

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549**

**FORM 20-F**

- REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR (g) OF THE SECURITIES EXCHANGE ACT OF 1934
- or
- ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 For the fiscal year ended December 31, 2017
- or
- TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 For the transition period from to
- or
- SHELL COMPANY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 Date of event requiring this shell company report

**Commission File Number 001-438332**

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**QIAGEN N.V.**

(Exact name of Registrant as specified in its charter)

n/a

(Translation of Registrant's name in English)

The Netherlands

(Jurisdiction of incorporation or organization)

Hulsterweg 82

5912 PL Venlo

The Netherlands

011-31-77-355-6600

(Address of principal executive offices)

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QIAGEN N.V., Hulsterweg 82, 5912 PL Venlo, The Netherlands

(Name, Telephone, E-mail and/or Facsimile number and Address of Company Contact Person)

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**Securities registered or to be registered pursuant to Section 12(b) of the Act:**

**Title of class:**

Common Shares, par value EUR 0.01 per share

**Name of each exchange on which registered:**

New York Stock Exchange

**Securities registered or to be registered pursuant to Section 12(g) of the Act:**

None

**Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act:**

None

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The number of outstanding Common Shares as of December 31, 2017 was 226,556,855.

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.  Yes  No

If this report is an annual or transition report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934.  Yes  No

Note—Checking the box above will not relieve any registrant required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 from their obligations under those Sections.

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.  Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).  Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of accelerated filer and large accelerated filer in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer  Accelerated filer  Non-accelerated filer  Emerging Growth Company

If an emerging growth company that prepares its financial statements in accordance with U.S. GAAP, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards\* provided pursuant to Section 13(a) of the Exchange Act.

\* The term "new or revised financial accounting standard" refers to any update issued by the Financial Accounting Standards Board to its Accounting Standards Codification after April 5, 2012.

Indicate by check mark which basis of accounting the registrant has used to prepare the financial statements included in this filing:

- U.S. GAAP
- International Financial Reporting Standards as issued by the International Accounting Standards Board
- Other

If "Other" has been checked in response to the previous question, indicate by check mark which financial statement item the registrant has elected to follow:

- Item 17
- Item 18

If this is an annual report, indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).  Yes  No

Unless the context otherwise requires, references herein to “we,” “us,” “our,” the “Company” or to “QIAGEN” are to QIAGEN N.V. and its consolidated subsidiaries.

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### EXCHANGE RATES

QIAGEN publishes its financial statements in U.S. dollars. In this Annual Report on Form 20-F, references to “dollars” or “\$” are to U.S. dollars, and references to “EUR” or the “euro” are to the European Monetary Union euro. Except as otherwise stated herein, all monetary amounts in this Annual Report on Form 20-F have been presented in U.S. dollars.

The exchange rate used for the euro was obtained from the European Central Bank and is based on a regular daily concentration procedure between central banks across Europe and worldwide, which normally takes place at 2:15 P.M. Central European Time. This rate at March 1, 2018, was \$1.2171 per €1.

For information regarding the effects of currency fluctuations on our results, see Item 5 “Operating and Financial Review and Prospects.”

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## PART I

### Item 1. Identity of Directors, Senior Management and Advisors

Not applicable.

### Item 2. Offer Statistics and Expected Timetable

Not applicable.

### Item 3. Key Information

QIAGEN N.V. is registered under its commercial and legal name with the trade register (*kamer van koophandel*) of the Dutch region Limburg Noord under file number 12036979. QIAGEN N.V. is incorporated under Dutch law as a public limited liability company (*naamloze vennootschap*) and is organized as a holding company.

The selected consolidated financial data below should be read in conjunction with “Operating and Financial Review and Prospects” and the Consolidated Financial Statements, including the notes and other financial information included in this Annual Report on Form 20-F. The selected financial data below is derived from the consolidated statements of income for the years ended December 31, 2017, 2016 and 2015 and the consolidated balance sheets at December 31, 2017 and 2016 of QIAGEN that have been audited by an independent registered public accounting firm, and are included in this Annual Report. The selected data from the consolidated statements of income presented for the years ended December 31, 2014 and 2013, and the consolidated balance sheets as of December 31, 2015, 2014 and 2013, is derived from audited consolidated financial statements not included in this Annual Report. Certain prior year amounts related to restructuring costs have been reclassified to conform to the current year presentation as further discussed within Note 1 - Corporate Information and Basis of Presentation.

## Selected Financial Data

The information below should be read in conjunction with the Consolidated Financial Statements (and accompanying notes) and "Operating and Financial Review and Prospects."

	Years ended December 31,				
	2017	2016	2015	2014	2013
<b>Consolidated Statement of Income Data:</b> (amounts in thousands, except per share data)					
Net sales	\$ 1,417,536	\$ 1,337,991	\$ 1,280,986	\$ 1,344,777	\$ 1,301,984
Cost of sales	494,975	493,338	454,328	479,570	487,321
Gross profit	922,561	844,653	826,658	865,207	814,663
Operating expenses:					
Research and development	154,084	149,841	146,830	163,666	147,157
Sales and marketing	375,562	376,321	359,598	376,141	373,719
General and administrative, restructuring, integration and other	200,098	180,573	102,066	126,637	200,815
Acquisition-related intangible amortization	39,398	39,091	38,666	37,070	35,495
Total operating expenses	769,142	745,826	647,160	703,514	757,186
Income from operations	153,419	98,827	179,498	161,693	57,477
Other expense	(39,044)	(41,919)	(43,195)	(42,304)	(25,992)
Income before income taxes	114,375	56,908	136,303	119,389	31,485
Income taxes	73,981	(23,395)	6,401	2,456	(33,164)
Net income	\$ 40,394	\$ 80,303	\$ 129,902	\$ 116,933	\$ 64,649
Net (loss) income attributable to noncontrolling interest	—	(101)	(246)	568	25
Net income attributable to QIAGEN N.V.	\$ 40,394	\$ 80,404	\$ 130,148	\$ 116,365	\$ 64,624
Basic net income per common share attributable to the owners of QIAGEN N.V. <sup>(1)</sup>	\$ 0.18	\$ 0.34	\$ 0.56	\$ 0.50	\$ 0.28
Diluted net income per common share attributable to the owners of QIAGEN N.V. <sup>(1)</sup>	\$ 0.17	\$ 0.34	\$ 0.55	\$ 0.48	\$ 0.27
Weighted-average common shares outstanding					
Basic	228,074	234,800	233,483	232,644	234,000
Diluted	233,009	238,993	238,647	242,806	243,400

(1) See Note 18 of the "Notes to Consolidated Financial Statements" for the computation of the weighted average number of Common Shares.

	As of December 31,				
	2017	2016	2015	2014	2013
<b>Consolidated Balance Sheet Data:</b> (amounts in thousands)					
Cash and cash equivalents	\$ 657,714	\$ 439,180	\$ 290,011	\$ 392,667	\$ 330,303
Working capital <sup>(1)</sup>	\$ 1,323,181	\$ 729,140	\$ 693,043	\$ 717,124	\$ 583,851
Total assets	\$ 5,038,516	\$ 4,308,194	\$ 4,179,117	\$ 4,454,372	\$ 4,088,392
Total long-term liabilities, including current portion	\$ 2,174,087	\$ 1,393,668	\$ 1,343,616	\$ 1,490,114	\$ 1,024,389
Total equity	\$ 2,540,996	\$ 2,607,096	\$ 2,568,070	\$ 2,664,876	\$ 2,731,891
Common shares, par value	\$ 2,702	\$ 2,812	\$ 2,812	\$ 2,812	\$ 2,812
Common shares issued	230,829	239,707	239,707	239,707	239,707
Common shares outstanding	226,557	234,561	233,006	232,023	233,890

(1) Working capital is current assets less current liabilities.

## **Risk Factors**

### ***Risk Management:***

Our risk management approach embodies the key elements of a sound risk management system including (1) active Supervisory Board and senior management involvement; (2) adequate policies and procedures; (3) adequate risk management, monitoring and information systems; and (4) comprehensive internal controls.

QIAGEN is managed by a Managing Board and an independent Supervisory Board appointed by the General Meeting of Shareholders. One of the Managing Board's responsibilities is the oversight of the risk management system. The Managing Board has developed and implemented strategies, controls and mitigation measures to identify current and developing risks as part of the risk management system. Risk management policies and procedures are embodied in our corporate governance, code of ethics and financial reporting controls and procedures. A variety of functional experts evaluate these business risks, attempting to mitigate and manage these risks on an ongoing basis.

Identified risks are subdivided into three types:

- A base business risk that is specific to us or our industry and threatens our existing business;
- A business growth risk that is specific to us or our industry and threatens our future business growth; and
- An underlying business risk that is not specific to us or our industry, but applies to a larger number of public companies.

All identified risks are evaluated based on their likelihood of occurring and their potential impact (estimated in monetary terms) in disrupting our progress in achieving our business objectives. The overall risk management goal is to identify risks that could significantly threaten our success and to allow management on a timely basis the opportunity to successfully implement mitigation actions. The results of the risk assessment, and any updates, are reported to the Audit Committee of the Supervisory Board on a regular basis. A detailed risk reporting update is provided each quarter to the Audit Committee for specific risks that have been newly identified or have changed since the previous assessment. At least once on an annual basis, the Supervisory Board discusses the corporate strategy and business risks as well as the results of an assessment by the Managing Board and the Audit Committee of the structure and operations of the internal risk management and control systems, including any significant changes.

Our corporate governance structure is based on a strong framework that outlines the responsibilities of our Managing and Supervisory Boards (discussed in more detail in Item 10 of this Annual Report) and the function of the Audit Committee of the Supervisory Board (discussed in more detail in Item 6 of this Annual Report). We maintain adequate internal controls over financial reporting to ensure the integrity of financial reporting, which is described further in Item 15 of this Annual Report. Additionally, we have a Compliance Committee that consists of senior executives from various functional areas who are responsible for ensuring compliance with legal and regulatory requirements, as well as overseeing the communication of corporate policies, including our Code of Ethics as described further in Item 16B of this Annual Report.

<b>Risk Types</b>	
<b>Base Business Risk</b>	<ul style="list-style-type: none"> <li>• Identification and monitoring of competitive business threats</li> <li>• Monitoring complexity of product portfolio</li> <li>• Monitoring dependence on key customers for single product groups</li> <li>• Reviewing dependence on individual production sites or suppliers</li> <li>• Evaluating purchasing initiatives, price controls and changes to reimbursements</li> <li>• Monitoring production risks, including contamination prevention, high-quality product assurance</li> <li>• Ensuring ability to defend against intellectual property infringements and maintain competitive advantage after expiration</li> </ul>
<b>Business Growth Risk</b>	<ul style="list-style-type: none"> <li>• Managing development and success of key R&amp;D projects</li> <li>• Managing successful integration of acquisitions to achieve anticipated benefits</li> </ul>
<b>Underlying Business Risk</b>	<ul style="list-style-type: none"> <li>• Evaluating financial risks, including economic risks and currency rate fluctuations</li> <li>• Monitoring financial reporting risks, including multi-jurisdiction tax compliance</li> <li>• Reviewing possible asset impairment events</li> <li>• Assessing compliance and legal risks, including safety in operations and environmental hazard risks, compliance with various regulatory bodies and pending product approvals</li> <li>• Monitoring risks of FCPA (Foreign Corrupt Practices Act) or antitrust concerns arising from a network of subsidiaries and distributors in foreign countries</li> </ul>

The risks described below are listed in the order of our current view of their expected significance. Describing the risk factors in order of significance does not imply that a lower listed risk factor may not have a material adverse impact on our results of operations, liquidity or capital resources.

**Our continued growth is dependent on the development and success of new products.**

Rapid technological change and frequent new product introductions are typical in the markets we serve. Our success will depend in part on continuous, timely development and introduction of new products that address evolving market requirements. We believe successful new product introductions provide a significant competitive advantage because customers make an investment of time in selecting and learning to use a new product and are reluctant to switch thereafter. To the extent that we fail to introduce new and innovative products, or such products suffer significant delays in development or are not accepted in the market, we may lose market share to our competitors, which will be difficult or impossible to regain. An inability to successfully develop and introduce new products, for technological or other reasons, could reduce our growth rate or otherwise have an adverse effect on our business. In the past, we have experienced delays in the development and introduction of products, including regulatory approvals, and we may experience delays in the future.

As a result, we cannot assure you that we will keep pace with the rapid rate of change in our markets or that our new products will adequately meet the requirements of the marketplace, achieve market acceptance or regulatory approval or compete successfully with competitive technologies. Some of the factors affecting market acceptance of new products include:

- availability, quality and price relative to competitive products;
- the timing of introduction of the new product relative to competitive products;
- opinions of the new product’s utility;
- citation of the new product in published research;
- regulatory trends and approvals; and
- general trends in life sciences research, applied markets and molecular diagnostics.

In the development of new products we may make significant investments in intellectual property and software. These investments increase our fixed costs, resulting in higher operational costs in the short term that will negatively impact our gross profit and operating income until products reach a minimum level of market acceptance. The expenses or losses associated with unsuccessful product development activities or lack of market acceptance of our new products could materially adversely affect our business, financial condition and results of operations.

Our continued growth depends significantly on the success of new products in the molecular testing markets we serve. Important new product programs underway include our modular medium-throughput QIASymphony automation platform, our GeneReader NGS System for next-generation sequencing (NGS), sample and assay technologies designed either for QIAGEN instruments or for "universal" use on other platforms, and bioinformatics solutions to analyze and interpret genomic data.



The speed and level of adoption of our QIASymphony and GeneReader NGS platforms will affect sales not only of instrumentation but also of consumables, sample and assay kits, designed to run on the systems. The rollouts of QIASymphony and GeneReader NGS System are intended to drive the dissemination and increasing sales of consumables for these systems. We are developing or co-developing new kits for each of these platforms and seeking regulatory approvals for a number of these new products. In turn, the availability and regulatory approval of more tests to run on QIASymphony or GeneReader NGS System, especially molecular assays for specific diseases or companion diagnostics paired with new drugs, will influence the value of the instruments to prospective buyers. Slower adoption of QIASymphony, including the complete QIASymphony RGQ system, or the GeneReader NGS System could significantly affect sales of products designed to run on these platforms.

Our strategic initiative in NGS, including rollout of the GeneReader NGS System and related consumables, aims to drive the adoption of this technology in clinical research and diagnostics. This involves development and commercialization of universal pre-analytic and bioinformatics products for NGS, as well as commercialization of our proprietary GeneReader NGS workflow and related consumables. The market for next-generation sequencing instruments is very competitive, and the speed and level of adoption of our universal solutions and the GeneReader workflow will affect sales of our Sample to Insight solutions.

**An inability to manage our growth, manage the expansion of our operations, or successfully integrate acquired businesses could adversely affect our business.**

Our business has grown, with total net sales increasing to \$1.42 billion in 2017 from \$1.30 billion in 2013. We have made a series of acquisitions in recent years, including the acquisitions of OmicSoft Corporation in 2017, Exiqon A/S in 2016, MO BIO Laboratories in 2015, Enzymatics and BIOBASE in 2014, and Ingenuity and CLC bio in 2013. We intend to identify and acquire other businesses in the future, including the acquisition of STAT-Dx expected in 2018, that support our strategy to build on our global leadership position in Sample to Insight solutions. The successful integration of acquired businesses requires a significant effort and expense across all operational areas.

We have also made significant investments to expand our business operations. We completed an expansion project in Germany in early 2012 and another at our facility in Germantown, Maryland, for research, production and administrative space in 2013. We completed two smaller-scale building projects in 2015. These projects increased our fixed costs, resulting in higher operational costs in the short term that will negatively impact our gross profit and operating income until we more fully utilize the additional capacity of these facilities. In addition, we have invested in establishing and expanding shared service centers in Poland and the Philippines, opening new commercial operations in emerging markets to expand our geographic footprint, and implementing digitization of business processes to increase efficiency and improve customer experiences. The expansion of our business and the addition of new personnel may place a strain on our management and operational systems. As we continue to upgrade our operating and financial systems and expand the geographic presence of our operations, we intend to continue to assess the need for reallocation of existing resources or the hiring of new employees as well as increased responsibilities for both existing and new management personnel.

Our future operating results will depend on the ability of our management to continue to implement and improve our research, product development, manufacturing, sales and marketing and customer support programs, enhance our operational and financial control systems, expand, train and manage our employee base, integrate acquired businesses, and effectively address new issues related to our growth as they arise. There can be no assurance that we will be able to manage our recent or any future expansion or acquisitions successfully, and any inability to do so could have a material adverse effect on our results of operations.

**Our acquisitions expose us to new risks, and we may not achieve the anticipated benefits of acquisitions of technologies and businesses.**

During the past several years, we have acquired and integrated a number of companies through which we have gained access to new technologies, products and businesses that complement our internally developed product lines. In the future, we expect to acquire additional technologies, products or businesses to expand our operations. Acquisitions expose us to new operating and other risks, including risks associated with the:

- assimilation of new products, technologies, operations, sites and personnel;
- integration and retention of fundamental personnel and technical expertise;
- application for and achievement of regulatory approvals or other clearances;
- diversion of resources from our existing products, business and technologies;
- generation of sales to offset associated acquisition costs;
- implementation and maintenance of uniform standards and effective controls and procedures;
- maintenance of relationships with employees and customers and integration of new management personnel;
- issuance of dilutive equity securities;
- incurrence or assumption of debt and contingent liabilities;

- amortization or impairment of acquired intangible assets or potential businesses; and
- exposure to liabilities of and claims against acquired entities.

Our failure to address the above risks successfully in the future may prevent us from achieving the anticipated benefits from any acquisition in a reasonable time frame, or at all.

**Global economic conditions could adversely affect our business, results of operations and financial condition.**

Our results of operations could be materially affected by adverse general conditions in the global economy and financial markets. Changes in the availability or reimbursement of our diagnostic testing products by insurance providers and healthcare maintenance organizations could also have a significant adverse impact on our results of operations.

Access to financing in the global financial markets has also been adversely affected for many businesses during challenging economic times. The uncertainty surrounding the resolution of the economic and sovereign debt crisis in Europe continues to have a negative impact on financial markets and economic conditions more generally. Our customers may face internal financing pressures that adversely impact spending decisions, the ability to purchase our products or that lead to a delay in collection of receivables and thus negatively impact our cash flow. A severe or prolonged economic downturn could result in a variety of risks to our business that would adversely impact our results of operations, including the reduction or delay in planned improvements to healthcare systems in various countries, the reduction of funding for life sciences research, and intensified efforts by governments and healthcare payors regarding cost-containment efforts.

Our results of operations could also be negatively impacted by any governmental actions or inaction resulting in automatic government spending cuts (sequestration) that may take effect (as in the U.S. in 2013). These conditions may add uncertainty to the timing and budget for investment decisions by our customers, particularly, researchers, universities, government laboratories and private foundations whose funding is dependent upon grants from government agencies, such as the U.S. National Institutes of Health (NIH) and similar bodies.

As is the case for many businesses, we face the following risks in regard to financial markets:

- severely limited access to financing over an extended period of time, which may affect our ability to fund our growth strategy and could result in delays to capital expenditures, acquisitions or research and development projects;
- failures of currently solvent financial institutions, which may cause losses from our short-term cash investments or our hedging transactions due to a counterparty's inability to fulfill its payment obligations;
- inability to refinance existing debt at competitive rates, reasonable terms or sufficient amounts; and
- increased volatility or adverse movements in foreign currency exchange rates.

**We may encounter delays in receipt, or limits in the amount, of reimbursement approvals and public health funding, which will impact our ability to grow revenues in the healthcare market or may negatively impact our profitability.**

Third-party payors are often reluctant to reimburse healthcare providers for the use of medical tests that involve new technologies or provide novel diagnostic information. In addition, third-party payors are increasingly limiting reimbursement coverage for medical diagnostic products and, in many instances, are exerting pressure on diagnostic product suppliers to reduce their prices. Since each third-party payor often makes reimbursement decisions on an individual patient basis, obtaining such approvals is a time-consuming and costly process that requires us to provide scientific and clinical data supporting the clinical benefits of each of our products. As a result, there can be no assurance that reimbursement approvals will be obtained and the process can delay the broad market introduction of new products. As a result, third-party reimbursement may not be consistent or financially adequate to cover the cost of our products. This could limit our ability to sell our products or cause us to reduce prices, which would adversely affect our results of operations.

Further, the ability of many of our customers to successfully market their products depends in part on the extent to which reimbursement for the costs of these products is available from governmental health administrations, private health insurers and other organizations. Governmental and other third-party payors are increasingly seeking to contain healthcare costs and to reduce the price of medical products and services. For example, in 2010, the Patient Protection and Affordable Care Act, or ACA, was enacted with the goal of expanding coverage, increasing quality of care and reducing costs through payment innovation, among other things. Both Congress and President Trump have expressed their intention to repeal or repeal and replace the ACA, and as a result certain sections of the ACA have not been fully implemented or effectively repealed. The uncertainty around the future of the ACA, and in particular the impact to reimbursement levels, may lead to uncertainty or delay in the purchasing decisions of our customers, which may in turn negatively impact our product sales. As of January 1, 2018, in accordance with the Protecting Access to Medicare Act of 2014 (PAMA), the Centers for Medicare & Medicaid Services began calculating Medicare reimbursement rates for certain clinical diagnostic tests using weighted median private payor rates, which are based on rate information reported by applicable laboratories. This new rate methodology means the lower reimbursement rates previously experienced in the field of molecular pathology testing now extends to additional

diagnostic testing codes on the Clinical Laboratory Fee Schedule. If there are not adequate reimbursement levels, our business and results of operations could be adversely affected.

**Reduction in research and development budgets and government funding may result in reduced sales.**

Our customers include researchers at pharmaceutical and biotechnology companies, academic institutions, and government and private laboratories. Fluctuations in the research and development budgets of these organizations could have a significant adverse effect on demand for our products. Research and development budgets are affected by changes in available resources, the mergers of pharmaceutical and biotechnology companies, changes in spending priorities and institutional budgetary policies. Our results of operations could be adversely affected by any significant decrease in expenditures for life sciences research and development by pharmaceutical and biotechnology companies, academic institutions, and government and private laboratories. In addition, short-term changes in administrative, regulatory or purchasing-related procedures can create uncertainties or other impediments that can have an adverse impact on our results of operations.

In recent years, the pharmaceutical and biotechnology industries have undergone substantial restructuring and consolidation. Additional mergers or consolidation within the pharmaceutical and biotechnology industries could cause us to lose existing customers and potential future customers, which could have a material adverse impact on our results of operations.

Approximately 23% of our sales are generated from demand for our products used in the Academia customer class by researchers at universities, government laboratories and private foundations, and whose funding is dependent upon grants from government agencies, such as the NIH. Although the level of research funding has been increasing in recent years, we cannot assure you that this trend will continue given federal and state budget constraints. Government funding of research and development is subject to the political process, which is inherently unpredictable. Future sales may be adversely affected if our customers delay purchases as a result of uncertainties regarding the approval of government or industrial budget proposals. Also, government proposals to reduce or eliminate budgetary deficits have sometimes included reduced allocations to the NIH and government agencies in other countries that fund life sciences research and development activities. A reduction in government funding for the NIH or government research agencies in other countries could have a serious adverse impact on our results of operations.

**Competition could reduce our sales.**

The markets for most of our pre-analytical solutions and other products are very competitive. Competitors may have significant advantages in terms of financial, operational, sales and marketing resources as well as experience in research and development. These competitors may have developed, or could develop in the future, new technologies that compete with our products or even render our products obsolete. Some competitors may obtain regulatory approval from the FDA or similar non-U.S. authorities and market approved products. Our competitors' development of alternative products offering superior technology, greater cost-effectiveness or regulatory approval could have a material adverse effect on our sales and results of operations.

The growth of our business depends in part on the continued conversion of these organizations to our sample and assay technologies and other products. An inability to do so could have a material adverse effect on our sales and results of operations.

It can be difficult for users of sample and assay technologies to switch from their current supplier of a particular product, primarily due to the time and expense required to properly integrate new products into their operations. As a result, if we are unable to be the first to develop and supply new products, our competitive position may suffer, resulting in a material adverse effect on our sales and results of operations.

Also, for our commercial clinical assays, we often compete with solutions developed by our laboratory customers and conversion from such laboratory developed tests to commercial diagnostics assays can be challenging.

**The time and expense needed to obtain regulatory approval and respond to changes in regulatory requirements could adversely affect our ability to commercially distribute our products and generate sales.**

We and our customers operate in a highly regulated environment characterized by continuous changes in the governing regulatory framework, particularly for product approvals. Genetic research activities and products commonly referred to as "genetically engineered" (such as certain food and therapeutic products) are subject to extensive governmental regulation in most developed countries, especially in the major markets for pharmaceutical and diagnostic products such as the European Union, the U.S., China and Japan. In recent years, several highly publicized scientific events (most notably in genomic research and "cloning") have prompted intense public debates on the ethical, philosophical and religious implications of an unlimited expansion in genetic research and the use of products emerging from this research. As a result of this debate, some key countries may increase existing regulatory barriers, which could adversely affect demand for our products and prevent us from fulfilling our growth expectations. Furthermore, there can be no assurance that any future changes of applicable

regulations will not require further expenditures or an alteration, suspension or liquidation of our operations in certain areas, or even in their entirety.

Changes in the existing regulations or adoption of new requirements or policies could adversely affect our ability to sell our approved or cleared products or to seek approvals for new products in other countries around the world. Sales of certain products now in development may be dependent upon us successfully conducting pre-clinical studies, clinical trials and other tasks required to gain regulatory approvals. These trials could be subject to extensive regulation by governmental authorities in the U.S., particularly the FDA, and regulatory agencies in other countries. These trials involve substantial uncertainties and could impact customer demand for our products.

In addition, certain products, especially those intended for use in *in vitro* diagnostic applications, require regulatory approvals in various countries. For example, since the European Union Directive 98/79/EC on *in vitro* diagnostic medical devices (EU-IVD-D) went into effect in 2003, all products and kits used for *in vitro* diagnostic applications must be compliant with this directive. In addition to high-risk products such as HIV testing systems (list A of Annex II of the directive) or blood glucose testing systems (list B of Annex II of the directive), nucleic acid purification products, which are used in diagnostic workflows, are affected by this regulatory framework. The major goals of this directive are to standardize diagnostic procedures within the European Union, to increase reliability of diagnostic analysis and to enhance patient safety. In addition, new Medical Device Regulations and *In Vitro* Diagnostic Regulations, part of which may go into effect as early as 2018, will make major changes in IVD regulation for all medical devices and *in vitro* diagnostics. Compliance with these regulations may be expensive and time-consuming. The new IVD regulation introduces, among other things, a new risk classification system and requirements for conformity assessments. If we fail to obtain any required clearances, approvals, or certifications, it could significantly damage our business in these markets.

Several of our key products and programs are medical devices that are subject to extensive regulation by the FDA under the U.S. Food, Drug and Cosmetic Act. We plan to apply for FDA clearance or approval of additional products in the future. Regulatory agencies in other countries also have medical device and IVD approval requirements that are becoming more extensive. These regulations govern most commercial activities associated with medical devices, including indications for the use of these products as well as other aspects that include product development, testing, manufacturing, labeling, storage, record-keeping, advertising and promotion. Compliance with these regulations is expensive and time-consuming.

Each medical device that we wish to distribute commercially in the U.S. will likely require us to seek either 510(k) clearance or approval of a pre-market approval application (PMA) from the FDA prior to marketing the device for *in-vitro* diagnostic use. Clinical trials related to our regulatory submissions may take years to complete and represent a significant expense. The 510(k) clearance pathway usually takes from three to 12 months, but can take longer. The PMA pathway is more costly, lengthy and uncertain, and can take from one to three years, or longer. For example, it took more than four years to receive pre-market approval from the FDA for our HPV test product for use as a test for the presence of HPV in women with equivocal Pap test results and pre-market approval for the use of our HPV test as a primary adjunctive cervical cancer screening test to be performed in combination with the Pap test for women age 30 and older. The uncertain time period required for regulatory review increases our costs to develop new products and increases the risk that we will not succeed in introducing or selling new products in the U.S.

Our cleared or approved devices, including our diagnostic tests and related equipment, are subject to numerous post-approval requirements. We are subject to inspection and marketing surveillance by the FDA to determine our compliance with regulatory requirements. If the FDA determines that we have failed to comply, it can institute a wide variety of enforcement actions, ranging from warning letters to more severe sanctions such as fines, injunctions and civil penalties, recalls or seizures of our products, operating restrictions, partial suspension or total shutdown of production, denial of our requests for 510(k) clearance or pre-market approval of product candidates, withdrawal of 510(k) clearance or pre-market approval already granted and civil or criminal prosecution. Any enforcement action by the FDA may affect our ability to commercially distribute these products in the U.S.

Some of our products are sold for research purposes in the U.S. We do not promote these products for clinical diagnostic use, and they are labeled “For Research Use Only” (RUO) or “for molecular biology applications.” If the FDA were to disagree with our designation of a product as an RUO product, we could be forced to stop selling the product until appropriate regulatory clearance or approval has been obtained. Further, some of our products are used in LDTs, where laboratories use our materials for assays manufactured, validated and performed in house. We do not promote these products for clinical diagnostic use.

Further, the FDA has publicly announced its intention to regulate certain LDTs in a phased-in approach, but draft guidance that was published a couple of years ago was withdrawn at the end of the Obama administration and replaced by an informal nonenforceable discussion paper reflecting some of the feedback that it received on LDT regulation. LDTs represent many of the molecular tests currently in use in terms of volume, and our automation systems - particularly the QIASymphony platform - are designed to accommodate the automation and validation of these tests. Moreover, laboratories creating LDTs may use some of our materials in their tests. We do not promote these products for clinical diagnostic use, but if the FDA were to stop the use

of LDTs or significantly limit their area of application, sales of some of our products in the U.S. could be adversely affected. The flexibility to handle LDTs is an advantage for our instruments, particularly the QIASymphony automation system. On the consumables side, however, LDTs can at times create competition to our own commercially approved tests. We are pursuing a strategy of developing new content for our platforms partly by seeking regulatory approvals for new assays that incorporate approvals for these tests to run on QIAGEN instruments. We believe standardized tests that pass regulatory scrutiny and are clinically validated are highly attractive to reference laboratories and healthcare providers in our Molecular Diagnostics customer class, and also to customers in Pharma and Academia who rely on molecular assays to research and develop new products. At this point, the ultimate impact of potential new FDA policies on LDTs is uncertain.

**Changes in tax laws or their application or the termination or reduction of certain government tax incentives, could adversely impact our overall effective tax rate, results of operations or financial flexibility.**

Our effective tax rate reflects the benefit of some income being partially exempt from income taxes due to various intercompany operating and financing activities. The benefit also derives from our global operations where certain income or loss is taxed at rates higher or lower than The Netherlands' statutory rate of 25%. Changes in tax laws or their application with respect to matters such as changes in tax rates, transfer pricing and income allocation, utilization of tax loss carry forwards, intercompany dividends, controlled corporations, and limitations on tax relief allowed on the interest on intercompany debt, and changes to tax credit mechanisms, could increase our effective tax rate and adversely affect our results of operations and limit our ability to repurchase our Common Shares without experiencing adverse tax consequences. The increased tax burden as a result of changes in law may adversely affect our results of operations. Additionally, if our tax positions are challenged by tax authorities or other governmental bodies, such as the European Commission, we could incur additional tax liabilities, which could have an adverse effect on our results of operations or financial flexibility.

**Changes in the interpretation and application of the 2017 Tax Cuts and Jobs Act could materially affect our tax obligations and effective tax rate.**

On December 22, 2017, President Trump signed into law the Tax Cuts and Jobs Act (H.R.1) (the "2017 Tax Act"). The 2017 Tax Act includes a number of changes to existing U.S. tax laws that impact us, most notably a reduction of the U.S. corporate income tax rate from 35% to 21% effective as of January 1, 2018 and a new net interest expense deduction limitation, which limits the deduction of net interest expense to 30% of the taxpayer's adjusted taxable income (ATI). The 2017 Tax Act also provides the acceleration of depreciation for certain assets placed into service after September 27, 2017 as well as prospective changes including repeal of the domestic manufacturing deduction beginning in 2018 and capitalization of research and development expenditures beginning in 2022. In December 2017, the SEC staff issued Staff Accounting Bulletin No. 118, *Income Tax Accounting Implications of the Tax Cuts and Jobs Act* ("SAB 118"), which allows us to record provisional amounts during a measurement period not to extend beyond one year of the enactment date. For those specific income tax effects of the 2017 Tax Act for which the accounting under ASC Topic 740 is incomplete, a reasonable estimate was determined. We have recognized the provisional tax impacts related to the interest expense deduction limitation and the revaluation of deferred tax assets and liabilities and included these amounts in our consolidated financial statements for the year ended December 31, 2017 as discussed in Note 16 *Income Taxes* in the Notes to the Consolidated Financial Statements. The ultimate impact may differ from these provisional amounts due to additional analysis, changes in interpretations and assumptions we have made, additional regulatory guidance that may be issued, and actions we may take because of the 2017 Tax Act, which could materially affect our tax obligations and effective tax rate.

**We are subject to risks associated with patent litigation.**

The biotechnology industry has been characterized by extensive litigation regarding patents and other intellectual property rights particularly since industry competitors gravitate around common technology platforms. We are aware that patents have been applied for and/or issued to third parties claiming technologies for the sample and assay technologies that are closely related to those we use. From time to time, we receive inquiries requesting confirmation that we do not infringe patents of third parties. We endeavor to follow developments in this field, and we do not believe that our technologies or products infringe any proprietary rights of third parties. However, there can be no assurance that third parties will not challenge our activities and, if so challenged, that we will prevail. In addition, the patent and proprietary rights of others could require that we alter our products or processes, pay licensing fees or cease certain activities, and there can be no assurance that we will be able to license any technologies that we may require on acceptable terms. In addition, litigation, including proceedings that may be declared by the U.S. Patent and Trademark Office or the International Trade Commission, may be necessary to respond to any assertions of infringement, enforce our patent rights and/or determine the scope and validity of our proprietary rights or those of third parties. Litigation, or threatened litigation, could involve substantial cost, and there can be no assurance that we would prevail in any proceedings.

**We rely on collaborative commercial relationships to develop and/or market some of our products.**

Our long-term business strategy involves entering into strategic alliances as well as marketing and distribution arrangements with academic, corporate and other partners relating to the development, commercialization, marketing and distribution of

certain of our existing and potential products. In 2017, we entered a new joint venture with Sichuan Maccura Biotechnology Co., Ltd. (Maccura) for the distribution of our GeneReader NGS System in China and are preparing for a new partnership with a Chinese company in 2018 that will take over the research and development, commercial distribution and infrastructure of the HPV test franchise in China. We may be unable to continue to negotiate these collaborative arrangements on acceptable terms, and these relationships also may not be scientifically or commercially successful. In addition, we may be unable to maintain these relationships, and our collaborative partners may pursue or develop competing products or technologies, either on their own or in collaboration with others.

Our Personalized Healthcare business includes projects with pharmaceutical and biotechnology companies to co-develop companion diagnostics paired with drugs that those companies either market currently or are developing for future use. The success of these co-development programs, including regulatory approvals for the companion diagnostics, depends upon the continued commitment of our partners to the development of their drugs, the outcome of clinical trials for the drugs and diagnostics, and regulatory approvals of the diagnostic tests and drugs. In addition, the future level of sales for companion diagnostics depends to a high degree on the commercial success of the related medicines for which the tests have been designed. More companion diagnostics would be sold in combination with a widely prescribed drug than one with limited use.

The successful marketing of QIAGEN products, in some cases, depends on commercial relationships such as joint ventures or distributorships, particularly in emerging markets where we partner with local companies to augment our less-established commercial relationships and infrastructure. The continued commitment of our partners to these ventures, as well as the management of the commercial efforts, will influence QIAGEN's sales and profitability in these markets.

**We have made investments in and are expanding our business into emerging markets, which exposes us to risks.**

Our top seven emerging markets are Brazil, Russia, India, China, South Korea, Mexico and Turkey, which together accounted for approximately 16% of total sales in 2017, and we expect to continue to focus on expanding our business in these or other fast-growing markets. In addition to the currency and international operation risks described above, our international operations are subject to a variety of risks that include those arising out of the economy, political outlook and language and cultural barriers in countries where we have operations or do business. In many of these emerging markets, we may be faced with several risks that are more significant than in other countries in which we have a history of doing business. These risks include economies that may be dependent on only a few products and are therefore subject to significant fluctuations, weak legal systems which may affect our ability to enforce contractual rights, exchange controls, unstable governments, and privatization or other government actions affecting the flow of goods and currency. In conducting our business, we move products from one country to another and may provide services in one country from a subsidiary located in another country. Accordingly, we are vulnerable to abrupt changes in customs and tax regimes that could have significant negative impacts on our results of operations.

**Some of our customers are requiring us to change our sales arrangements to lower their costs, and this may limit our pricing flexibility and harm our business.**

Some of our customers have developed purchasing initiatives to reduce the number of vendors from which they purchase products to lower their supply costs. In some cases, these customers have established agreements with large distributors, which include discounts and direct involvement in the distributor's purchasing process. These activities may force us to supply large distributors with our products at discounts in order to continue providing products to some customers. For similar reasons, many larger customers, including the U.S. government, have requested, and may request in the future, special pricing arrangements, which can include blanket purchase agreements. These agreements may limit our pricing flexibility, which could harm our business and affect our results of operations. For a limited number of customers, and at the customer's request, we have conducted sales transactions through distribution and other value-added partners. If sales grow through these intermediaries, it could have an adverse impact on our results of operations, particularly a negative impact on our gross profit.

**We are subject to privacy and data security laws and rely on secure communication and information systems which, in the event of a breach or failure, expose us to risks.**

We rely heavily on communications and information systems to conduct our business. In the ordinary course of business, we collect and store sensitive data, including our intellectual property and other proprietary business information and that of our customers, suppliers and business partners, and personally identifiable information of our customers and employees, in our data centers and on our networks. Our operations rely on the secure processing, storage and transmission of confidential and other information on our computer systems and networks. We are transforming to a digital, cloud-leveraging organization, which places our assets, customer data, and personally identifiable data at a higher risk than in previous years. We have made significant investments to ensure our employees are aware of cyber security risks facing our company and how to prevent data breaches, including but not limited to, mandatory yearly trainings that are continually updated. We have modernized our cyber security tools, and are continually modernizing our cyber security processes, in an attempt to keep pace with evolving cyber security risks. In spite of our efforts, we are unable to completely eliminate these risks and occasionally experience minor cyber security incidents. External phishing emails (occurring outside of our computer services) is a growing threat that our customers

are facing. These emails could lead to the disclosing of intellectual property or personally identifiable information, which could lead to financial harm and cause reputational damage. While our cyber security team works diligently with our customers to mitigate these threats by helping to identify and analyze phishing emails, we cannot guarantee that sensitive data will not be lost or stolen.

A breach in cyber security due to unauthorized access to our computer systems or misuse could include the misappropriation of assets or sensitive information, the corruption data or other operational disruption. Failures to our computer systems and networks could be caused by internal or external events, such as incursions by intruders or hackers, computer viruses, failures in hardware or software, or cyber terrorists. If we do experience a breach or failure of our systems, we could experience operational delays resulting from the disruption of systems, loss due to theft or misappropriation of assets or data, or negative impacts from the loss of confidential data or intellectual property. We may face significant liability in the event any of the personal information we maintain is lost or otherwise subject to misuse or other wrongful use, access or disclosure. Further, we could experience negative publicity resulting in reputation or brand damage with customers or partners.

Additionally, we are subject to privacy and data security laws across multiple jurisdictions, including those relating to the storage of health information, which are complex, overlapping and rapidly evolving. Currently, we are implementing the requirements set forth by the European Union General Data Protection Regulation (GDPR), which is set to take effect on May 25, 2018. As our activities continue to evolve and expand, we may be subject to additional laws which impose further restrictions on the transfer, access, use, and disclosure of health and other personal information which may impact our business either directly or indirectly. Our failure to comply with applicable privacy or security laws or significant changes in these laws could significantly impact our business and future business plans. For example, we may be subject to regulatory action or lawsuits in the event we fail to comply with applicable privacy laws.

**Exchange rate fluctuations may adversely affect our business and operating results.**

Because we currently market our products throughout the world, a significant portion of our business is conducted in currencies other than the U.S. dollar, our reporting currency. As a result, fluctuations in value, relative to the U.S. dollar, of the currencies in which we conduct our business have caused and will continue to cause foreign currency transaction gains and losses. Foreign currency transaction gains and losses arising from normal business operations are charged against earnings in the period when incurred. Due to the number of currencies involved, the variability of currency exposures and the potential volatility of currency exchange rates, we cannot predict the effects of future exchange rate fluctuations. While we may engage in foreign exchange hedging transactions to manage our foreign currency exposure, there can be no assurance that our hedging strategy will adequately protect our operating results from the effects of future exchange rate fluctuations.

**Our global operations may be affected by actions of governments, global or regional economic developments, weather or transportation delays, natural disasters or other force majeure events (collectively, unforeseen events) which may negatively impact our suppliers, our customers or us.**

Our business involves operations around the world. Our consumable manufacturing facilities are located in Germany, China and the U.S. We have established sales subsidiaries in numerous countries and our products are sold through independent distributors serving more than 40 additional countries. Our facilities may be harmed by unforeseen events, and in the event, we or our customers are affected by a disaster, we may experience delays or reductions in sales or production, or increased costs, or may be required to identify alternate suppliers or rely on third-party manufacturers.

To the extent that our suppliers are impacted by a natural disaster or other disruption, we may experience periods of reduced production. Any unexpected interruptions in our production capabilities may lead to delayed or lost sales and may adversely affect our results of operations for the affected period.

In addition, to the extent we temporarily shut down any facility following such an unforeseen event, we may experience disruptions in our ability to manufacture or ship products to customers or otherwise operate our business. Many of our products are manufactured in a single location and we may experience adverse effects to the extent manufacturing operations are disrupted. While our global operations give us the ability to ship product from alternative sites, we may not be able to do so because our customers' facilities are shutdown or the local logistics infrastructure is not functioning, and our sales will suffer.

Damage to our property due to unforeseen events and the disruption of our business from casualties may be covered by insurance, but this insurance may not be sufficient to cover all of our potential losses and such insurance may not continue to be available to us on acceptable terms, or at all. In addition, we may incur incremental costs following an unforeseen event which will reduce profits and adversely affect our results of operations.

**We depend on suppliers for materials used to manufacture our products, and if shipments from these suppliers are delayed or interrupted, we may be unable to manufacture our products.**

We buy materials to create our products from a number of suppliers and are not dependent on any one supplier or group of suppliers for our business as a whole. However, key components of certain products, including certain instrumentation and

chemicals, are available only from a single source. If supplies from these vendors are delayed or interrupted for any reason, we may not be able to obtain these materials timely or in sufficient quantities or qualities in order to produce certain products, and this could have an adverse impact on our results of operations.

**We heavily rely on air cargo carriers and other overnight logistics services, and shipping delays or interruptions could harm our business.**

Our customers in the scientific research markets typically only keep a modest inventory of our products on hand, and consequently require overnight delivery of purchases. As a result, we heavily rely on air cargo carriers and logistic suppliers. If overnight services are suspended or delayed, and other delivery carriers and logistic suppliers cannot provide satisfactory services, customers may suspend a significant amount of their work. The lack of adequate delivery alternatives would have a serious adverse impact on our results of operations.

**Our success depends on the continued employment of qualified personnel, any of whom we may lose at any time.**

Although we have not experienced any difficulties attracting or retaining management and scientific staff, our ability to recruit and retain qualified, skilled employees will continue to be critical to our success. Given the intense competition for experienced scientists and managers among pharmaceutical and biotechnology companies as well as academic and other research institutions, there can be no assurance that we will be able to attract and retain employees critical to our success on acceptable terms. Initiatives to expand QIAGEN will also require additional employees, including management with expertise in areas such as research and development, manufacturing, digitization, sales and marketing, and the development of existing managers to lead a growing organization. The failure to recruit and retain qualified employees, or develop existing employees, could have a material adverse impact on our results of operations.

**Our ability to accurately forecast our results during each quarter may be negatively impacted by the fact that a substantial percentage of our sales may be recorded in the final weeks or days of the quarter.**

The markets we serve are typically characterized by a high percentage of purchase orders being received in the final few weeks or even days of each quarter. Although this varies from quarter to quarter, many customers make a large portion of their purchase decisions late in each quarter, in particular because it is during this period that they receive new information on both their budgets and requirements. Additionally, volatility in the timing of milestones from companion diagnostic partnerships can be difficult to predict. As a result, even late in each quarter, we cannot predict with certainty whether our sales forecasts for the quarter will be achieved.

Historically, we have been able to rely on the overall pattern of customer purchase orders during prior periods to project with reasonable accuracy our anticipated sales for the current or coming quarters. However, if customer purchasing trends during a quarter vary from historical patterns as may occur with changes in market conditions, our quarterly financial results could deviate significantly from our projections. As a result, our sales forecasts for any given quarter may prove not to have been accurate. We also may not have sufficient, timely information to confirm or revise our sales projections for a specific quarter. If we fail to achieve our forecasted sales for a particular quarter, the value of our Common Shares could be adversely affected.

**We have a significant amount of debt that may adversely affect our financial condition and flexibility.**

We have a significant amount of debt and debt service obligations as well as restrictive covenants imposed on us by our lenders. A high level of indebtedness increases the risk that we may default on our debt obligations and restrictive covenants may prevent us from borrowing additional funds. There is no assurance that we will be able to generate sufficient cash flow to pay the interest on our debt and comply with our debt covenants or that future working capital, borrowings or equity financing will be available to repay or refinance our debt. If we are unable to generate sufficient cash flow to pay the interest on our debt and comply with our debt covenants, we may have to delay or curtail our research and development programs. The level of our indebtedness could, among other things:

- make it difficult for us to make required payments on our debt;
- make it difficult for us to obtain any financing in the future necessary for working capital, capital expenditures, debt service requirements or other purposes;
- limit our flexibility in planning for, or reacting to, changes in our business and the industry in which we compete; and
- make us more vulnerable in the event of a downturn in our business.

**Our business may require substantial additional capital, which we may not be able to obtain on terms acceptable to us, if at all.**

Our future capital requirements and level of expenses will depend upon numerous factors, including the costs associated with:

- marketing, sales and customer support efforts;
- research and development activities;



- expansion of our facilities;
- consummation of possible future acquisitions of technologies, products or businesses;
- demand for our products and services;
- repayment or refinancing of debt; and
- payments in connection with our hedging activities.

We currently anticipate that our short-term capital requirements will be satisfied by cash flow from our operations. As of December 31, 2017, we had outstanding long-term debt of approximately \$1.8 billion, of which no amount was current. Furthermore, as of December 31, 2017, we had capital lease obligations, including the current portion, of \$1.4 million, that expire in various years through 2020. We may need to refinance all or part of these liabilities before or at their contractual maturities.

If at some point in time our existing resources should be insufficient to fund our activities, we may need to raise funds through public or private debt or equity financings. The funds for the refinancing of existing liabilities or for the ongoing funding of our business may not be available or, if available, not on terms acceptable to us. If adequate funds are not available, we may be required to reduce or delay expenditures for research and development, production, marketing, capital expenditures and/or acquisitions, which could have a material adverse effect on our business and results of operations. To the extent that additional capital is raised through the sale of equity or convertible securities, the issuance of any securities could result in dilution to our shareholders.

**The accounting for the cash convertible notes we have issued will result in recognition of interest expense significantly greater than the stated interest rate of the notes and may result in volatility to our Consolidated Statements of Income.**

We will settle any conversions of the Cash Convertible Notes described under the heading “Other Factors Affecting Liquidity and Capital Resources” elsewhere in this report entirely in cash. Accordingly, the conversion option that is part of the Cash Convertible Notes will be accounted for as a derivative pursuant to accounting standards relating to derivative instruments and hedging activities. Refer to Note 13, “Derivatives and Hedging” and Note 15 “Lines of Credit and Debt,” of the Notes to Consolidated Financial Statements. In general, this resulted in an initial valuation of the conversion option separate from the debt component of the Cash Convertible Notes, resulting in an original issue discount. The original issue discount will be accreted to interest expense over the term of the Cash Convertible Notes, which will result in an effective interest rate reported in our financial statements significantly in excess of the stated coupon rates of the Cash Convertible Notes. This accounting treatment will reduce our earnings. For each financial statement period after the issuance of the Cash Convertible Notes, a gain (or loss) will be reported in our financial statements to the extent the valuation of the conversion option changes from the previous period. The Call Options issued in connection with the Cash Convertible Notes will also be accounted for as derivative instruments, substantially offsetting the gain (or loss) associated with changes to the valuation of the conversion option. This may result in increased volatility to our results of operations.

**The cash convertible note hedge and warrant transactions we entered into in connection with the issuance of our Cash Convertible Notes may not provide the benefits we anticipate, and may have a dilutive effect on our common stock.**

Concurrently with the issuance of the Cash Convertible Notes, we entered into Call Options and issued Warrants. We entered into the Call Options with the expectation that they would offset potential cash payments by us in excess of the principal amount of the Cash Convertible Notes upon conversion of the Cash Convertible Notes. In the event that the hedge counterparties fail to deliver potential cash payments to us, as required under the Call Options, we would not receive the benefit of such transaction. Separately, we also issued Warrants. The Warrants could separately have a dilutive effect to the extent that the market price per share of our common stock, as measured under the terms of the Warrants, exceeds the strike price of the Warrants.

**An impairment of goodwill and intangible assets could reduce our earnings.**

At December 31, 2017, our consolidated balance sheet reflected approximately \$2.0 billion of goodwill and approximately \$499.3 million of intangible assets. Goodwill is recorded when the purchase price of a business exceeds the fair value of the tangible and separately measurable intangible net assets. U.S. generally accepted accounting principles (U.S. GAAP) requires us to test goodwill for impairment on an annual basis or when events or circumstances occur indicating that goodwill might be impaired. Long-lived assets, such as intangible assets with finite useful lives, are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. The impairment review often cannot be done at the level of the individual asset and it must instead be applied to a group of assets. For the purpose of our annual goodwill impairment testing based on the current circumstances of how we manage our business, this group of assets is the Company as a whole. If we determine that any of our goodwill or intangible assets were impaired, we will be required to take an immediate charge to earnings and our results of operations could be adversely affected.

**Our strategic equity investments may result in losses.**

We have made, and may continue to make, strategic investments in businesses as opportunities arise. We periodically review the carrying value of these investments for impairment, considering factors that include the most recent stock transactions, book values from the most recent financial statements, and forecasts and expectations of the investee. The results of these valuations may fluctuate due to market conditions and other conditions over which we have no control.

Estimating the fair value of non-marketable equity investments in life science companies is inherently subjective. If actual events differ from our assumptions and unfavorable fluctuations in the valuations of the investments are indicated, we could be required to write-down the investment. This could result in future charges on our earnings that could materially adversely affect our results of operations. It is uncertain whether or not we will realize any long-term benefits from these strategic investments.

**Doing business internationally creates certain risks.**

Our business involves operations in several countries outside of the U.S. Our consumable manufacturing facilities are located in Germany, China, and the U.S. We source raw materials and subcomponents to manufacture our products from different countries. We have established sales subsidiaries in numerous countries including the U.S., Germany, Japan, the United Kingdom, France, Switzerland, Australia, Canada, the Netherlands, Sweden, Italy, Hong Kong, Singapore, Turkey, Thailand, South Korea, Taiwan, Malaysia, China, Spain, Brazil, Mexico, South Africa and India. In addition, our products are sold through independent distributors serving more than 40 other countries. Conducting and launching operations on an international scale requires close coordination of activities across multiple jurisdictions and time zones and consumes significant management resources. We have invested heavily in computerized information systems in order to manage more efficiently the widely dispersed components of our operations. If we fail to coordinate and manage these activities effectively, our business and results of operations will be adversely affected.

Our operations are subject to other risks inherent in international business activities, such as general economic conditions in the countries in which we operate, longer accounts receivable payment cycles in certain countries, overlap of different tax structures, unexpected changes in regulatory requirements, and compliance with a variety of foreign laws and regulations. Other risks associated with international operations include import and export licensing requirements, trade restrictions, exchange controls and changes in tariff and freight rates, as may occur as a result of rising energy costs. As a result of these conditions, an inability to successfully manage our international operations could have a material adverse impact on our business and results of operations.

**Unethical behavior and non-compliance with laws by our sales agents, consultants, distributors or employees could seriously harm our business.**

Our business in countries with a history of corruption and transactions with foreign governments increase the risks associated with our international activities. Based on our international operations, we are subject to the U.S. Foreign Corrupt Practices Act (FCPA), the U.K. Bribery Act and other laws that prohibit improper payments or offers of payments to foreign governments and their officials and political parties by business entities for the purpose of obtaining or retaining business. We have operations, agreements with third parties and make sales in countries known to experience corruption. Further international expansion may involve increased exposure to such practices. Our activities in these countries, and in all countries as well, create risks of unauthorized payments or offers of payments, non-compliance with laws, or other unethical behavior by any of our employees, consultants, sales agents or distributors, that could be in violation of various laws, including the FCPA, even though these parties are not always subject to our control. It is our policy to implement safeguards to discourage these or other unethical practices by our employees and distributors including online and in-person employee trainings, periodic internal audits and standard reviews of our distributors. However, our existing safeguards and any future improvements may not prove to be effective, and our employees, consultants, sales agents or distributors may engage in conduct for which we might be held responsible. Violations of the FCPA and other laws may result in criminal or civil sanctions, which could be severe, and we may be subject to other liabilities, which could negatively affect our business, results of operations and financial condition.

**We depend on patents and proprietary rights that may fail to protect our business.**

Our success depends to a large extent on our ability to develop proprietary products and technologies and to establish and protect our patent and trademark rights in these products and technologies. As of December 31, 2017, we owned 362 issued patents in the United States, 279 issued patents in Germany and 1,825 issued patents in other major industrialized countries. In addition, at December 31, 2017, we had 776 pending patent applications, and we intend to file applications for additional patents as our products and technologies are developed. The patent positions of technology-based companies involve complex legal and factual questions and may be uncertain, and the laws governing the scope of patent coverage and the periods of enforceability of patent protection are subject to change. In addition, patent applications in the United States are maintained in secrecy until patents issue, and publication of discoveries in the scientific or patent literature tends to lag behind actual discoveries by several months. Therefore, no assurance can be given that patents will issue from any patent applications that we

own or license or if patents do issue, that the claims allowed will be sufficiently broad to protect our technology. In addition, no assurance can be given that any issued patents that we own or license will not be challenged, invalidated or circumvented, or that the rights granted thereunder will provide us competitive advantages. Further, as issued patents expire, we may lose some competitive advantage as others develop competing products and as a result, we may lose revenue.

Certain of our products incorporate patents and technologies that are licensed from third parties and for certain products, these in-licensed patents together with other patents provide us with a competitive advantage. These licenses impose various commercialization, sublicensing and other obligations on us. Our failure to comply with these requirements could result in the conversion of the applicable license from being exclusive to non-exclusive or, in some cases, termination of the license, and as a result, we may lose some competitive advantage and experience a loss of revenue.

We also rely on trade secrets and proprietary know-how, which we seek to protect through confidentiality agreements with our employees and consultants. There can be no assurance that any confidentiality agreements that we have with our employees, consultants, outside scientific collaborators and sponsored researchers and other advisors will provide meaningful protection for our trade secrets or adequate remedies in the event of unauthorized use or disclosure of such information. There also can be no assurance that our trade secrets will not otherwise become known or be independently developed by competitors.

We currently engage in, and may continue to engage in, collaborations with academic researchers and institutions. There can be no assurance that under the terms of such collaborations, third parties will not acquire rights in certain inventions developed during the course of these collaborations.

#### **Our business exposes us to potential product liability.**

The marketing and sale of our products and services for certain applications entail a potential risk of product liability. Although we are not currently subject to any material product liability claims, product liability claims may be brought against us in the future. Further, there can be no assurance that our products will not be included in unethical, illegal or inappropriate research or applications, which may in turn put us at risk of litigation. We carry product liability insurance coverage, which is limited in scope and amount. There can be no assurance that we will be able to maintain this insurance at a reasonable cost and on reasonable terms, or that this insurance will be adequate to protect us against any or all potential claims or losses.

We are subject to various laws and regulations generally applicable to businesses in the different jurisdictions in which we operate, including laws and regulations applicable to the handling and disposal of hazardous substances. The risk of accidental contamination or injury from these materials cannot be completely eliminated. In the event of such an accident, we could be held liable for any damages that result, and any such liability could have a material adverse impact on us.

#### **Our operating results may vary significantly from period to period and this may affect the market price of our Common Shares.**

Our operating results may vary significantly from quarter to quarter, and also from year to year, since they are dependent upon a broad range of factors that include demand for our products, the level and timing of customer research budgets and commercialization efforts, the timing of government funding budgets of our customers, the timing of our research and development activities and related regulatory approvals, the impact of sales and marketing expenses, the impact of restructuring activities, the introduction of new products by us or our competitors, competitive market conditions, exchange rate fluctuations and general economic conditions. Our expense levels are based in part on our expectations as to future sales trends. As a result, sales and earnings may vary significantly from quarter to quarter or from year to year, and actual sales and earnings results in any one period will not necessarily be indicative of results to be anticipated in subsequent periods. Our results may also fail to meet or exceed the expectations of securities analysts or investors, which could cause a decline in the market price of our Common Shares.

#### **Our holding company structure makes us dependent on the operations of our subsidiaries.**

QIAGEN N.V. is incorporated under Dutch law as a public limited liability company (*naamloze vennootschap*), and is organized as a holding company. Currently, the material assets are the outstanding shares of the QIAGEN subsidiaries, intercompany receivables and other financial assets such as cash and short-term investments. As a result, QIAGEN N.V. is dependent upon payments, dividends and distributions from the subsidiaries for funds to pay operating and other expenses as well as to pay future cash dividends or distributions, if any, to holders of our Common Shares. Dividends or distributions by subsidiaries in a currency other than the U.S. dollar may result in a loss upon a subsequent conversion into U.S. dollars.

#### **Our Common Shares may have a volatile public trading price.**

The market price of our Common Shares since our initial public offering in September 1996 has increased significantly and been highly volatile. In the last two years, the price of our Common Shares has ranged from a high of \$36.34 to a low of \$19.94 on NASDAQ, and a high of €31.52 to a low of €17.76 on the Frankfurt Stock Exchange. In addition to overall stock market fluctuations, factors that may have a significant impact on the price of our Common Shares include:

- announcements of technological innovations or the introduction of new products by us or our competitors;
- developments in our relationships with collaborative partners;
- quarterly variations in our operating results or those of our peer companies;
- changes in government regulations, tax laws or patent laws;
- developments in patent or other intellectual property rights;
- developments in government spending budgets for life sciences-related research;
- general market conditions relating to the diagnostics, applied testing, pharmaceutical and biotechnology industries; and
- impact from foreign exchange rates.

The stock market has from time to time experienced extreme price and trading volume fluctuations that have particularly affected the market for technology-based companies. These fluctuations have not necessarily been related to the operating performance of these companies. These broad market fluctuations may adversely affect the market price of our Common Shares.

**Holders of our Common Shares should not expect to receive dividend income.**

In January 2017, we completed a synthetic share repurchase that combined a direct capital repayment with a reverse stock split and in early 2018 we announced plans to return up to an additional \$200.0 million through open-market purchases. We do not anticipate paying any cash dividends on our Common Shares for the foreseeable future, and until the January 2017 distribution in connection with a synthetic share repurchase, we have not paid cash dividends since our inception. Although we do not anticipate paying any cash dividends on a regular basis, the distribution of any cash dividends in a currency other than the U.S. dollar will be subject to the risk of foreign currency transaction losses. Investors should not invest in our Common Shares if they are seeking dividend income; the only return that may be realized through investing in our Common Shares would be through an appreciation in the share price.

**Holders of our Common Shares may not benefit from continued stock repurchase programs.**

In January 2017, we completed a synthetic share repurchase that combined a direct capital repayment with a reverse stock split. The transaction was announced in August 2016 and involved an approach used by various large, multinational Dutch companies to provide returns to all shareholders in a faster and more efficient manner than traditional open-market purchases. \$243.9 million was returned to shareholders through the transaction, which reduced the total number of issued common shares by approximately 3.7% or 8.9 million shares as of January 31, 2017.

The purpose of our share repurchases has been to hold the shares in treasury in order to satisfy obligations from exchangeable debt instruments, warrants and/or employee share-based remuneration plans and thus to reduce dilution to existing holders of our Common Shares. We may decide not to continue such programs in the future, the covenants we have with our lenders may limit our ability to use available cash to do so, and the market price of our Common Shares may make such repurchases less desirable. In any of these cases, holders of our Common Shares may suffer dilution from conversion of our indebtedness or issuance of shares pursuant to employee remuneration plans that would otherwise be at least partially offset by repurchased shares.

**Future sales and issuances of our Common Shares could adversely affect our stock price.**

Any future sale or issuance of a substantial number of our Common Shares in the public market, or any perception that a sale may occur, could adversely affect the market price of our Common Shares. Under Dutch law, a company can issue shares up to its authorized share capital provided for in its Articles of Association. Pursuant to our Articles of Association, our authorized share capital amounts to EUR 9.0 million, which is divided into 410.0 million common shares, 40.0 million financing preference shares and 450.0 million preference shares, with all shares having a EUR 0.01 par value. As of December 31, 2017, a total of approximately 226.6 million Common Shares were outstanding along with approximately 9.3 million additional shares reserved for issuance upon exercise or release of outstanding stock options and awards, of which 1.1 million were vested. A total of approximately 22.0 million Common Shares are reserved and available for issuances under our stock plans as of December 31, 2017, including the shares subject to outstanding stock options and awards. The majority of our outstanding Common Shares may be sold without restriction, except shares held by our affiliates, which are subject to certain limitations on resale. Additionally, the Warrants issued in connection with the Cash Convertible Notes Call Spread Overlays cover an aggregate of 35.4 million shares of our common stock (subject to anti-dilution adjustments under certain circumstances).

**Shareholders who are United States residents could be subject to unfavorable tax treatment.**

We may be classified as a “passive foreign investment company,” or a PFIC, for U.S. federal income tax purposes if certain tests are met. Our treatment as a PFIC could result in a reduction in the after-tax return to holders of Common Shares and would likely cause a reduction in the value of these shares. If we were determined to be a PFIC for U.S. federal income tax

purposes, highly complex rules would apply to our U.S. shareholders. We would be considered a PFIC with respect to a U.S. shareholder if for any taxable year in which the U.S. shareholder held the Common Shares, either (i) 75% or more of our gross income for the taxable year is passive income; or (ii) the average value of our assets (during the taxable year) which produce or are held for the production of passive income is at least 50% of the average value of all assets for such year. Based on our income, assets and activities, we do not believe that we were a PFIC for U.S. federal income tax purposes for our taxable year ended December 31, 2017, and do not expect to be a PFIC for the current taxable year or any future taxable year. No assurances can be made, however, that the Internal Revenue Service will not challenge this position or that we will not subsequently become a PFIC. In countries outside the U.S., other or similar tax regimes may apply and result in unfavorable tax treatment for any dividends received.

**Provisions of our Articles of Association and Dutch law and an option we have granted may make it difficult to replace or remove management and may inhibit or delay a takeover.**

Our Articles of Association (Articles) provide that our shareholders may only suspend or dismiss our Managing Directors and Supervisory Directors against their wishes with a vote of two-thirds of the votes cast if such votes represent more than 50% of our issued share capital. If the proposal was made by the joint meeting of the Supervisory Board and the Managing Board, a simple majority is sufficient. The Articles also provide that if the members of our Supervisory Board and our Managing Board have been nominated by the joint meeting of the Supervisory Board and Managing Board, shareholders may only overrule this nomination with a vote of two-thirds of the votes cast if such votes represent more than 50% of our issued share capital.

Certain other provisions of our Articles allow us, under certain circumstances, to prevent a third party from obtaining a majority of the voting control of our Common Shares through the issuance of Preference Shares. Pursuant to our Articles and the resolution adopted by our General Meeting of Shareholders, our Supervisory Board is entitled to issue Preference Shares in case of an intended takeover of our company by (i) any person who alone or with one or more other persons, directly or indirectly, have acquired or given notice of an intent to acquire (beneficial) ownership of an equity stake which in aggregate equals 20% or more of our share capital then outstanding or (ii) an “adverse person” as determined by the Supervisory Board. If the Supervisory Board opposes an intended takeover and authorizes the issuance of Preference Shares, the bidder may withdraw its bid or enter into negotiations with the Managing Board and/or Supervisory Board and agree on a higher bid price for our Shares.

In 2004, we granted an option to the Stichting Preferente Aandelen QIAGEN, or the Foundation (*Stichting*), subject to the conditions described in the paragraph above, which allows the Foundation to acquire Preference Shares from us. The option enables the Foundation to acquire such number of Preference Shares as equals the number of our outstanding Common Shares at the time of the relevant exercise of the option, less one Preference Share. When exercising the option and exercising its voting rights on these Preference Shares, the Foundation must act in our interest and the interests of our stakeholders. The purpose of the Foundation option is to prevent or delay a change of control that would not be in the best interests of us and our stakeholders. An important restriction on the Foundation’s ability to prevent or delay a change of control is that a public offer must be announced by a third party before it can issue (preference or other) protective shares that would enable the Foundation to exercise rights to 30% or more of the voting rights without an obligation to make a mandatory offer for all shares held by the remaining shareholders. In addition, the holding period for these shares by the Foundation is restricted to two years, and this protective stake must fall below the 30% voting rights threshold before the two-year period ends.

**Note Regarding Forward-Looking Statements and Risk Factors**

Our future operating results may be affected by various risk factors, many of which are beyond our control. Certain statements included in this Annual Report and the documents incorporated herein by reference may be forward-looking statements within the meaning of Section 27A of the U.S. Securities Act of 1933, as amended, and Section 21E of the U.S. Securities Exchange Act of 1934, as amended, including statements regarding potential future net sales, gross profit, net income and liquidity. These statements can be identified by the use of forward-looking terminology such as “believe,” “hope,” “plan,” “intend,” “seek,” “may,” “will,” “could,” “should,” “would,” “expect,” “anticipate,” “estimate,” “continue” or other similar words. Reference is made in particular to the description of our plans and objectives for future operations, assumptions underlying such plans and objectives, and other forward-looking statements. Such statements are based on management’s current expectations and are subject to a number of factors and uncertainties that could cause actual results to differ materially from those described in the forward-looking statements. We caution investors that there can be no assurance that actual results or business conditions will not differ materially from those projected or suggested in such forward-looking statements as a result of various factors. Factors which could cause such results to differ materially from those described in the forward-looking statements include those set forth in the risk factors below. As a result, our future success involves a high degree of risk. When considering forward-looking statements, you should keep in mind that the risk factors could cause our actual results to differ significantly from those contained in any forward-looking statement.

## Item 4. Information on the Company

### Description of our business

#### Company overview

QIAGEN is a global leader in Sample to Insight solutions that transform biological samples into valuable molecular insights. Our mission is to enable our customers in four broad classes - Molecular Diagnostics, Applied Testing, Pharma and Academia - to achieve outstanding success and breakthroughs, all in keeping with our goal of making improvements in life possible.

QIAGEN's solutions integrate sample and assay technologies, bioinformatics and automation systems into workflows that help customers move from Sample to Insight. Our solutions support more than 500,000 customers worldwide in generating insights into the molecular building blocks of life. Our proven solutions are providing answers in hospitals and laboratories worldwide, helping make sense of the increasing volumes and complexity of biological information.

As we move deeper into “the Century of Biology,” knowledge of the molecular basis of life has been growing exponentially, along with greater understanding of diseases and biological mechanisms. Dramatic acceleration in the speed of analyzing DNA - and reduction in cost - is generating new discoveries and vast quantities of genomic data. This revolution in the life sciences is transforming healthcare and influencing many other areas of everyday life. QIAGEN's mission is to make improvements in life possible by providing innovative technologies to enable this ongoing wave of discovery and its wide-ranging applications.

QIAGEN began operations in 1986 as a pioneer in the emerging biotechnology sector, introducing a novel method that standardized and accelerated extraction and purification of nucleic acids from biological samples. As molecular biology has grown to influence many areas of life, QIAGEN has expanded to serve the full spectrum of market needs. We believe our sample technologies are unmatched in quality for isolating and preparing DNA (deoxyribonucleic acid), RNA (ribonucleic acid) and proteins from blood or other liquids, tissue, plants or other materials. Our assay technologies amplify, enrich and make these biomolecules accessible for analysis, such as identifying the genetic information of a pathogen or a gene mutation in a tumor. QIAGEN's industry-leading bioinformatics solutions allows users to analyze and interpret data to provide relevant, actionable insights. Our automation systems for polymerase chain reaction (PCR), next-generation sequencing (NGS) and other technologies tie these together in seamless and cost-effective molecular testing workflows - from Sample to Insight.

Net sales of \$1.42 billion in 2017 consisted of consumable kits and other revenues (88% of sales) and automation systems and instruments (12% of sales). Approximately 48% of net sales in 2017 were in Molecular Diagnostics, and 52% in Life Sciences customer classes in the Academia, Pharma and Applied Testing markets.

QIAGEN has grown substantially by developing new platforms, consumables and bioinformatics to meet growing needs in the market, partnering with researchers and Pharma companies, and acquiring companies or technologies to complement our portfolio. We believe the addressable global market for QIAGEN's portfolio of molecular testing products for customers across the continuum of life science research and molecular diagnostics totals more than \$8 billion.

We have funded our growth through internally generated funds, debt offerings, and private and public sales of equity securities. QIAGEN has global shares that are listed on the New York Stock Exchange under the ticker symbol “QGEN” and on the Frankfurt Prime Standard as “QIA.”

The company is registered under its commercial and legal name QIAGEN N.V. with the trade register (*kamer van koophandel*) of the Dutch region Limburg Noord under file number 12036979. QIAGEN N.V. is a public limited liability company (*naamloze vennootschap*) under Dutch law as a holding company. Our principal executive office is located at Hulsterweg 82, 5912 PL Venlo, The Netherlands, and our telephone number is +31-77-355-6600.

As a holding company, QIAGEN conducts business through subsidiaries located throughout the world. Further information about QIAGEN can be found at [www.qiagen.com](http://www.qiagen.com). By referring to our website, we do not incorporate the website or any portion of the website by reference into this Annual Report.

#### Recent Developments

QIAGEN has recently achieved a number of strategic milestones by continuing to focus on strategic growth initiatives:

#### QuantiferON-TB franchise growing rapidly:

- QIAGEN is aiding the global fight against tuberculosis (TB), a contagious bacterial infection that strikes more than 10 million new persons and kills about 1.8 million annually. The global epidemic is complicated because an estimated one out of three people have latent TB infection, a phase in which the bacterium infects a person but produces no detectable symptoms. About 5-10% of those individuals, if untreated, will progress to the active TB disease, so screening of high-risk individuals and treatment for latent TB plays an important role in global tuberculosis control efforts.
- QIAGEN's novel QuantiferON tests, the fourth-generation QuantiferON-TB Gold Plus (QFT-Plus) and third-generation QuantiferON-TB Gold (QFT), are the market-leading modern diagnostic tools for latent TB infection. In a class known

as interferon-gamma release assays (IGRAs), QuantiFERON-TB tests have been shown in clinical studies to be faster, less labor-intensive and more accurate than the century-old tuberculin skin test. QFT is one of two tests mentioned in the World Health Organization guidelines as an alternative to tuberculin skin tests. First introduced in 2015, QFT-Plus adds clinical insights with antigens that measure the cell-mediated immune response to TB infection from both CD4+ and CD8+ T cells. The addition of CD8+ assessment led WHO in its Global TB Report 2016 to cite QFT-Plus (the only such test on the market) for its potential in identifying at-risk adults at greater risk of progressing to active TB. QFT-Plus is now available in more than 75 countries in Europe, the Americas, Africa, Asia and Middle East. The laboratory-based QuantiFERON-TB tests are displacing the more subjective and time-consuming tuberculin skin test, and sales surpassed \$175 million in 2017.

- In October 2017 QIAGEN launched QuantiFERON-TB Gold Plus in the United States after it received Food and Drug Administration approval. Japan also recently approved QFT-Plus. These market introductions follow adoption of QFT-Plus in more than 75 countries across Europe, the Middle East, Africa, Asia and Latin America, where nearly two million of the tests have been used. QFT-Plus advances the science of TB testing with innovative antigens that measure each patient's cell-mediated immune response from both CD4+ and CD8+ T cells, a unique capability. An increasing number of peer-reviewed publications support the efficacy of QFT-Plus, which is the only interferon-gamma release assay (IGRA) test on the pathway to evaluation by the World Health Organization (WHO) for its global campaign to eradicate TB.
- In January 2018, QIAGEN began a new partnership with DiaSorin that will provide a state-of-the-art automation option for QuantiFERON-TB Gold Plus customers, embedding QFT-Plus in a broad and highly synergistic assay menu for DiaSorin's LIAISON-family analyzers. More than 7,000 LIAISON-family analyzers are already in use worldwide.

#### **Next-generation sequencing solutions extending QIAGEN's reach:**

- As a leader in "universal" technologies for use with any next-generation sequencing system, as well as creator of the innovative GeneReader NGS System for benchtop sequencing, QIAGEN continues to expand its presence in the rapidly growing market for NGS solutions in laboratories around the world. QIAGEN's NGS portfolio produced more than \$115 million in sales in 2017.
- In 2017 QIAGEN continued to broaden its portfolio of platform-agnostic NGS solutions, streamlining tasks such as automated sample and library preparation, reliable detection of DNA and RNA variations, and bioinformatics for analysis and interpretation. Our industry-leading solutions for preparation of liquid biopsy samples, along with a diverse offering of off-the-shelf and customized QIAseq panels, continued to expand to new applications.
- QIAGEN's GeneReader NGS System, the first complete Sample to Insight next-generation sequencing solution designed for any laboratory to deliver actionable results, continued to gain acceptance with strong growth in placements in 2017.
- We expanded the GeneReader system's capabilities and content menu for clinical researchers in 2017. Going beyond the original GeneRead QIAact Actionable Insights Tumor Panel (AIT), we launched the GeneRead QIAact Lung DNA Panel and Lung RNA Panel for deep analysis of lung cancer samples and the GeneRead QIAact BRCA 1/2 Panel for in-depth insights into breast and ovarian cancers. All of the QIAact NGS panels run with the GeneReader system and integrate seamlessly with our QCI bioinformatics software for analysis and interpretation. We have incorporated the GeneReader NGS System into collaborations with pharmaceutical companies for co-development of companion diagnostics.
- Multiple studies demonstrating the efficacy of QIAGEN's GeneReader system, panels and other NGS solutions were presented in major scientific meetings in 2017, including the American Society of Clinical Oncology (ASCO), American Society of Human Genetics (ASHG) and Association for Molecular Pathology (AMP). At the AMP annual meeting in November 2017, about 10 percent of the more than 500 papers presented relied on QIAGEN solutions for some aspect of molecular testing, from sample technologies for NGS to bioinformatics for interpretation of data.
- To accelerate the growth of the GeneReader system in China, QIAGEN formed a joint venture in 2017 with Maccura, a leading in vitro diagnostics company in China. The venture, MAQGEN Biotechnology Co., Ltd. (MAQGEN), will develop local adaptations, pursue regulatory paths to maximize the GeneReader's value and leverage Maccura's broad customer network to expand adoption in laboratories across China. The NGS market in China is growing rapidly in personalized medicine and clinical research. MAQGEN China is 60% owned by Maccura and 40% by QIAGEN.
- In late 2017, QIAGEN created a new unit, Enterprise Genomics Services, to serve the growing demand for customization of NGS gene panels with integrated bioinformatics for dedicated applications. This initiative offers benefits to customers in implementation time, expense and risk mitigation across the continuum from NGS discovery to panel development, optimization, verification and implementation. QIAGEN's capabilities support customized solutions for any NGS platform, including the GeneReader NGS System.
- In Applied Testing, QIAGEN collaborated with the International Commission on Missing Persons (ICMP) in 2017 to launch a cutting-edge next-generation sequencing workflow for DNA identification at the ICMP's laboratory in The Hague. The lab integrates the GeneReader system, other QIAGEN instruments and a new NGS panel specifically designed to

identify missing persons. QIAGEN will supply software, reagents, consumables and technical support on an ongoing basis.

#### **Continued Leadership in Personalized Healthcare:**

- QIAGEN strengthened its leading position in Personalized Healthcare in 2017, surpassing a milestone of 25 master collaboration agreements with pharma and biotech companies to develop companion and complementary diagnostics providing individualized genomic insights to guide clinical decision-making. QIAGEN launched 15 new companion diagnostic projects in 2017, a record high for QIAGEN. In addition, we continued to achieve regulatory approvals of companion diagnostics and to launch them commercially.
- A major initiative in 2017 was QIAGEN's expansion into developing biomarker tests to support emerging therapies in immuno-oncology (I-O), a novel approach using drugs to target the body's immune system to help fight cancer. QIAGEN and Bristol-Myers Squibb launched a groundbreaking collaboration to explore the use of NGS technology to develop gene expression profiles (GEPs) as predictive or prognostic tools for use with a number of novel immuno-oncology molecules Bristol-Myers Squibb is developing. QIAGEN subsequently has entered into other agreements with undisclosed industry partners to co-develop molecular tests to identify patients who could benefit from I-O therapies. QIAGEN obtained a worldwide license in 2017 from The Johns Hopkins University for biomarkers that play roles in identifying patients for I-O therapies.
- QIAGEN continues to roll out regulator-approved companion diagnostics that deliver actionable insights for treatment decisions based on patients' genomic information. We launched the *ipsogen* JAK2 RGQ PCR Kit in 2017 as the only FDA-cleared JAK2 kit for blood cancers, diagnosing gene mutations in patients with Polycythemia Vera. The FDA approval was expanded in early 2018 to other myeloproliferative neoplasms. The FDA indicated use of QIAGEN's *therascreen* EGFR RGQ PCR Kit as a companion diagnostic also was expanded in early 2018 to diagnose additional EGFR gene mutations involved in treatment decisions for first-line treatment of metastatic non-small cell lung cancer (NSCLC).
- We added a new liquid biopsy assay in 2017 for clinical research - the AdnaTest Prostate Cancer Panel AR-V7, using circulating tumor cells to monitor RNA expression of a biomarker indicating resistance to prostate cancer treatments.
- As one of the world's leading independent developers of molecular technologies, with a diverse portfolio of sequencing platforms and solutions, QIAGEN is a preferred industry partner for developing companion or complementary diagnostics.

#### **QIASymphony delivering platform growth as content menu expands:**

- QIAGEN surpassed its 2017 goal of 2,000 cumulative placements of QIASymphony, a cost-effective modular system that integrates PCR molecular testing workflows from initial biological sample processing to final insights. The platform's rapid dissemination and growing content menu fueled double-digit growth in consumables for QIASymphony.
- The QIASymphony automation system serves laboratories around the world, with the broadest test menu of any platform in its category in Europe and other markets, plus the unique ability to handle laboratory-developed tests. Nearly 30 diagnostic tests in infectious disease, oncology and transplant care are marketed for use on the Rotor-Gene<sup>®</sup> Q, a component of the modular QIASymphony workflow. In the United States, eight FDA-approved diagnostic tests, including three companion diagnostics to guide treatment decisions in cancer, are marketed for this detection platform.
- Two new QIAGEN test kits were approved by the FDA in 2017 for use on QIASymphony instruments: the *ipsogen* JAK2 RGQ PCR Kit, a qualitative test for the detection of an important genetic variant in blood cancers; and the *artus* CMV QS-RGQ MDx kit, to monitor solid organ transplant patients for cytomegalovirus (CMV), a common infection that can be life-threatening in vulnerable patients.
- The QIASymphony system's sample processing module, QIASymphony SP, is a market-leading "front end" automated solution for downstream molecular testing. The growth of next-generation sequencing has highlighted the critical need of laboratories for reliable, automated processing of samples, including liquid biopsies. QIASymphony SP automates the processing of nucleic acids for analysis with the GeneReader NGS System or other sequencers.

#### **Leadership in differentiated core technologies continuing to drive growth:**

- As a world leader in sample technologies enabling laboratories to obtain highest-quality DNA and RNA for molecular testing, QIAGEN continued to expand its offerings in 2017 with differentiated solutions for front-end challenges. QIAGEN technologies process an estimated 50,000 biological samples a day. Our strategic focus is on rapidly growing applications in research and clinical diagnostics, such as handling microbiome samples, where we have an estimated 75% market share.
- Innovation in "liquid biopsy" technologies is increasingly enabling QIAGEN customers to unlock molecular insights from blood or other fluids as a non-invasive alternatives to surgical biopsies. Our solutions based on several different technologies for isolation and stabilization of nucleic acids are used in an estimated 80% of liquid biopsy testing.



- Partnering with leading providers of molecular testing services, QIAGEN continues to incorporate its differentiated solutions in liquid biopsy testing. In 2017, for example, QIAGEN's PAXgene® Blood ccfDNA Tube was adopted by Clinical Genomics for sample collection with its assay to monitor patients for recurrence of colorectal cancer.
- To facilitate the growing trend toward liquid biopsies for routine use in clinical testing, QIAGEN joined CANCER-ID, a public-private consortium working to establish standard protocols and clinical validation for blood-based biomarkers in lung and breast cancer. QIAGEN is helping create standardized methods and Sample to Insight workflows.
- QIAGEN launched a Custom Solutions business in 2017 to serve life science and molecular diagnostics customers with the tools and expertise to quickly build and commercialize products that meet unique workflow requirements. The new unit offers custom and OEM sample technologies, oligo and enzyme product options for PCR, qPCR and NGS product development, as well as a range of other platform technologies.
- In forensics, QIAGEN's long-standing leadership in developing international standards of quality for products to collect and test samples for human identification gained support in 2017 with third-party certification that QIAGEN meets state-of-the-art requirements for forensics supply chain and manufacturing (ISO18385:2016).

#### **Industry-leading bioinformatics turning raw genomic data into valuable insights:**

- QIAGEN's broad offering of content-enabled bioinformatics software continues to grow both as a standalone franchise and as a driver integrated into QIAGEN's Sample to Insight workflows. Our bioinformatics turn vast amounts of genomic data into actionable insights for customers, addressing a critical bottleneck in next-generation sequencing, especially for clinical research and diagnostics. Studies by leading institutions often use solutions such as QIAGEN Clinical Insight (QCI) or CLC Genomics Workbench to analyze and interpret genomic data. QIAGEN pursues collaborations across the genomics and bioinformatics community to offer customers the richest access possible to insights for research and diagnostics.
- In January 2017, QIAGEN acquired OmicSoft Corporation to expand its solutions and enable scientists to visualize and mine large institutional and publicly available "omics" datasets, in addition to the expertly curated, literature-based datasets marketed by QIAGEN. Its OmicSoft solutions meet a growing need in discovery and translational research to access and manage huge amounts of data on DNA, RNA and other sequencing insights.
- In October 2017, QIAGEN partnered with CENTOGENE AG, a leader in testing for rare diseases and hereditary disorders, to provide customers of both companies with more complete insights. QIAGEN integrated CENTOGENE's rare disease variant database into its bioinformatics offerings for genomic interpretation, while CENTOGENE licensed QIAGEN's bioinformatics solutions for use in its diagnostic testing services for rare diseases.
- Advancing the potential of precision medicine for the diagnosis and treatment of cancer, in November 2017 we launched enhancements in our QIAGEN Clinical Insight (QCI) bioinformatics software to automate guidelines published by leading oncology and pathology groups for the use of next-generation sequencing in genetic profiling of cancers. QIAGEN's QCI-Interpret software integrates the consensus AMP/ASCO/CAP standards with our comprehensive biomedical knowledge base to guide the selection of treatments based on findings from each patient's genomic testing and diagnosis.
- Also in November 2017, a collaboration in women's health with Counsyl, a company based in California, demonstrated the value of QIAGEN Clinical Insight for interpretation of results from prenatal testing and hereditary disease screening. Counsyl reported that using QCI for interpreting and scoring genetic variants reduced search time for literature references by 75%, while maintaining accuracy.

#### **Targeted action increasing returns to shareholders**

- In 2017, QIAGEN fulfilled its commitment to return \$300 million to shareholders through share repurchase transactions, including the return of \$245 million through a synthetic share repurchase in January 2017 and the open-market repurchase of 1.9 million shares on the Frankfurt Stock Exchange for approximately \$60 million in September 2017. Reaffirming its commitment to a disciplined approach to capital allocation, QIAGEN announced a new commitment to return \$200 million to shareholders beginning in 2018 via open-market repurchases. Shares will be repurchased on the Frankfurt Stock Exchange.
- In 2017, QIAGEN continued to execute previously announced restructuring actions to improve efficiency and profitability, while supporting momentum in sales growth. Key areas include consolidating activities into shared service centers and global centers of excellence, gaining efficiencies in marketing, and embracing digital tools across the business. In 2017, we launched a shared service center for administrative functions in the Philippines, expanding on the efficiencies and complementing the geographic footprint of our first shared service center in Poland. A pre-tax restructuring charge of \$19.8 million (\$0.06 per share after taxes) was recorded in 2017 for these changes. In addition, following enactment of the new U.S. tax law in December 2017, QIAGEN announced restructuring initiatives to mitigate some of its impacts, resulting in a pre-tax restructuring charge of \$13.8 million (\$0.04 per share after taxes) in the fourth quarter. Operating results in 2017 show the benefits in cost reduction and profitability, and targeted actions are continuing into 2018.

- In a review aimed at freeing resources to focus on high-growth market opportunities, QIAGEN took steps in late 2017 to streamline its product portfolio in China, the company's second-largest market, by discontinuing the commercialization of some non-core PCR tests and externalizing the HPV test (cervical cancer screening) franchise to a third-party company in China. A partnership became effective in January 2018 with a Chinese company that has absorbed R&D, commercial distribution, and the related QIAGEN employees and infrastructure of the HPV test franchise in China. QIAGEN has become a minority shareholder of this company. QIAGEN China will focus additional resources on QuantiFERON-TB, the new MAQGEN China joint venture with Maccura for the GeneReader NGS System, and the life sciences portfolio.

## **Our Products**

QIAGEN's leadership in Sample to Insight solutions for molecular testing leverages our position across a wide range of applications and customer classes. We provide more than 500 core consumable products (sample and assay “kits”), as well as instruments and automation systems. Our bioinformatics solutions connect laboratory workflows and process genomic data, reporting relevant insights to enable scientists or clinicians to decide on further action.

These diverse revenue streams can be seen in two main categories: consumables and related revenue, and automation platforms and instruments.

### **Consumables and related revenues**

Consumable products, accounting for approximately 79%-80% of net sales, typically include sample technologies to extract and purify molecules of interest from biological samples and assay technologies that make information from these samples available for analysis and interpretation. To maximize customer convenience and reduce user error, these kits contain all necessary reagents and a manual of protocols and background information. Reliability, standardization, ease of use and cost-effectiveness are keys to the success of molecular testing products.

QIAGEN's **sample technologies** ensure that each biological sample is processed in a highly reproducible, standardized method with the highest quality. A broad range of kits support applications such as plasmid DNA purification, RNA purification and stabilization, genomic and viral nucleic acid purification, DNA cleanup after PCR and sequencing, target enrichment, and library preparation for sequencing. We continue to expand our portfolio for applications such as preparing DNA and RNA from minimally-invasive liquid biopsies for cancer and processing difficult samples for research into the microbiome and metagenomics.

Our **assay technologies** contain all the needed reagents to enable customers to target molecules of interest for detection on platforms supporting PCR, NGS or multimodal analysis. Each assay kit is sufficient to support a number of applications, varying from a single application to kits containing more than 1,000 applications each. Applications include open, general-purpose PCR reagents, as well as kits for the detection of viral or bacterial pathogens and parasites, pharmacogenomic testing and genotyping. In PCR, examples are our *therascreen* family of companion diagnostics, *artus* line for profiling infectious diseases, and *investigator* assays for forensics and human identification. A growing portfolio of Digital NGS panels enable sequencing to target DNA or RNA variants for clinical research in cancer or other diseases.

Related revenues, accounting for approximately 7%-8% of our net sales, include **bioinformatics solutions**, sold as freestanding software or cloud-based solutions and also integrated into many QIAGEN consumables and instruments for seamless Sample to Insight workflows. Examples of our bioinformatics solutions:

**Ingenuity Variant Analysis**, a powerful cloud-based platform tapping into the QIAGEN Knowledge Base, interprets data from NGS analysis to efficiently filter genetic variants and interpret links to diseases.

**QIAGEN Clinical Insight**, a unique evidence-based decision support solution, draws on the QIAGEN Knowledge Base to deliver clinically relevant insights from complex genomic variants identified in NGS.

**CLC Genomics Workbench** incorporates cutting-edge technology and algorithms to overcome challenges face by scientists in analyzing and visualizing data from all major NGS platforms.

**GeneGlobe**, a web-based portal, enables researchers to search and select gene- and pathway-specific solutions from approximately 25 million pre-designed and custom PCR assay kits, NGS panels and other products.

Related revenues also include royalties, milestone payments from co-development agreements with pharmaceutical companies, payments from technology licenses and patent sales, and custom services, such as whole genome amplification services, DNA sequencing, and non-cGMP DNA production on a contract basis.

### **Automation platforms and instruments**

Our instrumentation systems, contributing approximately 12%-13% of net sales together with related services and contracts, automate the use of consumables into efficient workflows for a broad range of laboratory needs. QIAGEN platforms are designed to carry our customers from Sample to Insight - handling and preparation of biological samples, analysis using

sequencing technologies, and interpretation that delivers valuable insights. These instruments enable laboratories to perform reliable and reproducible processes, including nucleic acid sample preparation, assay setup, target detection, and interpretation of genomic information. Often several of these instruments are integrated into end-to-end workflows.

Among the automation platforms that contribute to QIAGEN's business:

**QIASymphony** is a user-friendly automation system that is driving a new era of integrated workflow, making molecular testing more efficient and helping disseminate standardized, clinically proven molecular diagnostics. The platform includes three modules - **QIASymphony SP** for sample preparation, **QIASymphony AS** for assay setup, and **Rotor-Gene Q**, our rotary real-time PCR cyclers system, which makes sequences of DNA and RNA visible through amplification and quantifiable. The fully integrated system with all three modules is **QIASymphony RGQ**. In 2017, our installed base surpassed 2,000 QIASymphony systems worldwide, serving in a wide variety of laboratories and applications. The platform offers many features to enhance workflows, such as continuous loading, random access and the ability to process an almost unlimited range of sample types. QIASymphony has the broadest content menu in its category in Europe and other markets, and QIAGEN is developing more regulator-approved assays to add value for customers.

**GeneReader NGS System**, introduced in late 2015, continues to gain acceptance as the first complete Sample to Insight next-generation sequencing (NGS) solution designed for any laboratory to deliver actionable results. This end-to-end platform provides a simpler, more cost-effective way for basic and translational research to take advantage of NGS technology and improve outcomes. The GeneReader workflow offers the flexibility of scalable batch sizes and continuous loading of multiple flow cells, and customers can create relevant reports using QIAGEN's proven gene panels and bioinformatics solutions. In 2017, we continued to enhance performance and added new content, including QIAact panels for deep analysis of lung, breast and ovarian cancers, as well as customized panels for users' specific needs. GeneReader's digital sequencing integrates seamlessly with QIAGEN bioinformatics solutions for interpretation.

**QIAcube** robotic workstations provide highly versatile solutions for automated sample processing, with novel technologies for purification of DNA, RNA and proteins, saving laboratory staff time and enabling standardized results in analysis using PCR or NGS.

**QIAxcel** replaces traditional slab-gel analysis, eliminating time-consuming nucleic acid separation methods in low- to high-throughput labs and offering unprecedented sensitivity and time-to-results for analysis of DNA fragments and RNA.

**QIAgility** is a compact benchtop instrument that enables rapid, high-precision PCR setup supporting almost all tube and plate formats, as well as Rotor-Discs for the Rotor-Gene Q.

**ESEQuant** portable, battery-operated instruments enable optical measurement for Point of Need molecular testing in physician practices, emergency rooms, remote areas, and other settings with limited or delayed access to laboratories.

## **Customers**

With a growing portfolio of innovative products for molecular testing, QIAGEN has built deep customer relationships across the entire value chain of the life sciences. Discoveries often surface in universities and research institutes and are published, then are licensed for development by pharmaceutical and biotech companies, and finally move into widespread commercial use in healthcare and other areas of life. We serve the needs of four major customer classes:

- **Molecular Diagnostics** - healthcare providers engaged in patient care including hospitals, public health organizations, reference laboratories and physician practices
- **Applied Testing** - government or industry customers using molecular technologies in fields such as forensics, veterinary diagnostics and food safety testing
- **Pharma** - pharmaceutical and biotechnology companies using molecular testing to support drug discovery, translational medicine and clinical development efforts
- **Academia** - researchers exploring the secrets of life such as disease mechanisms and pathways, in some cases translating findings into drug targets or other products

## **Molecular Diagnostics**

The ability of advanced diagnostic technologies to unlock molecular information for patients is changing the practice of medicine, creating a large and growing market for nucleic acid sample preparation, assay technologies and bioinformatics in clinical care. Dissemination of PCR and other amplification technologies has brought molecular diagnostics into routine use in healthcare around the world, and next-generation sequencing is rapidly disseminating, further transforming healthcare. Technologies for molecular diagnostics enable clinicians and labs to identify and profile microorganisms, cancer cells, bacteria and viruses by detecting specific nucleic acid sequences or characterizing newly discovered genomic sequences related to

diseases. Commercial applications are multiplying as researchers identify new biological markers for disease and develop novel technologies to decipher these diagnostic clues.

The molecular diagnostics market generates total sales estimated by industry experts at approximately \$7 billion in 2017, including about \$3-4 billion potentially addressable with QIAGEN's product portfolio. Molecular diagnostics is the most dynamic segment of the global *in vitro* diagnostics market and is growing at a compound annual rate estimated in the high single-digits or low double-digits. Given the advantages of precise genetic information over traditional tests, QIAGEN expects the healthcare market to continue to provide significant growth opportunities.

In QIAGEN's robustly growing Molecular Diagnostics business we focus on three priorities for fighting disease:

- **Oncology** - accurately diagnosing cancer, enabling prevention or early detection, and guiding selection of therapies with individualized molecular insights. QIAGEN offers a broad portfolio of companion diagnostic kits and panels to detect mutations of genes such as KRAS, EGFR, BRAF, BRCA1/2 and others that influence the efficacy and safety of medicines. We also provide industry-leading tests to screen for human papillomavirus (HPV) and protect women from cervical cancer.
- **Infectious diseases** - detecting and differentiating a broad range of viral and bacterial infections, including diseases such as HIV, hepatitis, influenza and healthcare-associated infections. Use of molecular testing to differentiate among pathogens can be useful in guiding treatment, such as selection of antibiotic or antiviral therapies.
- **Immune monitoring** - using advanced technologies that detect immune-system markers as a preventive strategy, such as screening patients for latent TB infection to guard against active TB disease, as well as for monitoring immune function, such as in transplantation patients.

QIAGEN offers one of the broadest portfolios of molecular technologies for healthcare. Success in Molecular Diagnostics depends on the ability to accurately analyze purified nucleic acid samples from sources such as blood, tissue, body fluids and stool, on automated systems that process these samples reliably and efficiently, often handling hundreds of samples concurrently. Other success factors are the range of assays for diseases and biomarkers, convenience and ease of laboratory workflow, and reliability and standardization of lab procedures.

The immune monitoring portfolio, using sensitive QuantiFERON technology, accurately detects infection and measures immune response in patients. Our lead products in this field, QuantiFERON-TB Gold and QuantiFERON-TB Gold Plus, are used in tuberculosis (TB) control efforts worldwide to detect latent TB infection (LTBI) by screening vulnerable populations, such as close contacts of patients with active TB disease, immunocompromised persons or patients on immunosuppressive drugs. Individuals with LTBI can then be treated, preventing the infection from becoming active and contagious. As modern blood tests analyzed in a laboratory, the QuantiFERON-TB assays are faster, less labor-intensive and more accurate than the century-old tuberculin skin test. The potential global market for latent TB infection testing is estimated at up to \$1 billion.

QIAGEN's oncology test portfolio includes a broad range of Personalized Healthcare technologies and biomarkers, including regulator-approved companion diagnostics for oncogenes such as KRAS, EGFR and JAK2, as well as comprehensive gene panels for research applications in next-generation sequencing. In 2017, we launched the *ipsogen* JAK2 RGQ PCR Kit in the United States for use in blood cancers. In Europe, we already offer a market-leading portfolio of *ipsogen* assays for common and rare leukemia types. The U.S. approval for our *therascreen* EGFR RGQ PCR Kit was expanded in early 2018 for use as a companion diagnostic to diagnose additional EGFR gene mutations in metastatic non-small cell lung cancer (NSCLC).

QIAGEN also offers an extensive range of kits for diagnosing infectious diseases, and we are expanding this portfolio by seeking regulatory approvals of new tests in additional markets.

QIAGEN is the global leader in screening technologies for HPV, a viral infection that is the primary cause of cervical cancer, which kills about 270,000 women a year. Our "gold standard" *digene* HC2 HPV Test and our *careHPV* Test for use in low-resource regions lead the market in HPV screening around the world. In the United States, QIAGEN remains a market leader although vigorous price competition has reduced that business to about 2% of total sales.

A key success factor for our growth in Molecular Diagnostics is enabling laboratories to efficiently use our assay technologies on QIAGEN automation platforms. Our flagship PCR platform is QIASymphony, based on its flexibility and unique capabilities. We offer broad portfolios of companion diagnostics and infectious disease tests running on the QIASymphony system. We also are developing companion diagnostics for our GeneReader NGS System and Modaplex platform. Nucleic acid samples purified on our instruments are ready for use in the demanding and sensitive downstream assays performed in molecular diagnostic applications. We market assays directly via QIAGEN sales channels, and selected assays through major diagnostic partners or other companies to broaden the distribution of our products.

### *Applied Testing*

Use of molecular technologies is expanding in more areas of life as industry and government organizations apply standardized Sample to Insight solutions to diverse needs. Applied Testing is our term for applications outside of human healthcare and

research - such as human identification and forensics, food and environmental safety, and veterinary testing. The value of genetic “fingerprinting” has been shown for criminal investigations or clarification of paternity or ancestry, public policy compliance for food safety and genetically modified organisms (GMOs), and containment of diseases in commercial livestock.

QIAGEN has developed relationships with diverse molecular testing laboratories and continually innovates to meet their needs. In 2017, QIAGEN helped the International Commission on Missing Persons launch a cutting-edge next-generation sequencing lab for forensic DNA identification, deploying the GeneReader NGS System and other solutions. We are a leader in standardizing solutions for reliable forensic testing, and in 2017 we received international certification for manufacturing human ID products. In environmental research, QIAGEN’s solutions for metagenomics are increasingly used in studies of microbiomes and their effect on health.

#### *Pharma*

QIAGEN has deep relationships with pharmaceutical and biotechnology companies. Drug discovery and translational research efforts increasingly employ genomic information, both to guide research in diseases and to differentiate patient populations most likely to respond to particular therapies. We estimate that about half of QIAGEN sales in this customer class support research, while the other half supports clinical development, including stratification of patient populations based on genetic information. QIAGEN's bioinformatics solutions also are widely used to guide pharmaceutical research.

We have built a position as the preferred partner for pharmaceutical and biotech companies to co-develop companion diagnostics paired with targeted drugs. A wave of newly discovered biomarkers and molecular tests indicating the likely efficacy and safety of associated drugs is now transforming the treatment of cancer and other diseases. In 2017, we surpassed 25 master collaboration agreements with Pharma, each enabling multiple co-development projects. These alliances have created a rich pipeline of molecular tests that can move, along with the drugs, through clinical trials and regulatory approvals for marketing to healthcare providers. Several new companion diagnostics are currently in the registration process.

In addition to our broad portfolio of molecular technologies, QIAGEN offers Pharma partners a full infrastructure for co-development programs, intellectual property on platforms and content, extensive regulatory experience, global marketing reach, and independence as a company focusing exclusively on these types of technologies.

#### *Academia*

QIAGEN provides Sample to Insight solutions to leading research institutions around the world. While many academic laboratories continue to use manual, labor-intensive methods or create their own in-house technologies, QIAGEN has focused on enabling labs to replace time-consuming traditional methods and internal development efforts with reliable, fast, highly reproducible, and high-quality technologies. QIAGEN often partners with leading institutions in research projects and develops customized solutions such as NGS panels for digital sequencing of multiple gene targets needed for a researcher's study.

As academic institutions increasingly embrace translational research, bridging from discoveries to practical applications in medicine, our relationships in Academia also support our presence in the Molecular Diagnostics, Pharma and Applied Testing customer classes. Research in university settings often helps in development of technologies for targeted biomolecules, and academic research also can result in scientific publications that validate the usefulness of QIAGEN solutions.

### ***Global Presence by Category of Activity and Geographic Market***

#### **Product Category Information**

Net sales for the product categories are attributed based on those revenues related to sample and assay products and similarly related revenues including bioinformatics solutions, and revenues derived from instrumentation sales.

(in thousands)	2017	2016	2015
<b>Net Sales</b>			
Consumables and related revenues	\$ 1,242,715	\$ 1,166,131	\$ 1,114,580
Instrumentation	174,821	171,860	166,406
Total	<b>\$ 1,417,536</b>	<b>\$ 1,337,991</b>	<b>\$ 1,280,986</b>

#### **Geographical Information**

QIAGEN currently markets products in more than 130 countries. The following table shows total revenue by geographic market for the past three years (net sales are attributed to countries based on the location of the customer, as certain subsidiaries have international distribution):

(in thousands)	2017	2016	2015
<b>Net Sales</b>			
Americas:			
United States	\$ 579,906	\$ 555,676	\$ 525,532
Other Americas	73,478	71,797	79,578
Total Americas	<b>653,384</b>	627,473	605,110
Europe, Middle East and Africa	<b>462,980</b>	428,055	409,955
Asia Pacific and Rest of World	<b>301,172</b>	282,463	265,921
Total	<b>\$ 1,417,536</b>	<b>\$ 1,337,991</b>	<b>\$ 1,280,986</b>

QIAGEN has built an increasing presence in key emerging markets as a growth strategy. In 2017, the top seven emerging markets - Brazil, Russia, India, China, South Korea, Mexico and Turkey - contributed approximately 16% of net sales.

### ***Research and Development***

We are committed to expanding our global leadership in Sample to Insight solutions for molecular testing in healthcare and the life sciences. Our strategy for managing innovation focuses on addressing the most significant unmet medical and scientific needs. We target our resources to develop promising technologies for use by our customers in Molecular Diagnostics, Applied Testing, Pharma and Academia - and to meet the needs of clinicians and scientists in key geographic markets.

Innovation at QIAGEN follows parallel paths:

- Creating new systems for automation of workflows - platforms for laboratories, hospitals and other users of these novel molecular technologies.
- Expanding our broad portfolio of novel “content” - including assays to detect and measure biomarkers for disease or genetic identification.
- Integrating bioinformatics with the testing process - software and cloud-based resources to interpret and transform raw molecular data into useful insights.

As a percentage of sales, our research and development investments are among the highest in our industry. Almost 1,000 employees in research and development work in QIAGEN centers of excellence on three continents.

Strengthening our leadership in the automation of laboratories is a key to driving dissemination of molecular testing in healthcare and other fields, as well as generating increased demand for our consumable products. We continue to expand the applications of our modular QIASymphony platform, enabling hospitals and other customers to adopt or greatly expand their use of molecular diagnostics. QIAGEN also is rolling out a range of performance enhancements and expansions for our GeneReader NGS System to add value by addressing new applications and improving output and connectivity within labs.

We are commercializing a deep pipeline of assays for preventive screening and diagnostic profiling of diseases, detection of biomarkers to guide personalized medicine in cancer and other diseases, and a range of other targets. Our development program generates commercial launches of tests that add value to our QIASymphony and GeneReader NGS platforms. In 2017, we launched novel infectious disease tests and companion diagnostics for QIASymphony, as well as additional QIAact panels for deep analysis of lung, breast and ovarian cancers using the GeneReader NGS System. In Applied Testing, we continue to develop new content for human identification and environmental applications. We are also expanding our extensive portfolio of products for disease pathway research by Pharma and Academic customers. In addition, we are developing assays for specific applications in key markets such as China and Japan.

Our bioinformatics teams are developing new software solutions and adding proprietary cloud-based content to support the latest research and clinical trends in molecular testing, especially the interpretation of large volumes of data from next-generation sequencing. In addition, we are integrating these digital technologies with instruments and molecular content to provide our customers seamless Sample to Insight workflows.

### ***Sales and Marketing***

We market our products in more than 130 countries, mainly through subsidiaries in markets that we believe have the greatest sales potential in the Americas, Europe, Australia and Asia. Experienced marketing and sales staff, many of them scientists with academic degrees in molecular biology or related areas, sell our products and provide direct support to customers. Key accounts are overseen by business managers to ensure that we serve customers’ commercial needs, such as procurement processes, financing, data on costs and value of our systems, and collaborative relationships. In many markets, we have specialized independent distributors and importers.

Our marketing strategy focuses on providing differentiated, high-quality products across the value chain from Sample to Insight, integrating components into end-to-end solutions when possible, and enhancing relationships with commitment to technical excellence and customer service. Our “omni-channel” approach seeks to engage customers through their preferred channels - online, by phone, in person, etc. – and to optimize investment in different customer types.

QIAGEN has initiated actions to drive the growth of our digital marketing channels - including our website ([www.qiagen.com](http://www.qiagen.com)), product-specific sites and social media. Our website makes ordering easy with a fully searchable online product catalog and ordering. The site can be viewed in Chinese and Japanese, and contains selected information in French, German and Korean. Our eCommerce team works with clients to provide automated processes supporting a variety of electronic transactions and all major eProcurement systems. Information contained on our website, or accessed through it, is not part of this Annual Report.

Our GeneGlobe Genes & Pathways web portal ([www.geneglobe.com](http://www.geneglobe.com)) is a valuable outreach to scientists in Pharma and Academia, enabling researchers to search and order from approximately 25 million pre-designed and custom PCR assay kits, NGS assay panels and other products. We have integrated GeneGlobe with our bioinformatics solutions, linking biological interpretation with ordering of relevant assays to accelerate research.

QIAGEN uses a range of tools to provide customers with direct access to technical support, inform them of new product offerings, and enhance our reputation for technical excellence, high-quality products and commitment to service. For example, our technical service hotline allows existing or potential customers to discuss a wide range of questions about our products and molecular biology procedures, online or via phone, with Ph.D. and M.Sc. scientists at QIAGEN. Frequent communication with customers enables us to identify market needs, learn of new developments and opportunities, and respond with new products.

We also distribute publications, including our catalog, to existing and potential customers worldwide, providing new product information, updates, and articles about existing and new applications. In addition, we hold numerous scientific seminars at clinical, academic and industrial research institutes worldwide and at major scientific and clinical meetings. We conduct direct marketing campaigns to announce new products and special promotions, and we offer personalized electronic newsletters highlighting molecular biology applications.

For laboratories that frequently rely on our consumables, the QIAstock program maintains inventory on-site to keep up with their requirements. QIAGEN representatives make regular visits to replenish the stock and help with other needs, and we are automating this process with digital technologies. Easy-to-use online ordering, inventory monitoring and customer-driven changes make QIAstock an efficient system for providing ready access to our products for the hundreds of customers worldwide who use this program.

### ***Seasonality***

Our business does not experience significant, predictable seasonality. Historically, a significant portion of our sales have been to researchers, universities, government laboratories and private foundations whose funding is dependent upon grants from government agencies, such as the National Institutes of Health and similar bodies. To the extent that our customers experience increases, decreases or delays in funding arrangements and budget approvals, and to the extent that any of our customers' activities are slowed, such as during times of higher unemployment, vacation periods or delays in the approval of government budgets, we may experience fluctuations in sales volumes during the year or delays from one period to the next in the recognition of sales.

### ***Intellectual Property, Proprietary Rights and Licenses***

We have made and expect to continue to make investments in intellectual property. In 2017, our purchases of intangible assets totaled \$34.3 million. While we do not depend solely on any individual patent or technology, we are significantly dependent in the aggregate on technology that we own or license. Therefore, we consider protection of proprietary technologies and products one of the major keys to our business success. We rely on a combination of patents, licenses and trademarks to establish and protect proprietary rights. As of December 31, 2017, we owned 362 issued patents in the United States, 279 issued patents in Germany and 1,825 issued patents in other major industrialized countries. We had 638 pending patent applications. Our policy is to file patent applications in Western Europe, the United States and Japan. U.S. patents have a term of 17 years from the date of issue (for patents issued from applications submitted prior to June 8, 1995), or 20 years from the date of filing (in the case of patents issued from applications submitted on or after June 8, 1995). Patents in most other countries have a term of 20 years from the date of filing the patent application. We intend to aggressively prosecute and enforce patents and to otherwise protect our proprietary technologies. We also rely on trade secrets, know-how, continuing technological innovation and licensing opportunities to develop and maintain our competitive position.

Our practice is to require employees, consultants, outside scientific collaborators, sponsored researchers and other advisers to execute confidentiality agreements upon commencement of their relationships with us. These agreements provide that all confidential information developed by or made known to the individual during the course of the relationship is to be kept confidential and not disclosed to third parties, subject to a right to publish certain information in scientific literature in certain

circumstances and to other specific exceptions. In the case of our employees, the agreements provide that all inventions conceived by individuals in the course of their employment will be our exclusive property.

See “Risk Factors” included in Item 3 above for details regarding risks related to our reliance on patents and proprietary rights.

### **Competition**

In the Academic and Pharma markets, we believe our primary competition in sample technology products involves traditional separation and purification methods, such as phenol extraction, cesium chloride density gradient centrifugation, and precipitation. These methods utilize widely available reagents and other chemicals supplied by companies such as Merck KGaA (MilliporeSigma business) and Roche Diagnostics GmbH (Applied Sciences Division). We compete with these methods through innovative technologies and products, offering a comprehensive solution for nucleic acid collection, pre-treatment, separation and purification needs and providing significant advantages in speed, reliability, convenience, reproducibility and ease of use.

We also experience competition in various markets from other companies providing sample preparation products in kit form and assay solutions. These competitors include, but are not limited to, Promega Corp., EMD Millipore or Merck Millipore, and Macherey-Nagel GmbH for nucleic acid separation and purification; Thermo Fisher and Promega Corp. for assay solutions and for transfection reagents; and Merck KGaA (MilliporeSigma business) and Thermo Fisher for protein fractionation products. We believe our proprietary technologies and products offer significant advantages over competitors' products with regard to purity, speed, reliability and ease-of-use.

Some of our other products within our molecular diagnostics customer class, such as tests for Chlamydia, Gonorrhea, hepatitis B virus, herpes simplex virus and CMV, compete against existing screening, monitoring and diagnostic technologies, including tissue culture and antigen-based diagnostic methodologies. Our competitors for gene-based diagnostic assays include Roche Diagnostics, Thermo Fisher, Abbott, and Danaher. We believe the primary competitive factors in the market for gene-based probe diagnostics and other screening devices are clinical validation, performance and reliability, ease of use, standardization, cost, proprietary position, competitors' market shares, access to distribution channels, regulatory approvals and reimbursement.

