refers to each day on which the stock exchange is open for trading and holds regular trading sessions, according to schedule.

If prior to issuing the option rights guaranteed in the form of warrants, the capital stock is increased by more than 1,75 million new shares with subscription rights for preferred shareholders, the general partner is authorized and instructed to deduct the mathematically calculated subscription right value from the minimum subscription price. The arithmetical average of the corresponding volume weighted average daily XETRA price of the share over the last two scheduled trading days (as defined above) prior to the end of the subscription period for the new shares and their issue price must be used as a reference. When calculating the mathematical subscription right price, only the part of the capital increase pertaining to the number of new shares exceeding 1,75 million is to be taken into account.

Should the company distribute a dividend of more than EUR 0.75 per share prior to issuing the option rights guaranteed in the form of warrants, the general partner is authorized and instructed to reduce the minimum subscription price by the amount that exceeds EUR 0.75.

Should the company carry out a capital increase using company funds, a stock split or a capital decrease by consolidating shares or recalling shares prior to issuing the warrant bonds with option rights guaranteed in the form of warrants, the general partner is authorized and instructed to adjust the number of preferred shares, which can be obtained through the option rights, (point aa)) as well as the minimum subscription price accordingly.

According to the requirements of the conditions for warrants, the option rights guaranteed in the form of warrants must be exercised within a period of five years to the day on which the Acquisition and Transfer Agreement has been executed (exercise period).

However, the option rights may not be exercised in the following periods:

- (i) five days prior and three trading days after the company's annual shareholders' meeting (excluding the day of the meeting);
- (ii) 15 trading days prior to the end of a fiscal year of the company, and
- (iii) from the day on which the company publishes an offer to its shareholders for acquiring (I) new shares or (II) bonds with conversion or option rights or (III) option rights in the electronic Federal Gazette (Bundesanzeiger) and/or any other medium until the last day of the subscription right exercise period (including the first and last day).

The term "business day" refers to any day on which the commercial banks in Frankfurt/Main, Germany, are open for business.

The subscription price must always be paid in full and in cash. It is not possible to pay part or all of the subscription price for one or more preferred shares by transferring warrant bonds to the company.

If Siemens exercises any option rights, it is entitled (but not obliged) to pay part or all of the subscription price in kind by relieving the company of the following financial liabilities to Siemens:

- (i) Relieving the company from its financial liability of EUR 18,750,000 (tranche I payment) under the *Deferred Payment Agreement* (extension agreement) from December 29, 2009, between the company and Siemens ("**deferred payment agreement**"), including interest liabilities arising from this liability which have not yet been incurred.

Relief can also be offered for already incurred but as yet unpaid interest liabilities, which increases the total amount of the offered relief accordingly;

and/or

- (ii) Relieving the company from its financial liability of EUR 40,000,000 (tranche II payment) under the *deferred payment agreement*, including interest liabilities arising from this liability which have not yet been incurred.

Relief can also be offered for already incurred but as yet unpaid interest liabilities, which increases the total amount of the offered relief accordingly.

The financial liability's fair value at the time the options are being exercised is material to the amount of relief offered. If the subscription price exceeds the financial liabilities' total fair value, the difference must be paid in cash. If the financial liabilities' fair values exceed the subscription price, relief is only offered pro rata. As long as the monetary liabilities are not due at the time the options are being exercised, the

entitlement to payment in kind remains, on the condition of the company's approval.

The above rules on payment in kind for exercising the option rights must also be applied if the option rights are exercised by a Siemens group company within the meaning of Secs. 15 et seq. AktG and the company's monetary liabilities to Siemens have been transferred in full to this company and this company, in its role as new creditor, is therefore entitled to them at the time the options are being exercised.

Further details on the provisions of the option rights guaranteed in the form of warrants (such as details on the type of guarantee, exercising the option right, the technical process, dilution protection after the option rights guaranteed in the form of warrants have been issued, particularly in the case of capital increases or decreases carried out at a later date) can be found in the conditions for warrants.

- dd) Issuing the warrant bonds and option rights guaranteed in the form of warrants in return for compensation in kind

The warrant bonds with option rights guaranteed in the form of warrants are issued in accordance with the following provisions in return for compensation in kind, payable by Siemens at the time the warrant bonds with option rights guaranteed in the form of warrants are being issued:

- (i) Issuing the warrant bonds to the total nominal value of EUR 1,250,000:

The warrant bonds with a total nominal value of EUR 1,250,000 are issued in return for cash compensation of EUR 1,250,000. However, payment can also be made by offsetting the nominal amount of EUR 1,250,000 against the company's monetary liability to Siemens for the tranche III payment under the *deferred payment agreement* in the amount of EUR 9,750,000, whereby the interest liabilities arising

from this partial amount, which have not yet been incurred, expire at the same time. Any unpaid payment liabilities relating to this partial amount may not be offset.

- (ii) Issuing the option rights guaranteed in the form of warrants, which are attached to warrant bonds and entitle the holder to obtain a total of 1,250,000 preferred company shares:

The option rights are granted in return for the following compensation in kind:

- (a) Relieving the company of its monetary liability to Siemens, described in more detail in the section “Information on point 7 on the agenda”, no. 3 b) aa) (“virtual” share options).
- (b) Partially relieving the company of its monetary liability of EUR 9,750,000 to Siemens for the tranche III payment under the *deferred payment agreement* to such an extent as is described in more detail in section “Information on point 7 on the agenda”, no. 3 b) bb). The partial relief is limited to a maximum nominal value of EUR 8,500,000. This relief includes interest liabilities arising from the monetary liability, which have not yet been incurred, which relate to the part of the monetary liability that the relief applies to; existing but as yet unpaid payment liabilities are excluded from the relief.

The above rules on payment in kind for issuing the warrant bonds with option rights guaranteed in the form of warrants must also be applied if the warrant bonds with option rights are issued to a Siemens group company within the meaning of Secs. 15 et seq. AktG and the company’s monetary liabilities to Siemens have been transferred in full to this company and this company, in its role as new creditor, is therefore entitled to them at the time the warrant bonds are being issued.

ee) The general partner is authorized to determine further details on the issuance and provisions of the warrant bonds and option rights guaranteed in the form of warrants in addition to those stated in the conditions for warrant bonds and the conditions for warrants.

b) Conditional capital

The capital stock is being conditionally increased to around EUR 3,200,000 by issuing up to 1,250,000 new no-par preferred bearer shares (no-par shares) of the company within the meaning of Secs. 6 (1) and 7 (1) in conjunction with Sec 34 of the articles of association.

The conditional capital increase serves to fulfill option rights, which entitle the holders to a total of 1,250,000 new no-par preferred bearer shares (no-par shares) of the company within the meaning of Secs. 6 (1) and 7 (1) in conjunction with Sec 34 of the articles of association, and which are being issued by the company as a result of the resolution by the annual shareholders' meeting on May 7, 2010, on the authorization and instruction of such action, as stated under point 7 a) of this agenda.

The issue and subscription price of the new preferred shares are calculated according to the provisions of the above-mentioned resolution on the authorization and instructions.

The capital increase from conditional capital must be carried out in cash. If Siemens obtains preferred shares, it is entitled (but not obliged) to pay part or all of the issue price in kind by relieving the company of the following monetary liabilities to Siemens:

(i) Relieving the company from its monetary liability of EUR 18,750,000 (tranche I payment) under the *deferred payment agreement*, including interest liabilities arising from this liability which have not yet been incurred.

Relief can also be offered for already incurred but as yet unpaid interest liabilities, which increases the total amount of the offered relief accordingly;

and/or

- (ii) Relieving the company from its financial liability of EUR 40,000,000 (tranche II payment) under the *deferred payment agreement*, including interest liabilities arising from this liability which have not yet been incurred.

Relief can also be offered for already incurred but as yet unpaid interest liabilities, which increases the total amount of the offered relief accordingly.

The financial liability's fair value at the time the options are being exercised is material to the amount of relief offered. If the subscription price exceeds the financial liabilities' total fair value, the difference must be paid in cash. If the financial liabilities' fair values exceed the subscription price, relief is only offered pro rata. As long as the monetary liabilities are not due at the time the options are being exercised, the entitlement to payment in kind remains, on the condition of the company's approval.

The above rules on payment in kind for exercising the option rights must also be applied if the option rights are exercised by a Siemens group company within the meaning of Secs. 15 et seq. AktG and the company's monetary liabilities to Siemens have been transferred in full to this company and this company, in its role as new creditor, is therefore entitled to them at the time the options are being exercised.

The warrant bonds to the total nominal value of EUR 1,250,000 with option rights guaranteed in the form of warrants, which entitle the holder to obtain a total of 1,250,000 no-par preferred bearer shares (no-par shares) of the company within the meaning of Secs. 6 (1) and 7 (1) in conjunction with Sec. 34 of the articles of association, and which are issued with the purpose of carrying out a conditional capital increase, are issued to Siemens in accordance with the above-mentioned resolution on the authorization and

instructions in return for compensation in kind, payable by Siemens at the time of their issue:

(iii) Issuing the warrant bonds to the total nominal value of EUR 1,250,000:

The warrant bonds with a total nominal value of EUR 1,250,000 are issued in return for cash compensation of EUR 1,250,000. However, payment can also be made by offsetting the nominal amount of EUR 1,250,000 against the company's monetary liability to Siemens for the tranche III payment under the *deferred payment agreement* in the amount of EUR 9,750,000, whereby the interest liabilities arising from this partial amount, which have not yet been incurred, expire at the same time. Any unpaid payment liabilities relating to this partial amount may not be offset.

(iv) Issuing the option rights guaranteed in the form of warrants, which are attached to warrant bonds and entitle the holder to obtain a total of 1,250,000 preferred company shares:

The option rights are granted in return for the following compensation in kind:

- (a) Relieving the company of its monetary liability to Siemens, described in more detail in the section "Information on point 7 on the agenda", no. 3 b) aa) ("virtual" share options).
- (b) Partially relieving the company of its monetary liability of EUR 9,750,000 to Siemens for the tranche III payment under the *deferred payment agreement* to such an extent as is described in more detail in section "Information on point 7 on the agenda", no. 3 b) bb). The partial relief is limited to a maximum nominal value of EUR 8,500,000. This relief includes interest liabilities arising from the monetary liability, which have not yet been incurred, which relate to the part of the monetary liability that the relief applies to; existing but as yet unpaid payment liabilities are excluded from the relief.

The above rules on payment in kind for issuing the warrant bonds with option rights guaranteed in the form of warrants must also be applied if these are issued to a Siemens group company within the meaning of Secs. 15 et seq. AktG and the company's monetary liabilities to Siemens have been transferred in full to this company and this company, in its role as new creditor, is therefore entitled to them at the time the warrant bonds are being issued.

The conditional capital increase should only be carried out if warrant bonds with option rights guaranteed in the form of warrants are being issued as a result of the resolution by the annual shareholders' meeting on May 7, 2010, on the authorization and instruction of such action and if the warrant holders make use of their option rights and the conditional capital is required to meet these demands.

The new preferred shares, which were issued due to the option rights being exercised, participate in profits from the beginning of the fiscal year in which they were created.

The general partner is authorized, with the approval of the Supervisory Board, to determine the further details of the process relating to the capital increase.

c) Amendment to the articles of association

The following paragraph 5 is added to Sec. 6 of the articles of association (Capital stock):

The capital stock is being conditionally increased to around EUR 3,200,000 by issuing up to 1,250,000 new no-par preferred bearer shares (no-par shares) of the company within the meaning of Secs. 6 (1) and 7 (1) in conjunction with Sec 34 of the articles of association (conditional capital).

The conditional capital increase is only carried out to the extent that the holders of option rights guaranteed in the form of warrants from warrant bonds, which are issued by the company as a result of the resolution by the annual shareholders' meeting on May 7, 2010, on the authorization and instructions of such actions, make use of their option rights.

The new preferred shares participate in profits from the beginning of the fiscal year in which they were created.

The general partner is authorized to determine the further details of the process relating to the capital increase.

d) Authorization of the Supervisory Board to amend the articles of association

The Supervisory Board is authorized to adjust Sec. 6 (1) and (5) of the articles of association according to the issuance of the shares offered and carry out any further related amendments, as long as these pertain only to the wording.

This also applies if the authorization is not used or the instructions are not implemented for issuing warrant bonds with option rights guaranteed in the form of warrants within the authorization and implementation periods and if the conditional capital has not been used within the period for exercising the issued option rights guaranteed in the form of warrants.

e) Notification to the commercial register

The general partner is instructed to register the conditional capital increase pursuant to b) and the amendments to the articles of association pursuant to c) with the commercial register in such a way as to ensure that both are only entered once the increase of the company's capital stock by at least EUR 3,200,000 by issuing 1,250,000 new no-par bearer shares (no-par shares) has been entered in the commercial register.

**2. Special resolution of the preferred shareholders on the agreement on the resolution of the annual shareholders' meeting with regard to the authorization of and instructions for issuing warrant bonds with option rights and excluding subscription rights and the creation of conditional capital as well as amendments to the articles of association pursuant to the resolution announced under point 1 of this agenda**

Pursuant to Sec. 141 (2) Sentence 1 and (3) Sentence 1 AktG, in order for the resolution of the annual shareholders' meeting announced under point 1 of this agenda to become effective, the preferred shareholders must pass a special resolution to approve it at a separate meeting.

The general partner and the Supervisory Board propose to the holders of preferred shares to pass the following resolution:

The resolution of the annual shareholders' meeting on May 7, 2010 on point 7 of the agenda, announced under point 1 of this agenda,

resolution on the authorization of and instructions for issuing warrant bonds with option rights and excluding subscription rights, and the creation of conditional capital as well as amendments to the articles of association

is approved.

The draft versions of the conditions for warrant bonds and conditions for warrants, the description of the compensation in kind, which Siemens Beteiligungen Inland GmbH, Munich, has to pay upon issuance of the warrant bonds with option rights guaranteed in form of warrants for the acquisition of the option rights, and the report of the general partner pursuant to Secs. 221 (4) Sentence 2 and 186 (4) Sentence 2 AktG are printed in the section "Information on point 7 on the agenda", following this invitation. These documents are available for the perusal of the preferred shareholders at the separate meeting of preferred shareholders and online at

[www.draeger.com/GC/de/investoren/hauptversammlung](http://www.draeger.com/GC/de/investoren/hauptversammlung) as from the convocation of the annual shareholders' meeting.

### **Requirements for participating in the separate meeting of preferred shareholders and exercising voting rights**

Only shareholders who have registered prior to the separate meeting of preferred shareholders and can provide proof of their entitlement to participate and exercise their potential voting rights are entitled to participate in the separate meeting of preferred shareholders. The holders of common shares are not entitled to participate nor exercise voting rights at the separate meeting of preferred shareholders.

The shareholder's proof of entitlement to participate in the separate meeting of preferred shareholders and exercise his or her voting rights must be issued by the bank where his or her account is held and be written in German or English language. The proof of shareholding must be put in writing and relate to the beginning of the 21st day prior to the meeting, in other words

**Friday, April 16, 2010, 00:00 hours (midnight)**

(so-called "proof deadline").

Both registration and proof of shareholding must reach the company at least six days prior to the separate meeting of preferred shareholders (excluding the day of the separate meeting and the day of receipt), in other words no later than

**Friday, April 30, 2010, 24:00 hours (midnight)**

at the following address:

Drägerwerk AG & Co, KGaA  
c/o Commerzbank AG  
WASHV dwpbank AG

Wildunger Strasse 14  
60487 Frankfurt/Main, Germany  
Fax: +49 (0) 69/ 5099 - 1110  
E-mail: hv-eintrittskarten@dwpbank.de

The shareholders can order their tickets by filling out the registration form sent to them by their banks and returning these to their banks. The banks will forward the registration forms and proofs of shareholding to the above addresses.

### **Importance of the proof deadline**

From the company's point of view, only preferred shareholders who have provided proof of their shareholding are entitled to participate in the separate meeting of preferred shareholders and exercise their voting rights. The entitlement to participate and the extent of voting rights depend entirely on the shareholding of the preferred shareholder as of the proof deadline. The proof deadline does not restrict the salability of the shareholding. Should part of or the entire shareholding be sold after the proof deadline, only the shareholding as of the proof deadline is relevant to the participation and extent of potential voting rights, i.e. the sale or other kind of transfer of shares after the proof deadline has no effect on the entitlement to participate in the separate meeting of preferred shareholders and the extent of the voting rights. The same applies to the acquisition of initial and additional preferred shares after the proof deadline. Persons who do not hold any preferred shares as of the proof deadline but acquire preferred shares after this date are not entitled to participate nor exercise their voting rights, unless they become a proxy or legal representative.

