

**This document is a non-binding convenience translation of the German-language Reasoned Statement (*Begründete Stellungnahme*) of the Management Board (*Vorstand*) of RHÖN-KLINIKUM Aktiengesellschaft pursuant to the German Securities Acquisition and Takeover Act (WpÜG)**

**IN CASE OF ANY DISCREPANCY BETWEEN THE ENGLISH AND THE GERMAN VERSION ONLY THE GERMAN VERSION IS BINDING**

Mandatory publication pursuant to Sections 34, 27 (3) sentence 1 and Section 14 (3) sentence 1 of the German Securities Acquisition and Takeover Act (*Wertpapiererwerbs- und Übernahmegesetz*, WpÜG)

**Reasoned Statement  
of the Management Board**

of

**RHÖN-KLINIKUM Aktiengesellschaft**  
Salzburger Leite 1  
97616 Bad Neustadt a. d. Saale  
Germany

regarding the

**Voluntary Public Takeover Offer**  
**(cash offer in accordance with Section 29 of the German Securities Acquisition and Takeover Act)**

of

**Asklepios Kliniken GmbH & Co. KGaA**  
Rübenkamp 226  
22307 Hamburg  
Germany

**to the Shareholders of RHÖN-KLINIKUM Aktiengesellschaft**

dated 22 April 2020

RHÖN-KLINIKUM Aktiengesellschaft Shares: ISIN DE0007042301  
Tendered RHÖN-KLINIKUM Aktiengesellschaft Shares: ISIN DE000A288748

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## 1. GENERAL INFORMATION ABOUT THIS STATEMENT

On 28 February 2020, Asklepios Kliniken GmbH & Co. KGaA, a partnership limited by shares (*Kommanditgesellschaft auf Aktien – KGaA*) incorporated under the laws of the Federal Republic of Germany with its registered office at Rübenkamp 226, 22307 Hamburg, Germany, registered in the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Hamburg under the number HRB 149532 (**Bidder**), published its decision to submit a voluntary public takeover offer in accordance with Section 10 para. 1 sentence 1 of the German Securities Acquisition and Takeover Act (*Wertpapiererwerbs- und Übernahmegesetz – WpÜG*) and on 8 April 2020 submitted, in accordance with Sections 34, 29 and 14 para. 2 sentence 1, para. 3 sentence 1 WpÜG, through the publication of the offer document within the meaning of Section 11 WpÜG (**Offer Document**), a voluntary public takeover offer (**Offer**) to the shareholders of RHÖN-KLINIKUM Aktiengesellschaft, a stock corporation (*Aktiengesellschaft*) established under the laws of the Federal Republic of Germany, with registered office in Salzburger Leite 1, 97616 Bad Neustadt a. d. Saale, Germany, registered in the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Schweinfurt under the number HRB 1670 (hereinafter also referred to as the **Company** and, together with its subsidiaries within the meaning of Sections 15 *et seq.* of the German Stock Corporation Act (*Aktiengesetz – AktG*), **RHÖN-KLINIKUM Group**). The decision pursuant to Section 10 para. 1 sentence 1 WpÜG and the Offer Document are available at [www.zukunft-fuer-spitzenmedizin.de](http://www.zukunft-fuer-spitzenmedizin.de). The German Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht – BaFin*) approved the publication of the Offer Document on 8 April 2020.

The Offer is addressed to all shareholders of the Company (each a **RHÖN-KLINIKUM Shareholder** and collectively the **RHÖN-KLINIKUM Shareholders**) and concerns the acquisition of all no-par value bearer shares (ordinary shares) of the Company not directly held by the Bidder (ISIN DE0007042301 / WKN 704230), each representing a proportionate amount of EUR 2.50 of the share capital and including all ancillary rights associated therewith at the time of the settlement of the Offer, in particular the right to dividend payments (each a **RHÖN-KLINIKUM Share** and collectively the **RHÖN-KLINIKUM Shares**), against a cash consideration in the amount of EUR 18.00 per RHÖN-KLINIKUM Share (cash offer).

The Offer relates to all RHÖN-KLINIKUM Shares not directly held by the Bidder and will be implemented solely in accordance with German law and certain applicable securities law provisions of the United States of America (**United States** or **US** or **USA**).

The Offer Document was submitted to the management board (*Vorstand*) of the Company (**Management Board**) pursuant to Section 14 para. 4 sentence 1 WpÜG on 8 April 2020. The Management Board forwarded the Offer Document to the supervisory board (*Aufsichtsrat*) of the Company (**Supervisory Board**) and the Company's group works council (*Konzernbetriebsrat*) on the same day. The Offer Document is published by announcement on the internet. It is also available free of charge in Germany at BNP Paribas Securities Services S.C.A., Zweigniederlassung Frankfurt, Europa-Allee 12, D-60327 Frankfurt am Main (inquiries by fax to +49 69 1520 5277 or email to [Frankfurt.gct.operations@bnpparibas.com](mailto:Frankfurt.gct.operations@bnpparibas.com)) according to information provided by the Bidder. The announcement regarding (i) the availability of copies of the Offer Document for distribution free of charge in Germany and (ii) the internet address at which the Offer Document is available was published in the Federal Gazette (*Bundesanzeiger*) on 8 April 2020 (Section 14 para. 3 sentence 1 no. 2 WpÜG).

The Management Board hereby issues a reasoned statement pursuant to Section 27 WpÜG (**Reasoned Statement** or **Statement**) regarding the Offer made by the Bidder. The Management

Board resolved on this Statement on 22 April 2020. In connection with the Statement, the Management Board would first like to point out to the following Sections 1.1 to 1.5 of this Statement.

Further, it is pointed out that on 17 April 2020, RHÖN-KLINIKUM Aktiengesellschaft received a request pursuant to Section 16 para. 3 WpÜG and Section 122 para. 1 AktG by the RHÖN-KLINIKUM Shareholder B. Braun Melsungen AG (**B. Braun**) to convene an extraordinary general meeting to discuss and pass resolutions in connection with the Offer (**B. Braun Convocation Request**). The Company announced the receipt of the B. Braun Convocation Request and the agenda items contained therein by way of an ad hoc notice dated 18 April 2020. For further details on the B. Braun Convocation Request, reference is made to Sections 2.2(b), 4.4(a), 6.4(h) and 7.1 of this Statement.

In addition, the Bidder informed RHÖN-KLINIKUM Aktiengesellschaft on 19 April 2020, in response to B. Braun's request for a meeting, *inter alia*, that it rejects B. Braun's demands for an increase in the majority requirements pursuant to Section 17 No. 3 of the articles of association and an advance dividend payment on the expected annual net earnings and in turn intends to request that an extraordinary general meeting be convened pursuant to Section 122 para. 1 AktG (**Asklepios Letter**). The Company has published the receipt of the Asklepios Letter and the announcement contained therein in an ad hoc notice dated 20 April 2020. The announced convocation request of the Bidder pursuant to Section 122 para. 1 AktG was received by the Company on 20 April 2020 (**Asklepios Convocation Request**). For further details on the Asklepios Convocation Request, please refer to Section 2.2(c) of this Statement.

The Management Board is currently carefully reviewing both the B. Braun Convocation Request and the Asklepios Convocation Request and will initiate any measures that may be required by law.

## **1.1 Legal basis of this Statement**

Pursuant to Section 27 para. 1 sentence 1, para. 3 sentence 1 WpÜG, the Management Board is obliged to submit and publish a reasoned statement pursuant to Section 14 para. 1 WpÜG without undue delay (*unverzüglich*) after receipt of the Offer Document and any amendments thereto. The statement can be submitted jointly by the Management Board and the Supervisory Board. The Management Board has decided to issue its own statement in relation to the Bidder's Offer. This Statement is made exclusively in accordance with German law. The Supervisory Board issues a separate statement which is published as described in Section 1.3 of this Statement.

In its Statement, the Management Board must, pursuant to Section 27 para. 1 sentence 2 WpÜG, comment in detail on (i) the type and amount of the consideration offered, (ii) the expected consequences of a successful Offer for the Company, the employees and their representatives, the employment conditions and the locations of the Company, (iii) the objectives pursued by the Bidder with the Offer, and (iv) the intentions of the members of the Management Board and the Supervisory Board, to the extent that they are holders of securities of the Company, to accept the Offer.

## **1.2 Factual basis of this Statement**

Except as otherwise stated, references to time in this Reasoned Statement are references to local time in Bad Neustadt a. d. Saale, Germany. To the extent that expressions such as "currently", "at the present time", "at the moment", "now", "at present" or "today" or similar terms are used

in this Reasoned Statement, they refer, except as otherwise explicitly stated, to the date of publication of this Reasoned Statement.

References in this Reasoned Statement to a "Banking Day" refer to any day on which banks in Frankfurt am Main, Germany, are open for general business (*Banking Day*). References in this Statement to a "Trading Day" or "Exchange Trading Day" refer to any day on which the stock exchanges in Frankfurt am Main, Germany, are open for trading (*Trading Day*). References to "EUR" relate to Euro (*EUR*). References to "Subsidiaries" refer to subsidiaries within the meaning of Section 2 para. 6 WpÜG (*Subsidiaries*).

This Reasoned Statement includes information, forecasts, estimates, assessments, forward-looking statements and declarations of intent. Such statements are indicated by the use of expressions such as "expect", "believe", "is of the view", "attempt", "estimate", "intend", "plan", "assume" and "endeavor". Such statements, forecasts, estimates, assessments, forward-looking statements and declarations of intent are solely based on the information available to the Management Board on the date of publication of this Reasoned Statement and reflect its estimates or intentions at that time only. These statements may be amended following the publication of this Reasoned Statement. Assumptions may also turn out to be incorrect in the future. The Management Board is under no obligation and does not intend to update the Reasoned Statement unless an update of it is required by statutory provisions.

The information in this document regarding the Bidder as well as its intentions and the Offer is based on information provided in the Offer Document and other publicly available information (except as stated explicitly otherwise herein). The Management Board points out that it has not verified or fully verified and was not able to verify or to fully verify the information provided by the Bidder in the Offer Document nor to guarantee the implementation of the Bidder's objectives and intentions. Further, the Management Board points out that objectives and intentions of the Bidder may change at a later date.

### **1.3 Publication of this Statement and of additional statements in relation to changes to the Offer**

This Reasoned Statement is, as well as all reasoned statements regarding any changes to the Offer (if any), published on the internet under the section "Investor Relations" | "Takeover Bid" on the website of the Company at [www.rhoen-klinikum-ag.com](http://www.rhoen-klinikum-ag.com) pursuant to Section 27 para. 3 sentence 1 and Section 14 para. 3 sentence 1 WpÜG. Copies thereof can also be obtained free of charge at the headquarter of RHÖN-KLINIKUM Aktiengesellschaft, Am Schlossplatz 1, 97616 Bad Neustadt a. d. Saale, Germany, phone +49 9771 65-0, telefax +49 9771 97467. Reference is made in the Federal Gazette (*Bundesanzeiger*) to publication on the internet and availability free of charge.

This Reasoned Statement and any additional reasoned statements regarding the Offer are or will be published in German and in a non-binding English translation. The Management Board assumes no liability for the correctness and completeness of the English translation. Only the German version is authoritative.

### **1.4 Independent review by the RHÖN-KLINIKUM Shareholders**

The description of the Offer in this Reasoned Statement does not purport to be exhaustive. The Bidder's Offer Document is the sole authoritative basis for the content and settlement of the Offer.



The Management Board points out that the statements and assessments in this Reasoned Statement are not binding on the RHÖN-KLINIKUM Shareholders. Each RHÖN-KLINIKUM Shareholder must make his own decision whether to accept the Offer and, if so, for how many RHÖN-KLINIKUM Shares, taking into account the overall circumstances, his individual situation (including his personal tax situation) and his individual assessment of the future development of the value and the stock market price of the RHÖN-KLINIKUM Shares.

In deciding whether or not to accept the Offer, the RHÖN-KLINIKUM Shareholders should make use of all available sources of information and pay sufficient regard to their personal circumstances. In particular, the specific financial and tax situation of individual RHÖN-KLINIKUM Shareholders may in individual cases result in assessments that differ from those presented by the Management Board. The Management Board therefore recommends that the RHÖN-KLINIKUM Shareholders obtain on their own responsibility independent tax and legal advice, if necessary, and assumes no liability for the decision taken by a RHÖN-KLINIKUM Shareholder in respect of the Offer.

The Management Board points out that it are not able to verify whether the RHÖN-KLINIKUM Shareholders meet all the legal obligations applicable to them personally on acceptance of the Offer. The Management Board recommends, in particular, that RHÖN-KLINIKUM Shareholders who receive the Offer Document or wish to accept the Offer outside the Federal Republic of Germany but are subject to securities laws of jurisdictions other than the Federal Republic of Germany should inform themselves about these laws and comply with them.

#### **1.5 Special information for RHÖN-KLINIKUM Shareholders whose place of residence, incorporation or place of habitual abode is in the United States or elsewhere outside the Federal Republic of Germany, the Member States of the European Union and the European Economic Area**

In Section 1.1 of the Offer Document, the Bidder states that the Offer relates to shares in a German stock corporation (*Aktiengesellschaft*) and is subject to the statutory provisions of the Federal Republic of Germany on the implementation of such an Offer. The Offer will not be submitted to the review or registration procedures of any securities regulatory authority outside of the Federal Republic of Germany and has not been approved or recommended by any such regulatory authority.

The Bidder further points out in Section 1.2 of the Offer Document that the Offer will be conducted in the United States in accordance with certain applicable provisions of the securities laws of the United States. According to Section 1.4 of the Offer Document, in addition, for RHÖN-KLINIKUM Shareholders with habitual abode in Canada, a notification regarding the availability of the Offer Document in English and French language has been published in *The Globe and Mail*.

According to the Offer Document, the Offer may be accepted by all domestic and foreign RHÖN-KLINIKUM Shareholders in accordance with the provisions of the Offer Document and the statutory provisions applicable in each case. However, the Bidder points out that the Offer relates to shares of a German company and is subject to the German statutory provisions governing the implementation and publication obligations with respect to such Offer. These laws and regulations differ materially from those applicable in the United States and other jurisdictions. For example, payment and settlement procedures are governed by applicable German laws which differ from the usual payment and settlement procedures in the United States or other jurisdictions, in particular with respect to the timing of payment of the offer consideration.

According to Section 1.2 of the Offer Document, RHÖN-KLINIKUM Shareholders with their place of residence, incorporation or place of habitual abode in the United States may encounter difficulties to enforce their rights and claims under United States securities laws, since both RHÖN-KLINIKUM Aktiengesellschaft and the Bidder have their seat outside the United States. RHÖN-KLINIKUM Shareholders with their place of residence, incorporation or place of habitual abode in the United States may not be able to sue a company having its seat outside the United States, or its board members resident outside the United States, for violation of any provisions of United States securities law, before a court in the United States. According to the Bidder, difficulties could furthermore arise in enforcing any decision of a United States court against a company having its seat outside the United States.

## **2. INFORMATION ABOUT THE COMPANY**

### **2.1 Basis of the Company**

RHÖN-KLINIKUM Aktiengesellschaft is a stock corporation (*Aktiengesellschaft*) established under the law of the Federal Republic of Germany, with its registered office in Salzburger Leite 1, 97616 Bad Neustadt a. d. Saale, Germany, registered in the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Schweinfurt under the number HRB 1670. The administrative headquarter of the Company is located in Schlossplatz 1, 97616 Bad Neustadt a. d. Saale, Germany.

The purpose of the RHÖN-KLINIKUM Aktiengesellschaft as defined in Section 2 of its articles of association are the following activities: (a) the construction, operation and consulting of hospitals, health resorts, diagnostic and therapeutic facilities of all kinds, educational and training facilities as well as facilities for tourism, catering industry and accommodation sector; (b) the development, production and distribution of, and trade in, medical-technical products and the development, production and distribution of, and trade in, objects of all kinds which serve to furnish or operate the houses and facilities referred to in point (a); and (c) the management of real estate, in particular condominium ownership and part ownership.

According to its articles of association, RHÖN-KLINIKUM Aktiengesellschaft is entitled to carry out all transactions and take all measures which are connected to the object of the company or which are suitable for promoting the object of the company, in particular the establishment of branches at home and abroad, the conclusion of inter-company agreements and community of interest agreements, the transfer of parts of the company to another company, as well as to participate in companies whose object corresponds to or is connected with the object of RHÖN-KLINIKUM Aktiengesellschaft.

The financial year of the Company is the calendar year.

The RHÖN-KLINIKUM Shares (ISIN DE0007042301 / WKN 704230) are admitted to trading on the regulated market of the Frankfurt Stock Exchange and in the sub-segment thereof with additional post-admission obligations (Prime Standard) as well as on the regulated market of the Munich Stock Exchange. In addition, the RHÖN-KLINIKUM Shares are traded via the XETRA electronic trading system as well as on the regulated unofficial market (*Freiverkehr*) of the regional stock exchanges in Berlin, Düsseldorf, Hamburg, Hannover, and Stuttgart. The RHÖN-KLINIKUM Shares are currently included in the indices SDAX, CDAX-Gesamtindex and in the sector index DAXsector Pharma+Healthcare.

## 2.2 Members of the Management Board and the Supervisory Board

### (a) Current composition of the Management Board and the Supervisory Board

The Management Board is currently comprised of the following three members:

- Stephan Holzinger, Chief Executive Officer and Chief Finance Officer (CEO/CFO)
- Prof. Dr. Bernd Griewing, Chief Medical Officer (CMO)
- Dr. Gunther K. Weiß, Chief Operating Officer (COO)

Stephan Holzinger has been appointed as member of the Management Board and nominated as Chief Executive Officer for the first time with effect from 1 February 2017 for a period of five years, *i.e.* until 31 January 2022. Prof. Dr. Bernd Griewing has been appointed as member of the Management Board with effect from 1 January 2016 for a period of five years. By resolution of the Supervisory Board dated 19 March 2020, Prof. Dr. Bernd Griewing has already been reappointed as member of the Management Board with effect from 1 January 2021 for a period of four more years, *i.e.* until 31 December 2024. Dr. Gunther K. Weiß has been appointed as member of the Management Board with effect from 1 May 2018 for a period of three years and eight months, *i.e.* until 31 December 2021.

The Supervisory Board of RHÖN-KLINIKUM Aktiengesellschaft is subject to equal co-determination in accordance with the German Co-Determination Act (*Mitbestimmungsgesetz – MitbestG*). Accordingly, the Supervisory Board consists of a total of sixteen members, eight of whom are elected by the shareholders and eight by the employees. The current members of the Supervisory Board are:

- Eugen Münch (Chairman of the Supervisory Board)
- Georg Schulze-Ziehaus\* (First Vice Chairman of the Supervisory Board)
- Wolfgang Mündel (Second Vice chairman of the Supervisory Board)
- Dr. Annette Beller
- Peter Berghöfer\*
- Prof. Dr. Gerhard Ehninger
- Jan Hacker
- Stefan Härtel\*
- Klaus Hanschur\*
- Meike Jäger\*
- Dr. Brigitte Mohn
- Christine Reißner
- Oliver Salomon\*

- Evelin Schiebel\*
- Dr. Katrin Vernau
- Natascha Weihs\*

The persons marked with \* are employee representatives.

(b) Changes demanded by the B. Braun Convocation Request

The Management Board points out that in the B. Braun Convocation Request (as defined in Section 1 of this Statement), the shareholder B. Braun has, *inter alia*, requested under agenda item 3 the adoption of a resolution by the general meeting to remove the following shareholder representatives from the Supervisory Board:

- Eugen Münch
- Wolfgang Mündel
- Prof. Dr. Gerhard Ehninger
- Jan Hacker
- Christine Reißner
- Dr. Brigitte Mohn

Furthermore, it is pointed out that in the B. Braun Convocation Request under agenda item 4, it is proposed that the following persons be elected as new members of the Supervisory Board of RHÖN-KLINIKUM Aktiengesellschaft with effect from the end of the extraordinary general meeting until the end of such general meeting that resolves on the discharge of the members of the Supervisory Board for the fourth financial year after the beginning of their office term:

- Dr. Annette Beller, Kassel, Member of the Management Board of B. Braun
- Dr. Stefan Ruppert, Oberursel, Deputy Member of the Management Board of B. Braun
- Prof. Dr. Claudia Barth, Köln, Chief Medical Officer of B. Braun Avitum AG
- Kai Hankeln, Hamburg, Chairman of the Management Board of the Bidder
- Dr. Jan Liersch, Düsseldorf, Chief Executive Officer of Broermann Holding GmbH
- Dr. Katrin Vernau, Hamburg, Administrative Director (*Verwaltungsdirektorin*) of the Westdeutscher Rundfunk
- Irmtraut Gürkan, former Commercial Director (*kfm. Direktorin*) of the University Hospital Heidelberg
- Dr. Julia Dannath-Schuh, Managing Partner of Manres AG

(c) Changes demanded by the Asklepios Convocation Request

Further, the Management Board points out that with the Asklepios Convocation Request (as defined in Section 1 of this Statement) the Bidder has requested the adoption of a resolution by

the general meeting to remove the following shareholder representatives from the Supervisory Board:

- Dr. Annette Beller
- Dr. Katrin Vernau

In addition, it is pointed out that in the Asklepios Convocation Request under agenda item 3 and 4, it is proposed that the following persons be elected as new members of the Supervisory Board of RHÖN-KLINIKUM Aktiengesellschaft with immediate effect until the end of such general meeting that resolves on the discharge of the members of the Supervisory Board for the financial year ending on 31 December 2019:

- Dr. Julia Dannath-Schuh, Merchweiler, Managing Partner of Manres AG
- Dr. Jan Liersch, Düsseldorf, Chief Executive Officer of Broermann Holding GmbH

## 2.3 Capital structure of the Company

### (a) Share Capital

At the time of publication of this Reasoned Statement, the share capital (*Grundkapital*) of the Company registered in the commercial register (*Handelsregister*) amounts to EUR 167,406,175.00 and is divided into 66,962,470 no-par value bearer shares (*Stückaktien*) with a notional interest in the share capital of EUR 2.50 each. (**Relevant Share Capital**).

### (b) Treasury Shares of the RHÖN-KLINIKUM Aktiengesellschaft

At the time of publication of this Reasoned Statement, RHÖN-KLINIKUM Aktiengesellschaft holds 24,000 shares as treasury shares.

At the time of publication of this Reasoned Statement, there is no authorization to purchase and use treasury shares.

## 2.4 Shareholder structure

According to the voting rights notifications received by the end of 21 April 2020, each of the following persons is attributed more than 3% of the voting rights in the Company (information in each case without indicating the chain of controlled undertakings and without taking into account financial instruments as well as any sales which may have occurred in the meantime but have not yet been disclosed by voting rights notifications as of end of 21 April 2020). RHÖN-KLINIKUM Aktiengesellschaft is aware that the remaining RHÖN-KLINIKUM Shares are in free float.

