



NON-BINDING ENGLISH TRANSLATION OF THE GERMAN ORIGINAL VERSION FOR CONVENIENCE  
PURPOSES ONLY

# Auditor's report

Audit of the Merger Agreement  
pursuant to §§ 60 and 10 UmwG

between

Novartis BidCo Germany AG  
Munich

as acquiring entity

and

MorphoSys AG  
Planegg

as transferring entity

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**Annex 1**            Order of the District Court of Munich I, 5th Commercial Division, for the appointment of an auditor of the Merger Agreement pursuant to §§ 60 and 10 UmwG

**Annex 2**            Draft Merger Agreement prepared on 12 July 2024 between Novartis BidCo Germany AG as the Acquiring Company and MorphoSys AG as the Transferring Company

**Annex 3**            General Engagement Terms

## List of abbreviations

Abs.	Paragraph
AG	Aktiengesellschaft
AktG	Corporation Act
e.V.	Registered association
f.	Next (page)
ff.	Following (pages)
Company	MorphoSys AG
Main Shareholder	Novartis BidCo Germany AG
HFA	Main Expert Committee of the IDW
Commercial Code	Commercial Code
IDW	German Independent Auditors' Institute, Düsseldorf
Minority Shareholders	Minority shareholders in the terms of § 327a AktG
MOR AG	MorphoSys AG, Planegg
MOR share(s)	No-par-value bearer share(s) of MorphoSys AG with a notional value of € 1.00 each in the share capital
Novartis	Novartis AG, Basel, Switzerland
Novartis BidCo	Novartis BidCo AG, Basel, Switzerland
Novartis BidCo Germany	Novartis BidCo Germany AG, Munich
No.	Number
Squeeze-out	Exclusion of Minority Shareholders
UmwG	Act on the Transformation of Companies
Merger Report	Joint Merger Report pursuant to § 8 UmwG of 12 July 2024 of the management boards of MorphoSys AG and Novartis BidCo Germany AG on the merger of MorphoSys AG into Novartis BidCo Germany AG
Merger Agreement	Draft Merger Agreement prepared on 12 July 2024 between Novartis BidCo Germany AG as Acquiring Company and MorphoSys AG as Transferring Company
Contracting Parties	Novartis BidCo Germany AG and MorphoSys AG
cf.	conferatur (compare)

## A. Engagement and performance of audit

Novartis BidCo Germany AG, Munich,<sup>1</sup> and

**MorphoSys AG, Planegg,<sup>2</sup>**

intend to execute a merger by absorption pursuant to §§ 2(1) and 60 ff. UmwG by transferring the assets of MOR AG as a whole with all rights and duties under dissolution without windup to Novartis BidCo Germany as well as an exclusion of the remaining shareholders of MOR AG in addition to Novartis BidCo Germany<sup>3</sup> in accordance with § 62(5), Sentence 1 UmwG as related to § 62(1) UmwG and §§ 327a ff. AktG (squeeze-out under merger law).<sup>4</sup> The Merger Agreement is to be concluded on 19 July 2024 in notarised form. The resolution on the transfer of the shares held by the minority shareholders of MOR AG is to be adopted at the general shareholders' meeting<sup>5</sup> of MOR AG scheduled for 27 August 2024.

At the petition of the Management Board of Novartis BidCo Germany, which MOR AG joined, the District Court of Munich, 5th Commercial Division, selected and appointed us as expert auditors of the Merger Agreement.<sup>6</sup> We had previously confirmed to the Court that there were no legal grounds for exclusion. We can therefore confirm that we have complied with the regulations on independence.<sup>7</sup> The contracting parties then commissioned us to review the Merger Agreement.

We initiated our audit of the Merger Agreement on 24 June 2024 following the preliminary examination of our independence and impartiality and the subsequent acknowledgement of our court appointment and performed the audit with interruptions until this date (12 July 2024), primarily at our offices in Düsseldorf.

Pursuant to § 9 UmwG, the subject of our audit was the Merger Agreement.

In particular, the following documents were submitted to us for our audit:

- Draft merger agreement prepared on 12 July<sup>8</sup>
- Joint Merger Report in accordance with § 8 UmwG dated 12 July 2024 of the Management Boards of MorphoSys AG and Novartis BidCo Germany AG on the merger of MorphoSys AG into Novartis BidCo Germany AG<sup>9</sup>
- Current articles of association of Novartis BidCo Germany (version of 11 July 2024) and extract from the commercial register (retrieved on 9 July 2024)
- Current articles of association of MOR AG (version of 14 December 2023) and extract from the commercial register (retrieved on 9 July 2024)

In addition, we made use of other publicly available information.

All explanations and documentation requested by us were readily provided.

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1. "Novartis BidCo Germany" or "main shareholder" Novartis BidCo Germany is an affiliated company of Novartis AG, Basel, Switzerland

2. "MOR AG" or "Company"; together with Novartis BidCo Germany, the "Parties"

3. "Minority Shareholders"

4. Also "under the law of transformation of companies"

5. "GSM"

6. §§ 60(9)1 and 10 UmwG; Case 5 HK O 7165/24; cf. Annex 1

7. Analogous application of § 321(4a) of the Commercial Code

8. Cf. Annex 2

9. "Merger Report"

As of this date, the Management Boards of Novartis BidCo Germany and MOR AG submitted to us a declaration of general representativeness in compliance with professional standards, confirming in writing that the explanations and information relevant to the audit of the Merger Agreement have been provided completely and accurately.

For the performance of our engagement, we have taken into account the opinion of the Main Expert Committee<sup>10</sup> of the German Independent Auditors' Institute in Düsseldorf,<sup>11</sup> HFA 6/1988 "Concerning merger audits in accordance with § 340b(4) AktG" in analogous application.<sup>12</sup>

We have documented the nature and scope of our audit procedures in our working papers.

This Report summarises the results of our audit and explains the individual audit procedures, analyses and considerations on the basis of which we arrived at our audit result.

This Audit Report has been prepared solely for the purposes set out above. These include the provision of the Audit Report in the run up to the extraordinary general shareholders' meeting of MOR AG<sup>13</sup> to resolve on the squeeze-out of the minority shareholders and the submission of the Report to the competent court.<sup>14</sup>

Our Audit Report may only be passed on in full, with a written declaration of the purpose of the underlying engagement, subject to our express written consent and the restrictions on disclosure and liability conditions underlying the engagement, and then only to third parties provided the respective third party has previously agreed in writing to the General Terms and Conditions of Engagement, supplemented by an individual liability agreement and a binding confidentiality obligation towards us.

The execution of the engagement and our responsibility, also in relation to third parties, shall be governed by the "General Terms and Conditions of Engagement for Independent Auditors and Independent Auditing Companies" in the version dated 1 January 2024 and attached as Annex 3. Our responsibility towards the legal entities involved in the merger and their shareholders is governed by § 11(2) UmwG as related to § 323 HGB.

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<sup>10</sup> „HFA“

<sup>11</sup> „IDW“

<sup>12</sup> Opinion HFA 6/1988 was revoked in 2013, but is still valid in terms of the statements it contains on requirements for audit performance and reporting.

<sup>13</sup> Including its publication on the websites of the Company and for other publications, outlays and measures in connection with the preparation and conduct of the extraordinary general shareholders' meeting.

<sup>14</sup> Also in court proceedings following the general meeting, for example.

## B. Type and scope of audit procedures

### I. Subject of the merger audit

The subject of the merger audit is the Merger Agreement,<sup>15</sup> in the present case based on the draft Merger Agreement prepared on 12 July 2024, as is to be notarised on 19 July 2024. The completeness and accuracy of the Agreement had to be verified.

If shares amounting to at least 90% of the share capital of a transferring stock corporation belong to an acquiring stock corporation, the shareholders in general meeting of the transferring stock corporation may adopt a resolution in accordance with § 327a(1), Sentence 1 AktG within three months of the conclusion of a merger agreement.<sup>16</sup>

MOR AG has issued a total of 37,716,423 shares and holds 53,685 treasury shares. Novartis BidCo Germany, as the acquiring company, is a partnership limited by shares and, in accordance with the Merger Agreement, directly holds 34,337,809 shares in MOR AG.<sup>17</sup> This corresponds to 91.04% of the share capital of MOR AG, or around 91.17% of the share capital after deducting the number of treasury shares in accordance with § 62(1), Sentence 2 UmwG. Novartis BidCo Germany is therefore the main shareholder of MOR AG in the terms of § 62(5), Sentence 1 UmwG.

In connection with the merger, an exclusion of the minority shareholders of MOR AG is to be carried out at the request of the Main Shareholder.<sup>18</sup> For this purpose, general shareholders' meeting of MOR AG is to resolve within three months of the conclusion of this Agreement on the transfer of the shares of the minority shareholders of MOR AG to the Main Shareholder in return for appropriate cash compensation. The entry of the transfer resolution in the commercial register of the registered office of MOR AG must be accompanied by the remark that it will first become effective simultaneously with the entry of the merger in the register of the registered office of Novartis BidCo Germany.<sup>19</sup>

Novartis BidCo Germany as the acquiring company will hold all shares in MOR AG as the transferring company on the effective date of the merger based on the transfer resolution taking effect at the same time. This is ensured by the condition precedent requiring the effectiveness of the Merger Agreement<sup>20</sup> and by the statutory provisions in § 62(5), Sentence 7 UmwG. Therefore, Novartis BidCo Germany may not increase its share capital pursuant to § 68(1), Sentence 1, No. 1 UmwG to implement the merger. Shares in Novartis BidCo Germany will therefore not be issued as consideration for the transfer of the assets of MOR AG.<sup>21</sup>

Novartis BidCo Germany as the sole shareholder of MOR AG on the effective date of the merger will declare in the Merger Agreement, as a precautionary measure, the waiver of a cash compensation offer pursuant to § 29 UmwG.<sup>22</sup>

<sup>15</sup> § 9(1) as related to § 60 UmwG

<sup>16</sup> § 62, Paragraph 5, Sentence 1 and Paragraph 1 UmwG

<sup>17</sup> "MOR share(s)" Cf. Recital 3 of the Merger Agreement

<sup>18</sup> § 62, Paragraphs 5 and 1 UmwG as related to §§ 327a to 327f AktG

<sup>19</sup> § 62(5), Sentence 7 UmwG

<sup>20</sup> Section 7.1 of the Merger Agreement

<sup>21</sup> Section 3.1 of the Merger Agreement; cf. § 5(2) UmwG

<sup>22</sup> Section 3.2 of the Merger Agreement

Since the shareholders of MOR AG, as the transferring legal entity, are not granted any shares in Novartis BidCo Germany, as the receiving legal entity, neither the methodology nor the calculation of an exchange ratio therefore form part of subject of our merger audit. The merger audit is therefore limited to the completeness and accuracy of the information in the Merger Agreement. We are issuing a separate opinion on this date (12 July 2024) regarding the audit of the adequacy of the cash compensation to be granted pursuant to § 327a(1), Sentence 1 AktG as related to § 62, Paragraphs 1 and 5 UmwG.

It has not been definitively clarified in legally terms whether a squeeze-out merger requires a merger audit in addition to the audit of the adequacy of the cash compensation. As a precautionary measure, the Parties requested such an audit in the present case. We hereby report on this audit.

## II. Scope of the merger audit

The merger auditor must examine the Merger Agreement or the draft thereof. Since in a squeeze-out merger no exchange ratio has to be determined and audited, the merger audit in the present case is limited to the completeness and accuracy of the information in the Merger Agreement. An audit of the optional components of the merger agreement is generally not included in the scope of the merger audit.<sup>23</sup>

In the present case, the Merger Agreement must contain at least the following information:<sup>24</sup>

- the name and registered office of the legal entities participating in the merger;
- the agreement on the transfer of the assets of the transferring entity as a whole;
- an indication that the minority shareholders of the transferring entity are to be excluded in relation to the merger;
- the date from which the activities of the transferring entity are to be deemed to have been undertaken for the account of the acquiring entity (merger date);
- the rights granted by the acquiring legal entity to individual shareholders and to holders of special rights, or the measures provided for such persons;
- any special advantage conferred on a member of a representative body or of a supervisory body of the entities participating in the merger, a statutory auditor or a merger auditor;
- the consequences of the merger for employees and their representatives and the measures envisaged in this respect.

The Merger Report, in which the merger as a whole and the Merger Agreement are explained and substantiated in legal and financial terms, is not the subject of the statutory merger audit. Nor does the merger auditor's task include assessing the expediency of the merger. However, to the extent the Merger Report explains the Merger Agreement, we have used it in our audit.

<sup>23</sup> Cf. e.g. Zeidler in Semler/Stengel/Leonard, *UmwG*, § 9, Paragraphs 14 ff. Accordingly, the following statements do not refer to the provisions of Section 8 of the Merger Agreement.

<sup>24</sup> § 5, Paragraphs 1 and 2 UmwG, § 62(5), Sentence 2 UmwG.

### C. Audit of the Merger Agreement

The audit of the completeness and accuracy of the Merger Agreement relates to the general information regarding the items listed above.

#### **Name and registered office of the participating companies (§ 5(1)1 UmwG)**

The names and registered offices of the companies participating are listed in the Merger Agreement and correspond to the provisions in the Articles of Association of Novartis BidCo Germany and MOR AG as well as the entries in the commercial registers of the companies maintained at the Local Court of Munich.<sup>25</sup>

The legal requirements are therefore fully and accurately met.

#### **Agreement the on asset transfer (§ 5(1)2 UmwG)**

The transfer of the assets of MOR AG as a whole, with all rights and duties, is to take place by dissolution without wind-up in accordance with §§ 2(1), 4 ff. and 60 ff. UmwG by way of a merger by absorption into Novartis BidCo Germany. The Merger Agreement accurately names the companies participating in the merger and determines the transfer of assets through the merger to Novartis BidCo Germany.<sup>26</sup>

Novartis BidCo Germany will become the universal successor to MOR AG as a result of the asset transfer.

The legal requirements relating to the agreement on the transfer of the assets of the transferring legal entity to the acquiring legal entity have been fully and accurately observed.