### **Voting process in the case of a proxy**

Preferred shareholders who do not wish to participate in person at the separate meeting of preferred shareholders are able to appoint a proxy for exercising their voting rights. This could be the bank where the account is held, a shareholders'

association or any other person of their choice. In this case, timely registration and proof of shareholding are still required pursuant to the above rules.

If the authorization is given to any other entity but a bank, shareholders' association or another similar person according to Sec. 135 AktG, the actual authorization as well as any revocation and proof of authorization must be put in writing to the company.

The authorization can be declared either to the proxy or the company. A proxy can provide proof of his or her authorization by showing it on the day of the separate meeting of preferred shareholders upon entry. The proof of authorization can be sent by post, fax or electronically (e-mail) to the following address:

Drägerwerk AG & Co, KGaA  
c/o UBJ. GmbH  
Drägerwerk HV 2010  
Kapstadtring 10  
22297 Hamburg, Germany  
Fax: 040 6378-5423  
E-mail: hv@ubj.de

The above address, fax and e-mail can also be used if the authorization is to be given directly to the company; it is not necessary to provide separate proof in this case. An authorization can also be revoked by directly informing the company at the address, fax and email above.

We would like to ask our preferred shareholders to submit any authorizations, proofs of authorization and revocations of authorizations by post or fax by Thursday, May 6, 2010, 18:00 hours (receipt) at the address above.

Preferred shareholders, who are entitled to participate in the meeting of the preferred shareholders, are going to receive a form of authorization with their ticket, which they will be sent upon registration within the period specified above. This form is also available for download at [www.draeger.com/GC/de/investoren/hauptversammlung/](http://www.draeger.com/GC/de/investoren/hauptversammlung/). If

a preferred shareholder authorizes more than one person, the company reserves the right to refuse entry to one or several of these persons.

Banks, shareholders' associations and other similar persons and institutions according to Sec. 135 (8) and (10) in conjunction with Sec. 125 (5) AktG can provide their own form of authorization. We would like to ask our preferred shareholders to agree on the form and procedure of authorization with their proxy or institution in good time. The company does not name a proxy for exercising voting rights at the separate meeting of preferred shareholders.

### **Motions to amend the agenda pursuant to Secs. 122 (2), 138 Sentence 2 AktG**

Shareholders holding common or preferred shares, whose combined interests amount to one-twentieth of the capital stock (EUR 6,502,400 or 2,540,000 shares) or a EUR 500,000 share in capital stock (this represents "quorum" rounded up to the next full number of shares – 195,313 shares), can demand that items be tabled on the agenda and disclosed, pursuant to Sec. 138 Sentence in connection with Sec. 122 (2) AktG. Pursuant to Sec. 138 Sentence 3 AktG, the same right is extended to a minority of shareholders who can participate in voting on special resolutions, if their shares taken together amount to one tenth of the shares that can exercise their voting rights for special resolutions ("quorum") (the represents 635,000 preferred shares). Each new item must be substantiated or include an attached draft resolution. The request is to be directed in writing to the general partner as the representative body for the company (Drägerwerk AG & Co. KGaA represented by Drägerwerk Verwaltungs AG, Executive Board, Moislinger Allee 53 – 55, 23558 Lübeck) and must be received by the company at least 30 days before the separate meeting (this excludes the day of the separate meeting and the day of receiving the request). The deadline for receipt is therefore:

**Tuesday, April 6, 2010, 24:00 hours (midnight).**

Those submitting a motion must demonstrate that they have held the shares for at least three months. It is uncertain whether the holding period of three months refers to the period prior to the receipt of the motion by the company or the day on which the separate meeting is held. In the former case, those submitting a motion must demonstrate that they have held the shares for at least three months prior to the day the company receives the motion. In the latter case, those submitting a motion must demonstrate that they have held the shares since at least February 7, 2010, 00:00 hours. The company will use the more favorable calculation for the shareholder and disclose the motion once evidence has been provided showing that the shares fulfilling the quorum have been held since February 7, 2010, 00:00 hours. Pursuant to Sec. 70 AktG, there are certain possibilities for taking these motions into account.

### **Shareholder countermotions pursuant to Secs. 126 (1), 138 Sentence 2 AktG**

Shareholders holding common and/or preferred shares can submit countermotions to draft resolutions proposed by the general partner and/or Supervisory Board regarding specific items on the agenda at the separate meeting of preferred shareholders. Countermotions pursuant to Secs. 138 Sentence 2 in conjunction with Sec. 126 (1) AktG must be sent to the following address:

Drägerwerk AG & Co, KGaA  
Gegenanträge zur Hauptversammlung  
Moislinger Allee 53 – 55  
23558 Lübeck, Germany  
Fax: +49 (0) 451 – 882-75245  
E-mail: [hauptversammlung@draeger.com](mailto:hauptversammlung@draeger.com)

Pursuant to Sec. 138 Sentence 2 in conjunction with Sec. 126 (1) AktG, the company will publish countermotions, including the name of the shareholder, the substantiation as well as any comment from management, on the company website at [www.draeger.com/GC/de/investoren/hauptversammlung/](http://www.draeger.com/GC/de/investoren/hauptversammlung/) provided that countermotions with a substantiation are received at least 14 days prior to the date of

the separate meeting (this excludes the day of meeting and the day of receiving the request), in other words no later than

**Thursday, April 22, 2010, 24:00 hours (midnight)**

at the aforementioned address. Countermotions addressed otherwise will not be considered.

The company can refrain from publishing a countermotion as stipulated by Sec. 138 Sentence 2 in conjunction with Sec. 126 (2) AktG, if it would lead to a resolution at the separate meeting that is either illegal or contrary to the articles of association. If the countermotion's substantiation exceeds 5,000 characters, it does not need to be published.

### **Right to information pursuant to Sec. 131 (1) AktG**

Pursuant to Sec. 138 Sentence 2 in conjunction with Sec. 131 (1) AktG, every preferred shareholder is permitted to request information from the general partner during the separate meetings on issues relating to the company, insofar as the information serves to clarify an item on the agenda of the separate meeting of preferred shareholders. The general partner can refrain from answering certain questions for reasons stated in Sec. 131 (3) AktG, e.g. if the information, based on sound business judgment, might negatively impact the company or one of its group companies. Pursuant to Sec. 29 (3) of the articles of association, the chairperson of the separate meeting can limit the time allowed for shareholders to ask questions and make statements. The chairperson can also set time restraints for the entire separate meeting, certain points on the agenda as well as for individual speakers or petitioners at the start or during the course of the separate meeting.

**Additional explanations and information on the separate meeting of preferred shareholders on the company website**

Preferred shareholders can access information on the separate meeting of preferred shareholders pursuant to Sec. 124a AktG on the company website at [www.draeger.com/GC/de/investoren/hauptversammlung/](http://www.draeger.com/GC/de/investoren/hauptversammlung/), where additional explanations with regard to shareholders' rights pursuant to Secs. 122 (2), 126 (1), and 131 (1) AktG can also be found.

**Total number of shares and voting rights at the time of the convocation of the annual shareholders' meeting**

The company's capital stock amounts to EUR 32,512,000.00, divided into 6,350,000 common shares with voting rights and 6,350,000 preferred shares without voting rights. Holders of common shares are not entitled to participate in the separate meeting of preferred shareholders nor exercise their voting rights there. At the time of convocation of the separate meeting of preferred shareholders, the number of company shares therefore totaled 12,700,000 and the number of shares bearing a voting right at the separate meeting of preferred shareholders 6,350,000.

Lübeck, Germany, March 2010  
Drägerwerk AG & Co, KGaA

The general partner  
Drägerwerk Verwaltungs AG

The Executive Board

## Information on point 7 on the agenda

### 1.

#### ***Terms and conditions for warrant bonds***

This is the draft version of the conditions for warrant bonds, to which the proposed resolution on the authorization and instruction of the general partner:

#### **Terms and conditions**

for warrant bonds

of Drägerwerk AG & Co. KGaA from [enter issue date]

#### **Sec. 1**

#### **(Currency. Units. Form. Global certificate. Clearing systems. Warrants. Holders)**

- (1) *Currency. Units. Form.* The warrant bonds with variable interest rates (“**bonds**”) of Drägerwerk AG & Co. KGaA (“**issuer**”) are issued in euros (“**currency**” or “**EUR**”) to the total principal amount of EUR 1,250,000 (in words: one million two hundred and fifty thousand) on [enter issue date] (“**issue date**”) and are divided into units of EUR 50,000 each (one “**principal amount**” each). These bonds are bearer bonds and the holders (as defined below) have no right to request the issuance of effective bonds or effective interest coupons.
- (2) *Global certificate.* The bonds are guaranteed by a permanent global certificate (“**permanent global certificate**” or “**global certificate**”) without interest coupon, which is manually signed by two properly authorized signatories of the issuer and authenticated by the principal paying agent

- (3) *Clearing system.* The permanent global certificate is kept by or in the name of a clearing system until all of the issuer's liabilities from the bonds have been repaid. "**Clearing system**" stands for: Clearstream Banking AG, Frankfurt/Main, Germany, or any legal successor. The holders are entitled to co-own shares in the global certificate, which can be transferred in accordance with the rules and regulations of the clearing system.
- (4) *Warrants.* Each principal amount of a bond comes with a warrant guaranteed in the form of a global bearer warrant ("**warrant**"), which is issued by the issuer, and which entitles each holder to receive [50,000] [adjust if necessary according to details stated under a) aa) and cc) of the general partner's and Supervisory Board's proposal for the resolution on point 7 on the agenda] preferred bearer shares of the issuer with a mathematical share in capital stock of EUR 2.56 each pursuant to the conditions for warrants and subject to any adjustments due to anti-dilution provisions. The warrants can be detached from the bonds as from the date they were issued, [enter issue date] ("**warrant issue date**"). Individual warrants can be transferred thereafter. Early termination of the bonds pursuant to Sec. 4 or Sec. 8 does not have any effect on the warrants.
- (5) *Holder.* Every holder of co-ownership of shares or any other rights in the bonds is a "**holder**".

## **Sec. 2**

### **(Status)**

The liabilities from bonds result in direct, unconditional and unsubordinated liabilities of the issuer, which all carry the same status as one another and as all other direct, unconditional and unsubordinated liabilities of the issuer, as long as these liabilities are not given priority by mandatory legal provisions.

## **Sec. 3**

**(Interest payment dates. Interest rate. Interest. Notification of interest rate and interest. Interest period. Day count fraction. Default.)**

- (1) *Interest payment dates.*
- (a) The bonds carry interest on their principal amount between the issue date (“**interest commencement date**”) (inclusive) and the first interest payment date (exclusive) and between every interest payment date (inclusive) and the following interest payment date (exclusive) thereafter at the applicable rate (as defined below). Interest is to be paid in arrears on every interest payment date.
- (b) “**Interest payment date**” refers to the [enter applicable half-yearly interest payment date] and the [enter applicable half-yearly interest payment date] of each calendar year as from the issue date (inclusive) until the maturity date (inclusive) (short final interest period). If an interest payment date falls not on a business day (as defined in Sec. 5 (2)), payment is due on the following business day.
- (2) *Interest rate.* Subject to the following regulations, the interest rate (“**interest rate**”) for each interest period (as defined below) corresponds to the offered rate (expressed as an annual percentage) for the 6-month EURIBOR (“**reference interest rate**”), which is displayed on the screen page (as define below) around 11:00 hours (Brussels local time) (“**specified time**”) on the second business day (as defined in Sec. 5 (2)) prior to the beginning of each interest period (“**interest determination date**”), plus the margin relevant to each interest period (as defined below), as determined by the calculation agent.
- “**Screen page**” refers to the Reuters screen page EURIBOR01. If no such offered rate appears on the screen page at the specified time, the calculation agent requests the offered rates (expressed as an annual percentage) of four banks, whose offered rates have been used to calculate the last offered rate, to be displayed on the screen page (“**reference banks**”), for deposits in the specified currency for each interest period (as defined below) to leading banks in the interbank

market (“**relevant market**”) at the specified time on the interest determination date. If two or more reference banks provide the calculation agent with such offered rates, the interest rate for the applicable period is the arithmetical average (rounded up or down to the nearest thousandth percent, if required; figures are rounded up from 0.0005) of the offered rates plus the margin applicable for each interest period, as determined by the calculation agent.

If on any of the interest determination dates only one or none of the calculation agent’s reference banks provide such offered rates, the interest rate for the period in question is the interest rate, which the calculation agent determines as the arithmetical average (rounded as described above, if necessary) of those rates that, according to the information provided by the reference banks to the calculation agent, two or several reference banks have been offered on the corresponding interest determination date at the specified time for deposits in the specified currency for the corresponding interest period from leading banks in the relevant market plus the margin applicable for each interest period. If less than two of the reference banks provide the calculation agent with such offered rates, the interest rate for the period in question is the offered rate for deposits in the specified currency for the interest period in question or the arithmetical average (rounded as described above) of the offered rates for deposits in the specified currency for the interest period in question, which one or several banks (which are suitable in the opinion of the calculation agent and the issuer) have provided to the calculation agent and which they have provided to leading banks in the relevant market on the corresponding interest determination date (or that these banks have provided to the calculation agent) plus the applicable margin for each interest period. If the interest rate cannot be determined according to the above rules stated in this paragraph, the interest rate is the offered rate or the arithmetical average of the offered rates on the last day before the interest determination date on which these offered rates were displayed plus the corresponding margin for each of the interest periods (whereby

the relevant margin replaces the margin for the prior interest period if the margin that applies to the relevant interest period is different to the margin of the prior period).

The “margin” is:

- Interest period 1 (inclusive) to 6 (inclusive): 5 percent;
- Interest period 7 (inclusive) to 10 (inclusive): 6 percent.

(3) *Interest.* The calculation agent determines the interest payable on the bonds (“**interest**”) for the interest period in question on the interest determination date or as close to it as possible. The interest is calculated by taking into account the interest rate and day count fraction (as defined below) for the bonds’ individual nominal values. The result is rounded up or down to the smallest unit of the specified currency, whereby 0.5 is rounded up.

(4) *Notification of interest rate and interest.* The calculation agent ensures that the interest rate, interest for each interest period, interest period and corresponding interest payment date are announced to the issuer and the holders pursuant to Sec. 11 as soon as possible after these have been determined but never later than on the fourth business day (as defined in Sec. 5 (2)).

(5) *Interest period.* “**Interest period**” refers to the following periods:

- “**Interest period 1**” refers to the period from the interest commencement date (inclusive) to the first interest payment date (exclusive),
- “**Interest period 2**” refers to the period from the first interest payment date (inclusive) to the second interest payment date (exclusive),
- “**Interest period 3**” refers to the period from the second interest payment date (inclusive) to the third interest payment date (exclusive),

- “**Interest period 4**” refers to the period from the third interest payment date (inclusive) to the fourth interest payment date (exclusive),
  - “**Interest period 5**” refers to the period from the fourth interest payment date (inclusive) to the fifth interest payment date (exclusive),
  - “**Interest period 6**” refers to the period from the fifth interest payment date (inclusive) to the sixth interest payment date (exclusive),
  - “**Interest period 7**” refers to the period from the sixth interest payment date (inclusive) to the seventh interest payment date (exclusive),
  - “**Interest period 8**” refers to the period from the seventh interest payment date (inclusive) to the eighth interest payment date (exclusive),
  - “**Interest period 9**” refers to the period from the eighth interest payment date (inclusive) to the ninth interest payment date (exclusive),
  - “**Interest period 10**” refers to the period from the ninth interest payment date (inclusive) to the maturity date (exclusive) (short final interest period).
- (6) *Day count fraction.* With regard to the calculation of an amount for a random period (“**interest calculation period**”), “**day count fraction**” is the term for the actual number of days within the interest calculation period divided by 360.
- (7) *Default.* If the issuer does not meet a repayment for the bonds for whatever reasons, the outstanding amount (excluding outstanding interest) bears interest at 2 percent above the applicable interest rate pursuant to Sec. 3 (2), (the applicable interest rate for the redemption of principal is the interest rate of the last fully expired interest period) as from the maturity date (inclusive) to the date repayment is made in full

to the holders (exclusive). Outstanding interest carries 2 percent interest.

