



**PHOENIX PIB Dutch Finance B.V.**

(a private company with limited liability incorporated under the laws of The Netherlands)

**EUR 300,000,000 3.125 % Notes due May 2020**

**unconditionally and irrevocably guaranteed by**

**PHOENIX PHARMAHANDEL GMBH & CO KG**

(a limited partnership organised under the laws of the Federal Republic of Germany,  
having its corporate seat in Mannheim, Germany)

**and certain subsidiaries of PHOENIX PHARMAHANDEL GMBH & CO KG**

Issue Price: 99.229 %

PHOENIX PIB Dutch Finance B.V. (the "**Issuer**") will issue on or about 27 May 2013 (the "**Issue Date**") EUR 300,000,000 3.125 % Notes due 27 May 2020 (the "**Notes**"). The Notes will be redeemed at par on 27 May 2020. The Notes will bear interest from and including 27 May 2013 to, but excluding, 27 May 2020 at a rate of 3.125 % per annum, payable annually in arrears on 27 May in each year, commencing on 27 May 2014.

The obligations under the Notes will constitute unsubordinated and, except for the guarantees described below, unsecured obligations of the Issuer, ranking *pari passu* among themselves and *pari passu* with all other unsubordinated and unsecured obligations of the Issuer, unless such obligations are accorded priority under mandatory provisions of statutory law. The Notes will have the benefit of an unconditional and irrevocable guarantee (the "**Parent Guarantee**") from PHOENIX Pharmahandel GmbH & Co KG ("**PHOENIX KG**" or the "**Parent Guarantor**") and unconditional and irrevocable guarantees (the "**Subsidiary Guarantees**" and, together with the Parent Guarantee, the "**Notes Guarantees**") from certain subsidiaries of PHOENIX KG (the "**Subsidiary Guarantors**" and, together with the Parent Guarantor, the "**Guarantors**"). The Guarantors have also issued guarantees to secure other indebtedness of the PHOENIX Group.

Fitch Ratings Limited ("**Fitch**") has assigned a prospective rating of BB to the Notes and Standard & Poor's Credit Market Services Europe Limited ("**S&P**") has assigned a preliminary rating of BB to the Notes. A security rating is not a recommendation to buy, sell or hold securities.

PHOENIX KG is rated BB, outlook stable, by Fitch and BB, outlook stable, by S&P. Fitch and S&P are established in the European Community and have each applied for registration under Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies.

For a discussion of certain significant factors affecting investment in the Notes, see "Risk Factors" on pages 9 through 27.

This offering circular (the "**Offering Circular**") constitutes a prospectus for the purpose of the Luxembourg Law of 10 July 2005 on Prospectuses for Securities, as amended. Application has been made for admission of the Notes to the official list of the Luxembourg Stock Exchange and for trading on the Euro MTF market ("**Euro MTF**") operated by the Luxembourg Stock Exchange, which is a multilateral trading facility for the purposes of the Market and the Financial Instruments Directive 2004/39/EC, and therefore a non-EU-regulated market.

The Notes are issued in bearer form with a denomination of EUR 1,000 each. The Notes will only be transferable in minimum aggregate principal amounts of EUR 100,000 and any integral multiples of EUR 1,000 above EUR 100,000. The Notes have been assigned the following securities codes: ISIN XS0935786789, Common Code 093578678, WKN A1HLB4.

***Joint Bookrunners***

**Commerzbank**

**Crédit Agricole CIB**

**Helaba**

**HSBC**

**Landesbank  
Baden-Württemberg**

The date of this Offering Circular is 27 May 2013.

## RESPONSIBILITY STATEMENT

Each of the Issuer and the Guarantors accepts in respect of itself only responsibility for the information contained in this Offering Circular and hereby declares that, having taken all reasonable care to ensure that such is the case, the information contained in this Offering Circular is, to the best of its knowledge, in accordance with the facts and contains no omission likely to affect its import.

Each of the Issuer and the Guarantors further confirms that (i) this Offering Circular contains all information with respect to the Issuer and the Guarantors as well as PHOENIX KG and its subsidiaries and affiliates taken as a whole ("**PHOENIX**" or the "**PHOENIX Group**"), the Notes and the Guarantees which is material in the context of the issue and offering of the Notes, including all information which, according to the particular nature of the Issuer and the Guarantors and of the Notes and the Guarantees, is necessary to enable prospective investors and their investment advisers to make an informed assessment of the assets and liabilities, financial position, profits and losses, and prospects of the Issuer, the Guarantors and the PHOENIX Group and of the rights attached to the Notes and the Guarantees; (ii) the statements contained in this Offering Circular relating to the Issuer, the Guarantors, the PHOENIX Group, the Notes and the Guarantees are in every material respect true and accurate and not misleading; (iii) there are no other facts in relation to the Issuer, the Guarantors, the PHOENIX Group, the Notes or the Guarantees the omission of which would, in the context of the issue and offering of the Notes, make any statement in the Offering Circular misleading in any material respect; and (iv) reasonable enquiries have been made by the Issuer and the Guarantors to ascertain such facts and to verify the accuracy of all such information and statements.

## NOTICE TO INVESTORS

**IN CONNECTION WITH THE ISSUE OF THE NOTES, COMMERZBANK AKTIENGESELLSCHAFT (OR PERSONS ACTING ON ITS BEHALF) MAY OVER-ALLOT NOTES OR EFFECT TRANSACTIONS WITH A VIEW TO SUPPORTING THE PRICE OF THE NOTES AT A LEVEL HIGHER THAN THAT WHICH MIGHT OTHERWISE PREVAIL. HOWEVER, THERE IS NO ASSURANCE THAT COMMERZBANK AKTIENGESELLSCHAFT (OR PERSONS ACTING ON ITS BEHALF) WILL UNDERTAKE STABILISATION ACTION. ANY STABILISATION ACTION MAY BEGIN AT ANY TIME AFTER THE ADEQUATE PUBLIC DISCLOSURE OF THE TERMS OF THE OFFER OF THE NOTES AND, IF BEGUN, MAY BE ENDED AT ANY TIME, BUT IT MUST END NO LATER THAN THE EARLIER OF 30 CALENDAR DAYS AFTER THE DATE OF THE RECEIPT OF THE PROCEEDS OF THE ISSUE BY THE ISSUER AND 60 CALENDAR DAYS AFTER THE DATE OF THE ALLOTMENT OF THE NOTES. SUCH STABILISING SHALL BE IN COMPLIANCE WITH ALL LAWS, DIRECTIVES, REGULATIONS AND RULES OF ANY RELEVANT JURISDICTION.**

No person is authorised to give any information or to make any representations other than those contained in this Offering Circular and, if given or made, such information or representations must not be relied upon as having been authorised by or on behalf of the Issuer, the Guarantors or the Managers (as defined in "SUBSCRIPTION AND SALE OF THE NOTES"). Neither the delivery of this Offering Circular nor any sale made hereunder nor any other document incorporated herein by reference shall, under any circumstances, create any implication that there has been no change in the affairs of the Issuer, the Guarantors or any of their affiliates since the date of this Offering Circular, or that the information herein and in any other document incorporated herein by reference is correct at any time after such date.

This Offering Circular contains certain forward-looking statements and statements which are based on PHOENIX' own calculations and estimates, including statements using the words "believes", "anticipates", "intends", "expects", "according to its own calculations" or other similar terms. This applies in particular to statements under the caption "INDUSTRY OVERVIEW" and statements elsewhere in this Offering Circular relating to, among other things, the future financial performance, plans and expectations regarding developments in the business of the PHOENIX Group. These forward-looking statements are subject to a number of risks, uncertainties, assumptions and other factors that may cause the actual results, including the financial position and profitability of the Issuer and the Guarantors, to be materially different from or worse than those expressed or implied by these forward-looking statements. Neither the

Issuer nor the Guarantors assume any obligation to update such forward-looking statements and to adapt them to future events or developments.

To the extent permitted, by the laws of any relevant jurisdiction, neither the Managers nor any other person mentioned in this Offering Circular, except for the Issuer and the Guarantors, are responsible for the information contained in this Offering Circular or any other document incorporated herein by reference, and accordingly, and to the extent permitted by the laws of any relevant jurisdiction, none of these persons accepts any responsibility for the accuracy and completeness of the information contained in any of these documents. The Managers have not independently verified any such information and accept no responsibility for the accuracy thereof.

**EACH INVESTOR CONTEMPLATING PURCHASING ANY NOTES SHOULD MAKE ITS OWN INDEPENDENT INVESTIGATION OF THE FINANCIAL CONDITION AND AFFAIRS, AND ITS OWN APPRAISAL OF THE CREDITWORTHINESS OF THE ISSUER AND THE GUARANTORS. EACH PERSON RECEIVING THIS OFFERING CIRCULAR ACKNOWLEDGES THAT (I) SUCH PERSON HAS BEEN AFFORDED AN OPPORTUNITY TO REQUEST AND TO REVIEW, AND HAS RECEIVED, ALL ADDITIONAL INFORMATION CONSIDERED BY IT TO BE NECESSARY TO VERIFY THE ACCURACY OF OR TO SUPPLEMENT THE INFORMATION HEREIN, (II) SUCH PERSON HAS NOT RELIED ON THE JOINT BOOKRUNNERS OR ANY PERSON AFFILIATED WITH THEM IN CONNECTION WITH ITS INVESTIGATION OF THE ACCURACY OF SUCH INFORMATION OR ITS INVESTMENT DECISION, (III) NO PERSON HAS BEEN AUTHORISED TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATION REGARDING THE NOTES OTHER THAN AS CONTAINED HEREIN, AND IF GIVEN OR MADE, ANY SUCH OTHER INFORMATION OR REPRESENTATION SHOULD NOT BE RELIED UPON AS HAVING BEEN AUTHORISED, AND (IV) NEITHER THE DELIVERY OF THIS OFFERING CIRCULAR NOR ANY SALE MADE HEREUNDER WILL CREATE ANY IMPLICATION THAT THE INFORMATION HEREIN IS CORRECT AS OF ANY TIME SINCE THE DATE HEREOF. EACH PROSPECTIVE INVESTOR SHOULD CONSULT ITS OWN BUSINESS, LEGAL AND TAX ADVISERS FOR INVESTMENT, LEGAL AND TAX ADVICE AND AS TO THE DESIRABILITY AND CONSEQUENCES OF AN INVESTMENT IN THE NOTES.**

This Offering Circular does not constitute an offer of Notes or an invitation by or on behalf of the Issuer, the Guarantors or the Managers to the public generally to purchase any Notes. Neither this Offering Circular nor any other information supplied in connection with the Notes should be considered as a recommendation by the Issuer, the Guarantors or the Managers to a recipient hereof and thereof that such recipient should purchase any Notes.

This Offering Circular has been prepared by the Issuer solely for the purpose of offering the Notes described herein and the Offering Circular may only be used for this purpose. Notwithstanding any investigation that the Joint Bookrunners may have made with respect to the information set forth herein, this Offering Circular does not constitute, and shall not be construed as, any representation or warranty by the Joint Bookrunners as to the adequacy or accuracy of the information set forth herein. A prospective investor shall not be entitled to, and must not rely on, this Offering Circular unless it was furnished to such prospective investor directly by the Issuer, any of the Guarantors or the Joint Bookrunners.

This Offering Circular does not constitute, and may not be used for the purposes of, an offer or solicitation by anyone in any jurisdiction in which such offer or solicitation is not authorised or to any person to whom it is unlawful to make such offer or solicitation. The offer, sale and delivery of the Notes and the distribution of this Offering Circular in certain jurisdictions are restricted by law. Persons into whose possession this Offering Circular comes are required by the Issuer, the Guarantors and the Managers to inform themselves about and to observe any such restrictions.

#### **NOTICE TO INVESTORS IN THE EUROPEAN ECONOMIC AREA**

In relation to each member state of the European Economic Area that has implemented the Prospectus Directive 2003/71/EC (each, a "**Relevant Member State**"), with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State, no offer of the Notes to the public will be made in that Relevant Member State other than for a total consideration of at least EUR 100,000 per investor or in any other circumstances falling within Article 3(2) of the Prospectus

Directive, all as more fully set out under "SUBSCRIPTION AND SALE OF THE NOTES — Selling Restrictions".

#### **NOTICE TO INVESTORS IN THE NETHERLANDS**

In addition to the general restrictions applicable in all member states of the European Economic Area, further restrictions apply to investors in The Netherlands, as more fully set out under "SUBSCRIPTION AND SALE OF THE NOTES — Selling Restrictions".

#### **NOTICE TO INVESTORS IN THE REPUBLIC OF ITALY**

In addition to the general restrictions applicable in all member states of the European Economic Area, further restrictions apply to investors in Italy, as more fully set out under "SUBSCRIPTION AND SALE OF THE NOTES — Selling Restrictions".

#### **NOTICE TO INVESTORS IN THE UNITED STATES OF AMERICA**

The Notes have not been and will not be registered under the United States Securities Act of 1933, as amended (the "**Securities Act**") and are subject to United States tax law requirements. Subject to certain limited exceptions, the Notes may not be offered, sold or delivered within the United States of America ("**U.S.**") or to, or for the account of, U.S. persons, all as more fully set out under "SUBSCRIPTION AND SALE OF THE NOTES — Selling Restrictions".

#### **NOTICE TO INVESTORS IN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND**

This Offering Circular has not been approved by an authorised person in the United Kingdom ("**UK**"). No person may communicate or cause to be communicated any invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial Services and Markets Act 2000, as amended ("**FSMA**")) received by it in connection with the issue or sale of the Notes other than in circumstances in which Section 21(1) of the FSMA does not apply.

For further details see "SUBSCRIPTION AND SALE OF THE NOTES — Selling Restrictions".

In this Offering Circular all references to "€", "**EUR**" or "**Euro**" are to the currency introduced at the start of the third stage of the European economic and monetary union, and as defined in Article 2 of Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the Euro, as amended.

## CONTENTS

	<b>Page</b>
SUMMARY .....	1
RISK FACTORS .....	9
USE OF PROCEEDS .....	28
GENERAL INFORMATION ON THE ISSUER .....	29
GENERAL INFORMATION ON THE PARENT GUARANTOR.....	31
SELECTED FINANCIAL INFORMATION.....	38
INDUSTRY OVERVIEW.....	39
BUSINESS OF THE PHOENIX GROUP .....	42
GENERAL INFORMATION ON THE SUBSIDIARY GUARANTORS .....	52
CONDITIONS OF ISSUE .....	59
THE PARENT GUARANTEE .....	78
THE SUBSIDIARY GUARANTEE.....	82
DESCRIPTION OF RULES REGARDING RESOLUTIONS OF HOLDERS .....	100
RATING.....	102
TAXATION IN GERMANY .....	103
TAXATION IN THE NETHERLANDS.....	107
SUBSCRIPTION AND SALE OF THE NOTES .....	111
GENERAL INFORMATION / INCORPORATION BY REFERENCE.....	114
NAMES AND ADDRESSES.....	117

## SUMMARY

*The following constitutes a summary (the "**Summary**") of the essential characteristics of and risks associated with the Issuer, the Parent Guarantor, the Subsidiary Guarantors and the Notes. This Summary should be read as an introduction to this Offering Circular. It does not purport to be complete and is taken from, and is qualified in its entirety by, the remainder of this Offering Circular. Any decision by an investor to invest in the Notes should be based on consideration of this Offering Circular as a whole. Where a claim relating to the information contained in this Offering Circular is brought before a court, the plaintiff investor might, under the national legislation of such court, have to bear the costs of translating the Offering Circular before the legal proceedings are initiated. Civil liability attaches to the Issuer and the Parent Guarantor who have tabled this Summary, but only if the Summary is misleading, inaccurate or inconsistent when read together with the other parts of this Offering Circular (including any parts drafted in the German language).*

### Summary in respect of the Notes

Words and expressions defined in the Conditions of Issue of the Notes reproduced elsewhere in this Offering Circular shall have the same meanings in this Summary.

Issuer	PHOENIX PIB Dutch Finance B.V.
Guarantors	PHOENIX KG as Parent Guarantor.  PHOENIX International Beteiligungs GmbH, PHOENIX PIB Finance B.V., PHOENIX Pharma-Einkauf GmbH, transmed Transport GmbH, ADG Apotheken-Dienstleistungsgesellschaft mbH, Nordic Beteiligungs GmbH, PHOENIX Noweropa Beteiligungs GmbH, PHOENIX PIB Dutch Holding B.V., PHOENIX Medical Supplies Limited, PHOENIX Healthcare Distribution Limited, L. Rowland & Company Limited, L. Rowland & Company (Retail) Limited, Numark Limited, Tamro Oyj, PHOENIX Pharma Polska Sp. z o.o., Libra EAD, PHOENIX Farmacija d.d., PHOENIX lékárenský veľkoobchod, a.s., BENU Česká republika a.s., PHOENIX Danish Holding A/S, Nomeco A/S, PHOENIX Pharma S.A.S., PHOENIX Hungaria Holding Zrt., PHOENIX Pharma Zrt., PHOENIX Norwegian Holding AS, Apokjeden AS, Apokjeden Distribusjon AS, Apotek 1 Norge AS, PHOENIX Zdravotnícke zásobovanie, a.s., Tamro Holding AB, Tamro Sweden AB, Tamro AB, Amedis-UE AG and Pharmacies BENU S.A. as subsidiary guarantors (each a " <b>Subsidiary Guarantor</b> ").
Joint Bookrunners	Commerzbank Aktiengesellschaft  Crédit Agricole Corporate and Investment Bank  Landesbank Hessen-Thüringen Girozentrale  HSBC Bank plc  Landesbank Baden-Württemberg  (together the " <b>Managers</b> " and each a " <b>Manager</b> ").
Principal Paying Agent	Commerzbank Aktiengesellschaft, Frankfurt am Main
Luxembourg Listing Agent	Commerzbank Aktiengesellschaft, Frankfurt am Main
Aggregate Principal Amount	EUR 300,000,000
Issue Price	99.229 % of the Aggregate Principal Amount
Issue Date	27 May 2013

Denomination	The Notes will be issued in a denomination of EUR 1,000 each. The Notes are only transferable in minimum aggregate principal amounts of EUR 100,000 and any integral multiples of EUR 1,000 above EUR 100,000.
Form of Notes	The Notes will initially be represented by a temporary global bearer Note (the " <b>Temporary Global Note</b> ") without interest coupons which will be kept in custody by a common depository on behalf of Clearstream Banking, <i>société anonyme</i> and Euroclear Bank SA/NV (together, the " <b>Clearing System</b> "). Notes represented by the Temporary Global Note will be exchangeable for Notes represented by a permanent global bearer Note (the " <b>Permanent Global Note</b> ", and each of the Temporary Global Note and the Permanent Global Note, a " <b>Global Note</b> ") without interest coupons not earlier than 40 days after the Issue Date in accordance with the provisions set out in the Conditions of Issue. In particular such exchange and any payment of interest on Notes represented by the Temporary Global Note shall only be made upon delivery of certifications as to non-U.S. beneficial ownership in accordance with the rules and operating procedures of the Clearing System. Payments on the Temporary Global Note will only be made against presentation of such certifications. No definitive Notes or interest coupons will be issued.
Interest	The Notes will bear interest from and including 27 May 2013 to, but excluding, 27 May 2020 at a rate of 3.125 % per annum, payable annually in arrears on 27 May in each year, commencing on 27 May 2014.
Status of the Notes	The obligations under the Notes will constitute unsubordinated and (except for the Notes Guarantees) unsecured obligations of the Issuer ranking <i>pari passu</i> among themselves and <i>pari passu</i> without any preference with all other unsubordinated and unsecured obligations of the Issuer.
Parent Guarantee and Subsidiary Guarantees	<p>The Notes will have the benefit of an unconditional and irrevocable guarantee of the Parent Guarantor and of an unconditional and irrevocable guarantee of each of the Subsidiary Guarantors (the Subsidiary Guarantors together with the Parent Guarantor, the "<b>Guarantors</b>").</p> <p>The aggregated adjusted earnings before interest, taxes, depreciation and amortisation (calculated on the same basis as Adjusted EBITDA as defined below but on an unconsolidated basis and excluding intra-group dividend income, charges from the transfer of profits or losses and profits and losses due to intra-group mergers) of the Guarantors (the "<b>Aggregated Adjusted EBITDA of the Guarantors</b>") represented 79.9 % of the Adjusted EBITDA of the PHOENIX Group for the fiscal year ended 31 January 2013 ("<b>fiscal year 2012/13</b>"). For such calculation of the Aggregated Adjusted EBITDA of the Guarantors the adjusted earnings before interest, taxes, depreciation and amortisation of any entity with negative adjusted earnings before interest, taxes, depreciation and amortisation shall be considered to be zero.</p> <p>"<b>Adjusted EBITDA</b>" means (without double counting) net income of the PHOENIX Group calculated in the same manner as it was calculated in the consolidated income statement of the audited consolidated financial statements of the Parent Guarantor for its fiscal year 2012/13 (the "<b>Reference Financial Statements</b>") shown under the line item "Profit for the period" and adjusted as follows:</p> <ul style="list-style-type: none"> <li>(a) adding back the financial result as calculated under note 7 of the Reference Financial Statements;</li> <li>(b) plus interest income from customers as specified under note 7 of the Reference Financial Statements;</li> <li>(c) plus expenses related to ABS / factoring as specified under note 4 of the Reference Financial Statements;</li> </ul>

- (d) adding back income taxes, current and deferred as calculated under note 8 of the Reference Financial Statements; and
- (e) adding back amortisation of intangible assets and depreciation of property, plant and equipment as calculated under note 6 of the Reference Financial Statements.

Each of the Notes Guarantees will constitute unsubordinated and unsecured obligations of the respective Guarantor ranking *pari passu* in right of payment with all other unsubordinated and unsecured obligations of such Guarantor.

In order to ensure that each of the Subsidiary Guarantors is in compliance with applicable capital maintenance, fraudulent conveyance, corporate benefit and similar laws applicable to it, either the amount of the relevant Subsidiary Guarantees (as defined below) is limited to the maximum amount that can be guaranteed without a violation of these laws or the relevant Subsidiary Guarantees include provisions limiting their enforceability. See "RISK FACTORS — Risks Relating to the Guarantees — The Subsidiary Guarantees may be limited or unavailable by applicable laws or subject to certain limitations or defences" and "THE SUBSIDIARY GUARANTEE".

**Release of Subsidiary Guarantees** The Notes Guarantees provided by a Subsidiary Guarantor (each a "**Subsidiary Guarantee**") will be automatically and unconditionally released and discharged without any consent of the holders of the Notes (the "**Holders**") as soon as the Issuer or the Parent Guarantor has delivered to the Principal Paying Agent a declaration ("**Release Declaration**") signed by a duly authorised representative of the Issuer or, as the case may be, the Parent Guarantor and that Subsidiary Guarantor, that

- (i) at the time of such Release Declaration
  - (A) (unless an event or circumstance set out under § 2(5)(a)(ii)(B) or (D) of the Conditions of Issue has occurred) no Event of Default has occurred under the Conditions of Issue which is continuing, and
  - (B) no amount owed by such Subsidiary Guarantor under its Subsidiary Guarantee is unpaid; and
- (ii) one of the following events or circumstances has occurred:
  - (A) all or substantially all of the assets of such Subsidiary Guarantor or the shares in such Subsidiary Guarantor, or any parent entity thereof (other than the Issuer or the Parent Guarantor), are sold or otherwise disposed of to a third party which is not an Affiliate (as defined in § 11 (1) of the Conditions of Issue) of the Parent Guarantor; or
  - (B) it can reasonably be expected that maintaining the relevant Subsidiary Guarantee would lead to a violation of applicable laws due to changes in the laws, or a change in the interpretation, implementation or application of such laws, applicable to such Subsidiary Guarantee; or
  - (C) it can reasonably be expected that maintaining the Subsidiary Guarantee by such Subsidiary Guarantor would lead to a material disadvantage in the tax treatment of such Subsidiary Guarantor due to changes in the tax provisions applicable to such Subsidiary Guarantor or a change in the interpretation, implementation or application of such laws (for the avoidance of doubt the obligation to pay any additional amounts under § 7 of the Conditions of Issue is not considered a material tax



disadvantage); or

- (D) the liabilities of the Issuer under the Notes have been discharged in full; or
- (E) the unsecured and non-credit enhanced long-term liabilities of the Parent Guarantor's are assigned a rating by at least two of the Rating Agencies of BBB- or Baa3, respectively, or better; or
- (F) such Subsidiary Guarantor (together with any other Subsidiary Guarantor(s) whose Subsidiary Guarantee(s) has(have) been or is(are) simultaneously being released pursuant to this (F)) does no longer, or will, simultaneously with the release of the relevant Subsidiary Guarantee, no longer guarantee, any Financial Indebtedness of the Parent Guarantor or any of the Parent Guarantor's other Subsidiaries in an aggregate principal amount in excess of EUR 30 million.

For further details see "RISK FACTORS — Risks Relating to the Guarantees — Any Subsidiary Guarantee may be released or impaired without consent of the Holders" and "CONDITIONS OF ISSUE".

#### Accession of Subsidiaries as Guarantors

If, after the Issue Date, any Subsidiary (other than the Issuer, any Guarantor, Brocacef Groep N.V. and any of its direct or indirect subsidiaries, and, until the occurrence of the Italian Ringfencing Fall Away Event, a member of the Italian Subgroup) grants a guarantee with respect to any Financial Indebtedness of the Parent Guarantor or any Subsidiaries where the principal amount of the Financial Indebtedness so guaranteed exceeds EUR 30 million, the Parent Guarantor shall

- (i) inform the Principal Paying Agent thereof; and
- (ii) cause such Subsidiary to execute and deliver to the Principal Paying Agent, within 30 days of the date of such Subsidiary providing such relevant guarantee, a guarantee pursuant to which such Subsidiary will guarantee the payment obligations under the Notes on substantially the same terms as the Subsidiary Guarantors under the Subsidiary Guarantees, subject to legally advisable appropriate limitations reflecting the laws applicable to such Subsidiary, provided that such guarantee would not result in (x) any violation of applicable law, (y) any liability for the officers, directors or shareholders of such Subsidiary or (z) additional material tax liabilities for such Subsidiary, any other Subsidiary or the Parent Guarantor.

#### Taxation

Principal and interest shall be payable in respect of the Notes and each Notes Guarantee without withholding or deduction for or on account of any present or future taxes or duties of whatever nature imposed or levied by way of withholding by or on behalf of any jurisdiction from or through which payment on the Notes or a Notes Guarantee is made or in which the Issuer or the relevant Guarantor is organised or otherwise considered to be resident or conducts business for tax purposes, as the case may be, or any political subdivision or any authority thereof or therein having power to tax (the "**Withholding Taxes**"), unless such withholding or deduction is required by law. In such event, the Issuer will, subject to the exceptions set out in the Conditions of Issue, pay such additional amounts as shall be necessary in order that the net amounts received by the Holders after such withholding or deduction shall equal the respective amounts of principal and interest which would otherwise have been receivable in respect of the Notes in the absence of such withholding or deduction.

#### Optional Redemption for

Early redemption of the Notes for reasons of taxation will be permitted, at the

Taxation Reasons	<p>option of the Issuer, in whole but not in part, if as a result of any change in, or amendment to, the laws or regulations (including any amendment to, or change in, an official interpretation or application of such laws or regulations) of the Relevant Tax Jurisdiction or any political subdivision or authority of a Relevant Tax Jurisdiction or therein affecting taxation or the obligation to pay duties of any kind, the Issuer or the relevant Guarantor will become obligated to pay additional amounts on the Notes.</p> <p>See "CONDITIONS OF ISSUE" for further details.</p>
Early Redemption in Case of Change of Control	<p>The Conditions of Issue contain a change of control provision entitling the Holders to require the Issuer to redeem all of the Notes held by such Holders in an amount equal to the then outstanding principal amount of such Notes plus any accrued and unpaid interest thereon, provided that a Change of Control has occurred and, within the Change of Control Period a Rating Downgrade has occurred.</p> <p>If 85 % or more of the aggregate principal amount of the Notes then outstanding have been redeemed following the occurrence of a Change of Control Event, the Issuer may redeem, at its option, all (but not only part) of the remaining Notes at a redemption price equal to the principal amount thereof plus interest accrued to but excluding the date of such redemption.</p>
Negative Pledge of the Issuer	<p>In § 2(2) of the Conditions of Issue, the Issuer agrees not to provide any Security Interest for any Capital Market Indebtedness without at the same time having the Holders share <i>pari passu</i> in such Security Interest, subject to certain exceptions.</p> <p>See "CONDITIONS OF ISSUE" for further details.</p>
Negative Pledge of the Guarantors and Material Subsidiaries	<p>Subject to certain exceptions, the Parent Guarantor and each Subsidiary Guarantor undertakes under the Parent Guarantee and the Subsidiary Guarantee, respectively, not to provide any Security Interest for any Capital Market Indebtedness without at the same time having the Holders share <i>pari passu</i> in such Security Interest. In the Parent Guarantee, the Parent Guarantor undertakes, subject to certain exceptions, to procure (unless this is legally impossible or illegal) that none of its Material Subsidiaries will provide Security Interests over their assets to secure Capital Market Indebtedness without at the same time letting the Holders share <i>pari passu</i> and rateably in such Security Interest or giving to the Holders an equivalent other Security Interest.</p> <p>See "THE PARENT GUARANTEE" and "THE SUBSIDIARY GUARANTEE" for further details.</p>
Limitations on Financial Indebtedness	<p>The Conditions of Issue provide that the Parent Guarantor and its Material Subsidiaries shall not incur any Financial Indebtedness if (i) the Consolidated Coverage Ratio is less than 2 to 1 or (ii) an Event of Default under the Conditions of Issue has occurred and is continuing or would occur as consequence of incurring the Financial Indebtedness. The limitation on indebtedness is subject to further exceptions set out in the Conditions of Issue including for certain financial indebtedness incurred in PHOENIX Group's ordinary business or existing financial indebtedness and its refinancing.</p>
Events of Default	<p>The Conditions of Issue provide for events of default entitling Holders to demand immediate redemption of the Notes, all as set out in the Conditions of Issue.</p>
Cross Default	<p>The Conditions of Issue contain a cross default clause in relation to non-payment of Financial Indebtedness, all as set out in the Conditions of Issue.</p>

Governing Law	The Notes will be governed by German law.
Jurisdiction	Non-exclusive place of jurisdiction for any legal proceedings arising under the Notes is Frankfurt am Main.
Listing and Admission to Trading	Application has been made for admission of the Notes to the official list of the Luxembourg Stock Exchange and for trading on the Euro MTF of such exchange.
Selling Restrictions	The offer and the sale of the Notes and the distribution of offering materials are subject to specific restrictions. The relevant restrictions applicable in the European Economic Area, the United States of America and the United Kingdom of Great Britain and Northern Ireland and Republic of Italy are set out under "SUBSCRIPTION AND SALE OF THE NOTES". There are no transfer and trading restrictions in relation to the listing and the trading of the Notes on the Euro MTF market of the Luxembourg Stock Exchange.
Clearance and Settlement	The Notes have been accepted for clearing through Clearstream Banking, <i>société anonyme</i> and Euroclear Bank SA/NV.
Rating of the Notes	Fitch has assigned a prospective rating of BB to the Notes and S&P has assigned a preliminary rating of BB to the Notes. A security rating is not a recommendation to buy, sell or hold securities and may be subject to revision, suspension or withdrawal at any time by one or more of the assigning rating organisations.
Ratings of the Parent Guarantor	PHOENIX KG is rated BB, outlook stable, by Fitch and BB, outlook stable, by S&P.

## Summary in respect of the Issuer

### *Information about PHOENIX PIB Dutch Finance B.V.*

PHOENIX PIB Dutch Finance B.V. is a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of The Netherlands. Its corporate seat is in Maarssen, The Netherlands, and its office is at Straatweg 2. 3604 BB Maarssen, The Netherlands. PHOENIX PIB Dutch Finance B.V. is registered with the Trade Register of the Chamber of Commerce under number 57769435.

### ***Selected Financial Information***

Since its formation, the Issuer has prepared no financial statements other than its opening balance sheet.

#### **Opening balance sheet as at 17 April 2013 (date of incorporation) (unaudited)**

	17 April 2013
	EUR
Cash and cash equivalents	250,000
Total current assets	250,000
<b>Totals Assets</b>	<b>250,000</b>
Share capital	250,000
Shareholder's equity	250,000
<b>Total shareholder's equity and liabilities</b>	<b>250,000</b>

### ***Management Board***

The management board of PHOENIX PIB Dutch Finance B.V. consists of Mr. Johannes Petrus Eeken and Mr. Karsten Helmut Loges.

### ***Organisational Structure and Share Capital***

The Issuer is a wholly owned subsidiary of PHOENIX PIB Dutch Holding B.V., which has its corporate seat in Maarssen, The Netherlands, and which is an indirect subsidiary of PHOENIX KG. The authorised capital of the Issuer is fully paid up and consists of 250,000 ordinary shares of which 250,000 are issued and outstanding on the date of this Offering Circular. The shares have a nominal value of EUR 1.00 each.

### **Summary in respect of the Parent Guarantor**

#### ***Information about PHOENIX KG***

PHOENIX KG is a limited partnership (*Kommanditgesellschaft*) organised under the laws of the Federal Republic of Germany. Its statutory seat is in Mannheim and its address is Pfingstweidstraße 10-12, 68199 Mannheim, Germany. PHOENIX KG is registered with the Commercial Register of the Local Court in Mannheim under the number HRA 3551.

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

The managing directors (*Geschäftsführer*) of PHOENIX KG's general partner (*Komplementärin*) PHOENIX Verwaltungs GmbH are responsible for the management of PHOENIX KG's business. The following persons are currently managing directors of PHOENIX Verwaltungs GmbH: Reimund Pohl (Chief Executive Officer), Dr. Hans-Ulrich Kummer (Operations and Logistics), Dr. Michael Majerus (Finance, Accounting, Controlling and Tax), Stefan Herfeld (Retail) and Oliver Windholz (Sales and Marketing).

The advisory board (*Beirat*) (the "**Advisory Board**") supervises and appoints the managing directors of PHOENIX KG's general partner PHOENIX Verwaltungs GmbH. The members of the Advisory Board of PHOENIX KG are: Dr. Bernd Scheifele (chairman), Ludwig Merckle, Dr. Wolfram Freudenberg, Dr. Lorenz Näger and Dr. Peter Maag.

### ***Organisational Structure and Share Capital***

PHOENIX KG is the management and holding company and ultimate parent company of the PHOENIX Group. As of 31 January 2013 the registered liability capital (*Haftsumme*) of PHOENIX KG amounted to EUR 500 million and the aggregate of the unlimited and limited partners' capital (as the compulsory contributions (*Pflichteinlagen*)) in PHOENIX KG amounted to EUR 1,050 million.

## RISK FACTORS

*Before deciding to purchase the Notes, investors should carefully review and consider the following risk factors and the other information contained in this Offering Circular. The following statements are not exhaustive. Should one or more of the risks described below materialise, this may have a material adverse effect on the cash flows, results of operations and financial condition of the Issuer, the Guarantors and the other members of the PHOENIX Group. Moreover, if any of these risks occur, the likelihood that the Guarantors will be in a position to fulfil their payment obligations under the Notes Guarantees and that the Issuer will be in a position to fulfil its payment obligations under the Notes may decrease and the market value of the Notes may deteriorate, in which case the holders of the Notes (the "Holders") could lose all or part of their investments. Investors should note that the risks discussed below may not prove to be exhaustive and, therefore, may not be the only risks to which the Issuer and the Guarantors are exposed. Additional risks and uncertainties, which are currently not known to the Issuer or the Guarantors or which the Issuer and the Guarantors currently believe are immaterial, could likewise impair the business operations of the PHOENIX Group and have a material adverse effect on the cash flows, results of operations and the financial condition of the Issuer, the Guarantors and the other members of the PHOENIX Group. The order in which the risks are presented does not reflect the likelihood of their occurrence or the magnitude of their potential impact on the cash flows, results of operations and financial condition of the Issuer, the Guarantors and the other members of the PHOENIX Group. In addition, investors should be aware that the risks described might combine and thus intensify one another.*

### **Risks Relating to the Business of the PHOENIX Group**

***PHOENIX' business and results of operations are exposed to changes to healthcare regulations and regulatory decisions, in particular measures to contain healthcare costs.***

The business of the PHOENIX Group is subject to governmental regulation in every jurisdiction in which it operates. Such regulation especially affects the pricing levels and margin structures of the distribution and sale of pharmaceuticals and the offering of related services. In recent years, the ageing of the society and the associated increased demand for pharmaceuticals has led to rising healthcare costs. Governments therefore continuously endeavour to reduce costs in the healthcare segment. This leads to cost-containment measures such as cuts in reimbursement levels, eligibility of drugs for reimbursement, reductions of prices of pharmaceutical manufacturers, promotion of the substitution of branded pharmaceuticals by generics, and an increase of patient contribution to pharmaceutical spending. Changes to the regulatory regime in which the PHOENIX Group operates, whether as wholesaler, provider of pharma services (*i.e.*, provider of value added services along the pharmaceutical value chain mainly for pharmaceutical manufacturers but also for pharmacies and individual patients, including pre-wholesale and logistical services or blistering) or retailer, could have an adverse effect on its business, financial position and/or the results of its operations.

#### ***Regulatory Exposure of the Wholesale business in particular***

Regulation affects all major aspects of the wholesale business, especially the distribution chain, reimbursement, pricing levels and margin structures of the distribution of pharmaceuticals and the offering of related services. In particular, reimbursement for pharmaceuticals by the respective national health system constitutes an essential component of the remuneration of pharmacies and wholesalers. In many countries, reimbursement for pharmaceuticals is subject to comprehensive regulation. Regulatory changes may affect both to the level of reimbursement (e.g. by promoting the use of lower priced drugs or outright limitations on the margins pharmaceutical wholesalers are allowed to charge) and whether reimbursement is granted at all. Regulatory changes resulting in lower reimbursement rates influence the pharmaceutical manufacturers' price or sales volume and, therefore, affect PHOENIX' wholesale profit margin. Furthermore, in case drugs are excluded from reimbursement, PHOENIX will no longer benefit from fixed reimbursement rates. In addition, end-consumers might even refrain from buying such pharmaceuticals, resulting in lower sales volumes of wholesalers and pharmacies.

As a pharmaceutical wholesaler the PHOENIX Group is also subject to regulations regarding, *inter alia*, licensing and permitting requirements, Good Distribution Practice ("GDP") guidelines, service quality and product ranges, public service obligations, the conditions under which products must be handled, stored and

distributed, the integrity of the supply chain, the packing and documentation obligations. On 8 June 2011 Directive 2011/62/EU was published by the European Union which requires EU Member States to introduce additional safety features for pharmaceutical products such as authenticity verification and individual identification of each package. Currently the exact measures and specifications are being worked out by the European Commission in the form of a delegated act. These measures and specifications may trigger additional costs for PHOENIX. On 8 March 2013, the European Commission has published the revised GDP guidelines. The revised GDP guidelines replace the current GDP guidelines dating from 1994. According to the European Commission, the new guidelines will come into effect 6 month after publication date. Potentially necessary measures resulting from the revision of the GDP guidelines may induce additional costs for PHOENIX.

### ***Regulatory Exposure of the Retail business in particular***

The PHOENIX Group operates approximately 1,550 pharmacies in 12 countries. In these countries, regulations governing the pricing levels and margin structures as well as reimbursement rates influence the retail profit margin for sales of the regulated products.

If statutory public health systems limit or exclude reimbursement rates for certain groups of drugs and thereby influence the pharmaceutical manufacturers' price, the profit margin will be lower if it is calculated as a percentage surcharge to the pharmaceutical manufacturers price or if sales volumes for such drugs decline. In addition, if drugs are excluded from reimbursement, the PHOENIX Group will no longer benefit from fixed reimbursement rates.

In addition, in many countries in which the PHOENIX Group operates pharmacies, reimbursement granted by the national public health system to pharmacies is regulated by law, granting pharmacies *e.g.* a fixed service charge or a percentage surcharge to the pharmaceuticals distributor price. In some countries, such as Austria, pharmacies are required to grant mandatory discounts to statutory health insurance funds resulting in lower profit margins. In addition, PHOENIX might experience delays in the reimbursement of expenses granted to wholesalers and pharmacies for drugs dispensed by pharmacies at the expense of national public health systems.

The PHOENIX Group is further subject to regulation relating to the ownership or shareholder structure of pharmacies (*e.g.* requirement of participation of a duly qualified pharmacist). In particular, legislation in Hungary will require PHOENIX to divest until 2017 at least the majority of the shares currently held in local pharmacies which might have an adverse effect on the business and results of operations of the PHOENIX Group. In addition, the operation of pharmacies by PHOENIX is subject to regulation, including viability tests, qualification of personnel, the occupation of duly qualified pharmacists as shop managers, the sale of pharmaceuticals, product composition and storage, packing, labelling, handling and safety of pharmaceuticals. Changes to the corresponding regulations might result in higher operative costs and thereby adversely affect the business and/or results of operations of the PHOENIX Group.

Furthermore, in case of a future de-liberalisation of pharmacy markets it cannot be excluded that PHOENIX might be forced to restructure or even give up the retail business in such markets which might have an adverse effect on the business and results of operations of the PHOENIX Group.

### ***PHOENIX might be adversely affected by changes and trends in the general economic conditions, the pharmaceutical sector as well as patient and consumer spending.***

The business of the PHOENIX Group might be adversely affected by changes in the relevant domestic and global political and economic environment. Even if its pharmaceutical distribution business is less affected by general economic trends, a general decline in the purchasing power and a state health care policy increasingly focusing on cost-containment measures might negatively affect its business. PHOENIX also depends on market growth in the pharmaceutical distribution sector, which is primarily dependent on the development of sales volumes and the ability of pharmaceutical companies to market top-selling pharmaceuticals. In addition, its business depends on patient and consumer spending, in particular with regard to sales of over-the-counter ("OTC") products, which might be negatively affected during economic downturns and/or other periods of weaker consumer confidence. The market for prescription-only drugs is typically more stable and less dependent on general economic conditions since the purchase price for such drugs is generally reimbursed by the public health system. Changes in general economic conditions, in the market volume of the pharmaceutical market as

well as patient and consumer spending could therefore adversely affect the financial position and results of operations of the PHOENIX Group.

***PHOENIX operates in a competitive environment and faces price pressure and a loss of market share in its Wholesale business.***

In its wholesale business, the PHOENIX Group operates in highly competitive national markets which, notwithstanding their mainly regulated nature, are subject to competition, both regarding price and service, from direct competitors including cooperatives, and alternative supply sources, including short-liners, importers (parallel trade) and domestic opportunistic traders. On the one hand, PHOENIX has to negotiate with pharmaceutical manufacturers who are in a strong negotiating position and, on the other hand, the PHOENIX Group has to win and retain pharmacies as wholesale customers, often by granting discounts and by offering deferred payment options and offering various additional services which might reduce profit margins. In addition, it is customary in the wholesale business not to have long-term agreements with customers or with pharmaceutical manufacturers and none of PHOENIX Group's customers is exclusive. Contracts with fixed terms for a longer period are only concluded with sourcing cooperatives of pharmacists.

Pharmaceutical manufacturers might further choose to directly supply the pharmacies via logistics service providers (direct-to-pharmacy, "DTP"). By choosing the DTP model, pharmaceutical manufacturers would be able to offer lower prices than pharmaceutical wholesalers. Consequently, PHOENIX might be forced to reduce its wholesale margin to a minimum in order to be able to compete and retain its market share.

In addition, the ability of the PHOENIX Group to maintain its position in the European market will depend, among other things, on its ability to prevail over its competitors in the acquisition of new attractive wholesale and retail companies in new markets and in the markets where PHOENIX is already present. A strong market position and coverage is important sometimes or even essential to get selected as a wholesaler under alternative wholesale models (such as the reduced wholesale model and the exclusive wholesale model) as well as in single-channel markets, where the pharmaceutical manufactures select only one or a few wholesalers for their distribution. A loss of market share in any market using such models could thus negatively affect the ability of the PHOENIX Group to be selected as preferred or exclusive wholesaler. Moreover, a strong market position and coverage is required in order to scale its operational costs and further grow its business.

There is also a risk that other participants in the wholesale marketplace might change their business or operational models in a way which could increase competition. For example, service providers and pharmaceutical and other healthcare manufacturers might develop their own supply management capabilities, which could adversely affect the business operations of the PHOENIX Group. Furthermore, the liberalisation of pharmacy markets could result in other wholesalers and market participants starting to acquire pharmacies, which could reduce its wholesale customer base.

***PHOENIX faces competition from logistic companies in its pre-wholesale business***

In most of the countries in which PHOENIX operates, logistic-related services are being offered to pharmaceutical manufacturers. In the event of worsening economic conditions, traditional logistic companies seek more intensively for market niches and try to enter into the pharmaceutical distribution business. Any such increase in competition would adversely affect the financial position and results of operations of the PHOENIX Group. In addition, pharmaceutical manufacturers might decide to insource same or all of the services currently conducted by third parties.