#### **Squeeze-out of the minority shareholders of the transferring company (§ 62(5), Sentence 2 UmwG)**

The Merger Agreement specifies that the minority shareholders of the transferring company are to be squeezed out in connection with the merger.<sup>27</sup> According to the information provided to us, that intention exists. For this purpose, the shareholders of MOR AG are to resolve in general meeting within three months of the conclusion of the Merger Agreement on the transfer of the shares of the minority shareholders of MOR AG to Novartis BidCo Germany in return for appropriate cash compensation to be paid by Novartis BidCo Germany.<sup>28</sup> The general shareholders' meeting is to be held on 27 August 2024 and thus within the planned three-month period.

Novartis BidCo Germany as the acquiring company will hold all MOR shares as the transferring company on the effective date of the merger based on the transfer resolution taking simultaneous effect.<sup>29</sup> This is ensured by the condition precedent requiring the effectiveness of this Agreement.<sup>30</sup> Therefore, Novartis BidCo Germany may not increase its share capital to execute the merger.<sup>31</sup> Shares in Novartis BidCo Germany will therefore not be granted as consideration for the transfer of the assets of MOR AG. Novartis BidCo Germany, the sole shareholder of MOR AG on the effective date of the merger, will declare in the

<sup>25</sup> Cf. Recitals to the Merger Agreement

<sup>26</sup> Cf. Section 1.1 of the Merger Agreement

<sup>27</sup> Cf. Section 2.1 of the Merger Agreement

<sup>28</sup> Cf. Section 2.2 of the Merger Agreement

<sup>29</sup> Cf. Section 3.1 in conjunction with Section 7.1 of the Merger Agreement

<sup>30</sup> Cf. Section 7.1 of the Merger Agreement and/or § 62(5), Sentence 7 UmwG

<sup>31</sup> Cf. § 68(1), Sentence 1, No. 1 UmwG



Merger Agreement, as a precautionary measure, that it will waive a cash compensation offer.<sup>32</sup> The Merger Agreement contains clarifications to this effect.<sup>33</sup>

No information on the exchange of shares,<sup>34</sup> insofar as it relates to the absorption of MOR AG, is provided as no shares will be granted to the minority shareholders of MOR AG in the course of the merger. As all shares of MOR AG will be held by Novartis BidCo Germany on the Merger Date, § 5(2) UmwG applies at least analogously.

The Merger Agreement stipulates that the entry of the transfer shareholder resolution into the commercial register of the registered office of MOR AG must be accompanied by a remark that it will first become effective simultaneously with the entry of the merger into the commercial register of the registered office of Novartis BidCo Germany.<sup>35</sup> The provision accurately reflects the legislative situation.<sup>36</sup>

In accordance with § 7.2 of the Merger Agreement, approval of the Merger Agreement by the general shareholders' meeting of MOR AG is not required.<sup>37</sup> This also applies to a general shareholders' meeting of Novartis BidCo Germany, because Novartis BidCo AG,<sup>38</sup> as the sole shareholder of Novartis BidCo Germany, has declared that it will not exercise its right in accordance with § 62(1) as related to Paragraph 2, Sentence 1 UmwG to convene a general meeting of Novartis BidCo Germany to approve the Merger Agreement.<sup>39</sup>

### Merger Date (§ 5(1)6 UmwG)

Novartis BidCo Germany will acquire the assets of MOR AG effective after 31 December 2023.<sup>40</sup> From the beginning of 1 January 2024<sup>41</sup> ("Merger Date"), all acts and transactions of MOR AG will be deemed to have been undertaken for the account of Novartis BidCo Germany.<sup>42</sup>

The merger will<sup>43</sup> be based on the balance sheet of MOR AG as of 31 December 2023, which has been issued an unqualified auditor's opinion,<sup>44</sup> as the closing balance sheet.<sup>45</sup> The merger date will follow immediately after the date of the closing balance sheet of the transferring MOR AG as of 31 December 2023, which is the material date.

In the event the merger does not become effective until after 31 January 2024 by entry in the commercial register of the registered office of Novartis BidCo Germany AG, the cutoff date of the closing balance sheet will be 31 December 2024 at variance with Section 1.2 of the Merger Agreement, and the Merger Date will be 1 January 2025 at variance with Section 1.3 of the Merger Agreement. In the event of a further delay in the merger taking effect beyond 31 March of the respective following year, the cutoff

<sup>32</sup> Cf. Section 3.2 of the Merger Agreement and § 29 UmwG

<sup>33</sup> Cf. Section 3.1 of the Merger Agreement

<sup>34</sup> In accordance with § 5(1), Nos. 2 to 5 UmwG

<sup>35</sup> Cf. Section 2.2 of the Merger Agreement

<sup>36</sup> Cf. § 62(5), Sentence 7 UmwG

<sup>37</sup> Cf. Section 62(4), Sentences 1 and 2 UmwG and Section 7.1 of the Merger Agreement  
"Novartis BidCo"

<sup>39</sup> Cf. Section 7.3 of the Merger Agreement

<sup>40</sup> 24:00

<sup>41</sup> 00:00

<sup>42</sup> Section 1.3 of the Merger Agreement

<sup>43</sup> Subject to Section 6 of the Merger Agreement

<sup>44</sup> PricewaterhouseCoopers GmbH Wirtschaftsprüfungsgesellschaft, Munich.

<sup>45</sup> Cf. Section 1.2 of the Merger Agreement

dates will be postponed by a further year in each case.<sup>46</sup> The timing of this provision is consistent with the next stipulated Merger Date.

If the merger has not become effective by the end of 30 June 2025 before the exercise of the right of rescission by entry in the commercial register of the registered office of Novartis BidCo Germany and the occurrence of the condition precedent described in detail in Section 7.1 of the Merger Agreement, either party may rescind the Merger Agreement.<sup>47</sup>

The provisions of the Merger Agreement comprehensively stipulate the required information on the reporting dates. For reasons of simplification, the most recent fully audited annual balance sheet of MOR AG is used. The provisions contained in the Merger Agreement ensure that the merger date will be aligned with the closing balance sheet date, the transfer date for tax purposes and the date of the transfer of the profit entitlement.

### **Special rights and advantages (§ 5(1), Nos. 7 and 8 UmwG)**

Apart from the provision set out in Section 2 of the Merger Agreement and any compensation to be paid to the bondholders and stock option beneficiaries,<sup>48</sup> no rights as defined in the Merger Agreement in the terms of § 5(1)7 UmwG for individual shareholders or holders of special rights are to be granted, nor are special measures provided for these persons.<sup>49</sup> According to the documents and information provided to us, these statements are accurate.

The provision foreseen in Section 2 of the Merger Agreement relates to the transfer of the shares of the minority shareholders to Novartis BidCo Germany in exchange for cash compensation.<sup>50</sup>

There are also consequences for the beneficiaries of stock option programs whose stock options still exist on the effective date of the merger.<sup>51</sup> The obligations underlying the stock options are to be transferred to Novartis BidCo Germany by way of universal succession. As the subscription right to MorphoSys shares will no longer exist for the stock option beneficiaries as a result of the transfer resolution becoming effective at the same time as the merger, the Merger Agreement provides that the beneficiaries have a claim against Novartis BidCo Germany for payment of adequate cash compensation. Likewise, the conversion rights of the bondholders of the convertible bond will no longer exist as a result of the transfer resolution taking effect at the same time as the merger. The bondholders have a claim against Novartis BidCo Germany for payment of adequate cash compensation.<sup>52</sup>

No special advantages will be granted for any member of the management or supervisory boards or a statutory auditor of any participating company or the merger auditor, subject to the states of affairs mentioned in Sections 4.3 to 4.6 of the Merger Agreement.<sup>53</sup>

When the merger takes effect, the position of the current Management Board of MOR AG will end. As part of the universal succession, the employment contracts of the Management Board members,

<sup>46</sup> Cf. Section 6 of the Merger Agreement

<sup>47</sup> Cf. Section 7.4 of the Merger Agreement

<sup>48</sup> These are defined in Section 5.12 of the Merger Agreement.

<sup>49</sup> Cf. Section 4.1 of the Merger Agreement

<sup>50</sup> Cf. Sections 2.1 and 2.2 of the Merger Agreement

<sup>51</sup> Cf. Section 5.12 of the Merger Agreement

<sup>52</sup> Cf. Section 4.1 of the Merger Agreement

<sup>53</sup> Cf. Section 4.2 of the Merger Agreement

including the remuneration provisions contained therein, as well as other remuneration-related arrangements such as bonus or pension agreements and any other contracts between the members of the Management Board and MOR AG are to be transferred to Novartis BidCo Germany.<sup>54</sup> Novartis BidCo Germany and MOR AG intend, without prejudice to the competence of the Supervisory Board of Novartis BidCo Germany in corporate law, for the current sole member of the Management Board of Novartis BidCo Germany to resign from the Management Board after the merger.<sup>55</sup>

When the merger takes effect, the positions of the current members of the Supervisory Board of MOR AG will also end. No compensation will be paid to the previous members of the Supervisory Board of MOR AG for this.<sup>56</sup> Novartis BidCo Germany and MOR AG are seeking to expand the current Supervisory Board of Novartis BidCo Germany from three to four members and to fill it with current members of the Supervisory Board of MOR AG, while the current members of the Supervisory Board of Novartis BidCo Germany are to resign, without prejudice to the decision-making competence of the general shareholders' meeting of Novartis BidCo Germany in corporate law.<sup>57</sup>

Within the framework of our audit, we found no indications to assume the granting of additional special benefits in the terms of § 5(1)8 UmwG.

### **Consequences of the merger for the employees and their representatives (§ 5(1)9 UmwG)**

Section 5 of the Merger Agreement describes in detail the consequences of the planned merger for the employees and their representatives in individual and collective employment law as well as the measures envisaged in this respect. The explanation of these consequences extends in particular to the statement that the employment relationships of MOR AG will be transferred to Novartis BidCo Germany, the individual contractual terms and conditions of employment will remain unchanged and all rights and obligations based on earned seniority will continue to exist in relation to Novartis BidCo Germany.

In accordance with the information in Section 5.8 of the Merger Agreement, the planned merger will not lead to any changes in the operational structures of MOR AG.

Section 5.5 of the Merger Agreement sets out the rights and obligations arising from the company pension scheme.

Section 5.12 of the Merger Agreement stipulates the continued validity of long-term remuneration components for individuals.<sup>58</sup>

The required scope of the merely descriptive information that must be included in a merger agreement in accordance with § 5(1)9 UmwG creates tension between the comprehensive information necessary for employees and the reasonable burden on the company to provide the necessary information.

<sup>54</sup> Cf. Section 4.3 of the Merger Agreement

<sup>55</sup> Cf. Section 4.4 of the Merger Agreement

<sup>56</sup> Cf. Section 4.5 as related to Section 4.2 of the Merger Agreement

<sup>57</sup> Cf. Section 4.6 of the Merger Agreement

<sup>58</sup> Stock option programs as well as performance share unit programs and restricted stock unit programs. Cf. the statements on the stock option programs under Special rights and advantages (§ 5(1), Nos. 7 and 8 UmwG).

In our opinion, the consequences of the planned merger for the employees and their representatives as well as the measures provided for in this respect are sufficiently and correctly described in the Merger Agreement.

**Audit result**

The Merger Agreement contains the legally prescribed information completely and accurately. The Agreement thus complies with the provisions of law. Within the framework of the merger audit, we also did not become aware of any indications that would speak against the accuracy of the optional information in the Merger Agreement.

D. Concluding statement

As court-appointed auditor, we audited the Merger Agreement pursuant to § 9 UmwG. Based on the squeeze-out merger in accordance with § 62, Paragraphs 1 and 5 UmwG, the indication of the exchange ratio (§ 5(2) UmwG) is omitted from the Merger Agreement. Pursuant to § 62(5), Sentence 8 UmwG as related to § 327a AktG, the minority shareholders will receive adequate cash consideration. The adequacy of the cash compensation must be reviewed by one or more expert auditors pursuant to § 62(5), Sentence 8 UmwG as related to § 327c(2), Sentence 2 AktG within the framework of the squeeze-out.

We issue the following closing statement on our merger audit in analogous application of § 60 UmwG as related to § 12 UmwG:

"The minimum information required by law is fully and accurately contained in the Merger Agreement. We furthermore did not become aware of any indications that would speak against the accuracy of the optional information in the Merger Agreement."

Düsseldorf, 12 July 2024

**ADKL AG**  
Wirtschaftsprüfungsgesellschaft

Wolfram Wagner  
Auditor

p.p. Axel Augustin  
Auditor

**Landgericht München I**

Az.: 5 HK O 7165/24



In dem Verfahren

**Novartis BidCo Germany AG**, vertreten durch den Vorstand, Roonstrasse 25, 90429 Nürnberg  
- Antragstellerin -Verfahrensbevollmächtigte:Rechtsanwälte **Freshfields Bruckhaus Deringer**, Rechtsanwälte Steuerberater PartG mbB,  
Bockenheimer Anlage 44, 60322 Frankfurt

wegen Prüferbestellung

erlässt das Landgericht München I - 5. Kammer für Handelssachen - durch Vorsitzenden Richter  
am Landgericht Dr. Krenek am 21.06.2024 folgenden**Beschluss:**

1. Auf Antrag der

**Novartis BidCo Germany AG**  
Roonstraße 25  
90429 Nürnbergbestellt der Vorsitzende der 5. Kammer für Handelssachen beim LG München I gem. § 62  
Abs. 5 UmwG i.V.m. §§ 327 c Abs. 2 Satz 3 und Satz 4, 293 c Abs. 1 AktG**ADKL AG Wirtschaftsprüfungsgesellschaft**  
Herrn Wirtschaftsprüfer Wolfram Wagner  
Breite Straße 29 - 31  
40213 Düsseldorfzum Prüfer für die Überprüfung der Angemessenheit einer zu gewährenden Barabfindung  
an die Aktionäre der MorphoSys AG mit Sitz in Planegg, eingetragen im Handelsregister  
des Amtsgerichts – Registergericht – München HRB 121023.

2. Auf Antrag der

**Novartis BidCo Germany AG**

Roonstraße 25  
90429 Nürnberg

bestellt der Vorsitzende der 5. Kammer für Handelssachen beim LG München I gem. §§ 60, 10 UmwG

**ADKL AG Wirtschaftsprüfungsgesellschaft**

Herrn Wirtschaftsprüfer Wolfram Wagner  
Breite Straße 29 - 31  
40213 Düsseldorf

zum Prüfer des Verschmelzungsvertrages zwischen der MorphoSys AG mit Sitz in Planegg, eingetragen im Handelsregister des Amtsgerichts – Registergericht – München HRB 121023 übertragendem Rechtsträger und der Novartis BidCo Germany AG mit Sitz in München, eingetragen im Handelsregister des Amtsgerichts – Registergericht – München HRB 283042 als übernehmendem Rechtsträger.