Shareholder/ Notifying Person	Shares (excluding instruments)	Last notification
Asklepios Kliniken GmbH & Co. KGaA..	28.99%	05.03.2020
B. Braun Melsungen AG. ....	25.23%	11.03.2019
Eugen Münch (HCM SE).....	14.56%	28.11.2017
Ingeborg Münch. ....	5.44%	26.10.2015
Landeskrankenhilfe V.V.a.G. ....	5.21%	22.10.2018

Pursuant to Section 6.6 of the Offer Document and further publications of the Bidder, the Bidder concluded prior to the publication of the Offer Document the following share purchase

agreement with Eugen Münch and Ingeborg Münch as well the following contribution agreement with HCM SE (as defined in Section 3.6(b) of this Statement), which, to the knowledge of the Management Board, each relate to the above-mentioned reported shares:

- On 28 February 2020, the Bidder entered into the Share Purchase Agreement with the Münch Couple (as defined in Section 3.6(a) of this Statement) for the purchase and transfer of a total of 8,294,407 RHÖN-KLINIKUM Shares, corresponding to approximately 12.39% of the voting rights.
- On 28 February 2020, the Bidder entered into the Joint Venture Agreement (as defined in Section 3.6(b) of this Statement) with HCM SE providing for, *inter alia*, the contribution of a total of 5,097,578 RHÖN-KLINIKUM Shares representing approximately 7.61% of the voting rights to a Joint Venture Company (as defined in Section 3.6(b)(i) of this Statement).

According to the Bidder, the Share Purchase Agreement and the Joint Venture Agreement were each in part subject to the condition precedent of merger control clearance being obtained by the Bidder, and each in part subject to the condition precedent of a decision being made by the German Federal Cartel Office (*Bundeskartellamt*) (**Federal Cartel Office**), including a refusal of merger control clearance, but not to other conditions.

For further details on the share purchase agreements and the Joint Venture Agreement, reference is made to Section 3.6 of this Statement.

## 2.5 Structure and business activities of the RHÖN-KLINIKUM Group

The RHÖN-KLINIKUM Group provides cross-sectoral healthcare services, *i.e.* inpatient and outpatient, and is one of the leading healthcare providers in Germany with its five locations. The group is generally structured as a one-level group. The individual clinic companies are mainly legally independent corporations, which have their seats at the respective business premises and are operated as direct subsidiaries of RHÖN-KLINIKUM Aktiengesellschaft, which is the parent company of the RHÖN-KLINIKUM Group.

The RHÖN-KLINIKUM Group offers excellent medicine with direct links to universities and research institutes. The RHÖN-KLINIKUM Group is the only private hospital operator in Germany that operates university clinics. The RHÖN-KLINIKUM Group treats more than 860,000 patients at its five locations Campus Bad Neustadt, Klinikum Frankfurt (Oder), Zentralklinik Bad Berka, Universitätsklinikum Gießen and Universitätsklinikum Marburg in a total of eight clinics and eight medical-care centers (*medizinische Versorgungszentren*). The treatment focuses of the hospitals belonging to the RHÖN-KLINIKUM Group include cardiovascular medicine, neuromedicine, oncology, pneumology, orthopedics and emergency medicine.

With the provision of integrated healthcare services, the RHÖN-KLINIKUM Group has only one reportable business segment, whereby the Group generates its revenues in the following three business segments:

- Acute care clinic: This segment comprises all medical care services provided in a hospital in the sense of an inpatient, acute therapeutic facility, in particular medical treatment, nursing care, supply of drugs, remedies and aids, accommodation and meals, and emergency room.

- Medical-care centers: This segment comprises all medical services provided by medical care centers on an outpatient basis.
- Rehabilitation clinic: The business operations of the rehabilitation clinics include all the health services involved in long-term aftercare after serious illnesses or injuries or surgeries as well as care and support for the chronically ill or physically handicapped.

Through subsidiaries and associated companies, the RHÖN-KLINIKUM Group is primarily present in the federal states of Bavaria, Thuringia, Brandenburg and Hesse. As of 31 December 2019, the RHÖN-KLINIKUM Group had 27 fully-consolidated companies (with the exception of RHÖN-KLINIKUM Aktiengesellschaft). The RHÖN-KLINIKUM Group employed an annual average of 17,711 employees in the 2019 financial year; not included are the members of the Management Board.

A list of all subsidiaries of the Company is attached to this Statement as **Annex 2.5**. Pursuant to Section 2 para. 5 sentence 3 WpÜG, these are deemed to be persons acting jointly with the Company and with each other.

## **2.6 Summarized financial data of the RHÖN-KLINIKUM Group**

In the 2019 financial year, with consolidated revenues of approximately EUR 1,303.9 million, the RHÖN-KLINIKUM Group generated consolidated earnings before interest, taxes and depreciation on tangible and intangible assets (EBITDA) in the amount of approximately EUR 125.3 million and consolidated net income under IFRS of approximately EUR 44.5 million.

Further financial information is available on the Company's website (www.rhoen-klinikum-ag.com) under "Investor Relations".

## **2.7 Strategy of RHÖN-KLINIKUM Group**

According to the Management Board, the market for health services in Germany is still undergoing structural change with great potential for centralized, cross-sectoral full care at the highest quality level. In order to achieve profitable and stable growth in this challenging market environment in the future and to sustainably increase the value of the company for its shareholders, the RHÖN-KLINIKUM Group pursues an organic growth strategy, focusing on sustainable, qualitative growth using state-of-the-art technology and innovative concepts. The strategic focus of the RHÖN-KLINIKUM Group is on the following objectives:

### **(a) Campus Conception**

The core business of the RHÖN-KLINIKUM Group is the provision of cross-sectoral healthcare services. The aim is to use the existing know-how in this area to further develop health care in Germany by improving cooperation between all the players involved in medical care. Rural regions in particular are affected by the ageing of the population, the corresponding increase in morbidity and the number of cases of illness to be treated, as well as by the increasing shortage of doctors. In response to this pressing issue, the RHÖN-KLINIKUM Group has developed the RHÖN Campus Concept, which is located at the Bad Neustadt a. d. Saale site and is to be transferred to other regions in the future. The RHÖN-KLINIKUM Campus Bad Neustadt stands for modern, innovative full medical care.

The aim of the RHÖN-KLINIKUM Group is to make the treatment process noticeably easier for patients and to relieve the burden on its employees. The digital networking of all players –

with intelligent IT solutions and innovative communication systems – is indispensable in this respect. In future, the RHÖN-KLINIKUM Campus will offer a wide range of additional services such as assisted living, wellness offers or even accommodation for relatives.

The campus will also be attractive for the increasingly scarce workforce in the healthcare market: new professional fields will be created here in a modern working environment. In addition, the RHÖN-KLINIKUM Group offers a sophisticated hospital architecture and optimized medical and nursing organization and logistics.

(b) Digitization in hospitals

As an innovative healthcare provider, the RHÖN-KLINIKUM Group aims to take advantage of the opportunities offered by digitization. With the help of digital applications, the RHÖN-KLINIKUM Group intends to further improve patient care and relieve the Group's employees of medical and administrative work. Furthermore, the use of digital tools should make it possible to process anamnesis more quickly and in a more structured manner, to record services more efficiently and to support the Group's doctors and nursing staff in their work.

The RHÖN-KLINIKUM Group takes a strategic approach in its search for new cognitive technologies. The Digital Transformation unit analyses the patient-oriented, sensible use of digital technologies. In doing so, the RHÖN-KLINIKUM Group ensures that solutions are developed that simplify the everyday work of doctors and nursing staff.

(c) Telemedicine

A further key element of the RHÖN-KLINIKUM Group's strategy is to enter the growing market of telemedicine, which will open up a promising business area and complement the clinical range of services. In future, the RHÖN-KLINIKUM Group is planning to offer fast and competent advice and treatment thanks to telemedicine and digital health. RHÖN-KLINIKUM Aktiengesellschaft is the majority shareholder in a new company founded with the established Swiss telemedicine provider Medgate. With Medgate Deutschland GmbH, the Group wants to address the growing gaps in medical care – particularly in rural areas – and offer people an efficient, location-independent, flexible and modern form of care. Patients shall benefit from the high professional qualifications of the staff, the high medical and technical standards as well as the innovative power and decades of experience of two strong partners.

### **3. INFORMATION ABOUT THE BIDDER AND PERSONS SUPPORTING THE OFFER**

#### **3.1 Legal basis and capital structure of the Bidder**

In Section 6.1, the Offer Document contains the following specifications with regard to the legal and capital structure of the Bidder:

According to its own statements, the Bidder was created on 29 December 2017 by a transformation of the legal form (*Umwandlung im Wege des Formwechsels*) of Asklepios Kliniken Verwaltungsgesellschaft mbH. Such transformation of the legal form was based on a resolution passed on 12 December 2017 by the shareholders' meeting of Asklepios Kliniken Verwaltungsgesellschaft mbH, which had been formed on 7 June 2004. The share capital of the Bidder amounts to EUR 100,500.00 and is divided into 100,500 no-par-value registered shares.

Asklepios Kliniken Management GmbH, having its seat in Königstein im Taunus, registered in the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Königstein im Taunus under the number HRB 9737, and having its business address at Debusweg 3, 61462 Königstein im Taunus, (*Asklepios KM GmbH*) is the sole general partner of the Bidder.



Broermann Holding GmbH, having its seat in Königstein im Taunus, registered in the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Königstein im Taunus under the number HRB 9669, and having its business address at Debusweg 3, 61462 Königstein im Taunus, (**BH GmbH**) is the sole limited shareholder of the Bidder. Dr. Bernard große Broermann is the sole shareholder of Asklepios KM GmbH and of BH GmbH. The business address of Dr. Bernard große Broermann is Debusweg 3, 61462 Königstein im Taunus.

The Bidder's financial year is the calendar year. The Bidder's corporate purpose as stipulated in its articles of association is to manage, acquire, and provide consulting services to, hospitals and participations in entities operating in the hospital and healthcare sector.

### 3.2 Overview of the Bidder's business activities

According to the Offer Document, the Bidder acts as the lead entity of the Asklepios Group (the Bidder collectively with its Subsidiaries, the **Asklepios Group**). It is a hospital operator in private family ownership, which was, according to its own statements, formed in 1985 with the objective of assisting in the improvement of health care and prevention in Germany. The Bidder, which has approximately 160 healthcare facilities and more than 27,000 beds in 14 German states, covers the entire spectrum of medical services within the group. In the 2019 financial year, the Bidder employed approximately 49,000 employees and treated approximately 2.5 million patients.

According to the Offer Document, the Bidder is a leader in the field of private hospital operators in Germany. Its dense network of hospitals and healthcare facilities allows for integrated treatment chains and the establishment of medical clusters. Establishing medical focal points in clusters, *i.e.* concentrating case numbers at certain sites with certain focus points, enables the Bidder, according to its own statements, to achieve higher levels of expertise and thus also to enhance quality at those sites. This means that when medical clusters are established, hospitals no longer provide all services in their relevant catchment areas; instead, medical focal points are established in certain clinics, in order to enhance medical excellence.

By creating such a network, the Bidder is, according to its own statements, able to cover the entire supply spectrum of medical services: in addition to providing maximum, primary, regular and tertiary care, specialized clinics for particular disciplines are active far beyond their respective care regions. Being an operator of rehabilitation clinics enables the Bidder to guarantee the entire range of inpatient treatment from a single source. As a result of all facilities being operated by the Bidder, treatment chains can be optimally coordinated. This is of pre-eminent importance *e.g.* in the case of wound management. Wound care should be carried out according to the same standards in acute inpatient care as well as in post-operative rehabilitation and home care services. Implementing concepts like this puts the Bidder in the top position according to its own assessment. Furthermore, a network of outpatient structures and inpatient structures is being created. As a consequence, the Bidder is according to its own statement optimally prepared to benefit from the increasing trend towards outpatient treatment and to optimally co-ordinate treatment chains in this area as well (outpatient treatment – inpatient treatment – rehabilitation treatment – home treatment – outpatient treatment).

According to the Bidder, outpatient support is available to patients in medical-care centers (*medizinische Versorgungszentren*). The Bidder's spectrum of services reportedly includes the targeted provision of medical products and aids, amongst other things, and ensures continued provision of care to its patients as part of the medical therapy prescribed by the doctor post-release from the hospital.

According to the Offer Document, the Bidder focuses on the acute non-cyclical care market. Approx. 84% of the business volume were attributable to acute care hospitals and 16% of the business volume were attributable to rehabilitation clinics and the other medical facilities.

Pursuant to Section 6.2 of the Offer Document, the Asklepios Group has a centralized organization; however, operational responsibility lies with the regional units, which also look after the patients in organizational terms. The organizational structure is based on the central functions (group divisions) accounting, tax and controlling, financing, quality management, medical law, insurance & compliance, risk management, internal auditing, procurement and supply, information technology, architecture & construction, law (including M&A, corporate, construction and data protection law) as well as corporate communications & marketing.

According to the Offer Document, market standard intercompany agreements for the exchange of services and co-operation agreements are in place between the group units.

There are no material co-operation arrangements or other business relationships of material importance for the Asklepios Group between RHÖN-KLINIKUM Aktiengesellschaft's medical facilities and the Asklepios Group's facilities according to the Offer Document. Only when necessary and in isolated cases do individual healthcare facilities of the two groups co-operate on an arm's length basis, which is in each case of minor economic importance for the Asklepios Group. These cases of necessary cooperation did not influence the Bidder's decision to submit the Offer.

### **3.3 Members of the Bidder's boards**

#### **(a) Members of the management board**

According to the Offer Document, Asklepios KM GmbH is responsible for the Bidder's management (see Section 3.1 of this Statement). According to the Bidder, the management board of Asklepios KM GmbH is currently comprised of the following five members:

- Kai Hankeln, Chief Executive Officer (CEO)
- Hafid Rifi, Chief Financial Officer (CFO) and Deputy Chief Executive Officer (CEO)
- Joachim Gemmel, Chief Operating Officer (COO)
- Prof. Dr. Christoph U. Herborn, Chief Medical Officer (CMO)
- Marco Walker, Chief Operating Officer (COO)

#### **(b) Members of the supervisory board**

According to the Bidder, its supervisory board is currently comprised of the following twenty members:

- Ivo Schramm, Chairman of the Supervisory Board
- Uwe Ostendorff\*, Deputy Chairman of the Supervisory Board
- Barbara Brosius
- Dr. Julia Dannath-Schuh

- Dr. Miklas Drüeke\*
- Dr. Hans-Otto Koderisch\*
- Prof. Dr. Karsten Krakow
- Rainer Laufs
- Prof. Dr. Dr. h.c. Karl-Heinrich Link
- Monika Paga\*
- Heiko Piekorz\*
- Katharina Ries-Heidtke\*
- Dirk Reischauer
- Jochen Repp
- Dr. Anke Savcenko\*
- Michael Schreder\*
- Martin Simon Schwärzel\*
- Hilke Stein\*
- Andre Stüve
- Stephan zu Höne

The persons marked with \* are employee representatives.

### 3.4 Persons acting jointly with the Bidder

According to the Offer Document, at the time of its publication, Dr. Bernard große Broermann, Asklepios KM GmbH and BH GmbH (collectively with AMR Holding (as defined in Section 3.6(b)(i) of this Statement), the ***Additional Asklepios Controlling Persons***) controlled the Bidder and are therefore deemed to be persons acting jointly with the Bidder pursuant to Section 2 para. 5 sentences 1 and 3 WpÜG.

Furthermore, according to the Offer Document, at the time of its publication, the subsidiaries of the Bidder set out in Annex 1a to the Offer Document are deemed to be persons acting jointly with the Bidder and with each other pursuant to Section 2 para. 5 sentence 3 WpÜG. The entities set out in Annex 1b to the Offer Document are other subsidiaries of Dr. Bernard große Broermann which are deemed to be persons acting jointly with the Bidder pursuant to Section 2 para. 5 sentence 1 WpÜG.

In addition, according to the Offer Document, at the time of its publication Eugen Münch and HCM SE pursuant to Section 2 para. 5 sentence 1 WpÜG as well as AMR Holding pursuant to Section 2 para. 5 sentences 1 and 3 WpÜG are deemed persons acting jointly with the Bidder. By entering into the Joint Venture Agreement described in Section 6.6.2 of the Offer Document (see Section 3.6(b) of this Statement), Eugen Münch and HCM SE, which is controlled by him

(together with the Additional Asklepios Controlling Persons the **Additional Controlling Persons**), seek together with AMR Holding, which became party to the Joint Venture Agreement after its registration in the commercial register, control over the RHÖN-KLINIKUM Aktiengesellschaft (see Section 7.1(c) of this Statement).

Other than the aforementioned, according to the Offer Document there were no persons acting jointly with the Bidder within the meaning of Section 2 para. 5 sentence 1 respectively sentence 3 WpÜG at the time of publication of the Offer Document.

### **3.5 RHÖN-KLINIKUM Shares currently held by the Bidder or by persons acting jointly with the Bidder and its subsidiaries; attribution of voting rights**

With respect to RHÖN-KLINIKUM Shares currently held by the Bidder or by persons acting jointly with the Bidder and its subsidiaries, the Bidder provided the following information under Section 6.5 of the Offer Document:

At the time of publication of the Offer Document, the Bidder directly holds 19,209,621 RHÖN-KLINIKUM Shares, which corresponds to a percentage of approximately 28.69% of the share capital and voting rights in RHÖN-KLINIKUM Aktiengesellschaft\*. These voting rights are attributed to Dr. Bernard große Broermann, Asklepios KM GmbH and BH GmbH pursuant to Section 30 para. 1 sentence 1 no. 1, sentence 3 WpÜG. Additionally, Dr. Bernard große Broermann directly holds 360 RHÖN-KLINIKUM Shares (less than 0.01%) and BH GmbH directly holds 205,733 RHÖN-KLINIKUM Shares (approximately 0.31%), which are attributed to Dr. Bernard große Broermann pursuant to Section 30 para. 1 sentence 1 no. 1, sentence 3 WpÜG. Dr. Bernard große Broermann and BH GmbH each are persons acting jointly with the Bidder within the meaning of Section 2 para. 5 sentences 1 and 3 WpÜG.

At the time of publication of the Offer Document, Eugen Münch directly holds 4,650,083 RHÖN-KLINIKUM Shares (approximately 6.94%). HCM SE directly holds, at the time of publication of the Offer Document, 5,097,578 RHÖN-KLINIKUM Shares (approximately 7.61%), which are attributed to Eugen Münch pursuant to Section 30 para. 1 sentence 1 no. 1, sentence 3 WpÜG.

Other than these, neither the Bidder nor the persons acting jointly with the Bidder within the meaning of Section 2 para. 5 WpÜG nor their Subsidiaries directly hold voting rights attached to RHÖN-KLINIKUM Shares or are attributed to them pursuant to Section 30 para. 1 or para. 2 WpÜG at the time of publication of the Offer Document.

At the time of publication of the Offer Document, the Bidder and the Additional Asklepios Controlling Persons hold directly or indirectly financial instruments relating to RHÖN-KLINIKUM Shares, which the Bidder and the Additional Asklepios Controlling Persons have notified pursuant to Sections 34, 38 of the German Securities Trading Act (*Wertpapierhandelsgesetz – WpHG*).

The financial instruments listed below under (a) and (b) are held directly by the Bidder and indirectly by the Additional Asklepios Controlling Persons at the time of publication of the Offer Document:

- (a) the transfer right of the Bidder under the Share Purchase Agreement to the total of 8,294,407 Sold RHÖN-KLINIKUM Shares (approximately 12.39%) sold and

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\* Unless otherwise indicated, hereinafter the percentages in this section refer to the number of voting rights and the amount of the share capital of RHÖN-KLINIKUM Aktiengesellschaft.

transferred to the Bidder subject to a condition precedent by the Münch Couple on 28 February 2020 (see Section 3.6(a) of this Statement); and

- (b) the transfer right of the Bidder under the Agreement for the Purchase of Foundation Shares to the total of 722,860 Additional Sold RHÖN-KLINIKUM Shares (approximately 1.08%) sold and transferred to the Bidder subject to a condition precedent by the Münch Foundation on 1 March 2020 (see Section 3.6(c) of this Statement).

The financial instruments listed below under (c) and (d) are held directly by AMR Holding and indirectly by the Bidder and the Additional Asklepios Controlling Persons at the time of the publication of the Offer Document:

- (c) the contribution obligation of HCM SE under the Joint Venture Agreement to contribute a total of 5,097,578 RHÖN-KLINIKUM Shares (approximately 7.61%) into AMR Holding (see Section 3.6(b) of this Statement), subject to a condition precedent; and
- (d) the contribution obligation of the Bidder under the Joint Venture Agreement to contribute a total of 8,294,407 Sold RHÖN-KLINIKUM Shares (approximately 12.39%), the 722,860 Additional Sold RHÖN-KLINIKUM Shares (approximately 1.08%) and the 19,209,621 RHÖN-KLINIKUM Shares held directly by the Bidder (approximately 28.69%) into AMR Holding (see Section 3.6(b) of this Statement), subject to a condition precedent.

Excluding the 19,209,621 RHÖN-KLINIKUM Shares directly held by the Bidder (approximately 28.69%) included in the above-mentioned financial instruments, at the time of its publication the Bidder thus directly and indirectly holds financial instruments within the meaning of Section 38 para. 1 sentence 1 no. 1 lit. a in conjunction with no. 2 WpHG representing an aggregate percentage of approximately 21.08% of the issued shares and voting rights of RHÖN-KLINIKUM Aktiengesellschaft.

Other than these, no financial instruments or voting shares in relation to RHÖN-KLINIKUM Aktiengesellschaft to be disclosed pursuant to Section 38 WpHG or Section 39 WpHG are directly or indirectly held either by the Bidder or the persons acting jointly with the Bidder within the meaning of Section 2 para. 5 WpÜG, or their Subsidiaries, at the time of publication of the Offer Document.

### **3.6 Bidder's share purchase agreements with the Münch Couple and the Münch Foundation and Joint Venture Agreement with HCM SE**

According to the Offer Document, the Offer is part of an extensive co-operation between the Bidder and Eugen Münch, Salzburger Leite 1, 97616 Bad Neustadt a. d. Saale, as well as HCM SE, having its seat in Bad Neustadt, registered in the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Schweinfurt under the number HRB 7138 (**HCM SE**), which is controlled by Eugen Münch and all shares of which are held by the Münch Couple.