***PHOENIX is exposed to competition in the retail business from a diverse range of competitors some of which have larger resources.***

In the retail business, PHOENIX faces competition from a variety of competitors depending on the market and regulatory environment of the different jurisdictions in which it operates. The competitors in these markets include national, regional and local pharmacies as well as in some countries supermarket retailers and mail-order pharmacies. Some of PHOENIX' competitors have larger resources and might try to expand their market shares by offering more attractive prices, in particular for OTC products. This could lead to a price pressure for the



retail business and potentially a loss of market shares of the PHOENIX Group. The intensity of competition also depends on the level of liberalisation. In countries that are opening up to liberalisation, PHOENIX' success will depend in part upon the purchase of a representative cluster of pharmacies.

***PHOENIX faces specific country risks.***

PHOENIX operates in 23 countries in Europe. In some of these countries (*e.g.* in certain jurisdictions in Eastern Europe), the economic, political or legal situation might be less stable than in Germany and other countries in Western Europe. Therefore, in these countries PHOENIX is exposed to a number of political, social, economic, financial and market-related risks such as currency control regulations, currency exchange rules, as well as potential difficulties in staffing and managing foreign operations and sustaining the supply chain. Foreign countries could further impose additional taxes or restrict the import of PHOENIX' products. Under some countries' legal systems PHOENIX might also face difficulties in enforcing contracts and collecting trade receivables which might adversely affect its financial position and results of operations.

***PHOENIX' good relationships with pharmaceutical manufacturers may change and pharmaceutical manufacturers may be impacted by financial difficulties.***

Until a few years ago, generally all pharmaceuticals were distributed through a number of competing full-line wholesalers. However, in recent times several pharmaceutical manufacturers within the European markets, initially in the UK, have established new distribution models such as the reduced wholesale model and certain countries, such as Sweden and Finland, have adopted the single channel strategy. By using these models, pharmaceutical manufacturers try to gain more influence over the distribution chain, in particular to avoid parallel imports from market with a lower price level (for example from the UK into the U.S. market). As a consequence, in certain countries only preferred wholesalers are allowed to distribute pharmaceutical products of certain pharmaceutical manufacturers. It is therefore of essence to establish good relationships with the pharmaceutical manufacturers in order to be chosen as preferred wholesaler. The choice depends, *inter alia*, on a strong and leading market position and coverage and a high quality of service and handling of the products. PHOENIX might not be able to distribute certain pharmaceutical products. Major pharmaceutical manufacturers might also implement these new distribution models in some other markets in which PHOENIX operates. In addition, due to a strong negotiating position of the pharmaceutical manufacturers and the in general short-term contracts between pharmaceutical manufacturers and wholesalers, PHOENIX might be forced to accept unfavourable terms of payment in order to be chosen as preferred market wholesaler. If PHOENIX is not able to maintain and expand its position as preferred wholesalers, its results of operations would be adversely affected.

If pharmaceutical manufacturers experience financial difficulties, they might increase their prices, reduce their output or change their terms of sale, in particular introduce shorter payment terms, or be unable to fulfil their payment obligations towards PHOENIX for fees, returned products or incentives which might have a material adverse impact on its results of operations.

In addition, in recent years the pharmaceutical manufacturers have been subject to ongoing consolidation. As a result, a small number of very large companies have a significant share of the market. Accordingly, PHOENIX depends on fewer pharmaceutical manufacturers for its products which might result in a weakening of its bargaining position for conditions and rebates and favourable payment terms with the pharmaceutical manufacturers, which could have a material adverse impact on the results of operations.

***Quota limitations may adversely affect the quantity of products PHOENIX can order from certain pharmaceutical manufacturers.***

Certain pharmaceutical manufacturers limit the amount of certain products PHOENIX is allowed to order in order to prevent parallel imports. The caps are determined according to market share and past order volumes. This is especially the case for products purchased in Spain and Portugal, which could be sold in other European countries with higher price-levels and for products ordered in the UK, which could be sold at higher prices in the United States. Due to these quota limitations PHOENIX might be unable to accommodate the demand of its customers and complete the orders placed with it, and therefore lose revenue and customers. Further, since its maximum order volumes are related to its present market share PHOENIX might be unable to further expand its

business and to increase its market share potentially resulting in an adverse effect on its financial position and results of operations.

***PHOENIX may face substantial defaults in payment, a material reduction in purchases or the loss of a large customer or group purchasing organisation.***

In recent years, in certain jurisdictions in which PHOENIX operates, a significant portion of its revenue has been generated from a limited number of large customers. This is especially the case in jurisdictions where pharmacy chains and new distribution channels have been created following the liberalisation of the market. PHOENIX also has agreements with group purchasing organisations, each of which functions as a purchasing agent on behalf of member hospitals, pharmacies and other healthcare providers in a particular jurisdiction. Should one of these large customers or group purchasing organisations materially reduce its purchases from PHOENIX or terminate its purchasing agreements or supply relationships with it or cease to recommend PHOENIX to their customers as preferred wholesaler, the PHOENIX Group would experience a potentially substantial loss in revenue.

PHOENIX generally sells products in its wholesale business to customers on short-term credit that is often unsecured. Although pharmacies generally have a high credit standing and potential customer payment risks are addressed through a debt management system, it cannot be completely ruled out that payment defaults due to adverse changes in general economic conditions or reduced reimbursements of pharmaceuticals could adversely reduce sales to end-customers and cause customers to delay or default on trade receivables owed to PHOENIX. This would consequently reduce PHOENIX Group's revenue growth and cause a decrease in its profitability and cash flow. In the last two fiscal years, the bad debt allowance account increased only marginally.

***Failure to identify suitable acquisition targets or to successfully integrate acquired businesses and negative impacts on its wholesale market share might slow down further growth.***

An important element of PHOENIX' strategy for continued growth consists of acquisitions of selected businesses and interests in the European wholesale and retail sector as well as related markets to reinforce its market position or to enter into new markets. Failure to identify suitable acquisitions, particularly in new markets, or to identify all relevant risks associated with an acquisition and properly integrate and manage the acquired business could adversely affect the financial position, results of operation and growth prospects of the PHOENIX Group. If the integration processes were not concluded as planned, the creation of operational synergies might not be possible or could be delayed.

Furthermore, PHOENIX might not be able to participate in acquisitions due to the limitations set out in the EUR 1,350 million syndicated facilities agreement for PHOENIX KG entered into on 21 June 2012 (the "**Syndicated Credit Facility Agreement**"). As a consequence, entry into new markets or expansion of its market shares in markets where PHOENIX already operates might be restricted.

The business expansion of the PHOENIX Group might also be restricted due to antitrust restraints. In concentrated markets where PHOENIX has a strong market position, it might not be able to further expand its business due to merger control regulations. Further, the regulatory environment might also be adverse to its business strategy. In some European countries, PHOENIX is currently not allowed to operate pharmacies due to regulations which, for instance, do not allow so-called third-party ownership (pharmacies owned by persons other than pharmacists, for example in Germany) and so-called multiple ownership (the ownership of several pharmacies by one and the same person or company, for example to some extent in Germany). Currently, certain European countries are considering a liberalisation of the pharmacy market and the admittance of pharmacy chains although it remains unclear whether market liberalisation will ultimately take place. If PHOENIX is unable to enter into attractive markets at all or in a timely manner, its financial position and results of operation might be adversely affected.

An expansion of PHOENIX Group's retail business also involves risks for its core wholesale business. By acquiring pharmacies or pharmacy chains, PHOENIX enters into competition with customers of its wholesale business. If PHOENIX tries to gain market share in the retail business at the expense of its pharmacy customers, the increase in revenue and EBITDA might be offset by corresponding losses in revenue in the wholesale business if customers discontinue or reduce business with PHOENIX. Therefore, any acquisitions in the retail

business if not carefully chosen could result in adverse impacts on the customer base in the wholesale business potentially adversely affecting its financial position and results of operations.

***An increase in the market share of generic drugs might negatively influence PHOENIX' margin generated in the wholesale business.***

Healthcare and public policy trends indicate that the number of generic drugs will increase over the next few years as a result of the expiration of certain drug patents and cost-containment measures introduced by governments to increase the market share of lower priced generic drugs. The price difference between a patent protected drug and a generic drug is considerable. Lower prices lead to lower revenue, even if PHOENIX might add higher margins on low priced drugs these risks could adversely affect the financial position and results of operations of the PHOENIX Group.

***Risks associated with industrial disruption and other causes of business interruption***

PHOENIX faces general operational risks including the risk of industrial disruptions and other causes of business interruptions. Its operations are dependent on the continued operation of its inventory management (in particular in the wholesale business), logistics infrastructure, information technology systems, warehousing and the operational systems of third party service providers. In particular, sophisticated information technology systems are a central part of the business operations and distribution and logistics functions. Business interruptions might be caused by equipment failure, information technology systems failures, computer viruses, product supply disruptions, stock handling procedure breakdown, labour force shortages or work stoppages, natural disasters, inadequate public infrastructure, events impeding transport of products and failure of third party pharmaceutical manufacturers or other events beyond PHOENIX' control. The occurrence of major operational problems might adversely affect its financial position and results of operations.

***Due to changes in pharmaceutical manufacturers' distribution prices, PHOENIX might be forced to sell products in stock at prices below the price it paid, which might reduce its margins or even lead to an impairment of its inventories.***

In certain countries, as a full-range wholesaler, PHOENIX has a statutory duty to ensure an appropriate and continuous supply of all pharmaceutical products it trades in. PHOENIX is therefore obliged to have an appropriate number of each pharmaceutical product in stock. In case of changes in pharmaceutical manufacturers' distribution prices regarding particular products it might be required to sell the products to its customers at lower prices than anticipated. This would reduce its margin or, in case PHOENIX has to decrease the price to below the price it paid for the product, impair its inventories. Each of these risks might adversely affect its financial position and results of operations.

***PHOENIX may face failures in the functioning of its IT systems or software, a failure to ensure their continued availability or software interoperability.***

The functioning of IT systems, software as well as the software interoperability with PHOENIX' customers is of great importance since most orders of its customers are placed electronically. In addition, the logistics of most of its distribution centres is also controlled electronically. Therefore, the correct functioning of the IT systems and the software and data processing systems is vital in order to ensure a proper and error-free business performance. Any software error could lead to material service interruptions and might consequently adversely affect the results of operations of the PHOENIX Group. This would also be the case if software essential for its business becomes unavailable for PHOENIX other than for technical reasons.

In addition, PHOENIX is obliged to ensure data protection of all data it receives from its customers. Any software error could lead to a violation of statutory obligations regarding the protection of data privacy, which could result in loss of its reputation and customers.

There is increasing demand among customers, industry groups and government authorities that healthcare software and systems provided by various vendors are compatible with each other. PHOENIX might therefore

incur increased development costs if it is required to upgrade its software and systems to be in compliance with evolving interoperability standards and related data protection requirements. In addition, these changes might lengthen the sales and implementation cycle and it might incur costs without or prior to any corresponding increase in revenue. Moreover, in case it does not develop its software in a timely manner, its business might be negatively affected. Each of these risks might adversely affect financial position and results of operations of the PHOENIX Group.

***Reduced capacity in the commercial property insurance market exposes PHOENIX to potential losses.***

In order to provide prompt and complete service to its customers in the wholesale business, PHOENIX maintains significant product inventory at its distribution centres. While PHOENIX strives to maintain property insurance coverage in amounts it believes are sufficient for its business, there can be no assurance that its property insurance will be adequate or further available on acceptable terms. One or more large casualty losses caused by fire, earthquake or other natural disasters in excess of its coverage limits would have an adverse impact on the financial position and results of operations.

***Potential negative changes in the value of PHOENIX' assets could result in write-downs.***

The consolidated financial statements of the PHOENIX Group as of and for the fiscal year ended 31 January 2013 contain goodwill in the amount of EUR 1,168.8 million and pharmacy licenses in the amount of EUR 300 million, and deferred tax assets of EUR 132.9 million as of 31 January 2013, respectively. Goodwill is not amortised, but subject to impairment tests. These tests are carried out on an annual basis or as required if as there are indications of impairment. Intangible assets such as pharmacy licenses might be subject to impairment if the prospects of the business to which the license relates deteriorate or if the business is sold. Deferred tax assets for tax loss carry-forwards are only recognised if it is probable that taxable income will be available in the future which can be set-off against tax loss carry-forwards. Deferred tax assets are calculated on the basis of management estimates on the expected timing and amount of taxable income to be generated and the future tax planning strategies. It cannot be ruled out that negative changes in the value of the assets might result in write-downs, which – depending on their size – could have a material adverse effect on the financial position and results of operations of the PHOENIX Group.

***Assumptions, including legal findings, increases in discount rates and rates of return, for PHOENIX' employee retirement and health care schemes may be subject to change.***

PHOENIX operates both funded and unfunded defined-benefit pension schemes in various countries. As of 31 January 2013, EUR 75.6 million of the pension and other similar obligations were unfunded. All of its funded pension plans are underfunded, *i.e.*, the present value of the defined benefit obligation is greater than the fair value of the plan assets leading to a defined benefit liability. In Norway, for example, underfunding amounted to EUR 133 million as of 31 January 2013, and in the UK underfunding amounted to EUR 14 million. Total net underfunding of pension schemes operated by PHOENIX resulted in a net defined benefit liability amounting to EUR 236.4 million as of 31 January 2013.

PHOENIX Group's projected benefit obligations are based on certain actuarial assumptions which vary from country to country, including discount rates, life expectancies, long-term rates of return on invested plan assets and rates of increase in compensation levels. If actual results, especially discount rates and/or rates of return on plan assets, were to differ from those assumptions taken to measure the defined benefit obligation and fair value of plan assets, the pension, retirement and other post-employment obligations could be higher than expected, and the cash flows could be adversely impacted should additional funding of these obligations according to local funding rules become necessary. Increased benefit obligations could also arise if plan rules or parts thereof and/or their practical application would be found not to comply with local law.

Changes in assumptions or under-performing plan assets could also adversely affect the consolidated statement of financial position and consolidated income statement of the PHOENIX Group. For the fiscal year ended 31 January 2012 ("**fiscal year 2011/12**") and for the fiscal year ended 31 January 2013 ("**fiscal year 2012/13**"), the difference between estimated and actual returns on plan assets resulted in actuarial losses of EUR 18.0 million and actuarial gains of EUR 25.4 million, respectively. Future declines in the value of plan assets or

lower-than-expected returns might require PHOENIX to make additional or larger than the current cash contributions to pension plans.

## **Legal and Taxation Risks**

### ***PHOENIX is exposed to legal risks regarding antitrust fines and related damage claims.***

Due to the PHOENIX' activities in 23 European countries and its strong market positions, it might be subject to adverse decisions of competition authorities. In the past, PHOENIX has been subject to investigations and fining decisions of competition authorities for alleged anti-competitive behaviour. In January 2012, the Danish Competition and Consumer Authority started an investigation in respect of Nomeco A/S' compliance with the obligation to report stock-out to the local health authorities and in respect of Nomeco A/S' involvement in alleged coordinated practice regarding instructions on return and crediting between pharmacies/wholesalers and wholesalers/suppliers. The proceeding is ongoing and poses the risk of administrative fines and civil damage claims by third parties.

PHOENIX has a high market share in most jurisdictions in which it operates. This could, *inter alia*, limit its ability to enter into vertical agreements (*e.g.*, exclusive arrangements) with pharmaceutical manufacturers and its customers. There can be no assurance that one of the members of the PHOENIX Group is not a party to agreements that might be found to infringe applicable competition laws. In addition to the consequences mentioned below (*e.g.*, imposition of significant fines), the respective agreements could be void.

A successful competition law challenge against PHOENIX could result in the imposition of significant fines by one or more authorities, and/or in decisions preventing PHOENIX from further expanding its business, and/or third parties (such as competitors and customers) initiating civil litigation, claiming damages caused by anti-competitive practices. Furthermore, compliance with competition laws and regulations might involve significant costs or require changes in business practices that might result in reduced revenue and, accordingly, could have an adverse effect on PHOENIX' business and results of operations.

### ***PHOENIX faces risks in connection with litigation and administrative proceedings.***

The companies of the PHOENIX Group have been involved in administrative proceedings and litigation involving, in particular, antitrust, commercial, environmental, intellectual property, as well as regulatory, tort, employment and other various claims. All such legal proceedings are inherently unpredictable and the outcome can result in verdicts and/or injunctive relief that might affect how PHOENIX operates its business or could require PHOENIX to enter into settlements of claims for monetary damages. Future court decisions and legislative activity might increase its exposure to litigation and regulatory investigations. For some complaints filed against certain companies of the PHOENIX Group, PHOENIX is currently unable to estimate the remaining amount of potential losses that might incur should these legal proceedings be resolved against it.

In addition, litigation is costly, time-consuming and disruptive to normal business operations. The defence of these matters could also result in continued diversion of management's time and attention away from business operations, which could also harm the business. Even if these matters are not resolved against PHOENIX, the uncertainty and expense associated with unresolved legal proceedings could harm its business and reputation.

### ***PHOENIX could become subject to liability claims that are not adequately covered by insurance and could be required to pay damages and other expenses which could have an adverse impact on results of operations.***

PHOENIX is subject to risks that are inherent in the distribution and dispensing of pharmaceuticals and other products, such as medical devices, medical-surgical supplies, food products and the provision of ancillary services. In particular in the retail business, PHOENIX is responsible for product composition, and the storage, packing, labelling, handling and safety of pharmaceuticals. If PHOENIX was to breach its obligations and end-customers suffer damage, it might be liable. If customers assert liability claims in relation to products and/or services distributed or rendered by PHOENIX, any ensuing litigation, regardless of the outcome, could result in substantial costs, divert management's attention from operations and decrease market acceptance of PHOENIX'

products. Where PHOENIX re-packages or re-labels pharmaceutical products or has pharmaceutical products manufactured by contract manufacturers under its own brand names, it is considered as manufacturer under product liability law and therefore subject to potential product liability claims. PHOENIX Group's general liability coverage or its product liability coverage might neither be sufficient nor continue to be available on acceptable terms to cover one or more large claims against PHOENIX or might include larger self-insured retentions.

In the retail business, PHOENIX faces the risk of violating laws regarding the sale of narcotics or special drug laws. In case of a positive finding, this could potentially result in a revocation of its retail permit.

***PHOENIX might be obliged to pay damages and/or to cease selling certain products, which might be found to infringe the rights of third parties.***

Although PHOENIX believes that the products it distributes do not infringe the proprietary rights of third parties, there can be no assurance that third parties will not assert infringement claims against PHOENIX (e.g., with respect to trademark or patent rights). In particular, generic drug manufacturers are challenging the validity or enforceability of patents on branded pharmaceutical products. While these legal challenges are pending, a generics manufacturer might already begin manufacturing and selling a generic version of the branded product. To the extent PHOENIX sources and distributes such generic products launched "at risk", the brand-name company could assert infringement claims against PHOENIX. If PHOENIX were found to infringe third party rights, it might be required to pay substantial damages and, *inter alia*, cease selling the related infringing products. The resulting costs (including the costs of litigation) and reputational damage could have a material adverse effect on its results of operations.

***PHOENIX has no formal centralised compliance program in place and might therefore fail to prevent or detect improper practices, fraud and violations of law on the part of its employees.***

PHOENIX has no formal centralised compliance program in place. Due to its highly diversified and decentralised corporate structure with operations in 23 countries and 23,886 employees (full-time-equivalent) on average for the fiscal year 2012/13, it may not always be possible to prevent individual cases of violations of the law, e.g. competition or anti-bribery legislation. The employees of the PHOENIX Group are obliged to act in accordance with all applicable laws and all group companies are subject to regular internal audits. Any non-compliance with laws in conducting business is strictly sanctioned. Despite preventive action, non-compliance may still occur. Due to such violations of the law PHOENIX could, in particular, become subject to civil and criminal penalties, fines by public authorities and/or decisions preventing PHOENIX from further expanding the business and/or third parties (such as competitors and customers) initiating civil litigation claiming damages caused by anti-competitive practices that, in each case, could have a material adverse impact on its financial position and also have a negative effect on its results of operations.

***Changes in law or legal practice regarding the conditions of self-employment might have adverse effects on PHOENIX' business and results of operations.***

PHOENIX might be subject to changes in law, legal practice or labour disputes regarding the conditions of self-employment relationships. Such developments might lead to a qualification of self-employment relationships as employment relationships. In such case social security contributions or dues would be payable with respect to such employees, potentially also for the past (e.g., in Germany for up to four years). In addition, statutory employment termination protection would become applicable to such persons. Such change would result in a significant increase in the cost of labour. Any requalification of self-employment relationships as employment relationships might therefore have an adverse effect on its business and results of operations.

***Pending and future tax audits within the PHOENIX Group might lead to additional tax payment obligations.***

Additional tax expenses could accrue as a result of ongoing or future tax audits. Tax laws and regulations are complex and subject to varying interpretations. Therefore, there is a general risk that tax authorities could have a

different view on certain tax matters than PHOENIX. As a result, the tax authorities might not concur with certain positions taken in its tax reports/returns or could revise original tax assessments, and substantially increase the tax burden (including interest and penalty payments) of the affected group companies. This could adversely affect the business, financial condition and results of operations of the PHOENIX Group.

Currently, in particular PHOENIX KG, along with certain of its German subsidiaries, is undergoing a routine tax audit for the assessment periods 2005 through 2009. Since the tax audits have not been completed yet, it cannot be ruled out that the tax payment obligations actually arising from the tax audit will exceed the amount accounted for as a provision, though at present there is no indication for an increase of the tax burden beyond the current findings. PHOENIX KG takes the view that the current amount of provisions and liabilities reflects a potential exposure from the tax audits. Further, the tax authorities issued a tax audit notice for the audit period 2001 through 2004 and a tax assessment notice for 2001. PHOENIX KG claimed the tax audit and tax assessment notice. Although it is assumed that a positive ruling will be achieved it cannot be completely excluded that a significant tax burden might incur as a result of such assessment.

Tax audits are also pending with respect to group entities in other jurisdictions. So far, the tax audits have not revealed any material findings. However, it cannot be ruled out that ongoing and future tax audits in other jurisdictions might also lead to additional tax payment obligations.

***Restrictions of the deduction of interest expenses or forfeiture of interest carry-forwards could adversely affect the business, financial condition and results of operations of the PHOENIX Group.***

PHOENIX KG and several of the group entities annually incur significant interest expenses. Subject to certain prerequisites, the tax laws of Germany and other countries which are important to the business (e.g. the Netherlands), disallow the deduction of interest expenses for tax purposes or reclassify interest expenses as deemed dividends which are non-deductible from the tax base and subject to withholding tax (so-called interest stripping, anti-base erosion or thin capitalisation rules). In some jurisdictions, non-deductible interest expenses can be carried forward in the forthcoming fiscal years. However, under special circumstances the utilisation of the interest carry-forwards could be restricted or the interest carry-forwards might even be forfeited in part or in whole. The tax burden of future tax periods would be increased if profit is generated that cannot be set off against interest expenses or interest carry-forwards. The restricted utilisation of interest expenses or the forfeiture of interest carry-forwards could adversely affect the business, financial condition and results of operations of the PHOENIX Group.

***PHOENIX might be restricted from utilising tax loss carry-forwards.***

PHOENIX KG and other group entities have considerable tax loss carry-forwards that have been capitalised in the consolidated statement of financial position as deferred tax assets. The utilisation of such tax loss carry-forwards could be restricted, for instance, pursuant to Section 8c German Corporate Income Tax Act or due to a time limitation. To the extent that the utilisation of tax loss carry-forwards is restricted or tax loss carry-forwards are forfeited, such tax loss carry-forwards cannot be set-off against future taxable profits which could increase the tax burden. In addition, any such restriction might require a write-down of the deferred tax assets in the consolidated statement of financial position. As a result, any restriction of the utilisation of tax loss carry-forwards could have an adverse effect on the financial condition and results of operations of the PHOENIX Group.

***If German tax authorities do not recognise one or more of PHOENIX' tax groups for corporate income and trade tax purposes, it might be subject to additional tax payment obligations.***

In Germany, tax groups for corporate income and trade tax purposes (*körperschaftsteuerliche und gewerbsteuerliche Organschaft*) have been established between entities of the PHOENIX Group. At present, German tax authorities have not challenged the validity of any of such tax groups. Given the strict requirements applied by the German tax authorities for the recognition of tax groups, it cannot be ruled out with certainty, however, that one or more of such tax groups might not be recognised by the German tax authorities. This could result in additional tax payment obligations that might adversely affect the financial condition and results of operations of the PHOENIX Group.

***Fiscal regulations or the interpretation of tax laws might be subject to change.***

Changes in fiscal regulations or the interpretation of tax laws by the courts in all jurisdictions in which PHOENIX is conducting its business might have adverse effects on its business, for example if certain tax exemptions no longer apply. Changes in the tax law or the invalidity of granted tax rulings or tax agreements (*e.g.*, as a result of cancellation, withdrawal, termination) might also lead to higher tax impacts on the PHOENIX Group, and potentially have adverse consequences for its financial condition and results of operations.

**Risks related to PHOENIX' Financial Position**

***PHOENIX is exposed to financial risks.***

Due to its international business activities, PHOENIX is exposed to a variety of financial risks. In particular, these include market risks (changes in foreign currency exchange rates and interest rates) and credit risks. In addition, liquidity risks might arise due to the financial risks mentioned above and because of unexpected fluctuations in the financial markets. Although PHOENIX aims to mitigate these risks in part by using derivatives in specific cases to hedge against interest rate and currency risks, it cannot be ruled out that PHOENIX has significantly misjudged the extent to which such hedges would have been required.

Currency risk arises through fluctuations of the exchange rate of the currencies of countries that are not part of the European Monetary Union and their impact on the statement of financial position items which are not denominated in PHOENIX Group's functional currency, the Euro. PHOENIX is, in particular, exposed to fluctuations in Pound Sterling ("**GBP**"), Swiss Franc ("**CHF**"), Hungarian Forint ("**HUF**"), Polish Zloty ("**PLN**"), Serbian Dinar, Swedish Krona ("**SEK**"), Norwegian Krone ("**NOK**"), Danish Krone ("**DKK**"), Croatian Kuna ("**HRK**") and Czech Koruna ("**CZK**"). The currency risks originate primarily from the external and internal refinancing activities and investments in foreign entities. As the group companies largely settle their operating business in their respective local currency (the cash out flow to the suppliers and the cash inflows from the customers are in local currency), the operative (transactional) currency risks are small. Profits generated in a foreign currency by group companies need to be converted into Euro for consolidation purposes. Any loss in value of the local currency of such group companies to the Euro might lead to lower profits reflected in PHOENIX' consolidated financial statements.

If and to the extent that cash out flows of the respective group company in any foreign currency are not, as is usual, offset by cash flows resulting from operational business in such currency, PHOENIX aims to hedge the remaining net foreign currency exposure on a case-by-case basis by using appropriate derivative financial instruments, in particular currency forwards and currency swaps. Currency fluctuations and cost of hedging instruments could have a negative impact on the results of operations of the PHOENIX Group. In addition, PHOENIX faces certain transactional currency risks relating to cross-border delivery relations when purchases and sales are factored in different currencies or when cash flows are converted between currencies. In the fiscal year 2012/13, a change in the exchange rate of the Swedish Krona to the Euro of 10 % would have had an impact on accumulated other comprehensive income of EUR 12.1 million, a change in the exchange rate of the Euro to the Serbian Dinar of 10 % would have had an impact on accumulated other comprehensive income of EUR 4.3 million and on profit before taxes of EUR 1.7 million, a change in the exchange rate of the Euro to the Croatian Kuna of 10 % would have had an impact on profit before taxes of EUR 5.7 million and a change in the exchange rate of the Euro to the Norwegian Krone of 10 % would have had an impact on accumulated other comprehensive income of EUR 55 million.

Despite funding being available under the Syndicated Credit Facility Agreement as well as several bilateral asset backed securities and factoring programmes and credit facilities and from the debt capital markets, PHOENIX might be imposed to liquidity risk, *i.e.*, the risk that it is not able to fulfil its payment obligations when they fall due.

Credit risk might occur if a party to a financial instrument fails to meet its contractual obligations and thus causes a financial loss for PHOENIX Group. Credit risk comprises both the direct default risk and the risk that the creditworthiness of the counterparty will deteriorate, as well as concentration risks. PHOENIX is exposed to credit risk from its operating activities (primarily from trade receivables and loan notes), from certain financial



transactions and from the granting of financial guarantees for bank loans for pharmacy customers mainly in Austria and the UK.

Interest rate risks exist as a result of potential changes in the market interest rate and might lead to a change in fair value in case of fixed interest-bearing financial instruments and to fluctuations in interest payments in case of variable interest-bearing financial instruments. PHOENIX entered into interest rate swaps to hedge interest risks, especially the risk of rising reference rates. With regard to variable interest-bearing financial instruments, changes in market rates impact the earnings of the PHOENIX Group. Increasing interest rates might result in higher interest costs and might adversely affect PHOENIX' financial position and the results of operations.

***Continued volatility and disruption to the global capital and credit markets might adversely affect PHOENIX Group's ability to access credit and increase its cost of credit.***

Volatility and disruption in the global capital and credit markets, including (without limitation) the bankruptcy or restructuring of certain financial institutions, reduced lending activity by other financial institutions, decreased liquidity and increased costs in the commercial paper market and the interbank market or the reduced market for securitisations, might adversely affect the availability and cost of current or future credit, including any arrangements to renew or replace the current credit or financing arrangements or to finance strategic acquisitions. There can be no assurance that continued or increased volatility and disruption in the global capital and credit markets will not impair the liquidity or increase the costs of borrowing of the PHOENIX Group.

## **Risks Relating to the Notes**

An investment in the Notes involves certain risks associated with the characteristics, specification and type of Notes which could lead to substantial losses that Holders would have to bear in the case of selling their Notes or with regard to receiving interest payments and repayment of principal. Risks regarding the Notes comprise, *inter alia*, the following risks:

***The Notes may not be a suitable investment for all investors.***

Each potential investor in the Notes must determine the suitability of the investment in light of its own circumstances and financial condition. In particular, each potential investor should:

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

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

Financial institutions should consult their legal advisers or the appropriate regulators to determine the appropriate treatment of the Notes under any applicable risk-based capital or similar rules.

***The Issuer's ability to fulfil its obligations under the Notes depends upon PHOENIX Group's future financial and operating performance.***

The Notes will be obligations of the Issuer. The Issuer is a funding vehicle for the PHOENIX Group. As such, it raises funds through the issuance of securities and private placements or by the acceptance of loans from credit institutions. The Issuer on-lends these funds, as in the case of the proceeds of the issuance of the Notes, to PHOENIX. The Issuer's ability to pay interest on the Notes and to redeem the Notes at maturity depends upon the future financial and operating performance of PHOENIX and upon its ability to renew or refinance borrowings or to raise additional equity capital. Prevailing economic conditions and financial, business and other factors, many of which are beyond PHOENIX' control, will have an impact on its ability to generate funds which in turn will affect the Issuer's ability to make the payments on the Notes. A significant drop in operating cash flow resulting from adverse economic conditions, competition or other uncertainties beyond its control would increase the need for alternative sources of liquidity. If the PHOENIX Group is unable to generate sufficient cash flow to meet the Issuer's debt obligations, it will have to pursue one or more alternatives, such as:

- reducing or delaying capital expenditures;
- restructuring or refinancing debt, including the Notes;
- selling assets; or
- obtaining additional debt or raising equity capital.

There is no assurance that any of these alternatives could be accomplished on satisfactory terms, if at all, or that those actions would yield sufficient funds to redeem the Notes.

***PHOENIX has substantial further indebtedness and may incur further indebtedness in the future.***

PHOENIX KG, PHOENIX International Beteiligungs GmbH and PHOENIX PIB Finance B.V. are borrowers under the Syndicated Credit Facility Agreement. The maturity date of the facilities granted under the Syndicated Credit Facility Agreement will be 21 June 2016 and 21 June 2017, respectively. PHOENIX PIB Finance B.V. issued the 2010 Bonds (as defined below) which mature on 15 July 2014. Also, PHOENIX has transferred trade receivables under factoring and asset backed securities programmes in an amount of EUR 674.7 million as of 31 January 2013. If PHOENIX is unable to generate sufficient cash flows to meet the debt obligations, it will have to pursue one or more alternatives as described in the preceding paragraphs. There is no assurance that any of these alternatives could be accomplished on satisfactory terms, if at all, or that those actions would yield sufficient funds to redeem the Notes.

Other than the limitation of indebtedness undertaking in the Conditions of Issue, the 2010 Bonds and the Syndicated Credit Facility Agreement and financial covenants in the Syndicated Credit Facility Agreement, there is no restriction on the amount of debt which PHOENIX may issue which ranks equal to the Notes. Any issuance of further debt – to the extent permitted under the Conditions of Issue, the 2010 Bonds and the Syndicated Credit Facility Agreement – may further reduce the amount recoverable by the Holders upon winding-up or insolvency of the Parent Guarantor.

***The Notes are effectively subordinated to other obligations to the extent such obligations are secured.***

Although the Notes and the claims under the Notes Guarantees will rank equally with all other obligations of the Issuer and the Guarantors which are not preferred by mandatory law, they will be effectively subordinated to the extent such other obligations are secured by charging or pledging any of its assets to secure such other debt.

***The Notes may be effectively subordinated to the obligations under the Syndicated Credit Facility Agreement and the 2010 Bonds if the lenders of the Syndicated Credit Facility Agreement or the holders of the 2010 Bonds draw under their guarantees prior to the Holders.***

The obligations under the Syndicated Credit Facility Agreement and the 2010 Bonds are also guaranteed by the Guarantors of the Notes. In case of a default or event of default under either or all of the Syndicated Credit Facility Agreement, the 2010 Bonds and the Notes, the lenders of the Syndicated Credit Facility Agreement or the holders of the 2010 Bonds may be faster to draw under the guarantees under the Syndicated Credit Facility Agreement or the 2010 Bonds than the Holder under the Notes Guarantees. This is also because the Notes Guarantees do not constitute guarantees upon first demand (*Garantie auf erstes Anfordern*), but can with respect to principal only be drawn following the acceleration of the principal of the Notes which in some instances requires certain notices by the Holders. In such instance, the Notes Guarantees would prove worthless to the Holders if the relevant Guarantor honoured any guarantee under the Syndicated Credit Facility Agreement or the 2010 Bonds first, also because there is no inter-creditor agreement in place that would provide for a *pro rata* distribution of funds drawn under the guarantees between the various creditor groups. In this case, although the Notes will rank equally to the obligations under the Syndicated Credit Facility Agreement and the 2010 Bonds, they would be effectively subordinated if the lenders of the Syndicated Credit Facility Agreement or the holders of the 2010 Bonds, draw under the guarantees under the Syndicated Credit Facility Agreement or the 2010 Bonds, respectively, prior to the Holders under the Notes Guarantees. Similarly and in addition, the Notes may also rank effectively junior to any other debt guaranteed by the Guarantors of the Notes.

***If PHOENIX fails to meet its obligations under its financing agreements, its creditors could declare all amounts owed to them due and payable, which could lead to liquidity constraints.***

PHOENIX' ability to comply with the covenants and restrictions in its financing agreements, in particular the Syndicated Credit Facility Agreement and the 2010 Bonds, may be affected by events beyond its control. These include general economic, financial and industry related factors and conditions. If any of the aforementioned covenants or restrictions is breached, PHOENIX could be in default under the Syndicated Credit Facility Agreement, the 2010 Bonds and other relevant financing agreements.

In the event of a default under the Syndicated Credit Facility Agreement, the 2010 Bonds or under any other agreement, the lenders under the respective facilities or financing instruments could take certain actions, including terminating their commitments and declaring all amounts that PHOENIX has borrowed under its credit facilities and other indebtedness to be due and payable, together with accrued and unpaid interest. In addition, borrowings under other debt instruments that contain cross-acceleration or cross-default provisions, including the Notes, the 2010 Bonds and the Syndicated Credit Facility Agreement, may as a result also be accelerated and become due and payable. If the debt under the Syndicated Credit Facility Agreement, the 2010 Bonds or the Notes or any other material financing arrangement that PHOENIX has entered into or will subsequently enter into were to be accelerated, its assets may be insufficient to repay the Notes in full.

***PHOENIX is subject to a restriction on the amount of debt which the Issuer may incur in the future, which limits its ability to take certain actions and perform certain corporate functions.***

The Conditions of Issue governing the Notes contain a covenant that limits its ability to incur additional financial indebtedness.

If PHOENIX fails to comply with this covenant, such non-compliance could lead to a default under the Notes. In the event of a default the Holders could demand immediate repayment. This could also cause much of its other debt to be accelerated. There is no assurance that PHOENIX would be able to pay or refinance this debt on acceptable terms in that event. If the amounts outstanding under debt agreements are accelerated, there is no assurance that the assets of the PHOENIX Group will be sufficient to repay the Notes in full.

The Syndicated Credit Facility Agreement and the 2010 Bonds contain a similar covenant, in addition to further covenants and restrictions which are not included in the Conditions of Issue of the Notes, a breach of which could be a default thereunder. These covenants include restrictions, among other things, to pay dividends on, redeem or repurchase capital stock, make certain restricted payments and investments, transfer or sell assets, merge or consolidate with other entities and enter transactions with affiliates, ratios of net indebtedness to Adjusted EBITDA and Adjusted EBITDA to net interest charges. The ability of the PHOENIX Group to comply

with these covenants and restrictions may be affected by events beyond its control. No assurance can be given that any of these limitations will not hinder the operations or have an adverse effect on the business, liquidity, results of operations or financial condition of the PHOENIX Group.

***The Notes will be structurally subordinated to the creditors of non-guarantor Subsidiaries.***

Only certain of the Subsidiaries of PHOENIX KG will guarantee the Notes. The Subsidiaries will have no obligations to pay amounts due under the Notes or to make funds available for that purpose unless they guarantee the Notes. Generally, claims of creditors of a non-guarantor Subsidiary, including trade creditors, of such Subsidiary, will have priority with respect to the assets and earnings of the Subsidiary over the claims of creditors of its parent entity. In the event of any foreclosure, dissolution, winding-up, liquidation, reorganisation, administration or other bankruptcy or insolvency proceeding of any of the non-guarantor Subsidiaries of PHOENIX KG, holders of their indebtedness and their trade creditors will generally be entitled to payment of their claims from the assets of those Subsidiaries before any assets are made available for distribution to the Issuer or the Guarantors. As such, the Notes and the Subsidiary Guarantees will be structurally subordinated to the creditors (including trade creditors) of the non-guarantor Subsidiaries of PHOENIX KG.

***The interests of PHOENIX KG's principal shareholder may conflict with the interests of the Holders.***

All limited partners' interests in PHOENIX KG are directly or indirectly (economically) held or controlled by the Merckle family. Their interests could conflict with interests of the Holders. The Merckle family could also have an interest in pursuing acquisitions, divestitures, dividends, financings or other transactions that, in their judgment, could enhance their equity investments, although such transactions might involve substantial risks to the Holders.

***Risk of Early Redemption for Taxation Reasons***

The Notes may be redeemed at the option of the Issuer (in whole, but not in part) at the principal amount of the Notes plus accrued interest to the date fixed for redemption, for reasons of taxation, as more fully described in the Conditions of Issue. In the event that the Issuer exercises the option to redeem the Notes, the Holders might suffer a lower than expected yield and might not be able to reinvest the funds on the same terms.

***Liquidity risk***

There is no existing trading market for the Notes and it is uncertain whether a market for the Notes will develop. Holders may not be able to sell the Notes at a reasonable price or at all. If a public market were to develop, the Notes could trade at prices that may be lower than the initial offering price, depending on many factors, including PHOENIX's operating results and the market for similar securities. Application has been made to list the Notes on the official list of the Luxembourg Stock Exchange and for trading on the Euro MTF of that exchange; however, such listing might not be obtained.

***The market price of the Notes may change unfavourably for the Holders.***

The development of market prices of the Notes depends on various factors, such as changes of market interest rate levels, the policies of central banks, overall economic developments, inflation rates or the lack of or excess demand for the Notes. The Holders are therefore exposed to the risk of an unfavourable development of market prices of their Notes which materialises if the Holders sell the Notes prior to the final maturity. If a Holder decides to hold the Notes until final maturity, the Notes will be redeemed at the amount set out in the Conditions of Issue.

***The market value of the Notes could decrease if PHOENIX' creditworthiness worsens.***

In the event any of the risks regarding PHOENIX business materialises, the likelihood that the Issuer will be in a position to fully perform all obligations under the Notes when they fall due will decrease and the market value of the Notes will suffer. In addition, even if the likelihood that the Issuer will be in a position to fully perform all obligations under the Notes when they fall due actually has not decreased, market participants could nevertheless have a different perception. Furthermore, the market participants' estimation of the creditworthiness of corporate debtors in general or debtors operating in the same business as the PHOENIX Group could adversely change. If any of these risks occurred, third parties would only be willing to purchase Notes at a lower price than before the materialisation of any such risk. Under these circumstances, the market value of the Notes would decrease.

***Changes in currency exchange rates could decrease the investor's return.***

The Notes are denominated in Euro. If the Euro represents a foreign currency to a Holder, such Holder is exposed to the risk of changes in currency exchange rates which may affect the yield of such Notes. Changes in currency exchange rates result from various factors such as macro-economic factors, speculative transactions and interventions by central banks and governments. In addition, government and monetary authorities may impose (as some have done in the past) exchange controls that could adversely affect an applicable currency exchange rate. As a result, Holders may receive less interest or principal than expected, or no interest or principal at all.

***The price of the Notes which bear interest at a fixed rate could fall due to changes in market interest rates.***

The Notes bear a fixed interest rate. A holder of fixed rate securities is particularly exposed to the risk that the price of such securities falls as a result of changes in the market interest rate. While the nominal interest rate of a fixed rate note as specified in the Conditions of Issue is fixed during the life of the Notes, the market interest rate typically changes on a daily basis. As the market interest rate changes, the price of fixed rate securities also changes, but in the opposite direction. Thus, if the market interest rate increases, the price of fixed rate securities typically falls, until the yield of such securities is approximately equal to the market interest rate of comparable issues. If the market interest rate decreases, the price of fixed rate securities typically increases, until the yield of such securities is approximately equal to the market interest rate of comparable issues. If a Holder holds his Notes until maturity, changes in the market interest rate are without relevance to such Holder as regards their price as the Notes will be redeemed at the principal amount of the Notes.

***The Conditions of Issue and the terms of the Guarantees, including the terms of payment of principal and interest, may be amended by majority resolution and any such majority resolution will be binding on all Holders.***

The Conditions of Issue and the German Act on Debt Securities 2009 (*Gesetz über Schuldverschreibungen aus Gesamtemissionen*) (the "**German Act on Debt Securities**") provide that Holders may, by majority resolution, consent to amendments of the Conditions of Issue or any Guarantee. Resolutions shall be passed by a majority of not less than 50.1 % of the votes cast; provided, however, that resolutions providing for certain material amendments require a higher majority. Although no obligation to make any payment or render any other performance may be imposed on any Holder by majority resolution, Holders may, by majority resolution, among other things agree to:

- change the due date for payment of interest and the reduction, or the cancellation, of interest;
- change the maturity date of the Notes or reduce the principal amount payable on the Notes;
- convert the Notes into, or exchange the Notes for, shares or other securities or obligations;
- change the currency of the Notes;
- the waiver or restriction of Holders' rights to terminate the Notes; or
- subordinate some or all of the claims under the Notes in an insolvency proceeding.

Under the German Act on Debt Securities and the Conditions of Issue, amendments described in the bullet points above require a majority resolution of Holders holding in the aggregate not less than 75 % of the votes cast in respect of the Notes. Subject to contestation in court, any such majority resolution will be binding on all Holders.

As a result, a Holder is subject to the risk of being outvoted and losing rights towards the Issuer or the relevant Guarantor against his will in the event Holders holding a sufficient aggregate principal amount of Notes agree to amend the Conditions of Issue or the terms of any Guarantee by majority vote in accordance with the Conditions of Issue and the German Act on Debt Securities.

### ***Holder's Representative***

In accordance with the German Act on Debt Securities, the Notes provide that the Holders may by majority resolution appoint a representative for all Holders. The responsibilities and functions assigned to the Holders' Representative appointed by a resolution are determined by the German Act on Debt Securities and by majority resolutions of the Holders. If a Holders' Representative is appointed by a majority resolution of the Holders, it is possible that a Holder may be deprived of its individual right to pursue and enforce its rights under the Conditions of Issue against the Issuer, such right passing to the Holders' Representative who is then exclusively responsible to claim and enforce the rights of all the Holders.