#### § 4

**(Final redemption. Early redemption for taxation reasons. Early redemption at the option of the issuer. Change of control. Early redemption amount.)**

- (1) *Final redemption.* The bonds are redeemed at their principal amount (“**redemption amount**”) on [five years to the day the “*Agreement on the termination of the joint venture and agreement on the acquisition and transfer of company shares in Siemens Medical Holding GmbH*” was executed] (“**maturity date**”).
- (2) *Early redemption for taxation reasons.* Upon request of the issuer, the bonds must be redeemed not in part but in full on any interest payment date or at any other time at their early redemption amount plus interest pursuant to Sec. 5, which has accrued up to the specified redemption date in accordance with the day count fraction, if the issuer has irrevocably informed the holder of its intentions at least 30 days prior to the redemption date, as long as (i) the issuer is obliged or will be obliged at the next maturity date of a repayment of the bonds to make additional payments pursuant to Sec. 6 as a result of a change in or amendment to the laws and regulations of the Federal Republic of Germany (“**Germany**”) or a local tax authority, or as a result of changes in the application or official interpretation of such laws and regulations, if the relevant changes become effective on or after the issue date, and (ii) the issuer is not able to avoid such an obligation by taking appropriate measures at its disposal. Prior to announcing a redemption pursuant to these rules, the issuer must furnish the principal paying agent with written confirmation signed by a member of the issuer’s management, which entitles the issuer to request such a redemption and which provides unquestionable proof that the conditions for the right of the issuer to request redemption are met pursuant to these rules. In addition, the issuer must provide a report by an independent legal or tax consultant stating that the issuer is or will be obliged to

make additional payments as a result of a relevant change or amendment.

- (3) *Early redemption at the option of the issuer.* Each interest payment date (Sec. 3 (1) (b)) ("**call redemption date**"), the issuer has the option to redeem the bonds in full at their call redemption amount plus interest accrued until the call redemption date, after (i) informing the holders at least ten (10) business days in advance pursuant to Sec. 11, and (ii) no less than fifteen (15) business days prior to announcing its intent (as stated under (i)) to the principal paying agent (both declarations are irrevocable and must state the specified call redemption amount of the bonds).
- (4) *Change of control.* In the case of a change of control (as defined below ("**redemption event**"), each holder has the right (if the issuer has not indicated the redemption of the bonds pursuant to Sec. 5 (3) prior to the redemption notice described below being issued) to demand the redemption of its bonds by the issuer at the change of control/call redemption amount (as defined below) plus accrued interest in accordance with the day count fraction up to the change of control/call redemption date (exclusive).

A "**change of control**" occurs if a natural or legal entity directly or indirectly holds more than 50 percent of the voting rights in the issuer (holders of such voting rights are called "**purchasers**" hereinafter). As long as the issuer takes the form of a KGaA, this also applies to its general partner, whereby in this case this would constitute a change of control if a natural or legal entity directly or indirectly acquires more than 50 percent of the capital stock of the general partner or directly or indirectly holds more than 50 percent of the voting rights in the issuer (purchasers of capital stock or holders of voting rights are also referred to as "**purchasers**" hereinafter). There is no change of control if the purchaser (i) is a descendant (within the meaning of the BGB (German Civil Code: Bürgerliches Gesetzbuch) of Dr. Heinrich Dräger ("**descendant**") or (ii) a natural or legal entity, company or foundation

associated with a descendant within the meaning of Sec. 15 AktG and Sec. 15 AO (German Tax code: Abgabeordnung), or (iii) is a foundation established by a descendant or to the benefit of a descendant.

**“Change of control/call redemption date”** is the fifth business day after the last day of the redemption period (as defined below).

Pursuant to Sec. 11, as soon as the issuer obtains knowledge of a redemption event, it promptly informs the holders of such an event (**“redemption notification”**), stating the circumstances of the redemption event and the procedure for exercising the voting rights mentioned in this section (5 (4)).

In order to exercise these voting rights, the holders must submit a properly completed and signed exercise notification to the stated address of the principal paying agent within a period of 45 days (**“redemption period”**) after the redemption notice has been published. Such a notification form is available from the stated address of the principal paying agent. Voting rights exercised in such manner cannot be revoked or recalled without prior approval of the issuer.

- (5) *Early redemption amount.* Within Secs. 4 and 8 (Events of default) the following applies:
- (i) The **“early redemption amount”** of each bond is its principal amount,
  - (ii) The **“call redemption amount”** of each bond is its principal amount, and
  - (iii) The **“change of control/early redemption amount”** of each bond is its principal amount.

## **Sec. 5**

**(Payments of principal. Interest payments. Business day. United States.  
Discharge. References to Principal and Interest.)**

- (1) (a) *Payments of principal.* Payment of principal in respect of bonds are made, subject to applicable fiscal and other laws and regulations, in the

specified currency and to the clearing system or to its order for credit to the accounts of the relevant account holders of the clearing system upon presentation and surrender of the global certificate at the specified office of any paying agent outside the United States, if the bonds are guaranteed in the form of a global certificate.

(b) *Interest payments.* Interest payments on bonds are made, subject to applicable fiscal and other laws and regulations, in the specified currency and to the clearing system or to its order for credit to the relevant account holders of the clearing system upon presentation and surrender of the global certificate at the specified office of any paying agent outside the United States, if the bonds are guaranteed in the form of a global certificate.

- (2) *Business day.* If the maturity date of any amount in respect of any bond is not a business day then, the holder is not entitled to payment until the next business day in the relevant place and is not entitled to further interest or other payment in respect of such delay.

“**Business day**” refers to any day (excluding Saturdays and Sundays) on which (a) banks in Frankfurt/Main, Germany, are open for business (including dealings in foreign exchange and foreign currency deposits) and (b) all relevant parts of the Trans-European Automated Real-Time Gross Settlement Express Transfer System 2 (“**TARGET**”) or a successor system are operating to effect payments in euros.

- (3) *Unites States.* “**United States**” stands for the United States of America, including all federal states as well as the District of Columbia and its possessions (including Puerto Rico, the US, Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands).

- (4) *Discharge.* The Issuer is discharged by payment to, or to the order of, the Clearing System.

- (5) *References to Principal and Interest.* References to “**principal**” include, as applicable, the redemption amount and early redemption amount of the bonds as well as any premium and other amounts which may be

payable under or in respect of the bonds. References to “**interest**” include, as applicable, any additional amounts which may be payable under Sec.6.

## **Sec. 6**

### **(Taxation)**

All payments of principal and interest in respect of the bonds are made free and clear of, and without withholding or deducting for or due to any current or future taxes, duties or governmental charges of any nature, which are levied, collected, withheld or assessed by Germany or any of its tax authorities, unless such withholding or deduction is required by law. In that event, the issuer pays any additional amounts (“**additional amounts**”) as are required for holders to receive such amounts as would have been received by them had no such withholding or deduction been required. However, no additional amounts are payable with respect to any bond presented for payment in the country of the issuer’s domicile, as stated in the articles of association:

- (a) concerning Kapitalertragsteuer (German Capital Gains Tax) (including the so-called Abgeltungssteuer (Withholding Tax), in effect since January 1, 2009, and Kirchensteuer (Church Tax), if applicable), which is adjusted, deducted or withheld pursuant to the Einkommensteuergesetz (German Income Tax Act), even if such a deduction or withholding has to be implemented by the issuer or its representative, and the German Solidaritätszuschlag (Solidarity Surcharge) or any other tax, which replaces the German Capital Gains Tax and Solidarity Surcharge;
- (b) to a holder, or to a third party on behalf of a holder, where a holder is liable to such withholding or deduction by having some connection with Germany other than by reason only of the holding of such bond or the receipt of the relevant payment in respect thereof;
- c) to a holder, or to a third party on behalf of a holder, where no such withholding or deduction would have been required if the bonds were

credited at the time of payment to a securities deposit account with a bank outside Germany;

- d) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to European Council Directive 2003/48/EC, any other income tax directive, any law implementing or complying with, or introduced in order to conform to such directive, or any other agreement between a EU member state and certain other countries and territories in connection with such directive;
- e) to the extent that such withholding or deduction is payable by or on behalf of a holder who could lawfully avoid (but has not done so) such withholding or deduction by complying, or procuring that any third party complies, with any statutory requirements requiring a declaration of non-residence or other similar claim for exemption from withholding tax to any tax authority in the place where the payment is effected; or
- (f) if such withholding or deduction is payable by or on behalf of a holder who would have been able to avoid such withholding or deduction by effecting a payment via another paying agent in an EU member state that is not obliged to withhold or deduct tax.

## **Sec. 7**

### **(Prescription)**

The presentation period provided in Sec. 801 (1) Sentence 1 BGB is reduced to ten (10) years for the bonds.

## **Sec. 8**

### **(Events of default)**

If any of the following events of default (each an “**event of default**”) occurs, every holder may by written notice to the issuer at the specified office of the principal paying agent declare such bond to be forthwith due and payable, whereupon the early redemption amount of such bond, including any interest accrued in accordance with the day count fraction until the actual redemption date, become

immediately due and payable, unless such event of default has been remedied prior to the receipt of such notice by the issuer:

- (a) Any principal, interest or other amounts payable with regard to the bonds has not been paid by the issuer by the applicable maturity date, unless such non-payment has been caused by administrative or technical problems with the transaction and the payment is made within five business days after the applicable maturity date; or
- (b) the issuer has not properly fulfilled or accounted for a liability from a bond and this failure proves a financial disadvantage to the holder and continues to do so for more than 10 business days after the issuer has received notification thereof and a request to remedy the situation; or
- (c) a financial liability (as defined below) of the issuer or a principal subsidiary (as defined below) has fallen due early because of one of its conditions being breached, or the issuer does not fulfill a financial liability or payment obligation due to a guarantee or other indemnity obligation for a financial liability of a third party, or, in the case of a guarantee or other indemnity obligation, not within 5 business days after a claim has been made under the guarantee or other indemnity obligation, unless the total principal amount of all financial liabilities and/or guarantees or other indemnity obligations for financial liabilities amounts to less than EUR 10,000,000 or the equivalent value in another currency; or
- (d) the issuer or a principal subsidiary ceases all payments or announces its insolvency; or
- (e) a court of competent jurisdiction opens insolvency proceedings against the issuer or a principal subsidiary and such proceedings are not dismissed or adjourned within 10 business days, or the issuer, a principal subsidiary or one of its holders apply to open such proceedings, or an application for opening such proceedings is declined by the court on the grounds of insufficient funds, or the issuer or a

principal subsidiary come to a general agreement with their holders regarding the repayment of the debt or offer such an agreement; or

- (f) the issuer or a principal subsidiary commences liquidation by way of an effective resolution (unless this serves the purpose of restructuring measures or a merger, which have been previously approved by a meeting of the holders); or
- (g) the issuer or a principal subsidiary cease all or substantially all of its operations (unless this serves the purpose of restructuring measures or a merger, which have been previously approved by a meeting of the holders).

In this Sec. 8, the following terms have the following meanings:

The term “**Financial liabilities**” refers to all existing and future payment obligations of the issuer or a principal subsidiary with regard to:

- (i) Sureties and the taking up of credit or loans or other financial resources;
- (ii) the issuing of notes, bonds, current money market instruments (bills of exchange), debt certificates or other comparable instruments;
- (iii) the factoring of receivables, hire purchase or finance leases;
- (iv) rights of recourse with respect to guarantees, assumptions of debt, letters of credit, credit orders or other financing instruments issued by banks or financial institutions; or
- (v) other transactions, including acquisition and sales agreements, which have the same financial effect as a the taking up of loans or credits, and

“**principal subsidiaries**” to Dräger Medical AG & Co. KG, headquartered in Lübeck, and Dräger Safety AG & Co. KGAA, also headquartered in Lübeck.

## **Sec. 9**

**(Appointment of agents. Variation or termination of appointment. Agent of the issuer. Determinations binding. Liability.)**

- (1) *Appointment of agents.* The principal paying agent, the paying agents and the calculation agent (together the “**agents**”) and their offices (which can be substituted with other offices in the same city) are:

**Principal paying agent:** [to be determined by issuer prior to issuance]

**Paying agent:** [to be determined by issuer prior to issuance]

**Calculation agent:** [to be determined by issuer prior to issuance]

- (2) *Variation or termination of appointment.* The issuer reserves the right at any time to vary or terminate the appointment of any agent and to appoint another principal paying agent, or additional or other paying agents, or another calculation agent, provided that the issuer at all times (i) maintains a principal paying agent, (ii) maintains a calculation agent, and (iii) if an EU Directive regarding the taxation of interest income or any law implementing such Directive is introduced, ensure that it maintains a paying agent in an EU member state that will not be obliged to withhold or deduct tax pursuant to any such Directive or law, to the extent this is possible in any of the EU member states. Any variation, termination, appointment or other change only takes effect (other than in the case of insolvency, when it is of immediate effect) after not less than 30 nor more than 45 days prior notice thereof has been given to the holders in accordance with Sec. 12.

- (3) *Agent of the issuer.* Any Agent acts solely as the agent of the issuer and does not assume any obligations towards or relationship of agency or trust for any holder.

- (4) *Determinations binding.* All certificates, communications, opinions, determinations, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of these conditions by the calculation agent (in the absence of manifest error) are binding on the issuer, the principal paying agent, the paying agents and the holders and must comply with Sec. 317 BGB.

- (5) *Liability.* Neither the calculation agent nor the paying agents assume any form of liability for any errors or defaults or any relating subsequent corrections in the calculation or publication of any amounts relevant to the bonds, unless these are caused by negligence or other reasons.

## **Sec. 10**

### **(Further issues of bonds. Purchases. Cancellations.)**

- (1) *Further issue of bonds.* The issuer may from time to time, without the consent of the holders, issue further bonds with the same terms and conditions as the bonds in all respects (or in all respects except for the issue price, issue date, interest commencement date and the first interest payment date) so as to form one series with the existing bonds, whereby the term “bonds” is to be interpreted accordingly in this case.
- (2) *Purchases.* The issuer and each of its subsidiaries may purchase bonds in the open market or otherwise and at any price. If these purchases are made in response to a public offer, this offer must be presented to all holders. Bonds purchased by the issuer may, at the option of the issuer, be held, resold or cancelled.
- (3) *Cancellations.* All fully redeemed bonds must promptly be cancelled and may not be reissued or resold.

## **Sec. 11**

### **(Publication. Notification to clearing system.)**

- (1) *Publication.* All notices concerning the bonds must be published on the internet at [www.draeger.com](http://www.draeger.com) or in a leading daily newspaper with general circulation in Germany. This daily paper is expected to be the *Börsen-Zeitung*. Any notice so given will be deemed to be valid on the fifth day following the date of publication (or, if published more than once, on the fifth day following the first publication). If the issuer knows the identity of all holders of the bonds, notices can also be sent directly to the holders.

- (2) *Notification to clearing system.* The issuer may, instead of a publication pursuant to paragraph 1, deliver the relevant notice to the clearing system for communication to the holders. Any such notice is deemed to have been given to the holders on the fifth day after the day on which said notice was given to the clearing system.

## **Sec. 12**

### **(Changes of terms and conditions)**

- (1) Secs. 5 et seq. SchVG (Schuldverschreibungsgesetz: German Act on Notes) from July 31, 2009, in their respective valid forms, apply to the bonds. Hence, holders can approve changes to these terms and conditions by casting a majority vote and passing this resolution on to the issuer. The holders cast their vote without holding a meeting pursuant to Sec. 18 SchVG.
- (2) Holders whose combined bonds amount to 5 percent of the bonds' outstanding total principal amount may request in writing a vote without meeting pursuant to Sec. 9 in conjunction with Sec. 18 SchVG. The invitation to vote by the scrutineer stipulates the further details of the resolution and the voting process. With the invitation to vote, the holders also receive information on items of the resolution and motions.
- (3) At the time of voting, holders must provide separate proof of their entitlement to vote and a restriction note, which must both be issued by the custodian bank pursuant to Sec. 13 (3), to the benefit of the paying agent, this also being the depository for the voting period.

## **Sec. 13**

### **(Governing law. Place of jurisdiction. Enforcement.)**

- (1) *Governing law.* The bonds are governed by German law.
- (2) *Place of jurisdiction.* Exclusive place of jurisdiction for any action or other legal proceedings ("**legal disputes**") arising in connection with the bonds is the District Court (Landgericht) in Frankfurt/Main, Germany.