3. Der Geschäftswert wird auf € 5.000,-- festgesetzt, § 36 Abs. 3 GNotKG.

## Gründe:

Die von der Antragstellerin benannte Wirtschaftsprüfungsgesellschaft ist für die Prüfung geeignet. Hinderungsgründe bestehen nicht, so dass diese vom Gericht entsprechend der Anregung der Antragstellerin bzw. der Antragstellerinnen aus den beiden vorgeschlagenen Wirtschaftsprüfungsgesellschaften ausgewählt werden konnte.

gez.

Dr. Krenek  
Vorsitzender Richter am Landgericht



Für die Richtigkeit der Abschrift  
München, 21.06.2024

Spensberger, JAng  
Urkundsbeamtin der Geschäftsstelle

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Heute, den [●(Datum ausgeschrieben)]

Today, [●(date written in words)]

- [●(Datum in Ziffern)] -

- [●(date written in numbers)] -

erschieden gleichzeitig vor mir,

together appeared before me,

Dr. Sabine Funke,

Dr. Sabine Funke,

Notarin in Frankfurt am Main:

notary officiating in Frankfurt am Main:

(1) [●], geboren am [●], geschäftsansässig bei

(1) [●], born [●], with business address at

Freshfields Bruckhaus Deringer Rechtsanwälte Steuerberater PartG mbB,

Bockenheimer Anlage 44, 60322 Frankfurt am Main

handelnd nicht im eigenen Namen, sondern aufgrund Vollmacht vom 19. Juni 2024, die bei dieser Beurkundung im Original vorlag und dieser Urkunde in beglaubigter Abschrift beigefügt ist, für die

acting not in [his // her] own name but on the basis of a power of attorney dated 19 June 2024, the original of which was available at the time of this notarisation and a certified copy of which is attached hereto, on behalf of

### **Novartis BidCo Germany AG**

**mit Sitz in München**

**with registered office in Munich**

(Geschäftsanschrift:

(business address:

c/o Novartis Pharma GmbH, Roonstraße 25, 90429 Nürnberg / Nuremberg,

eingetragen im Handelsregister des Amtsgerichts München unter HRB 283042).

registered with the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Munich under HRB 283042).

(2) [●], geboren am [●], geschäftsansässig bei

(2) [●], born [●], with business address at

Hogan Lovells International LLP, Große Gallusstraße 18, 60312 Frankfurt am Main,

handelnd nicht im eigenen Namen, sondern aufgrund Vollmacht vom 26. Juni 2024, die bei dieser Beurkundung im Original vorlag

acting not in [his // her] own name but on the basis of a power of attorney dated 26 June 2024, the original of which was



und dieser Urkunde in beglaubigter Abschrift beigefügt ist, für die

available at the time of this notarisation and a certified copy of which is attached hereto, on behalf of

**MorphoSys AG**

**mit Sitz in Planegg, Landkreis München,**

**with registered office in Planegg, district of Munich,**

(Geschäftsanschrift:

(business address:

Semmelweisstraße 7, 82152 Planegg,

eingetragen im Handelsregister des Amtsgerichts München unter HRB 121023).

registered with the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Munich under HRB 121023).

Die Erschienenen wiesen sich durch amtlichen Lichtbildausweis aus.

The persons appearing identified themselves by presenting an official identity document with a photo.

Die amtierende Notarin erläuterte das Mitwirkungsverbot nach § 3 Abs. 1 Satz 1 Nr. 7 BeurkG. Die Erschienenen verneinten die Frage der Notarin nach einer Vorbefassung im Sinne dieser Vorschrift. Über die Angabepflicht nach dem Geldwäschegesetz informiert, erklärten die Erschienenen, dass sie bzw. die von ihnen Vertretenen ausschließlich für eigene Rechnung handeln.

The officiating notary explained the prohibition on prior involvement under section 3(1) sentence 1 no. 7 of the German Notarisation Act (*Beurkundungsgesetz*). The persons appearing responded in the negative to the notary's question as to whether there was a prior involvement within the meaning of this provision. After having being advised on the disclosure requirement under the German Anti-Money Laundering Act (*Geldwäschegesetz*), the persons appearing declared that they or the persons represented by them act exclusively for their own account.

Sodann baten die Erschienenen, folgenden Verschmelzungsvertrag zu beurkunden:

The persons appearing then requested that the following merger agreement be notarised:

**Verschmelzungsvertrag**

**Merger Agreement**

zwischen der

between

**Novartis BidCo Germany AG**

mit Sitz in München

with registered office in Munich

als Übernehmender Gesellschaft

as Acquiring Company

und der

and

**MorphoSys AG**

mit Sitz in Planegg

with registered office in Planegg

als Übertragender Gesellschaft

as Transferring Company

- nachfolgend auch einzeln als **Partei** und gemeinsam als **Parteien** bezeichnet -

- hereinafter also individually referred to as a **Party** and collectively as the **Parties** -

## Vorbemerkungen

1. Die Novartis BidCo Germany AG ist eine Aktiengesellschaft deutschen Rechts mit Sitz in München, eingetragen im Handelsregister des Amtsgerichts München unter HRB 283042 (nachfolgend auch **Novartis BidCo Germany** oder **Übernehmende Gesellschaft**). Die Geschäftsanschrift lautet c/o Novartis Pharma GmbH, Roonstraße 25, 90429 Nürnberg, Deutschland. Das im Handelsregister eingetragene Grundkapital der Novartis BidCo Germany beträgt EUR 50.000,00. Es ist eingeteilt in 50.000 auf den Namen lautende Stückaktien mit einem rechnerischen Anteil am Grundkapital von EUR 1,00 je Aktie (**Novartis BidCo Germany-Aktien**). Die Novartis BidCo Germany-Aktien sind weder zum Handel im regulierten Markt einer Wertpapierbörse zugelassen, noch werden sie im Freiverkehr einer Wertpapierbörse gehandelt. Das Geschäftsjahr der Novartis BidCo Germany ist das Kalenderjahr. Die alleinige Aktionärin der Novartis BidCo Germany ist die Novartis BidCo AG, eine Aktiengesellschaft Schweizer Rechts mit Sitz in Basel, Schweiz, eingetragen im Handelsregisteramt des Kantons der Stadt Basel unter der Gesellschaftsnummer CHE-477.907.492 (**Novartis BidCo**). Die alleinige Gesellschafterin der Novartis BidCo ist die Novartis Pharma AG, eine Aktiengesellschaft Schweizer Rechts mit Sitz in Lichtstrasse 35, 4056 Basel, Schweiz, eingetragen im Handelsregisteramt des Kantons

## Whereas:

1. Novartis BidCo Germany AG is a stock corporation (*Aktiengesellschaft*) under German law with registered office in Munich, registered with the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Munich under HRB 283042 (hereinafter also referred to as **Novartis BidCo Germany** or the **Acquiring Company**). Its business address is c/o Novartis Pharma GmbH, Roonstraße 25, 90429 Nuremberg, Germany. The registered share capital of Novartis BidCo Germany amounts to EUR 50,000.00 and is divided into 50,000 no-par value registered shares (*auf den Namen lautende Stückaktien*), each representing a notional interest in the share capital of EUR 1.00 (**Novartis BidCo Germany Shares**). The Novartis BidCo Germany Shares are not admitted to trading on the regulated market of any stock exchange, nor are they traded on the regulated unofficial market (*Freiverkehr*) of any stock exchange. The financial year of Novartis BidCo Germany is the calendar year. The sole shareholder of Novartis BidCo Germany is Novartis BidCo AG, a stock corporation under the laws of Switzerland, with registered office in Basel, Switzerland, registered with the commercial register office (*Handelsregisteramt*) of the Canton of Basel-City under company

Basel-Stadt unter der Gesellschaftsnummer CHE-106.052.527 (*Novartis Pharma*). Die alleinige Gesellschafterin der Novartis Pharma ist die Novartis AG, eine Aktiengesellschaft Schweizer Rechts mit Sitz in Lichtstrasse 35, 4056 Basel, Schweiz, eingetragen im Handelsregisteramt des Kantons Basel-Stadt unter der Gesellschaftsnummer CHE-103.867.266 (*Novartis* und, zusammen mit ihren Tochtergesellschaften *Novartis Gruppe*). Novartis ist ein börsennotiertes Unternehmen, dessen Aktien an der Schweizer Börse unter dem Kürzel „NOVN“ und an der New Yorker Börse unter dem Symbol “NVS” gehandelt werden. Novartis selbst wird von keinem ihrer Aktionäre beherrscht.

2. Die MorphoSys AG ist eine börsennotierte Aktiengesellschaft deutschen Rechts mit Sitz in Planegg, Landkreis München, eingetragen im Handelsregister des Amtsgerichts München unter HRB 121023 (nachfolgend auch *MorphoSys* oder *Übertragende Gesellschaft*). Die Geschäftsanschrift lautet

number CHE-477.907.492 (*Novartis BidCo*). The sole shareholder of Novartis BidCo is Novartis Pharma AG, a stock corporation under the laws of Switzerland, with registered office at Lichtstrasse 35, 4056 Basel, Switzerland, registered with the commercial register office (*Handelsregisteramt*) of the Canton of Basel-City under company number CHE-106.052.527 (*Novartis Pharma*). The sole shareholder of Novartis Pharma is Novartis AG, a stock corporation under the laws of Switzerland, with registered office in Lichtstrasse 35, 4056 Basel, Switzerland, registered with the commercial register office (*Handelsregisteramt*) of the Canton of Basel-City under company number CHE-103.867.266 (*Novartis* and, together with its subsidiaries *Novartis Group*). Novartis is a publicly listed company whose stock trades on the Swiss Exchange under ticker symbol “NOVN” and on the New York Stock Exchange under ticker symbol “NVS”. Novartis itself is not controlled by any of its shareholders.

2. MorphoSys AG is a listed stock corporation (*Aktiengesellschaft*) under German law with registered office in Planegg, district of Munich, registered with the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Munich under HRB 121023

Semmelweisstraße 7, 82152 Planegg, Deutschland. Das Grundkapital von MorphoSys beträgt EUR 37.716.423,00 und ist eingeteilt in 37.716.423 auf den Inhaber lautende Stückaktien mit einem anteiligen Betrag am Grundkapital von EUR 1,00 je Aktie eingeteilt (*MorphoSys-Aktien*). Die entsprechende Erhöhung gegenüber dem derzeit im Handelsregister von MorphoSys eingetragenen Grundkapital von EUR 37.655.137,00 um EUR 61.286,00 auf EUR 37.716.423,00 ist auf die Ausgabe von Bezugsaktien aus dem Bedingten Kapital 2016-III zurückzuführen und wird spätestens bis zum Ablauf des Monats Januar 2025 zur Eintragung in das Handelsregister von MorphoSys angemeldet. Es bestehen keine unterschiedlichen Aktiengattungen. Die MorphoSys-Aktien sind derzeit noch unter der ISIN DE0006632003 und dem Symbol „MOR“ zum Handel im regulierten Markt mit weiteren Zulassungsfolgepflichten (*Prime Standard*) der Frankfurter Wertpapierbörse zugelassen, wo sie im elektronischen Handelssystem (XETRA) der Deutsche Börse AG, Frankfurt am Main, Deutschland, gehandelt werden. Ferner werden die MorphoSys-Aktien im Freiverkehr der Börse Berlin sowie an den unregulierten Märkten der Börsen Düsseldorf, Hamburg, Hannover, München und Stuttgart sowie über Tradegate Exchange gehandelt. MorphoSys und Novartis BidCo planen ein Delisting der MorphoSys-Aktien, das voraussichtlich im August 2024 wirksam

(hereinafter also referred to as *MorphoSys* or the *Transferring Company*). Its business address is Semmelweisstraße 7, 82152 Planegg, Germany. The share capital of MorphoSys amounts to EUR 37,716,423.00 and is divided into 37,716,423 no-par value bearer shares (*auf den Inhaber lautende Stückaktien*), each representing a notional interest in the share capital of EUR 1.00 (*MorphoSys Shares*). The corresponding increase in contrast to the currently registered share capital in the commercial register of MorphoSys from EUR 37,655,137.00 by EUR 61,286.00 to EUR 37,716,423.00 is due to the issue of subscription shares from Conditional Capital 2016-III and will be filed for registration in the commercial register of MorphoSys by the end of January 2025 at the latest. There are no different classes of shares. The MorphoSys Shares are currently still admitted to trading on the regulated market (*Regulierter Markt*) with additional post-admission obligations (*Prime Standard*) of the Frankfurt Stock Exchange (*Frankfurter Wertpapierbörse*) under ISIN DE0006632003 under the symbol "MOR" and are tradable via the Exchange Electronic Trading system (XETRA) of Deutsche Börse AG, Frankfurt am Main, Germany. In addition, the MorphoSys Shares are traded on the

werden wird; am 4. Juli 2024 veröffentlichte Novartis BidCo bereits ein entsprechendes Delisting-Erwerbsangebot. MorphoSys hält zum heutigen Tag 53.685 eigene Aktien. Das Geschäftsjahr von MorphoSys ist das Kalenderjahr. MorphoSys hat nicht nachrangige, unbesicherte Wandelschuldverschreibungen mit Fälligkeit am 16. Oktober 2025 (ISIN DE000A3H2XW6) mit einem Nominalzinssatz von 0,625 % p.a. (**Wandelschuldverschreibungen** und deren Inhaber, **Anleihegläubiger**) begeben.