With regard to the details of the cooperation between the Bidder, the Münch Couple and HCM SE, the Bidder made the following statements under Section 6.6 of the Offer Document:

- (a) Share Purchase Agreement with the Münch Couple regarding the sale and transfer of approximately 12.39% of the RHÖN-KLINIKUM Shares

On 28 February 2020, (i) Eugen Münch, who directly holds 4,650,083 RHÖN-KLINIKUM Shares at the time of publication of the Offer Document, and (ii) Ingeborg Münch (Eugen Münch and Ingeborg Münch collectively also referred to as the ***Münch Couple***), who directly holds 3,644,324 RHÖN-KLINIKUM Shares at the time of publication of the Offer Document, as sellers, and in each case the Bidder, as purchaser, reportedly entered into an agreement for the sale and transfer of the total of all 8,294,407 RHÖN-KLINIKUM Shares held by the Münch Couple (the ***Sold RHÖN-KLINIKUM Shares***) to the Bidder at a purchase price of EUR 18.00 per RHÖN-KLINIKUM Share (the ***Share Purchase Agreement***). This corresponds to a percentage of approximately 12.39% of the RHÖN-KLINIKUM Shares.

Completion of the Share Purchase Agreement is subject to the condition precedent of merger control clearance being granted by the Federal Cartel Office with regard to a total of 4,405,517 Sold RHÖN-KLINIKUM Shares and the condition precedent of a decision being made by the Federal Cartel Office with regard to the further 3,888,890 Sold RHÖN-KLINIKUM Shares, including a refusal of merger control clearance.

It was agreed under the Share Purchase Agreement that the Bidder would make an advance payment on the purchase price of 3,888,890 Sold RHÖN-KLINIKUM Shares in the amount of approximately EUR 70 million to the Münch Couple, which would become due and payable following the conclusion of the Share Purchase Agreement.

- (b) Joint Venture Agreement between the Bidder and HCM SE

Moreover, according to the Bidder, on 28 February 2020, HCM SE, which, at the time of publication of the Offer Document, held 5,097,578 RHÖN-KLINIKUM Shares, and the Bidder entered into a joint venture agreement (the ***Joint Venture Agreement***). According to the Offer Document, each of the Bidder and HCM SE undertook in the Joint Venture Agreement, in particular, to contribute all RHÖN-KLINIKUM Shares held by them to a Joint Venture Entity. For further information on the objectives of, and on how the parties will work together and co-operate under the Joint Venture Agreement, reference is made to the provisions under Section 7.1(c) of this Statement. The key provisions of the Joint Venture Agreement will become effective subject to the condition precedent of merger control clearance being granted by the Federal Cartel Office; consequently, it is ensured that they will become effective in parallel with the Offer.

- (i) Formation of AMR Holding as a joint venture entity

According to the Offer Document, on 28 February 2020, the Bidder and HCM SE formed AMR Holding GmbH, having its seat in Königstein im Taunus, registered in the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Königstein im Taunus under the number HRB 10447 (***AMR Holding the Joint Venture Entity***), as a joint venture entity formed by cash subscription (*Bargründung*) with a share capital of EUR 100,000.00. In a first step, it is intended to contribute all RHÖN-KLINIKUM Shares held by the Bidder and HCM SE as well as for the Sold RHÖN-KLINIKUM Shares purchased by the Bidder from the Münch Couple into AMR Holding. The Bidder and HCM SE acquired the shares in AMR Holding at a ratio reflecting the number of RHÖN-KLINIKUM Shares to be contributed by each of them. The aggregate number of all RHÖN-KLINIKUM Shares to be contributed divided by the number of shares in AMR Holding result in a fixed ratio indicating how many RHÖN-KLINIKUM Shares are equivalent to one share in AMR Holding (the

**Participation Ratio**). Based on this Participation Ratio, the Bidder and HCM SE acquired the 100,000 shares in AMR Holding, at the time of its formation, at par value and without a premium. The Bidder holds 84,365 shares in AMR Holding (84.365% of all shares). The remaining 15,635 shares in AMR Holding are held by HCM SE (15.635% of all shares).

The Bidder and HCM SE further agreed in the Joint Venture Agreement that AMR Holding was to accede to the Joint Venture Agreement and would become a party to the Joint Venture Agreement under a written declaration of accession without the separate consent of the other parties being required for that purpose.

- (ii) RHÖN-KLINIKUM Shares to be contributed to AMR Holding by the Bidder and HCM SE

On 28 February 2020, on the basis of the Joint Venture Agreement, the Bidder entered into a contribution agreement with AMR Holding providing for the contribution of all 19,209,621 RHÖN-KLINIKUM Shares currently held by the Bidder and all 8,294,407 Sold RHÖN-KLINIKUM Shares (**Asklepios Contribution Agreement**). Neither new shares nor any other considerations will be granted. Completion of the contribution of these 27,504,028 RHÖN-KLINIKUM Shares transferred under the Asklepios Contribution Agreement (**Shares to be Contributed by Asklepios**) is subject to the condition precedent of merger control clearance being granted by the Federal Cartel Office.

On the same day, 28 February 2020, AMR Holding and HCM SE entered into a contribution agreement providing for the contribution of all 5,097,578 RHÖN-KLINIKUM Shares held by HCM SE (**HCM Contribution Agreement**). Neither new shares nor any other considerations will be granted. Completion of the contribution of these 5,097,578 RHÖN-KLINIKUM Shares (**Shares to be Contributed by HCM**) under the HCM Contribution Agreement is also subject to the condition precedent of merger control clearance being granted by the Federal Cartel Office.

- (iii) RHÖN-KLINIKUM Shares to be contributed to AMR Holding GmbH by the Bidder and HCM SE following completion of the Offer

According to the Offer Document, the Bidder and HCM SE further agreed in the Joint Venture Agreement that, in a second step, following completion of the Offer the Tendered RHÖN-KLINIKUM Shares (see Section 4.9 of this Statement) would be contributed to AMR Holding. It is further intended for the Additional Sold RHÖN-KLINIKUM Shares (see Section 3.6(c) of this Statement) to be contributed to AMR Holding. Neither new shares nor any other consideration will be granted upon this contribution either.

It is intended to implement, prior to the Tendered RHÖN-KLINIKUM Shares as well as the Additional Sold RHÖN-KLINIKUM Shares being contributed to the capital reserve of AMR Holding, a cash capital increase at AMR Holding in which only the Bidder will acquire new shares. The number of new shares to be created by this capital increase will depend on the number of Tendered RHÖN-KLINIKUM Shares plus the Additional Sold RHÖN-KLINIKUM Shares and will be determined based on the Participation Ratio.

- (iv) Term of the Joint Venture Agreement and joint selling procedure in the event of termination of the Joint Venture Agreement

The Joint Venture Agreement reportedly has an initial fixed term until 31 December 2025 and will be extended in each case by one year unless it is terminated by either party in accordance with the notice period. In addition, in certain circumstances, the Joint Venture Agreement may be terminated at an earlier date by HCM SE, but no earlier than as of 31 December 2022.

In the event that the Joint Venture Agreement is terminated, according to the Offer Document, a joint selling procedure will be initiated with respect to all shares in AMR Holding. It is intended for the participations held by the Bidder and by HCM SE to be jointly sold to a third party in the course of the joint selling procedure. If a third-party sale is agreed, the Bidder will have a right of first refusal (*Vorkaufsrecht*).

(v) Call options in favor of the Bidder

If the Joint Venture Agreement is terminated, which will be possible on 31 December 2022 for the first time, the Bidder, according to the Offer Document, may demand, prior to the commencement of a joint selling procedure (see Section 3.6(b)(iv) of this Statement), that HCM SE sell all of its shares in AMR Holding if the volume-weighted average price of the RHÖN-KLINIKUM Share does not exceed the Offer Consideration during the six-month period preceding the termination date of the Joint Venture Agreement (***First Call Option***). If the First Call Option is exercised, the Bidder will acquire all shares in AMR Holding held by HCM SE at a strike price per share equal to the Offer Consideration, multiplied by the Participation Ratio.

In the event that the joint selling procedure is not carried out successfully, the Bidder, according to the Offer Document, may demand that HCM SE sell all of its shares in AMR Holding at a price per share equal to the Offer Consideration, multiplied by the Participation Ratio (***Second Call Option***). Following the exercise of the Second Call Option, the Bidder will be obliged to transfer to HCM SE, in return for payment of the Offer Consideration, out of the total of RHÖN-KLINIKUM Shares arithmetically attributable to the acquired shares, such number of RHÖN-KLINIKUM Shares exceeding the minimum required to ensure that the Bidder holds a participation of 50% plus one share of the share capital of RHÖN-KLINIKUM Aktiengesellschaft.

(vi) Put option in favor of HCM SE

In case the Bidder goes public during the term of the Joint Venture Agreement, HCM SE reportedly will be entitled to exercise a put option enabling it to sell its entire participation in AMR Holding to the Bidder. Any strike price to be paid for this put option is to be determined on the basis of the volume-weighted average price of the RHÖN-KLINIKUM Shares during the six-month period preceding the put option's exercise, multiplied by the Participation Ratio. The Bidder will be required to settle the put option in treasury shares. The number of shares of the Bidder to be granted would be determined on the basis of the issue price of the public offer of the Bidder's shares as determined jointly with the banks involved in the IPO.

(c) Share purchase agreement with the Münch Foundation regarding the sale and transfer of approximately 1.08% of the RHÖN-KLINIKUM Shares

According to the Offer Document, on 1 March 2020, the Münch Foundation, a foundation under civil law, having its business address at Salzburger Leite 1, 97616 Bad Neustadt a. d. Saale (***Münch Foundation***), which, at the time of publication of the Offer Document, directly held 722,860 RHÖN-KLINIKUM Shares, and the Bidder entered into a share purchase agreement



**(Foundation Share Purchase Agreement)** providing for the sale and transfer of the RHÖN-KLINIKUM Shares directly held by the Münch Foundation (**Additional Sold RHÖN-KLINIKUM Shares**) to the Bidder at a purchase price of EUR 18.00 per RHÖN-KLINIKUM Share sold. This corresponds to a percentage of approximately 1.08% of the RHÖN-KLINIKUM Shares.

Completion of the Foundation Share Purchase Agreement is subject to the condition precedent of merger control clearance being granted by the Federal Cartel Office with regard to the 361,430 Additional Sold RHÖN-KLINIKUM Shares and the condition precedent of a decision being made by the Federal Cartel Office with regard to the further 361,430 Additional Sold RHÖN-KLINIKUM Shares, including a refusal of merger control clearance.

It was agreed under the Foundation Share Purchase Agreement that the Bidder would make an advance payment on the purchase price for 361,430 Additional Sold RHÖN-KLINIKUM Shares in the amount of EUR 6,505,740.00 to the Münch Foundation, which would become due and payable following the conclusion of the Foundation Share Purchase Agreement.

### **3.7 Information about securities acquisitions**

With regard to securities acquisitions, the Offer Document contains the following specifications under Section 6.7:

During the period commencing six months prior to the publication of the decision to submit the Offer and ending on 8 April 2020, neither the Bidder, nor the persons acting jointly with the Bidder within the meaning of Section 2 para. 5 WpÜG, nor their subsidiaries, have purchased any securities of RHÖN-KLINIKUM Aktiengesellschaft or entered into any agreements under which the transfer of ownership of securities of RHÖN-KLINIKUM Aktiengesellschaft may be demanded, other than the agreements and purchases of RHÖN-KLINIKUM Shares as described in Section 3.6 of this Statement above.

### **3.8 Possible parallel and subsequent acquisitions**

To the extent legally permissible, under Section 6.8 of the Offer Document the Bidder reserves the right to directly or indirectly purchase additional RHÖN-KLINIKUM Shares outside the Offer on or off the stock exchange. To the extent required by the laws of the Federal Republic of Germany, the United States or any other applicable jurisdiction, information about such purchases or corresponding purchase agreements will be published on the internet at [www.zukunft-fuer-spitzenmedizin.de](http://www.zukunft-fuer-spitzenmedizin.de) and in the German Federal Gazette (*Bundesanzeiger*) in accordance with applicable statutory provisions, in particular Section 23 para. 2 WpÜG in conjunction with Section 14 para. 3 sentence 1 WpÜG.

## **4. INFORMATION ABOUT THE OFFER**

### **4.1 Relevance of the Offer Document**

The following is a description of selected information from the Bidder's Offer Document. For more information and details (in particular, details of the **Offer Condition** (defined as Closing Conditions in Section 13.1 of the Offer Document), the acceptance periods, the acceptance procedures and the withdrawal rights), RHÖN-KLINIKUM Shareholders are referred to the statements in the Offer Document. The information below merely summarizes information included in the Offer Document. The Management Board points out that the description of the Offer in the Statement does not purport to be exhaustive and that, as for the content and settlement of the Offer, solely the provisions of the Offer Document are decisive. It is the responsibility of each RHÖN-KLINIKUM Shareholder to read the Offer Document and to

adopt the measures that are appropriate for such shareholder. The Offer Document is published on the internet at [www.zukunft-fuer-spitzenmedizin.de](http://www.zukunft-fuer-spitzenmedizin.de) and published by way of an announcement in the Federal Gazette (*Bundesanzeiger*). Copies of the Offer Document are available free of charge for domestic distribution through BNP Paribas Securities Services S.C.A., Frankfurt branch, Europa-Allee 12, D-60327 Frankfurt am Main (inquiries by telefax to +49 69 1520 5277 or email to [frankfurt.gct.operations@bnpparibas.com](mailto:frankfurt.gct.operations@bnpparibas.com)). Details can be found in the Offer Document.

#### 4.2 Implementation of the Offer

The Offer is implemented as a voluntary public takeover offer under the laws of the Federal Republic of Germany, and in particular in accordance with the WpÜG and the German Regulation on the Content of the Offer Document, the Consideration for Takeover Offers and Mandatory Offers and the Release from the Obligation to Publish and Launch an Offer (*Verordnung über den Inhalt der Angebotsunterlage, die Gegenleistung bei Übernahmeangeboten und Pflichtangeboten und die Befreiung von der Verpflichtung zur Veröffentlichung und zur Abgabe eines Angebots – WpÜGAngebotsVO*).

The Management Board has not undertaken any review of their own of the Offer's compliance with the relevant statutory provisions.

#### 4.3 Subject of the Offer and Offer Price

Subject to the provisions in the Offer Document, the Bidder offers to all RHÖN-KLINIKUM Shareholders to acquire their RHÖN-KLINIKUM Shares (ISIN DE0007042301 / WKN 704230) including all ancillary rights existing at the time of the settlement of the Offer, in particular the right to dividends, at a cash consideration in the amount of

**EUR 18.00 in cash**

per RHÖN-KLINIKUM Share (*Offer Price*).

#### 4.4 Acceptance Period

(a) Acceptance period

The period for acceptance of the Offer (including any extensions – for more details see below – **Acceptance Period**) begins upon publication of the Offer Document on 8 April 2020 and ends on 6 May 2020 at 24:00 hrs. In the circumstances set out below, the period for acceptance of the Offer will in each case be extended automatically as follows:

- If the Bidder amends the Offer pursuant to Section 21 WpÜG within the last two weeks prior to expiry of the Acceptance Period, the Acceptance Period will be extended by two weeks (Section 21 para. 5 WpÜG), *i.e.* until 20 May 2020 at 24:00 hours. This shall apply even if the amended Offer is prohibited or contravenes statutory provisions.
- If a competing offer is launched by a third party during the Acceptance Period (Section 22 para. 1 WpÜG) (**Competing Offer**), the expiry of the Acceptance Period for the present Offer shall be extended to correspond to the expiry date of the Acceptance Period for the Competing Offer, if the Acceptance Period for the present Offer expires prior to the expiry of the Acceptance Period for the Competing Offer (Section 22 para. 2 WpÜG). This shall apply even if the Competing Offer is amended or prohibited or contravenes statutory provisions.

- If a general meeting (*Hauptversammlung*) of the Company is convened in connection with the Offer following publication of the Offer Document, the Acceptance Period in accordance with Section 16 para. 3 sentence 1 WpÜG will be extended to ten weeks after publication of the Offer Document. The Acceptance Period would then run until 17 June 2020 at 24:00 hours – subject to an extension of the Acceptance Period due to an amendment of the Offer within the last two weeks until one working day prior to the expiry of the Acceptance Period or a Competing Offer.
- The Management Board points out that RHÖN-KLINIKUM Aktiengesellschaft received the B. Braun Convocation Request on 17 April 2020, which, *inter alia*, demands with reference to Section 16 para. 3 WpÜG a discussion and adoption of a resolution in connection with the Offer (see Section 1 of this Statement). The Management Board is currently carefully reviewing the B. Braun Convocation Request and will initiate any legally required measures. In the event that an extraordinary general meeting is convened pursuant to Section 16 para. 3 sentence 1 WpÜG, the Acceptance Period for the Offer would be extended as described above – subject to an extension of the Acceptance Period due to an amendment to the Offer within the last two weeks up to one working day prior to the expiry of the Acceptance Period or a Competing Offer – to ten weeks following the publication of the Offer Document, *i.e.* until 17 June 2020 at 24:00 hours.

With regard to the right of withdrawal in the event of an amendment to the Offer or the launching of a Competing Offer, reference is made to the statements contained in Section 16 of the Offer Document.

(b) Additional acceptance period

RHÖN-KLINIKUM Shareholders who have not accepted the Offer within the Acceptance Period can still accept the Offer pursuant to Section 16 para. 2 WpÜG within two weeks after publication of the results of the Offer by the Bidder according to Section 23 para. 1 sentence 1 no. 2 WpÜG (***Additional Acceptance Period***).

After the end of the Additional Acceptance Period, the Offer cannot be accepted anymore unless a sell-out right pursuant to Section 39c WpÜG exists (as further described in Section 17.6 of the Offer Document). Subject to an extension of the Acceptance Period as described in Section 5.2 of the Offer Document, the Additional Acceptance Period will presumably begin on 12 May 2020 and end on 25 May 2020 at 24:00 hours.

The settlement of the Offer is described in Section 11 of the Offer Document.

#### 4.5 Offer Conditions

The Offer and the contracts which come into existence as a result of its acceptance are subject to the Federal Cartel Office's clearance under merger control law described in detail in the Offer Document in Section 13.1. In this respect the Offer takes into account the mandatory legal requirements of Section 41 para. 1 of the German Act Against Restraints of Competition (*Gesetz gegen Wettbewerbsbeschränkungen – GWB*), according to which a merger which has not been cleared by the Federal Cartel Office may in principle not be implemented before the Federal Cartel Office's review periods have expired. With the exception of the above, the execution of the Offer is not subject to any further conditions, in particular it is not bound to a minimum acceptance threshold.

As set out in Section 13.1 of the Offer Document, the Bidder may – to the extent permissible – pursuant to Section 21 para. 1 sentence 1 no. 4 WpÜG waive the Offer Condition up to one business day prior to the expiry of the Acceptance Period, in each case as long as the Offer Condition has not ultimately lapsed. For the purposes of the Offer, if the Bidder has effectively waived the Offer Condition it is considered as having occurred.

If the Offer Condition specified in Section 13.1 of the Offer Document has either not occurred until the applicable date or has definitively failed before this date and the Bidder has not effectively waived it, the Offer shall lapse. More details regarding a potential non-fulfilment of the Offer Condition are described in greater depth in Section 11.10 of the Offer Document.

The Bidder will immediately announce (in German and in English) on the Internet at [www.zukunft-fuer-spitzenmedizin.de](http://www.zukunft-fuer-spitzenmedizin.de) and (in German) in the Federal Gazette (*Bundesanzeiger*) if (i) the Closing Condition has been fulfilled, (ii) the Closing Condition has been waived or (iii) the Offer will not be completed.

#### **4.6 Status of official approvals and procedures**

In Section 12.1 of the Offer Document, the Bidder states that the acquisition of RHÖN-KLINIKUM Shares pursuant to the Offer is subject to merger control approval by the Federal Cartel Office. According to the Bidder, it assumes that it will receive the clearance required for the proposed merger, but there is no certainty as to whether and when the clearance will be granted.

According to its own statements, the Bidder is already in contact with the Federal Cartel Office in order to clarify the information requirements for a notification and to bring about the formal submission of the notification as soon as possible.

#### **4.7 Permission from BaFin to publish the Offer Document**

According to Section 12.2 of the Offer Document, BaFin approved the publication of the Offer Document on 8 April 2020.

#### **4.8 Acceptance and settlement of the Offer**

Section 11 of the Offer Document describes the acceptance and settlement of the Offer including the legal consequences of acceptance.

#### **4.9 Trading with the Tendered RHÖN-KLINIKUM Shares**

According to the Offer Document (Section 11.8 of the Offer Document), the RHÖN-KLINIKUM Shares for which the Offer has been accepted within the Acceptance Period or the Additional Acceptance Period (*Tendered RHÖN-KLINIKUM Shares*) can be traded on the regulated market of the Frankfurt Stock Exchange and simultaneously in its sub-segment with additional post-admission obligations (Prime Standard) under ISIN DE000A288748. Trading will presumably start on the third Trading Day after the commencement of the Acceptance Period. Trading in the Tendered RHÖN-KLINIKUM Shares on the regulated market of the Frankfurt Stock Exchange and in its sub-segment with additional post-admission obligations (Prime Standard) is expected to be discontinued at the latest after the close of stock exchange trading on the day on which the occurrence of the Offer Condition (to the extent that it has not been effectively waived beforehand) is published (see Section 4.5 of this Statement), but at the earliest on the last day of the Additional Acceptance Period. According to Section 11.8 of the Offer Document, acquirers of Tendered RHÖN-KLINIKUM Shares assume all rights and

obligations arising from the contracts concluded by accepting the Offer with respect to these RHÖN-KLINIKUM Shares.

RHÖN-KLINIKUM Shares for which the Offer has not been accepted will continue to be traded under ISIN DE0007042301.

#### **4.10 Information for holders of American Depositary Receipts**

According to Section 11.9 of the Offer Document, the Offer is not addressed to holders of American Depositary Receipts (*ADRs*) issued in respect of RHÖN-KLINIKUM Shares. However, holders of ADRs are entitled to deliver the RHÖN-KLINIKUM Shares underlying their ADRs into the Offer by way of the procedure described in more detail in Section 11.9 of the Offer Document. This procedure may take several days and is regularly associated with costs for the ADR holders. Holders of ADRs should take this additional time and cost into account when deciding whether to participate in the Offer. If ADR holders have any questions regarding the timing, costs or procedure for exchanging ADRs for RHÖN-KLINIKUM Shares, they should contact their respective U.S. depositary bank.

Costs and fees arising from the exchange of ADRs will not be reimbursed. The same applies to costs and fees incurred for the re-exchange of RHÖN-KLINIKUM Shares into ADRs in the event of the failure of the Offer.

### **5. FINANCING OF THE OFFER**

Pursuant to Section 13 para. 1 sentence 1 WpÜG, the Bidder must take the necessary measures prior to the publication of the Offer Document to ensure that the funds needed for complete fulfilment of the Offer will be available at the time the claim to the consideration falls due. According to Section 14.3 of the Offer Document, the Bidder has met this obligation.