- (3) *Enforcement.* Any holder may in any legal dispute against the issuer, or to which the holder and the issuer are parties, protect and enforce in its own name its rights arising under such bonds on the basis of (i) a statement issued by the custodian bank with whom such holder maintains a securities account in respect of the bonds (a) stating the full name and address of the holder, (b) specifying the total amount of bonds credited to such securities account on the date of such statement and (c) confirming that the custodian bank has given written notice to the clearing system containing the information pursuant to (a) and (b) and (ii) a copy of the global certificate guaranteeing these bonds, certified as being a true copy by a duly authorized officer of the clearing system or a depository of the clearing system, without the need for producing in such proceedings the actual records or the global certificate guaranteeing these bonds. For the purpose of the above paragraph, “**custodian bank**” 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 bonds and includes the clearing system. Each holder may, without prejudice to the foregoing regulations, enforce its rights under these bonds in any other manner permitted in the country where the enforcement proceedings are being held.

## 2.

### ***Terms and conditions for warrants***

This is the draft version of the conditions for warrants, to which the proposed resolution on the authorization and instruction of the general partner refers:

#### **Terms and conditions for warrants**

of Drägerwerk AG & Co. KGaA from [enter issue date]

**Sec. 1****(Option right. Number of shares. Exercise price. Stock exchange reference price.)**

- (1) *Option right.* On [enter issue date] (“**warrant issue date**”), Drägerwerk AG & Co. KGaA (“**issuer**”) is issuing 25 warrants (“**warrant**”), which give the holder of each warrant (“**holder**”) the right (“**option right**”) in accordance with the following terms and conditions for warrants to obtain the number of preferred bearer shares of the issuer stated in paragraph 2, with each preferred share (“**share**”) carrying a mathematical share in capital stock of EUR 2.56 (“**EUR**”) each (subject to an adjustment according to Sec. 8). The option right must be exercised on all shares to be obtained under a warrant, partially exercised rights are ineffective.
- (2) *Number of shares.* Upon exercising one warrant, each holder is entitled to receive [50,000] [adjust if necessary according to details stated under a) aa) and cc) of the general partner’s and Supervisory Board’s proposal for the resolution on point 7 on the agenda] shares subject to one or several adjustments pursuant to Sec. 8 of these terms and conditions for warrants. The amount of shares to which a holder is entitled, if applicable after one or several adjustments pursuant to Sec. 8 pursuant to these terms and conditions for warrants, is called “**number of shares**” below, whereby the term “number of shares” includes one or several possible adjustments of the number of shares pursuant to Sec. 8.
- (3) *Exercise price.* The purchase price per share (“**exercise price**”) is determined in accordance with the following regulations by the warrant agent (as defined in Sec. 7 (1)), subject to one or several adjustments pursuant to Sec. 8.
- (i) If the stock exchange reference price (as defined below) is **EUR [40.00]** [adjust if necessary according to details stated under a) aa) and cc) of the general partner’s and Supervisory Board’s proposal for the resolution on point 7 on the agenda] **or less**, the

exercise price is EUR [40.00] [adjust if necessary according to details stated under a) aa) and cc) of the general partner's and Supervisory Board's proposal for the resolution on point 7 on the agenda].

- (ii) If the stock exchange reference price is **more than EUR [40.00]** [adjust if necessary according to details stated under a) aa) and cc) of the general partner's and Supervisory Board's proposal for the resolution on point 7 on the agenda], the exercise price is calculated according to the following formula:

$$\mathbf{RP_i + 5\% \text{ of } RP_i}$$

(i.e. the total of the stock exchange reference price plus 5 percent of the stock exchange reference price),

**whereby**

“**RP<sub>i</sub>**” stands for stock exchange reference price.

- (4) *Stock exchange reference price.* “**Stock exchange reference price**” refers to an amount in EUR, which the warrant agent calculates as follows: The stock exchange reference price is the arithmetical average of the corresponding volume weighted average daily XETRA price of the share of the last fifteen (15) scheduled trading days **prior** to the warrant issue date as displayed on the applicable screen page.

In this Sec. 1 (4), the following terms have the following meanings:

“**Scheduled trading day**” refers to each day on which the stock exchange is open for trading and holds regular trading sessions, according to schedule;

“**stock exchange**” pertains to the XETRA trading system of the Frankfurt Stock Exchange, any legal successor of this system and any alternative trading system to which the trade in shares has been temporarily transferred; and

“**applicable screen page**” to the Bloomberg screen page “DRW 3 GY Equity TSM” or any successor of this page.

**Sec. 2****(Securitization. Clearing system.)**

- (1) *Securitization.* The warrants are guaranteed in the form of a global bearer warrant (“**global bearer warrant**”), which is manually signed by two properly authorized signatories of the issuer. Effective bonds for individual warrants are not issued.
- (2) *Clearing system.* The global bearer warrant is being kept by or in the name of a clearing system until all of the issuer’s liabilities from the warrants have been repaid. “**Clearing system**” stands for: Clearstream Banking AG, Frankfurt/Main, Germany, or any legal successor. The holders are entitled to co-own shares in the global bearer warrant, which can be transferred in accordance with the rules and regulations of the clearing system.

**Sec. 3****(Exercise period. Excluded period. Business day. Exercise period for additional warrants.)**

- (1) *Exercise period.* The option right can be exercised from [*day after the warrant issue date*] to [*five years to the day the “Agreement on the termination of the joint venture and agreement on the acquisition and transfer of company shares in Siemens Medical Holding GmbH” was executed*], 14:00 hours, inclusive (“**exercise period**”). If the end of the exercise period does not fall on a business day (as defined in paragraph 3), it ends on the following business day at 14:00 hours. Sec. 4 (5) Sentence 2 does not apply.
- (2) *Excluded period.* The option right cannot be exercised during the following periods (“**excluded period**”):
  - a) five days prior and three trading days after the issuer’s annual shareholders’ meeting (excluding the day of the meeting);
  - b) 15 trading days prior to the end of a fiscal year of the issuer, and

- c) from the day on which the issuer publishes an offer to its shareholders for acquiring (I) new shares or (II) bonds with conversion or option rights or (III) option rights in the electronic Federal Gazette (Bundesanzeiger) and/or any other medium until the last day of the subscription right exercise period (including the first and last day).
- (3) *Business day.* In these conditions for warrants, the term “business day” refers to any day on which the commercial banks in Frankfurt am Main are open for business.
- (4) *Exercise period for additional warrants.* If additional warrants are issued in accordance with these conditions for warrants after [*enter applicable date*], their exercise period starts as soon as they have been issued.

#### **Sec. 4**

##### **(Exercising the option right. Additional requirements. Assessment by the warrant agent. Delivery of shares. Exercise date.)**

- (1) *Exercising the option right.* In order to exercise the option right, holders must submit a properly completed and signed notification (“**exercise notification**”) to the warrant agent within the exercise period (Sec. 7) using a currently valid pre-printed form, which can be obtained from the warrant agent. The exercise notification must include
- a) name and address of the person exercising the option right,
  - b) the number of warrants to be exercised,
  - c) the total exercise price of all warrants,
  - d) the holder’s account or custodian bank, where the shares are to be deposited, and
  - e) any notifications of certain restrictions on ownership and/or exercising the warrants and/or ownership of shares, which the exercise notification form may ask for.

- (2) *Additional requirements.* In order to exercise the option right, the following requirements must also be met:
- a) The warrants to be exercised must be sent to the warrant agent,
  - b) The full exercise price per 100 percent share for the number of warrants stated in the exercise notification must be paid into the warrant agent's account stated on the pre-printed form, excluding any commissions, transfer fees and other deductions.
- (3) *Assessment by the warrant agent.* After all conditions for exercising option rights described in paragraphs 1 and 2 are met, the warrant agent assesses if the total exercise price stated in the exercise notification exceeds or falls below the actual amount payable upon exercising the number of warrants stated in the exercise notification, taking into account paragraph 4. The assessment is carried out in accordance with Sec. 1 (3) and (4) and Sec. 8, as applicable. If the amount stated in the exercise notification exceeds or falls below the payable amount, the warrant agent delivers to the holder either (I) the total number of shares corresponding to the exercise price stated in the exercise notification or (II) the total number of shares corresponding the amount of warrants actually submitted, whichever the lower. Any overpayments are repaid to the holder.
- (4) *Delivery of shares.* Once the option right has been exercised, only 100 percent shares are delivered. If a holder exercises one or several warrants at once and this results in share fractions, the fractions per warrant are added up and any resulting 100 percent shares delivered to the holder. Any remaining share fractions are not delivered nor compensated. Once the option right has been exercised, it expires for such fractions. The shares are transferred to the account stated by the holder in the exercise notification shortly after the exercise date. The holder has no rights to the shares prior to transfer.
- (5) *Exercise date.* In these conditions for warrants, "**exercise date**" refers to the business day on which all conditions stated in paragraphs 1 and 2 for exercising the option right have been met by 14:00 hours at the

latest. However, if the conditions stated in paragraphs 1 and 2 have been met within the exercise period but on a day falling within an excluded period, the exercise date is the first business day after the end of the excluded period, even if this date falls outside the exercise period.

#### **Sec. 5**

##### **(Shares. Dividend rights.)**

- (1) *Shares.* The annual shareholders' meeting of an issuer creates conditional capital, from which shares are issued after the option right has been exercised.
- (2) *Dividend rights.* Shares acquired under the option right are entitled to dividends from the beginning of the issuer's fiscal year in which the shares were issued, for this and all following fiscal years pursuant to the issuer's articles of association in their currently valid form.

#### **Sec. 6**

##### **(Cancellation of the option rights.)**

Option rights that were not exercised during the exercise period expire once the exercise period has terminated.

#### **Sec. 7**

##### **(Warrant agent. Change of warrant agent. Determinations binding.)**

- (1) *Warrant agent.* "Warrant agent" refers to [to be determined by issuer prior to issuance].
- (2) *Change of warrant agent.* The issuer has the right to appoint a bank with headquarters or branch offices in the Federal Republic of Germany as warrant agent, giving a minimum of 60 days notice pursuant to Sec. 9 and without requiring the consent of the holders. The warrant agent is entitled to resign from its duties at any time. The resignation only becomes effective once the issuer has appointed another bank with headquarters or branch offices in the Federal Republic of Germany as

the new warrant agent, giving a minimum of 30 days notice pursuant to Sec. 9. The restrictions of Sec. 181 BGB (Bürgerliches Gesetzbuch: German Civil Code) do not apply to the warrant agent. The warrant agent acts solely as the issuer's vicarious agent and does not assume any relationship of agency or trust for any holder.

- (3) *Determinations binding.* All certificates, communications, opinions, determinations, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of these conditions for warrants by the warrant agent (in the absence of manifest error) are binding on the issuer and the holders and must comply with Sec. 317 BGB.

## § 8

### **(Capital increase using company funds. Stock split. Additional capital measures. Extraordinary dividend. Capital decrease. Conversion.)**

- (1) *Capital increase using company funds.*
- a) If the company increases its capital using its own funds after the warrant issue date, the company's conditional capital must be increased by an equal amount pursuant to Sec. 218 AktG (Aktiengesetz: German Stock Corporation Act). The holders' rights to acquire shares by exercising their option rights increase at the same rate ("**adjustment of the number of shares in the case of a capital increase**"). In the case of a capital increase, the number of shares is adjusted according to the following formula:

$$\begin{aligned} & \text{Number of shares after capital increase} \\ & = Z * \text{number of shares prior to capital increase} \end{aligned}$$

*Whereby:*

**“Number of shares after capital increase”** refers to the number of shares after an applicable capital measure as described in Sec. 8;

**“Number of shares prior to capital increase”** refers to the number of shares determined in accordance with Sec. 1 (2) or – in the case of another capital measure stated in Sec. 8 – the number of shares adjusted in accordance with Sec. 8, and

**“Z”** to the capital stock after / prior to the applicable capital increase.

After a capital increase, the exercise price is adjusted according to the following formula:

$$\begin{aligned} & \text{Exercise price after capital increase} \\ & = \text{Exercise price prior to capital increase} / Z \end{aligned}$$

*Whereby:*

**“Exercise price after capital increase”** refers to the exercise price after an applicable capital measure as described in Sec. 8;

**“Exercise price prior to capital increase”** refers to the exercise price determined in accordance with Sec. 1 (3) or – in the case of another capital measure stated in Sec. 8 – the exercise price adjusted in accordance with Sec. 8, and

**“Z”** to the capital stock after / prior to the applicable capital increase.

- b) The due date for additional shares delivered by the issuer is the trading day on which the shares are traded on the Frankfurt Stock Exchange “ex stock dividend”.
- c) Pursuant to Sec. 9, the issuer must promptly announce the delivery and delivery date of additional shares.

(2) *Stock split.* In the case of a stock split, holders are entitled to exercise their option rights pro rata and acquire an increased number of shares (“**adjustment of the number of shares in the case of a stock split**”). In the case of a stock split, the number of shares is adjusted according to the following formula:

$$\text{Number of shares after stock split} = T * \text{number of shares prior to stock split}$$

*Whereby:*

“**Number of shares after stock split**” refers to the number of shares after an applicable capital measure as described in Sec. 8;

“**Number of shares prior to stock split**” refers to the number of shares determined in accordance with Sec. 1 (2) or – in the case of another capital measure stated in Sec. 8 – the number of shares adjusted in accordance with Sec. 8, and

“**T**” to the number of shares after / prior to the applicable stock split.

After a stock split, the exercise price is adjusted according to the following formula:

$$\text{Exercise price after stock split} = \text{Exercise price prior to stock split} / T$$

Whereby:

**“Exercise price after stock split”** refers to the exercise price after an applicable capital measure as described in Sec. 8;

**“Exercise price prior to stock split”** refers to the exercise price determined in accordance with Sec. 1 (3) or – in the case of another capital measure stated in Sec. 8 – the exercise price adjusted in accordance with Sec. 8, and

**“T”** to the number of shares after / prior to the applicable stock split.

- (3) *Additional capital measures.* If the issuer increases its capital stock after the warrant issue date and includes a subscription right for its preferred shareholders, the exercise price is reduced by the amount of the mathematical subscription right price, which is calculated as follows:

$$(R - S) / (K / G + 1)$$

Whereby:

**“R”** refers to the arithmetical average of the corresponding volume weighted average daily XETRA price of the share of the last two scheduled trading days prior to the end of the subscription period for the new shares as published on the corresponding screen page;

**“S”** to the subscription price for the new shares, as published by the issuer;

**“K”** to the number of shares prior to the applicable capital measure, and

**“G”** to the number of new shares resulting from the applicable capital measure.

The exercise price is not reduced if the issuer grants the holders the same subscription right for the shares as held by the shareholders. For this purpose, each holder's subscription right is calculated for the number of shares a holder would have received had he or she been a shareholder, if an option declaration had been submitted for the warrants held by the holder on the last trading day in Frankfurt prior to the ex day. In this context, "**ex day**" refers to the first trading day on the Frankfurt Stock Exchange, on which the share is traded "ex subscription right" with regards to its acquisition.

If the issuer issues additional bonds with option or conversion rights/obligations, or option rights on its own shares, which include a subscription right for its shareholders, it must also grant a corresponding number of subscription rights – as described above – for the warrants.

- (4) *Extraordinary dividend.* If the issuer distributes an extraordinary dividend (as defined below) for one of its fiscal years after the warrant issue date and prior to the corresponding exercise date, the exercise price per share is reduced by the amount of the extraordinary dividend per share. In this Sec. 8 (4), "**extraordinary dividend**" refers to the amount by which a dividend in any applicable year exceeds EUR 0.75 per share.
- (5) *Capital decrease.* If the capital is decreased by consolidating shares or recalling shares after the warrant issue date, the holders are entitled to acquire a correspondingly reduced amount of consolidated shares when exercising their option rights ("**adjustment of the number of shares in the case of a capital decrease**"). In the case of a capital decrease, the number of shares is adjusted according to the following formula:

#### **Number of shares after capital decrease**

=

**Q \* number of shares prior to capital decrease**

*Whereby:*

**“Number of shares after capital decrease”** refers to the number of shares after an applicable capital measure as described in Sec. 8;

**“Number of shares prior to capital decrease”** refers to the number of shares determined in accordance with Sec. 1 (2) or – in the case of another capital measure stated in Sec. 8 – the number of shares adjusted in accordance with Sec. 8, and

**“Q”** to the capital stock after / prior to the applicable capital decrease.

After a capital decrease, the exercise price is adjusted according to the following formula:

**Exercise price after capital decrease**

=

**Exercise price prior to capital decrease / Q**

*Whereby:*

**“Exercise price after capital decrease”** refers to the exercise price after an applicable capital measure as described in Sec. 8;

**“Exercise price prior to capital decrease”** refers to the exercise price determined in accordance with Sec. 1 (3) or – in the case of another capital measure stated in Sec. 8 – the exercise price adjusted in

accordance with Sec. 8, and  
 “Q” to the capital stock after / prior to the  
 applicable capital decrease.