### ***New or changed accounting standards may ultimately decrease the market value of the Notes.***

PHOENIX Group's consolidated financial statements as of and for the fiscal year ended 31 January 2013 are prepared in accordance with International Financial Reporting Standards as adopted by the EU ("**IFRS**") and the additional requirements of German commercial law pursuant to Section 315a (1) of the German Commercial Code (*Handelsgesetzbuch*). New or changed accounting standards may lead to adjustments in the relevant accounting positions. This might lead to a different perception of the market regarding the creditworthiness of PHOENIX. As a result, there is a risk that the market value of the Notes might decrease.

### **Risks Relating to the Notes Guarantees**

#### ***Further liabilities of the Guarantors together with the liabilities under the Notes Guarantees may exceed the Guarantors' assets.***

The Guarantors are also guarantors under the Syndicated Credit Facility Agreement and the 2010 Bonds. These existing liabilities of the Guarantors together with their liabilities under the Notes Guarantees may exceed their assets. If the Guarantors are required to fulfil some or all of these obligations, the Notes Guarantees may prove less valuable or even worthless if the other creditors rank equal to or have priority over the Holders.

#### ***Claims under the Notes Guarantees will be effectively subordinated to obligations of Guarantors which are secured by Guarantors' assets.***

The Notes Guarantees of the Guarantors are not secured by assets of the Guarantors. Therefore, to the extent that the Guarantors have pledged or will pledge their assets to third parties to secure their debts, any claim of the Holder on their Notes Guarantees will be effectively subordinated to the obligations secured by such pledges to the extent of the value of the collateral pledged. In an insolvency of these Guarantors the Holders face the risk that their claims under the Notes Guarantees will not be satisfied because the remaining assets of the Guarantors may have been pledged as collateral and will be used for satisfying the claims of the secured creditors prior to satisfying the claims of Holders. Thus, secured creditors of the Guarantors, even those who became creditors after the issue of the Notes, would have a priority claim to the assets of the Guarantors in which they have a security interest.

***The Subsidiary Guarantees may be limited or unavailable by applicable laws or be subject to certain limitations or defences.***

The Notes Guarantees provide the Holders with a direct claim against the Guarantors. However, the Subsidiary Guarantees will be limited to the maximum amount that can be guaranteed by the particular Subsidiary Guarantor without rendering the Subsidiary Guarantee, as it relates to that Subsidiary Guarantor, voidable or otherwise ineffective under applicable laws, including the laws of foreign jurisdictions. Notes Guarantees may also be subject to further limitations under such laws, including limitations on the consideration received or the general prohibition of abstract guarantees. Further, the enforcement of any of these Subsidiary Guarantees against any Subsidiary Guarantor would be subject to certain defences available to Subsidiary Guarantors in general or, in some cases, to limitations designed to ensure full compliance with statutory requirements applicable to the relevant Subsidiary Guarantors. These laws and defences include those that relate to fraudulent conveyance or transfer, voidable preference, corporate purpose, capital maintenance or similar laws, regulations or defences affecting the rights of creditors generally. The Subsidiary Guarantees contain language limiting the enforceability of the amount of debt guaranteed so that applicable local law restrictions will not be violated. As a result, a Subsidiary Guarantor's liability under its Subsidiary Guarantee could be materially reduced or eliminated, depending upon the amounts of its other obligations and upon applicable laws. It is possible that a Subsidiary Guarantor, a creditor of a Subsidiary Guarantor or the insolvency administrator in the case of the insolvency of a Subsidiary Guarantor, may contest the validity and enforceability of the Subsidiary Guarantor's Subsidiary Guarantee and that the applicable court may determine that the Subsidiary Guarantee should be limited or voided.

***Enforcing rights across multiple jurisdictions may prove difficult or impossible.***

The Notes will be issued by PHOENIX PIB Dutch Finance B.V., which is organised under the laws of The Netherlands and will be guaranteed by entities organised under the laws of Germany, the UK, The Netherlands, Finland, Denmark, Sweden, Poland, Norway, France, Switzerland, Croatia, Hungary, the Czech Republic, Slovakia, Bulgaria, and potentially Italy. In the event of bankruptcy, insolvency, administration or similar, proceedings could be initiated in any of these jurisdictions. The rights under the Notes and the Notes Guarantees are likely to be subject to insolvency and administrative laws of several jurisdictions, including those of the Guarantors, and there can be no assurance that a Holder will be able to effectively enforce its rights in such complex proceedings. The insolvency, administration and other laws of these jurisdictions may be materially different from, or conflict with, each other and with the laws of the jurisdiction of a Holder or the Issuer, including in the areas of rights of creditors, priority of governmental and other creditors, ability to obtain post-petition interest, duration of proceeding and preference periods. The application of these laws, and any conflict between them, could call into question whether, and to what extent, the laws of any particular jurisdiction should apply, adversely affect the ability to enforce rights of a Holder under the Notes Guarantees in these jurisdictions or limit any amounts that a Holder may receive.

***Insolvency laws and other limitations on the Notes Guarantees may adversely affect their validity and enforceability.***

The Issuer's obligations under the Notes will be guaranteed by the Guarantors. The Guarantors are organised in various jurisdictions in Europe. Although laws differ among jurisdictions, in general, applicable insolvency laws and limitations on the enforceability of judgments would limit the enforceability of judgments against the Issuer and the Guarantors on the Notes and the Notes Guarantees. The following discussion of insolvency law, although an overview, describes generally applicable terms and principles, which are defined under the relevant jurisdictions' insolvency statutes.

In an insolvency proceeding, it is possible that creditors of the Guarantors or an appointed insolvency administrator may challenge the Notes Guarantees, and intercompany obligations generally, as fraudulent transfers or conveyances or on other grounds. If so, such laws may permit a court, if it makes certain findings, to:

- avoid or invalidate all or a portion of a Guarantor's obligations under its Notes Guarantee;
- direct that Holders return any amounts paid under a Notes Guarantee to the relevant Guarantor or to a fund for the benefit of the Guarantor's creditors; and

- take other action that is detrimental to Holders.

Different jurisdictions evaluate insolvency on various criteria, but a Guarantor is generally considered insolvent at the time it issued a Guarantee or created any security if:

- its liabilities exceed the fair market value of its assets;
- it cannot pay its debts as and when they become due; or
- the present saleable value of its assets is less than the amount required to pay its total existing debts and liabilities, including contingent and prospective liabilities, as they mature or become absolute.

It is not certain which standard a court would apply in determining whether a Guarantor was "insolvent" as of the date the Notes Guarantees were issued or that, regardless of the method of valuation, a court would not determine that a Guarantor was insolvent on that date, or that a court would not determine, regardless of whether or not a Guarantor was insolvent on the date its Notes Guarantee was issued, that payments to Holders constituted fraudulent transfers on other grounds.

***Any Subsidiary Guarantee may be released or impaired without consent of the Holders.***

The Subsidiary Guarantees will be automatically and unconditionally released and discharged without any consent of the Holders (i) in the event that all or substantially all of the assets or capital stock of such Subsidiary Guarantor, or any parent entity thereof (other than the Issuer or PHOENIX KG), is sold or otherwise disposed of to a person that is not an Affiliate (as such term is defined in the Conditions of Issue) of PHOENIX KG; (ii) maintaining the relevant Subsidiary Guarantee would reasonably be expected to lead to a violation of applicable laws due to changes in the laws, or a change in the interpretation, implementation or application of such laws, applicable to such Subsidiary Guarantee; (iii) maintaining the Subsidiary Guarantee by the relevant Subsidiary Guarantor would reasonably be expected to lead to a material disadvantage in the tax treatment of such Subsidiary Guarantor due to changes in the tax provisions applicable to such Subsidiary Guarantor or a change in the interpretation, implementation or application of such laws; (iv) the unsecured and non-credit enhanced long-term liabilities of the Parent Guarantor's are assigned a rating by at least two of the Rating Agencies of BBB- or Baa3, respectively, or better; or (v) such Subsidiary Guarantor (together with any other Subsidiary Guarantor(s) whose Subsidiary Guarantee(s) has(have) been or is(are) simultaneously being released pursuant to this (v)) does no longer, or will, simultaneously with the release of the relevant Subsidiary Guarantee, no longer guarantee, any Financial Indebtedness of the Parent Guarantor or any of the Parent Guarantor's other Subsidiaries in an aggregate principal amount in excess of EUR 30 million.

***Each Holder might have to enforce its claims in respect of the Notes Guarantees directly against the relevant Guarantors.***

Each Notes Guarantee will constitute a contract for the benefit of the Holders as third party beneficiaries in accordance with Section 328 (1) of the German Civil Code (*Bürgerliches Gesetzbuch*). As a consequence, each Holder will have the right to demand payment directly from the relevant Guarantor under the relevant Notes Guarantee and to enforce such Notes Guarantee directly against the relevant Guarantor. In addition, as long as a Holders' Representative is in office, such Holders' Representative will be entitled, in accordance with Section 335 of the German Civil Code (*Bürgerliches Gesetzbuch*) to require performance of the relevant Notes Guarantee from the relevant Guarantor on behalf of the Holder or Holders. Holders, however, should be aware that no assurance can be given that a Holders' Representative will be appointed and that such Holders' Representative will, without a corresponding majority resolution of the Holders, take any enforcement action on behalf of the Holders in respect of any Notes Guarantee. As a result, the Holders should take into account that each Holder might have to enforce the Notes Guarantees on its own. Please see also the risk factor "Holders' Representative" and the risk factor "Enforcing rights across multiple jurisdictions may prove difficult or impossible".



## **USE OF PROCEEDS**

In connection with the offering of the Notes, the Issuer will receive net proceeds of approximately EUR 294,565,000. The Issuer will on lend the proceeds of the issuance of the Notes to other members of the PHOENIX Group, which will use such proceeds for purposes of the general business of the PHOENIX Group (including, for the avoidance of doubt, repayment of existing financial indebtedness of the PHOENIX Group). The total expenses of the issue of the Notes are expected to amount to EUR 3,122,000. As the Notes will be issued at 99.229 %, the original issue discount will amount to EUR 2,313,000.

## GENERAL INFORMATION ON THE ISSUER

### History, Development and Business Objects of the Issuer

PHOENIX PIB Dutch Finance B.V. is a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of The Netherlands. Its corporate seat is in Maarssen, The Netherlands, and its office is at Straatweg 2, 3604 BB Maarssen, The Netherlands. PHOENIX PIB Dutch Finance B.V. is registered with the Dutch Trade Register of the Chamber of Commerce under number 57769435 and was incorporated on 17 April 2013. The objects of the Issuer are stipulated in Article 3 of its articles of association and are

- (a) to finance businesses and companies;
- (b) to borrow, to lend and to raise funds, including the issue of bonds, promissory notes or other securities or evidence of indebtedness as well as to enter into agreements in connection with aforementioned activities;
- (c) to grant guarantees, to bind the company and to pledge its assets, all for obligations of the company, group companies and/or third parties;
- (d) to incorporate, to participate in any way whatsoever in, to manage, to supervise businesses and companies;

and to do all that is connected therewith or may be conducive thereto, all to be interpreted in the broadest sense.

### Organisational Structure and Share Capital

The Issuer is a wholly owned subsidiary of PHOENIX PIB Dutch Holding B.V. The authorised capital of the Issuer is fully paid up and consists of 250,000 common shares of which 250,000 are issued and outstanding on the date of this Offering Circular. The shares have a nominal value of EUR 1.00 each. The Issuer has neither issued any convertible debt securities, exchangeable debt securities or debt securities with warrants attached nor does the Issuer or any company in which the Issuer has a direct or indirect holding of more than 50 % hold any of the Issuer's shares.

### Business

The Issuer acts as a financing company within the PHOENIX Group and has no relevant business or operational activities other than the financing of the PHOENIX Group.

### Management

The members of the management board of the Issuer are Mr. Johannes Petrus Eeken and Mr. Karsten Helmut Loges. Each member of the management board is authorised to represent the issuer alone. The business address of the members of the management board of the Issuer is Straatweg 2, 3604 BB Maarssen, The Netherlands.

### Independent Auditors

The Issuer has appointed Ernst & Young Accountants LLP, The Netherlands, independent auditors, as its statutory auditor.

### Financial Information

At the beginning of its commercial business the Issuer has prepared an opening balance sheet, and for the end of each fiscal year the Issuer is obliged to prepare, financial statements. The fiscal year of the Issuer starts on 1 February of each calendar year and ends on 31 January of the following calendar year. The first fiscal year of the Issuer will end on 31 January 2014. Annually, not later than five months after the end of the relevant fiscal year, save where this period is extended by the general meeting of the Issuer by not more than six months (by reason of special circumstances), the management board of the Issuer shall prepare the financial statements. Pursuant to its articles of association, the Issuer is not required to prepare and publish interim financial statements.

Since its incorporation, the Issuer has prepared no financial statements other than its opening balance sheet.

PHOENIX PIB Dutch Finance B.V. will be included in the existing Dutch fiscal unity of PHOENIX PIB Dutch Holding B.V. in order to have an inclusion of profits in the Dutch group for tax purposes.

**Opening balance sheet as at 17 April 2013 (date of incorporation) (unaudited)**

	17 April 2013
	<u>EUR</u>
Cash and cash equivalents	250,000
Total current assets	<u>250,000</u>
<b>Totals Assets</b>	<u>250,000</u>
Share capital	250,000
Shareholder's equity	<u>250,000</u>
<b>Total shareholder's equity and liabilities</b>	<u>250,000</u>

**Litigation**

The Issuer is not and has not been since its incorporation engaged in any governmental, litigation or arbitration proceedings which may have or have had during such period a significant effect on its respective financial position since its incorporation, nor, as far as the Issuer is aware, are any such governmental, litigation or arbitration proceedings pending or threatened.

**Material Change**

Except as may be set out in this Offering Circular, there has been no material adverse change in the financial position of the Issuer since its incorporation.

## GENERAL INFORMATION ON THE PARENT GUARANTOR

### General

#### Formation, Name, Registered Office, Fiscal Year, and Duration of the Parent Guarantor

PHOENIX KG is a limited partnership (*Kommanditgesellschaft*) incorporated for an unlimited time under the laws of Germany and registered with the commercial register of the local court in Mannheim under registration number HRA 3551 since 6 February 1985, originally registered under its former name Ferd. Schulze & Co. Initially, since 14 October 1899, this partnership had been registered with the commercial register of the local court in Cologne under registration number HRA 9804, later with the commercial register of the local court in Munich under registration number HRA 52287, later under registration number HRA 52313 and thereafter with the commercial register of the local court in Mannheim under registration number HRA vol. 37 number 481 and prior to its current registration under registration number 223.

PHOENIX KG's fiscal year starts on 1 February of each calendar year and ends on 31 January of the following calendar year. The address of its corporate seat is Pfingstweidstraße 10-12, 68199 Mannheim, Germany, phone: + 49 (0) 621 8505-0.

#### Corporate Purpose

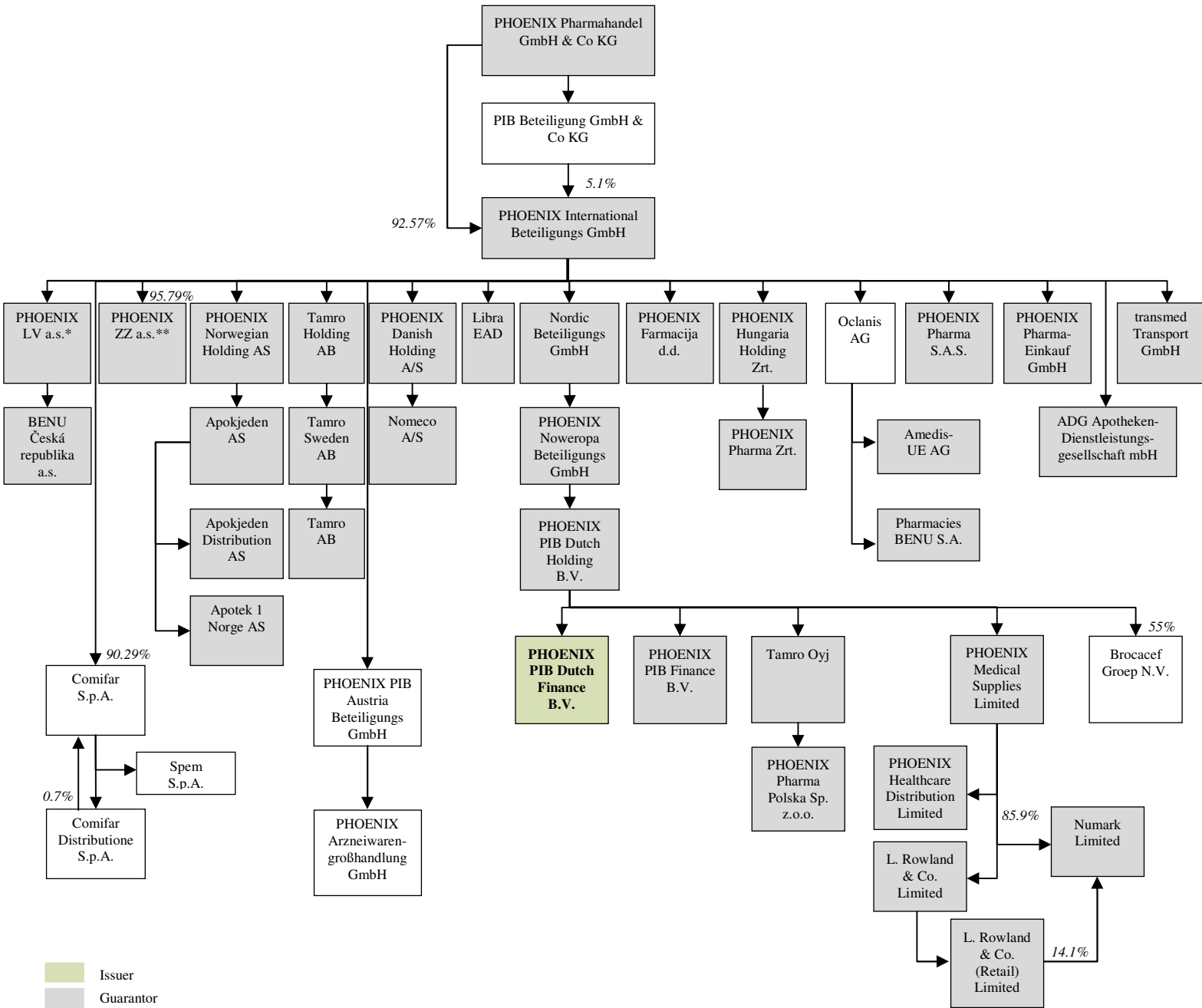
Pursuant to article 2 of the limited partnership agreement of PHOENIX KG, the corporate purpose of PHOENIX KG is the distribution of pharmaceutical compounds, chemicals, drugs and related products as well as the offering of services connected therewith. PHOENIX KG may conduct all activities which appear to be suitable to directly or indirectly further its corporate purpose. It is in particular authorised to establish domestic or foreign branches or subsidiaries, to acquire or lease other enterprises, participate in or establish uniform control over such enterprises.

#### Organisational Structure

The Parent Guarantor is the management and holding company and ultimate parent company of the PHOENIX Group. The Parent Guarantor's consolidated financial statements include all companies over which the Parent Guarantor has control, *i.e.* in which the Parent Guarantor (directly or indirectly) has the right to direct the affairs and to whose financial results the Parent Guarantor is exposed. The group of consolidated subsidiaries includes 16 German and 257 foreign fully consolidated companies as of 31 January 2013.

#### Subsidiary Guarantors

The following illustration provides an overview of the Subsidiary Guarantors within the PHOENIX Group as of 31 January 2013. The illustration does not show all of the subsidiaries and affiliates of PHOENIX KG.



Issuer  
 Guarantor

Unless indicated otherwise within illustration, all shareholdings of the respective entities are directly or indirectly 100%  
 \* PHOENIX lékárenský veľkoobchod, a.s.  
 \*\* PHOENIX Zdravotnícke zásobovanie, a.s.

The aggregated adjusted earnings before interest, tax, depreciation and amortisation (calculated on the same basis as Adjusted EBITDA as defined below but on an unconsolidated basis and excluding intra-group dividend income, charges from the transfer of profits or losses and profits or losses due to intra-group mergers) of the Guarantors (the "**Aggregated Adjusted EBITDA of the Guarantors**") represented 79.9% of the Adjusted EBITDA of the PHOENIX Group for the fiscal year 2012/13. For such calculation of the Aggregated Adjusted EBITDA of the Guarantors any negative adjusted earnings before interest, tax, depreciation and amortisation of any Guarantor are deemed to be zero. The financial data presented in this table have been derived with respect to the Adjusted EBITDA of the PHOENIX Group from the IFRS consolidated financial statements of PHOENIX KG and with respect to the Aggregated Adjusted EBITDA of the Guarantors from the accounting records of PHOENIX KG, in each case for the fiscal year 2012/13.

<u>Adjusted EBITDA of the PHOENIX Group (unaudited)</u>	<u>Aggregated Adjusted EBITDA of the Guarantors (unaudited)</u>	<u>Aggregated Adjusted EBITDA of the Guarantors in % of Adjusted EBITDA of the PHOENIX Group (unaudited)</u>
(EUR million)		(%)
576.9	461.1	79.9

"**Adjusted EBITDA**" means (without double counting) net income of the PHOENIX Group calculated in the same manner as it was calculated in the consolidated income statement of the audited consolidated financial statements of PHOENIX KG for its fiscal year 2012/13 (the "**Reference Financial Statements**") shown under the line item "Profit for the period" and adjusted as follows:

- (a) adding back the financial result as calculated under note 7 of the Reference Financial Statements;
- (b) plus interest income from customers as specified under note 7 of the Reference Financial Statements;
- (c) plus expenses related to ABS / factoring as specified under note 4 of the Reference Financial Statements;
- (d) adding back income taxes, current and deferred as calculated under note 8 of the Reference Financial Statements; and
- (e) adding back amortisation of intangible assets and depreciation of property, plant and equipment as calculated under note 6 of the Reference Financial Statements.

### **Rating**

PHOENIX KG is rated BB, outlook stable, by Fitch and BB, outlook stable, by S&P. Fitch and S&P are established in the European Community and have each applied for registration under Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies.

### **Auditor of the Consolidated Financial Statements**

Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft, Stuttgart, Germany ("**E&Y**"), a member of the German Chamber of Public Auditors (*Wirtschaftsprüferkammer*), was the auditor of PHOENIX KG's consolidated financial statements as of and for the fiscal years ended 31 January 2011, 31 January 2012 and 31 January 2013.

E&Y audited PHOENIX KG's consolidated financial statements as of and for the fiscal years ended 31 January 2011, 31 January 2012 and 31 January 2013, each prepared in accordance with IFRS and the additional requirements pursuant to Section 315a (1) of the German Commercial Code (*Handelsgesetzbuch*) in accordance with Section 317 of the German Commercial Code (*Handelsgesetzbuch*) and German generally accepted standards for the audit of financial statements promulgated by the Institute of Public Auditors in Germany (*Institut der Wirtschaftsprüfer in Deutschland e.V.*) and issued an unqualified audit opinion in each case.

### **Legal and Arbitration Proceedings**

Except for the circumstances described below, no company of the PHOENIX Group is currently, or has been in the past twelve months, party to a government intervention, a court or arbitration proceeding or an administrative

proceeding (including those proceedings that are still pending or could be initiated to PHOENIX' knowledge) which may have, or have had in the recent past, significant effect on the financial situation or profitability of the Parent Guarantor and/or the PHOENIX Group. In particular, Nomeca A/S is subject to an investigation by the Danish Competition and Consumer Authority in respect of Nomeca A/S' compliance with the obligation to report stock-out to the local health authorities and in respect of Nomeca A/S' involvement in alleged coordinated practice regarding instructions on return and crediting between pharmacies/wholesalers and wholesalers/suppliers. See also "RISK FACTORS — Legal and Taxation Risks".

From time to time, PHOENIX KG or its subsidiaries are party to or may be threatened with litigation, claims or assessments arising in the ordinary course of its business. PHOENIX regularly analyses current information, including its defences and insurance coverage and, as PHOENIX deems necessary, makes provisions for probable liabilities for the eventual disposition of these matters. The outcome of litigation and other legal matters is always difficult to accurately predict and outcomes that are not consistent with PHOENIX' view of the merits can occur. PHOENIX believes that it has valid defences to the legal matters pending against it, as applicable, and PHOENIX is defending its positions in these matters vigorously. Nevertheless, it is possible that resolution of one or more of the legal matters currently pending or threatened could have a material adverse effect on PHOENIX' business, results of operations and financial condition.

## Management and Advisory Board

PHOENIX KG's affairs are managed by the managing directors of its general partner PHOENIX Verwaltungs GmbH. The other governing entities of PHOENIX KG are its partners' meeting (*Gesellschafterversammlung*) and the Advisory Board (*Beirat*). The powers of these entities are determined by the German Commercial Code (*Handelsgesetzbuch*), the German Limited Liability Company Act (*Gesetz betreffend die Gesellschaften mit beschränkter Haftung*), PHOENIX KG's limited partnership agreement and the internal rules of procedure of the Advisory Board (*Beiratsordnung*).

### Management

PHOENIX KG's top management consists of the managing directors of its general partner, PHOENIX Verwaltungs GmbH, a German limited liability company (*Gesellschaft mit beschränkter Haftung*) incorporated under the laws of Germany and registered with the commercial register of the local court in Mannheim under registration number HRB 707115 with registered seat at Pfinningstraße 10-12, 68199 Mannheim, Germany.

According to PHOENIX KG's limited partnership agreement (*Gesellschaftsvertrag*), solely its general partner is authorised and obliged to manage and represent PHOENIX. The statutory right of the limited partners to object to actions outside of the ordinary course of the company's business set forth in Section 164 of the German Commercial Code (*Handelsgesetzbuch*) has been excluded in the partnership agreement. The general partner of PHOENIX KG may, however, generally only take actions that go beyond the bounds of PHOENIX KG's ordinary business with the prior consent of the Advisory Board (*Beirat*). The Advisory Board (*Beirat*) shall determine which transactions require its prior consent in its reasonable discretion.

The general partner, PHOENIX Verwaltungs GmbH, is managed and represented by one or more managing directors. There are currently five managing directors, all having joint power of representation together with another managing director or together with another authorised officer (*Prokurist*):

<u>Name</u>	<u>Age</u>	<u>Appointed</u>	<u>Position</u>
Reimund Pohl	61	2005 (CEO) 1997 (Board Member)	Chief Executive Officer
Dr. Hans-Ulrich Kummer	50	2007	Operations and Logistics
Dr. Michael Majerus	52	2009	Finance, Accounting, Controlling and Tax
Stefan Herfeld	45	2010	Retail
Oliver Windholz	46	2011	Sales and Marketing

**Reimund Pohl** was appointed Chief Executive Officer in 2005. Mr. Pohl has been with PHOENIX KG and predecessor entities for over thirty years. He became a member of the executive board of PHOENIX Pharmahandel AG in 1997, initially responsible for operations, logistics and innovation. Previously, Mr. Pohl served as a director for several of PHOENIX' distribution centres in Germany since 1984. He graduated in business economics (*Diplom-Betriebswirt*) from the University of Applied Sciences, Cologne, Germany, in 1977.

**Dr. Hans-Ulrich Kummer** became a member of the executive board of PHOENIX Pharmahandel AG in 2007. He is responsible for operations and logistics. Previously, Dr. Kummer served as chief representative for PHOENIX' operations and logistics area in Germany. Until 2005, he was logistics director of PHOENIX' distribution centres in Fürth and Munich. Dr. Kummer joined PHOENIX in 1995 in the function of an assistant to the Chief Executive Officer. Prior to joining PHOENIX, he worked in a marketing project team for Hoechst AG, Frankfurt am Main, Germany. Dr. Kummer obtained a doctorate degree (*Dr. rer. pol.*) from the University of Bamberg, Germany, in 1992 and graduated in business administration (*Diplom-Kaufmann*) from the University of Bamberg in 1988.

**Dr. Michael Majerus** became Chief Financial Officer with responsibility for finance, accounting, controlling and tax in 2009. Prior to joining PHOENIX, Dr. Majerus was a member of the executive board (Chief Financial Officer) of Qimonda AG, Munich, Germany. From 2000 to 2006, he served as Chief Financial Officer of the memory products business group for Infineon Technologies AG, Munich, Germany. From 1989 to 2000, Dr. Majerus worked for Mannesmann AG, Düsseldorf, Germany, in various positions (from 1995: executive management) in the area of controlling and accounting. Dr. Majerus graduated in business administration (*Diplom-Kaufmann*) from the University of Cologne, Germany, and obtained a doctorate degree (*Dr. rer. pol.*) in 1989 from the University of Siegen, Germany.

**Stefan Herfeld** was appointed managing director with responsibility for PHOENIX' retail business in 2010. Previously Mr. Herfeld served as managing director of Parfümerie Douglas GmbH, Hagen, Germany, with responsibility for the Douglas perfumery stores and as general manager for the region Central and Eastern Europe. He has been managing director since 2008 and previously held various other positions at the Douglas group since 2001. From 1996 to 2001, Mr. Herfeld worked for the Metro Group in Düsseldorf, Germany, as assistant to the executive board and lead sales manager. Mr. Herfeld graduated in business administration (*Diplom-Kaufmann*) from the J.W. Goethe University of Frankfurt am Main, Germany, in 1994.

**Oliver Windholz** was appointed as managing director of PHOENIX KG in February 2011. He is responsible for all group wide Sales and Marketing activities. Prior to joining PHOENIX he was the former CEO of the ratiopharm Group from 2008 to 2010, which was sold to the TEVA group under his supervision. Previously he held various managing director positions in several business units within HeidelbergCement AG, Heidelberg, Germany. Mr. Windholz graduated as an industrial engineer (*Diplom-Wirtschaftsingenieur (FH)*) at the University of Applied Sciences of Esslingen in 1992.

The managing directors of PHOENIX Verwaltungs GmbH do not currently hold any seats on any management or advisory boards or been members of any partnerships in other comparable governing bodies in Germany or abroad outside of the PHOENIX Group.

#### **Advisory Board**

In accordance with its limited partnership agreement, PHOENIX KG has established the Advisory Board which has currently five members.

The Advisory Board supervises and advises the management of PHOENIX KG's general partner, PHOENIX Verwaltungs GmbH. The Advisory Board has adopted rules of procedure which are binding for the management of PHOENIX KG's general partner and which require the prior consent for transactions that go beyond the bounds of the ordinary business of PHOENIX KG and certain other actions.

Further, the Advisory Board decides on the approval and dismissal of managing directors of the general partner of PHOENIX KG, elects PHOENIX KG's auditor and approves of the annual financial statements of PHOENIX KG and the PHOENIX Group. With the partners' meeting's consent, the Advisory Board may give instructions to the managing directors of PHOENIX KG's general partner.



## Members of the Advisory Board

As at the date of this Offering Circular, the names of the members of the Advisory Board and their material positions outside of PHOENIX KG are as follows:

<u>Name</u>	<u>Member since</u>	<u>Material positions held outside the PHOENIX Group</u>
Dr. Bernd Scheifele	2011 (Chairman)	<ul style="list-style-type: none"><li>• Chairman of the management board (<i>Vorstand</i>) of HeidelbergCement AG</li><li>• Deputy chairman of the supervisory board (<i>Aufsichtsrat</i>) of Georg von Holtzbrinck GmbH</li><li>• Member of the board of commissioners of P.T. Indocement Tunggal Prakarsa Tbk.</li></ul>
Ludwig Merckle	2011	<ul style="list-style-type: none"><li>• Managing director (<i>Geschäftsführer</i>) of Merckle Service GmbH</li><li>• Chairman of the supervisory board (<i>Aufsichtsrat</i>) of Kässbohrer Geländefahrzeug AG</li><li>• Chairman of the supervisory board (<i>Aufsichtsrat</i>) of VEM Vermögensverwaltung AG</li><li>• Chairman of the supervisory board (<i>Aufsichtsrat</i>) of MCS Software und Systeme AG</li><li>• Chairman of the supervisory board (<i>Verwaltungsrat</i>) of MerFam AG</li><li>• Member of the supervisory board (<i>Aufsichtsrat</i>) of HeidelbergCement AG</li></ul>
Dr. Wolfram Freudenberg	2011	<ul style="list-style-type: none"><li>• Chairman of the shareholders' committee (<i>Gesellschafterausschuss</i>) of Freudenberg &amp; Co. KG</li><li>• Member of the supervisory board (<i>Aufsichtsrat</i>) of Ravensburger AG</li></ul>
Dr. Lorenz Näger	2011	<ul style="list-style-type: none"><li>• Member of the management board (<i>Vorstand</i>) of HeidelbergCement AG</li><li>• Member of the supervisory board (<i>Aufsichtsrat</i>) of MVV Energie AG</li><li>• Member of the board of commissioners of P.T. Indocement Tunggal Prakarsa Tbk.</li></ul>
Dr. Peter Maag	2012	<ul style="list-style-type: none"><li>• Member of the board of MolecularMD Corporation</li><li>• Member of the board of Microsonic Systems Inc.</li><li>• Member of the board of Cobaltix LLC</li><li>• Member of the board (chief executive officer) of XDx, Inc.</li></ul>

## Partners' Meeting

Pursuant to the limited partnership agreement of PHOENIX KG the partners' meeting (*Gesellschafterversammlung*) decides, *inter alia*, on the discharge (*Entlastung*) of the general partner, of the managing directors of its general partner and of the members of the Advisory Board as well as distributions to PHOENIX KG's partners.

## Partnership Capital

As of 31 January 2013 PHOENIX KG's unlimited and limited partners' capital (as the compulsory contributions (*Pflichteinlagen*)) amounted to EUR 1,050 million and its liability capital (*Haftsumme*) registered with the commercial register amounted to EUR 500 million. PHOENIX KG's limited partners' capital was divided into 13 limited partnership interests, two of which with a compulsory contribution of EUR 51,030,000 and EUR 34,020,000 as of 31 January 2013, respectively, are held by indirect subsidiaries of PHOENIX KG (Otto Stumpf GmbH (Berlin) and Otto Stumpf GmbH (Gotha)).

In addition to the limited partners' capital, most of the limited partners have provided supplementary contributions to PHOENIX KG in a total amount of approximately EUR 535 million which do not convey (additional) partners' rights but entitle to interest payments of 6 % p.a. which are paid from PHOENIX KG's profits with priority over all limited partners' general profit participations. If interest cannot be paid from profits in respect of a given fiscal year, the interest rate is increased accordingly in the consecutive fiscal year.

PHOENIX KG has not issued any convertible debt securities, exchangeable debt securities or debt securities with warrants attached.

The sole general partner without capital contribution is PHOENIX Verwaltungs GmbH.

#### **Shareholdings and Partnership Interest Ownership**

PHOENIX KG is – indirectly through several layers of participations and holding companies (including F. Reichelt Aktiengesellschaft, Hageda GmbH, Meru GmbH and PPH Holding GmbH) – owned by the Merckle family. In addition, as of 31 January 2013 8.1 % of the partners' capital in PHOENIX KG are owned by Otto Stumpf GmbH (Berlin) and Otto Stumpf GmbH (Gotha), which are indirect subsidiaries of PHOENIX KG.

#### **Recent Developments the Business of the PHOENIX Group**

There were no significant events affecting the business of the PHOENIX Group after the end of the fiscal year 2012/13.

## SELECTED FINANCIAL INFORMATION

The financial information contained in the following tables is derived from the audited consolidated financial statements of the Parent Guarantor as of and for the fiscal years ended 31 January 2012 and 31 January 2013. These consolidated financial statements have been prepared in accordance with IFRS and the additional requirements of German commercial law pursuant to Section 315a (1) of the German Commercial Code (Handelsgesetzbuch). E&Y audited the consolidated financial statements of the Parent Guarantor as of and for the fiscal years ended 31 January 2012 and 31 January 2012 in accordance with Section 317 of the German Commercial Code (Handelsgesetzbuch) and German generally accepted standards for the audit of financial statements promulgated by the Institute of Public Auditors in Germany (Institut der Wirtschaftsprüfer in Deutschland e.V.) and issued an unqualified audit opinion with respect to each of the above mentioned consolidated financial statements. Some of the performance indicators and ratios reproduced below were taken from the Parent Guarantor's accounting records.

Where financial data in the following table is labelled "audited", this means that it was taken from the audited consolidated financial statements mentioned above. The label "unaudited" is used in the following table to indicate financial data that was taken from a source other than the audited consolidated financial statements mentioned above or derived from the audited consolidated financial statements mentioned above or sources other than these audited consolidated financial statements. Unless expressly otherwise noted, the percentage changes that are stated in the text and the tables have been commercially rounded to one decimal point. Because of this rounding, the figures shown in the tables do not in all cases add up exactly to the respective totals given, and the percentages shown do not always add up exactly to 100 %.

The following selected financial information should be read together with the audited consolidated financial statements as of and for the fiscal years ended 31 January 2012 and 31 January 2013 incorporated in this Offering Circular by reference and the related notes both as published on the website of the Parent Guarantor ([www.phoenixgroup.eu](http://www.phoenixgroup.eu)) and together with the additional financial information contained elsewhere in this Offering Circular.

	<b>Fiscal Year 2011/12</b>	<b>Fiscal Year 2012/13</b>
	(in EUR thousands and audited unless indicated otherwise)	
Revenue	21,660,649	21,218,687
Gross profit	2,120,155*	2,189,769
Adjusted EBITDA (unaudited)	566,483	576,944
Profit before tax	300,918	237,025
Profit for the period	241,711	164,121
Total assets	7,411,016	7,318,780
Working capital (unaudited)**	1,647,848	1,459,049
Net debt ***	1,855,743	1,611,518
Equity	1,935,623	2,103,800

\* The comparative figure for the prior fiscal year ended on 31 January 2012 has been restated in the audited consolidated financial statements of the Parent Guarantor as of and for the fiscal year ended 31 January 2013 owing to the changed disclosure of subcontractor services within earnings before interest, taxes, depreciation and amortisation (EBITDA).

\*\* Working capital is defined as: Inventories plus trade receivables minus trade payables.

\*\*\* Net Debt is defined as: Financial liabilities (but deducting supplementary partner contribution and liabilities from derivative financial instruments) minus cash and cash equivalents minus held-to-maturity financial assets minus financial assets held for sale plus receivables sold in the course of factoring and ABS transactions minus factoring receivables minus receivables from ABS programmes.

## Historical Financial Information

The audited consolidated financial statements of PHOENIX KG as of and for the fiscal years ended 31 January 2012 and 31 January 2013, respectively, and the audit opinions thereon are incorporated by reference into this Offering Circular.

## INDUSTRY OVERVIEW

### Market Overview

PHOENIX is one of the top three pan-European pharmaceutical wholesale, pre-wholesale and retail distribution companies, based on its estimate of available market data and its main competitor's published figures.

The pharmaceutical wholesale, pre-wholesale and retail markets strongly depend on the overall expenditure for pharmaceutical products which increased in Europe continuously since 1990 in spite of significant variations in the gross domestic product. In addition, the market for pharmaceuticals is less sensitive to economic cycles than other markets. This is especially true for the market for prescription-only drugs while the market for OTC products is more affected by economic variations and thus more volatile. The long-term continuous growth trend is maintained despite several political cost-containment measures due to the demographical development of the population and the uninterrupted further development of new medicines. The markets PHOENIX operates in are also highly regulated markets and PHOENIX therefore requires various permits and licenses for the operation of its wholesale, pre-wholesale and retail business.

According to IMS Healthcare Incorporated ("IMS"), pharmaceutical sales in Europe (total pharmaceutical market including pharmacies and hospitals) reached approximately USD 205.4 billion in the European Union member states in 2011 and approximately USD 19.7 billion in other European countries. In 2011, the region's five key markets (Germany, France, Italy, the UK and Spain) accounted for around 72 % of the pharmaceutical sales volume of all European Union member states. The pharmaceutical market in the European Union member states is expected to evolve at a compound annual rate between -4.4 % and 8.0 % per annum between 2011 and 2016 while the forecast for other European countries shows a compounded annual growth rate ("CAGR") of 0.1 % to 7.1 % during the same period (Source: IMS).

### Wholesale

The market for pharmaceutical wholesale comprises the delivery of a full assortment of pharmaceuticals and related healthcare products to pharmacies and other customers (especially hospitals and self-dispensing doctors). Pre-wholesaling refers to a fee-for-service business, where the pre-wholesaler offers services (such as warehousing services) to its pharmaceutical manufacturers, mostly regarding consignment stocks. Although the pharmaceutical wholesale business is highly regulated by health policy in most countries, it is a well-established business model with a stable growth.

The European pharmaceutical wholesale market is characterised by high barriers of entry for new competitors due to the required scale, know-how, high delivery frequency and expertise as well as international presence and strong relationships to pharmaceutical manufacturers and retailers. Furthermore, the market shows a very stable customer basis — the pharmacies — with only limited customer fluctuation. Drivers for the pharmaceutical wholesale market, which largely offset short-term pricing pressure in the largest European markets, include the needs of a growing ageing population paired with an increasing quality of life expectancy in old age, new pharmaceuticals (including many high-price drugs) and the high growth in the countries of the European Union due to backlog demand as well as new markets such as the Eastern European countries.

On the other hand, the European pharmaceutical wholesale market is faced with the challenge that in recent years European governments have sought to reduce their healthcare expenditure, *inter alia*, through a reduction of the remuneration of wholesalers and pharmacies and of the price of pharmaceuticals, promotion of the substitution of branded pharmaceuticals by generics, tighter reimbursement policies and an increase of patient contribution to pharmaceutical spending.

### Retail

The European pharmaceutical retail market, *i.e.*, the distribution of pharmaceuticals (both prescription and OTC products) as well as related products to end customers, is often subject to strict statutory ownership restrictions for pharmacies. In turn, in liberalised markets (such as the UK), the ownership of pharmacies is an important success factor for wholesalers since ownership offers additional attractive retail margins, especially regarding OTC products and non-pharmaceuticals, and allows PHOENIX to control the point of sale (own brand, common strategy and common activities in all own pharmacies, etc.). These higher retail margins are, on the other hand, subject to higher volatility compared to regulated wholesale margins. In all markets a continued rise of generics penetration can be observed.

## Competition

Based on revenue, PHOENIX believes that it is a leading European pharmaceutical wholesaler with extensive country coverage—PHOENIX is active in 23 countries. PHOENIX conducts its wholesale business where it delivers a full assortment of pharmaceuticals and related healthcare products to retail pharmacies and other customers, and offers pre-wholesaling services. In addition, PHOENIX has a strong retail base across a number of selected European countries. From a pan-European perspective, PHOENIX has two main competitors: the Celesio group (based in Germany) and the Alliance Boots group (with headquarters in the United Kingdom), both operating in the wholesale and the retail pharmaceutical markets across Europe. Furthermore, these competitors also operate in other selected regions; however, they are—in PHOENIX' view—more dependent on single markets and more retail-oriented than PHOENIX. In addition to these competitors, smaller pharmaceutical wholesalers who operate mostly on a national or regional basis compete with PHOENIX in one or more national markets. In the long term, PHOENIX expects progressive market consolidation in the wholesale business, with large international companies continuing to gain market share.

Moreover, in the European retail market, PHOENIX is faced with governmental cost-containment measures and therefore also a strong local competition between pharmacies. On the other hand, PHOENIX observes a growing customer demand for, and an increase of, healthcare and individual services.

As a reaction to these challenges, pan-European pharmaceutical wholesale and retail companies are increasingly pursuing the integration of retail activities into their existing business in order to safeguard sales, exploit integrated margins, optimise costs of the distribution network and increase their negotiation leverage vis-à-vis the pharmaceutical manufacturers. Moreover, wholesale and retail companies strive to identify new sources of income. Potential new profit segments include the sale of private label products and special logistics. PHOENIX expects a change in the current independent ownership structure of pharmacies towards some form of consolidation, *e.g.* through franchises, chains and cooperatives. PHOENIX also expects that pan-European wholesalers will further acquire pharmacies and/or retail chains. However, a prerequisite for forming pharmacy chains is the deregulation of pharmacy ownership restrictions (both regarding multiple and corporate ownership), which only in some European jurisdictions is already the case.

### *Germany*

The German wholesale market for pharmaceutical products shows a very high degree of competitive pressure among the European markets. It is characterised by a broad product range, high delivery frequency and high service standards including different marketing services. Other key success factors include competitive prices and conditions.

The German wholesale market is characterised by five large players that together account for more than 90 % of the market (all data relating to shares of the German market are based on market data of IMS, available financial statements of PHOENIX' competitors and its own calculations). According to PHOENIX' own calculations, it is the market leader in the German wholesale market with a market share of approximately 27.2 % as of January 2013 based on revenue. The four next biggest competitors of PHOENIX each have market shares of approximately 18% to 14%, respectively.

Due to government regulation the ownership of a pharmacy or pharmacies is limited to pharmacists only. PHOENIX and other wholesalers have thus no retail presence in Germany. PHOENIX considers market liberalisation in Germany to be very unlikely for the medium term as the current model was confirmed by the European Court of Justice in September 2009.

### *Western Europe*

The market for pharmaceutical wholesale in Western Europe includes large pharmacy markets with high population density such as France, Italy and the UK that are quite unique, heterogeneous units and can hardly be compared in terms of market concentration, competition and regulation. While the wholesale market in France and the UK is highly concentrated, it is very fragmented in Italy.