We do not believe our competitors typically have the same comprehensive approach to sample to insight solutions as we do or the ability to provide the broad range of technologies and depth of products and services that we offer. With our complete range of manual and fully automated solutions, we believe we offer the value of standardization of procedures and, therefore, more reliable results. We also believe our integrated strategic approach gives us a competitive advantage. The quality of sample technologies—an area in which we have a unique market and leadership position—is a key prerequisite for reliable molecular assay solutions, which increasingly are being applied in emerging markets such as Molecular Diagnostics and Applied Testing.

Current and potential competitors may be in the process of seeking FDA or foreign regulatory approvals for their respective products. Our continued future success will depend in large part on our ability to maintain our technological advantage over competing products, expand our market presence and preserve customer loyalty. There can be no assurance that we will be able to compete effectively in the future or that development by others will not render our technologies or products non-competitive.

### **Suppliers**

As part of our supplier assessment procedures, we evaluate on a monthly basis the performance of our raw material and component suppliers, potential new alternative sources of such materials and components, and the risks and benefits of reliance on our existing suppliers. We buy materials for our products from many suppliers, and are not dependent on any one supplier or group of suppliers for our business as a whole. Raw materials generally include chemicals, raw separation media, biologics, plastics, electronics and packaging. Raw materials are generally readily available at competitive, stable prices from a number of suppliers. Certain raw materials are produced under our specifications, so we closely monitor stock levels to maintain adequate supplies. We believe we maintain inventories at a sufficient level to ensure reasonable customer service levels and to guard against normal volatility in availability.

### **Government Regulations**

We are subject to a variety of laws and regulations in the European Union, the United States and other countries. The level and scope of the regulation varies depending on the country or defined economic region, but may include, among other things, the research, development, testing, clinical trials, manufacture, storage, recordkeeping, approval, labeling, promotion and commercial sales and distribution, of many of our products.

#### **European Union Regulations**

In the European Union, *in vitro* diagnostic medical devices (IVDs) are regulated under EU-Directive 98/79/EC (IVD Directive) and corresponding national provisions. The IVD Directive requires that medical devices meet the essential requirements set out in an annex of the directive. These requirements include the safety and efficacy of the devices. According to the IVD Directive, the Member States presume compliance with these essential requirements in respect of devices which are in conformity with



the relevant national standards transposing the harmonized standards of which the reference numbers have been published in the Official Journal of the European Communities. These harmonized standards include ISO 13485:2003, the quality standard for medical device manufacturers.

IVD medical devices, other than devices for performance evaluation, must bear the CE marking of conformity when they are placed on the market. The CE mark is a declaration by the manufacturer that the product meets all the appropriate provisions of the relevant legislation implementing the relevant European Directive. As a general rule, the manufacturer must follow the procedure of the EC Declaration of conformity to obtain this CE marking.

Each European country must adopt its own laws, regulations and administrative provisions necessary to comply with the IVD Directive. Member States may not create any obstacle to the placing on the market or the putting into service within their territory of devices bearing the CE marking according to the conformity assessment procedures.

On May 25, 2017, the European Commission (EC) enacted new EU regulations for medical devices and IVDs that impose additional legal regulatory requirements on MD/IVDs used in the EU. These new regulations will come into full effect after a 5-year transition period. All products will require approval under the new law and no grandfathering of existing approvals will be allowed. Once implemented, the entire EU IVD industry will have to comply with these new requirements, which will bring the EU regulatory landscape on par with other highly regulated markets such as the US. Many Guidance Documents and other regulatory mechanisms will need to be established during this transition. It is anticipated that it will be late in 2019 before the infrastructure is established to begin the new approvals process.

## **U.S. Regulations**

In the United States, *in vitro* diagnostic kits are subject to regulation by the FDA as medical devices and must be cleared or approved before they can be marketed. Failure to comply with applicable U.S. requirements may subject a company to a variety of administrative or judicial sanctions, such as FDA refusal to approve pending PMAs, warning letters, product recalls, product seizures, total or partial suspension of production or distribution, injunctions, fines, civil penalties and criminal prosecution. In addition, some of our test kits are sold for research use only in the United States. We do not promote these tests for clinical diagnostic use, and they are labeled “For Research Use Only,” or RUO, as required by the FDA.

### *In Vitro Diagnostics*

The FDA regulates the sale or distribution of medical devices, including *in vitro* diagnostic test kits and some Lab Developed Tests (LDTs). The information that must be submitted to the FDA in order to obtain clearance or approval to market a new medical device varies depending on how the medical device is classified by the FDA. Medical devices are classified into one of three classes on the basis of the controls deemed by the FDA to be necessary to reasonably ensure their safety and effectiveness. Class I devices are subject to general controls, including labeling, pre-market notification and adherence to the FDA’s quality system regulations, which are device-specific good manufacturing practices. Class II devices are subject to general controls and special controls, including performance standards and post-market surveillance. Class III devices are subject to most of the previously identified requirements as well as to pre-market approval. All Class I devices are exempt from premarket review; most Class II devices require 510(k) clearance, and all Class III devices must receive premarket approval before they can be sold in the United States. The payment of a fee, that is subject to frequent adjustment, to the FDA is usually required when a 510(k) notice or premarket approval application is submitted.

*510(k) Premarket Notification.* A 510(k) notification requires the sponsor to demonstrate that a medical device is substantially equivalent to another marketed device, termed a “predicate device”, that is legally marketed in the United States and for which a premarket approval application (PMA) was not required. A device is substantially equivalent to a predicate device if it has the same intended use and technological characteristics as the predicate; or has the same intended use but different technological characteristics, where the information submitted to the FDA does not raise new questions of safety and effectiveness and demonstrates that the device is at least as safe and effective as the legally marketed device.

The FDA generally issues a decision letter within 90 days of receipt of the 510(k) if it has no additional questions or sends a first action letter requesting additional information within 75 days. Most 510(k)s do not require clinical data for clearance, but a minority will. Requests for additional data, including clinical data, will increase the time necessary to review the notice. If the FDA believes that the device is not substantially equivalent to a predicate device, it will issue a “Not Substantially Equivalent” letter and designate the device as a Class III device, which will require the submission and approval of a PMA before the new device may be marketed. Under certain circumstances, the sponsor may petition the FDA to make a risk-based determination of the new device and reclassify the new device as a Class I or Class II device. The FDA continues to reevaluate the 510(k) review process, and we cannot predict what if any changes will occur.

*Premarket Approval.* The PMA process is more complex, costly and time consuming than the 510(k) process. A PMA must be supported by more detailed and comprehensive scientific evidence, including clinical data, to demonstrate the safety and efficacy of the medical device for its intended purpose. If the device is determined to present a “significant risk,” the sponsor may not begin a clinical trial until it submits an investigational device exemption (IDE) to the FDA and obtains approval to

begin the trial.

After the PMA is submitted, the FDA has 45 days to make a threshold determination that the PMA is sufficiently complete to permit a substantive review. If the PMA is complete, the FDA will file the PMA. The FDA is subject to a performance goal review time for a PMA that is 180 days from the date of filing, although in practice this review time is longer. Questions from the FDA, requests for additional data and referrals to advisory committees may delay the process considerably. The total process may take several years and there is no guarantee that the PMA will ever be approved. Even if approved, the FDA may limit the indications for which the device may be marketed. The FDA may also request additional clinical data as a condition of approval or after the PMA is approved. Any changes to the medical device may require a supplemental PMA to be submitted and approved before changed medical device may be marketed.

Any products sold by us pursuant to FDA clearances or approvals will be subject to pervasive and continuing regulation by the FDA, including record keeping requirements, reporting of adverse experiences with the use of the device and restrictions on the advertising and promotion of our products. Device manufacturers are required to register their establishments and list their devices with the FDA and are subject to periodic inspections by the FDA and certain state agencies. Noncompliance with applicable FDA requirements can result in, among other things, warning letters, fines, injunctions, civil penalties, recalls or seizures of products, total or partial suspension of production, refusal of the FDA to grant 510(k) clearance or PMA approval for new devices, withdrawal of 510(k) clearances and/or PMA approvals and criminal prosecution.

#### *Regulation of Companion Diagnostic Devices*

If a sponsor or the FDA believes that a diagnostic test is essential for the safe and effective use of a corresponding therapeutic product, the sponsor of the therapeutic product will typically work with a collaborator to develop an in vitro companion diagnostic device, or IVD. IVDs are regulated by the FDA as medical devices. The FDA issued a final guidance document in 2014, entitled “In Vitro Companion Diagnostic Devices” that is intended to assist companies developing in vitro companion diagnostic devices and companies developing therapeutic products that depend on the use of a specific in vitro companion diagnostic for the safe and effective use of the product. The FDA defined an IVD companion diagnostic device as a device that provides information that is essential for the safe and effective use of a corresponding therapeutic product. The FDA expects that the therapeutic sponsor will address the need for an approved or cleared IVD companion diagnostic device in its therapeutic product development plan and that, in most cases, the therapeutic product and its corresponding IVD companion diagnostic will be developed contemporaneously.

It also issued a draft guidance on July 15, 2016, entitled, “Principles for Codevelopment of an In Vitro Companion Diagnostic Device with a Therapeutic Product” to serve as a practical guide to assist therapeutic product sponsors and IVD sponsors in developing a therapeutic product and an accompanying IVD companion diagnostic.

The FDA indicated that it will apply a risk-based approach to determine the regulatory pathway for IVD companion diagnostic devices, as it does with all medical devices. This means that the regulatory pathway will depend on the level of risk to patients, based on the intended use of the IVD companion diagnostic device and the controls necessary to provide a reasonable assurance of safety and effectiveness. The two primary types of marketing pathways for medical devices are clearance of a premarket notification under Section 510(k) of the Federal Food, Drug, and Cosmetic Act, or 510(k), and approval of a premarket approval application, or PMA. We expect that any IVD companion diagnostic device developed for use with our drug candidates will utilize the PMA pathway and that a clinical trial performed under an investigational device exemption, or IDE, will have to be completed before the PMA may be submitted.

The FDA expects that the therapeutic sponsor will address the need for an IVD companion diagnostic device in its therapeutic product development plan and that, in most cases, the therapeutic product and its corresponding IVD companion diagnostic device will be developed contemporaneously. If the companion diagnostic test will be used to make critical treatment decisions such as patient selection, treatment assignment, or treatment arm, it will likely be considered a significant risk device for which a clinical trial will be required.

The sponsor of the IVD companion diagnostic device will be required to comply with the FDA’s IDE requirements that apply to clinical trials of significant risk devices. If the diagnostic test and the therapeutic drug are studied together to support their respective approvals, the clinical trial must meet both the IDE and IND requirements.

PMAs must be supported by valid scientific evidence, which typically requires extensive data, including technical, preclinical, clinical and manufacturing data, to demonstrate to the FDA’s satisfaction the safety and effectiveness of the device. For diagnostic tests, a PMA typically includes data regarding analytical and clinical validation studies. As part of its review of the PMA, the FDA will conduct a pre-approval inspection of the manufacturing facility or facilities to ensure compliance with the Quality System Regulation, or QSR, which requires manufacturers to follow design, testing, control, documentation and other quality assurance procedures. FDA review of an initial PMA may require several years to complete.

If the FDA evaluations of both the PMA and the manufacturing facilities are favorable, the FDA will either issue an approval order or an approvable letter, which usually contains a number of conditions that must be met in order to secure the final

approval of the PMA. If the FDA's evaluation of the PMA or manufacturing facilities is not favorable, the FDA will send the applicant a not approvable letter or an order denying approval. A not approvable letter will outline the deficiencies in the application and, where practical, will identify what is necessary to make the PMA approvable. The FDA may also determine that additional clinical trials are necessary, in which case the PMA approval may be delayed for several months or years while the trials are conducted and then the data submitted in an amendment to the PMA. Once granted, PMA approval may be withdrawn by the FDA if compliance with post approval requirements, conditions of approval or other regulatory standards is not maintained or problems are identified following initial marketing.

After approval, the use of an IVD companion diagnostic device with a therapeutic product will be stipulated in the instructions for use in the labeling of both the diagnostic device and the corresponding therapeutic product. In addition, a diagnostic test that was approved through the PMA process or one that was cleared through the 510(k) process and placed on the market will be subject to many of the same regulatory requirements that apply to approved drugs. The FDA has approved a number of drug/diagnostic device companions in accordance with the Guidance.

In September 2013, the FDA issued its final rule on the Unique Device Identifier. This rule now requires an additional registered identifier, including a special barcode, on all FDA regulated medical devices. The rule is implemented in phases with the first deadline of September 24, 2014 being established for all Class III medical devices. For QIAGEN, this impacted the *hc2*, *QuantiFERON*, and *therascreen* products. We established a task force to ensure that the deadline was met but this will place additional administrative and regulatory burden on us related to the annual reporting of compliance of these products to the new regulation. Class II and Class I products are required to have this same labeling as of September 24, 2016 and 2018, respectively. QIAGEN was fully compliant with the new rule by the September 2014 and 2016 deadlines and we continue to work to ensure that we will be able to meet the remaining deadlines. The new rule will also require additional compliance oversight now that it has been implemented. The requirements are now required to be confirmed as part of our annual reporting and PMA submissions. They are also assessed during site inspections by the U.S. FDA.

Some of our products are sold for research purposes in the U.S., and labeled "For Research Use Only" (RUO) or "for molecular biology applications." In November 2013, the FDA issued a final Guidance for Industry and Food and Drug Administration Staff entitled, "Distribution of In Vitro Diagnostic Products Labeled for Research Use Only or Investigational Use Only." In the Guidance, RUO refers to devices that are in the laboratory phase of development, and investigational use only, or IUO, refers to devices that are in the product testing phase of development. These types of devices are exempt from most regulatory controls. Because we do not promote our RUOs for clinical diagnostic use or provide technical assistance to clinical laboratories with respect to these tests, we believe that these tests are exempt from FDA's premarket review and other requirements. If the FDA were to disagree with our designation of any of these products, we could be forced to stop selling the product until we obtain appropriate regulatory clearance or approval. Further, it is possible that some of our RUOs may be used by some customers without our knowledge in their LDTs, which they develop, validate and promote for clinical use. However, as previously noted, we do not promote these products for use in LDTs or assist in the development of the LDTs for clinical diagnostic use.

The 21st Century Cures Act (Cures Act) was enacted into law on December 13, 2016, after a bipartisan, multi-year effort. The Cures Act primarily affects activities of the Department of Health and Human Services (HHS) and its agencies, including the Food and Drug Administration (FDA or the Agency). On June 6, 2017, Scott Gottlieb, M.D., Commissioner of Food and Drugs, reported to Congress as required by the Cures Act. This report included the Food & Drug Administration Work Plan and Proposed Funding Allocations of FDA Innovation Account (Required by Section 1002 of the 21st Century Cures Act (Public Law 114-255)). This is now being implemented with a broad spectrum of initiatives within the FDA with the goal to support patients with improved and timely access to safe and efficacious medical products. For industry, it is anticipated that some processes will become less burdensome with more rapid approval/clearance cycles while others will continue to require significant investment.

#### *HIPAA and Other Privacy and Security Laws*

Numerous privacy and data security laws apply to personal information, including health information. These laws vary in their application. For example, the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act, and their implementing regulations (HIPAA), regulate the uses, disclosures and security of identifiable health information (protected health information or PHI) in the hands of certain health care providers, health plans or health care clearing houses (covered entities). HIPAA regulates and limits covered entities' uses and disclosures of PHI and requires the implementation of administrative, physical and technical safeguards to keep PHI secure. HIPAA also applies to organizations that create, receive, maintain or transmit PHI to provide services to or for or on behalf of covered entities (business associates). Business associates and certain of their subcontractors are required to comply with certain privacy and all of the security standards of HIPAA. Business associates and covered entities must also comply with breach notification standards established by HIPAA. The HIPAA breach notification standards require covered entities to notify affected individuals, the government, and in some cases, local and national media in the event of a breach of PHI that has not been secured in accordance with HIPAA standards, such as by encryption. The breach notification standards require business

associates to notify covered entity customers of their own breaches of unsecured PHI so that the relevant covered entity may make required notifications. In the ordinary course, HIPAA does not apply to us directly, but if we were to act as a HIPAA covered entity or business associate, we would be subject to these obligations. Most of our institutional and physician customers are covered entities under HIPAA and must obtain proper authorization or de-identify information so that we may provide services. When PHI is de-identified in accordance with HIPAA or when the disclosure of PHI is authorized by a patient, HIPAA does not impose any compliance obligations on the recipient, but our use and disclosure of the information may be limited by contract or the terms of the authorization.

We are subject to enforcement by state attorneys general who have authority to enforce state data privacy or security laws. Accordingly, we maintain an active privacy and data security program designed to address applicable regulatory compliance requirements.

Almost all states have adopted data breach notification laws relating to the “personal information” of its residents. Personal information typically includes an individual’s name or initials coupled with social security, financial account, debit, credit or state-issued identification number or other information that could lead to identity theft. There is significant variability under these laws, but most require notification to affected individuals (and some require notification to the government) in the event of breach. Other laws of some states require that that we comply with data security obligations. These laws may apply to us when we receive or maintain personal information regarding individuals, including our employees.

The Genetic Information Nondiscrimination Act of 2008, also referred to as GINA, is a federal law that protects individuals from discrimination in the health insurance and employment contexts because of DNA characteristics that may affect their health. GINA prohibits covered employers from requesting, obtaining, or using employees’ genetic information (subject to limited exceptions), and prohibits covered health insurers from requesting genetic information or using any such information they may already have for purposes of making eligibility, premium, or coverage-related decisions.

Many states have also adopted genetic testing and privacy laws. These laws typically require a specific, written consent for genetic testing as well as consent for the disclosure of genetic test results and otherwise limit uses and disclosures of genetic testing results. A few states have adopted laws that give their residents property rights in their genetic information.

Privacy and data security laws, including those relating to health information, are complex, overlapping and rapidly evolving. As our activities evolve and expand, additional laws may be implicated, for example, there are non-U.S. privacy laws, such as the General Data Protection Regulation (GDPR) of the European Union, that impose restrictions on the transfer, access, use, and disclosure of health and other personal information. Currently, we are implementing the requirements set forth by the GDPR, which is set to take effect on May 25, 2018. All of these laws impact our business either directly or indirectly. Our failure to comply with applicable privacy or security laws or significant changes in these laws could significantly impact our business and future business plans. For example, we may be subject to regulatory action or lawsuits in the event we fail to comply with applicable privacy laws. We may face significant liability in the event any of the personal information we maintain is lost or otherwise subject to misuse or other wrongful use, access or disclosure.

#### *Compliance with Fraud and Abuse Laws*

We have to comply with various U.S. federal and state laws, rules and regulations pertaining to healthcare fraud and abuse, including anti-kickback laws and physician self-referral laws, rules and regulations. Violations of the fraud and abuse laws are punishable by criminal and civil sanctions, including, in some instances, exclusion from participation in federal and state healthcare programs, including Medicare and Medicaid.

#### *Anti-Kickback Statute*

The federal Anti-Kickback Statute prohibits persons from knowingly or willfully soliciting, receiving, offering or paying remuneration, directly or indirectly, in exchange for or to induce:

- The referral of an individual for a service or product for which payment may be made by Medicare, Medicaid or other government-sponsored healthcare program; or
- purchasing, ordering, arranging for, or recommending the ordering of, any service or product for which payment may be made by a government-sponsored healthcare program.

The definition of “remuneration” has been broadly interpreted to include anything of value, including such items as gifts, certain discounts, waiver of payments, and providing anything at less than its fair market value. In addition, several courts have interpreted the law to mean that if “one purpose” of an arrangement is intended to induce referrals, the statute is violated.

The Anti-Kickback Statute is broad and prohibits many arrangements and practices that are lawful in businesses outside of the healthcare industry. Recognizing that the Anti-Kickback Statute is broad and may technically prohibit many innocuous or beneficial arrangements, the Office of Inspector General of the Department of Health and Human Services (OIG) has issued regulations, commonly known as “safe harbors.” These safe harbors set forth certain requirements that, if fully met, will

insulate healthcare providers, medical device manufacturers, and others, from prosecution under the Anti-Kickback Statute. Although full compliance with these safe harbor provisions ensures against prosecution under the Anti-Kickback Statute, full compliance is often difficult and the failure of a transaction or arrangement to fit within a specific safe harbor does not necessarily mean that the transaction or arrangement is illegal or that prosecution under the Anti-Kickback Statute will be pursued. However, conduct and business arrangements that do not fully satisfy each applicable safe harbor may result in increased scrutiny by government enforcement authorities such as the OIG. The statutory penalties for violating the Anti-Kickback Statute include imprisonment for up to five years and criminal fines of up to \$25,000 per violation. In addition, through application of other laws, conduct that violates the Anti-Kickback Statute can also give rise to False Claims Act lawsuits, civil monetary penalties and possible exclusion from Medicare and Medicaid and other federal healthcare programs. In addition to the Federal Anti-Kickback Statute, many states have their own kickback laws. Often, these laws closely follow the language of the federal law, although they do not always have the same scope, exceptions, safe harbors or sanctions. In some states, these anti-kickback laws apply not only to payment made by a government health care program but also with respect to other payors, including commercial insurance companies.

We have and may in the future, enter into various agreements with health care providers who perform services for us, including some who make clinical decisions to use our products. All such arrangements have been structured with the intention of complying with all applicable fraud and abuse laws, including the Anti-Kickback Statute.

#### *Other Fraud and Abuse Laws*

The federal False Claims Act (FCA) prohibits any person from knowingly presenting, or causing to be presented, a false claim or knowingly making, or causing to be made, a false statement to obtain payment from the federal government. Those found in violation of the FCA can be subject to fines and penalties of three times the damages sustained by the government, plus mandatory civil penalties of between \$5,500 and \$11,000 for each separate false claim. Actions filed under the FCA can be brought by any individual on behalf of the government, a "qui tam" action, and such individual, known as a "relator" or, more commonly, as a "whistleblower," who may share in any amounts paid by the entity to the government in damages and penalties or by way of settlement. In addition, certain states have enacted laws modeled after the FCA, and this legislative activity is expected to increase. Qui tam actions have increased significantly in recent years, causing greater numbers of healthcare companies, including medical device manufacturers, to defend false claim actions, pay damages and penalties or be excluded from Medicare, Medicaid or other federal or state healthcare programs as a result of investigations arising out of such actions.

The federal ban on physician self-referrals, commonly known as the Stark Law, prohibits, subject to certain exceptions, physician referrals of Medicare and Medicaid patients to an entity providing certain "designated health services" if the physician or an immediate family member of the physician has any financial relationship with the entity. Penalties for violating the Stark Law include fines, civil monetary penalties and possible exclusion from federal healthcare programs. In addition to the Stark Law, many states have their own self-referral laws. Often, these laws closely follow the language of the federal law, although they do not always have the same scope, exceptions or safe harbors.

The OIG also has authority to bring administrative actions against entities for alleged violations of a number of prohibitions, including the Anti-Kickback Statute and the Stark Law. The OIG may seek to impose civil monetary penalties or exclusion from the Medicare, Medicaid and other federal healthcare programs. Civil monetary penalties can range from \$2,000 to \$50,000 for each violation or failure plus, in certain circumstances, three times the amounts claimed in reimbursement or illegal remuneration. Typically, exclusions last for five years.

In addition, we must comply with a variety of other laws, such as laws prohibiting false claims for reimbursement under Medicare and Medicaid, all of which can also be triggered by violations of federal anti-kickback laws; the Health Insurance Portability and Accounting Act of 1996, which makes it a federal crime to commit healthcare fraud and make false statements; and the Federal Trade Commission Act and similar laws regulating advertisement and consumer protections.

There are also an increasing number of state "sunshine" laws that require manufacturers to provide reports to state governments on pricing and marketing information. Several states have enacted legislation requiring manufacturers, including medical device companies to, among other things, establish marketing compliance programs, file periodic reports with the state, make periodic public disclosures on sales and marketing activities, and to prohibit or limit certain other sales and marketing practices. In addition, a federal law known as the Physician Payments Sunshine Act, requires manufacturers, including medical device manufacturers, to track and report to the federal government certain payments and other transfers of value made to physicians and teaching hospitals and ownership or investment interests held by physicians and their immediate family members. The federal government discloses the reported information on a publicly available website. If we fail to track and report as required by these laws or to otherwise comply with these laws, we could be subject to the penalty provisions of the pertinent state and federal authorities.

Despite extensive procedures to ensure compliance, we may also be exposed to liabilities under the U.S. Foreign Corrupt Practices Act, or FCPA, which generally prohibits companies and their intermediaries from making corrupt payments to foreign

officials for the purpose of obtaining or maintaining business or otherwise obtaining favorable treatment, and requires companies to maintain adequate record-keeping and internal accounting practices to accurately reflect the transactions of the company. We are also subject to a number of other laws and regulations relating to money laundering, international money transfers and electronic fund transfers. These laws apply to companies, individual directors, officers, employees and agents.

#### *Environment, Health and Safety*

We are subject to laws and regulations related to the protection of the environment, the health and safety of employees and the handling, transportation and disposal of medical specimens, infectious and hazardous waste and radioactive materials. For example, the U.S. Occupational Safety and Health Administration (OSHA) has established extensive requirements relating specifically to workplace safety for healthcare employers in the U.S. This includes requirements to develop and implement multi-faceted programs to protect workers from exposure to blood-borne pathogens, such as HIV and hepatitis B and C, including preventing or minimizing any exposure through needle stick injuries. For purposes of transportation, some biological materials and laboratory supplies are classified as hazardous materials and are subject to regulation by one or more of the following agencies: the U.S. Department of Transportation, the U.S. Public Health Service, the United States Postal Service and the International Air Transport Association.

#### **Other Country Specific Requirements**

In many countries outside of the United States and the EU, coverage, pricing and reimbursement approvals are also required. Additionally, many of the major markets are adopting regulations and requirements similar to U.S. Food and Drug Administration (FDA) which require additional submission activities and management of country specific regulatory requirements. This is being led by the International Medical Device Regulators Forum (IMDRF). This Forum consists of regulators from around the world that have signed governmental agreements to align global regulations, especially around submissions and approvals. In the long term this holds the promise of reducing volatility and complexity in the regulatory landscape.

#### **Reimbursement**

##### *United States*

In the United States, payments for diagnostic tests come from several sources, including third party payors such as health maintenance organizations and preferred provider organizations; government health programs such as Medicare and Medicaid; and, in certain circumstances, hospitals, referring laboratories or the patients themselves. For many years, federal and state governments in the United States have pursued methods to reduce the cost of these programs. For example, in 2010, the United States enacted major healthcare reform legislation known as the Patient Protection and Affordable Care Act (ACA). Such changes have had, and are expected to continue to have, an impact on our business. At present, Medicare payment rates are affected by across-the-board federal budget cuts commonly referred to as “sequestration.” Under sequestration, the Centers for Medicare & Medicaid Services (CMS), the federal agency responsible for administering Medicare and Medicaid, reduced Medicare payments to providers by 2% annually beginning in 2013 and through 2023.

We frequently identify value propositions on our products and communicate them to payors, providers, and patient stakeholders and attempt to positively impact coverage, coding and payment pathways. However, we have no direct control over payor decisions with respect to coverage and payment levels for our products. The manner and level of reimbursement may depend on the site of care, the procedure(s) performed, the final patient diagnosis, the device(s) and/or drug(s) utilized, the available budget, or a combination of these factors, and coverage and payment levels are determined at each payor’s discretion. Changes in reimbursement levels or methods may positively or negatively affect sales of our products in any given country for any given product. At QIAGEN, we work with several specialized reimbursement consulting companies and maintain regular contact with payers.

As government programs seek to expand healthcare coverage for their citizens, they have at the same time sought to control costs by limiting the amount of reimbursement they will pay for particular procedures, products or services. Many third-party payors have developed payment and delivery mechanisms to support cost control efforts and to focus on paying for quality. Such mechanisms include payment reductions, pay for performance metrics, quality-based performance payments, restrictive coverage policies, studies to compare effectiveness and patient outcomes, and technology assessments. These changes have increased emphasis on the delivery of more cost-effective and quality-driven healthcare

*Code Assignment.* In the United States, a third-party payor's decisions regarding coverage and payment are impacted, in large part, by the specific Current Procedural Terminology, or CPT, code used to identify a test. The American Medical Association, or AMA, publishes the CPT, which is a listing of descriptive terms and identifying codes for reporting medical services and procedures. The purpose of the CPT is to provide a uniform language that accurately describes medical, surgical, and diagnostic services and therefore to ensure reliable nationwide communication among healthcare providers, patients, and third-party

payors. CMS uses its own HCPCS codes for medical billing and reimbursement purposes. Level I HCPCS codes reflect current CPT codes, while Level II codes primarily represent non-physician services and Level III codes are local codes developed by Medicaid agencies, Medicare contractors and private insurers.

A manufacturer of in vitro diagnostic kits or a provider of laboratory services may request establishment of a Category I CPT code for a new product. Assignment of a specific CPT code ensures routine processing and payment for a diagnostic test by both private and government third-party payors.

The AMA has specific procedures for establishing a new CPT code and, if appropriate, for modifying existing nomenclature to incorporate a new test into an existing code. If the AMA concludes that a new code or modification of nomenclature is unnecessary, the AMA will inform the requestor how to use one or more existing codes to report the test.

While the AMA's decision is pending, billing and collection may be sought under an existing, non-specific CPT code. A manufacturer or provider may decide not to request assignment of a CPT code and instead use an existing, non-specific code for reimbursement purposes. However, use of such codes may result in more frequent denials and/or requests for supporting clinical documentation from the third-party payor and in lower reimbursement rates, which may vary based on geographical location.

CMS reimbursement rates for clinical diagnostic tests are defined by HCPCS code in the Clinical Laboratory Fee Schedule (CLFS). In 2012, the AMA added 127 new CPT codes for molecular pathology services that became effective on January 1, 2013. These new CPT codes are biomarker specific and were designed to replace the previous methodology of billing for molecular pathology testing, which involved “stacking” a series of non-biomarker specific CPT codes together to describe the testing performed. CMS issued final national reimbursement prices for the new CPT codes in November 2013. These federal reimbursement amounts are widely acknowledged to be lower than the reimbursement obtained by the now outdated “stacking” method, but commercial payors and Medicare contractors are still in the process of solidifying their coverage and reimbursement policies for the testing described by these new CPT codes. As of January 1, 2018, in accordance with the Protecting Access to Medicare Act of 2014 (PAMA), CMS began calculating Medicare reimbursement rates for certain clinical diagnostic tests using weighted median private payor rates, which are based on rate information reported by applicable laboratories. This new rate methodology means the lower reimbursement rates previously experienced in the field of molecular pathology testing now extends to additional diagnostic testing codes on the CLFS.

*Coverage Decisions.* When deciding whether to cover a particular diagnostic test, private and government third-party payors generally consider whether the test is a contractual benefit and, if so, whether it is reasonable and necessary for the diagnosis or treatment of an illness or injury. However, most third-party payors do not cover experimental services. Coverage determinations are often influenced by current standards of practice and clinical data, particularly at the local level. CMS, the government agency responsible for overseeing the Medicare program, has the authority to make coverage determinations on a national basis, but most Medicare coverage decisions are made at the local level by contractors that administer the Medicare program in specified geographic areas. Private and government third-party payors have separate processes for making coverage determinations, and private third-party payors may or may not follow Medicare's coverage decisions. If a third-party payor has a coverage determination in place for a particular diagnostic test, billing for that test must comply with the established policy. Otherwise, the third-party payor makes reimbursement decisions on a case-by-case basis.

*Payment.* Payment for covered diagnostic tests is determined based on various methodologies, including prospective payment systems and fee schedules. In addition, private third-party payors may negotiate contractual rates with participating providers or set rates as a percentage of the billed charge. Diagnostic tests furnished to Medicare inpatients generally are included in the bundled payment made to the hospital under Medicare's Inpatient Prospective Payment System, utilizing Diagnosis Related Groups (DRGs) depending on the patient's condition. Payment for diagnostic tests furnished to Medicare beneficiaries in outpatient settings is based on the CLF, under which a payment amount is assigned to each covered CPT code, or through the Outpatient Prospective Payment System (OPPS), which is the outpatient equivalent of the DRG model. The law technically requires fee schedule amounts to be adjusted annually by the percentage increase in the consumer price index (CPI) for the prior year, but Congress has frozen payment rates in certain years. Medicaid programs generally pay for diagnostic tests based on a fee schedule, but reimbursement varies by state.

### ***European Union***

In the European Union, the reimbursement mechanisms used by private and public health insurers vary by country. For the public systems, reimbursement is determined by guidelines established by the legislator or responsible national authority. As elsewhere, inclusion in reimbursement catalogues focuses on the medical usefulness, need, quality and economic benefits to patients and the healthcare system. Acceptance for reimbursement comes with cost, use, and often volume restrictions, which again can vary by country.

## **Conflict Minerals**

Recent U.S. legislation has been enacted to improve transparency and accountability concerning the sourcing of conflict minerals from mines located in the conflict zones of the Democratic Republic of Congo (DRC) and its adjoining countries. The term conflict minerals currently encompasses tantalum, tin, tungsten (or their ores) and gold. Certain of our instrumentation product components which we purchase from third party suppliers contain gold. This U.S. legislation requires manufacturers, such as us, to investigate our supply chain and disclose if there is any use of conflict minerals originating in the DRC or adjoining countries. We conduct due diligence measures annually to determine the presence of conflict minerals in our products and the source of any such conflict minerals. Because we do not purchase conflict minerals directly from smelters or refineries, we rely on our suppliers to specify to us their Conflict Minerals sources and declare their conflict minerals status. We disclosed our most recent Conflict Minerals findings to the Securities Exchange Commission for the calendar year ending December 31, 2016 on Form SD on April 24, 2017 and will provide updated disclosure to the Securities Exchange Commission as required.

## **Organizational Structure**

QIAGEN N.V. is the holding company for more than 50 consolidated subsidiaries, many of which have the primary function of distributing our products and services on a regional basis. Certain subsidiaries also have research and development or production activities. A listing of our significant subsidiaries and their jurisdictions of incorporation is included in Exhibit 8.1 to this Annual Report.

## **Description of Property**

Our production and manufacturing facilities for consumable products are located in Germany, the United States, China, and the United Kingdom. Our facilities for software development are located in the United States, Germany, Poland and Romania. In recent years, we have made investments in automated and interchangeable production equipment to increase our production capacity and improve efficiency. Our production and manufacturing operations are highly integrated and benefit from sophisticated inventory control. Production management personnel are highly qualified, and many have advanced degrees in engineering, business and science. We also have installed and continue to expand production-planning systems that are included in our integrated information and control system based on the SAP R/3 business software package from SAP AG. Worldwide, we use SAP software to integrate most of our operating subsidiaries. Capital expenditures for property, plant and equipment totaled \$90.1 million, \$74.5 million and \$97.8 million for 2017, 2016 and 2015, respectively.

We have an established quality system, including standard manufacturing and documentation procedures, intended to ensure that products are produced and tested in accordance with the FDA's Quality System Regulations, which impose current Good Manufacturing Practice (cGMP) requirements. For cGMP production, special areas were built in our facilities in Hilden, Germany, and Germantown, Maryland. These facilities operate in accordance with cGMP requirements.

The consumable products manufactured at QIAGEN GmbH in Germany, and QIAGEN Sciences LLC in Maryland, are produced under ISO 9001: 2008, ISO 13485:2012, ISO 13485:2003 CMDCAS. Our certifications form part of our ongoing commitment to provide our customers with high-quality, state-of-the-art sample and assay technologies under our Total Quality Management system.

Our facilities in Hilden, Germany, currently occupy a total of approximately 781,000 square feet, some of which is leased pursuant to separate contracts, the last of which expires in 2018. Our most recent expansion to these facilities was in 2017 and included approximately 4,400 square feet of additional office and warehouse space. Our production capacity is increased through our manufacturing and research facilities in the United States. QIAGEN Sciences, LLC owns a 24-acre site in Germantown, Maryland. The 285,000 square foot Germantown facility consists of several buildings in a campus-like arrangement and can accommodate over 500 employees. There is room for future expansion of up to 300,000 square feet of facility space. In 2015, we completed expansion of our research and production facilities in Hilden, Germany and renovations of administrative facilities in Germantown, Maryland.

We lease a facility in Frederick, Maryland comprising 42,000 square feet for manufacturing, warehousing, distribution and research operations. We also lease facilities in Massachusetts with 32,400 square feet in Waltham for NGS system development and 39,100 square feet in Beverly for enzyme manufacturing. Additionally, we have leased facilities in Redwood City, California with 12,700 square feet and Cary, North Carolina with 10,900 square feet focused on bioinformatics. Additionally, we lease smaller facilities in Shenzhen, China and Manchester, United Kingdom for manufacturing, warehousing, distribution and research operations and have shared service centers which lease facilities in Wroclaw, Poland and Manila, Philippines. Other subsidiaries throughout the world lease smaller amounts of space. Our corporate headquarters are located in leased office space in Venlo, The Netherlands.

We believe our existing production and distribution facilities can support anticipated production needs for the next 36 months. Our production and manufacturing operations are subject to various federal, state, and local laws and regulations including environmental regulations. We do not believe we have any material issues relating to these laws and regulations.



#### Item 4A. Unresolved Staff Comments

Not applicable.

#### Item 5. Operating and Financial Review and Prospects

This section contains a number of forward-looking statements. These statements are based on current management expectations, and actual results may differ materially. Among the factors that could cause actual results to differ from management's expectations are those described in "Risk Factors" and "Forward-looking and Cautionary Statements" in Item 3 of this Annual Report.

##### *Results of Operations*

###### *Overview*

We are a leading global provider of Sample to Insight solutions to transform biological materials into valuable molecular insights. QIAGEN sample technologies isolate and process DNA, RNA and proteins from any biological sample, such as blood or tissue. Assay technologies make these biomolecules visible and ready for analysis, such as identifying the DNA of a virus or a mutation of a gene. Bioinformatics solutions integrate software and cloud-based resources to interpret increasing volumes of biological data and report relevant, actionable insights. Our automation solutions tie these together in seamless and cost-effective molecular testing workflows.

We sell our products - consumables, automated instrumentation systems using those technologies, and bioinformatics to analyze and interpret the data - to four major customer classes:

- **Molecular Diagnostics** - healthcare providers engaged in many aspects of patient care including Prevention, Profiling of diseases, Personalized Healthcare and Point of Need testing
- **Applied Testing** - government or industry customers using molecular technologies in fields such as forensics, veterinary diagnostics and food safety testing
- **Pharma** - pharmaceutical and biotechnology companies using molecular testing to support drug discovery, translational medicine and clinical development efforts
- **Academia** - researchers exploring the secrets of life such as the mechanisms and pathways of diseases, and in some cases translating that research into drug targets or commercial applications

We market products in more than 130 countries, mainly through subsidiaries in markets we believe have the greatest sales potential in Europe, Asia, the Americas and Australia. We also work with specialized independent distributors and importers. As of December 31, 2017, we employed approximately 4,700 people in more than 35 locations worldwide.

###### *Recent Acquisitions*

We have made a number of strategic acquisitions and implemented other strategic transactions since 2015, targeting innovative technologies and aiming to achieve market-leading positions in high-growth areas of molecular diagnostics and research. These transactions have enhanced our product offerings and technology platforms, as well as our geographic footprint. They include:

- In early 2018, QIAGEN entered into a purchase agreement to acquire STAT-Dx, a privately-held company developing advanced multiplex diagnostics for widespread syndromes such as serious respiratory or gastrointestinal infections. Subject to successful completion of defined development activities by STAT-Dx, QIAGEN has agreed to acquire all shares of STAT-Dx for approximately \$147 million in cash and additional payments of up to about \$44 million based on the achievement of regulatory and commercial milestones. The acquisition is expected to be completed in the second quarter of 2018 and funded from existing cash reserves. The transaction will expand QIAGEN's instrument and consumables portfolio by adding a novel CE-IVD marked system, to be branded as QIAstat-Dx, enabling Sample to Insight processing of up to 48 molecular targets with cost-efficient, easy-to-use assays. The first two QIAstat-Dx tests, extensive respiratory and gastrointestinal panels, are expected to be launched in Europe and other markets in the second half of 2018, and in the U.S. following expected regulatory approval in 2019.
- QIAGEN entered into a joint venture in May 2017 with Maccura Biotechnology Co., Ltd., a leading in vitro diagnostics company in China, to accelerate the growth of QIAGEN's GeneReader NGS System. Known as MAQGEN China and based in Chengdu, Sichuan Province, the venture will develop local adaptations, pursue regulatory paths for the GeneReader and leverage Maccura's broad customer network to expand the system's adoption in laboratories across China. Maccura owns 60% of the joint venture and QIAGEN owns 40%. QIAGEN's own operations in China continue as a stand-alone company, focusing on our other products and services for customers such as QuantiFERON-TB and the Life Sciences portfolio.

- QIAGEN took steps in late 2017 to streamline its product portfolio and focus on growth areas by discontinuing commercialization of some non-core PCR tests and externalizing the HPV test franchise for cervical cancer screening in China to a third-party company. In January 2018, a partnership became effective with a Chinese company that has taken over R&D, commercial distribution, and the related QIAGEN employees and infrastructure of the HPV test franchise in China. QIAGEN is a minority shareholder of this company.
- In January 2017, QIAGEN acquired OmicSoft Corporation, a privately held company based in the Research Triangle area of North Carolina, to expand our industry-leading bioinformatics offering with complementary solutions enabling scientists to visualize and mine large institutional and publicly available “omics” datasets. The OmicSoft software solutions meet a growing need in discovery and translational research to access and manage huge amounts of data on DNA, RNA and other biological variables generated by next-generation sequencing studies.
- In 2016, QIAGEN acquired Exiqon A/S, a publicly traded company based in Vedbaek, Denmark, expanding our leadership position in Sample to Insight solutions for RNA analysis. Exiqon’s RNA analysis solutions, with proprietary Locked Nucleic Acid (LNA) technology, are used by academic, biotech and pharmaceutical researchers worldwide to explore correlations between gene activity and the development of cancer and other diseases. In two steps during 2016, we paid a total of \$100.7 million for 100% of the shares of Exiqon. In 2017, Exiqon’s product offering was fully integrated into QIAGEN, providing customers of both companies ready access to the combined portfolio of solutions.
- In 2015, we acquired MO BIO Laboratories, Inc., a privately-held provider of cutting-edge sample technologies for studies of the microbiome and metagenomics, analyzing the impact of microbial diversity on health and the environment. The acquisition added a complementary portfolio of sample technologies to QIAGEN’s universal solutions for next-generation sequencing. MO BIO kits, based on proprietary Inhibitor Removal Technology, enable the isolation of pure DNA from challenging samples like soil, water, plants and stool.
- In 2015, we acquired an innovative technology from AdnaGen GmbH, a subsidiary of Alere Inc., that enables enrichment and molecular analysis of circulating tumor cells (CTCs) from blood samples. The acquisition added to QIAGEN’s pipeline of technologies for molecular testing through non-invasive liquid biopsies as an alternative to costly and risky tissue biopsies. Other assets acquired include two marketed CE-IVD marked products, AdnaTest BreastCancer and AdnaTest Prostate Cancer, for treatment monitoring and detection of tumor relapse.
- In February 2015, we announced the spin-off of teams and activities of QIAGEN Marseille S.A. (formerly Ipsogen S.A.), a majority-owned and fully consolidated entity. In the divestiture, QIAGEN Marseille agreed to the sale of all its assets and liabilities, except its intellectual property portfolio, to a stand-alone company. QIAGEN retained rights to commercialize the *ipsogen* line of products, including companion diagnostics for blood cancers. As part of this initiative, we acquired the remaining QIAGEN Marseille shares through a tender offer during 2015 and 2016.

Our financial results include the contributions of recent acquisitions and the QIAGEN Marseille spin-off from their effective dates, as well as costs related to the transactions and integration of the acquired companies, such as the relocation and closure of certain facilities.

We determined that we operate as one business segment in accordance with ASC Topic 280, *Segment Reporting*. Our chief operating decision maker (CODM) makes decisions on business operations and resource allocation based on evaluations of the QIAGEN Group as a whole. Considering the acquisitions made during 2017, we determined that we still operate as one business segment. We provide certain revenue information by customer class to allow better insight into our operations. This information is estimated using certain assumptions to allocate revenue among the customer classes.

### ***Year Ended December 31, 2017, Compared to 2016***

#### *Net Sales*

In 2017, net sales grew 6% to \$1.42 billion compared to \$1.34 billion in 2016 with organic business expansion contributing four percentage points to total sales growth with two percentage points of additional growth from the June 2016 acquisition of Exiqon A/S, a leader in RNA analysis technologies, and the January 2017 acquisition of OmicSoft Corporation, a software provider unlocking valuable insights from large “omics” datasets. Sales growth of 6% includes an adverse impact of one percentage point related to growth of non-core PCR tests and the China HPV franchise, which beginning in January 2018 have either been discontinued or externalized through a partnership with a Chinese company which has taken over the commercial distribution of the HPV test franchise in China. All regions and customer classes supported higher sales of consumables and related revenues (+7% / 88% of sales) and instruments (+2% / 12% of sales).

#### **Net sales by geographic region**

	Full-year 2017		
	Sales (In \$ m)	% change	% of sales
Americas	\$653	+4%	46%
Europe / Middle East / Africa	\$463	+8%	33%
Asia-Pacific / Japan	\$299	+7%	21%

Top 7 emerging markets: Brazil, Russia, India, China, South Korea, Mexico and Turkey (\$234 million, +12%, 16% of sales)  
FY 2017: Rest of world represented less than 1% of net sales.

**Geographic regions:** Europe / Middle East / Africa led the geographic performance with 8% growth in 2017, including adverse currency movements of one percentage point of sales growth, and benefited from gains in Germany, Italy and Turkey. The Asia-Pacific / Japan region advanced 7%, due partially to strong performance in South Korea and India, which more than offset lower sales in Japan. Excluding the business portfolio change in China, the Asia-Pacific / Japan region experienced 13% growth, including one percentage point of favorable currency movements. The Americas advanced at a 5% pace, excluding U.S. HPV test sales, on higher sales of QuantiFERON-TB tests and improved conditions among Life Science customers. Excluding adverse currency movements of one percentage point, the top seven emerging markets expanded 12%, with key contributions from Turkey, South Korea, India and Brazil.

**Customer classes:** An overview of performance in QIAGEN's four customer classes:

#### Net sales by product category and customer class

	Full-year 2017		
	Sales (In \$ m)	% change	% of sales
Consumables and related revenues	\$1,243	+7%	88%
Instruments	\$175	+2%	12%
Molecular Diagnostics <sup>(1)</sup>	\$683	+5%	48%
Applied Testing	\$137	+14%	10%
Pharma	\$275	+7%	19%
Academia	\$323	+4%	23%

(1) Includes companion diagnostic co-development revenues (\$43 million, +32%) and U.S. HPV sales (\$28 million, -16%, 2% of sales).

**Molecular Diagnostics**, which contributed approximately 48% of net sales, expanded 5% in 2017, after being reduced by adverse currency movements of one percentage point. The core portfolio delivered approximately 7% growth before adverse currency movements and the ongoing decline in sales of U.S. HPV test products (-16% / 2% of sales). Sales of consumables used on the QIASymphony automation platform also grew at a solid pace for the full year, as QIAGEN exceeded its goal for new QIASymphony placements in 2017. Sales growth of 5% includes an adverse impact of 1% related to the China HPV franchise, which beginning in January 2018 has been externalized through a partnership with a Chinese company.

**Applied Testing** represented approximately 10% of net sales and grew 14% in 2017 compared to 2016, with negligible favorable currency movements. Applied Testing advanced for instruments as well as consumables and related revenues, in part due to gains in the human identification / forensics portfolio.

**Pharma** experienced 7% sales growth in 2017 compared to 2016 and provided 19% of net sales, with negligible adverse currency movements. Pharma grew in consumables and related revenues that more than offset weaker instruments growth during the course of the year.

**Academia** represented approximately 23% of net sales and rose 4% in 2017 compared to 2016, with modestly favorable currency movements. Academia advanced on consumables and related revenues, while the EMEA and Asia Pacific / Japan regions showed growth during 2017.

#### Gross Profit

Gross profit was \$922.6 million, or 65% of net sales, in 2017, compared with \$844.7 million, or 63% of net sales, in 2016. Generally, our consumables and related products have a higher gross margin than our instrumentation products and service arrangements. Fluctuations in the sales levels of these products and services can result in changes in gross margin between

periods. Further, gross profit in 2017 was impacted by \$4.4 million in restructuring charges while 2016 was impacted by restructuring charges of \$12.0 million. Additionally, during 2016, we incurred incremental costs in connection with the relocation and centralization of the manufacturing of certain products to our European production site in Hilden, Germany and also in connection with the in-sourcing of the manufacturing of our QuantiFERON product to our U.S. site in Germantown, Maryland.

Amortization expense related to developed technology and patent and license rights, which have been acquired in business combinations, is included in cost of sales. The amortization expense on acquisition-related intangibles within cost of sales decreased to \$72.7 million in 2017 from \$80.1 million in 2016 reflecting the end of the amortization period of intangibles acquired in 2007. Acquisition-related intangible amortization may increase in the future should we make further acquisitions.

#### *Research and Development*

Research and development expenses increased 3% to \$154.1 million (11% of net sales) in 2017, compared to \$149.8 million (11% of net sales) in 2016. The increase in research and development costs during 2017 reflects our ongoing investments in NGS and our life sciences portfolio, as well as our acquisitions of Exiqon in 2016 and OmicSoft in 2017 together with regulatory activity in support of new products. As we continue to discover, develop and acquire new products and technologies, we expect to incur additional expenses related to facilities, licenses and employees engaged in research and development. Additionally, research and development costs are expected to increase as a result of seeking regulatory approvals, including U.S. FDA Pre-Market Approval (PMA), U.S. FDA 510(k) clearance and EU CE approval of certain assays or instruments. Further, business combinations, along with the acquisition of new technologies, may increase our research and development costs in the future. We have a strong commitment to innovation and expect to continue to make investments in our research and development efforts.

#### *Sales and Marketing*

Sales and marketing expenses were largely unchanged at \$375.6 million (26% of net sales) in 2017 compared to \$376.3 million (28% of net sales) in 2016. Sales and marketing expenses were primarily associated with personnel, commissions, advertising, trade shows, publications, freight and logistics expenses, and other promotional expenses. We experienced efficiencies due to a lower cost base following the realignment of marketing activities as part of the 2016 restructuring project. These incremental savings were slightly offset by higher compensation costs including share based compensation expense when compared to the prior period due to reassessment of stock units with performance criteria. We anticipate that absolute sales and marketing costs will increase along with new product introductions and growth in sales of our products, but decrease as a percentage of sales. Further, looking forward we expect a lower cost base following the realignment of marketing activities as part of the 2016 restructuring project.

#### *General and Administrative, Restructuring, Integration and Other*

General and administrative, restructuring, integration and other costs increased by 11% to \$200.1 million (14% of net sales) in 2017 from \$180.6 million (13% of net sales) in 2016. The increase in 2017 reflects an increase in acquisition and integration costs which totaled \$68.9 million in 2017, which included \$45.3 million in costs from acquisition related legal settlements partially offset by \$3.3 million gains recorded from the reduction in the fair value of contingent consideration following unmet milestones, as compared to \$31.1 million in 2016, of which \$6.3 million related to the transaction costs incurred in connection with the acquisition of Exiqon A/S. Acquisition and integration related costs in 2016 are net of \$5.0 million of the total \$6.5 million gains recorded in general and administrative costs from the reduction in the fair value of contingent consideration following unmet milestones. 2016 also includes the impact of lower share based compensation costs following a reassessment of stock units with performance criteria. Restructuring costs of \$29.1 million were lower in 2017 compared to \$56.2 million in 2016 related to internal activities, including severance and retention costs as discussed fully in Note 6. As we further integrate the acquired companies and pursue other opportunities to gain efficiencies, we expect to continue to incur additional restructuring and business integration costs in 2018. Over time, we believe the restructuring and integration activities will reduce expenses as we improve efficiency in operations.

#### *Acquisition-Related Intangible Amortization*

Amortization expense related to developed technology and patent and license rights acquired in a business combination is included in cost of sales. Amortization of trademarks and customer base acquired in a business combination is recorded in operating expense under the caption "acquisition-related intangible amortization." Amortization expenses of intangible assets not acquired in a business combination are recorded within cost of sales, research and development, or sales and marketing line items based on the use of the asset.

During 2017, amortization expense on acquisition-related intangibles within operating expense increased to \$39.4 million, compared to \$39.1 million in 2016. We expect acquisition-related intangible amortization will increase as a result of our future acquisitions.

### *Other Income (Expense)*

Total other expense, net was \$39.0 million in 2017, compared to \$41.9 million in 2016. Total other expense, net is primarily the result of interest expense and other expense, partially offset by interest income.

For the year ended December 31, 2017, interest income increased to \$10.6 million from \$6.8 million in 2016. Interest income includes interest earned on cash, cash equivalents and short term investments, income related to certain interest rate derivatives as discussed in Note 13 in the accompanying consolidated financial statements and other components including the interest portion of operating lease transactions.

Interest expense increased to \$49.7 million in 2017, compared to \$39.0 million in 2016. Interest costs primarily relate to debt, discussed in Note 15 in the accompanying consolidated financial statements.

Other expense, net for the year ended December 31, 2017 includes a \$3.5 million gain in connection with the sale of our interest in an equity-method investment as well as \$3.2 million in income from equity-method investments offset by a \$5.1 million loss recognized in connection with the impairments of cost-method investment and net losses on foreign currency in 2017. Included in \$9.7 million other expense, net in 2016 is a \$8.3 million loss recognized in connection with the impairment of an equity-method investment and a \$2.6 million charge for the disposal of goodwill following the transfer of the research and development activities of our instrumentation business as part of the restructuring program initiated late in 2016. For the year ended December 31, 2017, we recorded net losses on foreign currency of \$3.3 million compared to less than \$0.1 million in 2016 due to foreign currency rate fluctuations.

### *Provision for Income Taxes*

Our effective tax rates differ from The Netherlands statutory tax rate of 25% due in part to our operating subsidiaries being exposed to effective tax rates ranging from zero to more than 40%. In 2017 and 2016, our effective tax rates were 64.7% and (41.1)%, respectively. The comparison is impacted by pre-tax book income which was higher in 2017 at \$114.4 million compared to \$56.9 million in 2016. Pretax book income was lower in 2016 primarily due to charges incurred in connection with the restructuring program initiated in the fourth quarter of 2016. Fluctuations in the distribution of pre-tax (loss) income among our operating subsidiaries can lead to fluctuations of the effective tax rate in the consolidated financial statements.

During 2017, the 64.7% reflects the impacts of the U.S. tax reform. Because of the tax reform, we revalued our U.S. deferred tax assets and liabilities to reflect the corporate income tax rate change from 35% to 21% and provided for a full valuation allowance of \$60.8 million which was recorded against deferred tax assets related to U.S. interest carry forwards. Based on the current debt level in the U.S., along with the new restrictive interest limitation enacted with the new U.S. tax reform, it is highly unlikely that the historic U.S. interest carry forward will ever be utilized. We also recorded full valuation allowances against other deferred tax assets on tax losses due to unlikely future profits in other jurisdictions. Following the adoption of ASU 2016-09 *Compensation - Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting*, \$5.2 million of excess tax benefit was recognized directly to the tax provision for the year ended December 31, 2017 and during 2017, we increased accruals for tax contingencies by \$22.1 million, primarily related to ongoing income tax audits. In 2016, tax expense on foreign operations was favorably impacted by lower income tax rates and partial tax exemptions on foreign income primarily derived from operations in Germany, Singapore, Luxembourg, Ireland and Switzerland. These foreign tax benefits are due to a combination of favorable tax laws, regulations, rulings, and exemptions in these jurisdictions. In particular, we have pre-tax income in Germany which is statutorily exempt from trade tax on intercompany foreign royalty income. Further, we have intercompany financing arrangements through Luxembourg and Ireland in which the intercompany income is partially exempt. See Note 16 to the consolidated financial statements for a full reconciliation of the effective tax rate to The Netherlands statutory rate.

In future periods, our effective tax rate may fluctuate from similar or other factors as discussed in “Changes in tax laws or their application could adversely affect our results of operations or financial flexibility” in Item 3 *Risk Factors*.

### ***Year Ended December 31, 2016, Compared to 2015***

#### *Net Sales*

In 2016, net sales grew 4% to \$1.34 billion compared to \$1.28 billion in 2015, including two percentage points of adverse currency movements. Excluding the effect of adverse currency movements, organic business expansion contributed four percentage points to total sales growth while nearly two percentage points of additional growth came from the December 2015 acquisition of MO BIO Laboratories Inc, a leader in sample technologies for metagenomics and microbiome analysis, and the June 2016 acquisition of Exiqon A/S, a leader in RNA analysis technologies. Excluding the expected impact of sharply lower U.S. sales of HPV tests, which created approximately two percentage points of headwind, as well as the effect of adverse currency movements, net sales rose approximately 8% in 2016. All regions and customer classes supported higher sales of consumables and related revenues (+5% / 87% of sales) and instruments (+3% / 13% of sales).

## Net sales by geographic region

	Full-year 2016		
	Sales (In \$ m)	% change	% of sales
Americas <sup>(1)</sup>	\$627	+4%	47%
Europe / Middle East / Africa	\$428	+4%	32%
Asia-Pacific / Japan	\$279	+10%	21%
Top 7 emerging markets <sup>(2)</sup>	\$209	+13%	16%

(1) Americas excluding U.S. HPV (+6%)

(2) Top 7 emerging markets: Brazil, Russia, India, China, South Korea, Mexico and Turkey.  
FY 2016: Rest of world represented less than 1% of net sales.

**Geographic regions:** The Asia-Pacific / Japan region led the geographic performance with 10% growth in 2016 reflecting adverse currency movements of one percentage point of sales growth, benefiting from key contributions from China, South Korea and India. The Americas advanced at a faster pace (+6%) when excluding U.S. HPV test sales on higher sales of the QuantiFERON-TB test and improved conditions among Life Science customers. Europe / Middle East / Africa advanced 4% reflecting adverse currency movements of approximately four percentage points of sales growth while experiencing expansion in markets such as France, the United Kingdom, Turkey and the Middle East. Turkey, China, South Korea, India and Brazil were key contributors (+13% / 16% of sales) when excluding adverse currency movements of 6 percentage points.

**Customer classes:** An overview of performance in QIAGEN's four customer classes:

## Net sales by product category and customer class

	Full-year 2016		
	Sales (In \$ m)	% change	% of sales
Consumables and related revenues	\$1,166	+5%	87%
Instruments	\$172	+3%	13%
Molecular Diagnostics <sup>(1)</sup>	\$663	+4%	50%
<i>Of which: U.S. HPV test solutions</i>	\$33	-29%	3%
<i>MDx excluding U.S. HPV<sup>(1)</sup></i>	\$630	+7%	47%
Applied Testing	\$120	+5%	9%
Pharma	\$262	+5%	19%
Academia	\$293	+4%	22%

(1) Includes companion diagnostic co-development revenues (\$32 million, -8%)

**Molecular Diagnostics**, which contributed approximately 50% of net sales, expanded by 4% in 2016 reflecting adverse currency movements of three percentage points of sales growth. The core portfolio delivered approximately 10% growth before adverse currency impacts and the ongoing decline in sales of U.S. HPV test products (-29% / 3% of sales). Sales of consumables used on the QIASymphony automation platform also grew at a solid pace for the full year, as QIAGEN exceeded its goal for new QIASymphony placements.

**Applied Testing** represented approximately 9% of net sales, grew 5% in 2016 compared to 2015 with adverse currency movements resulting in a loss of two percentage points of sales growth. Before negative currency impacts, Applied Testing advanced on high-single digit growth rates for instruments while consumables and related revenues grew at mid-single digit rates.

**Pharma** experienced 5% sales growth in 2016 compared to 2015 with adverse currency movements resulting in a loss of two percentage points of sales growth and provided 19% of net sales. Pharma grew on high-single digit growth rates for consumables and related revenues while instruments maintained a mid-single digit rate during the course of the year before negative currency impacts.

**Academia** represented approximately 22% of net sales and rose 4% in 2016 compared to 2015 with negligible adverse currency movements. Before negative currency impacts, Academia advanced on a mid-single digit growth rate for consumables and related revenues while all regions showed gains in this customer class in 2016.

#### *Gross Profit*

Gross profit was \$844.7 million, or 63% of net sales, in 2016, compared with \$826.7 million, or 65% of net sales, in 2015. Generally, our consumables and related products have a higher gross margin than our instrumentation products and service arrangements. Fluctuations in the sales levels of these products and services can result in fluctuations in gross margin between periods. Gross profit in 2016 was impacted by lower gross margins for companion diagnostic partnerships. Further, gross profit in 2016 was impacted by impairment charges of \$12.0 million recognized in connection with our 2016 restructuring. Additionally, during 2016, we incurred incremental costs in connection with the relocation and centralization of the manufacturing of certain products to our European production site in Hilden, Germany and also in connection with the insourcing of the manufacturing of our QuantiFERON product to our U.S. production site in Germantown, Maryland.

Amortization expense related to developed technology and patent and license rights, which have been acquired in business combinations, is included in cost of sales. The amortization expense on acquisition-related intangibles within cost of sales decreased slightly to \$80.1 million in 2016 from \$84.5 million in 2015.

#### *Research and Development*

Research and development expenses increased by 2% to \$149.8 million (11% of net sales) in 2016, compared to \$146.8 million (11% of net sales) in 2015. During 2015, we introduced our GeneReader NGS System and continue to invest in research and development as we develop a range of upgrades and enhancements to address new applications and market segments. We also plan to introduce additional cancer-related gene panels, with longer-term expansion of the NGS content menu beyond oncology. The increase in research and development costs during 2016 also reflects our ongoing investments in NGS and our life sciences portfolio, as well as our acquisitions of MO BIO in late 2015 and Exiqon in 2016 together with regulatory activity in support of new products. As we continue to discover, develop and acquire new products and technologies, we expect to incur additional expenses related to facilities, licenses and employees engaged in research and development. Additionally, research and development costs are expected to increase as a result of seeking regulatory approvals, including U.S. FDA Pre-Market Approval (PMA), U.S. FDA 510(k) clearance and EU CE approval of certain assays or instruments.

#### *Sales and Marketing*

Sales and marketing expenses increased 5% to \$376.3 million (28% of net sales) in 2016 from \$359.6 million (28% of net sales) in 2015. Sales and marketing expenses were higher as a percentage of sales in 2016 as compared to 2015 to support commercialization of growth drivers and geographic expansion. Sales and marketing expenses are primarily associated with personnel, commissions, advertising, trade shows, publications, freight and logistics expenses, and other promotional expenses. In 2016, we continued investments in our commercialization activities related to our sales force, in particular the addition of sales representatives for QuantiFERON TB and the life sciences markets. We have also continued our e-commerce initiatives as well as investments to expand our presence in markets such as the Middle East and Asia. These incremental investments more than offset favorable currency impacts and lower compensation costs following a reassessment of stock units with performance criteria.

#### *General and Administrative, Restructuring, Integration and Other*

General and administrative, restructuring, integration and other costs increased by 77% to \$180.6 million (13% of net sales) in 2016 from \$102.1 million (8% of net sales) in 2015. The increase in 2016 includes \$56.2 million in restructuring costs related to internal restructuring activities, including personnel related, asset impairment and advisory costs. Additionally, acquisition and integration costs totaled \$31.1 million, of which \$6.3 million related to the transaction costs incurred in connection with the acquisition of Exiqon A/S. In 2015, acquisition and integration costs totaled \$13.9 million, of which \$7.5 million related to the transaction costs incurred in connection with the acquisition of MO BIO Laboratories. Acquisition and integration related costs in 2016 are net of \$5.0 million of the total \$6.5 million gains recorded in general and administrative costs from the reduction in the fair value of contingent consideration following unmet milestones. The increase in general and administrative, restructuring, integration and other costs also reflects an increase of \$5.1 million related to share-based compensation expense as 2015 includes the impact of lower share based compensation costs following a reassessment of stock units with performance criteria.

### *Acquisition-Related Intangible Amortization*

Amortization expense related to developed technology and patent and license rights acquired in a business combination is included in cost of sales. Amortization of trademarks and customer base acquired in a business combination is recorded in operating expense under the caption “acquisition-related intangible amortization.” Amortization expenses of intangible assets not acquired in a business combination are recorded within cost of sales, research and development, or sales and marketing line items based on the use of the asset.

During 2016, amortization expense on acquisition-related intangibles within operating expense increased to \$39.1 million, compared to \$38.7 million in 2015.

### *Other Income (Expense)*

Total other expense, net was \$41.9 million in 2016, compared to \$43.2 million in 2015. Total other expense, net is primarily the result of interest expense and other expense, partially offset by interest income.

For the year ended December 31, 2016, interest income increased to \$6.8 million from \$4.8 million in 2015. Interest income includes interest earned on cash, cash equivalents and short term investments, income related to certain interest rate derivatives as discussed in Note 13 in the accompanying consolidated financial statements and other components including the interest portion of operating lease transactions.

Interest expense increased to \$39.0 million in 2016, compared to \$37.4 million in 2015. Interest costs primarily relate to debt, discussed in Note 15 in the accompanying consolidated financial statements.

Other expense, net was \$9.7 million for the year ended December 31, 2016, and includes a \$8.3 million loss recognized in connection with the impairment of an equity-method investment and a \$2.6 million charge for the disposal of goodwill following the transfer of the research and development activities of our instrumentation business as part of the restructuring program initiated late in 2016. Included in \$10.6 million of other expense, net in 2015 is a \$7.6 million loss recognized on the repurchase of the \$130.5 million loan payable to and warrant agreement with QIAGEN Finance. For the year ended December 31, 2016, we recorded net losses on foreign currency of less than \$0.1 million compared to \$0.5 million in 2015 due to foreign currency rate fluctuations.

### *Provision for Income Taxes*

Our effective tax rates differ from The Netherlands statutory tax rate of 25% due in part to our operating subsidiaries being exposed to effective tax rates ranging from zero to more than 40%. In 2016 and 2015, our effective tax rates were (41.1)% and 4.7%, respectively. The comparison is impacted by pre-tax book income which was lower in 2016 at \$56.9 million compared to \$136.3 million in 2015. Pretax book income was lower in 2016 primarily due to charges incurred in connection with the restructuring program initiated in the fourth quarter of 2016. Fluctuations in the distribution of pre-tax (loss) income among our operating subsidiaries can lead to fluctuations of the effective tax rate in the consolidated financial statements. In 2016 and 2015, tax expense on foreign operations was favorably impacted by lower income tax rates and partial tax exemptions on foreign income primarily derived from operations in Germany, Singapore, Luxembourg, Ireland and Switzerland. These foreign tax benefits are due to a combination of favorable tax laws, regulations, rulings, and exemptions in these jurisdictions. In particular, we have pre-tax income in Germany which is statutorily exempt from trade tax on intercompany foreign royalty income. Further, we have intercompany financing arrangements through Luxembourg and Ireland in which the intercompany income is partially exempt. See Note 16 to the consolidated financial statements for a full reconciliation of the effective tax rate to The Netherlands statutory rate.

In future periods, our effective tax rate may fluctuate from similar or other factors as discussed in “Changes in tax laws or their application could adversely affect our results of operations or financial flexibility” in Item 3 *Risk Factors*.

### *Foreign Currencies*

QIAGEN N.V.’s reporting currency is the U.S. dollar, and most of our subsidiaries’ functional currencies are the local currencies of the countries in which they are headquartered. All amounts in the financial statements of entities whose functional currency is not the U.S. dollar are translated into U.S. dollar equivalents at exchange rates as follows: (1) assets and liabilities at period-end rates, (2) income statement accounts at average exchange rates for the period, and (3) components of shareholders’ equity at historical rates. Translation gains or losses are recorded in shareholders’ equity, and transaction gains and losses are reflected in net income. The net loss on foreign currency transactions in 2017 was \$3.3 million and in 2016 and 2015 was less than \$0.1 million, and \$0.5 million, respectively, and is included in other expense, net.

***Derivatives and Hedging.*** In the ordinary course of business, we use derivative instruments, including swaps, forwards and/or options, to manage potential losses from foreign currency exposures and variable rate debt. The principal objective of such derivative instruments is to minimize the risks and/or costs associated with global financial and operating activities. We do not utilize derivative or other financial instruments for trading or speculative purposes. We recognize all derivatives as either assets



or liabilities on the balance sheet, measure those instruments at fair value and recognize the change in fair value in earnings in the period of change, unless the derivative qualifies as an effective hedge that offsets certain exposures. In determining fair value, we consider both the counterparty credit risk and our own creditworthiness, to the extent that the derivatives are not covered by collateral agreements with the respective counterparties. To determine our own credit risk, we estimated our own credit rating by benchmarking the price of our outstanding debt to publicly-available comparable data from rated companies. Using the estimated rating, we quantify our credit risk by reference to publicly-traded debt with a corresponding rating.

**Foreign Currency Derivatives.** As a globally active enterprise, we are subject to risks associated with fluctuations in foreign currencies in our ordinary operations. This includes foreign currency-denominated receivables, payables, debt, and other balance sheet positions including intercompany items. We manage our balance sheet exposure on a group-wide basis using foreign exchange forwards, options and cross-currency swaps.

**Interest Rate Derivatives.** We use interest rate derivative contracts on certain borrowing transactions to hedge interest rate exposures. We have entered into interest rate swaps in which we agree to exchange, at specified intervals, the difference between fixed and floating interest amounts calculated by reference to an agreed-upon notional principal amount.

We also make use of economic hedges. Further details of our derivative and hedging activities can be found in Note 13 to the accompanying consolidated financial statements.

### **Liquidity and Capital Resources**

To date, we have funded our business primarily through internally generated funds, debt, and private and public sales of equity. Our primary use of cash has been to support continuing operations and our investing activities including capital expenditure requirements and acquisitions. As of December 31, 2017 and 2016, we had cash and cash equivalents of \$657.7 million and \$439.2 million, respectively. We also had short-term investments of \$359.2 million at December 31, 2017. Cash and cash equivalents are primarily held in U.S. dollars and euros, other than those cash balances maintained in the local currency of subsidiaries to meet local working capital needs. At December 31, 2017, cash and cash equivalents had increased by \$218.5 million from December 31, 2016, primarily as a result of cash provided by operating activities of \$286.8 million and cash provided by financing activities of \$387.2 million, partially offset by cash used in investing activities of \$464.3 million. Working capital as of December 31, 2017 increased to \$1.323 billion as compared to \$729.1 million as of December 31, 2016, reflecting the cash provided by the operating and financing activities in 2017 as described below.

**Operating Activities.** For the years ended December 31, 2017 and 2016, we generated net cash from operating activities of \$286.8 million and \$341.6 million, respectively. While net income was \$40.4 million in 2017, non-cash components in income included \$216.4 million of depreciation and amortization and \$5.1 million of non-cash impairments due to the impairment of cost-method investments as further discussed in Note 10.

Operating cash flows include a net decrease in working capital of \$95.2 million excluding changes in fair value of derivative instruments. The current period change in working capital is primarily due to increased inventories and accounts receivable and decreased taxes payable. Because we rely heavily on cash generated from operating activities to fund our business, a decrease in demand for our products, longer collection cycles or significant technological advances of competitors would have a negative impact on our liquidity.

**Investing Activities.** Approximately \$464.3 million of cash was used in investing activities during 2017, compared to \$179.1 million during 2016. Investing activities during 2017 consisted principally of \$450.6 million for purchases of short-term investments, \$90.1 million in cash paid for purchases of property and equipment, as well as \$34.3 million paid for intangible assets and \$4.8 million paid for strategic investments in privately and publicly held companies as discussed in Note 10, partially offset by \$189.0 million from the sale of short-term investments. Additionally, during 2017 cash paid for acquisitions, net of cash acquired, totaled \$50.5 million. Cash used in other investing activities during the year ended December 31, 2017 and 2016 consisted primarily of \$20.7 million and \$1.2 million, respectively, paid in connection with derivative collateral arrangements.

**Financing Activities.** For the year ended December 31, 2017, cash provided by financing activities was \$387.2 million compared to cash used in financing activities of \$10.6 million in 2016. Financing activities during 2017 consisted primarily of \$329.9 million net cash proceeds from the German private placement and \$394.4 million net cash proceeds from the cash convertible offering. We used \$73.6 million of the proceeds from the from the cash convertible offering to pay the premium for a call option related to the cash convertible notes, and simultaneously received \$45.4 million from the sale of Warrants, for a net cash outlay of \$28.3 million for the call spread overlay. Additionally in 2017, we used \$243.9 million for a capital repayment made to shareholders in connection with the January 2017 synthetic share buyback and repurchased QIAGEN shares of \$61.0 million in connection with the fourth share repurchase program discussed in Note 17 "Equity." Cash used in other financing activities during the year ended December 31, 2017 and 2016 consisted primarily of \$4.4 million and \$3.1 million paid for contingent consideration, respectively, together with \$4.1 million and \$0.8 million paid in connection with derivative collateral arrangements, respectively.

### ***Other Factors Affecting Liquidity and Capital Resources***

In September 2017, we issued \$400.0 million aggregate principal amount of Cash Convertible Senior Notes which are due in 2023 (2023 Notes), which are discussed fully in Note 15 "Lines of Credit and Debt". Interest on the 2023 Notes is payable semiannually in arrears at a rate of 0.500% per annum. The 2023 Notes will mature on September 13, 2023 unless repurchased or converted in accordance with their terms prior to such date.

Additionally in 2017, we completed a German private placement of \$329.9 million, net of issuance costs, consisting of several tranches denominated in either U.S. dollars or Euro at either floating or fixed rates and due at various dates through June 2027 as described in Note 15 "Lines of Credit and Debt."

In October 2016, we extended the maturity of our €400 million syndicated revolving credit facility, which now has a contractual lifetime until December 2021 of which no amounts were utilized at December 31, 2017. The facility can be utilized in Euro, British pounds sterling, Swiss franc or U.S. dollar and bears interest of 0.40% to 1.20% above three months EURIBOR, or LIBOR in relation to any loan not in euro, and is offered with interest periods of one, two, three or six months. We have additional credit lines totaling €26.6 million with no expiration date, none of which were utilized as of December 31, 2017. We also have capital lease obligations, including interest, in the aggregate amount of \$1.5 million, and carry \$1.8 billion of long-term debt, of which no amounts are current as of December 31, 2017.

In March 2014, we issued \$730.0 million aggregate principal amount of Cash Convertible Senior Notes of which \$430.0 million is due in 2019 (2019 Notes) and \$300.0 million is due in 2021 (2021 Notes). We refer to the 2019 Notes, the 2021 Notes and the 2023 Notes collectively as the "Cash Convertible Notes" which are discussed fully in Note 15 to the consolidated financial statements. Interest on the 2019 and 2021 Notes is payable semiannually in arrears on March 19 and September 19 of each year, at rates of 0.375% and 0.875% per annum for the 2019 Notes and 2021 Notes, respectively, commencing on September 19, 2014. The 2019 Notes will mature on March 19, 2019 and the 2021 Notes will mature on March 19, 2021, unless repurchased or converted in accordance with their terms prior to such date.

In October 2012, we completed a U.S. private placement through the issuance of new senior unsecured notes at a total amount of \$400 million with a weighted average interest rate of 3.66% (settled on October 16, 2012). The notes were issued in three series: (1) \$73 million 7-year term due in 2019 (3.19%); (2) \$300 million 10-year term due in 2022 (3.75%); and (3) \$27 million 12-year term due in 2024 (3.90%).

We had notes payable, which were the long-term borrowings of the proceeds from the issuances of \$150.0 million senior unsubordinated convertible notes, with a 1.5% coupon due in 2024 through QIAGEN Finance (2004 Notes). The 2004 Notes were convertible into our common shares at a conversion price of \$12.6449, subject to adjustment. In connection with conversions of \$14.9 million of the 2004 Notes, we previously repaid \$14.5 million of the debt to QIAGEN Finance. During 2015, we paid \$250.9 million for the redemption of the remaining loan and repurchased the warrant agreement with QIAGEN Finance and recognized a loss of \$7.6 million in other expense, net.

In connection with certain acquisitions, we could be required to make additional contingent cash payments totaling up to \$18.5 million based on the achievement of certain revenue and operating results milestones as follows: \$11.5 million in 2018 and \$7.0 million, payable in any 12-month period from now until 2029 based on the accomplishment of certain revenue targets. Of the \$18.5 million total contingent obligation, we have assessed the fair value at December 31, 2017, to be \$11.5 million, which is included in accrued liabilities in the accompanying balance sheet as of December 31, 2017.

In July 2014, we announced the launch of our third \$100 million share repurchase program to purchase up to another \$100 million of our common shares (excluding transaction costs). In 2014, 2.1 million QIAGEN shares were repurchased for \$49.1 million (excluding transaction costs) and in 2015 0.8 million QIAGEN shares were repurchased for \$20.8 million. This program expired in December 2015.

In April 2016, we announced the launch of our fourth \$100 million share repurchase program. In August 2016, we announced our intention to return a total amount of approximately \$300 million to our shareholders by the end of 2017. In January 2017, we completed a synthetic share repurchase that combined a direct capital repayment with a consolidation of shares. This approach has been used by various large, multinational Dutch companies to provide returns to shareholders in a faster and more efficient manner than traditional open-market purchases. \$243.9 million was repaid to shareholders through the transaction and the outstanding number of common shares was reduced by 8.9 million or 3.7%. As discussed further in Note 17 "Equity", the capital repayment program was completed in January 2017. During the remainder of 2017, 1.9 million QIAGEN shares were repurchased for \$61.0 million (including transaction costs) to complete the total program.

In January 2018, we announced our fifth share repurchase program of up to \$200 million of our common shares.

Repurchased shares will be held in treasury in order to satisfy various obligations, which include employee share-based remuneration plans.

We expect that cash from financing activities will continue to be impacted by issuances of our common shares in connection with our equity compensation plans and that the market performance of our stock will impact the timing and volume of the issuances. Additionally, we may make future acquisitions or investments requiring cash payments, the issuance of additional equity or debt financing.

We believe that funds from operations, existing cash and cash equivalents, together with the proceeds from our public and private sales of equity, and availability of financing facilities, will be sufficient to fund our planned operations and expansion during the coming year. However, any global economic downturn may have a greater impact on our business than currently expected, and we may experience a decrease in the sales of our products, which could impact our ability to generate cash. If our future cash flows from operations and other capital resources are not adequate to fund our liquidity needs, we may be required to obtain additional debt or equity financing or to reduce or delay our capital expenditures, acquisitions or research and development projects. If we could not obtain financing on a timely basis or at satisfactory terms, or implement timely reductions in our expenditures, our business could be adversely affected.

### ***Off-Balance Sheet Arrangements***

Other than our former arrangements with QIAGEN Finance as discussed in Note 15 to the consolidated financial statements, we did not use special purpose entities and do not have off-balance sheet financing arrangements as of and during the years ended December 31, 2017, 2016 and 2015.

### ***Contractual Obligations***

As of December 31, 2017, our future contractual cash obligations are as follows:

<b>Contractual Obligations (in thousands)</b>	<b>Payments Due by Period</b>						
	<b>Total</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>Thereafter</b>
Long-term debt <sup>(1)</sup>	\$ 1,865,393	\$ 24,426	\$ 510,267	\$ 20,485	\$ 330,029	\$ 493,910	\$ 486,276
Purchase obligations	99,489	65,073	22,556	10,472	943	11	434
Operating leases	64,877	18,483	16,011	11,762	8,457	6,126	4,038
License and royalty payments <sup>(2)</sup>	55,092	12,907	11,858	11,558	8,860	6,161	3,748
Capital lease obligations <sup>(3)</sup>	1,470	1,411	45	14	—	—	—
Total contractual cash obligations	<u>\$ 2,086,321</u>	<u>\$ 122,300</u>	<u>\$ 560,737</u>	<u>\$ 54,291</u>	<u>\$ 348,289</u>	<u>\$ 506,208</u>	<u>\$ 494,496</u>

<sup>(1)</sup> Amounts include required principal, stated at the current carrying values, and interest payments.

<sup>(2)</sup> As of December 31, 2017, \$11.8 million and \$35.3 million are included in accrued and other current liabilities and other long-term liabilities, respectively.

<sup>(3)</sup> Includes future cash payments, including interest, due under capital lease arrangements.

In addition to the above and pursuant to purchase agreements for several of our recent acquisitions, we could be required to make additional contingent cash payments totaling up to \$18.5 million based on the achievement of certain revenue and operating results milestones as follows: \$11.5 million in 2018 and \$7.0 million, payable in any 12-month period from now until 2029 based on the accomplishment of certain revenue targets, the launch of certain products or the grant of certain patent rights. As of December 31, 2017, we have accrued \$11.5 million for these contingent payments which is included in accrued and other current liabilities.

Liabilities associated with uncertain tax positions, including interest and penalties, are currently estimated at \$47.1 million as of December 31, 2017 and are not included in the table above, as we cannot reasonably estimate when, if ever, an amount would be paid to a government agency. Ultimate settlement of these liabilities is dependent on factors outside of our control, such as examinations by each agency and expiration of statutes of limitation for assessment of additional taxes.

### ***Critical Accounting Policies, Judgments and Estimates***

The preparation of our financial statements in accordance with accounting principles generally accepted in the United States requires management to make assumptions that affect the reported amounts of assets, liabilities and disclosure of contingencies as of the date of the financial statements, as well as the reported amounts of revenues and expenses during the reporting period. Critical accounting policies are those that require the most complex or subjective judgments often as a result of the need to

make estimates about the effects of matters that are inherently uncertain. Thus, to the extent that actual events differ from management's estimates and assumptions, there could be a material impact to the financial statements. In applying our critical accounting policies, at times we used accounting estimates that either required us to make assumptions about matters that were highly uncertain at the time the estimate was made or it is reasonably likely that changes in the accounting estimate may occur from period to period that would have a material impact on the presentation of our results of operations, financial position or cash flows. Our critical accounting policies are those related to revenue recognition, share-based compensation, income taxes, investments, variable interest entities, goodwill and other intangible assets, purchase price allocation and fair value measurements. We reviewed the development, selection, and disclosure of our critical accounting policies and estimates with the Audit Committee of our Supervisory Board.

**Revenue Recognition.** We recognize revenue when four basic criteria are met: (1) persuasive evidence of an arrangement exists; (2) delivery has occurred or services have been rendered; (3) the fee is fixed or determinable; and (4) collectability is reasonably assured. Determination of criteria (3) and (4) could require management's judgments regarding the fixed nature of the fee charged for services rendered and products delivered and the collectability of those fees. While the majority of our sales agreements contain standard terms and conditions, we do enter into agreements that contain multiple elements or non-standard terms and conditions. Sometimes interpretation of the sales agreement or contract for multiple-element arrangements is complex in determining whether there is more than one unit of accounting and if so, how and when revenue should be recognized for each element is subject to certain estimates or assumptions. We record revenue as the separate elements are delivered to the customer if the delivered item has value on a stand-alone basis and delivery or performance of the undelivered item is probable and substantially in our control. Revenue is allocated according to the relative selling price method. Should changes in conditions cause management to determine that these criteria are not met for certain future transactions, revenue recognized for any reporting period could be adversely affected.

**Share-Based Compensation.** Our stock plan, the QIAGEN N.V. 2014 Stock Plan (the Plan), allows for the granting of stock rights, incentive stock options, as well as for non-qualified options, stock grants and stock-based awards. We grant performance-based stock units subject to performance periods of one-year up to three years. Thus the estimates of performance achieved during the performance period may be subject to significant changes from period to period as the performance is completed.

**Income Taxes.** Calculation of our tax provision is complex due to our international operations and the multiple taxing jurisdictions in which we operate. Some of our deferred tax assets relate to net operating losses (NOL). The utilization of NOLs is not assured and is dependent on generating sufficient taxable income in the future. Although management believes it is more likely than not that we will generate sufficient taxable income to utilize substantially all NOL carryforwards, evaluating the NOLs related to our newer subsidiaries requires us to make estimates that we believe are reasonable, but may also be highly uncertain given that we do not have direct experience with these subsidiaries or their products. Thus the estimates may be subject to significant changes from period to period as we gain that experience. To the extent that our estimates of future taxable income are insufficient to utilize all available NOLs, a valuation allowance will be recorded in the provision for income taxes in the period the determination is made, and the deferred tax assets will be reduced by this amount, which could be material. In the event that actual circumstances differ from management's estimates, or to the extent that these estimates are adjusted in the future, any changes to the valuation allowance could materially impact our financial position and results of operations.

Additionally, the 2017 Tax Act includes a number of changes to existing U.S. tax laws that impact us. For those specific income tax effects of the 2017 Tax Act for which the accounting under ASC Topic 740 is incomplete, we made reasonable estimates to record the provisional tax impacts related to the interest expense deduction limitation and the revaluation of deferred tax assets and liabilities and included these provisional amounts in our consolidated financial statements for the year ended December 31, 2017. The ultimate impact may differ from these provisional amounts due to additional analysis, changes in interpretations and assumptions and estimates that we have made, additional regulatory guidance that may be issued, and actions we may take because of the 2017 Tax Act, which could materially affect our tax obligations and effective tax rate.

**Investments.** We have equity investments accounted for under the cost method. We periodically review the carrying value of these investments for permanent impairment, considering factors such as the most recent stock transactions, book values from the most recent financial statements, and forecasts and expectations of the investee. Estimating the fair value of these nonmarketable equity investments in biotech companies is inherently subjective, and if actual events differ from management's assumptions, it could require a write-down of the investment that could materially impact our financial position and results of operations.

In addition, generally accepted accounting principles require different methods of accounting for an investment depending on the level of influence that we exert. Assessing the level of influence involves subjective judgments. If management's assumptions with respect to its level of influence differ in future periods and we therefore have to account for these investments under a method other than the cost method, it could have a material impact to our financial statements.

**Variable Interest Entities.** We have made strategic investments in certain companies as more fully described in Note 10 to the Consolidated Financial Statements, some of which are variable interest entities. FASB ASC Topic 810 requires a company to consolidate a variable interest entity in which it holds a variable interest if it is designated as the primary beneficiary of that entity even if the company does not have a majority of voting interests. A variable interest entity is generally defined as an entity with insufficient equity to finance its activities or where the owners of the entity lack the risk and rewards of ownership. Assessing the requirements of ASC Topic 810 involves subjective judgments. If management's assumptions with respect to the criteria differ in future periods, and we therefore have to account for these investments under a different method, it could have a material impact on our financial statements.

**Goodwill and Other Intangible Assets.** We assess goodwill and other intangible assets for impairment at least annually in the absence of an indicator of possible impairment and immediately upon an indicator of possible impairment. Intangibles are assessed for recoverability considering the contract life, where applicable, and the period of time over which the intangible will contribute to future cash flow. The unamortized cost of intangible assets, where cash flows are independent and identifiable from other assets, is evaluated periodically and adjusted, if necessary, if events and circumstances indicate that a decline in value below the carrying amount has occurred. Goodwill is subject to impairment tests annually or earlier if indicators of potential impairment exist, using a fair-value-based approach. We have elected to perform our annual test for indications of impairment as of October 1<sup>st</sup> of each year. Goodwill is deemed to be impaired if we determine that the carrying value of our reporting unit is more than the fair value. Due to the numerous variables associated with our judgments and assumptions relating to the valuation of reporting units and the effects of changes in circumstances affecting these valuations, both the precision and reliability of the resulting estimates are subject to uncertainty. As additional information becomes known, we may change our estimates.

**Purchase Price Allocation.** The purchase price allocation for acquisitions requires extensive use of accounting estimates and judgments to allocate the purchase price to the identifiable tangible and intangible assets acquired, including in-process research and development, and liabilities assumed based on their respective fair values. An acquisition may include contingent consideration as part of the purchase price. Contingent consideration is accounted for at fair value at the acquisition date with subsequent changes to the fair value being recognized in earnings. Additionally, we must determine whether an acquired entity is considered to be a business or a set of net assets, because a portion of the purchase price can only be allocated to goodwill in a business combination.

We have made several acquisitions in recent years. The purchase prices for the acquisitions were allocated to tangible and intangible assets acquired and liabilities assumed based on their estimated fair values at the acquisition dates. We engaged an independent third-party valuation firm to assist us in determining the estimated fair values of in-process research and development and identifiable intangible assets. Such a valuation requires significant estimates and assumptions, including but not limited to determining the timing and estimated costs to complete the in-process projects, projecting regulatory approvals, estimating future cash flows, and developing appropriate discount rates. We believe the estimated fair values of contingent consideration and assets acquired and liabilities assumed are based on reasonable assumptions. However, the fair value estimates for the purchase price allocations may change during the allowable allocation period, which is up to one year from the acquisition dates, if additional information becomes available.

**Fair Value Measurements.** We have categorized our assets and liabilities that are measured at fair value, based on the priority of the inputs to the valuation techniques, in a three-level fair value hierarchy: Level 1 - using quoted prices in active markets for identical assets or liabilities; Level 2 - using observable inputs other than quoted prices; and Level 3 - using unobservable inputs. We primarily apply the market approach for recurring fair value measurements, maximize our use of observable inputs and minimize our use of unobservable inputs. We utilize the mid-point price between bid and ask prices for valuing the majority of our assets and liabilities measured and reported at fair value. In addition to using market data, we make assumptions in valuing assets and liabilities, including assumptions about risk and the risks inherent in the inputs to the valuation technique.

Certain of our derivative instruments, which are classified in Level 2 of the fair value hierarchy, are valued using industry-standard models that consider various inputs, including time value, volatility factors, and current market and contractual prices for the underlying instruments, as well as other relevant economic measures. Substantially all of these inputs are observable in the marketplace throughout the full term of the instrument, can be derived from observable data or are supported by observable prices at which transactions are executed in the marketplace.

Certain of our acquisitions involve contingent consideration, the payment of which is contingent on the occurrence of future events. Contingent consideration is classified in Level 3 of the fair value hierarchy and is initially recognized at fair value as a cost of the acquisition. After the acquisition, the contingent consideration liability is remeasured each reporting period. The fair value of contingent consideration is measured predominantly on unobservable inputs such as assumptions about the likelihood of achieving specified milestone criteria, projections of future financial performance, assumed discount rates and assumed weightings applied to potential scenarios in deriving a probability weighted fair value. Significant judgment is used in developing these estimates and assumptions both at the acquisition date and in subsequent periods. If actual events differ from

management's estimates, or to the extent these estimates are adjusted in the future, our financial condition or results of operations could be affected in the period of any change.

For other fair value measurements, we generally use an income approach to measure fair value when there is not a market observable price for an identical or similar asset or liability. This approach utilizes management's best assumptions regarding expectations of projected cash flows, and discounts the expected cash flows using a commensurate risk-adjusted discount rate.

The above listing is not intended to be a comprehensive list of all our accounting policies. In many cases, the accounting treatment of a particular transaction is specifically dictated by generally accepted accounting principles in the United States, with limited or no need for management's judgment. There are also areas in which management's judgment in selecting available alternatives may or may not produce a materially different result. See our audited consolidated financial statements and notes thereto in Item 18 of this Annual Report, containing a description of accounting policies and other disclosures required by generally accepted accounting principles in the United States.

#### ***Recent Authoritative Pronouncements***

For information on recent accounting pronouncements impacting our business see Note 2 of the Notes to Consolidated Financial Statements included in Item 18.

### **Item 6. Directors, Senior Management and Employees**

Managing Directors and Supervisory Directors are appointed annually for the period beginning on the date following the Annual General Meeting of our shareholders up to and including the date of the Annual General Meeting held in the following year.

Our Supervisory Directors and Managing Directors for the year ended December 31, 2017 and their ages as of January 31, 2018, are as follows:

#### **Managing Directors:**

<u>Name</u>	<u>Age</u>	<u>Position</u>
Peer M. Schatz	52	Managing Director, Chief Executive Officer
Roland Sackers	49	Managing Director, Chief Financial Officer

#### **Supervisory Directors:**

<u>Name</u>	<u>Age</u>	<u>Position</u>
Stéphane Bancel	45	Supervisory Director, Member of the Compensation Committee, Audit Committee and Science and Technology Committee
Dr. Håkan Björklund	61	Supervisory Director, Member of the Compensation Committee and Selection and Appointment Committee
Dr. Metin Colpan	63	Supervisory Director, Chairman of the Science and Technology Committee and Member of the Selection and Appointment Committee
Prof. Dr. Manfred Karobath	77	Chairman of the Supervisory Board, Supervisory Director, Chairman of the Selection and Appointment Committee, Member of the Compensation Committee and Member of the Science and Technology Committee
Dr. Ross L. Levine	46	Supervisory Director and Member of the Science and Technology Committee
Dr. Elaine Mardis	55	Supervisory Director and Member of the Science and Technology Committee
Lawrence A. Rosen	60	Supervisory Director and Chairman of the Audit Committee
Elizabeth E. Tallett	68	Supervisory Director, Chairwoman of the Compensation Committee, Member of the Audit Committee and Member of the Selection and Appointment Committee

The following is a brief summary of the background of each of the Supervisory Directors and Managing Directors. References to "QIAGEN" and the "Company" in relation to periods prior to April 29, 1996 mean QIAGEN GmbH and its consolidated subsidiaries:

#### **Managing Directors**

**Peer M. Schatz**, 52, joined QIAGEN in 1993, when the Company had just 30 employees and revenues of approximately \$2 million, and has been Chief Executive Officer since January 1, 2004. He was Chief Financial Officer between 1993 and 2003

and became a member of the Managing Board in 1998. Mr. Schatz was previously a partner in a private management buyout group in Switzerland, worked in finance and systems positions in Sandoz, Ltd. and Computerland AG, and participated in the founding of start-up companies in the computer and software trading industry in Europe and the United States. Mr. Schatz graduated from the University of St. Gallen, Switzerland, with a Master's degree in Finance in 1989 and obtained an M.B.A. in Finance from the University of Chicago Graduate School of Business in 1991. Mr. Schatz served as a member of the German Corporate Governance Commission from 2002 to 2012. He is Managing Director of PS Capital Management GmbH. He is a board member of AdvaMedDx, an advocacy dedicated to issues facing the in vitro diagnostics industry in the United States and Europe, and ALDA (the Analytical, Life Science and Diagnostics Association), a trade association of developers and suppliers in these fields.

**Roland Sackers**, 49, joined the Company in 1999 as Vice President Finance and has been Chief Financial Officer since 2004. In 2006, Mr. Sackers became a member of the Managing Board. Between 1995 and 1999, he served as an auditor with Arthur Andersen Wirtschaftsprüfungsgesellschaft Steuerberatungsgesellschaft. Mr. Sackers earned his Diplom-Kaufmann from University of Münster, Germany. He is a former member of the Supervisory Board and Audit Committee of IBS AG and a former member of the board of directors of Operon Biotechnologies, Inc. Mr. Sackers is a board member of the industry association BIO Deutschland. He is also a non-executive director and chair of the audit committee of Immunodiagnostic Systems Holding PLC (IDS), a leading producer of immunological tests for research and diagnostic applications publicly listed in the United Kingdom.

### Supervisory Directors

**Stéphane Bancel**, 45, joined the Company's Supervisory Board as well as the Compensation Committee in 2013 and joined the Audit Committee and Science and Technology Committee in 2014. He is Chief Executive Officer of Moderna Therapeutics, Inc., a clinical-stage biotechnology company based in Cambridge, Massachusetts, which is advancing multiple drug development programs involving messenger RNA therapeutics. Before joining Moderna, Mr. Bancel served for five years as Chief Executive Officer of the French diagnostics company bioMérieux SA. Prior to bioMérieux, he was Managing Director of Eli Lilly in Belgium and Executive Director of Global Manufacturing Strategy and Supply Chain at Eli Lilly in Indianapolis, Indiana, after having started at Lilly in Great Britain. Before joining Eli Lilly, Mr. Bancel served as Asia-Pacific Sales and Marketing Director for bioMérieux while based in Tokyo, Japan. He holds a Master of Engineering degree from École Centrale Paris (ECP), a Master of Science in Chemical Engineering from the University of Minnesota and an M.B.A. from Harvard Business School.

**Dr. Håkan Björklund**, 61, was appointed as a new Supervisory Board Member in March 2017. He is a member of the Compensation Committee and the Selection and Appointment Committee. Dr. Björklund brings an extensive international background in the life science industry to QIAGEN, through his current role as Operating Executive at Avista Capital Partners, as well as through previous roles as CEO of the global pharmaceutical company Nycomed, Regional Director at Astra (now AstraZeneca) and President of Astra Draco. Under Mr. Björklund's leadership, Nycomed grew from a predominantly Scandinavian business into a global pharmaceutical company. In addition to QIAGEN, he currently serves as Chairman of the Board of Directors at Acino International AG, Swedish Orphan Biovitrum AB (Sobi), BONESUPPORT AB and Trimb Healthcare AB. Dr. Björklund earlier served as Chairman of the Board of Directors of Lundbeck A/S, and was also a Member of the Board of Directors of several international life science companies, including Alere, Atos, Coloplast and Danisco. Dr. Björklund has a Ph.D. in Neuroscience from Karolinska Institutet in Sweden.

**Dr. Metin Colpan**, 63, is a co-founder of QIAGEN and was the Company's Chief Executive Officer and a Managing Director from 1985 through 2003. Dr. Colpan has been a member of the Supervisory Board since 2004 and has served as Chairman of the Science and Technology Committee since 2014. He has been a member of the Selection and Appointment Committee since 2015. Dr. Colpan obtained his Ph.D. and M.S. in Organic Chemistry and Chemical Engineering from the Darmstadt Institute of Technology in 1983. Prior to founding QIAGEN, Dr. Colpan was an Assistant Investigator at the Institute for Biophysics at the University of Düsseldorf. Dr. Colpan has had wide experience in separation techniques and in the separation and purification of nucleic acids in particular, and has filed many patents in the field. Dr. Colpan also serves as a Supervisory Board member of Qalovis Farmer Automatic Energy GmbH, Laer, Germany. Dr. Colpan previously served as a Supervisory Board member of Ingenium Pharmaceuticals AG, GenPat77 Pharmacogenetics AG, GPC Biotech AG and Morphosys AG, each in Munich, Germany.

**Professor Dr. Manfred Karobath**, 77, has been a member of the Supervisory Board since 2000 and joined the Compensation Committee in 2005. In 2016, Prof. Karobath was appointed as Chairman of the Supervisory Board. He joined the Science and Technology Committee in 2014 and the Compensation Committee in 2016. He is also the Chairman of the Selection and Appointment Committee. Prof. Dr. Karobath studied medicine, and from 1967 to 1980 he worked first in the Dept. of Biochemistry of the University of Vienna and, after a stage as postdoctoral fellow, he joined the Dept. of Psychiatry where he became Professor of Biological Psychiatry. In 1980, he joined Sandoz Pharma in Basel, first in drug discovery, and later becoming Senior Vice President and head of R&D. In 1992, Prof. Dr. Karobath joined Rhone Poulenc Rorer (RPR) as President of R&D and Executive Vice President, and later, he became a member of the boards of directors of RPR, Pasteur Mérieux

Connought, Centeon and Rhone Poulenc Pharma. He has received several scientific awards and has published 92 scientific papers.

**Dr. Ross L. Levine**, 46, joined the Supervisory Board and its Science and Technology Committee in 2016. He is a physician-scientist focused on researching and treating blood and bone marrow cancers as the Laurence Joseph Dineen Chair in Leukemia Research, the Director of the Center for Hematologic Malignancies, and an Attending Physician at Memorial Sloan Kettering Cancer Center, as well as Professor of Medicine at Weill Cornell Medical College. He leads a research lab investigating genetics and targeted therapies in myeloid malignancies and is interested in application of next-generation sequencing technology in the practice of medicine in hematologic cancers. He trained in internal medicine at Massachusetts General Hospital and in hematology-oncology at the Dana-Farber Cancer Institute, earning board certification in these specialties. He received his M.D. from the Johns Hopkins University School of Medicine and his A.B. degree from Harvard College.

**Dr. Elaine Mardis**, 55, joined the Company's Supervisory Board and its Science and Technology Committee in 2014. Dr. Mardis is the Co-Executive Director of the Institute for Genomic Medicine at Nationwide Children's Hospital in Columbus, OH. She also is Professor of Pediatrics at the Ohio State University College of Medicine. Dr. Mardis has research interests in the application of genomic technologies to improving our understanding of human disease, and toward improving the precision of medical diagnosis, prognosis and treatment. Dr. Mardis is the former Robert E. and Louise F. Dunn Distinguished Professor of Medicine at Washington University School of Medicine in St. Louis, MO, where she was on the faculty for 22 years. As Co-Director of the McDonnell Genome Institute, she devised methods and automation that contributed to the Human Genome Project and has since played key roles in the 1000 Genomes Project, The Cancer Genome Atlas, and the Pediatric Cancer Genome Project. Prior to joining the Washington University faculty, she was a senior research scientist at BioRad Laboratories in Hercules, CA. Dr. Mardis is a board member of the American Association for Cancer Research, and has scientific advisory roles at the Regeneron Genomics Center, Caperna LLC, and Interpreta LLC. She also serves the U.S. government as a scientific advisor to the Veteran's Administration for the Million Veterans Program. Dr. Mardis received her Bachelor of Science degree in Zoology in 1984 and her Ph.D. in Chemistry and Biochemistry in 1989, both from the University of Oklahoma.

**Lawrence A. Rosen**, 60, joined the Company's Supervisory Board as well as the Audit Committee in 2013 and has served as the committee's chairman since 2014. Mr. Rosen was a member of the Board of Management and Chief Financial Officer of Deutsche Post DHL until September 2016. Holding this position since 2009, Mr. Rosen was in charge of controlling, corporate accounting and reporting, investor relations, corporate finance, corporate internal audit and security, taxes, as well as the group's global business services. Prior to joining Deutsche Post DHL, Mr. Rosen served as Chief Financial Officer of Fresenius Medical Care AG & Co. KGaA in Germany from 2003 to 2009. Prior to that, he was Senior Vice President and Treasurer for Aventis SA in Strasbourg, France. Between 1984 and 2000, Mr. Rosen held different positions at the Aventis predecessor companies Hoechst AG and American Hoechst/Hoechst Celanese Inc. Mr. Rosen, who is a U.S. citizen, holds a Bachelor's degree in Economics from the State University of New York and an M.B.A. from the University of Michigan.

**Elizabeth E. Tallett**, 68, joined the Company's Supervisory Board as well as the Audit Committee and Compensation Committee in 2011 and since 2016 has served as Chairwoman of the Compensation Committee. She is a member of the Selection and Appointment Committee. Ms. Tallett was a Principal of Hunter Partners, LLC, a management company for early to mid-stage pharmaceutical, biotechnology and medical device companies, from 2002 until February 2015. Ms. Tallett continues to consult with early stage health care companies. Her senior management experience includes President and CEO of Transcell Technologies Inc., President of Centocor Pharmaceuticals, member of the Parke-Davis Executive Committee, and Director of Worldwide Strategic Planning for Warner-Lambert Company. Ms. Tallett graduated from Nottingham University, England with dual Bachelor's degrees with honors in mathematics and economics. She is a member of the board of directors of Principal Financial Group, Inc. (where she is currently the Lead Director), Anthem, Inc. and Meredith Corp. She is a former director of Coventry Health Care, Inc. Ms. Tallett was a founding board member of the Biotechnology Council of New Jersey and is a Trustee of Solebury School in Pennsylvania.

## **Compensation of Managing Board Members and Supervisory Directors**

### *Remuneration policy*

The objective of our remuneration policy is to attract and retain the talented, highly qualified international leaders and skilled individuals, who enable QIAGEN to achieve its short and long-term strategic initiatives and operational excellence. Our remuneration policy aligns remuneration with individual performance, corporate performance and fosters sustainable growth and long-term value creation in the context of QIAGEN's social responsibility and stakeholders' interest.

The remuneration policy and overall remuneration levels are benchmarked regularly, against a selected group of companies and key markets in which QIAGEN operates, to ensure overall competitiveness. QIAGEN participates in various compensation benchmarking surveys that provide information on the level, as well as the structure, of compensation awarded by various companies and industries for a broad range of positions around the world. The companies in the peer group are selected on the basis of market capitalization, competitors for talent, similar complexity and international spread, operating in similar industries.



The performance of the Managing Board members is measured annually against a written set of goals. The remuneration of the Managing Board members is linked to the achievement of QIAGEN's strategic and financial goals. To ensure that remuneration is linked to performance, a significant proportion of the remuneration package is variable and contingent on performance of the individual and the company. These goals are set at ambitious levels each year to motivate and drive performance, with a focus on achieving both long-term strategic initiatives and short-term objectives based on the annual operative planning. Performance metrics used for these goals include the achievement of financial and non-financial targets.

The remuneration package of the Managing Board members consists of a combination of base salary, short term variable cash award and several elements of long term incentives (together, 'total direct compensation'). In addition, the members of the Managing Board receive a pension arrangement and other benefits that are standard in our industry, such as a company car.

The total target remuneration package of the Managing Board members is appropriately set against a variety of factors which includes external and internal equity, experience, complexity of the position, scope and responsibilities. We aim to provide the members of the Managing Board a total direct compensation at market median level.

The structure of the remuneration package for the Managing Board is designed to balance short-term operational excellence with long-term sustainable value creation while taking into account the interests of its stakeholders. As such a significant part of the total remuneration of the Managing Board members consist of variable remuneration which can differ substantially from year to year depending on our corporate results and individual performance and may include equity-based compensation which may be subject to vesting conditions over a period of 10 years.

The remuneration policies for the Managing Board and for other senior management members of QIAGEN are generally aligned and consistent.

#### *Managing Board compensation*

The compensation granted to the members of the Managing Board in 2017 consisted of a fixed salary and variable components, with the significant majority of compensation awarded in the form of QIAGEN stock units that are restricted for a long multi-year period to align management with the interests of shareholders and other stakeholders. Variable compensation included annual payments linked to business performance (annual bonus), as well as long-term equity incentives that were awarded based on individual performance.

In 2014, the General Meeting of Shareholders approved a new remuneration policy for the Managing Board which provides that future annual regular equity-based compensation grants to members of the Managing Board will primarily consist of performance stock units. Grants of stock options and restricted stock units which are based on time vesting only shall no longer be granted on a regular basis and shall be reserved for use as special equity incentive rewards in certain situations.

Stock options granted to the Managing Board members must have an exercise price that is higher than the market price at the time of grant. Restricted Stock Units granted to the Managing Board members, vest over a 10-year period. Performance Stock Units are subject to long-term vesting periods and contingent upon the achievement of several financial goals over a multi-year period.

In 2016, a grant of Performance Stock Units with mandatory minimum holding levels of QIAGEN shares was made under the Commitment Program linked to achievement of a two-year plan covering 2017 and 2018 including quantitative goals for net sales, earnings before interest and taxes (EBIT), QIAGEN Value Added (QVA), a steering metric that measures the ability of QIAGEN to generate returns and exceed its cost of capital and share price development as compared to peer companies. Under the Commitment Program, the financial targets for vesting are based on two-year goals as defined within QIAGEN's five-year business plan covering the period from 2017 until the end of 2022. The targets for vesting were set and approved by the Supervisory Board.

For the year ended December 31, 2017, the Managing Board members received the following compensation:

<b>Name</b>	<b>Annual Compensation</b>				<b>Long-Term Compensation</b>	
	<b>Fixed Salary</b>	<b>Variable Cash Bonus</b>	<b>Other <sup>(1)</sup></b>	<b>Total</b>	<b>Defined Contribution Benefit Plan</b>	<b>Performance Stock Units Granted<sup>(2)</sup></b>
<b>Managing Board</b>						
Peer M. Schatz	\$ 1,192,000	671,000	5,000	\$ 1,868,000	\$ 74,000	445,000
Roland Sackers	\$ 535,000	237,000	38,000	\$ 810,000	\$ 76,000	186,075

- (1) Amounts include, among others, car lease and reimbursed personal expenses such as tax consulting. We also occasionally reimburse our Managing Directors' personal expenses related to attending out-of-town meetings but not directly related to their attendance. Amounts do not include the reimbursement of certain expenses relating to travel incurred at the request of QIAGEN, other reimbursements or payments that in total did not exceed \$10,000 or tax amounts paid by the Company to tax authorities in order to avoid double-taxation under multi-tax jurisdiction employment agreements.
- (2) The Performance Stock Units Granted amount includes a special incentive grant of 100,000 PSUs which was not achieved.

### *Supervisory Board compensation*

The Supervisory Board remuneration is aligned to the applicable market standards, considering peer companies of similar size and complexity in similar industries, including biotechnology, life science supplies, diagnostics and pharmaceuticals, to reflect our nexus to the European Markets as a Dutch company as well as our U.S. focus as a NYSE listed company subject to U.S. regulations and the fact that several of the Supervisory Board members are residing in the United States.

The Supervisory Board compensation for 2017 consists of fixed retainer compensation and additional retainer amounts for Chairman and Vice Chairman. Annual remuneration of the Supervisory Board members is as follows:

Fee payable to the Chairman of the Supervisory Board	\$150,000
Fee payable to the Vice Chairman of the Supervisory Board	\$90,000
Fee payable to each member of the Supervisory Board	\$57,500
Additional compensation payable to members holding the following positions:	
Chairman of the Audit Committee	\$25,000
Chairman of the Compensation Committee	\$18,000
Chairman of the Selection and Appointment Committee and other board committees	\$12,000
Fee payable to each member of the Audit Committee	\$15,000
Fee payable to each member of the Compensation Committee	\$11,000
Fee payable to each member of the Selection and Appointment Committee and other board committees	\$6,000

Further, the Supervisory Board members will be reimbursed for tax consulting costs incurred in connection with the preparation of their tax returns up to an amount of €5,000 per person per fiscal year.

Supervisory board members also receive a variable component, in the form of share-based compensation. We did not pay any agency or advisory service fees to members of the Supervisory Board.

For the year ended December 31, 2017, the Supervisory Board members received the following compensation:

<u>Name</u>	<u>Fixed Remuneration</u>	<u>Committee Chairman/Chairwoman</u>	<u>Committee Membership</u>	<u>Total<sup>(1)</sup></u>	<u>Restricted Stock Units</u>
<b>Supervisory Board</b>					
Stéphane Bancel	\$ 57,500	—	32,000	\$ 89,500	10,732
Dr. Håkan Björklund	\$ 43,125	—	12,750	\$ 55,875	—
Dr. Metin Colpan	\$ 57,500	12,000	6,000	\$ 75,500	10,732
Prof. Dr. Manfred Karobath	\$ 150,000	12,000	17,000	\$ 179,000	10,732
Dr. Ross L. Levine	\$ 57,500	—	6,000	\$ 63,500	10,732
Dr. Elaine Mardis	\$ 57,500	—	6,000	\$ 63,500	10,732
Lawrence A. Rosen	\$ 57,500	25,000	—	\$ 82,500	10,732
Elizabeth E. Tallett	\$ 57,500	18,000	21,000	\$ 96,500	10,732

(1) Supervisory Directors are reimbursed for travel costs and for any value-added tax to be paid on their remuneration. These reimbursements are excluded from the amounts presented herein.