- (6) *Conversion.* In the case of a merger of the issuer pursuant to UmwG (Umwandlungsgesetz: Transformation Act) or other measures pursuant to UmwG, which have a negative impact on the holders’ rights as a result of the issuer’s preferred shares expiring or their value being adjusted, the right to acquire the issuer’s preferred shares is replaced by the right to acquire such number of shares, company shares or other ownership rights in the issuer or its legal successor replacing the issuer’s preferred shares, at their exercise price as corresponds to the price of one of the issuer’s preferred shares at the time such measure is being exercised (complete entry in the commercial register).

## **Sec. 9**

### **(Notices.)**

All notices concerning the warrants must be published on the internet at [www.draeger.com](http://www.draeger.com) or in a leading daily newspaper with general circulation in Germany. This daily paper is likely to be the *Börsen-Zeitung*. Any notice so given will be deemed to be valid on the fifth day following the date of publication (or, if published more than once, on the fifth day following the first publication). If the issuer knows the identity of all holders of the warrants, notices can also be sent directly to the holders.

## **§10**

### **(Governing law. Place of jurisdiction. Enforcement.)**

- (1) *Governing law.* The warrants are governed by German law.
- (2) *Place of jurisdiction.* Exclusive place of jurisdiction for any action or other legal proceedings (“**legal disputes**”) arising in connection with

the warrants is the District Court (Landgericht) in Frankfurt/Main, Germany.

- (3) *Enforcement.* Any holder may in any legal dispute against the issuer, or to which the holder and the issuer are parties, protect and enforce in its own name its rights arising under such warrants on the basis of (i) a statement issued by the custodian bank with whom such holder maintains a securities account in respect of the warrants (a) stating the full name and address of the holder, (b) specifying the total amount of warrants credited to such securities account on the date of such statement and (c) confirming that the custodian bank has given written notice to the clearing system containing the information pursuant to (a) and (b) and (ii) a copy of the global certificate guaranteeing these warrants, certified as being a true copy by a duly authorized officer of the clearing system or a depository of the clearing system, without the need for producing in such proceedings the actual records or the global certificate guaranteeing the warrants. For the purpose of the above paragraph, “**custodian bank**” 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 warrants and includes the clearing system. Each holder may, without prejudice to the foregoing regulations, enforce its rights under these warrants in any other manner permitted in the country where the enforcement proceedings are being held.

### **3.**

***Compensation in kind to be paid by Siemens Beteiligungen Inland GmbH, Munich, Germany, for the acquisition of option rights upon issuance of warrant bonds with option rights guaranteed in the form of warrants***

As described in more detail in the management’s proposed resolution on point 7 on the agenda under a) dd) (i) and (ii) and b) (iii) and (iv), the warrant bonds with

option rights guaranteed in the form of warrants are issued in return for three payments in kind by Siemens Beteiligungen Inland GmbH, Munich, Germany (“**Siemens**”).

The first payment in kind is made for the acquisition of the warrant bonds with a total nominal value of EUR 1,250,000. The second and third payment in kind is made for the acquisition of the option rights guaranteed in the form of warrants, which must be included with the warrant bonds and which entitle the holder to obtain a total of 1,250,000 preferred shares of the company.

The company and Siemens have agreed these payments in kind in their *deferred payment agreement* from December 29, 2009 (“**deferred payment agreement**”).

**a) First payment in kind**

As stated in the proposed resolution of the general partner and the Supervisory Board on point 7 on the agenda under a) dd) (i), Siemens’ cash payment for the issuance of the warrant bonds with a total nominal value of EUR 1,250,000 can instead be paid by offsetting the nominal partial amount of EUR 1,250,000 against the company’s EUR 9,750,000 liability to Siemens upon payment of tranche III from the deferred payment agreement, and extinguishing all payment liabilities, which have not been incurred yet and which are connected with this partial amount.

Payment liabilities, which have already been incurred and which are connected to this partial amount cannot be offset.

**b) Second and third payment in kind**

With regard to the second and third payment in kind to be made by Siemens for the acquisition of the option rights guaranteed in the form of warrants, the proposed resolution of the general partner and the Supervisory Board on point 7 on the agenda under a) dd) (ii) (a) and (b)

and b) (iv) (a) and (b) refers to the following paragraphs for a more detailed description. As payment in kind, the company is being relieved from its monetary liabilities to Siemens to the extent stated in more detail below.

aa) *Relieving the company of the monetary liability from a “virtual” share option*

In an option master agreement dated December 29, 2009, between the company and Siemens (“**option master agreement**”), the company has granted Siemens the right to request variable cash payments. This pertains to a “virtual” share option on 1.25 million preferred company shares. “Virtual” means that Siemens is entitled to demand cash payment instead of 1.25 million preferred shares once the option is exercised. The payment amount is calculated by taking the difference between the current (average, as described in more detail below) stock exchange reference price at the time the “virtual” option is being exercised and the agreed exercise price (so-called “cash settled option”). Accordingly, the amount of the cash payment, to which Siemens is entitled, is not currently known but depends on when Siemens is exercising the option.

The following formula is used to calculate the amount of the cash payment: 1.25 million multiplied by the positive difference from (i) the stock exchange reference price (arithmetical average of the volume weighted average daily XETRA price of the preferred share of the last 30 scheduled trading days prior to exercising the option) and (ii) EUR 40.00. The maximum cash payment, to which Siemens is entitled, is EUR 50.0 million.

The option can be exercised within a period of two years prior to the fifth anniversary of the “*Agreement on the termination of the joint venture and agreement on the acquisition and transfer of company shares in Siemens Medical Holding GmbH*” dated December 29, 2009

(“**Acquisition and Transfer Agreement**”), has been executed. If the option is exercised, the cash payment falls due five business days after the end of this two-year period without incurring any further interest.

If certain events should occur which could impair the value of the cash payment (capital increase using company funds, stock split, capital increase with subscription right for preferred shareholders, extraordinary dividend, capital decrease, conversion), the elements of the formula for calculating the amount of the cash payment will be adjusted accordingly in order to prevent such an impairment (dilution protection). In the case of a capital increase with subscription right for preferred shareholders, an adjustment is only carried out if more than 1,75 million shares are issued as part of the capital increase.

*bb) Relieving the company to a limited extent of the monetary liability to Siemens Beteiligungen Inland GmbH upon payment of tranche III under the deferred payment agreement from December 29, 2009*

The company has a monetary liability of EUR 9,750,000 (tranche III) to Siemens arising from the *deferred payment agreement*, from which it can be relieved – up to a maximum nominal amount of EUR 8,500,000.

The company is relieved from its monetary liability from tranche III only to such an extent as the value of the option rights guaranteed in the form of warrants, which are issued due to the resolution on the authorization and instruction of the general partner to be passed under point 7 on the agenda, exceeds the value of the “virtual” share option (*cash settled option*, see aa) above). The above relief is limited to a maximum nominal value of EUR 8,500,000. Relevant for determining the difference is the time of issue of the warrant bonds with option rights guaranteed in the form of warrants. The difference is calculated on the basis of the Black/Scholes measurement method with pre-defined parameters, as agreed in the *deferred payment agreement* and in the option master agreement.

**c) Payment in kind from a Siemens Beteiligungen Inland GmbH group company**

The above explanations under a) and b) on payment in kind for issuing the warrant bonds with option rights guaranteed in the form of warrants must also be applied if these are issued not to Siemens but a Siemens group company within the meaning of Secs. 15 et seq. AktG and the company's monetary liabilities have been transferred in full to this company and this company, in its role as new holder, is therefore entitled to them at the time the warrant bonds are being issued.

**4.**

***Report of the General Partner regarding Point 7 on the Agenda***

**I. Background**

**1. Existence of “virtual” share options**

In the “*Agreement on the termination of the joint venture and agreement on the acquisition and transfer of company shares in Siemens Medical Holding GmbH*” dated December 29, 2009 (“**Acquisition and Transfer Agreement**”), with Siemens Beteiligungen Inland GmbH, Munich, a subsidiary of Siemens AG, the company agreed upon the acquisition of all shares of Siemens Medical Holding GmbH. As its sole interest, Siemens Medical Holding GmbH holds a limited partner's interest of 25% in the share capital of Dräger Medical AG & Co. KG – the joint venture founded at the end of 2002 with Siemens AG in which the company holds a limited partner's interest consisting of the remaining 75%.

As of the date of this report, the transfer of all company shares in Siemens Medical Holding GmbH by Siemens Beteiligungen Inland GmbH (“**Siemens**”) to the company is still subject to the approval of the merger control authorities. However, approval is expected shortly and most likely prior to the date of the

shareholders' meeting. With the execution of the Acquisition and Transfer Agreement, the company (indirectly) becomes the sole shareholder of Dräger Medical AG & Co. KG.

The purchase price for the acquisition of Siemens Medical Holding GmbH consists of a fixed and a variable cash component:

- The fixed purchase price component is EUR 243.5 million. An installment of EUR 175 million of this amount is payable upon the execution of the Acquisition and Transfer Agreement while the amount of EUR 68.5 million is deferred in three different tranches with various amounts and terms (tranche I, II and III). The company and Siemens have agreed upon the deferral details in the so-called *Deferred Payment Agreement (extension agreement) dated December 29, 2009* (referred to as the “**Deferred Payment Agreement**” below).
- The company and Siemens have agreed upon the variable purchase price component in the so-called *Option Master Agreement dated December 29, 2009* (referred to as the “**Option Master Agreement**” below). This is a “virtual” share option payable in cash, i.e. the company does not issue preferred company shares to Siemens when the option is “exercised” but makes a cash payment instead (referred to as the “**virtual share option**” below). In principle, the amount of the cash claim is computed as (i) the difference between the average market price of the company’s preferred shares when the option is “exercised” and the agreed “exercise price” of EUR 40 for the option (ii) multiplied by the number of 1.25 million “virtual” preferred shares. The total amount for the virtual share option is limited to EUR 50 million. It can be exercised by Siemens within a two-year period before the fifth anniversary of the day on which the Acquisition and Transfer Agreement is executed (“**execution date**”).

Additional details regarding the virtual share option and its computation are explained under III. 1. b) and the convocation of the shareholders' meeting

for the company on May 7, 2010, is described in the section “Information on point 7 on the agenda” under 3. b) aa).

**2. Expiration in full of the virtual share option and partial relief of the deferred fixed purchase price component by issuing warrant bonds with option rights guaranteed in the form of warrants**

The background behind the proposed resolution advanced by the general partner and the Supervisory Board to exclude the subscription rights of the company’s shareholders on the authorization of and instruction for issuing warrant bonds with option rights guaranteed in the form of warrants is as follows:

According to the Acquisition and Transfer Agreement, the virtual share option expires in full when the company – subject to certain dilution protection rules in favor of Siemens – issues warrant bonds with option rights guaranteed in the form of warrants to Siemens with a total nominal value of EUR 1.25 million, entitling the holder to acquire 1.25 million new preferred shares of the company (the option rights guaranteed in the form of warrants are also referred to as the “**true share option**” below). The agreement on the possibility of swapping the virtual share option for the true share option – subject to the agreement of the shareholders’ meeting of the company – is based on an express request by Siemens and / or its parent company Siemens AG and was an essential prerequisite for the conclusion of the Acquisition and Transfer Agreement for the indirect acquisition of the limited partner’s interest in Dräger Medical AG & Co. KG. A more detailed explanation of this swap from a technical and legal perspective (issue of true share option in exchange for the expiry of the virtual share option) is found under III. 1. b).

The company does not receive an additional cash payment in exchange for the issue of the warrant bonds with a nominal value totaling EUR 1.25 million. Instead, the nominal amount due of EUR 1.25 million is offset against part of the deferred fixed purchase price component payable in cash. Details are found under III. 1. a).

As described in greater detail under III. 4., the value of the virtual share option is less than that of the true share option because the underlying cash payment claim is limited to EUR 50 million. In order to avoid dilution to the detriment of the shareholders, the company is relieved of the obligation to pay a further part of the deferred fixed purchase price component as compensation for the difference in value upon issuing the warrant bonds with option rights guaranteed in the form of warrants. Details on the implementation and valuation from a legal and technical perspective are found under III. 1. b) and III. 4.

After they are issued, the option rights guaranteed in the form of warrants (true share option) can be exercised up to the fifth anniversary of the execution date of the Acquisition and Transfer Agreement (exercise period). The issue price for the new preferred shares payable when the option is exercised is generally payable in cash and is determined according to an established average market price for the company's preferred shares prior to issuing the option rights. Details are found under III. 5.

### **3. Need for the proposed authorization and / or instruction**

The proposed resolution advanced by the general partner and Supervisory Board to issue a corresponding authorization and / or instruction to the general partner to issue warrant bonds with option rights guaranteed in the form of warrants and to create the corresponding conditional capital serves to establish the foundation for issuing the true share option according to stock corporation law.

According to the Acquisition and Transfer Agreement, the company is only required and / or permitted to issue the warrant bonds with option rights guaranteed in the form of warrants if

(i) the shareholders' meeting of the company and the special assembly of the preferred shareholders pass a resolution for a corresponding authorization and the creation of the conditional capital required if the option rights are exercised,

with the respective majorities required by law and according to the articles of association,

(ii) the authorization can be executed with legal certainty, and

(iii) the company has executed a capital increase by issuing at least 1.25 million new common shares.

In particular, the preceding conditions ensure that the decision-making authority of the shareholders' meeting and the special assembly of the preferred shareholders pursuant to Sec. 221 AktG is protected.

According to the agreement with Siemens, the warrant bonds with option rights guaranteed in the form of warrants (and therefore the true share option) are to be issued within three months after the authorization can be executed and the conditional capital can be issued with legal certainty. In any case, executing the authorization and / or following the instruction is limited to the maximum of five years according to stock corporation law (from the date of the shareholders' meeting).

## **II. Objective justification for the exclusion of subscription rights**

The proposed authorization of and instruction for issuing warrant bonds with option rights guaranteed in the form of warrants calls for the exclusion of shareholder subscription rights. Excluding the subscription rights is objectively justified for the following reasons:

### **1. Best interests of the company**

The objective of issuing the warrant bonds with option rights guaranteed in the form of warrants, subject to excluding the shareholder subscription rights, serves to cause the virtual share option to expire. The Acquisition and Transfer Agreement specifies that the virtual share option expires upon issuing the warrant bonds with option rights guaranteed in the form of warrants (see I. 2.

above). Causing the virtual share option to expire and issuing the warrant bonds with option rights guaranteed in the form of warrants, subject to the exclusion of subscription rights, is in the best interests of the company:

**a) Elimination of a significant payment liability**

Issuing the warrant bonds with option rights guaranteed in the form of warrants causes the virtual share option to expire and thereby relieves the company of a payment liability in the amount of up to EUR 50 million.

This reduction in liabilities to third parties increases the company's flexibility for the coverage of possible future capital requirements. Given the current market environment, special attention is paid to the extent and structure of existing liabilities to third parties when obtaining external financing from banks and the capital markets.

Issuing the warrant bonds with option rights to shareholders would not have this effect, since it would not eliminate the company's payment liability in the amount of up to EUR 50 million as described above.

**b) Avoiding a significant outflow of liquid assets for the company**

Naturally, the potential outflow of liquid assets for the company is reduced with the elimination of the virtual share option. As described above, this can amount to a one-time payment of up to EUR 50 million within five years after the execution date of the Acquisition and Transfer Agreement, should Siemens exercise the virtual share option within the two-year exercise period prior to the fifth anniversary of the execution date. Preventing such an outflow serves to improve the company's general financing situation.