PHOENIX has a strong presence in Western Europe both in the wholesale as well as the retail market of pharmaceutical products (except for France, where similar retail restrictions apply as in Germany). According to its own calculations, based on PHOENIX' and certain competitors' annual reports and other market data (IMS, the GERS database ("**GERS**") in France and Farminform B.V. ("**Farminform**") in The Netherlands), and in terms of revenue as of January 2013, PHOENIX has wholesale market shares of approximately 19.4 % in The Netherlands, 19.3 % in Switzerland, 18.7 % in Austria, 18.0 % in Italy, 10.5 % in the UK and 7.6 % in France.

The main competitors in this region are Alliance Boots (in the UK, France, The Netherlands and Italy (with an associated entity)) and Celesio AG, Stuttgart (together with its subsidiaries "**Celesio**") (in the UK, France, Italy and Austria). In addition, there are other competitors that have considerable market shares in only one or a few of the relevant regional markets, such as Galexis (the wholesale division of Galenica) in Switzerland, OPG MEDIQ in The Netherlands, Kwizda in Austria and a number of pharmaceutical wholesalers acting within a cooperative structure under the label "CERP" in France.

#### ***Eastern Europe (excluding North-Eastern Europe)***

The pharmaceutical wholesale market in Eastern Europe is composed of several regional units of similar, largely homogeneous markets with common characteristics and trends and an often fragmented competitive landscape. According to PHOENIX' own calculations, it is the largest regional wholesaler in Eastern Europe based on revenue and country coverage since no competitor covers more than one Eastern European country with a top three market share. According to IMS and its own calculations PHOENIX holds wholesale market shares between 16.8 % and 39.6 % in each country in which PHOENIX is present in this region. In 2011 it has been decided to close down the wholesale activities in Poland and to continue the market presence with the retail activities and pharma services.

PHOENIX' competitors in Eastern Europe include Hungaropharma (Hungary), Alliance Boots (Czech Republic), Medika (Croatia) and Sopharma (Bulgaria). In each case, the market presence of competitors has been determined by PHOENIX based on its own and certain competitors' key performance indicators (in particular, revenue) as published in the respective annual reports (where available) and other market information.

#### ***Northern Europe and North-Eastern Europe***

The pharmaceutical wholesale market in Northern and North-Eastern Europe is characterised by low population density and less frequent delivery cycles than in most parts of Western Europe. In addition to wholesale and retail, PHOENIX offers pharma services in the Nordic countries. The business models differ significantly within these countries due to the legislation in the respective jurisdictions. Some countries, i.e., Finland and Sweden, are single channel markets where pharmaceutical companies enter into an exclusive distribution agreement for their product range with only one wholesaler. In liberalised markets such as Norway and the Baltic countries, there is an extensive retail presence.

In the Nordic countries, PHOENIX' revenue-based wholesale market share, according to a comparison between its own revenue and market data by IMS, Dansk Lægemedel Information ("**DLI**") in Denmark and the State Agency of Medicines in Estonia for January 2013, is approximately 69.3 % in Denmark, 53.7 % in Sweden, 52.6 % in Finland and 31.8 % in Norway. In the North-Eastern European countries, the market share is approximately 28.4 % (for the period of time from October to December 2012) in Estonia, 24.0 % in Latvia (in January 2013) and 7.9 % in Lithuania (in January 2013). The main competitors in these markets are Celesio (Norway, Denmark) and Oriola KD (Finland, Sweden).

## BUSINESS OF THE PHOENIX GROUP

### Overview

Being active in 23 countries across Europe, PHOENIX is one of the top three pan-European pharmaceutical wholesale distribution, pre-wholesale and value added services along the pharmaceutical value chain (PHOENIX Pharma Services) and retail distribution companies. PHOENIX covers more European countries than any of its competitors (based on PHOENIX' estimate of available market data and its main competitors published figures). PHOENIX has more than 100 years of experience in the pharmaceutical market in Germany. PHOENIX generated total revenue of EUR 21,218.7 million and EBITDA of EUR 553.6 million for the fiscal year 2012/13. PHOENIX employed 23,886 employees (full-time-equivalent) on average for the fiscal year 2012/13. Its most important countries in terms of revenue in the fiscal year 2012/13 is by far Germany (30.9 % of the total revenue of the PHOENIX Group), followed by Italy (10.6 %), France (7.3 %), the UK (7.2 %) and Sweden (5.3 %).

Over several decades, the Merckle family gradually accumulated a participation in PHOENIX KG. At the same time, the Merckle family built up indirect participations in three independent pharmaceutical wholesalers and their subsidiaries, Hageda GmbH, Otto Stumpf group and F. Reichelt AG. In 1993, the businesses of the Hageda, Stumpf and F. Reichelt groups were consolidated into PHOENIX Pharmahandel Aktiengesellschaft & Co.

In the years 1994 to 1997, PHOENIX acquired foreign shareholdings in the Czech Republic, Hungary, Italy, The Netherlands, Poland and France, established new branches in Poland and France and took over an Austrian wholesaler. In 1998, PHOENIX entered the market in the UK. In 2000, PHOENIX further expanded into Finland, Switzerland and The Netherlands with strategic acquisitions which increased the proportion of turnover generated by foreign share holdings to two thirds of total revenue. Between 2003 and 2007, PHOENIX successfully completed its largest acquisition by obtaining a 100 % shareholding in Tamro Oyj. At the same time, PHOENIX further expanded into the Eastern European markets and consolidated its portfolio in the UK and Italy through additional acquisitions. In 2008 the acquisition of CERP Lorraine Répartition in France was completed and PHOENIX entered into the Serbian and Bosnian market. In 2010 PHOENIX and Celesio combined their activities in The Netherlands in order to strengthen the market position. Celesio transferred its retail business to our Dutch subsidiary, Brocacef Holding B.V., and in return received 45 % stake in this company.

In the fiscal year 2012/13, PHOENIX' wholesale business (including PHOENIX Pharma Services and other services) generated approximately 88 % of the total revenue of the PHOENIX Group. It is a very stable, non-cyclical business with regard to growth rates and gross margin (which is the ratio of gross profit to revenue). In the fiscal year 2012/13, the gross margin in PHOENIX' wholesale business was 7.5 %.

In its retail business, PHOENIX distributes pharmaceuticals and other healthcare related products to end customers through pharmacies. PHOENIX currently operates approximately 1,550 pharmacies in 12 countries. The retail business contributed approximately 12 % of the total revenue of the PHOENIX Group in the fiscal year 2012/13.

### Summary of Key Strengths

PHOENIX believes that the following key strengths have been primary drivers in its past success and will continue to set PHOENIX apart in the future:

#### *Resilient Business Model*

PHOENIX' resilient business model combines stable cash flows with low and diversified risks. PHOENIX' wholesale business (including PHOENIX Pharma Services and other services), which generates approximately 88 % of PHOENIX Group's revenue in the fiscal year 2012/13, operates in a stable, non-cyclical market. PHOENIX generates 70 % to 80 % of the revenue of its wholesale business from prescription-only drugs, the prices of which are regulated and thus allow for stable margins. The pharmaceutical market in the European Union member states is expected to evolve at a CAGR between -4.4 % and 8.0 % between 2011 and 2016 while the forecast for other European countries shows a CAGR of between 0.1 % to 7.1 % during the same period (Source: IMS). PHOENIX' portfolio combines these mature markets in Western Europe and strong positions in the expanding markets in Eastern Europe. As one of the leading pharmaceutical wholesalers in Europe and the only pan-European wholesaler active in all key Eastern European markets, PHOENIX believes it will benefit therefrom and is well positioned to generate stable, resilient cash flows.

At the same time, PHOENIX' business is only subject to diversified risks. PHOENIX' counterparties, *i.e.*, pharmaceutical manufacturers and pharmacies, generally have a sound financial profile as most of their

businesses bear limited risk of default. In addition, PHOENIX operates its businesses in several European countries and is therefore less dependent on any single market than local competitors. Moreover, due to the ongoing demographic ageing of the society, increasing living standards, higher life expectancy and living standard, increased health consciousness and new pharmaceuticals being key growth drivers, the pharmaceutical wholesale and retail markets are less sensitive to economic cycles than other markets.

### ***Strong Regional Diversification***

PHOENIX benefits from a strong regional diversification with leading market coverage throughout its pan-European footprint. PHOENIX covers more European countries than any of its competitors. The vast majority of pharmaceutical wholesalers and retailers are only active in one regional market. Only three pharmaceutical wholesale and retail companies conduct their business activities in more than a few European countries. PHOENIX is one of these top three pan-European pharmaceutical wholesale, pre-wholesale and retail companies. PHOENIX holds number one positions in terms of revenue in the wholesale markets in Germany, Italy, Sweden, Finland, Denmark, Czech Republic, Slovakia, Serbia, Bosnia and Hungary as well as key positions in many other markets, based on its estimates founded on market data (IMS, Farminform, DLI, GERS, Društvo za konsalting i menadžment doo Beograd ("**MediSim**") database), own calculations and the published figures of its main competitors. Due to its pan-European footprint, there are only two individual countries, Germany and Italy, where PHOENIX generates more than 10 % of its revenue. PHOENIX' broad country coverage strengthens its position vis-à-vis pharmaceutical manufacturers and represents a considerable advantage in case pharmaceutical manufacturers chose to reduce the number of wholesalers or to create multinational wholesale networks. In addition, its wholesale activities throughout Europe constitute an excellent platform to integrate further selected pharmacies into its network where the legal framework permits ownership of pharmacies by wholesalers.

### ***Well-balanced Business Portfolio***

PHOENIX' leading position in the wholesale market is complemented by strong retail and pharma services activities, forming a well-balanced portfolio. PHOENIX' retail network consists of approximately 1,550 pharmacies in 12 countries serving more than 390,000 customers daily. PHOENIX offers pharma services in 23 countries, serving more than 200 customers. Integrating pharma services and retail activities into PHOENIX' business enables it to achieve synergy effects and to benefit from the entire available margin between pharmaceutical manufacturers and end customers.

### ***Unique Market Expertise and Turn-Around Capability***

PHOENIX profits from its unique expertise in operations and logistics and its proven turn-around capability. PHOENIX has been able to strategically acquire new businesses in high growth areas and to quickly establish a strong market position in the respective countries. PHOENIX' extensive experience in pharmaceutical distribution and the vast logistics network required for its wholesale activities is the basis for its unique expertise in complex operations and logistics. PHOENIX leverages its logistic expertise in the pharmaceutical wholesale market, which requires high standards in terms of quality, reliability and speed, to constantly improve its operations and logistics, thereby reducing its operational costs. Due to this expertise, PHOENIX has managed to transform under-performing companies it acquired into profitable enterprises, e.g. the former Tamro Group thus building up a strong acquisition track record. As price competition is generally limited in the pharmaceutical wholesale market due to a high level of regulation, PHOENIX considers its unique expertise in operations and logistics to be one of its key competitive advantages.

### ***Strong Relationship with Pharmacies and Pharmaceutical Manufacturers***

PHOENIX has in-depth relationships with pharmacies and pharmaceutical manufacturers. Due to the high level of regulation in the pharmaceutical wholesale market, good relationships with pharmacies are a key element for the successful operation of PHOENIX' business. PHOENIX' qualified account managers continuously foster relationships with pharmacies, some of which have been developed over generations. PHOENIX offers a unique package of services and support for pharmacies, including business courses for start-up pharmacists, point of sale systems and online ordering services. PHOENIX believes that these services enable it to further strengthen its relationships with many pharmacies throughout Europe thus creating high barriers of entry. Due to PHOENIX' long and established presence in the pharmaceutical market, it has strong relationships with all major pharmaceutical manufacturers and is thus able to benefit in case pharmaceutical manufacturers choose to reduce the number of wholesalers.



### ***Experienced Management Team***

PHOENIX benefits from a highly qualified and experienced executive management team lead by Mr. Reimund Pohl (Chief Executive Officer), Dr. Michael Majerus (Finance, Accounting and Taxes), Dr. Hans-Ulrich Kummer (Operations and Logistics), Stefan Herfeld (Retail) and Oliver Windholz (Sales and Marketing). Since joining PHOENIX, this senior management team has successfully implemented several far-reaching operational and financial restructuring measures and is currently working to enable PHOENIX to maintain and further improve its leading market position in Europe.

### **Summary of PHOENIX' Strategy**

PHOENIX' strategies are as follows:

#### ***Organic Growth***

Despite all negative regulatory influences such as spending cuts and trading margin reductions, the pharmaceutical market in the European Union is expected to grow at a compound annual rate of 0.6 % between 2011 and 2016, while the forecast for non-EU countries in Europe shows a CAGR of 2.0 % during the same period (Source: IMS). Due to its diversified geographic footprint as a leading pan-European wholesale distributor PHOENIX is able to balance temporary negative influences from individual markets very well on group level. Furthermore, PHOENIX benefits from the fact that it is not active in those Southern European markets which are impacted most severely by the European debt crisis. PHOENIX intends to defend and strengthen its existing market position by implementing a sustainable growth strategy in its wholesale business. In countries where PHOENIX operates pharmacies it intends to further improve its retail margins by offering a wide range of pharmacy-related products such as OTC and commodity products as well as its own brand name products that are produced for PHOENIX by contract manufacturers to complement its core business of prescription-only drugs. In addition, the PHOENIX Group intends to strengthen its position as a provider of integrated services for all partners along the pharmaceutical value chain, especially for pharmaceutical manufacturers and other industry partners.

#### ***Selected Acquisitions***

The European market still offers significant potential for consolidation, both in wholesale and in retail. PHOENIX plans to further expand its position in individual markets through selected acquisitions complementing its existing portfolio. In the wholesale segment, PHOENIX is in an excellent position to benefit from the consolidation of the currently fragmented markets in Southern and Eastern Europe, where PHOENIX has an unrivalled presence. In the retail business, PHOENIX will continue to acquire pharmacies or pharmacy chains in its current retail markets in order to profit from higher margins in the retail business. PHOENIX will carefully evaluate opportunities for further market entries or retail expansions in markets where PHOENIX is currently only engaged in wholesale and take the required actions. Finally, the integration of retail and wholesale businesses is expected to create added value and will allow PHOENIX to benefit from the entire available margin between pharmaceutical manufacturers and patients as end customers. PHOENIX' strong wholesale position in many European countries enables it to successfully integrate further retail activities into its business in order to combine the stability of its wholesale business with opportunities of the retail business.

#### ***Optimising Efficiency***

PHOENIX plans to optimise its operational and administrative efficiency through continuous process improvement and active cost management. In order to achieve this goal, PHOENIX has launched the group-wide programme "PHOENIX FORWARD" in January 2013 with the aim to increase overall efficiency and to reduce operating expenses by at least EUR 100 million annually, with the full effects planned for the fiscal year 2015/16. The programme will not only enhance profitability by measures such as centralisation, harmonisation and standardisation, but it will also intensify the transfer of best practices, which has always been an integral part of PHOENIX' management philosophy. Additionally, PHOENIX develops and reviews on an ongoing basis initiatives for organisational and tax optimisations.

#### ***Continued Optimisation of Financial Structure***

PHOENIX is determined to continue its successful path of deleveraging in order to further strengthen its financial structure. An intelligent combination of various funding sources and a well-balanced liquidity profile is expected to provide PHOENIX the flexibility that is required for supporting its further development. In addition,

PHOENIX intends to further enhance its working capital management. The achievement of this goal will be facilitated by optimised cash and inventory management as well as group-wide debtor management systems.

## **PHOENIX' Business**

PHOENIX' business comprises wholesale, pharma services, retail and other services.

### ***Wholesale***

Approximately 88 % of the total revenue of PHOENIX in the fiscal year 2012/13 was generated by the wholesale business (including PHOENIX Pharma Services and other services). 70 % to 80 % of this revenue was generated with prescription-only drugs.

In its genuine wholesale business, PHOENIX delivers a full assortment of pharmaceuticals and related healthcare products to retail pharmacies and other customers in 22 countries in Europe up to five times a day. As a full-line wholesaler, PHOENIX stores – and in some countries is obliged by law to store – a comprehensive, multi-vendor range of pharmaceuticals. The stock PHOENIX carries is based on the anticipated demand of its pharmacy customers for two weeks.

PHOENIX operates 155 wholesale and pre-wholesale distribution centres in 23 countries in Europe. The decentralised structure enables PHOENIX to respond quickly and with high flexibility to any changes and developments in the market.

PHOENIX' advanced warehousing and distribution systems ensure that it only takes a few hours from an order being placed to the actual delivery of the pharmaceutical product to the respective pharmacy, including the time of transportation. Short processing times are also ensured during the two peak periods in a day when pharmacies place most of their orders. In Germany PHOENIX makes deliveries to pharmacies on an average of 3.5 times per day.

The transport and delivery of the pharmaceutical products from the distribution centre to the customer is either undertaken by the PHOENIX Group (*e.g.* by its subsidiary transmed Transport GmbH in Germany) or through individual subcontractors. Together with its subcontractors PHOENIX offers a widespread day and night network to its customers which is based on a hub and spoke system.

### ***PHOENIX Pharma Services***

In the pharma services business PHOENIX offers comprehensive services along the pharmaceutical value chain that are bundled together on a local, regional and European level under the "All-in-One" concept. These services for all customers in the pharmaceutical industry include manufacturer and pre-wholesale services, clinical trial services, special warehousing solutions for orphan drugs or the support of marketing activities.

Manufacturer and pre-wholesale services usually consist of warehousing (often by way of consignment), packaging and transporting products, order handling as well as tax and customs administration and further manufacturer services like packing, labelling, bundling, printing on boxes, sample distribution, intrastate reporting as well as data management and financial services such as debt collection. Most pharmaceutical manufacturers outsource at least some of these tasks. More than 200 pharmaceutical manufacturers already rely on these services. Usually, pharmaceutical manufacturers employ one exclusive pre-wholesaler in each country or in some cases in a certain region (*e.g.* Scandinavia) or even Europe. PHOENIX offers its pharma services in 23 countries and thus can offer pharmaceutical manufacturers an extensive country coverage.

PHOENIX also offers individual blister packing (*i.e.* the individual packing of multiple drugs for one patient) for pharmacies in a number of European countries. By offering this service PHOENIX relieves pharmacists of the investment risk of purchasing and maintaining their own machines. In Germany, PHOENIX' Blister Center Aschaffenburg GmbH supplies pharmacies throughout the country.

The PHOENIX Pharma Services business is usually performed under fee-for-service contracts. Within these contracts, pre-wholesalers receive remuneration in relation to the value of the goods handled. Sometimes pre-wholesaler contracts are also based on so-called "activity-based prices". Under these contracts, each service activity is priced and billed individually.

## ***Retail***

PHOENIX has established a strong retail base across 12 countries with mature markets and high margins. PHOENIX is operating approximately 1,550 pharmacies in Europe. While, due to governmental regulations, there are no pharmacies owned by PHOENIX or other wholesalers in Germany, PHOENIX is operating more than 780 pharmacies in Western Europe including the UK, Switzerland, The Netherlands, Austria and Italy, approximately 240 pharmacies in Eastern Europe including Hungary and the Czech Republic and about 530 pharmacies in Norway, Poland, Lithuania, Latvia and Estonia. More than 700 pharmacies in selected countries (Switzerland, Czech Republic, the Netherlands, Lithuania, Latvia and Estonia) are unified under the new corporate brand "BENU". Other PHOENIX retail brands are "Apotek 1" in Norway and "Rowlands" in the United Kingdom.

In its pharmacies, PHOENIX sells prescription-only drugs, OTC products as well as healthcare-related commodity products. OTC products are non-prescription-only drugs which usually can only be sold in pharmacies. Healthcare-related products are all products which are neither prescription-only drugs nor OTC products, in particular cosmetic products such as skin care, hair care and certain dietary supplements.

PHOENIX also offers private label products in some countries such as "BENU", "Dermica", "a1" or "Numark" labelled products. Private label products are OTC products and commodity products produced for PHOENIX by contract manufacturers which PHOENIX markets under its own brand names.

## ***Other Services***

PHOENIX offers a whole range of country-specific related services for pharmacies. The services PHOENIX offers in Germany for example include seminars, event planning, consulting services, assistance with organisational matters and a wide range of training programs to support the positioning of pharmacies in the modern healthcare system. PHOENIX also cooperates with membership organisations in countries other than Germany and supports their member pharmacies with regard to purchasing management and marketing activities.

## **Customers and Marketing**

PHOENIX' customer base mainly consists of pharmaceutical manufacturers within its PHOENIX Pharma Services activities, pharmacies, medical institutions and doctors within its wholesale activities and end customers within its retail activities.

## ***Wholesale***

Wholesale customers are generally single-owned pharmacies or pharmacy chains but also comprise hospitals, nursing homes or other medical institutions as well as doctors. In the 22 countries in which PHOENIX is actively delivering pharmaceuticals to pharmacies, well over 100,000 pharmacies exist. PHOENIX is the market leader in terms of revenue in a number of those countries (for example in Germany, Italy, Sweden, Finland and Denmark) according to its own estimates based on market data (IMS, and DLI) and published figures of its main competitors. PHOENIX has developed a large number of customer retention, marketing and sales promotion concepts which it makes available as a service to pharmacies, for example in Germany, Italy and the Czech Republic.

## ***PHOENIX Pharma Services***

PHOENIX Pharma Services' customers are mainly pharmaceutical manufacturers, but also pharmacies and individual patients for which PHOENIX offers value added services along the pharmaceutical value chain.

## ***Retail***

Where PHOENIX is active in the retail market it is dealing directly with end customers. Each country has its own web presence where information is presented tailored to local customers. These web pages are designed to give basic yet well researched pharmaceutical advice and help in finding the closest pharmacy. They are also linked to online ordering of pharmaceutical products and names pharmacies which offer a home delivery service and lists emergency call numbers for poison centres.

## **Intellectual Property**

PHOENIX owns registered and unregistered trademarks and service marks and similar rights used by the companies within the PHOENIX Group. All of the principal trademarks and service marks are registered in the respective jurisdiction where they are being used, or registrations have been applied for with respect to such trademarks and service marks. PHOENIX does not consider any particular patent, license, franchise or concession to be material to its business.

## **Property, Plant and Equipment**

Within its wholesale activities PHOENIX requires property for its distribution centres. For conducting its retail activities PHOENIX depends on property suitable for pharmacies. PHOENIX owns the real estate of its head office in Mannheim and of several distribution centres and pharmacies.

As of 31 January 2013 PHOENIX owned land and buildings with a carrying amount of EUR 545.6 million. This represented approximately 68.1 % of PHOENIX' property, plant and equipment and approximately 7.5 % of PHOENIX' total assets.

## **Material Contracts**

### ***2010 Bonds***

On 16 July 2010, PHOENIX PIB Finance B.V. issued EUR 506,150,000 9.625 % guaranteed senior unsecured notes due 2014 (the "**2010 Bonds**"). The proceeds from the issue of the 2010 Bonds have been used to repay certain financial indebtedness.

The final maturity for the 2010 Bonds is on 15 July 2014, provided that in case of a change of control each holder of the 2010 Bonds has the right to require PHOENIX PIB Finance B.V. to repurchase the 2010 Bonds at a purchase price equal to 101 % of the principal amount plus accrued interest, and certain other rights of early redemption apply.

The 2010 Bonds bear interest at a rate of 9.625 % per annum which is paid semi-annually in arrears on 15 January and 15 July of each year.

The 2010 Bonds are guaranteed by PHOENIX KG and all of the Subsidiary Guarantors on terms which are substantially equal to the terms of the Parent Guarantee or the Subsidiary Guarantee, as the case may be. In case at least two of Fitch, Moody's Investors Service Limited ("**Moody's**") and S&P assign a credit rating to PHOENIX Group's unsecured debt of BBB- and/or Baa3, respectively, or better, the guarantees are automatically released. In addition, a guarantee in respect of the 2010 Bonds will be released under the following circumstances:

- in case of any guarantee other than the guarantee by PHOENIX KG, if all or substantially all of the assets or capital stock of the relevant guarantor or its parent entity (other than PHOENIX KG and PHOENIX PIB Finance B.V.) are sold or otherwise disposed of;
- upon the full discharge of PHOENIX PIB Finance B.V.'s obligations under the 2010 Bonds;
- in case that the relevant guarantor was not an initial guarantor, upon the release of the guarantee or security that gave rise to the obligation to have that guarantor accede as an additional guarantor under the terms of the 2010 Bonds; or
- in case of any guarantee other than PHOENIX KG, if the relevant company is designated an unrestricted subsidiary" under and in compliance with the terms of the 2010 Bonds. Pursuant to the terms of the 2010 Bonds each Subsidiary is initially a restricted subsidiary and may be designated by PHOENIX KG as an unrestricted subsidiary only if: (i) the relevant Subsidiary does not hold any equity interest in, financial indebtedness owed or lien on any property of, any other Subsidiary which is not a (direct or indirect) subsidiary of the relevant Subsidiary or which otherwise is an unrestricted subsidiary, (ii) the relevant Subsidiary does not have any indebtedness pursuant to which a lender has recourse against any Subsidiary which is not an unrestricted subsidiary, (iii) a deemed payment in an amount equal to the fair market value of the investment by all restricted subsidiaries in the relevant Subsidiary would not be prohibited pursuant to the terms of the 2010 Bonds and (iv) there will be no event of default under the 2010 Bonds as a result of the designation of the relevant Subsidiary as an unrestricted subsidiary.

The terms and conditions of the 2010 Bonds provide for certain restrictive covenants, including in particular restrictions on additional indebtedness, distributions, disposals and the creation of liens.

### ***Syndicated Credit Facility Agreement***

On 21 June 2012, PHOENIX KG, PHOENIX International Beteiligungs GmbH and PHOENIX PIB Finance B.V. as borrowers, certain banks including, but not limited to, Commerzbank Aktiengesellschaft, Crédit Agricole Corporate and Investment Bank, Landesbank Hessen-Thüringen Girozentrale, HSBC Trinkaus & Burkhardt AG and Landesbank Baden-Württemberg as mandated lead arrangers and others entered into a EUR 1,350 million syndicated facilities agreement (the "**Syndicated Credit Facility Agreement**").

Under the Syndicated Credit Facility Agreement, a group of lenders made available a term loan facility in an amount of up to EUR 300 million and a revolving facility of up to EUR 1,050 million (incorporating a swingline facility in an amount of up to EUR 200 million). The term loan facility has been utilised to repay certain existing financial indebtedness and is no longer available for drawing. The proceeds from the revolving facility may either be used to repay certain existing financial indebtedness (including the 2010 Bonds) or for general corporate purposes and working capital requirements.

The final maturity date for the term loan facility is 21 June 2016 and for the revolving facility 21 June 2017. There are no regular repayment instalments due on the term loans until 21 June 2016. The Syndicated Credit Facility Agreement, however, provides for certain mandatory prepayment events such as illegality, the occurrence of a change of control in PHOENIX KG, the raising of additional debt and disposals (in the two latter cases subject to certain exceptions).

The interest rate on each loan under the Syndicated Credit Facility Agreement is the percentage rate per annum which is equal to the sum of (x) the applicable margin at any time, (y) EURIBOR (or LIBOR, in the case of loans drawn in a currency other than EUR) for the relevant interest period and (z) mandatory costs (if any). In addition to the margin, other customary fees have become and are payable in connection with the Syndicated Credit Facility Agreement.

The Syndicated Credit Facility Agreement is guaranteed by PHOENIX KG and all of the Subsidiary Guarantors on terms which are substantially equal to the terms of the Parent Guarantee and the Subsidiary Guarantee, respectively. All guarantees under the Syndicated Credit Facility Agreement (other than PHOENIX KG's guarantee) will automatically fall away if the leverage ratio of the PHOENIX Group is better than 2.50:1 or at least two of Fitch, Moody's and S&P assign a credit rating to PHOENIX Group's unsecured debt of BBB- and/or Baa3, respectively, or better, for two consecutive fiscal quarters of PHOENIX KG and such guarantors also cease to guarantee the 2010 Bonds and any other capital markets indebtedness of the PHOENIX Group (including the Notes). The leverage ratio for the PHOENIX Group is calculated as the ratio of Net Debt to Adjusted EBITDA (plus any dividend from Comifar S.p.A. prior to the Italian Ringfencing Fall Away Event) for the Financial Group or (following the Italian Ringfencing Fall Away Event) the PHOENIX Group.

In this context:

**"Financial Group"** means the PHOENIX Group excluding the Italian Subgroup.

**"Italian Ringfencing Fall Away Event"** means first indirect utilisation of the revolving facility under the Syndicated Credit Facility Agreement by Comifar S.p.A. or any other member of the Italian Subgroup to fully or partially refinance any of the existing financial indebtedness of the Italian Subgroup.

**"Italian Subgroup"** means Comifar S.p.A. and its subsidiaries from time to time.

**"Net Debt"** means the sum (without double counting) of the Financial Group's or PHOENIX Group's, as the case may be:

- (a) financial liabilities (non-current), but deducting the supplementary partner contribution from partners (*Ergänzungseinlage*) and deducting liabilities from derivative financial instruments (non-current), as specified under notes 18 and 21 of the audited consolidated financial statements of PHOENIX KG for the fiscal year 2011/12;
- (b) plus financial liabilities (current), but excluding liabilities from derivative financial instruments (current), as specified under notes 18 and 21 of the audited consolidated financial statements of PHOENIX KG for the fiscal year 2011/12;

- (c) minus cash and cash equivalents;
- (d) minus held-to-maturity financial assets;
- (e) plus receivables sold under off-balance sheet asset backed securities / factoring programmes (volume of receivables derecognised in accordance with IAS 39 and volume of receivables under continuing involvement), but, to the extent asset backed securities / factoring programmes recognised continuing involvement, deducting the continuing involvement as specified under note 15 of the audited consolidated financial statements of PHOENIX KG for the fiscal year 2011/12;
- (f) minus receivables out of ABS and factoring programmes as specified under note 18 of the audited consolidated financial statements of PHOENIX KG for the fiscal year 2011/12;

but excluding, for the avoidance of doubt, any amounts which are under IFRS not considered to be debt and, irrespective of their legal nature.

In addition, PHOENIX KG may at any time request the resignation of a guarantor under the Syndicated Credit Facility Agreement if (i) no default under the Syndicated Credit Facility Agreement is outstanding or would occur as a result of such resignation, (ii) no payment from that guarantor is due under the guarantee and (iii) where that guarantor is also a borrower, it is under no actual or contingent obligation as a borrower. The resignation of a borrower may in particular cause a default under the Syndicated Credit Facility Agreement if, following its resignation, the aggregate earnings or turnover of the remaining guarantors do not represent 75 % of the consolidated earnings or turnover of the PHOENIX Group (after eliminating any intra-group effects). With respect to PHOENIX lékarenský veľkoobchod, a.s., BENU Česká republika a.s. and PHOENIX Zdravotnícke Zásobovanie, a.s. special resignation provisions exist.

The Syndicated Credit Facility Agreement provides for financial covenants (leverage and interest cover tests), representations and warranties, information undertakings, general undertakings and events of default (which give the lenders the right to accelerate all amounts outstanding under the Syndicated Credit Facility Agreement) customary for such kind of financings.

### ***Italian Financing***

On 2 July 2010 Comifar S.p.A. and certain of its subsidiaries entered into a EUR 750 million revolving credit facility agreement with a syndicate of Italian banks. The revolving facility agreement incorporates two revolving facilities (a "revolving financing facility" in the amount of EUR 50 million and a "revolving credit facility financing" in the amount of EUR 700 million subdivided into three tranches (i) up to EUR 100 million of short term financial liquidity (cash advance account transactions and temporary account overdrafts), (ii) up to EUR 100 million of invoices discount (cash advances subject to collection (*salvo buon fine*) transactions on invoices and (iii) up to EUR 700 million of RIBA (*ricevute bancarie*)/R.i.D. operative liquidity) and may be utilised for the repayment of certain pre-existing indebtedness and general corporate and working capital purposes.

The final maturity date of the revolving credit facility agreement is 31 December 2013, subject to certain mandatory prepayment provisions (e.g. in case of a change of control, certain major disposals or the implementation of asset backed securities transactions). Interest accrues on loans under the revolving credit facility agreement at a variable rate based on EURIBOR and a margin which varies over time.

Comifar S.p.A. has not granted any senior guarantees for the obligations under the revolving credit facility agreement. Comifar S.p.A. will guarantee the repayment by its subsidiaries of the loans under the revolving credit facility agreement drawn by each of them, while Comifar Distribuzione S.p.A. will guarantee the repayment of the revolving financing facility up to 150 % of the amounts drawn or indirectly received from Comifar S.p.A. as an intercompany loan.

The revolving facility agreement provides for representations and warranties, undertakings, financial covenants (leverage, gearing and debt service coverage ratio) and events of defaults (which give the lenders the right to accelerate all amounts outstanding under the revolving facility agreement) customary for this kind of financings.

### ***Equity Confirmation Agreement***

As a condition precedent to funding, the terms of the Syndicated Credit Facility Agreement provide that the partners of PHOENIX KG undertake, by way of an agreement with the agent under the Syndicated Credit Facility Agreement, not to withdraw any of their equity from PHOENIX KG during the lifetime of the

Syndicated Credit Facility Agreement and subject to certain exceptions. In addition, the partners of PHOENIX KG have undertaken not to collect profit distributions in excess of 50 % of the sum of the profit of PHOENIX Group in any year plus any retained earnings from preceding fiscal years, provided that the partners of PHOENIX KG will not collect any profit distributions in fiscal years in which the PHOENIX Group incurred a loss.

### ***Business Lease Agreements***

Eleven distribution centres in Germany ("**Leased Distribution Centres**") which are considered core assets (*betriebsnotwendige Vermögensgegenstände*) for PHOENIX' current business model in Germany are not owned by PHOENIX but used under business lease agreements (*Betriebspachtverträge*) executed in 1994 ("**Business Lease Agreements**"). Two of these Business Lease Agreements were entered into with entities which later became PHOENIX KG's limited partners and which are at the same time subsidiaries of PHOENIX International Beteiligungs GmbH. Nine of the Business Lease Agreements were entered into with entities which are among PHOENIX KG's limited partners.

Under the Business Lease Agreements, the lessors have handed over all fixed assets related to their businesses, sold and transferred all vehicles related to these fixed assets as well as the inventories and arranged that their customers are supplied by PHOENIX (lease of customer base). PHOENIX has assumed the agreements related to the business, including employment agreements, insurance agreements, agency agreements, utility agreements, agreements with pharmaceutical manufacturers and customers (pharmacies) and memberships in professional organisations. During the term of the respective Business Lease Agreement, PHOENIX is obliged to continue the business and to procure the maintenance of the leased assets.

### ***Factoring and ABS Programmes***

As of 31 January 2013 the PHOENIX Group operates twelve factoring programmes and six asset-backed securitisation programmes (together, the "**Factoring and ABS Programmes**") in nine countries for purposes of working capital financing. Under these agreements, trade receivables are sold to the third-party factoring companies or special purpose vehicles (in the case of asset-backed securitisation programmes).

As of 31 January 2013, trade receivables of the PHOENIX Group recorded in its audited consolidated financial statements for the fiscal year 2012/13 include receivables in the amount of EUR 303.8 million which were sold and financed through Factoring and ABS Programmes, but do not meet IAS 39 derecognition requirements (*i.e.*, remain wholly or partially on balance sheet). The aggregate amount of off-balance sheet Factoring and ABS Programmes (*i.e.* the amount of sold trade receivables not shown in balance sheet) as of 31 January 2013 is EUR 370.9 million. Some Factoring and ABS Programmes contain additional customary fee components.

## Investments

Cash inflow from investing activities developed from EUR 502.5 million in the fiscal year ended 31 January 2011 (the "**fiscal year 2010/11**") to a cash outflow from investing activities of EUR 113.0 million in the fiscal year 2011/12 and EUR 126.9 million in the fiscal year 2012/13. The cash inflow in the fiscal year 2010/11 was mainly related to the repayment of loans to related parties in the amount of EUR 458.5 million as well as to EUR 130.2 million cash received from the disposal of financial assets. Thereafter, the cash paid for investments in non-current assets amounted to EUR 133.6 million in the fiscal year 2011/12 and EUR 137.9 million in the fiscal year 2012/13.

The following table sets forth the regional split of cash paid for investments in non-current assets during the last three fiscal years:

	<u>Fiscal Year 2010/11</u>	<u>Fiscal Year 2011/12</u>	<u>Fiscal Year 2012/13</u>
	(in EUR millions and audited unless indicated otherwise)		
<b>Total</b>	<b>94.3</b>	<b>133.6</b>	<b>137.9</b>
<b>split by region (unaudited)</b>			
Germany	27.0	33.2	25.6
Western Europe	27.1	37.9	48.8
Eastern Europe	15.9	17.5	16.0
Northern and North-Eastern Europe	24.4	45.1	47.5

Capital expenditures primarily consist of investments in the wholesale distribution network, i.e. technical maintenance and improvement in distribution centres, establishing new distribution centres, transportation technology, in pharmacy retail shops, i.e. mainly refits and openings of pharmacies, and IT investments.

Cash paid for the purchase of consolidated companies and business units amounted to EUR 10.7 million in the fiscal year 2010/11, EUR 29.9 million in the fiscal year 2011/12 and EUR 7.7 million in the fiscal year 2012/13. Overall, the cash paid for acquisitions in the last three fiscal years mainly relates to pharmacies in various countries.

Future capital expenditure will mainly consist of investments in the development of the wholesale distribution network, the development of the retail business (*e.g.*, the development and improvement of pharmacies) and IT investments.



## GENERAL INFORMATION ON THE SUBSIDIARY GUARANTORS

### ***PHOENIX International Beteiligungs GmbH***

PHOENIX International Beteiligungs GmbH is a limited liability company (*Gesellschaft mit beschränkter Haftung*) incorporated under the laws of Germany on 19 September 1991 and registered on 2 September 1992 under its former name EPG Europe Einkaufsgesellschaft pharmazeutischer Großhändler Gesellschaft mit beschränkter Haftung. It is registered with the commercial register of the local court in Mannheim under registration number HRB 6884 (initially: commercial register of the local court in Langen (Hessen) under registration number HRB 2980) and its registered office is Pfingstweidstraße 10-12, 68199 Mannheim, Germany.

PHOENIX International Beteiligungs GmbH's registered share capital amounts to EUR 15,357,600 divided into eight shares of EUR 563,856, EUR 436,144, EUR 89,400, EUR 13,216,762, EUR 783,238, EUR 89,400, EUR 89,400 and EUR 89,400.

### ***Nordic Beteiligungs GmbH***

Nordic Beteiligungs GmbH is a limited liability company (*Gesellschaft mit beschränkter Haftung*) incorporated under the laws of Germany on 29 November 2002 and registered on 18 September 2003 under its former name NECKARAUEN Verwaltungsgesellschaft mbH. It is registered with the commercial register of the local court in Mannheim under registration number HRB 9888 and its registered office is Pfingstweidstraße 10-12, 68199 Mannheim, Germany.

Nordic Beteiligungs GmbH's registered share capital amounts to EUR 55,000 divided into seven shares of EUR 46,400, EUR 900, EUR 900, EUR 900, EUR 900, EUR 1,000 and EUR 4,000.

### ***PHOENIX Pharma-Einkauf GmbH***

PHOENIX Pharma-Einkauf GmbH is a limited liability company (*Gesellschaft mit beschränkter Haftung*) incorporated under the laws of Germany on 16 March 1979 and registered on 12 June 1979 under its former name EPG Einkaufsgesellschaft pharmazeutischer Großhändler GmbH. It is registered with the commercial register of the local court in Mannheim under registration number HRB 7785 and its registered office is Pfingstweidstraße 10-12, 68199 Mannheim, Germany.

PHOENIX Pharma-Einkauf GmbH's registered share capital amounts to EUR 7,415,000 (one share).

### ***transmed Transport GmbH***

transmed Transport GmbH is a limited liability company (*Gesellschaft mit beschränkter Haftung*) incorporated under the laws of Germany on 1 December 1970 and registered on 17 December 1970 under its former name "Mini-Flitzer" Last-Taxi Gesellschaft mit beschränkter Haftung. It is registered with the commercial register of the local court in Regensburg under registration number HRB 6484 and its registered office is Dr.-Gessler-Straße 37, 93051 Regensburg, Germany.

transmed Transport GmbH's registered share capital amounts to DEM 384,000, divided into ten shares of DEM 14,000, DEM 1,000, DEM 1,000, DEM 4,000, DEM 30,000, DEM 1,000, DEM 49,000, DEM 51,000, DEM 49,000 and DEM 184,000.

### ***ADG Apotheken-Dienstleistungsgesellschaft mbH***

ADG Apotheken-Dienstleistungsgesellschaft mbH is a limited liability company (*Gesellschaft mit beschränkter Haftung*) incorporated under the laws of Germany on 10 September 1980 and registered on 5 December 1980 under its former name P & P Elektronik GmbH. It is registered with the commercial register of the local court in Mannheim under registration number HRB 701436 and its registered office is Pfingstweidstraße 5, 68199 Mannheim, Germany.

ADG Apotheken-Dienstleistungsgesellschaft mbH's registered share capital amounts to EUR 200,000, divided into two shares of EUR 151,400 and EUR 48,600.

### ***PHOENIX Noweropa Beteiligungs GmbH***

PHOENIX Noweropa Beteiligungs GmbH is a limited liability company (*Gesellschaft mit beschränkter Haftung*) incorporated under the laws of Germany on 19 December 2011 and registered on 5 January 2012. It is registered with the commercial register of the local court in Mannheim under registration number HRB 713559 and its registered office is Pfingstweidstraße 10-12, 68199 Mannheim, Germany.

PHOENIX Noweropa Beteiligungs GmbH's registered share capital amounts to EUR 25,000 (one share).

### ***PHOENIX Medical Supplies Limited***

PHOENIX Medical Supplies Limited is a company limited by shares incorporated under the laws of England and Wales under its former name Ingleby (1130) Ltd. on 23 July 1998. It is registered with Companies House under number 3603234 and its registered office is Rivington Road, Whitehouse Industrial Estate, Preston Brook, Runcorn, Cheshire, WA7 3DJ, UK.

The authorised share capital of PHOENIX Medical Supplies Limited is GBP 30,000,000 divided into 30,000,000 ordinary shares of GBP 1.00 each.

The issued share capital amounts to 25,861,200 ordinary shares of GBP 1.00 each, the single member shareholder being PHOENIX PIB Dutch Holding B.V.

### ***PHOENIX Healthcare Distribution Limited***

PHOENIX Healthcare Distribution Limited is a private company limited by shares incorporated under the laws of England and Wales under its former name Philip Harris & Company (1913) Ltd on 4 June 1913. It is registered with Companies House under company number 00129370 and its registered office is Rivington Road, Whitehouse Industrial Estate, Preston Brook, Runcorn, Cheshire, WA7 3DJ, UK.

The authorised share capital of PHOENIX Healthcare Distribution Limited is GBP 4,080,000 divided into 40,000 5.25 % cumulative preference shares of GBP 1.00 each, 80,000 5.6 % cumulative preference shares of GBP 1.00 each, and 19,800,000 ordinary shares of 20p each.

The issued share capital amounts to 36,200 5.25% cumulative preference shares of GBP 1.00 each, 40,000 5.6% cumulative preference shares of GBP 1.00 each and 16,438,685 ordinary shares of 20p each. The single member shareholder being PHOENIX Medical Supplies Limited.

### ***L. Rowland & Company Limited***

L. Rowland & Company Limited is a private company limited by shares incorporated under the laws of England and Wales on 19 March 1928. It is registered with the Companies House under company number 00228923 and its registered office is c/o PHOENIX Medical Supplies Limited, Rivington Road Whitehouse, Preston Brook, Runcorn, Cheshire, WA7 3DJ, UK.

The authorised capital of L. Rowland & Company Limited is GBP 6,000,083 divided into 96,250 "A" ordinary shares of GBP 1.00 each, 110,833 "B" ordinary shares of GBP 1.00 each and 5,793,000 ordinary shares of GBP 1.00 each.

The issued share capital amounts to 96,250 "A" ordinary shares of GBP 1.00 each, 110,833 "B" ordinary shares of GBP 1.00 each and 1,739,862 ordinary shares of GBP 1.00 each, the single member shareholder being PHOENIX Medical Supplies Limited.

### ***L. Rowland & Company (Retail) Limited***

L. Rowland & Company (Retail) Limited is a private company limited by shares incorporated under the laws of England and Wales on 23 August 1988 under its former name Betterprompt Ltd. It is registered with the Companies House under company number 2288928 and its registered office is Rivington Road, Whitehouse Industrial Estate, Preston Brook, Runcorn, Cheshire, WA7 3DJ, UK.

L. Rowland & Company (Retail) Limited's authorised share capital is GBP 1,000 divided into 1,000 shares of GBP 1.00 each.

The issued share capital amounts to 1,000 ordinary shares of GBP 1.00 each, the single member shareholder being L. Rowland & Company Limited.