## Committees of the Supervisory Board

The Supervisory Board has established an Audit Committee, a Compensation Committee, a Selection and Appointment Committee and a Science and Technology Committee from among its members and can establish other committees as deemed beneficial. The Supervisory Board has approved charters under which each of the committees operates. These charters are published on our website [www.qiagen.com](http://www.qiagen.com). The committees are comprised of the following members:

<u>Name of Supervisory Director</u>	<u>Member of Audit Committee</u>	<u>Member of Compensation Committee</u>	<u>Member of Selection and Appointment Committee</u>	<u>Member of Science and Technology Committee</u>
Stéphane Bancel	•	•		•
Dr. Håkan Björklund		•	•	
Dr. Metin Colpan			•	• (Chairman)
Prof. Dr. Manfred Karobath		•	• (Chairman)	•
Dr. Ross L. Levine				•
Dr. Elaine Mardis				•
Lawrence A. Rosen	• (Chairman)			
Elizabeth E. Tallett	•	• (Chairwoman)	•	

We believe that all of our Supervisory Directors meet the independence requirements set forth in the Dutch Corporate Governance Code (the Dutch Code). We further believe that all Supervisory Board Directors qualify as independent under the independence standards set forth in the New York Stock Exchange (NYSE) Listed Company Manual. Pursuant to the NYSE rules, a majority of the Supervisory Directors must qualify as independent, as defined in the Rules.

### Audit Committee

The Audit Committee currently consists of three members, Mr. Rosen (Chairman), Ms. Tallett and Mr. Bancel, and meets at least quarterly. The Audit Committee members are appointed by the Supervisory Board and serve for a term of one year. We believe that all members of our Audit Committee meet the independence requirements as set forth in Rule 10A-3 of the Securities Exchange Act of 1934, as amended, and the New York Stock Exchange Listed Company Manual. The Board has designated Mr. Rosen as an “audit committee financial expert” as that term is defined in the United States Securities and Exchange Commission rules adopted pursuant to the Sarbanes-Oxley Act of 2002 and as defined in provisions III.3.2 and III.5.7 of the Dutch Code. The Audit Committee performs a self-evaluation of its activities on an annual basis.

The Audit Committee's primary duties and responsibilities include, among other things, to serve as an independent and objective party to monitor QIAGEN's accounting and financial reporting process and internal risk management, control and compliance systems. The Audit Committee also is directly responsible for proposing the external auditor to the Supervisory Board, which then proposes the appointment of the external auditor to the General Meeting. Further, the Audit Committee is responsible for the compensation and oversight of QIAGEN's external auditor and for providing an open avenue of communication among the external auditor as well as the Management Board and the Supervisory Board. Our Internal Audit department operates under the direct responsibility of the Audit Committee. Further, the Audit Committee is responsible to establish procedures to allow for the confidential and or anonymous submission by employees of concerns. Additionally, this includes the receipt, retention and treatment of submissions received regarding accounting, internal accounting controls, or auditing matters. The Audit Committee discusses our financial accounting and reporting principles and policies and the adequacy of our internal accounting, financial and operating controls and procedures with the external auditor and management; considers and approves any recommendations regarding changes to our accounting policies and processes; reviews with management and the external auditor our quarterly earnings reports prior to their release to the press; and reviews the quarterly and annual reports (reported on Forms 6-K and 20-F) to be furnished to or filed with the Securities and Exchange Commission and the Deutsche Boerse. The Audit Committee met seven times in 2017 and met with the external auditor excluding members of the Managing Board in July 2017. The Audit Committee reviews major financial risk exposures, pre-approves related-party transactions between the Company and Supervisory Board or Managing Board, and reviews any legal matter including compliance topics that could have a significant impact on the financial statements.

## Compensation Committee

The Compensation Committee's primary duties and responsibilities include, among other things, the preparation of a proposal for the Supervisory Board concerning the Remuneration Policy for the Managing Board to be adopted by the General Meeting, the preparation of a proposal concerning the individual compensation of Managing Board members to be adopted by the Supervisory Board and the preparation of the Remuneration Report on compensation policies for the Managing Board to be adopted by the Supervisory Board. The Compensation Committee reviews and approves all equity-based compensation, reviews and approves the annual salaries, bonuses and other benefits of executive officers, and reviews general policies relating to employee compensation and benefits. The Remuneration Report reviews the implementation of the Remuneration Policy in the most recent year and provides an outline of the Remuneration Policy for the future. The Compensation Committee engages external consultants to ensure that the overall remuneration levels are benchmarked regularly, against a selected group of companies and key markets in which QIAGEN operates. The Compensation Committee currently consists of four members, Ms. Tallett (Chairwoman), Professor Karobath, Mr. Bancel and Dr. Björklund. Members are appointed by the Supervisory Board and serve for a term of one year. The Compensation Committee met five times in 2017.

## Selection and Appointment Committee

The Selection and Appointment (Nomination) Committee is primarily responsible for the preparation of selection criteria and appointment procedures for members of the Supervisory Board and Managing Board as well as the periodic evaluation of the scope and composition of the Managing Board and the Supervisory Board, including the profile of the Supervisory Board. Additionally, the Selection and Appointment Committee periodically evaluates the functioning of individual members of the Managing Board and Supervisory Board, reporting these results to our Supervisory Board. It also proposes the (re-)appointments of members of our Managing Board and Supervisory Board and supervises the policy of our Managing Board in relation to selection and appointment criteria for senior management. Current members of the Selection and Appointment Committee are Professor Karobath (Chairman), Dr. Colpan, Ms. Tallett and Dr. Björklund. Members are appointed by the Supervisory Board and serve for a one-year term. The Selection and Appointment Committee did not meet in 2017.

## Science and Technology Committee

The Science and Technology Committee is primarily responsible for reviewing and monitoring research and development projects, programs, budgets, infrastructure management and overseeing the management risks related to the Company's portfolio and information technology platforms. The Science and Technology Committee provides understanding, clarification and validation of the fundamental technical basis of the Company's businesses in order to enable the Supervisory Board to make informed, strategic business decisions and vote on related matters, and to guide the Managing Board to ensure that powerful, global, world-class science is developed, practiced and leveraged throughout the Company to create shareholder value. The current members of the Science and Technology Committee are Dr. Colpan (Chairman), Professor Karobath, Dr. Levine, Mr. Bancel and Dr. Mardis. Members are appointed by the Supervisory Board and serve for a term of one year. The Science and Technology Committee met six times in 2017.

## Share Ownership

The following table sets forth certain information as of January 31, 2018 concerning the ownership of Common Shares by our directors and officers. In preparing the following table, we have relied on information furnished by such persons.

<u>Name and Country of Residence</u>	<u>Shares Beneficially Owned<sup>(1)</sup></u>	
	<u>Number<sup>(2)</sup></u>	<u>Percent Ownership</u>
Peer M. Schatz, Germany	2,681,395 (3)	1.18%
Roland Sackers, Germany	40,000 (4)	*
Stéphane Bancel, United States	2,081 (5)	*
Dr. Håkan Björklund, Sweden	—	—
Dr. Metin Colpan, Germany	3,529,123 (6)	1.56%
Prof. Dr. Manfred Karobath, Austria	22,631 (7)	*
Dr. Ross L. Levine, United States	—	—
Dr. Elaine Mardis, United States	— (8)	—
Lawrence A. Rosen, United States	— (9)	—
Elizabeth Tallett, United States	10,130 (10)	*

- \* Indicates that the person beneficially owns less than 0.5% of the Common Shares issued and outstanding as of January 31, 2018.
- (1) The number of Common Shares outstanding as of January 31, 2018 was 226,556,855. The persons and entities named in the table have sole voting and investment power with respect to all shares shown as beneficially owned by them and have the same voting rights as shareholders with respect to Common Shares.
  - (2) Does not include Common Shares subject to options or awards held by such persons at January 31, 2018. See footnotes below for information regarding options now exercisable or that could become exercisable within 60 days of the date of this table.
  - (3) Does not include 628,045 shares issuable upon the exercise of options now exercisable having exercise prices ranging from \$15.59 to \$22.25 per share. Options expire in increments during the period between February 2019 and February 2023. Does not include 387,518 shares issuable upon the release of unvested stock awards that could become releasable within 60 days from the date of this table.
  - (4) Does not include 162,483 shares issuable upon the exercise of options now exercisable having exercise prices ranging from \$15.59 to \$22.25 per share. Options expire in increments during the period between February 2019 and February 2023. Does not include 117,966 shares issuable upon the release of unvested stock awards that could become releasable within 60 days from the date of this table.
  - (5) Does not include 4,496 shares issuable upon the release of unvested stock awards that could become releasable within 60 days from the date of this table.
  - (6) Does not include 7,893 shares issuable upon the exercise of options now exercisable having exercise prices ranging from \$15.59 to \$22.43 per share. Options expire in increments during the period between April 2018 and February 2022. Includes 2,741,579 shares held by CC Verwaltungs GmbH, of which Dr. Colpan is the sole stockholder and 770,370 shares held by Colpan GbR. Does not include 10,496 shares issuable upon the release of unvested stock awards that could become releasable within 60 days from the date of this table.
  - (7) Does not include 7,893 shares issuable upon the exercise of options now exercisable having exercise prices ranging from \$15.59 to \$22.43 per share. Options expire in increments during the period between April 2018 and February 2022. Does not include 10,496 shares issuable upon the release of unvested stock awards that could become releasable within 60 days from the date of this table.
  - (8) Does not include 4,496 shares issuable upon the release of unvested stock awards that could become releasable within 60 days from the date of this table.
  - (9) Does not include 4,496 shares issuable upon the release of unvested stock awards that could become releasable within 60 days from the date of this table.
  - (10) Does not include 1,563 shares issuable upon the exercise of options now exercisable having exercise prices of \$15.59 per share. Options expire on February 2022. Does not include 10,496 shares issuable upon the release of unvested stock awards that could become releasable within 60 days from the date of this table.

The following table sets forth the options of our officers and directors as of January 31, 2018:

<b>Name</b>	<b>Total Vested Options</b>	<b>Expiration Dates</b>	<b>Exercise Prices</b>
Peer M. Schatz	628,045	2/27/2019 to 2/28/2023	\$15.59 to \$22.25
Roland Sackers	162,483	2/27/2019 to 2/28/2023	\$15.59 to \$22.25
Dr. Metin Colpan	7,893	4/29/2018 to 2/28/2022	\$15.59 to \$22.43
Prof. Dr. Manfred Karobath	7,893	4/29/2018 to 2/28/2022	\$15.59 to \$22.43
Elizabeth E. Tallett	1,563	2/28/2022	\$15.59

## Employees

As of December 31, 2017, we employed 4,688 individuals, of which 20% worked in research and development, 40% in sales, 23% in production/logistics, 6% in marketing and 11% in administration.

<b>Region</b>	<b>Research &amp; Development</b>	<b>Sales</b>	<b>Production</b>	<b>Marketing</b>	<b>Administration</b>	<b>Total</b>
Americas	218	592	279	66	90	1,245
Europe, Middle East & Africa	691	718	679	154	325	2,567
Asia Pacific & Rest of World	44	575	123	58	76	876
<b>December 31, 2017</b>	<b>953</b>	<b>1,885</b>	<b>1,081</b>	<b>278</b>	<b>491</b>	<b>4,688</b>

At December 31, 2016 and 2015, we employed 4,684 and 4,559 individuals, respectively. Management believes that its relations with regional labor unions and employees are good.

### *Stock Plans*

We adopted the QIAGEN N.V. Amended and Restated 2005 Stock Plan (the 2005 Plan) which was approved by our shareholders on June 14, 2005. The 2005 Plan expired by its terms in April 2015 and no further awards will be granted under the 2005 Plan. On June 25, 2014, our shareholders approved the QIAGEN N.V. 2014 Stock Plan (the 2014 Plan), which replaced the 2005 Plan in April 2015. An aggregate of 16.7 million Common Shares were reserved for issuance pursuant to the 2014 Plan, subject to certain antidilution adjustments. We issue Treasury Shares to satisfy option exercises and award releases and had approximately 22 million Common Shares reserved and available for issuance under the 2005 and 2014 Plans at December 31, 2017.

Pursuant to the 2014 Plan, stock rights, which include options to purchase our Common Shares, stock grants and stock-based awards, may be granted to employees and consultants of QIAGEN and its subsidiaries and to Supervisory Directors. Options granted pursuant to the 2014 Plan may either be incentive stock options within the meaning of Section 422 of the United States Internal Revenue Code of 1986, as amended (the Code), or non-qualified stock options. Options granted to members of the Supervisory Board and the Managing Board must have an exercise price that is higher than the market price at the time of grant. Generally, each of the options has a term of ten years, subject to earlier termination in the event of death, disability or other termination of employment. The vesting and exercisability of certain stock rights will be accelerated in the event of a Change of Control, as defined in the agreements under the 2014 Plan.

The Plan is administered by the Compensation Committee of the Supervisory Board, which selects participants from among eligible employees, consultants and directors and determines the number of shares subject to the stock-based award, the length of time the award will remain outstanding, the manner and time of the award's vesting, the price per share subject to the award and other terms and conditions of the award consistent with the Plan. The Compensation Committee's decisions are subject to the approval of the Supervisory Board.

The Compensation Committee has the power, subject to Supervisory Board approval, to interpret the plans and to adopt such rules and regulations (including the adoption of "sub plans" applicable to participants in specified jurisdictions) as it may deem necessary or appropriate. The Compensation Committee or the Supervisory Board may at any time amend the plans in any respect, subject to Supervisory Board approval, and except that (i) no amendment that would adversely affect the rights of any participant under any option previously granted may be made without such participant's consent and (ii) no amendment shall be effective prior to shareholder approval to the extent such approval is required to ensure favorable tax treatment for incentive stock options or to ensure compliance with Rule 16b-3 under the United States Securities Exchange Act of 1934, as amended (the Exchange Act) at such times as any participants are subject to Section 16 of the Exchange Act.

As of January 31, 2018, there were 1.1 million options outstanding with exercise prices ranging between \$14.91 and \$23.16 and expiring between April 29, 2018 and October 31, 2023. The exercise price of the options is the fair market value of the Common Shares as of the date of grant or a premium above fair market value. Additionally, there were 8.1 million stock unit awards outstanding as of January 31, 2018. These awards will be released between February 15, 2018 and February 28, 2027. As of January 31, 2018, options to purchase 0.8 million Common Shares and 3.4 million stock unit awards were held by the officers and directors of QIAGEN, as a group.

## **Item 7. Major Shareholders and Related Party Transactions**

The following table sets forth certain information as of December 31, 2017, concerning the ownership of Common Shares of each holder of greater than 5% ownership. None of these holders have any different voting rights than other holders of our Common Shares.

<u>Name and Country of Residence</u>	<u>Shares Beneficially Owned</u>	
	<u>Number</u>	<u>Percent Ownership <sup>(1)</sup></u>
BlackRock, Inc., United States	21,813,445 (2)	9.63%
Franklin Resources, Inc., United States	18,757,447 (3)	8.28%
PRIMECAP Management Company, United States	16,566,194 (4)	7.31%

- (1) The percentage ownership was calculated based on 226,556,855 Common Shares outstanding as of December 31, 2017.
- (2) Of the 21,813,445 shares attributed to BlackRock, Inc., it has sole voting power over 20,045,447 and sole dispositive power over all 21,813,445 shares. This information is based solely on the Schedule 13G filed by BlackRock, Inc. with the Securities and Exchange Commission on January 30, 2018, which reported ownership as of December 31, 2017.
- (3) Of the 18,757,447 shares attributed to Franklin Resources, Inc., it shares voting and dispositive powers over all 18,757,447 shares with various members of a reporting group of which it is part. This information is based solely on the Schedule 13G filed by Franklin Resources Inc. with the Securities and Exchange Commission on February 7, 2018, which reported ownership as of December 31, 2017.
- (4) Of the 16,566,194 shares attributed to PRIMECAP Management Company, it has sole voting power over 8,022,006 and sole dispositive power over all 16,566,194 shares. This information is based solely on the Schedule 13G filed by PRIMECAP Management Company with the Securities and Exchange Commission on February 27, 2018, which reported ownership as of December 31, 2017.

Our common stock is traded on the New York Stock Exchange in the United States and on the Prime Standard Segment of the Frankfurt Stock Exchange in Germany. A significant portion of our shares are held electronically in the account of a stockbroker, therefore we generally have no way of determining who our shareholders are, their geographical location or how many shares a particular shareholder owns. As of January 31, 2018, there were 133 shareholders of record of our Common Shares.

#### *Control of Registrant*

To our knowledge, we are not directly or indirectly owned or controlled by another corporation, by any foreign government, or by any other natural or legal person. As of January 31, 2018, the officers and directors of QIAGEN as a group beneficially owned 6.3 million Common Shares, or 2.77% of the then outstanding Common Shares.

#### *Related Party Transactions*

For information on related party transactions, see Note 22 of the Notes to Consolidated Financial Statements.

### **Item 8. Financial Information**

See Item 18.

#### **Legal Proceedings**

For information on legal proceedings, see Note 19 of the Notes to Consolidated Financial Statements.

While no assurances can be given regarding the outcome of proceedings described in Note 19, based on information currently available, we believe that the resolution of these matters is unlikely to have a material adverse effect on our financial position or results of future operations for QIAGEN N.V. as a whole. However, because of the nature and inherent uncertainties of litigation, should the outcomes be unfavorable, certain aspects of our business, financial condition, and results of operations and cash flows could be materially adversely affected.

#### **Statement of Policy on Dividend Distribution**

We have not paid any dividends on our Common Shares since our inception and do not intend to pay any dividends on our Common Shares in the foreseeable future. We intend to retain our earnings, if any, for the development of our business.

#### **Disclosure pursuant to Section 219 of the Iran Threat Reduction & Syria Human Rights Act (ITRA)**

We conduct limited business with certain Iranian entities which contributed \$3.5 million or approximately 0.2% of our consolidated net sales in 2017. Although these activities are compliant with applicable law and not financially material, the Iran Threat Reduction and Syria Human Rights Act of 2012 (the "Act") requires us to include the following disclosures in this report. Sales consisted of our consumables and instrumentation products. U.S. affiliates, or foreign affiliates controlled by U.S. affiliates, are not involved in these sales activities and we have not knowingly conducted a transaction or dealt with a person or entity designated in U.S. Executive Orders No. 13224 and 13382. No business has been transacted with the Government of Iran as defined in the Act. We do not believe any of our activities are sanctionable under the Iran Sanctions Act or the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010. In light of the nature of the products concerned, we do not currently intend to cease our commercial operations with Iranian entities.

**Item 9. The Offer and Listing**

Effective January 10, 2018, our Common Shares began trading on the New York Stock Exchange (NYSE) under the symbol QGEN. Prior to that, from July 3, 2006 until January 9, 2018, our Common Shares were traded on the NASDAQ Global Select Market under the symbol QGEN. Previously, since February 15, 2005, our Common Shares had been quoted on the NASDAQ National Market under the symbol QGEN. Prior to that, since June 27, 1996, our Common Shares had been quoted on the NASDAQ National Market under the symbol QGENF. The following tables set forth the annual high and low sale prices for the last five years, the quarterly high and low sale prices for the last two years, and the monthly high and low sale prices for the last six months of our Common Shares on the NYSE and NASDAQ Global Select, as applicable.

	<u>High (\$)</u>	<u>Low (\$)</u>
Annual:		
2013	24.74	18.30
2014	25.32	19.46
2015	28.53	22.11
2016	28.84	19.94
2017	36.34	27.40



	<b>High (\$)</b>	<b>Low (\$)</b>
<b>Quarterly 2016:</b>		
First Quarter	26.89	20.10
Second Quarter	24.05	19.94
Third Quarter	27.70	21.38
Fourth Quarter	28.84	23.94
<b>Quarterly 2017:</b>		
First Quarter	30.25	27.40
Second Quarter	35.26	27.74
Third Quarter	34.76	31.02
Fourth Quarter	36.34	30.20
<b>Quarterly 2018:</b>		
First Quarter (through February 28, 2018)	34.79	30.78

	<b>High (\$)</b>	<b>Low (\$)</b>
<b>Monthly:</b>		
September 2017	32.87	31.23
October 2017	36.34	31.56
November 2017	34.32	30.20
December 2017	32.97	30.64
January 2018	34.79	30.78
February 2018	34.47	31.01

From September 25, 1997, to December 31, 2002, our Common Shares were traded on the Frankfurt Stock Exchange Neuer Markt under the symbol QIA and with the security code number 901626. As of January 1, 2003, the trading of our Common Shares was transferred to the Prime Standard Segment of the Frankfurt Stock Exchange, where QIAGEN is a member of the TecDAX, an index of the 30 leading technology companies in Germany not included in the benchmark DAX index. The following table sets forth the annual high and low sale prices for the last five years, the quarterly high and low sale prices for the last two years, and the monthly high and low sale prices for the last six months of our Common Shares on the Prime Standard.

	<b>High (EUR)</b>	<b>Low (EUR)</b>
<b>Annual:</b>		
2013	18.15	13.67
2014	19.64	14.38
2015	26.05	18.72
2016	27.26	17.76
2017	31.52	25.41

	High (EUR)	Low (EUR)
Quarterly 2016:		
First Quarter	24.96	17.76
Second Quarter	21.40	18.16
Third Quarter	24.77	19.27
Fourth Quarter	27.26	21.77
Quarterly 2017:		
First Quarter	28.50	25.41
Second Quarter	31.52	26.03
Third Quarter	30.02	25.89
Fourth Quarter	30.08	25.78
Quarterly 2018:		
First Quarter (through February 28, 2018)	28.33	25.42
	High (EUR)	Low (EUR)
Monthly:		
September 2017	27.70	26.48
October 2017	30.08	26.70
November 2017	29.60	25.78
December 2017	27.93	25.92
January 2018	28.15	25.54
February 2018	28.33	25.42

## Item 10. Additional Information

### *Memorandum and Articles of Association*

We are a public company with limited liability (*naamloze vennootschap*) incorporated under Dutch law and registered with the Dutch Trade Register under file number 12036979. Set forth below is a summary of certain provisions of our full Articles of Association, as lastly amended on January 24, 2017 (the Articles), and Dutch law, where appropriate. The Dutch Corporate Governance Code, (the Dutch Code), contains principles of good corporate governance and best practice provisions that regulate relations between the Managing Board, the Supervisory Board and the Shareholders. The principles and provisions are aimed at defining responsibilities for long-term value creation, risk control, effective management and supervision, remuneration and the relationship with Shareholders, including the General Meeting and stakeholders. The Dutch Code was lastly amended in 2016. This amended Dutch Code is applicable as from January 1, 2017 and replaces the 2008 Code. A listed company should either comply with, or if not, explain in its annual report why and to what extent it does not comply, with the principles of the Dutch Code. The Dutch Code has been taken into account in the summary below.

This summary does not purport to be complete and is qualified in its entirety by reference to the Articles, Dutch Law and the Dutch Code.

### **Corporate Purpose**

Our objectives include, without limitation, the performance of activities in the biotechnology industry, as well as incorporating, acquiring, participating in, financing, managing and having any other interest in companies or enterprises of any nature, raising and lending funds and such other acts as may be conducive to our business.

### **Managing Directors**

QIAGEN shall be managed by a Managing Board consisting of one or more Managing Directors under the supervision of the Supervisory Board. The Managing Board is responsible for our continuity and our affiliated enterprise. The Managing Board focuses on our long-term value creation and our affiliated enterprise, and takes into account our stakeholders' interests that are relevant in this context, which includes but is not limited to our shareholders. Managing Directors shall be appointed by the General Meeting upon the joint meeting of the Supervisory Board and the Managing Board (Joint Meeting), having made a binding nomination for each vacancy. However, the General Meeting may at all times overrule the binding nature of such a

nomination by a resolution adopted by at least a two-thirds majority of the votes cast, if such majority represents more than half the issued share capital. This is different from the provisions of many American corporate statutes, including the Delaware General Corporation Law, which give the directors of a corporation greater authority in choosing the executive officers of a corporation. Under our Articles, the General Meeting may suspend or dismiss a managing director at any time. The Supervisory Board shall also at all times be entitled to suspend (but not to dismiss) a Managing Director. The Articles provide that the Supervisory Board may adopt management rules governing the internal organization of the Managing Board.

Furthermore, the Supervisory Board shall determine the salary, the bonus, if any, and the other compensation terms and conditions of employment of the Managing Directors within the scope of the remuneration policy. The remuneration policy of the Managing Board has been adopted in our Annual General Meeting on June 25, 2014.

Resolutions of the Managing Board shall be validly adopted, if adopted by simple majority of votes, at least one of whom voting in favour of the proposal must be the Chairman. Each Managing Director has the right to cast one vote.

Under Dutch law, in the event that there is a conflict of interest between a Managing Director and us and our business on a certain matter, that Managing Director shall not participate in the discussions and voting on that matter. If all our Managing Directors have a conflict of interest, such resolution shall be adopted by the Supervisory Board. If all Supervisory Directors have a conflict of interest as well, the General Meeting will be authorized to resolve on such matter. According to the Dutch Code, any conflict of interest or apparent conflict of interest between the company and Managing Directors should be prevented. To avoid conflicts of interest, adequate measures should be taken. Under the Dutch Code, the Supervisory Board is responsible for the decision-making on dealing with conflicts of interest regarding Managing Directors, Supervisory Directors and majority shareholders in relation to us. A Managing Director should report any potential conflict of interest in a transaction that is of material significance to the Company and/or to such Managing Director to the Chairman of the Supervisory Board and to the other members of the Managing Board without delay. The Supervisory Board should decide, outside the presence of the Managing director, whether there is a conflict of interest.

### **Supervisory Directors**

The Supervisory Board shall be responsible for supervising the policy pursued by the Managing Board and our general course of affairs. Under our Articles, the Supervisory Directors are required to serve our interests and our business and the interest of all stakeholders (which includes but is not limited to our shareholders) in fulfilling their duties. The Supervisory Board shall consist of such number of members as the Joint Meeting may from time to time determine, with a minimum of three members. The Supervisory Directors shall be appointed by the General Meeting upon the Joint Meeting having made a binding nomination for each vacancy. If during a financial year a vacancy occurs in the Supervisory Board, the Supervisory Board may appoint a Supervisory Director who will cease to hold office at the next Annual General Meeting. Under Dutch law, in the event that there is a conflict of interest between a Supervisory Director and us and our business on a certain matter, that Supervisory Director shall not participate in the discussions and voting on that matter. Under the Dutch Code, a Supervisory Director should report any conflict of interest or potential conflict of interest in a transaction that is of material significance to the Company and/or to such Supervisory Director to the Chairman of the Supervisory Board without delay. The Supervisory Board should decide, outside the presence of the Supervisory Director concerned, whether there is a conflict of interest. If all Supervisory Directors have a conflict of interest, the relevant resolution shall be adopted by the General Meeting. Decisions to enter into transactions under which a Supervisory Director would have a conflict of interest that are of material significance to QIAGEN and/or to the Supervisory Director concerned, require the approval of the Supervisory Board.

Under our Articles, the General Meeting determines the compensation of the Supervisory Directors upon the proposal of the Compensation Committee. Under the Dutch Code, any shares held by a Supervisory Director in the Company on whose board he sits should be long-term investments.

Under our Articles, the General Meeting may suspend or dismiss a Supervisory Director at any time. This is different from the provisions of many American corporate statutes, including the Delaware General Corporation Law, which provides that directors may vote to fill vacancies on the board of directors of a corporation.

### **Liability of Managing Directors and Supervisory Directors**

Under Dutch law, as a general rule, Managing Directors and Supervisory Directors are not liable for obligations we incur. Under certain circumstances, however, they may become liable, either towards QIAGEN (internal liability) or to others (external liability), although some exceptions are described below.

#### **Liability towards QIAGEN**

Failure of a Managing or Supervisory Director to perform his or her duties does not automatically lead to liability. Liability is only incurred in the case of a clear, indisputable shortcoming about which no reasonably judging business-person would have any doubt. In addition, the Managing or Supervisory Director must be deemed to have been grossly negligent. Managing Directors are jointly and severally liable for failure of the Managing Board as a whole, but an individual Managing Director

will not be held liable if he or she is determined not to have been responsible for the mismanagement and has not been negligent in preventing its consequences. Supervisory Directors are jointly and severally liable for failure of the Supervisory Board as a whole, but an individual Supervisory Director will not be held liable if he or she is determined not to have been responsible for the mismanagement and has not been negligent in preventing its consequences.

### **Liability for Misrepresentation in Annual Accounts**

Managing and Supervisory Directors are also jointly and severally liable to any third party for damages suffered as a result of misrepresentation in the annual accounts, management commentary or interim statements of QIAGEN, although a Managing or Supervisory Director will not be held liable if found not to be personally responsible for the misrepresentation. Moreover, a Managing or Supervisory Director may be found to be criminally liable if he or she deliberately publishes false annual accounts or deliberately allows the publication of such false annual accounts.

### **Tort Liability**

Under Dutch law, there can be liability if one has committed a tort (*onrechtmatige daad*) against another person. Although there is no clear definition of “tort” under Dutch law, breach of a duty of care towards a third party is generally considered to be a tort. Therefore, a Dutch corporation may be held liable by any third party under the general rule of Dutch laws regarding tort claims. In exceptional cases, Managing Directors and Supervisory Directors have been found liable on the basis of tort under Dutch common law, but it is generally difficult to hold a Managing or Supervisory Director personally liable for a tort claim. Shareholders cannot base a tort claim on any losses which derive from and coincide with losses we suffered. In such cases, only we can sue the Managing or Supervisory Directors.

### **Criminal Liability**

Under Dutch law, if a legal entity has committed a criminal offence, criminal proceedings may be instituted against the legal entity itself as well as against those who gave order to or were in charge of the forbidden act. As a general rule, it is held that a Managing Director is only criminally liable if he or she played a reasonably active role in the criminal act.

### **Indemnification**

Article 27 of our Articles provides that we shall indemnify every person who is or was a Managing Director or Supervisory Director against all expenses (including attorneys’ fees) judgments, fines and amounts paid in settlement with respect to any threatened pending or completed action, suit or proceeding as well as against expenses (including attorneys’ fees) actually and reasonably incurred in connection with the defense or settlement of an action or proceeding, if such person acted in good faith and in a manner he reasonably could believe to be in or not opposed to our best interests. An exception is made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence or willful misconduct in the performance of his or her duty to us.

### **Classes of Shares**

The authorized classes of our shares consist of Common Shares, Financing Preference Shares and Preference Shares. No Financing Preference Shares or Preference Shares have been issued.

### **Common Shares**

Common Shares are issued in registered form only. Until January 24, 2017, Common Shares were available either without issue of a share certificate, or Type I shares, or with issue of a share certificate, or Type II shares, in either case in the form of an entry in the share register. At the discretion of the Supervisory Board, Type I shares may be issued and the holders of such Type I shares will be registered in either our shareholders register with American Stock Transfer & Trust Company, or New York Transfer Agent, our transfer agent and registrar in New York, or our shareholder register with TMF FundServices B.V., Westblaak 89, NL-3012 KG Rotterdam, The Netherlands. The Type II shares were registered with our New York Transfer Agent.

On January 24, 2017 an adjustment to our capital structure took place in order to repay approximately USD 250 million to our shareholders via a so called synthetic share repurchase. This involved three amendments of our Articles. With the first amendment of the Articles, the par value of each Common Share was increased. With the second Amendment of the Articles, the Shares were consolidated on the basis of a ratio as determined by the Managing Board as result thereof the total number of issued Shares were decreased and fractional Shares were introduced. Each fractional Share represents one/twenty-seventh (1/27) portion of the value of an ordinary Share. Also, as a result of this second amendment of our Articles, we can no longer issue share certificates, existing share certificates are no longer valid and therefore no longer a distinction is made between Type I and Type II Shares. With the third amendment of the Articles the par value per Share was decreased to EUR 0.01 (the same par value as before the first amendment of the Articles). A part of the value whereby the par value of Shares was decreased was paid to the shareholders.

The transfer of registered shares requires that we issue a written instrument of transfer and the written acknowledgment of such transfer by us or the New York Transfer Agent (in our name). Until January 24, 2017 the corresponding share certificates of Type II Shares had to be delivered to us or to the New York Transfer Agent (in our name). Acknowledgement of the transfer of Type II shares took place by us or the New York Transfer Agent (in our name) by endorsement on the share certificate or by issuance of a new share certificate to the transferee, at the discretion of the Managing Board.

### **Financing Preference Shares**

No Financing Preference Shares are currently issued or outstanding. If issued, Financing Preference Shares will be issued in registered form only. No share certificates are issued for Financing Preference Shares. Financing Preference Shares must be fully paid up upon issue. The preferred dividend rights attached to Financing Preference Shares are described under "Dividends" below. We have no present plans to issue any Financing Preference Shares.

### **Preference Shares**

No Preference Shares are currently issued or outstanding. If issued, Preference Shares will be issued in registered form only. No share certificates shall be issued for Preference Shares. Only 25% of the nominal value thereof is required to be paid upon subscription for Preference Shares. The obligatory payable part of the nominal amount (or the call) must be equal for each Preference Share. The Managing Board may, subject to the approval of the Supervisory Board, resolve on which day and up to which amount a further call must be paid on Preference Shares which have not yet been paid up in full. The preferred dividend rights attached to Preference Shares are described under "Dividends" below.

Pursuant to our Articles, QIAGEN's Supervisory Board is entitled, if and in so far as the Supervisory Board has been designated by our General Meeting, to resolve to issue Preference Shares in case of an intended take-over of our Company by (i) any person who alone or with one or more other persons, directly or indirectly, have acquired or given notice of an intent to acquire (beneficial) ownership of an equity stake which in aggregate equals 20% or more of our share capital then outstanding or (ii) an "adverse person" as determined by the Supervisory Board. For this purpose, an "adverse person" is generally any (legal) person, alone or together with affiliates or associates, with an equity stake in our Company which the Supervisory Board considers to be substantial and where the Supervisory Board is of the opinion that this (legal) person has engaged in an acquisition that is intended to cause or pressure QIAGEN to enter into transactions intended to provide such person with short-term financial gain under circumstances that would not be in the interest of QIAGEN and our shareholders or whose ownership is reasonably likely to cause a material adverse impact on our business prospects. Currently the Supervisory Board has not been designated to issue Preference Shares.

On August 2, 2004, we entered into an agreement (Option Agreement) with Stichting Preferente Aandelen QIAGEN (SPAQ) which was most recently amended on June 4, 2012. Pursuant to the Option Agreement, SPAQ was granted an option to acquire such number of Preference Shares as are equal to the total number of all outstanding Common Shares minus one in our share capital at the time of the relevant exercise of the right. SPAQ may exercise its right to acquire the Preference Shares in all situations that it believes that our interest or our stakeholders is at risk (which situations include but are not limited to (i) receipt of a notification from the Managing Board that a takeover is imminent and (ii) receipt of a notification from the Managing Board that one or more activist shareholders take a position that is not in the interest of QIAGEN, our shareholders or our other stakeholders), provided that the conditions mentioned in the previous paragraph have been met. Due to the implementation of the EC Directive on Takeover Bids in Dutch legislation, the exercise of the option to acquire Preference Shares by SPAQ and the subsequent issuance of Preference Shares to SPAQ needs to be done with due observance and in consideration of the restrictions imposed by the Public Offer Rules.

SPAQ was incorporated on August 2, 2004. Its principal office is located at Hulsterweg 82, 5912 PL Venlo, The Netherlands. Its statutory objectives are to protect our interests and our enterprise and the enterprises of companies which are linked to us. SPAQ shall attempt to accomplish its objectives by way of acquiring Preference Shares in the share capital of QIAGEN and to exercise the voting rights in our interests and the interests of our stakeholders.

The board of SPAQ shall consist of at least two directors. Upon incorporation of SPAQ, two members were appointed to the board of SPAQ. Additional board members shall be appointed by the board of SPAQ. Board resolutions will be adopted by unanimity of the votes cast. SPAQ will be represented either by its board or by the chairman of its board.

### **Pre-emptive Rights**

Under our Articles, existing holders of Common Shares will have pre-emptive rights in respect of future issuances of Common Shares in proportion to the number of Common Shares held by them, unless limited or excluded as described below. Holders of Common Shares shall not have pre-emptive rights in respect of future issuances of Financing Preference Shares or Preference Shares. Holders of Financing Preference Shares and Preference Shares shall not have pre-emptive rights in respect of any future issuances of share capital. Pre-emptive rights do not apply with respect to shares issued against contributions other than in cash or shares issued to our employees or one of our group companies. Under our Articles, the Supervisory Board has the power to

limit or exclude any pre-emptive rights to which shareholders may be entitled, provided that it has been authorized by the General Meeting to do so. The authority of the Supervisory Board to limit or exclude pre-emptive rights can only be exercised if at that time the authority to issue shares is in full force and effect. The authority to limit or exclude pre-emptive rights may be extended in the same manner as the authority to issue shares. If there is no designation of the Supervisory Board to limit or exclude pre-emptive rights in force, the General Meeting shall have authority to limit or exclude such pre-emptive rights, but only upon the proposal of the Supervisory Board.

Resolutions of the General Meeting (i) to limit or exclude pre-emptive rights or (ii) to designate the Supervisory Board as the corporate body that has authority to limit or exclude pre-emptive rights, require a majority of at least two-thirds of the votes cast in a meeting of shareholders if less than 50% of the issued share capital is present or represented. For these purposes, issuances of shares include the granting of rights to subscribe for shares, such as options and warrants, but not the issue of shares upon exercise of such rights.

On June 21, 2017, the General Meeting resolved to authorize the Supervisory Board until December 21, 2018 to issue Common Shares and Financing Preference Shares or grant rights to subscribe for such shares, the aggregate par value of which shall be equal to the aggregate par value of all shares issued and outstanding in the capital of the Company as at December 31, 2016 as included in the Annual Accounts for Fiscal Year 2016.

The General Meeting subsequently resolved to grant the authority to restrict or exclude pre-emptive rights until December 21, 2018. However, the General Meeting has limited this authority in a way that the Supervisory Board can only exclude or limit the pre-emptive rights in relation to no more than 20% of the aggregate par value of all shares issued and outstanding in the capital of the Company as of December 31, 2016.

### **Acquisition of Our Own Shares**

We may acquire our own shares, subject to certain provisions of Dutch law and our Articles, if (i) shareholders' equity less the payment required to make the acquisition does not fall below the sum of paid-up and called-up capital and any reserves required by Dutch law or the Articles and (ii) we and our subsidiaries would not thereafter hold shares with an aggregate nominal value exceeding half of our issued share capital. Shares that we hold in our own capital or shares held by one of our subsidiaries may not be voted. The Managing Board, subject to the approval of the Supervisory Board, may affect our acquisition of shares in our own capital. Our acquisitions of shares in our own capital may only take place if the General Meeting has granted to the Managing Board the authority to effect such acquisitions. Such authority may apply for a maximum period of 5 years and must specify the number of shares that may be acquired, the manner in which shares may be acquired and the price limits within which shares may be acquired. Dutch corporate law allows for the authorization of the Managing Board to purchase a number of shares equal to up to 50% of the Company's issued share capital on the date of the acquisition. On June 21, 2017, the General Meeting resolved to extend the authorization of the Managing Board in such manner that the Managing Board may cause us to acquire shares in our own share capital, for an 18-month period beginning June 21, 2017 until December 21, 2018, without limitation at a price between one Euro cent (Euro 0.01) and one hundred ten percent (110%) of the price for such shares on the New York Stock Exchange or, as applicable, the Frankfurt Stock Exchange, for the five trading days prior to the day of purchase, or, with respect to Preference and Finance Preference shares, against a price between one Euro cent (Euro 0.01) and three times the issuance price and in accordance with applicable provisions of Dutch law and our Articles.

### **Capital Reduction**

Subject to the provisions of Dutch law and our Articles, the General Meeting may, upon the proposal of the Supervisory Board, resolve to reduce the issued share capital by (i) canceling shares or (ii) reducing the nominal value of shares through an amendment of our Articles. Cancellation with repayment of shares or partial repayment on shares or release from the obligation to pay up may also be made or given exclusively with respect to Common Shares, Financing Preference Shares or Preference Shares.

### **Financial Year, Annual Accounts and Independent Registered Public Accounting Firm**

Our financial year coincides with the calendar year. Dutch law and our Articles require that within five months after the end of the financial year, the Managing Board must make available a report with respect to such financial year, including our financial statements for such year prepared under International Financial Reporting Standards and accompanied by a report of an Independent Registered Public Accounting Firm. The annual report is submitted to the Annual General Meeting for adoption.

The General Meeting appoints the external auditor of our statutory financial statements prepared in accordance with International Financial Reporting Standards and to issue a report thereon. On June 21, 2017, our shareholders appointed KPMG Accountants N.V. to serve as our external auditor for our statutory consolidated financial statements prepared in accordance with International Financial Reporting Standards for the year ending December 31, 2017.

## **Dividends and Other Distributions**

Subject to certain exceptions, dividends may only be paid out of profits as shown in our annual financial statements as adopted by the General Meeting. Distributions may not be made if the distribution would reduce shareholders' equity below the sum of the paid-up capital and any reserves required by Dutch law or our Articles.

Out of profits, dividends must first be paid on any outstanding Preference Shares (the Preference Share Dividend) in a percentage (the Preference Share Dividend Percentage) of the obligatory call amount paid up on such shares at the beginning of the financial year in respect of which the distribution is made. The Preference Share Dividend Percentage is equal to the average main refinancing rates during the financial year for which the distribution is made. Average main refinancing rate shall be understood to mean the average value on each individual day during the financial year for which the distribution is made of the main refinancing rates prevailing on such day. The main refinancing rate shall be understood to mean the rate of the Main Refinancing Operation as determined and published from time to time by the European Central Bank. If and to the extent that profits are not sufficient to pay the Preference Share Dividend in full, the deficit shall be paid out of the reserves, with the exception of any reserve, which was formed as share premium reserve upon the issue of Financing Preference Shares. If in any financial year the profit is not sufficient to make the distributions referred to above and if no distribution or only a partial distribution is made from the reserves referred to above, such that the deficit is not fully made good, no further distributions will be made as described below until the deficit has been made good.

Out of profits remaining after payment of any dividends on Preference Shares, the Supervisory Board shall determine such amounts as shall be kept in reserve as determined by the Supervisory Board. Out of any remaining profits not allocated to reserve, a dividend (the Financing Preference Share Dividend) shall be paid on the Financing Preference Shares equal to a percentage (the Financing Preference Share Dividend Percentage) over the nominal value of the Financing Preference Shares, increased by the amount of share premium that was paid upon the first issue of Financing Preference Shares. The Financing Preference Shares Dividend Percentage which percentage is related to a fixed average effective yield on the prime interest rate on corporate loans in the United States as quoted in the Wall Street Journal as set forth in article 40.4 of our Articles. If and to the extent that the profits are not sufficient to pay the Financing Preference Share Dividend in full, the deficit may be paid out of the reserves if the Managing Board so decides with the approval of the Supervisory Board, with the exception of the reserve which was formed as share premium upon the issue of Financing Preference Shares.

Insofar as the profits have not been distributed or allocated to reserves as specified above, the General Meeting may act to allocate such profits, provided that no further dividends will be distributed on the Preference Shares or the Financing Preference Shares.

The General Meeting may resolve, on the proposal of the Supervisory Board, to distribute dividends or reserves, wholly or partially, in the form of QIAGEN shares.

Distributions as described above are payable as from a date to be determined by the Supervisory Board. Distributions will be made payable at an address or addresses in The Netherlands to be determined by the Supervisory Board, as well as at least one address in each country where the shares are listed or quoted for trading. The Supervisory Board may determine the method of payment of cash distributions. Distributions in cash that have not been collected within five years and two days after they have become due and payable shall revert to QIAGEN.

Dutch law provides that the declaration of dividends out of the profits that are at the free disposal of the General Meeting is the exclusive right of the General Meeting. This is different from the corporate law of most jurisdictions in the United States, which permit a corporation's board of directors to declare dividends.

## **Shareholder Meetings, Voting Rights and Other Shareholder Rights**

The annual General Meeting is required to be held within six months after the end of each financial year for the purpose of, among other things, adopting the annual accounts and filling of any vacancies on the Managing and Supervisory Boards.

Extraordinary General Meetings are held as often as deemed necessary by the Managing Board or Supervisory Board, or upon the request of one or more shareholders and other persons entitled to attend meetings jointly representing at least 40% of our issued share capital or by one or more shareholders jointly representing at least 10% of our issued share capital as provided for and in accordance with the laws of The Netherlands.

General Meetings are held in Amsterdam, Haarlemmermeer (Schiphol Airport), Arnhem, Maastricht, Rotterdam, Venlo or The Hague. The notice convening a General Meeting must be given in such manner as shall be authorized by law including but not limited to an announcement published by electronic means no later than the forty-second day prior to day of the general meeting. The notice will contain the agenda for the meeting or state that the agenda can be obtained at our offices.

The agenda shall contain such subjects to be considered at the General Meeting, as the persons convening or requesting the meeting shall decide. Under Dutch law, holders of shares representing solely or jointly at least three hundredth part of the issued share capital may request QIAGEN not later than on the sixtieth day prior to the day of the General Meeting, to include

certain subjects on the notice convening a meeting. No valid resolutions can be adopted at a General Meeting in respect of subjects which are not mentioned in the agenda.

Dutch corporate law sets a mandatory (participation and voting) record date for Dutch listed companies fixed at the twenty-eighth day prior to the day of the shareholders' meeting. Shareholders registered at such record date are entitled to attend and exercise their rights as shareholders at the General Meeting, regardless of a sale of shares after the record date.

General Meetings are presided over by the Chairman of the Supervisory Board or, in his absence, by any person nominated by the Supervisory Board.

At the General Meeting, each share shall confer the right to cast one vote, unless otherwise provided by law or our Articles. No votes may be cast in respect of shares that we or our subsidiaries hold, or by usufructuaries and pledgees. All shareholders and other persons entitled to vote at General Meetings are entitled to attend General Meetings, to address the meeting and to vote. They must notify the Managing Board in writing of their intention to be present or represented not later than on the third day prior to the day of the meeting, unless the Managing Board permits notification within a shorter period of time prior to any such meeting. Subject to certain exceptions, resolutions may be passed by a simple majority of the votes cast.

Except for resolutions to be adopted by the meeting of holders of Preference Shares, our Articles do not allow the adoption of shareholders resolutions by written consent (or otherwise without holding a meeting).

A resolution of the General Meeting to amend our Articles, dissolve QIAGEN, issue shares or grant rights to subscribe for shares or limit or exclude any pre-emptive rights to which shareholders shall be entitled is valid only if proposed to the General Meeting by the Supervisory Board.

A resolution of the General Meeting to amend our Articles is further only valid if the complete proposal has been made available for inspection by the shareholders and the other persons entitled to attend General Meetings at our offices as from the day of notice convening such meeting until the end of the meeting. A resolution to amend our Articles to change the rights attached to the shares of a specific class requires the approval of the relevant class meeting.

Resolutions of the General Meeting in a meeting that has not been convened by the Managing Board and/or the Supervisory Board, or resolutions included on the agenda for the meeting at the request of shareholders, will be valid only if adopted with a majority of two-thirds of votes cast representing more than half the issued share capital, unless our Articles require a greater majority or quorum.

A resolution of the General Meeting to approve a legal merger or the sale of all or substantially all of our assets is valid only if adopted by a vote of at least two-thirds of the issued share capital, unless proposed by the Supervisory Board, in which case a simple majority of the votes cast shall be sufficient.

A shareholder shall upon request be provided, free of charge, with written evidence of the contents of the share register with regard to the shares registered in its name. Furthermore, any shareholder shall, upon written request, have the right, during normal business hours, to inspect our share register and a list of our shareholders and their addresses and shareholdings, and to make copies or extracts therefrom. Such request must be directed to our Managing Directors at our registered office in The Netherlands or at our principal place of business. Financial records and other company documents (other than those made public) are not available in this manner for shareholder review, but an extract of the minutes of the General Meeting shall be made available.

According to Dutch law and our Articles, certain resolutions of the Managing Board regarding a significant change in the identity or nature of us or our enterprise are subject to the approval of the General Meeting. The following resolutions of the Managing Board require the approval of the General Meeting in any event:

- (i) the transfer of our enterprise or practically our entire enterprise to a third party;
- (ii) the entry into or termination of a long-term cooperation by us or one of our subsidiaries (*dochtermaatschappijen*) with another legal person or partnership or as a fully liable general partner of a limited partnership or a general partnership, if such cooperation or termination is of a far-reaching significance for us; and
- (iii) the acquisition or divestment by us or one of our subsidiaries (*dochtermaatschappijen*) of a participating interest in the capital of a company with a value of at least one-third of the sum of our assets according to our consolidated balance sheet and explanatory notes in our last adopted annual accounts.

### **No Derivative Actions; Right to Request Independent Inquiry**

Dutch law does not afford shareholders the right to institute actions on behalf of us or in our interest. Shareholders holding at least one-tenth of our issued capital, or EUR 225,000, in nominal value of our shares may inform the Managing Board and the Supervisory Board of their objections as to our policy or the course of our affairs and, within a reasonable time thereafter, may request the Enterprises Division of the Court of Appeal in Amsterdam to order an inquiry into the policy and the course of our affairs by independent investigators. If such an inquiry is ordered and the investigators conclude that there has been



mismanagement, the shareholders can request the Division to order certain measures such as a suspension or annulment of resolutions.

### **Dissolution and Liquidation**

The General Meeting may resolve to dissolve QIAGEN. If QIAGEN is dissolved, the liquidation shall be carried out by the person designated for that purpose by the General Meeting, under the supervision of the Supervisory Board. The General Meeting shall upon the proposal of the Supervisory Board determine the remuneration payable to the liquidators and to the person responsible for supervising the liquidation.

During the liquidation process, the provisions of our Articles will remain applicable to the extent possible.

In the event of our dissolution and liquidation, the assets remaining after payment of all debts and liquidation expenses will be distributed among registered holders of Common Shares in proportion to the nominal value of their Common Shares, subject to liquidation preference rights of holders of Preference Shares and Financing Preference Shares, if any.

### **Restrictions on Transfer of Preference Shares**

The Supervisory Board, upon application in writing, must approve each transfer of Preference Shares. If approval is refused, the Supervisory Board will designate prospective purchasers willing and able to purchase the shares, otherwise the transfer will be deemed approved.

### **Limitations in our Articles on Rights to Own Securities**

Other than with respect to usufructuaries and pledgees who have no voting rights, our Articles do not impose limitations on rights to own our securities.

### **Provisions which May Defer or Prevent a Change in Control**

The Option Agreement and our Articles could, under certain circumstances, prevent a third party from obtaining a majority of the voting control of our shares by issuing Preference Shares. Under the Option Agreement, SPAQ could acquire Preference Shares subject to the provisions referred to under "Preference Shares".

If SPAQ acquires the Preference Shares, the bidder may withdraw its bid or enter into negotiations with the Managing Board and/or Supervisory Board and agree on a higher bid price for our shares.

Shareholders who obtain control of a company are obliged to make a mandatory offer to all other shareholders. The threshold for a mandatory offer is set at the ability to exercise 30% of the voting rights at the general meeting of shareholders in a Dutch public limited company (*naamloze vennootschap*) whose securities are admitted to trading on a regulated market in the EU, such as QIAGEN.

### **Ownership Threshold Requiring Disclosure**

Our Articles do not provide an ownership threshold above which ownership must be disclosed. However there are statutory requirements to disclose share ownership above certain thresholds under Dutch law-see "Obligation of Shareholders to Disclose Major Holdings".

### **Exchange Controls**

There are currently no limitations either under the laws of The Netherlands or in our Articles, to the rights of shareholders from outside The Netherlands to hold or vote Common Shares. Under current foreign exchange regulations in The Netherlands, there are no material limitations on the amount of cash payments that we may remit to residents of foreign countries.

### **Obligation of Shareholders to Disclose Major Holdings**

Holders of our shares or rights to acquire shares (which include options and convertible bonds - see also below) may be subject to notification obligations under the Dutch Financial Markets Supervision Act (FMSA).

Pursuant to the FMSA, any person who, directly or indirectly, acquires or disposes of an interest (including a potential interest, such as options and convertible bonds) in our issued share capital or voting rights must notify the Netherlands Authority for the Financial Markets (AFM) without delay, if as a result of such acquisition or disposal, the percentage of capital interest or voting rights held by such person in QIAGEN reaches, exceeds or falls below any of the following thresholds: 3%, 5%, 10%, 15%, 20%, 25%, 30%, 40%, 50%, 60%, 75% and 95%. The notifications should be made electronically through the notification system of the AFM.

A notification requirement also applies if a person's capital interest or voting rights reaches, exceeds or falls below the above-mentioned thresholds as a result of a change in our total issued share capital or voting rights. Such notification has to be made no later than the fourth trading day after the AFM has published our notification as described below.

Under the FMSA, we are required to notify the AFM without delay of the changes to our total issued share capital or voting rights if our issued share capital or voting rights changes by 1% or more since our previous notification. We must furthermore quarterly notify the AFM within eight days after the end of the relevant quarter, in the event our issued share capital or voting rights changed by less than 1% in that relevant quarter since our previous notification.

Furthermore, each person who is or ought to be aware that, as a result of the exchange of certain financial instruments, such as options for shares, his actual capital or voting interest in QIAGEN, reaches, exceeds or falls below any of the following thresholds: 3%, 5%, 10%, 15%, 20%, 25%, 30%, 40%, 50%, 60%, 75% and 95%, vis-à-vis his most recent notification to the AFM, must give notice to the AFM no later than the fourth trading day after he became or ought to be aware of this change.

Controlled entities, within the meaning of the FMSA, do not have notification obligations under the FMSA, as their direct and indirect interests are attributed to their (ultimate) parent. Any person may qualify as a parent for purposes of the FMSA, including an individual. A person who has a 3% or larger interest in our share capital or voting rights and who ceases to be a controlled entity for these purposes must notify the AFM without delay. As of the date of that notification, all notification obligations under the FMSA will become applicable to that entity.

For the purpose of calculating the percentage of capital interest or voting rights, the following interests must, *inter alia*, be taken into account: (i) our shares or voting rights on our shares directly held (or acquired or disposed of) by a person, (ii) our shares or voting rights on our shares held (or acquired or disposed of) by such person's controlled entity or by a third party for such person's account or by a third party with whom such person has concluded an oral or written voting agreement (including a discretionary power of attorney), and (iii) our shares or voting rights on our shares which such person, or any subsidiary or third party referred to above, may acquire pursuant to any option or other right held by such person (or acquired or disposed of, including, but not limited to, on the basis of convertible bonds). Special rules apply with respect to the attribution of our shares or voting rights on our shares which are part of the property of a partnership or other community of property. A holder of a pledge or right of usufruct (*vruchtgebruik*) in respect of our shares can also be subject to the notification obligations of the FMSA, if such person has, or can acquire, the right to vote on our shares or, in the case of depository receipts, our underlying shares. The acquisition of (conditional) voting rights by a pledgee or usufructuary may also trigger the notification obligations as if the pledgee or beneficial owner were the legal holder of our shares or voting rights on our shares. A holding in certain cash settled derivatives (such as cash settled call options and total equity return swaps) referencing to our shares should also be taken into account for the purpose of calculating the percentage of capital interest.

Gross short positions in our shares must also be notified to the AFM. For these gross short positions, the same thresholds apply as for notifying an actual or potential interest in our issued share capital and/or voting rights as referred to above, and without any set-off against long positions.

In addition, pursuant to Regulation (EU) No 236/2012, each person holding a net short position amounting to 0.2% of our issued share capital is required to report such position to the AFM. Each subsequent increase of this position by 0.1% above 0.2% will also need to be reported. Each net short position equal to 0.5% of our issued share capital and any subsequent increase of that position by 0.1% will be made public via the AFM short selling register. To calculate whether a natural person or legal person has a net short position, their short positions and long positions must be set-off. A short transaction in a share can only be contracted if a reasonable case can be made that the shares sold can actually be delivered, which requires confirmation of a third party that the shares have been located.

The AFM does not issue separate public announcements of the above notifications. However, it does keep a public register of all notifications made pursuant to the above disclosure obligations under the FMSA on its website [www.afm.nl](http://www.afm.nl). Third parties can request to be notified automatically by e-mail of changes to the public register in relation to a particular company's shares or a particular notifying party.

Non-compliance with the notification obligations under the FMSA may lead to criminal fines, administrative fines, imprisonment or other sanctions. In addition, non-compliance with the shareholding disclosure obligations under the FMSA may lead to civil sanctions, including suspension of the voting rights relating to our shares held by the offender for a period of not more than three years and a prohibition applicable to the offender to acquire any of our shares or voting rights on our shares for a period of up to five years.

### **Management Notifications**

Pursuant to the FMSA, each Managing Director and each Supervisory Director must notify the AFM: (a) within two weeks after his or her appointment of the number of our shares or rights to acquire shares he or she holds and the number of votes he or she is entitled to cast in respect our issued share capital, and (b) subsequently, each change in the number or our shares or rights to acquire shares such member holds and of each change in the number of votes he or she is entitled to cast in respect of our issued share capital, immediately after the relevant change. If a Managing Director or Supervisory Director has notified a change in shareholding to the AFM under the FMSA as described above under "Obligation of Shareholders to Disclose Major Holdings", such notification is sufficient for the purposes as described in this paragraph.

Furthermore, pursuant to European Union Regulation (EU) No 596/2014 (the Market Abuse Regulation) and the regulations promulgated thereunder, any Managing Director and Supervisory Director, as well as any other person discharging managerial responsibilities in respect of QIAGEN who has regular access to inside information relating directly or indirectly to QIAGEN and power to take managerial decisions affecting future developments and business prospects of QIAGEN, must notify the AFM and QIAGEN by means of a standard form of any transactions conducted for his or her own account relating to the shares or debt instruments of QIAGEN or to derivatives or other financial instruments linked thereto.

In addition, pursuant to the Market Abuse Regulation, certain persons who are closely associated with Managing Directors and Supervisory Directors or any of the other persons as described above, are required to notify the AFM and QIAGEN of any transactions conducted for their own account relating to the shares or debt instruments of QIAGEN or to derivatives or other financial instruments linked thereto. The Market Abuse Regulation covers, *inter alia*, the following categories of persons: (i) the spouse or any partner considered by national law as equivalent to the spouse; (ii) dependent children; (iii) other relatives who have shared the same household for at least one year at the relevant transaction date; and (iv) any legal person, trust or partnership whose, among other things, managerial responsibilities are discharged by a person referred to under (i) to (iii) above or by the relevant Managing Directors and Supervisory Directors or other person discharging the managerial responsibilities in respect of QIAGEN as described above.

The notifications pursuant to the Market Abuse Regulation described above must be made to the AFM no later than the third business day following the relevant transaction date. Under certain circumstances, these notifications may be postponed until all transactions within a calendar year have reached a total amount of €5,000 (calculated without netting). Any subsequent transaction must be notified as set forth above. If a Managing Director or Supervisory Director has notified a change in the number of our shares or options to acquire shares such member holds or a change in the number of votes he or she is entitled to cast to the AFM under the FMSA as described in the first paragraph above, such notification - but only to the extent there is an overlap with the notifications obligations under the Market Abuse Regulation - is sufficient for the purposes of the Market Abuse Regulation as described in this paragraph.

## **Taxation**

The following is a general summary of certain material United States federal income tax consequences to holders of our Common Shares who are “U.S. Holders” (as such term is defined below) and certain material Netherlands tax consequences to holders of our Common Shares who are “non-resident Shareholders” or “Shareholders” (as each term is defined below). This summary does not discuss every aspect of such taxation that may be relevant to such holders. Therefore, all prospective purchasers of our Common Shares described above are advised to consult their own tax advisors with respect to the United States federal, state and local tax consequences, as well as The Netherlands tax consequences, of the ownership of our Common Shares. This summary is based upon the advice of Blais, Halpert, Lieberman & Greene LLC with respect to tax consequences for U.S. Holders under United States law and Baker & McKenzie Amsterdam N.V. with respect to tax consequences for non-resident Shareholders or Shareholders under Netherlands law.

The statements of The Netherlands and United States tax laws set out below are based on the laws in force as of the date of this Annual Report on Form 20-F, and as a consequence are subject to any changes in United States or The Netherlands law, or in the double taxation conventions between the United States and The Netherlands, occurring after such date.

### **Netherlands Tax Considerations**

The following describes the material tax consequences under Netherlands law of an investment in our Common Shares. Such description is based on current Netherlands law as interpreted under officially published case law, and is limited to the tax implications for an owner of our Common Shares who is not, or is not deemed to be, a resident of The Netherlands for purposes of the relevant tax codes (a “non-resident Shareholder” or “Shareholder”).

#### ***Dividend Withholding Tax***

**General.** Upon distribution of dividends, we would be obligated to withhold 15% dividend tax at source and to pay the amount withheld to The Netherlands tax authorities. The term “dividends” means income from shares or other rights participating in profits, as well as income from other corporate rights that is subjected to the same taxation treatment as income from shares by the laws of The Netherlands. Dividends include dividends in cash or in kind, constructive dividends, certain repayments of capital qualified as dividends, interest on loans that are treated as equity for Netherlands corporate income tax purposes and liquidation proceeds in excess of, for Netherlands tax purposes, recognized paid-in capital. Stock dividends are also subject to withholding tax, unless derived from our paid-in share premium which is recognized as equity for Netherlands tax purposes.

No withholding tax applies on the proceeds resulting from the sale or disposition of our Common Shares to persons other than QIAGEN and our affiliates.

A domestic exemption from Netherlands withholding tax may apply when dividends are paid to corporate Shareholders that are resident in an EU/EEA Member State or in a country with which the Netherlands has concluded a tax treaty that includes a dividend article and that own 5% or more of our Common Shares. This general exemption does not apply in case of abuse; for example, if a corporate Shareholder owns our Common Shares with the main purpose or one of the main purposes to avoid dividend tax for another person. A Shareholder can also be eligible for a reduction or a refund of Netherlands dividend withholding tax under a tax convention that is in effect between the country of residence of the Shareholder and The Netherlands. The Netherlands has concluded such conventions with, among others, the United States, Canada, Switzerland, Japan and virtually all EU Member States.

**U.S. Shareholders.** Dividends paid to corporate Shareholders that own 5% or more of our Common Shares may be exempt from Netherlands withholding tax.

If the domestic exemption does not apply, under the Tax Convention between The Netherlands and the United States (the “Convention”), the regular 15% withholding tax on dividends we pay to a resident of the United States (as defined in the Convention) who is entitled to the benefits of the Convention, may still be reduced to 5% (in the case of a corporate U.S. Shareholder that holds 10% or more of the voting power of a Netherlands company) unless such U.S. shareholder has a permanent establishment in The Netherlands with which the shares are effectively connected.

Dividends we pay to U.S. pension funds and U.S. tax exempt organizations may be eligible for an exemption from dividend withholding tax.

**Dividend Stripping.** A refund, reduction, exemption, or credit of Netherlands dividend withholding tax on the basis of Netherlands tax law or on the basis of a tax treaty between The Netherlands and another state, will only be granted if the dividends are paid to the beneficial owner (“*uiteindelijk gerechtigde*”) of the dividends. A recipient of a dividend is not considered to be the beneficial owner of a dividend in an event of “dividend stripping,” in which he has paid a consideration related to the receipt of such dividend. In general terms, “dividend stripping” can be described as the situation in which a foreign or domestic person (usually, but not necessarily, the original shareholder) has transferred his shares or his entitlement to the dividend distributions to a party that has a more favorable right to a refund or reduction of Netherlands dividend withholding tax than the foreign or domestic person. In these situations, the foreign or domestic person (usually the original shareholder) avoids Netherlands dividend withholding tax while retaining his “beneficial” interest in the shares and the dividend distributions, by transferring his shares or his entitlement to the dividend distributions.

### **Income Tax and Corporate Income Tax**

**General.** A non-resident Shareholder will not be subject to Netherlands income tax or corporate income tax with respect to dividends we distribute on our Common Shares or with respect to capital gains derived from the sale or disposition of our Common Shares, provided that:

- (a) the non-resident Shareholder does not carry on or have an interest in a business in The Netherlands through a permanent establishment or a permanent representative to which or to whom the Common Shares are attributable or deemed to be attributable;
- (b) the non-resident Shareholder does not have a direct or indirect substantial or deemed substantial interest (“*aanmerkelijk belang*,” as defined in The Netherlands tax code) in our share capital or, in the event the Shareholder does have such a substantial interest, such interest is a “business asset”, or, in case of a corporate Shareholder, the arrangement or a series of arrangements are not put in place with the main purpose or one of the main purposes to avoid Dutch income tax for another person or otherwise cannot be considered artificial. An arrangement or series of arrangements are considered artificial to the extent not put in place for valid commercial reasons that reflect economic reality; and
- (c) the non-resident Shareholder is not entitled to a share in the profits of an enterprise, to which our Common Shares are attributable and that is effectively managed in The Netherlands, other than by way of securities or through an employment contract.

In general terms, a substantial interest (“*aanmerkelijk belang*”) in our share capital does not exist if the Shareholder (individuals as well as corporations), alone or together with his partner, does not own, directly or indirectly, 5% or more of the nominal paid-in capital of, or any class of our shares, does not have the right to acquire 5% or more of the nominal paid-in capital of, or any class of our shares (including a call option) and does not have the right to share in our profit or liquidation revenue amounting to 5% or more of the annual profits or liquidation revenue.

There is no all-encompassing definition of the term “business asset”; whether this determination can be made in general depends on the facts presented and in particular on the activities performed by the Shareholder. If the Shareholder materially conducts a business activity, while the key interest of his investment in our Shares will not be his earnings out of the investment

in our Shares but our economic activity, an investment in our Shares will generally be deemed to constitute a business asset, in particular if the Shareholder's involvement in our business will exceed regular monitoring of his investment in our Shares.

***U.S. Shareholders.*** Pursuant to the Convention, the gain derived by a U.S. Shareholder from an alienation of our Common Shares constituting a substantial interest of the Shareholder in QIAGEN, not effectively connected or deemed connected with a permanent establishment or permanent representative of the Shareholder in The Netherlands, is not subject to Netherlands income tax or corporate income tax, provided that the gain from the alienation of our Common Shares is not derived by an individual Shareholder who has, at any time during the five-year period preceding such alienation, been a resident of The Netherlands according to Netherlands tax law and who owns, at the time of the alienation, either alone or together with close relatives, at least 25% of any class of our shares.

### ***Gift and Inheritance Tax***

A gift or inheritance of our Common Shares from a non-resident Shareholder will generally not be subject to a Netherlands gift and inheritance tax, provided that the Shareholder does not own a business which is, in whole or in part, carried on through a permanent establishment or a permanent representative in The Netherlands to which or to whom our Common Shares are attributable. The Netherlands has concluded a tax convention with the United States based on which double taxation on inheritances may be avoided if the inheritance is subject to Netherlands and/or U.S. inheritance tax and the deceased was a resident of either The Netherlands or the United States.

### **United States Federal Income Tax Considerations**

The following summarizes certain material U.S. federal income tax consequences of the acquisition, ownership and sale of our Common Shares by an investor that purchases such Common Shares and that will hold the Common Shares as capital assets. This summary does not purport to be a complete analysis or listing of all potential tax considerations and does not address holders subject to special treatment under U.S. federal income tax laws (including insurance companies, tax-exempt organizations, regulated investment companies, financial institutions, broker dealers, U.S. expatriates, persons subject to alternative minimum tax, or holders that own, actually or constructively, 10% or more of our equity, as measured by value).

As used herein, references to a "U.S. Holder" are to a holder of our Common Shares that is (i) a citizen or resident for tax purposes of the United States, (ii) a corporation, limited liability company or partnership organized under the laws of the United States or any political subdivision thereof, (iii) any estate (other than an estate the income of which, from sources outside the United States that is not effectively connected with a trade or business within the United States, is not includible in its gross income for U.S. federal income tax purposes), and (iv) any trust if a court within the United States is able to exercise primary supervision over the administration of the trust and one or more U.S. persons have the authority to control all substantial decisions of the trust; and references to a "non-U.S. Holder" are to a holder of our Common Shares that is not a U.S. Holder.

### ***Taxation of Dividends***

To the extent paid out of our current or accumulated earnings and profits, as determined under U.S. federal income tax principles, distributions, if any, made with respect to our Common Shares will be includable for U.S. federal income tax purposes in the income of a U.S. Holder as ordinary dividend income in an amount equal to the sum of any cash and the fair market value of any property that we distribute, before reduction for Netherlands withholding tax. Such dividends will be eligible to be treated by U.S. Holder individuals, trusts and estates as "qualified dividend income" subject to a maximum tax rate of 20 percent (plus possibly an additional 3.8 percent on net investment income; see "Taxation — United States Federal Income Tax Considerations — Surtax on Net Investment Income"), if the shareholder receiving the dividend satisfies the holding period requirements, does not treat the dividends as "investment income" for purposes of the investment interest deduction, is not under any obligation to make related payments with respect to positions in substantially similar or related property, and if we are not treated for our taxable year in which the dividend is paid, or our preceding taxable year, as a passive foreign investment company (see "Taxation—United States Federal Income Tax Considerations—Passive Foreign Investment Company Status"). To the extent that such distribution exceeds our current or accumulated earnings and profits, it will be treated as a non-taxable return of capital to the extent of the U.S. Holder's adjusted tax basis in our Common Shares and thereafter as taxable capital gain. Dividends generally will be treated as income from sources outside the United States and generally will be passive category income (or, in the case of certain holders, "financial services income") for purposes of the foreign tax credit limitation. Dividends we pay will not be eligible for the dividends received deduction allowed to corporations in certain circumstances under the United States Internal Revenue Code of 1986, as amended (the "Code"). A U.S. Holder may elect annually to either deduct The Netherlands withholding tax (see "Taxation—Netherlands Tax Considerations—Dividend Withholding Tax") against their income (in which case, the election will apply to all foreign income taxes such U.S. Holder paid in that year) or take the withholding taxes as a credit against their U.S. tax liability, subject to U.S. foreign tax credit limitation rules. If the dividends are qualified for the lower applicable capital gains rate (as discussed above), the amount of the dividend income taken into account for calculating the foreign tax credit limitation will in general be limited to the gross

amount of the dividend, multiplied by the reduced rate, divided by the highest rate of tax normally applicable to dividends. The rules governing the foreign tax credit are complex. We urge you to consult with your own tax advisors regarding the availability of the foreign tax credit in your particular circumstances.

A non-U.S. Holder generally will not be subject to U.S. federal income tax or withholding tax on distributions with respect to our Common Shares that are treated as dividend income for U.S. federal income tax purposes unless such dividends are effectively connected with the conduct of a trade or business within the United States by such non-U.S. Holder, (and are attributable to a permanent establishment maintained in the United States by such non-U.S. Holder, if an applicable income tax treaty so requires as a condition for such non-U.S. Holder to be subject to U.S. taxation on a net income basis in respect of income from our Common Shares), in which case the non-U.S. Holder generally will be subject to tax in respect of such dividends in the same manner as a U.S. Holder. Any such effectively connected income received by a non-U.S. Holder treated as a corporation for U.S. federal income tax purposes may also, under certain circumstances, be subject to an additional "branch profits tax" at a 30% rate or such lower rate as may be specified by an applicable income tax treaty. A non-U.S. Holder generally will not be subject to U.S. federal income tax or withholding tax on distributions with respect to our Common Shares that are treated as capital gain for U.S. federal income tax purposes unless such holder would be subject to U.S. federal income tax on gain realized on the sale or other disposition of our Common Shares, as discussed below.

### ***Surtax on Net Investment Income***

Certain U.S. Holders that are individuals, estates or trusts and whose income exceeds certain thresholds will be subject to an additional 3.8% surtax on some or all of their "net investment income" (or, in the case of certain estates or trust, their undistributed net investment income). Net investment income generally includes dividends paid on, and gain from the disposition of, our Common Shares unless such dividends or gain is derived in the ordinary course of the conduct of a trade or business (other than a trade or business that consists of certain passive or trading activities). You should consult your tax advisors regarding the effect this surtax may have, if any, on your acquisition, ownership or disposition of our Common Shares.

### ***Taxation of Capital Gains***

Subject to the "passive foreign investment company" (PFIC) rules discussed below, upon the sale or other disposition of our Common Shares, a U.S. Holder will recognize gain or loss for U.S. federal income tax purposes in an amount equal to the difference between the amounts realized on the disposition of our Common Shares and the U.S. Holder's adjusted tax basis in our Common Shares. Such gain or loss generally will be subject to U.S. federal income tax. An individual U.S. Holder is generally subject to a maximum capital gains rate of 20% for our Common Shares held for more than a year (plus possibly an additional 3.8 percent on net investment income, as discussed above). For U.S. federal income tax purposes, capital losses are subject to limitations on deductibility. Gain realized by a U.S. Holder on the sale or other disposition of our Common Shares generally will be treated as income from sources within the United States for purposes of the foreign tax credit limitation.

A non-U.S. Holder will not be subject to U.S. federal income tax or withholding tax on gain realized on the sale or other disposition of our Common Shares unless (i) the gain is effectively connected with a trade or business of the non-U.S. Holder in the United States (and is attributable to a permanent establishment maintained in the United States by such non-U.S. Holder, if an applicable income tax treaty so requires as a condition for such non-U.S. Holder to be subject to U.S. taxation on a net income basis in respect of gain from the sale or other disposition of our Common Shares) or (ii) such holder is an individual who is present in the United States for 183 days or more in the taxable year of the sale, and certain other conditions are met. Effectively connected gains realized by a corporate Non-U.S. Holder may also, under certain circumstances, be subject to an additional "branch profits tax" at a 30% rate or such lower rate as may be specified by an applicable income tax treaty.

### ***Passive Foreign Investment Company Status***

We may be classified as a PFIC for U.S. federal income tax purposes if certain tests are met. We will be a PFIC with respect to a U.S. Holder if for any taxable year in which the U.S. Holder held our Common Shares, either (i) 75% or more of our gross income for the taxable year is passive income; or (ii) the average value of our assets (during the taxable year) which produce or are held for the production of passive income is at least 50% of the average value of all assets for such year. Passive income means, in general, dividends, interest, royalties, rents (other than rents and royalties derived in the active conduct of a trade or business and not derived from a related person), annuities, and gains from assets which would produce such income other than sales of inventory. For the purpose of the PFIC tests, if a foreign corporation owns at least 25% by value of the stock of another corporation, the foreign corporation is treated as owning its proportionate share of the assets of the other corporation, and as if it had received directly its proportionate share of the income of such other corporation. The effect of this special provision with respect to QIAGEN and our ownership of our subsidiaries is that we, for purposes of the income and assets tests described above, will be treated as owning directly our proportionate share of the assets of our subsidiaries and of receiving directly our proportionate share of each of those companies' income, if any, so long as we own, directly or indirectly, at least 25% by value of the particular company's stock. Active business income of our subsidiaries will be treated as our active business income, rather than as passive income. Based on our income, assets and activities, we do not believe that we were a PFIC for our taxable years ended December 31, 2015, December 31, 2016 and December 31, 2017, and do not expect to be a PFIC for the

current taxable year. No assurances can be made, however, that the IRS will not challenge this position or that we will not subsequently become a PFIC. Following the close of any tax year, we intend to promptly send a notice to all shareholders of record at any time during such year, if we determine that we are a PFIC.

Prospective purchasers of our Common Shares are urged to consult their tax advisors regarding the PFIC rules and their effect on an investment in our Common Shares, with particular regard to (i) the advisability of making the "qualified electing fund" election in the event that we notify the shareholders that we have become a PFIC in any taxable year, or (ii) the advisability of making the "mark-to-market" election provided in the tax law.

### ***Backup Withholding and Information Reporting***

In general, dividend payments, or other taxable distributions, paid within the United States or through certain U.S.-related financial intermediaries on our Common Shares will be subject to information reporting requirements and backup withholding tax at the rate of 24% (increasing to 28% in 2026) for a non-corporate United States person and, who also:

- fails to provide an accurate taxpayer identification number;
- is notified by the Internal Revenue Service that the individual has failed to report all interest or dividends required to be shown on the Federal income tax returns; or
- in certain circumstances, fails to comply with applicable certification requirements.

Certain corporations and persons that are not United States persons may be required to establish their exemption from information reporting and backup withholding by certifying their status on Internal Revenue Service Form W-9 or applicable Form W-8.

If a United States person sells our Common Shares to or through a United States office of a broker, the payment of the proceeds is subject to both United States backup withholding and information reporting unless the individual can certify that they are a non-U.S. person, under penalties of perjury, or they otherwise establish an exemption. If a United States person sells our Common Shares through a non-U.S. office of a non-U.S. broker and the sale proceeds are paid to the person outside the United States then information reporting and backup withholding generally will not apply to that payment. However, United States information reporting requirements, but not backup withholding, will apply to a payment of sales proceeds, even if that payment is made to the United States person outside the United States, if the person sells our Common Shares through a non-U.S. office of a broker that is a U.S. person or has certain other contacts with the United States.

A holder generally may obtain a refund of any amounts withheld under the backup withholding rules that exceed such holder's income tax liability by filing a refund claim with the United States Internal Revenue Service.

### **Foreign Currency Issues**

If dividends on our Common Shares are paid in euros, the amount of the dividend distribution included in the income of a U.S. Holder will be the U.S. dollar value of the payments made in euros, determined at a spot, euro/U.S. dollar rate applicable to the date such dividend is includible in the income of the U.S. Holder, regardless of whether the payment is in fact converted into U.S. dollars. Generally, gain or loss (if any) resulting from currency exchange fluctuations during the period from the date the dividend is paid to the date such payment is converted into U.S. dollars will be treated as ordinary income or loss. We have never paid cash dividends on our share capital and do not intend to do so for the foreseeable future.

### **Certain Information Reporting Requirements**

Individuals who are U.S. Holders (and to the extent specified in applicable Treasury regulations, certain individual non-U.S. Holders and certain U.S. Holders that are entities), and who hold "specified foreign financial assets" (as defined in section 6038D of the Code), including stock of a non-U.S. corporation that is not held in an account maintained by a U.S. "financial institution" (as defined in section 6038D of the Code), whose aggregate value exceeds \$50,000 on the last day of the taxable year or \$75,000 at any time during the tax year, may be required to attach to their tax returns for the year certain specified information (on IRS Form 8938). (Higher thresholds apply to married individuals filing a joint return and certain individuals residing outside of the United States.) An individual who fails to timely furnish the required information may be subject to a penalty, unless the failure is shown to be due to reasonable cause and not due to willful neglect. Additionally, in the event a U.S. Holder does not file such a report, the statute of limitations on the assessment and collection of U.S. federal income taxes of such U.S. Holder for the related tax year may not close before such report is filed. Under certain circumstances, an entity may be treated as an individual for purposes of the foregoing rules. U.S. Holder (including entities) should consult their own tax advisors regarding their reporting obligations under this legislation.

### ***Documents on Display***

Documents referred to in this Annual Report may be inspected at our principal executive office located at Hulsterweg 82, 5912 PL Venlo, The Netherlands.

## **Item 11. Quantitative and Qualitative Disclosures About Market Risk**

Our market risk relates primarily to interest rate exposures on cash, short-term investments and borrowings and foreign currency exposures. Financial risk is centrally managed and is regulated by internal guidelines which require a continuous internal risk analysis. The overall objective of our risk management is to reduce the potential negative earnings effects from changes in interest and foreign exchange rates. Exposures are managed through operational methods and financial instruments relating to interest rate and foreign exchange risks. In the ordinary course of business, we use derivative instruments, including swaps, forwards and/or options, to manage potential losses from foreign currency exposures and interest rates. The principal objective of such derivative instruments is to minimize the risks and/or costs associated with global financial and operating activities. We do not utilize derivative or other financial instruments for trading or other speculative purposes. All derivatives are recognized as either assets or liabilities in the balance sheet and are measured at fair value with any change in fair value recognized in earnings in the period of change, unless the derivative qualifies as an effective hedge that offsets certain exposures. In determining fair value, we consider both the counterparty credit risk and our own creditworthiness, to the extent that the derivatives are not covered by collateral agreements with the respective counterparties.

**Foreign Currency Derivatives.** As a globally active enterprise, we are subject to risks associated with fluctuations in foreign currencies in our ordinary operations. This includes foreign currency-denominated receivables, payables, debt, and other balance sheet positions. We manage our balance sheet exposure on a group-wide basis primarily using foreign exchange forward contracts, options and cross-currency swaps.

**Interest Rate Derivatives.** We are using interest rate derivatives to align our portfolio of interest bearing assets and liabilities with our risk management objectives. We have entered into interest rate swaps in which we agreed to exchange, at specified intervals, the difference between fixed and floating interest amounts calculated by reference to an agreed-upon notional principal amount.

Further details of our derivative and hedging activities can be found in Note 13 to the accompanying consolidated financial statements.

### **Interest Rate Risk**

At December 31, 2017, we had \$657.7 million in cash and cash equivalents as well as \$359.2 million in short-term investments. Interest income earned on our cash investments is affected by changes in the relative levels of market interest rates. We only invest in high-grade investment instruments. A hypothetical adverse 10% movement in market interest rates would not have materially impacted our financial statements.

Borrowings against lines of credit are at variable interest rates. We had no amounts outstanding against our lines of credit at December 31, 2017. A hypothetical adverse 10% movement in market interest rates would not have materially impacted our financial statements.

At December 31, 2017, we had \$1.8 billion in long-term debt, none of which is at a variable rate. Through the use of interest rate derivatives we have swapped \$200 million of our fixed rate debt into a variable interest rate based on the 3-months LIBOR. A hypothetical adverse 10% movement in market interest rates would not have materially impacted our financial statements, as the increased interest expense would have been off-set by increased interest income from our variable rate financial assets.

### **Foreign Currency Exchange Rate Risk**

As a global enterprise, we are subject to risks associated with fluctuations in foreign currencies with regard to our ordinary operations. This includes foreign currency-denominated receivables, payables, debt, and other balance sheet positions as well as future cash flows resulting from anticipated transactions including intra-group transactions.

A significant portion of our revenues and expenses are earned and incurred in currencies other than the U.S. dollar. The euro is the most significant such currency, with others including the British pound, Japanese yen, Chinese renminbi, Turkish lira, Brazilian real, Indian rupee, Swiss franc, and Canadian and Australian dollars. Fluctuations in the value of the currencies in which we conduct our business relative to the U.S. dollar have caused and will continue to cause U.S. dollar translations of such currencies to vary from one period to another. Due to the number of currencies involved, the constantly changing currency exposures, and the potential substantial volatility of currency exchange rates, we cannot predict the effect of exchange rate fluctuations upon future operating results. In general terms, depreciation of the U.S. dollar against our other foreign currencies will increase reported net sales. However, this effect is, at least partially, offset by the fact that we also incur substantial expenses in foreign currencies.

We have significant production and manufacturing facilities located in Germany and intercompany sales of inventory also expose us to foreign currency exchange rate risk. Intercompany sales of inventory are generally denominated in the local



currency of the subsidiary purchasing the inventory in order to centralize foreign currency risk with the manufacturing subsidiary. We use an in-house bank approach to net and settle intercompany payables and receivables as well as intercompany foreign exchanged swaps and forward contracts in order to centralize the foreign exchange rate risk to the extent possible. We have entered in the past and may enter in the future into foreign exchange derivatives including forwards, swaps and options to manage the remaining foreign exchange exposure.

**Item 12. Description of Securities Other than Equity Securities**

Not applicable.

## PART II

### Item 13. Defaults, Dividend Arrearages and Delinquencies

Not applicable.

### Item 14. Material Modifications to the Rights of Security Holders and Use of Proceeds

Not applicable.

### Item 15. Controls and Procedures

#### *Disclosure Controls and Procedures*

Our Managing Directors, with the assistance of other members of management, performed an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures, as that term is defined in Rules 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934, as amended, within 90 days of the date of this report. Based on that evaluation, they concluded that as of December 31, 2017, our disclosure controls and procedures were effective to ensure that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms, and is accumulated and communicated to our management, including our Managing Directors, as appropriate to allow timely decisions regarding required disclosure.

There are inherent limitations to the effectiveness of any system of disclosure controls and procedures, no matter how well designed, such as the possibility of human error and the circumvention or overriding of the controls and procedures. Therefore, even those systems determined to be effective may not prevent or detect misstatements and can provide only reasonable assurance of achieving their control objectives. In addition, any determination of effectiveness of controls is not a projection of any effectiveness of those controls to future periods, as those controls may become inadequate because of changes in conditions or the degree of compliance with the policies or procedures may deteriorate.

#### *Report of Management on Internal Control over Financial Reporting*

Our management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rules 13a-15(f) and 15d-15(f) under the Securities Exchange Act of 1934, as amended. The Company's system of internal controls over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of the consolidated financial statements in accordance with generally accepted accounting principles.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements and even when determined to be effective can provide only reasonable assurance with respect to financial statement preparation and presentation. Projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Our management assessed the effectiveness of the Company's internal control over financial reporting as of December 31, 2017. In making this assessment, management used the updated criteria set forth in 2013 by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in Internal Control-Integrated Framework.

Based on our assessment under the COSO Internal Control-Integrated Framework, management believes that, as of December 31, 2017, our internal control over financial reporting is effective.

#### *Attestation Report of the Independent Registered Public Accounting Firm*

KPMG AG Wirtschaftsprüfungsgesellschaft, the independent registered public accounting firm that audited our consolidated financial statements prepared in accordance with U.S. generally accepted accounting principles (GAAP) as of and for the year ended December 31, 2017, has also audited the effectiveness of the Company's internal control over financial reporting as of December 31, 2017. Their report is included in this Annual Report on Form 20-F on page F-2.

#### *Changes in Internal Control over Financial Reporting*

There has been no change in our internal control over financial reporting during 2017 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

### Item 16A. Audit Committee Financial Expert

The Supervisory Board has designated Mr. Lawrence Rosen as an “audit committee financial expert” as that term is defined in the SEC rules adopted pursuant to the Sarbanes-Oxley Act. Mr. Rosen is “independent” as defined under the independence standards set forth in the New York Stock Exchange (NYSE) Listed Company Manual as applicable to Audit Committees.

### Item 16B. Code of Ethics

QIAGEN has in place a Code of Conduct which qualifies as a code of ethics, as required by SEC and the New York Stock Exchange (NYSE) Listed Company Manual. The Code of Conduct applies to all of QIAGEN’s employees, including our principal executive officer, principal financial officer, principal accounting officer or controller and other persons performing similar functions. The full text of the Code of Conduct is available on our website at [www.qiagen.com](http://www.qiagen.com).

### Item 16C. Principal Accountant Fees and Services

#### *Audit Committee Pre-Approval Policies and Procedures*

The Audit Committee has adopted a policy that requires the pre-approval of all services performed for us by our independent registered public accounting firm. Additionally, the Audit Committee has delegated to the Committee Chairman full authority to approve any management request for pre-approval, provided the Chairman presents any approval given at its next scheduled meeting. All audit-related services, tax services and other services rendered by our independent registered public accounting firm or their affiliates were pre-approved by the Audit Committee and are compatible with maintaining the auditor’s independence.

Set forth below are the total fees billed (or expected to be billed), on a consolidated basis, by the independent registered public accounting firm or their affiliates for providing audit and other professional services in each of the last two years:

(in millions)	2017	2016
Audit fees	\$ 1.8	\$ 1.9
-Consolidated financial statements	1.2	1.2
-Statutory financial statements	0.6	0.7
Audit-related fees	0.5	0.5
Total	\$ 2.3	\$ 2.4

Audit fees consist of fees and expenses billed for the annual audit and quarterly review of QIAGEN’s consolidated financial statements. They also include fees billed for other audit services, which are those services that only the statutory auditor can provide, and include the review of documents filed with the Securities Exchange Commission.

Audit-related fees consist of fees and expenses billed for assurance and related services that are related to the performance of the audit or review of QIAGEN’s financial statements and include consultations concerning financial accounting and reporting standards and review of the opening balance sheets of newly acquired companies.

Tax fees include fees and expenses billed for tax compliance services, including assistance on the preparation of tax returns and claims for refund; tax consultations, such as assistance and representation in connection with tax audits and appeals. All other fees include various fees and expenses billed for services as approved by the Audit Committee and as permitted by the Sarbanes-Oxley Act of 2002. Tax fees for the year ended December 31, 2016 totaled less than \$50,000.

### Item 16D. Exemptions From the Listing Standards for Audit Committees

Not applicable.

### Item 16E. Purchases of Equity Securities by the Issuer and Affiliated Purchasers

The following table sets out information concerning repurchases of our common shares, which we intend to use to serve our exchangeable debt instruments and employee share-based remuneration plans.

In April 2016, we announced the launch of our fourth \$100 million share repurchase program. In August 2016, we announced our intention to return a total amount of approximately \$300 million to our shareholders by the end of 2017. In January 2017, we completed a synthetic share repurchase that combined a direct capital repayment with a consolidation of shares for a total of \$243.9 million. During the remainder of 2017, 1.9 million QIAGEN shares were repurchased for \$61.0 million (including

transaction costs) to complete the total program.

Period	(a) Total number of shares purchased	(b) Average price paid per share in \$ <sup>(1)</sup>	(c) Total number of shares purchased as part of publicly announced plans and programs	(d) Approximate dollar value of shares that may yet be purchased under these plans and programs (in millions) <sup>(2)</sup>
January 1 to July 31, 2017	—	—	—	\$60.0
August 1-31, 2017	913,686	\$31.94	913,686	\$30.8
September 1-30, 2017	995,197	\$31.92	995,197	\$0.0
October 1 to December 31, 2017	—	—	—	\$0.0
<b>Total</b>	<b>1,908,883</b>	<b>\$31.93</b>	<b>1,908,883</b>	

<sup>(1)</sup>The average price paid per share of stock repurchased under the stock repurchase program includes the commissions paid to the brokers.

<sup>(2)</sup>The approximate value of shares that may yet be purchased under these plans and programs does not include commissions that may be paid to brokers in connection with such purchases.

#### **Item 16F. Change in Registrant’s Certifying Accountant**

Not applicable.

#### **Item 16G. Corporate Governance**

We recognize the importance of clear and straightforward rules on corporate governance and, where appropriate, have adapted our internal organization and processes to these rules. This section provides an overview of QIAGEN’s corporate governance structure and includes details of the information required under the Dutch Corporate Governance Code (the Dutch Code). The Dutch Code is applicable to QIAGEN N.V. (in the following also referred to as the “Company”), as it is a publicly listed company incorporated under the laws of The Netherlands with a registered seat in Venlo, The Netherlands. The Dutch Code contains the principles and concrete provisions which the persons involved in a listed company (including Managing Board members and Supervisory Board members) and stakeholders should observe in relation to one another.

Our corporate governance practices generally derive from the provisions of the Dutch Civil Code and the Dutch Corporate Governance Code. Further, due to our listing on the New York Stock Exchange in the U.S., the Managing Board and the Supervisory Board of QIAGEN N.V. declared their intention to disclose in QIAGEN’s Annual Reports the Company’s compliance with the corporate governance practices followed by U.S. companies under the New York Stock Exchange listing standards or state the deviations recorded in the period.

A brief summary of the principal differences follows.

##### **Corporate Structure**

QIAGEN is a ‘Naamloze Vennootschap,’ or N.V., a Dutch limited liability company similar to a corporation in the United States. QIAGEN has a two-tier board structure. QIAGEN is managed by a Managing Board consisting of executive management acting under the supervision of a Supervisory Board (non-executives), similar to a Board of Directors in a U.S. corporation. It is in the interest of QIAGEN and all its stakeholders that each Board performs its functions appropriately and that there is a clear division of responsibilities between the Managing Board, the Supervisory Board, the general meeting of shareholders (General Meeting) and the external auditor in a well-functioning system of checks and balances.

##### **Managing Board**

###### **General**

The Managing Board manages QIAGEN and is responsible for defining and achieving QIAGEN’s aims, strategy, policies and results. The Managing Board is also responsible for complying with all relevant legislation and regulations as well as for managing the risks associated with the business activities and the financing of QIAGEN. It reports related developments to and discusses the internal risk management and control systems with the Supervisory Board and the Audit Committee. The Managing Board is accountable for the performance of its duties to the Supervisory Board and the General Meeting of Shareholders (General Meeting). The Managing Board provides the Supervisory Board with timely information necessary for

the exercise of the duties of the Supervisory Board. In discharging its duties, the Managing Board takes into account the interests of QIAGEN, its enterprises and all parties involved in QIAGEN, including shareholders and other stakeholders.

### **Composition and Appointment**

The Managing Board consists of one or more members as determined by the Supervisory Board. The members of the Managing Board are appointed by the General Meeting upon the joint meeting of the Supervisory Board and the Managing Board (the Joint Meeting) having made a binding nomination for each vacancy. However, the General Meeting may at all times overrule the binding nature of such a nomination by a resolution adopted by at least a two-thirds majority of the votes cast, if such majority represents more than half the issued share capital. Managing Directors are appointed annually for the period beginning on the date following the Annual General Meeting up to and including the date of the Annual General Meeting held in the following year.

Members of the Managing Board may be suspended and dismissed by the General Meeting by a resolution adopted by a two-thirds majority of the votes cast, if such majority represents more than half of the issued share capital, unless the proposal was made by the Joint Meeting, in which case a simple majority of votes cast is sufficient. Furthermore, the Supervisory Board may at any time suspend (but not dismiss) a member of the Managing Board.

### **Conflicts of Interest, Loans or Similar Benefits**

Resolutions to enter into transactions under which members of the Managing Board could have a conflict of interest with QIAGEN, and which are of material significance to QIAGEN and/or the relevant member of the Managing Board, require the approval of the Supervisory Board. QIAGEN has not entered into any such transactions in 2017. No credit, loans or similar benefits were granted to members of the Managing Board. Additionally, the Managing Board Members did not receive any benefits from third parties that were either promised or granted in view of their position as members of the Managing Board.

Further information on our Managing Directors can be found in Item 6 of this Annual Report.

## **Supervisory Board**

### **General**

The Supervisory Board supervises the policies of the Managing Board, the general course of QIAGEN's affairs and strategy and the business enterprises which we operate. The Supervisory Board assists the Managing Board by providing advice relating to the business activities of QIAGEN. In 2017, the Supervisory Board had five regular meetings that were held with the attendance of the Managing Board, while certain agenda items were discussed exclusively between the Supervisory Board members. In discharging its duties, the Supervisory Board takes into account the interests of QIAGEN, its enterprise and all parties involved in QIAGEN, including shareholders and other stakeholders. The Supervisory Board is responsible for the quality of its own performance. In this respect, the Supervisory Board conducts a self-evaluation on an annual basis. Our Supervisory Board has specified matters requiring its approval, including decisions and actions which would fundamentally change the company's assets, financial position or results of operations. The Supervisory Board has appointed an Audit Committee, a Compensation Committee, a Selection and Appointment (Nomination) Committee and a Science and Technology Committee from among its members and can appoint other committees as deemed beneficial. The Supervisory Board has approved charters pursuant to which each of the committees operates.

### **Composition and Appointment**

The Supervisory Board consists of at least three members, or a larger number as determined by the Joint Meeting. Members of the Supervisory Board are appointed by the General Meeting upon the Joint Meeting having made a binding nomination for each vacancy. However, the General Meeting may at all times overrule the binding nature of such a nomination by a resolution adopted by at least a two-thirds majority of the votes cast, if such majority represents more than half the issued share capital.

The Supervisory Board shall be composed in a way that enables it to carry out its duties properly and enables its members to act critically and independently of one another and of the Managing Board and any particular interests. To that effect, the Supervisory Board has adopted a profile of its size and composition that takes into account the nature of our business, our activities and the desired diversity, expertise and background of the members of the Supervisory Board. The current profile of the Supervisory Board can be found on our website. The Supervisory Board has appointed a chairman from its members who has the duties assigned to him by the Articles of Association and the Dutch Code.

Members of the Supervisory Board are appointed annually for the period beginning on the date following the General Meeting up to and including the date of the General Meeting held in the following year. Members of the Supervisory Board may be suspended and dismissed by the General Meeting by a resolution adopted by a two-thirds majority of the votes cast, if such majority represents more than half of the issued share capital, unless the proposal was made by the Managing Board and the Supervisory Board in which case a simple majority of votes cast is sufficient.

## **Conflicts of Interest, Loans or Similar Benefits**

Resolutions to enter into transactions under which members of the Supervisory Board could have a conflict of interest with QIAGEN, and which are of material significance to QIAGEN and/or the relevant member of the Supervisory Board, must be reported and require the approval of the Supervisory Board plenum. In 2017, neither QIAGEN nor its Supervisory Board members have entered into any such transactions. No credit, loans or similar benefits were granted to members of the Supervisory Board. Additionally, the Supervisory Board Members did not receive any benefits from third parties that were either promised or granted in view of their position as members of the Supervisory Board.

Further information on our Supervisory Directors can be found in Item 6 of this Annual Report.

## **Additional Information**

### **Shareholders**

Our shareholders exercise their voting rights through Annual and Extraordinary General Meetings. Resolutions of the General Meeting are adopted by an absolute majority of votes cast, unless a different majority of votes or quorum is required by Dutch law or the Articles of Association. Each common share confers the right to cast one vote.

Furthermore, the Managing Board, or where appropriate, the Supervisory Board, shall provide all shareholders and other parties in the financial markets with equal and simultaneous information about matters that may influence QIAGEN's share price.

QIAGEN is required to convene an Annual General Meeting in the Netherlands no later than six months following the end of each year. The agenda for the Annual General Meeting must contain certain matters as specified in QIAGEN's Articles of Association and under Dutch law, including, among other things, the adoption of QIAGEN's annual financial statements.

Additional Extraordinary General Meetings may be convened at any time by the Managing Board, the Supervisory Board or by one or more shareholders jointly representing at least 40% of QIAGEN's issued share capital. Furthermore, one or more shareholders, who jointly represent at least 10% of QIAGEN's issued share capital may, on their application, be authorized by the district court judge having applications for interim relief, to convene a General Meeting. Shareholders are entitled to propose items for the agenda of the General Meeting provided that they hold at least 3% of the issued share capital. Proposals for agenda items for the General Meeting must be submitted at least 60 days prior to the meeting date. The notice convening a General Meeting, accompanied by the agenda, shall be sent no later than 42 days prior to the meeting. QIAGEN informs the General Meeting by means of explanatory notes to the agenda, providing all facts and circumstances relevant to the proposed resolutions.

### **Independence**

Unlike the New York Stock Exchange listing standards which require a majority of the Supervisory Board members to be independent, the Dutch Corporate Governance Code distinguishes between certain independence criteria which may be fulfilled by not more than one Supervisory Board Members (as e.g. prior employment with the Company, receiving personal financial an important business relationship with the Company) and other criteria which may not be fulfilled by more than the majority of the Supervisory Board members. In some cases the Dutch independence requirement is more stringent, such as by requiring a longer "look back" period (five years) for former executive directors. In other cases, the New York Stock Exchange rules are more stringent, such as a broader definition of disqualifying affiliations. Currently, all members of our Supervisory Board are "independent" under both the New York Stock Exchange and Dutch definitions.

### **Independent Auditors**

In accordance with the requirements of Dutch law, our independent registered public accounting firm for our statutory consolidated financial statements prepared in accordance with International Financial Reporting Standards and filed with the Netherlands Authority for the Financial Markets (AFM), is appointed, and may be removed by, the General Meeting. The Supervisory Board nominates a candidate for the appointment as external auditor, for which purpose both the Audit Committee and the Managing Board advise the Supervisory Board. At the Annual General Meeting in 2017, KPMG Accountants N.V. was appointed as external auditor for the Company for 2017 year. The external auditor is invited to attend the meeting of the Supervisory Board at which the statutory financial statements prepared in accordance with International Financial Reporting Standards and filed with the AFM shall be approved and is furthermore invited to attend the General Meeting at which the statutory financial statements are adopted and may be questioned by the General Meeting on its statement on the fairness of our annual accounts prepared in accordance with International Financial Reporting Standards.

Following the appointment of KPMG Accountants N.V. for the audit of our statutory consolidated financial statements, the external auditor for our consolidated financial statements prepared under U.S. generally accepted accounting principles is KPMG AG Wirtschaftsprüfungsgesellschaft who audited the consolidated financial statements as of and for the year ended December 31, 2017 contained in this annual report.

The remuneration of the external auditor, and instructions to the external auditor to provide non-audit services, shall be approved by the Supervisory Board on the recommendation of the Audit Committee and after consultation with the Managing Board. At least once every four years, the Supervisory Board and the Audit Committee shall conduct a thorough assessment of the functioning of the external auditor. The main conclusions of this assessment shall be communicated to the General Meeting for the purposes of assessing the nomination for the appointment of the external auditor.

### **Whistleblower Policy and Code of Conduct**

We have a formal Whistleblower Policy concerning the reporting of alleged irregularities within QIAGEN of a general, operational or financial nature. Furthermore, we have a published Code of Conduct that outlines business principles for our employees and rules of conduct. The Code of Conduct can be found on our website at [www.qiagen.com](http://www.qiagen.com).

### **Anti-Takeover Measures**

In 2004, the Supervisory Board granted an option to the Dutch Foundation Stichting Preferente Aandelen QIAGEN that allows the Foundation to acquire preference shares from QIAGEN if (i) a person has (directly or indirectly) acquired or has expressed a desire to acquire more than 20% of our issued share capital, or (ii) a person holding at least a 10% interest in the share capital has been designated as a hostile person by our Supervisory Board. The option enables the Foundation to acquire preference shares equal to the number of our outstanding common shares at the time of the relevant exercise of the right, less one share. When exercising the option and exercising its voting rights on these shares, the Foundation must act in the interest of QIAGEN and the interests of our stakeholders. No preference shares are currently outstanding.

### **Dutch Corporate Governance Code--Comply or Explain**

The corporate governance structure and compliance with the Dutch Code is the joint responsibility of the Managing Board and the Supervisory Board. They are accountable for this responsibility to the General Meeting. We continue to seek ways to improve our corporate governance by measuring itself against international best practice. The Dutch Code was last amended on December 8, 2016, and can be found at [www.commissiecorporategovernance.nl](http://www.commissiecorporategovernance.nl).

Non-application of a specific best practice provision is not in itself considered objectionable by the Dutch Code and may well be justified because of particular circumstances relevant to a company. In accordance with Dutch law, we disclose in our Annual Report the application of the Dutch Code's principles and best practice provisions.

To the extent that we do not apply certain principles and best practice provisions, or do not intend to apply these in the current or the subsequent year, we state the reasons.

We take a positive view of the Dutch Code and apply nearly all of the best practice provisions. However, we prefer not to apply some provisions due to the international character of our business as well as the fact - acknowledged by the Commission that drafted the Dutch Code - that existing contractual agreements between QIAGEN and individual members of the Managing Board cannot be set aside at will.

The following provides an overview of exceptions that we have identified:

1. *Best practice provision 2.2.2 recommends that a supervisory board member is appointed for a period of four years. A member may be reappointed for a term of additional two years, which appointment may be extended by at most two years.*

Members of the Supervisory Board are appointed annually for a one-year period beginning on the day following the General Meeting up to and including the day of the General Meeting held in the following year. Further, Dr. Metin Colpan has joined the Supervisory Board in 2004 and Prof. Dr. Manfred Karobath in 2000. While Prof. Karobath has announced not to stand for re-election in 2018, we value the profound industry experience of Dr. Colpan and his in-depth knowledge of QIAGEN. QIAGEN therefore supports the reappointment of Dr. Colpan beyond the eight-year term as recommended by the Dutch Code.

2. *Best practice provision 2.1.5 recommends that the Supervisory Board should draw up a diversity policy for the composition of the Management Board, the Supervisory Board and, if applicable, the Executive Committee. The policy should address concrete targets relating to diversity and the diversity aspects to the Company, such as nationality, age, gender and education and work background.*

While QIAGEN strives for a diverse composition of the Supervisory Board, Managing Board, Executive Committee and in all other management levels of the Company, we do not consider the definition of concrete targets relating to diversity useful. We are committed to create an environment where all individuals have the opportunity to grow and contribute to our progress, regardless of their age, educational background, gender, nationality, physical abilities, race and ethical background, religion, or sexual orientation. We consider it to be a key success factor on the path to achieving our mission and goals. Individuals and teams alike understand the diverse needs of our customers, identify and realize cross-functional opportunities for our business areas, can quickly adapt to a fast changing environment. In 2017, our

multicultural workforce was composed of 71 nationalities with an average age of 40.3. With 49.2% women we are well balanced in terms of gender on an aggregate level. We also have significantly increased the diversity of our senior leadership team and will continue to do so in the future. In 2017, almost 31% of our management positions in the four leadership levels below the Executive Committee were held by women. Information on the composition of our Managing and Supervisory Boards can be found in Item 6.

3. *Best practice provision 3.1.2 vi. recommends that when formulating the remuneration policy, it should be considered that shares awarded to management board should be held for a period of at least five years*

Pursuant to the Company's Remuneration Policy, long-term equity-based grants to members of the Managing Board under the 2014 Plan primarily consist of an award of performance stock units, i.e. long-term incentive awards which are dependent upon the achievement of pre-defined performance goals. Grants of restricted stock units, which are based on time vesting only, are no longer to be granted on a regular basis and shall be reserved for use as special equity incentive rewards in certain situations. Performance stock units and restricted stock units are basically structured so that 40% of a grant vests after three years, 50% after five years and the remaining 10% after ten years. In 2015 and 2016, the members of the Managing Board elected to receive in lieu of their cash bonus the value earned in these years in performance stock units and restricted stock units respectively which vested over two years from the grant date.

4. *Best practice provision 3.2.3 recommends that the maximum remuneration in the event of dismissal of a management board member may not exceed one year's salary (the "fixed" remuneration component).*

Our Managing Board members have entered into employment agreements with QIAGEN N.V. and some QIAGEN affiliates for which they hold managing positions. In case of termination of an agreement without serious cause as defined by the applicable law, the respective affiliate would remain obliged to compensate the Managing Board member for the remaining term of the employment agreement. QIAGEN believes that these contractual arrangements are well justified due to the long tenures of the Managing Board members.

5. *Best practice provision 2.2.4 recommends that the supervisory board should draw up a retirement schedule in order to avoid, as far as possible, a situation in which many supervisory board members retire simultaneously. The retirement schedule should be made generally available and should be posted on the company's website.*

The Supervisory Board follows the practice to discuss retirement plans of individual members early to proactively manage continuity within the Supervisory Board. QIAGEN believes that this practice provides a more flexible and better succession planning than a fixed retirement schedule.

7. *Best practice provision 3.3.2 recommends that a supervisory board member may not be granted any shares and/or rights to shares by way of remuneration.*

QIAGEN has granted stock options to the members of the Supervisory Board as a remuneration component since its establishment. Since 2007, Supervisory Board members have also been granted restricted stock units. We believe that the reasonable level of equity based compensation which we practice allows a positive alignment of shareholder interests with the other duties of the Supervisory Board and that this practice is necessary to attract and retain Supervisory Board members as the granting of share-based compensation to Supervisory Board members is a common practice in our industry.

## **NYSE Exemptions**

Exemptions from the NYSE corporate governance standards are available to foreign private issuers, such as QIAGEN when those standards are contrary to a law, rule or regulation of any public authority exercising jurisdiction over such issuer or contrary to generally accepted business practices in the issuer's country of domicile. In connection with QIAGEN's listing on the NYSE, the NYSE accepted QIAGEN's exemptions from certain corporate governance standards that are contrary to the laws, rules, regulations or generally accepted business practices of The Netherlands. These exemptions and the practices followed by QIAGEN are described below:

- QIAGEN is exempt from NYSE's quorum requirements applicable to meetings of ordinary shareholders. In keeping with the law of The Netherlands and generally accepted business practices in The Netherlands, QIAGEN's Articles of Association provide that there are no quorum requirements generally applicable to meetings of the General Meeting.
- QIAGEN is exempt from NYSE's requirements that shareholder approval be obtained prior to the establishment of, or material amendments to, stock option or purchase plans and other equity compensation arrangements pursuant to which options or stock may be acquired by directors, officers, employees or consultants. QIAGEN is also exempt from NYSE's requirements that shareholder approval be obtained prior to certain issuances of stock resulting in a change of control, occurring in connection with acquisitions of stock or assets of another company.



or issued at a price less than the greater of book or market value other than in a public offering. QIAGEN's Articles of Association do not require approval of the General Meeting prior to the establishment of a stock plan. The Articles of Association also permit the General Meeting to grant the Supervisory Board general authority to issue shares without further approval of the General Meeting. QIAGEN's General Meeting has granted the Supervisory Board general authority to issue up to a maximum of our authorized capital without further approval of the General Meeting. QIAGEN plans to seek approval of the General Meetings for stock plans and stock issuances only where required under the law of The Netherlands or under QIAGEN's Articles of Association.

**Further Information**

For additional information regarding our Boards, including the Audit and other Committees of our Supervisory Board, please refer to the discussion in Item 6 above.

**Item 16H. Mine Safety Disclosure**

Not applicable.

## PART III

### Item 17. Financial Statements

See Item 18.

### Item 18. Financial Statements

See pages F-1 through F-48 included herein.