In addition, the amount of the claim for a cash payment and therefore the impact on the company's liquidity position would be established if Siemens exercised the virtual share option (wherein this claim is only payable at the

end of the two-year exercise period). Establishing the amount of the liability arising from the virtual share option is more detrimental to the company's general financing situation compared to the situation when the option has not been exercised yet, so that the concrete amount of the liability arising from the virtual share option has not been established (although it is limited to maximum of EUR 50 million).

These effects also would not be associated with issuing the warrant bonds with option rights to shareholders. It is true that the company would obtain additional liquid assets if shareholders subscribed to the warrant bonds (equal to the nominal value of subscribed warrant bonds, up to EUR 1.25 million). However, issuing warrant bonds to shareholders would not lead to the expiry of the virtual share option, so the payment liability of up to EUR 50 million arising from the virtual share option would remain.

**c) Increasing the equity ratio**

Issuing the warrant bonds does not have any significant effect on the balance sheet, since the deferred purchase price component is offset against the nominal amount of the warrant bonds (EUR 1.25 million). This means that there is merely a reallocation between items within debt on the balance sheet.

In contrast, the expiry of the virtual share option eliminates a payment liability of EUR 50 million for the company. As of December 31, 2009, the company has valued the payment liability arising from the virtual share option at approximately EUR 6.2 million and reported it accordingly in its IFRS consolidated financial statements and in the annual financial statements under commercial law for the 2009 financial year. The elimination of this payment liability would result in a corresponding increase in equity, since the option rights to be issued (true share option) are reported as equity on the balance sheet. In concrete terms, the company's equity compared to December 31, 2009, would increase by up

to approximately EUR 6.2 million in the annual financial statements under commercial law and in the IFRS consolidated financial statements.

The elimination of the future monetary liability arising from the virtual share option and the elimination of the monetary liability from the deferred purchase price clearly outweigh the additional liability for the repayment of the warrant bonds upon maturity, so that total debt is significantly reduced. This decrease in debt with the simultaneous increase in equity results in an increase of the equity ratio. Such an increase improves the company's negotiating position when it comes to extending existing financing agreements or obtaining new financing; the same applies to leeway within the framework of existing financing agreements.

Once again, issuing the warrant bonds with option rights to shareholders would not have the same effect. Since the existing liability arising from the virtual share option would not be eliminated, debt would increase rather than decreasing.

**d) Reduction of expenses through profit or loss**

Since the issued option rights (true share option) would be recorded as equity, the expiry of the virtual share option is also advantageous to the company in regards to balance sheet effects on the income statement. At this time, changes in the fair value of the virtual share option have an impact on the income statement at each balance sheet date – both in the IFRS consolidated financial statements and in the annual financial statements under commercial law (if the company exercises the allowable accounting policy choices under the German Commercial Code) – under income or expenses for an increase or decrease of company income and / or consolidated income (which means net earnings available for distribution to the shareholders under commercial law are also affected).

Fluctuations in the fair value of the virtual share option with an impact on income and expenses are eliminated if the true share option is issued. This is because the fair value of the option rights becomes fixed when the virtual share option expires and the true share option to be issued is recorded as equity on the balance sheet.

Issuing the warrant bonds with option rights to the shareholders would not have this effect since the virtual share option would not expire in this case.

**e) Reduction of interest expense**

The Acquisition and Transfer Agreement includes an equalization mechanism whereby tranche III of the deferred purchase price component (*Deferred Payment Agreement*) is reduced by up to EUR 8.5 million upon issuing the warrant bonds with option rights guaranteed in the form of warrants. This equalization mechanism takes into account the excess value of the true share option over the value of the virtual share option as a variable purchase price component (for details on the equalization mechanism and the determination of the amount, see III. 4. c)). Insofar as the equalization mechanism applies so that the deferred purchase price obligation is reduced, interest expense for the company (deferral interest) is also reduced.

This effect also would not occur if the warrant bonds with option rights were issued to shareholders, since the reduction of tranche III of the *Deferred Payment Agreement* by up to EUR 8.5 million does not apply when warrant bonds are issued to shareholders.

In fact, issuing warrant bonds to the shareholders would actually result in an increase of interest expense through profit or loss for the company because of the interest payment liabilities associated with the warrant bonds. This is not the case when the warrant bonds are issued to Siemens, since tranche III of the *Deferred Payment Agreement* is reduced by the nominal amount of the warrant bonds issued to Siemens (EUR 1.25

million) in this case and the warrant bonds and tranche III include the same interest payment liabilities (see III. 3.).

## **2. Suitability and necessity**

The proposed exclusion of subscription rights is suitable and necessary to achieve the objective in the best interests of the company as described above.

### **a) Suitability**

The exclusion of subscription rights is suitable to achieve the objective since the sole subscription by Siemens results in the expiry of the virtual share option.

### **b) Necessity**

The proposed exclusion of subscription rights is also necessary since no alternatives are available that would allow the company to achieve the same objectives as favorably or more favorably than by issuing the warrant bonds with option rights guaranteed in the form of warrants exclusively to Siemens. In particular, the partial granting of subscription rights on the warrant bonds with option rights guaranteed in the form of warrants (for the acquisition of preferred shares) is not feasible. This is mainly due to the mandatory provision of Sec. 139 (2) AktG, specifying that no more than 50% of capital stock may be allocated to preferred shares.

Based on the current legal position, irrevocable subscription rights for the company's preferred shares can only be granted to the holders of the "true" option rights being issued if the company creates corresponding conditional capital of up to EUR 3.2 million by issuing up to 1.25 million new no-par preferred bearer shares of the company in order to cover the options. The proposed resolution of the shareholders' meeting described under point 7 on the agenda therefore also includes the creation of

corresponding conditional capital (see b) and c) of the proposed resolution).

For the creation of this conditional capital, the company is required to increase its capital stock by issuing at least 1.25 million new common shares prior to registering the conditional capital in the commercial registry. This is because preferred shares without voting rights may only be issued up to half the capital stock (see Sec. 139 (2) AktG) and the capital stock of the company already consists of equal proportions of common shares and preferred shares at this time (see Sec. 6 (1) of the articles of association). This is why the proposed resolution for the creation of conditional capital includes an instruction to the general partner that the conditional capital and the related amendment of the articles of association shall only be registered in the commercial registry once it has been assured that an increase of capital stock by issuing at least 1.25 million new common shares has first been registered in the commercial registry.

If the subscription rights of the shareholders on the issue of the warrant bonds with option rights guaranteed in the form of warrants would be retained in whole or in part (in addition to the subscription rights in favor of Siemens), the company would have to create correspondingly higher conditional capital to cover all the options that may be exercised by the shareholders and by Siemens. In turn, creating higher conditional capital would mean that a correspondingly greater increase of capital stock by issuing common shares would be required. This would make it much more difficult to replace the virtual share option with the true share option. In order to assure execution within the required scope, sufficient subscribers would have to be found for the much more extensive capital increase by means of issuing new common shares that would be required in this case.

The related risk to transaction security – especially in regards to the advantages associated with issuing the true share option as described above – is not acceptable to the company. If, on the other hand, the subscription rights for shareholders are excluded as proposed, a prior

increase in capital stock by issuing at least 1.25 million new common shares (approximately 9.8% of current capital stock) is sufficient to ensure the true share option to be issued to Siemens can be covered.

**3. Commensurability and appropriateness – protection of shareholder interests by means of a capital increase for cash with subscription rights (common shares)**

In particular, the advantages described above are commensurate when compared to the exclusion of subscription rights.

As described above, the proposed resolution – based on the provisions of Sec. 139 (2) AktG – specifies that the conditional capital may only be registered in the commercial registry after an increase of capital stock by issuing common shares has taken place (see II. 2. b) above).

According to the current state of planning, the proposed increase in the number of common shares shall be achieved by issuing subscription rights, i.e. without excluding shareholder subscription rights, in order to reduce the dilution effect on the holdings of shareholders and the preferred shareholders in particular.

Assuming that all option rights are exercised so that a total of 1.25 million new preferred shares are issued to Siemens (or the holder of the true share option at that time) out of the conditional capital that is to be created, and also assuming that the preferred shareholders exercise their subscription rights for the preceding capital increase by means of issuing at least as many common shares, the decrease in the proportionate holdings of existing shareholders is limited to a maximum of 8.2% which is comparatively moderate.

Issuing the subscription rights also benefits the preferred shareholders in particular. This represents their first opportunity to subscribe to common shares and therefore obtain voting rights in the shareholders' meeting. While the preferred shareholders currently have the option of attending the shareholders' meeting, their preferred shares do not grant them any voting rights.

The company is also planning to list the common shares to be issued under the capital increase on a stock exchange in a timely manner. This is intended to protect the interests of the preferred shareholders in particular by ensuring that the common shares can be readily traded and sold.

### **III. Justification for the proposed terms and conditions for the warrant bonds and option rights**

#### **1. Protecting the financial interests of the shareholders in issuing the warrant bonds with option rights guaranteed in the form of warrants**

The pecuniary interests of the shareholders are protected since the warrant bonds with option rights guaranteed in the form of warrants are issued in exchange for commensurate compensation.

The peculiarity in this case is that performance by Siemens for the acquisition of the warrant bonds with option rights is not in the form of a monetary payment but in the form of a payment in kind, wherein Siemens relieves the company of monetary liabilities arising from the Acquisition and Transfer Agreement, e.g. by means of offsetting:

##### **a) For the issue of the warrant bonds:**

- *Partial elimination of the monetary liability for the payment of tranche III from the Deferred Payment Agreement*

Siemens can perform its obligation (payment of the nominal amount of the warrant bond in the amount of EUR 1.25 million) by offsetting the monetary liability of Siemens to the company against EUR 1.25 million of the payment on tranche III (EUR 9.75 million) under the *Deferred Payment Agreement*.

Upon offsetting, the contractual interest payment liabilities associated with this partial amount that have not yet become due are also eliminated to the extent of offsetting. Any unpaid payment liabilities relating to the monetary liability that have become due according to the contract may not be offset.

Performance by means of offsetting is assured since the company and Siemens have explicitly agreed upon offsetting a partial amount of EUR 1.25 million effective upon issuing the warrant bonds with option rights in the *Option Master Agreement* and the *Deferred Payment Agreement*.

**b) For the issue of option rights guaranteed in the form of warrants (true share option):**

– *Elimination of the monetary liability arising from the virtual share option*

The monetary liability of the company to Siemens arising from the virtual share option pursuant to the *Option Master Agreement* is eliminated. Upon exercising the virtual share option, Siemens can demand the payment of a monetary amount that – based on an assumed number of 1.25 million preferred shares – is computed as the difference between the current stock market reference price (defined below) upon exercising the virtual share option and the agreed exercise price.

The amount of the cash payment claim is computed using the following formula: 1.25 million multiplied by the positive difference between (i) the stock market reference price (arithmetic mean of the respective Xetra average daily market prices of the preferred share, weighted by volume, for the last 30 regular trading days before the exercise date) and (ii) EUR 40. This cash payment claim on the part of Siemens is contractually limited to a maximum of EUR 50 million. It may be exercised during a period of two years prior to the fifth anniversary of the execution date of the Acquisition and Transfer Agreement.

For the occurrence of specific events that would impair the value of the cash payment claim (capital increase from company assets, stock split, capital increase with subscription rights for the preferred shareholders, extraordinary dividend, capital decrease), a corresponding adjustment to the components of the formula used to calculate the cash payment claim (dilution protection) has been agreed upon in order to prevent such an impairment of value. In case of a capital increase with subscription rights for the preferred shareholders, an adjustment is only made if more than 1.75 million new shares are issued within the scope of the capital increase.

The elimination of the monetary liability as described above is assured since the company and Siemens, in the *Option Master Agreement*, have agreed that the cash payment claim is automatically eliminated if warrant bonds with option rights guaranteed in the form of warrants are issued to Siemens.

– *Partial elimination of the monetary liability for the payment of tranche III from the Deferred Payment Agreement*

Among other things, the company has a monetary liability of EUR 9.75 million (tranche III) to Siemens under the *Deferred Payment Agreement* which is to be partially eliminated – limited to a maximum nominal claim of EUR 8.5 million.

The liability from tranche III is only eliminated to the extent the value of the option rights to be issued (true share option) exceeds the value of the virtual share option. For the computation of the difference in value, the issue date for the warrant bonds with option rights guaranteed in the form of warrants shall apply. As specified in the *Deferred Payment Agreement*, the difference in value is determined using the Black/Scholes option valuation model.

Insofar as the monetary liability is eliminated as described above, this also includes the elimination of interest payment liabilities associated with the monetary liability but not yet due under the contract; payment liabilities that have already come due but have not been paid are not eliminated.

The elimination of the monetary liability to the extent described above is assured since a corresponding elimination of the liability on the date the true share option is issued has been expressly specified in the *Option Master Agreement* in case the warrant bonds with option rights guaranteed in the form of warrants are issued.

## **2. Relationship of performance to compensation**

The relationship between performance by the company (issuing the warrant bonds with option rights guaranteed in the form of warrants) and compensation by Siemens (elimination of the monetary liability as described above) is appropriate, as shown by the explanations below.

The date of the shareholders' meeting in which the general partner is instructed and authorized by the shareholders' meeting to issue the warrant bonds with option rights is decisive in order to evaluate performance by the company and compensation by Siemens. This is because the shareholders' meeting, on that date, makes its decision which binds the general partner in principle based on the authorization and instruction of the shareholders' meeting.

The fact that issuing the warrant bonds with option rights guaranteed in the form of warrants (and therefore issuing the true share option) also represents a result of the Acquisition and Transfer Agreement and must be viewed in light of the negotiation results as of December 2009 also has to be considered.

## **3. Appropriateness of the value ratios in regards to the warrant bonds**

By issuing the warrant bonds to Siemens with a total nominal value of EUR 1.25 million, Siemens (or, in case of resale, the respective holder of the warrant bonds) receives a payment claim in the amount of EUR 1.25 million upon maturity of the warrant bonds (fifth anniversary of the execution date, see above) and a claim to interest payments in the amount of the 6-month EURIBOR plus 5% p.a. (exclusively up to the third anniversary of the date the warrant bonds were issued (“**issue date**”)) or in the amount of the 6-month EURIBOR plus 6% p.a. from the third anniversary of the issue date with six-month interest periods.

Instead of a corresponding monetary payment to the company for the acquisition of the claims mentioned above, Siemens is relieving the company – as described above – of a monetary liability that, in regards to amount, maturity and interest rate, economically corresponds to the new claims granted by issuing the warrant bonds:

- The liability that is eliminated (part of tranche III) also amounts to EUR 1.25 million.
- The liability that is eliminated is also due on the fifth anniversary of the execution date of the Acquisition and Transfer Agreement.
- Interest on the liability that is eliminated is identical both in terms of the interest rate and the interest term (6-month EURIBOR plus 5% p.a. within the first three years of the respective term and 6-month EURIBOR plus 6% pa. for the subsequent period up to maturity; six-month interest periods. However, there is a phase shift in favor of the company for the interest term in that the higher interest rate equal to the 6-month EURIBOR plus 6% p.a. is only payable on the warrant bonds from the third anniversary of the issue date, while the higher interest rate on the liability that is eliminated is already payable starting on the third anniversary of the execution date of the Acquisition and Transfer Agreement).

Based on the identical amount, identical maturity, identical interest rate and similar interest term, offsetting is neutral in terms of value from the perspective of the company and the financial interests of the company and its shareholders are not affected.

**4. Appropriateness of the value ratio regarding the option rights guaranteed in the form of warrants attached to the warrant bonds (real share option)**

Regarding the option rights attached to the warrant bonds, the benefits to be granted by Siemens appropriately account for the value of the option rights.

**a) Value of the option rights to be issued**

Upon exercise, the option rights to be issued (real share option) entitle the holder to obtain a total of 1,25 million preferred company shares at the stipulated exercise price (see also III. 5: a)) If upon exercising the option rights the current share price exceeds the stipulated exercise price, in other words, the option rights are “in the money”, holders can acquire preferred shares at attractive conditions – as at the exercise date. But holders also run the risk that share prices could fall below the stipulated exercise price and exercising the option rights would make no financial sense. A potential future share acquisition at attractive conditions – as at the exercise date – is a value in itself and can be calculated according to approved mathematical methods (“**option value**”).