3. Novartis BidCo Germany hält derzeit unmittelbar 34.337.809 der insgesamt 37.716.423 MorphoSys-Aktien. Dies entspricht rund 91,04 % und – nach Abzug der Anzahl der eigenen Aktien gemäß § 62 Abs. 1 Satz 2 Umwandlungsgesetz (**UmwG**) – rund 91,17 % des Grundkapitals von MorphoSys. Novartis BidCo Germany ist damit Hauptaktionärin von MorphoSys im Sinne des § 62 Abs. 5 Satz 1 UmwG. Novartis BidCo Germany und MorphoSys beabsichtigen, das Vermögen von MorphoSys als Ganzes im Wege

regulated unofficial market (*Freiverkehr*) of the stock exchange in Berlin as well as on the unregulated market on the stock exchanges of Düsseldorf, Hamburg, Hanover, Munich and Stuttgart as well as via Tradegate Exchange. MorphoSys and Novartis BidCo intend a delisting of the MorphoSys Shares, which will probably take effect in August 2024; a corresponding delisting purchase offer was published by Novartis BidCo on 4 July 2024. As of today's date, MorphoSys holds 53,685 treasury shares (*eigene Aktien*). The financial year of MorphoSys is the calendar year. MorphoSys has issued non-subordinated, unsecured convertible bonds maturing on 16 October 2025 (ISIN DE000A3H2XW6) with a nominal interest rate of 0.625 % p.a. (**Convertible Bonds**, and their holders **Bondholders**).

3. Novartis BidCo Germany currently directly holds 34,337,809 of the total number of 37,716,423 MorphoSys Shares. This corresponds to approximately 91.04% and – after deducting the number of treasury shares pursuant to section 62(1) sentence 2 of the German Transformation Act (*Umwandlungsgesetz – UmwG*) – to approximately 91.17% of the share capital of MorphoSys. Accordingly, Novartis BidCo Germany is the main shareholder of

der Verschmelzung durch Aufnahme gemäß §§ 2 Nr. 1, 60 ff. UmwG auf Novartis BidCo Germany zu übertragen. Im Zusammenhang mit der Verschmelzung soll ein Ausschluss der übrigen Aktionäre von MorphoSys neben der Novartis BidCo Germany (**Minderheitsaktionäre**) erfolgen. Zu diesem Zweck soll die Hauptversammlung von MorphoSys innerhalb von drei Monaten nach Abschluss dieses Verschmelzungsvertrages über die Übertragung der Aktien der Minderheitsaktionäre auf Novartis BidCo Germany gegen Gewährung einer angemessenen Barabfindung beschließen.

4. Die Verschmelzung soll nur wirksam werden, wenn gleichzeitig auch der Ausschluss der Minderheitsaktionäre und damit die Übertragung aller Aktien der Minderheitsaktionäre auf Novartis BidCo Germany als Hauptaktionärin wirksam wird, was durch eine aufschiebende Bedingung für die Wirksamkeit dieses Vertrages sichergestellt wird. Umgekehrt werden auch der Ausschluss der Minderheitsaktionäre und damit die Übertragung der Aktien der Minderheitsaktionäre auf Novartis BidCo Germany als Hauptaktionärin gemäß § 62 Abs. 5 Satz 7 UmwG nur

MorphoSys within the meaning of section 62(5) sentence 1 UmwG. Novartis BidCo Germany and MorphoSys intend to transfer the entire assets of MorphoSys to Novartis BidCo Germany by way of a merger by absorption (*Verschmelzung durch Aufnahme*) pursuant to section 2 no. 1, sections 60 et seqq. UmwG. In connection with the merger, it is intended to effect a squeeze-out of the remaining shareholders of MorphoSys besides Novartis BidCo Germany (**Minority Shareholders**). For this purpose, it is intended that the general meeting of MorphoSys will resolve on the transfer of the shares of the Minority Shareholders to Novartis BidCo Germany against payment of an adequate cash compensation within three months of the conclusion of this merger agreement.

4. The merger is to take effect only if the squeeze-out of the Minority Shareholders and thus the transfer of all shares of the Minority Shareholders to Novartis BidCo Germany as main shareholder takes effect at the same time, which is ensured by a condition precedent regarding the effectiveness of this agreement. In turn, the squeeze-out of the Minority Shareholders and thus the transfer of the shares of the Minority Shareholders to Novartis BidCo Germany as main shareholder in accordance with

gleichzeitig mit der Eintragung der Verschmelzung im Handelsregister der Novartis BidCo Germany wirksam. Da Novartis BidCo Germany folglich bei Wirksamwerden der Verschmelzung alleinige Aktionärin von MorphoSys sein wird, unterbleibt eine Gewährung von Anteilen an der Novartis BidCo Germany an die Aktionäre von MorphoSys. Eine Kapitalerhöhung von Novartis BidCo Germany zur Durchführung der Verschmelzung findet nicht statt. Es bedarf daher auch keines Treuhänders nach § 71 UmwG.

Dies vorausgeschickt, vereinbaren die Parteien das Folgende:

section 62(5) sentence 7 UmwG will only take effect concurrently with the registration of the merger with the commercial register of Novartis BidCo Germany. Since Novartis BidCo Germany will consequently be the sole shareholder of MorphoSys when the merger takes effect, no shares in Novartis BidCo Germany will be granted to the shareholders of MorphoSys. No capital increase of Novartis BidCo Germany will be effected to implement the merger. There is therefore no need for a trustee pursuant to § 71 UmwG.

Now, therefore, the Parties agree as follows:



## § 1

### **Vermögensübertragung, Schlussbilanz, Verschmelzungstichtag**

1. MorphoSys überträgt ihr Vermögen als Ganzes mit allen Rechten und Pflichten unter Auflösung ohne Abwicklung nach §§ 2 Nr. 1, 4 ff., 60 ff. UmwG auf Novartis BidCo Germany nach näherer Maßgabe der Bestimmungen dieses Vertrages (Verschmelzung durch Aufnahme). Mit der Eintragung der Verschmelzung in das Register des Sitzes der Übernehmenden Gesellschaft gehen auch die Verbindlichkeiten von MorphoSys auf Novartis BidCo Germany über (§ 20 Abs. 1 Nr. 1 UmwG).
2. Der Verschmelzung wird – vorbehaltlich der in § 6 dieses Vertrages getroffenen Regelungen – die von der PricewaterhouseCoopers GmbH Wirtschaftsprüfungsgesellschaft, München, geprüfte Bilanz von MorphoSys als Übertragender Gesellschaft zum 31. Dezember 2023 als Schlussbilanz zugrunde gelegt (zugleich steuerlicher Übertragungstichtag).
3. Die Übernahme des Vermögens von MorphoSys als Übertragender Gesellschaft durch Novartis BidCo Germany

## § 1

### **Transfer of assets, closing balance sheet, Merger Effective Date**

1. MorphoSys shall transfer its entire assets, including all rights and obligations, by way of dissolution without liquidation (*Auflösung ohne Abwicklung*) pursuant to section 2 no. 1, sections 4 et seqq., sections 60 et seqq. UmwG to Novartis BidCo Germany in accordance with the provisions of this agreement (merger by absorption (*Verschmelzung durch Aufnahme*)). Upon registration of the merger with the commercial register at the place of the registered office of the Acquiring Company, all liabilities of MorphoSys shall be transferred to Novartis BidCo Germany as well (section 20(1) no. 1 UmwG).
2. Subject to the provisions of § 6 of this agreement, the merger shall be based on the balance sheet of MorphoSys as Transferring Company as of 31 December 2023, which was audited by PricewaterhouseCoopers GmbH Wirtschaftsprüfungsgesellschaft, Munich, as the closing balance sheet (*Schlussbilanz*) (the balance sheet date is also the transfer date for tax purposes).
3. Subject to the provisions of § 6 of this agreement, the transfer of the assets and liabilities of MorphoSys

als Übernehmender Gesellschaft erfolgt – vorbehaltlich der in § 6 dieses Vertrages enthaltenen Regelungen – im Innenverhältnis zwischen den Parteien mit Wirkung zum Ablauf des 31. Dezember 2023. Vom Beginn des 1. Januar 2024 (**Verschmelzungstichtag**) an gelten alle Handlungen und Geschäfte der Übertragenden Gesellschaft als für Rechnung der Übernehmenden Gesellschaft vorgenommen.

## § 2

### **Ausschluss der Minderheitsaktionäre der Übertragenden Gesellschaft**

1. Im Zusammenhang mit der Verschmelzung von MorphoSys auf Novartis BidCo Germany soll ein Ausschluss der Minderheitsaktionäre von MorphoSys gemäß § 62 Abs. 5 UmwG i.V.m. §§ 327a ff. des Aktiengesetzes (**AktG**) erfolgen. Ausweislich der dieser Urkunde als **Anlage** beigefügten Depotbestätigung der UBS Switzerland AG hält Novartis BidCo Germany derzeit unmittelbar 34.337.809 der insgesamt 37.716.423 MorphoSys-Aktien. Dies entspricht rund 91,04 % und – nach Abzug der Anzahl der eigenen Aktien gemäß § 62 Abs. 1 Satz 2 UmwG – rund 91,17 % des Grundkapitals von MorphoSys. Die Novartis BidCo Germany ist damit Hauptaktionärin im Sinne des § 62 Abs. 5 Satz 1 UmwG.

as Transferring Company to Novartis BidCo Germany as Acquiring Company shall take effect as between the Parties at the end of 31 December 2023. From the beginning of 1 January 2024 (**Merger Effective Date**), all actions and transactions of the Transferring Company shall be treated as being those of the Acquiring Company.

## § 2

### **Squeeze-out of the Minority Shareholders of the Transferring Company**

1. It is intended to effect a squeeze-out of the Minority Shareholders of MorphoSys pursuant to section 62(5) UmwG in conjunction with sections 327a et seqq. of the German Stock Corporation Act (**Aktiengesetz - AktG**) in connection with the merger of MorphoSys into Novartis BidCo Germany. As stated in the custody account confirmation issued by UBS Switzerland AG, which is attached hereto as **Annex**, Novartis BidCo Germany currently directly holds 34,337,809 of the total number of 37,716,423 MorphoSys Shares. This corresponds to approximately 91.04 % and –after deducting the number of treasury shares pursuant to section 62(1) sentence 2 UmwG – to approximately 91.17 % of the share capital of MorphoSys. Accordingly, Novartis BidCo Germany is the main shareholder of

2. Es ist beabsichtigt, dass die Hauptversammlung von MorphoSys innerhalb von drei Monaten nach Abschluss dieses Vertrages einen Beschluss nach § 62 Abs. 5 Satz 1 UmwG i.V.m. § 327a Abs. 1 Satz 1 AktG (**Übertragungsbeschluss**) über die Übertragung der Aktien der Minderheitsaktionäre von MorphoSys auf Novartis BidCo Germany als Hauptaktionärin gegen Gewährung einer von der Novartis BidCo Germany zu zahlenden angemessenen, in dem Übertragungsbeschluss betragsmäßig zu bestimmenden Barabfindung fasst. Die Eintragung des Übertragungsbeschlusses in das Handelsregister des Sitzes der Übertragenden Gesellschaft ist mit dem Vermerk zu versehen, dass er erst gleichzeitig mit der Eintragung der Verschmelzung im Register des Sitzes der Übernehmenden Gesellschaft wirksam wird (§ 62 Abs. 5 Satz 7 UmwG).

### § 3

#### **Keine Gegenleistung**

1. Die Novartis BidCo Germany als Übernehmende Gesellschaft wird mit Wirksamwerden der Verschmelzung sämtliche Aktien an MorphoSys

MorphoSys within the meaning of section 62(5) sentence 1 UmwG.

2. It is intended that the general meeting of MorphoSys will, within three months of conclusion of this agreement, adopt a resolution pursuant to section 62(5) sentence 1 UmwG in conjunction with section 327a(1) sentence 1 AktG (**Squeeze-Out Resolution**) regarding the transfer of the shares of the Minority Shareholders of MorphoSys to Novartis BidCo Germany as main shareholder against payment of an adequate cash compensation by Novartis BidCo Germany in the amount to be determined in the Squeeze-Out Resolution. The registration of the Squeeze-Out Resolution with the commercial register at the place of the registered office of the Transferring Company shall contain a note that the Squeeze-Out Resolution will only become effective concurrently with the registration of the merger with the commercial register at the place of the registered office of the Acquiring Company (section 62(5) sentence 7 UmwG).

### § 3

#### **No consideration**

1. When the merger takes effect, Novartis BidCo Germany as Acquiring Company will hold all shares in MorphoSys. This is ensured by the

halten. Das wird durch die aufschiebende Bedingung für die Wirksamkeit dieses Vertrages gemäß § 7.1 dieses Vertrages und die gesetzliche Bestimmung in § 62 Abs. 5 Satz 7 UmwG sichergestellt. Somit sind den Anteilseignern von MorphoSys gemäß § 20 Abs. 1 Nr. 3 Satz 1 Halbsatz 2 UmwG im Rahmen der Verschmelzung keine Anteile an der Novartis BidCo Germany als Gegenleistung zu gewähren. Die Novartis BidCo Germany als Übernehmende Gesellschaft darf gemäß § 68 Abs. 1 Satz 1 Nr. 1 UmwG ihr Grundkapital zur Durchführung der Verschmelzung nicht erhöhen. Dementsprechend entfallen gemäß § 5 Abs. 2 UmwG alle in § 5 Abs. 1 Nr. 2 bis 5 UmwG vorgesehenen Angaben zum Umtausch der Anteile.

2. Die Novartis BidCo Germany erklärt als bei Wirksamwerden der Verschmelzung alleinige Aktionärin von MorphoSys vorsorglich den Verzicht auf ein Barabfindungsangebot im Verschmelzungsvertrag (§ 29 UmwG).

#### **§ 4**

##### **Besondere Rechte und Vorteile**

1. Vorbehaltlich des in § 2 dieses Vertrages genannten Sachverhalts sowie etwaiger, den Anleihegläubigern und Aktienoptionsbegünstigten (wie in § 5.12 dieses Vertrags definiert) zu zahlender Barabfindungen werden keine Rechte i.S.v. § 5 Abs. 1

condition precedent regarding the effectiveness of this agreement pursuant to § 7.1 of this agreement and the statutory provision in section 62(5) sentence 7 UmwG. Therefore, pursuant to section 20(1) no. 3 sentence 1 half-sentence 2 UmwG, no shares in Novartis BidCo Germany have to be granted as consideration to the shareholders of MorphoSys in connection with the merger. Pursuant to section 68(1) sentence 1 no. 1 UmwG, Novartis BidCo Germany as Acquiring Company must not increase its share capital to implement the merger. Therefore, pursuant to section 5(2) UmwG, the information on the exchange of shares pursuant to section 5(1) nos. 2 to 5 UmwG is not required.