(A) The following financial statements, together with the reports of KPMG thereon, are filed as part of this annual report:

<a href="#">Report of Independent Registered Public Accounting Firm</a>	<a href="#">F- 1</a>
<a href="#">Report of Independent Registered Public Accounting Firm</a>	<a href="#">F- 2</a>
<a href="#">Consolidated Balance Sheets</a>	<a href="#">F- 4</a>
<a href="#">Consolidated Statements of Income</a>	<a href="#">F- 6</a>
<a href="#">Consolidated Statements of Comprehensive Income</a>	<a href="#">F- 7</a>
<a href="#">Consolidated Statements of Changes in Equity</a>	<a href="#">F- 8</a>
<a href="#">Consolidated Statements of Cash Flows</a>	<a href="#">F- 10</a>
<a href="#">Notes to Consolidated Financial Statements</a>	<a href="#">F- 11</a>
<a href="#">Schedule II—Valuation and Qualifying Accounts</a>	<a href="#">S- 1</a>

### Item 19. Exhibits

<a href="#">1.1</a>	Articles of Association as confirmed by notarial deed as of January 24, 2017 (English translation) (1)
<a href="#">2.4</a>	\$400 Million Note Purchase Agreement dated as of October 16, 2012 (filed as Exhibit 2.9) (2)
<a href="#">2.5</a>	2019 Bonds Indenture dated March 19, 2014 (Filed as Exhibit 2.7) (3)
<a href="#">2.6</a>	2021 Bonds Indenture dated March 19, 2014 (Filed as Exhibit 2.8) (3)
<a href="#">2.7</a>	2019 Form of Warrant Confirmation dated March 12, 2014 (Filed as Exhibit 2.9) (3)
<a href="#">2.8</a>	2021 Form of Warrant Confirmation dated March 12, 2014 (Filed as Exhibit 2.10) (3)
<a href="#">2.9</a>	2019 Form of Bond Hedge Confirmation dated March 12, 2014 (Filed as Exhibit 2.11) (3)
<a href="#">2.10</a>	2021 Form of Bond Hedge Confirmation dated March 12, 2014 (Filed as Exhibit 2.12) (3)
<a href="#">*2.11</a>	Schuldscheindarlehensvertrag Form of Loan Agreement dated as of June 19, 2017
<a href="#">*2.12</a>	\$400 Million Note Purchase Agreement dated as of September 6, 2017
<a href="#">*2.13</a>	2023 Bonds Indenture dated September 13, 2017
<a href="#">*2.14</a>	2023 Form of Warrant Confirmation dated September 6, 2017
<a href="#">*2.15</a>	2023 Form of Bond Hedge Confirmation dated September 6, 2017
4.1	Lease Between QIAGEN GmbH and Gisantus Grundstuecksverwaltungsgesellschaft mbH, dated January 13, 1997 (the “Max-Volmer-Strasse 4 Lease”) (Filed as Exhibit 10.3) (4)
4.2	The Max-Volmer-Strasse 4 Lease Summary (Filed as Exhibit 10.3(a)) (4)
<a href="#">4.3</a>	QIAGEN N.V. Amended and Restated 2005 Stock Plan (Filed as Exhibit 99.1) (5)
<a href="#">4.4</a>	QIAGEN N.V. 2014 Stock Plan (Filed as Exhibit 99.1) (6)
<a href="#">*8.1</a>	List of Subsidiaries
<a href="#">*12.1</a>	Certification under Section 302; Peer M. Schatz, Managing Director and Chief Executive Officer
<a href="#">*12.2</a>	Certification under Section 302; Roland Sackers, Managing Director and Chief Financial Officer
<a href="#">*13.1</a>	Certifications under Section 906; Peer M. Schatz, Managing Director and Chief Executive Officer and Roland Sackers, Managing Director and Chief Financial Officer
<a href="#">*15.1</a>	Consent of Independent Registered Public Accounting Firm
†*101	XBRL Interactive Data File

\* Filed herewith.

† Pursuant to Rule 406(T) of Regulation S-T, the Interactive Data Files on Exhibit 101 hereto are deemed not filed or part of a registration statement or prospectus for purposes of Sections 11 or 12 of the Securities Act of 1933 as amended, are deemed not filed for purposes of Section 18 of the Securities and Exchange Act of 1934, as amended, and otherwise are not subject to liability under those sections.

- (1) Incorporated by reference to Form 20-F Annual Report of QIAGEN N.V. filed with the Securities and Exchange Commission on March 6, 2017.
- (2) Incorporated by reference to Form 20-F Annual Report of QIAGEN N.V. filed with the Securities and Exchange Commission on March 1, 2013.
- (3) Incorporated by reference to Form 20-F Annual Report of QIAGEN N.V. filed with the Securities and Exchange Commission on March 2, 2015.
- (4) Incorporated by reference to Form 20-F Annual Report of QIAGEN N.V. filed with the Securities and Exchange Commission on March 31, 2000.
- (5) Incorporated by reference to Registration Statement of QIAGEN N.V. on Form S-8 filed with the Securities and Exchange Commission on November 17, 2011.

(6) Incorporated by reference to Registration Statement of QIAGEN N.V. on Form S-8 filed with the Securities and Exchange Commission on April 2, 2015.

## SIGNATURES

The registrant hereby certifies that it meets all of the requirements for filing on Form 20-F and that it has duly caused and authorized the undersigned to sign this annual report on its behalf.

Dated: March 5, 2018

QIAGEN N.V.

By: /s/ Peer M. Schatz

Peer M. Schatz, Chief Executive  
Officer

/s/ Roland Sackers

Roland Sackers, Chief Financial  
Officer

**QIAGEN N.V. AND SUBSIDIARIES**  
**INDEX TO CONSOLIDATED FINANCIAL STATEMENTS**

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## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and Supervisory Board  
QIAGEN N.V.:

### Opinion on the Consolidated Financial Statements

We have audited the accompanying consolidated balance sheets of QIAGEN N.V. and subsidiaries (the “Company”) as of December 31, 2017 and 2016, the related consolidated statements of income, comprehensive income, changes in equity, and cash flows for each of the years in the three-year period ended December 31, 2017, and the related notes and the financial statement schedule as listed in Item 18 (A) (collectively, the “consolidated financial statements”). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2017 and 2016, and the results of its operations and its cash flows for each of the years in the three-year period ended December 31, 2017, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company’s internal control over financial reporting as of December 31, 2017, based on criteria established in Internal Control - Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission, and our report dated March 5, 2018 expressed an unqualified opinion on the effectiveness of the Company’s internal control over financial reporting.

### *Basis for Opinion*

These consolidated financial statements are the responsibility of the Company’s management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ KPMG AG Wirtschaftsprüfungsgesellschaft

We have served as the Company’s auditor since 2015.

Düsseldorf, Germany

March 5, 2018

## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and Supervisory Board  
QIAGEN N.V.:

### Opinion on Internal Control Over Financial Reporting

We have audited QIAGEN N.V.'s and subsidiaries ("QIAGEN" or "the Company") internal control over financial reporting as of December 31, 2017, based on criteria established in Internal Control - Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission. In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2017, based on criteria established in Internal Control - Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated balance sheets of the Company as of December 31, 2017 and 2016, the related consolidated statements of income, comprehensive income, changes in equity, and cash flows for each of the years in the three-year period ended December 31, 2017, and the related notes and the financial statement schedule as listed in Item 18 (A) (collectively, the "consolidated financial statements"), and our report dated March 5, 2018 expressed an unqualified opinion on those consolidated financial statements.

### *Basis for Opinion*

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Report of Management on Internal Control over Financial Reporting<sup>7</sup>. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audit also included performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

### *Definition and Limitations of Internal Control Over Financial Reporting*

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the Company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.



Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ KPMG AG Wirtschaftsprüfungsgesellschaft

Düsseldorf, Germany

March 5, 2018

**QIAGEN N.V. AND SUBSIDIARIES**  
**CONSOLIDATED BALANCE SHEETS**  
(in thousands)

	Note	As of December 31,	
		2017	2016
<b>Assets</b>			
Current assets:			
Cash and cash equivalents	(3)	\$ 657,714	\$ 439,180
Short-term investments	(7)	359,198	92,999
Accounts receivable, net of allowance for doubtful accounts of \$8,008 and \$7,614 in 2017 and 2016, respectively	(3, 22)	329,138	278,244
Income taxes receivable		39,509	23,795
Inventories, net	(3)	155,927	136,552
Prepaid expenses and other current assets	(8)	106,487	66,799
<b>Total current assets</b>		<b>1,647,973</b>	<b>1,037,569</b>
Long-term assets:			
Property, plant and equipment, net of accumulated depreciation of \$564,588 and \$451,160 in 2017 and 2016, respectively	(9)	494,321	436,655
Goodwill	(11)	2,012,904	1,925,518
Intangible assets, net of accumulated amortization of \$1,117,423 and \$948,072 in 2017 and 2016, respectively	(11)	499,318	557,159
Deferred income taxes	(16)	39,353	68,384
Other long-term assets (of which \$17,713 and \$13,067 in 2017 and 2016 due from related parties, respectively)	(10, 13, 22)	344,647	282,909
<b>Total long-term assets</b>		<b>3,390,543</b>	<b>3,270,625</b>
<b>Total assets</b>		<b>\$ 5,038,516</b>	<b>\$ 4,308,194</b>

The accompanying notes are an integral part of these consolidated financial statements.

**QIAGEN N.V. AND SUBSIDIARIES**  
**CONSOLIDATED BALANCE SHEETS**  
(in thousands, except par value)

	<u>Note</u>	<u>As of December 31,</u>	
		<u>2017</u>	<u>2016</u>
<b>Liabilities and equity</b>			
<b>Current liabilities:</b>			
Accounts payable	(22)	\$ 59,205	\$ 51,218
Accrued and other current liabilities (of which \$9,028 and \$3,926 due to related parties in 2017 and 2016, respectively)	(10, 22)	244,114	230,305
Income taxes payable		21,473	26,906
<b>Total current liabilities</b>		<b>324,792</b>	<b>308,429</b>
<b>Long-term liabilities:</b>			
Long-term debt, net of current portion	(15)	1,758,258	1,067,096
Deferred income taxes	(16)	76,727	40,621
Other long-term liabilities (of which \$3,075 and \$5,889 due to related parties in 2017 and 2016, respectively)	(10, 13, 22)	337,743	284,952
<b>Total long-term liabilities</b>		<b>2,172,728</b>	<b>1,392,669</b>
Commitments and contingencies	(19)		
<b>Equity:</b>			
Preference shares, 0.01 EUR par value, authorized—450,000 shares, no shares issued and outstanding		—	—
Financing preference shares, 0.01 EUR par value, authorized—40,000 shares, no shares issued and outstanding		—	—
Common Shares, 0.01 EUR par value, authorized—410,000 shares, issued — 230,829 and 239,707 shares in 2017 and 2016, respectively		2,702	2,812
Additional paid-in capital		1,630,095	1,794,665
Retained earnings		1,247,945	1,263,464
Accumulated other comprehensive loss	(17)	(220,759)	(333,839)
Less treasury shares, at cost— 4,272 and 5,147 shares in 2017 and 2016, respectively	(17)	(118,987)	(120,006)
<b>Total equity</b>		<b>2,540,996</b>	<b>2,607,096</b>
<b>Total liabilities and equity</b>		<b>\$ 5,038,516</b>	<b>\$ 4,308,194</b>

The accompanying notes are an integral part of these consolidated financial statements.

**QIAGEN N.V. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF INCOME**  
(in thousands, except per share data)

	Note	Years ended December 31,		
		2017	2016	2015
Net sales	(3, 4, 22)	\$ 1,417,536	\$ 1,337,991	\$ 1,280,986
Cost of sales		494,975	493,338	454,328
Gross profit		922,561	844,653	826,658
Operating expenses:				
Research and development	(3)	154,084	149,841	146,830
Sales and marketing		375,562	376,321	359,598
General and administrative, restructuring, integration and other	(3)	200,098	180,573	102,066
Acquisition-related intangible amortization		39,398	39,091	38,666
Total operating expenses		769,142	745,826	647,160
Income from operations		153,419	98,827	179,498
Other income (expense):				
Interest income		10,645	6,776	4,753
Interest expense		(49,685)	(39,022)	(37,396)
Other expense, net	(6)	(4)	(9,673)	(10,552)
Total other expense, net		(39,044)	(41,919)	(43,195)
Income before income taxes		114,375	56,908	136,303
Income taxes	(3, 16)	73,981	(23,395)	6,401
Net income		40,394	80,303	129,902
Net loss attributable to noncontrolling interest		—	(101)	(246)
Net income attributable to the owners of QIAGEN N.V.		\$ 40,394	\$ 80,404	\$ 130,148
Basic net income per common share attributable to the owners of QIAGEN N.V.		\$ 0.18	\$ 0.34	\$ 0.56
Diluted net income per common share attributable to the owners of QIAGEN N.V.		\$ 0.17	\$ 0.34	\$ 0.55
Weighted-average common shares outstanding				
Basic	(18)	228,074	234,800	233,483
Diluted	(18)	233,009	238,993	238,647

The accompanying notes are an integral part of these consolidated financial statements.

**QIAGEN N.V. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME**  
(in thousands)

	Note	Years ended December 31,		
		2017	2016	2015
Net income		\$ 40,394	\$ 80,303	\$ 129,902
Other comprehensive income (loss) to be reclassified to profit or loss in subsequent periods:				
(Losses) Gains on cash flow hedges, before tax	(13)	(50,067)	(3,969)	5,337
Reclassification adjustments on cash flow hedges, before tax	(13)	26,136	(6,228)	(5,273)
Cash flow hedges, before tax		(23,931)	(10,197)	64
(Losses) gains on marketable securities, before tax		(854)	(1,421)	1,215
Gains (losses) on pensions, before tax		886	929	(1,809)
Foreign currency translation adjustments, before tax		135,945	(65,910)	(124,639)
Other comprehensive income (loss), before tax		112,046	(76,599)	(125,169)
Income tax relating to components of other comprehensive income (loss)		1,034	2,562	1,140
Total other comprehensive income (loss), after tax		113,080	(74,037)	(124,029)
Comprehensive income		153,474	6,266	5,873
Comprehensive (income) attributable to noncontrolling interest		—	(545)	(146)
Comprehensive income attributable to the owners of QIAGEN N.V.		\$ 153,474	\$ 5,721	\$ 5,727

The accompanying notes are an integral part of these consolidated financial statements.

**QIAGEN N.V. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF CHANGES IN EQUITY**

(in thousands)	Note	Common Shares		Additional Paid-In Capital	Retained Earnings	Accumulated Other Comprehensive Income (Loss)	Treasury Shares		Equity Attributable to the Owners of QIAGEN N.V.	Non-controlling Interest	Total Equity
		Shares	Amount				Shares	Amount			
		BALANCE AT DECEMBER 31, 2014					239,707	\$ 2,812			
Acquisition of QIAGEN Marseille S.A. shares from noncontrolling interests		—	—	—	—	—	—	—	—	(6,367)	(6,367)
Net income		—	—	—	130,148	—	—	—	130,148	(246)	129,902
Unrealized loss, net on pension	(17)	—	—	—	—	(1,266)	—	—	(1,266)	—	(1,266)
Unrealized gain, net on hedging contracts	(13)	—	—	—	—	4,003	—	—	4,003	—	4,003
Realized gain, net on hedging contracts	(13)	—	—	—	—	(3,955)	—	—	(3,955)	—	(3,955)
Unrealized gain, net on marketable securities		—	—	—	—	1,215	—	—	1,215	—	1,215
Translation adjustment, net	(17)	—	—	—	—	(124,418)	—	—	(124,418)	392	(124,026)
Purchase of treasury shares	(17)	—	—	—	—	—	(842)	(20,818)	(20,818)	—	(20,818)
Issuance of common shares in connection with stock plan	(20)	—	—	—	(25,280)	—	1,824	35,596	10,316	—	10,316
Excess tax benefit of employee stock plans		—	—	3,328	—	—	—	—	3,328	—	3,328
Share-based compensation	(20)	—	—	23,761	—	—	—	—	23,761	—	23,761
Proceeds from subscription receivables		—	—	97	—	—	—	—	97	—	97
Redemption of subscription receivables		—	—	(112,995)	—	—	—	—	(112,995)	—	(112,995)
BALANCE AT DECEMBER 31, 2015		239,707	\$ 2,812	\$ 1,765,595	\$ 1,209,197	\$ (259,156)	(6,702)	\$(152,412)	\$ 2,566,036	\$ 2,034	\$ 2,568,070
Acquisition of QIAGEN Marseille S.A. shares from noncontrolling interests		—	—	—	—	—	—	—	—	(2,624)	(2,624)
Acquisition of Exiqon A/S	(5)	—	—	—	—	—	—	—	—	5,519	5,519
Acquisition of Exiqon A/S shares from noncontrolling interests	(5)	—	—	—	—	—	—	—	—	(5,474)	(5,474)
Net income		—	—	—	80,404	—	—	—	80,404	(101)	80,303
Unrealized gain, net on pension	(17)	—	—	—	—	650	—	—	650	—	650
Unrealized loss, net on hedging contracts	(13)	—	—	—	—	(2,977)	—	—	(2,977)	—	(2,977)
Realized gain, net on hedging contracts	(13)	—	—	—	—	(4,671)	—	—	(4,671)	—	(4,671)
Unrealized loss, net on marketable securities	(10)	—	—	—	—	(1,371)	—	—	(1,371)	—	(1,371)
Translation adjustment, net	(17)	—	—	—	—	(66,314)	—	—	(66,314)	646	(65,668)
Issuance of common shares in connection with stock plan	(20)	—	—	—	(26,137)	—	1,555	32,406	6,269	—	6,269
Excess tax benefit of employee stock plans		—	—	782	—	—	—	—	782	—	782
Share-based compensation	(20)	—	—	28,288	—	—	—	—	28,288	—	28,288
BALANCE AT DECEMBER 31, 2016		239,707	\$ 2,812	\$ 1,794,665	\$ 1,263,464	\$ (333,839)	(5,147)	\$(120,006)	\$ 2,607,096	\$ —	\$ 2,607,096
Capital repayment	(17)	(8,878)	(110)	(244,319)	—	—	191	—	(244,429)	—	(244,429)
Issuance of warrants	(17)	—	—	45,307	—	—	—	—	45,307	—	45,307
Net income		—	—	—	40,394	—	—	—	40,394	—	40,394
Unrealized gain, net on pension	(17)	—	—	—	—	620	—	—	620	—	620
Unrealized loss, net on hedging contracts	(13)	—	—	—	—	(42,489)	—	—	(42,489)	—	(42,489)
Realized loss, net on hedging contracts	(13)	—	—	—	—	19,602	—	—	19,602	—	19,602
Unrealized loss, net on marketable securities	(10)	—	—	—	—	(786)	—	—	(786)	—	(786)
Translation adjustment, net	(17)	—	—	—	—	136,133	—	—	136,133	—	136,133
Purchase of treasury shares	(17)	—	—	—	—	—	(1,909)	(60,970)	(60,970)	—	(60,970)

Issuance of common shares in connection with stock plan	(20)	—	—	—	(55,913)	—	2,593	61,989	6,076	—	6,076
Share-based compensation	(20)	—	—	34,442	—	—	—	—	34,442	—	34,442
<b>BALANCE AT DECEMBER 31, 2017</b>		<u>230,829</u>	<u>\$ 2,702</u>	<u>\$ 1,630,095</u>	<u>\$ 1,247,945</u>	<u>\$ (220,759)</u>	<u>(4,272)</u>	<u>\$(118,987)</u>	<u>\$ 2,540,996</u>	<u>\$ —</u>	<u>\$ 2,540,996</u>

The accompanying notes are an integral part of these consolidated financial statements.

**QIAGEN N.V. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**

(in thousands)	Note	Years ended December 31,		
		2017	2016	2015
<b>Cash flows from operating activities:</b>				
Net income		\$ 40,394	\$ 80,303	\$ 129,902
Adjustments to reconcile net income to net cash provided by operating activities, net of effects of businesses acquired:				
Depreciation and amortization		216,448	213,056	191,473
Non-cash impairments	(6)	5,137	44,399	5,471
Amortization of debt discount and issuance costs		24,773	20,451	19,955
Share-based compensation expense	(20)	34,442	28,288	23,760
Excess tax benefits from share-based compensation		—	(782)	(3,328)
Deferred income taxes	(16)	60,176	(63,981)	(32,280)
Loss on early redemption of debt	(15)	—	—	7,564
Loss (gain) on marketable securities		1,055	(1,360)	6,039
Reversals of contingent consideration	(14)	(3,269)	(6,501)	(5,225)
Other items, net including fair value changes in derivatives		(4,521)	19,435	2,609
Net changes in operating assets and liabilities:				
Accounts receivable	(3)	(34,165)	(12,238)	(24,764)
Inventories	(3)	(21,633)	(20,346)	(33,194)
Prepaid expenses and other current assets	(8)	(5,245)	6,640	52,315
Other long-term assets		(16,786)	3,549	2,730
Accounts payable		4,321	(1,466)	7,732
Accrued and other current liabilities	(12)	2,828	10,618	(25,570)
Income taxes	(16)	(41,266)	13,483	(4,242)
Other long-term liabilities		24,090	8,054	(3,450)
<b>Net cash provided by operating activities</b>		<b>286,779</b>	<b>341,602</b>	<b>317,497</b>
<b>Cash flows from investing activities:</b>				
Purchases of property, plant and equipment		(90,081)	(74,536)	(97,778)
Proceeds from sale of equipment		42	63	103
Purchases of intangible assets		(34,324)	(19,388)	(19,703)
Purchases of investments		(4,777)	(23,448)	(6,053)
Cash paid for acquisitions, net of cash acquired	(5)	(50,549)	(90,490)	(66,930)
Purchases of short-term investments	(7)	(450,564)	(496,304)	(317,570)
Proceeds from sales of short-term investments	(7)	189,006	533,847	367,714
Cash paid for collateral asset	(13)	(20,707)	(1,200)	—
Other investing activities		(2,310)	(7,600)	(5,983)
<b>Net cash used in investing activities</b>		<b>(464,264)</b>	<b>(179,056)</b>	<b>(146,200)</b>
<b>Cash flows from financing activities:</b>				
Proceeds from long-term debt, net of issuance costs	(15)	329,875	—	—
Proceeds from issuance of cash convertible notes, net of issuance costs	(15)	394,391	—	(86)
Purchase of call option related to cash convertible notes	(15)	(73,646)	—	—
Proceeds from issuance of warrants, net of issuance costs	(17)	45,396	—	—
Capital repayment	(17)	(243,945)	—	—
Repayment of long-term debt	(15)	—	(6,738)	(251,868)
Principal payments on capital leases		(1,402)	(1,322)	(1,079)
Excess tax benefits from share-based compensation		—	782	3,328
Proceeds from issuance of common shares		6,075	6,269	10,316
Purchase of treasury shares	(17)	(60,970)	—	(20,818)
Other financing activities		(8,587)	(9,595)	1,594
<b>Net cash provided by (used in) financing activities</b>		<b>387,187</b>	<b>(10,604)</b>	<b>(258,613)</b>
Effect of exchange rate changes on cash and cash equivalents		8,832	(2,773)	(15,340)
<b>Net increase (decrease) in cash and cash equivalents</b>		<b>218,534</b>	<b>149,169</b>	<b>(102,656)</b>
Cash and cash equivalents, beginning of period		439,180	290,011	392,667
<b>Cash and cash equivalents, end of period</b>		<b>\$ 657,714</b>	<b>\$ 439,180</b>	<b>\$ 290,011</b>
<b>Supplemental cash flow disclosures:</b>				
Cash paid for interest		\$ 20,252	\$ 18,227	\$ 20,799
Cash paid for income taxes		\$ 40,499	\$ 22,670	\$ 34,441
<b>Supplemental disclosure of non-cash investing and financing activities:</b>				
Equipment purchased through capital lease		\$ 88	\$ 113	\$ 231
Intangible assets acquired in non-monetary exchange		\$ —	\$ —	\$ 5,900

The accompanying notes are an integral part of these consolidated financial statements.



**QIAGEN N.V. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**DECEMBER 31, 2017**

**1. Corporate Information and Basis of Presentation**

*Corporate Information*

QIAGEN N.V. is a public limited liability company ('naamloze vennootschap') under Dutch law with registered office at Hulsterweg 82, 5912 PL Venlo, The Netherlands. QIAGEN N.V., a Netherlands holding company, and subsidiaries (we, our or the Company) is the leading global provider of Sample to Insight solutions to transform biological materials into valuable molecular insights. Our sample technologies isolate and process DNA, RNA and proteins from blood, tissue and other materials. Assay technologies make these biomolecules visible and ready for analysis. Bioinformatics software and knowledge bases interpret data to report relevant, actionable insights. Automation solutions tie these together in seamless and cost-effective molecular testing workflows. We provide these workflows to four major customer classes: Molecular Diagnostics (human healthcare), Applied Testing (forensics, veterinary testing and food safety), Pharma (pharmaceutical and biotechnology companies) and Academia (life sciences research). We market our products in more than 130 countries.

*Basis of Presentation*

The accompanying consolidated financial statements were prepared in accordance with U.S. generally accepted accounting principles (GAAP) and all amounts are presented in U.S. dollars rounded to the nearest thousand, unless otherwise indicated. The consolidated financial statements have been prepared on a historical cost basis, except for derivative financial instruments, contingent consideration and available-for-sale financial instruments that have been measured at fair value.

On January 6, 2017, we acquired OmicSoft Corporation, located in Cary, North Carolina (U.S.). On June 28, 2016, we acquired Exiqon A/S, located in Vedbaek, Denmark and on November 20, 2015, we acquired MO BIO Laboratories, Inc., located in Carlsbad, California. Accordingly, at the acquisition dates, all of the assets acquired and liabilities assumed were recorded at their respective fair values and our consolidated results of operations include the operating results from the acquired companies from the acquisition dates.

Certain prior year amounts related to deferred taxes have been reclassified in Note 16 *Income Taxes* and the Consolidated Statements of Cash Flows. Certain prior year amounts related to restructuring costs have been reclassified to conform to the current year presentation. For the year ended December 31, 2016, \$26.3 million and \$25.0 million costs were reclassified out of research and development and sales and marketing, respectively, to general and administrative, restructuring, integration and other. These reclassifications had no effect on income from operations.

**2. Effects of New Accounting Pronouncements**

*Adoption of New Accounting Standards*

The following new FASB Accounting Standards Updates (ASU) were effective for the year ended December 31, 2017.

ASU 2015-11, *Inventory (Topic 330): Simplifying the Measurement of Inventory* requires in scope inventory, including inventory measured using first-in, first out (FIFO) or average cost, to be measured at the lower of cost and net realizable value. Net realizable value is the estimated selling price in the ordinary course of business, less reasonably predictable costs of completion, disposal, and transportation. The adoption of ASU 2015-11 did not have a material impact on our consolidated financial statements.

ASU 2016-07, *Investments - Equity Method and Joint Ventures (Topic 323): Simplifying the Transition to the Equity Method of Accounting* eliminates the requirement to retroactively adopt the equity method of accounting when an investment qualifies for use of the equity method as a result of an increase in the level of ownership or degree of influence. The new guidance had no impact on our consolidated financial statements.

ASU 2016-09, *Compensation - Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting* is intended to simplify several aspects of the accounting for share-based payment transactions, including the income tax consequences, classification of awards as either equity or liabilities, and classification on the statement of cash flows. The new guidance became effective for us on January 1, 2017. The impact of the adoption of ASU 2016-09 is limited to the recording of any windfall or shortfall benefit directly to the tax provision and the reclassification of certain items in our statement of cash flows. We will continue estimating stock-based compensation award forfeitures in determining the amount of compensation cost to be recognized each period. As a result of this adoption, we expect volatility in our effective tax rate as any windfall or shortfall tax benefits related to our share-based compensation will be recorded directly into our results of operations. Additionally, excess tax benefits after adoption are classified as cash flows from operating activities instead of cash flows from financing activities. We adopted this standard on a prospective basis and during 2017, \$5.2 million of excess tax benefit was recognized directly to the tax provision and classified as cash flows from operating activities.

### ***New Accounting Standards Not Yet Adopted***

The following new FASB Accounting Standards Updates, which are not yet adopted, have been grouped by their required effective dates:

#### *First Quarter of 2018*

ASU 2014-09, *Revenue from Contracts with Customers (Topic 606)* affects any entity that either enters into contracts with customers to transfer goods or services or enters into contracts for the transfer of nonfinancial assets unless those contracts are within the scope of other standards (e.g., insurance contracts or lease contracts). In August 2015, the FASB issued Accounting Standards Update No. 2015-14 (ASU 2015-14), *Revenue from Contracts with Customers (Topic 606): Deferral of the Effective Date* which defers the effective date of ASU 2014-09 to interim and annual reporting periods beginning after December 15, 2017. The FASB has continued to issue accounting standards updates to clarify and provide implementation guidance related to *Revenue from Contracts with Customers*, including ASU 2016-08 *Revenue from Contract with Customers: Principal versus Agent Considerations*, ASU 2016-10 *Revenue from Contracts with Customers: Identifying Performance Obligations and Licensing*, and ASU 2016-12 *Revenue from Contracts with Customers: Narrow-Scope Improvements and Practical Expedients*. An entity should apply the amendments either retrospectively to each prior reporting period presented and the entity may elect certain practical expedients (the full retrospective method of adoption); or, retrospectively with the cumulative effect of initially applying this ASU recognized at the date of initial application (the modified retrospective method of adoption).

We will adopt this standard on its effective date, January 1, 2018 using the modified retrospective method. The new standard is largely consistent with the existing guidance and current practices applied by our business and we do not expect a material impact on our existing revenue accounting policies. The new standard also requires additional disclosures including quantitative and qualitative disclosures about the nature, amount, timing and uncertainty of revenue and cash flows from customer contracts. The Company is in the process of finalizing changes to support recognition and disclosure under the new revenue standard.

ASU 2016-01, *Financial Instruments - Overall (Subtopic 825-10): Recognition and Measurement of Financial Assets and Financial Liabilities* will impact certain aspects of recognition, measurement, presentation and disclosure of financial instruments. The new guidance makes targeted improvements to existing U.S. GAAP by:

- requiring equity investments (except those accounted for under the equity method of accounting, or those that result in consolidation of the investee) to be measured at fair value with changes in fair value recognized in net income;
- requiring public business entities to use the exit price notion when measuring the fair value of financial instruments for disclosure purposes;
- requiring separate presentation of financial assets and financial liabilities by measurement category and form of financial asset (i.e., securities or loans and receivables) on the balance sheet or the accompanying notes to the financial statements;
- eliminating the requirement for public business entities to disclose the method(s) and significant assumptions used to estimate the fair value that is required to be disclosed for financial instruments measured at amortized cost on the balance sheet; and
- requiring a reporting organization to present separately in other comprehensive income the portion of the total change in the fair value of a liability resulting from a change in the instrument-specific credit risk (also referred to as “own

credit”) when the organization has elected to measure the liability at fair value in accordance with the fair value option for financial instruments.

The amendments will become effective for our financial statements beginning in the first quarter of 2018 and require adoption using a cumulative-effect adjustment to the balance sheet as of the beginning of the fiscal year of adoption. The implementation of the amendments is expected to increase the volatility of net income as gains or losses in future periods will be recognized in net income; however the extent of any volatility will be dependent upon the significance of the equity investments at the time of adoption. At December 31, 2017, we had a net unrealized loss of \$0.9 million net of tax, and at December 31, 2016, we had a net unrealized loss, net of tax, of \$0.2 million from equity investments recorded in equity, respectively.

ASU No. 2016-15, *Statement of Cash Flows (Topic 320): Classification of Certain Cash Receipts and Cash Payments* (a consensus of the FASB Emerging Issues Task Force), addresses eight classification issues related to the statement of cash flows:

- debt prepayment or debt extinguishment costs;
- settlement of zero-coupon bonds;
- contingent consideration payments made after a business combination;
- proceeds from the settlement of insurance claims;
- proceeds from the settlement of corporate-owned life insurance policies, including bank-owned life insurance policies;
- distributions received from equity method investees;
- beneficial interests in securitization transactions; and
- separately identifiable cash flows and application of the predominance principle.

We will adopt ASU 2016-15 on January 1, 2018. We will be required to apply this ASU using a retrospective transition method to each period presented other than for issues where application would be impracticable in which case we will be permitted to apply the amendments for those issues prospectively as of the earliest date practicable. We do not expect any material impact from the adoption of ASU 2016-15 on our consolidated financial statements.

ASU 2016-16, *Income Taxes (Topic 740): Intra-Entity Transfers of Assets Other Than Inventory*, aims to improve the accounting for the income tax consequences of intra-entity transfers of assets other than inventory. This amendment requires an entity to recognize the income tax consequences of an intra-entity transfer of an asset other than inventory when the transfer occurs. The amendments in this update should be applied on a modified retrospective basis through a cumulative-effect adjustment directly to retained earnings as of the beginning of the period of adoption. We will adopt ASU 2016-16 on January 1, 2018 without material impact.

ASU 2016-18, *Statement of Cash Flows (Topic 320): Restricted Cash*, requires entities to show the changes in the total of cash, cash equivalents, restricted cash and restricted cash equivalents in the statement of cash flows. As a result, entities will no longer present transfers between cash and cash equivalents and restricted cash and restricted cash equivalents in the statement of cash flows. The amendments in this update should be applied using a retrospective transition method to each period presented. This update is effective for us on January 1, 2018. There is no impact from the adoption of ASU 2016-18 on our consolidated financial statements other than the effect of a retrospective adjustment for the \$6.3 million restricted cash balance held as of January 1, 2016 in the comparative Consolidated Statements of Cash Flows.

ASU 2017-01, *Business Combinations (Topic 805): Clarifying the Definition of a Business*, clarifies and provides a more robust framework to use in determining when a set of assets and activities is a business. The amendments in this update should be applied prospectively on or after the effective date. We adopted this update beginning January 1, 2018.

ASU 2017-09, *Compensation-Stock Compensation (Topic 718): Scope of Modification Accounting*, clarifies when to account for a change to the terms or conditions of a share-based payment award as a modification. Under the new guidance, modification accounting is required only if the fair value, the vesting conditions, or the classification of the award (as equity or liability) changes as a result of the change in terms or conditions. The guidance is effective for us prospectively for annual periods beginning on January 1, 2018.

### *First Quarter of 2019*

ASU 2016-02, *Leases (Topic 842)* aims to increase transparency and comparability among organizations by recognizing lease assets and lease liabilities on the balance sheet and disclosing key information about leasing arrangements. ASU 2016-02 will become effective for us beginning in the first quarter of 2019 and requires modified retrospective application for leases that exist or are entered into after the beginning of the earliest comparative period in the financial statements. We do not plan to early adopt this standard and we anticipate that the adoption of this standard will require changes to our systems and processes. We expect this standard to increase total assets and total liabilities, however, we are currently evaluating the potential size of the impact that ASU 2016-02 may have on our consolidated financial statements.

ASU 2017-12, *Derivatives and Hedging (Topic 815): Targeted Improvements to Accounting for Hedging Activities*, will make more financial and nonfinancial hedging strategies eligible for hedge accounting. It also amends the presentation and disclosure requirements and changes how companies assess effectiveness. It is intended to more closely align hedge accounting with companies' risk management strategies, simplify the application of hedge accounting, and increase transparency as to the scope and results of hedging programs. The new guidance will become effective for us beginning on January 1, 2019 by applying a modified retrospective approach to existing hedging relationship as of the adoption date. Under the modified retrospective approach, entities with cash flow or net investment hedges will make (1) a cumulative-effect adjustment to accumulated other comprehensive income so that the adjusted amount represents the cumulative change in the hedging instruments' fair value since hedge inception (less any amounts that should have been recognized in earnings under the new accounting model) and (2) a corresponding adjustment to opening retained earnings as of the most recent period presented on the date of adoption. We are currently evaluating the potential impact ASU 2017-12 may have on our consolidated financial statements.

### *First Quarter of 2020*

ASU 2016-13, *Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*, provides financial statement users with more decision-useful information about the expected credit losses on financial instruments and other commitments to extend credit held by a reporting entity at each reporting date. To achieve this objective, the amendments in ASU 2016-13 replace the incurred loss impairment methodology in current GAAP with a methodology that reflects expected credit losses and requires consideration of a broader range of reasonable and supportable information to inform credit loss estimates. The new guidance will become effective for us by applying the standard's provisions as a cumulative-effect adjustment to retained earnings beginning on January 1, 2020. We are currently evaluating the potential impact ASU 2016-13 may have on our consolidated financial statements.

ASU 2017-04, *Intangibles—Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment*, removes Step 2 of the goodwill impairment test. A goodwill impairment will now be the amount by which a reporting unit's carrying value exceeds its fair value, not to exceed the carrying amount of goodwill. ASU 2017-04 is effective for us for annual periods beginning January 1, 2020 and early adoption is permitted. The new guidance is required to be applied on a prospective basis. We are currently evaluating the impact the adoption of this new standard will have on our financial position and results of operations.

## **3. Summary of Significant Accounting Policies and Critical Accounting Estimates**

### *Principles of Consolidation*

The consolidated financial statements include the accounts of QIAGEN N.V. and its wholly-owned subsidiaries. All significant intercompany accounts and transactions have been eliminated. Investments in either common stock or in-substance common stock of companies where we exercise significant influence over the operations but do not have control, and where we are not the primary beneficiary, are accounted for using the equity method. All other investments are accounted for under the cost method. When there is a portion of equity in an acquired subsidiary not attributable, directly or indirectly, to the Company, we record the fair value of the noncontrolling interests at the acquisition date and classify the amounts attributable to noncontrolling interests separately in equity in the consolidated financial statements. Any subsequent changes in the Company's ownership interest while the Company retains its controlling financial interest in its subsidiary are accounted for as equity transactions.

### *Use of Estimates*

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities and disclosure of contingencies at the date of the financial statements as well as the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

### *Concentrations of Risk*

We buy materials for products from many suppliers, and are not dependent on any one supplier or group of suppliers for the business as a whole. However, key components of certain products, including certain instrumentation components and chemicals, are available only from a single source. If supplies from these vendors were delayed or interrupted for any reason, we may not be able to obtain these materials timely or in sufficient quantities in order to produce certain products and sales levels could be negatively affected. Additionally, our customers include researchers at pharmaceutical and biotechnology companies, academic institutions, and government and private laboratories. Fluctuations in the research and development budgets of these researchers and their organizations for applications in which our products are used could have a significant effect on the demand for our products.

The financial instruments used in managing our foreign currency, equity and interest rate exposures have an element of risk in that the counterparties may be unable to meet the terms of the agreements. We attempt to minimize this risk by limiting the counterparties to a diverse group of highly-rated international financial institutions. The carrying values of our financial instruments incorporate the non-performance risk by using market pricing for credit risk. However, we have no reason to believe that any counterparties will default on their obligations and therefore do not expect to record any losses as a result of counterparty default. In order to minimize our exposure with any single counterparty, we have entered into master agreements which allow us to manage the exposure with the respective counterparty on a net basis.

Other financial instruments that potentially subject us to concentrations of credit risk are cash and cash equivalents, short-term investments, and accounts receivable. We attempt to minimize the risks related to cash and cash equivalents and short-term investments by dealing with highly-rated financial institutions and investing in a broad and diverse range of financial instruments. We have established guidelines related to credit quality and maturities of investments intended to maintain safety and liquidity. Concentration of credit risk with respect to accounts receivable is limited due to a large and diverse customer base, which is dispersed over different geographic areas. Allowances are maintained for potential credit losses and such losses have historically been within expected ranges.

### *Foreign Currency Translation*

Our reporting currency is the U.S. dollar and our subsidiaries' functional currencies are generally the local currency of the respective countries in which they are headquartered. All amounts in the financial statements of entities whose functional currency is not the U.S. dollar are translated into U.S. dollar equivalents at exchange rates as follows: (1) assets and liabilities at period-end rates, (2) income statement accounts at average exchange rates for the period, and (3) components of equity at historical rates. Translation gains or losses are recorded in equity, and transaction gains and losses are reflected in net income as a component of other expense, net. Realized gains or losses on the value of derivative contracts entered into to hedge the exchange rate exposure of receivables and payables are also included in net income as a component of other expense, net. The net (loss) gain on foreign currency transactions was \$(3.3) million, less than \$0.1 million, and \$(0.5) million in 2017, 2016 and 2015, respectively, and is included in other expense, net.

The exchange rates of key currencies were as follows:

(US\$ equivalent for one)	Closing rate at December 31,		Annual average rate		
	2017	2016	2017	2016	2015
Euro (EUR)	<b>1.1993</b>	1.0541	<b>1.1292</b>	1.1068	1.1100
Pound Sterling (GBP)	<b>1.3517</b>	1.2312	<b>1.2882</b>	1.3560	1.5286
Swiss Franc (CHF)	<b>1.0249</b>	0.9816	<b>1.0156</b>	1.0153	1.0406
Australian Dollar (AUD)	<b>0.7815</b>	0.7222	<b>0.7666</b>	0.7439	0.7522
Canadian Dollar (CAD)	<b>0.7975</b>	0.7430	<b>0.7710</b>	0.7552	0.7836
Japanese Yen (JPY)	<b>0.0089</b>	0.0085	<b>0.0089</b>	0.0092	0.0083
Chinese Yuan (CNY)	<b>0.1537</b>	0.1440	<b>0.1480</b>	0.1506	0.1592

### *Segment Information*

We determined that we operate as one operating segment in accordance with the Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) Topic 280, *Segment Reporting*. Our chief operating decision maker (CODM) makes decisions based on the Company as a whole. In addition, we have a common basis of organization and types of products and services which derive revenues and consistent product margins. Accordingly, we operate and make decisions as one reporting unit.

### *Revenue Recognition*

Our revenues are reported net of sales and value added taxes, discounts and sales allowances, and are derived primarily from the sale of consumable and instrumentation products, and to a much lesser extent, from the sale of services, intellectual

property and technology. We recognize revenue when four basic criteria are met: (1) persuasive evidence of an arrangement exists; (2) delivery has occurred or services have been rendered; (3) the fee is fixed or determinable; and (4) collectability is reasonably assured.

*Consumable and Related Products:* In the last three years, revenue from consumable product sales has accounted for approximately 79%-80% of our net sales and is generally recognized upon transfer of title consistent with the shipping terms. We maintain a small amount, on average less than \$2.0 million in total, of consignment inventory at certain customer locations. Revenues for the consumable products which are consigned in this manner are recognized upon consumption. We generally allow returns of consumable products if the product is returned in a timely manner and in good condition. Allowances for returns are provided for based upon the historical pattern of returns and management's evaluation of specific factors that impact the risk of returns.

Revenues from related products include software-as-a-service (SaaS), license fees, intellectual property and patent sales, royalties and milestone payments and over the last three years has accounted for approximately 7%-8% of our net sales. Revenue from SaaS arrangements is recognized ratably over the duration of the agreement unless the terms of the agreement indicate that revenue should be recognized in a different pattern, for example based on usage. License fees from research collaborations include payments for technology transfer and access rights. Non-refundable, up-front payments received in connection with collaborative research and development agreements are generally deferred and recognized on a straight-line basis over the contract period during which there is any continuing obligation. Revenue from intellectual property and patent sales is recognized when earned, either at the time of sale, or over the contract period when licensed. Payments for milestones, generally based on the achievement of substantive and at-risk performance criteria, are recognized in full at such time as the specified milestone has been achieved according to the terms of the agreement. Royalties from licensees are based on reported sales of licensed products and revenues are calculated based on contract terms when reported sales are reliably measurable, fees are fixed or determinable and collectability is reasonably assured.

*Instrumentation:* Revenue from instrumentation includes the instrumentation equipment, installation, training and other instrumentation services, such as extended warranty services or product maintenance contracts and over the last three years has accounted for approximately 12%-13% of net sales. Revenue from instrumentation equipment is recognized when title passes to the customer, upon either shipment or written customer acceptance after satisfying any installation and training requirements.

We offer our customers access to our instrumentation via reagent rental agreements which place instrumentation with customers without requiring them to purchase the equipment. Instead, we recover the cost of providing the instrumentation in the amount charged for consumable products. The instruments placed with customers under a reagent rental agreement are depreciated and charged to cost of sales on a straight-line basis over the estimated life of the instrument, typically 3 to 5 years. The costs to maintain these instruments in the field are charged to cost of sales as incurred. Revenue from these reagent rental agreements is allocated to the elements within the arrangement (the lease, the sale of consumables and/or services) in accordance with ASC 605-25, *Revenue Recognition—Multiple-Element Arrangements* and recognized for each unit of accounting as appropriate.

We have contracts with multiple elements which include instrumentation equipment, either leased under a reagent rental agreement or sold directly, together with other elements such as installation, training, extended warranty services or product maintenance contracts or consumable products. These contracts are accounted for under ASC 605-25, *Revenue Recognition—Multiple-Element Arrangements*. Multiple-element arrangements are assessed to determine whether there is more than one unit of accounting. In order for a deliverable to qualify as a separate unit of accounting, both of the following criteria must be met:

- The delivered items have value to the client on a stand-alone basis;
- If the arrangement includes a general right of return relative to the delivered item, delivery or performance of the undelivered item or items is considered probable and substantially in the control of the Company.

Arrangement consideration is allocated at the inception of the arrangement to all deliverables on the basis of their relative selling price. When applying the relative selling price method, the selling price for each deliverable is determined using (a) vendor-specific objective evidence (VSOE) of selling price, if it exists; or otherwise (b) third-party evidence of selling price. If neither VSOE nor third-party evidence of selling price exists for a deliverable, then the best estimated selling price for the deliverable is used. The arrangement consideration is allocated to the separate units of accounting based on each unit's relative fair value. If these criteria are not met, deliverables included in an arrangement are accounted for as a single unit of accounting and revenues and costs are deferred until the period or periods in which the final deliverable is provided.

We have evaluated the deliverables in our multiple-element arrangements and concluded that they are separate units of accounting because the delivered item or items have value to the customer on a standalone basis and for an arrangement that includes a general right of return relative to the delivered item(s), delivery or performance of the undelivered item(s) is considered probable and substantially in our control. Revenues from installation and training are recognized as services are completed, based on VSOE, which is determined by reference to the price customers pay when the services are sold separately. Revenues from extended warranty services or product maintenance contracts are recognized on a straight-line basis over the

term of the contract, typically one year. VSOE of fair value of extended warranty services or product maintenance is determined based on the price charged for the maintenance and support when sold separately. Revenues from the instrumentation equipment and consumable products are recognized when the products are delivered and there are no further performance obligations. VSOE of fair value of instrumentation equipment and consumable products is determined based on the price charged for the instrument and consumables when sold separately. Certain of our reagent rental arrangements include termination provisions for breach of contract. However, these termination provisions would not impact recognized revenues. Our other arrangements do not include any provisions for cancellation or refunds.

#### *Warranty*

We provide warranties on our products against defects in materials and workmanship for a period of 1 year. A provision for estimated future warranty costs is recorded in cost of sales at the time product revenue is recognized. Product warranty obligations are included in accrued and other current liabilities in the accompanying consolidated balance sheets. The changes in the carrying amount of warranty obligations are as follows:

<b>(in thousands)</b>	<b>Total</b>
BALANCE AT DECEMBER 31, 2015	\$ 2,637
Provision charged to cost of sales	3,562
Usage	(2,936)
Adjustments to previously provided warranties, net	(424)
Currency translation	(60)
BALANCE AT DECEMBER 31, 2016	\$ 2,779
Provision charged to cost of sales	3,024
Usage	(2,859)
Adjustments to previously provided warranties, net	(54)
Currency translation	161
BALANCE AT DECEMBER 31, 2017	\$ 3,051

#### *Research and Development*

Research and product development costs are expensed as incurred. Research and development expenses consist primarily of salaries and related expenses, facility costs and amounts paid to contract research organizations, and laboratories for the provision of services and materials as well as costs for internal use or clinical trials.

#### *Government Grants*

We recognize government grants when there is reasonable assurance that all conditions will be complied with and the grant will be received. Our government grants generally represent subsidies for specified activities and are therefore recognized when earned as a reduction of the expenses recorded for the activity that the grants are intended to compensate. Thus, when the grant relates to research and development expense, the grant is recognized over the same period that the related costs are incurred. Otherwise, amounts received under government grants are recorded as liabilities in the balance sheet. When the grant relates to an asset, the nominal amount of the grant is deducted from the carrying amount of the asset and recognized over the same period that the related asset is depreciated.

#### *Borrowing Costs*

Borrowing costs directly attributable to the acquisition, construction or production of an asset that takes a substantial period of time to get ready for its intended use or sale are capitalized as part of the cost of the respective assets (qualifying asset) when such borrowing costs are significant. All other borrowing costs are expensed in the period they occur.

#### *Shipping and Handling Income and Costs*

Shipping and handling costs charged to customers are recorded as revenue in the period that the related product sale revenue is recorded. Associated costs of shipping and handling are included in sales and marketing expenses. For the years ended December 31, 2017, 2016 and 2015, shipping and handling costs totaled \$28.6 million, \$26.5 million and \$26.2 million, respectively.

#### *Advertising Costs*

The costs of advertising are expensed as incurred and are included as a component of sales and marketing expense. Advertising costs for the years ended December 31, 2017, 2016 and 2015 were \$7.2 million, \$8.4 million and \$7.2 million, respectively.

### *General and Administrative, Restructuring, Integration and Other*

General and administrative expenses primarily represent the costs required to support administrative infrastructure. In addition, we incur indirect acquisition and business integration costs in connection with business combinations. These costs represent incremental costs that we believe would not have been incurred absent the business combinations. Major components of these costs include payroll and related costs for employees remaining with the Company on a transitional basis; public relations, advertising and media costs for re-branding of the combined organization; and, consulting and related fees incurred to integrate or restructure the acquired operations.

Restructuring costs include personnel costs (principally termination benefits), facility closure and contract termination costs. Termination benefits are accounted for in accordance with FASB ASC Topic 712, *Compensation - Nonretirement Postemployment Benefits*, and are recorded when it is probable that employees will be entitled to benefits and the amounts can be reasonably estimated. Estimates of termination benefits are based on the frequency of past termination benefits, the similarity of benefits under the current plan and prior plans, and the existence of statutory required minimum benefits. Facility closure, some termination benefits and other costs are accounted for in accordance with FASB ASC Topic 420, *Exit or Disposal Cost Obligations* and are recorded when the liability is incurred. The specific restructuring measures and associated estimated costs are based on management's best business judgment under the existing circumstances at the time the estimates are made. If future events require changes to these estimates, such adjustments will be reflected in the period of the revised estimate.

### *Income Taxes*

We account for income taxes under the liability method. Under this method, total income tax expense is the amount of income taxes expected to be payable for the current year plus the change from the beginning of the year for deferred income tax assets and liabilities established for the expected further tax consequences resulting from differences in the financial reporting and tax basis of assets and liabilities. Deferred tax assets and/or liabilities are determined by multiplying the differences between the financial reporting and tax reporting bases for assets and liabilities by the enacted tax rates expected to be in effect when such differences are recovered or settled. Deferred tax assets are reduced by a valuation allowance to the amount more likely than not to be realized. The effect on deferred taxes of a change in tax rates is recognized in income in the period that includes the enactment date.

Tax benefits are initially recognized in the financial statements when it is more likely than not that the position will be sustained upon examination by the tax authorities. Such tax positions are initially and subsequently measured as the largest amount of tax benefit that is greater than 50 percent likely of being realized upon settlement with the taxing authority using the cumulative probability method, assuming the tax authority has full knowledge of the position and all relevant facts. Our policy is to recognize interest accrued related to unrecognized tax benefits in interest expense and penalties within the income tax expense.

### *Derivative Instruments*

We enter into derivative financial instrument contracts to minimize the variability of cash flows or income statement impact associated with the anticipated transactions being hedged or to hedge fluctuating interest rates. As changes in foreign currency or interest rate impact the value of anticipated transactions, the fair value of the forward or swap contracts also changes, offsetting foreign currency or interest rate fluctuations. Derivative instruments are recorded on the balance sheet at fair value. Changes in fair value of derivatives are recorded in current earnings or other comprehensive income, depending on whether a derivative is designated as part of a hedge transaction.

### *Share-Based Payments*

Compensation cost for all share-based payments is recorded based on the grant date fair value, less an estimate for pre-vesting forfeitures, recognized in expense over the service period. During 2016 we made a change in accounting principle to move from a straight-line attribution method for expense recognition to an accelerated attribution method.

*Forfeiture Rate*—This is the estimated percentage of grants that are expected to be forfeited or cancelled on an annual basis before becoming fully vested. We estimated the forfeiture rate based on historical forfeiture experience.

*Restricted Stock Units and Performance Stock Units*: Restricted stock units and performance stock units represent rights to receive Common Shares at a future date. The fair market value of restricted and performance stock units is determined based on the number of stock units granted and the fair market value of our shares on the grant date. The fair market value at the time of the grant, less an estimate for pre-vesting forfeitures, is recognized in expense over the vesting period. At each reporting period, the estimated performance achievement of the performance stock units is assessed and any change in the estimated achievement is recorded on a cumulative basis in the period of adjustment.



### *Cash and Cash Equivalents*

Cash and cash equivalents consist of cash on deposit in banks and other cash invested temporarily in various instruments that are short-term and highly liquid, and having an original maturity of less than 90 days at the date of purchase.

<b>(in thousands)</b>	<b>2017</b>	<b>2016</b>
Cash at bank and on hand	<b>\$ 139,597</b>	\$ 137,615
Short-term bank deposits	<b>518,117</b>	301,565
Cash and Cash Equivalents	<b><u>\$ 657,714</u></b>	<b><u>\$ 439,180</u></b>

### *Short-Term Investments*

Short-term investments are classified as “available for sale” and stated at fair value in the accompanying balance sheet. Interest income is accrued when earned and changes in fair market values are reflected as unrealized gains and losses, calculated on the specific identification method, as a component of accumulated other comprehensive income (loss) in equity. The amortization of premiums and accretion of discounts to maturity arising from acquisition is included in interest income. A decline in fair value that is judged to be other-than-temporary is accounted for as a realized loss and the write-down is included in the consolidated statements of income. Realized gains and losses, determined on a specific identification basis, on the sale of short-term investments are included in income.

### *Fair Value of Financial Instruments*

The carrying amount of cash and cash equivalents, notes receivable, accounts receivable, accounts payable and accrued liabilities approximate their fair values because of the short maturities of those instruments. The carrying value of our variable rate debt and capital leases approximates their fair values because of the short maturities and/or interest rates which are comparable to those available to us on similar terms. The fair values of the Cash Convertible Notes are based on an estimation using available over-the-counter market information. The fair values of the Private Placement Senior Notes further described in Note 15 were estimated using the changes in the U.S. Treasury rates.

### *Accounts Receivable*

Our accounts receivable are unsecured and we are at risk to the extent such amounts become uncollectible. We continually monitor accounts receivable balances, and provide for an allowance for doubtful accounts at the time collection becomes questionable based on payment history or age of the receivable. Amounts determined to be uncollectible are written off against the reserve. For the years ended December 31, 2017, 2016 and 2015, write-offs of accounts receivable totaled \$3.2 million, \$1.6 million and \$2.0 million, respectively, while provisions for doubtful accounts which were charged to expense totaled \$3.1 million, \$2.1 million and \$2.1 million, respectively. For all years presented, no single customer represented more than ten percent of accounts receivable or consolidated net sales.

### *Inventories*

Inventories are stated at the lower of cost or net realizable value, determined on either a weighted average cost basis or a standard cost basis which is regularly adjusted to actual. Inventories include material, direct labor and overhead costs and are reduced for estimated obsolescence. Inventories consisted of the following as of December 31, 2017 and 2016:

<b>(in thousands)</b>	<b>2017</b>	<b>2016</b>
Raw materials	<b>\$ 23,717</b>	\$ 29,402
Work in process	<b>33,153</b>	28,123
Finished goods	<b>99,057</b>	79,027
Total inventories, net	<b><u>\$ 155,927</u></b>	<b><u>\$ 136,552</u></b>

### *Property, Plant and Equipment*

Property, plant and equipment, including equipment acquired under capital lease obligations, are stated at cost less accumulated amortization. Capitalized internal-use software costs include only those direct costs associated with the actual development or acquisition of computer software for internal use, including costs associated with the design, coding, installation and testing of the system. Costs associated with preliminary development, such as the evaluation and selection of alternatives, as well as training, maintenance and support are expensed as incurred. Costs for software to be sold, leased or otherwise marketed that are related to the conceptual formulation and design are expensed as incurred. Costs incurred to produce the product after technological feasibility is established are capitalized and amortized in accordance with the accounting standards for the costs of software to be sold, leased, or otherwise marketed. All other depreciation is computed using the straight-line method over the estimated useful lives of the assets (3 to 40 years). Amortization of leasehold improvements is computed on a straight-line basis over the lesser of the remaining life of the lease or the estimated useful life of the improvement asset. We have a policy of

capitalizing expenditures that materially increase assets' useful lives and charging ordinary maintenance and repairs to operations as incurred. When property or equipment is disposed of, the cost and related accumulated depreciation and amortization are removed from the accounts and any gain or loss is included in earnings.

#### *Acquired Intangibles and Goodwill*

Acquired intangibles with alternative future uses are carried at cost less accumulated amortization and consist of licenses to technology held by third parties and other acquired intangible assets. Amortization is computed over the estimated useful life of the underlying patents, which has historically ranged from one to twenty years. Purchased intangible assets acquired in business combinations, other than goodwill, are amortized over their estimated useful lives unless these lives are determined to be indefinite. Intangibles are assessed for recoverability considering the contract life and the period of time over which the intangible will contribute to future cash flow. The unamortized cost of intangible assets, where cash flows are independent and identifiable from other assets, is evaluated periodically and adjusted, if necessary, if events and circumstances indicate that a decline in value below the carrying amount has occurred. For the years ended December 31, 2016 and 2015, we recorded intangible asset impairments of \$21.4 million and \$0.2 million, respectively. Intangible asset impairments recorded during the year ended December 31, 2016 are further discussed in Note 6 *Restructuring*.

Amortization expense related to developed technology and patent and license rights which have been acquired in a business combination is included in cost of sales. Amortization of trademarks, customer base and non-compete agreements which have been acquired in a business combination is recorded in operating expense under the caption 'acquisition-related intangible amortization'. Amortization expenses of intangible assets not acquired in a business combination are recorded within either the cost of sales, research and development or sales and marketing line items based on the use of the asset.

Goodwill represents the difference between the purchase price and the estimated fair value of the net assets acquired arising from business combinations. Goodwill is subject to impairment tests annually or earlier if indicators of potential impairment exist, using a fair-value-based approach. We have elected to perform our annual test for indications of impairment as of October 1<sup>st</sup> of each year. Following the annual impairment tests for the years ended December 31, 2017, 2016 and 2015, goodwill has not been impaired. As discussed in Note 6 *Restructuring*, in 2016 we recorded a \$2.6 million disposal of goodwill associated to the 2016 restructuring initiative.

#### *Investments*

We have investments in non-marketable securities issued by privately held companies. These investments are included in other long-term assets in the accompanying consolidated balance sheets and are accounted for using the equity or cost method of accounting.

Investments are evaluated periodically, or when impairment indicators are noted, to determine if declines in value are other-than-temporary. In making that determination, we consider all available evidence relating to the realizable value of a security. This evidence includes, but is not limited to, the following:

- adverse financial conditions of a specific issuer, segment, industry, region or other variables;
- the length of time and the extent to which the fair value has been less than cost; and
- the financial condition and near-term prospects of the issuer.

We consider whether the fair values of any of our cost or equity method investments have declined below their carrying value whenever adverse events or changes in circumstances indicate that recorded values may not be recoverable. If any such decline is considered to be other than temporary (based on various factors, including historical financial results, product development activities and the overall health of the affiliate's industry), then a write-down of the investment would be recorded in operating expense to its estimated fair value. For the year ended December 31, 2017 and 2015, we recorded total impairments to cost method investments of \$5.1 million and \$2.2 million, respectively, in other expense, net. In 2016, we recorded an impairment to an equity method investment of \$8.3 million in other expense, net.

#### *Impairment of Long-Lived Assets*

We review our long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset or a group of assets may not be recoverable. We consider, amongst other indicators, a history of operating losses or a change in expected sales levels to be indicators of potential impairment. Assets are grouped and evaluated for impairment at the lowest level for which there are identifiable cash flows that are largely independent of the cash flows of other groups of assets. If an asset is determined to be impaired, the loss is measured as the amount by which the carrying amount of the asset exceeds fair value which is determined by applicable market prices, when available. When market prices are not available, we generally measure fair value by discounting projected future cash flows of the asset. Considerable judgment is necessary to estimate discounted future cash flows. Accordingly, actual results could differ from such estimates. During the year ended 2016, in connection with the restructuring discussed in Note 6, we recorded asset impairment charges of \$10.9 million, of which \$10.8 million is recorded in general and administrative, restructuring, integration and other expense and \$0.1 million is recorded in

cost of sales. In 2015, we recorded asset impairment charges of \$3.1 million in general and administrative, restructuring, integration and other expenses in the accompanying consolidated statements of income related to the abandonment of certain software projects following the acquisition of MO BIO.

#### 4. Segment Information

Considering the acquisition made during 2017, we determined that we still operate as one business segment in accordance with FASB ASC Topic 280, *Segment Reporting*. As a result of our continued restructuring and streamlining of the growing organization, our chief operating decision maker (CODM) continues to make decisions with regards to business operations and resource allocation based on evaluations of QIAGEN as a whole. Accordingly, we operate as one business segment. Summarized product category and geographic information is shown in the tables below.

##### Product Category Information

Net sales for the product categories are attributed based on those revenues related to sample and assay products and similarly related revenues including bioinformatics solutions, and revenues derived from instrumentation sales.

(in thousands)	2017	2016	2015
<b>Net Sales</b>			
Consumables and related revenues	\$ 1,242,715	\$ 1,166,131	\$ 1,114,580
Instrumentation	174,821	171,860	166,406
Total	<u>\$ 1,417,536</u>	<u>\$ 1,337,991</u>	<u>\$ 1,280,986</u>

##### Geographical Information

Net sales are attributed to countries based on the location of the customer. QIAGEN operates manufacturing facilities in Germany, China, and the United States that supply products to customers as well as QIAGEN subsidiaries in other countries. The intersegment portions of such net sales are excluded to derive consolidated net sales. No single customer represents more than ten percent of consolidated net sales. Our country of domicile is the Netherlands, which reported net sales of \$15.0 million, \$12.4 million and \$11.3 million for the years ended 2017, 2016 and 2015, respectively, and these amounts are included in the line item Europe, Middle East and Africa as shown in the table below.

(in thousands)	2017	2016	2015
<b>Net Sales</b>			
Americas:			
United States	\$ 579,906	\$ 555,676	\$ 525,532
Other Americas	73,478	71,797	79,578
Total Americas	<u>653,384</u>	<u>627,473</u>	<u>605,110</u>
Europe, Middle East and Africa	462,980	428,055	409,955
Asia Pacific and Rest of World	301,172	282,463	265,921
Total	<u>\$ 1,417,536</u>	<u>\$ 1,337,991</u>	<u>\$ 1,280,986</u>

Long-lived assets include property, plant and equipment. The Netherlands, which is included in the balances for Europe, reported long-lived assets of \$1.7 million and \$1.4 million as of December 31, 2017 and 2016, respectively.

(in thousands)	2017	2016
<b>Long-lived assets</b>		
Americas:		
United States	\$ 148,694	\$ 145,813
Other Americas	4,488	4,544
Total Americas	<u>153,182</u>	<u>150,357</u>
Germany	286,567	237,190
Other Europe	41,188	37,057
Asia Pacific and Rest of World	13,384	12,051
Total	<u>\$ 494,321</u>	<u>\$ 436,655</u>

## 5. Acquisitions

Acquisitions have been accounted for as business combinations, and the acquired companies' results have been included in the accompanying consolidated statements of income from their respective dates of acquisition. Our acquisitions have historically been made at prices above the fair value of the acquired net assets, resulting in goodwill, due to expectations of synergies of combining the businesses. These synergies include use of our existing infrastructure, such as sales force, shared service centers, distribution channels and customer relations, to expand sales of the acquired businesses' products; use of the infrastructure of the acquired businesses to cost-effectively expand sales of our products; and elimination of duplicative facilities, functions and staffing.

### 2017 Acquisition

On January 6, 2017, we acquired OmicSoft Corporation, a leading provider of omics data management solutions located in Cary, North Carolina (U.S.). This acquisition was not significant to the overall consolidated financial statements and as of December 31, 2017, the allocation of the purchase price was final. The acquisition did not have a material impact to net sales, net income or earnings per share and therefore no pro forma information has been provided herein.

### 2016 Acquisitions

During the second quarter of 2016, we acquired a majority shareholding in Exiqon A/S (Exiqon), a publicly traded Danish company headquartered in Vedbaek, Denmark, which is a leading provider of RNA analysis solutions with a proprietary Locked Nucleic Acid (LNA) technology. The acquisition expands our leadership position in Sample to Insight solutions for RNA analysis. On June 28, 2016, we paid DKK 627.4 million (\$95.2 million) for approximately 94.52% of the outstanding Exiqon common shares. On the acquisition date, the fair value of the remaining shares was \$5.5 million. The fair value of this noncontrolling share was based on reference to quoted market values of Exiqon stock. During the year ended December 31, 2016, we acquired the remaining Exiqon shares for \$5.5 million in cash, which is included in other financing activities in the accompanying consolidated statements of cash flows and as of December 31, 2016 we held 100% of Exiqon's shares. For the year ended December 31, 2016, acquisition-related costs of \$6.3 million are included in general and administrative, restructuring, integration and other in the accompanying consolidated statements of income.

The final purchase price allocation as of December 31, 2017 did not differ from the preliminary purchase price allocation as of June 30, 2016 other than a \$9.4 million increase in developed technology, a \$9.2 million increase in deferred tax asset on tax loss carry forwards, a \$2.8 million decrease in customer relationships, a \$1.2 million increase of long-term deferred tax liability, a \$0.4 million increase in prepaid expenses and other current assets and an additional \$0.3 million increase of other opening balance sheet liabilities. The corresponding impact for these adjustments was a decrease to goodwill of \$14.7 million.

(in thousands)	Exiqon acquisition
<b>Purchase Price:</b>	
Cash consideration	\$ 95,163
Fair value of remaining shares	5,519
	<u>\$ 100,682</u>
<b>Final Allocation:</b>	
Cash and cash equivalents	\$ 4,824
Accounts receivable	3,581
Inventory	1,553
Prepaid expenses and other current assets	1,853
Accounts payable	(1,289)
Accruals and other current liabilities	(11,587)
Debt assumed	(6,068)
Other long-term liabilities	(197)
Deferred tax asset on tax loss carry forwards	10,016
Fixed and other long-term assets	2,870
Developed technology	18,500
Customer relationships	3,800
Tradenames	1,400
Goodwill	76,807
Deferred tax liability on fair value of identifiable intangible assets acquired	(5,381)
	<u>\$ 100,682</u>

The weighted average amortization period for the intangible assets is 11.1 years. The goodwill acquired is not deductible for tax purposes.

Revenue and earnings in the reporting periods since the acquisition date have not been significant. No pro forma financial information has been provided herein as the acquisition of Exiqon did not have a material impact to net sales, net income or earnings per share on a pro forma basis.

### **2015 Acquisitions**

During 2015, we completed three acquisitions, including the acquisition of MO BIO Laboratories, Inc., a privately-held U.S. company, that is considered a leader in sample technologies for metagenomics and microbiome analysis. Purchase consideration for these acquisitions totaled \$66.9 million in cash, net of cash acquired, and as of December 31, 2016, the purchase price allocations are final. Each of these acquisitions did not have a material impact to net sales, net income or earnings per share and therefore no pro forma information has been provided herein.

## **6. Restructuring**

### *2017 Restructuring*

During the fourth quarter of 2017, we initiated restructuring initiatives to mitigate the negative impacts stemming from the U.S. tax legislation as further discussed in Note 16. Total pre-tax costs are expected to be between \$22.8 million and \$24.8 million, of which \$13.8 million was incurred in 2017. Future pre-tax costs between \$9.0 million to \$11.0 million are expected to be incurred in 2018 primarily related to personnel and other costs.

The following table summarizes the cash components of the restructuring activity.

(in thousands)	Personnel Related	Consulting Costs	Total
Costs incurred in 2017	\$ 6,174	\$ 4,583	\$ 10,757
Foreign currency translation adjustment	48	2	50
Liability at December 31, 2017	<u>\$ 6,222</u>	<u>\$ 4,585</u>	<u>\$ 10,807</u>

The Personnel Related and Consulting Costs are included within general and administrative, restructuring, integration and other and an additional \$3.0 million of inventory write-offs is included in cost of sales in the accompanying consolidated statement of income for the year ended December 31, 2017. The liability of \$10.8 million is included in accrued and other current liabilities in the accompanying consolidated balance sheet at December 31, 2017.

#### 2016 Restructuring

During the fourth quarter of 2016, we initiated a series of targeted actions to support faster sales momentum and improve efficiency and accountability. The objective with these actions is to ensure that we grow sustainably and consistently in the coming years. Measures include simplifying our geographic presence with site reductions, focusing resources to shared service centers, and streamlining selected organizational structures. No additional costs will be incurred related to this program. Cumulative costs for this program are as follows:

(in thousands)	Personnel Related	Facility Related	Contract and Other Costs	Asset Impairments & Disposals	Total
Cost of sales	\$ 1,222	\$ 205	\$ 43	\$ 10,490	\$ 11,960
General and administrative, restructuring, integration and other	17,998	6,960	8,272	22,963	56,193
Other expense, net	—	—	—	10,946	10,946
Total 2016 costs	<u>\$ 19,220</u>	<u>\$ 7,165</u>	<u>\$ 8,315</u>	<u>\$ 44,399</u>	<u>\$ 79,099</u>
Cost of sales	<u>\$ 1,141</u>	<u>\$ —</u>	<u>\$ 238</u>	<u>\$ —</u>	<u>\$ 1,379</u>
General and administrative, restructuring, integration and other	<u>\$ 8,399</u>	<u>\$ 350</u>	<u>\$ 9,612</u>	<u>\$ —</u>	<u>\$ 18,361</u>
Total 2017 costs	<u>\$ 9,540</u>	<u>\$ 350</u>	<u>\$ 9,850</u>	<u>\$ —</u>	<u>\$ 19,740</u>
Total cumulative costs	<u>\$ 28,760</u>	<u>\$ 7,515</u>	<u>\$ 18,165</u>	<u>\$ 44,399</u>	<u>\$ 98,839</u>

Personnel Related expenses during 2017 and 2016 includes reductions in costs of \$0.7 million and \$2.0 million, respectively, as a result of forfeitures of share-based compensation in connection with terminations. During the year ended December 31, 2016, Asset Impairments and Disposals include \$21.4 million for intangible asset impairments, \$10.9 million for fixed asset abandonments, and \$1.1 million primarily in connection with the write-off of prepaid contract costs. The total \$10.9 million of expense included in other expense, net in the accompanying consolidated statements of income is composed of \$8.3 million associated with an impairment of an equity method investment and a disposal of goodwill of \$2.6 million.

The following table summarizes the cash components of the restructuring activity.

(in thousands)	Personnel Related	Facility Related	Contract and Other Costs	Total
Costs incurred in 2016	\$ 21,252	\$ 7,165	\$ 8,315	\$ 36,732
Payments	(2,742)	(601)	(2,391)	(5,734)
Facility deferred rent reclassified to restructuring liability	—	1,326	—	1,326
Foreign currency translation adjustment	(30)	(8)	19	(19)
Liability at December 31, 2016	<u>\$ 18,480</u>	<u>\$ 7,882</u>	<u>\$ 5,943</u>	<u>\$ 32,305</u>
Additional costs in 2017	<u>13,357</u>	<u>1,798</u>	<u>9,883</u>	<u>25,038</u>
Release of excess accrual	<u>(3,083)</u>	<u>(1,448)</u>	<u>(30)</u>	<u>(4,561)</u>
Payments	<u>(25,586)</u>	<u>(7,478)</u>	<u>(14,887)</u>	<u>(47,951)</u>
Facility deferred rent reclassified to restructuring liability	—	241	—	241
Foreign currency translation adjustment	1,126	57	157	1,340
Liability at December 31, 2017	<u>\$ 4,294</u>	<u>\$ 1,052</u>	<u>\$ 1,066</u>	<u>\$ 6,412</u>

At December 31, 2017, \$5.6 million of the liability is included in accrued and other current liabilities and \$0.8 million is included in other-long term liabilities in the accompanying consolidated balance sheet. At December 31, 2016, \$27.6 million of the liability is included in accrued and other current liabilities and \$4.7 million is included in other long-term liabilities in the accompanying consolidated balance sheet.

#### 2014 Restructuring

During the fourth quarter of 2014, we recorded restructuring charges in connection with the acquisition of Enzymatics and from the implementation of headcount reductions and facility consolidations to further streamline operations and various measures as part of a commitment to continuous improvement and related to QIAGEN's strategic focus on its five growth drivers. No additional costs were incurred subsequent to 2014 related to this program.

The following table summarizes the components of the restructuring costs.

(in thousands)	Personnel Related	Facility Related	Contract and Other Costs	Total
Balance at December 31, 2014	\$ 6,341	\$ 7,627	\$ 652	\$ 14,620
Payments	(4,789)	(4,199)	(418)	(9,406)
Release of excess accrual	(453)	—	(20)	(473)
Foreign currency translation adjustment	(630)	—	—	(630)
Balance at December 31, 2015	\$ 469	\$ 3,428	\$ 214	\$ 4,111
Payments	(143)	(3,428)	(214)	(3,785)
Release of excess accrual	(325)	—	—	(325)
Foreign currency translation adjustment	(1)	—	—	(1)
Balance at December 31, 2016	\$ —	\$ —	\$ —	\$ —

## 7. Short-Term Investments

At December 31, 2017 and 2016, we had \$359.2 million and \$89.3 million, respectively, of loan receivables and commercial paper due from financial institutions. These loan receivables and commercial paper are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market and are carried at fair market value, which is equal to the cost. At December 31, 2017, these loans consist of \$308.2 million and €42.5 million (\$51.0 million as of December 31, 2017) which mature at various dates through December 2018. All instruments that have an original tenor of more than 12 months include redemption rights on at least a quarterly basis. Interest income is determined using the effective interest rate method. These loans are classified as current assets in the accompanying consolidated balance sheets since we may redeem the loans at our discretion.

At December 31, 2016, we had €3.5 million (\$3.7 million) in term deposits which matured in August 2017. The deposits could be withdrawn at the end of each quarter without penalty and were therefore classified as current assets in the accompanying consolidated balance sheets.

For the years ended December 31, 2017, 2016 and 2015, proceeds from sales of short term investments totaled \$189.0 million, \$533.8 million and \$367.7 million, respectively. During the years ended December 31, 2017 and 2016, realized gains totaled \$1.1 million and \$1.4 million, respectively. During the year ended December 31, 2015, realized losses totaled \$6.0 million.

## 8. Prepaid Expenses and Other Current Assets

Prepaid expenses and other current assets are summarized as follows as of December 31, 2017 and 2016:

(in thousands)	2017	2016
Prepaid expenses	\$ 41,775	\$ 35,529
Cash collateral	21,907	1,200
Value added tax	17,870	14,985
Other receivables	15,902	9,699
Fair value of derivative instruments	9,033	5,386
Total prepaid expenses and other current assets	\$ 106,487	\$ 66,799

## 9. Property, Plant and Equipment

Property, plant and equipment, including equipment acquired under capital lease obligations, are summarized as follows as of December 31, 2017 and 2016:

(in thousands)	Estimated useful life (in years)	2017	2016
Land	—	\$ 18,188	\$ 16,327
Buildings and improvements	5-40	328,938	301,092
Machinery and equipment	3-10	299,175	257,349
Computer software	3-7	243,809	176,227
Furniture and office equipment	3-10	103,257	89,560
Construction in progress	—	65,542	47,260
		<b>1,058,909</b>	<b>887,815</b>
Less: Accumulated depreciation and amortization		<b>(564,588)</b>	<b>(451,160)</b>
Property, plant and equipment, net		<b>\$ 494,321</b>	<b>\$ 436,655</b>

Amortization of assets acquired under capital lease obligations is included within accumulated depreciation and amortization above for the years ended December 31, 2017 and 2016, respectively. For the years ended December 31, 2017, 2016 and 2015 depreciation and amortization expense totaled \$82.5 million, \$75.1 million and \$59.5 million, respectively. For the years ended December 31, 2017, 2016 and 2015 amortization related to computer software to be sold, leased or marketed totaled \$13.9 million, \$9.3 million and \$5.1 million, respectively.

In 2016, we recorded asset impairment charges of \$10.9 million related to the restructuring charge discussed in Note 6. Impairments included \$7.5 million of computer software to be sold, leased or marketed, \$1.7 million in machinery and equipment, \$1.5 million in internal-use software, \$0.1 million in furniture and office equipment and \$0.1 million in buildings and improvements. In 2015, we recorded asset impairment charges of \$3.1 million, of which \$1.0 million related to computer software to be sold, leased or marketed related to the abandonment of certain projects following the acquisition of MO BIO.

Repairs and maintenance expense was \$12.7 million, \$13.0 million and \$15.4 million in 2017, 2016 and 2015, respectively. For the year ended December 31, 2017 and 2016, construction in progress primarily includes amounts related to ongoing software development projects. For the years ended December 31, 2017, 2016 and 2015, interest capitalized in connection with construction projects was not significant.

## 10. Investments

We have made strategic investments in certain companies that are accounted for using the equity or cost method of accounting. The method of accounting for an investment depends on the level of influence. We monitor changes in circumstances that may require a reassessment of the level of influence. We periodically review the carrying value of these investments for impairment, considering factors such as the most recent stock transactions and book values from the recent financial statements. The fair value of cost and equity-method investments is estimated when there are identified events or changes in circumstances that may have an impact on the fair value of the investment. Additionally, we have investments in marketable equity securities that have readily determinable fair values that are classified as available-for-sale. These investments are reported at fair value, with unrealized gains and losses recorded in accumulated other comprehensive income (loss) in equity.



### Equity Method Investments

A summary of these equity method investments, which are included in other long-term assets in the consolidated balance sheets, is as follows:

(\$ in thousands)	Ownership Percentage	Equity investments as of December 31,		Share of income (loss) for the years ended December 31,		
		2017	2016	2017	2016	2015
PreAnalytiX GmbH	50.00%	\$ 7,562	\$ 3,519	\$ 3,818	\$ 3,067	\$ 1,878
Biotype Innovation GmbH	24.90%	3,821	3,339	39	(335)	(595)
MAQGEN Biotechnology Co., Ltd	40.00%	3,285	—	(542)	—	—
Pyrobett	19.00%	2,639	2,444	195	333	(600)
Hombrechtikon Systems Engineering AG	19.00%	1,155	1,524	(346)	—	—
QIAGEN (Suzhou) Institute of Translation Research Co., Ltd.	0.00%	—	—	—	(244)	(107)
QIAGEN Finance	100.00%	—	—	—	—	85
		<u>\$ 18,462</u>	<u>\$ 10,826</u>	<u>\$ 3,164</u>	<u>\$ 2,821</u>	<u>\$ 661</u>

During 2017, we acquired a 40% interest in MAQGEN Biotechnology Co., Ltd. for \$4.0 million and a commitment to contribute an additional \$8.0 million in future periods. Also, during 2017, we sold our interest in QIAGEN (Suzhou) Institute of Translation Research Co., Ltd., which had no book value at the time of sale, for \$3.5 million and recorded a corresponding gain in other expense, net in the accompanying statement of income.

In connection with the 2016 restructuring activities discussed in Note 6, in 2016 we transferred the research and development activities of our instrumentation business to a new company, Hombrechtikon Systems Engineering AG (HSE), in which we acquired a 19.0% interest for a total obligation of \$9.8 million payable over three years. As of December 31, 2017 and 2016, \$3.1 million and \$3.9 million, respectively, were included in accrued and other current liabilities and \$3.1 million and \$5.9 million, respectively, were included in other long-term liabilities in the accompanying consolidated balance sheet. HSE is a variable interest entity and we are not the primary beneficiary as we do not hold the power to direct the activities that most significantly impact the economic performance of HSE. Therefore, HSE is not consolidated. In 2016, we recorded an impairment of the investment in HSE of \$8.3 million in other expense, net. As of December 31, 2017 and 2016, the investment had a carrying value of \$1.2 million and \$1.5 million, respectively, which is included in other long-term assets in the consolidated balance sheets, representing our maximum exposure to loss.

We had a 100% interest in QIAGEN Finance (Luxembourg) S.A. (QIAGEN Finance) which was established for the purpose of issuing convertible debt in 2004. The proceeds of the 2004 Notes were loaned to subsidiaries within the consolidated QIAGEN N.V. group. QIAGEN N.V. had guaranteed the 2004 Notes, and had agreements with QIAGEN Finance to issue common shares to the investors in the event of conversion of the 2004 Notes. QIAGEN Finance was a variable interest entity. We did not hold any variable interests in QIAGEN Finance, and we were not the primary beneficiary, therefore QIAGEN Finance was not consolidated. Accordingly, the 2004 convertible debt was not included in the consolidated statements of QIAGEN N.V., though QIAGEN N.V. did report the full obligation of the debt through its liabilities to QIAGEN Finance. QIAGEN N.V. accounted for its investment in QIAGEN Finance as an equity investment until the first quarter of 2015 and accordingly recorded 100% of the profit or loss of QIAGEN Finance in the gain or loss from equity method investees. During the first quarter of 2015, we repaid the \$250.9 million loan to QIAGEN Finance and repurchased the warrant agreement with QIAGEN Finance.

### Cost Method Investments

At December 31, 2017 and 2016, we had a total of cost-method investments in non-publicly traded companies with carrying amounts of \$33.6 million and \$38.2 million, respectively, which are included in other long-term assets in the consolidated balance sheets. The fair-value of these cost-method investments are not estimated unless there are identified events or changes in circumstances that may have a significant adverse effect on the fair value of the investment. During the years ended December 31, 2017, and 2016, we made cost-method investments totaling \$0.3 million, and \$20.5 million, respectively. In 2017 and 2015, we recorded total impairments to cost method investments of \$5.1 million and \$2.2 million, respectively, in other expense, net. In 2016, we converted a \$0.6 million short-term loan into additional ownership interest of a cost-method investment.

### Marketable Equity Securities

During 2016, we made an investment in HTG Molecular Diagnostics, Inc. (HTGM), a publicly traded company. At December 31, 2017, we held 833,333 shares with a cost basis of \$2.0 million. As of December 31, 2017 and 2016, the fair market value of these shares was \$1.7 million and \$1.9 million, respectively. During 2017, we purchased a convertible loan from HTGM as further discussed in Note 22. Additionally, our former cost-method investment in Curetis AG was reclassified as a long-term marketable security during 2015 upon the completed IPO of its Dutch holding company, Curetis N.V. At December 31, 2017, we hold 320,424 shares of Curetis N.V. with a cost basis of \$2.3 million and a fair market value of \$1.5 million. We held 320,712 shares with a cost basis of \$2.3 million and a fair value of \$2.2 million as of December 31, 2016. These marketable securities are included in other long-term assets in the accompanying consolidated balance sheets.

## 11. Goodwill and Intangible Assets

The following sets forth the intangible assets by major asset class as of December 31, 2017 and 2016:

(in thousands)	Weighted Average Life (in years)	2017		2016	
		Gross Carrying Amount	Accumulated Amortization	Gross Carrying Amount	Accumulated Amortization
<b>Amortized Intangible Assets:</b>					
Patent and license rights	9.41	\$ 407,635	\$ (280,434)	\$ 373,609	\$ (233,406)
Developed technology	11.82	771,893	(544,633)	708,825	(469,312)
Customer base, trademarks, and non-compete agreements	10.28	437,213	(292,356)	422,797	(245,354)
	<u>10.76</u>	<u>\$ 1,616,741</u>	<u>\$ (1,117,423)</u>	<u>\$ 1,505,231</u>	<u>\$ (948,072)</u>
<b>Unamortized Intangible Assets:</b>					
Goodwill		<u>\$ 2,012,904</u>		<u>\$ 1,925,518</u>	

The changes in intangible assets for the years ended December 31, 2017 and 2016 are as follows:

(in thousands)	Intangibles	Goodwill
BALANCE AT DECEMBER 31, 2015	\$ 636,421	\$ 1,875,698
Additions	70,937	—
Purchase adjustments	(321)	316
Additions from acquisitions	23,700	76,807
Amortization	(137,949)	—
Disposals	(29)	(2,650)
Impairment losses	(21,423)	—
Foreign currency translation adjustments	(14,177)	(24,653)
BALANCE AT DECEMBER 31, 2016	<u>\$ 557,159</u>	<u>\$ 1,925,518</u>
Additions	15,527	—
Additions from acquisitions	28,700	26,934
Amortization	(133,797)	—
Disposals	(897)	—
Foreign currency translation adjustments	32,626	60,452
BALANCE AT DECEMBER 31, 2017	<u>\$ 499,318</u>	<u>\$ 2,012,904</u>

Amortization expense on intangible assets totaled approximately \$133.8 million, \$137.9 million and \$132.0 million, respectively, for the years ended December 31, 2017, 2016 and 2015.

In 2016, we recorded an intangible asset abandonment charge of \$21.4 million related to the discontinuation of existing technologies in connection with the 2016 restructuring discussed more fully in Note 6. Of this abandonment charge, \$10.3 million is included in cost of sales and \$11.1 million is included in general and administrative, restructuring, integration and other in the accompanying consolidated statements of income.

Cash paid for purchases of intangible assets during the year ended December 31, 2017 totaled \$34.3 million, of which \$16.5 million is related to current year payments for licenses that were accrued as of December 31, 2016 and \$5.8 million is related to prepayments recorded in other long-term assets in the accompanying consolidated balance sheet. Intangible asset additions of \$15.5 million includes \$12.0 million of cash paid during the year ended December 31, 2017, together with \$3.5 million of additions which were previously recorded as prepayments. Cash paid for intangible assets during the year ended December 31, 2016 totaled \$19.4 million of which \$3.9 million is related to prepayments recorded in other long-term assets in accompanying consolidated balance sheet. Intangible asset additions of \$70.9 million includes \$15.5 million of cash paid during the year ended December 31, 2016, together with \$7.1 million of additions which were previously recorded as prepayments and \$48.4 million of additions which were accrued as of December 31, 2016. Of the accrued additions in 2016, \$46.3 million related to licenses for which fixed payments are expected to occur through the end of the license term in 2024.

The changes in the carrying amount of goodwill during the years ended December 31, 2017 and 2016 resulted primarily from changes in foreign currency translation together with acquired goodwill from the 2017 acquisition of OmicSoft and the 2016 acquisition of Exiqon discussed in Note 5. Additionally, \$2.6 million of goodwill was disposed of in connection with the transfer of the research and development activities of our instrumentation business as part of the 2016 restructuring program discussed in Note 6.

Amortization of intangibles for the next five years is expected to be approximately:

(in thousands)	Amortization
Years ended December 31:	
2018	\$ 114,009
2019	\$ 92,717
2020	\$ 65,503
2021	\$ 56,214
2022	\$ 40,692

## 12. Accrued and Other Current Liabilities

Accrued and other current liabilities at December 31, 2017 and 2016 consist of the following:

(in thousands)	2017	2016
Accrued expenses and other liabilities	\$ 85,986	\$ 74,245
Payroll and related accruals	63,525	54,772
Deferred revenue	49,357	44,629
Restructuring	14,667	27,590
Accrued contingent consideration and milestone payments	11,539	2,957
Accrued royalties	6,714	7,801
Accrued interest on long-term debt	5,543	4,239
Cash collateral	3,000	6,984
Fair value of derivative instruments	2,424	6,089
Current portion of capital lease obligations	1,359	999
Total accrued and other current liabilities	<u>\$ 244,114</u>	<u>\$ 230,305</u>

## 13. Derivatives and Hedging

In the ordinary course of business, we use derivative instruments, including swaps, forwards and/or options, to manage potential losses from foreign currency exposures and interest bearing assets or liabilities. The principal objective of such derivative instruments is to minimize the risks and/or costs associated with our global financial and operating activities. We do not utilize derivative or other financial instruments for trading or other speculative purposes. We recognize all derivatives as either assets or liabilities on the balance sheet on a gross basis, measure those instruments at fair value and recognize the change in fair value in earnings in the period of change, unless the derivative qualifies as an effective hedge that offsets certain exposures. We have agreed with almost all of our counterparties with whom we had entered into cross-currency swaps, interest rate swaps or foreign exchange contracts, to enter into bilateral collateralization contracts under which we will receive or

provide cash collateral, as the case may be, for the net position with each of these counterparties. As of December 31, 2017, cash collateral positions consisted of \$3.0 million recorded in accrued and other current liabilities and \$21.9 million recorded in prepaid and other current assets in the accompanying consolidated balance sheet. As of December 31, 2016, we had a liability position of \$7.0 million recorded in accrued and other current liabilities and \$1.2 million recorded in prepaid expenses and other current assets in the accompanying consolidated balance sheet.

In 2017, we entered into a foreign currency non-derivative hedging instrument that is designated and qualifies as net investment hedge. The objective of the hedge is to protect part of the net investment in foreign operations against adverse changes in the exchange rate between the Euro and the functional currency of the U.S. dollar. The non-derivative hedging instrument is the German private corporate bond ("Schuldschein") which was issued in the total amount of \$331.1 million as described in Note 15. Of the \$331.1 million, which is held in both U.S. dollars and Euro, €255.0 million is designated as the hedging instrument against a portion of our Euro net investments in our foreign operations. The relative changes in both the hedged item and hedging instrument are calculated by applying the change in spot rate between two assessment dates against the respective notional amount. The effective portion of the hedge is recorded in the cumulative translation adjustment account within other accumulated comprehensive income (loss). Based on the spot rate method, the unrealized loss recorded in equity as of December 31, 2017 is \$19.8 million. Since we are using the debt as the hedging instrument, which is also remeasured based on the spot rate method, there is no hedge ineffectiveness related to the net investment hedge as of December 31, 2017.

As of December 31, 2017 and 2016, we held derivative instruments that are designated and qualify as cash flow hedges where the effective portion of the gain or loss on the derivative is reported as a component of other comprehensive income (loss) and reclassified into earnings in the same period or periods during which the hedged transaction affects earnings. Gains and losses on the derivative representing either hedge ineffectiveness or hedge components excluded from the assessment of effectiveness are recognized in current earnings. In 2017 and in 2016, we did not record any hedge ineffectiveness related to any cash-flow hedges in earnings. Based on their valuation as of December 31, 2017, we expect approximately \$10.7 million of derivative losses included in accumulated other comprehensive loss will be reclassified into income during the next 12 months. The cash flows derived from derivatives are classified in the consolidated statements of cash flows in the same category as the consolidated balance sheet account of the underlying item.

As of December 31, 2017 and 2016, we held derivative instruments that qualify for hedge accounting as fair value hedges. For derivative instruments that are designated and qualify as a fair value hedge, the effective portion of the gain or loss on the derivative is reflected in earnings. This earnings effect is offset by the change in the fair value of the hedged item attributable to the risk being hedged that is also recorded in earnings. In 2017 and 2016, we concluded there was no ineffectiveness. The cash flows derived from derivatives are classified in the consolidated statements of cash flows in the same category as the consolidated balance sheet account of the underlying item.

### ***Interest Rate Derivatives***

We use interest rate derivative contracts to align our portfolio of interest bearing assets and liabilities with our risk management objectives. During 2015, we entered into five cross currency interest rate swaps through 2025 for a total notional amount of \$180.0 million which qualify for hedge accounting as cash flow hedges. We determined that no ineffectiveness exists related to these swaps. As of December 31, 2017, the €180.0 million notional swap amount had a fair value of \$28.9 million recorded in other-long term liabilities and a related interest receivable of \$1.2 million recorded in prepaid and other current assets, respectively, in the accompanying consolidated balance sheet. As of December 31, 2016, this swap had a fair value of \$1.4 million and accrued and unpaid interest of \$1.7 million which recorded in other long-term assets and prepaid expenses and other current assets, respectively, in the accompanying consolidated balance sheet.

During 2014, we entered into interest rate swaps, which effectively fixed the fair value of \$200.0 million of our fixed rate private placement debt and qualify for hedge accounting as fair value hedges. We determined that no ineffectiveness exists related to these swaps. As of December 31, 2017, the \$200.0 million notional swap amount had a fair value of \$0.9 million and accrued and unpaid interest of \$0.3 million which are recorded in other long-term assets and prepaid and other current assets, respectively, in the accompanying consolidated balance sheet. As of December 31, 2016, this swap had a fair value of \$3.1 million and accrued and unpaid interest of \$0.6 million which are recorded in other long-term assets and prepaid expenses and other current assets, respectively, in the accompanying balance sheet.

### ***Call Options***

We entered into Call Options in 2014 which, along with the sale of the Warrants, represent the Call Spread Overlay entered in connection with the 2019 and 2021 Cash Convertible Notes, which are more fully described in Note 15. We used \$105.2 million of the proceeds from the issuance of the 2019 and 2021 Cash Convertible Notes to pay the premium for the Call Options, and simultaneously received \$68.9 million (net of issuance costs) from the sale of the Warrants, for a net cash outlay of \$36.3 million for the Call Spread Overlay.

During 2017, we used \$73.6 million of the proceeds from the from the issuance of the 2023 Cash Convertible Notes to pay for the premium for the Call Option, and simultaneously received \$45.4 million from the sale of Warrants, for a net cash outlay of \$28.3 million for the Call Spread Overlay. Issuance costs incurred in connection with the Warrant and the Call Option were \$0.3 million and \$0.1 million respectively, which \$0.1 million was accrued as of December 31, 2017.

In both transactions, the Call Options are intended to address the equity price risk inherent in the cash conversion feature of each instrument by offsetting cash payments in excess of the principal amount due upon any conversion of the Cash Convertible Notes.

Aside from the initial payment of a premium of \$105.2 million (2019 and 2021 Notes) and \$73.6 million (2023 notes) for the Call Options, we will not be required to make any cash payments under the Call Options. We will, however, be entitled to receive under the terms of the Call Options an amount of cash generally equal to the amount by which the market price per share of our common stock exceeds the exercise price of the Call Options during the relevant valuation period. The exercise price under the Call Options is equal to the conversion price of the Cash Convertible Notes.

The Call Options, for which our common stock is the underlying security, are a derivative asset that requires mark-to-market accounting treatment due to the cash settlement features until the Call Options settle or expire. The Call Options are measured and reported at fair value on a recurring basis, within Level 2 of the fair value hierarchy. For further discussion of the inputs used to determine the fair value of the Call Options, refer to Note 14. The fair value of the Call Options at December 31, 2017 and 2016 was approximately \$223.2 million and \$185.8 million, respectively which is recorded in other long-term assets in the accompanying consolidated balance sheet.

The Call Options do not qualify for hedge accounting treatment. Therefore, the change in fair value of these instruments is recognized immediately in our consolidated statements of income in other expense, net. For the years ended December 31, 2017 and 2016, the changes in the fair value of the Call Options resulted in gains of \$37.4 million and \$16.7 million, respectively. Because the terms of the Call Options are substantially similar to those of the Cash Convertible Notes' embedded cash conversion option, discussed below, we expect the effect on earnings from those two derivative instruments to mostly offset each other.

#### ***Cash Convertible Notes Embedded Cash Conversion Option***

The embedded cash conversion option within the Cash Convertible Notes is required to be separated from the Cash Convertible Notes and accounted for separately as a derivative liability, with changes in fair value reported in our consolidated statements of income in other expense, net until the cash conversion option settles or expires. For further discussion of the Cash Convertible Notes, refer to Note 15. The initial fair value liability of the embedded cash conversion option for the 2019 and 2021 Notes was \$105.2 million and for the 2023 Notes was \$74.5 million, which simultaneously reduced the carrying value of the Cash Convertible Notes (effectively an original issuance discount). The embedded cash conversion option is measured and reported at fair value on a recurring basis, within Level 2 of the fair value hierarchy. For further discussion of the inputs used to determine the fair value of the embedded cash conversion options, refer to Note 14. The fair value of the embedded cash conversion options at December 31, 2017 and 2016 was approximately \$224.3 million and \$187.5 million, respectively, which is recorded in other long-term liabilities in the accompanying balance sheet. For the years ended December 31, 2017 and 2016 the change in the fair value of the embedded cash conversion options resulted in losses of \$36.7 million and \$16.6 million, respectively, recognized in our consolidated statements of income in other expense, net.

#### ***Foreign Currency Derivatives***

As a globally active enterprise, we are subject to risks associated with fluctuations in foreign currencies in our ordinary operations. This includes foreign currency-denominated receivables, payables, debt, and other balance sheet positions including intercompany items. We manage balance sheet exposure on a group-wide basis using foreign exchange forward contracts, foreign exchange options and cross-currency swaps.

#### ***Undesignated Derivative Instruments***

We are party to various foreign exchange forward, option and swap arrangements which had, at December 31, 2017, an aggregate notional value of \$587.3 million and fair values of \$7.5 million and \$2.4 million included in prepaid and other current assets and accrued and other current liabilities, respectively, which expire at various dates through March 2018. We were party to various foreign exchange forward and swap arrangements which had, at December 31, 2016, an aggregate notional value of \$347.6 million and fair values of \$3.2 million and \$6.1 million included in prepaid and other current assets and accrued and other current liabilities, respectively, which expired at various dates through December 2017. The transactions have been entered into to offset the effects from short-term balance sheet exposure to foreign currency exchange risk. Changes in the fair value of these arrangements have been recognized in other expense, net.

### Fair Values of Derivative Instruments

The following table summarizes the fair value amounts of derivative instruments reported in the consolidated balance sheets as of December 31, 2017 and 2016:

(in thousands)	Derivatives in Asset Positions Fair value		Derivatives in Liability Positions Fair value	
	2017	2016	2017	2016
<b>Derivative instruments designated as hedges</b>				
Interest rate contracts	\$ 2,409	\$ 6,655	\$ (28,942)	\$ —
Total derivative instruments designated as hedges	<u>\$ 2,409</u>	<u>\$ 6,655</u>	<u>\$ (28,942)</u>	<u>\$ —</u>
<b>Undesignated derivative instruments</b>				
Call spread overlay	\$ 223,164	\$ 185,750	\$ (224,286)	\$ (187,546)
Foreign exchange contracts	7,480	3,154	(2,424)	(6,089)
Total derivative instruments	<u>\$ 230,644</u>	<u>\$ 188,904</u>	<u>\$ (226,710)</u>	<u>\$ (193,635)</u>

### Gains and Losses on Derivative Instruments

The following tables summarize the classification and gains and losses on derivative instruments for the years ended December 31, 2017, 2016 and 2015:

Year-Ended December 31, 2017 (in thousands)	Gain/(loss) recognized in AOCI	Location of gain/loss in income statement	(Gain) loss reclassified from AOCI into income	Gain (loss) recognized in income
<b>Non-derivative instruments</b>				
Net investment hedge	\$ (19,757)	Other expense, net	\$ —	n/a
<b>Cash flow hedges</b>				
Interest rate contracts	\$ (30,310)	Other expense, net	\$ 26,136	n/a
<b>Fair value hedges</b>				
Interest rate contracts	\$ —	Other expense, net	\$ —	\$ (2,199)
<b>Undesignated derivative instruments</b>				
Call spread overlay	n/a	Other expense, net	n/a	\$ 1,573
Foreign exchange contracts	n/a	Other expense, net	n/a	11,813
				<u>\$ 13,386</u>

Year-Ended December 31, 2016 (in thousands)	Gain/(loss) recognized in AOCI	Location of (gain) loss in income statement	(Gain) loss reclassified from AOCI into income	Gain (loss) recognized in income
<b>Cash flow hedges</b>				
Interest rate contracts	\$ (3,969)	Other expense, net	\$ (6,228)	n/a
<b>Fair value hedges</b>				
Interest rate contracts	\$ —	Other expense, net	\$ —	\$ (1,930)
<b>Undesignated derivative instruments</b>				
Call spread overlay	n/a	Other expense, net	n/a	\$ 118
Foreign exchange contracts	n/a	Other expense, net	n/a	(6,072)
				<u>\$ (5,954)</u>

Year-Ended December 31, 2015 (in thousands)	Gain/(loss) recognized in AOCI	Location of (gain) loss in income statement	(Gain) loss reclassified from AOCI into income	Gain (loss) recognized in income
<b>Cash flow hedges</b>				
Interest rate contracts	\$ 5,337	Other expense, net	\$ (5,273)	n/a
<b>Fair value hedges</b>				
Interest rate contracts	\$ —	Other expense, net	\$ —	\$ 1,691
<b>Undesignated derivative instruments</b>				
Call spread overlay	n/a	Other expense, net	n/a	\$ (171)
Foreign exchange contracts	n/a	Other expense, net	n/a	\$ 21,434
				\$ 21,263

The amounts noted in the table above for accumulated other comprehensive income (AOCI) do not include any adjustment for the impact of deferred income taxes.

#### 14. Fair Value Measurements

Assets and liabilities are measured at fair value according to a three-tier fair value hierarchy which prioritizes the inputs used in measuring fair value as follows:

*Level 1.* Observable inputs, such as quoted prices in active markets;

*Level 2.* Inputs, other than the quoted price in active markets, that are observable either directly or indirectly; and

*Level 3.* Unobservable inputs in which there is little or no market data, which require the reporting entity to develop its own assumptions.

Our assets and liabilities measured at fair value on a recurring basis consist of short-term investments, which are classified in Level 1 and Level 2 of the fair value hierarchy, marketable securities discussed in Note 10, which are classified in Level 1, derivative contracts used to hedge currency and interest rate risk and derivative financial instruments entered into in connection with the Cash Convertible Notes discussed in Note 15, which are classified in Level 2 of the fair value hierarchy, and contingent consideration accruals which are classified in Level 3 of the fair value hierarchy, and are shown in the tables below. There have been no transfers between levels.

In determining fair value for Level 2 instruments, we apply a market approach, using quoted active market prices relevant to the particular instrument under valuation, giving consideration to the credit risk of both the respective counterparty to the contract and the Company. To determine our credit risk, we estimated our credit rating by benchmarking the price of outstanding debt to publicly-available comparable data from rated companies. Using the estimated rating, our credit risk was quantified by reference to publicly-traded debt with a corresponding rating. The Level 2 derivative financial instruments include the Call Options asset and the embedded conversion option liability. See Note 15, "Lines of Credit and Debt", and Note 13, "Derivatives and Hedging", for further information. The derivatives are not actively traded and are valued based on an option pricing model that uses observable market data for inputs. Significant market data inputs used to determine fair values included our common stock price, the risk-free interest rate, and the implied volatility of our common stock. The Call Options asset and the embedded cash conversion option liability were designed with the intent that changes in their fair values would substantially offset, with limited net impact to our earnings. Therefore, the sensitivity of changes in the unobservable inputs to the option pricing model for such instruments is substantially mitigated.

Our Level 3 instruments include contingent consideration liabilities. We value contingent consideration liabilities using unobservable inputs, applying the income approach, such as the discounted cash flow technique, or the probability-weighted scenario method. Contingent consideration arrangements obligate us to pay the sellers of an acquired entity if specified future events occur or conditions are met such as the achievement of technological or revenue milestones. We use various key assumptions, such as the probability of achievement of the milestones (0% to 100%) and the discount rate (between 2.2% and 7.7%), to represent the non-performing risk factors and time value when applying the income approach. We regularly review the fair value of the contingent consideration, and reflect any change in the accrual in the consolidated statements of income in the line items commensurate with the underlying nature of milestone arrangements.

The following table presents our fair value hierarchy for our financial assets and liabilities measured at fair value on a recurring basis:

(in thousands)	As of December 31, 2017				As of December 31, 2016			
	Level 1	Level 2	Level 3	Total	Level 1	Level 2	Level 3	Total
<b>Assets:</b>								
Short-term investments	\$ —	\$ 359,198	\$ —	\$ 359,198	\$ 3,699	\$ 89,300	\$ —	\$ 92,999
Marketable securities	3,208	—	—	3,208	4,064	—	—	4,064
Call option	—	223,164	—	223,164	—	185,750	—	185,750
Foreign exchange contracts	—	7,480	—	7,480	—	3,154	—	3,154
Interest rate contracts	—	2,409	—	2,409	—	6,655	—	6,655
	<u>\$ 3,208</u>	<u>\$ 592,251</u>	<u>\$ —</u>	<u>\$ 595,459</u>	<u>\$ 7,763</u>	<u>\$ 284,859</u>	<u>\$ —</u>	<u>\$ 292,622</u>
<b>Liabilities:</b>								
Foreign exchange contracts	\$ —	\$ (2,424)	\$ —	\$ (2,424)	\$ —	\$ (6,089)	\$ —	\$ (6,089)
Interest rate contracts	—	(28,942)	—	(28,942)	—	—	—	—
Cash conversion option	—	(224,286)	—	(224,286)	—	(187,546)	—	(187,546)
Contingent consideration	—	—	(11,539)	(11,539)	—	—	(8,754)	(8,754)
	<u>\$ —</u>	<u>\$ (255,652)</u>	<u>\$ (11,539)</u>	<u>\$ (267,191)</u>	<u>\$ —</u>	<u>\$ (193,635)</u>	<u>\$ (8,754)</u>	<u>\$ (202,389)</u>

For liabilities with Level 3 inputs, the following table summarizes the activity for the years ended December 31, 2017 and 2016:

(in thousands)	Contingent Consideration
BALANCE AT DECEMBER 31, 2015	\$ (17,678)
Additions from acquisitions	(692)
Payments	3,120
Gain included in earnings	6,501
Foreign currency translation adjustments	(5)
BALANCE AT DECEMBER 31, 2016	\$ (8,754)
Additions	(10,954)
Payments	4,900
Gain included in earnings	3,269
BALANCE AT DECEMBER 31, 2017	<u>\$ (11,539)</u>

For the year ended December 31, 2017, the total \$11.5 million accrued for contingent consideration is accrued and other current liabilities. During 2017 and 2016, gains for the reduction in the fair value of contingent consideration related to unmet milestones of \$3.3 million and \$6.5 million were recognized in general and administrative, restructuring, integration and other in the accompanying consolidated statements of income.

The carrying values of financial instruments, including cash and cash equivalents, accounts receivable, accounts payable and other accrued liabilities, approximate their fair values due to their short-term maturities. The estimated fair value of long-term debt as disclosed in Note 15 was based on current interest rates for similar types of borrowings. The estimated fair values may not represent actual values of the financial instruments that could be realized as of the balance sheet date or that will be realized in the future. There were no fair value differences in the years ended December 31, 2017 and 2016 for nonfinancial assets or liabilities required to be measured at fair value on a nonrecurring basis other than the impairment of cost-method investments as discussed in Note 10.



## 15. Lines of Credit and Debt

Our credit facilities available and undrawn at December 31, 2017 total €426.6 million (approximately \$511.6 million). This includes a €400.0 million syndicated multi-currency revolving credit facility expiring December 2021 of which no amounts were utilized at December 31, 2017 or at December 31, 2016, and four other lines of credit amounting to €26.6 million with no expiration date, none of which were utilized as of December 31, 2017 or as of December 31, 2016. The €400.0 million facility can be utilized in Euro, British pounds sterling, Swiss franc or U.S. dollar and bears interest of 0.4% to 1.2% above three months EURIBOR, or LIBOR in relation to any loan not in euro, and is offered with interest periods of one, two, three or six months. The commitment fee is calculated based on 35% of the applicable margin. In 2017 and 2016, \$0.9 million and \$1.0 million of commitment fees were paid, respectively. The revolving facility agreement contains certain financial and non-financial covenants, including but not limited to, restrictions on the encumbrance of assets and the maintenance of certain financial ratios. We were in compliance with these covenants at December 31, 2017. The credit facilities are for general corporate purposes.

At December 31, 2017 and December 31, 2016, total long-term debt, net of debt issuance costs of \$12.4 million and \$8.1 million, respectively, consists of the following:

(in thousands)	2017	2016
0.375% Senior Unsecured Cash Convertible Notes due 2019	\$ 414,843	\$ 402,806
0.875% Senior Unsecured Cash Convertible Notes due 2021	270,762	262,371
0.500% Senior Unsecured Cash Convertible Notes due 2023	322,902	—
3.19% Series A Senior Notes due October 16, 2019	72,742	73,408
3.75% Series B Senior Notes due October 16, 2022	300,276	301,601
3.90% Series C Senior Notes due October 16, 2024	26,921	26,910
Schuldschein Private Placement	349,812	—
Total long-term debt	<u>\$ 1,758,258</u>	<u>\$ 1,067,096</u>

The notes are all unsecured obligations that rank pari passu. Interest expense on long-term debt was \$43.6 million, \$35.8 million and \$34.5 million for the years ended December 31, 2017, 2016 and 2015, respectively.

Future maturities (stated at the carrying values) of long-term debt as of December 31, 2017 are as follows:

Year ending December 31,	(in thousands)
2018	\$ —
2019	487,585
2020	—
2021	311,743
2022	479,070
thereafter	479,860
	<u>\$ 1,758,258</u>

### *Cash Convertible Notes due 2019, 2021 and 2023*

On March 19, 2014, we issued \$730.0 million aggregate principal amount of Cash Convertible Senior Notes of which \$430.0 million is due in 2019 (2019 Notes) and \$300.0 million is due in 2021 (2021 Notes). The aggregate net proceeds of the 2019 and 2021 Convertible Notes were \$680.7 million, after payment of the net cost of the Call Spread Overlay described below and transaction costs. Additionally, we used \$372.5 million of the net proceeds to repay other debt.

On September 13, 2017, we issued \$400.0 million aggregate principal amount of Cash Convertible Senior Notes which is due in 2023 (2023 Notes). The net proceeds of the 2023 Notes were \$365.9 million, after payment of the net cost of the Call Spread Overlay described below and transaction costs paid through December 31, 2017.

We refer to the 2019 Notes, 2021 Notes and 2023 Notes, collectively as the “Cash Convertible Notes”. Interest on the Cash Convertible Notes is payable semi-annually in arrears on March 19 and September 19 of each year, at rates of 0.375%, 0.875% and 0.500% per annum for the 2019 Notes, 2021 Notes and 2023 Notes respectively, commencing on September 19, 2014 for the 2019 Notes and 2021 Notes and March 13, 2018 for the 2023 Notes. The 2019 Notes will mature on March 19, 2019, the 2021 Notes will mature on March 19, 2021 and the 2023 Notes will mature on September 13, 2023 unless repurchased or converted in accordance with their terms prior to such date.

The Cash Convertible Notes are solely convertible into cash in whole, but not in part, at the option of noteholders in the following circumstances: (a) from April 29, 2014 through September 18, 2018 for the 2019 Notes, and September 18, 2020 for the 2021 Notes and from October 24, 2017 through March 13, 2023 for the 2023 Notes (Contingent Conversion Period), under any of the Contingent Conversion Conditions and (b) at any time following the Contingent Conversion Period through the fifth business day immediately preceding the applicable maturity Date. Upon conversion, noteholders will receive an amount in cash equal to the Cash Settlement Amount, calculated as described below. The Cash Convertible Notes are not convertible into shares of our common stock or any other securities.

Noteholders may convert their 2019 and 2021 Cash Convertible Notes into cash at their option at any time during the Contingent Conversion Period only under the following circumstances (Contingent Conversion Conditions):

- during any calendar quarter commencing after the calendar quarter ending on March 31, 2014 (and only during such calendar quarter), if the last reported sale price of our common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the conversion price on each applicable trading day;
- if we undergo certain fundamental changes as defined in the agreement;
- during the 5 business day period immediately after any 10 consecutive trading day period in which the quoted price for the 2019 Notes or the 2021 Notes for each trading day of the measurement period was less than 98% of the product of the last reported sale price of our common stock and the conversion rate on each such trading day;
- if we elect to distribute assets or property to all or substantially all of the holders of our common stock and those assets or other property have a value of more than 25% of the average daily volume-weighted average trading price of our common stock for the prior 20 consecutive trading days;
- if we elect to redeem the Cash Convertible Notes; or
- if we experience certain customary events of default, including defaults under certain other indebtedness.