#### **5.1 Maximum Financing Requirement**

According to the Bidder's calculations as at the time of publication of the Offer Document, the total amount that the Bidder would need to complete the Offer if the Offer were to be accepted for all RHÖN-KLINIKUM Shares not directly held by the Bidder at that time would amount to EUR 859,551,282.00 (*Maximum Share Costs*) as aggregate Offer Price for the acquisition of all 47,752,849 RHÖN-KLINIKUM Shares (including the 24,000 own RHÖN-KLINIKUM Shares) not yet directly held by the Bidder (*i.e.* the Offer Price of EUR 18.00 per RHÖN-KLINIKUM Share multiplied by 47,752,849 RHÖN-KLINIKUM Shares, which results from the total number of 66,962,470 issued RHÖN-KLINIKUM Shares less the 19,209,621 RHÖN-KLINIKUM Shares already held directly by the Bidder).

In addition, transaction costs of up to EUR 15 million (*Transaction Costs*) will be incurred in connection with the preparation and execution of the Offer.

The Maximum Share Cost and Transaction Costs thus result in a maximum financing requirement in the amount of up to EUR 874,551,282.00 (*Maximum Financing Requirement*).

#### **5.2 Expected Financing Requirement**

According to Section 14.2 of the Offer Document, on 28 February 2020, HCM SE, Eugen Münch, Ingeborg Münch, and the Bidder, and, on 6 March 2020, the Münch Foundation and the Bidder in each case entered into qualified tender restriction agreements under which Eugen Münch, Ingeborg Münch, HCM SE and the Münch Foundation have each irrevocably and unconditionally undertaken (i) not to tender, either in whole or in part, the respective RHÖN-

KLINIKUM Shares held by them (14,114,845 RHÖN-KLINIKUM Shares in total, corresponding to a percentage share of approximately 21,08% of the share capital of RHÖN-KLINIKUM Aktiengesellschaft in total) into the Offer and (ii) not to sell, transfer or otherwise dispose of any of the respective RHÖN-KLINIKUM Shares held by them nor to assign any of the shareholder rights associated with these RHÖN-KLINIKUM Shares (***Qualified Tender Restriction Agreements***). The total of 14,111,845 RHÖN-KLINIKUM Shares held by Eugen Münch, Ingeborg Münch, HCM SE and the Münch Foundation are simultaneously the subject of the blockage agreements described in more detail in Section 14.2 of the Offer Document (***Securities Account Blockage Agreements***).

The Bidder has thus ensured that as of the publication of the Offer Document, the Offer can only be accepted for a maximum of 33,638,004 RHÖN-KLINIKUM Shares (all 66,962,470 RHÖN-KLINIKUM Shares issued, less the 14,114,845 RHÖN-KLINIKUM Shares held by Eugen Münch, Ingeborg Münch, HCM SE and the Münch Foundation subject to the Qualified Tender Restriction Agreements and less the 19,209,621 RHÖN-KLINIKUM Shares already held directly by the Bidder) at the time of publication of the Offer Document.

The Bidder's total payment obligation to the accepting RHÖN-KLINIKUM Shareholders thus amounts to a total amount of EUR 605,484,072.00 (***Expected Offer Costs***) if the Offer is accepted for all RHÖN-KLINIKUM Shares not subject to the Qualified Tender Restriction Agreements and not already held directly by the Bidder (corresponding to an Offer Consideration of EUR 18.00 per RHÖN-KLINIKUM Share multiplied by 33,638,004 RHÖN-KLINIKUM Shares not subject to the Qualified Tender Restriction Agreements and not already held directly by the Bidder).

The Expected Offer Costs together with the Transaction Costs lead to an expected financing requirement of up to EUR 620,484,072.00 (***Expected Financing Requirement***).

### **5.3 Financing measures / financing confirmation**

According to the Offer Document, equity commitment exists for the financing of the Offer. Pursuant to Section 14.4 of the Offer Document, the Bidder has taken the following financing measures:

- According to the Offer Document, the Bidder has secured the necessary financial means to meet its payment obligations in connection with the Offer at the time of settlement by entering into a syndicated loan agreement with BNP Paribas Fortis SA/NV with its seat in Brussels, Belgium, as Mandated Lead Arranger and Bookrunner, BNP Paribas S.A. with its seat in Paris, France, as Agent and BNP Paribas Fortis SA/NV with its seat in Brussels, Belgium, as Lender, dated 28 February 2020 with an available loan amount of up to EUR 875,000,000.00 (***Loan Agreement***).
- In addition, according to the Offer Document, the financing of the Offer is also secured if the actual financing requirement reaches the Maximum Financing Requirement (Section 5.1 of this Statement). In the event that Eugen Münch, Ingeborg Münch, HCM SE and Münch Foundation, contrary to their contractual obligations under the Qualified Tender Restriction Agreements accept the Offer for all or part of their 14,114,845 RHÖN-KLINIKUM Shares after the effective date or sell, transfer or otherwise dispose of all or part of their 14,114,845 RHÖN-KLINIKUM Shares to third parties or assign existing rights thereto, they shall be subject to a contractual penalty in favor of the Bidder. As penalty, for each RHÖN-KLINIKUM Share for which they accept the Offer, or for each RHÖN-KLINIKUM Share that Eugen Münch, Ingeborg

Münch, HCM SE or Münch Foundation sell to a third party, they would have to transfer or otherwise sell or assign existing rights thereto, make a cash payment to the Bidder, which corresponds to the amount of the Offer Consideration. All claims arising from the contractual penalty shall be immediately payable at the time of the completion of the Offer and offset against Eugen Münch, Ingeborg Münch, HCM SE or the Münch Foundation's respective claim regarding the payment of the Offer Consideration.

Pursuant to Section 14.4 of the Offer Document, BNP Paribas S.A., Branch Office Germany, with its seat in Frankfurt am Main, Germany, an investment service provider independent of the Bidder, has issued the required financing confirmation pursuant to Section 13 para. 1 sentence 2 WpÜG, which is attached to this Statement as Annex 5.3.

## **6. TYPE AND AMOUNT OF THE OFFER CONSIDERATION**

### **6.1 Type of the offer consideration**

The Offer is a voluntary public takeover offer which exclusively provides for a consideration in cash. No consideration in the form of liquid shares is envisaged.

### **6.2 Offer Price**

The Bidder offers an Offer Price, *i.e.* a consideration within the meaning of Section 31 para. 1 sentence 1 WpÜG, of EUR 18.00 in cash per RHÖN-KLINIKUM Share including all ancillary rights connected therewith at the time of the completion of the Offer, in particular the respective dividend rights.

### **6.3 Statutory minimum price**

To the extent that the Management Board is able to verify this on the basis of the information available, the Offer Price of EUR 18.00 in cash per RHÖN-KLINIKUM Share complies with the provisions of Section 31 WpÜG and Sections 3 *et seqq.* WpÜGAngebotsVO regarding the statutory minimum price, which is determined by applying, and calculated on the basis of, the higher of the following thresholds:

#### **(a) Prior acquisitions**

Pursuant to Section 4 WpÜGAngebotsVO (in conjunction with Section 31 para. 6 WpÜG), the consideration must be at least equal to the highest consideration provided or agreed for the acquisition of RHÖN-KLINIKUM Shares (or the conclusion of corresponding agreements entitling to acquire RHÖN-KLINIKUM Shares) by the Bidder, a person acting jointly with the Bidder or their subsidiaries within the last six months prior to the publication of the Offer Document on 8 April 2020.

According to information provided by the Bidder in Section 10.1 of the Offer Document, the Bidder only has concluded the Share Purchase Agreement and the Foundation Share Purchase Agreement (as described under Section 3.6 of this Statement and Section 6.6 of the Offer Document) with an agreed purchase price of EUR 18.00 per share in cash within the relevant pre-acquisition period as well as the Joint-Venture Agreement, according to which the Bidder and HCM SE have taken over the shares in AMR in proportion to the RHÖN-KLINIKUM Shares to be contributed by them and thus without affecting the value.

According to the Bidder, the highest consideration agreed and paid in respect of all these previous acquisitions was EUR 18.00 per RHÖN-KLINIKUM Share.

(b) Three-month average exchange price

If the shares of the target company are to be traded on a German stock exchange, pursuant to Section 7 para. 1 sentence 1 of the WpÜGAngebotsVO, the consideration must be at least equal to the weighted average domestic stock exchange price of these shares during the last three months prior to the publication of the decision to launch an offer pursuant to Section 10 para. 1 sentence 1 WpÜG.

According to Section 10.1 of the Offer Document, the weighted average stock exchange price during the last three months up to and including 27 February 2020, *i.e.* the day prior to the publication by the Bidder of its decision pursuant to Section 10 para. 1 sentence 1 WpÜG, equals EUR 17.17 per RHÖN-KLINIKUM Share as communicated by BaFin.

#### 6.4 Assessment of the consideration

The Management Board has carefully and thoroughly analyzed and evaluated the adequacy of the consideration offered for the RHÖN-KLINIKUM Shares from a financial perspective. It based its analysis on the current strategy and financial planning of the Company, the historical performance of the price of the RHÖN-KLINIKUM Shares compared to price targets and an underlying analysis relating to the RHÖN-KLINIKUM Shares published by equity research analysts, certain valuation multiples and historic reference transactions or premiums valuations using a discounted cash flow analysis, and other assumptions and information. The Management Board was advised in its assessment by the investment bank, Morgan Stanley Europe SE (*Morgan Stanley* and, together with affiliated companies within the meaning of Section 15 AktG, *Morgan Stanley Group*).

(a) Morgan Stanley Fairness Opinion

For the purposes of this Statement, the Management Board has retained Morgan Stanley to provide an written opinion on the financial adequacy of the Offer Price from the viewpoint of the RHÖN-KLINIKUM Shareholders (excluding the Bidder, any of its affiliated companies or persons acting jointly with the Bidder) (*Fairness Opinion*).

In the Fairness Opinion, Morgan Stanley has concluded that from a financial perspective, subject to the assumptions contained therein, the consideration offered by the Bidder per RHÖN-KLINIKUM Share is fair as at the date of issuance of the Fairness Opinion. The part of the Fairness Opinion intended for publication is attached as **Annex 6.4(a)** to this Statement and sets forth the assumptions made, the procedures used, the materials considered and the limitations of the investigation performed in connection with the Fairness Opinion.

The Management Board has carefully considered the Fairness Opinion, conducted in-depth discussions of their findings with representatives of Morgan Stanley, and performed an independent, critical analysis of these findings. Based on its own experience, they convinced themselves in particular of the plausibility and appropriateness of the procedures, methods and analyses applied by Morgan Stanley.

The Management Board points out that the Fairness Opinion exclusively serves to inform and assist the Management in connection with assessing the consideration for the Offer. The Fairness Opinion is neither addressed to third parties (including the RHÖN-KLINIKUM Shareholders), nor is it intended to offer protection to third parties (including the RHÖN-KLINIKUM Shareholders). Third parties may not derive any rights or obligations from the Fairness Opinion. In particular, the Fairness Opinion does not constitute a recommendation to the RHÖN-KLINIKUM Shareholders in connection with the Offer. Nor does the Fairness



Opinion address the relative advantages of the Offer in comparison to other business strategies or transactions that would also have been possible with regard to the Company.

In preparation of the Fairness Opinion, Morgan Stanley has performed a number of financial analyzes as they are carried out in comparable transactions and appear appropriate in order to provide the Management Board with a solid basis for its own evaluation of the financial adequacy of the Offer Price. Morgan Stanley's methods are laid out in the Fairness Opinion.

Morgan Stanley's analyzes are based, *inter alia*, on the Offer Document and other publicly available information, data, plans and financial projections and explanatory documents provided by RHÖN-KLINIKUM Aktiengesellschaft, as well as on discussions with members of the Management Board and certain other employees of RHÖN-KLINIKUM Aktiengesellschaft. Various studies and analyzes have been carried out for the Fairness Opinion, and other factors have been taken into account which Morgan Stanley considers to be appropriate. In the opinion of the Management Board, the methods used in the Fairness Opinion are internationally accepted and customary procedures, the application of which the Management Board believes to be appropriate in the present case.

Morgan Stanley has in this context assumed the accuracy and completeness of the publicly available information, the information provided to it by the Company or upon the Company's order, and any other information reviewed by it for the purposes of preparing the Fairness Opinion, without performing its own independent verification thereof. Apart from the foregoing, Morgan Stanley has not performed an independent valuation or verification of the assets or liabilities (whether contingent or not) of the Company.

In respect of financial projections and estimates performed by the Company, Morgan Stanley has assumed that these have been properly prepared on a basis reflecting the best possible currently available estimate and assessment by the Company's management as regards the future performance of the Company.

The Management Board points out that for the proper understanding of the Fairness Opinion as well as its underlying examinations and results it will be necessary to read the Fairness Opinion in full. The Fairness Opinion is based on the general economic situation and financial, monetary, market, regulatory and other conditions at the time the Fairness Opinion is issued, as well as on the information available to Morgan Stanley at that time. Any developments occurring after this time could affect the assumptions made in connection with the preparation of the Fairness Opinion and its results. Morgan Stanley is not obliged to update the Fairness Opinion or to correct or confirm it on the basis of circumstances, developments or events occurring after the time of issue of the Fairness Opinion.

The Fairness Opinion does not constitute a valuation memorandum as it is typically prepared by auditors and must not be interpreted as such. In particular, it does not follow the standards for such expert opinions as set out by the Institute of Public Auditors in Germany (*Institut der Wirtschaftsprüfer in Deutschland e.V. – IDW*) for the preparation of Fairness Opinions (IDW S 8). A Fairness Opinion of the type issued by Morgan Stanley differs from a business valuation or fairness opinion by an auditor in a number of relevant aspects.

Furthermore, Morgan Stanley has not issued any opinion as to whether the terms of the Offer comply with the requirements of the WpÜG or comply with any other legal requirements. Morgan Stanley's activities also did not include an assessment of the completeness and accuracy of this Reasoned Opinion.

Morgan Stanley is acting as financial advisor to RHÖN-KLINIKUM Aktiengesellschaft in connection with Offer and will receive arm's length remuneration from the Company for its services. In addition, the Company has undertaken to reimburse certain expenses and to indemnify Morgan Stanley against certain liability risks in connection with the assumption of the mandate to the extent customary in the profession. Morgan Stanley's remuneration is not dependent on the success of the Offer. Please note that Morgan Stanley and other companies in the Morgan Stanley Group have maintained, are maintaining and may continue to maintain relationships with the RHÖN-KLINIKUM Group for which Morgan Stanley or other companies in the Morgan Stanley Group have received, are receiving and may receive remuneration.

(b) Comparison with historic share prices

For the purpose of assessing the adequacy of the consideration offered from a financial perspective, the Management Board has also taken into account the historic stock exchange price of the RHÖN-KLINIKUM Share admitted to trading on the regulated market. The RHÖN-KLINIKUM Shares are admitted to trading in the Prime Standard segment of the regulated market of the Frankfurt Stock Exchange and the regulated market of the Munich Stock Exchange and are being traded in the open market at the Stock Exchanges in Berlin, Düsseldorf, Hamburg, Hannover and Stuttgart. RHÖN-KLINIKUM Shares are included, amongst others, in the SDAX stock market index. The Management Board further believes that, in the relevant period under review, there existed a functioning stock market trading with sufficient trading activity in RHÖN-KLINIKUM Shares which resulted in a valid market price for RHÖN-KLINIKUM Shares.

A comparison of the Offer Price of EUR 18.00 per RHÖN-KLINIKUM Share with historical stock market prices of the RHÖN-KLINIKUM Share leads to the following premiums or discounts:

- a premium of EUR 3.28 or approximately 22.28% over the closing price of the RHÖN-KLINIKUM Share in the electronic trading system XETRA of the Frankfurt Stock Exchange on 27 February 2020, *i.e.* the last trading day prior to the publication of the decision to make the Offer by the Bidder on 28 February 2020 pursuant to Section 10 para. 1 sentence 1 WpÜG, of EUR 14.72;
- a premium of EUR 0.83 or approximately 4.83% over the weighted three-months-average stock market price of the RHÖN-KLINIKUM Share in the last two weeks prior to the publication of the decision to make the Offer by the Bidder pursuant to Section 10 para. 1 sentence 1 WpÜG; and
- a discount of EUR 0.30 or approximately 1.64% from the weighted average domestic stock market price of the RHÖN-KLINIKUM Share in the last six months prior to the publication of the decision to make the Offer by the Bidder on 28 February 2020 pursuant to Section 10 para. 1 sentence 1 WpÜG of EUR 18.30.

(c) Valuation by equity research analysts

In assessing the appropriateness of the Offer Price, the Management Board also took into account the target prices for RHÖN-KLINIKUM Shares issued by financial analysts.

Only the analysts' estimates published before 28 February 2020, the date of publication of the decision to make the Offer by the Bidder pursuant to Section 10 para. 1 sentence 1 WpÜG, were analyzed. The price targets of the financial analysts were within a range of EUR 14.30 to

EUR 19.75 per RHÖN-KLINIKUM Share. The median was EUR 16.80 per RHÖN-KLINIKUM Share and the arithmetic mean was EUR 17.11 per RHÖN-KLINIKUM Share.

The Management Board points out that the estimates of analysts are personal assessments of the respective analysts. Accordingly, their views on the value of the share differ from one another. The Management Board is of the opinion that the median and the average value can be a relevant indicator of the adequacy of the Offer Price. In relation to the median of EUR 16.80, the Offer Price contains a premium of EUR 1.20 or approximately 7.1% and in relation to the arithmetic average value of EUR 17.11 a premium of EUR 0.89 or approximately 5.2%.

(d) Valuation on the basis of multiples of comparable listed companies

The Management Board also considers the adequacy of the Offer Price to be supported by a comparison of the Offer Price with the valuation ranges determined on the basis of multiples (as set out in the Fairness Opinion) relating to, from the perspective of the Management, comparable listed companies. The Offer Price lies above the value range spanned by multiples of, in view of the Management Board, comparable companies. However, the particular profile of RHÖN-KLINIKUM Aktiengesellschaft requires an differentiated analysis.

(e) Valuation based on the discounted cash flow model

The Offer Price adequately reflects the enterprise value of the Company determined on the basis of the discounted cash flow analysis, which is often used to determine the fundamental enterprise value, on the basis of assumptions that are, in the opinion of the Management Board, realistic.

(f) Valuation on the basis of multiples of comparable historic transactions

In addition, the Management Board has verified the appropriateness of the Offer Price by comparing the Offer Price with the valuation ranges which are based on multiples that can be determined on the basis of comparable historical transactions in the European hospital market. The Offer Price is above a valuation range spanned by multiples of, from the perspective of the Management Board, comparable historical transactions. Due to the different regulations of the health care systems in the various European markets, however, a differentiated analysis is required.

(g) Control premiums in connection with public takeovers in Germany

The takeover premium compared to the closing price of the RHÖN-KLINIKUM Share in the electronic trading system XETRA of the Frankfurt Stock Exchange on 27 February 2020, *i.e.* the last trading day prior to the publication of the decision to make the Offer by the Bidder on 28 February 2020 pursuant to Section 10 para. 1 sentence 1 WpÜG, is within the range of the historical takeover premiums usually paid for transactions with a volume of more than EUR 100 million in Germany over the last ten years. Compared to the historical takeover premiums on the average share price of the last three months prior to the submission of the Offer, the premium of approximately 4.83% on the three-month weighted average share price of EUR 17.17 determined by BaFin is in the lower range of the control premiums usually paid in Germany in cash offers. In its assessment of the control premiums, the Management Board took into account, among other things, that the Bidder, according to its own statements, together with the Additional Asklepios Controlling Persons, had already secured a majority interest of approximately 50.07% of the voting rights and share capital of RHÖN-KLINIKUM Aktiengesellschaft prior to the commencement of the Acceptance Period by concluding the

Share Purchase Agreements (see Sections 3.6(a) and 3.6(c) of this Statement) and the Joint Venture Agreement (see Section 3.6(b) of this Statement), subject to a condition precedent.

(h) Dividend 2019

The proposal for the distribution of profits made by the Management Board and the Supervisory Board to the annual general meeting 2020 with regard to the distribution of the net earnings of the RHÖN-KLINIKUM Aktiengesellschaft in the financial year 2019 provides for a dividend of EUR 0.25 per RHÖN-KLINIKUM Share entitled to dividend (**Dividend 2019**). In this context, it cannot be ruled out that the content of the yet to be adopted dividend resolution may differ from the published proposal of the administration for the distribution of profits. The RHÖN-KLINIKUM Shareholders' right to participate in the Dividend 2019 arises with the adoption of the general annual meeting's resolution on the distribution of net earnings and is payable to those RHÖN-KLINIKUM Shareholders who hold RHÖN-KLINIKUM Shares on the day of the annual general meeting 2020. Whether or not those RHÖN-KLINIKUM Shareholders who intend to tender their RHÖN-KLINIKUM Shares, still have a right to receive the payment of the Dividend 2019 or whether the Bidder is already entitled to it, depends largely on whether the Offer will be completed before or after the annual general meeting 2020. The Management Board is not in a position to make any statement as to the date of completion of the Offer, since the Offer is subject in particular to the condition precedent that merger control clearance by the Federal Cartel Office (see Section 4.5 of this Statement) and in the event that an extraordinary general meeting is convened in connection with the Offer pursuant to Section 16 para. 3 sentence 1 WpÜG, the Offer Period would be extended to ten weeks (see Section 4.4(a) of this Statement). The Management Board points out that according to the Bidder, a closing of the Offer before the planned date of the ordinary annual general meeting 2020 on 3 June 2020 was likely resulting in the Bidder being entitled to the dividend payment. In view of the impact of the COVID-19 pandemic, the Management Board considers a postponement of the annual general meeting to be possible.

The Management Board further points out that in the B. Braun Convocation Request (see Section 1 of this Statement), B. Braun demanded, *inter alia*, that the general meeting passes a resolution on an advance dividend payment in an amount of EUR 133,876,940.00, *i.e.* EUR 2.00 per RHÖN-KLINIKUM Share entitled to dividend, on the expected annual net earnings. According to the B. Braun Convocation Request, the general meeting should recommend the proposed advance dividend payment to the Management Board, which is entitled to decide on the advance dividend payment on the expected annual net earnings pursuant to Section 6 no. 3 of RHÖN-KLINIKUM Aktiengesellschaft's articles of association and Section 1 para. 4 of the German Law on Measures in Corporate, Cooperative, Association, Foundation and Condominium Ownership Law to Combat the Effects of the COVID-19 Pandemic (*Gesetz über Maßnahmen im Gesellschafts-, Genossenschafts-, Vereins-, Stiftungs- und Wohnungseigentumsrecht zur Bekämpfung der Auswirkungen der COVID-19-Pandemie*). In the Asklepios Letter (see Section 1 of this Statement), the Bidder indicated that it rejects this request. The Management Board is currently carefully reviewing the B. Braun Convocation Request and will initiate any measures that may be required by law. It is pointed out that the decision on an advance dividend payment on the expected annual net earnings pursuant to Section 59 para. 1 AktG falls within the responsibility of the Management Board, which must decide in the best interests of the Company and all shareholders at its own discretion and is subject to the consent of the Supervisory Board. Neither does the general meeting have the authority to instruct the Management Board accordingly, nor would a vote of the general meeting be binding on the Management Board in any other way.