2. As a precautionary measure, Novartis BidCo Germany, as sole shareholder of MorphoSys upon effectiveness of the merger, hereby declares to waive the offer of cash compensation in the merger agreement (section 29 UmwG).

#### **§ 4**

##### **Special rights and benefits**

1. Subject to the facts and circumstances set forth in § 2 of this agreement and any cash compensations to be paid to Bondholders and Stock Option Beneficiaries (as defined in § 5.12 of this agreement), no rights within the meaning of

Nr. 7 UmwG für einzelne Aktionäre, Anleihegläubiger, Aktienoptionsbegünstigte oder Inhaber sonstiger besonderer Rechte gewährt. Es sind auch keine Maßnahmen im Sinne der vorgenannten Vorschrift für solche Personen vorgesehen. Zur Klarstellung wird darauf hingewiesen, dass infolge des Wirksamwerdens des Übertragungsbeschlusses, der gleichzeitig mit der Verschmelzung wirksam wird, die Wandlungsrechte der Anleihegläubiger und die Bezugsrechte der Aktienoptionsbegünstigten für MorphoSys-Aktien nicht mehr bestehen. Stattdessen haben die Anleihegläubiger und Aktienoptionsbegünstigten grundsätzlich einen Anspruch gegen Novartis BidCo Germany auf Zahlung einer angemessenen Barabfindung.

2. Vorbehaltlich der in den Bestimmungen der § 4.3 bis § 4.6 dieses Vertrages genannten Sachverhalte werden keine besonderen Vorteile i.S.v. § 5 Abs. 1 Nr. 8 UmwG für ein Vorstands- oder Aufsichtsratsmitglied eines an der Verschmelzung beteiligten Rechtsträgers, für die Abschlussprüfer oder für eine sonstige in dieser Vorschrift genannte Person gewährt. Es sind auch keine Maßnahmen im Sinne der vorgenannten Vorschrift für solche Personen vorgesehen.
3. Mit dem Wirksamwerden der Verschmelzung endet die Organstellung der Vorstandsmitglieder von MorphoSys. Die mit MorphoSys

section 5(1) no. 7 UmwG will be granted to individual shareholders, Bondholders, Stock Option Beneficiaries or holders of other special rights, and no measures within the meaning of the aforementioned provision are intended with regard to such persons. For the avoidance of doubt, it is pointed out that as a result of the Squeeze-Out Resolution taking effect at the same time as the merger, the conversion rights of the Bondholders and the subscription rights of the Stock Option Beneficiaries for MorphoSys Shares no longer exist. Instead, the Bondholders and Stock Option Beneficiaries will in principle have a claim against Novartis BidCo Germany for payment of an adequate cash compensation.

2. Subject to the facts and circumstances set forth in § 4.3 to § 4.6 of this agreement, no special benefits within the meaning of section 5(1) no. 8 UmwG will be granted to members of the management board or of the supervisory board of any of the entities involved in the merger or to the auditors or to any other person referred to in that provision, and no measures within the meaning of the aforementioned provision are intended with regard to such persons.
3. Upon the effectiveness of the merger, the board positions of the members of the management board of MorphoSys will end. The

abgeschlossenen Vorstandsdienstverträge, einschließlich der darin getroffenen Vergütungsregeln sowie sonstige vergütungsrelevante Vereinbarungen wie Bonus- oder Pensionsvereinbarungen der Vorstandsmitglieder von MorphoSys sowie etwaige sonstige Verträge zwischen den Vorstandsmitgliedern und MorphoSys gehen mit Wirksamwerden der Verschmelzung im Wege der Gesamtrechtsnachfolge auf Novartis BidCo Germany über. Dies betrifft Dr. Arkadius Pichota (CEO) und Lukas Gilgen (CFO), welche mit Wirkung zum 6. Juni 2024 als Vorstandsmitglieder bestellt wurden. Die Organstellung der ehemaligen Vorstandsmitglieder von MorphoSys, Jean-Paul Kress und Lucinda Crabtree, sowie die jeweils mit MorphoSys geschlossenen Vorstandsdienstverträge endeten am 6. Juni 2024.

4. Zum Zeitpunkt des Abschlusses dieses Verschmelzungsvertrags besteht der Vorstand der Novartis BidCo Germany aus Jan-Hendrik Petersen. Unbeschadet der Zuständigkeit des Aufsichtsrats der Novartis BidCo Germany ist beabsichtigt, dass Jan-Hendrik Petersen nach Wirksamwerden der Verschmelzung aus dem Vorstand der Novartis BidCo Germany ausscheiden wird. Jan-Hendrik Petersen werden im Zusammenhang mit seinem Ausscheiden aus dem Vorstand der Novartis BidCo

management board service agreements, including the remuneration arrangements and other arrangements relating to remuneration, such as bonus and pension agreements, entered into between the management board members and MorphoSys as well as any other contracts between the management board members and MorphoSys shall be transferred to Novartis BidCo Germany by way of universal succession upon effectiveness of the merger. This relates to Dr. Arkadius Pichota (CEO) and Lukas Gilgen (CFO), which have been appointed as members of the management board effective 6 June 2024. The board positions of the former members of the management board of MorphoSys, Jean-Paul Kress and Lucinda Crabtree, as well as the corresponding management board service agreements concluded with MorphoSys ended on 6 June 2024.

4. At the time of the conclusion of this merger agreement, the management board of Novartis BidCo Germany consists of Jan-Hendrik Petersen. Without prejudice to the competence of the supervisory board of Novartis BidCo Germany, it is intended that Jan-Hendrik Petersen will resign from the management board of Novartis BidCo Germany after the merger has become effective. Jan-Hendrik Petersen will not be granted any

Germany keine Abfindung oder andere besondere Vorteile i.S.d. § 5 Abs. 1 Nr. 8 UmwG gewährt. Unbeschadet der Zuständigkeit des Aufsichtsrats der Novartis BidCo Germany ist zudem beabsichtigt, dass die derzeitigen Mitglieder des Vorstands von MorphoSys, Dr. Arkadius Pichota und Lukas Gilgen, nach Wirksamwerden der Verschmelzung den künftigen Vorstand der Novartis BidCo Germany bilden werden. Dr. Arkadius Pichota und Lukas Gilgen sollen im Vorstand der Novartis BidCo Germany jeweils diejenige Funktion übernehmen, die sie bis zum Wirksamwerden der Verschmelzung bei MorphoSys innehaben. Es ist beabsichtigt, mit Dr. Arkadius Pichota und Lukas Gilgen neue Vorstandsdienstverträge zu den derzeit zwischen MorphoSys und Dr. Arkadius Pichota bzw. Lukas Gilgen jeweils vereinbarten Bedingungen abzuschließen.

5. Mit dem Wirksamwerden der Verschmelzung endet die Organstellung der Aufsichtsratsmitglieder von MorphoSys. Eine Entschädigung erhalten die Aufsichtsratsmitglieder von MorphoSys hierfür nicht.
6. Unbeschadet der Zuständigkeit der Hauptversammlung der Novartis BidCo Germany ist beabsichtigt, dass der Aufsichtsrat der Novartis BidCo

severance payment or other special benefits within the meaning of section 5(1) no. 8 UmwG in connection with his resignation from the management board of Novartis BidCo Germany. Without prejudice to the competence of the supervisory board of Novartis BidCo Germany, it is also intended that the current members of the management board of MorphoSys, Dr. Arkadius Pichota and Lukas Gilgen, will constitute the future management board of Novartis BidCo Germany after the merger takes effect. Dr. Arkadius Pichota and Lukas Gilgen shall each assume in the management board of Novartis BidCo Germany the position they held at MorphoSys until the merger takes effect. It is intended to conclude new service agreements with Dr. Arkadius Pichota and Lukas Gilgen on the terms and conditions currently agreed between MorphoSys and Dr. Arkadius Pichota and Lukas Gilgen respectively.

5. Upon the effectiveness of the merger, the board positions of the members of the supervisory board of MorphoSys will end. The members of the supervisory board of MorphoSys do not receive any compensation for this.
6. Without prejudice to the competence of the general meeting of Novartis BidCo Germany, it is intended that the supervisory board

Germany durch Satzungsänderung von drei auf vier Mitglieder erweitert wird und der künftige Aufsichtsrat der Novartis BidCo Germany nach Wirksamwerden der Verschmelzung mit derzeitigen Aufsichtsratsmitgliedern von MorphoSys besetzt wird. Unbeschadet der Zuständigkeit der Hauptversammlung der Novartis BidCo Germany ist daher beabsichtigt, dass nach Wirksamwerden der Verschmelzung die derzeitigen Aufsichtsratsmitglieder der Novartis BidCo Germany, Daniel Andreas Weiss, Dr. Christian Jakob Rehm und Dr. Bertrand Richard René Bugnon, aus dem Aufsichtsrat der Novartis BidCo Germany ausscheiden und die derzeitigen Aufsichtsratsmitglieder von MorphoSys, Heinrich Moisa, Romain Lege und Silke Mainka, sowie Christian Diehl zu Mitgliedern des Aufsichtsrats von Novartis BidCo Germany bestellt werden.

#### § 5

#### **Folgen der Verschmelzung für die Arbeitnehmer und ihre Vertretungen**

1. Novartis BidCo Germany beschäftigt keine Arbeitnehmer und es bestehen dementsprechend auch keine Arbeitnehmervertretungsorgane. Insoweit hat die Verschmelzung daher keinerlei Auswirkungen. Ein

of Novartis BidCo Germany will be extended from three to four members by way of an amendment to the articles of association and that the future supervisory board of Novartis BidCo Germany will be composed of current supervisory board members of MorphoSys after the merger has become effective. Without prejudice to the competence of the general meeting of Novartis BidCo Germany, it is therefore intended that, after the merger takes effect, the current supervisory board members of Novartis BidCo Germany, Daniel Andreas Weiss, Dr. Christian Jakob Rehm und Dr. Bertrand Richard René Bugnon, will resign from the supervisory board of Novartis BidCo Germany and the current supervisory board members of MorphoSys, Heinrich Moisa, Romain Lege and Silke Mainka, as well as Christian Diehl will be appointed as members of the supervisory board of Novartis BidCo Germany.

#### § 5

#### **Consequences of the merger for the employees and their representative bodies**

1. Novartis BidCo Germany has no employees and accordingly there are no employee representative bodies. Therefore, the merger will not have any consequences in this respect. A group works council



Konzernbetriebsrat ist bei Novartis BidCo Germany nicht errichtet. Bei Novartis BidCo Germany bestehen keine mit Arbeitnehmervertretungsgruppen abgeschlossenen Vereinbarungen. Novartis BidCo Germany ist nicht Mitglied in einem Arbeitgeberverband und bringt auch nicht anderweitig Tarifverträge zur Anwendung, sodass die Verschmelzung auch insoweit keine Auswirkungen hat.

2. Für die Arbeitnehmer von MorphoSys und deren Vertretungen hat die Verschmelzung die in § 5.3 bis § 5.14 beschriebenen Folgen. Es sind keine Maßnahmen i.S.d. § 5 Abs. 1 Nr. 9 UmwG für die Arbeitnehmer von MorphoSys und ihre Vertretungen vorgesehen.
3. MorphoSys hat zum Verschmelzungstichtag 361 Arbeitnehmer im Inland. Die Verschmelzung und der damit verbundene vollständige Übergang der Leitungsmacht über sämtliche Betriebe von MorphoSys auf Novartis BidCo Germany begründen einen Betriebsübergang, sodass sämtliche Arbeitsverhältnisse, die zum Zeitpunkt des Wirksamwerdens der Verschmelzung (durch Eintragung der Verschmelzung in das Handelsregister von Novartis BidCo Germany) mit MorphoSys bestehen, nach Maßgabe des § 35a Abs. 2 UmwG i.V.m. § 613a des Bürgerlichen Gesetzbuchs (**BGB**) auf Novartis BidCo Germany kraft Gesetzes

(*Konzernbetriebsrat*) has not been established at Novartis BidCo Germany. No agreements with employee representative bodies are in place at Novartis BidCo Germany. Novartis BidCo Germany is not a member of an employers' association, nor does it in any other way implement or apply collective bargaining agreements, so that the merger will not have any consequences in this respect, either.

2. For the employees of MorphoSys and their representative bodies, the merger will have the consequences described in § 5.3 to § 5.14. No measures within the meaning of section 5(1) no. 9 UmwG are intended with regard to the employees of MorphoSys and their representative bodies.
3. MorphoSys has 361 employees in Germany as of the Merger Effective Date. The merger and the associated complete transfer of the leadership and management over all establishments (*Betriebe*) of MorphoSys to Novartis BidCo Germany constitute a transfer of undertaking (*Betriebsübergang*). As a consequence, all employment relationships existing with MorphoSys at the time when the merger takes effect (by registration of the merger with the commercial register of Novartis BidCo Germany) will be transferred to Novartis BidCo Germany by

übergehen. Novartis BidCo Germany tritt mit Wirksamwerden der Verschmelzung als neue Arbeitgeberin in sämtliche Rechte und Pflichten aus den in diesem Zeitpunkt mit MorphoSys bestehenden Arbeitsverhältnissen unter Anerkennung der bei MorphoSys erworbenen Betriebszugehörigkeit ein und führt die Arbeitsverhältnisse fort. Eine Kündigung der bei Wirksamwerden der Verschmelzung übergehenden Arbeitsverhältnisse wegen des Betriebsübergangs ist gemäß § 35a Abs. 2 UmwG i.V.m. § 613a Abs. 4 Satz 1 BGB unwirksam. Das Recht zu einer Kündigung aus anderen Gründen bleibt gemäß § 35a Abs. 2 UmwG i.V.m. § 613a Abs. 4 Satz 2 BGB unberührt.

4. Die individualvertraglichen Arbeitsbedingungen der übergehenden Arbeitnehmer bleiben unverändert, einschließlich etwaiger betrieblicher Übungen, Gesamtzusagen und Einheitsregelungen. Dies gilt auch für den Arbeitsort sowie bestehende Direktionsrechte des Arbeitgebers, die nach dem Übergang allein durch Novartis BidCo Germany, vertreten durch ihren Vorstand, ausgeübt werden. Alle

operation of law in accordance with section 35a(2) UmwG in conjunction with section 613a of the German Civil Code (*Bürgerliches Gesetzbuch* – **BGB**). When the merger takes effect, Novartis BidCo Germany will, as the new employer, take over all rights and obligations arising from the employment relationships with MorphoSys existing at this time, recognising the length of service of the relevant employees at MorphoSys, and will continue these employment relationships. Pursuant to section 35a(2) UmwG in conjunction with section 613a(4) sentence 1 BGB, a termination of the employment relationships transferred upon effectiveness of the merger by the employer due to the transfer of undertaking is invalid. Pursuant to section 35a(2) UmwG in conjunction with section 613a(4) sentence 2 BGB, the right to terminate an employment relationship for other reasons will remain unaffected.