As the value of an option right mainly depends on the current price of its underlying share (base value) at the time it is issued, the exact value of the option rights to be issued cannot currently be determined, as it is not possible to predict the exact issue date (and the share price at that time). The general partner is aiming to quickly utilize the authorization and implement the instructions within the three-month period, but this will also depend on if the capital stock attributable to common shares can be successfully increased (see also I.3. and II. 2. b) above) and if such action is safe from a legal point of view (see I. 3. above).

The general partner has appointed Bankhaus M.M.Warburg & CO Kommanditgesellschaft auf Aktien ("**Bankhaus M.M.Warburg**") to determine the option rights' fair market value for certain scenarios in an expert report.

The table below lists the values calculated by Bankhaus M.M.Warburg in its expert report from March 18, 2010. Bankhaus M.M.Warburg has used the established Black/Scholes options measurement method for its calculation, which takes into account factors such as the preferred share price at the time the option rights are being issued, exercise price, maturity of the option rights and volatility of the share price. As the future share price volatility is uncertain and other options on preferred company shares are not available for comparison, Bankhaus M.M.Warburg has based its calculations on historical volatilities of the preferred company shares with similar terms to maturity for the period until the end of February 2010 and verified them by comparing them against historical volatilities from prior periods. As of December 29, 2009 (conclusion of the Acquisition and Transfer Agreement), for instance, Bankhaus M.M.Warburg assumed an annual share price volatility of 42.805 percent. This corresponds to the value the company also used for accounting purposes, which was not questioned by the auditor. If the real share option is issued at a later date, the historical share price volatility increases due to the real share option's shorter remaining terms to maturity (share price volatilities with similar terms to maturity).

The values determined by Bankhaus M.M.Warburg as of March 9, 2010, which the general partner has assumed, are stated below. The table shows the value ratios at the time the Acquisition and Transfer Agreement was concluded on December 29, 2009, as well as on March 9, 2010, and also possible future scenarios (issuance of the option rights on June 30, 2010, December 31, 2010, and June 30, 2011; on the basis of corresponding annual share price volatilities with similar terms to maturity – i.e. adjusted to the possible remaining term to maturity of the real share option – of

43.942 percent (March 9, 2010), 44.843 percent (June 30, 2010), 47.123 percent (December 31, 2010) and 49.241 percent (June 30, 2011), linked with various potential future share prices).

<i>Assumed issue date of option rights (real share option)</i>	<i>Assumed share price in EUR on the assumed issue date</i>	<i>Fair market value of the option rights to be issued (real share option) in EUR million upon issuance of the option rights on the assumed issue date</i>
Dec. 29, 2009	29.82 (historical price)	10.78
March 9, 2010	53.22 (historical price)	24.09
June 30, 2010 (Conversion time frame 1)	34.00 38.00 42.00 46.00 50.00 54.00 58.00 62.00	13.30 16.60 18.54 20.44 22.34 24.24 26.15 28.05
Dec. 31, 2010 (Conversion time frame 2)	34.00 38.00 42.00 46.00 50.00 54.00 58.00 62.00	12.96 16.22 18.12 19.98 21.84 23.70 25.57 27.43
June 30, 2011 (Conversion time frame 3)	34.00 38.00 42.00 46.00 50.00 54.00 58.00 62.00	12.78 16.01 17.85 19.66 21.46 23.27 25.07 26.88

**b) Value of the relief from the virtual share option**

The amount of the monetary liability from the virtual share option, from which the company is being relieved upon issuance of the real share option, is currently uncertain, as – inevitably for a virtual share option – it also essentially depends on the price of the preferred company share at the time the option is being exercised. The virtual share option is modeled on a real share option – except that there is no entitlement to delivery of shares upon exercise – and it can therefore be assigned an option value which has been calculated according to approved mathematical methods.

The virtual share option has many similarities to the option rights to be issued (real share option):

- Identical term to maturity;
- The number of “virtual” shares corresponds to the number of “real” shares;
- The anti-dilution provisions are the same from a financial point of view.

However, there are substantial differences in the following points:

- The virtual share option has already been granted in the option master agreement; contrary to the real share option, the issuance is therefore no longer outstanding.
- The exercise price has already been fixed at EUR 40.00 per “virtual” share (subject to the agreed anti-dilution provisions).
- Upon exercising the virtual share option, the cash amount payable by the company is limited to EUR 50 million.

The general partner has appointed Bankhaus M.M.Warburg to determine the fair market value of the virtual share option as well in an expert report and base it on the same scenarios as used for determining the value of the

virtual share option (see above), in order to compare it with the option rights to be issued (real share option).

Bankhaus M.M.Warburg again used the established Black/Scholes options measurement method for its calculation. As in the case of the option rights to be issued, Bankhaus M.M.Warburg used corresponding historical share price volatilities with similar terms to maturity.

The table below lists the values determined by Bankhaus M.M.Warburg in its expert report from March 18, 2010, which the general partner has assumed. For ease of comparison, the table also shows the fair market values of the option rights to be issued stated under III. 4. a) above as well as the resulting differences.

<b>Measurement date</b>	<b>Assumed share price in EUR on the measurement date</b>	<b>Fair market value in EUR million of the virtual share option</b>	<b>Fair market value of the option rights to be issued (real share option) in EUR million upon assumed issuance on the measurement date</b>	<b>Difference in EUR million</b>
Dec. 29, 2009	29.82 (historical price)	6.11	10.78	4.68
March 9, 2010	53.22 (historical price)	13.78	24.09	10.31
June 30, 2010	34.00	7.44	13.30	5.86
(Conversion time frame 1)	38.00	8.85	16.60	7.75
	42.00	10.25	18.54	8.28
	46.00	11.62	20.44	8.82
	50.00	12.96	22.34	9.39
	54.00	14.24	24.24	10.00
	58.00	15.49	26.15	10.66
	62.00	16.68	28.05	11.37
31. Dec. 31, 2010	34.00	7.34	12.96	5.62
(Conversion time frame 2)	38.00	8.79	16.22	7.42
	42.00	10.23	18.12	7.88
	46.00	11.65	19.98	8.33
	50.00	13.03	21.84	8.81
	54.00	14.37	23.70	9.34
	58.00	15.66	25.57	9.91

	62.00	16.90	27.43	10.53
June 30, 2011	34.00	7.36	12.78	5.42
(Conversion time	38.00	8.87	16.01	7.14
frame 3)	42.00	10.38	17.85	7.47
	46.00	11.86	19.66	7.80
	50.00	13.31	21.46	8.15
	54.00	14.72	23.27	8.55
	58.00	16.08	25.07	8.99
	62.00	17.39	26.88	9.49

The fair market value of the virtual share option is always lower than the fair market values of the option rights to be issued, mainly due to the company limiting future cash payments due under the virtual share option to EUR 50 million to protect its liquidity, while there are no such limits for the option rights to be issued. The real share option was not limited so that it would be possible to recognize it as an equity instrument in accordance with IFRS – important for the company's financing activities – the standard used for preparing the group financial statements.

The company and Siemens were and are aware of the differences between the fair market value of the virtual share option and those of the option rights to be issued (real share option), as described above, and have therefore agreed at an early stage for Siemens to relieve the company from further liabilities to compensate for this difference (see III. 4. c) below).

**c) Value of the partial relief from the monetary liabilities upon payment of tranche III under the *deferred payment agreement***

As explained above, at the time the option rights are being issued, the company is relieved from its liability from tranche III under the *deferred payment agreement* to such an amount as the value of the option rights to be issued exceeds the value of the virtual share option. However, this relief is limited to the nominal value of EUR 8.5 million.

The value of the relief from the monetary liability is calculated on the basis of the monetary liability's fair value at the time the relief is granted.

Even if the liability from tranche III does not fall due immediately but only on the fifth anniversary of the Acquisition and Transfer Agreement's execution date it must be assumed that the liability's fair value at the time the relief is granted does not fall below its nominal value, as the liability carries interest to the amount of the 6-month EURIBOR plus 5 percent annually for the period until the third anniversary of the Acquisition and Transfer Agreement's execution date and to the amount of the 6-month EURIBOR plus 6 percent annually thereafter until the fifth anniversary of the Acquisition and Transfer Agreement's execution date, from which the company is also relieved at the same time as being relieved of the liability itself. These future interest savings must be taken into account when calculating the fair value.

In the *option master agreement*, the company and Siemens stipulated in detail the binding formula for calculating the settlement amount. When doing so, they made assumptions in favor of the company compared to the fair market value determination carried out by Bankhaus M.M.Warburg. Although the contractually stipulated settlement mechanism is to be based on the Black/Scholes options measurement method as well, all calculations must be based on an annual share price volatility of 50 percent. This value significantly exceeds the historical volatility of the preferred company share for the period from 2004 to the end of February 2010 (42.805 percent as on December 29, 2010). The assumption of such increased volatility always results in greater differences and therefore basically in a higher settlement amount. However, the later the real share option is issued, the smaller the difference between the preferred share's historical volatility and the share price volatility agreed for the settlement mechanism (50 percent annually) (e.g. historical share price volatility of 49.241 percent annually if the real share option is issued on June 30, 2011). From a current point of view, the share price volatility would exceed 50 percent annually if the real share option was issued much later than June 30, 2011, or if – with view to

the maturity date of the real share option (five years to the day the Acquisition and Transfer Agreement was executed) – a remaining term to maturity of less than 3.75 years was assumed.

Taking into account that the contractual settlement mechanism is capped at EUR 8.5 million, the following values for the scenarios described above under III. 4. b) are the result. In the table below, they are compared with the differences resulting from Bankhaus M.M.Warburg's fair market value measurements.

<b>Measurement date</b>	<b>Share price in EUR as on the measurement date</b>	<b>Contractual settlement amount in EUR million (relief from monetary liability from tranche III)</b>	<b>Difference in EUR million between - fair market value of the virtual share option and - fair market value of the option rights to be issued</b>	<b>Difference in EUR million between contractual settlement amount and difference between virtual share option and option rights to be issued</b>
Dec. 29, 2009	29.82 (historical price)	7.36	4.68	2.68
March 9, 2010	53.22 (historical price)	8.50	10.31	- 1.81
June 30, 2010 (Conversion time frame 1)	34.00 38.00 42.00 46.00 50.00 54.00 58.00 62.00	8.42 8.50 8.50 8.50 8.50 8.50 8.50 8.50	5.86 7.75 8.28 8.82 9.39 10.00 10.66 11.37	2.56 0.75 0.22 - 0.32 - 0.89 - 1.50 - 2.16 - 2.87
31. Dec. 31, 2010 (Conversion time frame 2)	34.00 38.00 42.00 46.00 50.00 54.00 58.00 62.00	7.38 8.50 8.50 8.50 8.50 8.50 8.50 8.50	5.62 7.42 7.88 8.33 8.81 9.34 9.91 10.53	1.76 1.08 0.62 0.17 - 0.31 - 0.84 - 1.41 - 2.03

<b>Measurement date</b>	<b>Share price in EUR as on the measurement date</b>	<b>Contractual settlement amount in EUR (relief from monetary liability from tranche III)</b>	<b>Difference in EUR million between - fair market value of the virtual share option and - fair market value of the option rights to be issued</b>	<b>Difference in EUR million between contractual settlement amount and difference between virtual share option and option rights to be issued</b>
June 30, 2011	34.00	6.32	5.42	0.90
(Conversion time frame 3)	38.00	8.19	7.14	1.06
	42.00	8.50	7.47	1.03
	46.00	8.50	7.80	0.70
	50.00	8.50	8.15	0.35
	54.00	8.50	8.55	- 0.05
	58.00	8.50	8.99	- 0.49
	62.00	8.50	9.49	- 0.99

The table shows that in many cases the contractual settlement mechanism (relief from monetary liability from tranche III under the *deferred payment agreement*) is going to be higher than the difference between virtual share option and the option rights guaranteed in the form of warrants to be issued (real share option). Overall, i.e. taking into account the contractual settlement mechanism, this means that in these cases, the company would receive an amount exceeding the value of the option rights to be issued. Issuing the option rights therefore proves an advantage to the company, from the point of view of dilution protection as well as considering the advantages described above under II. 1. a) to II. 1. e).

However, it cannot be ruled out that the contractual settlement mechanism may be insufficient in the case of a corresponding preferred share price on the (as yet unknown) issue date of the option rights due to its EUR 8.5 million cap, when purely considering values. But even then the conditions – as seen from a broad perspective – do not seem inappropriate (see III. 4. d) below).

**d) Appropriateness when considering all advantages as a whole**

When assessing the appropriateness, all advantages resulting from replacing the virtual share option with a real share option must be taken into account. The issuance of the option rights guaranteed in the form of warrants must also be considered in the context of the Acquisition and Transfer Agreement and the results of negotiations.

*aa) Considering the advantages*

The advantages resulting from replacing the virtual share option with a real share option particularly pertain to the following points, which have already been described above (see II. 1. a) to II. 1. e)):

- Relief from a considerable payment liability,
- improving the company's liquidity situation,
- increasing the equity ratio,
- reducing expenses recognized in income, and
- reducing interest expenses.

From the general partner's point of view, these advantages are extremely important and – even assuming that changing the virtual share option to a real share option is going to incur some costs – the conditions can therefore be classed as being appropriate overall.

*bb) Considering the Acquisition and Transfer Agreement*

The general partner's willingness to issue option rights to Siemens, subject to the approval of the annual shareholders' meeting and the separate meeting of preferred shareholders, was one of the main reasons why Siemens sold its shares in Siemens Medical Holding GmbH to the company. As the issuance of option rights must be approved in form of a resolution by the annual shareholders' meeting, both parties initially agreed to a virtual share option, largely identical in context, on December 29, 2009. In order to preserve its own liquidity, the company was able to negotiate a limit of EUR 50 million on any future cash payments it has to make under the virtual share option.

The general partner also promised Siemens, in the name of the company, to propose the issuance of warrant bonds with option rights guaranteed in the form of warrants (and therefore the real share option) and to issue them to replace the virtual share option, should the resolution be passed.

As explained above, already on December 29, 2009, there was a difference between the value of the virtual share option and that of the option rights guaranteed in the form of warrants to be potentially issued (real share option) due to payment liabilities from the virtual share option being limited to EUR 50 million. At that time, both parties therefore agreed on the relief described above under III. 4. c) with regard to tranche III of the *deferred payment agreement* to compensate any potential differences if the warrant bonds with option rights guaranteed in the form of warrants (and therefore the real share option) are issued.

On December 29, 2009, the date the Acquisition and Transfer Agreement was concluded, it seemed less likely – going by the price of the preferred company share at that time of EUR 29.82 – that the settlement mechanism, which is capped at EUR 8.5 million, could be insufficient (see table above under III. 4. C)). However, such a situation could not be ruled out even then. As part of the overall result of negotiations between unrelated third parties, the general partner felt it was justifiable and necessary from a business point of view to class any potential future differences, which the settlement mechanism would not be able to offset, as acceptable. Considering the importance of the transaction for the company and the total volume of around EUR 250 million, such a potential difference, which would be in the low one-digit million euro range (see scenario calculations above under III. 4. a) to III. 4. c)), would be rather insignificant (less than 2 percent of the transaction volume).

**5. Exercising the option rights guaranteed in the form of warrants and creating conditional capital to cover the option rights**

**a) Number of preferred shares to be issued upon exercising the option rights, option price and protection of shareholder interests**

The option rights to be issued entitle the holder(s) to acquire a total of 1.25 million preferred shares of the company upon exercising the option rights.

Under a) aa), the authorization and instruction resolution calls for a corresponding adjustment to the number of preferred shares to be issued in case of certain events *prior* to issuing the option rights (capital increase from company assets, stock split or capital decrease by combining or retracting shares). The adjustment provision was included in the proposed resolution as a precautionary measure. No such steps are planned prior to issuing the option rights.

Upon exercising the option rights to be issued (true share option), the holder of the option rights acquires shares at the subscription price established in the authorization and instruction resolution of the shareholders' meeting. The subscription price for a preferred share is EUR 40 (also referred to as the "**minimum subscription price**" below) if the stock market reference price (arithmetic mean of the respective Xetra average daily market prices of the preferred share, weighted by volume, for the last 15 regular trading days before the exercise date) is EUR 40 or less; in case of a stock market reference price of more than EUR 40, the subscription price corresponds to the stock market reference price (as defined above) plus 5% of the stock market reference price (i.e. 105% of the stock market reference price).

Under a) cc), the authorization and instruction resolution calls for a corresponding adjustment to the minimum subscription price in case of certain

events *prior* to issuing the option rights. In regards to most of these events (capital increase from company assets, stock split or capital decrease by combining or retracting shares; special dividend), the adjustment provision is merely included as a precautionary measure since no such steps are planned prior to issuing the option rights. The provision may have practical relevance in case of a capital increase.