(i) Share Purchase Agreements

According to information provided by the Bidder, the Bidder entered into conditional share purchase agreements regarding the acquisition of a total of 9,017,267 RHÖN-KLINIKUM Shares at a purchase price of EUR 18.00 per RHÖN-KLINIKUM Share, corresponding to approximately 13.47% of the share capital of the Company, prior to the publication of the Offer Document (see Section 3.6 of this Statement). The Management Board is of the opinion that the conclusion of these share purchase agreements is a strong indication for the adequacy of the Offer Price despite the special rights granted to Eugen Münch (see Section 7.1(c) of this Statement) in connection with these agreements.

(j) Impact of the COVID-19 pandemic on the assessment

The further course of the COVID-19 pandemic and its effects on the healthcare market in Germany cannot be predicted at the time of publication of this Statement. Therefore, the Management Board of RHÖN-KLINIKUM Aktiengesellschaft is not able to reliably assess or quantify the consequences of the COVID-19 pandemic for the business development of the RHÖN-KLINIKUM Group at the time of publication of this Statement. For this reason, no adjustments were made in the Company valuation in connection with the COVID-19 pandemic.

(k) Overall evaluation of adequacy of consideration offered

The Management Board has carefully and thoroughly analyzed and evaluated the adequacy of the consideration offered by the Bidder based on the Offer Price. In doing so, Management Board has taken note of, among other things, the Fairness Opinion and has performed its own investigations. In this context, the Management Board has taken particular account of the following aspects, which are addressed in more detail in Sections 6.4(b) to 6.4(j) of this Statement:

- The Offer Price of EUR 18.00 per RHÖN-KLINIKUM Share includes a premium of 22.28% on the last XETRA closing price of the RHÖN-KLINIKUM Share prior to the publication of the intention to make the Offer by the Bidder on 28 February 2020.
- Based on the volume-weighted average share price (XETRA closing price) in the last three months to 28 February 2020, the Offer Price includes a premium of 4.83%.
- Compared to the median of the analyst price targets of EUR 16.80, the Offer Price includes a premium of EUR 1.20 or approximately 7.1% and compared to the arithmetic average of EUR 17.11 a premium of EUR 0.89 or 5.2%.
- The Offer Price lies above a value range of the multiples of comparable companies.
- On the basis of assumptions that are realistic in the opinion of the Management Board, the Offer Price adequately reflects the enterprise value of the Company determined on the basis of discounted cash flow analyzes.
- The Offer Price is above a range of values determined by multipliers of comparable historical transactions.
- The takeover premium based on the last XETRA closing price of the RHÖN-KLINIKUM Share before publication of the Bidder's intention to make the Offer on 28 February 2020 is within the range of the historical takeover premiums usually paid

in Germany over the last ten years for transactions with a volume of more than EUR 100 million.

- At the time of the publication of the Statement, the Bidder had already entered into purchase agreements for the acquisition of RHÖN-KLINIKUM Shares at a price of EUR 18.00 per RHÖN-KLINIKUM Share, representing approximately 13.47% of the share capital of the Company.
- The Offer Price gives RHÖN-KLINIKUM Shareholders the opportunity of a secure, timely and attractive value realization.

Taking into account the valuations performed by the Management Board, the other aspects described above, the overall circumstances of the Offer and, in particular with respect to the financial adequacy, the Fairness Opinion the Management Board believes that based on the Offer Price per RHÖN-KLINIKUM Share the consideration offered by the Bidder is adequate as at the date of this Statement.

## **7. OBJECTIVES AND INTENTIONS PURSUED BY THE BIDDER AND PROBABLE CONSEQUENCES OF A SUCCESSFUL OFFER**

The Bidder explains the background to the Offer as well as the economic and strategic objectives in Section 8 of the Offer Document. The intentions of the Bidder and the Additional Asklepios Controlling Persons (as defined in Section 3.4 of this Statement) with regard to the Company is set out in Section 9 of the Offer Document. The RHÖN-KLINIKUM Shareholders are advised to read these sections of the Offer Document carefully. The following summarized description is intended to provide an overview of the background set out in the Offer Document (see Section 7.1 of this Statement) as well as the intentions of the Bidder and the Additional Asklepios Controlling Persons (see Section 7.2 of this Statement), and it does not purport to be exhaustive. The assessment of the intentions of the Bidder by the Management Board and the Supervisory Board is made under Section 7.3 of this Statement and the expected financial consequences of a successful Offer are described below under Section 7.4 of this Statement and the probable consequences of a successful Offer for the employees and employee representatives, the employment conditions and the branches of the RHÖN-KLINIKUM Aktiengesellschaft are described below under Section 7.5 of this Statement.

### **7.1 Economic and strategic background of the Offer**

According to its own statements, the Bidder has held a significant interest in RHÖN-KLINIKUM Aktiengesellschaft since 2012, and has held more than 25% of the voting rights since the end of 2017. With the effective date of the Share Purchase Agreements (see Sections 3.6(a) and 3.6(c) of this Statement) and the Joint Venture Agreement (see Section 3.6(b) of this Statement), the Bidder will – according to its statements – directly and indirectly hold an aggregated amount of approximately 49.77% of the voting rights of RHÖN-KLINIKUM Aktiengesellschaft. Together with the shares already held by the Additional Asklepios Controlling Persons, the Bidder has therefore already acquired a controlling interest in the Company of around 50.07% of the voting rights and of RHÖN-KLINIKUM Aktiengesellschaft's share capital prior to the commencement of the Offer. The Management Board points out that resolutions of the general meeting of RHÖN-KLINIKUM Aktiengesellschaft are adopted by a simple majority of the votes cast, in accordance with Section 17 no. 3 of its current articles of association, and, if a capital majority is required, by a simple capital majority, unless otherwise stipulated by law or its articles of association. In the B. Braun Convocation Request (see Section 1 of this Statement), B. Braun requested that the

extraordinary general meeting to be convened should adopt a resolution on an increase of the majority requirement in Section 17 no. 3 of the articles of association to a three-quarter majority. In the Asklepios Letter (see Section 1 of this Statement), the Bidder announced that it rejects this request. The Management Board is currently carefully reviewing the B. Braun Convocation Request and will initiate any measures that may be required by law.

The Bidder describes the economic and strategic background of the Offer, insofar as it relates to the Bidder and the RHÖN-KLINIKUM Group, under Section 8 of the Offer Document as follows:

(a) Strategic objectives of the Bidder

According to the Offer Document, the Bidder expects to gain new opportunities and options for action as a result of the expansion of its shareholding in order to positively shape the further development of the RHÖN-KLINIKUM Group. According to the Bidder, the RHÖN-KLINIKUM Group's facilities, which focus on maximum and special medical care, are supposed to fit seamlessly into the portfolio of the Asklepios Group. The Bidder hereby expects to be enabled to make better use of sector potential and to intensify the provision of all inpatient care from a single source. In the long term, the Bidder expects to further expand its position in the German hospital market after completion of the Offer and to strengthen the competitive position of the joint group consisting of the Asklepios Group and the RHÖN-KLINIKUM Group. According to the Bidder's own statements, the Bidder aims to become the largest provider of cardiovascular care in Germany together with the RHÖN-KLINIKUM Group in the future and to further develop forward-looking concepts of health care, such as holistic prevention or the capitation model. In addition, the Bidder states in Section 7.4 of the Offer Document that it considers the telemedicine market to be a promising market.

(b) Synergies

In the Offer Document, the Bidder calls itself a leading operator of health care facilities in Germany and who has proven over the past decades that it is able to combine large regional structures and lead them efficiently and successfully even in an environment of significant regulatory challenges. RHÖN-KLINIKUM Aktiengesellschaft, for its part, with its Campus concept has established a future-oriented model project for integrated and digitally networked health care services and also operates the important university hospitals of Gießen and Marburg with their research and teaching facilities. The complementary know-how of the Bidder and the RHÖN-KLINIKUM Group is supposed to be bundled under one roof according to the Offer Document.

The Bidder expects the joint use of infrastructures and economies of scale in areas such as procurement, hospital information systems and discharge management (Care Bridge) to lead to efficiency gains for the Bidder and RHÖN-KLINIKUM Group. Similarly, the Bidder's aim is to promote digitalization for example regarding the appointment scheduling software *samedi*®.

(c) Objectives of the Joint Venture Agreement with HCM SE

According to the Offer Document and other publications of the Bidder, the Bidder and HCM SE, which is controlled by Eugen Münch (Eugen Münch and HCM SE together the *Münch Shareholders*) have entered into a Joint Venture Agreement on 28 February 2020 subject to a condition precedent (see Section 3.6(b) of this Statement) in order to coordinate their influence on RHÖN-KLINIKUM Aktiengesellschaft.

In the Joint Venture Agreement, the Bidder and HCM SE have laid down their cooperation with respect to RHÖN-KLINIKUM Aktiengesellschaft and the voting on the exercise of voting rights derived from the RHÖN-KLINIKUM Shares held by AMR Holding as a Joint Venture Company.

With regard to the cooperation under the Joint Venture Agreement, the Bidder has set out the following statements and objectives under Section 8.3 of the Offer Document:

- increasing the efficiency of patient care and, consequently, the profitability of RHÖN-KLINIKUM Aktiengesellschaft and the RHÖN-KLINIKUM Group;
- using the parties' expertise and skills for the benefit of RHÖN-KLINIKUM Aktiengesellschaft and the RHÖN-KLINIKUM Group; and
- managing RHÖN-KLINIKUM Aktiengesellschaft in partnership with each other and exercising joint control over RHÖN-KLINIKUM Aktiengesellschaft.

The coming into effect of the Joint Venture Agreement – like the Offer – is, according to the Offer Document, subject to the condition precedent of approval by the Federal Cartel Office under merger control law.

With regard to the individual provisions of the Joint Venture Agreement on cooperation and collaboration, reference is made to Section 8.3 of the Offer Document. In the view of the Management Board, the following objectives and intentions of the parties to the Joint Venture Agreement, which are relevant with regard to the business activities of the Company and the RHÖN-KLINIKUM Group as well as the corporate governance of the Company, should be noted in particular. The following description is based exclusively on the information provided by the Bidder in the Offer Document:

- According to the parties' intention, the Bidder is supposed to contribute expertise and skills with a view to increasing operational efficiencies in the RHÖN-KLINIKUM Group and to leverage synergies between the RHÖN-KLINIKUM Group and the Asklepios Group, in particular, this shall apply in areas such as procurement and IT.
- According to the intention of the parties to the Joint Venture Agreement, the future dividend policy of RHÖN-KLINIKUM Aktiengesellschaft should provide for a distribution of at least 40% of the consolidated annual net earnings based on IFRS.
- The parties to the Joint Venture Agreement further agreed to work towards ensuring that Eugen Münch will be appointed to a position in which he is granted a general power of attorney (*Generalbevollmächtigter*) in respect of RHÖN-KLINIKUM Aktiengesellschaft at the earliest possible date after the entry into force of the Joint Venture Agreement. The Offer Document does not contain any information on the concrete form of the general power of attorney.
- The Joint Venture Agreement provides for the formation of a steering committee of the Joint Venture Company which is to consist of equal numbers of representatives of the Bidder and the Münch Shareholders.
- It is intended for the rights attached to the RHÖN-KLINIKUM Shares held by the Joint Venture Entity to be exercised at the general meeting of RHÖN-KLINIKUM Aktiengesellschaft in accordance with the steering committee's resolutions.



Furthermore, the steering committee shall adopt recommendations for the exercise of the voting rights of the Supervisory Board members representing the RHÖN-KLINIKUM Shareholders, in particular with regard to the composition of the Management Board and the adoption of a catalogue of management measures of the Management Board, which are subject to the approval of the Supervisory Board.

- The parties to the Joint Venture Agreement seek to achieve that the shareholder-representative seats on RHÖN-KLINIKUM Aktiengesellschaft's Supervisory Board will be occupied with equal numbers of Supervisory Board members proposed for election by each party to the Joint Venture Agreement. It is further intended to jointly agree on the appointment of independent Supervisory Board members of RHÖN-KLINIKUM Aktiengesellschaft. The provisions of RHÖN-KLINIKUM Aktiengesellschaft's articles of association, as well as the statutory requirements for Supervisory Board members and the composition of the Supervisory Board, will be complied with.
- The Parties to the Joint Venture Agreement have undertaken to work, to the extent legally permissible, towards achieving that the Supervisory Board of RHÖN-KLINIKUM Aktiengesellschaft elects a candidate jointly nominated by the parties to the Joint Venture Agreement as chairman of the Supervisory Board.

## **7.2 Intentions of the Bidder and of the Additional Asklepios Controlling Persons**

The intentions of the Bidder and the Additional Asklepios Controlling Persons are described in Section 9 of the Offer Document. According to their own statements, the Bidder and the Additional Asklepios Controlling Persons intend to acquire control of RHÖN-KLINIKUM Aktiengesellschaft in order to achieve the objectives summarized in Section 7.1 of this Statement. Under Sections 9.1 to 9.6 of the Offer Document, the intentions of the Bidder and the Additional Asklepios Controlling Persons are described as follows (for details, please refer to Section 9 of the Offer Document):

- (a) Future business activities, future use of assets and future obligations of RHÖN-KLINIKUM Aktiengesellschaft

According to Section 9.1 of the Offer Document, in the future, both the Bidder and RHÖN-KLINIKUM Aktiengesellschaft shall continue to be operated as private hospital groups operating healthcare facilities across Germany.

According to the Offer Document, the Bidder intends to co-ordinate and align the business strategies of the Asklepios Group and RHÖN-KLINIKUM Aktiengesellschaft as described in Section 7.1 of this Statement in order to utilize synergy potential existing according to the Bidder's view. According to the Bidder, at least as long as the Bidder's participation in RHÖN-KLINIKUM Aktiengesellschaft has not reached 75% of the share capital represented at the general meeting, RHÖN-KLINIKUM Aktiengesellschaft shall remain an independent company after the completion of the Offer and the contractual relationships between the companies of the Asklepios Group and of the RHÖN-KLINIKUM Group are to be conducted at arm's length.

- (b) Seat of RHÖN-KLINIKUM Aktiengesellschaft, site of material parts of the business

According to Section 9.2 of the Offer Document, the Bidder has no intention to cause RHÖN-KLINIKUM Aktiengesellschaft to relocate or close its seat or the sites of material parts of the business. However, the Bidder intends to examine whether and to what extent organizational adaptations, streamlining measures and, where appropriate, consolidations, in particular of

administrative functions, may be reasonable in order to realize synergy potential. In this context, the Bidder cannot exclude that consolidations and/or closures of functional units will be reasonable in the future.

(c) Employees, terms and conditions of employment and representation of employees

The Bidder considers the abilities and experience of the management and employees of the RHÖN-KLINIKUM Group to be very important and views the future co-operation with the RHÖN-KLINIKUM Group to be an opportunity for future growth and further development of the workforce of both enterprises. In particular, the Bidder assumes that the completion of the Offer will contribute to securing the enterprises and their jobs.

According to its own statements, the Bidder does not intend to work towards terminating the employment of employees of the RHÖN-KLINIKUM Group or changing any of their terms and conditions of employment or making any changes to the representation of employees.

(d) Composition of the boards

(i) Management Board

According to Section 9.3.1 of the Offer Document, following the completion of the Offer, the Management Board of RHÖN-KLINIKUM Aktiengesellschaft will, in accordance with the statutory requirements, continue to manage the company independently and on its own responsibility. The Bidder assumes that the majority of the current members of the Management Board will remain members of the Management Board without changes even after the completion of the Offer.

However, pursuant to the Joint Venture Agreement with HCM SE (see Section 3.6(b) of this Statement), subject to a condition precedent, the Bidder intends, to the extent legally permissible, to work towards achieving in the future that the Supervisory Board appoints the Management Board of RHÖN-KLINIKUM Aktiengesellschaft in accordance with the steering committee's recommendation.

Upon completion of the Offer, the Bidder intends to closely co-operate with the Management Board of RHÖN-KLINIKUM Aktiengesellschaft in order to implement the objectives described in the Joint Venture Agreement. For this purpose, the Bidder intends to work towards ensuring that the Management Board of RHÖN-KLINIKUM Aktiengesellschaft is expanded and additional members of the Management Board are appointed by the Supervisory Board.

(ii) Supervisory Board

According to Section 9.3.2 of the Offer Document, subject to the completion of the Offer, possibly already in the context of the regular election of the shareholder representatives on the Supervisory Board at the ordinary general meeting scheduled for 3 June 2020, the Bidder, as significant shareholder, intends to be appropriately represented on the Supervisory Board of RHÖN-KLINIKUM Aktiengesellschaft. Pursuant to the Joint Venture Agreement with HCM SE (see Section 3.6(b) of this Statement), the Bidder intends to achieve that the Bidder and the Münch Shareholders are each represented by the same number of shareholder representatives on the Supervisory Board of RHÖN-KLINIKUM Aktiengesellschaft. The Bidder and the Münch Shareholders aim to jointly agree on these members of the Supervisory Board. It is also intended to jointly agree on independent members of the Supervisory Board of RHÖN-KLINIKUM Aktiengesellschaft.

In the event that merger control clearance is granted by the Federal Cartel Office before the annual general meeting 2020 of RHÖN-KLINIKUM Aktiengesellschaft, the Bidder and HCM SE have agreed in the Joint Venture Agreement on a list of candidates for the election as supervisory board members of RHÖN-KLINIKUM Aktiengesellschaft. It is therefore intended to elect the following persons to the Supervisory Board of RHÖN-KLINIKUM Aktiengesellschaft:

- Kai Hankeln
- Hafid Rifi
- Dr. Julia Dannath-Schuh
- Dr. Jan Liersch
- Jan Hacker
- Prof. Dr. Gerhard Ehninger
- Irmtraut Gürkan
- Tino Fritz.

In the event that no, one or only two women are elected on the employee side of the Supervisory Board, it is intended to elect Christine Reißner instead of Tino Fritz. If the merger control clearance by the Federal Cartel Office is only granted after the annual general meeting 2020 of RHÖN-KLINIKUM Aktiengesellschaft, the Bidder and HCM SE intend to convene an extraordinary general meeting, if necessary.

(e) Possible structural measures

Following completion of the Offer, the Bidder might, in certain circumstances and depending first and foremost on the percentage of the stake achieved, initiate structural measures such as the conclusion of a domination and profit and loss transfer agreement or a squeeze-out. However, according to the Offer Document, the Bidder has no such intentions.

(f) Future business activities of the Bidder, the Asklepios Group and the Additional Controlling Persons

According to Section 9.6 of the Offer Document, in the future, the Asklepios Group will continue to be operated as a private hospital group operating healthcare facilities across Germany.

The Bidder itself acts according to its own statement as the lead entity of the companies of the Asklepios Group and maintains all the essential elements of the organizational structure, including the group-wide corporate functions. Even after the completion of the Offer, the Bidder will continue to perform the group management of the Asklepios Group without changes.

AMR Holding itself does not conduct any business activities of its own and will take on the function of a holding company in respect of RHÖN-KLINIKUM Aktiengesellschaft after the completion of the Offer and the contribution of the RHÖN-KLINIKUM Shares into AMR Holding.

### **7.3 Assessment of the objectives and intentions of the Bidder and the Additional Asklepios Controlling Persons as well as the expected effects on the Company**

The Management Board has carefully and thoroughly studied and examined the objectives and intentions of the Bidder and the Additional Asklepios Controlling Persons as set out in the Offer Document. It points out that there have not been concluded any agreements between the Bidder and RHÖN-KLINIKUM Aktiengesellschaft in advance of the Offer and no discussions and no exchange of information regarding a possible merger of the Asklepios Group and the RHÖN-KLINIKUM Group have taken place. Therefore, the Management Board can assess the objectives and intentions presented by the Bidder solely on the basis of the information provided in the Offer Document. In this respect, the Management Board is of the opinion that the objectives and intentions and possible effects on the Company in future and its business activities as set out in the Offer Document may be advantageous and, therefore, supports them.

#### **(a) Economic and strategic objectives**

The Management Board welcomes the intention of the Bidder and the Additional Asklepios Controlling Persons to leverage synergies through close cooperation between the Asklepios Group and the RHÖN-KLINIKUM Group in the use of infrastructures and in areas such as procurement, hospital information systems and discharge management (care bridge) and the merger of the two groups' complementary healthcare offerings as described in detail in Section 8.2 of the Offer Document. The Management Board agrees with the Bidder that the merger and related economies of scale may lead to efficiency gains. Whether synergy effects actually arise in the areas of procurement, hospital information systems and discharge management cannot be assessed by the Management Board at the time of publication of this Statement as it is not aware of the internal structures of the Asklepios Group. Further, in particular in the absence of a domination agreement any future business relationships to the Bidder would be subject to the applicable provisions of stock corporation law.

In particular, the Management Board considers the Bidder's goal of expanding the focus on cardiovascular care together with the RHÖN-KLINIKUM Group to be welcome, considering the strong market position the RHÖN-KLINIKUM Group already holds in this field. The Management Board considers the Bidder's approach to further develop forward-looking healthcare concepts, such as the concept of holistic prevention or the capitation model, to be right. In the assessment of the Management Board, the Bidder's intention to unite the complementary know-how of the Asklepios Group and the RHÖN-KLINIKUM Group under one umbrella and to vigorously push forward, among other things, the economic benefit of digitization, *e.g.* by means of the appointment booking software *samedi®*, is economically comprehensible and reasonable. The Management Board further shares and welcomes the Bidder's positive statements about the promising telemedicine market. Due to the vague information provided in the Offer Document, it is not possible to reliably assess the extent to which a cooperation that increases efficiency and value for both hospital groups can actually be implemented in the respective areas after completion of the Offer.

The Management Board sees an opportunity for the RHÖN-KLINIKUM Group to benefit from the Bidder's experience in combining large regional structures in a challenging regulatory environment. The planned cooperation and the associated strengthening of the competitive position of the joint group consisting of the Asklepios Group and the RHÖN-KLINIKUM Group will accelerate the realization of the RHÖN-KLINIKUM Group's own strategic goals and achieve stable growth and a sustainable increase in enterprise value in the long term.

In this respect, the Management Board believes that the premium offered by the Bidder reflects the potential future income that may be generated by the cooperation between the Asklepios Group and the RHÖN-KLINIKUM Group pursued by the Offer. RHÖN-KLINIKUM Shareholders who wish to accept the Offer are therefore, with the Offer Price, given the opportunity to realize value in a secure, timely and attractive manner.