4. The individual contractually agreed employment conditions of the transferred employees will remain unchanged, including any company practices (*betriebliche Übungen*), general commitments by the employer (*Gesamtzusagen*) and general terms (*Einheitsregelungen*), if applicable. This also applies to the place of work and any rights of the employer to issue

Rechte und Pflichten, die auf erdienter Betriebszugehörigkeit beruhen, bestehen bei Novartis BidCo Germany fort. Dies gilt insbesondere für die Berechnung von Kündigungsfristen und etwaige Anwartschaften auf Jubiläumszahlungen der übergehenden Arbeitnehmer.

5. Mit dem Wirksamwerden der Verschmelzung gehen auch alle Rechte und Pflichten aus etwaigen bei MorphoSys bestehenden Pensionszusagen (einschließlich Verpflichtungen aus laufenden Leistungen gegenüber Pensionären und unverfallbare Anwartschaften gegenüber früheren Arbeitnehmern von MorphoSys) auf Novartis BidCo Germany über. Soweit für Grund und Höhe von Leistungen aus etwaigen Versorgungszusagen die Dauer der Betriebszugehörigkeit maßgeblich ist, werden die bei MorphoSys erreichten oder von ihr insoweit anerkannten Dienstzeiten bei Novartis BidCo Germany angerechnet. Bei etwaigen Anpassungen von zugesagten laufenden Leistungen aus Versorgungszusagen nach § 16 Abs. 1 des Gesetzes zur Verbesserung der betrieblichen Altersversorgung (Betriebsrentengesetz) ist zukünftig die wirtschaftliche Lage von Novartis BidCo Germany zu berücksichtigen.

instructions which, after the transfer, will be exercised solely by Novartis BidCo Germany, represented by its management board. All rights and obligations arising from the length of service will continue at Novartis BidCo Germany. This applies in particular to the calculation of the notice periods for termination and entitlements (if any) of the transferred employees to jubilee payments.

5. In addition, all rights and obligations arising from pension commitments that may exist at MorphoSys (including ongoing commitments towards pensioners and vested pension entitlements of former employees of MorphoSys) will be transferred to Novartis BidCo Germany when the merger takes effect. To the extent that the length of service is relevant for the right to receive, or the amount of, benefits under any pension commitments, periods of employment reached at MorphoSys or recognised by MorphoSys will be taken into account by Novartis BidCo Germany. In the future, adjustments (if any) to committed current benefits under pension commitments pursuant to section 16(1) of the German Occupational Retirement Pensions Improvement Act (*Betriebsrentengesetz*) will refer to the economic situation of Novartis BidCo Germany.

6. Da MorphoSys mit Wirksamkeit der Verschmelzung gemäß § 20 Abs. 1 Nr. 2 UmwG erlischt, entfällt gemäß § 613a Abs. 3 BGB eine zusätzliche gesamtschuldnerische Haftung von MorphoSys im Sinne von § 613a Abs. 2 BGB.
7. Die von dem Betriebsübergang betroffenen Arbeitnehmer von MorphoSys werden nach Maßgabe des § 613a Abs. 5 BGB über den Betriebsübergang vor dessen Wirksamkeit unterrichtet. Ein Widerspruchsrecht der Arbeitnehmer von MorphoSys gegen den Übergang ihrer Arbeitsverhältnisse nach § 613a Abs. 6 BGB auf Novartis BidCo Germany besteht nach der Rechtsprechung des Bundesarbeitsgerichts nicht, da nach Wirksamwerden der Verschmelzung die MorphoSys als bisheriger Arbeitgeber nicht mehr existiert und das Arbeitsverhältnis mit der MorphoSys deshalb nicht mehr fortgesetzt werden kann. Das Recht der Arbeitnehmer zur ordentlichen Kündigung bleibt unberührt. Darüber hinaus haben die Arbeitnehmer von MorphoSys wegen des Arbeitgeberwechsels ein Sonderkündigungsrecht nach § 626 Abs. 1 BGB, das sie innerhalb von zwei Wochen nach Kenntnis von dem Wirksamwerden der Verschmelzung ausüben können.
6. As MorphoSys will cease to exist upon effectiveness of the merger pursuant to section 20(1) no. 2 UmwG, an additional joint and several liability of MorphoSys within the meaning of section 613a(2) BGB is not applicable in accordance with section 613a(3) BGB.
7. The employees of MorphoSys affected by the transfer of undertaking will be informed of the transfer of undertaking prior to effectiveness of the transfer in accordance with section 613a(5) BGB. According to the case law of the Federal Labour Court (*Bundesarbeitsgericht*), the employees of MorphoSys do not have the right to object to the transfer of their employment relationships to Novartis BidCo Germany pursuant to section 613a(6) BGB because MorphoSys, as their previous employer, will cease to exist after the merger has taken effect and the employment relationship with MorphoSys can therefore no longer be continued. The right of the employees to ordinarily terminate the employment relationship with notice remains unaffected. In addition, the employees of MorphoSys have a special right to termination without notice for cause due to the change of employer pursuant to section 626(1) BGB, which they may exercise within

- two weeks after becoming aware of the effectiveness of the merger.
8. Die Verschmelzung als solche führt nicht zu einer Veränderung der bisherigen betrieblichen Struktur von MorphoSys. Die bestehenden Betriebe werden nach Wirksamwerden der Verschmelzung von Novartis BidCo Germany unverändert fortgeführt. Eine Betriebsänderung nach § 111 des Betriebsverfassungsgesetzes (*BetrVG*) wird durch die Verschmelzung und den damit verbundenen Betriebsübergang nicht bewirkt.
  9. Bei MorphoSys besteht zum Zeitpunkt des Wirksamwerdens der Verschmelzung kein Betriebsrat. Auch bestehen bei MorphoSys keine weiteren Arbeitnehmervertretungen.
  10. MorphoSys ist an keine Betriebsvereinbarungen und an keine Tarifverträge gebunden. Folglich gehen keine derartigen Vereinbarungen auf Novartis BidCo Germany über, bei der ebenfalls keine Betriebsvereinbarungen oder Tarifverträge bestehen.
  11. Die Vorschrift des § 112a Abs. 1 Satz 1 BetrVG (sog. Sozialplanprivileg) findet keine Anwendung bei Novartis BidCo Germany, da diese im Rahmen einer konzerninternen
8. The merger as such does not lead to a change to the current operational structure of MorphoSys. After the merger has taken effect, the existing establishments (*Betriebe*) will be continued unchanged by Novartis BidCo Germany. The merger and the related transfer of undertaking will not result in any substantial change in operations (*Betriebsänderung*) within the meaning of section 111 of the German Works Constitution Act (*Betriebsverfassungsgesetz – BetrVG*).
  9. No works council (*Betriebsrat*) is existing at MorphoSys at the time of the merger becoming effective. Also, there are no other employee representative bodies at MorphoSys.
  10. MorphoSys is not bound by any works agreements (*Betriebsvereinbarungen*) or collective bargaining agreements. Consequently, no such agreements will be transferred to Novartis BidCo Germany which is also not bound by any works agreements or collective bargaining agreements.
  11. Section 112a(1) sentence 1 BetrVG (so-called social plan privilege) does not apply to Novartis BidCo Germany, as it was acquired as part of an internal group

Umstrukturierung erworben wurde (vgl. § 112a Abs. 2 Satz 2 BetrVG).

12. MorphoSys hat die folgenden langfristigen Vergütungsbestandteile an Einzelpersonen gewährt:

(i) Aktienoptionsprogramme für die Mitglieder des Vorstands von MorphoSys, die Mitglieder der Leitungsorgane der MorphoSys-Konzernunternehmen sowie ausgewählte Führungskräfte und Mitarbeiter von MorphoSys und der MorphoSys-Konzernunternehmen, in deren Rahmen den Begünstigten Bezugsrechte (*Aktienoptionen*) für MorphoSys-Aktien gewährt wurden, die nach Ablauf einer vierjährigen Wartezeit und vorbehaltlich der Erreichung bestimmter Erfolgsziele grundsätzlich zum Bezug einer MorphoSys-Aktie je Aktienoption gegen Zahlung eines bestimmten Ausübungspreises berechneten (*Aktienoptionsprogramme* und die Begünstigten der Aktienoptionsprogramme, *Aktienoptionsbegünstigte*).

(ii) Performance-Share-Unit-Programme für die Mitglieder des Vorstands von MorphoSys und bestimmte ausgewählte Führungskräfte und Mitarbeiter von MorphoSys und seiner verbundenen Unternehmen, in deren Rahmen den Begünstigten Performance-Share Units gewährt wurden, die, nach Ablauf einer vierjährigen Wartezeit und vorbehaltlich der Erreichung bestimmter Erfolgsziele, zu einem Zahlungsanspruch gegen

reorganisation (cf. section 112a(2) sentence 2 BetrVG).

12. MorphoSys has granted the following long term remuneration components to individuals:

(i) Stock option programs for the members of the management board of MorphoSys, members of management bodies of affiliated companies of MorphoSys as well as selected key employees and employees of MorphoSys and affiliated companies of MorphoSys, under which subscription rights (*Stock Options*) to MorphoSys Shares have been issued, which, subject to the expiry of a four-year waiting period and the achievement of certain performance targets, generally entitle to the subscription of one MorphoSys Share per stock option against payment of a certain exercise price (*Stock Option Programs*, and the beneficiaries of the Stock Option Programs, *Stock Option Beneficiaries*).

(ii) Performance share unit programs for the members of the management board of MorphoSys as well as selected senior managers and employees of MorphoSys and its affiliates, under which performance share units were granted to the beneficiaries, which, subject to the expiry of a four-year waiting period and the achievement of certain performance targets, entitle such beneficiaries to a payment

MorphoSys, abhängig vom Kurs der MorphoSys-Aktie, berechtigen (*Performance Share Unit Programme*).

(iii) Restricted-Stock-Unit-Programme für Führungskräfte und Mitarbeiter (einschließlich Directors and Officers) von MorphoSys-Konzernunternehmen in den Vereinigten Staaten, in deren Rahmen den Begünstigten Restricted Stock Units gewährt wurden, die, nach Ablauf einer bestimmten Wartezeit und vorbehaltlich der Erreichung bestimmter Erfolgsziele, zu einem Zahlungsanspruch gegenüber MorphoSys, abhängig vom Kurs der MorphoSys-Aktie, berechtigen (*Restricted Stock Unit Programme*).

Die Performance Share Unit Programme und die Restricted Stock Unit Programme werden zusammenfassend als *Incentivierungsprogramme* bezeichnet. Die Performance Share Unit Programme 2024 und die Restricted Stock Unit Programme 2024 werden zusammenfassend als *Incentivierungsprogramme 2024* bezeichnet.

Es ist geplant, alle Aktienoptionsprogramme sowie alle Incentivierungsprogramme (mit Ausnahme der Incentivierungsprogramme 2024) gegebenenfalls gegen Leistung eines Barausgleichs an die jeweiligen Begünstigten noch vor Wirksamwerden der Verschmelzung aufzuheben. Die Incentivierungsprogramme 2024 sollen

claim against MorphoSys depending on the share price of the MorphoSys Share (*Performance Share Unit Programs*).

(iii) Restricted stock unit program for senior managers and employees (including directors and officers) of affiliates of MorphoSys in the United States, under which restricted stock units were granted to the beneficiaries, which, subject to the expiry of a certain waiting period and the achievement of certain performance targets, entitle such beneficiaries to a payment claim against MorphoSys depending on the share price of the MorphoSys Share (*Restricted Stock Unit Programs*).

The Performance Share Unit Programs and the Restricted Stock Unit Programs are collectively referred to as the *Incentive Plans*. The Performance Share Unit Programs 2024 and the Restricted Stock Unit Programs 2024 are collectively referred to as the **Incentive Programs 2024**.

It is planned to cancel all Stock Options Programs and all Incentive Plans (with the exception of the Incentive Plans 2024), if applicable, in return for a cash settlement to the respective beneficiaries before the merger takes effect. The Incentive Plans 2024 shall be converted into purely cash-based programs

(vorbehaltlich der Zustimmung des jeweiligen Begünstigten) in rein cash-basierte Programme ohne Erfolgsziele umgewandelt werden.

Mit Wirksamwerden der Verschmelzung gehen die den Aktienoptionen zugrunde liegenden Schuldverhältnisse sowie die Zahlungsverpflichtungen von MorphoSys aus den Incentivierungsprogrammen, soweit im Zeitpunkt des Wirksamwerdens der Verschmelzung noch vorhanden, im Wege der Gesamtrechtsnachfolge auf Novartis BidCo Germany über.

13. MorphoSys verfügt über einen Aufsichtsrat, der nach den Regelungen der Satzung aus sechs Mitgliedern besteht, aktuell jedoch lediglich aus vier Mitgliedern zusammengesetzt ist, von denen sämtliche Mitglieder Anteilseignervertreter sind und die allein durch die Hauptversammlung gewählt werden. Mit Wirksamwerden der Verschmelzung endet die Organstellung der Aufsichtsratsmitglieder von MorphoSys.

14. Novartis BidCo Germany verfügt über einen Aufsichtsrat mit derzeit drei Mitgliedern, die allein durch die Hauptversammlung gewählt werden. Da Novartis BidCo Germany keine Arbeitnehmer beschäftigt und ihr weder nach dem Gesetz über die Drittelbeteiligung der Arbeitnehmer im Aufsichtsrat (*DrittelbG*) noch nach dem Gesetz über die Mitbestimmung der Arbeitnehmer (*MitbestG*) Arbeitnehmer zuzurechnen sind, sind keine

without performance targets (subject to the approval of the respective beneficiary).

Upon effectiveness of the merger, the contractual obligations underlying the Stock Options and the payment obligations of MorphoSys under the Incentive Plans, to the extent that they still exist at the time the merger takes effect, will pass to Novartis BidCo Germany by way of universal succession.