Noteholders may convert their 2023 Notes into cash at their option at any time during the Contingent Conversion Period only under the following circumstances (Contingent Conversion Conditions)

- during any fiscal quarter ending after September 30, 2017, if the arithmetic mean of the last reported sale prices of the Common Stock during a period of 20 consecutive trading days selected from the 30 consecutive trading days ending on and including the final trading day of the immediately preceding quarter is equal to or more than 130% of the conversion price (i.e., USD 200,000 minimum denomination divided by the applicable Conversion Ratio) applicable on the last day of such preceding quarter;
- in the event of early redemption at the option of the Issuer of all the outstanding Notes, where the conversion date falls in the period from (and including) the date on which the notice of redemption is published up to the 10th calendar day preceding the date of such early redemption;
- in the event of a planned distribution by the Issuer of cash, assets, securities or other property, which has a per share value greater than 25% of the arithmetic mean of the volume weighted average price (VWAP) of the Common Stock during the 20 consecutive trading day period immediately preceding the date on which the planned distribution is announced by the Issuer, at any time following such notice, which shall be at least 20 scheduled trading days prior to the ex-dividend date for such distribution, until the earlier of (i) the fifth business day immediately preceding the ex-dividend date for such distribution and (ii) the Issuer's announcement that such planned distribution will not take place;
- in the event of certain Fundamental Changes or Make-Whole Fundamental Changes (each as described below), where the conversion date falls in the period from the 60th scheduled trading day prior to the anticipated effective date of such Fundamental Change or Make-Whole Fundamental Change (or, if later, public announcement of the same by the Issuer), until (i) the fifth business day immediately preceding the related Fundamental Change Repurchase Date, or (ii) in the case of a Make-Whole Fundamental Change that does not constitute a Fundamental Change, the 60th trading day immediately following such effective date (or, if later in either case, the 60th calendar day following the notification of such Fundamental Change or Make-Whole Fundamental Change);
- at any time from and after the occurrence of an event of default, until such event of default has been cured or waived or the principal amount of the Notes shall have been accelerated; or
- if a Parity Event or a Trading Price Unavailability Event, as the case may be, occurs, the period of 10 Business Days from and including the first Business Day following the relevant Trading Price Notification Date.

The Contingent Conversion Conditions in the 2019, 2021 and 2023 Notes noted above have been analyzed under ASC 815, *Derivatives and Hedging*, and, based on our analysis, we determined that each of the embedded features listed above are clearly and closely related to the 2019, 2021 and 2023 Notes (i.e., the host contract). As a result, pursuant to the accounting provisions of ASC 815, *Derivatives and Hedging*, these features noted above are not required to be bifurcated as separate instruments. As of December 31, 2017, no contingent conversion condition was triggered.

For the 2023 Notes, the initial conversion rate is 4,829.7279 shares of our common stock per \$200,000 principal amount of the 2023 Notes (reflecting an initial conversion price of approximately \$41.4102 per share of common stock). As adjusted by the synthetic share repurchase discussed in Note 17, the conversion rate for the 2019 Notes and 2021 Notes is 7,063.1647 shares of our common stock per \$200,000 principal amount of Cash Convertible Notes (reflecting an adjusted conversion price of approximately \$28.32 per share of common stock). Upon conversion, holders are entitled to a cash payment (Cash Settlement Amount) equal to the average of the conversion rate multiplied by the daily volume-weighted average trading price for our common stock over a 50-day period. The conversion rate is subject to adjustment in certain instances but will not be adjusted for any accrued and unpaid interest. In addition, following the occurrence of certain corporate events that may occur prior to the applicable maturity date, we may be required to pay a cash make-whole premium by increasing the conversion rate for any holder who elects to convert Cash Convertible Notes in connection with the occurrence of such a corporate event, but in no event will the Conversion Ratio exceed 6,728.6463 per \$200,000 principal amount of Notes.

We may redeem the 2019, 2021 or 2023 Notes in their entirety at a price equal to 100% of the principal amount of the applicable Cash Convertible Notes plus accrued interest at any time when 20% or less of the aggregate principal amount of the applicable Cash Convertible Notes originally issued remain outstanding.

Because the Cash Convertible Notes contain an embedded cash conversion option, we have determined that the embedded cash conversion option is a derivative financial instrument, which is required to be separated from the Cash Convertible Notes and accounted for separately as a derivative liability, with changes in fair value reported in our consolidated statements of income until the cash conversion option transaction settles or expires. The initial fair value liability of the embedded cash conversion option was \$105.2 million and for the 2023 Notes was \$74.5 million, which simultaneously reduced the carrying value of the Cash Convertible Notes (effectively an original issuance discount). For further discussion of the derivative financial instruments relating to the Cash Convertible Notes, refer to Note 13.

As noted above, the reduced carrying value on the Cash Convertible Notes resulted in a debt discount that is amortized to the principal amount through the recognition of non-cash interest expense using the effective interest method over the expected life of the debt, which is five, seven and six years for the 2019 Notes, 2021 Notes and 2023 Notes, respectively. This resulted in our recognition of interest expense on the Cash Convertible Notes at an effective rate approximating what we would have incurred had nonconvertible debt with otherwise similar terms been issued. The effective interest rate of the 2019 Notes, 2021 Notes and 2023 Notes is 2.937%, 3.809% and 3.997%, respectively, which is imputed based on the amortization of the fair value of the embedded cash conversion option over the remaining term of the Cash Convertible Notes. As of December 31, 2017, we expect the 2019 Notes, 2021 Notes and 2023 Notes to be outstanding until their respective maturity dates. Based on an estimation using available over-the-counter market information on the Cash Convertible Notes, the Level 2 fair value of the 2019 Notes, 2021 Notes and 2023 Notes was \$498.8 million, \$366.0 million and \$404.8 million at December 31, 2017. Based on an estimation using available over-the-counter market information on the Cash Convertible Notes, the Level 2 fair value of the 2019 Notes and 2021 Notes was \$485.9 million and \$346.6 million, at December 31, 2016.

In connection with the issuance of the 2019 and 2021 Cash Convertible Notes, we incurred approximately \$13.1 million in transaction costs. We incurred approximately \$6.2 million in transaction costs for the 2023 Cash Convertible Notes of which \$0.6 million was accrued as of December 31, 2017. Such costs have been allocated to the Cash Convertible Notes and deferred as a long-term asset and are being amortized to interest expense over the terms of the Cash Convertible Notes using the effective interest method.

Interest expense related to the Cash Convertible Notes was comprised of the following:

(in thousands)	Year-Ended December 31	
	2017	2016
Coupon interest	\$ 4,832	\$ 4,238
Amortization of original issuance discount	21,377	17,503
Amortization of debt issuance costs	2,615	2,279
Total interest expense related to the Cash Convertible Notes	<u>\$ 28,824</u>	<u>\$ 24,020</u>

#### ***Cash Convertible Notes Call Spread Overlay***

Concurrent with the issuance of the Cash Convertible Notes, we entered into privately negotiated hedge transactions (Call Options) with, and issued warrants to purchase shares of our common stock (Warrants) to, certain financial institutions. We

refer to the Call Options and Warrants collectively as the "Call Spread Overlay". The Call Options are intended to offset any cash payments payable by us in excess of the principal amount due upon any conversion of the Cash Convertible Notes. During 2014, we used \$105.2 million of the proceeds from the issuance of the 2019 and 2021 Cash Convertible Notes to pay for the Call Options, and simultaneously received \$69.4 million from the sale of the Warrants, for a net cash outlay of \$35.8 million for the Call Spread Overlay.

During 2017, we used \$73.6 million of the proceeds from the from the issuance of the 2023 Cash Convertible Notes to pay for the premium for the Call Option, and simultaneously received \$45.4 million from the sale of Warrants, for a net cash outlay of \$28.3 million for the Call Spread Overlay. Issuance costs incurred in connection with the Warrant and the Call Option were \$0.3 million and \$0.1 million respectively, which \$0.1 million was accrued as of December 31, 2017.

The Call Options are derivative financial instruments and are discussed further in Note 13. The Warrants are equity instruments and are further discussed in Note 17.

Aside from the initial payment of a premium of \$105.2 million (2019 and 2021 Notes) and \$73.6 million (2023 Notes) for the Call Option, we will not be required to make any cash payments under the Call Options, and will be entitled to receive an amount of cash, generally equal to the amount by which the market price per share of our common stock exceeds the exercise price of the Call Options during the relevant valuation period. The exercise price under the Call Options is initially equal to the conversion price of the Cash Convertible Notes.

The Warrants cover an aggregate of 25.8 million shares in connection with the 2019 and 2021 Notes of our common stock (subject to anti-dilution adjustments under certain circumstances) and have an initial exercise price of \$32.085 per share, subject to customary adjustments. The Warrants expire as follows: Warrants to purchase 15.2 million shares expire over a period of 50 trading days beginning on December 27, 2018 and Warrants to purchase 10.6 million shares expire over a period of 50 trading days beginning on December 29, 2020. The Warrants are European-style (exercisable only upon expiration).

Concurrent with the 2023 Notes, we issued Warrants which cover 9.7 million shares of our common stock (subject to anti-dilution adjustments under certain circumstances) and have an initial exercise price of \$50.9664 per share, subject to customary adjustments. The Warrants expire as follows: Warrants to purchase 9.7 million shares expire over a period of 50 trading days beginning on June 26, 2023. The Warrants are European-style (exercisable only upon expiration).

The Warrants that were issued with our Cash Convertible Notes discussed above, could have a dilutive effect to the extent that the price of our common stock exceeds the applicable strike price of the Warrants. For each Warrant that is exercised, we will deliver to the holder a number of shares of our common stock equal to the amount by which the settlement price exceeds the exercise price, plus cash in lieu of any fractional shares. We will not receive any proceeds if the Warrants are exercised.

#### ***Private Placement***

In October 2012, we completed a private placement through the issuance of new senior unsecured notes at a total amount of \$400 million with a weighted average interest rate of 3.66% (settled on October 16, 2012). The notes were issued in three series: (1) \$73 million 7-year term due in 2019 (3.19%); (2) \$300 million 10-year term due in 2022 (3.75%); and (3) \$27 million 12-year term due in 2024 (3.90%). We paid \$2.1 million in debt issue costs which will be amortized through interest expense using the effective interest method over the lifetime of the notes. The note purchase agreement contains certain financial and non-financial covenants, including but not limited to, restrictions on priority indebtedness and the maintenance of certain financial ratios. We were in compliance with these covenants at December 31, 2017. Based on an estimation using the changes in the U.S. Treasury rates, the Level 2 fair value of these senior notes as of December 31, 2017 and December 31, 2016 was approximately \$394.7 million and \$397.1 million, respectively. During 2014, we entered into interest rate swaps, which effectively fixed the fair value of \$200.0 million of this debt and qualify for hedge accounting as fair value hedges as described in Note 13.

#### ***German Private Placement (Schuldschein)***

In 2017, we completed a German private placement bond ("Schuldschein") which was issued in several tranches totaling \$331.1 million due in various periods through 2027. The Schuldschein consists of U.S. dollar and Euro denominated tranches. The Euro tranches are designated as a foreign currency non-derivative hedging instrument that qualifies as a net investment hedge as described in Note 13 "Derivatives and Hedging". Based on the spot rate method, the change in the carrying value of the Euro denominated tranches attributed to the net investment hedge as of December 31, 2017 totaled \$19.8 million of unrealized loss and is recorded in equity. We paid \$1.2 million in debt issuance costs which are being amortized through interest expense over the lifetime of the notes. A summary of the tranches as of December 31, 2017 is as follows:

Currency	Notional Amount	Interest Rate	Maturity	Carrying Value as of December 31, 2017 (in thousands)
EUR	€11.5 million	Fixed 0.4%	March 2021	\$ 13,660
EUR	€23.0 million	Floating EURIBOR + 0.4%	March 2021	27,320
EUR	€21.5 million	Fixed 0.68%	October 2022	25,535
EUR	€64.5 million	Floating EURIBOR + 0.5%	October 2022	76,605
USD	\$45.0 million	Floating LIBOR + 1.2%	October 2022	44,862
EUR	€25.0 million	Floating EURIBOR + 0.5%	October 2022	31,792
EUR	€64.0 million	Fixed 1.09%	June 2024	76,005
EUR	€31.0 million	Floating EURIBOR + 0.7%	June 2024	36,815
EUR	€14.5 million	Fixed 1.61%	June 2027	17,218
				<b>\$ 349,812</b>

### 2004 Notes

In August 2004, we completed the sale of \$150 million of 1.5% Senior Convertible Notes due in 2024 (2004 Notes), through our unconsolidated subsidiary QIAGEN Finance. The net proceeds of the 2004 Notes were loaned by QIAGEN Finance to consolidated subsidiaries with an effective interest rate of 1.8% were due in February 2024. Interest was payable semi-annually in February and August. The 2004 Notes were issued at 100% of principal value, and were convertible into 11.5 million common shares at the option of the holders upon the occurrence of certain events at a price of \$12.6449 per share, subject to adjustment. QIAGEN N.V. had an agreement with QIAGEN Finance to issue shares to the investors in the event of conversion. The subscription right, along with the related receivable, was recorded at fair value in the equity of QIAGEN N.V. as paid-in capital. In 2014, 1.2 million common shares were issued in connection with the conversions. During 2015, we repaid the loan to QIAGEN Finance and repurchased the warrant agreement with QIAGEN Finance for \$250.9 million and recognized a loss of \$7.6 million in other expense, net. The repayment amount was allocated to the loan and warrants on a relative fair value basis with \$113.0 million recorded against additional paid in capital for the redemption of the warrant subscription receivable. Subsequent to these transactions QIAGEN Finance was liquidated.

### 16. Income Taxes

On December 22, 2017, President Trump signed into law the Tax Cuts and Jobs Act (H.R.1) (the “2017 Tax Act”). The 2017 Tax Act includes a number of changes to existing U.S. tax laws that impact us, most notably a reduction of the U.S. corporate income tax rate from 35% to 21% effective as of January 1, 2018 and a new net interest expense deduction limitation, which limits the deduction of net interest expense to 30% of the taxpayer’s adjusted taxable income (ATI). The 2017 Tax Act also provides the acceleration of depreciation for certain assets placed into service after September 27, 2017 as well as prospective changes including repeal of the domestic manufacturing deduction beginning in 2018 and capitalization of research and development expenditures beginning in 2022.

In December 2017, the SEC staff issued Staff Accounting Bulletin No. 118, *Income Tax Accounting Implications of the Tax Cuts and Jobs Act* (“SAB 118”), which allows us to record provisional amounts during a measurement period not to extend beyond one year of the enactment date. For those specific income tax effects of the 2017 Tax Act for which the accounting under ASC Topic 740 is incomplete, a reasonable estimate was determined. We have recognized the provisional tax impacts related to the interest expense deduction limitation and the revaluation of deferred tax assets and liabilities and included these amounts in our consolidated financial statements for the year ended December 31, 2017. The ultimate impact may differ from these provisional amounts due to additional analysis, changes in interpretations and assumptions that we have made, additional regulatory guidance that may be issued, and actions we may take because of the 2017 Tax Act. We did not identify items for which the income tax effects of the 2017 Tax Act have not been completed and a reasonable estimate could not be determined as of December 31, 2017. We expect to complete our analysis within the measurement period in accordance with SAB118.

Income before income taxes for the years ended December 31, 2017, 2016 and 2015 consisted of:

(in thousands)	2017	2016	2015
Pretax income in The Netherlands	\$ 42,220	\$ 20,695	\$ 1,310
Pretax income from foreign operations	72,155	36,213	134,993
	<b>\$ 114,375</b>	<b>\$ 56,908</b>	<b>\$ 136,303</b>

Income taxes for the years ended December 31, 2017, 2016 and 2015 are as follows:

(in thousands)	2017	2016	2015
Current—The Netherlands	\$ 3,430	\$ 6,043	\$ 973
—Foreign	10,375	34,543	37,708
	<u>13,805</u>	<u>40,586</u>	<u>38,681</u>
Deferred—The Netherlands	151	188	250
—Foreign	60,025	(64,169)	(32,530)
	<u>60,176</u>	<u>(63,981)</u>	<u>(32,280)</u>
Total income tax expense (benefit)	<u>\$ 73,981</u>	<u>\$ (23,395)</u>	<u>\$ 6,401</u>

The Netherlands statutory income tax rate was 25% for the years ended December 31, 2017, 2016 and 2015. Income from foreign subsidiaries is generally taxed at the statutory income tax rates applicable in the respective countries of domicile. The principal items comprising the differences between income taxes computed at The Netherlands statutory rate and our reported income taxes and effective tax rate for the years ended December 31, 2017, 2016 and 2015 are as follows:

(in thousands)	2017		2016		2015	
	Amount	Percent	Amount	Percent	Amount	Percent
Income taxes at The Netherlands statutory rate	\$ 28,594	25.0%	\$ 14,227	25.0 %	\$ 34,076	25.0%
Taxation of foreign operations, net <sup>(1)</sup>	(38,635)	(33.8)	(43,265)	(76.0)	(36,407)	(26.7)
Tax impact from permanent items	(1,586)	(1.4)	5,938	10.4	14,219	10.4
Tax impact from tax-exempt income	(1,558)	(1.4)	(3,331)	(5.9)	(5,810)	(4.3)
Tax contingencies, net <sup>(2)</sup>	23,189	20.3	1,761	3.1	1,163	0.9
Taxes due to changes in tax rates <sup>(3)</sup>	12,958	11.3	399	0.7	(836)	(0.6)
Stock Compensation <sup>(4)</sup>	(5,237)	(4.6)	—	—	—	—
Government incentives and other deductions <sup>(5)</sup>	(4,949)	(4.3)	(2,543)	(4.5)	(2,754)	(2.0)
Prior year taxes	(2,319)	(2.0)	1,411	2.5	(1,201)	(0.9)
Valuation allowance <sup>(3)</sup>	62,644	54.8	1,521	2.7	3,450	2.5
Other items, net	880	0.8	487	0.9	501	0.4
Total income tax expense (benefit)	<u>\$ 73,981</u>	<u>64.7%</u>	<u>\$ (23,395)</u>	<u>(41.1)%</u>	<u>\$ 6,401</u>	<u>4.7%</u>

(1) Our effective tax rate reflects the benefit of our global operations where certain income or loss is taxed at rates higher or lower than The Netherlands' statutory rate of 25% as well as the benefit of some income being partially exempt from income taxes due to various intercompany operating and financing activities. The most significant tax benefits from these foreign operations and financing activities are attributable to subsidiaries in Germany, Singapore, Switzerland, Ireland and Luxembourg. These foreign tax benefits are due to a combination of favorable tax laws, regulations, rulings, and exemptions in these jurisdictions. Additionally in 2016, in certain foreign jurisdictions (primarily Germany and the U.S.), we recorded acquisition related and impairment charges which reduced pretax income in these higher tax jurisdictions.

(2) During 2017, we increased accruals for tax contingencies, primarily related to ongoing income tax audits.

(3) During 2017, we revalued our U.S. deferred tax assets and liabilities to reflect the corporate income tax rate change from 35% to 21% as a result of U.S. tax reform. Additionally, we recorded a full valuation allowance of \$60.8 million against deferred tax assets related to U.S. interest carry forwards. Based on the current debt level in the U.S., along with the new restrictive interest limitation enacted with the new U.S. tax reform, it is highly unlikely that the historic U.S. interest carry forward will ever be utilized. We also recorded full valuation allowances against other deferred tax assets on tax losses due to unlikely future profits in other jurisdictions.

(4) Beginning in 2017, the excess tax benefits from share-based compensation activity are reflected as a reduction of the provision for income taxes, whereas previously they were recognized in equity.

(5) Government incentives include favorable tax regulations in the U.S. and the U.K. and relating to research and development expense as well as the U.S. Internal Revenue Code Section 199 domestic production activities deduction.

We conduct business globally and, as a result, file numerous consolidated and separate income tax returns in The Netherlands, Germany, Switzerland and the U.S. federal jurisdiction, as well as in various other state and foreign jurisdictions. In the normal course of business, we are subject to examination by taxing authorities throughout the world. Tax years in The Netherlands are open since 2005 for income tax examinations by tax authorities. Our subsidiaries, with few exceptions, are no longer subject to income tax examinations by tax authorities for years before 2013. The U.S. consolidated group is subject to federal and most state income tax examinations by tax authorities beginning with the year ending December 31, 2014 through the current period.

Starting in February 2014, the U.S. tax authorities (Internal Revenue Service) have been auditing our U.S. federal tax returns for 2011 and 2012. The audit was closed in 2016 without any tax adjustments. As a result, we released \$6.6 million of unrecognized tax benefit due to closure of the tax audit. Additionally, in February 2016 German tax authorities began the audit of the German tax returns for the 2010-2013 tax years. This audit is currently in process and we expect the audit to close during 2018.

Changes in the amount of unrecognized tax benefits are as follows:

(in thousands)	Unrecognized Tax Benefits
BALANCE AT DECEMBER 31, 2015	\$ 16,735
Additions based on tax positions related to the current year	4,218
Additions for tax positions of prior years	5,162
Decrease for tax position of prior years	(6,796)
Reductions due to lapse of statute of limitations	(288)
Decrease from currency translation	(737)
BALANCE AT DECEMBER 31, 2016	\$ 18,294
Additions based on tax positions related to the current year	12,212
Additions for tax positions of prior years	9,933
Increase from currency translation	3,594
BALANCE AT DECEMBER 31, 2017	\$ 44,033

At December 31, 2017 and 2016, our net unrecognized tax benefits totaled approximately \$44.0 million and \$18.3 million, respectively, of which \$44.0 million and \$18.3 million in benefits, if recognized, would favorably affect our effective tax rate in any future period. It is reasonably possible that approximately \$11.6 million of the unrecognized tax benefits may be released during the next 12 months due to lapse of statute of limitations or settlements with tax authorities; however, various events could cause our current expectations to change in the future. The above unrecognized tax benefits, if ever recognized in the financial statements, would be recorded in the statement of income as part of the income tax expense.

Our policy is to recognize interest accrued related to unrecognized tax benefits in interest expense and penalties within income tax expense. For the years ended December 31, 2017, 2016 and 2015, we have net interest (income) expense and penalties of \$1.5 million, \$0.1 million and \$0.3 million, respectively. At December 31, 2017 and 2016, we have accrued interest of \$3.0 million and \$1.4 million, respectively, which are not included in the table above.

We have recorded net deferred tax liabilities of \$37.4 million and deferred tax assets of \$27.8 million at December 31, 2017 and 2016, respectively. The components of the net deferred tax asset and liability at December 31, 2017 and 2016 are as follows:

(in thousands)	2017		2016	
	Deferred Tax Assets	Deferred Tax Liability	Deferred Tax Assets	Deferred Tax Liability
Net operating loss carryforwards	\$ 30,966	\$ —	\$ 46,627	\$ —
Accrued and other current liabilities	15,748	—	24,663	—
Inventories	4,163	(778)	2,919	(1,567)
Allowance for bad debts	739	(475)	1,060	(451)
Currency revaluation	4,095	(167)	3,474	(73)
Property, plant and equipment	1,103	(23,649)	2,096	(19,733)
Capital lease	531	—	830	—
Tax credit carryforwards	1,563	—	915	—
Unremitted profits and earnings	—	(998)	—	(923)
Intangible assets	1,289	(93,771)	586	(137,682)
Share-based compensation	18,143	—	20,282	—
Deferred interest deductions	60,790	—	76,793	—
Convertible debt	10,865	—	12,313	—
Other	2,632	(2,315)	2,652	(1,507)
	<u>152,627</u>	<u>(122,153)</u>	<u>195,210</u>	<u>(161,936)</u>
Valuation allowance	(67,849)	—	(5,511)	—
	<u>\$ 84,778</u>	<u>\$ (122,153)</u>	<u>\$ 189,699</u>	<u>\$ (161,936)</u>
Net deferred tax assets (liabilities)		<u>\$ (37,375)</u>		<u>\$ 27,763</u>

At December 31, 2017 and 2016, we had \$432.7 million and \$380.7 million in total foreign net operating loss (NOL) carryforwards. Included in these amounts at December 31, 2017 and 2016, were \$108.5 million and \$109.2 million of U.S. federal (NOL) carryforwards. At December 31, 2017, the entire NOL in the U.S. is subject to limitations under Section 382 of the U.S. Internal Revenue Code. The NOLs in the U.S. will expire beginning December 31, 2023 through December 31, 2033. Also included in the above amount as of December 31, 2017 and 2016, were other foreign NOL carryforwards totaling approximately \$324.1 million and \$271.5 million, respectively, with \$41.5 million added due to German trade tax loss generated in 2017. As of December 31, 2017, we had NOL carryforwards in Germany of \$225.0 million predominantly trade tax NOLs. Of the total \$324.1 million foreign NOL carryforwards, \$253.8 million does not expire with the balance expiring beginning December 2018 through 2032. The valuation allowance amounts related to net operating losses as of the years ended December 31, 2017 and December 31, 2016 are \$7.1 million and \$5.5 million. In 2017, we recorded a valuation allowance of \$60.8 million related to U.S. interest carryforwards. Based on the current debt level in the U.S., along with the new restrictive interest limitation enacted with the new U.S. tax reform, it is highly unlikely that the historic U.S. interest carry forward will ever be utilized. We believe it is more likely than not that the deferred tax assets, net of the valuation allowances, as shown above will be realized.

As of December 31, 2017, a deferred tax liability has not been recognized for residual income taxes in The Netherlands on the undistributed earnings of the majority of our foreign subsidiaries as these earnings are considered to be either indefinitely reinvested or can be repatriated tax free under the Dutch participation exemption. The indefinitely reinvested earnings retained by subsidiaries amounted to \$381.9 million at December 31, 2017. Estimating the amount of the unrecognized deferred tax liability on indefinitely reinvested foreign earnings is not practicable. Should the earnings be remitted as dividends, we may be subject to taxes including withholding tax. We have \$22.9 million of undistributed earnings that we do not consider indefinitely reinvested and have recorded deferred taxes or withholding taxes at December 31, 2017 and December 31, 2016, of \$1.0 million and \$0.9 million, respectively.

## 17. Equity

### *Issuance of Warrants*

In March 2014, in connection with the issuance of our Cash Convertible Notes, we issued Warrants (as described in Note 15) for approximately 25.8 million shares of our common stock (subject to antidilution adjustments under certain circumstances) with an exercise price of \$32.085 per share, subject to customary adjustments. Following the synthetic share repurchase discussed below, the adjusted exercise price is \$32.056. The proceeds, net of issuance costs, from the sale of the Warrants of approximately \$68.9 million are included as additional paid in capital in the accompanying consolidated balance sheets. The



Warrants expire as follows: Warrants to purchase 15.2 million shares expire over a period of 50 trading days beginning on December 27, 2018 and Warrants to purchase 10.6 million shares expire over a period of 50 trading days beginning on December 29, 2020.

In September 2017, concurrent with the issuance of our 2023 Cash Convertible Notes, we issued Warrants (as described in Note 15) for approximately 9.7 million shares of our common stock (subject to anti-dilution adjustments under certain circumstances) with an exercise price of \$50.9664 per share, subject to customary adjustments. The proceeds from the sale of the Warrants, net of issuance costs, of approximately \$45.3 million are included as additional paid in capital in the accompanying consolidated balance sheets. The warrants to purchase approximately 9.7 million shares expire over a period of 50 trading days beginning on June 26, 2023.

The Warrants are exercisable only upon expiration. For each Warrant that is exercised, we will deliver to the holder a number of shares of our common stock equal to the amount by which the settlement price exceeds the exercise price, divided by the settlement price, plus cash in lieu of any fractional shares. The Warrants could separately have a dilutive effect on shares of our common stock to the extent that the market value per share of our common stock exceeds the applicable exercise price of the Warrants (as measured under the terms of the Warrants).

### ***Share Repurchase Programs***

In July 2014, we announced the launch of our third share repurchase program to purchase up to another \$100 million of our common shares (excluding transaction costs). In 2014, 2.1 million QIAGEN shares were repurchased for \$49.1 million (excluding transaction costs) and in 2015, 0.8 million QIAGEN shares were repurchased for \$20.8 million.

On April 27, 2016, we announced the launch of our fourth \$100 million share repurchase program which was expected to be completed by the end of 2017. During the third quarter of 2017, 1.9 million QIAGEN shares were repurchased for \$61.0 million (including transaction costs).

On January 31, 2018, we announced our fifth share repurchase program of up to \$200 million of our common shares.

The cost of repurchased shares is included in treasury stock and reported as a reduction in total equity when a repurchase occurs. Repurchased shares will be held in treasury in order to satisfy various obligations, which include exchangeable debt instruments, warrants and employee share-based remuneration plans.

### ***Synthetic Share Repurchase***

In August 2016, we announced our plan to return approximately \$250.0 million to shareholders through a synthetic share repurchase program that combines a direct capital repayment with a reverse stock split. The synthetic share repurchase was implemented through a series of amendments to our Articles of Association which were approved by our shareholders at an Extraordinary General Meeting (EGM) held on October 26, 2016. The first amendment involved an increase in share capital by an increase in the nominal value per common share from EUR 0.01 to EUR 1.04 and a corresponding reduction in additional paid in capital. The second amendment involved a reduction in stock whereby 27 existing common shares with a nominal value of EUR 1.04 each were consolidated into 26 new common shares with a nominal value of EUR 1.08 each. The third amendment was a reduction of the nominal value per common share from EUR 1.08 to EUR 0.01. As a result of these amendments, which in substance constitute a synthetic share buyback, \$243.9 million was repaid to our shareholders and the outstanding number of common shares was reduced by 8.9, or 3.7%. The capital repayment program was completed in January 2017. Expenses incurred related to the capital repayment and share consolidation amounted to \$0.5 million and were charged to equity.

### ***Accumulated Other Comprehensive Loss***

The following table is a summary of the components of accumulated other comprehensive loss as of December 31, 2017 and 2016:

<b>(in thousands)</b>	<b>2017</b>	<b>2016</b>
Net unrealized loss on hedging contracts, net of tax	<b>\$ (30,487)</b>	<b>\$ (7,600)</b>
Net unrealized loss on marketable securities, net of tax	<b>(942)</b>	<b>(156)</b>
Net unrealized loss on pension, net of tax	<b>(878)</b>	<b>(1,498)</b>
Foreign currency effects from intercompany long-term investment transactions, net of tax of \$7.9 million and \$7.7 million in 2017 and 2016, respectively	<b>(16,144)</b>	<b>(15,901)</b>
Foreign currency translation adjustments	<b>(172,308)</b>	<b>(308,684)</b>
Accumulated other comprehensive loss	<b>\$ (220,759)</b>	<b>\$ (333,839)</b>

## 18. Earnings per Common Share

We present basic and diluted earnings per share. Basic earnings per share is calculated by dividing the net income attributable to the owners of QIAGEN N.V. by the weighted average number of common shares outstanding. Diluted earnings per share reflect the potential dilution that would occur if all “in the money” options and warrants to issue common shares were exercised. The following schedule summarizes the information used to compute earnings per common share:

(in thousands, except per share data)	Years ended December 31,		
	2017	2016	2015
Net income attributable to the owners of QIAGEN N.V.	\$ 40,394	\$ 80,404	\$ 130,148
Weighted average number of common shares used to compute basic net income per common share	228,074	234,800	233,483
Dilutive effect of stock options and restrictive stock units	4,760	4,193	5,028
Dilutive effect of outstanding warrants	175	—	136
Weighted average number of common shares used to compute diluted net income per common share	233,009	238,993	238,647
Outstanding options and awards having no dilutive effect, not included in above calculation	52	210	37
Outstanding warrants having no dilutive effect, not included in above calculation	30,434	25,800	26,071
Basic earnings per common share attributable to the owners of QIAGEN N.V.	\$ 0.18	\$ 0.34	\$ 0.56
Diluted earnings per common share attributable to the owners of QIAGEN N.V.	\$ 0.17	\$ 0.34	\$ 0.55

## 19. Commitments and Contingencies

### *Lease Commitments*

We lease facilities and equipment under operating lease arrangements expiring in various years through 2024. Certain rental commitments provide for escalating rental payments or have renewal options extending through various years. Certain facility and equipment leases constitute capital leases expiring in various years through 2020. The accompanying consolidated balance sheets include the assets and liabilities arising from these capital lease obligations. Rent expense under operating lease agreements not including facility related costs accrued in association with the restructuring activities discussed in Note 6 was \$24.5 million, \$22.4 million and \$23.2 million for the years ended December 31, 2017, 2016 and 2015, respectively.

Minimum future obligations under capital and operating leases at December 31, 2017 are as follows:

(in thousands)	Capital Leases	Operating Leases
2018	\$ 1,411	\$ 18,483
2019	45	16,011
2020	14	11,762
2021	—	8,457
2022	—	6,126
Thereafter	—	4,038
	1,470	\$ 64,877
Less: Amount representing interest	(54)	
	1,416	
Less: Current portion	(1,359)	
Long-term portion	\$ 57	

### *Licensing and Purchase Commitments*

We have licensing agreements with companies, universities and individuals, some of which require certain up-front payments. Royalty payments are required on net product sales ranging from 0.45 percent to 20 percent of covered products or based on quantities sold. Several of these agreements have minimum royalty requirements. The accompanying consolidated balance sheets include accrued royalties relating to these agreements in the amount of \$6.7 million and \$7.8 million at December 31, 2017 and 2016, respectively. Royalty expense relating to these agreements amounted to \$16.8 million, \$35.9 million, and \$43.2 million for the years ended December 31, 2017, 2016 and 2015, respectively. Royalty expense is primarily recorded in cost of sales, with a small portion recorded as research and development expense depending on the use of the technology under license. Some of these agreements also have minimum raw material purchase requirements and requirements to perform specific types of research.

At December 31, 2017, we had commitments to purchase goods or services, and for future license and royalty payments. They are as follows:

(in thousands)	Purchase Commitments	License & Royalty Commitments
2018	\$ 65,073	\$ 12,907
2019	22,556	11,858
2020	10,472	11,558
2021	943	8,860
2022	11	6,161
Thereafter	434	3,748
	<u>\$ 99,489</u>	<u>\$ 55,092</u>

As of December 31, 2017, future license payments of \$11.8 million and \$35.3 million are included in accrued and other current liabilities and other long-term liabilities, respectively.

#### *Contingent Consideration Commitments*

Pursuant to the purchase agreements for certain acquisitions we could be required to make additional contingent cash payments totaling up to \$18.5 million based on the achievement of certain revenue and operating results milestones as follows: \$11.5 million in 2018 and \$7.0 million, payable in any 12-month period from now until 2029 based on the accomplishment of certain revenue targets. Of the \$18.5 million total contingent obligation, we have assessed the fair value at December 31, 2017, to be \$11.5 million which is included in accrued liabilities in the accompanying consolidated balance sheet.

#### *Employment Agreements*

Certain of our employment contracts contain provisions which guarantee the payments of certain amounts in the event of a change in control, as defined in the agreements, or if the executive is terminated for reasons other than cause, as defined in the agreements. At December 31, 2017, the commitment under these agreements totaled \$16.8 million. The employment agreements with the Managing Directors and the German affiliate include a clause, whereby the affiliate will compensate the Managing Directors for potential deductions under Dutch law which, since 2014, has introduced a duty to deduct from a Managing Director's remuneration any increase in the value of shares or options that were part of his pay to the extent that such increase is based on a public offer, merger or other identity changing transaction.

#### *Contingencies*

In the ordinary course of business, we provide a warranty to customers that our products are free of defects and will conform to published specifications. Generally, the applicable product warranty period is one year from the date of delivery of the product to the customer or of site acceptance, if required. Additionally, we typically provide limited warranties with respect to our services. From time to time, we also make other warranties to customers, including warranties that our products are manufactured in accordance with applicable laws and not in violation of third-party rights. We provide for estimated warranty costs at the time of the product sale. We believe our warranty reserves as of December 31, 2017 and 2016 appropriately reflect the estimated cost of such warranty obligations.

#### *Preacquisition Contingencies*

In connection with certain acquisitions, amounts were paid into escrow accounts to cover preacquisition contingencies assumed in the acquisition. The escrow amounts that are certain to be claimed by QIAGEN are recorded in prepaid expenses and other current assets and total \$2.5 million as of December 31, 2017. As of December 31, 2016, \$2.5 million was recorded in other long-term assets in the accompanying consolidated balance sheets.

#### *Litigation*

From time to time, we may be party to legal proceedings incidental to our business. For the year ended December 31, 2017, we had settlement amounts related to various acquisition-related litigation matters totaling \$49.2 million, primarily related to PCR-based biomarker disputes and patent litigation, which were settled during 2017 of which \$45.3 million was recorded to general and administrative, restructuring, integration and other expense and \$3.9 million was recorded as a license right. \$44.8 million of the settlement amounts were paid during 2017 and as of December 31, 2017, \$4.4 million was accrued in accrued and other current liabilities.

As of December 31, 2017, certain claims, suits or legal proceedings arising out of the normal course of business have been filed or were pending against QIAGEN or its subsidiaries. These matters have arisen in the ordinary course and conduct of business, as well as through acquisition. Although it is not possible to predict the outcome of such litigation, we assess the degree of probability and evaluate the reasonably possible losses that we could incur as a result of these matters. We accrue for any estimated loss when it is probable that a liability has been incurred and that the amount of the probable loss can be estimated. Based on the facts known to QIAGEN and after consultation with legal counsel, management believes that such litigation will not have a material adverse effect on QIAGEN's financial position or results of operations.

## 20. Share-Based Compensation

We adopted the QIAGEN N.V. Amended and Restated 2005 Stock Plan (the 2005 Plan) in 2005 and the QIAGEN N.V. 2014 Stock Plan (the 2014 Plan) in 2014. The 2005 Plan expired by its terms in April 2015 and no further awards will be granted under the 2005 Plan. The plans allow for the granting of stock rights and incentive stock options, as well as non-qualified options, stock grants and stock-based awards, generally with terms of up to 10 years, subject to earlier termination in certain situations. Generally, options vest over a 3-year period. The vesting and exercisability of certain stock rights will be accelerated in the event of a Change of Control, as defined in the plans. To date, all option grants have been at the market value on the grant date or at a premium above the closing market price on the grant date. We issue Treasury Shares to satisfy option exercises and award releases and had approximately 22 million Common Shares reserved and available for issuance under the 2005 and 2014 Plans at December 31, 2017.

### Stock Options

We have not granted stock options since 2013. A summary of the status of employee stock options as of December 31, 2017 and changes during the year then ended is presented below:

All Employee Options	Number of Shares (in thousands)	Weighted Average Exercise Price	Weighted Average Contractual Term (in years)	Aggregate Intrinsic Value (in thousands)
Outstanding at January 1, 2017	1,439	\$ 19.84		
Exercised	(287)	\$ 21.08		
Expired	(3)	\$ 18.63		
Outstanding at December 31, 2017	1,149	\$ 19.54	3.32	\$ 13,088
Vested at December 31, 2017	1,149	\$ 19.54	3.32	\$ 13,088
Vested and expected to vest at December 31, 2017	1,149	\$ 19.54	3.32	\$ 13,088

The total intrinsic value of options exercised during the years ended December 31, 2017, 2016 and 2015 was \$3.3 million, \$3.2 million and \$7.0 million, respectively. At December 31, 2017, there was no unrecognized share-based compensation expense related to employee stock option awards.

At December 31, 2017, 2016 and 2015, 1.1 million, 1.4 million and 1.7 million options were exercisable at a weighted average price of \$19.54, \$19.84 and \$19.27 per share, respectively. The options outstanding at December 31, 2017 expire in various years through 2023.

### Stock Units

Stock units represent rights to receive Common Shares at a future date and include restricted stock units which are subject to time-vesting only and performance stock units which include performance conditions in addition to time-vesting. The final number of performance stock units earned is based on the performance achievement which for some grants can reach up to 120% of the granted shares. There is no exercise price and the fair market value at the time of the grant is recognized over the requisite vesting period, generally 3 to 5 years, and in certain grants 10 years. The fair market value is determined based on the number of stock units granted and the market value of our shares on the grant date. Pre-vesting forfeitures were estimated to be approximately 7.0%. At December 31, 2017, there was \$67.5 million remaining in unrecognized compensation cost including estimated forfeitures related to these awards, which is expected to be recognized over a weighted average period of 2.35 years.

The weighted average grant date fair value of stock units granted during the years ended December 31, 2017, 2016 and 2015 was \$31.12, \$23.81 and \$24.91, respectively. The total fair value of stock units that vested during the years ended December 31, 2017, 2016 and 2015 was \$69.2 million, \$27.4 million and \$28.7 million, respectively.

A summary of stock units as of December 31, 2017 and changes during the year are presented below:

Stock Units	Stock Units (in thousands)	Weighted Average Contractual Term (in years)	Aggregate Intrinsic Value (in thousands)
Outstanding at January 1, 2017	10,198		
Granted	1,976		
Vested	(2,306)		
Forfeited	(1,766)		
Outstanding at December 31, 2017	8,102	2.30	\$ 250,603
Vested and expected to vest at December 31, 2017	6,914	2.15	\$ 213,861

### Compensation Expense

Share-based compensation expense before taxes for the years ended December 31, 2017, 2016 and 2015 totaled approximately \$34.4 million, \$28.3 million and \$23.8 million, respectively, as shown in the table below.

Compensation Expense (in thousands)	2017	2016	2015
Cost of sales	\$ 2,641	\$ 2,553	\$ 2,177
Research and development	5,367	4,735	5,686
Sales and marketing	6,820	4,824	4,815
General and administrative	19,614	16,176	11,083
Share-based compensation expense	34,442	28,288	23,761
Less: income tax benefit <sup>(1)</sup>	7,407	6,223	5,751
Net share-based compensation expense	\$ 27,035	\$ 22,065	\$ 18,010

<sup>(1)</sup> Does not include the excess tax benefit realized for the tax deductions of the share-based payment arrangements totaled \$5.2 million, \$0.8 million and \$3.3 million, respectively, for the years ended December 31, 2017, 2016 and 2015.

Following the 2016 restructuring program discussed in Note 6, share-based compensation expense in 2017 and 2016 includes forfeitures of \$0.7 million and \$2.0 million, respectively, in connection with the restructuring terminations. Total share-based compensation expense in 2015 was lower following a reassessment on stock units with performance criteria. No share-based compensation cost was capitalized in inventory in December 31, 2017, 2016 or 2015 as the amounts were not material.

## 21. Employee Benefits

We maintain various benefit plans, including defined contribution and defined benefit plans. Our U.S. defined contribution plan is qualified under Section 401(k) of the Internal Revenue Code, and covers substantially all U.S. employees. Participants may contribute a portion of their compensation not exceeding a limit set annually by the Internal Revenue Service. This plan includes a provision for us to match a portion of employee contributions. Total expense under the 401(k) plans, including the plans acquired via business acquisitions, was \$3.6 million, \$2.5 million and \$2.4 million for the years ended December 31, 2017, 2016 and 2015, respectively. We also have a defined contribution plan which covers certain executives. We make matching contributions up to an established maximum. Matching contributions made to the plan, and expensed, totaled approximately \$0.3 million in each year ended December 31, 2017, 2016 and 2015.

We have five defined benefit, non-contributory retirement or termination plans that cover certain employees in Germany, France, Japan, Italy and the United Arab Emirates. These defined benefit plans provide benefits to covered individuals satisfying certain age and/or service requirements. For certain plans, we calculate the vested benefits to which employees are entitled if they separate immediately. The benefits accrued on a pro-rata basis during the employees' employment period are based on the individuals' salaries, adjusted for inflation. The liability under the defined benefit plans was \$8.0 million at December 31, 2017 and \$6.7 million at December 31, 2016, and is included as a component of other long-term liabilities on the accompanying consolidated balance sheets.

## 22. Related Party Transactions

From time to time, we have transactions with other companies in which we hold an interest all of which are individually and in the aggregate immaterial, as summarized in the table below.

(in thousands)	As of December 31,		For the years ended December 31,		
	2017	2016	2017	2016	2015
Net sales	—	—	\$ 3,852	\$ 1,360	\$ 418
Reimbursements against research and development costs	—	—	—	—	\$ 2,032
Accounts receivable	\$ 3,802	\$ 1,302	—	—	—
Other long-term assets	\$ 17,713	\$ 13,067	—	—	—
Accounts payable	\$ 1,921	\$ 391	—	—	—
Accrued and other current liabilities	\$ 9,028	\$ 3,926	—	—	—
Other long-term liabilities	\$ 3,075	\$ 5,889	—	—	—

During 2017, we purchased a convertible note for \$3.0 million from a publicly listed company considered a related party. The note is due in October 2020 and bears interest of 3.0%. As of December 31, 2017, the principal and accrued interest of this note totals \$2.7 million while the remaining \$0.2 million is attributable to the embedded derivative, that is bifurcated and measured at fair value, associated to a convertible feature of this note. Also in 2017, we granted a loan to a member of management totaling €0.6 million (\$0.7 million as of December 31, 2017) bearing interest at 2.0% annually. Repayment is forgiven with continued employment at the rate of €0.1 million plus accrued interest annually. These are included in other long-term assets in the accompanying consolidated balance sheet.

Additionally, we have two loan receivables due from related parties granted prior to 2017. The first loan, with a balance of \$11.3 million including accrued interest at December 31, 2017, was originally granted in 2015 and subsequently increased during 2016. This loan is due in January 2020 and bears interest of 6%. The second loan, also granted in 2015, has a principal of €2.0 million and is due in June 2019. This loan bears interest of 7% and as of December 31, 2017 carries a balance of \$2.9 million including accrued interest. The loans were made for general business purposes and no amounts have been repaid. These loans are included in other long-term assets in the accompanying consolidated balance sheet as of December 31, 2017.

As discussed in Note 10, during 2016 we acquired a 19.0% interest in Hombrechtikon Systems Engineering AG (HSE) for a total obligation of \$9.8 million payable over three years. As of December 31, 2017, the total remaining obligation was \$6.2 million, of which \$3.1 million was included in accrued and other current liabilities and \$3.1 million was included in other long-term liabilities in the accompanying consolidated balance sheet. HSE is a variable interest entity and we are not the primary beneficiary, therefore HSE is not consolidated.

## 23. Subsequent Events

On January 31, 2018, we announced our fifth share repurchase program of up to \$200 million of our common shares beginning in 2018 as well as the acquisition of STAT-Dx for approximately \$147 million in cash and additional payments of up to approximately \$44 million based on the achievement of regulatory and commercial milestones. The acquisition is expected to be completed in 2018 and funded from existing cash reserves.

In January 2018, a partnership became effective with a Chinese company that has taken over R&D, commercial distribution, and the related QIAGEN employees and infrastructure of the HPV test franchise in China.

**QIAGEN N.V. AND SUBSIDIARIES**  
**SCHEDULE II—VALUATION AND QUALIFYING ACCOUNTS**  
**FOR THE YEARS ENDED DECEMBER 31, 2017, 2016 AND 2015**

(in thousands)	Balance at Beginning of Year	Provision Charged to Expense	Write-Offs	Foreign Exchange and Other	Balance at End of Year
Year Ended December 31, 2015:					
Allowance for doubtful accounts	\$ 8,847	\$ 2,093	\$ (2,022)	\$ (1,663)	\$ 7,255
Year Ended December 31, 2016:					
Allowance for doubtful accounts	\$ 7,255	\$ 2,135	\$ (1,642)	\$ (134)	\$ 7,614
Year Ended December 31, 2017:					
Allowance for doubtful accounts	\$ 7,614	\$ 3,094	\$ (3,233)	\$ 533	\$ 8,008

**Exhibit 2.11**

In accordance with Instruction 2 to Item 601 of Regulation S-K, below is a schedule setting forth details in which the omitted loan agreements differ from the form of loan agreement that follows:

Currency	Notional Amount	Interest Rate	Maturity
EUR	€11.5 million	Fixed 0.4%	March 2021
EUR	€23.0 million	Floating EURIBOR + 0.4%	March 2021
EUR	€21.5 million	Fixed 0.68%	October 2022
EUR	€64.5 million	Floating EURIBOR + 0.5%	October 2022
USD	\$45.0 million	Floating LIBOR + 1.2%	October 2022
EUR	€25.0 million	Floating EURIBOR + 0.5%	October 2022
EUR	€64.0 million	Fixed 1.09%	June 2024
EUR	€31.0 million	Floating EURIBOR + 0.7%	June 2024
EUR	€14.5 million	Fixed 1.61%	June 2027



**Schuldscheindarlehensvertrag**  
(der „Darlehensvertrag“)

**Loan Agreement**  
(the “Loan Agreement”)

über ein Darlehen in Höhe von

for a loan in the amount of

[mit einem festen Zinssatz von % per annum/  
mit einem variablen Zinssatz]

[with a fixed rate of interest of per cent per  
annum/ with a floating rate]

fällig am 1

due on

arrangiert von der Bayerischen Landesbank, BNP  
Paribas, HSBC Trinkaus und UniCredit Bank AG,  
zusammen die „**Arranger**“ genannt  
mit der Bayerischen Landesbank als „**Zahlstelle**“

arranged by Bayerische Landesbank, BNP  
Paribas, HSBC Trinkaus and UniCredit Bank AG,  
jointly the "**Arrangers**"  
with Bayerische Landesbank as the "**Paying  
Agent**"

Die  
Bayerische Landesbank  
Brienner Straße 18  
80333 München

Bayerische Landesbank  
Brienner Strasse 18  
80333 Munich, Germany

- nachfolgend die „**Darlehensgeberin**“ oder die  
„**Anfängliche Darlehensgeberin**“ -

- hereinafter the “**Lender**” or the “**Initial Lender**” -

gewährt der

grants to

QIAGEN N.V.  
Hulsterweg 82  
5912 PL Venlo  
Niederlande

QIAGEN N.V.  
Hulsterweg 82  
5912 PL Venlo  
The Netherlands

nachfolgend die „**Darlehensnehmerin**“ -  
ein Darlehen (das „**Darlehen**“) im  
Gesamtnennbetrag von

hereinafter the "**Borrower**" -  
a loan (the "**Loan**") in the aggregate principal  
amount of

(in Worten: )

(in words )

Die Darlehensnehmerin und die Darlehensgeberin  
gemeinsam nachfolgend die „**Parteien**“ -

The Borrower and the Lender hereinafter jointly  
the "**Parties**" –

**§ 1 Auszahlung, Schuldschein, Definitionen**

**§ 1 Disbursement, Certificate of Indebtedness,  
Definitions**

(1) Das Darlehen wird am 23. Juni 2017 (der  
„**Auszahlungstag**“) nach Weisung der  
Darlehensnehmerin ausgezahlt, sofern die  
Auszahlungsvoraussetzungen nach Anlage 1  
mindestens zwei (2) Bankarbeitstage vor dem  
Auszahlungstag erfüllt und an die  
Darlehensgeberin geliefert worden sind.

(1) The Loan shall be disbursed on June 23<sup>rd</sup>, 2017  
(the “**Disbursement Date**”) in accordance with  
the instructions of the Borrower, provided that  
the conditions precedent listed in Annex 1 are  
delivered to the Lender at least two (2) Banking  
Days prior to the Disbursement Date.

- (2) Das Darlehen wird von der Darlehensgeberin im sogenannten „best efforts“-Verfahren platziert. Daher steht die Auszahlung des Darlehens an die Darlehensnehmerin unter dem weiteren Vorbehalt, dass die Darlehenssumme durch die gemäß § 9 (1) eintretenden Darlehensgeberinnen valutagerecht und frei verfügbar zur Auszahlung an die Darlehensnehmerin bereitgestellt wird. Die Darlehensnehmerin kann eine Auszahlung nur in dem Umfang verlangen, in welchem die Darlehensmittel durch die eintretenden Darlehensgeberinnen zur Verfügung gestellt werden.
- (3) Das Darlehen dient der allgemeinen Unternehmensfinanzierung einschließlich Übernahmen und Refinanzierungszwecken und die Darlehensnehmerin sichert zu und garantiert, dass das Darlehen von ihr auf eigene Rechnung beansprucht wird.
- (4) Die Darlehensnehmerin wird der Zahlstelle unverzüglich, aber spätestens an dem auf den Auszahlungstag folgenden Bankarbeitstag, einen von ihr rechtswirksam ausgefertigten Schuldschein entsprechend dem in Anlage 2 beigefügten Muster zukommen lassen.
- (5) In diesem Darlehensvertrag definierte Begriffe gelten, soweit nichts anderes bestimmt ist, für jede Erwähnung des definierten Begriffs in diesem Darlehensvertrag.
- (2) The Loan shall be placed by the Lender on a so-called “best efforts” basis. Thus, the disbursement of the Loan is further subject to the condition that the amount of the Loan is made available by the joining Lenders in accordance with § 9 (1) in same day and immediately available funds, freely transferable for disbursement to the Borrower. The Borrower acknowledges and agrees that it is only entitled to demand disbursement under the Loan to the extent funds are made available by the joining Lenders.
- (3) The purpose of this Loan shall be general corporate financing, including acquisitions, and refinancing matters and the Borrower represents and warrants that the Loan is utilised by itself on its own account.
- (4) The Borrower shall immediately, in no event later than on the Banking Day following the Disbursement Date of the Loan, make available to the Paying Agent a duly executed certificate of indebtedness (*Schuldschein*) in the form as attached hereto in Annex 2.
- (5) Unless otherwise provided for herein, the definitions of terms in this Loan Agreement apply to every reference made herein to such defined terms.

„**Bankarbeitstag**“ bezeichnet jeden Tag, außer einem Samstag oder Sonntag, an dem (i) TARGET2 betriebsbereit ist und (ii) Banken in München, Düsseldorf, London und New York für Bankgeschäfte geöffnet sind.

„**Darlehensgeberin**“ schließt alle Darlehensgeberinnen ein, auf die nach § 9 dieses Darlehensvertrages die Vertragsstellung übertragen wird, sowie alle Rechtsnachfolger.

„**Dritter**“ im Sinne von § 9 (1) ist jedes **Kreditinstitut, jede Förderbank, jede Kapitalverwaltungsgesellschaft, jedes Versicherungsunternehmen, jedes Versorgungswerk und jeder Pensionsfonds.**

„**Kapitalverwaltungsgesellschaft**“ bezeichnet eine Kapitalverwaltungsgesellschaft im Sinne von § 2 Abs. 1 Nr. 3b KWG oder eine EU-Verwaltungsgesellschaft im Sinne von § 2 Abs. 1 Nr. 3c KWG, soweit diese zum entsprechenden Geschäftsbetrieb im Inland oder einem Mitgliedsstaat des Europäischen Wirtschaftsraumes („EWR“) oder der Schweiz oder im Vereinigten Königreich zugelassen und dort beaufsichtigt ist.

„**Banking Day**“ means any day other than a Saturday or Sunday on which (i) TARGET2 is operating and (ii) banks in Munich, Düsseldorf, London and New York are open for general business.

„**Lender**“ includes all Lenders to whom the contractual position is transferred under the terms of § 9 of this Loan Agreement, as well as all legal successors.

„**Third Party**“ for the purposes of § 9 para. 1 means any **Credit Institution, Development Bank, Investment Management Company, Insurance Company, Pension Insurance Carrier or Pension Fund.**

„**Investment Management Company**“ shall mean an investment management company within the meaning of section 2 para. 1 no. 3b of the German Banking Act (KWG) or an EU-management company within the meaning of section 2 para. 1 no. 3c of the German Banking Act (KWG), provided that it is licensed to do such business and regulated within Germany, in any member state of the European Economic Area (EEA) or in Switzerland or in the United Kingdom

„**Kreditinstitut**“ bezeichnet ein Unternehmen im Sinne von § 1 Abs. 1 KWG, soweit dieses zum entsprechenden Geschäftsbetrieb im Inland oder einem Mitgliedsstaat des Europäischen Wirtschaftsraumes („EWR“) oder der Schweiz oder im Vereinigten Königreich zugelassen und dort beaufsichtigt ist.

„**Förderbank**“ bezeichnet ein Förderinstitut der öffentlichen Hand (wie z.B. LfA, KfW und vergleichbare Institute).

„**Pensionsfonds**“ bezeichnet einen Pensionsfonds im Sinne von § 236 VAG soweit dieser zum entsprechenden Geschäftsbetrieb im Inland oder einem Mitgliedsstaat des Europäischen Wirtschaftsraumes („EWR“) oder der Schweiz oder im Vereinigten Königreich zugelassen und dort beaufsichtigt ist.

„**Versicherungsunternehmen**“ bezeichnet ein Versicherungsunternehmen im Sinne von § 2 Abs. 1 Nr. 4 KWG, soweit dieses zum entsprechenden Geschäftsbetrieb im Inland oder einem Mitgliedsstaat des Europäischen Wirtschaftsraumes („EWR“) oder der Schweiz oder im Vereinigten Königreich zugelassen und dort beaufsichtigt ist.

„**Versorgungswerk**“ bezeichnet die nach den betreffenden deutschen Landesgesetzen errichteten und staatlich beaufsichtigten berufsständischen öffentlich-rechtlichen Einrichtungen für die Altersvorsorge der Mitglieder des jeweiligen Berufsstands.

“**Credit Institution**” shall mean a company within the meaning of section 1 para. 1 German Banking Act (KWG), provided that it is licensed to do such business and regulated within Germany, in any member state of the European Economic Area (EEA) or in Switzerland or in the United Kingdom.

“**Development Bank**” shall mean public sector development institutions (such as LfA, KfW or similar institutions).

“**Pension Fund**” shall mean a pension fund within the meaning of section 236 of the Supervision of German Insurance Companies Act (VAG), provided that it is licensed to do such business and regulated within Germany, in any member state of the European Economic Area (EEA) or in Switzerland or in the United Kingdom.

“**Insurance Company**” shall mean an insurance company within the meaning of section 2 para. 1 no. 4 of the German Banking Act (KWG), provided that it is licensed to do such business and regulated within Germany, in any member state of the European Economic Area (EEA) or in Switzerland or in the United Kingdom.

“**Pension Insurance Carrier**” (*Versorgungswerk*) means any professional public organisation for pension schemes for members of the respective profession established and regulated under the respective German state Laws.

„**Finanzverbindlichkeit**“ bedeutet jegliche Verbindlichkeiten:

(a) aus der Aufnahme von Finanzierungsmitteln,  
(b) aus der Mittelaufnahme aus einer Wechselkreditlinie oder einer beleglosen Entsprechung;  
(c) aus der Mittelaufnahme aufgrund einer Ankaufsfazilität für Schuldscheine oder aus der Ausgabe von Bonds, Schuldscheinen, Schuldverschreibungen, Schuldtiteln oder ähnlichen Instrumenten;  
(d) aus dem Betrag einer Verbindlichkeit hinsichtlich Leasing- oder Mietkaufverträgen, die nach den Grundsätzen ordnungsgemäßer Rechnungslegung (GAAP) als Finanzierungsleasing (finance oder capital lease) zu behandeln sind, mit Ausnahme derjenigen Verträge, die nach GAAP per Datum des vorliegenden Vertrags als Operating-Leasing behandelt würden;  
(e) aus verkauften oder diskontierten Forderungen (soweit nicht ohne Rückgriffsrecht verkauft oder diskontiert);  
(f) aus dem Kaufpreis von Vermögenswerten, soweit dieser vor oder nach dem Erwerb oder der Inbesitznahme seitens der haftenden Partei, zahlbar ist und dies in erster Linie zum Zweck der Aufnahme von Finanzmitteln vereinbart wurde, es sei denn, die Vorauszahlung oder der Zahlungsaufschub wurde über einen Zeitraum von höchstens 120 Tagen gewährt;  
(g) aus Derivategeschäften, welche zum Schutz vor Wertschwankungen oder zu deren Nutzung im Kontext der Zins- und Währungsabsicherung abgeschlossen wurden (wobei zur Bewertung des Derivategeschäfts nur der aktuelle Marktwert berücksichtigt wird);  
(h) aus der Mittelaufnahme im Rahmen anderer Transaktionen (wie Terminkauf- und -verkauf, Verkauf mit Rückkaufsverpflichtung oder Sale-and-Leaseback-Vereinbarung), die sich wirtschaftlich wie eine Kreditaufnahme mit dem vornehmlichen Zweck der Erhöhung der Finanzverbindlichkeiten auswirken oder nach GAAP anderweitig als Mittelaufnahmen klassifiziert werden;  
(i) aus einer Rückhaftungsverpflichtung für eine Garantie, eine Schadloshaltung, ein Haftungsversprechen, ein Standby- oder Dokumentenakkreditiv oder sonstige von einer Bank oder einem Finanzinstitut für eine der unter den vorstehenden Buchstaben (a) bis (h) genannten Positionen ausgegebene Instrumente; und  
(j) aus dem Betrag einer Verbindlichkeit hinsichtlich einer Garantie oder Schadloshaltung für eine der unter den vorstehenden Buchstaben (a) bis (i) genannten Positionen.

„**Financial Indebtedness**“ means any indebtedness for or in respect of:

(a) moneys borrowed;  
(b) any amount raised by acceptance under any acceptance credit facility or dematerialized equivalent;  
(c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;  
(d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GAAP, be treated as a finance lease or capital lease other than any lease which, in accordance with GAAP as at the date of this Agreement, would have been treated as an operating lease;  
(e) receivables sold or discounted (other than any receivables to the extent they are sold or discounted on a non-recourse basis);  
(f) acquisition costs of any asset to the extent payable before or after the time of acquisition or possession by the party liable where arranged primarily as a method of raising finance except where payment is advanced or deferred for not more than 120 calendar days;  
(g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in connection with interest or currency hedges (and, when calculating the value of any derivative transaction, only the marked to market value shall be taken into account);  
(h) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing for the primary purpose of raising financial indebtedness or otherwise classified as borrowings under GAAP;  
(i) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of any items referred to in paragraphs (a) to (h) above; and  
(j) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (i) above.

Ein „**Kontrollwechsel**“ bedeutet in Bezug auf die Darlehensnehmerin,

(a) wenn nach dem Vertragsdatum (i) eine Person (mit Ausnahme von Stichting Preferente Aandelen Qiagen) mindestens 50% der Stimmrechte an der Darlehensnehmerin hält (einschließlich der Stimmrechte, die die Person gemäß nachstehendem Punkt (b) erhält), oder

(ii) sich die Gegenstandsklausel der Satzung (*doelomschrijving*) von Stichting Preferente Aandelen Qiagen wesentlich gegenüber dem derzeitigen Wortlaut ändert, sofern zu diesem Zeitpunkt Stichting Preferente Aandelen Qiagen mindestens 50 % der Stimmrechte an der Darlehensnehmerin hält (einschließlich der Stimmrechte, die diese Person gemäß nachstehendem Punkt (b) erhält),

(b) für die Zwecke von obigem Punkt (a) gilt, dass eine Person 50 % der Stimmrechte an der Darlehensnehmerin hält, wenn sie oder eine oder mehrere ihrer Tochtergesellschaften - unabhängig davon, ob gemäß einem Vertrag mit anderen Stimmberechtigten (*stemgerechtigden*) oder anderweitig - allein oder gemeinsam mehr als 50 % der Stimmrechte in der Hauptversammlung (*algemene vergadering*) der Darlehensnehmerin ausüben können.

„**GAAP**“ bedeutet in Bezug auf den Konzernjahresabschluss der Darlehensnehmerin die Grundsätze ordnungsgemäßer Rechnungslegung der Vereinigten Staaten von Amerika (US-GAAP) oder IFRS, je nachdem, auf welcher Basis die Darlehensnehmerin ihre einschlägigen Meldungen an die US-amerikanische Börsenaufsichtsbehörde SEC tätigt.

„**Konzern**“ bezeichnet die Darlehensnehmerin und alle konsolidierten Tochtergesellschaften. Zur Vermeidung von Unklarheiten sei darauf hingewiesen, dass PreAnalytiX GmbH (Switzerland) nicht zum Konzern zählt.

„**TARGET2**“ bezeichnet das europäische Echtzeit-Brutto-Zahlungssystem (Trans-European Automated Realtime Gross Settlement Express Transfer System 2), das eine einheitliche gemeinsame Plattform nutzt und am 19. November 2007 in Betrieb genommen wurde.

„**IFRS**“ bedeutet die Internationalen Rechnungslegungsgrundsätze im Sinne der Verordnung (EG) Nr. 1606/2002 des europäischen Parlaments und des Rates

vom 19. Juli 2002, soweit sie für den betreffenden Abschluss gelten.

„**Tochtergesellschaft**“ einer Person ist eine Kapital- oder Personengesellschaft, auf die diese Person unmittel- oder mittelbar einen beherrschenden Einfluss i.S.d. § 290 Abs. 2 HGB ausüben kann.

A „**Change of Control**“ means with respect to the Borrower

(a) if at any time after the date hereof (i) a person (other than Stichting Preferente Aandelen Qiagen) holds at least 50 per cent. of the voting rights in the Borrower (including voting rights attributed to such person pursuant to paragraph (b) below), or

(ii) the description in the objects clause in the articles (*doelomschrijving*) of Stichting Preferente Aandelen Qiagen is materially changed from the description as at the date hereof, if at that time Stichting Preferente Aandelen Qiagen holds at least 50 per cent. of the voting rights in the Borrower (including voting rights attributed to such person pursuant to paragraph (b) below),

(b) For the purpose of paragraph (a) above, a person shall be deemed to hold 50 per cent. of the voting rights in the Borrower if that person, or one or more of its Subsidiaries, whether or not pursuant to an agreement with other persons entitled to vote (*stemgerechtigden*) can, alone or together, exercise more than 50 per cent. of the voting rights in the general meeting of shareholders (*algemene vergadering*) of the Borrower.

„**GAAP**“ means in respect of the consolidated annual financial statements of the Borrower, US-GAAP or IFRS, depending on which ever the Borrower uses in its relevant filings with the Securities Exchange Commission.

„**Group**“ designates the Borrower and its respective consolidated Subsidiaries. For the avoidance of doubt, the Group does not include PreAnalytiX GmbH (Switzerland).

„**TARGET2**“ means the Trans-European Automated Realtime Gross Settlement Express Transfer System 2 which utilises a single shared platform and which was launched on 19 November 2007.

„**IFRS**“ means international accounting standards within the meaning of the Regulation (EC) No. 1606/2002 of the European Parliament and of the Council of 19 July 2002 to the extent applicable to the relevant financial statements.

„**Subsidiary**“ of an entity means any company, corporation or partnership over which the entity exercises a controlling influence either directly or indirectly within the meaning of section 290 para. 2 of the German Commercial Code (HGB).

- „**Wesentliche Tochtergesellschaft**“ ist jede Tochtergesellschaft der Darlehensnehmerin,
- „**Principal Subsidiary**“ means any consolidated Subsidiary of the Borrower
- (i) deren Umsatz mindestens 5% des Konzernumsatzes oder deren Bilanzsumme mindestens 5% der Konzernbilanzsumme beträgt, jeweils berechnet auf der Grundlage des letzten geprüften Konzernabschlusses; oder
  - (i) whose revenue is at least 5 per cent of the revenue of the Group or whose total assets amount to at least 5 per cent of the total assets of the Group, in each case calculated by reference to the latest audited accounts of the Group, or
  - (ii) auf die alle oder im Wesentlichen alle Vermögensgegenstände und Verbindlichkeiten einer Wesentlichen Tochtergesellschaft übertragen worden sind.
  - (ii) to which all or substantially all the assets and liabilities of another Principal Subsidiary are transferred.

„**Wesentliche Nachteilige Änderung**“ bezeichnet jede wesentliche Verschlechterung in der finanziellen Lage der Darlehensnehmerin, die im Vergleich zu ihrer finanziellen Lage zum Jahresabschluss per 31.12.2016 eintritt, und die wesentliche Auswirkungen auf das Geschäft des Konzerns insgesamt haben könnte und die die ordnungsgemäße Erfüllung der Zahlungsverpflichtungen der Darlehensnehmerin gefährdet.

„**Material Adverse Change**“ shall mean any substantial deterioration of the financial situation of the Borrower that occurs compared to its financial affairs as per the accounts dated December 31<sup>st</sup>, 2016 which could have a material effect on the business of the Group taken as a whole and endangers proper fulfilment of the Borrower's payment obligations.

„**US-GAAP**“ bedeutet die Grundsätze ordnungsgemäßer Rechnungslegung in den Vereinigten Staaten von Amerika.

„**US-GAAP**“ means generally accepted accounting principles in the United States of America.

„**Vorfälligkeitsentschädigung**“ bedeutet einen Schadensersatzanspruch, den die Darlehensgeberin gegenüber der Darlehensnehmerin im Fall einer vorzeitigen Tilgung geltend machen kann und die folgender Differenz entspricht: zwischen (a) den Zinsen (ohne die jeweils am Konditionenfestsetzungstermin des Darlehens festgelegte Marge bzw. Spread auf den Benchmark-Zins), die von der Darlehensnehmerin gemäß § 2 (*Zinsen*) für die Restlaufzeit des Darlehens oder den restlichen Teil der betreffenden Zinsperiode zu zahlen gewesen wären, und (b) dem Betrag, den die Darlehensgeberin hätte erzielen können, hätte sie einen dem von ihr gehaltenen Nennbetrag entsprechenden Betrag als Einlage bei einer führenden Bank auf dem Interbankenmarkt über einen Zeitraum platziert, welcher der Restlaufzeit bzw. dem noch nicht abgelaufenen Teil der Zinsperiode entspricht.

„**Prepayment Indemnity**“ means an indemnity claim that the Lender may assert against the Borrower in the event of an early repayment and that equals the difference between (a) the interest (excluding the Margin or spread above the benchmark rate determined on pricing date hereof, as the case may be) that would otherwise be owed by the Borrower pursuant to section 2 (*Interest*) for the remaining term of the Loan or the remaining part of the relevant Interest Period and (b) the amount which that Lender would be able to obtain by placing an amount equal to the principal amount received by it on deposit with a leading bank in the Interbank Market for a period which is equal in length to the unexpired portion of the maturity period or the unexpired part of the Interest Period.

## § 2 Zinsen

[Das Darlehen wird bezogen auf den Gesamtnennbetrag vom Auszahlungstag (einschließlich) bis zum in § 3 (1) genannten Endgültigen Rückzahlungstag (ausschließlich) mit 0,40 % p.a. verzinst.

Die Zinsen sind jährlich nachträglich am 23. Juni eines jeden Jahres zahlbar (jeweils ein „**Zinszahlungstag**“). Die erste Zinszahlung erfolgt am 23. Juni 2018, die letzte Zinszahlung erfolgt am 23. März 2021.

## § 2 Interest

[The Loan shall bear interest on its aggregate principal amount at the rate of 0.40 per cent per annum from (and including) the Disbursement Date to (but excluding) the Repayment Date as specified in § 3 (1).

Interest shall be payable annually in arrears on June 23<sup>rd</sup> in each year (each an „**Interest Payment Date**“). The first interest payment shall be made on June 23<sup>rd</sup>, 2018, the last interest payment shall be made on March 23<sup>rd</sup>, 2021.

Sofern ein Zinszahlungstag kein Bankarbeitstag ist, ist die Zahlung am unmittelbar darauffolgenden Bankarbeitstag fällig. Die Darlehensgeberin ist nicht berechtigt, aufgrund der Verschiebung weitere Zinsen oder sonstige Zahlungen zu verlangen. Die Zinsen werden auf der Basis act/act (gemäß ICMA-Regel 251) berechnet./

If any such Interest Payment Date is not a Banking Day, payment shall be due on the immediately following Banking Day. The Lender shall not be entitled to claim any further interest or any other payments as a result of such deferral. Interest shall be calculated on an act/act basis (in accordance with ICMA Rule 251)./

(1) Das Darlehen wird bezogen auf den Gesamtnennbetrag mit einem variablen Zinssatz verzinst. Der Zinssatz für die jeweilige Zinsperiode entspricht dem 6-Monats-EURIBOR zuzüglich 0,40 % (die „**Marge**“) per annum. Für den Fall, dass dieser 6-Monats-EURIBOR niedriger als Null ist, wird der 6-Monats-EURIBOR mit Null angesetzt.

(1) The Loan shall bear interest on its aggregate principal amount at a floating interest rate. The interest rate for each Interest Period shall be the 6-month EURIBOR rate plus 0.40 per cent (the „**Margin**“) per annum. In case this 6-month EURIBOR rate is less than zero, 6-month EURIBOR shall be deemed to be zero.

(2) Die Zinsen sind halbjährlich nachträglich am 23. Juni und 23. Dezember eines jeden Jahres (jeweils ein „**Zinszahlungstag**“) zahlbar, erstmals am 23. Dezember 2017, es sei denn, der betreffende Tag ist kein Bankarbeitstag. In diesem Fall ist die Zahlung am unmittelbar darauffolgenden Bankarbeitstag fällig, es sei denn, der Zinszahlungstag würde dadurch in den nächsten Kalendermonat fallen; in diesem Fall ist der Zinszahlungstag der unmittelbar vorhergehende Bankarbeitstag. Der Zeitraum zwischen dem Auszahlungstag (einschließlich) und dem ersten Zinszahlungstag (ausschließlich), sowie zwischen einem nachfolgenden Zinszahlungstag (einschließlich) und dem jeweils nächsten Zinszahlungstag (ausschließlich), wird „**Zinsperiode**“ genannt. Die erste Zinsperiode beginnt am 23. Juni 2017. Die Zinsen werden auf der Basis der genauen Zahl der in einer Zinsperiode abgelaufenen Tage, bezogen auf ein Jahr von 360 Tagen, berechnet. Die letzte Zinszahlung erfolgt am 23. März 2021.

(2) The interest shall be semiannually in arrears on June 23<sup>rd</sup> and December 23<sup>rd</sup> of each year (each an „**Interest Payment Date**“), for the first time on December 23<sup>rd</sup>, 2017, unless the relevant date is not a Banking Day. If any such Interest Payment Date is not a Banking Day, payment shall be due on the immediately following Banking Day unless the Interest Payment Date would then fall in the next calendar month. In this case, the Interest Payment Date shall be the immediately preceding Banking Day. The period from (and including) the Disbursement Date until (but excluding) the first Interest Payment Date as well as from (and including) any following Interest Payment Date until (but excluding) the relevant next Interest Payment Date is referred to as an „**Interest Period**“. The first Interest Period starts on June 23<sup>rd</sup>, 2017. Interest shall be calculated on the basis of the actual number of days elapsed during an Interest Period and a 360-day year. The last interest payment shall be made on March 23<sup>rd</sup>, 2021.

(3) An jedem Zinsfestsetzungstag wird die Zahlstelle die am Zinszahlungstag nach der betreffenden Zinsperiode fälligen Zinsen berechnen und der Darlehensnehmerin sowie der Darlehensgeberin mitteilen.

(3) On each Interest Rate Determination Date, the Paying Agent shall determine and notify the Borrower and the Lender of the interest payable on the Interest Payment Date following the relevant Interest Period.

(4) Für die Zwecke dieses Darlehensvertrages bedeutet:

(4) For purposes of this Loan Agreement:

„**Zinsfestsetzungstag**“ den zweiten Bankarbeitstag vor Beginn der betreffenden Zinsperiode.

„**Interest Rate Determination Date**“ means the second Banking Day prior to the start of the relevant Interest Period.

**"6-Monats-EURIBOR"** (a) den 6-Monats-Zinssatz, der auf der Reuters Seite EURIBOR01 oder einer entsprechenden, an deren Stelle tretenden Seite, ggf. auf vier Dezimalstellen gerundet, um oder gegen 11:00 Uhr MEZ/CET am jeweiligen Zinsfestsetzungstag erscheint oder, (b) wenn ein solcher Zinssatz nicht auf der Reuters Seite EURIBOR01 erscheint, das (ggf. auf die vierte Dezimalstelle kaufmännisch gerundete (wobei 0.0005 aufgerundet wird) arithmetische Mittel der Zinssätze per annum, die der Zahlstelle auf ihre Anforderung hin von drei von ihr ausgewählten erstklassigen Banken (die **"Referenzbanken"**) als die Sätze genannt werden, welche diese führenden Banken auf dem europäischen Interbankenmarkt um oder gegen 11:00 Uhr Brüsseler Zeit am jeweiligen Zinsfestsetzungstag für Einlagen in Euro während der betreffenden Zinsperiode in einer Höhe, welche mit dem Darlehen vergleichbar ist, quotieren; sollte eine Referenzbank eine solche Quotierung nicht bis 11:00 Uhr Brüsseler Zeit am jeweiligen Zinsfestsetzungstag abgeben, ist das betreffende arithmetische Mittel auf der Grundlage der von den übrigen Referenzbanken abgegebenen Quotierungen von der Zahlstelle zu bestimmen. Sofern keine der ausgewählten Referenzbanken eine Quotierung abgibt, wird der betreffende 6-Monats-EURIBOR-Satz durch die Zahlstelle im guten Glauben mit Zustimmung der Darlehensgeberinnen und Rücksprache mit dem Darlehensnehmer nach billigem Ermessen festgelegt.]

**"6-Months EURIBOR"** means (a) the 6-months interest rate which appears on Reuters page EURIBOR01, or on the page replacing it, rounded up, if necessary, to four decimal places, at or around 11.00 a.m. MEZ/CET at the relevant Interest Rate Determination Date or (b), if such interest rate is not displayed on the Reuters screen EURIBOR01, the arithmetic mean (rounded, if necessary, to four decimal places, with 0.0005 being rounded upwards) of the interest rates per annum furnished to the Paying Agent at its request by three prime banks selected by the Paying Agent (the **"Reference Banks"**) as the rates quoted by them to leading banks in the European interbank market for euro deposits during the relevant Interest Period in an amount comparable to the Loan at or around 11 a.m. Brussels time at the relevant Interest Rate Determination Date; if any Reference Bank fails to furnish such quotation by 11 a.m. Brussels time at the relevant Interest Rate Determination Date, the relevant arithmetic mean shall be determined by the Paying Agent on the basis of the quotes furnished by the other Reference Banks. If none of the Reference Banks are able to provide the Paying Agent with a quotation, the respective 6-month EURIBOR rate shall be determined by the Paying Agent in good faith subject to the consent of the Lenders following consultation with the Borrower.]

### § 3 Rückzahlung/Vorzeitige Rückzahlung

(1) [Das Darlehen ist am zum Gesamtnennbetrag vollständig zurückzuzahlen, jedoch mit der Maßgabe, dass, sofern dieser Tag kein Bankarbeitstag ist, die Zahlung am darauffolgenden Bankarbeitstag fällig ist (der **„Rückzahlungstag“**). Der Darlehensgeberin steht aufgrund einer solchen Verschiebung kein weiterer Anspruch auf Zinszahlungen oder sonstige Zahlungen zu. //

(1) Das Darlehen ist am 23. März 2021 zum Gesamtnennbetrag vollständig zurückzuzahlen, jedoch mit der Maßgabe, dass, sofern dieser Tag kein Bankarbeitstag ist, die Zahlung am darauffolgenden Bankarbeitstag in dem jeweiligen Kalendermonat (falls es einen gibt) oder (falls es keinen gibt) am unmittelbar vorausgehenden Bankarbeitstag fällig ist (der **„Rückzahlungstag“**).]

### § 3 Repayment/Early Redemption

(1) [The aggregate principal amount of the Loan shall be repaid in full on , provided, however, that if such day is not a Banking Day, payment shall be due on the following Banking Day. The Lender shall not be entitled to claim any further interest or any other payments as a result of such deferral. //

(1) The aggregate principal amount of the Loan shall be repaid in full on March 23<sup>rd</sup>, 2021, provided, however, that if such day is not a Banking Day, payment shall be due on the following Banking in that calendar month (if there is one) and (if there is none) the immediately preceding Banking Day (the **"Repayment Date"**).]



(2) Sofern ein Kontrollwechsel eingetreten ist, ist die Darlehensgeberin berechtigt, das Darlehen unter Einhaltung einer Kündigungsfrist von mindestens dreißig (30) Tagen durch schriftliche Mitteilung an die Darlehensnehmerin (und Kopie an die Zahlstelle) das Darlehen in Höhe ihres jeweiligen Anteils am Gesamtnennbetrag (jeweils zuzüglich bis zum vorzeitigen Rückzahlungstag aufgelaufener Zinsen) zu kündigen. Die Kündigung ist unwiderruflich und muss den vorzeitigen Rückzahlungstag ausweisen.

#### **§ 4 Zahlungen, Zahlstelle**

- (1) Die Darlehensnehmerin verpflichtet sich unwiderruflich, bei Fälligkeit alle Kapital- oder Zinszahlungen, die gemäß diesem Darlehensvertrag geschuldet werden, bis 14:00 Uhr (Münchener Zeit) in [Euro/USD] auf das Konto der Zahlstelle zu zahlen.
- (2) Sofern eine Kapitalzahlung bei Fälligkeit nicht bis 14:00 Uhr (MEZ/CET) auf das Konto der Zahlstelle gutgeschrieben wird, ist die Zahlstelle nicht verpflichtet, die fälligen Beträge taggleich an die Darlehensgeberin weiterzuleiten. Der betreffende Betrag wird ab dem Fälligkeitstag (einschließlich) bis zum Datum der tatsächlichen Zahlung des überfälligen Betrages (ausschließlich) zu einem Zinssatz von 1 % per annum über dem an dem jeweiligen Fälligkeitstermin für das Darlehen geltenden Zinssatz verzinst, unbeschadet des Rechts der Darlehensgeberin, weitergehende Schadensersatzansprüche geltend zu machen, und unbeschadet des Rechts der Darlehensnehmerin, das Vorliegen eines geringeren Verzugschadens nachzuweisen.
- (3) Sofern eine Zinszahlung bei Fälligkeit nicht bis 14:00 Uhr (Münchener Zeit) auf das Konto der Zahlstelle erbracht wird, ist die Zahlstelle nicht verpflichtet, die fälligen Beträge taggleich an die Darlehensgeberin weiterzuleiten. Die Darlehensgeberin hat das Recht auf den Ersatz des durch den Verzug entstandenen Schadens.
- (4) Zahlungen der Darlehensnehmerin werden in der in § 367 Abs. 1 BGB vorgesehenen Reihenfolge auf die fälligen Beträge angerechnet. Sollten im Fall einer vollständigen oder teilweisen Übertragung gemäß § 9 die Zahlungen der Darlehensnehmerin nicht ausreichen, um einen bestimmten fälligen Betrag vollständig zu tilgen, werden die Zahlungen der Darlehensnehmerin anteilig im Verhältnis ihres jeweiligen Anteils am Darlehen auf die Darlehensgeberinnen verteilt.

(2) In the event a Change of Control has occurred, each Lender shall be entitled to terminate the respective aggregate amount in the Loan attributable to that Lender in writing to the Borrower (copy to the Paying Agent) together with interest accrued to the date fixed for prepayment on giving not less than thirty (30) days' notice. Such notice will be irrevocable and must specify the date fixed for prepayment.

#### **§ 4 Payments, Paying Agent**

- (1) The Borrower irrevocably undertakes to pay, as and when due, any sum of principal or interest owed under the Loan Agreement in [Euro/USD] to the account of the Paying Agent by 14:00 (Munich time).
- (2) If any sum of principal is not paid to and available on the account of the Paying Agent by 14:00 (MEZ/CET) when due, the Paying Agent shall not be obliged to forward the due amount to the Lender on the same day. The respective sum shall bear interest from (and including) the due date to (but excluding) the date of actual payment of the sum overdue at a rate of 1 per cent per annum above the rate of interest applicable to the Loan on the respective due date without prejudice to the right of the Lender to claim any further damages and without prejudice to the right of the Borrower to present evidence that the loss due to the late payment was less.
- (3) If an interest payment is not made to the account of the Paying Agent by 14:00 (Munich time) when due, the Paying Agent shall not be obliged to forward the due amount to the Lender on the same day. The Lender has the right to demand indemnification for the loss caused by the delay in payment.
- (4) Payments by the Borrower shall be applied in the sequence provided for in section 367 para. 1 of the German Civil Code (*BGB*) to the amounts falling due. If, in the event of a full or partial transfer of the contractual position pursuant to § 9, the payments by the Borrower are not sufficient to fully redeem any given amount due, the payments of the Borrower shall be distributed among the Lenders on a pro rata basis in conformity with their relevant participations in the Loan.

- (5) Vorbehaltlich der Regelungen in § 9 (1) tritt die Erfüllungswirkung gegenüber der Darlehensgeberin erst ein, wenn die betreffenden Zahlungen ihr zugegangen oder auf einem von ihr benannten Konto gutgeschrieben sind.
- (6) Mit einer gesonderten Vereinbarung hat die Darlehensnehmerin die Bayerische Landesbank beauftragt, die Funktionen einer Zahlstelle (die Bayerische Landesbank wird hinsichtlich dieser Aufgaben als „Zahlstelle“ bezeichnet) zu übernehmen. Die Zahlstelle wird diese Funktionen nach Maßgabe der Zahlstellenvereinbarung vom 19. Juni 2017 ausüben. Die Darlehensnehmerin ist berechtigt, jederzeit ein anderes Kreditinstitut in der Bundesrepublik Deutschland, der Schweiz oder der Europäischen Union (und nach dem Austritt aus der Europäischen Union auch im Vereinigtes Königreich) mit der Wahrnehmung der Funktion der Zahlstelle zu beauftragen, sofern sie dies der Zahlstelle (mit Kopie an die Darlehensgeberin) zwei Wochen vor dem geplanten Wechsel schriftlich anzeigt. Wenn in diesem Darlehensvertrag auf die „Zahlstelle“ verwiesen wird, gilt jedes weitere als Zahlstelle eingesetzte Kreditinstitut als in diesen Verweis eingeschlossen.
- (7) Die Zahlstelle handelt in Bezug auf den Schuldschein im Auftrag der Darlehensnehmerin als Verwahrungstreuhänder für die Darlehensgeberin (entsprechend ihrem jeweiligen Anteil am Darlehen). Die treuhänderische Verwahrung des Schuldscheins durch die Zahlstelle endet mit der Rückzahlung des jeweiligen Anteils am Darlehen. Im Übrigen handelt die Zahlstelle ausschließlich als Beauftragte der Darlehensnehmerin und übernimmt keine Verpflichtungen gegenüber der jeweiligen Darlehensgeberin und es wird kein Auftrags- oder Treuhandverhältnis zwischen ihr und der jeweiligen Darlehensgeberin begründet.
- (5) Subject to the rules in § 9 para. 1, fulfilment in relation to the Lender shall only occur once it receives the relevant payments or these are credited to an account it has designated.
- (6) By a separate agreement, the Borrower has mandated Bayerische Landesbank to exercise the role of paying agent (Bayerische Landesbank shall hereinafter be referred to as “**Paying Agent**” with respect to the duties in connection with this role). The Paying Agent shall exercise this role in accordance with the paying agency agreement dated as of June 19<sup>th</sup>, 2017. The Borrower may at any time mandate another Credit Institution in the Federal Republic of Germany, Switzerland or the European Union (and following its exit from the European Union, the United Kingdom) to exercise the role of Paying Agent provided the Borrower informs the Paying Agent (with copy to the Lender) in writing two weeks in advance of the planned change. Any reference in this Loan Agreement to the “Paying Agent” shall include any further Credit Institutions that exercise the role of Paying Agent.
- (7) By order of the Borrower the Paying Agent acts as custodian for the Lenders (according to their respective partial amount of the Loan) with regard to the original certificate of Indebtedness (Schuldschein). The custodianship of the Paying Agent shall end once the Lender’s respective partial amount of the Loan has been repaid. Besides that the Paying Agent acts solely as agent of the Borrower and does not have any obligations towards or relationship of agency or trust to any Lender.

## § 5 Steuern

## § 5 Taxes

- (1) Alle gemäß diesem Darlehensvertrag von der Darlehensnehmerin zu leistenden Kapital- und Zinszahlungen sind ohne Einbehalt oder Abzug von oder aufgrund von Steuern oder ähnlichen Abgaben jeglicher Art zu leisten, die derzeit oder künftig im oder für den Sitzstaat der Darlehensnehmerin oder von einer dortigen Behörde auferlegt oder erhoben werden (die „**Quellensteuern**“), es sei denn, diese sind gesetzlich vorgeschrieben. Sofern die Darlehensnehmerin gesetzlich verpflichtet ist, derartige Einbehaltungen oder Abzüge - abgesehen von FATCA - vorzunehmen, wird sie diejenigen zusätzlichen Beträge zahlen (die „**Zusätzlichen Beträge**“), die erforderlich sind, damit die Darlehensgeberin netto die gleichen Beträge erhält, die sie ohne eine solche Einbehaltung oder einen solchen Abzug als Kapital- und Zinszahlungen aus dem Darlehensvertrag erhalten hätte.
- (2) Falls der Darlehensgeberin Umstände bekannt werden, die dazu führen, dass die Darlehensnehmerin gemäß § 5 (1) des Darlehensvertrags Zusätzliche Beträge schuldet, informiert die Darlehensgeberin die Darlehensnehmerin hierüber unverzüglich, ohne dass dadurch die in § 5 (1) beschriebenen Verpflichtungen der Darlehensnehmerin in irgendeiner Weise eingeschränkt würden. Die Darlehensgeberin wird dann in Absprache mit der Darlehensnehmerin solche ihr zumutbaren Schritte unternehmen, um die Wirkungen der genannten Umstände zu vermeiden oder zu vermindern, wobei (i) sie nicht verpflichtet ist, Schritte zu unternehmen, die nach ihrer vernünftigen Einschätzung für sie nachteilig sein könnten und (ii) ihr etwaige Kosten für gemäß § 5 (2) dieses Darlehensvertrages unternommene Schritte von der Darlehensnehmerin zu erstatten sind.
- (1) All payments of principal and interest under the Loan Agreement by the Borrower shall be made without deduction or withholding for, or on account of, any present or future taxes or similar duties of whatever nature imposed or levied by or on behalf of the country where the Borrower has its legal seat or any governmental authority there (“**Withholding Taxes**”) unless such deduction or withholding is required by law. If the Borrower is required by law to make such withholding or deduction other than FATCA, then the Borrower shall pay such additional amounts (the “**Additional Amounts**”) as may be necessary in order that the net amounts received by the Lender after such deduction or withholding shall equal the respective amounts of principal and interest which would have been receivable under the Loan Agreement in the absence of such deduction or withholding.
- (2) If a Lender becomes aware of circumstances resulting in Additional Amounts to be owed by the Borrower pursuant to § 5 para. 1 of this Loan Agreement, such Lender – without prejudice to the Borrower’s obligations pursuant to § 5 para. 1 of this Loan Agreement – shall inform the Borrower about the aforementioned circumstances without undue delay. The relevant Lender shall, in cooperation with the Borrower, take all reasonable steps to mitigate or avoid the consequences of the aforementioned circumstances whereas (i) the relevant Lender shall not be obliged to take any steps which such Lender determines in its reasonable discretion to be detrimental and (ii) the Borrower shall reimburse any costs incurred by such Lender due to any steps taken to § 5 para. 2 of this Loan Agreement.

Darlehensvertrags ergriffen hat) und (ii) die Darlehensnehmerin daher gemäß § 5 (1) dieses Darlehensvertrages verpflichtet ist, Zusätzliche Beträge zu zahlen, ist die Darlehensnehmerin berechtigt, das Darlehen gegenüber der Darlehensgeberin unter Einhaltung einer Kündigungsfrist von mindestens dreißig (30) Tagen zum Gesamtnennbetrag oder zum jeweiligen Anteil der Darlehensgeberin am Gesamtnennbetrag, jeweils zuzüglich bis zum vorzeitigen Rückzahlungstag aufgelaufener Zinsen, zurückzuzahlen.

Eine solche vorzeitige Kündigung darf jedoch nicht früher als neunzig (90) Kalendertage vor dem Zeitpunkt erfolgen, an dem die Darlehensnehmerin erstmals gemäß § 5 (1) dieses Darlehensvertrages verpflichtet wäre, Zusätzliche Beträge zu zahlen.

Die vorzeitige Kündigung gemäß diesem § 5 (3) erfolgt schriftlich gegenüber der Darlehensgeberin (über die Zahlstelle). Sie ist unwiderruflich und muss den vorzeitigen Rückzahlungstag ausweisen. Die Zahlstelle wird die Darlehensgeberinnen unverzüglich über die vorzeitige Kündigung unterrichten. Die Darlehensnehmerin hat an die Darlehensgeberin gegebenenfalls eine

- (4) Soweit die Darlehensnehmerin zum Einbehalt und zur Abführung nach FATCA verpflichtet ist, ist sie berechtigt, diesbezüglich anfallende Beträge von der Bruttovergütung zu Lasten der Darlehensgeberin einzubehalten und an die zuständige Behörde abzuführen, ohne hierfür einen Ausgleich an die von einem solchen Einbehalt oder Abzug betroffene Darlehensgeberin zahlen zu müssen.

Für Zwecke dieses Absatzes bedeutet „**FATCA**“ (i) die Paragraphen 1471 bis 1474 des US Internal Revenue Code von 1986, in ihrer jeweils gültigen Fassung, einschließlich verbundener Vorschriften oder offizieller Richtlinien; (ii) jede nachfolgende Fassung der oben genannten Paragraphen, die im Wesentlichen damit vergleichbar ist; (iii) einen Vertrag, ein Gesetz, eine Vorschrift oder andere offizielle Richtlinie, die in einer anderen Rechtsordnung in Kraft getreten ist oder sich auf einen Staatsvertrag zwischen den Vereinigten Staaten und einer anderen Rechtsordnung bezieht, die in jedem Fall der Umsetzung der vorstehenden Abschnitte (i) und (ii) dient; oder (iv) eine Vereinbarung mit dem US Internal Revenue Service, der Regierung der Vereinigten Staaten oder einer Regierungs- oder Finanzbehörde einer anderen Rechtsordnung zur Umsetzung der vorstehenden Abschnitte (i) bis (iii).

Agreement) and (ii) the Borrower is obliged to pay Additional Amounts pursuant to § 5 para. 1 of this Loan Agreement, the Borrower shall be entitled to repay the Loan on giving not less than (30) days' notice, either at the aggregate principal amount thereof or at the partial amount of the aggregate principal amount of such Lender, in each case with interest accrued to the date fixed for prepayment.

Any such notice of prepayment shall not be effected earlier than ninety (90) days prior to the date on which the Borrower first becomes obliged to pay Additional Amounts pursuant to § 5 para 1.

Any such notice of prepayment in accordance with this § 5 para. 3 shall be given in writing and shall be addressed to the Lender (via the Paying Agent). Such notice will be irrevocable and must specify the date fixed for prepayment. The Paying Agent shall immediately inform the Lenders about such notice of prepayment. The Borrower will pay a Prepayment Indemnity, if any.

- (4) If the Borrower is required by FATCA to deduct and withhold any amounts, the Borrower shall be entitled to deduct such amounts due from the gross remuneration at the expense of the Lender and shall pay such amounts to the competent taxing authority without being required to pay any compensation to the Lender affected by such deduction or withholding.

For purposes of this section, “**FATCA**” means (i) sections 1471 to 1474 of the US Internal Revenue Code of 1986, as amended, or any associated regulations or other official guidance thereunder; (ii) any successor version thereof that is substantially comparable; (iii) any treaty, law, regulation or other official guidance enacted in any other jurisdiction, or relating to an intergovernmental agreement between the United States and any other jurisdiction, which (in either case) facilitates the implementation of the preceding sections (i) and (ii); or (iv) any agreement for the purposes of the implementation of the preceding sections (i) to (iii) with the US Internal Revenue Service, the United States government or any governmental or taxation authority in any other jurisdiction.

Zur Klarstellung: Vorauszahlungen der Darlehensgeberin auf die Einkommens- oder Körperschaftsteuer wie die deutsche Abgeltungssteuer und die Zinsertragssteuer sind keine Quellensteuern im Sinne der obigen Bestimmung.

*For the avoidance of doubt: any prepayments on the income or corporate income tax made by the Lender such as the German flat rate interest tax (Abgeltungssteuer and Zinsertragssteuer) do not constitute withholding taxes within the meaning of the provision above.*

#### **§ 6 Erhöhte Kosten**

Falls aufgrund einer nach dem Datum dieses Darlehensvertrages erfolgenden Einführung eines Gesetzes oder einer sonstigen Vorschrift bzw. einer Änderung der Anwendung oder Auslegung eines Gesetzes oder einer sonstigen Vorschrift durch eine zuständige Behörde oder des Einhaltens eines Gesetzes oder einer sonstigen Vorschrift (mit Ausnahme solcher Gesetze oder Vorschriften, die am Datum dieses Darlehensvertrages in Kraft waren und von der Darlehensgeberin zum Datum dieses Darlehensvertrages nicht eingehalten wurden) (a) sich die Kosten der Darlehensgeberin für die Gewährung oder Fortführung des Darlehens wesentlich erhöhen oder (b) sich die Erträge aus dem Darlehen oder die Rendite des Darlehens in Relation zum Eigenkapital der Darlehensgeberin vermindern, so treten die Darlehensgeberin und die Darlehensnehmerin in Verhandlungen mit dem Ziel, eine für beide Parteien akzeptable Lösung zu finden.

#### **§ 7 Negativklausel, Rang (*pari passu*)**

#### **§ 6 Increased Costs**

If – after the date hereof – by reason of introduction or change of the interpretation or application by the respective competent authority with respect to any law or regulation or compliance with any law or regulation (except for such laws and regulations which have been in force as of the date of this Loan Agreement and with which the respective Lender was not in compliance as of the date hereof), there is (a) any substantial increase in the costs for a Lender to fund or maintain the Loan or (b) a reduction in the rate of return on the Loan or a decrease in the net return on the Loan in relation to the equity of the respective Lender, then the affected Lender and the Borrower shall enter into negotiations with the aim of finding a mutually acceptable solution for the Parties.

#### **§ 7 Negative Pledge, Status (*pari passu*)**

Vermögenswertes durch ein Konzernmitglied erhöht wurde, und

(C) die Sicherheit innerhalb von 6 Monaten ab dem Kauf dieses Vermögenswertes aufgehoben oder freigegeben wird;

(v) Sicherheiten im Kontext von Rahmenverträgen für Finanztermingeschäfte, die im normalen Geschäftsgang zwischen Konzernmitgliedern und Finanzinstituten begründet werden, wobei gilt, dass das Sicherungsrecht nur die von einer der beiden Transaktionsparteien zahlbare Differenz nach Aufrechnung der gegenseitigen Forderungen absichert;

(vi) Barsicherheiten, die als Tilgung einer Nebenfazilität gewährt wurden;

(vii) Barsicherheiten, die im Rahmen eines öffentlichen Übernahmeangebots für Aktien (oder andere aktiengebundene Wertpapiere) ausschließlich zum Zweck der Besicherung der Zahlungsverpflichtung gestellt wurden, (oder eine Bankgarantie für diese Zahlungsverpflichtung), in Fällen, in denen der Markt ein solches Verfahren in seinen jeweiligen Übernahmegesetzen fordert; und

(viii) Sicherheiten im Zusammenhang mit jeglicher Vereinbarung, bei der ein Konzernmitglied jegliche marktgängige Wertpapiere zu Bedingungen verkauft, die einen Rückkauf durch das Konzernmitglied innerhalb eines Zeitraums von bis zu sechs (6) Monaten ab Verkaufsdatum vorsehen bzw. ermöglichen (eine „**Rückkaufvereinbarung**“), vorausgesetzt

(A) der Nennbetrag aller von der Rückkaufvereinbarung betroffenen Wertpapiere,

(B) der ausstehende Nennbetrag aller verkauften Forderungen zu Asset-Backed-Securities-Transaktionen; und

(C) der Marktwert der Vermögenswerte aus Sale-and-lease-back-Transaktionen

liegt insgesamt jederzeit bei maximal 10 % der Konzernbilanzsumme der Gruppe (berechnet durch Bezugnahme auf den letzten geprüften Konzernabschluss der Gruppe),

(ix) konzerninterne Sicherheiten zur Besicherung künftiger konzerninterner Darlehen, welche insgesamt einen Betrag von USD 25.000.000 nicht überschreiten,

(x) Sicherheiten, die zur Erfüllung von § 8a Altersteilzeitgesetz oder § 7b oder 7e Sozialgesetzbuch IV bestehen oder begründet wurden,

(xi) Sicherheiten zur Besicherung von Verbindlichkeiten, deren Kapitalbetrag (zusammen mit den Kapitalbeträgen sonstiger Verbindlichkeiten, denen die Sicherheit zu Gute kommt, welche durch ein Konzernmitglied auf andere Weise gestellt wurde, als dies unter den vorstehenden Ziffern (i) bis (x) gestattet ist), zu keinem Zeitpunkt 10% der Konzernbilanzsumme übersteigt.

(v) any Security arising under framework master agreements on derivatives entered into in the ordinary course of business between any member of the Group and any financial institution provided that the encumbrance only secures the difference payable by either party of the transaction after netting of the mutual claims;

(vi) any cash cover granted as repayment of an ancillary facility;

(vii) any cash cover created solely for the purpose of securing the payment obligation (or the bank guarantee for such payment obligation) under a public tender offer for shares (and other equity linked securities), in a market which requires such process in its respective take-over code; and

(viii) any Security created in connection with any arrangement by which a member of the Group disposes of any marketable securities on terms whereby they are or may be re-acquired by such member of the Group (a “**Repurchase Arrangement**”) within a period not exceeding six (6) months from the date of the disposal, provided that:

(A) the principal amount of all securities subject to Repurchase Arrangements;

(B) the outstanding principal amount of all receivables sold with respect to asset-backed securities transactions; and

(C) the aggregate market value of assets subject to sale-and lease-back transactions shall, when aggregated, not exceed 10 per cent. of consolidated total assets of the Group (as calculated by reference to the most recent audited consolidated financial statements of the Group) at any time;

(ix) any intra-group Security securing future inter-company loans not exceeding in aggregate an amount USD 25,000,000;

(x) any Security existing or created in order to comply with Article 8a of the German Partial Retirement Act (*Altersteilzeitgesetz*) or Article 7b or 7e of the German Social Security Code IV (*Sozialgesetzbuch IV*);

(xi) any Security securing indebtedness the principal amount of which (when aggregated with the principal amount of any other indebtedness which has the benefit of Security given by any member of the Group other than as permitted under paragraphs (i) to (x) above) does not exceed 10% of consolidated total assets at any time.

(2) Die Darlehensnehmerin sichert zu, dass ihre Zahlungspflichten aus diesem Darlehensvertrag während der gesamten Laufzeit dieses Darlehensvertrages mit allen anderen gegenwärtigen und zukünftigen unbesicherten und nicht nachrangigen Zahlungsverpflichtungen der Darlehensnehmerin im gleichen Rang stehen (*pari passu*). Ausgenommen hiervon sind Zahlungsverpflichtungen, deren vorrangige Bedienung sich aus zwingenden, allgemein anwendbaren Gesetzen, gesetzlichen Vorschriften oder Verwaltungsvorschriften oder im Zusammenhang mit nationalen oder lokalen Steuervorschriften ergibt.

(2) The Borrower shall ensure that for the term of this Loan Agreement, its payment obligations under this Loan Agreement will rank *pari passu* with all other present and future, unsecured and unsubordinated payment obligations of the Borrower. This shall not apply to payment obligations whose prior servicing results from mandatory, generally applicable laws or regulations or governmental requirements or in the connection with national or local tax laws or regulations.

#### § 8 Außerordentliche Kündigung

- (1) Die Darlehensgeberin ist berechtigt, ihre Darlehensforderung fristlos zu kündigen und die sofortige Rückzahlung der jeweiligen Darlehensforderung und der aufgelaufenen Zinsen zu verlangen, wenn
- (a) die Darlehensnehmerin Zinsen oder Kapital nicht am jeweiligen Fälligkeitstag zahlt, es sei denn die Nichtzahlung beruht auf technischen oder sonstigen administrativen Gründen außerhalb der Kontrolle der Darlehensnehmerin und wird innerhalb von fünf (5) Bankarbeitstagen nachgeholt, oder
- (b) die Darlehensnehmerin sonstige wesentliche Verpflichtungen aus diesem Darlehensvertrag nicht erfüllt und diese Nichterfüllung nicht innerhalb eines Zeitraums von fünfzehn (15) Bankarbeitstagen nach entsprechender Benachrichtigung der Darlehensnehmerin durch die Darlehensgeberin behoben wird, oder

#### § 8 Events of Default

- (1) A Lender shall be entitled to declare its respective claim under the Loan by extraordinary termination and demand immediate repayment of the respective claim under the Loan together with interest accrued if
- (a) the Borrower fails to pay interest or principal on the relevant due date unless such non-payment results from technical or other administrative reasons beyond the control of the Borrower and is not remedied within five (5) Banking Days; or
- (b) the Borrower fails to perform any other material obligation under this Loan Agreement and such failure is not remedied within fifteen (15) Banking Days after notice thereof has been given by the Lender to the Borrower; or

- (c) (i) Finanzverbindlichkeiten der Darlehensnehmerin und/oder einer ihrer Wesentlichen Tochtergesellschaften über insgesamt mehr als USD 30 Mio. bei Fälligkeit oder nach Ablauf einer in den Bedingungen des betreffenden Instruments dieser Finanzverbindlichkeiten enthaltenen Nachfrist nicht gezahlt werden, oder (ii) eine Finanzverbindlichkeit der Darlehensnehmerin oder einer ihrer Wesentlichen Tochtergesellschaften, deren Gesamtbetrag USD 30 Mio. überschreitet, vorzeitig fällig gestellt oder auf andere Weise vor ihrer eigentlich bestimmten Fälligkeit auf Grund eines wie auch immer bezeichneten Kündigungsgrundes vorzeitig fällig wird, oder (iii) eine Finanzierungszusage an die Darlehensnehmerin oder eine ihrer Wesentlichen Tochtergesellschaften wegen eines (wie auch immer gearteten) Kündigungsgrundes storniert oder ausgesetzt wird, oder
- (d) die Darlehensnehmerin oder eine ihrer Wesentlichen Tochtergesellschaften zahlungsunfähig ist oder einräumt, zahlungsunfähig zu sein, ihre Zahlungen für Verbindlichkeiten einstellt oder aufgrund von tatsächlichen oder erwarteten finanziellen Schwierigkeiten Verhandlungen mit einem oder mehreren ihrer Gläubiger im Hinblick auf eine generelle Neuordnung oder Umschuldung ihrer Verbindlichkeiten beginnt oder eine Abtretung oder einen Vergleich zugunsten ihrer Gläubiger abschließt, oder
- (e) ein zuständiges Gericht ein Insolvenzverfahren über das Vermögen der Darlehensnehmerin oder einer Wesentlichen Tochtergesellschaft eröffnet, ein solches Verfahren eingeleitet und nicht innerhalb von sechzig (60) Tagen aufgehoben oder ausgesetzt worden ist oder die Darlehensnehmerin oder die Wesentliche Tochtergesellschaft die Eröffnung eines solchen Verfahrens beantragt oder einleitet, oder
- (f) die Darlehensnehmerin oder eine Wesentliche Tochtergesellschaft in Liquidation tritt, es sei denn, es handelt sich um eine freiwillige Liquidation, oder
- (g) ein Sicherungsnehmer die Gesamtheit oder einen wesentlichen Teil des Vermögens (insgesamt mindestens im Wert von USD 2,5 Mio.) oder des Geschäftsbetriebes der Darlehensnehmerin oder einer Wesentlichen Tochtergesellschaft übernimmt, oder ein Zwangsverwalter dafür bestellt wird, oder
- (c) (i) Financial Indebtedness of the Borrower and/ or of any of its Principal Subsidiaries, the aggregate amount of which exceeds USD 30 million, is not paid when due or after the end of any grace period contained in the terms of the relevant Financial Indebtedness instrument, or (ii) any Financial Indebtedness of the Borrower or of any of its Principal Subsidiaries, the aggregate amount of which exceeds USD 30 million, is declared or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described), or (iii) any financing commitment in favour of the Borrower or any of its Principal Subsidiaries is cancelled or suspended as a result of an event of default (however described); or
- (d) the Borrower or any of its Principal Subsidiaries is unable or admits its inability to pay its debts as they fall due, suspends making payments on its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to the general readjustment or rescheduling of its indebtedness or makes an assignment for the benefit of or a composition with its creditors; or
- (e) a competent court opens insolvency proceedings against the Borrower's or a Principal Subsidiaries' assets, such proceedings are instituted but not discharged or stayed within sixty (60) days, or the Borrower or the Principal Subsidiary applies for or institutes such proceedings; or
- (f) the Borrower or a Principal Subsidiary goes into liquidation other than a voluntary liquidation; or
- (g) any secured party takes possession of all or material parts of the assets having an aggregate value equal to or greater than USD 2.5 million or the operations of the Borrower or of any Principal Subsidiary, or an administrative receiver for those assets or operations is appointed; or



- (h) die Darlehensnehmerin oder eine ihrer Wesentlichen Tochtergesellschaften ihre Geschäftstätigkeit ganz oder im Wesentlichen einstellt, sofern diese nicht auf eine andere Tochtergesellschaft der Darlehensnehmerin übertragen wird, oder
- (i) eine Verschmelzung der Darlehensnehmerin auf einen anderen Rechtsträger oder eine Übertragung sämtlicher oder im Wesentlichen sämtlicher Vermögenswerte auf einen anderen Rechtsträger stattfindet, es sei denn, dass (i) dieser andere Rechtsträger, ein Unternehmen mit Sitz in einem Mitgliedstaat der Europäischen Union (und nach seinem Austritt aus der Europäischen Union auch im Vereinigten Königreich), der Schweiz oder den Vereinigten Staaten von Amerika ist, welches aufgrund einer Vereinbarung oder kraft Gesetz sämtliche Verpflichtungen der Darlehensnehmerin aus diesem Darlehensvertrag übernommen hat, und (ii) die wirtschaftliche oder finanzielle Lage dieses anderen Rechtsträgers nicht schlechter ist, als die der Darlehensnehmerin zum Zeitpunkt des Eintritts dieses Ereignisses, oder
- (j) eine Wesentliche Nachteilige Änderung eingetreten ist, oder
- (k) die Darlehensnehmerin einzelne Positionen ihres Anlagevermögens auf einen Dritten überträgt oder übereignet. Dies gilt nicht für Übertragungen und Übereignungen
- (aa) von Vermögenswerten im gewöhnlichen Geschäftsgang zu marktüblichen Konditionen,
- (bb) von Vermögenswerten eines Konzernmitglieds zu Gunsten eines anderen Konzernmitglieds,
- (cc) von Forderungen im Rahmen von Asset-Backed Securities-Transaktionen, soweit der ausstehende Kapitalbetrag der von der Darlehensnehmerin durchgeführten Transaktionen in keinem ihrer Geschäftsjahre insgesamt 15 Prozent der Konzernbilanzsumme übersteigt,
- (dd) von Forderungen im Rahmen von marktüblichen Sale-and-Lease-back-Transaktionen, soweit der ausstehende Kapitalbetrag der von der Darlehensnehmerin durchgeführten Transaktionen in keinem ihrer Geschäftsjahre insgesamt 15 Prozent der Konzernbilanzsumme übersteigt,
- (h) the Borrower or any Principal Subsidiary ceases its business operations in whole or in material parts thereof unless such business is transferred to another Subsidiary of the Borrower; or
- (i) the Borrower is merged into another entity or all or substantially all of its assets are conveyed or transferred to another entity, unless (i) the entity is a corporation domiciled in a member state of the European Union (and following its exit from the European Union, the United Kingdom), Switzerland or the United States of America which assumes all obligations of the Borrower under this Loan Agreement either by an agreement or by operation of law, and (ii) the economic and financial situation of such entity is not less sound than that of the Borrower at the time of the occurrence of such event; or
- (j) a Material Adverse Change has occurred; or
- (k) the Borrower transfers or conveys individual items of its fixed assets to another person or entity. This does not apply to any transfers or conveys:
- (aa) of assets made at arm's length in the ordinary course of business;
- (bb) of any asset by a member of the Group to another member of the Group;
- (cc) of receivables under asset backed securities transactions, where the aggregated outstanding principal amount of the Borrower's transactions does not exceed 15 per cent. of consolidated total assets in any of the Borrower's financial years;
- (dd) of receivables under sale and leaseback transactions under normal commercial terms where the aggregated outstanding principal amount of the Borrower's transactions does not exceed 15 per cent. of consolidated total assets in any of the Borrower's financial years;

- (ee) von eigenen Aktien der Darlehensnehmerin, für die der Marktwert erhalten wurde oder im Kontext einer Aktienoption, eines Pensionsplans oder der Ausgabe von Belegschaftsaktien an Mitarbeiter und leitende Angestellte der Darlehensnehmerin oder einer ihrer Tochtergesellschaften,
- (ff) die mit vorheriger schriftlicher Zustimmung der Darlehensgeberin erfolgen,
- (gg) von abgenutzten oder verschlissenen Vermögenswerten,
- (hh) im Rahmen einer Sicherheitenbestellung, die gemäß § 7 (1) (Negativklausel) zulässig ist,
- (ii) deren Erlös (abzüglich branchenüblicher Transaktionskosten) im Rahmen des Gesellschaftszwecks reinvestiert wird oder zur Rückzahlung von Finanzverbindlichkeiten verwendet wird oder als Liquidität in der Gruppe verbleibt,
- (jj) von Vermögenswerten, deren Buchwert (oder, im Falle einer Veräußerung von Anteilen an einem Konzernmitglied, deren relativer Wert in Prozent der Konzernbilanzsumme, wie im jeweils letzten konsolidierten Konzernabschluss der Darlehensnehmerin ausgewiesen), addiert mit dem Buchwert aller sonstigen veräußerten Vermögenswerte (ausgenommen die nach Absatz (aa) bis (ff) zulässigen), in keinem Geschäftsjahr der Darlehensnehmerin 30 Prozent ihrer Konzernbilanzsumme überschreitet.
- (2) Die Darlehensnehmerin wird die Zahlstelle unverzüglich schriftlich über alle Angelegenheiten, die zu einem in § 8 (1) aufgeführten außerordentlichen Kündigungsgrund führen könnten benachrichtigen und die Zahlstelle wird unverzüglich die Darlehensgeberin entsprechend benachrichtigen. Kündigungen sind der Darlehensnehmerin schriftlich mit Kopie an die Zahlstelle zuzuleiten. Sollte das Darlehen ganz oder teilweise vorzeitig aus den in diesem § 8 (1) genannten Gründen gekündigt werden, ist die Darlehensnehmerin gegebenenfalls zur Zahlung einer Vorfälligkeitsentschädigung verpflichtet.
- (ee) of treasury shares of the Borrower for which fair value is received or in the context of stock option, pension plan or incentives programmes for employees and directors of the Borrower or any of its Subsidiaries;
- (ff) made with the prior written consent of the Lender;
- (gg) of worn-out assets;
- (hh) constituting Security permitted under § 7 para. 1 (Negative Pledge);
- (ii) where the proceeds of such transfers or conveys (less customary transaction costs) are reinvested for the corporate purpose or used for repayment of Financial Indebtedness or remains within the Group as liquid funds.
- (jj) of assets whose book value (or, in the case of a disposal of shares in a Group member, the value of the shares to be sold as a percentage of the consolidated group assets as shown in the Borrower's most recent consolidated financial accounts), when aggregated with the book value of all other assets disposed of (other than any of those permitted under paragraphs (aa) to (ff)) does not exceed 30 per cent of the Borrower's consolidated total assets in any of the Borrower's financial years.
- (2) The Borrower shall promptly notify the Paying Agent in writing who in turn will promptly inform the Lender on all matters which could lead to an event of default as set out in § 8 para. 1. Notices of termination have to be provided in writing to the Borrower with a copy to the Paying Agent. If the Loan is terminated prematurely in whole or in part for any reason set out in § 8 para. 1, the Borrower shall be obliged to pay a Prepayment Indemnity, if any.