(b) Intentions of the Bidder

(i) Future business activity, assets and future obligations of the Company

The Management Board welcomes the fact that RHÖN-KLINIKUM Aktiengesellschaft will continue to operate as a private clinic group after completion of the Offer and that the fundamental business strategy of the Company will be retained. The Management Board is of the opinion that the Offer will not materially impair the operational independence of the Company; on the contrary, the Company may be able to continue its current business activities and possibly pursue its strategic goals more efficiently and effectively by exploiting significant synergy potential (see Section 7.3(a) of this Statement).

In the view of the Management Board, it is therefore to be welcomed that, although the business strategies of the Asklepios Group and the RHÖN-KLINIKUM Group are to be coordinated and interlinked, RHÖN-KLINIKUM Aktiengesellschaft will remain an independent company even after completion of the Offer, at least as long as the Bidder's shareholding in the company does not reach 75% of the share capital represented at the annual general meeting, and that relations between the companies of the Asklepios Group and the RHÖN-KLINIKUM Group are to be structured at arm's length.

(ii) Registered office of the Company and location of essential parts of the business

The Management Board welcomes the fact that, according to the Offer Document, the Bidder does not intend to have the Company relocate or give up its registered office or significant parts of the Company. Against the background of the planned close cooperation between the two groups, it is consistent to promote organizational adjustments, down-sizing and, if necessary, the consolidation, especially of administrative functions, as far as this appears reasonable, in order to realize synergy potentials. The Management Board shares the Bidder's view that the consolidation of administrative functions, to the extent that they are financially reasonable in the individual case, may be appropriate to create long-term value for the Company and its shareholders.

(iii) Employees and employment conditions

Furthermore, of particular importance to the Management Board are the commitments made by the Bidder with regard to the Company's employees. The Management Board shares the Bidder's view in that the skills and experience of the management and employees of the RHÖN-KLINIKUM Group are of great importance and that the cooperation between the Bidder and the RHÖN-KLINIKUM Group represents an opportunity for future growth and further development of the workforce.

The Management Board is convinced that the motivated, loyal and qualified employees of the RHÖN-KLINIKUM Group have been and continue to be crucial to the long-term success of the RHÖN-KLINIKUM Group. To secure this in the future, as part of its strategy, the Company offers a variety of targeted training, continuing education and

internal development programs for all professional groups both within the Group and in its clinics, and is pursuing a number of projects to ensure that the Company continues to be perceived as an attractive employer in the marketplace and remains able to attract and retain highly qualified and motivated employees over the long term.

The Management Board therefore expressly welcomes the Bidder's commitment to refrain from the dismissal of employees of the RHÖN-KLINIKUM Group, or any alterations of their current employment conditions, or any changes with regard to employee representation.

(iv) Composition of the Management Board

With regard to the composition of the Management Board of RHÖN-KLINIKUM Aktiengesellschaft, against the background of the future ownership structure, in which the Bidder, together with HCM SE, will control the majority of the voting rights of RHÖN-KLINIKUM Aktiengesellschaft, the Management Board considers it generally understandable that the Bidder is seeking, to the extent permitted by law, to ensure that the Management Board of RHÖN-KLINIKUM Aktiengesellschaft is expanded, that additional Management Board members are appointed by the Supervisory Board, and that a new catalogue of management measures subject to Supervisory Board's consent is adopted. As the Bidder has neither explained the respective details in the Offer Document nor named specific candidates for the Management Board of RHÖN-KLINIKUM Aktiengesellschaft, the Management Board cannot comment on this. Furthermore, it is welcomed that the Bidder intends to continue to cooperate with the majority of the current members of the Management Board even after completion of the Offer. The current members of the Management Board are all proven experts in their fields and have played a decisive role in the successful development of the Company in the recent past.

(v) Composition of the Supervisory Board

Also with regard to the composition of the Supervisory Board of RHÖN-KLINIKUM Aktiengesellschaft, the Management Board, against the background of the future ownership structure in which the Bidder, together with HCM SE, will control the majority of the voting rights of RHÖN-KLINIKUM Aktiengesellschaft, considers it understandable that the Bidder aims to be adequately represented on the 16-member Supervisory Board on the shareholder representative side, and that the Bidder will take corresponding action. Taking into account the ownership structure generally complies with recommendation C.6 of the German Corporate Governance Code. At least five of the eight joint candidates proposed by the Bidder and the Münch Shareholders are persons affiliated with the Bidder, as they are either members of the administrative bodies or executive employees of the Bidder itself or of companies affiliated with the Bidder.

The Management Board also considers it to be plausible and fair that the Bidder intends to co-ordinate with HCM SE in the steering committee to be established at the level of the Joint Venture Company with regard to the development of recommendations for the exercise of the voting rights of the Supervisory Board members representing the RHÖN-KLINIKUM Shareholders, provided that the recommendations are made within the scope of what is legally permissible. In particular, this means that the respective supervisory board members are thereby not restricted in the autonomous and

independent exercise of their corporate duties in the interests of RHÖN-KLINIKUM Aktiengesellschaft.

(vi) Appointment of Eugen Münch as general representative of the Company

According to Section 8.3 of the Offer Document, the Bidder and HCM SE have agreed to work towards ensuring that Eugen Münch will be appointed to a position in which he is granted general power of attorney as authorized representative (*Generalbevollmächtigter*) of RHÖN-KLINIKUM Aktiengesellschaft at the earliest possible date after the effective date of the Joint Venture Agreement. Since the Bidder provides only vague information on the position of the authorized representative in the Offer Document without further elaborating on its details, the Management Board cannot yet comment on this. Provided that the stock corporation law provisions are complied with, the granting of such a general power of attorney is legally permissible and possible. The Management Board has to and will decide about the authorization of Eugen Münch, at a later date, in accordance with the applicable statutory provisions. The duty and the right of the Management Board to manage the company and conduct business autonomous and free from instructions would remain unaffected even after a possible appointment of Eugen Münch as authorized representative of the Company.

(vii) Structural measures

The Bidder points out in Section 9.5 of the Offer Document that after completion of the Offer it could, under certain circumstances, in particular depending on the acquired stake, initiate structural measures such as the conclusion of a domination and profit and loss transfer agreement or a squeeze-out. The Management Board acknowledges that the Bidder has no such concrete intentions at the time of publication of the Offer Document.

The Management Board points out that according to Sections 9.1 and 17.4 of the Offer Document, the Bidder does not rule out the possibility of assessing the conclusion of a control and profit and loss transfer agreement with RHÖN-KLINIKUM Aktiengesellschaft following the completion of the Offer or at a later date, provided that the Bidder's shareholding in the Company reaches 75% of the share capital represented at the general meeting. As the Bidder correctly notes in Section 17.4 of the Offer Document, the remaining RHÖN-KLINIKUM Shareholders who do not accept the Offer would have only limited rights and limited opportunities to participate in the profits of RHÖN-KLINIKUM Aktiengesellschaft in the event of such a contract being concluded. The remaining RHÖN-KLINIKUM Shareholders would then either be entitled to annually recurring compensation pursuant to Section 304 AktG or could exchange their RHÖN-KLINIKUM Shares for adequate cash compensation pursuant to Section 305 para. 2 no. 3 AktG, which can be higher or lower than or equal to the value of the Offer Consideration. If, after completion of the Offer or at a later date, the conclusion of a control and profit and loss transfer agreement is considered, the Management Board will review the matter with due consideration of the interests of the Company and the shareholders.

(viii) Intentions with regard to the Bidder

The Management Board acknowledges that according to the Offer Document, the Asklepios Group will continue to operate as a private hospital group operating healthcare facilities throughout Germany and that AMR Holding itself does not conduct

any business activities of its own. This has no direct implications for the business activities of RHÖN-KLINIKUM Aktiengesellschaft.

## 7.4 Expected financial consequences of a successful bid

### (a) Tax consequences

Generally, the Management Board does not identify any negative tax consequences for the Company on the basis of the Offer Document except for the following possible effects:

#### (i) Tax losses carried forward

On 31 December 2019, RHÖN-KLINIKUM Aktiengesellschaft had corporation tax and commercial tax loss carryforwards of around EUR 16.7 million and EUR 121.6 million, respectively. In the event, that a majority of the voting rights are directly or indirectly transferred to an acquirer the existing loss carryforwards may get lost pursuant to Section 8c of the German Corporation Tax Act (*Körperschaftsteuergesetz – KStG*) or Section 10a of the German Trade Tax Act (*Gewerbesteuer-gesetz – GewStG*) and would therefore no longer be available to reduce taxes in the future.

In the consolidated financial statements of RHÖN-KLINIKUM Aktiengesellschaft dated 31 December 2019, deferred taxes of around EUR 0.4 million are capitalized on such part of these loss carryforwards usable within the next five years. In the event of a complete loss of the loss carryforwards, corresponding deferred tax assets would have to be derecognized with an effect on earnings.

#### (ii) Real estate transfer tax

RHÖN-KLINIKUM Aktiengesellschaft currently owns various real estate assets in Bavaria, Germany. In the event, that RHÖN-KLINIKUM Shares, corresponding to 95% of the share capital of RHÖN-KLINIKUM Aktiengesellschaft, are combined in one hand, the transaction may become subject to real estate transfer tax pursuant to Section 1 para. 3 of the German Real Estate Transfer Tax Act (*Grunderwerbsteuergesetz – GrEStG*) resulting in a tax burden of 3.5% (in Bavaria). Tax debtor would be the purchaser of the shares.

### (b) Financial consequences

RHÖN-KLINIKUM Aktiengesellschaft is party to various financing agreements, which provide for different legal consequences in the event that one or more persons jointly acquire a majority of the shares in RHÖN-KLINIKUM Aktiengesellschaft.

#### (i) Existing financing arrangements

- Syndicated loan agreement: In the 2017 financial year, RHÖN-KLINIKUM Aktiengesellschaft, as borrower, concluded a syndicated loan agreement with a consortium of lenders. Under the syndicated loan agreement, the lending banks have provided the borrower with credit facilities amounting to EUR 100 million. In the event that one or more persons jointly acquire more than 50% of the voting rights in RHÖN-KLINIKUM Aktiengesellschaft, each lender has the right to terminate its loan commitments and demand repayment of its interest in the loans outstanding under the syndicated loan agreement. RHÖN-KLINIKUM Aktiengesellschaft has not made use of the credit facility at the



time of publication of this Statement and does not intend to make use of it before completion of the Offer.

- Promissory note loan agreement: In the 2018 financial year, RHÖN-KLINIKUM Aktiengesellschaft, as borrower, concluded a promissory note loan agreement with a nominal value of EUR 100 million. The exclusively fixed-interest and bullet maturity tranches have terms of five, seven and ten years. In the event that one or more persons jointly acquire more than 50% of the voting rights in RHÖN-KLINIKUM Aktiengesellschaft, the lender has the right to terminate the promissory note loan agreement and demand repayment of the outstanding loans immediately upon notification by RHÖN-KLINIKUM Aktiengesellschaft of the change of control event. According to the terms of the agreement, there is no change of control event if one of the existing shareholders B. Braun, the Bidder, Eugen Münch (HCM SE) or Ingeborg Münch (*Existing Shareholders*) or several Existing Shareholders acting jointly acquire more than 50% but not more than 70.1% of the RHÖN-KLINIKUM Shares carrying voting rights.
  - Registered bonds: In the 2019 financial year, RHÖN-KLINIKUM Aktiengesellschaft, as the issuer, issued registered bonds with a total nominal value of EUR 60 million and a term of 20 years. In the event that one or more persons jointly acquire more than 50% of the voting rights in RHÖN-KLINIKUM Aktiengesellschaft, the holders of the bond have the right to cancel the bond and demand repayment of the outstanding loans immediately upon notification by RHÖN-KLINIKUM Aktiengesellschaft of the change of control. According to the terms of the agreement, there is no change of control event if an Existing Shareholder or several Existing Shareholders acting jointly, acquire more than 50% but not more than 70.33% of the RHÖN-KLINIKUM Shares carrying voting rights.
- (ii) Consequences to the financing arrangements in case the Offer is accepted by the RHÖN-KLINIKUM Shareholders

The completion of the Offer will possibly result in the respective creditors under the financing arrangements as described above being entitled to terminate the respective financing instrument. Early termination or repayment of the respective financing instrument may result in a significant, and possibly short-term, refinancing requirement for the RHÖN-KLINIKUM Group. An increase in the applicable interest rate could increase the regular financing costs of the RHÖN-KLINIKUM Group in a considerable amount. The continued stable and secure financing of the RHÖN-KLINIKUM Group is of the utmost importance to the Management Board both now and after completion of the Offer. The Management Board will therefore carefully monitor further developments and take all necessary and appropriate measures to ensure stable and secure financing for the RHÖN-KLINIKUM Group even after the closing of the Offer.

(c) Dividend Policy

In the past, RHÖN-KLINIKUM Aktiengesellschaft has positioned itself as a reliable dividend payer. In doing so, the Management Board of RHÖN-KLINIKUM Aktiengesellschaft has been guided by a dividend payout ratio of 40% of consolidated annual net earnings after minority interests in the past. With this payout ratio, the company has secured its medium-term investment activities and at the same time enabled RHÖN-KLINIKUM Shareholders to

participate appropriately in the company's success. The Management Board welcomes the fact that the Bidder does not intend to make any fundamental changes to its dividend policy, while, according to its own statements, advocating a distribution of 40% of the consolidated annual net earnings in accordance with IFRS. However, the Management Board points out that according to Section 15.3.2 of the Offer Document, the Bidder's calculations regarding the effects of its participation in RHÖN-KLINIKUM Aktiengesellschaft on its own profit situation are based on the expectation that the dividend will amount to at least EUR 0.25 per share in the future. In this respect, it cannot be ruled out that the Bidder will work towards increasing the payout ratio in the future, should the Company's financial performance deteriorate.

## **7.5 Expected consequences for employees and employee representatives, employment conditions and RHÖN-KLINIKUM Group's sites**

From a legal perspective, the completion of the Offer has no direct impact on RHÖN-KLINIKUM Group's employees. All employment contracts continue with the same employer. There will be no transfer of business. The content of the employment contracts shall also remain unaffected by the execution of the Offer. Existing collective agreements and works agreements continue to apply unchanged. The execution of the Offer will also not have a direct impact on RHÖN-KLINIKUM Group's sites.

However, the Management Board cannot rule out that the group work council representation and the group co-determination will no longer take place at the level of RHÖN-KLINIKUM Aktiengesellschaft, but only at the level of the Bidder following completion of the Offer. This depends on whether the actual circumstances of RHÖN-KLINIKUM Aktiengesellschaft following completion of the Offer meet the prerequisites of the so-called group within the group doctrine (*Konzern im Konzern*). With regard to group co-determination at the level of the Bidder, the particularities of the Bidder's legal form must be taken into account. If the actual circumstances after completion of the Offer or at a later date do not meet the requirements of the group within the group doctrine (*Konzern im Konzern*), the Supervisory Board of the Company would continue to be subject to equal co-determination as long as the Company itself employs a sufficient number of employees (as at present). However, the number of the members of the supervisory board would be reduced from currently sixteen to twelve, consisting of six shareholder representatives and six employee representatives pursuant to Section 7 of the German Co-Determination Act (*Mitbestimmungsgesetz – MitbestG*) and Section 10 no. 1 of the articles of association. For the employees directly employed by the company, this means that they would be involved in group work council representation and group co-determination both at the level of the Company and at the level of the Bidder as parent company of the group, while employees employed by subsidiaries (see Annex 2.5 to this Statement) would be represented only at the level of the Bidder as parent company of the group.

As set out in Section 7.3(b)(iii) of this Statement, the Management Board welcomes the Bidder's statement that the skills and experience of the management and employees of RHÖN-KLINIKUM Group are of great importance and that the Bidder's cooperation with RHÖN-KLINIKUM Group represents an opportunity for future growth and further development of the workforce. According to the Offer Document, however, the Bidder cannot rule out that in the future, after completion of the Offer the consolidation of certain administrative functions or functional units may become appropriate. Due to the vague information provided in the Offer Document, the Management Board is not in a position to further specify any possible effects on the workforce. Therefore, the Bidder's commitment not to work towards the termination of employment relationships of employees of RHÖN-KLINIKUM Group or towards a change in their terms of employment or towards a change with regard to employee representation is all the more important. The Offer Document does not contain any further statements from which

the Management Board could derive further foreseeable consequences for the employees and their participation, the working conditions and the sites of the Group.

Furthermore, the Management Board points out that the Bidder's intentions may change at any time (e.g. in connection with a change in general market conditions) and that there is no legal obligation on the Bidder to pursue the objectives and intentions declared in the Offer Document. Therefore, it cannot be ruled out that the objectives and intentions laid out in the Offer Document will not be realized.

In addition to this, it cannot be ruled out that possible structural measures could have an adverse effect on existing employee representations and lead to a change in the employment conditions for the employees of RHÖN-KLINIKUM Group.

## **8. EFFECTS ON THE RHÖN-KLINIKUM SHAREHOLDERS**

The following remarks are intended to provide the RHÖN-KLINIKUM Shareholders with information concerning the assessment of the effects of the acceptance or non-acceptance of the Offer. The following comments do not purport to be exhaustive. It is the own responsibility of each RHÖN-KLINIKUM Shareholder to evaluate the effects of an acceptance or non-acceptance of the Offer. The Management Board and the Supervisory Board therefore recommend that RHÖN-KLINIKUM Shareholders seek professional advice, if necessary.

The Management Board furthermore points out that it does not and cannot assess whether RHÖN-KLINIKUM Shareholders, through accepting or not accepting the Offer, might be exposed to possible tax disadvantages (especially any tax liability on capital gains) or if tax benefits could be forfeited. The Management Board recommends that, before deciding to accept or not accept the Offer, RHÖN-KLINIKUM Shareholders should seek tax advice, taking into consideration the personal circumstances of the respective shareholder.

### **8.1 Possible effects in case the Offer is accepted**

RHÖN-KLINIKUM Shareholders intending to accept the Offer should, in particular, consider the following in the light of the remarks made above:

- RHÖN-KLINIKUM Shareholders who accept or have accepted the Offer, will in future no longer be able to benefit from any positive performance of the stock price of the RHÖN-KLINIKUM Shares as well as dividends, or from any positive development of the business of the Company and its subsidiaries. This also applies to the Dividend 2019, if the Offer is completed before the annual general meeting 2020 (see Section 6.4(h) of this Statement).
- The Offer will only be settled following the fulfilment of the Offer Condition (as defined in Section 13.1 of the Offer Document) to which the Offer is subject, or if the Bidder has waived it, insofar as possible. Whether or not the Offer Condition has been fulfilled will only become apparent following the expiry of the Acceptance Period, if applicable.
- A withdrawal from the acceptance of the Offer is possible only under the narrow conditions set out in Section 16.1 of the Offer Document, and only before the Acceptance Period has expired.
- According to Section 11.8 of the Offer Document, Tendered RHÖN-KLINIKUM Shares can be traded on the regulated market of the Frankfurt Stock Exchange (Prime

Standard) under the ISIN DE000A288748 (see Section 4.9 of this Statement). The Management Board points out that trading volumes and liquidity of the Tendered RHÖN-KLINIKUM Shares depend on the specific acceptance rate, and therefore may not exist at all or may be low and may be subject to heavy fluctuations. Therefore, it cannot be ruled out that, in the absence of demand, it will be impossible to sell Tendered RHÖN-KLINIKUM Shares on the stock exchange.

- If the Bidder, or one of the persons acting jointly with it or their subsidiaries, acquire, within one year of the publication of the number of RHÖN-KLINIKUM Shares to which it or they are entitled following the expiry of the Acceptance Period and resulting from the acceptance of the Offer (Section 23 para. 1 no. 2 WpÜG), RHÖN-KLINIKUM Shares off the stock exchange, and the value of the consideration granted or agreed in this respect is higher than that specified in the Offer, the Bidder shall be obliged to pay to the RHÖN-KLINIKUM Shareholders who have accepted the Offer a consideration corresponding to the applicable difference amount. On the other hand, there is no such claim to the subsequent improvement of the consideration under the Offer for acquisitions made off the exchange made in return for a higher consideration following the expiry of this subsequent acquisition period of one year. The Bidder can, moreover, also purchase RHÖN-KLINIKUM Shares on the stock exchange at a higher price during the aforementioned one-year subsequent acquisition period without having to adjust the consideration in favor of those RHÖN-KLINIKUM Shareholders who have already accepted the Offer.
- RHÖN-KLINIKUM Shareholders who accept the Offer shall not participate in any cash compensation of whatever type that is legally payable in the case of certain structural measures implemented following the settlement of the Offer (see Sections 17.2 to 17.6 of the Offer Document). In general, any compensation payments will be determined on the basis of the total value of an enterprise, and may be reviewed in judicial proceedings. Such compensation payments may be equal to the amount of the cash compensation, but may also be higher or lower. In the Management Board's view it cannot be ruled out that compensation payments made at a future point in time could exceed the Offer Price. Even if this is the case, the RHÖN-KLINIKUM Shareholders accepting the Offer will not be entitled to such compensation payments or to any additional payments; this also applies if such a measure is taken within one year after expiry of the acceptance period pursuant to Section 23 para. 1 sentence 1 no. 2 WpÜG (*cf.* Section 31 para. 5 sentence 2 WpÜG).

## 8.2 Possible effects in case the Offer is not accepted

RHÖN-KLINIKUM Shareholders who do not accept the Offer and who do not otherwise dispose of their RHÖN-KLINIKUM Shares will remain shareholders of the Company as before. However, they should take note, in particular, of the Bidder's remarks set out in Section 17 of the Offer Document, together with the following:

- The present stock market price of the RHÖN-KLINIKUM Shares reflects the fact that the Bidder published its decision to launch the Offer on 28 February 2020. It is uncertain whether, following settlement of the Offer, the stock market price of the RHÖN-KLINIKUM Share will remain at its present level or rise above or fall below it.
- Settlement of the Offer will result in a reduction of the free float of the issued RHÖN-KLINIKUM Shares. It is further expected that the supply of and demand for RHÖN-KLINIKUM Shares will be less than today after settlement of the Offer, and therefore

that the liquidity of the RHÖN-KLINIKUM Shares will decrease. It will therefore be possible that buy and sell orders with respect to RHÖN-KLINIKUM Shares cannot be executed or cannot be executed in a timely fashion. In addition, the possible limitation of the liquidity of RHÖN-KLINIKUM Shares could result in substantially heavier price fluctuations of the RHÖN-KLINIKUM Shares in the future.