13. MorphoSys has a supervisory board which, in accordance with the provisions of the articles of association, consists of six members, but is currently composed of four members only, all of which are shareholder representatives elected solely by the general meeting. When the merger takes effect, the board positions of the supervisory board members of MorphoSys will end.

14. Novartis BidCo Germany has a supervisory board which currently consists of three members who are elected solely by the general meeting. As Novartis BidCo Germany has no employees and no employees are attributable to Novartis BidCo Germany under the German Act on the One-Third Participation of Employees in the Supervisory Board (*Drittelbeteiligungsgesetz - DrittelbG*) or under the German



Arbeitnehmersvertreter im Aufsichtsrat vorhanden. Auch nach Wirksamwerden der Verschmelzung setzt sich der Aufsichtsrat der Novartis BidCo Germany nicht nach den Vorschriften des DrittelbG oder des MitbestG zusammen, sodass die Arbeitnehmer der Novartis BidCo Germany auch weiterhin keine Arbeitnehmervertreter in den Aufsichtsrat entsenden.

15. Die Verschmelzung wirkt sich nicht unmittelbar auf Arbeitnehmer, die bei von MorphoSys abhängigen Unternehmen beschäftigt sind, aus. Die Arbeitsverhältnisse der Arbeitnehmer der abhängigen Unternehmen werden durch die Verschmelzung nicht berührt. Die Verschmelzung hat weder auf etwaige Arbeitnehmervertretungsgremien noch auf etwaige zwischen den von MorphoSys abhängigen Unternehmen und etwaigen Arbeitnehmervertretungsgremien abgeschlossenen Vereinbarungen Auswirkungen. Die Verschmelzung hat auch keine Auswirkungen auf die Geltung von etwaigen Tarifverträgen in abhängigen Unternehmen.

#### § 6

#### **Stichtagsänderung**

Falls die Verschmelzung nicht bis zum Ablauf des 31. März 2025 durch Eintragung in das Handelsregister des Sitzes der Novartis BidCo Germany als Übernehmender

Act on the Co-Determination of Employees (*Mitbestimmungsgesetz - MitbestG*) the supervisory board does not consist of any employee representatives. After the merger becomes effective, the supervisory board will still not have to be composed in accordance with the provisions of the DrittelbG or the MitbestG and thus continuously no employee representatives will be delegated by the employees.

15. The merger will not directly affect the employees of any entities controlled by MorphoSys. The employment relationships of employees of controlled entities will not be affected by the merger. The merger has no effect on any employee representative bodies or on any agreements concluded between the entities controlled by MorphoSys and any employee representative bodies. The merger will neither affect the applicability of any collective bargaining agreements within controlled entities.

#### § 6

#### **Change in the Merger Effective Date**

If the merger has not become effective by the end of 31 March 2025 by registration with the commercial register at the place of the registered office of

Gesellschaft wirksam geworden ist, wird der Verschmelzung abweichend von § 1.2 dieses Vertrages die Bilanz von MorphoSys als Übertragender Gesellschaft zum Stichtag 31. Dezember 2024 als Schlussbilanz zugrunde gelegt und der Verschmelzungsstichtag abweichend von § 1.3 dieses Vertrages auf den Beginn des 1. Januar 2025 verschoben. Bei einer weiteren Verzögerung des Wirksamwerdens der Verschmelzung über den 31. März des jeweiligen Folgejahres hinaus verschieben sich die Stichtage entsprechend der vorstehenden Regelung jeweils um ein Jahr.

#### § 7

#### **Aufschiebende Bedingung, Wirksamwerden, Rücktrittsvorbehalt**

1. Die Wirksamkeit dieses Verschmelzungsvertrages steht unter der aufschiebenden Bedingung, dass der Übertragungsbeschluss der Hauptversammlung von MorphoSys nach § 62 Abs. 5 Satz 1 UmwG i.V.m. § 327a Abs. 1 Satz 1 AktG in das Handelsregister des Sitzes von MorphoSys (mit dem Vermerk nach § 62 Abs. 5 Satz 7 UmwG, dass der Übertragungsbeschluss erst gleichzeitig mit der Eintragung der Verschmelzung im Register des Sitzes von Novartis BidCo Germany wirksam wird), eingetragen wird.

Novartis BidCo Germany as Acquiring Company, the merger shall be based, notwithstanding § 1.2 of this agreement, on the balance sheet of MorphoSys as Transferring Company as of 31 December 2024 as closing balance sheet, and the Merger Effective Date shall be postponed, notwithstanding § 1.3 of this agreement, to the beginning of 1 January 2025. If the effectiveness of the merger is further delayed beyond 31 March of the respective subsequent year, the effective dates shall be postponed in each case by one year in accordance with the above provisions.

#### § 7

#### **Condition precedent, effectiveness, right of withdrawal**

1. The effectiveness of this merger agreement is subject to the condition precedent that the Squeeze-out Resolution of the general meeting of MorphoSys pursuant to section 62(5) sentence 1 UmwG in conjunction with section 327a(1) sentence 1 AktG is registered with the commercial register at the place of the registered office of MorphoSys (with the note pursuant to section 62(5) sentence 7 UmwG that the Squeeze-Out Resolution will only become effective concurrently with the registration of the merger with the commercial register at the place of the registered office of Novartis BidCo Germany).

2. Die Verschmelzung wird mit Eintragung in das Handelsregister des Sitzes der Novartis BidCo Germany wirksam. Einer Zustimmung der Hauptversammlung von MorphoSys zu diesem Vertrag bedarf es zum Wirksamwerden der Verschmelzung nach § 62 Abs. 4 Satz 1 und 2 UmwG nicht, da die Wirksamkeit dieses Vertrages nach § 7.1 unter der aufschiebenden Bedingung steht, dass ein Übertragungsbeschluss der Hauptversammlung von MorphoSys als Übertragender Gesellschaft nach § 62 Abs. 5 Satz 1 UmwG i.V.m. § 327a Abs. 1 Satz 1 AktG gefasst und der Beschluss mit einem Vermerk nach § 62 Abs. 5 Satz 7 UmwG in das Handelsregister des Sitzes von MorphoSys eingetragen worden ist.
3. Einer Zustimmung der Hauptversammlung der Novartis BidCo Germany zu diesem Vertrag bedarf es gemäß § 62 Abs. 1 i.V.m. Abs. 2 Satz 1 UmwG nur dann, wenn Aktionäre der Novartis BidCo Germany, deren Anteile zusammen 5 % des Grundkapitals der Novartis BidCo Germany erreichen, die Einberufung einer Hauptversammlung verlangen, in der über die Zustimmung zu der Verschmelzung beschlossen wird. Die alleinige Aktionärin der Novartis BidCo Germany, Novartis BidCo, hat gegenüber
2. The merger will become effective upon its registration with the commercial register at the place of the registered office of Novartis BidCo Germany. Pursuant to section 62(4) sentences 1 and 2 UmwG, an approval of this agreement by the general meeting of MorphoSys is not required for the merger to become effective because, pursuant to § 7.1 of this agreement, the effectiveness of this agreement is subject to the condition precedent that the general meeting of MorphoSys as Transferring Company adopts a Squeeze-Out Resolution pursuant to section 62(5) sentence 1 UmwG in conjunction with section 327a(1) sentence 1 AktG and this resolution is registered with the commercial register at the place of the registered office of MorphoSys with a note pursuant to section 62(5) sentence 7 UmwG.
3. Pursuant to section 62(1) in conjunction with section 62(2) sentence 1 UmwG, an approval of this agreement by the general meeting of Novartis BidCo Germany is required only if shareholders of Novartis BidCo Germany whose shares in aggregate reach 5 % of the share capital of Novartis BidCo Germany request to convene a general meeting that resolves on the approval of the merger. The sole shareholder of Novartis BidCo Germany, Novartis BidCo, has

Novartis BidCo Germany erklärt, von diesem Recht keinen Gebrauch zu machen.

4. Jede Partei kann von diesem Vertrag zurücktreten, wenn die Verschmelzung nicht bis zum Ablauf des 30. Juni 2025 und nicht vor Ausübung des Rücktrittsrechts durch Eintragung in das Handelsregister des Sitzes der Novartis BidCo Germany und Eintritt der aufschiebenden Bedingung nach § 7.1 dieses Vertrages wirksam geworden ist. Die Erklärung des Rücktritts erfolgt durch eingeschriebenen Brief. Jede Partei kann durch eine ausdrückliche und schriftlich abgegebene Erklärung auf ihr Rücktrittsrecht verzichten.

## § 8

### Schlussbestimmungen

1. Die Anlage zu diesem Verschmelzungsvertrag ist Vertragsbestandteil.
2. Zum Vermögen der MorphoSys gehört kein Grundeigentum.
3. Sämtliche zum Zeitpunkt der Verschmelzung bestehenden Zulassungen und Genehmigungen, insbesondere solche von Arzneimitteln der Europäischen Kommission, des Bundesinstituts für Arzneimittel und Medizinprodukte sowie sonstiger relevanter Behörden für Produkte der MorphoSys, gehen, soweit vorhanden, im Rahmen der Verschmelzung im Wege der

declared to Novartis BidCo Germany that it will not make use of this right.

4. Each Party may withdraw from this Agreement if the merger has not become effective by the end of 30 June 2025 and has not become effective before the exercise of the right of withdrawal by registration of the merger with the commercial register at the place of the registered office of Novartis BidCo Germany and occurrence of the condition precedent pursuant to § 7.1 of this Agreement. The withdrawal must be declared by registered letter. Each Party may waive its right of withdrawal by expressly declaring its waiver in writing.

## § 8

### Final provisions

1. The Annex to this merger agreement constitutes an integral part of this agreement.
2. The assets of MorphoSys do not include real property.
3. All authorisations and permits, in particular such of medical products by the European Commission, the German Federal Institute for Drugs and Medical Devices (*Bundesinstituts für Arzneimittel und Medizinprodukte*) or other relevant governmental authorities for products of MorphoSys existing at the time of the merger, if any, shall be

Gesamtrechtsnachfolge auf Novartis BidCo Germany über. Die Parteien werden rechtzeitig alle zur Dokumentation des Übergangs der Zulassungen und Genehmigungen auf Novartis BidCo Germany gegebenenfalls erforderlichen oder zweckdienlichen ergänzenden Notifizierungen vornehmen und Erklärungen abgeben.

4. Unbeschadet der Zuständigkeit der Hauptversammlung der Novartis BidCo Germany ist beabsichtigt, dass die Firma der Novartis BidCo Germany unmittelbar nach Wirksamwerden der Verschmelzung in „MorphoSys AG“ geändert wird und die Geschäftsanschrift der Novartis BidCo Germany von Nürnberg nach Planegg verlegt wird.
5. Die derzeit bei MorphoSys bestehenden Prokuren und Handlungsvollmachten gehen im Rahmen der Verschmelzung auf Novartis BidCo Germany über und werden nach Wirksamwerden der Verschmelzung vorsorglich erneut erteilt sowie im Hinblick auf die Prokuren zur Eintragung zum Handelsregister der Novartis BidCo Germany angemeldet.
6. Die Parteien werden alle Erklärungen abgeben, alle Urkunden ausstellen und alle sonstigen Handlungen vornehmen, die im Zusammenhang mit der Übertragung des Vermögens von MorphoSys zum Zeitpunkt des

transferred to Novartis BidCo Germany by way of universal succession upon the merger. The parties shall duly make any supplementary notifications and declarations that may be required or appropriate to document the transfer of authorisations and permits to Novartis BidCo Germany.

4. Without prejudice to the competence of the general meeting of Novartis BidCo Germany, it is intended that the name of Novartis BidCo Germany will be changed to "MorphoSys AG" immediately after the merger takes effect and that the business address of Novartis BidCo Germany will be moved from Nuremberg to Planegg.
5. The procurations (*Prokuren*) and powers of attorney (*Handlungsvollmachten*) currently existing at MorphoSys shall be transferred to Novartis BidCo Germany as part of the merger. After the merger has become effective, these procurations and powers of attorney will be granted again as a precautionary measure and, with regard to the procurations, filed for registration with the commercial register of Novartis BidCo Germany.
6. The Parties will make all declarations, issue all documents and perform all other acts that may still be required or appropriate in connection with the transfer of the assets of MorphoSys at the time when the

Wirksamwerdens der Verschmelzung auf Novartis BidCo Germany oder der Berichtigung von öffentlichen Registern oder sonstigen Verzeichnissen etwa noch erforderlich oder zweckdienlich sind. MorphoSys gewährt Novartis BidCo Germany Vollmacht im rechtlich weitestgehenden Umfang zur Abgabe aller Erklärungen, die zur Erfüllung dieser Verpflichtungen erforderlich oder hilfreich sind. Diese Vollmacht gilt über das Wirksamwerden der Verschmelzung hinaus.

7. Die durch die Beurkundung und den Vollzug dieses Vertrages entstehenden Kosten und Steuern werden von Novartis BidCo Germany getragen. Gleiches gilt für die Kosten und Steuern des gerichtlich bestellten Prüfers sowie des Bewertungsgutachters ValueTrust Financial Advisors Deutschland GmbH. Im Übrigen trägt jede Partei vorbehaltlich einer anderweitigen Vereinbarung ihre Kosten selbst. Diese Regelungen gelten auch, falls die Verschmelzung wegen des Rücktritts einer Partei nach § 7.4 dieses Vertrages oder aus einem anderen Grund nicht wirksam wird.
8. Falls einzelne Bestimmungen dieses Vertrages unwirksam sein oder werden sollten oder nicht durchgeführt werden können, wird dadurch die Wirksamkeit des Vertrages im Übrigen nicht berührt. Die Parteien verpflichten sich, anstelle der unwirksamen oder undurchführbaren Bestimmung eine Regelung zu treffen, die wirksam und

merger into Novartis BidCo Germany becomes effective or in connection with the amendment of public registers or other directories. MorphoSys grants Novartis BidCo Germany power of attorney to the fullest extent permitted by law to make any declarations that are necessary or useful to fulfil these obligations. This power of attorney shall continue to be valid beyond the effectiveness of the merger.