As described under I. 3., II. 2. b) and II. 3. above, increasing capital stock by issuing at least 1.25 million common shares is required prior to issuing the warrant bonds with option rights guaranteed in the form of warrants. The adjustment provision in case of a capital increase expressly calls for an adjustment only in case the capital increase exceeds an issue volume of 1.75 million new shares. Whether the required capital increase will reach this volume cannot be predicted at this time. Should the capital increase reach a corresponding scope, the minimum subscription price of EUR 40 will be reduced by the mathematical subscription right value. When calculating the finance mathematical subscription right value, only the part of the capital increase pertaining to the number of new shares exceeding 1.75 million is to be taken into account. Insofar as the price level (stock market reference price as defined above) of the preferred shares is already above EUR 40 when the option rights are issued, the reduction of the minimum subscription price has no effect on the true share option. Whenever the price level (stock market reference price) upon issuing the option rights is above the minimum subscription price, the subscription price is 105% of said price level.

The company does not suffer any disadvantages by establishing the option price in abstract terms at this time. The nature of option rights is that they are only exercised if the share price on the exercise date is higher than the option price. This is the only time acquiring shares by exercising option rights is more favorable than acquiring them on the stock exchange. Conversely, options are generally not exercised when the share price is lower than the option price. The protection of shareholder interests is assured since issuing the option rights subject to the exclusion of subscription rights is objectively justified and the company receives commensurate compensation for issuing the option

under consideration of all resulting advantages (see the explanations above under II. and III. 4.).

**b) Capital contribution upon exercising the option**

The acquisition of new preferred shares of the company upon exercising the option rights to be issued (true share option) generally takes place in exchange for a cash contribution.

In case Siemens exercises the option rights and acquires new preferred shares, Siemens is entitled to performance in kind instead of making a cash contribution. In concrete terms, Siemens has the right to eliminate, in whole or in part, the following monetary liabilities owed by the company instead of making a cash payment:

Elimination in whole or in part of the monetary liability of the company in the amount of EUR 18.75 million owed to Siemens for the payment of tranche I (EUR 18.75 million) under the *Deferred Payment Agreement*.

This monetary liability comes due on the fifth anniversary of the execution date of the Acquisition and Transfer Agreement. Interest payments on this liability are calculated based on the 6-month EURIBOR plus 5% p.a. up to the third anniversary of the execution date of the Acquisition and Transfer Agreement and the 6-month EURIBOR plus 6% p.a. for the time thereafter up to maturity;

and/or

elimination in whole or in part of the monetary liability of the company in the amount of EUR 40 million owed to Siemens for the payment of tranche II (EUR 40 million) under the *Deferred Payment Agreement*.

The monetary liability becomes due on the third anniversary of the execution date of the Acquisition and Transfer Agreement. Interest payments on this liability are calculated based on the 6-month EURIBOR plus 5% p.a. The

company has the unilateral right to demand an extension of the term by two years. Interest payments are calculated based on the 6-month EURIBOR plus 6% p.a. for the extension period.

Interest liabilities on the monetary liabilities identified above that have already accrued by the option exercise date but have not yet been paid may also be eliminated by way of performance in kind.

The fair value of the monetary liability at the time the option is exercised is material in determining the amount eliminated. If the total issue price of the new preferred shares issued to Siemens exceeds the total fair value of the monetary liabilities, the corresponding difference must be remitted as a cash payment in addition to performance in kind. If the fair value of the monetary liabilities exceeds the total issue price of the new preferred shares, the liabilities are only eliminated on a pro-rata basis. As long as the monetary liabilities are not due at the time the options are being exercised, the entitlement to payment in kind remains, on the condition of the company's approval.

How the elimination is to be executed in legal and technical terms has not been defined in concrete terms. An offsetting or waiver agreement is possible.

The above explanations on performance in kind for exercising the option rights to be issued also apply correspondingly if the option rights are exercised by a company associated with Siemens within the meaning of Sec. 15 et seq. AktG and the company's monetary liabilities to Siemens have been transferred in full to this company and this company, in its role as new creditor, is therefore entitled to them at that point in time.

**c) Creation of conditional capital**

In conjunction with the authorization and instruction for the issue of the warrant bonds with option rights guaranteed in the form of warrants, conditional capital

in the amount of EUR 3.2 million to issue up to 1.25 million preferred shares shall also be created.

The conditional capital is required in order to assure subsequent coverage of the option rights. When the option rights are exercised, the conditional capital allows the company to issue new preferred shares to the option holder(s) and therefore meet the obligations under the options. Since the general partner considers it very important to ensure that future obligations can be met, executing the authorization and / or following the instruction to issue the warrant bonds with option rights guaranteed in the form of warrants shall only be possible once the conditional capital has previously been registered in the company's commercial registry record (see a) aa) of the proposed authorization and instruction resolution).

Because Siemens (or a corresponding legal successor) has the right to performance in kind instead of making a cash contribution upon exercising the option rights (see III. 5. b) above), corresponding provisions on the nature of the possible performance in kind also have to be included in the resolution to create the conditional capital pursuant to Sec. 194 (1) AktG. Please refer to the explanations on performance kind under III. 5. b) above.

The resolution to create the conditional capital also specifies the three types of performance in kind in exchange for issuing the option rights that will be covered by the conditional capital. Please refer to the explanations under III. 1. above.

According to accepted practice, the conditional capital also has to be included in the articles of association. Accordingly a new paragraph 5 will be added to Sec. 6 (Capital Stock).

## **6. Explanation of the warrant bond and option terms and conditions**

An overview of the terms and conditions of the warrant bonds (under III. 6. a)) and the option rights guaranteed in the form of warrants (under III. 6. b)) is

provided below. References to specific paragraphs refer to the respective paragraph of the respective terms and conditions. The wording of the draft terms and conditions is reproduced in the “Information on point 7 on the agenda” under 1. and 2. following the invitation to the special assembly of the preferred shareholders.

**a) Warrant bond terms and conditions**

The warrant bonds confer a securitized right to semi-annual interest payments, payable after the end of the respective six-month term and computed based on a variable interest rate, as well as the right to repayment of the invested capital upon maturity.

The terms and conditions correspond to established market standards applied in many other cases when variable interest bonds are issued.

Specifically:

- Sec. 1 establishes the currency, denomination and issue date as well as the form of securitization for the warrant bonds as bearer bonds and the safe custody of the global certificate by Clearstream Banking AG as the clearing system for the benefit of the creditors. This so-called collective safe custody allows similar technically standardized transferability of the warrant bonds as for shares in collective safe custody.
- Sec. 2 establishes the rank (“status”) of the liabilities arising from the bonds. The warrant bonds have the same rank as other direct, unconditional, non-subordinate liabilities of the company. In particular, this clearly establishes that the liabilities arising from the warrant bonds are not subordinate to other liabilities of the company.

- Sec. 3 establishes the interest rate, the dates the applicable interest payments are due and the concrete computation of the interest rate and interest payable.

As described under III. 3. above, interest is computed based on the 6-month EURIBOR plus a margin. According to the detailed terms and conditions, the period up to the maturity of the warrant bonds is divided into a total of ten interest periods (calculated from the issue date of the warrant bonds); the margin is 5% p.a. for the first six periods and 6% p.a. for the last four periods. Interest payable in each interest period is payable at the end of the respective interest period. If an interest payment is not made when it is due, the interest rate is increased by 2 percentage points from the due date up to the payment date.

- Sec. 4 defines the redemption date for the warrant bonds. The warrant bonds normally mature on the fifth anniversary of the execution date of the Acquisition and Transfer Agreement. If redemption does not take place upon maturity, the interest is calculated on the outstanding redemption amount (excluding interest) for the period from maturity to redemption at the interest rate applicable to the last interest period plus two percentage points (Sec. 3).

Sec. 4 also grants the company the right to early redemption in case the company is obligated to pay additional amounts (as defined in Sec. 6) to creditors pursuant to Sec. 6 and based on changes to tax regulations. The right to early redemption also applies in case of a change of control over the company (so-called *change of control clause*). Sec. 4 also grants the company the right to early redemption on an interest payment date of its choice, irrespective of the preceding conditions.

In case of early redemption the bonds are redeemed at the nominal amount. In keeping with accepted market practices, there is no

compensation for lost interest payments to the holder(s) of the warrant bonds due to early redemption.

- Sec. 5 mainly defines the technical details of the process to redeem the warrant bonds and make the applicable interest payments.
- Pursuant to Sec. 6, payments by the company must generally be made in full without the deduction of taxes or withholding of taxes at source (no deduction of tax at source). However, insofar as legal obligations for the deduction of tax at source are established, the company is obligated to supplement the payments by “additional amounts” so that the originally intended payment is made after the deduction / withholding (so-called “gross-up”). Sec. 6 also defines the taxation-related circumstances under which the company is not obligated to pay additional amounts as compensation in spite of a deduction (so-called “*carve-outs*”).
- In regards to the statute of limitations for claims arising from the warrant bonds, Sec. 7 reduces the thirty-year term for the presentation of the bond certificate or legal assertion of claims arising from the bond certificate (Sec. 801 (1) Sentence 1 of the German Civil Code (BGB)) to ten years.
- Sec. 8 establishes when the creditor has a right to cancellation arising from the warrant bonds. As described in detail in Sec. 8, this is the case when the company fails to meet its obligations under the warrant bonds or when certain events occur that make the economic performance of the company highly doubtful.

In keeping with accepted market practices, no term of notice is specified. In case of cancellation, the warrant bond must be redeemed at the nominal amount immediately.

- Sec. 9 defines technical payment processing aspects. It defines the principal paying agent, the paying agent and the calculation agent along with their revision, termination and liability.
- Pursuant to Sec. 10, the company is authorized to issue additional bonds subject to the same terms and conditions (so-called upsizing). However, insofar as these additional bonds also include option rights, the general legal condition that the issue of warrant bonds requires authorization by the shareholders' meeting remains. This ensures that option rights are only issued insofar as they are covered by the authorization and instruction resolution to be passed under agenda item 7 or insofar as the shareholders' meeting of the company authorizes and / or instructs the general partner to issue additional warrant bonds with option rights in another resolution.

Sec. 10 also establishes that the company is generally free to acquire issued warrant bonds, wherein the repurchase offer has to be made to all creditors of the warrant bonds by means of a public offer.

Warrant bonds that have been redeemed must be devalued, i.e. the global certificate held by Clearstream Banking AG is reduced accordingly and / or marked as invalid.

- Sec. 11 establishes how communication with the creditors of the warrant bonds has to take place. The company can also employ the services of the clearing house for this purpose.
- Sec. 12 specifies that Sec. 5 et seq. SchVG (Schuldverschreibungsgesetz: German Act on Notes) ("**SchVG**") applies to the entire issue. In case of a reorganization and under certain circumstances, the SchVG provisions allow the creditors to approve subsequent amendments of the warrant bonds by a majority vote of the company's creditors.

- Sec. 13 specifies the laws applicable to the warrant bonds (German law), the jurisdiction (Frankfurt am Main District Court) and the basis on which the creditors under the warrant bonds can assert or support their rights arising from the warrant bonds in their own name in the course of legal proceedings.

**b) Warrant terms and conditions**

The warrants establish a securitized right, subject to the warrant terms and conditions, to acquire a number of preferred bearer shares as defined in Sec. 1 (2) from the issuer with a nominal value of EUR 2.56 per preferred share in exchange for payment of the base price.

The warrant terms and conditions are in line with established market standards applied to other issues of warrants with a similar structure.

Specifically:

- Sec. 1 defines the securitized right to acquire preferred shares, establishes the number of preferred shares to be acquired (2) and specifies the computation of the base price and stock market reference price. The base price is the price the option holder has to pay in order to acquire one preferred share. The base price is calculated based on the stock market reference price. The stock market reference price is the arithmetic mean of the average daily Xetra price of the preferred share, weighted by volume, for the last 15 regular trading days (as defined in the warrant terms and conditions) prior to the warrant issue date. Among other things, Sec. 1 refers to the provisions to establish the option price under a) cc) of the proposed resolution previously explained under III. 5. a) above.
- Sec. 2 establishes the form of securitization for the warrants as bearer paper and the safe custody of the global bearer option certificate by

Clearstream Banking AG as the clearing system for the benefit of the creditors.

- Sec. 3 establishes the exercise period, i.e. the period during which the holder of the warrant can exercise the option right (right to acquire preferred shares) and establishes excluded periods, i.e. periods during which the holder of the warrant cannot exercise the option right. These are the provisions of the proposed resolution under a) cc).
- Sec. 4 specifies the circumstances and conditions under which the option right can be exercised by the holder of the warrant. The holder of the warrant is obligated to provide the information in keeping with accepted market practices as defined in Sec. 4 (1) a) through e) to the warrant agent in the exercise notification. The warrants being exercised also have to be delivered to the warrant agent and the amount for the acquisition of the preferred shares must be transferred to the account of the warrant agent. Pursuant to Sec. 4 (3), this information is verified by the warrant agent. The preferred shares are delivered pursuant to Sec. 4 (4).
- Sec. 5 determines that the preferred shares acquired when the option rights are exercised will be issued from conditional capital established by a shareholders' meeting of the company as the issuer. Please refer to the explanations for the creation of conditional capital under III. 5. c) above.

Pursuant to Sec. 5 (2), the preferred shares are entitled to dividends starting in the financial year they are issued. This coincides with the proposed resolution regarding the creation of conditional capital (point c) of the proposed resolution).

- Pursuant to Sec. 6, option rights expire insofar as they are not exercised during the exercise period (Sec. 3 (1)).

- Sec. 7 establishes the warrant agent and specifies how the warrant agent can be changed. Determinations by the warrant agent are generally binding for the company as the issuer and for the holders of the warrants (Sec. 7 (3)).
  
- Sec. 8 establishes dilution protection in favor of the warrant holders in accordance with accepted market practices for capital market measures of the company as the issuer specified in Sec. 8. The following capital market measures by the company as the issuer are covered by Sec. 8: (i) Capital increase from company assets (Sec. 8 (1)), (ii) stock split (Sec. 8 (2)), (iii) capital increase by granting subscription rights to the preferred shareholders of the issuer (Sec. 8 (3)), (iv) extraordinary dividend (Sec. 8 (4)) and (v) a capital decrease (Sec. 8 (5)).

In case of a capital increase, stock split or capital decrease, the total number of preferred shares issued by the company as the issuer changes. Since this usually affects the market price of the preferred shares, dilution protection established in Sec. 8 in accordance with accepted market practices specifies that the option rights, in particular the number of preferred shares to which the option rights apply as well as the base price payable for the acquisition of the preferred shares, must be adjusted. Sec. 8 (1), (2) and (5) establishes the calculation method for the adjustment of the number of preferred shares and the base price for the respective capital market measures.

In case of a capital increase by granting subscription rights to the preferred shareholders of the issuer (Sec. 8 (3)), the base price is reduced in accordance with the formula established in Sec. 8 (3).

In case of an extraordinary dividend (Sec. 8 (4)), the base price is reduced by the amount of the extraordinary dividend. An extraordinary dividend is the amount by which the dividend in a particular year exceeds the amount of EUR 0.75 per preferred share.

Sec. 8 (6) establishes provisions in case of the reorganization of the company as the issuer. In this case the preferred shares to which the option rights apply are replaced by new shares, company shares or other participation rights that take the place of the preferred shares of the company as the issuer.

- Sec. 9 establishes how communication with the creditors under the warrants is to take place.
- Sec. 10 specifies the laws applicable to the warrants (German law), the jurisdiction (Frankfurt am Main District Court) and the basis on which the warrant holders can assert or support their rights arising from the warrants in their own name in the course of legal proceedings.

In summary, please note that issuing the warrant bonds with option rights guaranteed in the form of warrants to Siemens is in the best interests of the company and that excluding the subscription rights is objectively justified. The interests of the shareholders are protected because the issue as a whole takes place at commensurate terms and conditions. At this time, plans are also in place to grant subscription rights to the shareholders in the course of an increase of common share capital to be conducted in advance, which will at least be equivalent to the conditional increase of preferred share capital.

Lübeck, Germany, March 2010

Drägerwerk Verwaltungs AG

as the general partner

of Drägerwerk AG & Co. KGaA