- The settlement of the Offer, in particular the expected significant reduction of the free float in RHÖN-KLINIKUM Shares, could result in RHÖN-KLINIKUM Aktiengesellschaft no longer being able to meet the relevant index criteria for the RHÖN-KLINIKUM Shares remaining in the SDAX, CDAX-Gesamtindex, DAXsector Pharma+Healthcare and/or certain other indices and the RHÖN-KLINIKUM Shares may be removed from the indices in the future. This could lead to index funds and other institutional investors whose investments reflect the respective index refraining from acquiring further RHÖN-KLINIKUM Shares and selling their RHÖN-KLINIKUM Shares held after the settlement of the Offer. An increased supply of RHÖN-KLINIKUM Shares together with a lower demand for shares of the Company may adversely affect the stock exchange price of the Company's shares.
- After settlement of the Offer, the Bidder (as the case may be through the Joint Venture Company) will have the simple voting majority at the general meeting and could, depending on the acceptance rate and presence at the general meeting, also have the necessary qualified voting majority to adopt certain structural measures or other decisions of considerable weight at the general meeting of the Company. Such measures include (as far as legally permissible), for example, amendments to the articles of association, capital increases, the approval of a domination and profit and loss transfer agreement, the exclusion of the subscription rights of other RHÖN-KLINIKUM Shareholders in the case of capital measures, squeeze-out, restructuring, change of legal form, merger and dissolution (including a so-called transferring dissolution) of the company as well as measures leading to the delisting of the company. Such measures may also result in additional costs to be borne by the RHÖN-KLINIKUM Aktiengesellschaft.
- Depending on the attendance of the general meeting following the completion of the Offer, the Bidder could achieve a majority of 75% of the valid votes cast even if it acquired less than 75% of all RHÖN-KLINIKUM Shares. At the annual general meeting 2019 of RHÖN-KLINIKUM Aktiengesellschaft, approximately 82.5% of the share capital of the Company was represented. Therefore, assuming a similar attendance of the general meeting, 41,418,179 RHÖN-KLINIKUM Shares (*i.e.* approximately 62% of the current share capital and voting rights) could be sufficient to provide the Bidder with a majority of 75% of the share capital of RHÖN-KLINIKUM Aktiengesellschaft represented at the time of the resolution, which would be sufficient to adopt resolutions on the measures mentioned in the preceding paragraph and on the approval of the measures listed below. This does not apply as long as B. Braun (see the shareholder structure described under Section 2.4 of this Statement) or any other shareholder have an applicable blocking minority.
  - (i) The Bidder could, upon completion of the Offer or at a later date, effect the conclusion of a domination and profit and loss transfer agreement with RHÖN-KLINIKUM Aktiengesellschaft (see Section 7.3(b)(vii) of this Statement). As a result of such an agreement, the remaining RHÖN-KLINIKUM Shareholders

would have limited rights, including limited opportunities to participate in the profits of RHÖN-KLINIKUM Aktiengesellschaft.

- (ii) The Bidder could, upon completion of the transaction, effect a merger of RHÖN-KLINIKUM Aktiengesellschaft with and into the Joint Venture Company controlled by the Bidder and HCM SE. As a result of a merger with and into the Joint Venture Company, RHÖN-KLINIKUM Aktiengesellschaft would cease to exist and RHÖN-KLINIKUM Shareholders who have not submitted their shares in the Offer would become shareholders of the Joint Venture Company whose shares (shares in a GmbH) are not listed on a stock exchange and may be illiquid.
- After completion of the Offer or at a later date, the Bidder could cause the Company, within the framework of what is legally permissible, to apply for delisting of the RHÖN-KLINIKUM Shares on the regulated market of the Frankfurt Stock Exchange (Prime Standard) and the Munich Stock Exchange or to cease trading on the stock exchanges in Berlin, Düsseldorf, Hamburg, Hannover and Stuttgart. In the former case, RHÖN-KLINIKUM Shareholders would no longer benefit from the increased reporting obligations of the regulated market. If the Bidder were to work towards the revocation of the stock exchange listings pursuant to Section 39 of the German Stock Exchange Act (*Börsengesetz – BörsG*), the Bidder is required to submit a delisting offer to the RHÖN-KLINIKUM Shareholders pursuant to Section 39 para. 2 BörsG. Such a delisting offer could correspond in value to the Offer Price, but could also be lower or higher.
- Only some of the above-mentioned measures would, under German law (subject, if necessary, to compliance with other conditions), impose an obligation on the Bidder to make an offer to the remaining RHÖN-KLINIKUM Shareholders to acquire their RHÖN-KLINIKUM Shares against appropriate compensation or to grant compensation.
- The severance or compensation payments to RHÖN-KLINIKUM Shareholders in connection with possible structural measures may be higher or lower than the value of the consideration offered and would be subject to judicial review in appraisal proceedings. The implementation of some of such measures could also lead to the termination of the existing stock exchange listing of RHÖN-KLINIKUM Shares
- If the Bidder were to achieve a shareholding of at least 95% in the Company following the settlement of the Offer, shareholders who have not accepted the Offer during the Acceptance Period or the Additional Acceptance Period are entitled to exercise their sell-out right pursuant to Section 39c WpÜG and accept the Offer with their RHÖN-KLINIKUM Shares within three months after the end of the Acceptance Period. This sell-out right is valid for all RHÖN-KLINIKUM Shares. The Bidder will publish that it has attained the threshold of 95% of the share capital in the Company which is required for a request under Section 39a WpÜG, pursuant to Section 23 para. 1 sentence 1 no. 4 WpÜG.

## **9. INTERESTS OF THE MEMBERS OF THE MANAGEMENT BOARD AND THE SUPERVISORY BOARD**

### **9.1 Special interests of the members of the Management Board**

Under the current Management Board service agreement between the Company and Stephan Holzinger, Stephan Holzinger has a special right of termination in the event of a change of control. A change of control event occurs if (i) either a third party or several third parties jointly acquire more than 50% of the voting rights in the Company, (ii) an inter-company agreement is concluded with the Company as dominated company in accordance with Section 291 AktG or (iii) the Company is merged with another legal entity in accordance with Section 2 of the German Transformation Act (*Umwandlungsgesetz – UmwG*), unless the value of the other legal entity is less than 50% of the value of the Company, as evidenced by the agreed exchange ratio (***Change-of-Control-Event***). In the event that a Change-of-Control-Event occurs, Stephan Holzinger may terminate his service contract within three months after the occurrence of the Change-of-Control-Event with a notice period of one month to the end of the month and resign from his office as a member of the Management Board with effect from the end of this notice period. In the event of a termination of the Management Board service agreement and resignation from the Management Board by Stephan Holzinger as a result of a Change-of-Control-Event, Stephan Holzinger is entitled to 75% of the total compensation (basic salary and bonus) to be granted for the remaining term of the service contract, but not exceeding three years' compensation (basic salary and bonus).

### **9.2 Special interests of the members of the Supervisory Board**

With the exception of the following information, the Management Board has no knowledge on special interests of the members of the Supervisory Board:

- The chairman of the Supervisory Board, Eugen Münch, personally holds 4,650,083 RHÖN-KLINIKUM Shares, corresponding to approximately 6.94% of the voting rights. HCM SE, which is controlled by him, holds a further 5,097,578 RHÖN-KLINIKUM Shares, corresponding to 7.61% of the voting rights. In total, Eugen Münch thus directly and indirectly holds 14.56% of the voting rights of RHÖN-KLINIKUM Aktiengesellschaft. According to Section 6.6 of the Offer Document, the Bidder and Eugen Münch concluded a share purchase agreement for the acquisition of all RHÖN-KLINIKUM Shares held personally by Eugen Münch prior to the publication of the decision to make a voluntary public takeover offer, subject to the condition precedent of merger control clearance being obtained (see Section 3.6(a) of this Statement). Furthermore pursuant to Section 6.6.2 of the Offer Document and other publications by the Bidder, the Bidder has entered into the Joint Venture Agreement with HCM SE, also subject to the condition precedent of merger control clearance being obtained, as described in Section 3.6(b) of this Statement, in which the Bidder and HCM SE have undertaken in particular to contribute all RHÖN-KLINIKUM Shares held by them into the Joint Venture Company.
- The second vice chairman of the Supervisory Board, Wolfgang Mündel, is a member of the administrative board of HCM SE, which holds 5,097,578 RHÖN-KLINIKUM Shares corresponding to a share of 7.61% of the voting rights of RHÖN-KLINIKUM Aktiengesellschaft and will, as a party to the Joint Venture Agreement (see Section 3.6(b) of this Statement), contribute its shareholding in RHÖN-KLINIKUM Aktiengesellschaft to the Joint Venture Company after merger control clearance is obtained.

- The member of the Supervisory Board, Dr. Annette Beller, is also member of the management board of B. Braun, which, according to the latest voting rights notification dated 11 March 2019, directly holds 16,895,625 RHÖN-KLINIKUM Shares corresponding to 25.23% of the share capital of RHÖN-KLINIKUM Aktiengesellschaft and submitted the B. Braun Convocation Request (see Section 1 of this Statement) to the Company.
- Jan Hacker personally holds twelve RHÖN-KLINIKUM Shares.

### **9.3 Agreements with members of the Management Board or Supervisory Board**

Neither the Bidder nor other persons acting jointly with the Bidder have entered into agreements with members of the Management Board and the Supervisory Board. With the exception of the matters described in Section 9.2, the members of the Management Board are further not aware of any agreements between the members of the Supervisory Board and the Bidder or persons acting jointly with the Bidder. The Bidder or persons acting jointly with it or its subsidiaries have not promised the members of the Management Board any changes or extensions of their service contracts.

### **9.4 No monetary or other advantages in connection with the Offer**

In connection with the Offer, the members of the Management Board did not receive any unjustified payments or other unjustified services or corresponding commitments from the Bidder or persons acting jointly with the Bidder. The Management Board has no knowledge of any unjustified payments or other unjustified services or corresponding commitments from the Bidder or persons acting jointly with the Bidder to members of the Supervisory Board.

### **9.5 Conflicts of interest at the time of adoption of this Statement**

Conflicts of interest did not arise during the consultation and adoption of this Statement by the Management Board.

## **10. INTENTIONS OF THE MEMBERS OF THE MANAGEMENT BOARD AND THE SUPERVISORY BOARD TO ACCEPT THE OFFER**

### **10.1 Intentions of the Management Board**

No member of the Management Board holds any RHÖN-KLINIKUM Shares at the time of publication of this Statement.

### **10.2 Intentions of the Supervisory Board**

Jan Hacker intends to tender all of his shares into the Offer. With respect to the intentions of Eugen Münch reference is made to Section 9.2 of this Statement. Apart from this, the Management Board has no knowledge of the supervisory board members' intentions.

## **11. FINAL ASSESSMENT**

In accordance with its own examination, the Management Board believes that the total amount of the consideration which is based on the Offer Price per RHÖN-KLINIKUM Share is adequate.

In its examination of the adequacy of the consideration, it took into account in particular, the Fairness Opinion. The consideration in the view of the Management Board, appropriately reflects the value of the Company at the present time – *i.e.* also taking into account the current



overall regulatory and macro-economic situation. In addition, the Management Board considers the Bidder's intentions and objections stated in the Offer Document concerning the Company's future business operations as positive, in particular its objectives to leverage synergies through close cooperation in the use of infrastructures and in areas such as procurement, hospital information systems and discharge management, to expand priority care for cardiovascular diseases and to promote forward-looking concepts of health care as well as the economic benefits of digitization. The Management Board therefore supports the Bidder's Offer, which it considers to be in the best interest of the Company.

On this basis and taking into account the statements made above, the Management Board recommends that the RHÖN-KLINIKUM Shareholders accept the Offer.

Notwithstanding this, each RHÖN-KLINIKUM Shareholder is, in any event, responsible for making its own decision whether or not to accept the Offer, taking into account the overall circumstances, his personal situation and his own assessment of the possible future performance of the value and stock market price of the RHÖN-KLINIKUM Shares. Subject to applicable law, the Management Board accepts no liability should a RHÖN-KLINIKUM Shareholder suffer any economic disadvantages as a result of accepting or not accepting the Offer.

The Management Board discussed and unanimously approved the contents of this Statement on 22 April 2020. The group works council has submitted to the Management Board its own statement on the Offer pursuant to Section 27 para. 2 WpÜG, which is attached to this Statement for information purposes as **Annex 11**.

Bad Neustadt a. d. Saale, 22 April 2020

**RHÖN-KLINIKUM Aktiengesellschaft**

**Management Board**

<b><u>Annex 2.5</u></b>	List of all subsidiaries of RHÖN-KLINIKUM Aktiengesellschaft
<b><u>Annex 5.3</u></b>	Financing confirmation pursuant to Section 13 para. 1 sentence 2 WpÜG
<b><u>Annex 6.4(a)</u></b>	Opinion Letter
<b><u>Annex 11</u></b>	Statement of Group Works Council

## Annex 2.5

List of all subsidiaries of RHÖN-KLINIKUM Aktiengesellschaft

<b>Company</b>	<b>Registered in</b>	<b>Registered seat</b>
Haus Saaletal GmbH	Germany	Bad Neustadt a. d. Saale
Klinikum Frankfurt (Oder) GmbH	Germany	Frankfurt (Oder)
RHÖN-Kreisklinik Bad Neustadt GmbH	Germany	Bad Neustadt a. d. Saale
Universitätsklinikum Gießen und Marburg GmbH	Germany	Gießen
Zentralklinik Bad Berka GmbH	Germany	Bad Berka
MVZ Bad Neustadt/Saale GmbH	Germany	Bad Neustadt a. d. Saale
MVZ des Klinikums Frankfurt (Oder)	Germany	Frankfurt (Oder)
MVZ UKGM GmbH	Germany	Marburg
MVZ Zentralklinik GmbH	Germany	Bad Berka
MVZ MED GmbH	Germany	Bad Neustadt a. d. Saale
ESB - gemeinnützige Gesellschaft für berufliche Bildung mbH	Germany	Bad Neustadt a. d. Saale
Gemeinnützige Gesellschaft zur Förderung der klinischen Forschung auf dem Gebiet der Humanmedizin und zur Betreuung von Patienten an den Universitäten Gießen und Marburg mbH	Germany	Marburg
BGL Grundbesitzverwaltungs-GmbH	Germany	Bad Neustadt a. d. Saale
RHÖN-Cateringgesellschaft mbH	Germany	Bad Neustadt a. d. Saale
RHÖN-Reinigungsgesellschaft mbH	Germany	Bad Neustadt a. d. Saale
RK Reinigungsgesellschaft Nordost mbH	Germany	Bad Neustadt a. d. Saale
UKGM Service GmbH	Germany	Bad Neustadt a. d. Saale
Kinderhort Salzburger Leite gemeinnützige Gesellschaft mbH	Germany	Bad Neustadt a. d. Saale
KLINIK "HAUS FRANKEN" GmbH Bad Neustadt/Saale	Germany	Bad Neustadt a. d. Saale
Marburger Ionenstrahl-Therapie Betriebsgesellschaft mbH	Germany	Bad Neustadt a. d. Saale
Medgate Deutschland GmbH	Germany	Bad Neustadt a. d. Saale
Psychosomatische Klinik GmbH Bad Neustadt/Saale	Germany	Bad Neustadt a. d. Saale
PTZ GmbH	Germany	Marburg
RHÖN-KLINIKUM Energie für Gesundheit GmbH	Germany	Bad Neustadt a. d. Saale
RHÖN-Innovations GmbH	Germany	Bad Neustadt a. d. Saale
RK Klinik Betriebs GmbH Nr. 35	Germany	Bad Neustadt a. d. Saale
Wolfgang Schaffer GmbH	Germany	Bad Neustadt a. d. Saale

### **Annex 5.3**

Financing confirmation pursuant to Section 13 para. 1 sentence 2 WpÜG



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**CONVENIENCE TRANSLATION WITHOUT BINDING EFFECT**

BNP Paribas · Europa-Allee 12 · 60327 Frankfurt am Main

**ASKLEPIOS KLINIKEN GMBH & CO. KGAA**

Rübenkamp 226  
D – 22307 Hamburg  
Germany

Frankfurt am Main, 27 March 2020

Confirmation pursuant to section 13 paragraph 1 sentence 2 of the German Takeover Act (*Wertpapiererwerbs- und Übernahmegesetz*) regarding the voluntary takeover offer of Asklepios Kliniken GmbH & Co. KGaA, having its registered office in Hamburg, to the shareholders of RHÖN-KLINIKUM Aktiengesellschaft, Bad Neustadt a. d. Saale, for the acquisition of all shares in RHÖN-KLINIKUM Aktiengesellschaft not directly held by Asklepios Kliniken GmbH & Co. KGaA in exchange for payment of a purchase price of EUR 18.00 per share

Dear Madam or Sir,

BNP Paribas S.A., Niederlassung Deutschland, is a branch of BNP Paribas S.A., a stock corporation under French law, and a branch within the meaning of section 53b paragraph 1 sentence 1 of the German Banking Act (*Kreditwesengesetz – KWG*), which is registered in the commercial register of the Local Court (*Amtsgericht*) of Frankfurt am Main, Germany, under HRB 40950. BNP Paribas S.A., Niederlassung Deutschland, is an investment services enterprise independent of Asklepios Kliniken GmbH & Co. KGaA within the meaning of section 13 paragraph 1 sentence 2 of the German Takeover Act.

We hereby confirm pursuant to section 13 paragraph 1 sentence 2 of the German Takeover Act that Asklepios Kliniken GmbH & Co. KGaA has taken all measures necessary to ensure that it has at its disposal the necessary means to fully perform the aforementioned takeover offer at the time the claim for cash payment will be due.

We agree to the publication of this confirmation in the offer document relating to the published takeover offer pursuant to section 11 paragraph 2 sentence 3 no. 4 of the German Takeover Act.

Yours faithfully

**BNP Paribas S.A.**  
**Niederlassung Deutschland**

Alexander Tetzlaff  
Managing Director

Jörn Krotzky  
Managing Director

**Annex 6.4(a)**

Opinion Letter

# Morgan Stanley

RHÖN-KLINIKUM AG  
Management Board  
Schlossplatz 1  
97616 Bad Neustadt a.d. Saale  
Germany

April 22, 2020

## Members of the Management Board:

On 28 February 2020 Asklepios Kliniken GmbH & Co. KGaA ("*Asklepios*" or the "*Bidder*") announced its intention to launch a voluntary public takeover offer (the "*Offer*") for all outstanding shares of RHÖN-KLINIKUM AG ("*Rhön-Klinikum*" or the "*Company*") for a consideration of EUR18.00 per share in cash (the "*Consideration*"). The terms and conditions of the Offer are set out in more detail in the offer announcement made by the Bidder in accordance with Section 10 of the German Securities Acquisition and Takeover Code (Wertpapiererwerbs- und Übernahmegesetz) ("*WpÜG*") (the "*Offer Announcement*") and the offer document published by the Bidder on 8 April 2020 in accordance with section 14 para. (3) WpÜG (the "*Offer Document*"). In the Offer Announcement, the Bidder stated that a joint venture company (the "*Joint Venture*") will be newly established, in which, once clearance by the German Federal Cartel Office (*Bundeskartellamt*) has been received, the shares in Rhön-Klinikum held by Asklepios (28.7%) and Eugen Münch (Rhön-Klinikum's founder, third largest shareholder of Rhön-Klinikum and current Supervisory Board Chairman) and affiliates, including his wife Ingeborg Münch and his investment vehicle HCM SE (such shares of Eugen Münch and the affiliates' shares together amounting to 20.0%) will be pooled, and into which any shares acquired by Asklepios through the Offer will be contributed. Eugen Münch and affiliates are contributing approximately 7.6% of shares in Rhön-Klinikum directly to the Joint Venture and are selling approximately 12.4% of shares in Rhön-Klinikum to Asklepios, which is contributing these shares to the Joint Venture together with the Rhön-Klinikum shares already held. Since the Offer Announcement, Asklepios has acquired a further 1.1% of shares from the Münch Stiftung, which will also be contributed into the Joint Venture, resulting in a current pro-forma shareholdings of 50.1% of the shares in Rhön-Klinikum to be held by the Joint Venture and parties acting in concert with the Joint Venture, namely Dr. Bernard große Broermann and his investment company BH GmbH (together 0.3%).

You, the members of the Management Board (*Vorstand*) of Rhön-Klinikum (the "*Management Board*") have asked for our opinion as to whether the Consideration to be paid by the Bidder to the shareholders of Rhön-Klinikum is fair from a financial point of view (other than to the Bidder and its affiliates).

For purposes of the opinion set forth herein, we have:

## Morgan Stanley

- (a) reviewed certain publicly available financial statements and other business and financial information of Rhön-Klinikum (“*Public Information*”);
- (b) reviewed certain internal financial statements and other financial and operating data concerning Rhön-Klinikum;
- (c) reviewed certain financial projections prepared by the management of Rhön-Klinikum, including Rhön-Klinikum’s most recent business plan (2020-2024), albeit not approved by the Supervisory Board beyond 2021, and extrapolated, as discussed with management;
- (d) discussed the potential implications and impact of the COVID-19 pandemic, including of resulting changes to the German healthcare and hospital legislation, on Rhön-Klinikum’s business, operations and financial performance with management, but we understand that circumstances are too early and uncertain for management to take a definitive view
- (e) discussed the past and current operations and financial condition and the prospects of Rhön-Klinikum with senior executives of the Company;
- (f) reviewed analyst consensus estimates for Rhön-Klinikum;
- (g) reviewed the reported prices and trading activity for Rhön-Klinikum Shares;
- (h) compared the financial performance of Rhön-Klinikum and the prices and trading activity of Rhön-Klinikum Shares with that of certain other publicly-traded companies comparable with the Company and their securities both currently as well as before the outbreak of COVID-19 and the resulting deterioration of financial markets globally;
- (i) reviewed the financial terms, to the extent publicly available, of certain comparable acquisition transactions;
- (j) reviewed, for information purposes only, the financial terms of the Offer Document and related documents; and
- (k) performed such other analyses, reviewed such other information and considered such other factors as we have deemed appropriate.

In forming our opinion, we have also taken into account and relied upon (in each case without independent verification):

- (a) the accuracy and completeness of the Public Information available or supplied or otherwise made available to us by the Rhön-Klinikum, and formed a substantial basis for this opinion.
- (b) the financial projections, in relation to which we have assumed that such projections have been reasonably prepared on bases reflecting the best currently available estimates and judgments of the respective management of Rhön-Klinikum of the future financial performance of the Company.
- (c) that the Offer will be consummated in accordance with the terms set forth in the Offer Document without any waiver, amendment or delay of any terms or conditions.



# Morgan Stanley

- (d) the fact that the Company has taken its own legal, tax, regulatory or actuarial advice. We are financial advisors only and have relied upon, without independent verification, the assessment of the Company and its legal, tax, regulatory or actuarial advisors with respect to legal, tax, regulatory or actuarial matters. For the avoidance of doubt, we are not auditors and this opinion is not an IDW PS8 letter. Further, for the purpose of our analysis, we have not made any independent valuation or appraisal of the assets or liabilities of the Company, nor have we been furnished with any such appraisals.