#### ***Numark Limited***

Numark Plc was incorporated under the laws of England and Wales as a public limited company on 5 August 2002, and was re-registered as Numark Limited, a private company limited by shares, on 28 February 2006. It is registered with the Companies House under company number 4503052 and its registered office is Numark House, 5/6 Fairway Court Amber Close, Tamworth Business Park, Tamworth, Staffordshire, B77 4RP, UK.

Numark Limited's authorised share capital is GBP 25,000,000 divided into 25,000,000 ordinary shares of GBP 1.00 each. Numark Limited's current issued share capital is GBP 7,718,704 divided into 7,718,704 shares of GBP 1.00 each.

#### ***PHOENIX PIB Dutch Holding B.V.***

PHOENIX PIB Dutch Holding B.V. is a private limited liability company (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of The Netherlands on 30 November 2007 and registered on 3 December 2007. It is registered with the trade register of the chamber of commerce for Midden Nederland under registration number 30232476, its statutory seat is Maarssen and its address is Straatweg 2, 3604BB Maarssen, The Netherlands.

PHOENIX PIB Dutch Holding B.V.'s authorised capital amounts to EUR 90,000 of which an amount of EUR 18,004 is issued and outstanding at the date of this offering circular. The shares have a nominal value of EUR 1.00 each.

#### ***PHOENIX PIB Finance B.V.***

PHOENIX PIB Finance B.V. is a private limited liability company (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of The Netherlands on 31 October 1989 and registered on 6 November 1989. It is registered with the trade register of the chamber of commerce for Midden Nederland under registration number 14042794, its statutory seat is Amsterdam and its address is Straatweg 2, 3604BB Maarssen, The Netherlands.

PHOENIX PIB Finance B.V.'s authorised capital amounts to EUR 8,000,000 of which an amount of EUR 2,268,902 is issued and outstanding at the date of this offering circular. The shares have a nominal value of EUR 1.00 each.

#### ***Tamro Oyj***

Tamro Oyj is a public limited company (*julkinen osakeyhtiö*) incorporated under the laws of Finland on 19 May 1983 under its former name Spontel Oy. It is registered with the National Board of Patents and Registration of Finland under registration number 0533965-2 and its registered office is P.O. Box 11, 01641 Vantaa, Finland.

Tamro Oyj's registered capital amounts to EUR 114,837,083 divided into 114,496,083 shares with a nominal value of EUR 1.00 each.

#### ***PHOENIX Danish Holding A/S***

PHOENIX Danish Holding A/S is a stock corporation (*Aktieselskab*) incorporated under the laws of Denmark on 1 September 2012 under its former name A/S PAS 2012 NR. 1019. It is registered with the Erhvervsstyrelsen under the registration number CVR 34702047 and its registered office is Borgmester Christiansens Gade 40, 2450 Copenhagen SV, Denmark.

PHOENIX Danish Holding A/S's registered capital amounts to DKK 4,000,000 divided into 200,000 shares with a nominal value of DKK 20 each.

#### ***Nomeco A/S***

Nomeco A/S is a stock corporation (*Aktieselskab*) incorporated under the laws of Denmark on 1 January 1998 under its former name A/S PSE NR. 5314. It is registered with the Erhvervsstyrelsen under the registration

number CVR 20678232 and its registered office is Borgmester Christiansens Gade 40, 2450 Copenhagen SV, Denmark.

Nomeco A/S's registered capital amounts to DKK 144,000,000 divided into 7,200,000 shares with a nominal value of DKK 20 each.

#### ***Tamro Holding AB***

Tamro Holding AB is a limited liability company (*privat aktiefbolag*) incorporated under the laws of Sweden on 29 October 2012 and registered on 29 October 2012 under its initial name Fundamentet 663 AB. It is registered with the Swedish Companies Registration Office (*Bolagsverket*) under registration number 556908-1978 and its registered office is P.O. Box 49 (Importgatan 18), SE-401 20, Gothenburg, Sweden.

Tamro Holding AB's registered capital amounts to SEK 4,000,000 divided into 40,000 shares with a quota value of SEK 100 each.

#### ***Tamro Sweden AB***

Tamro Sweden AB is a limited liability company (*privat aktiefbolag*) incorporated under the laws of Sweden on 16 June 1997 and registered on 26 September 1997 under its initial name Starta Eget Boxen Ingrid Aktiefbolag. It is registered with the Swedish Companies Registration Office (*Bolagsverket*) under registration number 556546-5860 and its registered office is P.O. Box 49, SE-401 20, Gothenburg, Sweden.

Tamro Sweden AB's registered capital amounts to SEK 100,000 divided into 1,000 shares with a quota value of SEK 100 each.

#### ***Tamro AB***

Tamro AB is a limited liability company (*privat aktiefbolag*) incorporated under the laws of Sweden on 5 July 1921 and registered on 7 November 1921 under its initial name Nils Gustafsson Aktiefbolag. It is registered with the Swedish Companies Registration Office (*Bolagsverket*) under registration number 556020-2169 and its registered office is P.O. Box 49, SE-401 20, Gothenburg, Sweden.

Tamro AB's registered capital amounts to SEK 60,000,000 divided into 600,000 shares with a quota value of SEK 100 each.

#### ***PHOENIX Pharma Polska Sp. z o.o.***

PHOENIX Pharma Polska Sp. z o.o. is a limited liability company (*Spółka z ograniczoną odpowiedzialnością*) incorporated under the laws of Poland on 7 July 1992 under its former name Ziola Polskie Sp z o.o. It is registered with the entrepreneurs' register maintained by the district court in Warsaw under number 0000033493 and its registered office is Opłotek 26, Warsaw, Poland.

PHOENIX Pharma Polska Sp. z o.o.'s registered capital amounts to PLN 149,266,000 divided into 149,266 shares with a nominal value of PLN 1,000 each.

#### ***PHOENIX Norwegian Holding AS***

PHOENIX Norwegian Holding AS is a limited liability company (*Aksjeselskap*) incorporated under the laws of Norway on 5 October 2012 under its name PHOENIX Norwegian Holding AS. It is registered with the Register of Business Enterprises (*Foretaksregisteret*) under organisation number 999 156 681 and its registered office is Skåresletta 55, 1473 Lørenskog, Norway.

PHOENIX Norwegian Holding AS' registered capital amounts to NOK 8,375,000 divided into 8,375 shares with a nominal value of NOK 1,000 each.

#### ***Apokjeden AS***

Apokjeden AS is a limited liability company (*Aksjeselskap*) incorporated under the laws of Norway on 12 January 1995 under its name Apokjeden AS. It is registered with the Register of Business Enterprises (*Foretaksregisteret*) under organisation number 872 424 172 and its registered office is Skåresletta 55, 1473 Lørenskog, Norway.

Apokjeden AS' registered capital amounts to NOK 108,369,100 divided into 1,083,691 shares with a nominal value of NOK 100 each.

#### ***Apotek 1 Norge AS***

Apotek 1 Norge AS is a limited liability company (*Aksjeselskap*) incorporated under the laws of Norway on 1 February 2001 under its former name Apokjeden Drift I AS. It is registered with the Register of Business Enterprises (*Foretaksregisteret*) under organisation number 983 044 778 and its registered office is Skåresletta 55, 1473 Lørenskog, Norway.

Apotek 1 Norge AS' registered capital amounts to NOK 100,000,000 divided into 100,000 shares with a nominal value of NOK 1,000 each.

#### ***Apokjeden Distribusjon AS***

Apokjeden Distribusjon AS is a limited liability company (*Aksjeselskap*) incorporated under the laws of Norway on 3 April 1994 under its former name Tamro Distribution AS. It is registered with the Register of Business Enterprises (*Foretaksregisteret*) under organisation number 971 005 572 and its registered office is Skårersletta 55, 1473 Lørenskog, Norway.

Apokjeden Distribusjon AS' registered capital amounts to NOK 40,002,000.00 divided into 40,002 shares with a nominal value of NOK 1,000 each.

#### ***PHOENIX Pharma S.A.S.***

PHOENIX Pharma S.A.S. is a limited liability company (*Société par Actions Simplifiée*) incorporated under the laws of France originally under the name Groupement Répartition Pharmaceutique (GRP) in the form of a limited company (*Société Anonyme*) on 4 December 1934 and has a duration until 1 March 2031. It is registered with the commercial and companies register of the commercial court of Créteil (France) under registration number 582137436 R.C.S. Créteil and its registered office is Z.A. des Bouvets, 1, Rue des Bouvets, 94000 Créteil, France.

PHOENIX Pharma S.A.S.' registered capital amounts to EUR 59,635,950 divided into 470 shares with a nominal value of EUR 126,885 each.

#### ***Amedis-UE AG***

Amedis-UE AG is a stock corporation (*Aktiengesellschaft*) incorporated under the laws of Switzerland on or around 30 October 2002 under its former name ServimeD AG. It is registered with the commercial register of the canton of Aargau under registration number CHE-101.882.504 and the address of its registered seat is Mönchmattweg 5, 5035 Unterentfelden, Switzerland.

Amedis-UE AG's registered capital amounts to CHF 400,000 divided into 4,000 registered shares with a nominal value of CHF 100 each.

#### ***Pharmacies BENU SA***

Pharmacies BENU SA is a stock corporation (*société anonyme*) incorporated under the laws of Switzerland on 27 February 1975 under its former name Pharmacie de Beaumont S.A. It is registered with the commercial register of the canton of Fribourg under registration number CH-217-0132700-3 and the address of its registered seat is Rue du Centre 6, 1752 Villars-sur-Glâne, Switzerland.

Pharmacies BENU SA's registered capital amounts to CHF 3,550,000 divided into 3,550 registered shares with a nominal value of CHF 1,000 each.

#### ***PHOENIX Farmacija d.d.***

PHOENIX Farmacija d.d. is a joint-stock company (*dioničko društvo*) incorporated under the laws of the former Yugoslavia as a publicly owned enterprise on 23 March 1949 under its former name Veterinaria and converted to a joint-stock company (*dioničko društvo*) under the laws of Croatia on 31 December 1991 under its former name Farmacija d.d. and harmonised within the meaning of Article 637 of the Croatian Companies Act (*Zakon o trgovačkim društvima*) on 30 June 1995. It is registered with the court register of the Commercial Court of

Zagreb under registration number 080002850 and personal identification number 36755252122 and its registered office is Ozaljska 95, 10000 Zagreb, Croatia.

PHOENIX Farmacija d.d.'s registered basic capital amounts to HRK 326,625,600 divided into 272,188 ordinary shares with a nominal value of HRK 1,200 each.

#### ***PHOENIX Pharma Zrt.***

PHOENIX Pharma Zrt. is a private (closed) company limited by shares (*Zártkörűen Működő Részvénytársaság*) incorporated under the laws of Hungary on 1 July 1995 and registered with the Hungarian commercial register on 13 December 1995 under its former name PARMA Gyógyszerkereskedelmi Részvénytársaság. It is registered with the commercial register the Tribunal of Budapest Region (*Budapest Környéki Törvényszék*) under registration number 13-10-040476 and its registered office is H-2151 Fót, Keleti Márton út 19, Hungary.

PHOENIX Pharma Zrt.'s registered capital amounts to HUF 6,000,000,000, divided into 6,000,000 pieces of shares with a nominal value of HUF 1,000 each.

#### ***PHOENIX Hungaria Holding Zrt.***

PHOENIX Hungaria Holding Zrt. is a private (closed) company limited by shares (*Zártkörűen Működő Részvénytársaság*) incorporated under the laws of Hungary on 19 November 2010 and registered with the Hungarian commercial register on 25 November 2010. It is registered with the commercial register of the Tribunal of Budapest Region (*Budapest Környéki Törvényszék*) under registration number 13-10-041147 and its registered office is H-2151 Fót, Keleti Márton út 19, Hungary.

PHOENIX Hungaria Holding Zrt.'s registered capital amounts to HUF 6,000,000 divided into 600 pieces of shares with a nominal value of HUF 10,000 each.

#### ***PHOENIX Zdravotnícke zásobovanie, a.s.***

PHOENIX Zdravotnícke zásobovanie, a.s. is a joint stock company (*akciová spoločnosť*) incorporated under the laws of Slovakia on 3 July 1996 under its former name Zdravotnícke zásobovanie, a.s. It is registered with the business register of the district court Bratislava I, Insert No.: 1300/B, under Identification number 34 142 941 and its registered seat is Pribylinská 2/A, 83104 Bratislava, Slovakia.

PHOENIX Zdravotnícke zásobovanie, a.s.' registered capital amounts to EUR 22,883,314.20 divided into 7,000 ordinary shares and 3,940 priority shares with a nominal value of EUR 331.93 each and 7,000 ordinary shares and 2,626 priority shares with a nominal value of EUR 2,000 each.

#### ***Libra EAD***

Libra EAD is a joint stock company incorporated under the laws of Bulgaria on 1 February 1996. It is registered with the commercial register kept with the Registry Agency of Ministry of Justice under registration number 102153152 and its registered office is 199A Okolovrasten pat Street, area Studentski Grad, 1700 Sofia, Republic of Bulgaria.

Libra EAD's registered capital amounts to Bulgarian Lev ("BGN") 20,000,000 divided into 2,000,000 shares with a nominal value of BGN 10 each.

#### ***PHOENIX lékárenský veľkoobchod, a.s.***

PHOENIX lékárenský veľkoobchod, a.s. is a joint-stock company (*akciová spoločnosť*) incorporated under the laws of the Czech Republic on 6 May 1992 under its former name STUMPF— ZZ a.s. It is registered in the commercial register kept by the municipal court of Prague, Section B, Insert 4316, Company Identification No: 453 59 326, and its registered office is Hostivař, K pérovně 945/7, 102 00 Prague 10, Czech Republic.

PHOENIX lékárenský veľkoobchod, a.s.' registered capital amounts to CZK 1,547,559,975 divided into 1,253,085 pieces of ordinary registered certificated shares (in Czech: *kmenová akcie na jméno v listinné podobě*) with a nominal value of CZK 1,000 each; and 1,253,085 pieces of ordinary registered certificated shares (in Czech: *kmenová akcie na jméno v listinné podobě*) with a nominal value of CZK 235 each.

***BENU Česká republika a.s.***

BENU Česká republika a.s. is a joint-stock company (*akciová společnost*) incorporated under the laws of the Czech Republic on 16 November 1993 under its former name EUROPHARM s.r.o. It is registered in the commercial register kept by the municipal court of Prague, Section B, Insert 10247, Company Identification No: 496 21 173, and its registered office is Hostivař, K pérovně 945/7, 102 00 Prague 10, Czech Republic.

BENU Česká republika a.s.' registered capital amounts to CZK 156,000,000 divided into 155 pieces of registered certificated shares (in Czech: *akcie na jméno v listinné podobě*) with a nominal value of CZK 1,000,000 each and 100 pieces of registered certificated shares (in Czech: *akcie na jméno v listinné podobě*) with a nominal value of CZK 10,000 each.

## CONDITIONS OF ISSUE

The following is the text of the terms and conditions of the Notes (the "**Conditions of Issue**") as attached to each Global Note.

### § 1

#### CURRENCY, PRINCIPAL AMOUNT, FORM, CERTAIN DEFINITIONS

(1) *Currency; Principal Amount; Transfer.* The issue by PHOENIX PIB Dutch Finance B.V. (the "**Issuer**") issued on 27 May 2013 (the "**Issue Date**") in the aggregate principal amount of EUR 300,000,000 is divided into 300,000 notes in the principal amount of EUR 1,000 (the "**Specified Denomination**") each payable to bearer and ranking *pari passu* with each other (the "**Notes**" or the "**Issue**"). The Notes are only transferable in minimum aggregate principal amounts of EUR 100,000 and any integral multiples of EUR 1,000 in excess thereof.

(2) *Form.* The Notes are being issued in bearer form.

(3) *Temporary Global Note – Exchange.*

(a) The Notes are initially represented by a temporary global note (the "**Temporary Global Note**") without coupons. The Temporary Global Note will be exchangeable for Notes in the Specified Denomination represented by a permanent global note (the "**Permanent Global Note**") without coupons. The Temporary Global Note and the Permanent Global Note shall each be signed by authorised signatories of the Issuer and shall bear a manual control signature of the Principal Paying Agent. Definitive Notes and interest coupons will not be issued.

(b) The Temporary Global Note shall be exchanged for the Permanent Global Note on a date (the "**Exchange Date**") not later than 180 days after the date of issue of the Notes represented by the Temporary Global Note. The Exchange Date will not be earlier than 40 days after the date of issue. Such exchange shall only be made upon delivery of certifications to the effect that the beneficial owner or owners of the Notes represented by the Temporary Global Note is not a U.S. person (other than certain financial institutions or certain persons holding Notes through such financial institutions). Payment of interest on Notes represented by a Temporary Global Note will be made only after delivery of such certifications. A separate certification shall be required in respect of each such payment of interest. Any such certification received on or after the 40th day after the date of issue of the Notes represented by the Temporary Global Note will be treated as a request to exchange such Temporary Global Note pursuant to subparagraph (b) of this § 1(3). Any securities delivered in exchange for the Temporary Global Note shall be delivered only outside of the United States.

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

(4) *Clearing System.* The global note representing the Notes will be kept in custody by a common depository on behalf of the Clearing System.

"**Clearing System**" means each of the following: Clearstream Banking, *société anonyme* and Euroclear Bank SA/NV.

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

### § 2

#### STATUS, NEGATIVE PLEDGE, GUARANTEE AND NEGATIVE PLEDGE OF THE GUARANTORS

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

(2) *Negative Pledge.* The Issuer undertakes, as long as any Notes are outstanding, but only up to the time all amounts of principal and interest payable under the Notes have been placed at the disposal of the Principal Paying Agent, not to provide or maintain any mortgage, charge, pledge, lien or other form of *in rem* security interest (each a "**Security Interest**") over the whole or any part of its assets to secure any present or future Capital Market Indebtedness (as defined below) without at the same time letting the Holders share *pari passu*



and rateably in such Security Interest or giving to the Holders an equivalent other Security Interest. This undertaking shall not apply with respect to: (i) any Security Interest which has to be granted pursuant to mandatory provisions of statutory law, (ii) any Security Interest, which has to be granted in order to obtain administrative or governmental authorisations or permits, (iii) any Security Interest granted in connection with factoring or asset backed securities transactions (including the Factoring and ABS Financings) entered into by PHOENIX Pharmahandel GmbH & Co KG (the "**Parent Guarantor**") or any of its Subsidiaries, (iv) any Security Interest existing on property at the time of the acquisition thereof, provided that such Security Interest was not created in connection with or in contemplation of such acquisition and that the amount secured by such Security Interest is not increased subsequently to the acquisition of the relevant property, or (v) any other Security Interest not referred to under (i) through (iv) above securing Capital Market Indebtedness in an aggregate amount not exceeding EUR 20,000,000.

"**Factoring and ABS Financings**" means any transactions under factoring and asset backed securitisation programmes (including, for the avoidance of doubt, RIBA (*ricevute bancarie*)) established by the Parent Guarantor and/or any of its direct or indirect Subsidiaries.

"**Capital Market Indebtedness**" means any indebtedness, in the form of, represented or evidenced by bonds or notes or other securities, which are ordinarily traded or capable of being traded, quoted, dealt in or listed on any stock exchange or similarly organised securities market and obligations arising from certificates of indebtedness (*Schuldscheindarlehen*).

(3) *Guarantees and Negative Pledge of the Guarantors.* The Parent Guarantor has given an unconditional and irrevocable guarantee (the "**Parent Guarantee**"), and PHOENIX International Beteiligungs GmbH, PHOENIX PIB Finance B.V., PHOENIX Pharma-Einkauf GmbH, transmed Transport GmbH, ADG Apotheken-Dienstleistungsgesellschaft mbH, Nordic Beteiligungs GmbH, PHOENIX Noweropa Beteiligungs GmbH, PHOENIX Healthcare Distribution Limited, L. Rowland & Company (Retail) Limited, PHOENIX Medical Supplies Limited, L. Rowland & Company Limited, Numark Limited, PHOENIX PIB Dutch Holding B.V., Libra EAD, PHOENIX Farmacija d.d., PHOENIX lékárenský veľkoobchod, a.s., BENU Česká republika a.s., PHOENIX Danish Holding A/S, Nomeco A/S, Tamro Oyj, PHOENIX Pharma S.A.S., PHOENIX Pharma Zrt., PHOENIX Hungaria Holding Zrt., PHOENIX Norwegian Holding AS, Apotek 1 Norge AS, Apokjeden AS, Apokjeden Distribusjon AS, PHOENIX Pharma Polska Sp.z o.o., PHOENIX Zdravotnícke zásobovanie, a.s., Tamro Holding AB, Tamro AB, Tamro Sweden AB, Amedis-UE AG and Pharmacies BENU S.A. as subsidiary guarantors (each a "**Subsidiary Guarantor**" and together with the Parent Guarantor the "**Guarantors**") have given guarantees subject to certain conditions (the "**Subsidiary Guarantees**" and together with the Parent Guarantee the "**Note Guarantees**"), for the due and punctual payment of principal of, and interest on, and any other amounts payable under any Note.

The Guarantors have further undertaken (the "**Negative Pledge of the Guarantors**"), so long as any of the Notes are outstanding, but only up to the time all amounts of principal and interest have been placed at the disposal of the Principal Paying Agent, not to provide or maintain any Security Interest over the whole or any part of their assets to secure any present or future Capital Market Indebtedness and the Parent Guarantor has undertaken to procure (unless this is legally impossible or illegal) that none of its Material Subsidiaries (as defined below) will provide Security Interests over its assets to secure Capital Market Indebtedness without at the same time letting the Holders share *pari passu* and rateably in such Security Interest or giving to the Holders an equivalent other Security Interest. This undertaking shall not apply with respect to (i) any Security Interest which has to be granted pursuant to mandatory provisions of statutory law, (ii) any Security Interest, which has to be granted in order to obtain administrative or governmental authorisations or permits, (iii) any Security Interest granted in connection with factoring or asset backed securities transactions (including the Factoring and ABS Financings) entered into by the Parent Guarantor or any of its Subsidiaries, (iv) any Security Interest existing on property at the time of the acquisition thereof by the Guarantors, provided that such Security Interest was not created in connection with or in contemplation of such acquisition and that the amount secured by such Security Interest is not increased subsequently to the acquisition of the relevant property, or (v) any other Security Interest not referred to under (i) through (iv) above, securing Capital Market Indebtedness in an aggregate amount (for all Security Interests granted by the Guarantors) not exceeding EUR 20,000,000.

Each Note Guarantee and Negative Pledge of the Guarantors constitutes a contract for the benefit of the Holders from time to time as third party beneficiaries in accordance with Section 328 of the German Civil Code (*Bürgerliches Gesetzbuch*), giving rise to the right of each Holder to require performance of the respective Note Guarantee and Negative Pledge of the Guarantors directly from the respective Guarantor and to enforce the respective Note Guarantee and Negative Pledge of the Guarantors directly against the respective Guarantor.

"**Subsidiary**" means any subsidiary (*Tochterunternehmen*) of the Parent Guarantor within the meaning of Section 290 of the German Commercial Code (*Handelsgesetzbuch*).

"**Material Subsidiary**" means any of the Subsidiary Guarantors and any other Subsidiary in which the Parent Guarantor, directly or indirectly, holds 100 % of the shares or voting rights (provided that any Subsidiary which is a Material Subsidiary on the Issue Date shall, for purposes of § 9 and § 10 of these Conditions of Issue only, continue to be a Material Subsidiary for so long as the Parent Guarantor directly or indirectly holds at least 80 % of the shares or voting rights in such Subsidiary) and whose earnings before interest, tax, depreciation and amortisation (calculated on the same basis as Adjusted EBITDA but unconsolidated and excluding intra-group dividend income, charges from the transfer of profits or losses and profits and losses due to intra-group mergers) exceed 5 % of the consolidated Adjusted EBITDA of the Parent Guarantor, as determined from the most recent audited (consolidated) financial statements of the Parent Guarantor and based on the data available from the accounting system with respect to such Material Subsidiary for the respective fiscal year which were used for consolidation. If such data are not available with respect to any newly acquired Subsidiary, the most recently delivered annual (audited, if available) financial statements of such newly acquired Subsidiary shall be used.

"**Adjusted EBITDA**" means (without double counting) consolidated net income from continued operations of the Parent Guarantor and its Subsidiaries from time to time to be calculated in the same manner as it was calculated in the profit and loss statement of the audited consolidated financial statements of the Parent Guarantor for its fiscal year ending on 31 January 2013 (the "**Reference Financial Statements**") under the header "Profit for the period":

- (a) adding back the financial result as calculated under note 7 of the Reference Financial Statements;
- (b) plus interest income from customers as specified under note 7 of the Reference Financial Statements;
- (c) plus expenses related to ABS / factoring as specified under note 4 of the Reference Financial Statements;
- (d) adding back income taxes, current and deferred as calculated under note 8 of the Reference Financial Statements; and
- (e) adding back amortisation of intangible assets and depreciation of property, plant and equipment as calculated under note 6 of the Reference Financial Statements.

(4) *Accession of Additional Guarantors.*

- (a) If, after the Issue Date, any Subsidiary (other than the Issuer, any Guarantor, Brocacef Groep N.V. and any of its direct or indirect subsidiaries, and, until the occurrence of the Italian Ringfencing Fall Away Event, a member of the Italian Subgroup) grants a guarantee with respect to any Financial Indebtedness of the Parent Guarantor or any of its Subsidiaries where the principal amount of the Financial Indebtedness so guaranteed exceeds EUR 30,000,000, the Parent Guarantor has agreed to
  - (i) inform the Principal Paying Agent thereof; and
  - (ii) cause such Subsidiary to execute and deliver to the Principal Paying Agent, within 30 days of the date of such Subsidiary providing such relevant guarantee, a guarantee pursuant to which such Subsidiary will guarantee the payment obligations under the Notes on substantially the same terms as the Subsidiary Guarantors under the Subsidiary Guarantees, subject to legally advisable appropriate limitations reflecting the laws applicable to such Subsidiary, provided that such guarantee would not result in (x) any violation of applicable law, (y) any liability for the officers, directors or shareholders of such Subsidiary or (z) additional material tax liabilities for such Subsidiary, any other Subsidiary or the Parent Guarantor (for the avoidance of doubt: the obligation to pay any Additional Amounts under § 7 hereof is not considered a material tax liability).
- (b) The Parent Guarantor has agreed that if the Parent Guarantor is required pursuant to the Parent Guarantee to procure that a Subsidiary becomes an additional Subsidiary Guarantor (the "**Additional Guarantor**"), it shall deliver to the Principal Paying Agent a copy of the Subsidiary Guarantee duly executed by the Additional Guarantor.

"**Financial Indebtedness**" means any present or future indebtedness for monies borrowed whether or not certificated.

**"Italian Ringfencing Fall Away Event"** means the first utilisation of the revolving facility under the Syndicated Credit Facility Agreement (as defined in § 9(2) below) to full or partially refinance any Financial Indebtedness of any member of the Italian Subgroup.

**"Italian Subgroup"** means Comifar S.p.A. and its subsidiaries from time to time.

(5) *Release of Subsidiary Guarantees.*

- (a) A Subsidiary Guarantee shall automatically terminate without any further action on the part of any Holder or the Principal Paying Agent as soon as the Issuer or the Parent Guarantor has delivered to the Principal Paying Agent a declaration (the **"Release Declaration"**) signed by a duly authorised representative of the Issuer or, as the case may be, the Parent Guarantor and by a duly authorised representative of the relevant Subsidiary Guarantor, that
- (i) at the time of such Release Declaration
    - (A) (unless an event or circumstance set out under § 2(5)(a)(ii)(B) or (D) of these Conditions of Issue has occurred) no Event of Default has occurred under the Conditions of Issue which is continuing, and
    - (B) no amount owed by such Subsidiary Guarantor under its Subsidiary Guarantee is unpaid; and
  - (ii) one of the following events or circumstances has occurred:
    - (A) all or substantially all of the assets of such Subsidiary Guarantor or the shares in such Subsidiary Guarantor, or any parent entity thereof (other than the Issuer or the Parent Guarantor), are sold or otherwise disposed of to a third party which is not an Affiliate (as defined in § 11 (1)) of the Parent Guarantor; or
    - (B) it can reasonably be expected that maintaining the relevant Subsidiary Guarantee would lead to a violation of applicable laws due to changes in the laws, or a change in the interpretation, implementation or application of such laws, applicable to such Subsidiary Guarantee; or
    - (C) it can reasonably be expected that maintaining the relevant Subsidiary Guarantee by such Subsidiary Guarantor would lead to a material disadvantage in the tax treatment of such Subsidiary Guarantor due to changes in the tax provisions applicable to such Subsidiary Guarantor or a change in the interpretation, implementation or application of such laws (for the avoidance of doubt, the obligation to pay any Additional Amounts under § 7 hereof is not considered a material disadvantage); or
    - (D) the liabilities of the Issuer under the Notes have been discharged in full; or
    - (E) the unsecured and non-credit enhanced long-term liabilities of the Parent Guarantor's are assigned a rating by at least two of the Rating Agencies of BBB- or Baa3, respectively, or better; or
    - (F) such Subsidiary Guarantor (together with any other Subsidiary Guarantor(s) whose Subsidiary Guarantee(s) has(have) been or is(are) simultaneously being released pursuant to this (F)) does no longer, or will, simultaneously with the release of the relevant Subsidiary Guarantee, no longer guarantee, any Financial Indebtedness of the Parent Guarantor or any of the Parent Guarantor's other Subsidiaries in an aggregate principal amount in excess of EUR 30,000,000.

No Release Declaration may be delivered unless the requirements set out in this subparagraph (a) for a termination of the Subsidiary Guarantee have been fulfilled.

**"Rating Agency"** means Standard & Poor's Credit Market Services Europe Limited ("**S&P**"), Moody's Investors Services Limited ("**Moody's**"), Fitch Ratings Ltd. ("**Fitch**") or any of their respective successors.

- (b) The termination of the Subsidiary Guarantee shall be effective irrespective of whether the requirements set out under § 2(5)(a) above were fulfilled at the time of delivery of the Release Declaration or not. If a Release Declaration has been delivered and the requirements set out under § 2(5)(a) above were not fulfilled at such time, then

- (i) this shall constitute a breach of the obligations pursuant to § 10(1)(b) of these Conditions of Issue by the Issuer or the Parent Guarantor, as the case may be, subject to, for the avoidance of doubt, the grace period set out in § 10(1)(b) of these Conditions of Issue; and
- (ii) the Parent Guarantor has agreed to cause the relevant Subsidiary Guarantor to reinstate the released Subsidiary Guarantee in its original form without undue delay.

(6) *Information of the Holders.* The Issuer shall inform the Holders of the termination of a Subsidiary Guarantee pursuant to § 14.

### § 3 INTEREST

(1) *Rate of Interest and Interest Payment Dates.* The Notes shall bear interest on their principal amount at the rate of 3.125 % *per annum* from (and including) 27 May 2013 to (but excluding) the Maturity Date (as defined in § 5(1)). Interest shall be payable in arrear on 27 May in each year (each such date, an "**Interest Payment Date**"). The first payment of interest shall be made on 27 May 2014.

(2) *Accrual of Interest.* If the Issuer shall fail to redeem the Notes when due, interest shall continue to accrue beyond the due date until the actual redemption of the Notes at the default rate of interest established by law.<sup>1</sup>

(3) *Calculation of Interest for Partial Periods.* If interest is required to be calculated for a period of less than a full year, such interest shall be calculated on the basis of the Day Count Fraction (as defined below).

(4) *Day Count Fraction.* "**Day Count Fraction**" means with regard to the calculation of interest on any Note for any period of time (the "**Calculation Period**") the actual number of days in the Calculation Period divided by the actual number of days in the respective interest period (being the period from (and including) an Interest Payment Date (and, in case of the first interest period, the Issue Date) to (and excluding) the immediately following Interest Payment Date (and, in case of the last interest period, the Maturity Date)).

### § 4 PAYMENTS

(1) *Payment of Principal and Interest.* Payment of principal and interest in respect of Notes shall be made, subject to subparagraph (2) below, to the Clearing System or to its order for credit to the accounts of the relevant account holders of the Clearing System.

Payment of interest on Notes represented by the Temporary Global Note shall be made, subject to subparagraph (2), to the Clearing System or to its order for credit to the relevant account holders of the Clearing System, upon due certification as provided in § 1(3)(b).

(2) *Manner of Payment.* Subject to applicable fiscal and other laws and regulations, payments of amounts due in respect of the Notes shall be made in Euro.

(3) *Discharge.* The Issuer shall be discharged by payment to, or to the order of, the Clearing System.

(4) *Payment Business Day.* If the date for payment of any amount in respect of any Note is not a Payment Business Day then the Holder shall not be entitled to payment until the next such day and shall not be entitled to further interest or other payment in respect of such delay.

For these purposes, "**Payment Business Day**" means any day which is a day (other than a Saturday or a Sunday) on which the Clearing System as well as all relevant parts of the Trans-European Automated Real-time Gross settlement Express Transfer System (TARGET2) ("**TARGET**") are operational to forward the relevant payment.

(5) *References to Principal and Interest.* References in these Conditions of Issue to principal in respect of the Notes shall be deemed to include, as applicable: the Final Redemption Amount of the Notes and any other amounts which may be payable under or in respect of the Notes. References in these Conditions of Issue to interest in respect of the Notes shall be deemed to include, as applicable, any Additional Amounts which may be payable under § 7.

---

<sup>1</sup> The default rate of interest established by law is five percentage points above the basic rate of interest published by Deutsche Bundesbank from time to time; Sections 288(1), 247(1) of the German Civil Code (*Bürgerliches Gesetzbuch*).

(6) *Deposit of Principal and Interest.* The Issuer may deposit with the local court (*Amtsgericht*) in Frankfurt am Main principal or interest not claimed by Holders within twelve months after the Maturity Date, even though such Holders may not be in default of acceptance of payment. If and to the extent that the deposit is effected and the right of withdrawal is waived, the respective claims of such Holders against the Issuer shall cease.

## § 5 REDEMPTION

(1) *Final Redemption.* Unless previously redeemed in whole or in part or purchased and cancelled, the Notes shall be redeemed at their Final Redemption Amount on 27 May 2020 (the "**Maturity Date**"). The Final Redemption Amount in respect of each Note shall be its principal amount and interest accrued until the Maturity Date (the "**Final Redemption Amount**").

(2) *Early Redemption for Reasons of Taxation.* If as a result of any change in, or amendment to, the laws or regulations of the Relevant Tax Jurisdiction (as defined in § 7) in respect of the Issuer or, as applicable, any Guarantor affecting taxation or the obligation to pay duties of any kind, or any change in, or amendment to, an official interpretation or application of such laws or regulations, which amendment or change is (in both cases) effective on or after the Issue Date, the Issuer or the relevant Guarantor is required to pay Additional Amounts (as defined in § 7 herein) on the next succeeding Interest Payment Date (as defined in § 3(1)), and this obligation cannot be avoided by the use of reasonable measures available to the Issuer or such Guarantor, as the case may be, the Notes may be redeemed, in whole but not in part, at the option of the Issuer, upon not more than 60 days' nor less than 30 days' prior notice of redemption given to the Principal Paying Agent and to the Holders, at the principal amount together with interest accrued to the date fixed for redemption.

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

Any such notice shall be given in accordance with § 14. It shall be irrevocable, must specify the date fixed for redemption and must set forth a statement in summary form of the facts constituting the basis for the right of the Issuer so to redeem.

(3) *Early Redemption at the Option of the Holders following a Change of Control Event.*

(a) If a Change of Control Event occurs (i) the Issuer undertakes to (x) fix the Optional Redemption Date (as defined below) and (y) give notice to the Holders in accordance with § 14 and to the Principal Paying Agent of the Change of Control Event and the Optional Redemption Date (the "**Change of Control Event Notice**"), in each case without undue delay (*unverzüglich*), and (ii) each Holder will have the option (unless, prior to the giving of the Put Notice referred to below, the Issuer gives notice to redeem the Notes in accordance with § 5(4)) to declare, on giving not less than 20 days' notice, all of his Notes due at the principal amount together with interest accrued to but excluding the Optional Redemption Date, which notice shall take effect on the Optional Redemption Date.

A "**Change of Control Event**" occurs if a Change of Control (as defined below) occurs and within the Change of Control Period (as defined below) a Rating Downgrade (as defined below) occurs.

"**Optional Redemption Date**" means the date fixed by the Issuer in the Change of Control Event Notice, which (i) must be a Business Day and (ii) must fall not more than 21 days after the end of the Change of Control Period.

"**Business Day**" means a day (other than Saturday or Sunday) on which banks are open in Frankfurt am Main.

(b) For the purposes of this § 5:

A "**Rating Downgrade**" shall be deemed to have occurred if a Change of Control has occurred and (i) if within the Change of Control Period the rating previously assigned to the Parent Guarantor or assigned to the outstanding long-term liabilities of the Parent Guarantor or the Issuer by any Rating Agency (if only one rating exists) or by at least two Rating Agencies (if two or more ratings exist) is (A) withdrawn and not re-instated or replaced by a rating from another Rating Agency within the Change of Control Period or (B) changed from an investment grade rating (BBB- by S&P or by Fitch or Baa3 by Moody's, or its equivalent for the time being, or better, a "**Investment Grade Rating**") to a non-investment grade rating (BB+ by

S&P or Fitch or Ba1 by Moody's, or its equivalent for the time being, or worse, a "**Non-Investment Grade Rating**") , provided that no Rating Downgrade pursuant to this (B) occurs if the Investment Grade Rating is subsequently re-instated by that Rating Agency or replaced by another Investment Grade Rating, in each case within the Change of Control Period, or (C) downgraded from a Non-Investment Grade Rating assigned to the Notes or the Parent Guarantor by one or more notches (for clarification, Ba1 to Ba2 being one notch), provided that no Rating Downgrade pursuant to this (C) occurs if the pre-existing Non-Investment Grade Rating is re-instated by that Rating Agency or replaced by another Non-Investment Grade Rating that is equal or better, in each case within the Change of Control Period, or (ii) if at the time of the Change of Control, there is no rating and no Rating Agency assigns during the Change of Control Period an Investment Grade Rating (unless the Parent Guarantor or the Issuer, as the case may be, despite best endeavours, is unable (in the cases (B) and (ii) to obtain an Investment Grade Rating, or (in the case (C)) to maintain the existing Non-Investment Grade Rating, within the Change of Control Period provided the inability is not a result of the Change of Control);

A "**Change of Control**" means any person or persons ("**Relevant Person(s)**") acting in concert within the meaning of Section 22 (2) of the German Securities Trading Act (*Wertpapierhandelsgesetz*) other than any Permitted Holder(s) acquiring and holding, directly or indirectly, (i) as long as the Parent Guarantor is a limited partnership (*Kommanditgesellschaft*) (A) the control of more than 50 % (y) of the partnership capital (*Kommanditanteile*) of the Parent Guarantor, or (z) of the voting rights in the partnership interests in the Parent Guarantor, by ownership of the partnership capital, contract or otherwise; or (B) the control over more than 50 % of (y) the issued share capital of the Parent Guarantor's general partner, or (z) the voting rights in the shares of the Parent Guarantor's general partner, by ownership of the share capital, contract or otherwise; and (ii) otherwise, the control over more than 50 % of (1) the issued share capital of the Parent Guarantor, or (2) the voting rights in the shares in the Parent Guarantor, by ownership of the share capital, contract or otherwise;

"**Change of Control Period**" means the period (i) commencing on the earlier of (x) any public announcement or statement of the Issuer or the Parent Guarantor or any Relevant Person relating to any potential Change of Control or (y) the date of the first public announcement of the Change of Control having occurred and (ii) ending on the 90th day (inclusive) after the occurrence of the relevant Change of Control.

"**Permitted Holder**" means (i) Ludwig Merckle and his relatives (*Angehörige*) pursuant to Section 15 of the German Tax Code (*Abgabenordnung*) and their heirs (*Erben, Vermächtnisnehmer*) or (ii) any entity or any trust (*Stiftung*) or comparable arrangement controlled by such persons to which shares in the Parent Guarantor or its general partner are transferred by the persons named under (i) or (ii).

- (c) The valid exercise of the option to require the redemption of a Note under this § 5(3) is conditional upon the Holder in observation of the notice period provided in § 5(3)(a):
- (i) submitting at the specified office of the Principal Paying Agent a duly signed and completed notice of exercise in the form obtainable from the specified office of the Principal Paying Agent (a "**Put Notice**"); and
  - (ii) delivering to the Principal Paying Agent the Note(s) by transferring (book-entry transfer) the Notes to the account of the Principal Paying Agent with the Clearing System specified in the Put Notice.

A Put Notice, once given, shall be irrevocable. The Put Notice shall, among other things:

- state the name and address of the exercising Holder;
  - specify the number of Notes with respect to which the right under this § 5(3) shall be exercised; and
  - designate a Euro denominated bank account of the Holder to which any payments on the Notes are to be made.
- (d) The Issuer will make any payment in respect of any Note so delivered to the Euro-account of the Holder specified in the Put Notice on the Optional Redemption Date.

(4) *Early redemption at the option of the Issuer in case of minimal outstanding aggregate principal amount of the Notes.* If 85 % or more of the aggregate principal amount of the Notes then outstanding have been redeemed or purchased pursuant to the provisions of § 5(3) of these Conditions of Issue, the Issuer may, on not less than 30 or more than 60 days' notice to the Holders given in accordance with § 14 and given within 30 days after the

Optional Redemption Date, redeem, at its option, the remaining Notes as a whole at the principal amount thereof plus interest accrued to but excluding the date of such redemption.

## § 6

### THE PRINCIPAL PAYING AGENT AND THE PAYING AGENT

(1) *Appointment; Specified Office.* The initial Principal Paying Agent and its initial specified office shall be:

Principal Paying Agent:

Commerzbank Aktiengesellschaft  
Kaiserstrasse 16 (Kaiserplatz)  
60311 Frankfurt am Main  
Germany

The Principal Paying Agent reserves the right at any time to change its specified office to some other office in the same city.

(2) *Variation or Termination of Appointment.* The Issuer reserves the right at any time to vary or terminate the appointment of the Principal Paying Agent and to appoint another Principal Paying Agent or additional paying agents. The Issuer shall for so long as the Notes are outstanding maintain a Principal Paying Agent. Any variation, termination, appointment or change shall only take effect (other than in the case of insolvency, when it shall be of immediate effect) after not less than 30 nor more than 45 days' prior notice thereof shall have been given to the Holders in accordance with § 14.

(3) *Agent of the Issuer.* The Principal Paying 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.

## § 7

### TAXATION

All amounts payable in respect of the Notes shall be made, and each Note Guarantee shall provide that all amounts payable in respect of such Note Guarantee shall be made, without withholding or deduction for or on account of any present or future taxes or duties of whatever nature imposed or levied by way of withholding or deduction by or on behalf of any jurisdiction from or through which payment on the Notes or a Note Guarantee is made or in which the Issuer or the relevant Guarantor is organised or otherwise considered to be resident or conducts business for tax purposes (each a "**Relevant Tax Jurisdiction**"), as the case may be, or any political subdivision or any authority of a Relevant Tax Jurisdiction or therein having power to tax unless such withholding or deduction is required by law. If such withholding is required by law, the Issuer will pay such additional amounts (the "**Additional Amounts**") as shall be necessary in order that the net amounts received by the Holders, after such withholding or deduction shall equal the respective amounts which would otherwise have been receivable in the absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes or duties which:

- (a) are payable by any person acting as custodian bank or collecting agent on behalf of a Holder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments of principal or interest made by it; or
- (b) are payable by reason of the Holder having, or having had, some personal or business connection with a Relevant Tax Jurisdiction and not merely by reason of the fact that payments in respect of the Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, a Relevant Tax Jurisdiction; or
- (c) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which the Relevant Tax Jurisdiction or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or
- (d) are payable by reason of a change in law that becomes effective more than 30 days after the relevant payment becomes due, or is duly provided for and notice thereof is published in accordance with § 14, whichever occurs later; or

- (e) are withheld or deducted by a paying agent from a payment if the payment could have been made by another paying agent without such withholding or deduction.

## § 8

### PRESENTATION PERIOD

The presentation period provided in Section 801 (1), 1<sup>st</sup> sentence of the German Civil Code (*Bürgerliches Gesetzbuch*) is reduced to ten years for the Notes.

## § 9

### LIMITATION ON FINANCIAL INDEBTEDNESS

(1) *Limitation on Financial Indebtedness.* The Parent Guarantor has agreed that it shall not, and shall not permit any of its Material Subsidiaries to, directly or indirectly, incur any Financial Indebtedness, provided, however, that the Parent Guarantor and any Material Subsidiary may incur Financial Indebtedness if (i) on the date thereof and after giving pro forma effect thereto (including pro forma application of the proceeds thereof) the Consolidated Coverage Ratio for the Group is at least 2.00 to 1.00 and (ii) no Event of Default shall have occurred and be continuing or would occur as a consequence of incurring the Financial Indebtedness.