- (3) Ungeachtet der Bestimmungen des § 314 BGB finden die Bestimmungen von § 490 Abs. 1 BGB keine Anwendung.
- (3) Notwithstanding the provisions of section 314 of the German Civil Code (BGB), the provisions of section 490 (1) of the German Civil Code (BGB) shall not apply.

## § 9 Übertragung

(1) Die Darlehensgeberin kann ihre vertraglichen Rechte und Pflichten aus dem Darlehensvertrag ganz oder in Teilbeträgen von mindestens [EUR/USD] 500.000,00 und darüber hinaus in ganzen Vielfachen des Betrages von [EUR/USD] 500.000,00 an einen Dritten im Wege der Vertragsübernahme übertragen. [Ausnahmsweise kann das Kreditinstitut, an das die vertraglichen Rechte und Pflichten übertragen werden, seinen Sitz in Taiwan haben.]

(a) Im Falle der erstmaligen Ausplatzierung durch die Anfängliche Darlehensgeberin gilt Folgendes:

- (i) Die Übertragung der vertraglichen Position an eine Darlehensgeberin, welche nicht unter die Definition des Dritten fällt oder an eine Privatperson ist unzulässig. Ebenso ist eine Unterbeteiligung an der vorgenannten vertraglichen Position nicht zulässig.
- (ii) Die Übertragung erfolgt gemäß einer von der Anfänglichen Darlehensgeberin zu erstellenden Geschäftsbestätigung, die von der eintretenden Darlehensgeberin gegenzuzeichnen ist. Die Zahlstelle wird die Darlehensnehmerin über jeden Übertragungsvorgang ohne schuldhaftes Zögern informieren.

(b) Für alle weiteren Übertragungsvorgänge gilt das Folgende:

- (i) An eine Darlehensgeberin, die nicht unter die Definition des Dritten fällt, ist eine Übertragung der vertraglichen Position nur mit vorheriger schriftlicher Zustimmung der Darlehensnehmerin (mit Kopie an die Zahlstelle) zulässig. Eine Übertragung an Privatpersonen sowie eine Unterbeteiligung an der vorgenannten vertraglichen Position ist nicht zulässig.

## § 9 Transfer

(1) The Lender may transfer its contractual position hereunder in full or in partial amounts of at least [EUR/USD] 500,000.00 and in whole multiples of [EUR/USD] 500,000.00 above that - to a Third Party by way of assumption of contract. [Exceptionally, the Credit Institution, to whom the contractual position is transferred, may be located in Taiwan.]

(a) In connection with the initial placement of the contractual position by the Initial Lender the following shall apply:

- (i) The transfer of the contractual position to a Lender which does not meet the definition of a Third Party or to a private individual or a sub-participation in the contractual position referred to above is not permitted.
- (ii) The transfer will be effected by a confirmation of transaction (*Geschäftsbestätigung*) to be issued by the Initial Lender and countersigned by the joining Lender. The Paying Agent shall inform the Borrower with respect to each transfer without undue delay.

(b) For all following transfers of the contractual position the following shall apply:

- (i) The transfer of the contractual position to a Lender which does not meet the definition of a Third Party is only permitted with the prior written consent of the Borrower (copy to the Paying Agent). A transfer to a private individual or a sub-participation in the contractual position referred to above is not permitted.

- (ii) Die Übertragung wird zu dem im Übertragungszertifikat (Anlage 3) genannten Übertragungsdatum wirksam, vorausgesetzt, die Zahlstelle hat ein ordnungsgemäß ausgefülltes und ausgefertigtes Übertragungszertifikat erhalten. Die Zahlstelle wird die Darlehensnehmerin über jeden Übertragungsvorgang ohne schuldhaftes Zögern durch Vorlage einer Kopie des entsprechenden Übertragungszertifikats informieren.
- (iii) Für den Fall, dass die Zahlstelle das Übertragungszertifikat weniger als fünf (5) Bankarbeitstage vor einem Zinszahlungstag erhalten hat, hat eine Zahlung der Darlehensnehmerin an die ausscheidende Darlehensgeberin gegenüber der eintretenden Darlehensgeberin im Umfang der geleisteten Zahlung schuldbeitfreiende Wirkung.
- (2) Folge einer Übertragung ist, dass die Rechtsstellung einschließlich sämtlicher bestehender Rechte und Pflichten der insoweit ausscheidenden Darlehensgeberin aus diesem Darlehensvertrag in dem Umfang, in dem übertragen wird, auf die eintretende Darlehensgeberin übergeht. Die Übertragung bewirkt, dass der bestehende Darlehensvertrag im Umfang der jeweiligen Übertragung unverändert zwischen den neuen Vertragsparteien fortgesetzt wird.

Vorbehaltlich Absatz (1) (b) (iii) sind im Falle einer vollständigen oder teilweisen Übertragung die Verpflichtungen der Darlehensnehmerin gegenüber einer eintretenden Darlehensgeberin erst dann erfüllt, wenn der Erlös eingeht bzw. deren Konto gutgeschrieben wird.

Des Weiteren verpflichtet sich die ausscheidende Darlehensgeberin, Zahlungen der Darlehensnehmerin, die ab dem Wirksamwerden der Übertragung und hinsichtlich der Zinsen gegebenenfalls zeitanteilig gemäß § 4 (Zahlungen) an sie geleistet werden, unverzüglich an die eintretende Darlehensgeberin weiterzuleiten.

Sofern und soweit eine Übertragung nach diesem § 9 dazu führen würde, dass die Darlehensnehmerin Zusätzliche Beträge oder sonstige erhöhte Kosten nach § 5 zu tragen hätte, so ist die Darlehensnehmerin zur Zahlung dieser Beträge nur insoweit verpflichtet, als diese auch bei einer Zahlung an die ausscheidende Darlehensgeberin angefallen wären, es sei denn die Zusätzlichen Beträge oder Kosten beruhen auf Umständen, die nach der Vertragsübernahme eingetreten sind.

- (ii) Such transfer shall become effective as of the transfer date set forth in the Transfer Certificate (Annex 3), provided that the Paying Agent has received a duly completed and duly executed Transfer Certificate. The Paying Agent shall inform the Borrower with respect to each transfer without undue delay by submitting a copy of the relevant Transfer Certificate.
- (iii) In the event that the Paying Agent receives a Transfer Certificate less than five (5) Banking Days before an Interest Payment Date, any payment made by the Borrower to the resigning Lender shall release the Borrower from its payment obligations to the joining Lender in the amount of such payment.

(2) The result of a transfer is that all of the resigning Lender's rights and obligations under this Loan Agreement are passed over to the joining Lender to the extent that they are transferred. The effect of a transfer is that the existing Loan Agreement remains unchanged in force between the new contract parties to the extent that rights and obligations are transferred.

Subject to subparagraph 1 (b) (iii) the obligations of the Borrower in the event of a complete or partial transfer, shall be fulfilled with regard to a joining Lender only upon the proceeds being received by or credited to its account.

Furthermore the resigning Lender is obliged to promptly pass on any payments which the Borrower makes after a transfer has become effective and in relation to any interest which may have been paid *pro rata temporis* according to § 4 (Payments) to the joining Lender.

If and to the extent that a transfer pursuant to this § 9 would result in the obligation of the Borrower to bear any Additional Amounts or other increased costs pursuant to § 5 hereof, the Borrower shall be obligated to pay such amounts only to such extent as these would have been incurred also in the case of payment to the resigning Lender, unless such Additional Amounts and costs are based on facts having occurred subsequent to the assignment.

- (3) Mit Unterzeichnung dieses Darlehensvertrages erteilt die Darlehensnehmerin ihre vorherige Zustimmung zu jeder im Einklang mit § 9 (1) erfolgten Übertragung. (3) By signing this Loan Agreement, the Borrower grants its prior consent to any such transfer made in compliance with § 9 para. 1.
- (4) Die Darlehensgeberin ist berechtigt, alle Rechte aus diesem Vertrag zum Zwecke der Refinanzierung als Sicherheit auf die Deutsche Bundesbank, Banque Centrale du Luxembourg oder ein anderes Mitglied des europäischen Systems der Zentralbanken, die Schweizerische Nationalbank oder eine Förderbank des Euroraumes zu übertragen. Die Wirksamkeit der Übertragung unterliegt ausdrücklich keinen formalen Anforderungen und keiner Anzeigepflicht an die Darlehensnehmerin. Übertragungen durch eine Zentralbank des Eurosystems oder Förderbank des Euroraumes unterliegen gleichfalls ausdrücklich keinen formalen Anforderungen und keiner Anzeigepflicht an die Darlehensnehmerin. Dies gilt ebenfalls für Rückabtretungen und mit Realisierungsszenarien verbundene Abtretungen unter Beteiligung nationaler Zentralbanken im Eurosystem. Im Fall der Verwertung der vertraglichen Rechte durch eine Zentralbank des Eurosystems unterliegt diese nicht den Beschränkungen von § 9 (1). (4) The Lender shall be authorized to transfer all its claims under this Loan to the Deutsche Bundesbank, Banque Centrale du Luxembourg or any other central bank of the ECB system or to the Swiss National Bank or any eurozone development bank ("Förderbank") as security for refinancing purposes. For the validity of such transfer expressly no formal requirements and obligations to inform the Borrower shall be required. Likewise, in case of such transfers being made by any central bank of the ECB system or eurozone development bank expressly no formal requirements and obligations to inform the Borrower shall be required. This also applies to reassignment and assignments associated with realisation scenarios involving national central banks within the Eurosystem. In case of the liquidation of any rights arising out of this Loan Agreement by any central bank of the ECB system, the restrictions under clause 9 para. 1 shall not apply.
- (5) Im Falle des Eintritts eines der in § 8 (1) genannten außerordentlichen Kündigungsrechte, das noch 20 Bankarbeitstage nach seinem Eintritt fortbesteht, unterliegt die daraufhin erfolgende Übertragung durch Vertragsübernahme keinen der in Abs. (1) genannten Beschränkungen, wenn der Kündigungsgrund zu diesem Zeitpunkt noch fortbesteht. (5) If an event of default giving rise to an extraordinary termination right as set out in Article 8 para. 1 has occurred and is continuing 20 Banking Business Days after its occurrence, a subsequent transfer by way of assumption shall not be subject to any restrictions as set out in this para. 1 if such event of default continues at the time of the transfer.
- (6) Die Darlehensnehmerin ist damit einverstanden, dass in diesem Rahmen die Vertragsdaten einschließlich personenbezogener Daten von Mitarbeitern/Vorstandsmitgliedern an die betreffende Zentralbank oder Förderbank, sowie gegebenenfalls an Dritte, welche die Sicherheit im Falle einer Sicherheitenverwertung erwerben, weitergegeben werden. Dieses Einverständnis erstreckt sich auch auf Veröffentlichungsmaßnahmen (z.B. die Eintragung in ein berechtigten Dritten zugängliches Register), welche zur Bestellung oder zur Aufrechterhaltung der Sicherheit erforderlich sind. (6) The Borrower hereby gives its consent to the forwarding of all information contained in this Loan Agreement including personal data of employees/board members to the respective central bank or development bank for such transfer and, if applicable, to third parties acquiring the security in case of an enforcement of such a security. Such consent shall also extend to measures of publication (e.g. recording the security in a register that authorised third parties have access to) which are necessary for the constitution or consistency of such a security.

**§ 10 Art der Rechte und Verpflichtungen einer Darlehensgeberin § 10 Nature of a Lender's Rights and Obligations**

(1) Die Verpflichtungen einer Darlehensgeberin aus dem Darlehensvertrag sind nicht gesamtschuldnerisch. Keine der Darlehensgeberinnen haftet für die Verpflichtungen einer anderen Darlehensgeberin aus dem Darlehensvertrag.

(2) Die Rechte einer Darlehensgeberin aus diesem Darlehensvertrag sind nicht gesamtgläubigerisch. Die jeweils gemäß diesem Darlehensvertrag einer Darlehensgeberin geschuldeten Beträge stellen eine gesonderte und unabhängige Verbindlichkeit dar, und jede der Darlehensgeberinnen ist berechtigt, ihre Rechte aus diesem Darlehensvertrag unabhängig von einer anderen Darlehensgeberin durchzusetzen.

### § 11 Information

(1) Die Darlehensnehmerin wird die zur Erfüllung der Vorgaben des § 18 Kreditwesengesetz (KWG) erforderlichen Unterlagen und anderen Informationen, die die Darlehensgeberin zur Erfüllung ihrer gesetzlichen Verpflichtungen benötigt, rechtzeitig übermitteln. Die Darlehensnehmerin ist insbesondere verpflichtet, der Zahlstelle während der Laufzeit des Darlehens folgende Dokumente zur Weiterleitung an die Darlehensgeberinnen zur Verfügung zu stellen:

- (a) sobald diese veröffentlicht sind, in jedem Fall aber innerhalb von einhundertachtzig (180) Tagen nach dem Ende des Geschäftsjahrs, den geprüften Konzernjahresabschluss der Darlehensnehmerin, und
- (b) weitere Informationen, die eine Darlehensgeberin zur Erfüllung gesetzlicher Anforderungen angemessenerweise anfordern kann.

(2) Die Verpflichtung zur Offenlegung der Dokumente nach § 11 (1) entfällt, sofern die zur Erfüllung von § 18 KWG oder einer sonstigen gesetzlichen Verpflichtung erforderlichen Dokumente auf der Webseite der Darlehensnehmerin (in speicher- oder druckbarer Weise) frei zugänglich sind.

(1) The obligations of a Lender under this Loan Agreement are not joint and several (*keine gesamtschuldnerische Haftung*). No Lender is liable for the obligations of any other Lender under the Loan Agreement.

(2) The rights of a Lender under this Loan Agreement are not joint and several (*keine Gesamtgläubiger*). The amounts owed at any time under the Loan Agreement by the Borrower to any Lender shall constitute a separate and independent debt and each Lender shall be entitled to protect and enforce its rights arising out of this Loan Agreement independently from another Lender.

### § 11 Information

(1) For the purposes of complying with the requirements under section 18 of the German Banking Act (KWG), the Borrower shall submit in a timely manner to the Lender any documents and information required to comply with the Lender's statutory obligations. During the term of the Loan, the Borrower shall in particular supply the following documents to the Paying Agent for submission to the Lenders:

- (a) the audited consolidated financial statements of the Borrower as soon as they are publicly available but in any event no later than one hundred and eighty (180) days after the end of the Borrower's financial year; and
- (b) any other information a Lender may reasonably request in order to comply with legal requirements.

(2) The obligation to disclose documents pursuant to § 11 para. 1 shall cease to apply if the documents necessary to comply with section 18 of the German Banking Act (KWG) or any other legal requirements are freely accessible on the Borrower's website (in a form that can be saved or printed).

- (3) Die Darlehensnehmerin ermächtigt die Darlehensgeberin, alle Unterlagen, Daten und Informationen, die der Darlehensgeberin hierfür erforderlich, zweckdienlich oder geeignet erscheinen, zur Prüfung an potenzielle Dritte (oder ein Mitglied des europäischen Systems der Zentralbanken oder die Schweizerische Nationalbank) für die unter § 9 (4) beschriebenen Zwecke an Personen, die aus technischen oder rechtlichen Gründen in die Abwicklung einer Übertragung einzubinden sind (z.B. Rechtsberater, Rating-Agenturen, Wirtschaftsprüfer) und an staatliche Gerichte und Behörden (insbesondere Aufsichtsbehörden), die gemäß Gesetz eine Offenlegung verlangen, weiterzuleiten bzw. ihnen bekanntzugeben, und befreit die Darlehensgeberin insoweit vom Bankgeheimnis.

- (3) The Borrower hereby authorizes the Lender to pass on or to disclose for review any such documents, data and information as the Lender may consider necessary, useful or appropriate to any potential Third Party (or to a member of the European system of central banks or to the Swiss National Bank for the purposes set out in § 9 para. 4 or to such persons, who are involved in the settlement of the transfer for technical or legal reasons (such as legal advisors, rating agencies, auditors) or to governmental courts and authorities (especially supervisory authorities) that require disclosure by law, and therefore releases the Lender from banking confidentiality.

- (4) Im Übrigen verpflichten sich die Parteien dieses Darlehensvertrages und die Zahlstelle, vertrauliche Informationen und Dokumente, die sie im Zusammenhang mit diesem Darlehen erhalten, vertraulich zu behandeln. Auf eine Darlehensgeberin oder die Zahlstelle anwendbare gesetzliche oder behördliche Offenlegungspflichten bleiben unberührt.

- (4) Apart from that, the Parties and the Paying Agent agree to treat information and documents received in connection with this Loan as confidential. Legal or regulatory disclosure requirements that the Lender or Paying Agent are subject to remain unaffected.

- (5) Die Zahlstelle wird in ihren Geschäftsräumen eine Kopie eines jeden an sie gesandten Übertragungszertifikats aufbewahren und ein Register für die Erfassung der Namen und Adressen der Darlehensgeberinnen und der Nennbeträge (sowie der angegebenen Zinsen) des Darlehens, die jeder Darlehensgeberin von Zeit zu Zeit entsprechend den vertraglichen Bestimmungen geschuldet werden (das „**Register**“), führen. Die Darlehensnehmerin erhält von Zeit zu Zeit auf Anforderung eine Abschrift des Registers.

- (5) The Paying Agent shall maintain at one of its offices a copy of each Transfer Certificate delivered to it and a list of the names and addresses of the Lenders, and the principal amounts (and stated interest) of the Loan owed to each Lender pursuant to the terms hereof from time to time (the "**Investor List**"). The Borrower shall be entitled to receive a copy of the Investor List from time to time upon request.

## § 12 Mitteilungen

## § 12 Notices

Alle Mitteilungen und Anfragen oder sonstige Kommunikation gemäß diesem Darlehensvertrag sind schriftlich (auch per Fax oder als pdf-Datei) abzufassen und wie folgt zu adressieren:

Any notices, queries or other communication under this Loan Agreement shall be made in writing (including by fax or pdf file) and shall be addressed as follows:

- (1) Sofern sie an die **Darlehensnehmerin** gerichtet sind, an ihre folgende Anschrift:

- (1) If intended for the **Borrower**, to the following address:

QIAGEN N.V.  
Hulsterweg 82  
5912 PL Venlo  
The Netherlands

Tel. +  
Fax +  
z. Hd. v. Leiter Global Treasury

QIAGEN N.V.  
Hulsterweg 82  
5912 PL Venlo  
The Netherlands

Phone: +  
Facsimile: +  
Attention: Head of Global Treasury

(2) Sofern sie an die **Darlehensgeberin** oder an die **Zahlstelle** gerichtet sind, an folgende Anschrift:

Bayerische Landesbank  
Brienner Straße 18  
80333 München  
Bundesrepublik Deutschland

Tel. +  
Fax +  
e-mail:

(2) If intended for the **Lender** or for the **Paying Agent**, to the following address:

Bayerische Landesbank  
Brienner Strasse 18  
80333 Munich, Germany  
Federal Republic of Germany (FRG)

Phone: +  
Facsimile:  
e-mail:

z. Hd. v. 4245 Team Service Emissionen & Kreditderivate

Im Falle einer Übertragung gemäß § 9 sind Mitteilungen, die an eine eintretende Darlehensgeberin gerichtet sind, auch an die Zahlstelle zu adressieren.

### § 13 Sonstige Bestimmungen

- (1) Die Darlehensnehmerin bestellt für die Dauer des Darlehensvertrages QIAGEN GmbH zur Zustellungsbevollmächtigten für gerichtliche Zustellungen in Deutschland.
- (2) Die Darlehensnehmerin verpflichtet sich, der Darlehensgeberin alle notwendigen Informationen und Unterlagen zur Verfügung zu stellen, die diese für erforderlich hält, um ihre Verpflichtungen aus dem Geldwäschegesetz zu erfüllen.

Attention: 4245 Issues Administration & Credit Derivatives Service Team

In the event of a transfer pursuant to § 9, any notices to a joining Lender shall be addressed to the Paying Agent.

### § 13 Miscellaneous

- (1) For the term of this Loan Agreement, the Borrower appoints QIAGEN GmbH as the agent for the service of process in Germany.
- (2) The Borrower undertakes to provide the Lender with all information and data the Lender deems necessary to fulfill the obligations of the German Anti-Money-Laundering Act (Geldwäschegesetz).



- (3) Die Darlehensnehmerin kann gegen Forderungen der Darlehensgeberin nur aufrechnen und Pfandrechte oder Zurückbehaltungsrechte geltend machen, wenn die Forderungen der Darlehensnehmerin unbestritten oder rechtskräftig festgestellt sind. Solange und soweit das Darlehen zum Sicherungsvermögen der Darlehensgeberin im Sinne von § 125 VAG oder, auch im Fall von Insolvenzverfahren, zu einer aufgrund gesetzlicher Vorschriften des deutschen Rechts zwingend zu bildenden Deckungsmasse gehört, oder zu Zwecken der Besicherung an eine Notenbank des Eurosystems abgetreten wurde, verzichtet die Darlehensnehmerin darauf, ihr Recht auf Aufrechnung sowie Pfandrechte und Zurückbehaltungsrechte auszuüben. Dies gilt auch im Verhältnis zwischen der Darlehensnehmerin und etwaigen Rechtsnachfolgern der Darlehensgeberin.
- (4) Die Darlehensnehmerin ist damit einverstanden, dass personenbezogene Daten gespeichert, verarbeitet und im Rahmen der Zweckbestimmung dieses Darlehens – auch an gemäß § 9 (1) eintretende Darlehensgeberinnen – übermittelt werden.
- (5) Änderungen dieses Darlehensvertrages bedürfen der Schriftform. Dies gilt auch für einen Verzicht auf diese Schriftformklausel. Soweit die Änderungen Rechte und Pflichten der Zahlstelle betreffen, werden diese nur wirksam, wenn die Zahlstelle schriftlich ihre Zustimmung zu den Vertragsänderungen erklärt.
- (6) Sollte irgendeine Bestimmung dieses Darlehensvertrages ganz oder teilweise rechtlich unwirksam oder undurchsetzbar sein oder werden, so bleibt die Wirksamkeit und Durchsetzbarkeit der übrigen Bestimmungen dieses Vertrages davon unberührt. Eine sich daraus ergebende Regelungslücke ist durch ergänzende Auslegung unter ordnungsgemäßer Berücksichtigung der Interessen der Parteien und der Zahlstelle zu schließen.
- (7) Dieser Darlehensvertrag wird in zwei Exemplaren ausgefertigt, von denen je eines die Darlehensnehmerin und die Darlehensgeberin erhält.
- (8) Dieser Darlehensvertrag unterliegt dem Recht der Bundesrepublik Deutschland. Nicht ausschließlicher Gerichtsstand für alle Rechtsstreitigkeiten aus oder im Zusammenhang mit diesem Darlehensvertrag ist München, Bundesrepublik Deutschland.
- (3) The Borrower may only offset claims, exercise any liens or any retention rights that are uncontested or have been legally established with final and binding effect against claims of the Lender. The Borrower hereby waives the exercise of any right of set-off, liens or any retention right if and to the extent that the Loan belongs to the reserved assets of the Lender within the meaning of section 125 German Insurance Supervisory Act (VAG) or to covering funds which must be set up pursuant to the laws of the Federal Republic of Germany, including in cases of insolvency proceedings or if the assignment was made to a national central bank within the Euro system for collateralisation purposes. This also applies in relation between the Borrower and any legal successor of the Lender.
- (4) The Borrower consents to its personal data being recorded, processed and, for the purposes of this Loan, disclosed to any joining Lenders in accordance with § 9 para 1.
- (5) Any amendments of this Loan Agreement must be made in writing in order to become effective. This shall also apply to any waiver of this section. Insofar as the amendments refer to rights and obligations of the Paying Agent, amendments must only be made with the written consent of the Paying Agent.
- (6) Should any provision of this Loan Agreement be or become entirely or partially invalid or unenforceable, the validity or enforceability of the remaining provisions shall not be affected thereby. Any omission resulting therefrom shall be remedied by supplemental provision which takes due account of the interests of the Parties and the Paying Agent.
- (7) This Loan Agreement is executed in two originals, one of which will be retained by the Borrower and one by the Lender.
- (8) This Loan Agreement is subject to the laws of the Federal Republic of Germany. Non-exclusive place of jurisdiction for any disputes arising in connection with this Loan Agreement shall be Munich, Federal Republic of Germany.

(9) Dieser Darlehensvertrag ist in deutscher Sprache abgefasst und mit einer unverbindlichen Übersetzung in die englische Sprache versehen. Allein der deutsche Wortlaut ist maßgeblich und rechtsverbindlich. Die englische Übersetzung ist in jeder Hinsicht unverbindlich.

(9) This Loan Agreement is drafted in the German language and provided with a non-binding English translation. Only the German text is valid and binding. The English translation is non-binding in every respect and provided for convenience only

Unterschriftenseite folgt

Signature page follows

**QIAGEN N.V.**

als Darlehensnehmerin  
as Borrower

Venlo, den 19. Juni 2017  
Venlo, June 19th, 2017

Unterschrift(en): \_\_\_\_\_  
Signature(s)

Name(n):  
Name(s)

**Bayerische Landesbank**

als Darlehensgeberin und Zahlstelle  
as Lender and Paying Agent

München, den 19. Juni 2017  
Munich, June 19th, 2017

Unterschrift(en): \_\_\_\_\_  
Signature(s)

Name(n):  
Name(s)

## Anlage 1

### Auszahlungsvoraussetzungen

- (1) Übergabe des von der Darlehensnehmerin ordnungsgemäß unterzeichneten Darlehensvertrags an die Anfängliche Darlehensgeberin.
- (2) Vorlage eines externen Rechtsgutachtens (Legal Opinion) des Rechtsberaters der Darlehensnehmerin, gerichtet an die Arranger und die Abtretungsempfänger der Anfänglichen Darlehensgeberin gemäß § 9 (1) (a), zum niederländischen Recht in englischer Sprache hinsichtlich der Rechtsfähigkeit der Darlehensnehmerin und ordnungsgemäßen Ermächtigung zum Abschluss des Darlehensvertrages, der ordnungsgemäßen Unterzeichnung des Darlehensvertrags und der Gültigkeit der Wahl deutschen Rechts sowie die Anerkennung des unter diesem Vertrag gewählten Gerichtsstandes und der Vollstreckbarkeit des Urteils eines deutschen Gerichts in den Niederlanden, das den Anforderungen der Bayerischen Landesbank genügt.
- (3) Vorlage eines der Darlehensgeberin genehmen Nachweises, dass für das Eingehen des Darlehens keine Genehmigung/keine Unterrichtung des Betriebsrates (*ondernemingsraad*) der Darlehensnehmerin in den Niederlanden vorgeschrieben ist.
- (4) Die Abgabenordnung verpflichtet die Bank, die Legitimation aller Zeichnungsberechtigten zu prüfen. Es ist deshalb erforderlich, dass alle zeichnungsberechtigten Personen der Bank die von ihr angeforderten Legitimationsdokumente vorlegen. *Hinweis: Personalausweiskopien werden an Externe nur mit Zustimmung des Ausweisinhabers weitergegeben.*
- (5) Vorlage eines aktuellen beglaubigten Auszugs aus dem Handelsregister der Darlehensnehmerin oder eines vergleichbaren Existenznachweises.
- (6) Vorlage der geprüften Konzernjahresabschlüsse der Darlehensnehmerin einschließlich Bilanz, Gewinn- und Verlustrechnung, Lagebericht, Anhang und Prüfungsbericht der letzten beiden abgeschlossenen Geschäftsjahre.
- (7) Bestätigung der Zustellungsbevollmächtigten gemäß § 13 (1), dass diese mit ihrer Ernennung einverstanden ist.

## Annex 1

### Conditions Precedent

- (1) Submission of the Loan Agreement duly signed by the Borrower to the Initial Lender.
- (2) An external legal opinion, addressed to the Arrangers and to the transferees of the Initial Lender in accordance with § 9 (1) (a), from the Borrower's legal adviser to the laws of the Netherlands in the English language regarding the Borrower's capacity and due authorization to enter into the Loan Agreement, the due execution of the Loan Agreement and the validity of the choice of German law as well as the submission to jurisdiction chosen pursuant to this Loan Agreement and the enforceability of a German court ruling in the Netherlands that satisfies Bayerische Landesbank's requirements.
- (3) Evidence satisfactory to the Lender that the incurrence of the Loan is not subject to approval/consideration by the Borrower's works council (*ondernemingsraad*) in the Netherlands.
- (4) The German General Fiscal Code (*Abgabenordnung*) obliges the Bank to examine the identity of the authorized signatories (*Legitimationsprüfung*). Each authorized representative is therefore required to present documents for identification purposes to the Bank as requested by it. *Note: Copies of identification documents can only be furnished to external parties with the approval of the owner of the identification document.*
- (5) A current certified excerpt of the Borrower's listing in the commercial register or equivalent proof of existence.
- (6) Copy of the Borrower's audited consolidated annual financial statements for the two most recently completed financial years including balance sheet, profit and loss account, management report, notes and auditor's report
- (7) Confirmation that the process agent referred to in § 13 para. 1 has accepted its appointment.

- (8) Bestätigung der Darlehensnehmerin über das Nichtvorliegen eines Kündigungsgrundes, wie in § 8 (1) genannt.
- (8) Confirmation of the Borrower that no events of default as stated in clause 8 para. 1 have occurred.

Anlage 2

**Schuldschein**

**QIAGEN N.V.**

bestätigt hiermit von der

**Bayerischen Landesbank, München**

am 23. Juni 2017

ein von der

**Bayerische Landesbank, Munich  
BNP Paribas  
HSBC Trinkaus und  
UniCredit Bank**

arrangiertes Schuldscheindarlehen  
in Höhe von

(in Worten:                    )

zur Rückzahlung fällig am                    zu den im  
Schuldscheindarlehensvertrag vom 19. Juni 2017  
enthaltenen Bedingungen und Bestimmungen  
erhalten zu haben.

Annex 2

**Certificate of Indebtedness (*Schuldschein*)**

**QIAGEN N.V.**

hereby acknowledges to have received a loan  
from

**Bayerische Landesbank, Munich**

on June 23rd, 2017

arranged by

**Bayerische Landesbank, Munich  
BNP Paribas  
HSBC Trinkaus and  
UniCredit Bank**

in the amount of

(in words:                    )

due for repayment on                    in accordance with  
the terms and conditions of the Loan Agreement  
dated June 19<sup>th</sup>, 2017.

Datum: ●

Date: ●

Unterschrift(en):

Signature(s): \_\_\_\_\_

Name(n):

Name(s): \_\_\_\_\_

Anlage 3

**Übertragungszertifikat**

Von:

1. • nachfolgend „**Derzeitige Darlehensgeberin**“ und
2. • nachfolgend „**Neue Darlehensgeberin**“

An: Bayerische Landesbank, als Zahlstelle für die im nachstehenden Darlehensvertrag definierte Darlehensnehmerin

Datum: •

Dieses Übertragungszertifikat bezieht sich auf einen Schuldscheindarlehensvertrag vom • zwischen • als Darlehensnehmerin und der **Bayerischen Landesbank** als Anfängliche Darlehensgeberin und Zahlstelle, gemäß dem die Anfängliche Darlehensgeberin, der Darlehensnehmerin ein Darlehen in Höhe von [EUR/USD] • zur Verfügung gestellt hat. Die in dem Darlehensvertrag definierten Begriffe haben in diesem Übertragungszertifikat, sofern sie in diesem Zertifikat nicht abweichend definiert werden, die gleiche Bedeutung wie in dem Darlehensvertrag.

1. Die Derzeitige Darlehensgeberin:
  - (a) überträgt hiermit im Wege der Vertragsübernahme, aufschiebend bedingt durch :
    - [(i)] den Zugang eines ordnungsgemäß ausgefüllten und ausgefertigten Exemplars dieses Übertragungszertifikats an die Zahlstelle, und
    - [(ii)] der Erfüllung folgender, weiterer Bedingungen:  
[•]

ihre Rechtstellung aus dem Darlehensvertrag in Höhe des aus dem Anhang zu diesem Übertragungszertifikat ersichtlichen Anteils am Gesamtnennbetrag, zusammen mit allen hiermit verbundenen Rechten und Ansprüchen mit wirtschaftlicher Wirkung ab dem in dem Anhang zu diesem Übertragungszertifikat genannten Übertragungsdatum (das „**Übertragungsdatum**“) (einschließlich) auf die Neue Darlehensgeberin. Künftige Zinsansprüche sind nur in dem Umfang mit übertragen, als sie auf die Zeit ab dem Übertragungsdatum (einschließlich) entfallen.

- (b) bestätigt, dass, soweit Einzelheiten in dem Anhang zu diesem Übertragungszertifikat unter der Überschrift „Anteil der Derzeitigen Darlehensgeberin an dem zu übertragenden Darlehen“ aufgeführt sind, diese Einzelheiten den Betrag ihrer Beteiligung (die „**Beteiligung**“) an dem Darlehen akkurat zusammenfassen.

Annex 3

**Transfer Certificate**

From:

1. •, hereinafter "**Existing Lender**" and
2. •, hereinafter "**New Lender**"

To: Bayerische Landesbank, as Paying Agent for the Borrower defined in the Loan Agreement referred to below

Date: •

This Transfer Certificate relates to a Loan granted under a loan agreement dated • made by and between • as Borrower and **Bayerische Landesbank** as Initial Lender and Paying Agent under which the Initial Lender has, subject to the terms thereof, made available to the Borrower a Loan in the amount of [EUR/USD] •. Terms defined in the Loan Agreement shall, unless otherwise defined herein, have the same meanings in this Transfer Certificate as in the Loan Agreement.

1. The Existing Lender:
  - (a) hereby transfers and assigns by way of assumption of contract (*Vertragsübernahme*) subject to :
    - [(i)] the receipt of a duly completed and executed copy of this Transfer Certificate by the Paying Agent, and
    - [(ii)] the satisfaction of the following further conditions to be fulfilled :  
[•]

all of its contractual rights under the Loan Agreement in the proportion of the aggregate principal amount shown in the Schedule to this Transfer Certificate together with all related rights and claims with economic effect from the Transfer Date (including) as specified in the Schedule to this Transfer Certificate (the "**Transfer Date**") to the New Lender. Future claims to interest shall only be transferred to the extent they fall on or after the Transfer Date.

- (b) confirms that to the extent that details appear in the Schedule to this Transfer Certificate under the heading "Existing Lender's Participation in the Loan to be transferred" such details accurately summarize the amount of its participation in the Loan (the "**Participation**").

2. Die Derzeitige Darlehensgeberin und die Neue Darlehensgeberin ersuchen hiermit die Zahlstelle, das ausgefertigte Exemplar dieses Übertragungszertifikats als für die Zwecke von § 9 (Übertragung) des Darlehensvertrages vertragsgemäß zu akzeptieren, damit die Übertragung gemäß den Bedingungen des Darlehensvertrages an dem Übertragungsdatum in Kraft treten kann.
2. The Existing Lender and the New Lender hereby request the Paying Agent to accept the executed copy of this Transfer Certificate in accordance with the Loan Agreement as being for the purposes of section 9 (Transfer) of the Loan Agreement in order to effect the transfer in accordance with the terms of the Loan Agreement on the Transfer Date.
3. Die Neue Darlehensgeberin:
  - (a) nimmt die Übertragung gemäß vorstehender Ziffer 1 (a) hiermit an und
  - (b) bestätigt, dass sie eine Kopie des Darlehensvertrages zusammen mit allen sonstigen Dokumenten und Informationen erhalten hat, die sie im Zusammenhang mit dieser Transaktion angefordert hat.
3. The New Lender:
  - (a) hereby accepts the transfer and assignment as mentioned in clause 1 (a) above and
  - (b) confirms that it has received a copy of the Loan Agreement and all other documents and information which it has requested in connection with this transaction.
4. Die Derzeitige Darlehensgeberin übernimmt keine Haftung für:
  - (a) die finanzielle Lage der Darlehensnehmerin und
  - (b) die Erfüllung und Beachtung der Verpflichtungen der Darlehensnehmerin aus dem Schuldscheindarlehensvertrag (es sei denn, dass dies ausdrücklich darin vereinbart wurde).

Die Derzeitige Darlehensgeberin übernimmt jedoch die Veritätshaftung nach den gesetzlichen Bestimmungen.
4. The Existing Lender does not assume any liability for:
  - ;
  - (b) the performance of or the compliance with the obligations by the Borrower under the Loan (save as expressly agreed otherwise therein).

The Existing Lender assumes liability for the legal validity of the claims under the Loan in accordance with the statutory provisions (*Veritätshaftung*).
5. Die Neue Darlehensgeberin erkennt an, dass die Derzeitige Darlehensgeberin unter keinen Umständen dazu verpflichtet ist, (i) eine Rückübertragung der Vertragsstellung oder einzelner Rechte oder Verpflichtungen aus dem Darlehensvertrag durch die Neue Darlehensgeberin zu akzeptieren oder (ii) Verluste zu tragen, die der Neuen Darlehensgeberin direkt oder indirekt entstehen, einschließlich Verlusten wegen Nichterfüllung der Verpflichtungen der Darlehensnehmerin aus dem Darlehensvertrag.
5. The New Lender acknowledges that the Existing Lender is under no obligation whatsoever (i) to accept in whole or in part a retransfer of the contractual position or individual rights or obligations under the Loan Agreement from the New Lender or (ii) to bear any losses directly or indirectly incurred by the New Lender including losses resulting from the non-performance by the Borrower of its obligations under the Loan Agreement.
6. Die Neue Darlehensgeberin bestätigt, dass für den Fall, dass die Zahlstelle ein Übertragungszertifikat weniger als fünf (5) Bankarbeitstage vor einem Zinszahlungstag erhält, jede Zahlung der Darlehensnehmerin (über die Zahlstelle) an die Derzeitige Darlehensgeberin schuldbefreiende Wirkung gegenüber der Neuen Darlehensgeberin im Umfang der geleisteten Zahlung hat.
6. The New Lender confirms that in case the Paying Agent receives a Transfer Certificate less than five (5) Banking Days before an Interest Payment Date, any payment made by the Borrower (through the Paying Agent) to the Existing Lender shall release the Borrower from its payment obligations towards the New Lender in the amount of such payment.



- |  |   |
|--|---|
| <p>7. Sollte irgendeine Bestimmung dieses Übertragungszertifikats ganz oder teilweise rechtlich unwirksam oder undurchsetzbar sein oder werden, so bleibt die Wirksamkeit und Durchsetzbarkeit der übrigen Bestimmungen dieses Übertragungszertifikats davon unberührt. Eine sich daraus ergebende Regelungslücke ist durch ergänzende Auslegung unter ordnungsgemäßer Berücksichtigung der Interessen der Parteien dieses Übertragungszertifikats zu schließen.</p> | <p>7. Should any provision of this Transfer Certificate be or become entirely or partially invalid or unenforceable, the validity or enforceability of the remaining provisions shall not be affected thereby. Any omission resulting therefrom shall be remedied by supplemental interpretation under due consideration to the interests of the Parties.</p> |
| <p>8. Dieses Übertragungszertifikat unterliegt deutschem Recht. Nicht ausschließlicher Gerichtsstand für alle Rechtsstreitigkeiten aus oder im Zusammenhang mit diesem Übertragungszertifikat ist [●].</p>   | <p>8. This Transfer Certificate shall be governed by German law. Non-exclusive place of jurisdiction for any disputes arising in connection with this agreement shall be [●].</p>   |

Die Derzeitige Darlehensgeberin: ●  
The Existing Lender: ●

Unterschrift(en):  
Signature(s): \_\_\_\_\_

Name(n):  
Name(s) \_\_\_\_\_

Die Neue Darlehensgeberin: ●  
The New Lender: ●

Unterschrift(en):  
Signature(s): \_\_\_\_\_

Name(n):  
Name(s) \_\_\_\_\_

<b>Anhang zum Übertragungszertifikat</b>	<b>Schedule to the Transfer Certificate</b>
Derzeitige Darlehensgeberin: ●	Existing Lender: ●
Neue Darlehensgeberin: ●	New Lender: ●
Übertragungsdatum: ●	Transfer Date: ●
<b>Anteil der Derzeitigen Darlehensgeberin an dem zu übertragenden Darlehen</b>	<b>Existing Lender's Participation in the Loan to be transferred</b>
Betrag der Beteiligung an dem Darlehen: [EUR/USD] ● zu übertragen: [EUR/USD] ●	Amount of Participation in the Loan: [EUR/USD] ● Amount thereof to be transferred: [EUR/USD] ●
<b>Angaben zur Neuen Darlehensgeberin:</b>	<b>Details of New Lender:</b>
<b>Anschrift für Mitteilungen:</b> ●	<b>Address for notices:</b> ●
Kontaktperson: ● Telefon: ● Telefax: ●	Contact name: ● Phone: ● Facsimile: ●
Kontonummer: ●	Account number: ●

QIAGEN N.V.

U.S.\$400,000,000 0.500% Senior Unsecured Convertible Notes Due 2023  
Purchase Agreement

September 6, 2017

Goldman Sachs International  
Peterborough Court  
133 Fleet Street  
London EC4A 2BB  
United Kingdom

J.P. Morgan Securities PLC  
25 Bank Street  
Canary Wharf  
London E14 5JP  
United Kingdom

(each a “Joint Global Coordinator”, and together the “Joint Global Coordinators”)

Barclays Bank PLC  
5 The North Colonnade  
Canary Wharf  
London E14 4BB  
United Kingdom

Credit Suisse Securities (Europe) Limited  
One Cabot Square  
London E14 4QJ  
United Kingdom

Merrill Lynch International  
2 King Edward Street  
London EC1A 1HQ  
United Kingdom

(each a “Joint Bookrunner”, and together the “Joint Bookrunners”)

(the Joint Global Coordinators and the Joint Bookrunners together being referred to as the “Initial Purchasers”, and each an “Initial Purchaser”)

Ladies and Gentlemen:

QIAGEN N.V., a public limited liability company (*naamloze vennootschap*) incorporated under the laws of The Netherlands (the “Company”), proposes, subject to the terms and conditions stated herein, to

issue and sell to you, the Initial Purchasers, an aggregate of U.S.\$400,000,00 principal amount of the 0.500% Senior Unsecured Convertible Notes due 2023 to be issued pursuant to the provisions of the Indenture (as defined below) (the “Securities”).

The Securities are to be issued pursuant to an indenture (the “Indenture”) to be dated as of September 13, 2017 among, *inter alios*, the Company, Deutsche Trustee Company Limited, as trustee (the “Trustee”), Deutsche Bank AG, London Branch, as paying and conversion agent and Deutsche Bank Luxembourg S.A., as note registrar, transfer agent and authentication agent. The Securities will be convertible into cash in an amount determined by reference to the trading price of the common shares of the Company (together with any such shares issuable or deliverable pursuant to the Warrant (as defined below), the “Shares”) at the times and on the terms and conditions set forth in the Indenture. All conversions of the Securities will be settled solely in cash, and not through the delivery of the Shares or other securities, on the terms and conditions set forth in the Indenture. The Company will also enter into a calculation agency agreement (the “Calculation Agency Agreement”) to be dated on or about September 13, 2017 with Conv-Ex Advisors Limited (the “Calculation Agent”) whereby the Calculation Agent has been appointed to make certain calculations in relation to the Securities.

Subject to the representations and warranties contained in Section 1 and the provisions in Section 3 hereof, the Securities will be offered for sale by the Initial Purchasers to non-U.S. persons outside the United States in reliance on Regulation S (“Regulation S”) under the U.S. Securities Act of 1933, as amended (the “Securities Act”). The Securities will be offered and sold to the Initial Purchasers without being registered under the Securities Act in reliance on exemptions therefrom.

In connection with the offering and sale of the Securities to investors, the Company has prepared and delivered to each Initial Purchaser (i) an initial term sheet (the “Initial Term Sheet”) describing the principal terms of the offering of the Securities, and including as appendices thereto extracts of the draft Indenture in substantially final form, and (ii) a pricing term sheet (the “Pricing Term Sheet”) that includes certain pricing terms and other information with respect to the Securities and other matters not included in the Initial Term Sheet, each for use by the Initial Purchasers in connection with its solicitation of offers to purchase the Securities. The Company has additionally issued on the date hereof (iii) a press release announcing the launch of the offering of the Securities (the “Launch Release”) and (iv) an intermediary pricing press release announcing the coupon and the conversion premium as well as the approximate size of the offering and a final pricing press release announcing the results of the offering (the “Pricing Releases”).

The Company will apply for the Securities to be admitted to trading on the open market segment (*Freiverkehr*) of the Frankfurt Stock Exchange (the “Open Market”) pursuant to Section 5(k) hereof. The Shares are admitted to trading on the NASDAQ Global Select Market and on the Prime Standard of the Frankfurt Stock Exchange (together, the “Relevant Exchanges”).

In connection with the offering and sale of the Securities by the Company pursuant to the terms of this Agreement, the Company is entering into convertible note hedge and warrant transactions with one or more of the Initial Purchasers or affiliates thereof or other third party counterparties pursuant to confirmation letters, dated as of the date hereof, subject to agreements in the form of ISDA 1992 Master Agreement (Multicurrency – Cross Border) (the “Hedge and Warrant Documents”). The warrant provided for under the Hedge and Warrant Documents is referred to herein as the “Warrant”.

This Agreement, the Indenture, the Securities, the Calculation Agency Agreement and the Hedge and Warrant Documents, together with any document entered into among the Initial Purchasers (and affiliates thereof) on the one hand and the Company (and affiliates thereof) on the other hand in connection with the issue, offer and sale of the Securities and this Agreement, are referred to herein collectively as the “Operative”

Documents.” The Initial Term Sheet, the Pricing Term Sheet, the Launch Release, the Pricing Releases and any other press releases or announcements to be made by or on behalf of the Company in relation to (including in each case any appendix thereto), as well as other written material expressly approved by the Company for use in connection with, the issue, offering and sale of the Securities are referred to herein collectively as the “Offering Documents”.

1. Representations and Warranties. The Company represents and warrants to, and agrees with, each Initial Purchaser, as of the date hereof and as of the Time of Delivery (as defined below), with reference to the facts and circumstances then subsisting, as set forth below:

a) Public disclosure. The Company has made public all information required to be made public by applicable law and regulation; the Public Disclosure (as defined below) contains all information which is necessary to enable investors to make an informed assessment of the assets and liabilities, financial position, profit and losses, and prospects of the Company and its subsidiaries; and none of the information filed with or furnished to the U.S. Securities and Exchange Commission (the “Commission”) pursuant to Section 13(a), 13(c) or 15(d) of the U.S. Securities Exchange Act of 1934, as amended, (the “Exchange Act”), and the rules thereunder, with or to the German *Bundesanstalt für Finanzdienstleistungsaufsicht* (the “BaFin”) or the Dutch *Autoriteit Financiële Markten* or with or to any Relevant Exchange (together, the “Public Disclosure”) contains an untrue statement of material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. The Company’s most recent annual report on Form 20-F filed with the Commission on March 6, 2017 (the “2016 20-F”) and any subsequent documents filed with or furnished to the Commission pursuant to Section 13(a), 13(c) or 15(d) of the Exchange Act (including the Company’s interim report as of and for the three and six months ended June 30, 2017 filed with the Commission on Form 6-K on July 31, 2017), when they were or are filed with or furnished to the Commission, conformed or will conform in all material respects to the applicable requirements of the Exchange Act and the applicable rules and regulations of the Commission thereunder.

b) No material adverse change. Neither the Company nor any of its subsidiaries has sustained since the date of the most recent audited consolidated financial statements of the Company set forth in the Public Disclosure any loss or interference with its business, including but not limited to loss or interference from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, other than as set forth in subsequent Public Disclosure or that would not have (i) a material adverse effect on the performance of or compliance with the Operative Documents or the consummation of any of the transactions contemplated hereby or thereby or (ii) a material adverse effect on the general affairs, management, financial position, shareholders’ equity or results of operations or development involving a prospective change of the Company and its subsidiaries taken as a whole (either, a “Material Adverse Effect”); since the respective dates as of which information set forth in the Public Disclosure has been given, there has not been any payment of any dividend, capital reduction or other distribution, or any change in the capital stock or long-term debt of the Company or any of its subsidiaries or any other change, or any development involving a prospective change, in each such case that would have a Material Adverse Effect.

c) Offering Documents. The Offering Documents are true and accurate in all material respects and each of the Initial Term Sheet and the Pricing Term Sheet is a fair and accurate summary of the terms of the Securities; and all expressions of opinion, intention or expectation contained in such documents are truly and honestly held and have been made on reasonable grounds after due and careful consideration and enquiry;

d) *Event of default.* No event has occurred or circumstance arisen that would (with the giving of notice or lapse of time or other condition), had any Securities then been outstanding, constitute an “Event of Default” (as defined under the Indenture);

e) *Title to property.* The Company and its subsidiaries have good and marketable title to all real property and good and marketable title to all personal property owned by them, in each case free and clear of all liens, encumbrances and defects except such as are described in the Public Disclosure or such as do not materially affect the value of such property and do not interfere with the use made and proposed to be made of such property by the Company and its subsidiaries; and any real property and buildings held under lease by the Company and its subsidiaries are held by them under valid, subsisting and enforceable leases with such exceptions as are not material and do not interfere with the use made and proposed to be made of such property and buildings by the Company and its subsidiaries;

f) *Due incorporation.* The Company has been duly incorporated and is validly existing as a limited liability company (*naamloze vennootschap*) under the laws of The Netherlands, and each subsidiary of the Company has been duly incorporated and is validly existing and in good standing, where applicable, under the laws of its jurisdiction of incorporation; each of the Company and each of its subsidiaries has power and authority (corporate or other) to own its properties and conduct its business as described in the Public Disclosure, and has been duly qualified as a foreign entity for the transaction of business, if required, and is in good standing under the laws of each other jurisdiction in which it owns or leases properties or conducts any business so as to require such qualification, other than where the failure to have such power or be so qualified or in good standing would not have a Material Adverse Effect;

g) *Share capital.* The Company has an authorized capitalization as set forth in the Public Disclosure, and all of the issued shares of capital stock of the Company have been validly issued and are fully paid and non-assessable, conform to the description thereof in the Public Disclosure; and all of the issued shares of capital stock of each subsidiary of the Company have been duly and validly authorized and issued, are fully paid and non-assessable and (except for directors’ qualifying shares) are owned directly or indirectly by the Company free and clear of all liens, encumbrances, equities or claims; all of the outstanding Shares have been duly listed and admitted for trading on the Relevant Exchanges; except as described in the Public Disclosure there are no outstanding securities convertible into or exchangeable for, or warrants, rights or options to purchase from the Company, or obligations of the Company to issue, any Shares or any other class of capital stock of the Company; and there are no restrictions on subsequent transfers of the outstanding Shares under the laws of The Netherlands or of the United States or Germany or the articles of association or other constituent documents of the Company except as described in the Public Disclosure; and the Shares issuable upon exercise of the Warrant will have been duly authorized and, if and when issued upon settlement of the Company’s obligations under the Warrant, will be validly issued, fully paid and non-assessable, and the issuance and delivery of the Shares in settlement of the Company’s obligations under the Warrant will not be subject to any preemptive or similar rights;

h) *Valid and binding.* This Agreement has been duly authorized, executed and delivered by the Company and will constitute valid and legally binding agreement of the Company, enforceable in accordance with its terms, subject, as to enforcement, to bankruptcy, insolvency, fraudulent conveyance, reorganization and other laws of general applicability relating to or affecting creditors’ rights and to general equity principles; the Securities have been duly authorized and, when issued and delivered pursuant to this Agreement, will have been validly executed, authenticated, issued and delivered and will constitute valid and legally binding obligations of the Company entitled to the benefits provided by the Indenture under which they are to be issued, subject, as to enforcement, to bankruptcy, insolvency, fraudulent conveyance, reorganization and other laws of general applicability relating to or affecting creditors’ rights and to general equity principles;

each of the other Operative Documents have been duly authorized and, when executed and delivered by the Company (and assuming the authorization, execution and delivery by the other parties thereto), will constitute valid and legally binding agreements of the Company, enforceable in accordance with their terms, subject, as to enforcement, to bankruptcy, insolvency, fraudulent conveyance, reorganization and other laws of general applicability relating to or affecting creditors' rights and to general equity principles; and the Securities and the Indenture will conform to the descriptions thereof in the Offering Documents and will be in substantially the form previously delivered to you;

i) *Margin requirements.* None of the transactions contemplated by the Operative Documents (including, without limitation, the use of the proceeds from the sale of the Securities) will violate or result in a violation of Section 7 of the Exchange Act, or any regulation promulgated thereunder, including, without limitation, Regulations T, U, and X of the Board of Governors of the Federal Reserve System;

j) *Consents.* All consents, clearances, approvals, authorizations, orders, registrations or qualifications of or with any Governmental Agency ("Governmental Authorization") required for the execution and delivery of the Operative Documents, the issue of the Securities and the consummation of the other transactions herein and therein contemplated have been obtained and are in full force and effect and are not subject to any conditions which are required to be satisfied prior to the date hereof and have not been satisfied and no action or thing is required to be taken, fulfilled or done in relation to the same;

k) *Foreign private issuer.* The Company is a "foreign private issuer" as defined under Rule 405 under the Securities Act.

l) *No conflict.* The issue and sale of the Securities, and the execution, delivery, performance of, and compliance with all of the provisions of the Operative Documents and the Offering Documents by the Company and the consummation of the transactions herein and therein contemplated will not (i) conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries is subject, (ii) result in any violation of the provisions of the articles of association or other constituent documents of the Company or any of its subsidiaries or (iii) result in any violation of any applicable law or any order, rule or regulation of any court, central bank, stock exchange or governmental agency or body ("Governmental Agency") having jurisdiction over the Company or any of its subsidiaries or any of their properties, except in the case of subsections (i) and (iii) above, for any conflict, breach, default or violation that would not, individually or in the aggregate, have a Material Adverse Effect;

m) *Title to Securities.* (i) The Company has full power and authority to issue the Securities to be issued by the Company hereunder free and clear of all liens, encumbrances, claims or other third party rights; and (ii) upon delivery of such Securities and payment therefor, good and valid title to such Securities, free and clear of all liens, encumbrances, claims or other third party rights, will pass to the several Initial Purchasers; (iii) the Securities will be freely transferable by the Company to or for the account of the several Initial Purchasers and/or the initial subscribers thereof; and (iv) there are no restrictions on subsequent transfers of the Securities under the laws of The Netherlands or of the United States or Germany or the articles of association or other constituent documents of the Company except as described in the Offering Documents;

n) *Ranking of Securities.* The Securities will constitute direct, unconditional, unsubordinated and unsecured obligations of the Company and rank *pari passu* and without any preference among themselves; and the payment obligations of the Company in respect of the Securities shall, save for such exceptions as

may be provided by applicable legislation, at all times rank at least equally with all its other present and future unsecured and unsubordinated obligations;

o) *No violations.* Neither the Company nor any of its subsidiaries is (i) in violation of its articles of association or other constituent documents or (ii) in default in the performance or observance of any obligation, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which it is a party or by which it or any of its properties may be bound except, in the case of (ii), where such default or non-observance would not, individually or in the aggregate, have a Material Adverse Effect;

p) *No litigation.* Other than as set forth in the Public Disclosure, there are no legal or governmental proceedings or, to the knowledge of the Company, investigations pending to which the Company or any of its subsidiaries is a party or of which any property of the Company or any of its subsidiaries is the subject which, if determined adversely to the Company or any of its subsidiaries, would individually or in the aggregate have a Material Adverse Effect; and, to the best of the Company's knowledge, no such proceedings are threatened or contemplated by any Governmental Agency or threatened by other third parties;

q) *Payments on Securities; no withholding tax.* All interest, principal and other payments due or made on the Securities (including any cash settlement upon conversion of the Securities) may, under the laws and regulations of The Netherlands as of the date hereof, be paid by the Company in U.S. dollars that may be freely transferred out of The Netherlands without the necessity of obtaining any Governmental Authorization under the laws of The Netherlands as of the date hereof; no capital gains, income, withholding or other taxes will be payable to The Netherlands or any political subdivision or taxing authority thereof or therein in connection with such payments;

r) *Stamp and other taxes.* No stamp or other issuance or transfer taxes or duties and no capital gains, income, withholding or other taxes are payable by or on behalf of the Initial Purchasers to The Netherlands or any political subdivision or taxing authority thereof or therein in connection with (A) the issuance, sale and delivery by the Company to or for the account of the Initial Purchasers of the Securities; (B) the sale and delivery by the Initial Purchasers of the Securities to the initial purchasers thereof; (C) the issuance and delivery of the Shares in settlement of the Company's obligations under the Warrant; or (D) the execution and delivery of this Agreement, the Indenture and the Hedge and Warrant Documents other than any Dutch tax imposed on or calculated by reference to the net income actually received or receivable by such Initial Purchaser (but, for the avoidance of doubt, not including any sum deemed for purposes of Dutch tax to be received or receivable by such Initial Purchaser but not actually received or receivable) under the laws of The Netherlands if (i) that Initial Purchaser is treated as resident for Dutch tax purposes or if (ii) it is attributable to the Dutch branch office of such Initial Purchaser;

s) *Permits and approvals.* The Company and each of its subsidiaries have all licenses, franchises, permits, authorizations, approvals and orders and other concessions of and from all Governmental Agencies that are necessary to own or lease their other properties and conduct their businesses as described in the Public Disclosure, except where the failure to have any such licenses, franchises, permits, authorizations, approvals and orders and other concessions would not, individually or in the aggregate, have a Material Adverse Effect;

t) *Stabilization and market abuse.* Neither the Company nor any of its subsidiaries has taken, directly or indirectly, any action which was designed to or which has constituted or which might reasonably be expected to cause or result in stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities, or which is in violation of Regulation (EU) No. 596/2014 of the European Parliament (the "Market Abuse Regulation") or any legislation passed thereunder.



u) *Exchange Act registration.* The Company is subject to Section 13 or 15(d) of the Exchange Act;

v) *Directed selling efforts.* None of the Company, its Affiliates, or any person acting on its or their behalf, has offered or sold the Securities by means of any “directed selling efforts” within the meaning of Rule 902 of Regulation S and the Company, any Affiliate and any person acting on its or their behalf has complied with Rule 903 of Regulation S;

w) *Offering restrictions.* The Company has implemented the necessary “offering restrictions” (as such term is defined in Regulation S);

x) *No offers or sales.* None of the Company, its Affiliates (as such term is defined below), or any person acting on its or their behalf has, directly or indirectly, made offers or sales of, or solicited offers to buy, any security under circumstances that would require the registration of the Securities under the Securities Act. For the purposes of this Agreement, the term “Affiliate” shall have the meaning set forth in Rule 501 of the Securities Act;

y) *No payments for solicitation.* The Company has not paid or agreed to pay to any person any compensation for soliciting another to purchase any securities of the Company (except as contemplated in this Agreement);

z) *Investment Company Act.* The Company is not and, after giving effect to the offering and sale of the Securities, will not be an “investment company”, as such term is defined in the U.S. Investment Company Act of 1940, as amended (the “Investment Company Act”);

aa) *Independent accountants.* KPMG AG and Ernst & Young GmbH, each of whom have issued an audit report on certain consolidated historical financial statements of the Company and its consolidated subsidiaries and delivered reports with respect to the audited consolidated financial statements and schedules included in the Public Disclosure, are independent public accountants as required by the Securities Act and the Exchange Act and the rules and regulations of the Commission thereunder and the rules of the Public Company Accounting Oversight Board;

bb) *Financial statements.* (i) The consolidated historical financial statements and schedules of the Company and its consolidated subsidiaries as of and for the years ended December 31, 2016 and 2015 (the “Audited Financial Statements”) and the unaudited condensed consolidated financial statements and schedules of the Company and its consolidated subsidiaries as of and for the three and six months ended June 30, 2017 (the “2017 Interim Financial Statements”) in the Public Disclosure present fairly in all material respects the financial condition, results of operations and cash flows of the Company as of the dates and for the periods indicated, comply as to form with the applicable accounting requirements of the Securities Act and the related rules and regulations adopted by the Commission, and have been prepared in conformity with generally accepted accounting principles in the United States applied on a consistent basis throughout the periods involved (except as otherwise noted therein); (ii) the 2017 Interim Financial Statements have been prepared on a basis consistent with that of the Audited Financial Statements; and (iii) all disclosures contained in the Offering Documents regarding “non-GAAP financial measures” (as such term is defined by the rules and regulations of the Commission) comply in all material respects with Regulation G under the Exchange Act and Item 10 of Regulation S-K under the Securities Act, to the extent applicable;

cc) *Internal and disclosure controls.* The Company and each of its consolidated subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management’s general or specific authorizations;

(ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences; and (v) the interactive data in eXtensible Business Reporting Language included in the Public Disclosure fairly presents the information called for in all material respects. Since the end of the Company's most recent audited fiscal year, there has been (i) no material weakness in the Company's internal control over financial reporting (whether or not remediated) and (ii) no change in the Company's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting. The Company and each of its consolidated subsidiaries maintain an effective system of disclosure controls and procedures (as defined in Rule 13a-15(e) under the Exchange Act) that are designed to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Commission's rules and forms, and is accumulated and communicated to the Company's management, including its principal executive officer or officers and principal financial officer or officers, as appropriate, to allow timely decisions regarding disclosure;

dd) *SOX compliance.* There is and has been no failure on the part of the Company or any of the Company's directors or officers, in their capacities as such, to comply in all material respects with any provision of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith, including Section 402 related to loans and Sections 302 and 906 related to certifications;

ee) *Off-balance sheet financing.* Except as set forth in the Public Disclosure and any operating leases concluded in the ordinary course of business, neither the Company nor its subsidiaries have any material off-balance sheet financing and have not incurred any material liability or obligation, direct or contingent, nor entered into any material transaction not in the ordinary course of business;

ff) *Intellectual property.* The Company and each of its subsidiaries own or possess adequate rights to use its respective trademarks, trade names, patents, service mark registrations, technology, know-how, copyrights, confidential information and other intellectual property necessary for the conduct of their respective businesses, except as would not have a Material Adverse Effect; to the knowledge of the Company after due inquiry, neither the Company nor any of its subsidiaries is infringing or otherwise violating any such rights of others, except for such violations or infringements as would not, individually or in the aggregate, have a Material Adverse Effect; and the Company and each of its subsidiaries have no reason to believe that the conduct of their respective businesses will conflict with, and have not received any notice of any claim of conflict or infringement with, any such rights of others except for such violation which would not have a Material Adverse Effect;

gg) *Sanctions.* None of the Company, any of its subsidiaries or any director, officer or, to the knowledge of the Company, agent, employee, or Affiliate (other than any subsidiary of the Company) of the Company or its subsidiaries is an individual or entity ("Person") (i) with whom dealings are restricted or prohibited by, or are sanctionable under, any economic sanctions or trade restrictions administered or enforced by the U.S. government (including, without limitation, those administered or enforced by the U.S. Department of Treasury's Office of Foreign Assets Control, the U.S. Department of Commerce, or the U.S. Department of State), the United Nations Security Council, the European Union, Her Majesty's Treasury, the Netherlands, or any other authority with jurisdiction over the Company or any of its subsidiaries (collectively, "Sanctions", and each such Person, a "Sanctioned Person"), or (ii) located, organized, operating or resident in a country or territory that is the subject of Sanctions (currently the Crimea region, Cuba, Iran, North Korea, Sudan,

and Syria) (each, a “Sanctioned Country”), save as disclosed in “Item 8. Financial Information—Disclosure pursuant to Section 219 of the Iran Threat Reduction & Syria Human Rights Act (ITRA)” of the 2016 20-F, or (iii) owned or controlled by, or acting on behalf of, a Person identified in (i) or (ii); and the Company, its subsidiaries and its directors, officers and, to the knowledge of the Company, its agents, employees and Affiliates (other than any subsidiary of the Company) are currently in compliance with, and at all times within the past five years have been in compliance with, and have not engaged nor plan to engage in any conduct sanctionable under, any applicable Sanctions Laws, and there are not now, nor have there been within the past five years, any formal or informal proceedings, allegations, investigations, or inquiries pending, expected or, to the knowledge of the Company, threatened against the Company, its subsidiaries, or the directors and officers of the Company and its subsidiaries, or, to the knowledge of the Company, its Affiliates (other than any subsidiary of the Company), or, to the knowledge of the Company, any of the employees of the Company, its subsidiaries or other Affiliates concerning violations or potential violations of, or conduct sanctionable under, any Sanctions; for the avoidance of doubt, nothing in this paragraph shall be interpreted to require the Company or any of its subsidiaries to violate Section 7 of the German Foreign Trade Ordinance (*Außenwirtschaftsverordnung*) or a similar applicable anti-boycott statute;

hh) *Anti-bribery.* Neither the Company nor any of its subsidiaries, nor any director of the Company or any of its subsidiaries, nor, to the knowledge of the Company, any agent, Affiliate (other than any subsidiary of the Company), or other person working for or on behalf of the Company or any of its subsidiaries has violated (i) any applicable provision of the U.S. Foreign Corrupt Practices Act of 1977 and the applicable rules and regulations promulgated thereunder; (ii) any applicable provisions of the U.K. Bribery Act 2010 and the applicable rules and regulations promulgated thereunder; or (iii) any other anti-corruption or anti-bribery laws of any other applicable jurisdictions (together, “Anti-Corruption Laws”); and the Company, its subsidiaries and, to the knowledge of the Company, its Affiliates (other than any subsidiary of the Company) have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance with applicable Anti-Corruption Laws; neither the Company nor any of its subsidiaries, nor any director or officer of the Company, nor, to the knowledge of the Company, any director or officer of any of the Company’s subsidiaries, or any agent, employee or Affiliate (other than any subsidiary of the Company), or other person working for or on behalf of the Company or any of its subsidiaries is or has been the subject of any investigation, action, inquiry or enforcement proceedings regarding any breach or alleged breach of the Anti-Corruption Laws within the past five years, and (X) to the knowledge of the Company, no such investigation, action, inquiry or proceedings have been threatened or are pending and (Y) there are no circumstances likely to give rise to any such investigation, action, inquiry or proceedings;

ii) *No unlawful gifts.* Neither the Company nor any of its subsidiaries has (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds; (iii) caused the Company or any of its subsidiaries to be in violation of any provision of any applicable national or local law regulating payments to government officials or employees; or (iv) made any unlawful payments;

jj) *Anti-money laundering.* The operations of the Company and its subsidiaries and, so far as the Company is aware, each of its and their Affiliates (other than any subsidiary of the Company) are and have been conducted at all times in compliance with the money laundering statutes of all jurisdictions to which the Company and its subsidiaries, and each of its and their Affiliates (other than any subsidiary of the Company), are subject and any related rules and regulations thereunder (collectively, the “Money Laundering Laws”), and no action, suit, or proceeding by or before any court or governmental agency, authority or body

or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending, or to the knowledge of the Company, threatened; and

kk) *Passive foreign investment company.* The Company does not believe that it was in 2016 and does not expect to become for the current taxable year a “passive foreign investment company” within the meaning of Section 1297 of the United States Internal Revenue Code of 1986, as amended.

2. Purchase and Sale. a) Subject to the terms and conditions herein set forth, (i) the Company agrees to issue and sell the Securities to each of the Initial Purchasers, and each of the Initial Purchasers agrees, severally and not jointly, to purchase the principal amounts of the Securities set forth opposite the name of such Initial Purchaser in Schedule 1 hereto from the Company, at a purchase price of [100]% of the principal amount thereof.

a) The Company will pay a combined underwriting and management fee of 0.9% of the gross proceeds of the offering of the Securities to the Initial Purchasers (the “Base Fee”), to be shared in the following proportions: (i) 45% of the Base Fee to be shared between the Joint Global Coordinators equally; (ii) 55% of the Base Fee to be shared among the Joint Bookrunners equally. In addition, the Company may, in its sole discretion, pay an incentive fee of up to 0.5% of the gross proceeds of the offering of the Securities to the Initial Purchasers. All such fees (except the incentive fee to the extent determined by the Company after the time at which the Initial Purchasers make payment of the purchase price of the Securities at the Time of Delivery as provided in Section 4 below) will, at the Initial Purchasers’ discretion, either be deducted from the purchase price for the Securities to be paid by the Initial Purchasers at the Time of Delivery as provided in Section 4 below or paid by the Company in immediately available funds at the Time of Delivery to the account or accounts specified by the Initial Purchasers in writing to the Company. The incentive fee, to the extent determined by the Company after the time at which the Initial Purchasers make payment as provided in Section 4 below, will be paid by the Company in immediately available funds to the account or accounts specified by the Initial Purchasers in writing to the Company.

b) The Company acknowledges and agrees that the Initial Purchasers may offer and sell the Securities to or through any affiliate of an Initial Purchaser and that any such affiliate may offer and sell any of the Securities purchased by it to or through any Initial Purchaser.

3. Offering by Initial Purchasers. Upon the authorization by you of the release of the Securities, the several Initial Purchasers propose to offer the Securities for sale upon the terms and conditions set forth in this Agreement. Each Initial Purchaser hereby represents and warrants to, and agrees with the Company that it will offer and sell the Securities only upon the terms and conditions set forth in Annex I to this Agreement.

4. Delivery and Payment. a) The Securities will initially be represented by one or more global notes in registered form without interest coupons attached (the “Global Notes”). Such Global Notes will be deposited with, or on behalf of, a nominee for Euroclear Bank SA/NV (“Euroclear”) and Clearstream Banking, *société anonyme* (“Clearstream”) and shall be delivered at the Time of Delivery (as defined below) by or on behalf of the Company to each Initial Purchaser against payment by or on behalf of such Initial Purchaser of the purchase price therefor, by wire transfer in immediately available funds to an account specified by the Company, by causing Euroclear and Clearstream to credit the Securities to the accounts of each Initial Purchaser at Euroclear and/or Clearstream, as applicable. The Initial Purchasers shall be entitled to offset from the payment of the purchase price for the Securities the fees specified in Section 2 hereof (except, for the avoidance of doubt, the incentive fee specified therein to the extent determined by the Company after the Time of Delivery), and all other costs and expenses which the Company agreed to pay pursuant to Section 6 hereof.

a) The time and date of such delivery and payment shall be, with respect to the Securities, [12:00] p.m., London time, on September 13, 2017 or such other time and date as the Initial Purchasers and the Company may jointly designate (the “Time of Delivery”).

b) The Initial Purchasers shall not be under any obligation to the Company for any delay in the Time of Delivery or the issue of the Global Notes representing the Securities provided that the Initial Purchasers have complied with their obligations hereunder.

c) The documents to be delivered at the Time of Delivery by or on behalf of the parties hereto pursuant to Section 7 hereof, including the Securities, the cross - receipt for the Securities and any additional documents requested by the Initial Purchasers pursuant to Section 7 hereof, will be delivered at such time and date at the offices of Cleary Gottlieb Steen & Hamilton LLP, 55 Basinghall Street, London EC2V 5EH, England (the “Closing Location”), and the Securities will be delivered at the Closing Location, all at the Time of Delivery. A meeting will be held in - person and/or by telephone on the day preceding the Time of Delivery, at which meeting the final drafts of the documents to be delivered pursuant to the preceding sentence will be available for review by the parties hereto.

5. Undertakings. The Company agrees with the Initial Purchasers:

a) If at any time prior to payment of the purchase price of the Securities at the Time of Delivery, any event shall have occurred as a result of which the Public Disclosure, as then amended and supplemented, would include an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading or if for any other reason it shall be necessary to amend or supplement the Public Disclosure, to promptly notify the Initial Purchasers and to prepare and publish such announcements as may be agreed with the Initial Purchasers which will correct such statement or omission;

b) Promptly from time to time to take such action as the Initial Purchasers may reasonably request, consistent with the terms and conditions set forth in Annex I to this Agreement, to qualify the Securities for offering and sale under the securities laws of such jurisdictions as you may request and to comply with such laws so as to permit the continuance of sales and dealings therein in such jurisdictions for as long as may be necessary to complete the distribution of the Securities, provided that in connection therewith the Company shall not be required to qualify as a foreign corporation or to file a general consent to service of process in any jurisdiction;

c) During the period beginning from the date hereof and continuing to the date 90 days after the Time of Delivery: (i) not to use, authorize, approve or refer to any written communication that constitutes an offer to sell or a solicitation of an offer to buy the Securities without having first furnished the Initial Purchasers a copy of such written communication for review or if the Initial Purchasers reasonably object; and (ii) not to make any other public announcements or disclosures regarding the issue, offering and placement of the Securities without, to the greatest extent legally possible, first having consulted with the Initial Purchasers and taken into account any comments reasonably made;

d) During the period beginning from the date hereof and continuing to the date 90 days after the Time of Delivery not to offer, sell, contract to sell or otherwise dispose of, except as provided hereunder any securities of the Company that are substantially similar to the Securities or the Shares, including but not limited to any securities that are convertible into or exchangeable for, or that represent the right to receive, Shares or any such substantially similar securities (other than pursuant to employee stock option plans existing on, or upon the conversion or exchange of convertible or exchangeable securities outstanding as of, the date of this Agreement), make any short sale, engage in any hedging or other transaction that is designed to or

that reasonably could be expected to lead to or result in a sale or disposition (even if such disposition would be by someone other than the Company), or enter into a transaction with similar economic effect, or publicly announce the intention to do any of the foregoing, in each case, without the prior written consent of the Initial Purchasers; provided however that the foregoing shall not apply to securities issued or delivered in the context of acquisitions or joint ventures, provided further that the transferee of such securities agrees in writing to be bound by the terms of this Section 5(d) or the entry into the transactions contemplated by the Offering Documents or the Hedge and Warrant Documents;

e) Not to do or authorize any act or thing on or after the date hereof and prior to the Time of Delivery that would, had any Securities then been outstanding, have resulted in an adjustment of the conversion rate of the Securities;

f) To assist the Initial Purchasers and use commercially reasonable efforts to permit the offered Securities to be eligible for clearance and settlement through Euroclear and Clearstream and to use its reasonable best efforts to maintain such eligibility for so long as the Securities remain outstanding;

g) During a period of five years from the Time of Delivery, to furnish to you copies of all reports or other communications (financial or other) furnished to shareholders of the Company, and to deliver to you soon as practicable after they are available and consistent with the Company's obligations under the Exchange Act, copies of any reports and financial statements furnished to or filed with the Commission or any securities exchange on which any class of securities of the Company is listed; provided that for so long as the Company is subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, the terms of this Section 5(g) shall be deemed to have been complied with upon the filing or furnishing of such information on EDGAR; provided further that the terms of this Section 5(g) shall also be deemed to have been complied with if such information is disseminated in a manner that constitutes "public disclosure" within the meaning of Regulation FD;

h) None of the Company, its Affiliates, or any other person acting on its or their behalf will engage in any directed selling efforts in relation to the Securities within the meaning of Regulation S, and all such persons will comply with the offering restrictions requirement of Regulation S in relation to the Securities;

i) Not to (and to cause its subsidiaries not to) take, directly or indirectly, any action until the completion of the distribution of the Securities which is designed to or which constitutes or which might reasonably be expected to cause or result in stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities or the Shares, or which is in violation of the Market Abuse Regulation or any legislation passed thereunder;

j) None of the Company, its Affiliates, or any other person acting on its or their behalf will, directly or indirectly, make offers or sales of any security, or solicit offers to buy any security, under circumstances that would require the registration of the Securities under the Securities Act;

k) To take all necessary actions to have the Securities quoted on the Open Market within one (1) month of the Time of Delivery; and to use reasonable endeavors to obtain and thereafter to maintain a listing of the Securities on such other suitable stock exchange as it may (with the approval of the Initial Purchasers) decide if the Company at any time determines that it can no longer reasonably comply with the requirements for quotation of the Securities on the Open Market, and if maintenance of such quotation on the Open Market becomes in the opinion of the Company unduly onerous;

l) (i) To use the proceeds received by it from the issue of the Securities in the manner specified in the Offering Documents; (ii) to not, directly or indirectly, use such proceeds, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other individual or entity to fund or facilitate any activities or business of or with any Sanctioned Person or with any person located, operating, organized or resident in any Sanctioned Country, or in any other manner that will result in a violation of Sanctions by any Person (including any individual or entity participating in the offering, whether as underwriter, advisor, investor or otherwise); and (iii) to not use, lend, contribute or otherwise make available, directly or indirectly, such proceeds in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any person in violation of any applicable Anti-Corruption Laws; for the avoidance of doubt, nothing in this paragraph shall be interpreted to require the Company or any of its subsidiaries to violate Section 7 of the German Foreign Trade Ordinance (*Außenwirtschaftsverordnung*) or a similar applicable anti-boycott statute.

m) To effect and to use reasonable efforts to maintain the listing of the Shares issued in settlement of the Company's obligations under the Warrant on a Relevant Exchange; and

n) To execute on or before the Time of Delivery each Operative Document.

6. Expenses and taxes. a) The Company covenants and agrees with the Initial Purchasers that it will pay or cause to be paid the following: (i) the fees, disbursements and expenses of the Company's counsel and accountants in connection with the issue of the Securities and all other expenses in connection with the preparation, printing and filing of the Offering Documents and any amendments and supplements thereto and the mailing and delivering of copies thereof to the Initial Purchasers; (ii) the cost of printing or reproducing Operative Documents and Offering Documents (including any compilations thereof) and any other documents in connection with the offering, purchase, sale and delivery of the Securities; (iii) the cost of preparing the Securities and the Global Notes and other certificates of the Securities, including any stamp or other issuance or transfer taxes or duties; (iv) the fees and expenses of the Trustee and any agent of the Trustee, and any paying, conversion and transfer agent, calculation agent, or registrar and the fees and disbursements of counsel for the Trustee, as well as any paying, conversion and transfer agent, calculation agent, or registrar in connection with the Indenture and the Securities; (v) all expenses and taxes arising as a result of the issuance, sale and delivery of the Securities, of the sale and delivery of the Securities by the Initial Purchasers to the initial purchasers thereof in the manner contemplated under this Agreement or as a result of any other action contemplated herein, including, in any such case, any Dutch income, capital gains, withholding, transfer or other tax asserted against the Initial Purchasers by reason of the purchase and sale of the Securities pursuant to this Agreement or any such other action; (vi) any costs incurred in connection with the listing of the Securities for trading; (vii) all other costs and expenses incident to the performance of the Company's obligations under the Operative Documents which are not otherwise specifically provided for in this Section 6 and (viii) all out of pocket expenses of the Initial Purchasers, including the fees and disbursements of the Initial Purchasers' counsel in connection with the transactions contemplated hereby, and, in relation to the fees of the Initial Purchasers' counsel, to the extent of estimates of such counsel fees have been previously approved by the Company.

a) The Company will indemnify and hold harmless the Initial Purchasers against any stamp or other issuance or transfer taxes or duties or capital gains, income, withholding or other taxes payable by or on behalf of the Initial Purchasers, including any interest and penalties, in The Netherlands or in any other jurisdiction in connection with (A) the issuance, sale and delivery by the Company to or for the account of the Initial Purchasers of the Securities; (B) the sale and delivery by the Initial Purchasers of the Securities to the initial purchasers thereof; (C) the issuance and delivery of the Shares in settlement of the Company's obligations under the Warrant; or (D) the execution and delivery of this Agreement and the Indenture other

than any income tax that may be levied on the income of any Initial Purchaser if the income of such Initial Purchaser is subject to Dutch tax on a net income basis and the withholding, if any, with respect to such income.

7. Conditions. The obligations of the Initial Purchasers hereunder shall be subject, in their discretion, to the condition that all representations and warranties and other statements of the Company herein are, at and as of the Time of Delivery, true and correct, the condition that the Company shall have performed in all material respects all of their respective obligations hereunder theretofore to be performed, and the following additional conditions:

a) Cleary Gottlieb Steen & Hamilton LLP, U.S. counsel to the Initial Purchasers, shall have furnished to the Initial Purchasers written opinions, dated the Time of Delivery, in form and substance satisfactory to the Initial Purchasers;

b) Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., U.S. counsel to the Company, shall have furnished to the Initial Purchasers written opinions, dated the Time of Delivery, in form and substance satisfactory to the Initial Purchasers and substantially to the effect set out in Annex II;

c) De Brauw Blackstone Westbroek, Dutch counsel to the Company and the Initial Purchasers, shall have furnished to the Initial Purchasers written opinions, dated the Time of Delivery, in form and substance satisfactory to the Initial Purchasers and substantially to the effect set out in Annex III;

d) Since the date of the most recent audited consolidated financial statements of the Company included in the Public Disclosure, on or after the date hereof and as of the Time of Delivery, (i) neither the Company nor any of its subsidiaries shall have sustained any loss or interference with its business, including but not limited to any loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as set forth in subsequent Public Disclosure, and (ii) there has not been any payment of any dividend, capital reduction or other distribution, or any change in the capital stock or long-term debt of the Company or any of its subsidiaries or any change, or any development involving a prospective change, in or affecting the general affairs, management, financial position, shareholders' equity or results of operations of the Company and its subsidiaries taken as a whole the effect of which, in any such case described in subsection (i) or (ii), is in the judgment of the Initial Purchasers so material and adverse as to make it impracticable or inadvisable to proceed with the offering or delivery of the Securities on the terms and in the manner contemplated in the Offering Documents;

e) No event shall have occurred which would require notice or information to be given by the Company to the Initial Purchasers under Section 5(a) since the date of this Agreement;

f) The Company and the other parties thereto, other than the Initial Purchasers, shall have executed the Operative Documents;

g) The Company shall not have done or authorized any act or thing that would, had any Securities then been outstanding, have resulted in an adjustment of the conversion rate of the Securities, since the date of this Agreement;

h) The Company shall have furnished or caused to be furnished to you at the Time of Delivery certificates of a managing director of the Company satisfactory to you as to the accuracy of the representations and warranties of the Company herein at and as of such Time of Delivery, as to the performance in all material respects by the Company of all of its obligations hereunder to be performed at or prior to such Time of



Delivery, as to the matters set forth in Sections 7(e) and 7(f) hereof and as to such other matters as you may reasonably request;

i) The Securities shall have been declared eligible for clearance and settlement through the facilities of Euroclear and Clearstream;

j) Copies of all corporate and other consents, approvals or authorizations required in connection with the issue of the Securities and the entry into the Operative Documents by the Company and the performance of its obligations thereunder shall have been delivered to the Initial Purchasers on or before the Time of Delivery; and

k) Evidence shall have been provided that the person referred to in Section 15 hereof has agreed to receive such process in the manner specified therein.

8. Indemnity. a) The Company (the “indemnifying party”) will indemnify and hold harmless each Initial Purchaser and each person, if any, who controls any Initial Purchaser within the meaning of Section 15 of the Securities Act or Section 20 of the Securities Exchange Act 1934 and each Initial Purchaser’s and each such person’s Affiliates, and each Initial Purchaser’s and each of such person’s respective directors, officers, employees and agents (each an “indemnified party”) (i) against any loss, claim, damage or liability (in each case, “Loss”), joint or several, to which such indemnified party may become subject, under the Securities Act, the Exchange Act or otherwise, insofar as such Loss (or actions in respect thereof) arises out of or is based upon an untrue statement or alleged untrue statement of a material fact contained in Company’s Public Disclosure or any Offering Document, or any amendment or supplement thereto, or arises out of or is based upon the omission or alleged omission to state therein a material fact necessary to make the statements therein not misleading in light of the circumstances in which they were made; and (ii) against any Loss, joint or several, to which such indemnified party may become subject insofar as such Loss (or actions in respect thereof) arises out of or are based upon the performance by the Initial Purchasers of their obligations and services contemplated in this Agreement (including, without limitation and for avoidance of doubt, any Loss arising from the use of the Offering Documents in the manner envisaged herein), and will reimburse each indemnified party for any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such Loss (or actions in respect thereof) or claim as referenced in subsections (i) and (ii) above, as such expenses are incurred; *provided* that the indemnity in this Section 8(a) shall not apply to any Loss if and then only to the extent such Loss is finally judicially determined by a court of competent jurisdiction to have arisen as a result of the fraud, gross negligence or willful default of such indemnified party.

a) Promptly after receipt by an indemnified party of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under this Section 8, notify the indemnifying party in writing of the commencement thereof; but the omission so to notify the indemnifying party shall not relieve it from any liability which it may have to any indemnified party otherwise than under this Section 8. In case any such action shall be brought against any indemnified party and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it shall wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party, be counsel to the indemnifying party), and, after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party shall not be liable to such indemnified party under this Section 8 for any legal expenses of other counsel or any other expenses (except as provided below in this Section 8(b)), in each case subsequently incurred by such indemnified party, in connection with the defense thereof other than reasonable costs of investigation. In any such proceeding, any indemnified party shall have the right to

retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such indemnified party unless (i) the indemnifying party and the indemnified party shall have mutually agreed to the contrary; (ii) the indemnifying party has failed within a reasonable time to retain counsel reasonably satisfactory to the indemnified party; (iii) the indemnified party shall have reasonably concluded that there may be legal defenses available to it that are different from or in addition to those available to the indemnifying party; or (iv) the named parties in any such proceeding (including any impleaded parties) include both the indemnifying party and the indemnified party and representation of both parties by the same counsel would be inappropriate due to actual or potential different interests between them. It is understood and agreed that the indemnifying party shall not, in connection with any proceeding or related proceeding in the same jurisdiction, be liable for the fees and expenses of more than one separate firm (in addition to any local counsel) for each indemnified party, and that all such fees and expenses shall be reimbursed as they are incurred. Any such separate firm for any indemnified party shall be designated in writing by the indemnified party and any such separate firm for the indemnifying party shall be designated in writing by the indemnifying party.

b) The indemnifying party shall not, without the written consent of the indemnified party, effect the settlement or compromise of, or consent to the entry of any judgment with respect to, any pending or threatened action or claim in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified party is an actual or potential party to such action or claim) unless such settlement, compromise or judgment (i) includes an unconditional release of the indemnified party from all liability arising out of such action or claim and (ii) does not include a statement as to, or an admission of, fault, culpability or a failure to act, by or on behalf of any indemnified party.

c) If the indemnification provided for in this Section 8 is unavailable to or insufficient to hold harmless an indemnified party in respect of any Loss (or actions in respect thereof), then the indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such Loss (or actions in respect thereof) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Initial Purchasers on the other from the offering of the Securities. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law or if the indemnified party failed to give the notice required under Section 8(b) above, then the indemnifying party shall contribute to such amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Company on the one hand and the Initial Purchasers on the other in connection with the statements or omissions which resulted in such Losses (or actions in respect thereof), as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Initial Purchasers on the other shall be deemed to be in the same proportion as the total net proceeds from the offering (before deducting expenses) received by the Company bear to the total management, underwriting and incentive fees received by the Initial Purchasers, in each case as set forth in this Agreement. The Company and the Initial Purchasers agree that it would not be just and equitable if contribution pursuant to this Section 8(d) were determined by *pro rata* allocation (even if the Initial Purchasers were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to above in this Section 8(d). The amount paid or payable by an indemnified party as a result of the Loss (or actions in respect thereof) referred to above in this Section 8(d) shall be deemed to include any unreimbursed legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim.

d) The obligations of the Company under this Section 8 shall be in addition to any liability which the Company may otherwise have and shall extend, upon the same terms and conditions, to each person, if any, who controls any Initial Purchaser within the meaning of the Securities Act.

9. Default by Initial Purchaser. a) If any Initial Purchaser shall, at any Time of Delivery, default in its obligation to purchase the Securities which it has agreed to purchase at such time hereunder, you may in your discretion arrange for you or, subject to the approval of the Company, another party or other parties to purchase such Securities on the terms contained herein. If within thirty-six hours after such default by any Initial Purchasers you do not arrange for the purchase of such Securities, then the Company shall be entitled to a further period of thirty-six hours within which to procure another party or other parties satisfactory to you to purchase such Securities on such terms. In the event that, within the respective prescribed periods, you notify the Company that you have so arranged for the purchase of such Securities, or the Company notifies you that it has so arranged for the purchase of such Securities, you or the Company shall have the right to postpone such Time of Delivery for a period of not more than seven days, in order to effect whatever changes may thereby be made necessary in any documents or arrangements which in your reasonable opinion may thereby be made necessary. The term "Initial Purchasers" as used in this Agreement shall include any person substituted under this Section 9 with like effect as if such person had originally been a party to this Agreement with respect to such Securities.

a) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Initial Purchaser by you and the Company as provided in Section 9(a) above, the aggregate principal amount of such Securities which remains unpurchased does not exceed one-tenth of the aggregate principal amount of all the Securities to be purchased at such Time of Delivery, then the Company shall have the right to require each non-defaulting Initial Purchaser to purchase the principal amount of Securities which such Initial Purchaser agreed to purchase hereunder and, in addition, to require each non-defaulting Initial Purchaser to purchase its *pro rata* share (based on the principal amount of Securities which such Initial Purchasers agreed to purchase hereunder) of the Securities of such defaulting Initial Purchaser for which such arrangements have not been made; but nothing herein shall relieve a defaulting Initial Purchaser from liability for its default.

b) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Initial Purchaser by you and the Company as provided in Section 9(a) above, the aggregate principal amount of Securities which remains unpurchased exceeds one-tenth of the aggregate principal amount of all the Securities, or if the Company shall not exercise the right described in Section 9(b) above to require non-defaulting Initial Purchasers to purchase Securities of a defaulting Initial Purchaser or Initial Purchasers, then this Agreement shall thereupon terminate, without liability on the part of the non-defaulting Initial Purchaser or the Company, except as provided in Section 12 hereof.

10. Termination. This Agreement shall be subject to termination in the absolute discretion of the Initial Purchasers by notice given to the Company prior to the Time of Delivery if, at any time prior to such time, there has occurred any of the following: (i) a suspension or material limitation in trading in securities generally on the New York Stock Exchange, NASDAQ, Euronext Amsterdam, the Frankfurt Stock Exchange and/or the London Stock Exchange; (ii) a suspension or material limitation in trading in the Company's securities on NASDAQ or the Frankfurt Stock Exchange; (iii) a general moratorium on commercial banking activities in New York, London, Amsterdam or Frankfurt declared by the relevant authorities, or a material disruption in commercial banking or securities settlement or clearance services in the United States, the United Kingdom or The Netherlands or Germany; (iv) a change or development involving a prospective change in Dutch taxation affecting the Company, the Securities or the transfer thereof; (v) the outbreak or escalation of hostilities involving the United States, United Kingdom, The Netherlands or Germany or the declaration by the United States or any Member State of the European Union of a national emergency or war; (vi) the occurrence of any other calamity or crisis, including an act of terrorism, or any change in financial, political or economic conditions or currency exchange rates or controls in the United States or any Member State of the European Union; (vii) there shall have come to the notice of the Initial

Purchasers (X) any breach of, or any event rendering untrue or incorrect, any of the representations and warranties contained in Section 1 hereof or that would render untrue or incorrect the statements made in the certificates to be delivered at the Time of Delivery pursuant to Section 7(h) hereof or (Y) any failure to perform any of the Company's undertakings, agreements or obligations in this Agreement; or (viii) any of the conditions specified in Section 7 hereof have not been satisfied or waived by the Initial Purchasers, if the effect of any such event in the sole judgment of the Initial Purchasers makes it impracticable or inadvisable to proceed with the offering or the delivery of the Securities.

11. Survival. The respective indemnities, agreements, representations, warranties and other statements of the Company and the several Initial Purchasers, as set forth in this Agreement or made by or on behalf of them, respectively, pursuant to this Agreement, shall remain in full force and effect, regardless of any investigation (or any statement as to the results thereof) made by or on behalf of any Initial Purchaser or any controlling person of any Initial Purchaser, or the Company, or any officer or director or controlling person of the Company and shall survive delivery of and payment for the Securities. For the avoidance of doubt, the provisions of this Section 11 and of Sections 6 and 8 hereof shall survive the termination or cancellation of this Agreement.

12. Expenses following termination. If this Agreement shall be terminated pursuant to Section 10 hereof, the Company shall then be under no further liability to you except as provided in Section 8 hereof. If this Agreement shall otherwise be terminated for any reason, and the Securities are not delivered by or on behalf of the Company as provided herein, the Company shall then be under no further liability to you except as provided in Sections 6 and 8 hereof provided that nothing herein shall relieve a defaulting Initial Purchaser from liability for its default.

13. Notices. All statements, requests, notices and agreements hereunder shall be in writing and shall be delivered or sent by mail or facsimile transmission:

- i. if to the Initial Purchasers, to:

Barclays Bank PLC  
5 The North Colonnade  
Canary Wharf  
London E14 4BB  
United Kingdom  
Fax: +44 (0) 20 7516 3404  
Attention: ECM Syndicate Desk;

Credit Suisse Securities (Europe) Limited  
Attention: Company Secretary  
One Cabot Square  
London E14 4QJ  
United Kingdom  
Attention: Company Secretary  
Fax: +44 (0) 207 888 1600;

Goldman Sachs International  
Peterborough Court  
133 Fleet Street  
London EC4A 2BB

Fax: +44 (0) 20 7224 1550;  
Attention: Equity Capital Markets;

J.P. Morgan Securities PLC  
25 Bank Street  
Canary Wharf  
London E14 5JP  
United Kingdom  
Fax: +44 (0) 20 3493 1453  
Email: ECM - Europe Syndicate Desk@jpmorgan.com  
Attention: Equity Syndicate Desk; and

Merrill Lynch International  
2 King Edward Street  
London EC1A 1HQ  
United Kingdom  
Fax: +44 20 7996 2030  
Attention: Equity Linked Capital Markets

- ii. if to the Company, to

QIAGEN N.V.  
Hulsterweg 82,  
5912 PL Venlo,  
The Netherlands  
Email: thomas.neidert@QIAGEN.com and Philipp.Hugo@QIAGEN.com

Any such statements, requests, notices or agreements shall take effect upon receipt thereof.

14. Parties in Interest. This Agreement shall be binding upon, and inure solely to the benefit of, the Initial Purchasers, the Company and, to the extent provided in Sections 8 and 12 hereof, the officers and directors of the Company and each person who controls the Company or the Initial Purchasers, and their respective heirs, executors, administrators, successors and assigns, and no other person shall acquire or have any right under or by virtue of this Agreement. No purchasers of any of the Securities from the Initial Purchasers shall be deemed a successor or assign by reason merely of such purchase.

15. Disputes.

a) The Company irrevocably (i) agrees that any legal suit, action or proceeding against the Company brought by any Initial Purchaser or by any person who controls any Initial Purchaser arising out of or based upon this Agreement or the transactions contemplated hereby may be instituted in any court of the federal courts of the United States located in the City and County of New York or the courts of the State of New York located in the City and County of New York (each, a “New York Court”), (ii) waives, to the fullest extent it may effectively do so, any objection which it may now or hereafter have to the laying of venue of any such proceeding and (iii) submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. The Company has appointed Corporation Service Company, New York, New York, as its authorized agent (the “Authorized Agent”) upon whom process may be served in any such action arising out of or based on this Agreement or the transactions contemplated hereby which may be instituted in any New York Court by any Initial Purchaser or by any person who controls any Initial Purchaser, expressly consents to the jurisdiction of any such court in respect of any such action, and waives any other requirements

of or objections to personal jurisdiction with respect thereto. Such appointment shall be irrevocable. The Company represents and warrants that the Authorized Agent has agreed to act as such agent for service of process and agrees to take any and all action, including the filing of any and all documents and instruments, that may be necessary to continue such appointment in full force and effect as aforesaid. Service of process upon the Authorized Agent and written notice of such service to the Company shall be deemed, in every respect, effective service of process upon the Company.

b) The Company hereby agrees that, should any legal suit, action or proceeding be brought against any Initial Purchaser or any of its Affiliates arising out of or based upon this Agreement or the transactions contemplated hereby and instituted in any court in any other jurisdiction not mentioned in Section 15(a) hereof, whether or not in the federal or state courts located in the United States, such Initial Purchaser or Affiliate may join the Company as a respondent in such suit, action or proceeding. The Company hereby submits to the non-exclusive jurisdiction of such courts and agrees that any such suit, action or proceeding may be brought therein. The Company hereby further agrees that a final judgment in any such suit, action or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

16. Judgment Currency. In respect of any judgment or order given or made for any amount due hereunder that is expressed in United States dollars and paid in a currency (the “judgment currency”) other than United States dollars, the Company will indemnify each Initial Purchaser against any loss incurred by such Initial Purchaser as a result of any variation as between (i) the rate of exchange at which the United States dollar amount is converted into the judgment currency for the purpose of such judgment or order and (ii) the rate of exchange at which an Initial Purchaser would be able to purchase United States dollars with the amount of judgment currency actually received by such Initial Purchaser on the day such funds are received by such Initial Purchaser based on the applicable foreign exchange rate published in the eastern edition of the Wall Street Journal under the heading “Money Rates” or, should no such rate have been published, the rate of exchange at which an Initial Purchaser would be able to purchase (and remit in New York City), in accordance with normal banking procedures, United States dollars with the amount of judgment currency actually received by such Initial Purchaser on the day such funds are received by such Initial Purchaser. The foregoing indemnity shall constitute a separate and independent obligation of the Company and shall continue in full force and effect notwithstanding any such judgment or order as aforesaid. The term “rate of exchange” shall include any premiums and costs of exchange payable in connection with the purchase of or conversion into United States dollars.

17. Arm’s-Length Transaction. The Company acknowledges and agrees that (i) the purchase and sale of the Securities pursuant to this Agreement is an arm’s-length commercial transaction between the Company, on the one hand, and the several Initial Purchasers, on the other, (ii) in connection therewith and with the process leading to such transaction each Initial Purchaser is acting solely as a principal and not the agent or fiduciary of the Company, (iii) no Initial Purchaser has assumed an advisory or fiduciary responsibility in favor of the Company with respect to the offering contemplated hereby or the process leading thereto (irrespective of whether such Initial Purchaser has advised or is currently advising the Company on other matters) or any other obligation to the Company except the obligations expressly set forth in this Agreement and (iv) the Company has consulted its own legal and financial advisors to the extent it deemed appropriate. The Company agrees that it will not claim that the Initial Purchasers, or any of them, has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to the Company, in connection with such transaction or the process leading thereto.

18. Time of Essence. Time shall be of the essence of this Agreement.

19. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

20. Counterparts. This Agreement may be executed by any one or more of the parties hereto in any number of counterparts, each of which shall be deemed to be an original, but all such respective counterparts shall together constitute one and the same instrument.

21. Disclosure for U.S. federal income tax purposes. The Company is authorized, subject to applicable law, to disclose any and all aspects of this potential transaction that are necessary to support any U.S. federal income tax benefits expected to be claimed with respect to such transaction, and all materials of any kind (including tax opinions and other tax analyses) related to those benefits, without the Initial Purchasers imposing any limitation of any kind.

22. Amendments or Waivers. No amendment or waiver of any provision of this Agreement, nor any consent or approval to any departure therefrom, shall in any event be effective unless the same shall be in writing and signed by the parties hereto.

23. Headings. The headings herein are included for convenience of reference only and are not intended to be part of, or to affect the meaning or interpretation of, this Agreement.

24. Waiver of Jury Trial. ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY CLAIM OR PROCEEDING RELATED TO OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION OR CONDUCT IN CONNECTION HEREWITH, IS WAIVED.

25. Recognition of Bail-in. Notwithstanding and to the exclusion of any other provision of this Agreement or any other agreements, arrangements or understandings, in the event that an Initial Purchaser becomes subject to the exercise of Bail-in Powers under an applicable Bail-in Legislation, the Company acknowledges and accepts that a BRRD Liability arising under this Agreement may be subject to the exercise of Bail-in Powers by the Relevant Resolution Authority, and acknowledges, accepts and agrees to be bound by:

a) the effect of the exercise of such powers in relation to any Liability of such Initial Purchaser arising under this Agreement that (without limitation) may include and result in any of the following, or some combination thereof:

- (i) the reduction of all, or a portion, of such Liability;
- (ii) the conversion of all, or a portion, of such Liability into shares, other securities, or other obligations of such Initial Purchaser or another person (and the issue to or conferral on the Company of such shares, securities or obligations), including by means of an amendment, modification or variation of the terms of this Agreement;
- (iii) the cancellation of such Liability;
- (iv) the amendment or alteration of the amounts due in relation to such Liability, including any interest, if applicable, thereon, or the dates on which any payments are due, including by suspending payment for a temporary period;

b) the variation of the terms of this Agreement, if necessary, to give effect to the exercise of such powers.

In this Section 25, terms used shall have the following meanings:

“Bail-in Legislation” means (i) if the Initial Purchaser is incorporated or organized under the laws of England and Wales, the laws, regulations, rules or requirements in effect in the United Kingdom relating to the transposition of the BRRD, including but not limited to the Banking Act 2009, as amended from time to time, and the instruments, rules and standards created thereunder; or (ii) if the Initial Purchaser is incorporated or organized under the laws of any other member state of the European Economic Area which has implemented, or which at any time implements, Article 55 of BRRD, the Bail-in Legislation will be the laws, regulations, rules or requirements in effect in such member state relating to the transposition of the BRRD as described in the EU Bail-In Legislation Schedule from time to time.

“Bail-in Powers” means any write-down, conversion, transfer, modification, or suspension power existing from time to time under, and exercised in compliance with, applicable Bail-in Legislation, pursuant to which any obligation of an Initial Purchaser (or affiliate of an Initial Purchaser) can be reduced, cancelled, modified, or converted into shares, other securities, or other obligations of such Initial Purchaser or any other person (or suspended for a temporary period) or any right in a contract governing an obligation of the Initial Purchaser may be deemed to have been exercised.

“BRRD” means Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms.

“EU Bail-In Legislation Schedule” means the document described as such, then in effect, and published by the Loan Market Association (or any successor person) from time to time at <http://www.lma.eu.com/pages.aspx?p=499>.

“Liability” means liability as defined under the applicable Bail-in Legislation.

“Relevant Resolution Authority” means the resolution authority with the ability to exercise any Bail-in Powers in relation to an Initial Purchaser.



If the foregoing is in accordance with your understanding, please sign and return to us five counterparts hereof, and upon the acceptance hereof by you shall constitute a binding agreement between the Initial Purchasers and the Company.

Very truly yours,

**QIAGEN N.V.**

By: /s/ Thomas Neidert

Name: Thomas Neidert

Title: Vice President

Accepted as of the date hereof

**BARCLAYS BANK PLC**

/s/ David Jeal

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Name: David Jeal

Title: Director

**CREDIT SUISSE SECURITIES (EUROPE) LIMITED**

/s/ Frank Heitmann

Name: Frank Heitmann

Title: Managing Director

**GOLDMAN SACHS INTERNATIONAL**

/s/ Celine Assouline

---

Name: Celine Assouline

Title: Managing Director

**J.P. MORGAN SECURITIES PLC**

By: /s/ Virginie De Grivel Nigam

Name: Virginie De Grivel Nigam

Title: Executive Director

**MERRILL LYNCH INTERNATIONAL**

/s/ James Fleming

---

Name: James Fleming

Title: Managing Director

## SCHEDULE I

<b>Initial Purchasers</b>	<b>Aggregate principal amount of Securities (U.S.\$)</b>
Barclays Bank PLC	73,333,333
Credit Suisse Securities (Europe) Limited	73,333,333
Goldman Sachs International	90,000,000
J.P. Morgan Securities PLC	90,000,000
Merrill Lynch International	73,333,334
<b>Total</b>	<b>400,000,000</b>

## ANNEX I

1. The Securities have not been and will not be registered under the Securities Act and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons except in accordance with Regulation S or pursuant to an exemption from the registration requirements of the Securities Act. Each of the Initial Purchasers, severally and not jointly, represents that it has not offered and sold the Securities, and will not offer and sell the Securities (i) as part of their distribution at any time and (ii) otherwise until 40 days after the later of the commencement of the offering and the Time of Delivery, except in accordance with Rule 903 of Regulation S. Accordingly, each of the Initial Purchasers agrees that neither it, its affiliates nor any persons acting on its or their behalf has engaged or will engage in any directed selling efforts with respect to the Securities.
2. Each of the Initial Purchasers has complied and will comply with the offering restrictions requirement of Regulation S.
3. Each of the Initial Purchasers shall have, at or prior to the confirmation of sale of Securities, sent to each distributor, dealer or person receiving a selling concession, fee or other remuneration that purchases Securities from it during the distribution compliance period a confirmation or notice to substantially the following effect:

“The Securities covered hereby have not been registered under the U.S. Securities Act of 1933 (the “Act”) and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons (i) as part of their distribution at any time or (ii) otherwise until 40 days after the later of the commencement of the offering and the date of closing of the offering, except in either case in accordance with Regulation S under the Act. Terms used in this paragraph have the meanings given to them by Regulation S.”
4. Each of the Initial Purchasers further agrees that it has not entered and will not enter into any contractual arrangement with respect to the distribution or delivery of the Securities, except with its affiliates or with the prior consent of the Company.
5. Terms used in paragraphs 1-4 of this Annex I have the meanings given to them by Regulation S.
6. Each of the Initial Purchasers, severally and not jointly, further represents, warrants and agrees that:
  - (a) it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial Services and Markets Act 2000, as amended (the “FSMA”) received by it in connection with the issue or sale of the Securities in circumstances in which Section 21(1) of the FSMA does not apply to the Company; and
  - (b) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the Securities in, from or otherwise involving the United Kingdom.



*[Agreed form Mintz opinion]*

*[Agreed form De Brauw counsel opinion]*

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**QIAGEN N.V.**  
as Issuer

**DEUTSCHE TRUSTEE COMPANY LIMITED**  
as Trustee

**DEUTSCHE BANK AG, LONDON BRANCH**  
as Paying Agent and Conversion Agent

and

**DEUTSCHE BANK LUXEMBOURG S.A.**  
as Note Registrar, Transfer Agent and Authentication Agent

**INDENTURE**

Dated as of September 13, 2017

0.50% Senior Unsecured Convertible Notes due 2023

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INDENTURE dated as of September 13, 2017 among QIAGEN N.V., as issuer (the “**Company**”), and Deutsche Trustee Company Limited, as Trustee, Deutsche Bank AG, London Branch, as Paying Agent and Conversion Agent, and Deutsche Bank Luxembourg S.A., as Note Registrar and Authentication Agent.

WITNESSETH:

WHEREAS, for its lawful corporate purposes, the Company has duly authorized the issue of its 0.50% Senior Unsecured Convertible Notes due 2023 (hereinafter sometimes called the “**Notes**”), initially in an aggregate principal amount not to exceed \$400,000,000, and in order to provide the terms and conditions upon which the Notes are to be authenticated, issued and delivered, the Company has duly authorized the execution and delivery of this Indenture; and

WHEREAS, the Form of Note, the certificate of authentication to be borne by each Note, the Form of Notice of Conversion, the Form of Confirmation of Conversion, the Form of Fundamental Change Repurchase Notice and the Form of Assignment and Transfer to be borne by the Notes are to be substantially in the forms hereinafter provided for; and

WHEREAS, all acts and things necessary to make the Notes, when executed by the Company and authenticated and delivered by the Trustee or a duly authorized Authentication Agent, the valid, binding and legal obligations of the Company, and to constitute a valid agreement according to its terms, have been done and performed, and the execution of this Indenture and the issue hereunder of the Notes have in all respects been duly authorized.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

That in order to declare the terms and conditions upon which the Notes are, and are to be, authenticated, issued and delivered, and in consideration of the premises and of the purchase and acceptance of the Notes by the holders thereof, each party agrees for the benefit of the other parties and the Company and Trustee agree for the equal and proportionate benefit of the respective holders from time to time of the Notes (except as otherwise provided below), as follows:

Article 1

DEFINITIONS

SECTION 1.01. Definitions. The terms defined in this Section 1.01 (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified in this Section 1.01. The words “herein,” “hereof,” “hereunder,” and words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision. The terms defined in this Article include the plural as well as the singular.