7. The costs and taxes incurred in connection with the notarisation and closing of this agreement shall be borne by Novartis BidCo Germany. The same applies to the costs and taxes of the court appointed auditor and the valuation expert ValueTrust Financial Advisors Deutschland GmbH. Apart from that, and subject to any agreement to the contrary, each Party shall bear its own costs. These provisions shall also apply if the merger does not become effective due to a withdrawal of any Party pursuant to § 7.4 of this agreement or for any other reason.
8. Should any provisions of this agreement be or become invalid or unenforceable, this shall not affect the validity of the remaining provisions of this agreement. The Parties undertake to replace any such invalid or unenforceable provision with a provision that is valid and enforceable and, to the extent

durchführbar ist und dem in rechtlich zulässiger Weise am nächsten kommt, was die Parteien mit der unwirksamen oder undurchführbaren Bestimmung wirtschaftlich beabsichtigt haben oder beabsichtigt hätten, wenn sie die Unwirksamkeit oder Undurchführbarkeit bedacht hätten. Entsprechendes gilt, wenn Vertragslücken zu schließen sind.

9. Dieser Vertrag unterliegt deutschem Recht und soll nach deutschem Rechtsverständnis ausgelegt werden. Er wird in deutscher und englischer Sprache ausgefertigt. Im Falle von Abweichungen zwischen der deutschen Fassung und der englischen Fassung hat die deutsche Fassung Vorrang.

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**Anlage:** Depotbestätigung der UBS Switzerland AG über die von der Novartis BidCo Germany an MorphoSys gehaltenen Aktien

permitted by law, comes closest to the economic result that the Parties intended or would have intended with the invalid or unenforceable provision had they been aware of the invalidity or unenforceability. The same applies if this agreement contains any gaps to be filled.

9. This agreement shall be governed and construed in accordance with the laws of Germany. It shall be executed in both German and English language. In the event of any inconsistency between the German version and the English version the German version shall prevail.

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**Annex:** Custody account confirmation issued by UBS Switzerland AG regarding the shares held by Novartis BidCo Germany in MorphoSys

[Translator's notes are in square brackets]

# General Engagement Terms

for

## Wirtschaftsprüferinnen, Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften [German Public Auditors and Public Audit Firms]

as of January 1, 2024

### 1. Scope of application

(1) These engagement terms apply to contracts between German Public Auditors (Wirtschaftsprüferinnen/Wirtschaftsprüfer) or German Public Audit Firms (Wirtschaftsprüfungsgesellschaften) – hereinafter collectively referred to as "German Public Auditors" – and their engaging parties for assurance services, tax advisory services, advice on business matters and other engagements except as otherwise agreed in writing (Textform) or prescribed by a mandatory rule.

(2) Third parties may derive claims from contracts between German Public Auditors and engaging parties only when this is agreed or results from mandatory rules prescribed by law. In relation to such claims, these engagement terms also apply to these third parties. A German Public Auditor is also entitled to invoke objections (Einwendungen) and defences (Einreden) arising from the contractual relationship with the engaging party to third parties.

### 2. Scope and execution of the engagement

(1) Object of the engagement is the agreed service – not a particular economic result. The engagement will be performed in accordance with the German Principles of Proper Professional Conduct (Grundsätze ordnungsmäßiger Berufsausübung). The German Public Auditor does not assume any management functions in connection with his services. The German Public Auditor is not responsible for the use or implementation of the results of his services. The German Public Auditor is entitled to make use of competent persons to conduct the engagement.

(2) Except for assurance engagements (betriebswirtschaftliche Prüfungen), the consideration of foreign law requires an express agreement in writing (Textform).

(3) If circumstances or the legal situation change subsequent to the release of the final professional statement, the German Public Auditor is not obligated to refer the engaging party to changes or any consequences resulting therefrom.

### 3. The obligations of the engaging party to cooperate

(1) The engaging party shall ensure that all documents and further information necessary for the performance of the engagement are provided to the German Public Auditor on a timely basis, and that he is informed of all events and circumstances that may be of significance to the performance of the engagement. This also applies to those documents and further information, events and circumstances that first become known during the German Public Auditor's work. The engaging party will also designate suitable persons to provide information.

(2) Upon the request of the German Public Auditor, the engaging party shall confirm the completeness of the documents and further information submitted as well as the explanations and statements provided in a statement as drafted by the German Public Auditor in a legally accepted written form (gesetzliche Schriftform) or any other form determined by the German Public Auditor.

### 4. Ensuring independence

(1) The engaging party shall refrain from anything that endangers the independence of the German Public Auditor's staff. This applies throughout the term of the engagement, and in particular to offers of employment or to assume an executive or non-executive role, and to offers to accept engagements on their own behalf.

(2) Where the performance of the engagement to impair the independence of the German Public Auditor, of related firms, firms within his network, or such firms associated with him, to which the independence requirements apply in the same way as to the German Public Auditor in other engagement relationships, the German Public Auditor is entitled to terminate the engagement for good cause.

### 5. Reporting and oral information

To the extent that the German Public Auditor is required to present results in a legally accepted written form (gesetzliche Schriftform) or in writing (Textform) as part of the work in executing the engagement, only that

presentation is authoritative. Drafts of such presentations are non-binding. Except as otherwise provided for by law or contractually agreed, oral statements and explanations by the German Public Auditor are binding only when they are confirmed in writing (Textform). Statements and information of the German Public Auditor outside of the engagement are always non-binding.

### 6. Distribution of a German Public Auditor's professional statement

(1) The distribution to a third party of professional statements of the German Public Auditor (results of work or extracts of the results of work whether in draft or in a final version) or information about the German Public Auditor acting for the engaging party requires the German Public Auditor's consent be issued in writing (Textform), unless the engaging party is obligated to distribute or inform due to law or a regulatory requirement.

(2) The use by the engaging party for promotional purposes of the German Public Auditor's professional statements and of information about the German Public Auditor acting for the engaging party is prohibited.

### 7. Deficiency rectification

(1) In case there are any deficiencies, the engaging party is entitled to specific subsequent performance by the German Public Auditor. The engaging party may reduce the fees or cancel the contract for failure of such subsequent performance, for subsequent non-performance or unjustified refusal to perform subsequently, or for unconscionability or impossibility of subsequent performance. If the engagement was not commissioned by a consumer, the engaging party may only cancel the contract due to a deficiency if the service rendered is not relevant to him due to failure of subsequent performance, to subsequent non-performance, to unconscionability or impossibility of subsequent performance. No. 9 applies to the extent that further claims for damages exist.

(2) The engaging party must assert a claim for subsequent performance (Nacherfüllung) in writing (Textform) without delay. Claims for subsequent performance pursuant to paragraph 1 not arising from an intentional act expire after one year subsequent to the commencement of the time limit under the statute of limitations.

(3) Apparent deficiencies, such as clerical errors, arithmetical errors and deficiencies associated with technicalities contained in a German Public Auditor's professional statement (long-form reports, expert opinions etc.) may be corrected – also versus third parties – by the German Public Auditor at any time. Misstatements which may call into question the results contained in a German Public Auditor's professional statement entitle the German Public Auditor to withdraw such statement – also versus third parties. In such cases the German Public Auditor should first hear the engaging party, if practicable.

### 8. Confidentiality towards third parties, and data protection

(1) Pursuant to the law (§ [Article] 323 Abs 1 [paragraph 1] HGB [German Commercial Code: Handelsgesetzbuch], § 43 WPO [German Law regulating the Profession of Wirtschaftsprüfer: Wirtschaftsprüferordnung], § 203 StGB [German Criminal Code: Strafgesetzbuch]) the German Public Auditor is obligated to maintain confidentiality regarding facts and circumstances confided to him or of which he becomes aware in the course of his professional work, unless the engaging party releases him from this confidentiality obligation.

(2) When processing personal data, the German Public Auditor will observe national and European legal provisions on data protection.

### 9. Liability

(1) For legally required services by German Public Auditors, in particular audits, the respective legal limitations of liability, in particular the limitation of liability pursuant to § 323 Abs. 2 HGB, apply.

(2) Insofar neither a statutory limitation of liability is applicable, nor an individual contractual limitation of liability exists, claims for damages due to negligence arising out of the contractual relationship between the



engaging party and the German Public Auditor, except for damages resulting from injury to life, body or health as well as for damages that constitute a duty of replacement by a producer pursuant to § 1 ProdHaftG [German Product Liability Act: Produkthaftungsgesetz], are limited to € 4 million pursuant to § 54 a Abs. 1 Number 2 WPO. This applies equally to claims against the German Public Auditor made by third parties arising from, or in connection with, the contractual relationship.

(3) When multiple claimants assert a claim for damages arising from an existing contractual relationship with the German Public Auditor due to the German Public Auditor's negligent breach of duty, the maximum amount stipulated in paragraph 2 applies to the respective claims of all claimants collectively.

(4) The maximum amount under paragraph 2 relates to an individual case of damages. An individual case of damages also exists in relation to a uniform damage arising from a number of breaches of duty. The individual case of damages encompasses all consequences from a breach of duty regardless of whether the damages occurred in one year or in a number of successive years. In this case, multiple acts or omissions based on the same source of error or on a source of error of an equivalent nature are deemed to be a single breach of duty if the matters in question are legally or economically connected to one another. In this event the claim against the German Public Auditor is limited to € 5 million.

(5) A claim for damages expires if a suit is not filed within six months subsequent to the written statement (Textform) of refusal of acceptance of the indemnity and the engaging party has been informed of this consequence. This does not apply to claims for damages resulting from scienter, a culpable injury to life, body or health as well as for damages that constitute a liability for replacement by a producer pursuant to § 1 ProdHaftG. The right to invoke a plea of the statute of limitations remains unaffected.

(6) § 323 HGB remains unaffected by the rules in paragraphs 2 to 5.

#### 10. Supplementary provisions for audit engagements

(1) If the engaging party subsequently amends the financial statements or management report audited by a German Public Auditor and accompanied by an auditor's report (Bestätigungsvermerk), he may no longer use this auditor's report.

If the German Public Auditor has not issued an auditor's report, a reference to the audit conducted by the German Public Auditor in the management report or any other public reference is permitted only with the German Public Auditor's consent, issued in a legally accepted written form (gesetzliche Schriftform), and with a wording authorized by him.

(2) If the German Public Auditor revokes the auditor's report, it may no longer be used. If the engaging party has already made use of the auditor's report, then upon the request of the German Public Auditor he must give notification of the revocation.

(3) The engaging party has a right to five official copies of the report. Additional official copies will be charged separately.

#### 11. Supplementary provisions for assistance in tax matters

(1) When advising on an individual tax issue as well as when providing ongoing tax advice, the German Public Auditor is entitled to use as a correct and complete basis the facts provided by the engaging party – especially numerical disclosures; this also applies to bookkeeping engagements. Nevertheless, he is obligated to indicate to the engaging party any material errors he has identified.

(2) The tax advisory engagement does not encompass procedures required to observe deadlines, unless the German Public Auditor has explicitly accepted a corresponding engagement. In this case the engaging party must provide the German Public Auditor with all documents required to observe deadlines – in particular tax assessments – on such a timely basis that the German Public Auditor has an appropriate lead time.

(3) Except as agreed otherwise in writing (Textform), ongoing tax advice encompasses the following work during the contract period:

- a) preparation and electronic transmission of annual tax returns, including financial statements for tax purposes in electronic format, for income tax, corporate tax and business tax, namely on the basis of the annual financial statements, and on other schedules and evidence documents required for the taxation, to be provided by the engaging party
- b) examination of tax assessments in relation to the taxes referred to in (a)
- c) negotiations with tax authorities in connection with the returns and assessments mentioned in (a) and (b)
- d) support in tax audits and evaluation of the results of tax audits with respect to the taxes referred to in (a)
- e) participation in petition or protest and appeal procedures with respect to the taxes mentioned in (a).

In the aforementioned tasks the German Public Auditor takes into account material published legal decisions and administrative interpretations.

(4) If the German Public auditor receives a fixed fee for ongoing tax advice, the work mentioned under paragraph 3 (d) and (e) is to be remunerated separately, except as agreed otherwise in writing (Textform).

(5) Insofar the German Public Auditor is also a German Tax Advisor and the German Tax Advice Remuneration Regulation (Steuerberatungsvergütungsverordnung) is to be applied to calculate the remuneration, a greater or lesser remuneration than the legal default remuneration can be agreed in writing (Textform).

(6) Work relating to special individual issues for income tax, corporate tax, business tax and valuation assessments for property units as well as all issues in relation to sales tax, payroll tax, other taxes and dues requires a separate engagement. This also applies to:

- a) work on non-recurring tax matters, e.g. in the field of estate tax and real estate sales tax;
- b) support and representation in proceedings before tax and administrative courts and in criminal tax matters;
- c) advisory work and work related to expert opinions in connection with changes in legal form and other re-organizations, capital increases and reductions, insolvency related business reorganizations, admission and retirement of owners, sale of a business, liquidations and the like, and
- d) support in complying with disclosure and documentation obligations.

(7) To the extent that the preparation of the annual sales tax return is undertaken as additional work, this includes neither the review of any special accounting prerequisites nor the issue as to whether all potential sales tax allowances have been identified. No guarantee is given for the complete compilation of documents to claim the input tax credit.

#### 12. Electronic communication

Communication between the German Public Auditor and the engaging party may be via e-mail. In the event that the engaging party does not wish to communicate via e-mail or sets special security requirements, such as the encryption of e-mails, the engaging party will inform the German Public Auditor in writing (Textform) accordingly.

#### 13. Remuneration

(1) In addition to his claims for fees, the German Public Auditor is entitled to claim reimbursement of his expenses; sales tax will be billed additionally. He may claim appropriate advances on remuneration and reimbursement of expenses and may make the delivery of his services dependent upon the complete satisfaction of his claims. Multiple engaging parties are jointly and severally liable.

(2) If the engaging party is not a consumer, then a set-off against the German Public Auditor's claims for remuneration and reimbursement of expenses is admissible only for undisputed claims or claims determined to be legally binding.

#### 14. Dispute Settlement

The German Public Auditor is not prepared to participate in dispute settlement procedures before a consumer arbitration board (Verbraucherschlichtungsstelle) within the meaning of § 2 of the German Act on Consumer Dispute Settlements (Verbraucherstreitbeilegungsgesetz).

#### 15. Applicable law

The contract, the performance of the services and all claims resulting therefrom are exclusively governed by German law.