(2) *Permitted Financial Indebtedness.* § 9(1) shall not prohibit the incurrence of the following Financial Indebtedness:

(a) Financial Indebtedness of

- (i) the Parent Guarantor or any Material Subsidiary incurred pursuant to and in compliance with the syndicated facilities agreement dated 21 June 2012 between, *inter alios*, the Parent Guarantor and the Subsidiary Guarantors as borrowers and/or guarantors, Landesbank Hessen-Thüringen Girozentrale as agent and a syndicate of financial institutions as lenders (the "**Syndicated Credit Facility Agreement**") (including under ancillary facilities made available thereunder) which does not exceed EUR 1,900,000,000 when aggregated with any Financial Indebtedness incurred pursuant to subparagraph (v) below;
  - (ii) PHOENIX PIB Finance B.V. incurred under the EUR 506,150,000 notes due 2014 (the "**2010 Bonds**");
  - (iii) the Parent Guarantor or any Material Subsidiary incurred pursuant to any other credit facilities (including commercial paper facilities with banks or other institutions providing for revolving credit loans, term loans, notes, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables), or letters of credit) which does not exceed at any time outstanding EUR 100,000,000 in the aggregate;
  - (iv) the Parent Guarantor or any of its Material Subsidiaries incurred pursuant to the sale of receivables under Factoring and ABS Financings, provided, however, that the amounts of receivables sold (measured by the net proceeds of such sales) does not exceed at any time outstanding EUR 1,200,000,000 in the aggregate; and
  - (v) Comifar S.p.A. or any Subsidiary of Comifar S.p.A. in an aggregate amount not to exceed at any time outstanding EUR 550,000,000, provided however, that the sum of (y) Financial Indebtedness incurred pursuant to this subparagraph (v) and subparagraph (z) Financial Indebtedness incurred pursuant to subparagraph (i) of this § 9(2)(a) shall at no time exceed EUR 1,900,000,000 in the aggregate;
- (b) Financial Indebtedness of the Parent Guarantor or any Material Subsidiary owing to and held by the Parent Guarantor or any of its Subsidiaries;
- (c) any Refinancing Financial Indebtedness incurred in respect of any Financial Indebtedness incurred pursuant to subparagraph (a) or existing on the Issue Date;
- (d) Financial Indebtedness arising under Subordinated Obligations;
- (e) Financial Indebtedness arising under the Cash Management Arrangements;
- (f) Financial Indebtedness (if any) in respect of current trade payables and accrued expenses incurred and advance payments (*An- und Vorauszahlungen*) received in the ordinary course of business;



- (g) Financial Indebtedness incurred (if any) under any Sale/Leaseback Transaction up to an aggregate amount of EUR 50,000,000 at any time outstanding;
- (h) Financial Indebtedness (if any) incurred after the Issue Date in respect of workers' compensation claims, early retirement obligations, or social security or wage taxes in the ordinary course of business;
- (i) Financial Indebtedness (if any) incurred with respect to loans from employees extended in connection with customary employee participation schemes;
- (j) Financial Indebtedness incurred under loans provided by shareholders of the Parent Guarantor and their Affiliates (as defined in § 11(1)) (other than the Parent Guarantor and its Subsidiaries from time to time) in an aggregate amount not exceeding EUR 100,000,000, provided that the interest rate for such loans does not exceed the sum of the applicable base rate and 3.00 % per annum; and
- (k) in addition to the items referred to in subparagraphs (a) through (j) of this § 9(2) Financial Indebtedness of the Parent Guarantor and its Material Subsidiaries in an aggregate amount not exceeding EUR 250,000,000 at any time outstanding.

For purposes of determining compliance with this § 9(2):

- (i) in the event that an item of Financial Indebtedness meets the criteria of more than one of the types of Financial Indebtedness described in the foregoing subparagraphs (a) to (k) of this § 9 (2), the Parent Guarantor, in its sole discretion, will classify and from time to time may reclassify such item of Financial Indebtedness and only be required to include the amount and type of such Financial Indebtedness in one of the foregoing subparagraphs (a) to (k) of this § 9(2); and
- (ii) an item of Financial Indebtedness may be divided and classified, or reclassified, in more than one of the types of Financial Indebtedness described in this § 9(2).

## § 10 EVENTS OF DEFAULT

(1) *Events of default.* Each Holder shall be entitled to declare his Notes due and demand immediate redemption thereof at par plus accrued interest (if any) to the date of repayment, in the event that:

- (a) Non-Payment: the Issuer fails to pay principal or interest or any other amounts due on the Notes within 15 days after the relevant due date; or
- (b) Breach of other Obligation: the Issuer fails to duly perform any other obligation arising from the Notes or any of the Guarantors fails to perform any obligation arising from the respective Note Guarantee or the provisions of § 9 hereof are not complied with and such failure to perform or non-compliance continues unremedied for more than 30 days after the Issuer or the Parent Guarantor (through the Principal Paying Agent) has received notice thereof from a Holder; or
- (c) Cross-Default: (i) any other Financial Indebtedness (other than any Financial Indebtedness owed to the Parent Guarantor or any Subsidiary of the Parent Guarantor) of the Issuer, the Parent Guarantor or any Material Subsidiary is not paid when due or, as the case may be, within any originally applicable grace period, or (ii) any Financial Indebtedness (other than any Financial Indebtedness owed to the Parent Guarantor or any Subsidiary of the Parent Guarantor) of the Issuer, the Parent Guarantor or any Material Subsidiary is declared to be or otherwise becomes due and payable prior to its specified maturity for reason of the occurrence of an event of default (howsoever defined), or (iii) the Issuer, the Parent Guarantor or any Material Subsidiary fails to pay when due or, as the case may be, within any applicable grace period any amount payable by it under any present or future guarantee or indemnity for any Financial Indebtedness (other than any Financial Indebtedness owed to the Parent Guarantor or any Subsidiary of the Parent Guarantor), provided in each case that the relevant aggregate amount of all such Financial Indebtedness in respect of which one or more of the events mentioned above in this subparagraph (c) has or have occurred equals or exceeds EUR 30,000,000 or its equivalent in any other currency and such default continues for more than 30 days after the Issuer or the Parent Guarantor (through the Principal Paying Agent) has received notice thereof from a Holder, such notice being substantially in the form as specified in subparagraph (2), provided however, that this subparagraph (c) shall not apply, where the Issuer, the Parent Guarantor or any of its Material Subsidiaries contests its relevant payment obligation in good faith; or

- (d) Cessation of Payment: the Issuer, the Parent Guarantor or any of its Material Subsidiaries announces its inability to meet its financial obligations or ceases its payments generally; or
- (e) Insolvency etc.: a court opens insolvency proceedings against the Issuer, the Parent Guarantor or any of its Material Subsidiaries or the Issuer, the Parent Guarantor or any of its Material Subsidiaries applies for or institutes such proceedings or offers or makes an arrangement for the benefit of its creditors generally, or a third party applies for insolvency proceedings against the Issuer, the Parent Guarantor or any of its Material Subsidiaries and such proceedings are not discharged or stayed within 45 days; or
- (f) Liquidation: the Issuer, the Parent Guarantor or any of its Material Subsidiaries enters into liquidation (except in connection with a merger or other form of combination with another company or in connection with a reconstruction and such other or new company or, as the case may be, companies effectively assume substantially all of the assets and liabilities of the Issuer, the Parent Guarantor or the relevant Material Subsidiary); or
- (g) Expiration of the Parent Guarantee: the Parent Guarantee ceases, for whatever reason, to be in full force and effect; or
- (h) Expiration of the Subsidiary Guarantees: one or more of the Subsidiary Guarantees cease to be legally valid and binding (other than (i) as a result of a merger of the relevant Subsidiary Guarantor with the Issuer, with another Guarantor or, provided that the resulting, surviving or transferee entity assumes the relevant Subsidiary Guarantee granted by such merging Subsidiary Guarantor, any other Subsidiary, or (ii) in the events which are expressly set forth in the relevant Subsidiary Guarantee or in these Conditions of Issue).

No Event of Default shall occur under subparagraph (h) if:

- (i) the relevant Subsidiary Guarantee affected by the invalidity or unenforceability is reinstated or replaced within 60 days by one or more guarantees of one or more other Subsidiaries whose aggregate earnings before interest, tax, depreciation and amortisation (calculated on the same basis as Adjusted EBITDA and based on the data available from the accounting system with respect to such Subsidiary for the most recent four consecutive financial quarters) equals or exceeds the earnings before interest, tax, depreciation and amortisation (calculated on the same basis as Adjusted EBITDA) of the Subsidiary Guarantor whose Subsidiary Guarantee is so replaced; or
- (ii) such unenforceability or invalidity was not caused by acts or events in the control of the Parent Guarantor or its Subsidiaries and the reinstatement or replacement of such Subsidiary Guarantee could reasonably be expected to give rise to or result in (y) any violation of applicable law that cannot be avoided or otherwise prevented by the Parent Guarantor, the Issuer or the relevant Subsidiary through reasonable (*zumutbare*) measures or (z) any liability for the officers, directors or shareholders of the relevant Subsidiary.

The right to declare Notes due shall terminate if the situation giving rise to it has been cured (including, without limitation, in the case of a waiver by or on behalf of the creditors of the relevant Financial Indebtedness in respect of their right to accelerate or in the case of subsequent satisfaction of the relevant Financial Indebtedness) before the right is exercised.

(2) *Notice.* Any notice, including any notice declaring Notes due, in accordance with subparagraph (1) shall be made by means of a written declaration in the German or English language delivered by hand or registered mail to the specified office of the Principal Paying Agent together with a proof that such notifying Holder at the time of such notice is a holder of the relevant Notes by means of a statement of his Custodian (as defined in § 15(3)) or any other appropriate manner.

## § 11 SUBSTITUTION

(1) *Substitution.* The Issuer may, without the consent of the Holders, if no payment of principal or of interest on any of the Notes is in default, at any time substitute for the Issuer, the Parent Guarantor or any Affiliate (as defined below) of the Parent Guarantor as principal debtor in respect of all obligations arising from or in connection with this issue (the "**Substitute Debtor**") provided that:

- (a) the Substitute Debtor assumes all obligations of the Issuer in respect of the Notes;

- (b) the Substitute Debtor has obtained all necessary authorisations and may transfer to the Principal Paying Agent in the currency required and without being obligated to deduct or withhold any taxes or other duties of whatever nature levied by the country in which the Substitute Debtor or the Issuer has its domicile or tax residence, all amounts required for the fulfilment of the payment obligations arising under the Notes;
- (c) the Substitute Debtor has agreed to indemnify and hold harmless each Holder against any tax, duty, assessment or governmental charge imposed on such Holder in respect of such substitution;
- (d) it is guaranteed that the obligations of the respective Guarantors from the Note Guarantee (including the Negative Pledge of the Guarantors) apply also to the Notes of the Substitute Debtor;
- (e) there shall have been delivered to the Principal Paying Agent one opinion for each jurisdiction affected of lawyers of recognised standing to the effect that subparagraphs (a), (b), (c) and (d) above have been satisfied.

"**Affiliate**" shall mean any affiliated company (*verbundenes Unternehmen*) within the meaning of Section 15 of the German Stock Corporation Act (*Aktiengesetz*).

(2) *Notice*. Notice of any such substitution shall be published in accordance with § 14.

(3) *Change of References*. In the event of any such substitution, any reference in these Conditions of Issue to the Issuer shall from then on be deemed to refer to the Substitute Debtor and any reference to the country in which the Issuer is domiciled or resident for taxation purposes shall from then on be deemed to refer to the country of domicile or residence for taxation purposes of the Substitute Debtor. Furthermore, in the event of such substitution in § 5(2) and § 7 an alternative reference to The Netherlands and the Federal Republic of Germany shall be deemed to have been included in addition to the reference according to the preceding sentence to the country of domicile or residence for taxation purposes of the Substitute Debtor.

## § 12

### FURTHER ISSUES AND PURCHASES

(1) *Further Issues*. The Issuer may from time to time, without the consent of the Holders, issue further Notes having the same terms and conditions as the Notes in all respects (or in all respects except for the issue date, interest commencement date and/or issue price) so as to form a single series with the Notes.

(2) *Purchases*. The Issuer may at any time purchase Notes in the open market or otherwise and at any price. Notes purchased by the Issuer may, at the option of the Issuer, be held, resold or surrendered to the Principal Paying Agent for cancellation.

## § 13

### AMENDMENT OF THE CONDITIONS OF ISSUE, AMENDMENT OF THE GUARANTEES

(1) *Amendment of the Conditions of Issue*. In accordance with the Act on Debt Securities of 2009 (*Gesetz über Schuldverschreibungen aus Gesamtemissionen* – the "**Debt Securities Act**") the Holders may agree with the Issuer on amendments of the Conditions of Issue with regard to matters permitted by the Debt Securities Act by resolution with the majority specified in subparagraph (2). Majority resolutions shall be binding on all Holders. Resolutions which do not provide for identical conditions for all Holders are void, unless Holders who are disadvantaged have expressly consented to their being treated disadvantageously.

(2) *Majority*. Resolutions shall be passed by a majority of not less than 75 % of the votes cast. Resolutions relating to amendments of the Conditions of Issue which are not material and which do not relate to the matters listed in Section 5 (3), nos. 1 to 8 of the Debt Securities Act require a simple majority of the votes cast.

(3) *Vote without a meeting*. All votes will be taken exclusively by vote taken without a meeting. A meeting of Holders and the assumption of the fees by the Issuer for such a meeting will only take place in the circumstances of Section 18 (4), 2<sup>nd</sup> sentence of the Debt Securities Act.

(4) *Chair of the vote*. The vote will be chaired by a German or foreign notary appointed by the Issuer or, if the Holders' Representative (as defined below) has convened the vote, by the Holders' Representative.

(5) *Voting rights*. Each Holder participating in any vote shall cast votes in accordance with the nominal amount or the notional share of its entitlement to the outstanding Notes.

(6) *Holder's Representative.* The Holders may by majority resolution appoint a common representative (the "**Holder's Representative**") to exercise the Holders' rights on behalf of each Holder.

(7) *Amendment of the Notes Guarantees.* The provisions set out above applicable to the Notes shall apply *mutatis mutandis* to the Notes Guarantees.

#### **§ 14 NOTICES**

(1) *Publication.* All notices by the Issuer concerning the Notes will be made in the Federal Gazette and by means of electronic publication on the internet website of the Luxembourg Stock Exchange (www.bourse.lu). Any notice so given will be deemed to have been validly given on the third day following the date of such publication.

(2) *Notification to Clearing System.* So long as any Notes are listed on the Euro MTF operated by the Luxembourg Stock Exchange, subparagraph (1) shall apply. If the Rules of the Luxembourg Stock Exchange otherwise so permit and statutory provisions do not stipulate differently, the Issuer (or the Holders' Representative) may deliver the relevant notice to the Clearing System for communication by the Clearing System to the Holders, in lieu of publication as set forth in subparagraph (1) above; any such notice shall be deemed to have been validly given on the seventh day after the day on which the said notice was given to the Clearing System.

(3) *Form of Notice.* Notices to be given by any Holder shall be made by means of a written declaration to be delivered by hand or registered mail together with the relevant Note or Notes to the Principal Paying Agent. So long as any of the Notes are represented by a global note, such notice may be given by any Holder to the Principal Paying Agent through the Clearing System in such manner as the Principal Paying Agent and the Clearing System may approve for such purpose.

#### **§ 15 APPLICABLE LAW, PLACE OF JURISDICTION AND ENFORCEMENT**

(1) *Applicable Law.* The Notes, as to form and content, and all rights and obligations of the Holders and the Issuer, shall be governed by German law.

(2) *Submission to Jurisdiction.* The District Court (*Landgericht*) in Frankfurt am Main shall have non-exclusive jurisdiction for any action or other legal proceedings ("**Proceedings**") arising out of or in connection with the Notes.

(3) *Enforcement.* Any Holder of Notes may in any proceedings against the Issuer, or to which such Holder and the Issuer are parties, protect and enforce in his own name his rights arising under such Notes on the basis of (i) a statement issued by the Custodian with whom such Holder maintains a securities account in respect of the Notes (a) stating the full name and address of the Holder, (b) specifying the aggregate principal amount of Notes credited to such securities account on the date of such statement and (c) confirming that the Custodian has given written notice to the Clearing System containing the information pursuant to (a) and (b) and (ii) a copy of the Note in global form certified as being a true copy by a duly authorised officer of the Clearing System or a depository of the Clearing System, without the need for production in such proceedings of the actual records or the global note representing the Notes. For purposes of the foregoing, "**Custodian**" means any bank or other financial institution of recognised standing authorised to engage in securities custody business with which the Holder maintains a securities account in respect of the Notes and includes the Clearing System. Each Holder may, without prejudice to the foregoing, protect and enforce his rights under these Notes also in any other way which is permitted in the country of the Proceedings.

#### **§ 16 LANGUAGE**

These Conditions of Issue are written in the English language only.

**Annex A**  
**Certain Definitions**

"**Adjusted Interest Expense**" for any period means interest expenses plus other financial expenses plus other financial expenses derivatives plus exchange losses of the Parent Guarantor and its Subsidiaries and in each case as specified under note 7 of the Reference Financial Statements but excluding any one-time expenses in connection with the conclusion of the Syndicated Credit Facility Agreement and the repayment of the EUR 2,600,000,000 syndicated facilities agreement dated 2 July 2010 for the Parent Guarantor as well as one-time expenses in connection with the re-financing of the Syndicated Credit Facility Agreement.

"**Adjusted Interest Income**" for any period means interest income minus interest income from customers plus other financial income plus other financial income derivatives plus exchange gains of the Parent Guarantor and its Subsidiaries and in each case as specified under note 7 of the Reference Financial Statements.

"**Adjusted Net Finance Charges**" for any period means any of the Parent Guarantor's and the Subsidiaries' Adjusted Interest Income minus the sum of the Parent Guarantor's and the Subsidiaries' Adjusted Interest Expenses.

"**Asset Disposition**" means any direct or indirect sale, conveyance, transfer, assignment or any other disposition, or series of related sales, conveyances, transfers, assignments, leases or other dispositions that form part of a common plan by the Parent Guarantor or any of its Subsidiaries to any person other than the Parent Guarantor or any of its Subsidiaries, including any disposition by means of a merger, consolidation or similar transaction (each referred to for the purposes of this definition as a "disposition"), of any shares of any of the Parent Guarantor's Subsidiaries (other than directors' qualifying shares or shares required by applicable law to be held by a person other than the Parent Guarantor or any of its Subsidiaries) or any other assets of the Parent Guarantor or any of its Subsidiaries, other than

- (a) a disposition of assets or issuance of shares or other interests in equity by a Subsidiary to the Parent Guarantor or by the Parent Guarantor to a Subsidiary;
- (b) any merger or consolidation between members of the Group;
- (c) dispositions of assets or issuance of shares or other interests in equity with a fair market value not in excess of EUR 200,000,000 since the Issue Date by any of the Subsidiaries in connection with the formation of joint ventures on arm's length terms with any third person;
- (d) dispositions in connection with Excepted Liens, foreclosures on assets and any release of claims which have been written down or written off;
- (e) dispositions of obsolete or worn out equipment or equipment that is no longer useful in the conduct of the business of the Parent Guarantor and its Subsidiaries and which is disposed of in the ordinary course of business;
- (f) dispositions required by law or any governmental authority or agency;
- (g) dispositions of inventory in the ordinary course of business;
- (h) the licensing, sublicensing or sale of intellectual property or other intangibles and licenses in the ordinary course of business;
- (i) dispositions of Capital Stock, indebtedness or other securities of an Subsidiary which is not a Material Subsidiary;
- (j) dispositions of assets in the ordinary course of business of the Parent Guarantor or such Subsidiary;
- (k) dispositions of receivables under Factoring and ABS Financings; and
- (l) dispositions which constitute a Sale/Leaseback Transaction on arm's length terms and up to an aggregate amount of EUR 50,000,000 (measured by the fair market value of the relevant asset) at any time;

**"Average Life"** means, as of the date of determination, with respect to any Financial Indebtedness, the quotient obtained by dividing (1) the sum of the products of the numbers of years from the date of determination to the dates of each successive scheduled principal payment of such Financial Indebtedness multiplied by the amount of such payment by (2) the sum of all such payments.

**"Capital Stock"** of any person means any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) equity of such person.

**"Capitalised Lease Obligation"** means an obligation that is required to be classified and accounted for as a capitalised lease for financial reporting purposes in accordance with IFRS, and the amount of indebtedness represented by such obligation shall be the capitalised amount of such obligation at the time any determination thereof is to be made as determined in accordance with IFRS, under such lease prior to the first date such lease may be terminated without penalty.

**"Cash Equivalents"** means:

- (a) securities issued or directly and fully guaranteed or insured by the United States Government or any agency or instrumentality of the United States or a member state of the European Union as of 31 December 2003 or any agency or instrumentality thereof (provided, however, that the full faith and credit of the United States or such member state of the European Union is pledged in support thereof), having maturities of not more than one year from the date of acquisition;
- (b) certificates of deposit, time deposits, Eurodollar time deposits, overnight bank deposits or bankers' acceptances having maturities of not more than one year from the date of acquisition thereof issued by any commercial bank the long term debt of which is rated at the time of acquisition "A" or the equivalent thereof by S&P or "A2" or the equivalent thereof by Moody's and having combined capital and surplus in excess of EUR 500,000,000;
- (c) repurchase obligations with a term of not more than seven days for underlying securities of the types described in subparagraphs (a) and (b) entered into with any bank meeting the qualifications specified in subparagraph (b) of this definition;
- (d) commercial paper rated at the time of acquisition thereof at least "A-2" or the equivalent thereof by S&P or "P-2" or the equivalent thereof by Moody's or carrying an equivalent rating by an internationally recognised rating agency, if both of the two named rating agencies cease publishing ratings of investments, and in any case maturing within one year after the date of acquisition thereof; and
- (e) interests in any investment company or money market fund which invests 95 % or more of its assets in instruments of the type specified in subparagraphs (a) through (d) of this definition.

**"Cash Management Arrangements"** means the cash management arrangements of the Parent Guarantor and its Subsidiaries (including any Financial Indebtedness arising thereunder) which arrangements are in the ordinary course of business.

**"Consolidated Coverage Ratio"** means as of any date of determination, with respect to the Parent Guarantor, the ratio of (i) the aggregate amount of Adjusted EBITDA for the period of the most recent four consecutive fiscal quarters ending prior to the date of such determination for which consolidated financial statements of the Parent Guarantor are available to (ii) Adjusted Net Finance Charges for such four fiscal quarters; provided, however, that:

- (a) if the Parent Guarantor or any Subsidiary:
  - (i) has incurred any Financial Indebtedness since the beginning of such period that remains outstanding on such date of determination or if the transaction giving rise to the need to calculate the Consolidated Coverage Ratio is an incurrence of Financial Indebtedness, Adjusted EBITDA and Adjusted Net Finance Charges for such period shall be calculated after giving effect on a pro forma basis to such Financial Indebtedness as if such Financial Indebtedness had been incurred on the first day of such period (except that in making such computation, the amount of Financial Indebtedness under any revolving credit facility outstanding on the date of such calculation shall be deemed to be (i) the average daily balance of such Financial Indebtedness during such four fiscal quarters or such shorter period for which such facility was outstanding or (ii) if such facility was created after the end of such four fiscal quarters, the average daily balance of such Financial Indebtedness during the period from the date of creation of such facility to the date of such calculation); or

- (ii) has repaid, repurchased, defeased or otherwise discharged any Financial Indebtedness since the beginning of the period that is no longer outstanding on such date of determination or if the transaction giving rise to the need to calculate the Consolidated Coverage Ratio involves a discharge of Financial Indebtedness (in each case other than Financial Indebtedness incurred under any revolving credit facility unless such Financial Indebtedness has been permanently repaid and the related commitment terminated), Adjusted EBITDA and Adjusted Net Finance Charges for such period shall be calculated after giving effect on a pro forma basis to such discharge of such Financial Indebtedness, including with the proceeds of such new Financial Indebtedness, as if such discharge had occurred on the first day of such period;
- (b) if since the beginning of such period the Parent Guarantor or any Subsidiary will have made any Asset Disposition in excess of EUR 100,000,000:
    - (i) the Adjusted EBITDA for such period shall be reduced by an amount equal to the Adjusted EBITDA (if positive) directly attributable to the assets which are the subject of such Asset Disposition for such period or increased by an amount equal to the Adjusted EBITDA (if negative) directly attributable thereto for such period; and
    - (ii) Adjusted Net Finance Charges for such period shall be reduced by an amount equal to the Adjusted Net Finance Charges directly attributable to any Financial Indebtedness of the Parent Guarantor or any Subsidiary repaid, repurchased, defeased or otherwise discharged with respect to the Parent Guarantor and its continuing Subsidiaries in connection with such Asset Disposition for such period (or, if the Capital Stock of any Subsidiary is sold, Adjusted Net Finance Charges for such period shall be reduced by the amount of Adjusted Net Finance Charges directly attributable to the Financial Indebtedness of such Subsidiary to the extent the Parent Guarantor and its continuing Subsidiaries are no longer liable for such Financial Indebtedness after such sale);
  - (c) if since the beginning of such period the Parent Guarantor or any Subsidiary (by merger or otherwise) will have made an investment in any Subsidiary (or any person which becomes a Subsidiary or is merged with or into the Parent Guarantor) or an acquisition of assets in excess of EUR 200,000,000 and which constitutes all or substantially all of a company, division, operating unit, segment, business, group of related assets or line of business, Adjusted EBITDA and Adjusted Net Finance Charges for such period shall be calculated after giving pro forma effect thereto (including the incurrence of any Financial Indebtedness) as if such investment or acquisition occurred on the first day of such period; and
  - (d) if since the beginning of such period any person (that subsequently became a Subsidiary or was merged with or into the Parent Guarantor or any Subsidiary since the beginning of such period) will have incurred any Financial Indebtedness or discharged any Financial Indebtedness, made any Asset Disposition or any investment or acquisition of assets that would have required an adjustment pursuant to subparagraph (b) or (c) of this definition if made by the Parent Guarantor or a Subsidiary during such period, Adjusted EBITDA and Adjusted Net Finance Charges for such period shall be calculated after giving pro forma effect thereto as if such incurrence or discharge of Financial Indebtedness, Asset Disposition or investment or acquisition of assets occurred on the first day of such period.

For purposes of this definition, whenever pro forma effect is to be given to any calculation under this definition, the pro forma calculations (including, without limitation, in respect of anticipated expense or cost savings and expense or cost synergies relating to any such transaction) shall be determined in good faith by a responsible financial or accounting officer of the Parent Guarantor. If any Financial Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest expense on such Financial Indebtedness shall be calculated as if the rate in effect on the date of determination had been the applicable rate for the entire period (taking into account any Interest Rate Agreement applicable to such Financial Indebtedness).

**"Excepted Liens"** means:

- (a) liens securing Financial Indebtedness and other obligations incurred pursuant to subparagraph (a) of the covenant set forth in § 9(2); provided, however, that Financial Indebtedness incurred pursuant to subparagraph (v) of that subparagraph shall only be secured by liens over assets of Comifar S.p.A. or any Subsidiary of Comifar S.p.A.;
- (b) pledges, deposits or liens under workmen's compensation laws, unemployment insurance laws, social security laws or similar legislation, or insurance-related obligations, or in connection with bids, tenders, completion guarantees, contracts (other than for the payment of Financial Indebtedness), warranty

obligations or leases to which the Parent Guarantor or a Subsidiary is a party, or to secure public or statutory obligations of the Parent Guarantor or a Subsidiary or deposits of cash or Cash Equivalents to secure surety, judgment, performance or appeal bonds (or other similar bonds, instruments or obligations) to which the Parent Guarantor or a Subsidiary is a party, or deposits as security for contested taxes or import or customs duties or for the payment of rent, or other obligations of like nature, in each case incurred in the ordinary course of business;

- (c) liens imposed by law;
- (d) liens for taxes, assessments or other governmental charges;
- (e) liens in favour of issuers of surety or performance bonds or letters of credit or bankers' acceptances issued pursuant to the request of and for the account of the Parent Guarantor or a Subsidiary in the ordinary course of its business;
- (f) judgment liens so long as any appropriate legal proceedings which may have been duly initiated for the review of such judgment have not been finally terminated or the period within which such proceedings may be initiated has not expired;
- (g) liens arising solely by virtue of banks' standard business terms and conditions;
- (h) liens existing on the Issue Date;
- (i) liens by means of transfers by way of security (*Sicherungsübereignung*) to a trustee on stock (*Vorratsvermögen*) for the benefit of suppliers (including inter-company suppliers) and their credit insurers (*Kreditversicherer*) consistent with the practice as of the Issue Date;
- (j) liens on property or shares of stock of a person at the time such person becomes a Subsidiary; provided, however, that such liens are not created, incurred or assumed in connection with, or in contemplation of, such other Person becoming a Subsidiary; provided further, however, that any such lien may not extend to any other property owned by the Parent Guarantor or any other Subsidiary;
- (k) liens on property at the time the Parent Guarantor or a Subsidiary acquired the property, including any acquisition by means of a merger or consolidation with or into the Parent Guarantor or any Subsidiary; provided, however, that such liens are not created, incurred or assumed in connection with, or in contemplation of, such acquisition; provided further, however, that such liens may not extend to any other property owned by the Parent Guarantor or any Subsidiary;
- (l) liens securing indebtedness or other obligations of the Parent Guarantor under a cash pool or similar arrangement owed to a Subsidiary;
- (m) liens arising in connection with conditional sale or retention of title arrangements (*Eigentumsvorbehalt*) entered into in the ordinary course of business;
- (n) liens securing Refinancing Financial Indebtedness incurred to refinance Financial Indebtedness that was previously so secured, provided, however, that any such lien is limited to all or part of the same security package that secured the Financial Indebtedness being refinanced;
- (o) any interest or title of a lessor under any Capitalised Lease Obligation or operating lease;
- (p) liens arising out of consignments or similar arrangements for the sale of goods in the ordinary course of business;
- (q) liens in connection with Factoring and ABS Financings permitted under § 9(2);
- (r) liens securing any indebtedness of a Subsidiary owed to the Parent Guarantor, the Issuer or another Subsidiary; and
- (s) liens incurred with respect to any obligations which do not exceed EUR 100,000,000 at any one time outstanding.

**"Group"** means the Parent Guarantor and its Subsidiaries from time to time.



**"Interest Rate Agreement"** means with respect to any person any interest rate protection agreement, interest rate future agreement, interest rate option agreement, interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedge agreement or other similar agreement or arrangement as to which such person is party or a beneficiary.

**"Refinancing Financial Indebtedness"** means Financial Indebtedness that refinances any Financial Indebtedness incurred or existing as permitted under and in compliance with these Conditions of Issue; provided, however, that:

- (a) the Refinancing Financial Indebtedness has a Stated Maturity no earlier than the Stated Maturity of the Financial Indebtedness being refinanced;
- (b) the Refinancing Financial Indebtedness has an Average Life at the time such Refinancing Financial Indebtedness is incurred that is equal to or greater than the Average Life of the Financial Indebtedness being refinanced;
- (c) such Refinancing Financial Indebtedness has an aggregate principal amount (or, if issued with original issue discount, an aggregate issue price) that is equal to or less than the aggregate principal amount (or, if issued with original issue discount, the aggregate accreted value) then outstanding of the Financial Indebtedness being refinanced (plus all accrued interest and the amount of all fees and expenses, including any premiums); and
- (d) if the Financial Indebtedness being refinanced is subordinated in right of payment to the Notes or any Note Guarantee, such Refinancing Financial Indebtedness is subordinated in right of payment to the Notes or such Note Guarantee, as the case may be, on terms at least as favourable to the Holders as those contained in the documentation governing the Financial Indebtedness being refinanced.

**"Sale/Leaseback Transaction"** means an arrangement relating to property owned on the Issue Date or thereafter acquired whereby the Parent Guarantor, the Issuer, or a Material Subsidiary transfers such property to a person and the Parent Guarantor, the Issuer, or Material Subsidiary leases it from such person.

**"Stated Maturity"** means, with respect to any security, the date specified in such security as the fixed date on which the payment of principal of such security is due and payable, including pursuant to any mandatory redemption provision, but shall not include any contingent obligations to repay, redeem or repurchase any such principal prior to the date originally scheduled for the payment thereof.

**"Subordinated Obligation"** means any Financial Indebtedness (whether outstanding on the Issue Date or thereafter incurred) which is subordinated in right of payment to the Notes pursuant to a written agreement, provided, however, that such Subordinated Obligation:

- (a) does not (including upon the occurrence of any event) mature or require any amortisation or other payment of principal prior to the first anniversary of the maturity of the Notes (other than through conversion or exchange of shares, interests, participations or other interests in the equity of the Issuer or for any other security or instrument meeting the requirements of the definition);
- (b) does not (including upon the occurrence of any event) require the payment of cash interest prior to the first anniversary of the maturity of the Notes;
- (c) does not (including upon the occurrence of any event) provide for the acceleration of its maturity nor confers any right (including upon the happening of any event) to declare a default or event of default or take any enforcement action, in each case, prior to the first anniversary of the maturity of the Notes;
- (d) is not secured by a lien on any assets of the Parent Guarantor, the Issuer or another Subsidiary;
- (e) is subordinated in right of payment to the prior payment in full in cash of the Notes in the event of any default, bankruptcy, reorganisation, liquidation, winding up or other disposition of assets;
- (f) does not (including upon the occurrence of any event) restrict the payment of amounts due in respect of the Notes or compliance by the Issuer with its obligations under the Notes;
- (g) does not (including upon the occurrence of an event) constitute shares or other interests in equity that are entitled to vote in the election of directors; and

(h) is not (including upon the occurrence of any event) mandatorily convertible or exchangeable, or convertible or exchangeable at the option of the holder, in whole or in part, prior to the date on which the Notes mature other than into or for shares, interests, participations or other interests in the equity in the Issuer;

provided, however, that any event or circumstance that results in such Financial Indebtedness ceasing to qualify as a Subordinated Obligation, such Financial Indebtedness shall constitute an incurrence of such Financial Indebtedness by the Parent Guarantor, the Issuer or other Subsidiary which incurrence will only be permitted to the extent permitted under § 9(2).

## THE PARENT GUARANTEE

The following is the text of the Parent Guarantee (excluding its Attachment (Conditions of Issue)). The Parent Guarantee is written in the English language.

### GUARANTEE

of

**PHOENIX Pharmahandel GmbH & Co KG,  
Mannheim, Federal Republic of Germany,**

**for the benefit of the holders of the**

**EUR 300,000,000 3.125 % Notes due May 2020 (the "Notes")**

issued by

**PHOENIX PIB Dutch Finance B.V.,  
Maarssen, The Netherlands**

**(the "Guarantee")**

IT IS AGREED AS FOLLOWS:

1. PHOENIX Pharmahandel GmbH & Co KG (the "**Parent Guarantor**") unconditionally and irrevocably guarantees to each Holder of the Notes issued by PHOENIX PIB Dutch Finance B.V. (the "**Issuer**") the due and punctual payment of the principal of, and interest on, the Notes and any other amounts which may be expressed to be payable under the Notes, as and when the same shall become due, in accordance with the Conditions of Issue.
2. This Guarantee constitutes an unconditional, irrevocable, unsecured (subject to paragraph 4 hereunder) and unsubordinated obligation of the Parent Guarantor and ranks *pari passu* with all other present or future unsecured and unsubordinated obligations of the Parent Guarantor outstanding from time to time, subject to any obligations preferred by law.
3. All amounts payable in respect of this Guarantee shall be made without withholding or deduction for or on account of any present or future taxes or duties of whatever nature imposed or levied by way of withholding or deduction by or on behalf of any jurisdiction from or through which payment on this Guarantee is made or in which the Parent Guarantor is organised or otherwise considered to be resident or conducts business for tax purposes (each a "**Relevant Tax Jurisdiction**"), as the case may be, or any political subdivision or any authority of a Relevant Tax Jurisdiction or therein having power to tax unless such withholding or deduction is required by law. If such withholding is required by law, the Parent Guarantor will pay such additional amounts (the "**Additional Amounts**") as shall be necessary in order that the net amounts received by the Holders, after such withholding or deduction shall equal the respective amounts which would otherwise have been receivable in the absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes or duties which:
  - (a) are payable by any person acting as custodian bank or collecting agent on behalf of a Holder, or otherwise in any manner which does not constitute a deduction or withholding by the Parent Guarantor from payments of principal or interest made by it, or
  - (b) are payable by reason of the Holder having, or having had, some personal or business connection with a Relevant Tax Jurisdiction and not merely by reason of the fact that payments in respect of the

Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, a Relevant Tax Jurisdiction, or

- (c) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which the Relevant Tax Jurisdiction or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding, or
  - (d) are payable by reason of a change in law that becomes effective more than 30 days after the relevant payment becomes due, or is duly provided for and notice thereof is published in accordance with § 14 (*Notices*) of the Conditions of Issue, whichever occurs later, or
  - (e) are withheld or deducted by a paying agent from a payment if the payment could have been made by another paying agent without such withholding or deduction.
4. The Parent Guarantor undertakes towards each Holder, so long as any of the Notes are outstanding, but only up to the time all amounts of principal and interest payable under the Notes have been placed at the disposal of the Principal Paying Agent, not to provide or maintain, and to procure (unless this is legally impossible or illegal) that none of its Material Subsidiaries will provide any mortgage, charge, pledge, lien or other form of *in rem* security interest (each a "**Security Interest**") over its assets to secure Capital Market Indebtedness without at the same time letting the Holders share *pari passu* and rateably in such Security Interest or giving to the Holders an equivalent other Security Interest. This undertaking shall not apply with respect to (i) any Security Interest which has to be granted pursuant to mandatory provisions of statutory law, (ii) any Security Interest which has to be granted in order to obtain administrative or governmental authorisations or permits, (iii) any Security Interest granted in connection with factoring or asset backed securities transactions (including the Factoring and ABS Financings) entered into by the Parent Guarantor or any of its Subsidiaries, (iv) any Security Interest existing on property at the time of the acquisition thereof by the Guarantors, provided that such Security Interest was not created in connection with or in contemplation of such acquisition and that the amount secured by such Security Interest is not increased subsequently to the acquisition of the relevant property, or (v) any other Security Interest not referred to under (i) through (iv) above securing Capital Market Indebtedness in an aggregate amount (for all Security Interests granted by the Guarantors) not exceeding EUR 20,000,000.
5. If, after the Issue Date, any Subsidiary (other than the Issuer, any Guarantor, Brocacef Groep NV and any of its direct or indirect subsidiaries, and, until the occurrence of the Italian Ringfencing Fall Away Event, a member of the Italian Subgroup) grants a guarantee with respect to any Financial Indebtedness of the Parent Guarantor or any of its Subsidiaries where the principal amount of the Financial Indebtedness so guaranteed exceeds EUR 30,000,000, the Parent Guarantor shall
- (a) inform the Principal Paying Agent thereof for notification to the Holders; and
  - (b) cause such Subsidiary to execute and deliver to the Principal Paying Agent, within 30 days of the date of such Subsidiary providing such relevant guarantee, a guarantee pursuant to which such Subsidiary will guarantee the payment obligations under the Notes on substantially the same terms as the Subsidiary Guarantors under the Subsidiary Guarantees, subject to legally advisable appropriate limitations reflecting the laws applicable to such Subsidiary, provided that such guarantee would not result in (x) any violation of applicable law, (y) any liability for the officers, directors or shareholders of such Subsidiary or (z) additional material tax liabilities for such Subsidiary, any other Subsidiary or the Parent Guarantor (for the avoidance of doubt: the obligation to pay any Additional Amounts under § 7 of the Conditions of Issue is not considered a material tax liability).
6. If the Parent Guarantor is required to procure that a Subsidiary becomes an Additional Guarantor, the Parent Guarantor shall procure the delivery to the Principal Paying Agent of a copy of the Subsidiary Guarantee duly executed by the Additional Guarantor.
7. The Parent Guarantor shall cause the relevant Subsidiary Guarantor to reinstate the released Subsidiary Guarantee in its original form without undue delay if a Release Declaration has been delivered for such Subsidiary Guarantee and the requirements set out under § 2(5)(a) of the Conditions of Issue were not fulfilled at the time the Release Declaration was delivered.

8. The Parent Guarantor hereby undertakes to comply with the obligations pertaining to it set out in the Conditions of Issue including the covenants under § 9 (*Limitation on Financial Indebtedness*) of the Conditions of Issue.
9. The obligations of the Parent Guarantor under this Guarantee (i) shall be separate and independent from the obligations of the Issuer under the Notes, and (ii) shall exist irrespective of the legality, validity and binding effect or enforceability of the Notes.
10. The obligations of the Parent Guarantor under this Guarantee shall, without any further act or thing being required to be done or to occur, extend to the obligations of any Substitute Debtor which is not the Parent Guarantor arising in respect of any Note by virtue of a substitution pursuant to the Conditions of Issue.
11. This Guarantee and all undertakings contained herein constitute a contract for the benefit of the Holders from time to time as third party beneficiaries pursuant to § 328 (1) BGB (German Civil Code). They give rise to the right of each such Holder to require performance of the obligations undertaken herein directly from the Parent Guarantor, and to enforce such obligations directly against the Parent Guarantor. Any Holder has the right in case of non-performance of any payments on the Notes to enforce the Guarantee by filing a suit directly against the Parent Guarantor without the need to take prior proceedings against the Issuer.
12. Terms used herein and not otherwise defined herein shall have the meaning attributed to them in the Conditions of Issue.
13. The provisions regarding the amendment of the Conditions of Issue by majority resolution shall be applicable *mutatis mutandis* also to this Guarantee.
14. This Guarantee shall be governed by, and construed in accordance with, German law.
15. This Guarantee is written in the English language only.
16. The original version of this Guarantee shall be delivered to, and kept by, Commerzbank Aktiengesellschaft.
17. Non-exclusive place of jurisdiction for all legal proceedings arising out of or in connection with this Guarantee against the Parent Guarantor shall be Frankfurt am Main.
18. On the basis of a copy of this Guarantee certified as being a true copy by a duly authorised officer of Commerzbank Aktiengesellschaft each Holder may protect and enforce in his own name his rights arising under this Guarantee in any legal proceedings against the Parent Guarantor or to which such Holder and the Parent Guarantor are parties, without the need for production of this Guarantee in such proceedings.

[●] 2013

**PHOENIX Pharmahandel GmbH & Co KG**

---

We accept the terms of the above Guarantee without recourse, warranty or liability.

[●] 2013  
**Commerzbank Aktiengesellschaft**  
(as Principal Paying Agent)

---

Attachment: Conditions of Issue

## THE SUBSIDIARY GUARANTEE

The following is the text of the Subsidiary Guarantee (excluding its Schedule (Appointment of a Process Agent) and its Appendix B (Conditions of Issue)). The Subsidiary Guarantee is written in the English language.