“**Adjusted Parity Value**” shall have the meaning set forth in Section 12.01(b)(i).

“**Agent**” means any Note Registrar, Transfer Agent, Conversion Agent, Authentication Agent or Paying Agent (including the initial Paying Agent and any additional Paying Agents).

“**Affiliate**” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, “control,” when used with respect to any specified Person means the

power to direct or cause the direction of the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“**Applicable Procedures**” means, with respect to any conversion of, transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of Euroclear and Clearstream that apply to such conversion, transfer or exchange at the relevant time.

“**Authorized Director**” means, with respect to the Company, each managing director, individually and any other individual granted authority to act on behalf of the Company pursuant to a power of attorney.

“**Authentication Agent**” shall have the meaning set forth in Section 15.10.

“**Bankruptcy Law**” means the Netherlands Bankruptcy Act (*Faillissementswet*), as now and hereafter in effect, or any successor statute, or the laws of any other jurisdiction or any political subdivision thereof relating to bankruptcy, insolvency, receivership, winding up, liquidation, reorganization or relief of debtors, or any similar foreign law relating to bankruptcy, insolvency, receivership, winding up, liquidation, reorganization or relief of debtors or any amendments to, succession to or change in any such law.

“**Board of Directors**” means the Supervisory Board or the Managing Board.

“**Board Resolution**” means a copy of a resolution certified by the Chairman or the Secretary of the Board of Directors to have been duly adopted by the Board of Directors, and to be in full force and effect on the date of such certification, and delivered to the Trustee.

“**Business Day**” means a day (other than a Saturday or Sunday) on which banks are open for general business in New York City, London, Amsterdam and Frankfurt and (in relation to any date for the payment or purchase of a currency other than U.S. dollars) the principal financial center of the country of that currency.

“**Calculation Agent**” means Conv-Ex Advisors Limited.

“**Calculation Period**” means, with respect to any Note surrendered for conversion: (i) if the relevant Conversion Date falls within the Contingent Conversion Period, the period of 50 consecutive Trading Days period beginning on, and including, the second Trading Day immediately following the Conversion Date; and (ii) if the relevant Conversion Date falls after the last Business Day of the Contingent Conversion Period, the period of 50 consecutive Trading Days beginning on, and including, the 55th Scheduled Trading Day immediately preceding the Maturity Date.

“**Capital Stock**” means, for any entity, any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) share capital issued by that entity.

“**Cash Settlement Amount**” shall have the meaning specified in Section 12.02(a).

“**Clause A Distribution**” shall have the meaning specified in Section 12.04(c).

“**Clause B Distribution**” shall have the meaning specified in Section 12.04(c).

“**Clause C Distribution**” shall have the meaning specified in Section 12.04(c).

“**Clearstream**” means Clearstream Banking, *société anonyme*.

“**close of business**” means 5:00 p.m. (London time), except as concerns any adjustment to the Conversion Ratio contemplated by Section 12.04 (other than Section 12.04(g)), in which case such term shall mean the close of trading on the Relevant Exchange.

“**Commission**” means the Securities and Exchange Commission.

“**Common Depositary**” means, with respect to the Global Notes, a depositary common to Euroclear and Clearstream, being initially Deutsche Bank AG, London Branch, until a successor shall have been appointed and become such pursuant to the applicable provisions of this Indenture, and thereafter, “Common Depositary” shall mean or include such successor.

“**Common Equity**” of any Person means Capital Stock of such Person that is generally entitled (a) to vote in the election of directors of such Person or (b) if such Person is not a corporation, to vote or otherwise participate in the selection of the governing body, partners, managers or others that will control the management or policies of such Person.

“**Common Stock**” means, subject to Section 12.04 and Section 12.05, ordinary shares of Capital Stock of the Company, par value €0.01 per share.

“**Company**” means QIAGEN N.V., a company organized under the laws of The Netherlands, and subject to the provisions of Article 10, shall include its successors and assigns.

“**Company Order**” means a written request or order signed in the name of the Company by an Authorized Director and delivered to the Trustee or an Authentication Agent.

“**Contingent Conversion Period**” means any time on or after the open of business on October 24, 2017 and prior to the close of business on the Business Day immediately preceding March 13, 2023.

“**Conversion Agent**” shall have the meaning specified in Section 2.05.

“**Conversion Date**” shall have the meaning specified in Section 12.02(c).

“**Conversion Obligation**” shall have the meaning specified in Section 12.01(a).

“**Conversion Price**” means, as of any date, \$200,000, *divided by* the Conversion Ratio as of such date.

“**Conversion Ratio**” shall have the meaning specified in Section 12.01(a).

“**Conversion Trigger Price**” shall have the meaning specified in Section 12.01.

“**Corporate Trust Office**” means the office of the Trustee at which at any time its corporate trust business shall be administered, which office at the date hereof is located at Deutsche Trustee Company Limited, Winchester House, 1 Great Winchester Street, London EC2N 2DB, United Kingdom, Facsimile No.: +44 20 7547 6149, Attn: The Managing Director, or such other address as the

Trustee may designate from time to time by notice to the Noteholders and the Company, or the principal corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Noteholders and the Company).

**“Daily Cash Settlement Amount”** means, for each consecutive Trading Day during the Calculation Period, one 50th (1/50th) of the product of (i) the applicable Conversion Ratio on such Trading Day and (ii) the Daily VWAP of the Common Stock on such Trading Day, as determined by the Calculation Agent.

**“Daily Trading Price Unavailability Event”** shall have the meaning set forth in Section 12.01(b)(i).

**“Daily VWAP”** for the Common Stock, in respect of any Trading Day, means the per share volume-weighted average price of the Common Stock as displayed on Bloomberg page “QGEN US <equity> AQR” (or its equivalent successor if such page is not available) in respect of the period from the scheduled opening of trading of the primary trading session on the Relevant Exchange until the scheduled close of trading of the primary trading session on the Relevant Exchange on such Trading Day (or if such volume-weighted average price is unavailable on any such Trading Day, the market value of one share of the Common Stock on such Trading Day as determined by the Calculation Agent using a volume-weighted average price method) and will be determined without regard to after-hours trading or any other trading outside of the regular trading session. For the avoidance of doubt, in calculating the “Daily VWAP” while the Relevant Exchange is the NASDAQ Global Select Market or the New York Stock Exchange (NYSE), the Calculation Agent shall enter “09:30” (Local Time) as the start time input for the scheduled opening of trading and “16:00” (Local Time) as the end time input for the scheduled close of trading of the primary trading session (or such other time inputs as changes to market practice after the original issuance of the Notes may dictate, as determined in its sole discretion by the Calculation Agent (if the Calculation Agent determines in its sole discretion it is able to make such determination) or (in any other case) an Independent Expert on the aforementioned Bloomberg page.

**“Default”** means any event that is, or after notice or passage of time, or both, would be, an Event of Default.

**“Defaulted Interest”** means any interest on any Note that is payable, but is not punctually paid or duly provided for, on any March 13 or September 13 of each year, beginning March 13, 2018.

**“Distributed Property”** shall have the meaning specified in Section 12.04(c).

**“Effective Date”** shall have the meaning specified in Section 12.03(a).

**“Euroclear”** means Euroclear Bank SA/NV.

**“European Union”** means the European Union as of January 1, 2004, including the countries of Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and the United Kingdom, but not including any country which became a member of the European Union after January 1, 2004.

**“Event of Default”** shall have the meaning specified in Section 6.01.

“**Ex-Dividend Date**” means, with respect to any issuance, dividend or distribution in which the holders of Common Stock have the right to receive any cash, securities or other property, the first date on which the shares of the Common Stock trade on the applicable exchange or in the applicable market, regular way, without the right to receive the issuance, dividend or distribution in question.

“**Exchange Act**” means the U.S. Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“**Expiration Date**” shall have the meaning specified in Section 12.04(e).

“**Expiration Time**” shall have the meaning specified in Section 12.04(e).

“**Fiscal Quarter**” means a fiscal quarter of any Fiscal Year.

“**Fiscal Year**” means a fiscal year of the Company.

“**Foundation**” means the Stichting Preferente Aandelen QIAGEN.

“**Fundamental Change**” means the occurrence after the original issuance of the Notes of any of the following events:

(a) any “person” or “group” (within the meaning of Section 13(d) of the Exchange Act), other than the Company or its Subsidiaries or (solely as concerns preference shares, and not, for the avoidance of doubt, Common Stock) the Foundation, has become the direct or indirect ultimate “beneficial owner,” as defined in Rule 13d-3 under the Exchange Act, of the Company’s Common Equity representing more than 50% of the voting power of the Company’s Common Equity;

(b) the consummation of (i) any recapitalization, reclassification or change of the outstanding shares of Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a split, subdivision or combination) as a result of which the Common Stock would be converted into, or exchanged for, stock, other securities, other property or assets; (ii) any share exchange, exchange offer, tender offer, consolidation or merger of the Company pursuant to which the Common Stock will be converted into cash, securities or other property or (iii) any sale, lease or other transfer in one transaction or a series of transactions of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person other than one or more of the Company’s Subsidiaries (any such exchange, offer, consolidation, merger, transaction or series of transactions being referred to herein as an “event”); *provided, however*, that (x) any such event where the holders of the Company’s Common Equity immediately prior to such event, own, directly or indirectly, more than 50% of the voting power of all classes of Common Equity of the continuing or surviving person or transferee or the parent thereof immediately after such event with such holders’ proportional voting power immediately after such event being in substantially the same proportions as their respective voting power before such event shall not be a Fundamental Change and (y) any merger solely for the purpose of changing the Company’s jurisdiction of incorporation and resulting in a reclassification, conversion or exchange of outstanding shares of Common Stock solely into common shares of the surviving entity and where the holders’ proportional voting power immediately after such event is in substantially the same proportions as their respective voting power before such event shall not be a Fundamental Change;

(c) the stockholders of the Company approve any plan or proposal for the liquidation or dissolution of the Company; or

(d) the Common Stock (or any common stock then underlying the Notes) ceases to be listed or admitted to trading, as the case may be, on (or the relevant exchange announces that, pursuant to the rules of such exchange, such Common Stock (or common stock, as the case may be) will cease to be listed on) The NASDAQ Global Select Market for any reason and is not (or will not be) immediately re-listed, (and fails (or will fail) to continue to be listed) on any of the New York Stock Exchange, The NASDAQ Global Select Market, The NASDAQ Global Market, the Frankfurt Stock Exchange (Prime Standard), the London Stock Exchange (Main Market) or Euronext (Paris or Amsterdam);

*provided, however,* that (i) no transaction or event described in clause (a) or (b) above will constitute a Fundamental Change if at least 90% of the consideration, excluding cash payments for fractional shares and cash payments made in respect of dissenters' appraisal rights, if any, in the transaction or event that would otherwise have constituted the Fundamental Change consists of Publicly Traded Securities, and as a result of the event, the Notes become convertible (pursuant to the terms of this Indenture) into cash by reference to such consideration, excluding cash payments for fractional shares (subject to the provisions of Section 12.02(a)); and (ii) if any preference shares issued to the Foundation are later redeemed upon order of a court, or at the initiative of the Foundation or the Company, and the circumstances which would have constituted a Fundamental Change under (a) above but for the exercise of the Foundation's option continue to exist, then a Fundamental Change shall be deemed to have occurred as of the date of the redemption of such preference shares.

For purposes of this definition, whether a "person" is a "beneficial owner" shall be determined in accordance with Rule 13d-3 under the Exchange Act (except that in calculating the beneficial ownership of any particular "person" (as that term is used in Section 13(d)(3) of the Exchange Act), such "person" shall be deemed to have beneficial ownership of all securities that such "person" has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only after the passage of time ) and "person" includes any syndicate or group that would be deemed to be a "person" under Section 13(d)(3) of the Exchange Act.

After any transaction in which the Common Stock is replaced by the securities of another entity pursuant to Section 12.05, should one occur, following completion of any related Make-Whole Fundamental Change Period and any related Fundamental Change Repurchase Date, references to the Company in the definition of "Fundamental Change" above will apply to such other entity instead. For the avoidance of doubt, no calculation or determination in relation to this definition shall be a duty or obligation of the Trustee or any Agent.

"**Fundamental Change Company Notice**" shall have the meaning specified in Section 13.01(b).

"**Fundamental Change Expiration Time**" shall have the meaning specified in Section 13.01(b)(v).

"**Fundamental Change Repurchase Date**" shall have the meaning specified in Section 13.01(a).

"**Fundamental Change Repurchase Notice**" shall have the meaning specified in Section 13.01(a)(i).

"**Fundamental Change Repurchase Price**" shall have the meaning specified in Section 13.01(a).

“**Global Note**” shall have the meaning specified in Section 2.07(b).

“**Indenture**” means this instrument as originally executed or, if amended or supplemented as herein provided, as so amended or supplemented.

“**Independent Expert**” means an independent bank of international standing or an independent financial adviser with relevant expertise appointed by the Issuer at its own expense, which may be the Calculation Agent.

“**Indirect Participant**” means a Person who holds a beneficial interest in a Global Note through a Participant.

“**Interest Payment Date**” means each March 13 and September 13 of each year beginning with March 13, 2018; *provided, however*, that if any Interest Payment Date falls on a date that is not a Business Day, such payment of interest (or principal in the case of the Maturity Date) will be postponed until the next succeeding Business Day, and no interest or other amount will be paid as a result of such postponement.

“**Interest Record Date**”, with respect to any Interest Payment Date, shall mean, with respect to any Global Notes, March 12 or September 12 (whether or not such day is a Business Day) immediately preceding the relevant Interest Payment Date, respectively, and, with respect to any definitive Notes, February 28 or August 29 (whether or not such day is a Business Day) immediately preceding the relevant Interest Payment Date, respectively.

“**Investor Notice**” shall have the meaning set forth in Section 12.01(b)(i).

“**Investor Notice Date**” shall have the meaning set forth in Section 12.01(b)(i).

“**Investor Measurement Period**” shall have the meaning set forth in Section 12.01(b)(i).

“**Last Reported Sale Price**” means, in respect of the Common Stock or any security, option, warrant or other right or asset on any Trading Day, the closing price on such Trading Day on the Relevant Exchange of the Common Stock or, as the case may be, security, option, warrant, or other right or asset as published by or derived from Bloomberg page HP (or any successor page) (setting Last Price, or any other successor setting and using values not adjusted for any event occurring after such dealing day; and for the avoidance of doubt, all values will be determined with all adjustment settings on the DPDF Page, or any successor or similar setting, switched off) in respect of the Relevant Exchange in respect of such Common Stock, security, option, warrant or other right or asset (all as determined in good faith by the Calculation Agent) (and for the avoidance of doubt such Bloomberg page for the Common Stock as at the date of issue of these Notes is QGEN US Equity HP), if any or, in any such case, such other source (if any) as shall be determined to be appropriate by the Calculation Agent or an Independent Expert on such Trading Day, provided that if on any such Trading Day (the “**Affected Last Reported Sale Price Day**”) such price is not available or cannot otherwise be determined as provided above, the Last Reported Sale Price of the Common Stock, security, option, warrant or other right or asset, as the case may be, in respect of such Trading Day shall be the Last Reported Sale Price, determined as provided above, on the immediately preceding Trading Day on which the same can be so determined as aforesaid, and further provided that if such immediately preceding Trading Day falls prior to the fifth day prior to the Affected Last Reported Sale Price Day, an Independent Expert shall determine the Last Reported Sale Price in good faith.

“**Local Time**” means the local time where the Relevant Exchange is located.

“**Make-Whole Conversion Ratio Adjustment**” shall have the meaning specified in Section 12.03(a).

“**Make-Whole Fundamental Change**” means any transaction or event that constitutes a Fundamental Change (determined without regard to the *proviso* in clause (b)(x) of such definition). For the avoidance of doubt, the *proviso* following clause (d) of the definition of “Fundamental Change” shall be given full effect for purposes of the preceding sentence.

“**Make-Whole Fundamental Change Period**” shall have the meaning specified in Section 12.03(a).

“**Managing Board**” means the managing board (*raad van bestuur*) of the Company or a committee of such board duly authorized to act for it hereunder.

“**Market Disruption Event**” means (a) a failure by Relevant Exchange to open for trading during its regular trading session or (b) the occurrence or existence, prior to 1:00 p.m., Local Time, on any Trading Day for the Common Stock, of an aggregate one half-hour period of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or quotation system or otherwise) in the Common Stock or in any options, contracts or futures contracts relating to the Common Stock.

“**Material Subsidiary**” means a Subsidiary of the Company that, on a non-consolidated basis, has combined third-party revenues (from non-affiliated parties) prepared in accordance with accounting principles generally accepted in the United States, in excess of 5% of the consolidated revenues of the Company for the most recently completed fiscal year.

“**Maturity Date**” means September 13, 2023.

“**Measurement Period**” shall have the meaning specified in Section 12.01(b)(i).

“**Merger Event**” shall have the meaning specified in Section 12.05.

“**Note**” or “**Notes**” shall mean any note or notes, as the case may be, authenticated and delivered under this Indenture.

“**Noteholder**” or “**holder**,” as applied to any Note, or other similar terms (but excluding the term “beneficial holder”), shall mean any person in whose name at the time a particular Note is registered on the Note Register.

“**Note Register**” shall have the meaning specified in Section 2.07(a).

“**Note Registrar**” shall have the meaning specified in Section 2.07(a).

“**Notice of Conversion**” shall have the meaning specified in Section 12.02(b).

“**Officer**” means, with respect to the Company, any member of the Managing Board the Treasurer or any Assistant Treasurer, or the Secretary or any Assistant Secretary, or any other person performing similar functions.



“**Officers’ Certificate**” means a certificate signed by two Officers of the Company duly authorized to represent the Company, one of whom must be the Chief Executive Officer, the Chief Financial Officer or the principal accounting officer of the Company.

“**Open Market**” means the open market segment (*Freiverkehr*) of the Frankfurt Stock Exchange.

“**open of business**” or “**opening of business**” means 9:00 a.m. (London time), except as concerns any adjustment to the Conversion Ratio contemplated by Section 12.04 (other than Section 12.04(g)), in which case such terms shall mean the open of trading on the Relevant Exchange.

“**Opinion of Counsel**” means an opinion in writing signed by legal counsel, who may be an employee of or counsel to the Company, or other counsel acceptable to the Trustee, that is delivered to the Trustee in a form satisfactory to the Trustee. Each such opinion shall include the statements provided for in Section 15.05 if and to the extent required by the provisions of such Section.

“**outstanding,**” when used with reference to Notes, shall, subject to the provisions of Section 8.04, mean, as of any particular time, all Notes authenticated and delivered by the Trustee under this Indenture, except:

- (a) Notes theretofore canceled by the Trustee or accepted by the Trustee for cancellation;
- (b) Notes that have been paid pursuant to Section 2.10 or Notes in lieu of which, or in substitution for which, other Notes shall have been authenticated and delivered pursuant to the terms of Section 2.08 unless proof satisfactory to the Trustee is presented that any such Notes are held by protected purchasers in due course;
- (c) Notes that have become due and payable, whether at the Maturity Date, any Fundamental Change Repurchase Date, any Redemption Date, upon conversion or otherwise, for which the Company has deposited cash with the Trustee or the Paying Agent or paid cash to Noteholders (solely to satisfy the Company’s Conversion Obligation, if applicable), sufficient to pay all of the outstanding Notes and all other sums due payable under this Indenture by the Company; *provided* that, if such Notes are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee has been made; and
- (d) Notes converted pursuant to Article 12.

“**Parity Event**” shall have the meaning set forth in Section 12.01(b)(i).

“**Parity Value**” shall have the meaning set forth in Section 12.01(b)(i).

“**Participant**” means a Person who has an account with Euroclear or Clearstream.

“**Paying Agent**” shall have the meaning specified in Section 2.05.

“**Permitted Denominations**” shall have the meaning specified in Section 2.03.

“**Person**” means an individual, a corporation, a limited liability company, an association, a partnership, a joint venture, a joint stock company, a trust, an unincorporated organization or a government or an agency or a political subdivision thereof.

“**Predecessor Note**” of any particular Note means every previous Note evidencing all or a portion of the same debt as that evidenced by such particular Note; and, for the purposes of this definition, any Note authenticated and delivered under Section 2.06 in lieu of or in exchange for a mutilated, lost, destroyed or stolen Note shall be deemed to evidence the same debt as the mutilated, lost, destroyed or stolen Note that it replaces.

“**Publicly Traded Securities**” means shares of common stock that are traded on a U.S. national securities exchange or on the Frankfurt Stock Exchange (Prime Standard), the London Stock Exchange (Main Market), Euronext (Paris or Amsterdam), or that will be so traded when issued or exchanged in connection with a Fundamental Change described in clause (a) or (b) of the definition thereof.

“**Record Date**” shall have the meaning specified in Section 12.04(f).

“**Redemption Date**” shall have the meaning specified in Section 13.02.

“**Reference Property**” shall have the meaning specified in Section 12.05.

“**Regulation S Legend**” shall have the meaning set forth in Section 2.07.

“**Resale Restriction Termination Date**” shall have the meaning set forth in the Regulation S Legend.

“**Responsible Officer**” means, when used with respect to the Trustee, any officer of the Trustee, including any director, associate director, vice president, assistant vice president, assistant secretary or any other officer of the Trustee, who shall have direct responsibility for the administration of this Indenture or to whom any corporate trust matter is referred because of such person’s knowledge of and familiarity with the particular subject.

“**Regulation S**” means Regulation S promulgated under the Securities Act.

“**Relevant Currency**” means at any time, the currency in which the Common Stock is listed, quoted or dealt in at such time on the Relevant Exchange.

“**Relevant Exchange**” means

(i) in respect of the Common Stock, the NASDAQ Global Select Market or, if the Common Stock is not then listed or admitted to trading on such exchange, the principal U.S. national securities exchange on which the Common Stock is listed or traded, or, if the Common Stock is not then listed or admitted to trading on a U.S. national securities exchange, the principal exchange as between the Frankfurt Stock Exchange (Prime Standard), the London Stock Exchange (Main Market) and the Euronext (Paris or Amsterdam) on which the Common Stock is then listed or traded; and

(ii) in respect of any securities (other than Common Stock), options, warrants or other rights or assets, the principal stock exchange or securities market on which such securities, options, warrants or other rights or assets are then listed, admitted to trading or quoted or dealt in,

where “principal stock exchange or securities market” shall mean the stock exchange or securities market on which such securities, options, warrants or other rights or assets are listed, admitted to trading or quoted or dealt in, provided that if such securities, options, warrants or other rights or assets are listed, admitted to trading or quoted or dealt in (as the case may be) on more than one stock exchange or securities market at the relevant time, then “principal stock exchange or securities market” shall mean that stock exchange or securities market on which such securities, options, warrants or other rights or assets are then traded as determined by the Calculation Agent (if the Calculation Agent determines in its sole discretion it is able to make such determination) or (in any other case) an Independent Expert by reference to the stock exchange or securities market with the highest average daily trading volume in respect of such securities, options, warrants or other rights or assets.

“**Relevant Indebtedness**” means any indebtedness for borrowed money in the form of or represented by, bonds, notes, debentures or other securities which, in each case, are to be quoted or listed, or are ordinarily dealt in or traded, on any stock exchange, over-the-counter or other securities market (whether or not initially distributed by way of private placement), but excluding any such indebtedness which has a stated maturity not exceeding one year.

“**Rule 903**” means Rule 903 promulgated under the Securities Act.

“**Rule 904**” means Rule 904 promulgated under the Securities Act.

“**Scheduled Trading Day**” means any day that is scheduled to be a Trading Day.

“**Securities Act**” means the U.S. Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“**Spin-Off**” shall have the meaning specified in Section 12.04(c)(i).

“**Stock Price**” means (a) in the case of a Make-Whole Fundamental Change described in clause (b) of the definition of Fundamental Change in which holders of Common Stock receive solely cash consideration in connection with such Make-Whole Fundamental Change, the amount of cash paid per share of the Common Stock and (b) in the case of all other Make-Whole Fundamental Changes, the arithmetic average of the Last Reported Sale Prices per share of Common Stock over the period of five consecutive Trading Days ending on, and including, the Trading Day immediately preceding the Effective Date of such Make-Whole Fundamental Change, as determined by the Calculation Agent. The Calculation Agent (if the Calculation Agent determines in its sole discretion it is able to make such determination) or (in any other case) an Independent Expert will make appropriate adjustments, in its good faith determination, to account for any adjustment to the Conversion Ratio that becomes effective, or any event requiring an adjustment to the Conversion Ratio where the Ex-Dividend Date of the event occurs, during such five consecutive Trading Day period.

“**Subsidiary**” means (a) with respect to any Person, any corporation, association, partnership or other business entity of which more than 50% of the total voting power of shares of Capital Stock or other interests (including partnership interests) entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, general partners or trustees thereof is at the time owned or controlled, directly or indirectly, by (i) such Person; (ii) such Person and one or more Subsidiaries of such Person; or (iii) one or more Subsidiaries of such Person or (b) a subsidiary within the meaning of Article 2:24a of the Dutch Civil Code.

“**Successor Company**” shall have the meaning specified in Section 10.01(a).

“**Supervisory Board**” means the supervisory board (*raad van commissarissen*) of the Company or a committee of such board duly authorized to act for it hereunder.

“**Trading Day**” means a day during which trading in the Common Stock generally occurs on the Relevant Exchange and there is no Market Disruption Event. If the Common Stock (or other security for which a Last Reported Sale Price or Daily VWAP must be determined) is not so traded or quoted, “**Trading Day**” means “**Business Day**.”

"**Trading Price**" shall have the meaning set forth in Section 12.01(b)(i).

"**Trading Price Determination Date**" shall have the meaning set forth in Section 12.01(b)(i).

"**Trading Price Notification Date**" shall have the meaning set forth in Section 12.01(b)(i).

"**Trading Price Unavailability Event**" shall have the meaning set forth in Section 12.01(b)(i).

“**Trigger Event**” shall have the meaning specified in Section 12.04(c).

“**Trustee**” means the Person named as the “Trustee” in the first paragraph of this Indenture, in its capacity as trustee, until a successor or assignee shall have become Trustee pursuant to the applicable provisions of this Indenture, and thereafter “Trustee” shall mean or include each Person who is then a Trustee hereunder.

“**Valuation Period**” shall have the meaning specified in Section 12.04(c).

“**Weighted Average Consideration**” shall have the meaning specified in Section 12.05.

## ARTICLE 2

### ISSUE, DESCRIPTION, EXECUTION, REGISTRATION AND EXCHANGE OF NOTES

SECTION 2.01. *Designation and Amount.* The Notes shall be designated as the 0.50% Senior Unsecured Convertible Notes due 2023. The aggregate principal amount of Notes that may be authenticated and delivered under this Indenture is initially limited to \$400,000,000, subject to Section 2.12 and except for Notes authenticated and delivered upon registration or transfer of, or in exchange for, or in lieu of other Notes pursuant to Section 2.07, Section 2.08, Section 2.09, Section 2.11, Section 12.02 and Section 13.03 hereof.

SECTION 2.02. *Form of Notes.* The Notes and the Trustee’s or the Authentication Agent’s certificate of authentication to be borne by such Notes shall be substantially in the respective forms set forth in Exhibit A, which are incorporated in and made a part of this Indenture. Notes offered and sold in reliance on Regulation S shall be issued initially in the form of a Global Note, which shall be deposited with the Common Depositary, and registered in the name of the Common Depositary or its nominee, as the case may be, duly executed by the Company and authenticated by the Trustee or any Authentication Agent as hereinafter provided.

Any Global Note may be endorsed with or have incorporated in the text thereof such legends or recitals or changes not inconsistent with the provisions of this Indenture as may be required by the Common Depositary, any regulatory body or as may be required to comply with any applicable law or any regulation thereunder or with the rules and regulations of any securities exchange or automated quotation system upon which the Notes may be listed or traded or designated for issuance or to conform with any usage with respect thereto, or to indicate any special limitations or restrictions to which any particular Notes are subject.

Any of the Notes may have such letters, numbers or other marks of identification and such notations, legends or endorsements as the Officers executing the same may approve (execution thereof to be conclusive evidence of such approval) and as are not inconsistent with the provisions of this Indenture, or as may be required to comply with any law or with any rule or regulation made pursuant thereto or with any rule or regulation of any relevant exchange or automated quotation system on which the Notes may be listed or designated for issuance, or to conform to usage or to indicate any special limitations or restrictions to which any particular Notes are subject.

A Global Note shall represent such principal amount of the outstanding Notes as shall be specified therein and shall provide that it shall represent the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be increased or reduced to reflect repurchases, redemptions, conversions, transfers or exchanges permitted hereby. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the amount of outstanding Notes represented thereby shall be made by the Note Registrar in such manner and upon instructions given by the holder of such Notes in accordance with this Indenture. Payment of principal (including any Fundamental Change Repurchase Price or redemption price) and accrued and unpaid interest on a Global Note shall be made to the holder of such Note on the date of payment, unless a record date or other means of determining holders eligible to receive payment is provided for herein.

The terms and provisions contained in the form of Note attached as Exhibit A hereto shall constitute, and are hereby expressly made, a part of this Indenture and, to the extent applicable, the Company and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

SECTION 2.03. *Date and Denomination of Notes.* The Notes shall be represented by one or more Global Notes in fully registered form (and in limited circumstances, by notes in definitive form as described in Section 2.05 below) without interest coupons in minimum denominations of \$200,000 principal amount and integral multiples thereof (“**Permitted Denominations**”). Each Note shall be dated the date of its authentication.

SECTION 2.04. *Execution, Authentication and Delivery of Notes.* The Notes shall be signed in the name and on behalf of the Company by the manual or facsimile signature of any Officer.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Notes executed by the Company to the Trustee or an Authentication Agent for authentication, together with a Company Order for the authentication and delivery of such Notes, which order shall set forth the number of separate Note certificates, the principal amount of each of the Notes to be authenticated, the date on which the original issue of Notes is to be authenticated, the registered holders of the said Notes and delivery instructions, and the Trustee or Authentication Agent in accordance

with such Company Order shall authenticate and deliver such Notes, without any further action by the Company hereunder.

Only such Notes as shall bear thereon a certificate of authentication substantially in the form set forth on the form of Note attached as Exhibit A hereto, executed manually by an authorized officer of the Trustee or an Authentication Agent, shall be entitled to the benefits of this Indenture or be valid or obligatory for any purpose. Such certificate by the Trustee or an Authentication Agent upon any Note executed by the Company shall be conclusive evidence that the Note so authenticated has been duly authenticated and delivered hereunder and that the holder is entitled to the benefits of this Indenture.

In case any Officer of the Company who shall have signed any of the Notes shall cease to be such Officer before the Notes so signed shall have been authenticated and delivered by the Trustee or an Authentication Agent, or disposed of by the Company, such Notes nevertheless may be authenticated and delivered or disposed of as though the person who signed such Notes had not ceased to be such Officer of the Company; and any Note may be signed on behalf of the Company by such persons as, at the actual date of the execution of such Note, shall be the proper Officers of the Company, although at the date of the execution of this Indenture any such person was not such an Officer.

SECTION 2.05. *Paying Agent, Conversion Agent, Note Registrar and Transfer Agent.* The Company will maintain one or more Paying Agents for the Notes in the City of London (each, a “**Paying Agent**”). The Company will also maintain a conversion agent (the “**Conversion Agent**”). The initial Paying Agent and Conversion Agent will be Deutsche Bank AG, London Branch, and Deutsche Bank AG, London Branch in its capacities as Paying Agent and Conversion Agent, hereby accepts such appointment.

The Company will also maintain a registrar (“**Note Registrar**”) and a transfer agent (the “**Transfer Agent**”). The initial Note Registrar and initial Transfer Agent will be Deutsche Bank Luxembourg S.A. The terms “Note Registrar” and “Transfer Agent” include any co-registrars and additional transfer agents, as applicable. The Note Registrar and the Transfer Agent shall keep a register reflecting ownership of the Notes outstanding from time to time and of their transfer and exchange. Deutsche Bank Luxembourg S.A., in its capacities as Note Registrar and Transfer Agent, hereby accepts such appointment.

The Company shall enter into an appropriate agency agreement with any Paying Agent, Conversion Agent, Note Registrar or Transfer Agent not a party to this Indenture. Such agreement shall implement the provisions of this Indenture that relate to such agent. The Company shall notify the Trustee of the name and address of any such agent. If the Company fails to maintain a Paying Agent, Conversion Agent, Note Registrar or Transfer Agent, the Trustee may act, or may arrange for appropriate parties to act, as such and shall be entitled to appropriate compensation therefor pursuant to Section 7.06.

The Company may change any Paying Agents, Conversion Agents, Note Registrars or Transfer Agents without prior notice to the Noteholders; provided, however, that no such removal shall become effective until acceptance of an appointment by a successor as evidenced by an appropriate agreement entered into by the Company and such successor Paying Agent, Conversion Agent, Note Registrar or Transfer Agent, as the case may be, and delivered to the Trustee.

Any Agent may resign and be discharged from its duties under this Indenture at any time by giving 60 days’ prior written notice of such resignation to the Trustee and the Company. The Trustee or the Company may remove any Agent at any time by giving 60 days’ prior written notice to any Agent. Upon such notice, a successor Agent shall be appointed by the Company, who shall provide written notice

of such to the Trustee. Such successor Agent shall become the Agent hereunder upon the resignation or removal date specified in such notice. If the Company fails to appoint a successor within 60 days, the resigning Agent may appoint a successor on behalf of and at the expense of the Company. The properly incurred and documented costs and expenses (including its counsels' fees and expenses) incurred by the Agent in connection with such appointment shall be paid by the Company.

SECTION 2.06. *Paying Agent Not Party to this Indenture to Hold Money.* No later than 10:00 a.m. (London time) on the Business Day prior to each due date of the principal, interest and any other amounts payable by the Company on any Note, the Company shall deposit with the appropriate Paying Agent a sum sufficient to pay such principal, interest and premium, and any other amounts when so becoming due and, subject to receipt of such monies, the Paying Agent shall make payment on the Notes in accordance with this Indenture. The Company shall before 10:00 a.m. (London time), on the second Business Day prior to the day on which the Paying Agent is to receive payment, procure that the bank effecting payment for it confirms by fax or tested SWIFT MT100 message to the Paying Agent the irrevocable payment instructions relating to such payment. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee or such entity designated by the Trustee for this purpose and to account for any funds disbursed by the Paying Agent. Upon complying with this Section 2.06, the Paying Agent shall have no further liability for the money delivered to the Trustee. For the avoidance of doubt, the Paying Agent and the Trustee shall be held harmless and have no liability with respect to payments or disbursements to be made by the Paying Agent and Trustee (i) for which payment instructions are not made or that are not otherwise deposited by the respective times set forth in this Section 2.06, (ii) and until they have confirmed receipt of funds sufficient to make the relevant payment.

SECTION 2.07. *Exchange and Registration of Transfer of Notes; Restrictions on Transfer.* (1) Upon surrender for registration of transfer of any Note to the Note Registrar, and satisfaction of the requirements for such transfer set forth in this Section 2.07, the Company shall execute, and the Trustee or an Authentication Agent shall, upon receipt of a Company Order, authenticate and deliver, in the name of the designated transferee or transferees, one or more new Notes of any authorized denominations and of a like aggregate principal amount and bearing such restrictive legends as may be required by this Indenture. Notes may be exchanged for other Notes of any authorized denominations and of a like aggregate principal amount, upon surrender of the Notes to be exchanged at any such office or agency maintained by the Company pursuant to Section 2.05. Whenever any Notes are so surrendered for exchange, the Company shall execute, and the Trustee or an Authentication Agent shall, upon receipt of a Company Order, authenticate and deliver, the Notes that the holder making the exchange is entitled to receive, bearing registration numbers not contemporaneously outstanding.

All Notes presented or surrendered for registration of transfer or for exchange, repurchase, redemption or conversion shall (if so required by the Company, the Trustee or the Note Registrar) be duly endorsed, or be accompanied by a written instrument or instruments of transfer in form satisfactory to the Company and duly executed by the holder thereof or its attorney-in-fact duly authorized in writing.

No service charge shall be charged to the Noteholder for any exchange or registration of transfer of Notes, but the Company or the Trustee may require payment of a sum sufficient to cover any tax, assessments or other governmental charges that may be imposed in connection therewith as a result of the name of the holder of the new Notes issued upon such exchange or registration of transfer of Notes being different from the name of the holder of the old Notes presented or surrendered for such exchange or registration of transfer.

None of the Company, the Trustee or the Note Registrar shall be required to exchange or register a transfer of (i) any Notes surrendered for conversion or, if a portion of any Note is surrendered for conversion, such portion thereof surrendered for conversion, (ii) any Notes for which notice of redemption has been given in accordance with Article 14 hereof; (iii) a Note other than in amounts of \$200,000 or integral multiple thereof, or (iv) any Notes, or a portion of any Note, surrendered for repurchase (and not withdrawn) in accordance with Article 13 hereof.

All Notes issued upon any registration of transfer or exchange of Notes in accordance with this Indenture shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture as the Notes surrendered upon such registration of transfer or exchange.

(a) So long as the Notes are eligible for book-entry settlement with the Common Depository, unless otherwise required by law, all Notes shall be represented by one or more Notes in global form (each, a “**Global Note**”) registered in the name of the Common Depository or the nominee of the Common Depository. The transfer and exchange of beneficial interests in a Global Note that does not involve the issuance of a definitive Note shall be effected through the Common Depository in accordance with this Indenture (including the restrictions on transfer set forth herein) and the Applicable Procedures. No written orders or instructions shall be required to be delivered to the Trustee, Registrar or Transfer Agent to effect the transfers described in this Section 2.07(b) in the same Global Note. In connection with all transfers and exchanges of beneficial interests in a Global Note (other than transfers of beneficial interests in connection with which the transferor takes delivery thereof in the form of a beneficial interest in the same Global Note), the Transfer Agent (copied to the Trustee and the Registrar) must receive: (i) a written order from a Participant or an Indirect Participant given to the Common Depository in accordance with the Applicable Procedures directing the Common Depository to debit from the transferor a beneficial interest in an amount equal to the beneficial interest to be transferred or exchanged; (ii) a written order from a Participant or an Indirect Participant given to the Common Depository in accordance with the Applicable Procedures directing the Common Depository to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged; and (iii) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited or debited with such increase or decrease, if applicable.

In connection with an exchange of a definitive Note for a beneficial interest in a Global Note, the Transfer Agent must receive a written order (copied to the Trustee and the Registrar) directing the Common Depository to credit the account of the transferee or its Participant in an amount equal to the beneficial interest in such Global Note to be acquired as a result of such exchange.

Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture, the Transfer Agent (copied to the Trustee and the Registrar), as specified in this Section 2.07, shall endorse the relevant Global Note(s) with any increase or decrease and instruct the Common Depository to reflect such increase or decrease in its systems.

In connection with any transfer or exchange of definitive Notes, or any portion thereof, the holder of such Notes shall present or surrender to the Transfer Agent (copied to the Trustee and the Registrar) the definitive Notes duly endorsed or accompanied by a written instruction of transfer in a form satisfactory to the Registrar duly executed by such holder or by its attorney, duly authorized in writing.



(b) Notwithstanding any other provisions of this Indenture, a Global Note may not be transferred except as a whole by the Common Depositary to a nominee of the Common Depositary or by a nominee of the Common Depositary to the Common Depositary or another nominee of the Common Depositary or by the Common Depositary or any such nominee to a successor Common Depositary or a nominee of such successor Common Depositary.

(c) Every Note (including the beneficial interest in Global Notes) shall be subject to the restrictions on transfer in the Regulation S Legend set forth below, and the holder of each such Restricted Security, by such holder's acceptance thereof, agrees to be bound by all such restrictions on transfer. As used in this Section 2.07(d) and Exhibit A, the term "**transfer**" encompasses any sale, pledge, transfer or other disposition whatsoever of any Restricted Security.

Each Note (including each Global Note) shall bear a legend in substantially the following form on the face thereof (the "**Regulation S Legend**"):

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. NEITHER THIS SECURITY NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE OFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, SUCH REGISTRATION. THE HOLDER OF THIS SECURITY, BY ITS ACCEPTANCE HEREOF, AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR ACCOUNT FOR WHICH IT HAS PURCHASED SECURITIES, TO OFFER, SELL OR OTHERWISE TRANSFER SUCH SECURITY OR ANY INTEREST OR PARTICIPATION THEREIN, PRIOR TO THE DATE (THE "RESALE RESTRICTION TERMINATION DATE") THAT IS 40 DAYS AFTER THE LATER OF THE ISSUE DATE HEREOF AND THE LAST DATE ON WHICH THE COMPANY OR ANY AFFILIATE OF THE COMPANY WAS THE OWNER OF THIS SECURITY (OR ANY PREDECESSOR OF SUCH SECURITY), ONLY (A) TO THE COMPANY, (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT, (C) PURSUANT TO AN OFFSHORE TRANSACTION COMPLYING WITH RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT OR (D) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, SUBJECT TO THE RIGHT OF EACH OF THE COMPANY, THE NOTE REGISTRAR AND THE TRUSTEE, PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSES (C) OR (D), TO REQUIRE DELIVERY OF A CERTIFICATE, OPINION OF COUNSEL OR OTHER INFORMATION SATISFACTORY TO IT. BY ITS ACCEPTANCE HEREOF, THE HOLDER HEREOF REPRESENTS THAT IT IS NOT A U.S. PERSON NOR IS IT PURCHASING FOR THE ACCOUNT OF A U.S. PERSON AND IS ACQUIRING THIS SECURITY IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH REGULATION S UNDER THE SECURITIES ACT.

AS USED HEREIN, THE TERMS "OFFSHORE TRANSACTION," "U.S. PERSON" AND "UNITED STATES" HAVE THE MEANINGS GIVEN TO THEM BY RULE 902 OF REGULATION S UNDER THE SECURITIES ACT. THE INDENTURE CONTAINS A PROVISION REQUIRING THE NOTE REGISTRAR TO REFUSE TO REGISTER ANY TRANSFER OF THIS SECURITY IN VIOLATION OF THE FOREGOING.

THE RIGHTS ATTACHING TO THIS SECURITY, AND THE CONDITIONS AND PROCEDURES GOVERNING ITS EXCHANGE FOR DEFINITIVE SECURITIES, ARE AS SPECIFIED IN THE INDENTURE.

Each Global Note shall bear a legend in substantially the following form on the face thereof:

THIS SECURITY IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF THE COMMON DEPOSITORY NAMED BELOW OR A NOMINEE OF THE COMMON DEPOSITORY. THIS SECURITY IS NOT EXCHANGEABLE FOR SECURITIES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE COMMON DEPOSITORY OR ITS NOMINEE EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED HEREIN AND IN THE INDENTURE, AND NO TRANSFER OF THIS SECURITY (OTHER THAN A TRANSFER OF THIS SECURITY AS A WHOLE BY THE COMMON DEPOSITORY TO A NOMINEE OF THE COMMON DEPOSITORY OR BY A NOMINEE OF THE COMMON DEPOSITORY TO THE COMMON DEPOSITORY OR ANOTHER NOMINEE OF THE COMMON DEPOSITORY) MAY BE REGISTERED EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THIS SECURITY AND THE INDENTURE. THE REGISTERED HOLDER HEREOF MAY BE TREATED BY THE COMPANY, THE TRUSTEE, THE AGENTS AND ANY AGENT THEREOF AS OWNER AND HOLDER OF THIS SECURITY FOR ALL PURPOSES.

No transfer of any Note prior to the Resale Restriction Termination Date will be registered by the Note Registrar unless the applicable box on the completed Form of Assignment and Transfer has been checked.

(d) If (i) Euroclear or Clearstream notifies the Company at any time that they are unwilling or unable to continue as clearing agencies for the Global Notes and a successor is not appointed within 120 days or (ii) an Event of Default in respect of the Notes has occurred and is continuing, upon the request of the beneficial owner of the Notes in writing to Euroclear and Clearstream, the Company will execute, and the Trustee, upon receipt of an Officers' Certificate and a Company Order for the authentication and delivery of Notes, will authenticate and deliver (or cause an Authentication Agent to authenticate and deliver) Notes in definitive form to each such beneficial owner of the related Notes (or a portion thereof) as Euroclear and Clearstream shall instruct (but only in Permitted Denominations), in an aggregate principal amount equal to the principal amount of such Global Note, in exchange for such Global Note, and upon delivery of the Global Note to the Trustee such Global Note shall be canceled.

At such time as all interests in a Global Note have been converted, canceled, repurchased, redeemed or transferred, such Global Note shall be, upon receipt thereof, canceled by the Trustee in accordance with its standing procedures. At any time prior to such cancellation, if any interest in a Global Note is exchanged for definitive Notes, converted, canceled, repurchased, redeemed or transferred to a transferee who receives definitive Notes therefor or any definitive Note is exchanged or transferred for part of such Global Note, the principal amount of such Global Note shall be appropriately reduced or increased, as the case may be, and an endorsement shall be made on such Global Note, by the Trustee or the Paying Agent to reflect such reduction or increase.

Neither the Trustee nor any Agent shall have any responsibility for any actions taken or not taken by the Common Depository or Euroclear or Clearstream.

The Trustee shall have no responsibility or obligation to any direct or indirect participant or any other Person with respect to the accuracy of the books or records, or the acts or omissions, of Euroclear or Clearstream, the Common Depositary or its nominee or of any participant or member thereof, with respect to any ownership interest in the Notes or with respect to the delivery to any direct or indirect participant or other Person (other than the Common Depositary) of any notice (including any notice of redemption) or the payment of any amount, under or with respect to such Notes. All notices and communications to be given to the Noteholders and all payments to be made to Noteholders under the Notes shall be given or made only to or upon the order of the registered Noteholders (which shall be the Common Depositary or its nominee in the case of a Global Note). The rights of beneficial owners in any Global Note shall be exercised only through Euroclear or Clearstream subject to the Applicable Procedures. The Trustee may rely and shall be fully protected in relying upon information furnished by Euroclear or Clearstream with respect to its direct or indirect participants.

The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among direct or indirect participants in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

SECTION 2.08. *Mutilated, Destroyed, Lost or Stolen Notes.* In case any Note shall become mutilated or be destroyed, lost or stolen, the Company in its discretion may execute, and upon its written request the Trustee or an Authentication Agent, upon receipt of a Company Order, shall authenticate and deliver, a new Note, bearing a number not contemporaneously outstanding, in exchange and substitution for the mutilated Note, or in lieu of and in substitution for the Note so destroyed, lost or stolen. In every case the applicant for a substituted Note shall furnish to the Company, to the Trustee and, if applicable, to such Authentication Agent such security, indemnity or pre-funding as may be required by them to save each of them harmless from any loss, liability, cost or expense caused by or connected with such substitution, and, in every case of destruction, loss or theft, the applicant shall also furnish to the Company, to the Trustee and, if applicable, to such Authentication Agent evidence to their satisfaction of the destruction, loss or theft of such Note and of the ownership thereof.

The Trustee or such Authentication Agent may authenticate any such substituted Note and deliver the same upon the receipt of such security or indemnity as the Trustee, the Company and, if applicable, such Authentication Agent may require. Upon the issuance of any substitute Note, the Company or the Trustee may require the payment by the holder of a sum sufficient to cover any tax, assessment or other governmental charge that may be imposed in relation thereto and any other expenses connected therewith. In case any Note that has matured or is about to mature or has been tendered for repurchase upon a Fundamental Change or is about to be converted into cash, shall become mutilated or be destroyed, lost or stolen, or notice of redemption has been given in accordance with Article 14 hereof, the Company may, in its sole discretion, instead of issuing a substitute Note, pay or authorize the payment of or convert or authorize the conversion of the same (without surrender thereof except in the case of a mutilated Note), as the case may be, if the applicant for such payment or conversion shall furnish to the Company, to the Trustee and, if applicable, to such Authentication Agent such security, indemnity or pre-funding as may be required by them to save each of them harmless for any loss, liability, cost or expense caused by or connected with such substitution, including without limitation if a Note is replaced and subsequently presented or claimed for payment and, in every case of destruction, loss or theft, evidence

satisfactory to the Company, the Trustee and, if applicable, any Paying Agent or Conversion Agent evidence of their satisfaction of the destruction, loss or theft of such Note and of the ownership thereof.

Every substitute Note issued pursuant to the provisions of this Section 2.08 by virtue of the fact that any Note is destroyed, lost or stolen shall constitute an additional contractual obligation of the Company, whether or not the destroyed, lost or stolen Note shall be found at any time, and shall be entitled to all the benefits of (but shall be subject to all the limitations set forth in) this Indenture equally and proportionately with any and all other Notes duly issued hereunder. To the extent permitted by law, all Notes shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement or payment or conversion or repurchase or redemption of mutilated, destroyed, lost or stolen Notes and shall preclude any and all other rights or remedies notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment or conversion of negotiable instruments or other securities without their surrender.

SECTION 2.09. *Temporary Notes.* Pending the preparation of Notes in certificated form, the Company may execute and the Trustee or an Authentication Agent appointed by the Trustee shall, upon receipt of a Company Order, authenticate and deliver temporary Notes (printed or lithographed). Temporary Notes shall be issuable only in Permitted Denominations, and substantially in the form of the Notes in certificated form but with such omissions, insertions and variations as may be appropriate for temporary Notes, all as may be determined by the Company. Every such temporary Note shall be executed by the Company and authenticated by the Trustee or such Authentication Agent upon the same conditions and in substantially the same manner, and with the same effect, as the Notes in certificated form. Without unreasonable delay the Company will execute and deliver to the Trustee or such Authentication Agent Notes in certificated form (other than any Global Note) and thereupon any or all temporary Notes (other than any Global Note) may be surrendered in exchange therefor, at each office or agency maintained by the Company pursuant to Section 4.02 and the Trustee or such Authentication Agent shall, upon receipt of a Company Order, authenticate and deliver in exchange for such temporary Notes an equal aggregate principal amount of Notes in certificated form. Such exchange shall be made by the Company at its own expense and without any charge therefor. Until so exchanged, the temporary Notes shall in all respects be entitled to the same benefits and subject to the same limitations under this Indenture as Notes in certificated form authenticated and delivered hereunder.

SECTION 2.10. *Cancellation of Notes Paid, Etc.* All Notes surrendered for the purpose of payment, repurchase, redemption, conversion, exchange or registration of transfer, shall, if surrendered to the Company or any Paying Agent or any Conversion Agent or the Trustee, be surrendered to the Note Registrar and promptly canceled by it, or, if surrendered to the Note Registrar, shall be promptly canceled by it, and no Notes shall be issued in lieu thereof except as expressly permitted by any of the provisions of this Indenture. The Note Registrar shall dispose of canceled Notes in accordance with its customary procedures and, after such disposition, shall deliver a certificate of such disposition to the Company, at the Company's written request. If the Company shall acquire any of the Notes, such acquisition shall not operate as satisfaction of the indebtedness represented by such Notes unless and until the same are delivered to the Note Registrar for cancellation.

SECTION 2.11. *ISIN and Common Code Numbers.* The Company in issuing the Notes may use an "ISIN" or "Common Code" or similar identifier and, if so, such ISIN or Common Code or similar identifier shall be included in notices to Noteholders as a convenience to them; *provided, however,* that any such notice may state that no representation is made as to the correctness or accuracy of the ISIN or Common Code or similar identifier printed in the notice or on the Notes, and that reliance may be placed only on the other identification numbers printed on the Notes, and any such notice shall

not be affected by any defect in or omission of such identifiers. The Company will promptly notify the Trustee of any change in the ISIN or Common Code or similar identifier.

SECTION 2.12. *Additional Notes; Repurchases.* The Company may, without the consent of the Noteholders and notwithstanding Section 2.01, reopen this Indenture and increase the principal amount of the Notes by issuing additional Notes in the future pursuant to this Indenture with the same terms and with the same ISIN or Common Code number as the Notes initially issued hereunder in an unlimited aggregate principal amount, which will form the same series with the Notes initially issued hereunder, provided that no such additional Notes may be issued unless they will be fungible with the original Notes for U.S. federal income tax and securities law purposes. Prior to the issuance of any such additional Notes, the Company shall deliver to the Trustee a Company Order, an Officers' Certificate and an Opinion of Counsel, such Officers' Certificate and Opinion of Counsel to cover such matters, in addition to those required by Section 15.05, as the Trustee shall reasonably request. The Company may also from time to time repurchase the Notes in open market purchases or negotiated transactions without prior notice to Noteholders.

SECTION 2.13. *No Mandatory Redemption; No Sinking Fund.* The Company will not be required to make mandatory redemption payments or sinking fund payments with respect to the Notes.

SECTION 2.14. *Defaulted Interest.* Any Defaulted Interest shall forthwith cease to be payable to the Noteholder on the relevant Interest Record Date by virtue of its having been such Noteholder, and such Defaulted Interest shall be paid by the Company, at its election in each case, as provided in clause (1) or (2) below:

(1) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names the Notes (or their respective Predecessor Notes) are registered at the close of business on a special record date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustee in writing as soon as practicable of the amount of Defaulted Interest proposed to be paid on each Note and the date of the proposed payment (which shall be not less than twenty-five days after the receipt by the Trustee of such notice, unless the Trustee shall consent to an earlier date), and at the same time the Company shall deposit with the Trustee (or any Paying Agent designated for such purpose) an amount of money equal to the aggregate amount to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit on or prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this clause provided. Thereupon the Company shall fix a special record date for the payment of such Defaulted Interest which shall be not more than fifteen days and not less than seven days prior to the date of the proposed payment, and not less than ten days after the receipt by the Trustee of the notice of the proposed payment (unless the Trustee shall consent to an earlier date). The Company shall promptly notify the Trustee, in writing, of such special record date and the Trustee, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the special record date therefor to be delivered to Noteholders pursuant to Section 15.03 not less than ten days prior to such special record date. Notice of the proposed payment of such Defaulted Interest and the special record date therefor having been so delivered, such Defaulted Interest shall be paid by the Trustee (or such Paying Agent) to the Persons in whose names the Notes (or their respective Predecessor Notes) are registered at the close of business on such special record date and shall no longer be payable pursuant to the following clause (2) of this Section 2.03.

(2) The Company may make payment of any Defaulted Interest in any other lawful manner not inconsistent with the requirements of any securities exchange or automated quotation system on which the Notes may be listed or designated for issuance, and upon such notice as may be required by such exchange or automated quotation system.

## ARTICLE 3

### SATISFACTION AND DISCHARGE

SECTION 3.01. *Satisfaction and Discharge.* This Indenture shall upon request of the Company contained in an Officers' Certificate cease to be of further effect, and the Trustee, at the expense of the Company, shall execute proper instruments, prepared by the Company, acknowledging satisfaction and discharge of this Indenture, when (a) (i) all Notes theretofore authenticated and delivered (other than (x) Notes which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 2.08 and (y) Notes for whose payment money has theretofore been irrevocably deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 4.04(d)) have been delivered to the Trustee for cancellation or have been fully paid or converted in accordance with this Indenture; or (ii) the Company has irrevocably deposited with the Trustee or delivered to Noteholders, as applicable, after the Notes have become due and payable, whether at the Maturity Date, any Fundamental Change Repurchase Date, any Redemption Date, upon conversion or otherwise, cash sufficient to pay all of the outstanding Notes and all other sums due and payable under this Indenture by the Company; and (b) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture have been complied with. Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Company to the Trustee under Section 7.06 shall survive.

## ARTICLE 4

### PARTICULAR COVENANTS OF THE COMPANY

SECTION 4.01. *Payment of Notes.* The Company covenants and agrees that it will cause to be paid the principal of (including the Fundamental Change Repurchase Price or any redemption price), and accrued and unpaid interest on, each of the Notes at the places, at the respective times and in the manner provided herein and in the Notes, provided, however, that in the case of Global Notes, such payments of principal, interest and other amounts payable by the Company (if any) shall be paid to the Paying Agent for onward payment to Euroclear and Clearstream. Principal, interest and any other amounts payable by the Company will be considered duly paid on the date due if the Paying Agent holds as of 10:00 a.m. (London time) one Business Day prior to the due date, money deposited by the Company in immediately available funds and designated for and sufficient to pay all principal, interest and other amounts payable by the Company, if any, then due.

Each Note shall bear interest from the date specified on the face of the form of Note attached as Exhibit A hereto. Interest on the Notes shall be computed on the basis of a 360-day year comprised of twelve 30-day months. The Person in whose name any Note (or its Predecessor Note) is registered on the Note Register at the close of business on any Interest Record Date with respect to any Interest Payment Date shall be entitled to receive the interest payable on such Interest Payment Date. Interest (except defaulted interest) shall be payable at the office or agency of the Company maintained by

the Company for such purposes, which shall initially be the office of the Paying Agent. The Notes will be payable as to principal and interest through the Paying Agent.

The Company will pay interest (including post-petition interest, if any, in any proceeding under any Bankruptcy Law) on overdue principal (and on overdue installments of accrued and unpaid interest, if any (to the extent that payment of such interest is enforceable under applicable law) from time to time on demand (subject to Section 2.14 hereof) at the rate provided in the Notes.

All payments made by the Company under or with respect to the Notes will be made free and clear of and without withholding or deduction for, or on account of, any present or future taxes unless the withholding or deduction of such taxes is then required by law.

The Company will make all withholdings and deductions required by law and will remit the full amount deducted or withheld to the relevant tax authority in accordance with applicable law. The Company will use its reasonable efforts to obtain tax receipts from each tax authority evidencing the payment of any taxes so deducted or withheld. The Company will furnish to the Trustee, within a reasonable time after the date the payment of any taxes so deducted or withheld is made, certified copies of tax receipts evidencing payment by the Company, as the case may be, or if, notwithstanding such entity's efforts to obtain receipts, receipts are not obtained, other evidence of payments (reasonably satisfactory to the Trustee) by such entity. Upon request, copies of tax receipts or other evidence of payments, as the case may be, will be made available by the Trustee to the holders or beneficial owners of the Notes.

For the avoidance of doubt, the Company will not be required to pay any additional or further amounts in respect of such withholding or deduction.

SECTION 4.02. *Maintenance of Office or Agency; Paying Agent and Conversion Agent.* The Company will maintain the offices or agencies specified in Section 2.05. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office.

The Company may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations. The Company will give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

SECTION 4.03. *Appointments to Fill Vacancies in Trustee's Office.* The Company, whenever necessary to avoid or fill a vacancy in the office of Trustee, will appoint, in the manner provided in Section 7.10, a Trustee, so that there shall at all times be a Trustee hereunder.

SECTION 4.04. *Provisions as to Paying Agent.* (1) The Company will cause each Paying Agent (other than Deutsche Bank AG, London Branch) to agree:

(i) that it will hold all sums held by it as such agent for the payment of the principal of and accrued and unpaid interest on the Notes for the benefit of the holders of the Notes or the Trustee;

(ii) that it will give the Trustee prompt notice of any failure by the Company to make any payment of the principal of and accrued and unpaid interest on the Notes when the same shall be due and payable; and

(iii) that at any time during the continuance of an Event of Default, upon request of the Trustee, it will forthwith pay to the Trustee all sums so held.

No later than 10:00 a.m. (London time) one Business Day prior to each due date of the principal of (including the Fundamental Change Repurchase Price or any redemption price) or accrued and unpaid interest on the Notes, the Company will deposit with the Paying Agent a sum sufficient to pay such principal (including the Fundamental Change Repurchase Price or any redemption price) or accrued and unpaid interest and promptly notify the Trustee, in writing, of any failure to take such action.

(b) [Intentionally Omitted]

(c) Anything in this Section 4.04 to the contrary notwithstanding, the Company may, with the prior consent of the Trustee at any time, for the purpose of obtaining a satisfaction and discharge of this Indenture, or for any other reason, pay or cause to be paid to the Trustee all sums held by the Company or any Paying Agent hereunder, such sums to be held by the Trustee upon the trusts herein contained, and upon such payment by the Company or any Paying Agent to the Trustee, the Company or such Paying Agent shall be released from all further liability with respect to such sums.

(d) Any money deposited with the Trustee or any Paying Agent, or then held by the Company, for the payment of the principal of (including the Fundamental Change Repurchase Price or any redemption price) and accrued and unpaid interest on any Note and remaining unclaimed for two years after such principal (including the Fundamental Change Repurchase Price or any redemption price) or interest has become due and payable shall be paid to the Company on request of the Company contained in an Officers' Certificate, or (if then held by the Company) shall be discharged; and the holder of such Note shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such money, and all liability of the Company as trustee thereof, shall thereupon cease; *provided, however*, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in the *Financial Times* notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than thirty days from the date of such publication, any unclaimed balance of such money then remaining will be repaid to the Company.

SECTION 4.05. *Existence.* Subject to Article 10, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence.

SECTION 4.06. [Intentionally Omitted]

SECTION 4.07. *Stay, Extension and Usury Laws.* The Company covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law or other law that would prohibit or forgive the Company from paying all or any portion of the principal of or interest on the Notes as contemplated herein, wherever enacted, now or at any time hereafter in force, or that may affect the covenants or the performance of this Indenture; and the Company (to the extent it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not, by resort



to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

SECTION 4.08. *Compliance Certificate; Statements as to Defaults.* The Company shall deliver to the Trustee within 120 days after the end of each Fiscal Year (beginning with the Fiscal Year ending on December 31, 2017) and upon any request an Officers' Certificate stating whether or not the signer thereof has knowledge of any failure by the Company to comply with all conditions and covenants then required to be performed under this Indenture and, if so, specifying each such failure and the nature thereof.

In addition, the Company shall deliver to the Trustee, as soon as possible, and in any event within thirty days after the Company becomes aware of the occurrence of any Event of Default or Default, an Officers' Certificate setting forth the details of such Event of Default or Default, its status and the action that the Company proposes to take with respect thereto.

SECTION 4.09. *Limitation on Liens.* As long as any of the Notes remain outstanding, none of the Company or any Material Subsidiary will create or permit to subsist any mortgage, pledge, lien, charge or security interest upon, or with respect to, any present or future assets or revenues of the Company or any Material Subsidiary, for the purpose of securing any (1) Relevant Indebtedness or (2) guarantee of any Relevant Indebtedness unless in such case the Company or any Material Subsidiary, as the case may be, shall simultaneously with, or prior to, the creation of such mortgage, pledge, lien, charge or security interest, take any and all action necessary to procure that all amounts payable by it in respect of the Notes are secured equally and ratably with the Relevant Indebtedness or guarantee secured by such mortgage, pledge, lien, charge or security interest.

SECTION 4.10. *Maintenance of Trading.* The Company will use commercially reasonable efforts to have the Notes traded on the Open Market within three (3) months of the original issuance of the Notes and all commercially reasonable efforts to maintain such trading on the Open Market for so long as such Notes are outstanding; provided that if at any time the Company determines that maintenance of such trading on the Open Market is unduly onerous, it will obtain, prior to cessation of trading, and thereafter use all commercially reasonable efforts to maintain, a trading of the Notes on another recognized stock exchange or trading platform.

SECTION 4.11. *Further Instruments and Acts.* Upon request of the Trustee, the Company will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purposes of this Indenture.

## ARTICLE 5

### LISTS OF NOTEHOLDERS AND REPORTS BY THE COMPANY AND THE TRUSTEE

SECTION 5.01. *Lists of Noteholders.* The Note Registrar will preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all Noteholders. The Company will or cause the Note Registrar to furnish to the Trustee (but only if the Trustee so requires) and each Paying Agent at least seven Business Days before each interest payment date and at such other times as the Trustee or the Paying Agent may request in writing, a list of the names and addresses of the Noteholders in such form and as of such date as the Trustee or the Paying Agent may reasonably require.

## ARTICLE 6

### DEFAULTS AND REMEDIES

SECTION 6.01. *Events of Default.* Each of the following shall be an “**Event of Default**”:

(a) default in the payment of the principal of any Note at its maturity, upon required repurchase, upon redemption, which failure continues for three Business Days or more;

(b) default in the payment of any interest upon any Note when it becomes due and payable, and continuance of such default for a period of 30 days or more;

(c) default in the performance, or breach, of any covenant or agreement of the Company in this Indenture (other than a covenant or agreement a default in whose performance or whose breach is specifically dealt with in clauses (a), (b), (f) or (g) of this Section 6.01), and continuance of such default or breach for a period of sixty days after written notice thereof has been given to the Company by the Trustee or to the Company and the Trustee by the holders of at least 25% in aggregate principal amount of the outstanding Notes;

(d) a default or defaults under any bonds, notes, debentures or other evidences of indebtedness (other than the Notes) by the Company or any Subsidiary that is a Material Subsidiary having, individually or in the aggregate, a principal or similar amount outstanding of at least \$50,000,000, whether such indebtedness now exists or shall hereafter be created, which default or defaults shall have resulted in the acceleration of the maturity of such indebtedness prior to its express maturity or shall constitute a failure to pay at least \$50,000,000 of such indebtedness when due and payable after the expiration of any applicable grace period with respect thereto;

(e) the entry against the Company or any Subsidiary that is a Material Subsidiary of a final judgment or final judgments for the payment of money in an aggregate amount in excess of \$50,000,000, by a court or courts of competent jurisdiction, which judgments remain undischarged, unwaived, unstayed, unbonded or unsatisfied for a period of sixty consecutive days;

(f) the failure to deliver the Cash Settlement Amount owing upon conversion of any Note when due, which failure continues for five Business Days or more;

(g) the failure to timely issue a Fundamental Change Company Notice in accordance with Section 13.01(b), which failure continues for five Business Days or more; or

(h) (1) the Company or any Subsidiary that is a Material Subsidiary pursuant to or within the meaning of any Bankruptcy Law:

(A) commences a voluntary case (including, in the case of the Company (i) the filing of a request for bankruptcy within the meaning of Section 1 of the Netherlands Bankruptcy Act (“*Faillissementswet*”) or (ii) the filing of a request for a moratorium of payments within the meaning of Section 214 of the Netherlands Bankruptcy Act)

(B) consents to the entry of an order for relief against it in an involuntary case, dissolution or liquidation,

- (C) consents to the appointment of a custodian, receiver (*curator*) or administrator (*bewindvoerder*) of it or for all or substantially all of its property,
- (D) makes a general assignment for the benefit of its creditors, or
- (E) admits, in writing, its inability generally to pay its debts as they become due; or
- (ii) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:
  - (A) is for relief against any Subsidiary that is a Material Subsidiary in an involuntary case, dissolution or liquidation;
  - (B) appoints a custodian, receiver (*curator*) or administrator (*bewindvoerder*) of any Subsidiary that is a Material Subsidiary or for all or substantially all of the property of any of the Company's Material Subsidiaries or, in the case of the Company, declares the Company bankrupt within the meaning of Section 1 of the Netherlands Bankruptcy Act without such judgment being removed or stayed within 45 days; or
  - (C) orders the liquidation of the Company or any Subsidiary that is a Significant Subsidiary or any group of Subsidiaries that, taken together, would constitute a Significant Subsidiary and the order or decree remains unstayed and in effect for 60 consecutive days.

SECTION 6.02. *Acceleration.* In case one or more Events of Default shall have occurred and be continuing (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body), then, and in each and every such case (other than an Event of Default specified in clause (h) of Section 6.01), unless the principal of all of the Notes shall have already become due and payable (or waived), either the Trustee or the holders of at least 25% in aggregate principal amount of the Notes then outstanding, determined in accordance with Section 8.04, by notice in writing to the Company (and to the Trustee if given by Noteholders), may declare 100% of the principal of and accrued and unpaid interest on all the Notes to be due and payable immediately, and upon any such declaration the same shall become and shall automatically be immediately due and payable, anything in this Indenture or in the Notes contained to the contrary notwithstanding.

If an Event of Default specified in clause (h) of Section 6.01 occurs and is continuing, the principal of all the Notes and accrued and unpaid interest shall be immediately due and payable.

Any acceleration pursuant to this Section 6.02, however, is subject to the conditions that if, at any time after the principal of the Notes shall have been so declared due and payable, and before any judgment or decree for the payment of the monies due shall have been obtained or entered as hereinafter provided, the Company shall pay or shall deposit with the Paying Agent a sum sufficient to pay installments of accrued and unpaid interest, if any, upon all Notes and the principal of any and all Notes that shall have become due otherwise than by acceleration (with interest on overdue installments of accrued and unpaid interest, if any (to the extent that payment of such interest is enforceable under applicable law), and on such principal at the rate provided in the Notes) and amounts due to the Trustee pursuant to Section 7.06, and if (1) rescission would not conflict with any judgment or decree of a court of competent jurisdiction and (2) any and all Events of Defaults under this Indenture, other than the

nonpayment of principal of and accrued and unpaid interest on Notes that shall have become due solely by such acceleration, shall have been cured or waived pursuant to Section 6.09, then and in every such case the holders of a majority in aggregate principal amount of the Notes then outstanding, by written notice to the Company and to the Trustee, may waive all Defaults or Events of Default with respect to the Notes (other than a Default or an Event of Default resulting from a failure to repurchase any Notes when required upon a Fundamental Change or a failure to deliver the Cash Settlement Amount due upon conversion) and rescind and annul such declaration and its consequences and such Default (other than a Default resulting from a failure to repurchase any Notes when required upon a Fundamental Change or a failure to pay the Cash Settlement Amount due upon conversion) shall cease to exist, and any Event of Default arising therefrom (other than a Default resulting from a failure to repurchase any Notes when required upon a Fundamental Change or a failure to pay the Cash Settlement Amount due upon conversion) shall be deemed to have been cured for every purpose of this Indenture; but no such waiver or rescission and annulment shall extend to or shall affect any subsequent Default or Event of Default, or shall impair any right consequent thereon.

SECTION 6.03. [Intentionally Omitted]

SECTION 6.04. *Payments of Notes on Default; Suit Therefor.* If an Event of Default under clause (a) or (b) of Section 6.01 shall have occurred and be continuing, the Company shall, upon demand of the Trustee, pay to it, for the benefit of the holders of the Notes, the whole amount then due and payable on the Notes for principal and interest with interest on any overdue principal and interest at the rate provided in the Notes, and, in addition thereto, such further amount as shall be sufficient to cover any amounts due to the Trustee under Section 7.06. If the Company shall fail to pay such amounts forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree and may enforce the same against the Company or any other obligor upon the Notes and collect the monies adjudged or decreed to be payable in the manner provided by law out of the property of the Company or any other obligor upon the Notes, wherever situated.

In the event there shall be pending proceedings for the bankruptcy or for the reorganization of the Company or any other obligor on the Notes under any Bankruptcy Law, or in case a receiver, assignee or trustee in bankruptcy or reorganization, liquidator, sequestrator or similar official shall have been appointed for or taken possession of the Company or such other obligor, the property of the Company or such other obligor, or in the event of any other judicial proceedings relative to the Company or such other obligor upon the Notes, or to the creditors or property of the Company or such other obligor, the Trustee, irrespective of whether the principal of the Notes shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand pursuant to the provisions of this Section 6.04, shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount of principal and accrued and unpaid interest in respect of the Notes, and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents and to take such other actions as it may deem necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and of the Noteholders allowed in such judicial proceedings relative to the Company or any other obligor on the Notes, its or their creditors, or its or their property, and to collect and receive any monies or other property payable or deliverable on any such claims, and to distribute the same after the deduction of any amounts due the Trustee under Section 7.06; and any receiver, assignee or trustee in bankruptcy or reorganization, liquidator, custodian or similar official is hereby authorized by each of the Noteholders to make such payments to the Trustee, as administrative expenses, and, in the event that the Trustee shall consent to the

making of such payments directly to the Noteholders, to pay to the Trustee any amount due it for reasonable compensation, expenses, advances and disbursements, including agent's and counsel fees, and including any other amounts due to the Trustee under Section 7.06 hereof, incurred by it up to the date of such distribution. To the extent that such payment of reasonable compensation, expenses, advances and disbursements out of the estate in any such proceedings shall be denied for any reason, payment of the same shall, to the extent permitted by applicable laws, be secured by a lien on, and shall be paid out of, any and all distributions, dividends, monies, securities and other property that the holders of the Notes may be entitled to receive in such proceedings, whether in liquidation or under any plan of reorganization or arrangement or otherwise.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Noteholder any plan of reorganization, arrangement, adjustment or composition affecting the Noteholder or the rights of any Noteholder thereof, or to authorize the Trustee to vote in respect of the claim of any Noteholder in any such proceeding.

All rights of action and of asserting claims under this Indenture, or under any of the Notes, may be enforced by the Trustee without the possession of any of the Notes, or the production thereof at any trial or other proceeding relative thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the holders of the Notes.

In any proceedings brought by the Trustee (and in any proceedings involving the interpretation of any provision of this Indenture to which the Trustee shall be a party) the Trustee shall be held to represent all the holders of the Notes, and it shall not be necessary to make any holders of the Notes parties to any such proceedings.

In case the Trustee shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned because of such waiver or rescission and annulment or for any other reason or shall have been determined adversely to the Trustee, then and in every such case the Company, the Noteholders, and the Trustee shall, subject to any determination in such proceeding, be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Company, the Noteholders, and the Trustee shall continue as though no such proceeding had been instituted.

SECTION 6.05. *Application of Monies Collected by Trustee.* Any monies or property collected by the Trustee pursuant to this Article 6 with respect to the Notes shall be applied in the order following, at the date or dates fixed by the Trustee for the distribution of such monies or property, upon presentation of the several Notes, and stamping thereon the payment, if only partially paid, and upon surrender thereof, if fully paid:

First, to the payment of all amounts due the Trustee, the Agents and their respective agents and attorneys under Section 7.06;

Second, in case the principal of the outstanding Notes shall not have become due and be unpaid, to the payment of interest on the Notes, if any, in default in the order of the date due of the installments of such interest, with interest (to the extent that such interest is enforceable under applicable law and has been collected by the Trustee) upon the overdue installments of interest at the rate provided in the Notes, such payments to be made ratably to the Persons entitled thereto;

Third, in case the principal of the outstanding Notes shall have become due, by declaration or otherwise, and be unpaid to the payment of the whole amount including the payment of the Fundamental Change Repurchase Price, the cash component of the Conversion Obligation, or any redemption price, if any, then owing and unpaid upon the Notes for principal and interest with interest on the overdue principal and (to the extent that such interest has been collected by the Trustee) upon overdue installments of interest at the rate provided in the Notes, and in case such monies shall be insufficient to pay in full the whole amounts so due and unpaid upon the Notes, then to the payment of such principal and interest without preference or priority of principal over interest, or of interest over principal or of any installment of interest over any other installment of interest, or of any Note over any other Note, ratably to the aggregate of such principal and accrued and unpaid interest; and

Fourth, to the payment of the remainder, if any, to the Company or as a court of competent jurisdiction shall direct.

SECTION 6.06. *Proceedings by Noteholders.* No holder of any Note shall have any right by virtue of or by availing of any provision of this Indenture to institute any suit, action or proceeding in equity or at law upon or under or with respect to this Indenture, or for the appointment of a receiver, trustee, liquidator, custodian or other similar official, or for any other remedy hereunder, unless such holder previously shall have given to the Trustee written notice of an Event of Default and of the continuance thereof, as hereinbefore provided, and unless also the holders of not less than 25% in aggregate principal amount of the Notes then outstanding shall have made written request to the Trustee to institute such action, suit or proceeding in its own name as Trustee hereunder and shall have offered to the Trustee such security, indemnity or pre-funding satisfactory to it against any loss, liability or expense to be incurred therein or thereby, and the Trustee for sixty days after its receipt of such notice, request and offer of indemnity, shall have neglected or refused to institute any such action, suit or proceeding and no direction that, in the opinion of the Trustee, is inconsistent with such written request shall have been given to the Trustee by the holders of a majority in principal amount of the Notes outstanding within such sixty-day period pursuant to Section 6.09; it being understood and intended, and being expressly covenanted by the taker and holder of every Note with every other taker and holder and the Trustee that no one or more Noteholders shall have any right in any manner whatever by virtue of or by availing of any provision of this Indenture to affect, disturb or prejudice the rights of any other Noteholder, or to obtain or seek to obtain priority over or preference to any other such holder, or to enforce any right under this Indenture, except in the manner herein provided and for the equal, ratable and common benefit of all Noteholders (except as otherwise provided herein). For the protection and enforcement of this Section 6.06, each and every Noteholder and the Trustee shall be entitled to such relief as can be given either at law or in equity.

Notwithstanding any other provision of this Indenture and any provision of any Note, the right of any Noteholder to receive payment of the principal of (including the Fundamental Change Repurchase Price upon repurchase pursuant to Section 13.01 or any redemption price or the Cash Settlement Amount upon conversion), and accrued and unpaid interest on such Note, on or after the respective due dates expressed or provided for in such Note or in this Indenture, or to institute suit for the enforcement of any such payment on or after such respective dates against the Company shall not be impaired or affected without the consent of such Noteholder.

Anything in this Indenture or the Notes to the contrary notwithstanding, the holder of any Note, without the consent of either the Trustee or the holder of any other Note, in its own behalf and for its own benefit, may enforce, and may institute and maintain any proceeding suitable to enforce, its rights of conversion as provided herein.

SECTION 6.07. *Proceedings by Trustee.* In case of an Event of Default the Trustee may in its discretion proceed to protect and enforce the rights vested in it by this Indenture by such appropriate judicial proceedings as are necessary to protect and enforce any of such rights, either by suit in equity or by action at law or by proceeding in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in this Indenture or in aid of the exercise of any power granted in this Indenture, or to enforce any other legal or equitable right vested in the Trustee by this Indenture or by law.

SECTION 6.08. *Remedies Cumulative and Continuing.* Except as provided in the second paragraph of Section 2.08 and Section 6.04, all powers and remedies given by this Article 6 to the Trustee or to the Noteholders shall, to the extent permitted by law, be deemed cumulative and not exclusive of any thereof or of any other powers and remedies available to the Trustee or the holders of the Notes, by judicial proceedings or otherwise, to enforce the performance or observance of the covenants and agreements contained in this Indenture, and no delay or omission of the Trustee or of any holder of any of the Notes to exercise any right or power accruing upon any Default or Event of Default shall impair any such right or power, or shall be construed to be a waiver of any such Default or any acquiescence therein; and, subject to the provisions of Section 6.06, every power and remedy given by this Article 6 or by law to the Trustee or to the Noteholders may be exercised from time to time, and as often as shall be deemed expedient, by the Trustee or by the Noteholders.

SECTION 6.09. *Direction of Proceedings and Waiver of Defaults by Majority of Noteholders.* The holders of a majority in aggregate principal amount of the Notes at the time outstanding determined in accordance with Section 8.04 shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee with respect to Notes; *provided, however*, that (a) such direction shall not be in conflict with any rule of law or with this Indenture, and (b) the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction. The Trustee may refuse to follow any direction that it determines is unduly prejudicial to the rights of any other holder or that would involve the Trustee in personal liability. The holders of a majority in aggregate principal amount of the Notes at the time outstanding determined in accordance with Section 8.04 may on behalf of the holders of all of the Notes waive any past Default or Event of Default hereunder and its consequences except (i) a default in the payment of accrued and unpaid interest, if any, on, or the principal (including any Fundamental Change Repurchase Price or any redemption price) of, the Notes when due that has not been cured pursuant to the provisions of Section 6.01, (ii) a failure by the Company to deliver cash due upon conversion of the Notes, or (iii) a default in respect of a covenant or provision hereof which under Article 9 cannot be modified or amended without the consent of each holder of an outstanding Note affected. Upon any such waiver the Company, the Trustee and the holders of the Notes shall be restored to their former positions and rights hereunder; but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon. Whenever any Default or Event of Default hereunder shall have been waived as permitted by this Section 6.09, said Default or Event of Default shall for all purposes of the Notes and this Indenture be deemed to have been cured and to be not continuing; but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon.

SECTION 6.10. *Notice of Defaults.* The Trustee shall, within ninety days after the occurrence and continuance of a Default or Event of Default of which a Responsible Officer has actual knowledge give notice of all Defaults known to a Responsible Officer to all Noteholders, unless such Defaults or Events of Default shall have been cured or waived before the giving of such notice; and *provided that*, except in the case of a Default or Event of Default in the payment of the principal of,

accrued and unpaid interest on any of the Notes, including without limiting the generality of the foregoing any Default in the payment of any Fundamental Change Repurchase Price or any redemption price, then in any such event the Trustee shall be protected in withholding such notice if and so long as a committee of Responsible Officers of the Trustee in good faith determine that the withholding of such notice is in the interests of the Noteholders.

SECTION 6.11. *Undertaking to Pay Costs.* All parties to this Indenture agree, and each holder of any Note by its acceptance thereof shall be deemed to have agreed, that any court may, in its discretion, require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; *provided* that the provisions of this Section 6.11 (to the extent permitted by law) shall not apply to any suit instituted by the Trustee, to any suit instituted by any Noteholder, or group of Noteholders, holding in the aggregate more than 10% in principal amount of the Notes at the time outstanding determined in accordance with Section 8.04, or to any suit instituted by any Noteholder for the enforcement of the payment of the principal of accrued and unpaid interest on any Note (including, but not limited to, the Fundamental Change Repurchase Price or any redemption price with respect to the Notes being repurchased or redeemed as provided in this Indenture) on or after the due date expressed or provided for in such Note or to any suit for the enforcement of the right to convert any Note in accordance with the provisions of Article 12.

## ARTICLE 7

### CONCERNING THE TRUSTEE

SECTION 7.01. *Duties and Responsibilities of Trustee.* The Trustee, prior to the occurrence of an Event of Default and after the curing or waiver of all Events of Default that may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default has occurred (which has not been cured or waived) the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs; *provided* that if an Event of Default occurs and is continuing, the Trustee will be under no obligation to exercise any of the rights or powers under this Indenture at the request or direction of any of the holders unless such holders have offered to the Trustee indemnity, security or pre-funding satisfactory to the Trustee against the losses, liabilities and expenses that might be incurred by it in compliance with such request or direction.

No provision of this Indenture shall be construed to relieve the Trustee from liability for its own grossly negligent action, its own grossly negligent failure to act or its own willful misconduct as determined by a court of competent jurisdiction in a final and non-appealable decision, except that:

(a) prior to the occurrence of an Event of Default and after the curing or waiving of all Events of Default that may have occurred, the duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee;



(b) in the absence of bad faith or willful misconduct on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but, in the case of any such certificates or opinions that by any provisions hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of any mathematical calculations or other facts stated therein);

(c) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer or Officers of the Trustee, unless it shall be proved in a court of competent jurisdiction in a final and non-appealable decision that the Trustee was grossly negligent in ascertaining the pertinent facts;

(d) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of not less than a majority in principal amount of the Notes at the time outstanding determined as provided in Section 8.04 relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture;

(e) whether or not therein provided, every provision of this Indenture relating to the conduct or affecting the liability of, or affording protection to, the Trustee shall be subject to the provisions of this Section;

(f) the Trustee shall not be liable in respect of any payment (as to the correctness of amount, entitlement to receive or any other matters relating to payment) or notice effected by the Company or any Paying Agent or any records maintained by any Note Registrar with respect to the Notes; and

(g) if any party fails to deliver a notice relating to an event the fact of which, pursuant to this Indenture, requires notice to be sent to the Trustee, the Trustee may conclusively rely on its failure to receive such notice as reason to act as if no such event occurred, unless such Responsible Officer of the Trustee had actual knowledge of such event.

None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers. The Trustee will not be liable to the Noteholders if prevented or delayed from performing any of its obligations or discretionary functions under this Indenture by reason of any present or future law applicable to it, by any governmental or regulatory authority or by any circumstances beyond its control.

SECTION 7.02. *Reliance on Documents, Opinions, Etc.* Except as otherwise provided in Section 7.01:

(a) the Trustee may conclusively rely and shall be fully protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, note, coupon or other paper or document believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties;

(b) any request, direction, order or demand of the Company mentioned herein shall be sufficiently evidenced by an Officers' Certificate (unless other evidence in respect thereof be herein specifically prescribed); and any Board Resolution may be evidenced to the Trustee by a copy thereof certified by the Secretary or an Assistant Secretary of the Company;

(c) the Trustee may consult with counsel and require an Opinion of Counsel and any advice of such counsel or Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith and in accordance with such advice or Opinion of Counsel;

(d) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the Noteholders pursuant to the provisions of this Indenture, unless such Noteholders shall have offered to the Trustee security or indemnity satisfactory to it (which may include pre-funding) against the costs, expenses and liabilities that may be incurred therein or thereby;

(e) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled, at a reasonable time on any Business Day, to examine the books, records and premises of the Company, personally or by agent or attorney at the expense of the Company and shall incur no liability of any kind by reason of such inquiry or investigation;

(f) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, custodians, nominees or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent, custodian, nominee or attorney appointed by it with due care hereunder;

(g) the permissive rights of the Trustee enumerated herein shall not be construed as duties;

(h) the Trustee may request that the Company deliver a certificate setting forth the names of individuals and/or titles of Officers authorized at such time to take specified actions pursuant to the Indenture (i.e., an incumbency certificate);

(i) the Trustee will not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture;

(j) the Company shall provide prompt written notice to the Trustee of any change to its fiscal year (it being expressly understood that the failure to provide such notice to the Trustee shall not be deemed a Default or Event of Default under this Indenture);

(k) the Trustee shall not be required to give any bond or surety in respect of the performance of its powers and duties hereunder;

(l) the Trustee may refrain from taking any action in any jurisdiction if the taking of such action in that jurisdiction would, in its opinion, based upon legal advice in the relevant jurisdiction, be contrary to any law of that jurisdiction or, to the extent applicable, the State of New York. Furthermore,

the Trustee may also refrain from taking such action if it would otherwise render it liable to any Person in that jurisdiction, the State of New York or if, in its opinion based upon such legal advice, it would not have the power to take such action in that jurisdiction by virtue of any applicable law in that jurisdiction, in the State of New York or if it is determined by any court or other competent authority in that jurisdiction, in the State of New York that it does not have such power;

(m) the Trustee shall not have any obligation or duty to monitor, determine or inquire as to compliance, and shall not be responsible or liable for compliance with restrictions on transfer, exchange, redemption, purchase or repurchase, as applicable, of minimum denominations imposed under this Indenture or under applicable law or regulation with respect to any transfer, exchange, redemption, purchase or repurchase, as applicable, of any interest in any Notes;

(n) the rights, privileges, protections, immunities and benefits given to the Trustee, including its right to be indemnified and/or secured to its satisfaction, are extended to, and shall be enforceable by the Trustee in each of its capacities hereunder, by each Agent in their various capacities hereunder, each custodian and other Person employed to act as agent hereunder. Each of the Trustee and the Agents shall not be liable for acting in good faith on instructions believed by it to be genuine and from the proper party;

(o) in no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of, or caused by, directly or indirectly, forces beyond its control, including, without limitation, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God; it being understood that the Trustee shall use reasonable efforts that are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances; and

(p) the Trustee may assume without inquiry in the absence of actual knowledge of a Responsible Officer that the Company is duly complying with its obligations contained in this Indenture and that no Event of Default or other event which would require repayment of the Notes has occurred;

In no event shall the Trustee be liable for any consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action other than any such loss or damage caused by the Trustee's willful misconduct or gross negligence as proven in a court of competent jurisdiction in a final and non-appealable decision. The Trustee shall not be charged with knowledge of any Default or Event of Default with respect to the Notes, unless either (1) a Responsible Officer shall have actual knowledge of such Default or Event of Default or (2) written notice of such Default or Event of Default shall have been given to a Responsible Officer of the Trustee by the Company or by any holder of the Notes.

SECTION 7.03. *No Responsibility for Recitals, Etc.* The recitals contained herein and in the Notes (except in the Authentication Agent's certificate of authentication) shall be taken as the statements of the Company, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Notes. The Trustee shall not be accountable for the use or application by the Company of any Notes or the proceeds of any Notes authenticated and delivered by the Trustee in conformity with the provisions of this Indenture.

SECTION 7.04. *Trustee, Paying Agents, Conversion Agents or Registrar May Own Notes.* The Trustee, any Paying Agent, any Conversion Agent or Note Registrar, in its individual or any

other capacity, may become the owner or pledgee of Notes with the same rights it would have if it were not the Trustee, Paying Agent, Conversion Agent or Note Registrar.

SECTION 7.05. *Monies to Be Held in Trust.* All monies received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received. Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as may be agreed from time to time by the Company and the Trustee.

SECTION 7.06. *Compensation and Expenses of Trustee.* The Company covenants and agrees to pay to the Trustee from time to time, and the Trustee shall be entitled to, compensation for all services rendered by it hereunder in any capacity (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust) as mutually agreed to in writing between the Trustee and the Company, and the Company will pay or reimburse the Trustee upon its request for all expenses (including taxes except for any taxes assessed on the Trustee that are imposed or calculated by reference to the net income received or receivable by the Trustee), disbursements and advances properly incurred or made by the Trustee in accordance with any of the provisions of this Indenture in any capacity thereunder (including the properly incurred compensation and the expenses and disbursements of its agents and counsel and of all Persons not regularly in its employ) except any such expense, disbursement or advance as shall have been caused by its negligence, willful misconduct or bad faith as determined by a final, non-appealable order of a court of competent jurisdiction. In the event of being requested by the Company to undertake duties which the Trustee reasonably determines to be of an exceptional nature or otherwise outside the scope of the normal duties of the Trustee, the Company shall pay to the Trustee such additional remuneration as shall be agreed between them. The Company also covenants to indemnify the Trustee in any capacity under this Indenture and any other document or transaction entered into in connection herewith and its agents for, and to hold them harmless against, any loss, claim, damage, liability or expense incurred without negligence, willful misconduct or bad faith on the part of the Trustee as determined by a court of competent jurisdiction in a final and non-appealable decision, its officers, directors, agents or employees, or such agent, as the case may be, and arising out of or in connection with the acceptance or administration of this trust or in any other capacity hereunder, including the costs and expenses of defending themselves against any claim of liability in the premises. The obligations of the Company under this Section 7.06 to compensate or indemnify the Trustee and to pay or reimburse the Trustee for expenses, disbursements and advances shall be secured by a senior claim to which the Notes are hereby made subordinate on all money or property held or collected by the Trustee, except, subject to the effect of Section 6.05, funds held in trust herewith for the benefit of the holders of particular Notes. The Trustee's right to receive payment of any amounts due under this Section 7.06 shall not be subordinate to any other liability or indebtedness of the Company (even though the Notes may be so subordinated). The obligation of the Company under this Section 7.06 shall survive the satisfaction and discharge of this Indenture and the earlier resignation or removal of the Trustee. The Company need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld. The indemnification provided in this Section 7.06 shall extend to the officers, directors, agents and employees of the Trustee and shall survive the termination of this Indenture and the resignation or removal of the Trustee.

Without prejudice to any other rights available to the Trustee under applicable law, when the Trustee and its agents incur expenses or render services after an Event of Default specified in Section 6.01(h) occurs, the expenses and the compensation for the services are intended to constitute expenses of administration under any bankruptcy, insolvency or similar laws.

SECTION 7.07. *Officers' Certificate as Evidence.* Except as otherwise provided in Section 7.01, whenever in the administration of the provisions of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or omitting any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of gross negligence, willful misconduct, recklessness and bad faith on the part of the Trustee as determined by a court of competent jurisdiction in a final and non-appealable decision, be deemed to be conclusively proved and established by an Officers' Certificate delivered to the Trustee, and such Officers' Certificate, in the absence of gross negligence, willful misconduct, recklessness and bad faith on the part of the Trustee as determined by a court of competent jurisdiction in a final and non-appealable decision, shall be full warrant to the Trustee for any action taken or omitted by it under the provisions of this Indenture upon the faith thereof.

SECTION 7.08. *Conflicting Interests of Trustee.* The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company or any affiliate of the Company with the same rights it would have if it were not Trustee. However, in the event the Trustee has or shall acquire a conflicting interest, the Trustee shall either eliminate such interest within ninety days or resign.

SECTION 7.09. *Eligibility of Trustee.* There shall at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of England and Wales, or the United States of America, or any state thereof, that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by U.K. or U.S. federal or state authorities and which is generally recognized as a corporation which customarily performs such corporate trustee roles and provides such corporate trustee services in transactions similar in nature to the offering of the Notes.

SECTION 7.10. *Resignation or Removal of Trustee.* (1) The Trustee may at any time resign by giving written notice of such resignation to the Company and all Noteholders. Upon receiving such notice of resignation, the Company shall promptly appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor trustee. If no successor trustee shall have been so appointed and have accepted appointment within sixty days after the giving of such notice of resignation to all Noteholders, the resigning Trustee may, upon ten Business Days' notice to the Company and all Noteholders, petition any court of competent jurisdiction for the appointment of a successor trustee, or any Noteholder who has been a bona fide holder of a Note or Notes for at least six months may, subject to the provisions of Section 6.11, on behalf of himself and all others similarly situated, petition any such court for the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor trustee.

(a) In case at any time any of the following shall occur:

(i) the Trustee shall fail to comply with Section 7.08 within a reasonable time after written request therefor by the Company or by any Noteholder who has been a bona fide holder of a Note or Notes for at least six months, or

(ii) the Trustee shall cease to be eligible in accordance with the provisions of Section 7.09 and shall fail to resign after written request therefor by the Company or by any such Noteholder, or

(iii) the Trustee shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or a receiver of the Trustee or of its property shall be appointed, or any public officer shall take

charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, the Company may by a Board Resolution remove the Trustee and appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor trustee, or, subject to the provisions of Section 6.11, any Noteholder who has been a bona fide holder of a Note or Notes for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor trustee.

(b) The holders of 75% or more in aggregate principal amount of the Notes at the time outstanding, as determined in accordance with Section 8.04, may at any time remove the Trustee and nominate a successor trustee that shall be deemed appointed as successor trustee unless within ten days after notice to the Company of such nomination the Company objects thereto, in which case the Trustee so removed or any Noteholder, upon the terms and conditions and otherwise as in Section 7.10(a) provided, may petition any court of competent jurisdiction for an appointment of a successor trustee.

(c) Any resignation or removal of the Trustee and appointment of a successor trustee pursuant to any of the provisions of this Section 7.10 shall become effective upon acceptance of appointment by the successor trustee as provided in Section 7.11.

SECTION 7.11. *Acceptance by Successor Trustee.* Any successor trustee appointed as provided in Section 7.10 shall execute, acknowledge and deliver to the Company and to its predecessor trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor trustee shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, duties and obligations of its predecessor hereunder, with like effect as if originally named as trustee herein; but, nevertheless, on the written request of the Company or of the successor trustee, the trustee ceasing to act shall, upon payment of any amounts then due it pursuant to the provisions of Section 7.06, execute and deliver an instrument transferring to such successor trustee all the rights and powers of the trustee so ceasing to act.

Upon request of any such successor trustee, the Company shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such rights and powers. Any trustee ceasing to act shall, nevertheless, retain a senior claim to which the Notes are hereby made subordinate on all money or property held or collected by such trustee as such, except for funds held in trust for the benefit of holders of particular Notes, to secure any amounts then due it pursuant to the provisions of Section 7.06.

No successor trustee shall accept appointment as provided in this Section 7.11 unless at the time of such acceptance such successor trustee shall be qualified under the provisions of Section 7.08 and be eligible under the provisions of Section 7.09.

Upon acceptance of appointment by a successor trustee as provided in this Section 7.11, each of the Company and the successor trustee, at the written direction and at the expense of the Company, shall give notice of the succession of such trustee to all Noteholders. If the Company fails to give such notice within ten days after acceptance of appointment by the successor trustee, the successor trustee shall cause such notice to be given at the expense of the Company.

SECTION 7.12. *Succession by Merger, Etc.* Any corporation or other entity into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation or other entity resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation or other entity succeeding to all or substantially all of the corporate trust business of the Trustee (including the administration of this Indenture), shall be the successor to the Trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, *provided* that in the case of any corporation or other entity succeeding to all or substantially all of the corporate trust business of the Trustee, such corporation or other entity shall be eligible under the provisions of Section 7.09.

In case at the time such successor to the Trustee shall succeed to the trusts created by this Indenture, any of the Notes shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor trustee or Authentication Agent appointed by such predecessor trustee, and deliver such Notes so authenticated; and in case at that time any of the Notes shall not have been authenticated, any successor to the Trustee or an Authentication Agent appointed by such successor trustee may, upon receipt of a Company Order, authenticate such Notes either in the name of any predecessor trustee hereunder or in the name of the successor trustee; and in all such cases such certificates shall have the full force which it is anywhere in the Notes or in this Indenture provided that the certificate of the Trustee shall have; *provided, however*, that the right to adopt the certificate of authentication of any predecessor Trustee or to authenticate Notes in the name of any predecessor Trustee shall apply only to its successor or successors by merger, conversion or consolidation.

SECTION 7.13. *Evidence of Compliance with Conditions Precedent; Certificates and Opinions of Counsel to Trustee.* (1) Upon any request or application by the Company to the Trustee to take any action under this Indenture, the Company shall furnish to the Trustee:

(i) an Officers' Certificate stating that, in the opinion of the signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(ii) an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

(b) Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include:

(i) a statement that each person signing such certificate or opinion has read such covenant or condition and the definitions herein relating thereto;

(ii) a brief statement as to the nature and scope of the examination or investigation upon which the statement or opinion contained in such certificate or opinion is based;

(iii) a statement that, in the opinion of each such person, the person has made such examination or investigation as is necessary to enable the person to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(iv) a statement as to whether or not, in the opinion of each such person, such condition or covenant has been complied with; *provided, however*, that, with respect to matters of fact, an Opinion of Counsel may rely on an Officers' Certificate or certificates of public officials.

SECTION 7.14. *Agents; General Provisions.*

(a) *Actions of Agents.* The rights, powers, duties and obligations and actions of each Agent under this Indenture are several and not (i) joint or (ii) joint and several.

(b) *Agents of Trustee.* The Company and the Agents acknowledge and agree that in the event of a Default or Event of Default, the Trustee may, by notice in writing to the Company and the Agents, require that the Agents act as agents of, and take instructions exclusively from, the Trustee. Until they have received such written notice from the Trustee, the Agents shall act solely as agents of the Company.

(c) *Moneys held by Agents.* No Agent shall be liable for interest on any money received by it. Moneys held by Agents need not be segregated from other funds except to the extent required by law or Section 4.04.

(d) *Payments by Agents.* No Agent shall be required to make any payment under this Indenture unless and until it has received in advance the full amount to be paid. To the extent that an Agent has made a payment for which it did not receive in advance the full amount, the Company will reimburse the Agent the full amount of any shortfall.

(e) *Repayment of Costs.* No Agent shall have any duty to take any action if it has grounds for believing that it is not assured repayment of any costs it may incur in taking such action.

(f) *Duties of Agents express not implied.* The Agents shall only be obliged to perform duties set out in the agreement and terms and conditions, and shall have no implied duties.

ARTICLE 8

CONCERNING THE NOTEHOLDERS

SECTION 8.01. *Action by Noteholders.* Whenever in this Indenture it is provided that the holders of a specified percentage in aggregate principal amount of the Notes may take any action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action), the fact that at the time of taking any such action, the holders of such specified percentage have joined therein may be evidenced by any instrument or any number of instruments of similar tenor executed by Noteholders in person or by agent or proxy appointed in writing. Whenever the Company or the Trustee solicits the taking of any action by the holders of the Notes, the Company or the Trustee may, but shall not be required to, fix in advance of such solicitation, a date as the record date for determining Noteholders entitled to take such action. The record date if one is selected shall be not more than fifteen days prior to the date of commencement of solicitation of such action.

SECTION 8.02. *Proof of Execution by Noteholders.* Subject to the provisions of Section 7.01 and Section 7.02, proof of the execution of any instrument by a Noteholder or its agent or proxy shall be sufficient if made in accordance with such reasonable rules and regulations as may be prescribed by the Trustee or in such manner as shall be satisfactory to the Trustee. The holding of Notes shall be proved by the Note Register or by a certificate of the Note Registrar.



SECTION 8.03. *Who Are Deemed Absolute Owners.* The Company, the Trustee, any Authentication Agent, any Paying Agent, any Conversion Agent and any Note Registrar may deem the Person in whose name a Note shall be registered upon the Note Register to be, and may treat it as, the absolute owner of such Note (whether or not such Note shall be overdue and notwithstanding any notation of ownership or other writing thereon made by any Person other than the Company or any Note Registrar) for the purpose of receiving payment of or on account of the principal of and (subject to Section 2.03) accrued and unpaid interest, if any, on such Note, for conversion of such Note and for all other purposes; and neither the Company nor the Trustee nor any Paying Agent nor any Conversion Agent nor any Note Registrar shall be affected by any notice to the contrary. All such payments so made to any holder for the time being, or upon its order, shall be valid and, to the extent of the sum or sums so paid, effectual to satisfy and discharge the liability for monies payable upon any such Note.

SECTION 8.04. *Company-Owned Notes Disregarded.* In determining whether the holders of the requisite aggregate principal amount of Notes have concurred in any direction, consent, waiver or other action under this Indenture, Notes that are owned by the Company or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company shall be disregarded and deemed not to be outstanding for the purpose of any such determination; *provided* that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, consent, waiver or other action only Notes that a Responsible Officer knows are so owned shall be so disregarded. Notes so owned that have been pledged in good faith may be regarded as outstanding for the purposes of this Section 8.04 if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to so act with respect to such Notes and that the pledgee is not the Company or a Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company. In the case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee. Upon request of the Trustee, the Company shall furnish to the Trustee promptly an Officers' Certificate listing and identifying all Notes, if any, known by the Company to be owned or held by or for the account of any of the above described Persons; and, subject to Section 7.01, the Trustee shall be entitled to accept such Officers' Certificate as conclusive evidence of the facts therein set forth and of the fact that all Notes not listed therein are outstanding for the purpose of any such determination.

SECTION 8.05. *Revocation of Consents; Future Noteholders Bound.* At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 8.01, of the taking of any action by the holders of the percentage in aggregate principal amount of the Notes specified in this Indenture in connection with such action, any holder of a Note that is shown by the evidence to be included in the Notes the holders of which have consented to such action may, by filing written notice with the Trustee at its Corporate Trust Office and upon proof of holding as provided in Section 8.02, revoke such action so far as concerns such Note. Except as aforesaid, any such action taken by the holder of any Note shall be conclusive and binding upon such holder and upon all future holders and owners of such Note and of any Notes issued in exchange or substitution therefor or upon registration of transfer thereof, irrespective of whether any notation in regard thereto is made upon such Note or any Note issued in exchange or substitution therefor or upon registration of transfer thereof.

ARTICLE 9

SUPPLEMENTAL INDENTURES

SECTION 9.01. *Supplemental Indentures Without Consent of Noteholders.* The Company and the Trustee, at the Company's expense, may from time to time and at any time enter into an indenture or indentures supplemental hereto for one or more of the following purposes:

- (a) to cure any ambiguity, omission, defect or inconsistency in this Indenture or the Notes in a manner that does not adversely affect the rights of any Noteholder;
- (b) to provide for the assumption by a Successor Company of the obligations of the Company under this Indenture pursuant to Article 10;
- (c) to add guarantees with respect to the Notes;
- (d) to secure the Notes;
- (e) to add to the covenants of the Company such further covenants, restrictions or conditions for the benefit of the Noteholders or surrender any right or power conferred upon the Company;
- (f) to make any change that does not adversely affect the rights of any holder in any material respect;
- (g) to appoint a successor Trustee with respect to the Notes; or
- (h) to issue additional Notes in accordance with Section 2.08 hereof.

Upon the written request of the Company, the Trustee is hereby authorized to join with the Company in the execution of any such supplemental indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to, but may in its discretion, enter into any supplemental indenture that affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

Any supplemental indenture authorized by the provisions of this Section 9.01 may be executed by the Company and the Trustee without the consent of the holders of any of the Notes at the time outstanding, notwithstanding any of the provisions of Section 9.02.

SECTION 9.02. *Supplemental Indentures With Consent of Noteholders.* With the consent (evidenced as provided in Article 8) of the holders of at least a majority in aggregate principal amount of the Notes at the time outstanding (determined in accordance with Article 8 and including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes), the Company, when authorized by the resolutions of the Board of Directors and the Trustee, at the Company's expense, may from time to time and at any time enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or any supplemental indenture or of modifying in any manner the rights of the holders of the Notes or waiving any past default or compliance with provisions of this Indenture; *provided, however*, that no such supplemental indenture shall:

- (a) reduce the percentage in aggregate principal amount of Notes outstanding necessary to modify or amend this Indenture or to waive any past Default or Event of Default;
- (b) reduce the rate or extend the stated time for payment of interest on any Note;

- (c) reduce the principal of, or extend the Maturity Date of, any Note;
- (d) make any change that impairs or adversely affects the conversion rights of any Notes;
- (e) reduce the Fundamental Change Repurchase Price or redemption price of any Note or amend or modify in any manner adverse to the holders of the Notes the Company's obligation to make such payments, whether through an amendment or waiver of provisions in the covenants, definitions or otherwise;
- (f) make any Note payable in a currency other than that stated in the Note;
- (g) change the ranking of the Notes in a manner that is adverse to the Noteholders;  
change the right of any holder to receive payment of principal of and interest, if any, on such holder's Notes on or after the due dates therefor or to institute suit for the enforcement of any payment on or with respect to such holder's Note; or
- (i) make any change in this Section 9.02 or in the waiver provisions in Section 6.02 or Section 6.09, in each case without the consent of each holder of an outstanding Note affected.

Upon the written request of the Company, and upon the filing with the Trustee of evidence of the consent of Noteholders as aforesaid and subject to Section 9.05, the Trustee shall join with the Company in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such supplemental indenture.

It shall not be necessary for the consent of the Noteholders under this Section 9.02 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof. After an amendment under this Indenture becomes effective, the Company shall give notice briefly describing such amendment to all Noteholders. However, the failure to give such notice to all the holders, or any defect in the notice, will not impair or affect the validity of the amendment.

**SECTION 9.03.** *Effect of Supplemental Indentures.* Upon the execution of any supplemental indenture pursuant to the provisions of this Article 9, this Indenture shall be and be deemed to be modified and amended in accordance therewith and the respective rights, limitation of rights, obligations, duties and immunities under this Indenture of the parties hereto and the Noteholders shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

**SECTION 9.04.** *Notation on Notes.* Notes authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article 9 may, at the Company's expense, bear a notation as to any matter provided for in such supplemental indenture. If the Trustee or the Company shall so determine, new Notes so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any modification of this Indenture contained in any such supplemental indenture may, at the Company's expense, be prepared and executed by the Company, authenticated by the Trustee (or an Authentication Agent), and delivered in exchange for the Notes then outstanding, upon surrender of such Notes then outstanding.

SECTION 9.05. *Evidence of Compliance of Supplemental Indenture to Be Furnished to Trustee.* In addition to the documents required by Section 15.05, the Trustee shall receive an Officers' Certificate and an Opinion of Counsel as conclusive evidence that any supplemental indenture executed pursuant hereto complies with the requirements of this Article 9 and is permitted or authorized by the Indenture, and such supplemental indenture is the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms.

## ARTICLE 10

### CONSOLIDATION, MERGER, SALE, CONVEYANCE AND LEASE

SECTION 10.01. *Company May Consolidate, Etc. on Specified Terms.* Subject to the provisions of Section 10.02, the Company shall not consolidate with, merge with or into, or convey, transfer, split-off or lease all or substantially all of its properties and assets to another Person, unless:

(a) the resulting, surviving or transferee Person (the "**Successor Company**"), if not the Company, shall be a corporation, partnership, limited liability company or similar entity organized and existing under the laws of any member state of the European Union, the United States of America, any state thereof, or the District of Columbia, and the Successor Company (if not the Company) shall expressly assume, by supplemental indenture, executed and delivered to the Trustee, in form satisfactory to the Trustee, all the obligations of the Company under the Notes and this Indenture; and

(b) immediately after giving effect to such transaction, no Default or Event of Default shall have occurred and be continuing under this Indenture.

Upon any such consolidation, merger, conveyance, transfer, split-off or lease the Successor Company (if not the Company) shall succeed to, and may exercise every right and power of, the Company under this Indenture.

For purposes of this Section 10.01, the conveyance, transfer, split-off or lease of all or substantially all of the properties and assets of one or more Subsidiaries of the Company to another Person that is not, or Persons that are not, the Company or Subsidiaries of the Company, which properties and assets, if held by the Company instead of such Subsidiaries, would constitute all or substantially all of the properties and assets of the Company, shall be deemed to be the transfer of all or substantially all of the properties and assets of the Company to another Person.

SECTION 10.02. *Successor Corporation to Be Substituted.* In case of any such consolidation, merger, conveyance, transfer, split-off or lease and upon the assumption by the Successor Company, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the due and punctual payment of the principal of, accrued and unpaid interest, if any, on all of the Notes, the due and punctual delivery or payment, as the case may be, of any consideration due upon conversion of the Notes and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by the Company, such Successor Company shall succeed to and be substituted for the Company, with the same effect as if it had been named herein as the party of the first part. Such Successor Company thereupon may cause to be signed, and may issue in its own name any or all of the Notes issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee; and, upon the order of such Successor Company instead of the Company and subject to all the terms, conditions and limitations in this Indenture prescribed, the Trustee shall, upon receipt of a Company Order, authenticate and shall deliver, or cause to be authenticated and delivered, any

Notes that such Successor Company thereafter shall cause to be signed and delivered to the Trustee for that purpose. All the Notes so issued shall in all respects have the same legal rank and benefit under this Indenture as the Notes theretofore or thereafter issued in accordance with the terms of this Indenture as though all of such Notes had been issued at the date of the execution hereof. In the event of any such consolidation, merger, conveyance, transfer or split-off (but not in the case of a lease), the Person named as the “Company” in the first paragraph of this Indenture or any successor that shall thereafter have become such in the manner prescribed in this Article 10 may be dissolved, wound up and liquidated at any time thereafter and, except in the case of a lease, such Person shall be released from its liabilities as obligor and maker of the Notes and from its obligations under this Indenture.

In case of any such consolidation, merger, conveyance, transfer, split-off or lease, such changes in phraseology and form (but not in substance) may be made in the Notes thereafter to be issued as may be appropriate.

SECTION 10.03. *Opinion of Counsel to Be Given to Trustee.* The Company shall not effect any merger, consolidation, conveyance, transfer, split-off or lease referred to in Section 10.01 unless the Trustee shall receive an Officers’ Certificate and an Opinion of Counsel as conclusive evidence that any such consolidation, merger, conveyance, transfer, split-off or lease and any such assumption and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture, complies with the provisions of this Article 10.

## ARTICLE 11

### IMMUNITY OF INCORPORATORS, STOCKHOLDERS, OFFICERS AND DIRECTORS

SECTION 11.01. *Indenture and Notes Solely Corporate Obligations.* No recourse for the payment of the principal of or accrued and unpaid interest, if any, on any Note, nor for any claim based thereon or otherwise in respect thereof, and no recourse under or upon any obligation, covenant or agreement of the Company in this Indenture or in any supplemental indenture or in any Note, nor because of the creation of any indebtedness represented thereby, shall be had against any incorporator, stockholder, employee, agent, officer or director or Subsidiary, as such, past, present or future, of the Company or of any successor corporation or entity, either directly or through the Company or any successor corporation or entity, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly understood that all such liability is hereby expressly waived and released as a condition of, and as a consideration for, the execution of this Indenture and the issuance of the Notes.