Save as expressly otherwise provided in this letter, we express no opinion on financial or non-financial impacts of the macro economic circumstances prevailing as at the date of this letter, including, but not limited to, the potential enactment of legislation in the German healthcare and hospital sector and the COVID-19 pandemic.

We express no opinion with respect to the fairness of the amount or nature of the compensation to any of Rhön-Klinikum's officers, directors or employees, or any class of such persons, relative to the Consideration to be paid to the shareholders of Rhön-Klinikum in the Offer.

Our opinion is necessarily based on financial, economic, market and other conditions as in effect on, and the information made available to us as of, the date hereof. Events occurring after the date hereof may affect this opinion and the assumptions used in preparing it, and we do not assume any obligation to update, revise or reaffirm this opinion.

We have acted as financial advisor to Rhön-Klinikum in connection with this transaction and have received a milestone payment and will receive further fees for our services. In the two years prior to the Section 10 Announcement, we have provided financial advisory and financing services for Rhön-Klinikum, but have not received fees in connection with such services. Please note that Morgan Stanley is a global financial services firm engaged in the securities, investment management and individual wealth management businesses. Our securities business is engaged in securities underwriting, trading and brokerage activities, foreign exchange, commodities and derivatives trading, prime brokerage, as well as providing investment management, banking, financing and financial advisory services. Morgan Stanley, its affiliates, directors and officers may at any time invest on a principal basis or manage funds that invest, hold long or short positions, finance positions, and may trade or otherwise structure and effect transactions, for their own account or the accounts of its customers, in debt or equity securities or loans of Asklepios, Rhön-Klinikum or any other company or any currency or commodity that may be involved in this transaction or any related derivative instrument.

This opinion has been approved by a committee of Morgan Stanley investment banking and other professionals in accordance with our customary practice. This opinion is for the information of the members of the Management Board of Rhön-Klinikum only and may not be used for any other purpose without our prior written consent, except that a copy of this opinion may be included in its entirety in the reasoned opinion of the Management Board pursuant to section 27 para (1) WpÜG and any filing Rhön-Klinikum is required to make in connection with this transaction if such inclusion is required by applicable law. **This opinion is not addressed to and may not be relied upon by any third party including, without limitation, employees, creditors or shareholders of the Rhön-Klinikum.** Furthermore, Morgan Stanley does not opine on the compliance of the Offer (including the Offer Consideration) with any requirements of the WpÜG.

## Morgan Stanley

It is understood that the views set forth in this letter are within the scope of, and provided on and subject to, the engagement letter, with the indemnity embedded in it, dated 22 August 2017 between Morgan Stanley Bank AG and Rhön-Klinikum, such engagement letter transferred from Morgan Stanley Bank AG to Morgan Stanley Europe SE in February 2019 with effect as of 1 March 2019.

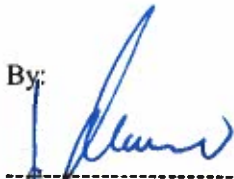
We have taken the facts, events and circumstances set forth in this opinion, together with our assumptions and qualifications, into account when determining the meaning of "fairness" for the purposes of this opinion. For the purposes of our opinion, we have not considered the circumstances of individual shareholders.

Based on and subject to the foregoing, we are of the opinion on the date hereof that the Consideration to be paid by the Bidder is fair from a financial point of view to the shareholders of Rhön-Klinikum other than the Bidder and its affiliates.

Yours faithfully,

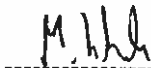
MORGAN STANLEY EUROPE SE

By:



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Name: Jens Maurer

Title: **Managing Director**



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Name: Moritz Zschoche

Title: **Managing Director**

## **Annex 11**

### Statement of Group Works Council

**Stellungnahme des  
Konzernbetriebsrats der RHÖN-KLINIKUM AG  
zum Übernahmeangebot der Asklepios GmbH und Co.KGaA  
gemäß § 27 Abs. 2 WpÜG  
vom 20.04.2020**

Die Asklepios Kliniken GmbH & Co. KGaA, mit Sitz in Hamburg (nachfolgend „Asklepios“ oder „Bieter“), hat am 8.4.2020 gemäß §§ 34, 14 Abs. 2 und 3 des Wertpapiererwerbs- und Übernahmegesetzes (WpÜG) die Angebotsunterlagen für ihr freiwilliges öffentliches Übernahmeangebot an alle Aktionäre der RHÖN-KLINIKUM AG veröffentlicht.

Der Konzernbetriebsrat der RHÖN-KLINIKUM AG und die von ihm vertretenden Betriebsräte der einzelnen Kliniken und Service-Betriebe stehen dem Übernahmeangebot (nachfolgend „Angebot“) aus den folgenden Gründen sehr kritisch gegenüber:

**Unzureichende Einbeziehung der Arbeitnehmervertreter**

Der Konzernbetriebsrat stellt zunächst fest, dass das Übernahmeangebot ohne eine frühzeitige Einbindung der Arbeitnehmervertreter der RHÖN-KLINIKUM AG erfolgt ist. Statt die Beschäftigten und ihre Interessenvertretungen im Sinne einer vertrauensvollen Mitbestimmung einzubeziehen, wurden die Arbeitnehmervertreter vor vollendete Tatsachen gestellt. Das Übernahmeangebot ist Teil einer umfassenden Kooperation, die zwischen dem Bieter und Herrn Eugen Münch, dem Aufsichtsratsvorsitzenden der RHÖN-KLINIKUM AG, vereinbart wurde (vgl. Ziffer 6.6 des Angebots). Dem Konzernbetriebsrat sind insbesondere die Inhalte der Joint-Venture Vereinbarung bezogen auf die HCE SE (vgl. Ziffer 6.6.2 des Angebots) nicht bekannt. Der Konzernbetriebsrat befürchtet, dass bei diesem „Deal“ die Interessen der Arbeitnehmerinnen und Arbeitnehmer der RHÖN-KLINIKUM AG von höchstens nachgelagerter Bedeutung sind. Auch fragt sich der Konzernbetriebsrat, unter welchen „bestimmten Umständen“ die Joint-Venture Vereinbarung bereits zum 31.12.2022, d.h. in weniger als drei Jahren, gekündigt werden kann (vgl. Ziffer 6.6.2 (iv)).

## **Sicherung von Arbeitsplätzen und der guten Unternehmenskultur**

Die derzeitige COVID-19-Pandemie zeigt, wie wichtig eine funktionierende, auf dem Einsatz aller Beschäftigten fußende, medizinische Infrastruktur ist. Wer diese medizinische Infrastruktur sichern und ausbauen will, muss sich, neben einer guten und gerechten Entlohnung aller Beschäftigten auf der Grundlage von Tarifverträgen, auch darüber bewusst sein, dass gute Beschäftigungsbedingungen eine Arbeitsplatzsicherheit sowie eine funktionierende Mitbestimmungskultur voraussetzen. Belastbare Aussagen über die Sicherung von Arbeitsplätzen, der Beibehaltung von Tarif- und Betriebsvereinbarungen sowie die Struktur der betrieblichen und unternehmerischen Mitbestimmung enthält jedoch weder das Angebot, noch gibt es hierzu weitergehende belastbare Verlautbarungen von Asklepios. Dem Konzernbetriebsrat ist nicht ersichtlich, wie genau die neue Konzernstruktur aussehen und welche Auswirkungen die Übernahme auf die Beschäftigten aller RHÖN-Kliniken einschließlich der beiden Universitätsklinika haben wird. Der Konzernbetriebsrat weist in diesem Zusammenhang ausdrücklich darauf hin, dass der Bieter *„beabsichtigt [...] zu prüfen, ob und inwieweit zur Realisierung von Synergiepotenzialen organisatorische Anpassungen, Verschlinkung und gegebenenfalls auch Zusammenlegungen insbesondere von administrativen Funktionen sinnvoll sein können“*. Asklepios schließt explizit nicht aus, dass zukünftig auch Zusammenlegungen und/oder Schließungen von funktionalen Einheiten von dieser vorgenommen werden (Ziffer 9.2 des Angebots). Der Konzernbetriebsrat der RHÖN-KLINIKUM AG hat daher die begründete Sorge, dass durch die Übernahme Arbeitsplätze gestrichen und betriebsbedingte Kündigungen gegenüber den Arbeitnehmerinnen und Arbeitnehmern des RHÖN-KLINIKUM-Konzerns erfolgen. Der Konzernbetriebsrat hält dies, vor dem Hintergrund der Leistungen, die durch die Beschäftigten im Gesundheitsbereich erbracht werden, für den falschen Weg. Die Ausführungen unter Ziffer 9.4 des Angebots, dass der Bieter nicht beabsichtigt auf die Kündigung von Arbeitsverhältnissen von Mitarbeitern des RHÖN-KLINIKUM-Konzerns hinzuwirken, beruhigt den Konzernbetriebsrat nicht, da unter Ziffer 2.3 des Angebots der Bieter selbst schreibt, dass es sich um keine Zusicherung handelt.

Der Konzernbetriebsrat fordert den Abschluss einer Vereinbarung zur Beschäftigungssicherung, mit dem Ausschluss betriebsbedingter Kündigungen bis mindestens zum 31.12.2025. Nur so kann sichergestellt werden, dass alle hochqualifizierten und engagierten Kolleginnen und Kollegen weiterhin mit überdurchschnittlichem Engagement zum Erfolg beitragen werden. Gerade in Zeiten des

Fachkräftemangels sind gute Arbeitsbedingungen unerlässlich, um qualifizierte Beschäftigte an das Unternehmen zu binden und als ein attraktiver Arbeitgeber auf dem Arbeitsmarkt auftreten zu können.

### **Mitbestimmungskultur bei Asklepios**

Zwischen den Betriebsräten und der Geschäftsführung bei der RHÖN-KLINIKUM AG hat sich ein respektvolles Miteinander etabliert. Der Vorstand der RHÖN-KLINIKUM AG, aber auch das Management vor Ort, wissen, dass es dem gesamten Unternehmen nutzt, wenn sie die Betriebsräte und damit die Anliegen der Beschäftigten ernst nehmen. Entsprechend wurde auch im Aufsichtsrat der RHÖN-KLINIKUM AG Mitbestimmung gelebt. Eine künftige vertrauensvolle und auf Augenhöhe gerichtete Arbeit zwischen neuem Eigentümer, auf der Grundlage einer neuen Eigentümerstruktur, und dem Konzernbetriebsrat, hängt daher im Wesentlichen auch davon ab, wie die strukturelle Arbeit zwischen den betrieblichen Sozialpartnern künftig aussehen wird. Der Konzernbetriebsrat stellt jedoch auch fest, dass Betriebsräte und Gewerkschaften in Kliniken des Asklepios-Konzern erhebliche Probleme bei der Durchsetzung der legitimen Interessen der Beschäftigten haben, wie beispielweise der in einer Reihe von Kliniken erfolgreiche Versuch des Bieters, anstelle von Tarifverträgen lediglich betriebliche Entgeltordnungen mit Betriebsräten abzuschließen, zeigt. Der Konzernbetriebsrat befürchtet daher, dass sich die Mitbestimmungskultur durch eine Übernahme durch Asklepios deutlich verschlechtern und sich dies wiederum negativ auf die Motivation der Beschäftigten und die Unternehmenskultur auswirken wird.

### **Tarifverträge sichern**

Im Hinblick auf die, in Ziffer 9.2 der Angebotsunterlagen genannte, Prüfung „zur Realisierung von Synergiepotenzialen“ und der gegebenenfalls auch vorgesehenen Zusammenlegung insbesondere von administrativen Funktionen, sind langfristige tarifliche Absicherungen bestehender tariflicher und betrieblicher Arbeitsbedingungen (Sicherung der Tarifvertragsstruktur und der bestehenden Betriebsvereinbarungen) eine zentrale Forderung der Arbeitnehmervertreter. In Ermangelung einer weiteren detaillierteren Ausführung hinsichtlich der Frage, welche potenziellen Synergien der

Bieter bereits identifiziert hat, ist ein tariflich zugesicherter Ausschluss betriebsbedingter Kündigungen geboten.

Daneben stellt der Konzernbetriebsrat fest, dass Asklepios sich in den letzten Jahren mit dem Abschluss von Tarifverträgen und damit auch der Zahlung von guten Löhnen „schwergetan hat“. Als Beispiel seien hier diverse Konflikte um den Abschluss eines Tarifvertrags auf TVöD-Niveau mit ver.di genannt, so unter anderem in den Asklepios-Kliniken Lich und Langen, der Asklepios-Klinik Westerland oder aktuell den Asklepios-Kliniken in Lindenlohe und Seesen. In allen diesen Tarifkonflikten hat Asklepios sich vehement gegen den Abschluss eines Tarifvertrags gewehrt und auch vor dem massiven Einsatz von „Streikbrechern“ aus anderen Standorten nicht zurückgeschreckt. Statt Tarifverhandlungen mit der Gewerkschaft ver.di aufzunehmen und nach Lösungen in Verhandlungen zu suchen, verlangt Asklepios in diesen Konflikten von den Betriebsräten die Zustimmung zu einer – nach dem BetrVG unzulässigen – betrieblichen Entgeltordnung anstelle eines Tarifvertrages mit der Gewerkschaft ver.di. Der Konzernbetriebsrat erwartet und fordert von Asklepios die Einhaltung und Einführung der Tarifbindung, sowie die Weiterentwicklung bestehender tariflichen Regeln in enger sozialpartnerschaftlicher Zusammenarbeit mit den Gewerkschaften als Garant für gute Arbeitsbedingungen.

### **Standorte sichern, Mitarbeiter qualifizieren, Fachkräfte halten**

Sollten sich in irgendeiner Weise durch die Übernahme von Asklepios Synergieeffekte ergeben und genutzt werden, welche sich für die Standorte des RHÖN- KLINIKUM-Konzerns und die Beschäftigten als nachteilig erweisen, fordert der Konzernbetriebsrat für die betroffenen Beschäftigten sozialvertragliche Angebote zur Weiterbeschäftigung. Ebenfalls fordert der Konzernbetriebsrat in einem solchen Fall entsprechende Qualifizierungsangebote und ggf. Übergangsregelungen sowie die Einrichtung eines Sozialfonds, der nicht zulasten der Unternehmen und damit der Beschäftigten geht, zur finanziellen Unterstützung solcher Maßnahmen. Der Konzernbetriebsrat ist davon überzeugt, dass der Bieter, vor dem Hintergrund eines bereits bestehenden Fachkräftemangels, es sich nicht leisten kann, Beschäftigte zu verlieren. Deswegen sind bei allen Maßnahmen die Beschäftigten zu beteiligen. Bei nicht vermeidbaren Streichungen von Stellen, sind die betroffenen Arbeitnehmer weiter zu beschäftigen, was u.a. durch Qualifizierungen und Versetzungen erreicht werden kann. Betriebsbedingte

Kündigungen sind auszuschließen. Der Konzernbetriebsrat und die von ihm vertretenden Betriebsräte werden daher die angesprochen Maßnahmen mit allen ihnen zustehenden Möglichkeiten einfordern.

Der Konzernbetriebsrat fordert, dass an allen Klinikstandorten an denen Ausbildungsschulen (Krankenpflegeschulen, Logopäden Schulen, MTA Schulen, etc.) verschiedenster Art existieren, diese zu erhalten und weiter zu entwickeln sind. Es ist sicherzustellen, dass für diese Schulen ausreichend Lehrpersonal zur Verfügung steht, um auch weiterhin eine gute Ausbildungsqualität sicherzustellen. Ebenso sind bestehende Versorgungseinrichtungen, wie Wohnheime für Ausbildungsbeschäftigte etc. immer in einem guten Zustand zu erhalten, und bei Bedarf weitere Angebote zu schaffen (Ersatz-, Neubauten). Nur durch solche Maßnahmen, wird auch zukünftig das notwendige qualifizierte Personal für eine gute medizinische Versorgung zur Verfügung stehen.

Sollte der Bieter eine Zerschlagung von Teilen der Kliniken in einzelnen GmbH's anstreben, sieht dies der Konzernbetriebsrat als bewusste und geplante Schwächungen von Arbeitnehmervertretungen an. Entsprechend sind solche Strukturmaßnahmen für den Konzernbetriebsrat nicht verhandelbar. Der Konzernbetriebsrat fordert, auch vor dem Hintergrund der COVID-19-Pandemie, dass alle Beschäftigten eines Krankenhauses in einer Gesellschaft angestellt sind.

### **Universitätsklinikum Gießen und Marburg**

Der Konzernbetriebsrat weist auf die herausgehobene Bedeutung der beiden Universitätsklinikum Gießen und Marburg hin. Gerade die COVID-19- Pandemie zeigt, wie wichtig die universitäre Forschung an Kliniken ist. Der Konzernbetriebsrat weist daher darauf hin, dass durch die Vereinbarungen zur Trennungsrechnung zwischen dem Land Hessen und der UKGM GmbH, hinsichtlich aller Beschäftigten der beiden Universitätsklinikum ein Kündigungsschutz bis Ende 2021 besteht. Die Bereiche Wissenschaft, Forschung und Lehre sind klar zu definieren, und von der Arbeit im allgemeinen Klinik-Betrieb abzugrenzen. Künftige und sich wiederholende Zahlungen von Fördermitteln des Landes für Wissenschaft, Forschung und Lehre am UKGM sind dem Land klar in Form von Verwendungsnachweisen zu belegen, um somit nachzuweisen wofür diese Ausgaben getätigt wurden.



## **Erwartungen an die künftige Zusammenarbeit**

Der Vorstand und die Anteilseigner der RHÖN-KLINIKUM AG haben in der Vergangenheit meistens konstruktiv mit dem Konzernbetriebsrat zusammengearbeitet. Der offene Meinungsaustausch zwischen dem Vorstand sowie den Anteilseignern auf der einen Seite und den Betriebsräten sowie den Gewerkschaften auf der anderen Seite war für die Zusammenarbeit und den Erfolg des Unternehmens ein zwingender Faktor. Der Konzernbetriebsrat fordert Asklepios auf, im Falle der Übernahme eine entsprechende konstruktive Zusammenarbeit fortzuführen und weiter auszubauen. Der Konzernbetriebsrat hat sich daher, in Zusammenarbeit mit den Gewerkschaftsvertretern im Aufsichtsrat, darum bemüht, mit Verantwortlichen des Asklepios-Konzerns Gespräche im Vorfeld dieser Stellungnahme aufzunehmen. Der Konzernbetriebsrat war zu jedem Zeitpunkt bemüht mit Asklepios Vereinbarungen bzw. Verabredungen zu treffen, die eine möglichst positive Bewertung der Übernahme zulassen. Aus Sicht des Konzernbetriebsrats hätte es aber hierfür umfangreiche Angebote, Gespräche und Verhandlungen u.a. hinsichtlich folgender Schwerpunktthemen bedurft:

- Die Unternehmenskultur der RHÖN-KLINIKUM AG wird weitergeführt und im Prozess verbessert.
- Die Mitbestimmungskultur und die Kommunikation zwischen den Interessenvertretungen (KBR, Betriebsräte, Jugend,- und Auszubildendenvertretungen sowie Schwerbehindertenvertretungen), den Vorständen und den Geschäftsführern werden auf dem bestehenden Niveau beibehalten und weiterentwickelt. Auch auf diesem Weg erfahren die Mitarbeiter Beteiligung und Wertschätzung.
- Die Einhaltung/ Einführung der Tarifbindung und Weiterentwicklung der tariflichen Regeln mit den Gewerkschaften als Garant für gute Arbeitsbedingungen.
- Die Beachtung und konsequente Einhaltung aller gesetzlichen Regeln zum Arbeits- und Gesundheitsschutz. Hier im Besonderen ArbZG, JuschuG, MuSchuG, ArbSchuG, Hygieneschutzgesetz, SGB u. a..
- Die bestehenden Stellenpläne der Klinikstandorte im RHÖN-KLINIKUM-Konzern sind nicht abzuschmelzen, sondern auf dem derzeitigen Stand mindestens zu

halten und unter Beteiligung der Betriebsräte weiterzuentwickeln (Personalentwicklung). Ein „kalter Stellenabbau durch auslaufende Verträge“ wird durch den Konzernbetriebsrat abgelehnt, vielmehr ist immer eine zeitige Nachbesetzung von offenen Stellen anzustreben.

- Die Weiterführung/ Anwendung aller in den Kliniken gültigen Betriebsvereinbarungen und die Fortführung der aktuellen Verhandlungen zu neuen Betriebsvereinbarungen auf betrieblicher Ebene und im Konzern wird durch Asklepios zugesagt.

Leider hat Asklepios bisher keinerlei tiefergehende Zusagen bezüglich der oben aufgezeigten Punkte getätigt.

### **Ablauf der Übernahme**

Der Konzernbetriebsrat hat die am 18.4.2020 und 20.04.2020 veröffentlichten Ad-hoc-Mitteilungen zur Kenntnis genommen. Der Konzernbetriebsrat fordert alle Beteiligten auf, bei ihren Handlungen und Entscheidungen auch die Interessen der Arbeitnehmerinnen und Arbeitnehmer angemessen zu berücksichtigen. Der Aufsichtsrat der RHÖN-KLINIKUM-AG ist allein dem Unternehmensinteresse verpflichtet, welches auch die Interessen der Arbeitnehmerinnen und Arbeitnehmer umfasst. Der Konzernbetriebsrat weist in diesem Zusammenhang darauf hin, dass für einen dauerhaften Erfolg eine starke Investitionsfähigkeit aus Eigenfinanzierung und ein entsprechendes Eigenkapitalpolster erforderlich ist.

### **Ausblick**

Die Stellungnahme kann nur auf einzelne Punkte, in denen sich der Konzernbetriebsrat im Sinne aller Beschäftigten in der Pflicht sieht, eingehen. Auch ist dem Konzernbetriebsrat bewusst, dass er mit dieser Stellungnahme nur den Aktionären der RHÖN-KLINIKUM AG aufzeigen kann, welche „Herausforderungen“ und „Risiken“ aus seiner Sicht mit einer Übernahme durch Asklepios einhergehen. Dem Konzernbetriebsrat ist es ein Anliegen, ein klares Statement im Sinne aller Beschäftigten abzugeben.

Der Konzernbetriebsrat ist offen für Gespräche, welche aus der neuen Eigentümerstruktur an ihn herangetragen werden. Der Konzernbetriebsrat ist an einem guten Miteinander im Sinne aller interessiert. In diesem Sinne ist der Konzernbetriebsrat davon überzeugt, dass eine Übernahme langfristig nur erfolgreich und nachhaltig sein kann, wenn alle Beschäftigten mitgenommen werden!

A handwritten signature in black ink, appearing to read 'Oliver Salomon', written over a horizontal line.

Für den Konzernbetriebsrat  
Oliver Salomon

Bad Berka, den 20.04.2020