### GUARANTEE

of

PHOENIX International Beteiligungs GmbH (Germany), PHOENIX PIB Finance B.V. (The Netherlands), PHOENIX Pharma-Einkauf GmbH (Germany), transmed Transport GmbH (Germany), ADG Apotheken-Dienstleistungsgesellschaft mbH (Germany), Nordic Beteiligungs GmbH (Germany), PHOENIX Noweropa Beteiligungs GmbH (Germany), PHOENIX Healthcare Distribution Limited (UK), L. Rowland & Company (Retail) Limited (UK), PHOENIX Medical Supplies Limited (UK), L. Rowland & Company Limited (UK), Numark Limited (UK), PHOENIX PIB Dutch Holding B.V. (The Netherlands), Libra EAD (Bulgaria), PHOENIX Farmacija d.d. (Croatia), PHOENIX lékárenský veľkoobchod, a.s. (Czech Republic), BENU Česká republika a.s. (Czech Republic), PHOENIX Danish Holding A/S (Denmark), Nomeco A/S (Denmark), Tamro Oyj (Finland), PHOENIX Pharma S.A.S. (France), PHOENIX Pharma Zrt. (Hungary), PHOENIX Hungaria Holding Zrt. (Hungary), PHOENIX Norwegian Holding AS (Norway), Apotek 1 Norge AS (Norway), Apokjeden AS (Norway), Apokjeden Distribusjon AS (Norway), PHOENIX Pharma Polska Sp. z o.o. (Poland), PHOENIX Zdravotnícke zásobovanie, a.s. (Slovakia), Tamro Holding AB (Sweden), Tamro AB (Sweden), Tamro Sweden AB (Sweden), Amedis-UE AG (Switzerland) and Pharmacies BENU S.A (Switzerland)

(each an "Initial Subsidiary Guarantor")

for the benefit of the holders of the

EUR 300,000,000 3.125 % Notes due May 2020 (the "Notes")

issued by

**PHOENIX PIB Dutch Finance B.V.,  
Maarsse, The Netherlands**

(the "Guarantee")

IT IS AGREED AS FOLLOWS:

1. Each Initial Subsidiary Guarantor unconditionally and irrevocably guarantees to each Holder of the Notes issued by PHOENIX PIB Dutch Finance B.V. (the "**Issuer**") the due and punctual payment of the principal of, and interest on, the Notes and any other amounts which may be expressed to be payable under the Notes, as and when the same shall become due, in accordance with the Conditions of Issue.
2. This Guarantee constitutes an unconditional, irrevocable, unsecured (subject to paragraph 4 hereunder) and unsubordinated obligation of each Initial Subsidiary Guarantor and ranks *pari passu* with all other present or future unsecured and unsubordinated obligations of such Initial Subsidiary Guarantor outstanding from time to time, subject to any obligations preferred by law.
3. All amounts payable in respect of this Guarantee shall be made without withholding or deduction for or on account of any present or future taxes or duties of whatever nature imposed or levied by way of withholding or deduction by or on behalf of any jurisdiction from or through which payment on this Guarantee is made or in which the relevant Initial Subsidiary Guarantor is organised or otherwise considered to be resident or conducts business for tax purposes (each a "**Relevant Tax Jurisdiction**"), as the case may be, or any political subdivision or any authority of a Relevant Tax Jurisdiction or therein having power to tax unless such withholding or deduction is required by law. If such withholding is

required by law, such Initial Subsidiary Guarantor will pay such additional amounts (the "**Additional Amounts**") as shall be necessary in order that the net amounts received by the Holders, after such withholding or deduction shall equal the respective amounts which would otherwise have been receivable in the absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes or duties which:

- (a) are payable by any person acting as custodian bank or collecting agent on behalf of a Holder, or otherwise in any manner which does not constitute a deduction or withholding by such Initial Subsidiary Guarantor from payments of principal or interest made by it, or
  - (b) are payable by reason of the Holder having, or having had, some personal or business connection with a Relevant Tax Jurisdiction and not merely by reason of the fact that payments in respect of the Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, a Relevant Tax Jurisdiction, or
  - (c) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which the Relevant Tax Jurisdiction or (where relevant) the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding, or
  - (d) are payable by reason of a change in law that becomes effective more than 30 days after the relevant payment becomes due, or is duly provided for and notice thereof is published in accordance with § 14 (*Notices*) of the Conditions of Issue, whichever occurs later, or
  - (e) are withheld or deducted by a paying agent from a payment if the payment could have been made by another paying agent without such withholding or deduction.
4. If any sum due from an Initial Subsidiary Guarantor under the Notes or the Guarantee of such Initial Subsidiary Guarantor (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:
- (a) making or filing a claim or proof against that Initial Subsidiary Guarantor;
  - (b) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Initial Subsidiary Guarantor shall as an independent obligation, within three Business Days of demand, indemnify each Holder to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum. Each Initial Subsidiary Guarantor waives any right it may have in any jurisdiction to pay any amount under the Notes or the Guarantee of such Initial Subsidiary Guarantor in a currency or currency unit other than that in which it is expressed to be payable.

5. Each Initial Subsidiary Guarantor undertakes towards each Holder, so long as any of the Notes are outstanding, but only up to the time all amounts of principal and interest payable under the Notes have been placed at the disposal of the Principal Paying Agent, not to provide or maintain any mortgage, charge, pledge, lien or other form of *in rem* security interest (each a "**Security Interest**") over its assets to secure Capital Market Indebtedness without at the same time letting the Holders share *pari passu* and rateably in such Security Interest or giving to the Holders an equivalent other Security Interest. This undertaking shall not apply with respect to (i) any Security Interest which has to be granted pursuant to mandatory provisions of statutory law, (ii) any Security Interest which has to be granted in order to obtain administrative or governmental authorisations or permits, (iii) any Security Interest granted in connection with factoring or asset backed securities transactions (including the Factoring and ABS Financings) entered into by the Parent Guarantor or any of its Subsidiaries, (iv) any Security Interest existing on property at the time of the acquisition thereof by the Guarantors, provided that such Security Interest was not created in connection with or in contemplation of such acquisition and that the amount secured by such Security Interest is not increased subsequently to the acquisition of the relevant property, or (v) any other



Security Interest not referred to under (i) through (iv) above securing Capital Market Indebtedness in an aggregate amount (for all Security Interests granted by the Guarantors) not exceeding EUR 20,000,000.

## 6. Limitation on Guarantees

### 6.1 In case of an Initial Subsidiary Guarantor incorporated or established under German law, the following limitations with respect to this Guarantee shall apply:

- (a) With a view to give due regard to the obligations of the managing directors and the shareholders and their managing directors of any Initial Subsidiary Guarantor in the form of a GmbH whose jurisdiction of incorporation is Germany (each such Initial Subsidiary Guarantor in the form of a GmbH a "**German Subsidiary Guarantor**") (x) to duly consider the own interest of such German Subsidiary Guarantor and its ability to perform its obligations vis-à-vis its own creditors as well as (y) to preserve the registered share capital of such German Subsidiary Guarantor, any Guarantee by a German Subsidiary Guarantor cannot be enforced by the Holders other than in accordance with the procedure set out in this Section 6.1 if and to the extent that:
  - (i) such guarantee is an up-stream or cross-stream guarantee (save for any guarantee for proceeds from the Notes which are on-lent or otherwise passed on to that German Subsidiary Guarantor or its Subsidiaries provided such amount on-lent or otherwise passed on has not been returned); and
  - (ii) the enforcement
    - (A) would have the effect of reducing the German Subsidiary Guarantor's net assets (i.e. assets minus liabilities (including accrued liabilities)) (*Reinvermögen*) (the "**Net Assets**") to an amount less than its registered share capital (*Stammkapital*) or, if the Net Assets are already an amount of less than its registered share capital (*Stammkapital*), of causing such amount to be further reduced; and
    - (B) would thereby lead to a violation of the capital maintenance requirement as set out in Sections 30, 31 of the German Limited Liability Companies Act (*Gesetz betreffend die Gesellschaften mit beschränkter Haftung*, "**GmbHG**")

provided that, for the purposes of the determination of the Net Assets of such German Subsidiary Guarantor (which except as otherwise provided for in this Section 6.1 shall be calculated as required with respect to any calculation of distributable reserves pursuant to Section 30 (1) sentence 1 GmbHG) in case reasons for the opening of insolvency proceeding (*Insolvenzantragsgründe*) have occurred which are continuing (including as a result of any obligations under this Guarantee) in relation to such German Subsidiary Guarantor, the liquidation values (*Liquidationswert*) shall be relevant for the determination of the assets and, for the purposes of the calculation of the amount to be enforced (the "**Recovery Amount**") (without double counting), any loans made by the Issuer to such German Subsidiary Guarantor shall be disregarded as far as such loans are subordinated by law or by contract at least to the claims of the unsubordinated creditors of the German Subsidiary Guarantor.

- (b) The limitations set out in paragraph (a) of this Section 6.1 only apply if and to the extent that (i) within five (5) Business Days following the demand against a German Subsidiary Guarantor under this Guarantee the managing director(s) of such German Subsidiary Guarantor has (have) confirmed in writing to the Principal Paying Agent (x) to what extent the Guarantee is an up-stream or cross-stream guarantee as described in paragraph (a) above and (y) which amount of such cross-stream and/or up-stream guarantee cannot be enforced as it would cause the Net Assets of such German Subsidiary Guarantor to fall below its stated share capital or, if the Net Assets are already an amount of less than its stated share capital (*Stammkapital*), of causing such amount to be further reduced (in each case taking into account the adjustments set out in paragraph (a) above) and thereby lead to a violation of the capital maintenance requirement as set out in Sections 30, 31 of the GmbHG and (z) such confirmation is supported by evidence reasonably satisfactory to the Principal Paying Agent (the "**Management Determination**") (or such evidence is submitted to the Principal Paying Agent within ten (10) Business Days following a request of any of the Holders to provide such evidence) and the Holders have not contested this and argued that no or a lesser amount would be necessary to maintain its stated share capital and/or that no violation of the capital maintenance requirement as set out in Sections 30, 31 of the GmbHG would be given; or (ii) within thirty (30) Business Days from the date the Holders have contested the Management Determination the Principal Paying

Agent receives a determination by an auditor of international standard and reputation (the "**Auditor's Determination**") appointed by the German Subsidiary Guarantor of the amount that would have been necessary on the date the demand under the Guarantee was made to maintain its registered share capital as required pursuant to Sections 30, 31 of the GmbHG.

- (c) If the German Subsidiary Guarantor disagrees with the Auditor's Determination, the Holders shall be entitled to enforce the Guarantee up to the amount which is undisputed between themselves and the German Subsidiary Guarantor in accordance with the provisions of paragraph (a) above. In relation to the amount which is disputed, the Holders shall be entitled to further pursue their claims (if any) (including, but not limited to in courts) and the German Subsidiary Guarantor shall be entitled to prove that this amount is necessary for maintaining its registered share capital (calculated as of the date the demand under the Guarantee was made and in accordance with paragraph (a) above).

If the Guarantee was enforced without limitation because the Management Determination and/or the Auditor's Determination (as the case may be) was not delivered within the relevant time frame or for any other reason, the Holders shall repay to the German Subsidiary Guarantor any amount by which the amount paid by the relevant German Subsidiary Guarantor under this Guarantee exceeds the Recovery Amount as determined in accordance with paragraph (a) above.

- (d) In the case that any German Subsidiary Guarantor claims that the Guarantee can only be enforced in a limited amount (as set out above) the relevant German Subsidiary Guarantor shall realise any asset that is shown in the balance sheet with a book value (*Buchwert*) that is significantly lower than the market value of such asset and that can be realised, to the extent legally permitted and commercially justifiable with regard to costs and efforts involved and to the extent such assets are not required for the relevant German Subsidiary Guarantor's business (*nicht betriebsnotwendig*).
- (e) The Holders shall be entitled to further pursue in court their payment claims under the Guarantees granted by the respective German Subsidiary Guarantor in excess of the amounts paid or payable pursuant to paragraphs (a) to (c) above, by claiming in court that demanding payment under the Guarantee against the German Subsidiary Guarantor does not violate Sections 30 and 31 of the GmbHG.

6.2 In case of an Initial Subsidiary Guarantor to whom the Bulgarian capital maintenance (including financial assistance) rules pursuant to the Bulgarian Commerce Act (Търговски Закон, State Gazette 48/18.06.1991) and/or other Bulgarian statutory limitations apply (a "**Bulgarian Guarantor**"), the following limitations with respect to this Guarantee shall apply:

- (a) The guarantee and any other obligations and liabilities under this Guarantee given by each Bulgarian Guarantor shall at all times be limited so that at no time shall the Bulgarian Guarantor be required to assume any liability or obligation under, and to pay any amount under this Guarantee to the extent that such liability or obligation would violate mandatory Bulgarian capital maintenance (including financial assistance) rules. Should any liability or obligation pursuant to this Guarantee of a Bulgarian Guarantor to the Holders violate or contradict Bulgarian capital maintenance rules and should therefore be held invalid or unenforceable or should the assumption or enforcement of such liability or obligation expose the managing directors of a Bulgarian Guarantor to personal liability or criminal responsibility, such obligation shall be deemed replaced by an obligation of a similar nature compliant with Bulgarian capital maintenance rules, which provides the best possible guarantee (within the limits of Bulgarian capital maintenance law) in favour of the Holders. By way of example, should it be held that the Guarantee contradicts Bulgarian capital maintenance rules in relation to any amount and indemnity demanded by any Holder of the Notes, the independent payment obligation created under this Guarantee shall be reduced to a maximum amount which is permitted pursuant to Bulgarian capital maintenance rules. Such limitation of the liabilities and obligations of a Bulgarian Guarantor may have the effect of reducing the amount of the obligations or liabilities assumed to zero.
- (b) No reduction of the amount enforceable under this Guarantee pursuant to the foregoing paragraph (a) in accordance with the above limitations will prejudice the rights of each Holder of the Notes to continue enforcing the Guarantee (subject always to the operation of the limitation set out above at the time of such enforcement) until full satisfaction of its claims.

6.3 In case of an Initial Subsidiary Guarantor whose jurisdiction of incorporation is Croatia (a "**Croatian**

**Guarantor**"), the following limitations with respect to this Guarantee shall apply:

- (a) The guarantee and any other obligations and liabilities under this Guarantee by any Croatian Guarantor shall not be construed to create any obligation of any person or corporate body to act in violation of mandatory Croatian capital maintenance rules (*pravila za očuvanje kapitala*) including, without limitation, (i) Articles 217, 220, 222, 222a and 233-238 of the Croatian Companies Act (*Zakon o trgovačkim društvima, "ZTD"*) and, as a derivative thereof, (ii) mandatory Croatian rules on duties of the management board in case of loss, financial embarrassment or insolvency (*dužnosti uprave u slučaju gubitka, prezaduženja ili nesposobnosti za plaćanje*) or mandatory Croatian rules on proper attentiveness and responsibility of the management board members (*dužna pozornost i odgovornost članova uprave*) including, without limitations, Articles 251 and 252 ZTD, (iii) mandatory Croatian rules on proper attentiveness and responsibility of the supervisory board members (*dužna pozornost i odgovornost članova nadzornog odbora*) including, without limitations, Article 272 ZTD, (iv) mandatory Croatian rules on using one's influence in the company (*iskorištavanje utjecaja u društvu*) including, without limitations, Art 273 ZTD, and (v) mandatory Croatian rules on responsibility in the absence of a contract on the conduct of company business operations (*odgovornost kad nema ugovora o vođenju poslova društva*) including, without limitations, Articles 496-502 ZTD (the "**Croatian Capital Maintenance Rules**"). Should any liability or obligation under this Guarantee violate or contradict any of the Croatian Capital Maintenance Rules and should therefore be held invalid or unenforceable, such obligation shall be deemed replaced by an obligation of a similar nature compliant with Croatian Capital Maintenance Rules, which provides the best possible security interest (within the limits of Croatian Capital Maintenance Rules) in favour of the Holders. By way of example, should it be held that the Guarantee contradicts Croatian Capital Maintenance Rules in relation to any amount, the obligations created under this Guarantee shall be reduced to a maximum amount which is permitted pursuant to Croatian Capital Maintenance Rules. Such limitation of the liabilities and obligations of a Croatian Guarantor may have the effect of reducing the amount of the obligations or liabilities assumed and/or the amount secured to zero.
- (b) No reduction of the amount enforceable under this Guarantee pursuant to paragraph (a) above in accordance with the above limitations will prejudice the rights of the Holders to continue enforcing this guarantee (subject always to the operation of the limitation set out above at the time of such enforcement) until full satisfaction has been achieved.
- 6.4 In case of an Initial Subsidiary Guarantor incorporated or established in the Czech Republic (a "**Czech Guarantor**"), the following limitations with respect to this Guarantee shall apply:

- (a) The guarantee and any other obligations and liabilities of a Czech Guarantor pursuant to this Guarantee shall not include any liability to the extent it would result in such guarantee and/or such obligations and liabilities infringing provisions of the Czech Commercial Code including, without limitation, the provisions of Section 120a, 120b, 120f and/or 161g of the Czech Commercial Code.
- (b) The guarantee and any other obligations and liabilities of any Czech Guarantor under this Guarantee shall be limited to an amount equal to the Czech Limitation Amount, being:

G

"Czech Limitation Amount" = \_\_\_\_\_ \* A\*0.9

O + G

where:

- (i) "A" (as used in this Section 6.4) means the net book value of all assets of the relevant Czech Guarantor recorded in its latest annual unconsolidated financial statements or its latest interim unconsolidated financial statements, if they are more up-to-date;
- (ii) "G" (as used in this Section 6.4) means the amount of all obligations guaranteed by the Czech Guarantor (for the avoidance of doubt, prior to application of the Czech Limitation Amount) under this Guarantee; provided that where such amount is expressed in a currency other than Czech crowns, such amount shall be expressed in its equivalent in Czech crowns on the date falling one (1) Business Day prior to the date on which the relevant Holder of the Notes dispatched a demand for performance under this Guarantee vis-à-vis the Czech Guarantor;

(iii) "O" (as used in this Section 6.4) means all liabilities of the relevant Czech Guarantor recorded in its latest annual unconsolidated financial statements as defined in the accounting standards applicable to the Czech Guarantor or its latest interim unconsolidated financial statements if they are more up-to-date. The term "**liabilities**" (as used in this Section 6.4) shall have the meaning attached to it under the accounting standards applicable to the relevant Czech Guarantor but, notwithstanding the foregoing, shall at all times

- (A) exclude equity capital (*vlastní kapitál*);
- (B) include the obligations secured by the Czech Guarantor under any agreement or otherwise;
- (C) include any other off-balance sheet obligations of the Czech Guarantor; and
- (D) exclude the amount of all obligations guaranteed by the Czech Guarantor under this Guarantee.

For the avoidance of doubt, any identical obligations of the Czech Guarantor mentioned in the previous sentence will only be included in the "O" amount once. The term "net book value" used for the purpose of the calculation of the Czech Limitation Amount means the book value reduced by corrections and provisions (in Czech *opravné položky a oprávky (korekce)*) as set out in decree no. 500/2002 Coll., as amended (the "**Decree**"), implementing Act No. 563/1991 Coll., on Accountancy, as amended or in any other legislation which may supersede the Decree in the future.

- (c) The agreement contained in paragraph (b) above shall be conditional on no declaration of insolvency (in Czech *rozhodnutí o úpadku*) having been passed in relation to the Czech Guarantor or any of its assets in insolvency proceedings conducted in the Czech Republic or other similar steps having been taken in similar proceedings conducted in another jurisdiction involving pro rata payment of general creditors' claims (a "**Declaration of Insolvency**"). Upon a Declaration of Insolvency the limitation contained in paragraph (b) shall cease to apply.
- (d) To the extent the relevant Czech Guarantor does not have sufficient cash or assets to be liquidated easily to make a payment on the total guarantee amount (as calculated in this Section 6.4) the Holders have to consider this situation and the possibility of a payment and instalment plan in good faith.
- (e) In this Section 6.4, "**Czech Commercial Code**" means Act of the Czech Republic No. 513/1991 Coll., Commercial Code, as amended from time to time.

6.5 In case of an Initial Subsidiary Guarantor incorporated in Denmark (a "**Danish Guarantor**"), the following limitations with respect to this Guarantee shall apply:

- (a) The guarantee and any other obligations and liabilities under this Guarantee by any Danish Guarantor shall be deemed not to be assumed or shall be limited (as the case may be):
  - (i) if and to the extent required to comply with Danish statutory provisions on unlawful financial assistance within the meaning of (at the date of this Agreement) (i) Section 206(1) of Act no. 322 of 11 April 2011 as amended from time to time (the "**Danish Company Act**") (as modified by Section 206 (2)), and (ii) Section 210(1) of the Danish Company Act (as modified by Section 210(2) and Sections 211 and 212) and shall, accordingly, not be an obligation and/or liability of a Danish Guarantor in respect of:
    - (A) any indebtedness or obligations in relation to parts of the proceeds from the issuance of the Notes which have been used in relation to the financing of any direct acquisition of or subscription for shares in such Danish Guarantor or in any Qualifying Parent Company (as defined below) (the "**Acquisition Debt**");
    - (B) any indebtedness or obligations (including, without limitation, Acquisition Debt) of any parent company of such Danish Guarantor which is not a Qualifying Parent Company (as defined below) and which at the date of this Agreement includes the Parent Guarantor; and
  - (ii) in respect of any upstream or cross-stream guarantee to an amount equivalent to the higher of the Danish Guarantor's Equity;

- (A) at such time(s) as the Danish Guarantor is requested to make a payment; and
- (B) at the date on which the Danish Guarantor issues this Guarantee,

provided that this limitation in paragraph (ii) shall not apply to obligations and liabilities of a Danish Guarantor in respect of cash pool payables, inter-company loan payables or other payables (if any) owing by the Danish Guarantor to another member of the PHOENIX Group and originally funded through the issuance of the Notes which such Danish Guarantor has benefit of through cash pooling, inter-company loans or otherwise and outstanding at such time as the Danish Guarantor is requested to make a payment. Any payment made by such Danish Guarantor under this Guarantee in respect of the obligations of such member of the PHOENIX Group shall reduce *pro tanto* the outstanding amount of the cash pool payables, inter-company loan payables or other payables (if any) owing by such Danish Guarantor.

- (b) For the purpose of this Section 6.5:

**"Equity"** means the equity (*egenkapital*) of the Danish Guarantor (or, as the case may be, its Danish subsidiary) calculated in accordance with applicable generally accepted Danish accounting principles consistently applied, however, adjusted (upwards) to market value if and to the extent book value of an asset differs from the market value at such time.

**"Qualifying Parent Company"** means (i) a parent company which is incorporated under the laws of Denmark or (ii) a parent company which is incorporated under the laws of a state other than Denmark (a **"Non-Danish Parent Company"**) provided that such Non-Danish Parent Company is comprised by Section 211(1) of the Danish Company Act and order no. 275 of 25 March 2010 on the provision of loans to certain foreign parent companies as amended from time to time issued by the Danish Business Authority (in Danish: *Erhvervsstyrelsen*) pursuant to Section 211(2) of the Danish Company Act.

- 6.6 In case of an Initial Subsidiary Guarantor incorporated in the Netherlands (a **"Dutch Guarantor"**), the following limitations with respect to this Guarantee shall apply:

The guarantee and any other obligations and liabilities under this Guarantee shall be deemed not to be assumed by such Dutch Guarantor to the extent that the same would constitute unlawful financial assistance within the meaning of Article 2:98c Dutch Civil Code (*Burgerlijk Wetboek*) or any other applicable financial assistance rules under any relevant jurisdiction (the **"Prohibition"**) and the provisions of this Guarantee shall be construed accordingly. For the avoidance of doubt it is expressly acknowledged that the relevant Dutch Guarantor will continue to guarantee all such obligations which, if included, do not constitute a violation of the Prohibition.

- 6.7 In case of an Initial Subsidiary Guarantor incorporated or established in Finland (a **"Finnish Guarantor"**), the following limitations with respect to this Guarantee shall apply:

The guarantee and any other obligations and liabilities of any Finnish Guarantor under this Guarantee shall be deemed not to be assumed by such Finnish Guarantor to the extent that they would constitute:

- (a) unlawful distribution of a company's assets within the meaning of Chapter 13, Section 1 of the Finnish Companies Act (FI: *osakeyhtiölaki* 624/2006, as amended, supplemented, re-enacted or renewed; the **"Finnish Companies Act"**); or
- (b) unlawful financial assistance within the meaning of Chapter 13, Section 10 of the Finnish Companies Act.

- 6.8 In case of an Initial Subsidiary Guarantor incorporated in France (a **"French Guarantor"**), the following limitations with respect to this Guarantee shall apply:

- (a) The guarantee and any other obligations and liabilities of any French Guarantor under this Guarantee shall not include any obligation or liability which if incurred would constitute the provisions of financial assistance within the meaning of article L.225-216 of the French *Code de Commerce* or/and would constitute a misuse of corporate assets within the meaning of article L.242-6 of the French *Code de Commerce* or any other law or regulations having the same effect, as interpreted by French courts.

- (b) The guarantee and any other obligations and liabilities of each French Guarantor under this Guarantee for the obligations of the Issuer shall be limited, at any time to an amount equal to the aggregate of all amounts directly or indirectly received from the issuance of the Notes by the Issuer to the extent directly or indirectly on-lent to such French Guarantor under inter-company loan agreements and outstanding at the date a payment is to be made by such French Guarantor under this Guarantee, it being specified that any payment made by such French Guarantor under this Guarantee in respect of the obligations of such member of the PHOENIX Group shall reduce *pro tanto* the outstanding amount of the inter-company loans due by such French Guarantor under the inter-company loan arrangements referred to above.
- 6.9 In case of an Initial Subsidiary Guarantor organised under the laws of Hungary (a "**Hungarian Guarantor**"), the following limitations with respect to this Guarantee shall apply:
- (a) The Hungarian Guarantor's guarantee and any other obligations and liabilities under this Guarantee shall at all times be limited to the maximum aggregate amount that does not result in the lack of corporate benefit for such Hungarian Guarantor.
- (b) Notwithstanding anything to the contrary in this Guarantee, the guarantee and any other obligations and liabilities under this Guarantee of any Hungarian Guarantor which has the corporate form of a company limited by shares (*részvénytársaság*) shall not apply to any liability to the extent that it would result in such obligation constituting unlawful financial assistance within the meaning of Article 229 of Act IV of 2006 of Hungary on Business Associations (as applicable).
- 6.10 In case of an Initial Subsidiary Guarantor incorporated in Norway (each a "**Norwegian Guarantor**"), the following limitations with respect to this Guarantee shall apply:
- The guarantee and any other obligations and liabilities of each Norwegian Guarantor under this Guarantee shall not include any obligations or liabilities to the extent these would violate the mandatory provisions of sections 8-7 and 8-10, cf. sections 1-3 and 1-4, of the Norwegian Limited Liability Companies Act of 1997, no. 44 (as the same may be amended, supplemented and/or re-enacted from time to time (the "**Companies Act**")) regarding unlawful financial assistance and other restrictions on a Norwegian limited liability company's ability to grant guarantees, loans or security in favour of other group companies. Any Norwegian Guarantor's obligations under this Guarantee shall, however, be interpreted so as to make it liable to the fullest extent permitted by the Companies Act. The maximum liability of the Norwegian Guarantor under this Guarantee shall in all circumstances be limited to EUR 500,000,000 plus interest, default interest and expenses owed under the Conditions of Issue. The Norwegian Guarantor irrevocably waives all rights under § 62 to and including § 74 of the Norwegian Finance Agreements Act of 25 June, 1999 no. 46 in respect of its obligations as Guarantor under this Guarantee.
- 6.11 In case of an Initial Subsidiary Guarantor incorporated or established in Poland (a "**Polish Guarantor**"), the following limitations with respect to this Guarantee shall apply:
- (a) The liability of each Polish Guarantor under this Guarantee shall, in all circumstances, be limited to an amount equal to the Polish Limitation Amount (as defined below), calculated pursuant to the following formula:
- $G = A - L$ , where:
- "**G**" (as used in this Section 6.11) means Polish Limitation Amount,
- "**A**" (as used in this Section 6.11) means all assets (*aktywa*) of the relevant Polish Guarantor in the value recorded in (i) its latest annual unconsolidated financial statements or, if they are more up-to date, in (ii) its latest interim unconsolidated financial statements within 15 Business Days following its request or without such request (i.e. at the Polish Guarantor's own motion);
- "**L**" (as used in this Section 6.11) means all liabilities (*zobowiązania*) of the relevant Polish Guarantor existing on the date hereof and, henceforth, recorded in the pertinent financial statements referred to in the definition of "A" above and used for the purpose of determination of the value of assets (*aktywa*) of that Polish Guarantor. The term "**liabilities**" (as used in this Section 6.11) shall at all times exclude the Polish Guarantor's liabilities under this Guarantee.

- (b) Additionally to provisions of paragraph (a) above the liability of the Polish Guarantor being a limited liability company (*spółka z ograniczoną odpowiedzialnością*) under this Guarantee shall be limited to the extent any payment under this Guarantee does not result in a reduction of its assets necessary to cover in full its share capital pursuant to article 189 par. 2 of the Polish Commercial Code dated 15 September 2000 (Journal of Laws No. 94, item 1037 as amended).
- (c) The limitation in paragraph (a) above shall not apply if Polish law is amended in such a manner that (i) a debtor whose liabilities exceed the value of its assets is no longer deemed insolvent (*niewypłacalny*) as provided for in Article 11 Sec. 2 of the Polish Bankruptcy and Restructuring Law (as in force on the date of this Agreement) or that (ii) the insolvency (*niewypłacalność*) of a debtor within the meaning of Article 11 Sec. 2 of the Polish Bankruptcy and Restructuring Law (as in force on the date of this Agreement) no longer gives grounds for the declaration of its bankruptcy (*ogłoszenie upadłości*) or no longer obliges the representatives of such Polish Guarantor to file for the declaration of its bankruptcy.

6.12 In case of an Initial Subsidiary Guarantor incorporated or established in Slovakia (a "**Slovak Guarantor**"), the following limitations with respect to this Guarantee shall apply:

The guarantee and any other obligations and liabilities of any Slovak Guarantor pursuant to this Guarantee shall not include any liability to the extent it would result in this Guarantee infringing or circumventing the provisions of the Slovak Commercial Code including, without limitation, the provisions of Section 161(e) and/or 161(f) of the Slovak Commercial Code.

6.13 In case of an Initial Subsidiary Guarantor incorporated as a limited liability company in Sweden (a "**Swedish Guarantor**"), the following limitations with respect to this Guarantee shall apply:

The guarantee and any other obligations and liabilities of each Swedish Guarantor under this Guarantee shall in relation to the obligations of the Issuer be limited if (and only if) required by an application of the provisions of the Swedish Companies Act (*Sw. aktiebolagslagen*) (2005:551) in force from time to time regulating the distribution of assets (*Sw. Värdeöverföring*) (Chapter 17, Sections 1-4), and it is understood that the liability of any such Swedish Guarantor under this Guarantee only applies to the extent permitted by the above mentioned provisions of the Swedish Companies Act.

6.14 In case of an Initial Subsidiary Guarantor incorporated or established in Switzerland (a "**Swiss Guarantor**"), the following limitations with respect to this Guarantee shall apply:

- (a) If and to the extent that a Swiss Guarantor becomes liable under this Guarantee and if complying with such obligations (including for the avoidance of doubt, any restrictions of the Swiss Guarantor's rights of set-off and/or subrogation and/or its duties to subordinate or waive claims) would be restricted under then applicable Swiss corporate law (the "**Restricted Obligations**"), the aggregate liability of the Swiss Guarantor for Restricted Obligations shall be limited to the amount of unrestricted equity capital surplus (including the unrestricted portion of general and statutory reserves, other free reserves, retained earnings and current net profits) available for distribution to the shareholders of the Swiss Guarantor at the time the Swiss Guarantor is required to perform under this Guarantee (the "**Maximum Amount**"), provided that this is a requirement under then applicable Swiss law and understood that such maximum limitation shall not free the Swiss Guarantor from its obligations in excess of the Maximum Amount, but that it shall merely postpone the performance date of those obligations until such time or times as performance is again permitted.
- (b) Immediately after having been requested to perform Restricted Obligations, the Swiss Guarantor shall:
  - (i) perform any obligations which are not affected by the above limitations, and
  - (ii) in respect of any balance, if and to the extent requested by any of the Holders or required under then applicable Swiss law, provide the Holders with an interim balance sheet audited by the statutory auditors of the Swiss Guarantor setting out the Maximum Amount, take any further corporate and other action as may be required (such as board and shareholders' approvals and the receipt of any confirmations from the Swiss Guarantor's statutory auditors) and other measures necessary or useful to allow the Swiss Guarantor to make the payments agreed hereunder with a minimum of limitations and, immediately thereafter, pay up to the Maximum Amount (less, if required, any Swiss Withholding Tax) to the Principal Paying Agent.

- (c) For the avoidance of doubt, where a deduction for Swiss withholding tax (*Verrechnungssteuer*) is required, the obligation of a Swiss Guarantor under Section 3 of this Guarantee to pay any Additional Amount remains applicable save to the extent and for as long as that would cause the Maximum Amount to be exceeded.
  - (d) If the enforcement of Restricted Obligations would be limited due to the effects referred to in this Guarantee, then the Swiss Guarantor shall (i) to the extent permitted by applicable law, write up and/or realize any of its assets that are shown on its balance sheet with a book value that is significantly lower than the market value of such assets, in case of realization only if the relevant assets are not necessary for the Swiss Guarantor's business (*nicht betriebsnotwendig*) and (ii) reduce its share capital to the minimum allowed under then applicable law.
7. The obligations of an Initial Subsidiary Guarantor under this Guarantee will be automatically and unconditionally released without any further action on the part of any Holder (and thereupon shall terminate and be discharged and be of no further force and effect) as soon as the Issuer or the Parent Guarantor has delivered to the Principal Paying Agent a declaration (the "**Release Declaration**") signed by a duly authorised representative of the Issuer or, as the case may be, or the Parent Guarantor and by a duly authorised representative of the relevant Initial Subsidiary Guarantor, that
- (a) at the time of such Release Declaration
    - (i) (unless an event or circumstance set out under § 2(5)(a)(ii)(B) or (D) of the Conditions of Issue has occurred) no Event of Default has occurred under the Conditions of Issue which is continuing, and
    - (ii) no amount owed by the relevant Initial Subsidiary Guarantor under this guarantee is unpaid; and
  - (b) one of the following events or circumstances has occurred:
    - (i) all or substantially all of the assets of the relevant Initial Subsidiary Guarantor or the shares in the relevant Initial Subsidiary Guarantor, or any parent entity thereof (other than the Issuer or the Parent Guarantor), are sold or otherwise disposed of to a third party which is not an Affiliate (as defined in § 11 (1) of the Conditions of Issue) of the Parent Guarantor; or
    - (ii) it can reasonably be expected that maintaining the Guarantee given by the relevant Initial Subsidiary Guarantor would lead to a violation of applicable laws due to changes in the laws, or a change in the interpretation, implementation or application of such laws, applicable to the relevant Initial Subsidiary Guarantor; or
    - (iii) it can reasonably be expected that maintaining this guarantee by the relevant Subsidiary Guarantor would lead to a material disadvantage in the tax treatment of the relevant Subsidiary Guarantor due to changes in the tax provisions applicable to the relevant Subsidiary Guarantor or a change in the interpretation, implementation or application of such laws (for the avoidance of doubt, the obligation to pay any Additional Amounts pursuant to Section 3 of this Guarantee is not considered a material disadvantage); or
    - (iv) the liabilities of the Issuer under the Notes have been discharged in full; or
    - (v) the unsecured and non-credit enhanced long-term liabilities of the Parent Guarantor are assigned a rating by at least two of the Rating Agencies (as defined in the Conditions of Issue) of BBB- or Baa3, respectively, or better; or
    - (vi) the relevant Initial Subsidiary Guarantor (together with any other Subsidiary Guarantor(s) whose guarantee(s) has(have) been or is(are) simultaneously being released pursuant to this paragraph (vi) or any parallel provision of any guarantee granted by an Additional Guarantor) does no longer, or will, simultaneously with the release of the Guarantee by the relevant Initial Subsidiary Guarantor, no longer guarantee, any Financial Indebtedness of the Parent Guarantor or any of the Parent Guarantor's other Subsidiaries in an aggregate principal amount in excess of EUR 30,000,000.

No Release Declaration may be delivered unless the requirements set out in this Section 7 for a termination of the relevant Initial Subsidiary Guarantor's Guarantee hereunder have been fulfilled.



8. This Guarantee and all undertakings contained herein constitute a contract for the benefit of the Holders from time to time as third party beneficiaries pursuant to § 328 (1) BGB (German Civil Code). They give rise to the right of each such Holder to require performance of the obligations undertaken herein directly from the Initial Subsidiary Guarantors, and to enforce such obligations directly against the Initial Subsidiary Guarantors. Any Holder has the right in case of non-performance of any payments on the Notes to enforce the Guarantee by filing a suit directly against the Initial Subsidiary Guarantors without the need to take prior proceedings against the Issuer.
9. Certain defined terms used herein are set out in Appendix A hereto. Terms used herein and not otherwise defined herein shall have the meaning attributed to them in the Conditions of Issue set out in Appendix B hereto.
10. The provisions regarding the amendment of the Conditions of Issue by majority resolution shall be applicable *mutatis mutandis* also to this Guarantee.
11. This Guarantee shall be governed by, and construed in accordance with, German law.
12. This Guarantee is written in the English language only.
13. The original version of this Guarantee shall be delivered to, and kept by, Commerzbank Aktiengesellschaft.
14. Non-exclusive place of jurisdiction for all legal proceedings arising out of or in connection with this Guarantee against the Initial Subsidiary Guarantors shall be Frankfurt am Main.
15. Service of Process, Notice and Demand
  - (a) Without prejudice to any other mode of service allowed under any relevant law, each Initial Subsidiary Guarantor (other than those Initial Subsidiary Guarantors incorporated in Germany) hereby irrevocably appoints the Parent Guarantor (PHOENIX Pharmahandel GmbH & Co KG, Pfingstweidstrasse 10-12, 68199 Mannheim, Germany) as its agent authorized to receive service of process, notice and demand on its behalf with respect to any matters relating to the Guarantee (in such capacity, the "**Process Agent**") and hereby agrees that any services of process, notice or demand in respect of the Guarantee made or given by a Holder to the Process Agent shall be deemed to have been validly made or given to such Initial Subsidiary Guarantor. The Parent Guarantor hereby accepts its appointment as Process Agent.
  - (b) Each Initial Subsidiary Guarantor undertakes to deliver to the Process Agent without undue delay upon execution of this Guarantee an appointment letter (the "**Appointment Letter**") in the form of the SCHEDULE (*Appointment of Process Agent*) and to send a copy of the Appointment Letter to the Principal Paying Agent.
16. On the basis of a copy of this Guarantee certified as being a true copy by a duly authorised officer of Commerzbank Aktiengesellschaft each Holder may protect and enforce in his own name his rights arising under this Guarantee in any legal proceedings against the Initial Subsidiary Guarantors or to which such Holder and the Initial Subsidiary Guarantors are parties, without the need for production of this Guarantee in such proceedings.

[Remainder of page intentionally left blank]

## SIGNATURES

[■] 2013

**PHOENIX International Beteiligungs GmbH**  
*as Initial Subsidiary Guarantor*

---

**PHOENIX PIB Finance B.V.**  
*as Initial Subsidiary Guarantor*

---

**PHOENIX Pharma-Einkauf GmbH**  
*as Initial Subsidiary Guarantor*

---

**transmed Transport GmbH**  
*as Initial Subsidiary Guarantor*

---

**ADG Apotheken-Dienstleistungsgesellschaft mbH**  
*as Initial Subsidiary Guarantor*

---

**Nordic Beteiligungs GmbH**  
*as Initial Subsidiary Guarantor*

---

**PHOENIX Noweropa Beteiligungs GmbH**  
*as Initial Subsidiary Guarantor*

---

**PHOENIX Healthcare Distributions Limited**  
*as Initial Subsidiary Guarantor*

---

**L. Rowland & Company (Retail) Limited**  
*as Initial Subsidiary Guarantor*

---

**PHOENIX Medical Supplies Limited**  
*as Initial Subsidiary Guarantor*

---

**L. Rowland & Company Limited**  
*as Initial Subsidiary Guarantor*

---

**Numark Limited**  
*as Initial Subsidiary Guarantor*

---

**PHOENIX PIB Dutch Holding B.V.**  
*as Initial Subsidiary Guarantor*

---

**Libra EAD**  
*as Initial Subsidiary Guarantor*

---

**PHOENIX Farmacija d.d.**  
*as Initial Subsidiary Guarantor*

---

**PHOENIX lékárensky velkoobchod, a.s.**  
*as Initial Subsidiary Guarantor*

---

**BENU Česká republika a.s.**  
*as Initial Subsidiary Guarantor*

---

**PHOENIX Danish Holding A/S**  
*as Initial Subsidiary Guarantor*

---

**Nomeco A/S**  
*as Initial Subsidiary Guarantor*

---

**Tamro Oyj**  
*as Initial Subsidiary Guarantor*

---

**PHOENIX Pharma S.A.S.**  
*as Initial Subsidiary Guarantor*

---

**PHOENIX Pharma Zrt.**  
*as Initial Subsidiary Guarantor*

---

**PHOENIX Hungaria Holding Zrt.**  
*as Initial Subsidiary Guarantor*

---

**PHOENIX Norwegian Holding AS**  
*as Initial Subsidiary Guarantor*

---

**Apotek 1 Norge AS**  
*as Initial Subsidiary Guarantor*

---

**Apokjeden AS**  
*as Initial Subsidiary Guarantor*

---

**Apokjeden Distribusjon AS**  
*as Initial Subsidiary Guarantor*

---

**PHOENIX Pharma Polska Sp.z o.o.**  
*as Initial Subsidiary Guarantor*

---

**PHOENIX Zdravotnícke zásobovanie, a.s.**  
*as Initial Subsidiary Guarantor*

---

**Tamro Holding AB**  
*as Initial Subsidiary Guarantor*

---

**Tamro AB**  
*as Initial Subsidiary Guarantor*

---

**Tamro Sweden AB**  
*as Initial Subsidiary Guarantor*

---

**Amedis-UE AG**  
*as Initial Subsidiary Guarantor*

---

**Pharmacies BENU S.A.**  
*as Initial Subsidiary Guarantor*

---

**PHOENIX Pharmahandel GmbH & Co KG**  
*as Process Agent*

---

We accept the terms of the above Guarantee without recourse, warranty or liability.

[●] 2013

**Commerzbank Aktiengesellschaft**  
*as Principal Paying Agent*

\_\_\_\_\_

Appendix A: Certain Definitions  
Appendix B: Conditions of Issue

## APPENDIX A

### CERTAIN DEFINITIONS

"**Additional Amounts**" has the meaning assigned to such term in Section 3 hereof.

"**Acquisition Debt**", if used in connection with a Danish Guarantor, has the meaning assigned to such term in Section 6.5 hereof.

"**Appointment Letter**" has the meaning assigned to such term in Section 15 hereof.

"**Auditor's Determination**" has the meaning assigned to such term in Section 6.1 (b) hereof.

"**Bulgarian Guarantor**" has the meaning assigned to such term in Section 6.2 hereof.

"**Companies Act**", if used in connection with a Norwegian Guarantor, has the meaning assigned to such term in Section 6.10 hereof.

"**Croatian Capital Maintenance Rules**" has the meaning assigned to such term in Section 6.3 hereof.

"**Croatian Guarantor**" has the meaning assigned to such term in Section 6.3 hereof.

"**Danish Guarantor**" has the meaning assigned to such term in Section 6.5 hereof.

"**Danish Company Act**" has the meaning assigned to such term in Section 6.5 hereof.

"**Dutch Guarantor**" has the meaning assigned to such term in Section 6.6 hereof.

"**Equity**", if used in connection with a Danish Guarantor, has the meaning assigned to such term in Section 6.5 hereof.

"**Finnish Companies Act**" has the meaning assigned to such term in Section 6.7 hereof.

"**Finnish Guarantor**" has the meaning assigned to such term in Section 6.7 hereof.

"**First Currency**" has the meaning assigned to such term in Section 2 hereof.

"**French Guarantor**" has the meaning assigned to such term in Section 6.8 hereof.

"**German Subsidiary Guarantor**" has the meaning assigned to such term in Section 6.1 (a) hereof.

"**GmbHG**" has the meaning assigned to such term in Section 6.1 (a) (ii) (B) hereof.

"**Hungarian Guarantor**" has the meaning assigned to such term in Section 6.9 hereof.

"**Management Determination**" has the meaning assigned to such term in Section 6.1 hereof.

"**Maximum Amount**", if used in connection with a Swiss Guarantor, has the meaning assigned to such term in Section 6.4 hereof.

"**Net Assets**" has the meaning assigned to such term in Section 6.1 (a) (ii) (A) hereof.

"**Non-Danish Parent Company**" has the meaning assigned to such term in Section 6.5 hereof.

"**Norwegian Guarantor**" has the meaning assigned to such term in Section 6.10 hereof.

"**PHOENIX Group**" means the Parent Guarantor and its Subsidiaries from time to time.

"**Polish Guarantor**" has the meaning assigned to such term in Section 6.11 hereof.

"**Polish Limitation Amount**" has the meaning assigned to such term by reference to the capital letter "G" and the formula  $G = A - L$  in Section 6.11 hereof.

"**Process Agent**" has the meaning assigned to such term in Section 15 hereof.

"**Prohibition**", if used in connection with a Dutch Guarantor, has the meaning assigned to such term in Section 6.6 hereof.

"**Recovery Amount**" has the meaning assigned to such term in Section 6.1 (a) hereof.

"**Relevant Tax Jurisdiction**" has the meaning assigned to such term in Section 3 hereof.

"**Restricted Obligations**", if used in connection with a Swiss Guarantor, has the meaning assigned to such term in Section 6.4 hereof.

"**Qualifying Parent Company**", if used in connection with a Danish Guarantor, has the meaning assigned to such term in Section 6.5 hereof.

"**Second Currency**" has the meaning assigned to such term in Section 2 hereof.

"**Slovak Guarantor**" has the meaning assigned to such term in Section 6.12 hereof.

"**Subsidiary**" means in relation to any person, an entity which is controlled directly or indirectly by that person and, for these purposes, "**control**" means:

- (a) the direct or indirect ownership of a majority of the voting share capital of such entity;
- (b) having the right to appoint a majority of the board of directors or supervisory board (or like board and in any case to the extent elected by the shareholders) of such entity; or
- (c) having the power to direct the management or policies of the entity, whether by contract or otherwise.

"**Sum**" has the meaning assigned to such term in Section 2 hereof.

"**Swedish Guarantor**" has the meaning assigned to such term in Section 6.3 hereof.

"**Swiss Guarantor**" has the meaning assigned to such term in Section 6.4 hereof.

"**ZTD**" has the meaning assigned to such term in Section 6.3 hereof.



## DESCRIPTION OF RULES REGARDING RESOLUTIONS OF HOLDERS

The Conditions of Issue provide that the Holders may agree to amendments or decide on other matters relating to the Notes by way of resolution to be passed by taking votes without a meeting. Any such resolution duly adopted by resolution of the Holders shall be binding on each Holder, irrespective of whether such Holder took part in the vote and whether such Holder voted in favour or against such resolution.

The following is a brief summary of some of the statutory rules regarding the taking of votes without meetings, the passing and publication of resolutions as well as their implementation and challenge before German courts.

### **Specific Rules regarding Votes without Meeting**

The voting shall be conducted by the person presiding over the taking of votes. Such person shall be (i) a notary public appointed by the Issuer, (ii) if the vote was solicited by a Holders' Representative appointed by majority resolution of the Holders, the Holders' Representative, or (iii) a person appointed by the competent court.

The notice soliciting the Holders' votes shall set out the period within which votes may be cast. During such voting period, the Holders may cast their votes to the person presiding over the taking of votes. Such notice shall also set out in detail the conditions to be met for the votes to be valid.

The person presiding over the taking of votes shall ascertain each Holder's entitlement to cast a vote based on evidence provided by such Holder and shall prepare a list of the Holders entitled to vote. If it is established that no quorum exists, the person presiding over the taking of votes may convene a meeting of the Holders. Within one year following the end of the voting period, each Holder participating in the vote may request a copy of the minutes of such vote and any annexes thereto from the Issuer.

Each Holder participating in the vote may object in writing to the result of the vote within two weeks following the publication of the resolutions passed. The objection shall be decided upon by the person presiding over the taking of votes. If he remedies the objection, the person presiding over the taking of votes shall promptly publish the result. If the person presiding over the taking of votes does not remedy the objection, he shall promptly inform the objecting Holder in writing.

The Issuer shall bear the costs of the vote and, if the court has convened a meeting, also the costs of such proceedings.

### **Rules regarding Holders' Meetings applicable to Votes without Meeting**

In addition, the statutory rules applicable to the convening and conduct of Holders' meetings will apply *mutatis mutandis* to any vote without a meeting. The following summarises some of such rules.

Meetings of Holders may be convened by the Issuer or a Holders' Representative appointed by majority resolution of the Holders. Meetings of Holders must be convened if one or more Holders holding 5 % or more of the outstanding Notes so require for specified reasons permitted by statute.

Meetings may be convened not less than 14 days prior to the date of the meeting. Attendance and exercise of voting rights at the meeting may be made subject to prior registration of Holders. The convening notice will provide what proof will be required for attendance and voting at the meeting. The place of the meeting is the place of the Issuer's registered offices, provided, however, that where the Notes are listed on a stock exchange within the European Union or the European Economic Area, the meeting may be held at the place of such stock exchange.

The convening notice shall be made publicly available together with the agenda of the meeting setting out the proposals for resolution.

Each Holder may be represented by proxy. A quorum exists if Holders' representing by value not less than 50 % of the outstanding Notes. If the quorum is not reached, a second meeting may be called at which no quorum will be required, provided that where a resolution may only be adopted by a qualified majority, a quorum requires the presence of at least 25 % of the aggregate principal amount of outstanding Notes.

All resolutions adopted must be properly published. Resolutions which amend or supplement the Conditions of Issue have to be implemented by supplementing or amending the Global Note.

In insolvency proceedings instituted in Germany against the Issuer, a Holders' Representative appointed by majority resolution of the Holders is obliged and exclusively entitled to assert the Holders' rights under the Notes. Any resolutions passed by the Holders are subject to the provisions of the Insolvency Code (*Insolvenzordnung*).

If a resolution constitutes a breach of the statute or the Conditions of Issue, Holders may bring an action to set aside such resolution. Such action must be filed with the competent court within one month following the publication of the resolution.

## **RATING**

Fitch has assigned a prospective rating of BB to the Notes and S&P has assigned a preliminary rating of BB to the Notes. The rating assigned to the Notes should be evaluated independently from similar ratings on other types of securities. A security rating is not a recommendation to buy, sell or hold securities.

There can be no assurance that any such ratings of the Notes and of the Parent Guarantor will continue for any period of time or that they will not be reviewed, revised, suspended or withdrawn entirely by any of Fitch and/or S&P. A qualification, downgrade or withdrawal of any of the ratings mentioned above may impact upon the market value and/or liquidity of the Notes.

A rating does not prevent the value of the Notes from being subject to market fluctuations due to changes in prevailing interest rates and/or credit spreads.

Credit rating agencies other than Fitch and S&P could seek to rate the Notes and/or the Parent Guarantor without having been requested to do so by the Issuer or the Parent Guarantor, and if such unsolicited ratings are lower than the comparable ratings assigned to the Notes and/or the Parent Guarantor by Fitch and/or S&P, those unsolicited ratings could have an adverse effect on the market value and/or liquidity of the Notes.

## TAXATION IN GERMANY

The following is a general discussion of certain German tax consequences of the acquisition and ownership of the Notes. It is based on the laws in force on the date of this Offering Circular and is neither indented as, nor to be understood as, legal or tax advice. Any information given hereafter reflects the opinion of the Issuer and must not be misunderstood as a representation or guarantee. This discussion does not purport to be a comprehensive description of all tax considerations which may be relevant to a decision to purchase the Notes. In particular, this discussion does not consider any specific facts or circumstances that may apply to particular purchasers subject to special tax regimes, such as banks, insurance companies, or tax exempt organisations.

PROSPECTIVE PURCHASERS OF NOTES ARE ADVISED TO CONSULT THEIR OWN TAX ADVISORS AS TO THE TAX CONSEQUENCES OF THE PURCHASE, OWNERSHIP AND SALE OF NOTES, INCLUDING THE EFFECT OF ANY STATE OR LOCAL TAXES, UNDER THE TAX LAWS OF GERMANY AND EACH COUNTRY OF WHICH THEY ARE RESIDENTS.

### Income Tax

#### *Notes held by German Tax Residents as Private Assets*

##### *Taxation of Interest*

Payments of interest on the Notes to Holders who are individuals and tax residents of Germany (*i.e.*, persons whose residence or habitual abode is located in Germany) are subject to German income tax. In each case where German income tax arises, a solidarity surcharge (*Solidaritätszuschlag*) is levied in addition. Furthermore, church tax may be levied, where applicable. If interest claims are disposed of separately (*i.e.* without the Notes), the proceeds from the sale are subject to income tax. The same applies to proceeds from the redemption of interest claims if the Note is disposed of separately.

Income tax on payments of interest on the Notes is generally levied at a flat tax rate of 25 % (plus 5.5 % solidarity surcharge thereon, resulting in a total tax charge of 26.375 %, and church tax, if applicable). The income tax base is decreased by a lump sum deduction (*Sparer-Pauschbetrag*) of EUR 801 (EUR 1,602 for married couples filing jointly); the expenses actually incurred by the Holder in relation to the Notes are not deductible.

If the Notes are held in a custodial account which the Holder maintains with a German bank or financial services institution (including a German Branch of a foreign bank or financial services institution), securities trading company or securities trading bank (the "**Disbursing Agent**"), the Disbursing Agent withholds tax at the aforementioned flat tax rate from the gross interest payment. The withholding by the Disbursing Agent will generally satisfy the Holder's income tax liability in respect of the interest on the Notes, and the Holder is not required to include the interest on the Notes in his/her income tax return.

In general, no withholding tax will be levied if the Holder is an individual (i) whose Notes do not form part of the property of a trade or business and (ii) who filed a withholding exemption certificate (*Freistellungsauftrag*) with the Disbursing Agent but only to the extent the interest income derived from the Notes together with other capital investment income does not exceed the maximum exemption amount shown on the withholding exemption certificate. The maximum exemption amount that may be shown on the exemption certificate is an amount equal to the lump sum deduction mentioned above. Similarly, no withholding tax will be deducted if the Holder has submitted to the Disbursing Agent a certificate of non-assessment (*Nichtveranlagungs-Bescheinigung*) issued by the relevant local tax office.

If no Disbursing Agent is involved in the payment process, the Holder will have to include its interest income on the Notes in his/her tax return, and the income tax will be levied by way of assessment at the aforementioned flat tax rate.

Holder's whose individual income tax rate is lower than the flat tax rate of 25 % may include the interest on the Notes in their income tax return in order to achieve a lower tax burden. In such case, the flat tax withheld by the Disbursing Agent will be credited against the Holder's income tax liability and, to the extent it exceeds the actual income tax liability, refunded to the Holder.

##### *Taxation of Capital Gains*

Capital gains derived by Holders who are individuals and tax residents of Germany from the sale or redemption of the Notes are subject to German income tax generally at a flat tax rate of 25 % (plus 5.5 % solidarity

surcharge thereon, resulting in a total tax charge of 26.375 %, and church tax, if applicable). Losses resulting from the sale or redemption of the Notes can only be set-off against other capital investment income of the Holder. If a set-off is not possible in the assessment period in which the losses have been realised, such losses can be carried forward into future assessment periods and can be set-off against future capital investment income.

If the Issuer exercises its right to substitute the debtor of the Notes (pursuant to § 11 of the Conditions of Issue), the substitution might, for German tax purposes, be treated as an exchange of the original Notes for new notes issued by the Substitute Debtor (as defined in § 11 of the Conditions of Issue) and become subject to the similar rules as a sale of the Notes as described above. In particular, the substitution could result in the recognition of taxable income or capital gain to any Holder.

If the Notes are held in a custodial account which the Holder maintains with a Disbursing Agent, a capital gain is subject to withholding tax to be withheld by the Disbursing Agent at the aforementioned flat tax rate. Tax base of the withholding tax is the capital gain which is calculated as the difference between the proceeds from the sale or redemption (after deduction of the expenses incurred directly related thereto) and the issue price or the purchase price of the Notes. If the Notes have been transferred into the custodial account of the Disbursing Agent only after their acquisition, and no evidence on the acquisition data has been provided to the new Disbursing Agent by the Disbursing Agent which previously kept the Notes in its custodial account, withholding tax will be levied on 30 % of the proceeds from the sale or redemption of the Notes. The withholding by the Disbursing Agent will generally satisfy the Holder's income tax liability in respect of the capital gain, and the Holder is not required to include the capital gain in his/her income tax return.

The exemptions from withholding tax described above under "– Taxation of Interest" in case of a withholding exemption certificate (*Freistellungsauftrag*) or a certificate of non-assessment (*Nichtveranlagungs-Bescheinigung*) apply also to capital gains derived from the sale or redemption of the Notes.

If no Disbursing Agent is involved in the payment process, the Holder will have to include the capital gain in his/her tax return, and the income tax will be levied by way of assessment at the aforementioned flat tax rate.

Holders whose individual income tax rate is lower than the flat tax rate of 25 % may include the capital gain in their income tax return in order to achieve a lower tax burden. In such case, the flat tax withheld by the Disbursing Agent will be credited against the Holder's income tax liability and, to the extent it exceeds the actual income tax liability, refunded to the Holder.

#### ***Notes held by German Tax Residents as Business Assets***

Payments of interest on Notes and capital gains from the sale or redemption of Notes held as business assets by German tax resident individuals or corporations (including via a partnership, as the case may be) are generally subject to German income tax or corporate income tax (in each case plus 5.5 % solidarity surcharge thereon, and, in case of individuals, church tax, if applicable). The interest and capital gain will also be subject to trade tax if the Notes form part of the property of a German trade or business.

As explained above under "– Notes held by tax residents as private assets", the substitution of the Issuer (pursuant to § 11 of the Conditions of Issue) could result in the recognition of taxable income or gain.

If the Notes are held in a custodial account which the Holder maintains with a Disbursing Agent, the Disbursing Agent withholds tax at a rate of 25 % (plus a solidarity surcharge of 5.5 % thereon, resulting in a total withholding tax charge of 26.375 %, and church tax, if applicable) from interest payments on the Notes and from capital gains from the sale or redemption of Notes held as business assets. In these cases the withholding by the Disbursing Agent does not satisfy the corporate or individual income tax liability of the Holder, and the Holder is required to include the interest and capital gains in its (corporate) income tax return. The tax withheld by the Disbursing Agent will be credited as advance payment against the Holder's liability for corporate or individual income tax, solidarity surcharge and, as the case may be, church tax. To the extent the amount withheld exceeds the (corporate) income tax liability, the withholding tax will – as a rule – be refunded.

With regard to capital gains no withholding by the Disbursing Agent will generally be required (i) in the case of Notes held by corporations resident in Germany, provided that in the case of corporations of certain legal forms the status of corporation has been evidenced by a certificate of the competent tax office, and (ii) upon application in the case of Notes held by individuals or partnerships as business assets.

### ***Notes Held by Non-German Tax Residents***

Interest and capital gains should not be subject to German taxation in the case of Holders who are not tax resident of Germany, *i.e.* persons having neither their residence nor their habitual abode nor legal domicile nor place of effective management in Germany. Therefore, non-German resident Holders should be in general exempt from German withholding tax on interest and capital gains and from solidarity surcharge thereon, even if the Notes are held in a custodial account with a Disbursing Agent. However, exceptions may apply if, *inter alia*, the Notes form part of the business assets of a permanent establishment maintained by the Holder in Germany, or if the Notes are attributable to the business income derived through a German permanent representative appointed by the Holder. In these cases withholding tax will be levied as explained above under "*Notes held by German Tax Residents as Business Assets*" and the Holder may be obliged to file a German (corporate) income tax return.

### **Inheritance and Gift Tax**

No inheritance or gift taxes with respect to any Note will generally arise under the laws of Germany, if, in the case of inheritance tax, neither the decedent nor the beneficiary, or, in the case of gift tax, neither the donor nor the donee, is a resident of Germany and such Note is not attributable to a German trade or business for which a permanent establishment is maintained, or a permanent representative has been appointed, in Germany. Exceptions from this rule apply to certain German citizens who previously maintained a residence in Germany.

### **Other Taxes**

No stamp, issue, registration or similar taxes or duties will be payable in Germany in connection with the issuance, delivery or execution of the Notes. As at the date of the Offering Circular, net assets tax (*Vermögensteuer*) is not levied in Germany.

## **EUROPEAN UNION DIRECTIVE ON THE TAXATION OF SAVINGS INCOME**

Under the EU Council Directive 2003/48/EC dated 3 June 2003 on the taxation of savings income in the form of interest payments (the "**EU Savings Tax Directive**"), each EU member state must require paying agents (within the meaning of such directive) established within its territory to provide to the competent authority of this state details of the payment of interest made to any individual resident in another EU member state as the beneficial owner of the interest. The competent authority of the EU member state of the paying agent is then required to communicate this information to the competent authority of the EU member state of which the beneficial owner of the interest is a resident.

For a transitional period, Austria and Luxembourg may opt instead to withhold tax from interest payments within the meaning of the EU Savings Tax Directive at a rate of 35 % from 1 July 2011.

A number of non-EU countries, and certain dependent or associated territories of certain EU member states, have agreed to adopt similar measures (either provision of information or transitional withholding), including measures in relation to payments made by a paying agent established within such countries or territories to, or collected by such a paying agent for, an individual beneficial owner who is a resident or a residual entity established in an EU member state.

In Germany, provisions for implementing the EU Savings Tax Directive were enacted by legislative regulations of the Federal Government. These provisions apply since 1 July 2005.

## TAXATION IN THE NETHERLANDS

### Introduction

This summary solely addresses the principal Dutch tax consequences of the acquisition, ownership and disposal of the Notes. It does not purport to describe every aspect of taxation that may be relevant to a particular Holder of Notes (as defined below). Any potential investor should consult his tax adviser for more information about the tax consequences of acquiring, owning and disposing of the Notes in his particular circumstances.

Where in this summary English terms and expressions are used to refer to Dutch concepts, the meaning to be attributed to such terms and expressions shall be the meaning to be attributed to the equivalent Dutch concepts under Dutch tax law. Where in this summary the terms "the Netherlands" and "Dutch" are used, these refer solely to the European part of the Kingdom of the Netherlands. This summary assumes that the Issuer is organised, and that its business will be conducted, in the manner outlined in this Offering Circular. A change to such organisational structure or to the manner in which the Issuer conducts its business may invalidate the contents of this summary, which will not be updated to reflect any such change.

This summary is based on the tax law of the Netherlands (unpublished case law not included) as it stands at the date of this Offering Circular. The tax law upon which this summary is based, is subject to changes, perhaps with retroactive effect. Any such change may invalidate the contents of this summary, which will not be updated to reflect such change.

This summary assumes that each transaction with respect to the Notes is at arm's length.

Where in this Dutch taxation paragraph reference is made to a "Holder of the Notes", that concept includes, without limitation:

- (i) an owner of one or more Notes who in addition to the title to such Notes has an economic interest in such Notes;
- (ii) a person who or an entity that holds the entire economic interest in one or more Notes;
- (iii) a person who or an entity that holds an interest in an entity, such as a partnership or a mutual fund, that is transparent for Dutch tax purposes, the assets of which comprise one or more Notes, within the meaning of (i) or (ii). above; or
- (iv) a person who is deemed to hold an interest in the Notes, as referred to under (i) to (iii), pursuant to the attribution rules of article 2.14a, of the Dutch Income Tax Act 2001 (*Wet inkomstenbelasting 2001*), with respect to property that has been segregated, for instance in a trust or a foundation.

### Withholding tax

All payments under the Notes may be made free from withholding or deduction of or for any taxes of whatever nature imposed, levied, withheld or assessed by the Netherlands or any political subdivision or taxing authority of or in the Netherlands.

### Taxes on Income and Capital Gains

#### *Resident Holders of the Notes*

The summary set out in this section "Taxation in the Netherlands - Taxes on income and capital gains - Resident Holders of the Notes" applies only to a Holder of the Notes who is a "Dutch Individual" or a "Dutch Corporate Entity".

A Holder of the Notes is a "Dutch Individual" if:

- he is an individual; and
- he is resident, or deemed to be resident, in the Netherlands for Dutch income tax purposes, or has elected to be treated as a resident of the Netherlands for Dutch income tax purposes.

A Holder of the Notes is a "Dutch Corporate Entity" if:



- it is a corporate entity (*lichaam*), including an association that is taxable as a corporate entity, that is subject to Dutch corporation tax;
- it is resident, or deemed to be resident, in the Netherlands for Dutch corporation tax purposes;
- it is not an entity that, although in principle subject to Dutch corporation tax, is, in whole or in part, specifically exempt from that tax; and
- it is not an investment institution (*beleggingsinstelling*) as defined in the Dutch Corporation Tax Act 1969 (*Wet op de vennootschapsbelasting 1969*).

If a Holder of the Notes is not an individual and if it does not satisfy any one or more of these tests, with the exception of the second test, its Dutch tax position is not discussed in this Offering Circular.

*Dutch Individuals deriving profits or deemed to be deriving profits from an enterprise*

Any benefits derived or deemed to be derived from the Notes, including any gain realised on the disposal of the Notes, by a Dutch Individual that are attributable to an enterprise from which such Dutch Individual derives profits, whether as an entrepreneur (*ondernemer*) or pursuant to a co-entitlement to the net value of an enterprise, other than as a shareholder, are generally subject to Dutch income tax at progressive rates.

*Dutch Individuals deriving benefits from miscellaneous activities*

Any benefits derived or deemed to be derived from the Notes, including any gain realised on the disposal of the Notes, by a Dutch Individual that constitute benefits from miscellaneous activities (*resultaat uit overige werkzaamheden*) are generally subject to Dutch income tax at progressive rates.

Benefits derived from the Notes by a Dutch Individual are taxable as benefits from miscellaneous activities if he, or an individual who is a connected person in relation to him as meant by article 3.91, paragraph 2, letter b, or c, of the Dutch Income Tax Act 2001 (*Wet inkomstenbelasting 2001*), has a substantial interest (*aanmerkelijk belang*) in the Issuer.

Generally, a person has a substantial interest in the Issuer if such person – either alone or, in the case of an individual, together with his partner (*partner*), if any, or pursuant to article 2.14a, of the Dutch Income Tax Act 2001 (*Wet inkomstenbelasting 2001*) – owns or is deemed to own, directly or indirectly, either a number of shares representing 5 % or more of the total issued and outstanding capital (or the issued and outstanding capital of any class of shares) of the Issuer, or rights to acquire, directly or indirectly, shares, whether or not already issued, representing 5 % or more of the total issued and outstanding capital (or the issued and outstanding capital of any class of shares) of the Issuer or profit participating certificates (*winstbewijzen*) relating to 5 % or more of the annual profits of the Issuer or to 5 % or more of the liquidation proceeds of the Issuer.

A person who is entitled to the benefits from shares or profit participating certificates (for instance a holder of a right of usufruct) is deemed to be a holder of shares or profit participating certificates, as the case may be, and such person's entitlement to such benefits is considered a share or a profit participating certificate, as the case may be.

Furthermore, a Dutch Individual may, inter alia, derive, or be deemed to derive, benefits from the Notes that are taxable as benefits from miscellaneous activities in the following circumstances:

- (i) if his investment activities go beyond the activities of an active portfolio investor, for instance in the case of use of insider knowledge (*voorkennis*) or comparable forms of special knowledge;
- (ii) if he makes the Notes available or is deemed to make the Notes available, legally or as a matter of fact, directly or indirectly, to certain parties as meant by articles 3.91 and 3.92 of the Dutch Income Tax Act 2001 (*Wet inkomstenbelasting 2001*) under circumstances described there; or
- (iii) if he holds the Notes, whether directly or indirectly, and any benefits to be derived from such Notes are intended, in whole or in part, as remuneration for activities performed by him or by a person who is a connected person in relation to him as meant by article 3.92b, paragraph 5, of the Dutch Income Tax Act 2001 (*Wet inkomstenbelasting 2001*).

### *Other Dutch Individuals*

If a Holder of the Notes is a Dutch Individual whose situation has not been discussed before in this section "Taxation in the Netherlands Taxes on income and capital gains – Resident Holders of the Notes", benefits from his Notes are taxed annually as a benefit from savings and investments (*voordeel uit sparen en beleggen*). Such benefit is deemed to be 4 % per annum of his "yield basis" (*rendementsgrondslag*), generally to be determined at the beginning of the calendar year, to the extent that such yield basis exceeds the "exempt net asset amount" (*heffingvrij vermogen*) for the relevant year. The benefit is taxed at the rate of 30 %. The value of his Notes forms part of his yield basis. Actual benefits derived from his Notes, including any gain realised on the disposal of the Notes, are not as such subject to Dutch income tax.

### *Attribution rule*

Benefits derived or deemed to be derived from certain miscellaneous activities by, and yield basis for benefits from savings and investments of, a child or a foster child who is under eighteen years of age are attributed to the parent who exercises, or to the parents who exercise, authority over the child, irrespective of the country of residence of the child.

### *Dutch Corporate Entities*

Any benefits derived or deemed to be derived from the Notes, including any gain realised on the disposal thereof, that are held by a Dutch Corporate Entity are generally subject to Dutch corporation tax.

### ***Non-resident Holders of the Notes***

The summary set out in this section "Taxation in the Netherlands - Taxes on income and capital gains - Non-resident Holders of the Notes" applies only to a Holder of the Notes who is a Non-Resident Holder of the Notes.

A Holder of the Notes will be considered a "Non-Resident Holder of the Notes" if he is neither resident, nor deemed to be resident, in the Netherlands for the purposes of Dutch income tax or corporation tax, as the case may be, and who, in the case of an individual, has not elected to be treated as a resident of the Netherlands for Dutch income tax purposes.

### *Individuals*

A Non-Resident Holder of the Notes who is an individual will not be subject to any Dutch taxes on income or capital gains in respect of any benefits derived or deemed to be derived from the Notes, including any payment under the Notes and any gain realised on the disposal of the Notes, except if

- (i) he derives profits from an enterprise, whether as an entrepreneur (*ondernemer*) or pursuant to a co-entitlement to the net value of such enterprise, other than as a shareholder, such enterprise is either being managed in the Netherlands or carried on, in whole or in part, through a permanent establishment or a permanent representative in the Netherlands, and his Notes are attributable to such enterprise; or
- (ii) he derives benefits or is deemed to derive benefits from the Notes that are taxable as benefits from miscellaneous activities in the Netherlands (*resultaat uit overige werkzaamheden in Nederland*).

See the section "Taxation in the Netherlands - Taxes on income and capital gains - Resident Holders of the Notes - Dutch Individuals deriving benefits from miscellaneous activities" for a description of the circumstances under which the benefits derived from the Notes may be taxable as benefits from miscellaneous activities, on the understanding that such benefits will be taxable in the Netherlands only if such activities are performed or deemed to be performed in the Netherlands.

### *Attribution rule*

Benefits derived or deemed to be derived from certain miscellaneous activities by a child or a foster child who is under eighteen years of age are attributed to the parent who exercises, or to the parents who exercise, authority over the child, irrespective of the country of residence of the child.

### *Entities*

A Non-Resident Holder of the Notes other than an individual will not be subject to any Dutch taxes on income or capital gains in respect of any benefits derived or deemed to be derived from the Notes, including any payment under the Notes and any gain realised on the disposal of the Notes, except if

- (i) such Non-Resident Holder of the Notes derives profits from an enterprise directly, or pursuant to a co-entitlement to the net value of such enterprise, other than as a holder of securities, such enterprise either being managed in the Netherlands or carried on, in whole or in part, through a permanent establishment or a permanent representative in the Netherlands, and its Notes are attributable to such enterprise; or
- (ii) such Non-Resident Holder of the Notes has a substantial interest in the Issuer (as described above under Individuals) or a deemed substantial interest in the Issuer.

A deemed substantial interest may be present if shares, profit participating certificates or rights to acquire shares in the Issuer are held by such person or deemed to be held by such person following the application of a non-recognition provision.

### *General*

Subject to the above, a Non-Resident Holder of the Notes will not be subject to income taxation in the Netherlands by reason only of the execution (*ondertekening*), delivery (*overhandiging*) and/or enforcement of the documents relating to the issue of the Notes or the performance by the Issuer of its obligations under such documents or under the Notes.

### **Gift and inheritance taxes**

If a Holder of the Notes disposes of the Notes by way of gift, in form or in substance, or if a Holder of the Notes who is an individual dies, no Dutch gift tax or Dutch inheritance tax, as applicable, will be due, unless:

- (i) the donor is, or the deceased was resident or deemed to be resident in the Netherlands for purposes of Dutch gift tax or Dutch inheritance tax, as applicable; or
- (ii) the donor made a gift of the Notes, then became a resident or deemed resident of the Netherlands, and died as a resident or deemed resident of the Netherlands within 180 days of the date of the gift.

For purposes of the above, a gift of the Notes made under a condition precedent (*opschortende voorwaarde*) is deemed to be made at the time the condition precedent is satisfied.

### **Other taxes and duties**

No Dutch registration tax, transfer tax, stamp duty or any other similar documentary tax or duty, other than court fees, is payable in the Netherlands in respect of or in connection with (i) the execution, delivery and/or enforcement by legal proceedings (including the enforcement of any foreign judgment in the courts of the Netherlands) of the documents relating to the issue of the Notes, (ii) the performance by the Issuer of its obligations under such documents or under the Notes, or (iii) the transfer of the Notes, except that Dutch real property transfer tax (*overdrachtsbelasting*) may be due by a Holder of the Notes if in satisfaction of all or part of any of its rights under the Notes, it acquires any asset, or an interest in any asset (*economische eigendom*), that qualifies as real property or as a right over real property situated in the Netherlands, for the purposes of Dutch real property transfer tax (*overdrachtsbelasting*).

## SUBSCRIPTION AND SALE OF THE NOTES

### General

The Issuer has agreed in an agreement to be signed prior to the Issue Date to sell to Commerzbank Aktiengesellschaft, Crédit Agricole Corporate and Investment Bank, Landesbank Hessen-Thüringen Girozentrale, HSBC Bank plc and Landesbank Baden-Württemberg (collectively, the "**Joint Bookrunners**" or the "**Managers**") and the Managers have agreed to purchase, the Notes on 27 May 2013 at a price of 98.479 % of their principal amount pursuant to the terms of such agreement. The Issuer has furthermore agreed to reimburse the Managers for certain expenses incurred in connection with the issue of the Notes.

The Managers are entitled, under certain circumstances, to terminate the agreement reached with the Issuer. In such event, no Notes will be delivered to investors. Furthermore, the Issuer has agreed to indemnify the Managers against certain liabilities in connection with the offer and sale of the Notes.

The Managers or their affiliates have provided from time to time, and expect to provide in the future, investment services to the Issuer and PHOENIX and its affiliates, for which the Managers or their affiliates have received or will receive customary fees and commissions.

There are no interests of natural and legal persons other than the Issuer and the Guarantors involved in the issue, including conflicting ones, that are material to the issue.

### Selling Restrictions

#### General

In addition to the specific restrictions set out below, the Managers have agreed that they will observe all applicable provisions of law in each jurisdiction in or from which they may offer Notes or distribute any offering material.

There are no transfer and trading restrictions in relation to the listing and the trading of the Notes on the Euro MTF market of the Luxembourg Stock Exchange.

#### European Economic Area

In relation to each Member State of the European Economic Area (the European Union plus Iceland, Norway and Liechtenstein) which has implemented the Prospectus Directive (each, a "**Relevant Member State**"), each Manager has represented and agreed that with effect from and including the date on which the Prospectus Directive is implemented in that Member State (the "**Relevant Implementation Date**") it has not made and will not make an offer of Notes to the public in that Relevant Member State at any time other than for a total consideration of at least EUR 100,000 per investor or:

- (a) to any legal entity that is a qualified investor as defined in the Prospectus Directive;
- (b) to fewer than 100, or, if the Relevant Member State has implemented the relevant provision of the 2010 PD Amending Directive, 150 natural or legal persons (other than qualified investors as defined under the Prospectus Directive), as permitted under the Prospectus Directive
- (c) in any other circumstances falling within Article 3 (2) of the Prospectus Directive;

provided that no such offer of Notes shall require the Issuer, the Guarantors or the Managers to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a Prospectus pursuant to Article 16 of the Prospectus Directive.

For the purposes of this provision, the expression an "offer of Notes to the public" in relation to any Notes in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe the Notes, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State, and the expression "**Prospectus Directive**" means Directive 2003/71/EC (and amendments thereto, including the 2010 PD Amending Directive, to the extent implemented in the Relevant Member State), and includes any relevant implementing measure in the Relevant Member State and the expression "**2010 PD Amending Directive**" means Directive 2010/73/EU.

### ***The Netherlands***

Each Manager has represented and agreed that the Notes have not been and shall not be offered, sold, transferred or delivered to the public in the Netherlands, unless in reliance on Article 3(2) of the Prospectus Directive and provided:

- (a) such offer is made exclusively to persons or legal entities which are qualified investors (within the meaning of the Prospectus Directive) in the Netherlands;
- (b) standard logo and exemption wording are incorporated in offer documents, advertisements and documents in which the offer is announced, as required by article 5:20(5) of the Dutch Financial Supervision Act (*Wet op het financieel toezicht* or the "**Dutch FSA**"); or
- (c) such offer is otherwise made in circumstances in which article 5:20(5) of the Dutch FSA is not applicable.

For the purposes of the abovementioned paragraph, the expression an "offer of notes to the public" in relation to any notes in the Netherlands means the announcement or communication in any form and by any means of sufficient information on the terms of the offer and the notes to be offered so as to enable an investor to decide to purchase or subscribe for the Notes.

### ***Italy***

This offer of the Notes ("**Offer**") has not been notified to CONSOB (*Commissione Nazionale per le Società e la Borsa*) pursuant to Italian applicable securities laws and implementing regulations. The Offer is made for a total consideration of at least EUR 100,000 per investor and therefore it is exempted from prospectus requirements according to Article 3 of the Prospectus Directive 2003/71/EC (as amended) and Article 100 of Legislative Decree No. 58/1998 as amended (the "**Consolidated Financial Act**") and Article 34-ter of CONSOB Regulation No. 11971/1999 (the "**Issuers' Regulation**"). Each Manager has represented and agreed that any distribution of copies of this Offering Circular or any other document relating to the Offer in Italy has and will be (i) made in accordance with all applicable Italian laws and regulations, including any relevant notification requirement or limitation which may be imposed by CONSOB or the Bank of Italy or any other Italian authority and (ii) performed by a financial intermediary duly authorised to perform the relevant financial service in Italy in accordance with Legislative Decree No.385 of 1 September 1993, as amended, the Consolidated Financial Act, CONSOB Regulation No.16190/2007 as amended and any other applicable laws and regulations.

Pursuant to Article 100 *bis* of the Consolidated Financial Act any subsequent resale to the public of securities which were previously offered in the context of an offer exempted from the obligation to publish a prospectus shall be regarded as a separate offer to the public within the meaning of Article 1, paragraph 1, letter (t) of the Consolidated Financial Act, unless it is exempted from the rules on public offers pursuant to Article 100 of the Consolidated Financial Act and Article 34-ter of the Issuers' Regulation.

### ***United States of America and its Territories***

The Notes have not been and will not be registered under the Securities Act of 1933, as amended (the "**Securities Act**") and the Notes may not be offered, or sold within the United States or to, or for the account or benefit of, U.S. persons except in accordance with Regulation S under the Securities Act. Each Manager has represented and agreed that neither it nor any person acting on its behalf has offered, sold or delivered and will offer, sell or deliver any Notes in the United States except in accordance with Rule 903 of Regulation S under the Securities Act. Neither the Managers, their affiliates nor any persons acting on its or their behalf have engaged or will engage in any directed selling efforts with respect to the Notes, and it and they have complied and will comply with the offering restrictions requirements of Regulation S under the Securities Act. Each Manager has also agreed that at or prior to confirmation of sale of Notes, it will have sent to each distributor, dealer or person receiving a selling concession, fee or other remuneration that purchases Notes from it during the restricted period a confirmation or notice to substantially the following effect:

"The securities covered hereby have not been registered under the U.S. Securities Act of 1933, as amended (the "**Securities Act**") and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons except in accordance with Regulation S under the Securities Act. Terms used above have the meaning given to them in Regulation S under the Securities Act".

Terms used in the preceding paragraphs have the meaning given to them by Regulation S under the Securities Act.

The Notes are subject to U.S. tax law requirements and may not be offered, sold or delivered within the United States or its possessions or to a United States person, except in certain transactions permitted by U.S. tax regulations. In addition, until 40 days after the commencement of the offering of the Notes, an offer or sale of Notes within the United States by a dealer (whether or not participating in the offering) may violate the registration requirements of the Securities Act.

In addition, each Manager has represented and agreed that:

- (a) except to the extent permitted under U.S. Treas. Reg. Section 1.163-5 (c)(2)(i)(D) (the "**TEFRA D Rules**"), (i) it has not offered or sold, and during the restricted period will not offer or sell, directly or indirectly, Notes in bearer form to a person who is within the United States or its possessions or to a United States person, and (ii) it has not delivered and will not deliver, directly or indirectly, within the United States or its possessions definitive Notes in bearer form that are sold during the restricted period;
- (b) it has and throughout the restricted period will have in effect procedures reasonably designed to ensure that its employees or agents who are directly engaged in selling Notes in bearer form are aware that such Notes may not be offered or sold during the restricted period to a person who is within the United States or its possessions or to a United States person, except as permitted by the TEFRA D Rules;
- (c) if it was considered a United States person, that is acquiring the Notes for purposes of resale in connection with their original issuance and agrees that if it retains Notes in bearer form for its own account, it will only do so in accordance with the requirements of the TEFRA D Rules; and
- (d) with respect to each affiliate that acquires from it Notes in bearer form for the purpose of offering or selling such Notes during the restricted period that it will either (i) repeat and confirm the representations and agreements contained in sub-clauses (a), (b) and (c); or (ii) obtain from such affiliate for the benefit of the Issuer and the Parent Guarantor the representations and agreements contained in sub-clauses (a), (b) and (c).

Terms used in the preceding paragraph have the meanings given to them by the U.S. Internal Revenue Code and regulations thereunder, including the TEFRA D Rules.

#### ***United Kingdom of Great Britain and Northern Ireland***

Each Manager has represented and agreed that, if applicable:

- (a) it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial Services and Markets Act 2000, as amended ("**FSMA**")) received by it in connection with the issue or sale of the Notes in circumstances in which Section 21(1) of the FSMA does not apply to the Issuer or any Guarantor; and
- (b) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the Notes in, from or otherwise involving the United Kingdom.

#### **Other relationships**

Certain of the Managers have, directly or indirectly through affiliates, provided investment and commercial banking, financing, financial advisory and other services to PHOENIX KG and its affiliates from time to time, for which they have received monetary compensation. Certain of the Managers may from time to time also enter into swap and other derivative transactions with PHOENIX KG and its affiliates. In addition, certain of the Managers and their affiliates may in the future engage in investment banking, commercial banking, financial or other advisory transactions with the PHOENIX KG or its affiliates.

## GENERAL INFORMATION / INCORPORATION BY REFERENCE

### Authorisation and Issue Date

The creation and issuance of the Notes has been authorised by a resolution of the board of managing directors of PHOENIX PIB Dutch Finance B.V. dated 13 May 2013. Each of the Guarantees was authorised by resolution of the board of managing directors (or equivalent body), where applicable, and, where required, by the shareholder meetings, of the relevant Guarantor.

### Admission to the Luxembourg Stock Exchange and Commencement of Trading

Application has been made for admission of the Notes to the official list of the Luxembourg Stock Exchange and for admission for trading on the Euro MTF in accordance with the rules of that exchange. Notice of any optional redemption, change of control or any change in the rate of interest payable on the Notes will be published in a Luxembourg newspaper of general circulation (which is expected to be the *Luxemburger Wort* or, to the extent and in the manner permitted by such rules, posted on the official website of the Luxembourg Stock Exchange, (www.bourse.lu)).

### Documents on Display

For so long as the Notes are listed on the official list of the Luxembourg Stock Exchange, copies of the following documents may be inspected and obtained free of charge at the specified office of the listing agent in Luxembourg during normal business hours on any weekday:

- the articles of association of the Issuer and the Guarantors;
- the most recent audited consolidated financial statements, and any quarterly interim condensed consolidated financial statements published by PHOENIX KG;
- the Issuer's most recent audited financial statements;
- the Offering Circular (including the Conditions of Issue); and
- the agency agreement (with the forms of the Global Notes attached to it).

The Issuer does not publish consolidated financial statements.

The Issuer will maintain a paying agent for as long as any of the Notes are outstanding. The Issuer reserves the right to vary such appointment. In this case a notice of such change of appointment will be published in a newspaper having a general circulation in Luxembourg (which is expected to be the *Luxemburger Wort*) or on the official website of the Luxembourg Stock Exchange (www.bourse.lu).

The Notes are freely transferable except for (i) the restrictions on transfer described in the section "SUBSCRIPTION AND SALE OF THE NOTES – Selling Restrictions" and (ii) the restriction that they are only transferable in minimum aggregate principal amounts of EUR 100,000 and any integral multiples of EUR 1,000 above EUR 100,000 (see "CONDITIONS OF ISSUE").

### Clearance and Settlement

The Notes have been accepted for clearance by Clearstream Banking, *société anonyme* and Euroclear Bank SA/NV. The Notes have been assigned the following securities codes: ISIN XS0935786789, Common Code 093578678, WKN A1HLB4.

### Yield

The yield of the Notes is 3.25 %. Such yield is calculated in accordance with the ICMA (*International Capital Markets Association*) method.

### Significant change in the financial or trading position

There has been no significant change in the financial or trading position of the Issuer since 17 April 2013 and in the financial or trading position of PHOENIX KG since 31 January 2013.

## Trend Information

There has been no material adverse change in the prospects of the Issuer since 17 April 2013.

## Sources of certain Information

To the extent not otherwise indicated, the information contained in this Offering Circular on the market environment, market developments, growth rates, market trends and competition in the markets in which PHOENIX operates are based on assessments of PHOENIX.

The information in this Offering Circular that has been sourced from third parties has been accurately reproduced, and, as far as PHOENIX is able to ascertain from the information published by that third party, no facts have been omitted that would render the reproduced information inaccurate or misleading.

## Incorporation by Reference

The following documents are incorporated by reference into this Offering Circular:

- (1) The audited consolidated financial statements of PHOENIX KG as of and for the fiscal year ended 31 January 2013 (English translation from the German language):
  - Consolidated income statement (page 50 in the Annual Report 2012/13).
  - Consolidated statement of comprehensive income (page 51 in the Annual Report 2012/13).
  - Consolidated statement of financial position (pages 52 to 53 in the Annual Report 2012/13).
  - Consolidated statement of cash flows (page 54 to 55 in the Annual Report 2012/13).
  - Consolidated statement of changes in equity (pages 56 to 57 in the Annual Report 2012/13).
  - Notes on the consolidated financial statements (pages 58 to 117 in the Annual Report 2012/13).
  - Audit Opinion<sup>2</sup> (page 118 in the Annual Report 2012/13).
- (2) The audited consolidated financial statements of PHOENIX KG as of and for the fiscal year ended 31 January 2012 (English translation from the German language):
  - Consolidated income statement (page 50 in the Annual Report 2011/12).
  - Consolidated statement of comprehensive income (page 51 in the Annual Report 2011/12).
  - Consolidated statement of financial position (pages 52 to 53 in the Annual Report 2011/12).
  - Consolidated statement of cash flows (pages 54 to 55 in the Annual Report 2011/12).
  - Statement of changes in equity (pages 56 to 57 in the Annual Report 2011/12).
  - Notes on the consolidated financial statements (pages 58 to 115 in the Annual Report 2011/12).
  - Audit Opinion<sup>3</sup> (page 116 in the Annual Report 2011/12).

---

<sup>2</sup> Translation of the German language audit opinion (*Bestätigungsvermerk*) which refers to the consolidated financial statements and the group management report of PHOENIX KG as of and for the fiscal year ended 31 January 2013 as a whole and not solely to the consolidated financial statements incorporated by reference.

<sup>3</sup> Translation of the German language audit opinion (*Bestätigungsvermerk*) which refers to the consolidated financial statements and the group management report of PHOENIX KG as of and for the fiscal year ended 31 January 2012 as a whole and not solely to the consolidated financial statements incorporated by reference.



Any information not listed in the cross reference list but included in the documents incorporated by reference is given for information purposes only.

The documents incorporated by reference are available on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)) as long as any Notes are listed on the official list of the Luxembourg Stock Exchange and the rules of such stock exchange so require. Copies of the documents incorporated by reference may be obtained free of charge at the specified office of the listing agent in Luxembourg during normal business hours on any weekday.

## NAMES AND ADDRESSES

### ISSUER

#### **PHOENIX PIB Dutch Finance B.V.**

Straatweg 2  
3604 BB Maarssen  
The Netherlands

### PARENT GUARANTOR

#### **PHOENIX Pharmahandel GmbH & Co KG**

Pfingstweidstraße 10-12  
68199 Mannheim  
Germany

### PRINCIPAL PAYING AGENT

#### **Commerzbank Aktiengesellschaft**

Kaiserstraße 16 (Kaiserplatz)  
60311 Frankfurt am Main  
Germany

### LUXEMBOURG LISTING AGENT

#### **Commerzbank Aktiengesellschaft**

Kaiserstraße 16 (Kaiserplatz)  
60311 Frankfurt am Main  
Germany

### JOINT BOOKRUNNERS

#### **Commerzbank Aktiengesellschaft**

Kaiserstraße 16 (Kaiserplatz)  
60311 Frankfurt am Main  
Germany

#### **Crédit Agricole**

#### **Corporate and Investment Bank**

9 Quai du Président Paul Doumer  
92920 Paris La Défense  
France

#### **Landesbank Hessen-Thüringen Girozentrale**

Main Tower  
Neue Mainzer Straße 52 – 58  
60311 Frankfurt am Main  
Germany

#### **HSBC Bank plc**

8 Canada Square  
London E14 5HQ  
United Kingdom

#### **Landesbank Baden-Württemberg**

Am Hauptbahnhof 2  
70173 Stuttgart  
Germany

### AUDITORS

*To the Issuer*

#### **Ernst & Young Accountants LLP**

Postbus 455  
5600 AL, Eindhoven  
The Netherlands

*To the Parent Guarantor*

#### **Ernst & Young GmbH**

#### **Wirtschaftsprüfungsgesellschaft**

Mittlerer Pfad 15  
70499 Stuttgart  
Germany

### LEGAL ADVISORS

*To the Issuer and PHOENIX KG as to German law*

#### **Hengeler Mueller**

Partnerschaft von Rechtsanwälten  
Bockenheimer Landstr. 24  
60323 Frankfurt am Main  
Germany

*To the Issuer and PHOENIX KG as to Dutch law*

#### **Loyens Loeff N.V.**

Fred Roeskestraat 100  
1076 ED Amsterdam  
The Netherlands

*To the Managers*

#### **Freshfields Bruckhaus Deringer**

Bockenheimer Anlage 44  
60322 Frankfurt am Main  
Germany