## ARTICLE 12

### CONVERSION OF NOTES

SECTION 12.01. *Conversion Right.* (1) Upon compliance with the provisions of this Article 12, a holder of a Note shall have the right, at such holder’s option, to convert all or any portion (if the portion to be converted is \$200,000 principal amount or an integral multiple thereof) of such Note

- (i) subject to satisfaction of the conditions set forth in Section 12.01(b), at any time during the Contingent Conversion Period under the circumstances and during the periods set forth in Section 12.01(b), and
- (ii) irrespective of the conditions set forth in Section 12.01(b), at any time following the Contingent Conversion Period that is prior to the close of business on the fifth Business Day immediately preceding the Maturity Date,

in each case, at an initial Conversion Ratio (the “**Conversion Ratio**”) of 4,829.7279 (subject to adjustment as provided in Section 12.04 of this Indenture) per \$200,000 principal amount of Notes (subject to the settlement provisions of Section 12.02, the “**Conversion Obligation**”). A Noteholder may convert a portion (less than all) of its Notes only if the Notes the Noteholder retains are in a Permitted Denomination.

(a) During the Contingent Conversion Period, the Notes may be surrendered for conversion:

- (i) if a Parity Event or a Trading Price Unavailability Event, as the case may be, occurs, during the period of ten Business Days from and including the first Business Day following the relevant Trading Price Notification Date.

Whether a Parity Event or a Trading Price Unavailability Event has occurred will be determined as follows:

(A) Investor Notice

If a Noteholder (the "**Notifying Noteholder**") has delivered to the Paying Agent a valid Investor Notice, the Issuer will be required to instruct the Calculation Agent no later than the second Trading Day following the Investor Notice Date to verify whether a Parity Event or a Trading Price Unavailability Event, as the case may be, has occurred.

In order to be valid the Investor Notice must be:

- (I) received by the Paying Agent no later than at 4:00 p.m. (London time) on the fifth Business Day after the last Trading Day of the specified Investor Measurement Period;
- (II) delivered together with reasonable evidence that either of the conditions set out in the definition of the term "Investor Notice" were satisfied; and
- (III) delivered together with proof that the Notifying Noteholder at the time of such notice is a holder of the relevant Notes by means of a certificate of its custodian or in any other appropriate manner.

For the avoidance of doubt, the Paying Agent will not be responsible for determining whether a Parity Event or a Trading Price Unavailability Event has occurred or whether the information

presented in Section 12.01(b)(i)(A)(II) provides reasonable evidence that either of the conditions set out in the definition of the term "Investor Notice" were satisfied.

(B) Verification by the Calculation Agent

Upon instruction by the Issuer the Calculation Agent will verify whether a Parity Event or a Trading Price Unavailability Event, as the case may be, has occurred. If in doing so the Calculation Agent determines

- (I) that the Parity Event or the Trading Price Unavailability Event, as the case may be, has occurred in the relevant Measurement Period, the Issuer shall so notify the Noteholders, the Trustee and the Conversion Agent no later than on the Trading Price Notification Date; or
- (II) that no Parity Event or Trading Price Unavailability Event has occurred in the relevant Measurement Period, the Issuer shall notify the Notifying Noteholder thereof no later than on the Trading Price Notification Date.

When verifying whether a Parity Event or Trading Price Unavailability Event has occurred, the question whether and at which level any Trading Price is available on any day shall be determined on such day and at such time at which such Trading Price is determined by the Calculation Agent (or, as the case may be, an Independent Expert).

Any determination by the Calculation Agent will, in the absence of manifest error, be conclusive in all respects and binding upon the Issuer and all Noteholders.

Any determination by an Independent Expert as set out in the definition of the term "Trading Price" or "Trading Price Unavailability Event" will, in the absence of manifest error, be conclusive in all respects and binding upon the Issuer, all Noteholders and the Calculation Agent.

(C) If, upon receipt of any valid Investor Notice, the Issuer fails to duly notify, by the Trading Price Notification Date,

- (x) the Noteholders in accordance with Section 12.01(b)(i)(B)(I) of the occurrence of the Parity Event or the Trading Price Unavailability Event, as the case may be, or
- (y) the Notifying Noteholder in accordance with Section 12.01(b)(i)(B)(II) that such alleged Parity Event or Trading Price Unavailability Event, as the case may be, has not occurred,

then such Parity Event or Trading Price Unavailability Event, as the case may be, will be deemed to have occurred up to and including any Trading Day on which the Issuer makes such notification, and the Notes may be surrendered for conversion during the period specified in Section 12.01(b)(i) above.

(D) Definitions

In this Section 12.01(b)(i) the following terms shall have the following meaning:

**"Adjusted Parity Value"** means 98 per cent. of the Parity Value in effect on each relevant Trading Day.

A **"Daily Trading Price Unavailability Event"** occurs on any Trading Day on which no Trading Price is available, as determined by an Independent Expert.

**"Investor Notice"** means a notice by a Notifying Noteholder to the Paying Agent in text form specifying that in its opinion on any Trading Day during the relevant Investor Measurement Period

- (i) the Trading Price could not be determined pursuant to clause (i) of the definition of the term "Trading Price"; or
- (ii) the Trading Price as determined pursuant to clause (i) of the definition of the term "Trading Price" was less than the Adjusted Parity Value on such Trading Day.

**"Investor Notice Date"** means the date on which the Paying Agent has received from a Notifying Noteholder a valid Investor Notice.

**"Investor Measurement Period"** means, in relation to an Investor Notice, the period of five consecutive Trading Days ending no earlier than the fifth Trading Day prior to the relevant Investor Notice Date.

**"Measurement Period"** means, in relation to an Investor Notice, the period of ten consecutive Trading Days commencing on the third Trading Day following the Investor Notice Date.

A **"Parity Event"** occurs if (i) the Trading Price can be determined on at least five Trading Days during the Measurement Period, and (ii) on each such Trading Day on which such Trading Price can be determined, such Trading Price is less than the Adjusted Parity Value on such Trading Day.

**"Parity Value"** on any Trading Day is equal to the product of the then-applicable Conversion Ratio on such Trading Day and the Last Reported Sale Price of the Common Stock on such Trading Day.

**"Trading Price"** on a Trading Day means the mid market price per \$200,000 principal amount of Notes determined as follows:



- (i) The "**Trading Price**" is equal to the mid Bloomberg Generic Price (or any successor thereto) per \$200,000 principal amount of Notes as at the close of business on such Trading Day as displayed on or derived from Bloomberg page XS1682511818 Corp HP (using the setting "Last Price" or any successor page or setting), as determined by the Calculation Agent.
- (ii) If the "**Trading Price**" cannot be determined pursuant to clause (i) above, it will be equal to such mid market price per \$200,000 principal amount of Notes as displayed on or derived from any other page on Bloomberg or any successor to Bloomberg providing substantially similar data to those that would otherwise have been determined pursuant to clause (i) above (as determined by an Independent Expert).
- (iii) If the "**Trading Price**" cannot be determined pursuant to clause (i) or (ii) above, it will be equal to such mid market price per \$200,000 principal amount of Notes as derived from any other public source (if any) providing substantially similar data to those that would otherwise have been determined pursuant to clause (i) above (as determined by an Independent Expert).
- (iv) If the "**Trading Price**" cannot be determined pursuant to clause (i), (ii) or (iii) above, it will be equal to such mid market price per \$200,000 principal amount of Notes as provided by leading financial institutions (as shall be considered to be appropriate by an Independent Expert).

**"Trading Price Determination Date"** means the second Trading Day following the last Trading Day of the Measurement Period.

**"Trading Price Notification Date"** means the second Trading Day following the Trading Price Determination Date or, if such day is not a Business Day, the Business Day immediately following such day.

A "**Trading Price Unavailability Event**" occurs if all of the following conditions are met:

- (i) a Daily Trading Price Unavailability Event has occurred on at least six Trading Days during the relevant Measurement Period; and
- (ii) the Trading Price (if any) per \$200,000 principal amount of Notes as at the Trading Price Determination Date, or where no such Trading Price is available, the fair market value per \$200,000 principal amount of Notes as at the Trading Price Determination Date (as determined by an Independent Expert not later than on the Trading Price Determination Date), is less than the Adjusted Parity Value as at the Trading Price Determination Date.

For the avoidance of doubt,

- (x) the provisions of Section 12.06 apply to the determinations and procedures contemplated by this Section 12.01(b)(i); and
- (y) neither the Issuer nor the Calculation Agent shall be under any duty to monitor whether, or (aside from the Issuer's obligation to notify the Noteholders, the Trustee and the Conversion Agent pursuant to Section 12.01(b)(i)(B)(I)) to notify Noteholders that, a Parity Event or a Trading Price Unavailability Event has occurred at any time during the Contingent Conversion Period; and

(ii) in the event that the Company elects to distribute cash, assets, securities, or other property to all or substantially all holders of its Common Stock, which distribution has a per share value (as determined by the Calculation Agent) greater than 25% of the arithmetic mean of the Daily VWAP of the Common Stock on each Trading Day in the 20 consecutive Trading Day period immediately preceding the date of declaration for such distribution, then the Company shall notify all holders of the Notes, the Trustee and the Conversion Agent not less than 20 Scheduled Trading Days prior to the proposed Ex-Dividend Date for such distribution and will update such notice promptly if the proposed Ex-Dividend Date subsequently changes. Once the Company has given such notice, the Notes may be surrendered for conversion at any time until the earlier of (1) the close of business on the fifth Business Day immediately prior to such Ex-Dividend Date and (2) the Company's announcement that such distribution will not take place, even if the Notes are not otherwise convertible at such time. No Noteholder may exercise this right to convert if the Noteholder otherwise may participate in such distribution without conversion (based upon the then-applicable Conversion Ratio and upon the same terms as holders of the Company's Common Stock);

(iii) in the event of a Fundamental Change (determined without regard to the proviso immediately following clause (d) of such definition) or a Make-Whole Fundamental Change, a Noteholder may surrender Notes for conversion at any time from and after the 60<sup>th</sup> Scheduled Trading Day prior to the anticipated effective date of such Fundamental Change or Make-Whole Fundamental Change, as the case may be, until the close of business on the fifth Business Day immediately preceding the Fundamental Change Repurchase Date, if any, corresponding to such Fundamental Change (or, if later, the close of business on the 60<sup>th</sup> calendar day (or, if such day is not a Business Day, the immediately following Business Day) following the date of the Fundamental Change Company Notice), or, in the case of a Make-Whole Fundamental Change that does not constitute a Fundamental Change, the close of business on the 60<sup>th</sup> Trading Day immediately following such effective date (or, if later, the close of business on the 60<sup>th</sup> calendar day (or, if such day is not a Business Day, the immediately following Business Day) following the date on which Noteholders are given notice of the Make-Whole Fundamental Change following the occurrence thereof. The Company shall give notice to all Noteholders, the Trustee and the Conversion Agent of the anticipated effective date of any proposed Fundamental Change or Make-Whole Fundamental Change, as the case may be, as soon as practicable after the date the Company publicly announces such event, and shall use commercially reasonable efforts to determine the anticipated effective date and make such announcement in time to give such notice no later than 60 Scheduled Trading Days in advance of such anticipated effective date; provided that (i) the Company shall not be required to give such notice more than 60 Scheduled Trading Days in advance of such anticipated effective date, (ii) if the Company does not have knowledge of such event at least 60 Scheduled Trading Days in advance of such anticipated effective date, the Company shall provide such notice within one Business Day of the date upon which the Company receives notice or otherwise becomes aware of such event; and (iii) the Company shall update any such previously given notice promptly if the anticipated effective date subsequently changes.

(iv) in any Fiscal Quarter during the Contingent Conversion Period after the Fiscal Quarter ending September 30, 2017, if the arithmetic mean of the Last Reported Sale Prices of the Common Stock in each Trading Day in any twenty consecutive Trading Days within the period of thirty consecutive Trading Days ending on, and including, the last Trading Day of the immediately preceding Fiscal Quarter is equal to or more than 130% of the then-applicable Conversion Price on the last day of such preceding Fiscal Quarter (such price, the “**Conversion Trigger Price**”). The Company shall have the Calculation Agent promptly determine, at the beginning of each Fiscal Quarter after the fiscal quarter ending September 30, 2017, whether the Notes may be surrendered for conversion in accordance with this clause (iv) and shall promptly notify the Trustee, the Conversion Agent and the Noteholders if the Calculation Agent has determined that the Notes may be surrendered for conversion in accordance with this clause (iv);

(v) at any time from and after the day (which must be a Business Day) on which notice of redemption is given in accordance with Article 14 hereof until the close of business on the 10th calendar day (or, if such day is not a Business Day, the immediately following Business Day) immediately preceding the Redemption Date; and

(vi) at any time from and after the occurrence of an Event of Default, until such Event of Default shall have been cured or waived or the principal amount of the Notes shall have been accelerated.

SECTION 12.02. *Conversion Procedure.* (1) Subject to this Section 12.02, upon any conversion of any Note, the Company shall deliver to converting Noteholders, in respect of each \$200,000 principal amount of Notes being converted, cash in amount equal to the sum of the Daily Cash Settlement Amounts for each of the 50 consecutive Trading Days during the related Calculation Period (the “**Cash Settlement Amount**”), as set forth in this Section 12.02, and as determined by the Calculation Agent.

(a) In respect of definitive Notes, before any holder shall be entitled to convert the same as set forth above, such holder shall complete and manually sign and deliver an irrevocable notice to the Conversion Agent in the form attached as Exhibit B hereto (a “**Notice of Conversion**”) at the office of the Conversion Agent and state in writing therein the principal amount of Notes to be converted, (2) surrender such Notes, duly endorsed to the Company or in blank (and accompanied by any appropriate endorsement and transfer documents), at the office of the Conversion Agent, and (3) if required, furnish appropriate endorsements and transfer documents. In respect of Global Notes, beneficial interests therein may only be surrendered for conversion in accordance with the Applicable Procedures. In connection with all conversions in respect of beneficial interests in a Global Note, the Conversion Agent (copied to the Trustee and the Registrar) must receive: (1) a Notice of Conversion from the Common Depositary or its nominee (as the sole registered holder of such Global Note); and (2) a written order from a Participant or an Indirect Participant given to the Common Depositary in accordance with the Applicable Procedures directing the Common Depositary to surrender for conversion an amount equal to the beneficial interest to be converted.

The Conversion Agent shall notify the Company of any conversion pursuant to this Article 12 as soon as practicable and no later than the following Business Day. Without diminishing the Conversion Agent’s liability to the Company for failure to comply with its obligation under the preceding sentence, any delay in such notification will not invalidate the effectiveness of the Notice of Conversion.

No Notice of Conversion with respect to any Notes (or portions thereof) may be given by a holder thereof or shall be effective if such holder has also delivered a Fundamental Change Repurchase Notice to the Company in respect of such Notes (or portions thereof) and not validly withdrawn such Fundamental Change Repurchase Notice in accordance with Section 13.02, unless the Company defaults in the payment of the Fundamental Change Repurchase Price.

If more than one Note (or portion thereof) shall be surrendered for conversion at one time by the same holder, the Conversion Obligation with respect to such Notes (or portions thereof), if any, that shall be payable upon conversion shall be computed on the basis of the aggregate principal amount of the Notes (or specified portions thereof to the extent permitted thereby) so surrendered.

A Note (or portion thereof) shall be deemed to have been converted immediately prior to the close of business on the date (the “**Conversion Date**”) that each of the requirements set forth in this Section 12.02(b) have been complied with.

(b) The Company covenants and agrees that it will cause the cash due in respect of its Conversion Obligation to be paid to the holder(s) of the Notes on the fifth Business Day immediately following the last Trading Day of the applicable Calculation Period; *provided, however*, that if, prior to the Conversion Date for any converted Notes, the Common Stock has been replaced by Reference Property consisting solely of cash pursuant to Section 12.05, the Company will cause the cash due in respect of its Conversion Obligation to be paid on the tenth Business Day immediately following the relevant Conversion Date. Notwithstanding the foregoing, if any information required in order to calculate the amount of cash due in respect of the Company’s Conversion Obligation will not be available as of the applicable delivery date specified above, the Company will cause the applicable amount to be paid on the fifth Business Day after the earliest Trading Day on which such calculation can be made. The Company shall provide written notice to the Paying Agent (copied to the Trustee and Conversion Agent) at least three Business Days in advance of any such settlement date in the form of Exhibit C (a “**Confirmation of Conversion**”). For the avoidance of doubt, none of the Trustee, the Conversion Agent or the Paying Agent will have any further obligation in respect of a Notice of Conversion delivered to the Company pursuant to Section 12.02(b) in relation to any conversion, including the payment of any cash due upon conversion, unless and until a Confirmation of Conversion is received from the Company.

The Company shall deposit with the Paying Agent no later than 10:00 a.m. (London time) one Business Day prior to the settlement date specified in the Confirmation of Conversion an amount of cash sufficient to pay the cash specified as due in the Confirmation of Conversion. If the Paying Agent holds money sufficient to make such payment by such time and on such date and is not prohibited from paying such money to the Noteholders, then, provided that the cash due and the settlement date specified in the Confirmation of Conversion are correct: (i) such Notes (or portions thereof) will cease to be outstanding; (ii) interest will cease to accrue on such Notes on and after the Conversion Date; and (iii) all other rights of the holders of such Notes will terminate (other than the right to receive the cash due in respect of the Company’s Conversion Obligation). If the cash due in respect of the Company’s Conversion Obligation is not paid on the settlement date or in the correct amount, including because of failure of the Company to comply with this Section 12.02(c) or due to inaccuracy or mistake in the Confirmation of Conversion, interest shall be paid on the overdue Cash Settlement Amount, or on any deficiency in the portion thereof paid, at the rate provided in the Notes.

For the avoidance of doubt, the Trustee, Conversion Agent and Paying Agent shall be held harmless and have no liability with respect to any inaccuracy or mistake in the Confirmation of Conversion (and, for the avoidance of doubt, shall not be required to pay a greater or lesser amount than

specified, or on a date other than the settlement date specified, in the Confirmation of Conversion), be held harmless and have no liability with respect to payments or disbursements to be made by the Paying Agent (i) for which payment instructions are not made or that are not otherwise deposited by the respective times set forth in this Section 12.02(c), and (ii) until they have confirmed receipt of funds sufficient to make the relevant payment, and shall also be held harmless with respect to any authentication and delivery of a definitive Note in reduced principal amount pursuant to Section 12.02(d) or any notation reducing the principal amount represented by any Global Note pursuant to Section 12.02(e) in reliance on a Confirmation of Conversion.

(c) In case any definitive Note shall be surrendered for partial conversion, the Company shall execute and the Trustee or any Authentication Agent, upon receipt of a Company Order, shall authenticate and deliver to or upon the written order of the holder of the Note so surrendered, without charge to such holder, a new Note or Notes in authorized denominations in an aggregate principal amount equal to the unconverted portion of the surrendered Note.

(d) Upon the conversion of an interest in a Global Note, the Registrar or the Paying Agent shall make a notation on such Global Note as to the reduction in the principal amount represented thereby.

(e) Upon conversion, a Noteholder shall not receive any additional cash payment for accrued and unpaid interest except as set forth below. The Company's settlement of the Conversion Obligations pursuant to Section 12.02 shall be deemed to satisfy its obligation to pay the principal amount of the Note and accrued and unpaid interest to, but not including, the Conversion Date. As a result, accrued and unpaid interest to, but not including, the Conversion Date shall be deemed to be paid in full rather than cancelled, extinguished or forfeited. Notwithstanding the preceding sentence, if definitive Notes are converted after the close of business on an Interest Record Date, holders of such definitive Notes as of the close of business on the Interest Record Date will receive the interest payable on such definitive Notes on the corresponding Interest Payment Date notwithstanding the conversion, *provided* that the Settlement Amount in respect of any such definitive Notes surrendered for conversion during the period from the close of business on any Interest Record Date to the opening of business on the corresponding Interest Payment Date will be reduced by an amount equal to the interest payable on the Notes so converted; *provided, further, however*, that no such reduction in the Settlement Amount shall result (1) if the Company has specified a Fundamental Change Repurchase Date that is after such Interest Record Date but on or prior to the corresponding Interest Payment Date, (2) to the extent of any Defaulted Interest existing at the time of conversion with respect to such definitive Notes, (3) if the Company has specified a Redemption Date that is after such Interest Record Date but on or prior to the corresponding Interest Payment Date; or (4) if the definitive Notes are surrendered for conversion after the close of business on the Interest Record Date immediately preceding the Maturity Date. For the avoidance of doubt, owing to absence of intervening Business Days between Interest Record Dates and corresponding Interest Payment Dates in the case of Global Notes, no conversion of a beneficial interest in a Global Note between the close of business on an Interest Record Date and the opening of business on the corresponding Interest Payment Date may (or is intended to) occur, and the immediately preceding sentence shall have no application to any such interests in Global Notes. Except as set forth in this Section 12.02(f), no payment or adjustment will be made for accrued and unpaid interest on converted Notes.

SECTION 12.03. *Increased Conversion Ratio Applicable to Certain Notes Surrendered in Connection with Make-Whole Fundamental Changes.* (1) Notwithstanding anything herein to the contrary, the Conversion Ratio applicable to each Note that is surrendered for conversion, in accordance with this Article 12, at any time from, and including, the effective date (the "**Effective Date**") of a Make-

Whole Fundamental Change until, and including, the close of business on the Business Day immediately preceding the related Fundamental Change Repurchase Date, or, in the case of a Make-Whole Fundamental Change that does not constitute a Fundamental Change, the close of business on the 60<sup>th</sup> Trading Day immediately following the Effective Date of such Make-Whole Fundamental Change (or, if later in either case, the close of business on the 60<sup>th</sup> calendar day (or, if such day is not a Business Day, the immediately following Business Day) following the date of the related Fundamental Change Company Notice or the date on which Noteholders are given notice of the Make-Whole Fundamental Change following the occurrence thereof, as applicable) (such period, the “**Make-Whole Fundamental Change Period**”), shall be increased to an amount equal to the Conversion Ratio that would, but for this Section 12.03, otherwise apply to such Note pursuant to this Article 12, *plus* an amount equal to the Make-Whole Conversion Ratio Adjustment.

As used herein, “**Make-Whole Conversion Ratio Adjustment**” shall mean, with respect to a Make-Whole Fundamental Change, the amount set forth in the following table that corresponds to the Effective Date of such Make-Whole Fundamental Change and the Stock Price for such Make-Whole Fundamental Change, all as determined by the Calculation Agent:

### Make-Whole Conversion Ratio Adjustment

Effective Date	Share Price											
	\$31.85	\$40.00	\$41.41	\$50.00	\$60.00	\$70.00	\$80.00	\$90.00	\$100.00	\$110.00	\$120.00	\$140.00
September 13, 2017	1,448.918 4	875.8571	794.9250	449.7681	238.7254	127.8321	67.2346	33.4543	14.6781	4.7248	0.4704	0.0000
September 13, 2018	1,448.918 4	851.2771	768.1731	418.6321	211.7521	107.3921	52.8771	23.9877	8.9121	1.8066	0.0000	0.0000
September 13, 2019	1,448.918 4	812.2821	727.1156	375.7201	177.1754	82.8321	36.7521	14.1521	3.6081	0.0000	0.0000	0.0000
September 13, 2020	1,448.918 4	753.7521	666.6136	317.3081	133.7921	54.6264	20.0321	5.2543	0.2141	0.0000	0.0000	0.0000
September 13, 2021	1,448.918 4	666.0421	576.9835	237.2761	81.0388	25.0464	5.4646	0.0000	0.0000	0.0000	0.0000	0.0000
September 13, 2022	1,448.918 4	517.1221	426.7886	120.8361	22.3254	1.8807	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
September 13, 2023	1,448.918 4	170.2721	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

*provided, however, that:*

(i) if the actual Stock Price of such Make-Whole Fundamental Change is between two Stock Prices listed in the table above under the row titled “Stock Price”, or if the actual Effective Date of such Make-Whole Fundamental Change is between two Effective Dates listed in the table above in the column immediately below the title “Effective Date”, then the Make-Whole Conversion Ratio Adjustment for such Make-Whole Fundamental Change shall be determined by the Calculation Agent by straight-line interpolation between the Make-Whole Conversion Ratio Adjustment set forth for such higher and lower Stock Prices, or for such earlier and later Effective Dates based on a 365-day year, as applicable;

(ii) if the actual Stock Price of such Make-Whole Fundamental Change is greater than \$140.00 per share (subject to adjustment in the same manner as the Stock Price as provided in clause (iii) below), or if the actual Stock Price of such Make-Whole Fundamental Change is less than \$31.85 per share (subject to adjustment in the same manner as the Stock Price as provided in clause (iii) below), then the Make-Whole Conversion Ratio Adjustment shall be equal to zero and this Section 12.03 shall not require the Company to increase the Conversion Ratio with respect to such Make-Whole Fundamental Change;

(iii) if an event occurs that requires, pursuant to this Article 12 (other than solely pursuant to this Section 12.03), an adjustment to the Conversion Ratio, then, on the date and at the time such adjustment is so required to be made, each price set forth in the table above under the row titled “Stock Price” shall be deemed to be adjusted so that such Stock Price, at and after such time, shall be equal to the product of (1) such Stock Price as in effect immediately before such adjustment to such Stock Price and (2) a fraction whose numerator is the Conversion Ratio in effect immediately before such adjustment to the Conversion Ratio and whose denominator is the Conversion Ratio to be in effect, in accordance with this Article 12, immediately after such adjustment to the Conversion Ratio;

(iv) each Make-Whole Conversion Ratio Adjustment set forth in the table above shall be adjusted in the same manner in which, at the same time and for the same events for which, the Conversion Ratio is to be adjusted pursuant to Section 12.04; and

(v) in no event will the Conversion Ratio exceed 6,278.6463 per \$200,000 principal amount of Notes, subject to adjustment in the same manner as the Conversion Ratio pursuant to Section 12.04.

(vi) If any Noteholder converts such holder’s Notes prior to or following the Make-Whole Fundamental Change Period, such holder will not be entitled to receive the increased Conversion Ratio resulting from the Make-Whole Conversion Ratio Adjustment in connection with such conversion.

(b) Each notice, announcement and publication required by Section 12.01(b)(iii) in respect of a Make-Whole Fundamental Change shall also state that in connection with such Make-Whole Fundamental Change, the Company shall increase, in accordance herewith, the Conversion Ratio applicable to Notes entitled as provided herein to such increase (along with a description of how such increase shall be calculated by the Calculation Agent and the time periods during which Notes must be surrendered in order to be entitled to such increase). No later than five Business Days after the actual Effective Date of each Make-Whole Fundamental Change, the Company shall give all Noteholders, the Trustee and the Conversion Agent written notice of such Effective Date and the amount by which the Conversion Ratio has been so increased.

Nothing in this Section 12.03 shall prevent an adjustment to the Conversion Ratio pursuant to Section 12.04 in respect of a Make-Whole Fundamental Change.

SECTION 12.04. *Adjustment of Conversion Ratio.* The Conversion Ratio shall be adjusted from time to time by the Calculation Agent as follows:

(a) If the Company issues solely shares of Common Stock as a dividend or distribution on all or substantially all of the shares of Common Stock, or if the Company effects a share split or share combination of the Common Stock, the applicable Conversion Ratio will be adjusted based on the following formula:

$$CR = CR_0 \times \frac{OS}{OS_0}$$

where

$CR_0$  = the applicable Conversion Ratio in effect immediately prior to the open of business on the Ex-Dividend Date for such dividend or distribution, or

immediately prior to the open of business on the Business Day immediately following the effective date of such share split or share combination, as the case may be;

- CR = the applicable Conversion Ratio in effect immediately after the open of business on the Ex-Dividend Date for such dividend or distribution, or immediately after the open of business on the Business Day immediately following the effective date of such share split or share combination, as the case may be;
- OS<sub>0</sub> = the number of shares of Common Stock outstanding immediately prior to such dividend, distribution share split or share combination, as the case may be; and
- OS = the number of shares of Common Stock outstanding immediately after such dividend distribution share split or share combination, as the case may be.

Such adjustment shall become effective immediately after the opening of business on the Ex-Dividend Date for such dividend or distribution, or the Business Day immediately following the effective date for such share split or share combination. If any dividend or distribution of the type described in this Section 12.04(a) is declared but not so paid or made, or the outstanding shares of Common Stock are not split or combined, as the case may be, the Conversion Ratio shall be immediately readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution, or split or combine the outstanding shares of Common Stock, as the case may be, to the Conversion Ratio that would then be in effect if such dividend, distribution, share split or share combination had not been declared or announced.

(b) If the Company distributes to all or substantially all holders of its Common Stock any rights, options or warrants entitling them for a period of not more than sixty calendar days from the record date for such distribution to subscribe for or purchase shares of the Common Stock, at a price per share less than the arithmetic average of the Last Reported Sale Prices of the Common Stock for the ten consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the declaration date for such distribution, the Conversion Ratio shall be increased based on the following formula:

$$CR = CR_0 \times \frac{OS_0 + X}{OS_0 + Y}$$

where

- CR<sub>0</sub> = the applicable Conversion Ratio in effect immediately prior to the open of business on the Ex-Dividend Date for such distribution;
- CR = the applicable Conversion Ratio in effect immediately after the open of business on the Ex-Dividend Date for such distribution;
- OS<sub>0</sub> = the number of shares of the Common Stock that are outstanding immediately prior to the open of business on the Ex-Dividend Date for such distribution;
- X = the total number of shares of the Common Stock issuable pursuant to such rights, options or warrants; and



Y = the number of shares of the Common Stock equal to the aggregate price payable to exercise such rights, options or warrants, divided by the arithmetic average of the Last Reported Sale Prices of the Common Stock over the shorter of (i) the period of Trading Days from, and including, the date of announcement of the terms of such rights, options or warrants distribution (if announced prior to the close of business, or, otherwise, the immediately following Trading Day) to, and including, the Trading Day immediately preceding the Ex-Dividend Date relating to such rights, options or warrants distribution; and (ii) the ten consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Dividend Date relating to such rights, options or warrants distribution.

Such adjustment shall be successively made whenever any such rights, options or warrants are distributed and shall become effective immediately after the opening of business on the Ex-Dividend Date for such distribution. To the extent that shares of the Common Stock are not delivered after the expiration of such rights, options or warrants, the Conversion Ratio shall be readjusted to the Conversion Ratio that would then be in effect had the adjustments made upon the issuance of such rights, options or warrants been made on the basis of delivery of only the number of shares of the Common Stock actually delivered. If such rights, options or warrants are not so issued, the Conversion Ratio shall again be adjusted to be the Conversion Ratio that would then be in effect if such Ex-Dividend Date for such distribution had not been fixed.

For purposes of this Section 12.04(b), in determining whether any rights, options or warrants entitle the holders to subscribe for or purchase shares of the Common Stock at less than the arithmetic average of the Last Reported Sale Prices of the Common Stock for each Trading Day in the applicable ten consecutive Trading Day period, there shall be taken into account any consideration received by the Company for such rights, options or warrants and any amount payable on exercise or conversion thereof, the value of such consideration, if other than cash, to be determined by an Independent Expert. In no event shall the Conversion Ratio be decreased pursuant to this Section 12.04(b).

(c) If the Company shall distribute shares of its Capital Stock, evidences of its indebtedness or other of its assets or property, or rights, options or warrants to acquire its Capital Stock or other securities, to all or substantially all holders of its Common Stock, other than (i) dividends or distributions (including share splits) covered by Section 12.04(a) or Section 12.04(b), (ii) dividends or distributions paid exclusively in cash and covered by Section 12.04(d) and (iii) Spin-Offs to which the provisions set forth below in this Section 12.04(c) shall apply (any of such shares of Capital Stock, indebtedness, or other asset or property, or rights, options or warrants to acquire its Capital Stock or other securities, hereinafter in this Section 12.04(c) called the “**Distributed Property**”), then, in each such case the Conversion Ratio shall be increased based on the following formula:

$$CR = CR_0 \times \frac{SP_0}{SP_0 - FMV}$$

where

CR<sub>0</sub> = the applicable Conversion Ratio in effect immediately prior to the open of business on the Ex-Dividend Date for such distribution;

- CR = the applicable Conversion Ratio in effect immediately after the open of business on the Ex-Dividend Date for such distribution.
- SP<sub>0</sub> = the arithmetic average of the Last Reported Sale Prices of the Common Stock over the shorter of (i) the period of Trading Days from, and including, the date of announcement of the terms of such distribution (if announced prior to the close of business, or, otherwise, the immediately following Trading Day) to, and including, the Trading Day immediately preceding the Ex-Dividend Date for such distribution; and (ii) the ten consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Dividend Date for such distribution; and
- FMV = the fair market value (as determined by an Independent Expert) of the shares of Capital Stock, evidences of indebtedness, assets or property distributed with respect to each outstanding share of the Common Stock.

Such adjustment shall become effective immediately prior to the opening of business on the Ex-Dividend Date for such distribution; *provided* that if “FMV” as set forth above is equal to or greater than “SP<sub>0</sub>” as set forth above, in lieu of the foregoing adjustment, adequate provisions shall be made so that each Noteholder shall have the right to receive on conversion in respect of each \$200,000 principal amount of the Notes held by such holder, in addition to the Cash Settlement Amount in respect of the number of shares of Common Stock represented by the Conversion Ratio, the amount and kind of Distributed Property such holder would have received had such holder owned a number of shares of Common Stock equal to the applicable Conversion Ratio immediately prior to the Record Date for such distribution. If such distribution is not so paid or made, the Conversion Ratio shall again be adjusted to be the Conversion Ratio that would then be in effect if such dividend or distribution had not been declared. If the Independent Expert determines “FMV” for purposes of this Section 12.04(c) by reference to the actual or when issued trading market for any securities, it must in doing so consider the prices in such market over the same period used in computing the Last Reported Sale Prices of the Common Stock ending on the Trading Day immediately preceding the Ex-Dividend Date for such distribution.

With respect to an adjustment pursuant to this Section 12.04(c) where there has been a dividend or other distribution on the Common Stock of shares of Capital Stock of any class or series, or similar equity interest, of or relating to a Subsidiary or other business unit of the Company (a “**Spin-Off**”), the Conversion Ratio will be increased based on the following formula:

$$CR = CR_0 \times \frac{FMV_0 + MP_0}{MP_0}$$

where

- CR<sub>0</sub> = the applicable Conversion Ratio in effect immediately prior to the open of business on the Ex-Dividend Date for the Spin-Off;
- CR = the applicable Conversion Ratio in effect immediately after the open of business on the Ex-Dividend Date for the Spin-Off;
- FMV<sub>0</sub> = the arithmetic average of the Last Reported Sale Prices of the Capital Stock or similar equity interest distributed to holders of the Common Stock applicable to

one share of the Common Stock (determined by reference to the definition of Last Reported Sale Price as set forth in Section 1.01 as if references there to Capital Stock were to such Capital Stock or similar equity interest) over the first ten consecutive Trading Day period immediately following, and including, the Ex-Dividend Date for the Spin-Off (such period, the “**Valuation Period**”), and

$MP_0$  = the arithmetic average of the Last Reported Sale Prices of the Common Stock over the Valuation Period.

The adjustment to the Conversion Ratio under the preceding paragraph of this Section 12.04(c) shall be made immediately after the opening of business on the day after the last day of the Valuation Period, but shall become effective as of the opening of business on the Ex-Dividend Date for the Spin-Off. If the Ex-Dividend Date for the Spin-Off is less than ten consecutive Trading Days prior to, and including, the end of the Calculation Period in respect of any conversion, references within this Section 12.04(c) relating to Spin-Offs to ten consecutive Trading Days shall be deemed replaced, for purposes of calculating the affected daily Conversion Ratios in respect of that conversion, with such lesser number of Trading Days as have elapsed from, and including, the Ex-Dividend Date for the Spin-Off to, and including, the last Trading Day of such Calculation Period. For purposes of determining the applicable Conversion Ratio, in respect of any conversion during the ten consecutive Trading Days commencing on the Ex-Dividend Date of any Spin-Off, references within this Section 12.04(c) relating to Spin-Offs to ten consecutive Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the Ex-Dividend Date for such Spin-Off to, but excluding, the Conversion Date for such conversion.

For purposes of this Section 12.04(c) (and subject in all respect to Section 12.11), rights, options or warrants distributed by the Company to all or substantially all holders of its Common Stock entitling them to subscribe for or purchase shares of the Company’s Capital Stock, including Common Stock (either initially or under certain circumstances), which rights, options or warrants, until the occurrence of a specified event or events (“**Trigger Event**”): (i) are deemed to be transferred with such shares of the Common Stock; (ii) are not exercisable; and (iii) are also issued in respect of future issuances of the Common Stock, shall be deemed not to have been distributed for purposes of this Section 12.04(c) (and no adjustment to the Conversion Ratio under this Section 12.04(c) will be required) until the occurrence of the earliest Trigger Event, whereupon such rights, options or warrants shall be deemed to have been distributed and an appropriate adjustment (if any is required) to the Conversion Ratio shall be made under this Section 12.04(c). If any such right, option or warrant, including any such existing rights, options or warrants distributed prior to the date of this Indenture, are subject to events, upon the occurrence of which such rights, options or warrants become exercisable to purchase different securities, evidences of indebtedness or other assets, then the date of the occurrence of any and each such event shall be deemed to be the date of distribution and Ex-Dividend Date with respect to new rights, options or warrants with such rights (in which case the existing rights, options or warrants shall be deemed to terminate and expire on such date without exercise by any of the holders thereof). In addition, in the event of any distribution (or deemed distribution) of rights, options or warrants, or any Trigger Event or other event (of the type described in the immediately preceding sentence) with respect thereto that was counted for purposes of calculating a distribution amount for which an adjustment to the Conversion Ratio under this Section 12.04(c) was made, (1) in the case of any such rights, options or warrants that shall all have been redeemed or purchased without exercise by any holders thereof, upon such final redemption or purchase (x) the Conversion Ratio shall be readjusted as if such rights, options or warrants had not been issued and (y) the Conversion Ratio shall then again be readjusted to give effect to such distribution, deemed distribution or Trigger Event, as the case may be, as though it were a cash

distribution, equal to the per share redemption or purchase price received by a holder or holders of Common Stock with respect to such rights, options or warrants (assuming such holder had retained such rights, options or warrants), made to all holders of Common Stock as of the date of such redemption or purchase, and (2) in the case of such rights, options or warrants that shall have expired or been terminated without exercise by any holders thereof, the Conversion Ratio shall be readjusted as if such rights, options and warrants had not been issued.

For purposes of Section 12.04(a), Section 12.04(b) and this Section 12.04(c), any dividend or distribution to which this Section 12.04(c) is applicable that also includes one or both of:

(A) a dividend or distribution of shares of Common Stock to which Section 12.04(a) is applicable (the “**Clause A Distribution**”); or

(B) a dividend or distribution of rights, options or warrants to which Section 12.04(b) is applicable (the “**Clause B Distribution**”),

then (1) such dividend or distribution, other than the Clause A Distribution and the Clause B Distribution, shall be deemed to be a dividend or distribution to which this Section 12.04(c) is applicable (the “**Clause C Distribution**”) and any Conversion Ratio adjustment required by this Section 12.04(c) with respect to such Clause C Distribution shall then be made, and (2) the Clause A Distribution and Clause B Distribution shall be deemed to immediately follow the Clause C Distribution and any Conversion Ratio adjustment required by Section 12.04(a) and Section 12.04(b) with respect thereto shall then be made, except that, if determined by the Calculation Agent, (I) the “Ex-Dividend Date” of the Clause A Distribution and the Clause B Distribution shall be deemed to be the Ex-Dividend Date of the Clause C Distribution and (II) any shares of Common Stock included in the Clause A Distribution or Clause B Distribution shall be deemed not to be “outstanding immediately prior to such dividend, distribution or share split or share combination” within the meaning of Section 12.04(a) or “outstanding immediately prior to the open of business on the Ex-Dividend Date for such distribution” within the meaning of Section 12.04(b).

(C) In no event shall the Conversion Ratio be decreased pursuant to this Section 12.04(c).

(d) If any cash dividend or distribution is made to all or substantially all holders of the Company’s outstanding Common Stock, the applicable Conversion Ratio shall be increased based on the following formula:

$$CR = CR_0 \times \frac{SP_0}{SP_0 - C}$$

where

$CR_0$  = the applicable Conversion Ratio in effect immediately prior to the open of business on the Ex-Dividend Date for such dividend or distribution;

$CR$  = the applicable Conversion Ratio in effect immediately after the open of business on the Ex-Dividend Date for such dividend or distribution;

- SP<sub>0</sub> = the Last Reported Sale Price of the Common Stock on the Trading Day immediately preceding the Ex-Dividend Date for such dividend or distribution; and
- C = the amount in cash per share the Company pays or distributes to holders of its Common Stock.

Such adjustment shall become effective immediately after the opening of business on the Ex-Dividend Date for such dividend or distribution; *provided* that if “C” as set forth above is equal to or greater than “SP<sub>0</sub>” as set forth above, in lieu of the foregoing adjustment, each Noteholder shall receive, for each \$200,000 principal amount of Notes, at the same time and upon the same terms, the amount of cash such holder would have received had such holder owned a number of shares equal to the Conversion Ratio on the Record Date for such distribution. If such dividend or distribution is not so paid or made, the Conversion Ratio shall again be adjusted to be the Conversion Ratio that would then be in effect if such dividend or distribution had not been declared.

In no event shall the Conversion Ratio be decreased pursuant to this Section 12.04(d).

(e) If (i) the Company or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer for the Common Stock, and (ii) the cash and value of any other consideration included in the payment per share of the Common Stock exceeds the arithmetic average of the Last Reported Sale Prices of the Common Stock over the ten consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer (the “**Expiration Date**”), the Conversion Ratio shall be increased based on the following formula:

$$CR = CR_0 \times \frac{AC + (SP \times OS)}{OS_0 \times SP}$$

where

- CR<sub>0</sub> = the applicable Conversion Ratio in effect immediately prior to the open of business on the Trading Day next succeeding the Expiration Date;
- CR = the applicable Conversion Ratio in effect immediately after the open of business on the Trading Day next succeeding the Expiration Date;
- AC = the aggregate value of all cash and any other consideration (as determined by the Board of Directors) paid or payable for shares of Common Stock purchased in such tender or exchange offer;
- OS<sub>0</sub> = the number of shares of Common Stock outstanding immediately prior to the time (the “**Expiration Time**”) such tender or exchange offer expires (prior to giving effect to such tender offer or exchange offer);
- OS = the number of shares of Common Stock outstanding immediately after the Expiration Time (after giving effect to such tender offer or exchange offer); and

SP = the arithmetic average of the Last Reported Sale Prices of Common Stock over the ten consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the Expiration Date.

Such adjustment under this Section 12.04(e) shall become effective at the opening of business on the Trading Day next succeeding the Expiration Date. If the Trading Day next succeeding the Expiration Date is less than ten consecutive Trading Days prior to, and including, the end of the Calculation Period in respect of any conversion, references within this Section 12.04(e) to ten consecutive Trading Day period shall be deemed replaced, for purposes of calculating the affected daily Conversion Ratios in respect of that conversion, with such lesser number of Trading Days as have elapsed from, and including, the Trading Day next succeeding the Expiration Date to, and including, the last Trading Day of such Calculation Period.

For purposes of determining the applicable Conversion Ratio, in respect of any conversion during the ten consecutive Trading Day period commencing on the Trading Day next succeeding the Expiration Date, references within this Section 12.04(e) to ten consecutive Trading Days period shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the Trading Day next succeeding the Expiration Date to, but excluding, the Conversion Date for such conversion. If the Company is obligated to purchase shares pursuant to any such tender or exchange offer, but the Company is permanently prevented by applicable law from effecting any or all or any portion of such purchases or all such purchases are rescinded, the Conversion Ratio shall again be adjusted to be the Conversion Ratio that would then be in effect if such tender or exchange offer had not been made or had been made only in respect of the purchases that had been effected.

In no event shall the Conversion Ratio be decreased pursuant to this Section 12.04(e).

(f) The term “**Record Date**” shall mean, with respect to any dividend, distribution or other transaction or event in which the holders of Common Stock (or other security) have the right to receive any cash, securities or other property or in which the Common Stock (or other applicable security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of stockholders entitled to receive such cash, securities or other property (whether such date is fixed by the Board of Directors or by statute, contract or otherwise).

(g) Notwithstanding this Section 12.04 or any other provision of this Indenture or the Notes, if any Conversion Ratio adjustment becomes effective, or any Ex-Dividend Date for any issuance, dividend or distribution (relating to a required Conversion Ratio adjustment) occurs, during the period beginning on, and including, the open of business on a Conversion Date and ending on the close of business on the last Trading Day of a related Calculation Period, the Calculation Agent (if the Calculation Agent determines in its sole discretion it is able to make such determination) or (in any other case) an Independent Expert shall make adjustments to the Conversion Ratio and the amount of cash payable upon conversion of the Notes, as the case may be, as are necessary or appropriate to effect the intent of this Section 12.04 and the other provisions of this Article 12 and to avoid unjust or inequitable results. Any adjustment made pursuant to this Section 12.04(g) shall apply in lieu of the adjustment or other term that would otherwise be applicable.

(h) In addition to those required by clauses (a), (b), (c), (d) and (e) of this Section 12.04, and to the extent permitted by applicable law and subject to the applicable rules of the Relevant Exchange, the Company from time to time may increase the Conversion Ratio by any amount for a period of at least twenty Business Days if the Board of Directors determines that such increase would be in the

Company's best interest. In addition, the Company may also (but is not required to) increase the Conversion Ratio to avoid or diminish any income tax to holders of Common Stock or rights to purchase Common Stock in connection with any dividend or distribution of shares (or rights to acquire shares) or similar event. Whenever the Conversion Ratio is increased pursuant to the preceding sentence, the Company shall give notice of the increase to all Noteholders at least fifteen days prior to the date the increased Conversion Ratio takes effect, and such notice shall state the increased Conversion Ratio and the period during which it will be in effect.

(i) No adjustment to the applicable Conversion Ratio is required: (i) upon the issuance of any shares of the Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company's securities and the investment of additional optional amounts in shares of the Common Stock under any plan; (ii) upon the issuance of any shares of the Common Stock or options or rights to purchase those shares pursuant to any present or future employee, director or consultant benefit plan or program of, or assumed by, the Company or any of the Company's Subsidiaries; (iii) upon the issuance of any shares of the Common Stock pursuant to any option, warrant, right or exercisable, exchangeable or convertible security not described in clause (ii) of this subsection and outstanding as of the date the Notes were first issued; (iv) for a change in the par value of the Common Stock; (v) for accrued and unpaid interest; or (vi) for any transactions described in this Section 12.04 if Noteholders participate (as a result of holding the Notes, and at the same time as holders of Common Stock participate) in such transactions as if such Noteholders held a number shares of Common Stock equal to the Conversion Ratio at the time such adjustment would be required, multiplied by the principal amount (expressed in thousands) of Notes held by such Noteholder, without having to convert their Notes.

(j) All calculations and other determinations under this Article 12 shall be made by the Calculation Agent and shall be made to the nearest one-ten thousandth (1/10,000) of a share.

(k) No adjustment to the Conversion Ratio will be made if the adjustment would result in a change in the Conversion Ratio of less than 1%. However, any adjustments that are less than 1% of the Conversion Ratio shall be carried forward and made, regardless of whether the aggregate adjustment is less than 1%, (i) upon any conversion of Notes, and (ii) on each Trading Day of any Calculation Period.

(l) Whenever the Conversion Ratio is adjusted as herein provided, the Company shall promptly file with the Trustee and any Conversion Agent an Officers' Certificate setting forth the Conversion Ratio after such adjustment and setting forth a brief statement of the facts requiring such adjustment. Unless and until a Responsible Officer of the Trustee shall have received such Officers' Certificate, the Trustee shall not be deemed to have knowledge of any adjustment of the Conversion Ratio and may assume without inquiry that the last Conversion Ratio of which it has knowledge is still in effect. Promptly after delivery of such certificate, the Company shall prepare a notice of such adjustment of the Conversion Ratio setting forth the adjusted Conversion Ratio and the date on which each adjustment becomes effective and shall give notice of such adjustment of the Conversion Ratio to all Noteholders within ten days of the effective date of such adjustment. Failure to deliver such notice shall not affect the legality or validity of any such adjustment.

(m) For purposes of this Section 12.04, the number of shares of Company Stock at any time outstanding shall not include shares of Common Stock held in the treasury of the Company so long as the Company does not vote or pay any dividend or make any distribution on shares of Common Stock held in the treasury of the Company.

SECTION 12.05. *Effect of Reclassification, Consolidation, Merger or Sale.* Upon the occurrence of (i) any reclassification or change of the outstanding shares of Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a split, subdivision or combination covered by Section 12.04(a)), (ii) any consolidation, merger, combination, split-off or binding share exchange involving the Company, or (iii) any sale or conveyance of all or substantially all of the property and assets of the Company and its Subsidiaries, taken as a whole, to any other Person, in each case as a result of which holders of the Common Stock shall be entitled to receive cash, securities or other property or assets (the “**Reference Property**”) with respect to or in exchange for such Common Stock (any such event a “**Merger Event**”), then:

(a) The Company or the successor or purchasing Person, as the case may be, shall execute with the Trustee a supplemental indenture permitted under Section 9.01 providing for the conversion and settlement of the Notes as set forth in this Indenture. Such supplemental indenture shall provide for adjustments that shall be as nearly equivalent as may be practicable to the adjustments provided for in this Article 12. If, in the case of any Merger Event, the Reference Property includes shares of stock, other securities or other property or assets of a corporation other than the successor or purchasing corporation, as the case may be, in such Merger Event, then such supplemental indenture shall also be executed by such other corporation and shall contain such additional provisions to protect the interests of the holders of the Notes as the Board of Directors shall reasonably consider necessary by reason of the foregoing, including to the extent practicable the provisions providing for the repurchase rights set forth in Article 13 herein.

In the event the Company shall execute a supplemental indenture pursuant to this Section 12.05, the Company shall promptly file with the Trustee an Officers’ Certificate briefly stating the reasons therefor, the kind or amount of securities or property or assets (including cash or any combination thereof) that will comprise the Reference Property after any such Merger Event, any adjustment to be made with respect thereto and that all conditions precedent have been complied with. The Company shall cause notice of the execution of such supplemental indenture to be given to all Noteholders within twenty days after execution thereof. Failure to deliver such notice shall not affect the legality or validity of such supplemental indenture.

(b) Notwithstanding the provisions of Section 12.02(b), and subject to the provisions of Section 12.01 and Section 12.03, at and after the effective time of such Merger Event, (i) the Cash Settlement Amount shall be based upon Reference Property consisting of the kind and amount of shares of stock, other securities or other property or assets (including cash or any combination thereof) that a holder of a number of shares of the Common Stock equal to the Conversion Ratio immediately prior to such Merger Event would have owned or been entitled to receive upon such transaction (subject to Section 12.02), and (ii) the related Conversion Obligation shall be settled as set forth under clause (d) below, it being understood and agreed that for purposes of Section 12.01(b), references therein to “the Last Reported Sale Price of the Common Stock” shall be deemed at and after the effective time of such Merger Event to be references to “the Last Reported Sale Price of a unit of Reference Property comprised of the kind and amount of shares of stock, securities or other property or assets (including cash or any combination thereof) that a holder of one share of Common Stock immediately prior to such Merger Event would have owned or been entitled to receive based on the Weighted Average Consideration” and references therein to “the Daily VWAP of the Common Stock” shall be deemed at and after the effective time of such Merger Event to be references to “the Daily VWAP of a unit of Reference Property comprised of the kind and amount of shares of stock, securities or other property or assets (including cash or any combination thereof) that a holder of one share of Common Stock immediately prior to such Merger Event would have owned or been entitled to receive based on the Weighted Average



Consideration.” The Company shall not become a party to any Merger Event unless its terms are consistent with this Section 12.05. None of the foregoing provisions shall affect the right of a holder of Notes to convert its Notes into cash, as set forth in Section 12.01 and Section 12.02 prior to the effective date of such Merger Event.

(c) With respect to each \$200,000 principal amount of Notes surrendered for conversion after the effective date of any such Merger Event, the Company’s Conversion Obligation shall be settled in cash in accordance with Section 12.02(a) as follows:

(A) the Company shall pay to the converting Noteholder cash in an amount, per \$200,000 principal amount of Notes equal to the sum, as determined by the Calculation Agent, of the Daily Cash Settlement Amounts for each of the 50 consecutive Trading Days during the related Calculation Period, such Daily Cash Settlement Amounts determined as if the reference to “the Daily VWAP of the Common Stock” in the definition thereof were instead a reference to “the Daily VWAP of a unit of Reference Property comprised of the kind and amount of shares of stock, securities or other property or assets (including cash or any combination thereof) that a holder of one share of Common Stock immediately prior to such Merger Event would have owned or been entitled to receive based on the Weighted Average Consideration”;

(B) The Daily Cash Settlement Amounts shall be determined by the Calculation Agent promptly following the last day of the Calculation Period.

(C) For purposes of this Section 12.05, the “**Weighted Average Consideration**” shall mean the weighted average, as determined by the Calculation Agent, of the types and amounts of consideration received by the holders of the Common Stock entitled to receive cash, securities or other property or assets with respect to or in exchange for such Common Stock in any Merger Event who affirmatively make such an election.

(D) The Company shall notify the holders of the Notes of the Weighted Average Consideration as soon as practicable after the Weighted Average Consideration is determined.

(d) The above provisions of this Section shall similarly apply to successive Merger Events.

SECTION 12.06. *Responsibility of Trustee; Conversion Agent.* Neither the Trustee nor any Conversion Agent shall at any time be under any duty or responsibility to any Noteholder to determine the Conversion Ratio (or any adjustment thereto) or whether any facts exist that may require any adjustment (including any increase) of the Conversion Ratio, or with respect to the nature or extent or calculation of any such adjustment when made, or with respect to the method employed, or herein or in any supplemental indenture provided to be employed, in making the same. Neither the Trustee nor any Conversion Agent shall be accountable with respect to the amount of any cash that may at any time be issued or delivered upon the conversion of any Note; and neither the Trustee nor any Conversion Agent makes any representations with respect thereto. Neither the Trustee nor any Conversion Agent shall be responsible for any failure of the Company to pay any cash upon the surrender of any Note for the purpose of conversion or to comply with any of the duties, responsibilities or covenants of the Company contained in this Article. Without limiting the generality of the foregoing, neither the Trustee nor any Conversion Agent shall be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture entered into pursuant to Section 12.05 relating to the amount of cash receivable by Noteholders upon the conversion of their Notes after any event referred to in such Section 12.05 or to any adjustment to be made with respect thereto, but, subject to the provisions of

Section 7.01, may accept (without any independent investigation) as conclusive evidence of the correctness of any such provisions, and shall be protected in relying upon, the Officers' Certificate (which the Company shall be obligated to file with the Trustee prior to the execution of any such supplemental indenture) with respect thereto. Neither the Trustee nor the Conversion Agent shall be responsible for determining whether any event contemplated by Section 12.01(b) has occurred that makes the Notes eligible for conversion or no longer eligible therefor until the Company has delivered to the Trustee and the Conversion Agent the notices referred to in Section 12.01(b) with respect to the commencement or termination of such conversion rights, on which notices the Trustee and the Conversion Agent may conclusively rely, and the Company agrees to deliver such notices to the Trustee and the Conversion Agent immediately after the occurrence of any such event or at such other times as shall be provided for in Section 12.01(b).

SECTION 12.07. *Notice to Noteholders Prior to Certain Actions.* In case of any:

- (a) action by the Company or one of its Subsidiaries that would require an adjustment in the Conversion Ratio pursuant to Section 12.04 or 12.08; or
- (b) Merger Event; or
- (c) voluntary or involuntary dissolution, liquidation or winding-up of the Company;

the Company shall cause to be filed with the Trustee and given to all Noteholders as promptly as possible but in any event at least twenty days prior to the applicable date hereinafter specified, a notice stating (i) the date on which a record is to be taken for the purpose of such action by or in respect of the Company or one of its Subsidiaries, or, if a record is not to be taken, the date as of which the holders of Common Stock of record are to be determined for the purposes of such action by the Company or one of its Subsidiaries, or (ii) the date on which such Merger Event, dissolution, liquidation or winding-up is expected to become effective or occur, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their Common Stock for securities or other property deliverable upon such Merger Event, dissolution, liquidation or winding-up. Failure to give such notice, or any defect therein, shall not affect the legality or validity of such action by the Company or one of its Subsidiaries, Merger Event, dissolution, liquidation or winding-up.

SECTION 12.08. *Stockholder Rights Plans.* To the extent that the Company shall have a stockholder rights plan or another rights plan in effect in the future, if prior to the time of conversion, rights have separated from the shares of Common Stock in accordance with the provisions of the applicable stockholder rights agreement, the Conversion Ratio will be adjusted at the time of separation as if the Company has distributed to all holders of Common Stock, shares of the Company's Capital Stock, evidence of indebtedness or assets or property as provided in Section 12.04(c), subject to readjustment in the event of the expiration, termination or redemption of such rights.

## ARTICLE 13

### REPURCHASE OF NOTES AT OPTION OF HOLDERS

SECTION 13.01. *Repurchase at Option of Noteholders upon a Fundamental Change.*

(1) If there shall occur a Fundamental Change at any time prior to the Maturity Date, then each Noteholder shall have the right, at such holder's option, to require the Company to repurchase for cash all of such holder's Notes, or any portion thereof that is an integral multiple of \$200,000 principal amount, on the date (the "**Fundamental Change Repurchase Date**") specified by the Company that is not less than twenty Business Days and not more than thirty-five Business Days after the date of the Fundamental

Change Company Notice (as defined below) at a repurchase price equal to 100% of the principal amount thereof, together with accrued and unpaid interest thereon to, but excluding, the Fundamental Change Repurchase Date (the “**Fundamental Change Repurchase Price**”), unless the Fundamental Change Repurchase Date is after an Interest Record Date and on or prior to the related Interest Payment Date, in which case interest accrued to the Interest Payment Date will be paid to holders of the Notes as of the preceding Interest Record Date and the Fundamental Change Repurchase Price payable to the holder surrendering the Note for repurchase pursuant to this Article 13 shall be equal to 100% of the principal amount of Notes subject to repurchase and will not include any accrued and unpaid interest. A Noteholder may require repurchase of a portion (less than all) of its Notes only if the Notes the Noteholder retains are in a Permitted Denomination. Repurchases of Notes under this Section 13.01 shall be made, at the option of the holder thereof, upon:

(i) delivery to the Paying Agent by a holder of a duly completed notice (the “**Fundamental Change Repurchase Notice**”) in the form set forth on the reverse of the Note as Exhibit D thereto on or prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date; and

(ii) delivery or book-entry transfer of the Notes to the Paying Agent at any time after delivery of the Fundamental Change Repurchase Notice (together with all necessary endorsements) at the office of the Paying Agent, such delivery being a condition to receipt by the holder of the Fundamental Change Repurchase Price therefor; *provided* that such Fundamental Change Repurchase Price shall be so paid pursuant to this Section 13.01 only if the Note so delivered to the Paying Agent shall conform in all respects to the description thereof in the related Fundamental Change Repurchase Notice.

The Fundamental Change Repurchase Notice shall state:

(A) if certificated, the certificate numbers of Notes to be delivered for repurchase;

(B) the portion of the principal amount of Notes to be repurchased, which must be \$200,000 or an integral multiple thereof; and

(C) that the Notes are to be repurchased by the Company pursuant to the applicable provisions of the Notes and this Indenture;

*provided, however,* that if the Notes are not in certificated form, the Fundamental Change Repurchase Notice must comply with the Applicable Procedures and the Paying Agent must receive such notice.

Any repurchase by the Company contemplated pursuant to the provisions of this Section 13.01 shall be consummated by the payment of the Fundamental Change Repurchase Price pursuant to Section 13.03(a).

Notwithstanding anything herein to the contrary, any holder delivering to the Paying Agent the Fundamental Change Repurchase Notice contemplated by this Section 13.01 shall have the right to withdraw, in whole or in part, such Fundamental Change Repurchase Notice at any time prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date in accordance with Section 13.02.

The Paying Agent shall promptly notify the Company of the receipt by it of any Fundamental Change Repurchase Notice or written notice of withdrawal thereof.

(b) On, or within the twenty calendar days after, the occurrence of the effective date of a Fundamental Change, the Company shall give notice to all Noteholders (the “**Fundamental Change Company Notice**”) of the occurrence of, and the effective date of, the Fundamental Change and of the repurchase right at the option of the holders arising as a result thereof. The Company shall also deliver a copy of the Fundamental Change Company Notice to the Trustee, the Paying Agent and the Conversion Agent within five Business Days after the effective date of the Fundamental Change. Each Fundamental Change Company Notice shall specify:

- (i) the events causing the Fundamental Change;
- (ii) the effective date of the Fundamental Change, and whether the Fundamental Change is a Make-Whole Fundamental Change, in which case the effective date of the Make-Whole Fundamental Change;
- (iii) the Fundamental Change Repurchase Price;
- (iv) the Fundamental Change Repurchase Date;
- (v) that the holder must exercise the repurchase right on or prior to the close of business on the fifth Business Day immediately preceding the Fundamental Change Repurchase Date (the “**Fundamental Change Expiration Time**”);
- (vi) if applicable, the name and address of the Paying Agent and the Conversion Agent;
- (vii) if applicable, the applicable Conversion Ratio, and any adjustments to the applicable Conversion Ratio;
- (viii) if applicable, that the Notes with respect to which a Fundamental Change Repurchase Notice has been delivered by a holder may be converted only if the holder withdraws the Fundamental Change Repurchase Notice in accordance with the terms of this Indenture;
- (ix) that the holder shall have the right to withdraw any Notes surrendered prior to the Fundamental Change Expiration Time; and
- (x) the procedures that holders must follow to require the Company to repurchase their Notes.

No failure of the Company to give the foregoing notices and no defect therein shall limit the Noteholders’ repurchase rights or affect the validity of the proceedings for the repurchase of the Notes pursuant to this Section 13.01.

(c) Notwithstanding the foregoing, no Notes may be repurchased by the Company at the option of the holders upon a Fundamental Change if the principal amount of the Notes has been accelerated, and such acceleration has not been rescinded, on or prior to the Fundamental Change Repurchase Date (except in the case of an acceleration resulting from a Default by the Company in the payment of the Fundamental Change Repurchase Price with respect to such Notes).

(d) In connection with any purchase offer, the Company will:

- (i) comply with the provisions of Rule 13e-4, Rule 14e-1 and any other tender offer rules under the Exchange Act, if required under the Exchange Act and if the Exchange Act is applicable,
- (ii) file a Schedule TO or any successor or similar schedule, if required under the Exchange Act and if the Exchange Act is applicable, and
- (iii) comply with any other applicable securities laws and regulations to the extent those laws and regulations are applicable in connection with any offer by the Company to purchase the Notes.

Notwithstanding anything to the contrary provided in this Indenture, compliance by the Company with Rule 13e-4, Rule 14e-1 and any other tender offer rule under the Exchange Act in accordance with clause (i) above or with the provisions of any other applicable securities laws or regulations in accordance with clause (iii) above, to the extent inconsistent with any other provision of this Indenture, will not, standing alone, constitute an Event of Default solely as a result of compliance by the Company with such rules.

Notwithstanding the foregoing the Company shall not be required to repurchase the Notes in accordance with this Section 13.01 if a third party makes an offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Section 13.01 and purchases all Notes validly tendered and not withdrawn under such purchase offer.

SECTION 13.02. *Withdrawal of Fundamental Change Repurchase Notice.* A Fundamental Change Repurchase Notice may be withdrawn by means of a written notice of withdrawal delivered to the Corporate Trust Office of the Paying Agent in accordance with this Section 13.02 at any time prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date, specifying:

- (a) the certificate number, if any, of the Note in respect of which such notice of withdrawal is being submitted, or the appropriate Common Depositary information if the Note in respect of which such notice of withdrawal is being submitted is represented by a Global Note,
- (b) the principal amount of the Note with respect to which such notice of withdrawal is being submitted, and
- (c) the principal amount, if any, of such Note that remains subject to the original Fundamental Change Repurchase Notice, which portion must be in principal amounts of \$200,000 or an integral multiple thereof;

*provided, however,* that if the Notes are not in certificated form, the withdrawal notice must comply with Applicable Procedures and the Paying Agent must receive such notice.

SECTION 13.03. *Deposit of Fundamental Change Repurchase Price.* (1) The Company will deposit with the Paying Agent no later than 10:00 a.m. (London time) one Business Day prior to the Fundamental Change Repurchase Date an amount of cash sufficient to repurchase all of the Notes to be repurchased at the appropriate Fundamental Change Repurchase Price. Subject to receipt of funds and/or Notes by the Paying Agent, payment for Notes surrendered for repurchase (and not withdrawn prior to the Fundamental Change Expiration Time) will be made by the Paying Agent on the later of (i) the Fundamental Change Repurchase Date with respect to such Note (*provided* the holder has satisfied the conditions in Section 13.01) and (ii) the time of book-entry transfer or the delivery of such

Note to the Paying Agent by the holder thereof in the manner required by Section 13.01 by mailing checks for the amount payable to the holders of such Notes entitled thereto as they shall appear in the Note Register, *provided, however*, that payments to the Common Depositary shall be made by wire transfer of immediately available funds to the account of the Common Depositary or its nominee. The Paying Agent shall, promptly after such payment and upon written demand by the Company, return to the Company any funds in excess of the Fundamental Change Repurchase Price.

(a) If by 10:00 a.m. (London time) one Business Day prior to the Fundamental Change Repurchase Date, the Paying Agent holds money sufficient to make payment on all the Notes or portions thereof that are to be repurchased as a result of the corresponding Fundamental Change, then (i) such Notes will cease to be outstanding, (ii) interest will cease to accrue on such Notes on and after the Fundamental Change Repurchase Date, and (iii) all other rights of the holders of such Notes will terminate (other than the right to receive the Fundamental Change Repurchase Price, and previously accrued but unpaid interest upon delivery of the Notes), whether or not book-entry transfer of the Notes has been made or the Notes have been delivered to the Paying Agent. If any Note surrendered for repurchase is not paid on the Fundamental Change Repurchase Date because of the failure of the Company to comply with this Section 13.03, interest shall be paid on the overdue principal (and on overdue accrued and unpaid interest, if any (to the extent that payment of such interest is enforceable under applicable law)) at the rate provided in the Notes.

(b) Upon surrender of a Note that is to be repurchased in part pursuant to Section 13.01, the Company shall execute and the Trustee or any Authentication Agent shall, upon receipt of a Company Order, authenticate and deliver to the holder a new Note in an authorized denomination equal in principal amount to the unredeemed portion of the Note surrendered.

## ARTICLE 14

### REDEMPTION AT THE OPTION OF THE COMPANY

SECTION 14.01. *Right of Redemption.* The Company may redeem the Notes in whole, but not in part, upon giving not less than 30 nor more than 60 calendar days prior written notice to the Holders, at a redemption price equal to 100% of the principal amount of Notes to be redeemed, together with accrued and unpaid interest, if any, thereon to, but excluding, the date set for the redemption of the Notes (the “**Redemption Date**”) (subject to the rights of Noteholders on the relevant Interest Record Date to receive interest on the relevant Interest Payment Date) if 20% or less of the aggregate principal amount of the Notes originally issued under this Indenture (including any additional Notes issued subsequently and forming a single series with the Notes) remain outstanding.

SECTION 14.02. *Notice to Trustee.* The election of the Company to redeem any Notes shall be evidenced by or pursuant to a Board Resolution delivered to the Trustee at least five Business Days prior to giving notice of such redemption to Noteholders,

SECTION 14.03. *Redemption Notice.*

(a) Notice of redemption shall be given to all Noteholders at least 30 days but not more than 60 days before a Redemption Date.

The notice will identify the Notes to be redeemed and will state:

(i) the Redemption Date (which must be a Business Day);

- (ii) the redemption price;
- (iii) that on the Redemption Date, the redemption price will become due and payable upon the Notes, and that interest thereon, if any, shall cease to accrue on and after said date;
- (iv) the place or places where such Notes are to be surrendered for payment of the redemption price;
- (v) that Noteholders have a right to convert the Notes called for redemption upon satisfaction of the requirements set forth in the Indenture;
- (vi) the time at which the Noteholders right to convert the Notes will expire; and
- (vii) the ISIN or Common Code other similar numbers, if any, assigned to such Notes.

(b) A notice of redemption shall be given by the Company or, at the Company's request, by the Trustee in the name and at the expense of the Company; *provided* that the Company shall have delivered to the Trustee, at least five Business Days before the notice of redemption is required to be given to all Noteholders (or such shorter period agreed to by the Trustee), and upon any request an Officer's Certificate requesting that the Trustee give such notice and setting forth the complete form of such notice and the information to be stated in such notice.

(c) A notice of redemption shall be irrevocable.

(d) A notice of redemption, if given in the manner herein provided, shall be conclusively presumed to have been duly given, whether or not a Noteholders receives such notice. In any case, a failure to give such notice of redemption or any defect in the notice of redemption to the holder of any Notes shall not affect the validity of the proceedings for the redemption of any other Notes.

#### SECTION 14.04. *Deposit of Redemption Price*

(a) The Company will deposit with the Paying Agent no later than 10:00 a.m. (London time) one Business Day prior to the Redemption Date an amount of cash sufficient to pay the redemption price, together with accrued and unpaid interest, if any, thereon, on the Redemption Date.

(b) If by 10:00 a.m. (London time) one Business Day prior to the Redemption Date, the Paying Agent holds money sufficient to make payment on all the Notes to be redeemed and is not prohibited from paying such money to the Noteholders, then (i) such Notes will cease to be outstanding, (ii) interest will cease to accrue on such Notes on and after the Redemption Date, and (iii) all other rights of the holders of such Notes will terminate (other than the right to receive the redemption price, and previously accrued but unpaid interest, if any, upon delivery of the Notes). If any Note called for redemption is not paid on the Redemption Date because of the failure of the Company to comply with this Section 14.04, interest shall be paid on the overdue principal (and on overdue accrued and unpaid interest, if any (to the extent that payment of such interest is enforceable under applicable law)) at the rate provided in the Notes. For the avoidance of doubt, the Paying Agent and the Trustee shall be held harmless and have no liability with respect to payments or disbursements to be made by the Paying Agent and Trustee (i) for which payment instructions are not made or that are not otherwise deposited by the

respective times set forth in this Section 14.04, and (ii) until they have confirmed receipt of funds sufficient to make the relevant payment.

SECTION 14.05. *Restrictions on Redemption.* Notwithstanding the foregoing, no Notes may be redeemed if the principal amount of the Notes has been accelerated, and such acceleration has not been rescinded, on or prior to the Redemption Date (except in the case of an acceleration resulting from a Default by the Company in the payment of the redemption price with respect to such Notes).

## ARTICLE 15

### MISCELLANEOUS PROVISIONS

SECTION 15.01. *Provisions Binding on Company's Successors.* All the covenants, stipulations, promises and agreements of the Company contained in this Indenture shall bind its successors and assigns whether so expressed or not.

SECTION 15.02. *Official Acts by Successor Corporation.* Any act or proceeding by any provision of this Indenture authorized or required to be done or performed by any board, committee or officer of the Company shall and may be done and performed with like force and effect by the like board, committee or officer of any corporation or other entity that shall at the time be the lawful successor of the Company.

SECTION 15.03. *Addresses for Notices, Etc.* Any notice or communication that by any provision of this Indenture is required or permitted to be given or served by a party to the others is deemed to have been sufficiently given or made, for all purposes, if in writing and delivered in Person or by first class mail (registered or certified, return receipt requested), facsimile transmission or overnight air courier guaranteeing next day delivery, to the others' address: (i) if to or upon the Company, to QIAGEN N.V., Hulsterweg 82, 5912 KJ Venlo, The Netherlands; (ii) if to or upon the Trustee, to the Corporate Trust Office, (iii) if to the Paying Agent or the Conversion Agent, to Deutsche Bank AG, London Branch, Winchester House, 1 Great Winchester Street, London EC2N 2DB, United Kingdom, Facsimile No.: +44 20 7547 6149, Attention: Debt & Agency Services; and (iv) if to the Registrar or the Transfer Agent, to Deutsche Bank Luxembourg S.A., 2, Boulevard Konrad Adenauer, L-1115 Luxembourg, Facsimile No.: +00 352 473 136.

The Company, the Trustee and the Agents, by notice to the others, may designate additional or different addresses for subsequent notices or communications.

Any notice or communication mailed to a Noteholder shall be mailed to it by first class mail, postage prepaid, at its address as it appears on the Note Register and shall be sufficiently given to it if so mailed within the time prescribed.

Failure to mail a notice or communication to a Noteholder or any defect in it shall not affect its sufficiency with respect to other Noteholders. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not the addressee receives it.

In case by reason of the suspension of regular mail service or by reason of any other cause it shall be impracticable to give such notice to holders by mail, then such notification as shall be



made with the approval of the Trustee shall constitute a sufficient notification for every purpose hereunder.

Notwithstanding any other provision of this Indenture or any Note, where this Indenture or any Note provides for notice of any event to be given to a holder of a Global Note (whether by mail or otherwise), such notice shall be sufficiently given upon delivery of the notice to Euroclear and Clearstream for communication to entitled account holders.

SECTION 15.04. *Governing Law.* THIS INDENTURE AND EACH NOTE SHALL BE DEEMED TO BE A CONTRACT MADE UNDER THE LAWS OF NEW YORK, AND FOR ALL PURPOSES SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF NEW YORK APPLICABLE TO CONTRACTS ENTERED INTO AND TO BE PERFORMED IN SUCH STATE.

SECTION 15.05. *Submission to Jurisdiction.* Each of the parties hereto irrevocably agrees that any suit, action or proceeding arising out of, related to, or in connection with this Indenture or the Notes or the transactions contemplated hereby may be instituted in any U.S. federal or state court located in the State and City of New York, Borough of Manhattan; irrevocably waives, to the fullest extent it may effectively do so, any objection which it may now or hereafter have to the laying of venue of any such proceeding; and irrevocably submits to the jurisdiction of such courts in any such suit, action or proceeding. The Company has appointed Corporation Services Company, 1133 Avenue of the Americas, New York, New York, 10036, as its authorized agent upon whom process may be served in any such suit, action or proceeding which may be instituted in any federal or state court located in the State of New York, Borough of Manhattan arising out of or based upon this Indenture, the Notes or the transactions contemplated hereby or thereby (the “**Authorized Agent**”). The Company expressly consents to the jurisdiction of any such court in respect of any such action and waives any other requirements of or objections to personal jurisdiction with respect thereto and waives any right to trial by jury. Such appointment shall be irrevocable unless and until replaced by an agent reasonably acceptable to the Trustee. The Company represents and warrants that the Authorized Agent has agreed to act as said agent for service of process, and the Company agrees to take any and all action, including the filing of any and all documents and instruments, that may be necessary to continue such appointment in full force and effect as aforesaid. Service of process upon the Authorized Agent and written notice of such service to the Company shall be deemed, in every respect, effective service of process upon the Company.

SECTION 15.06. *Legal Holidays.* In any case where any Interest Payment Date, Fundamental Change Repurchase Date, Conversion Date, Redemption Date or Maturity Date is not a Business Day, then any action to be taken on such date need not be taken on such date, but may be taken on the next succeeding Business Day with the same force and effect as if taken on such date, and no interest or other amount shall accrue for the period from and after such date.

SECTION 15.07. *No Security Interest Created.* Nothing in this Indenture or in the Notes, expressed or implied, shall be construed to constitute a security interest under the Uniform Commercial Code or similar legislation, as now or hereafter enacted and in effect, in any jurisdiction.

SECTION 15.08. *Benefits of Indenture.* Nothing in this Indenture or in the Notes, expressed or implied, shall give to any Person, other than the parties hereto, any Paying Agent, any Conversion Agent, any Authentication Agent, any Note Registrar and their successors hereunder or the Noteholders, any benefit or any legal or equitable right, remedy or claim under this Indenture.

SECTION 15.09. *Table of Contents, Headings, Etc.* The table of contents and the titles and headings of the articles and sections of this Indenture have been inserted for convenience of reference

only, are not to be considered a part hereof, and shall in no way modify or restrict any of the terms or provisions hereof.

SECTION 15.10. *Authentication Agent.* The Trustee may appoint an Authentication Agent (“**Authentication Agent**”) that shall be authorized to act on its behalf and subject to its direction in the authentication and delivery of Notes in connection with the original issuance thereof and transfers and exchanges of Notes hereunder, including under Section 2.04, Section 2.07, Section 2.08, Section 2.09, Section 9.04 and Section 13.03 as fully to all intents and purposes as though the Authentication Agent had been expressly authorized by this Indenture and those Sections to authenticate and deliver Notes. For all purposes of this Indenture, the authentication and delivery of Notes by the Authentication Agent shall be deemed to be authentication and delivery of such Notes “by the Trustee” and a certificate of authentication executed on behalf of the Trustee by an Authentication Agent shall be deemed to satisfy any requirement hereunder or in the Notes for the Trustee’s certificate of authentication. Such Authentication Agent shall at all times be a Person eligible to serve as trustee hereunder pursuant to Section 7.09.

Any corporation or other entity into which any Authentication Agent may be merged or converted or with which it may be consolidated, or any corporation or other entity resulting from any merger, consolidation or conversion to which any Authentication Agent shall be a party, or any corporation or other entity succeeding to the corporate agency or corporate trust business of any Authentication Agent, shall be the successor of the Authentication Agent hereunder, if such successor corporation or other entity is otherwise eligible under this Section, without the execution or filing of any paper or any further act on the part of the parties hereto or the Authentication Agent or such successor corporation or other entity.

Any Authentication Agent may at any time resign by giving written notice of resignation to the Trustee and to the Company. The Trustee may at any time terminate the agency of any Authentication Agent by giving written notice of termination to such Authentication Agent and to the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time any Authentication Agent shall cease to be eligible under this Section, the Trustee may appoint a successor Authentication Agent (which may be the Trustee), shall give written notice of such appointment to the Company and to all Noteholders.

The Company agrees to pay to the Authentication Agent from time to time reasonable compensation for its services on the terms agreed from time to time between the Company and the Authentication Agent.

The provisions of Section 7.02, Section 7.03, Section 7.04, Section 8.03 and this Section 15.10 shall be applicable to any Authentication Agent.

The Trustee hereby appoints Deutsche Bank Luxembourg S.A. as Authentication Agent and Deutsche Bank Luxembourg S.A. as Authentication Agent hereby accepts such appointment and the Company hereby confirms that such appointment is acceptable to it.

SECTION 15.11. *Execution in Counterparts.* This Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

SECTION 15.12. *Severability.* In the event any provision of this Indenture or in the Notes shall be invalid, illegal or unenforceable, then (to the extent permitted by law) the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired.

SECTION 15.13. *Waiver of Jury Trial.* EACH OF THE COMPANY AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTION CONTEMPLATED HEREBY.

SECTION 15.14. *Calculations; Calculation Agent; Independent Expert.* Except as otherwise provided herein, the Calculation Agent will be responsible for making all calculations and other determinations specified to be made by it under this Indenture and the Notes. The Calculation Agent, or, as the case may be, any Independent Expert appointed pursuant to this Indenture, will make all these calculations and other determinations in good faith and, absent manifest error, its calculations and other determinations will be final and binding on the Company, the Trustee, the Noteholders and the Agents. The Calculation Agent and, as the case may be, any Independent Expert appointed pursuant to this Indenture, will provide a schedule of its calculations and other determinations to each of the Company, the Trustee and the Conversion Agent, and each of the Trustee and the Conversion Agent is entitled to rely conclusively upon the accuracy of its calculations without independent verification. The Trustee will forward the calculations and other determinations of the Calculation Agent or, as the case may be, any Independent Expert appointed pursuant to this Indenture, to any Noteholder upon the request of that Noteholder. The Company shall procure that there will at all times be a Calculation Agent. The Calculation Agent may, subject to the provisions of any calculation agency agreement appointing the Calculation Agent, consult, at the expense of the Issuer, on any matter (including but not limited to, any legal matter), with any legal or other professional adviser it deems necessary and may rely upon any advice so obtained, and it shall not be liable and shall not incur any liability to the Company, the Trustee, the Agents or the Noteholders in respect of anything done, or omitted to be done, relating to that matter in good faith in accordance with that adviser's opinion. The Company is entitled to appoint an alternative financial advisor with appropriate expertise as the Calculation Agent. Furthermore, the Company is entitled to terminate the appointment of the Calculation Agent. In the event of such termination or the Calculation Agent being unable or unwilling to continue to act in such capacity, the Company shall appoint another reputable institution that customarily serves in such capacities as the Calculation Agent. Each Noteholder, the Trustee and the Conversion Agent shall be sent written notice of the details of any such appointment or termination without undue delay. The Calculation Agent shall act solely upon the request from, and exclusively as agent of, the Company in accordance with this Indenture and the Notes. Neither the Calculation Agent (acting in such capacity) nor any Independent Expert appointed pursuant to this Indenture (acting in such capacity) will thereby assume any obligations towards or relationship of agency or trust with, and shall not be liable and shall incur no liability in respect of anything done, or omitted to be done in good faith, in accordance with this Indenture as against the Trustee, the Noteholders or the Agents.

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of the date first written above.

QIAGEN N.V.

By: \_\_\_\_\_ /s/ Thomas Neidert  
Name: Thomas Neidert  
Title: Vice President Global Treasury

[*Signature page to the Indenture, Company*]

DEUTSCHE TRUSTEE COMPANY LIMITED  
as Trustee

By: \_\_\_\_\_ /s/ Kieran Oedra

Name: Kieran Oedra

Title: Associate Director

By: \_\_\_\_\_ /s/ Miriam Keeler

Name: Miriam Keeler

Title: Associate Director

*[Signature page to the Indenture, Trustee]*

DEUTSCHE BANK AG, LONDON BRANCH,  
as Paying Agent and Conversion Agent

By: \_\_\_\_\_ /s/ Paul Yetton

Name: Paul Yetton

Title: Assistant Vice President

By: \_\_\_\_\_ /s/ Kieran Odedra

Name: Kieran Odedra

Title: Vice President

*[Signature page to the Indenture, Paying Agent and Conversion Agent]*  
DEUTSCHE BANK LUXEMBOURG S.A.,  
as Note Registrar, Transfer Agent and Authentication  
Agent

By: \_\_\_\_\_ /s/ Paul Yetton  
Name: Paul Yetton  
Title: Attorney

By: \_\_\_\_\_ /s/ Kieran Odedra  
Name: Kieran Odedra  
Title: Attorney

*[Signature page to the Indenture, Note Registrar, Transfer Agent and Authentication Agent]*

[FORM OF FACE OF NOTE]

[THIS SECURITY IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF THE DEPOSITORY NAMED BELOW OR A NOMINEE OF THE DEPOSITORY. THIS SECURITY IS NOT EXCHANGEABLE FOR SECURITIES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE DEPOSITORY OR ITS NOMINEE EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED HEREIN AND IN THE INDENTURE, AND NO TRANSFER OF THIS SECURITY (OTHER THAN A TRANSFER OF THIS SECURITY AS A WHOLE BY THE DEPOSITORY TO A NOMINEE OF THE DEPOSITORY OR BY A NOMINEE OF THE DEPOSITORY TO THE DEPOSITORY OR ANOTHER NOMINEE OF THE DEPOSITORY) MAY BE REGISTERED EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THIS SECURITY AND THE INDENTURE. THE REGISTERED HOLDER HEREOF MAY BE TREATED BY THE COMPANY, THE TRUSTEE, THE AGENTS AND ANY AGENT THEREOF AS OWNER AND HOLDER OF THIS SECURITY FOR ALL PURPOSES.]<sup>1</sup>

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. NEITHER THIS SECURITY NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE OFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, SUCH REGISTRATION. THE HOLDER OF THIS SECURITY, BY ITS ACCEPTANCE HEREOF, AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR ACCOUNT FOR WHICH IT HAS PURCHASED SECURITIES, TO OFFER, SELL OR OTHERWISE TRANSFER SUCH SECURITY OR ANY INTEREST OR PARTICIPATION THEREIN, PRIOR TO THE DATE (THE “RESALE RESTRICTION TERMINATION DATE”) THAT IS 40 DAYS AFTER THE LATER OF THE ISSUE DATE HEREOF AND THE LAST DATE ON WHICH THE COMPANY OR ANY AFFILIATE OF THE COMPANY WAS THE OWNER OF THIS SECURITY (OR ANY PREDECESSOR OF SUCH SECURITY), ONLY (A) TO THE COMPANY, (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT, (C) PURSUANT TO AN OFFSHORE TRANSACTION COMPLYING WITH RULE 903 OR RULE 904 OF REGULATIONS UNDER THE SECURITIES ACT OR (D) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, SUBJECT TO THE RIGHT OF EACH OF THE COMPANY, THE NOTE REGISTRAR AND THE TRUSTEE, PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSES (C) OR (D), TO REQUIRE DELIVERY OF A CERTIFICATE, OPINION OF COUNSEL OR OTHER INFORMATION SATISFACTORY TO IT. BY ITS ACCEPTANCE HEREOF, THE HOLDER HEREOF REPRESENTS THAT IT IS NOT A U.S. PERSON NOR IS IT PURCHASING FOR THE ACCOUNT OF A U.S. PERSON AND IS ACQUIRING THIS SECURITY IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH REGULATIONS UNDER THE SECURITIES ACT.

AS USED HEREIN, THE TERMS “OFFSHORE TRANSACTION,” “U.S. PERSON” AND “UNITED STATES” HAVE THE MEANINGS GIVEN TO THEM BY RULE 902 OF REGULATIONS UNDER THE SECURITIES ACT. THE INDENTURE CONTAINS A PROVISION REQUIRING THE NOTE



REGISTRAR TO REFUSE TO REGISTER ANY TRANSFER OF THIS SECURITY IN VIOLATION OF THE FOREGOING.

THE RIGHTS ATTACHING TO THIS SECURITY, AND THE CONDITIONS AND PROCEDURES GOVERNING ITS EXCHANGE FOR DEFINITIVE SECURITIES, ARE AS SPECIFIED IN THE INDENTURE.

QIAGEN N.V.

0.50% Senior Unsecured Convertible Notes due 2023

No. [ ] \$[ ]

Common Code: 168251181

ISIN: XS1682511818

QIAGEN N.V., a company organized under the laws of The Netherlands (herein called the “**Company**,” which term includes any successor corporation or other entity under the Indenture referred to on the reverse hereof), for value received hereby promises to pay to [ ], or its registered assigns, the principal sum of [ ] Dollars, [as revised by the Schedule of Increases and Decreases in Global Note attached hereto,]<sup>2</sup> on September 13, 2023 and interest thereon as set forth below.

The Company promises to pay interest on the principal amount of this Note at the rate of 0.50% per annum from September 13, 2017 until September 13, 2023. The Company will pay interest semi-annually on March 13 and September 13 of each year, commencing on March 13, 2018, to holders of record at the close of business on the preceding [March 12]<sup>3</sup> and [September 12]<sup>4</sup> (whether or not such day is a Business Day), respectively. Interest on the Note will accrue from the most recent date to which interest has been paid, or, if no interest has been paid on the Note, from September 13, 2017.

Payment of the principal of and accrued and unpaid interest on this Note shall be made at the office or agency of the Company maintained for that purpose, in such lawful money of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts; provided, however, that any payment to the Common Depositary or its nominee shall be paid by wire transfer in immediately available funds in accordance with the wire transfer instruction supplied by the Common Depositary or its nominee from time to time to the Paying Agent.

Reference is made to the further provisions of this Note set forth on the reverse hereof, including, without limitation, provisions giving the holder of this Note the right to convert this Note into cash, on the terms and subject to the limitations set forth in the Indenture. Such further provisions shall for all purposes have the same effect as though fully set forth at this place.

This Note shall be deemed to be a contract made under the laws of the State of New York, and for all purposes shall be construed in accordance with and governed by the laws of said State applicable to contracts entered into and to be performed in such State.

This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been manually signed by the Trustee or a duly authorized Authentication Agent under the Indenture.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed.

QIAGEN N.V.

By: \_\_\_\_\_  
Name:  
Title:

Dated:

CERTIFICATE OF AUTHENTICATION  
DEUTSCHE BANK LUXEMBOURG S.A., as Authentication Agent appointed by the Trustee, certifies  
that this is one of the Notes described in the within-named Indenture.

By: \_\_\_\_\_  
Authorized Officer

[FORM OF REVERSE OF NOTE]

QIAGEN N.V.  
0.50% Senior Unsecured Convertible Notes due 2023

This Note is one of a duly authorized issue of Notes of the Company, designated as its 0.50% Senior Unsecured Convertible Notes due 2023 (the “**Notes**”), initially limited to the aggregate principal amount of \$[●], all issued or to be issued under and pursuant to an Indenture dated as of September 13, 2017 (as such may be amended from time to time, the “**Indenture**”), between the Company and Deutsche Trustee Company Limited, as Trustee, Deutsche Bank AG, London Branch, as Paying Agent and Conversion Agent, and Deutsche Bank Luxembourg S.A., as Note Registrar, Transfer Agent and Authentication Agent, to which Indenture and all indentures supplemental thereto reference is hereby made for a description of the rights, limitations of rights, obligations, duties and immunities thereunder of the Trustee, the Company and the holders of the Notes. Additional Notes may be issued in an unlimited aggregate principal amount, subject to certain conditions specified in the Indenture.

In case an Event of Default, as defined in the Indenture, shall have occurred and be continuing, the principal of and interest on all Notes may be declared, by either the Trustee or the holders of not less than 25% in aggregate principal amount of Notes then outstanding, and upon said declaration shall become, due and payable, in the manner, with the effect and subject to the conditions and certain exceptions set forth in the Indenture.

Subject to the terms and conditions of the Indenture, the Company will make all payments and deliveries in respect of the Fundamental Change Repurchase Price, the redemption price on the Redemption Date and the principal amount on the Maturity Date, as the case may be, to the holder who surrenders a Note to a Paying Agent to collect such payments in respect of the Note. The Company will pay cash amounts in money of the United States that at the time of payment is legal tender for payment of public and private debts.

The Indenture contains provisions permitting the Company and the Trustee in certain circumstances, without the consent of the holders of the Notes, and in other circumstances, with the consent of the holders of not less than a majority in aggregate principal amount of the Notes at the time outstanding, evidenced as in the Indenture provided, to execute supplemental indentures modifying the terms of the Indenture and the Notes as described therein. It is also provided in the Indenture that, subject to certain exceptions, the holders of a majority in aggregate principal amount of the Notes at the time outstanding may on behalf of the holders of all of the Notes waive any past Default or Event of Default under the Indenture and its consequences.

No reference herein to the Indenture and no provision of this Note or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and accrued and unpaid on this Note at the place, at the respective times, at the rate and in the lawful money herein prescribed.

The Notes shall be represented by one or more Global Notes in fully registered form without interest coupons in minimum denominations of \$200,000 principal amount and integral multiples thereof. At the office or agency of the Company referred to on the face hereof, and in the manner and subject to the limitations provided in the Indenture, Notes may be exchanged for a like aggregate principal amount of Notes of other authorized denominations, without payment of any service charge but, if required by the Company or Trustee, with payment of a sum sufficient to cover any tax, assessments or other governmental charges that may be imposed in connection therewith as a result of the name of the

holder of the new Notes issued upon such exchange of Notes being different from the name of the holder of the old Notes surrendered for such exchange.

The Notes are not subject to redemption through the operation of any sinking fund.

Upon the occurrence of a Fundamental Change, the holder has the right, at such holder's option, to require the Company to repurchase for cash all of such holder's Notes or any portion thereof (in principal amounts of \$200,000 or integral multiples thereof) on the Fundamental Change Repurchase Date at a price equal to the Fundamental Change Repurchase Price. A Noteholder may require repurchase of a portion (less than all) of its Notes only if the Notes the Noteholder retains are in a Permitted Denomination.

Subject to the provisions of the Indenture, the holder hereof has the right, at its option, during certain periods and upon the occurrence of certain conditions specified in the Indenture, prior to the close of business on the fifth Business Day immediately preceding the Maturity Date, to convert any Notes or portion thereof that is in principal amounts of \$200,000 or integral multiples thereof into cash, at a Conversion Ratio specified in the Indenture, as adjusted from time to time as provided in the Indenture. A Noteholder may convert a portion (less than all) of its Notes only if the Notes the Noteholder retains are in a Permitted Denomination.

The Company may redeem the Notes in whole, but not in part, upon giving not less than 30 nor more than 60 calendar days prior written notice to the Noteholders, at a redemption price equal to 100% of the principal amount of Notes to be redeemed, together with accrued and unpaid interest, if any, thereon to, but excluding, the Redemption Date (subject to the rights of Noteholders on the relevant Interest Record Date to receive interest on the relevant Interest Payment Date) if 20% or less of the aggregate principal amount of the Notes originally issued under this Indenture (including any additional Notes issued subsequently and forming a single series with the Notes) remain outstanding.

Terms used in this Note and defined in the Indenture are used herein as therein defined.

ABBREVIATIONS

The following abbreviations, when used in the inscription of the face of this Note, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM -as tenants in common	UNIF GIFT MIN ACT	
	<hr/>	Custodian
	(Cust)	
TEN ENT -as tenants by the entireties		
	<hr/>	
	(Minor)	
JT TEN -as joint tenants with right of survivorship and not as tenants in common	Uniform Gifts to Minors Act	(State)
	<hr/>	

Additional abbreviations may also be used though not in the above list.



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[FORM OF NOTICE OF CONVERSION]

To: QIAGEN N.V.

Reference is made to the Indenture dated as of September 13, 2017 (as such may be amended from time to time, the “**Indenture**”), between QIAGEN N.V. and Deutsche Trustee Company Limited, as Trustee, Deutsche Bank AG, London Branch, as Paying Agent and Conversion Agent, and Deutsche Bank Luxembourg S.A., as Note Registrar, Transfer Agent and Authentication Agent in respect of the 0.50% Senior Unsecured Convertible Notes due 2023.

The undersigned registered owner of the Note hereby referred to exercises the option to convert such Note, or the portion thereof below designated (being \$200,000 principal amount or an integral multiple thereof and a portion which does not result in the undersigned’s ownership of Notes in other than a Permitted Denomination), into cash, in accordance with the terms of the Indenture, and directs that the cash due in respect of the Company’s Conversion Obligation and any Notes representing any unconverted principal amount be delivered to the registered holder thereof (or as otherwise specified below).

Principal amount to be converted (if less than all): \$\_\_\_\_\_,000

Identifying number of Notes: No. \_\_\_\_\_

[Details of the bank account to be credited with such cash as is required to be paid upon conversion:

(Name of bank) \_\_\_\_\_

(Address of bank) \_\_\_\_\_

(Account name) \_\_\_\_\_

(Account number) \_\_\_\_\_.]<sup>6</sup>

[Registration of Notes representing any unconverted principal amount to be delivered other than to and in the name of the registered holder:

(Name) \_\_\_\_\_

(Address) \_\_\_\_\_.]<sup>7</sup>

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature(s)

NOTICE: The above signature(s) of the holder(s) hereof must correspond with the name as written upon the face of the Note in every particular without alteration or enlargement or any change whatever.

[FORM OF CONFIRMATION OF CONVERSION]

To: Deutsche Bank AG, London Branch, as Paying Agent

Reference is made to the Indenture dated as of September 13, 2017 (as such may be amended from time to time, the “**Indenture**”), between QIAGEN N.V. and Deutsche Trustee Company Limited, as Trustee, Deutsche Bank AG, London Branch, as Paying Agent and Conversion Agent, and Deutsche Bank Luxembourg S.A., as Note Registrar, Transfer Agent and Authentication Agent in respect of the 0.50% Senior Unsecured Convertible Notes due 2023.

This a Confirmation of Conversion pursuant to the Indenture. Further to the Notice of Conversion delivered to us by the Conversion Agent on [date] in respect of \$\_\_\_\_\_,000 in principal amount of the 0.50% Senior Unsecured Convertible Notes due 2023, we hereby notify you that the following amounts are due to the registered holder thereof [(or as otherwise specified in the Notice of Conversion)]<sup>8</sup> in satisfaction of the Company’s Conversion Obligation on the settlement date specified below (which date is at least three Business Days following the date hereof), and you are hereby authorized and directed to make such payment to such registered holder [(or as otherwise specified in the Notice of Conversion)]<sup>9</sup> on the settlement date to the extent of amounts that we deposit with you for that purpose no later than 10:00 a.m. London time prior to such settlement date in accordance with Section 12.02 of the Indenture.

Cash due in respect of Company’s Conversion Obligation: \$\_\_\_\_\_

Settlement date: \_\_\_\_\_

QIAGEN N.V.

By: \_\_\_\_\_

Name:

Title:

[FORM OF FUNDAMENTAL CHANGE REPURCHASE NOTICE]

To: QIAGEN N.V.

Reference is made to the Indenture dated as of September 13, 2017 (as such may be amended from time to time, the “**Indenture**”), between QIAGEN N.V. and Deutsche Trustee Company Limited, as Trustee, Deutsche Bank AG, London Branch, as Paying Agent and Conversion Agent, and Deutsche Bank Luxembourg S.A., as Note Registrar, Transfer Agent and Authentication Agent in respect of the 0.50% Senior Unsecured Convertible Notes due 2023.

The undersigned registered owner of the Note hereby referred to acknowledges receipt of a notice from QIAGEN N.V. as to the occurrence of a Fundamental Change and specifying the Fundamental Change Repurchase Date and requests and instructs QIAGEN N.V. to pay in accordance with the applicable provisions of the Indenture (1) the entire principal amount of this Note, or the portion thereof below designated (being \$200,000 principal amount or an integral multiple thereof and a portion which does not result in the undersigned’s ownership of Notes in other than a Permitted Denomination), and (2) if such Fundamental Change Repurchase Date does not fall during the period after an Interest Record Date and on or prior to the corresponding Interest Payment Date, accrued and unpaid interest thereon to, but excluding, such Fundamental Change Repurchase Date, and deliver any Notes representing any unconverted principal amount to the registered holder thereof (or as otherwise specified below).

Principal amount to be repaid (if less than all): \$\_\_\_\_\_,000

Identifying number of Notes: No. \_\_\_\_\_

[Details of the bank account to be credited with such cash as is required to be paid:

(Name of bank) \_\_\_\_\_

(Address of bank) \_\_\_\_\_

(Account name) \_\_\_\_\_

(Account number) \_\_\_\_\_.]<sup>10</sup>

[Registration of Notes representing any unconverted principal amount to be delivered other than to and in the name of the registered holder:

(Name) \_\_\_\_\_

(Address) \_\_\_\_\_.]<sup>11</sup>

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature(s)

NOTICE: The above signature(s) of the holder(s) hereof must correspond with the name as written upon the face of the Note in every particular without alteration or enlargement or any change whatever.

[FORM OF ASSIGNMENT AND TRANSFER]

For value received \_\_\_\_\_ hereby sell(s), assign(s) and transfer(s) unto \_\_\_\_\_ (Please insert Taxpayer Identification Number of assignee) the within Note, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the said Note on the books of the Company, with full power of substitution in the premises.

In connection with any transfer of the within Note occurring prior to the Resale Restriction Termination Date, as defined in the Indenture governing such Note, the undersigned confirms that such Note is being transferred:

To QIAGEN N.V. or a subsidiary thereof; or

Pursuant to the registration statement that has become or been declared effective under the Securities Act of 1933, as amended; or

Pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act of 1933, as amended; or

Pursuant to another available exemption from registration under the Securities Act of 1933, as amended.

Dated:

\_\_\_\_\_

Signature(s)

\_\_\_\_\_

Signature Guarantee\*

\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

NOTICE: The signature on the assignment must correspond with the name as written upon the face of the Note in every particular without alteration or enlargement or any change whatever.

**DATE:** As of September 6, 2017

**TO:** Qiagen N.V.  
Hulsterweg 82  
5912 PL Venlo  
The Netherlands

**ATTENTION:** Global Treasury  
**TELEPHONE:** 31 77 355 6644  
**FACSIMILE:** 31 77 355 6640

**FROM:** [ ]

**SUBJECT:** Warrant Transaction

The purpose of this letter agreement (this “**Confirmation**”) is to confirm the terms and conditions of the Transaction entered into between [ ] (“**Dealer**”) and Qiagen N.V. (“**Counterparty**”) on the Trade Date specified below (the “**Transaction**”). This Confirmation constitutes a “Confirmation” as referred to in the Agreement specified below.

The definitions and provisions contained in the 2002 ISDA Equity Derivatives Definitions (the “**Equity Definitions**”), as published by the International Swaps and Derivatives Association, Inc., are incorporated into this Confirmation. For purposes of the Equity Definitions, this Transaction shall be deemed to be a Share Option Transaction, and each reference herein to a Warrant shall be deemed to be a reference to a Call or an Option, as context requires.

Each party is hereby advised, and each such party acknowledges, that the other party has engaged in, or refrained from engaging in, substantial financial transactions and has taken other material actions in reliance upon the parties’ entry into the Transaction to which this Confirmation relates on the terms and conditions set forth below.

1. This Confirmation evidences a complete and binding agreement between Dealer and Counterparty as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall supplement, form a part of, and be subject to, an agreement in the form of the ISDA 1992 Master Agreement (Multicurrency – Cross Border) as if Dealer and Counterparty had executed an agreement (the “**Agreement**”) in such form (without any Schedule but provided that (i) the “Cross Default” provisions of Section 5(a)(vi) shall be applicable to Dealer and to Counterparty, (ii) the words “, or becoming capable at such time of being declared,” shall be deleted from such Section 5(a)(vi), (iii) the “Threshold Amount” in relation to Counterparty shall be \$50,000,000 and in relation to Dealer shall be an amount equal to three percent (3%) of the shareholders’ equity of Dealer as of the Trade Date, and (iv) “Specified Indebtedness” shall not include any obligation in respect of deposits received in the ordinary course of a party’s banking business, and with such other elections set forth in this Confirmation) on the Trade Date. In the event of any inconsistency among this Confirmation, the Equity Definitions or the Agreement, the following will prevail for purposes of the Transaction in the order of precedence indicated: (i) this Confirmation; (ii) the Equity Definitions; and (iii) the Agreement. The parties hereby agree that no Transaction other than the Transaction to which this Confirmation relates shall be governed by the Agreement.

2. The terms of the particular Transaction to which this Confirmation relates are as follows:

**General Terms:**

Trade Date: September 6, 2017.

Components: The Transaction will be divided into individual components (each, a “**Component**”), each with the terms set forth in this Confirmation, and, in particular, with the Number of Warrants and Expiration Date set forth in this Confirmation. The payments and deliveries will be determined separately for each Component as if each Component were a separate Transaction under the Agreement.

Warrant Style: European.

Warrant Type: Call.

Seller: Counterparty.

Buyer: Dealer.

Shares: The ordinary shares, par value EUR 0.01 per share, of Counterparty (NASDAQ ticker symbol “QGEN”).

Number of Warrants: For each Component of the Transaction, as provided in Schedule B to this Confirmation.

Warrant Entitlement: One Share per Warrant.

Strike Price: As provided in Schedule A to this Confirmation.

Premium: As provided in Schedule A to this Confirmation.

Premium Payment Date: As provided in Schedule A to this Confirmation.

Exchange: The NASDAQ Global Select Market.

Related Exchange(s): All Exchanges.

Calculation Agent: Dealer; *provided* that all calculations, determinations and adjustments made by Calculation Agent shall be made in good faith and in a commercially reasonable manner; *provided further* that (i) upon receipt of written request from Counterparty, the Calculation Agent shall promptly provide Counterparty with a written explanation describing in reasonable detail any calculation, adjustment, or determination made by it (including any quotation, market data or information from internal or external sources used in making such calculation, adjustment or determination, as the case may be, but without disclosing the Calculation Agent’s proprietary models or other information that may be proprietary or confidential) and shall use commercially reasonable efforts to provide such written explanation within five (5) Exchange Business Days from receipt of such request, (ii) if an Event of Default described in Section 5(a)(vii) of the Agreement has occurred and is continuing with respect to Dealer, the Calculation Agent shall be a leading recognized dealer in equity derivatives designated in good faith by Counterparty for so long as such Event of Default is continuing and (iii) if Counterparty promptly disputes in writing any calculation, adjustment or determination and provides reasonable detail as to the basis for such dispute, the Calculation Agent shall discuss the dispute with Counterparty and shall consider in good faith any alternative calculations, adjustments or determinations proposed by Counterparty, it being understood that the Calculation Agent’s calculation, adjustment or determination, modified to the extent the Calculation Agent determines appropriate after such consideration, shall apply to the Transaction.

**Procedures for Exercise:**

*In respect of any Component*

Expiration Time: The Valuation Time.



Expiration Date(s): As provided in Schedule B to this Confirmation (or, if such date is not a Scheduled Trading Day, the next following Scheduled Trading Day that is not already an Expiration Date for another Component); *provided* that if that date is a Disrupted Day, the Expiration Date for such Component shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day and is not or is not deemed to be an Expiration Date in respect of any other Component of the Transaction hereunder; and *provided further* that if the Expiration Date has not occurred pursuant to the preceding proviso as of the Final Disruption Date, the Calculation Agent shall have the right to elect, in its discretion, that the Final Disruption Date shall be the Expiration Date (irrespective of whether such date is a Disrupted Day or an Expiration Date in respect of any other Component for the Transaction) and the Settlement Price for the Final Disruption Date shall be determined by the Calculation Agent in a commercially reasonable manner. Notwithstanding the foregoing and anything to the contrary in the Equity Definitions, if a Market Disruption Event occurs on any Expiration Date, (i) the Calculation Agent may determine that such Expiration Date is a Disrupted Day only in part, in which case the Calculation Agent shall make adjustments to the Number of Warrants for the relevant Component for which such day shall be the Expiration Date and shall designate the Scheduled Trading Day determined in the manner described in the immediately preceding sentence as the Expiration Date for the remaining Warrants for such Component and (ii) the Settlement Price for such Disrupted Day may be adjusted by the Calculation Agent as appropriate on the basis of the nature and duration of the relevant Market Disruption Event. Any day on which the Exchange is scheduled as of the Trade Date to close prior to its normal closing time shall be considered a Disrupted Day in whole. Section 6.6 of the Equity Definitions shall not apply to any Valuation Date occurring on an Expiration Date.

Final Disruption Date: As provided in Schedule A to this Confirmation.

Automatic Exercise: Applicable for each Component and its related Expiration Date; *provided* that Section 3.4(a) of the Equity Definitions shall apply as if Cash Settlement applied, it being understood that Net Share Settlement shall apply to this Transaction.

Market Disruption Event: Section 6.3(a) of the Equity Definitions shall be amended (i) by deleting the words “at any time during the one hour period that ends at the relevant Valuation Time, Latest Exercise Time, Knock-in Valuation Time or Knock-out Valuation Time, as the case may be” and replacing them with the words “at any time during the regular trading session on the Exchange, without regard to after hours or any other trading outside of the regular trading session hours”; (ii) by amending and restating clause (a)(iii) thereof in its entirety to read as follows: “(iii) an Early Closure that the Calculation Agent determines is material”; and (iii) by adding the words “or (iv) a Regulatory Disruption” after clause (a)(iii) as restated above.

Regulatory Disruption: Section 6.3(d) of the Equity Definitions is hereby amended by deleting the remainder of the provision following the term “Scheduled Closing Time” in the fourth line thereof.

A “Regulatory Disruption” shall occur if Calculation Agent determines in its reasonable discretion that it is appropriate in light of legal, regulatory or self-regulatory requirements or related policies or procedures for Dealer to refrain from all or any part of the market activity in which it would otherwise engage in connection with this Transaction.

Disrupted Day: The definition of “Disrupted Day” in Section 6.4 of the Equity Definitions shall be amended by adding the following sentence after the first sentence: “A Scheduled Trading Day on which a Related Exchange fails to open during its regular trading session will not be a Disrupted Day if the Calculation Agent determines that such failure will not have a material impact on Dealer’s ability to engage in or unwind any hedging transactions related to the Transaction.”.

**Valuation:**

*In respect of any Component*

Valuation Date: The Expiration Date.

**Settlement Terms:**

*In respect of any Component*

Settlement Method: Net Share Settlement.

Net Share Settlement: On each Settlement Date, Counterparty shall deliver to Dealer a number of Shares equal to the Net Share Amount for such Settlement Date to the account specified by Dealer, and cash in lieu of any fractional Shares valued at the Settlement Price for the Valuation Date corresponding to such Settlement Date. If, in the good faith reasonable judgment of Dealer, the Shares deliverable hereunder for any reason would not be immediately freely transferable by Dealer under Rule 144 (or any successor provision, collectively, “**Rule 144**”) under the U.S. Securities Act of 1933, as amended (the “**Securities Act**”), then Dealer may elect to either (x) accept delivery of such Shares notwithstanding the fact that such Shares are not freely transferable by Dealer under Rule 144 or (y) require that such delivery take place pursuant to paragraph 5(j) below.

Net Share Amount: The Option Cash Settlement Amount *divided by* the Settlement Price, each determined as if Cash Settlement applied.

Settlement Price: On any Valuation Date, the per Share volume-weighted average price as displayed under the heading “Bloomberg VWAP” on Bloomberg page “QGEN US <equity> AQR” (or any successor thereto) in respect of the period from the scheduled opening time of the primary trading session on the Exchange until the Scheduled Closing Time of the primary trading session on the Exchange on such Valuation Date (or if such volume-weighted average price is unavailable, the market value of one Share on such Valuation Date, as determined by the Calculation Agent using a volume-weighted average price method), determined without regard to after-hours trading or any other trading outside the regular trading session.

Settlement Date(s): As determined in reference to Section 9.4 of the Equity Definitions, subject to paragraph 5(j)(i) hereof.

Other Provisions Applicable to Net Share Settlement: The provisions of Sections 9.1(c), 9.4 (except that “Settlement Date” shall be as defined above, unless a Settlement Disruption Event prevents delivery of such Shares on that date), 9.8, 9.9, 9.11 (as modified herein), 9.12 and 10.5 of the Equity Definitions will be applicable as if “Physical Settlement” applied to the Transaction.

Representation and Agreement: Notwithstanding Section 9.11 of the Equity Definitions, the parties acknowledge that any Shares delivered to Dealer may be, upon delivery, subject to restrictions and limitations arising from Counterparty’s status as issuer of the Shares under applicable securities laws.

**Dividends:**

Dividend Adjustments: If at any time during the period from but excluding the Trade Date, to and including the final Expiration Date an ex-dividend date for a cash dividend occurs with respect to the Shares, then the Calculation Agent will adjust the Strike Price, the Number of Warrants and/or the Warrant Entitlement as it deems appropriate in good faith and in a commercially reasonable manner to preserve the fair value of the Warrants to Dealer after taking into account such dividend.

**Adjustments:**

Method of Adjustment: Calculation Agent Adjustment; *provided* that the Equity Definitions shall be amended by (i) replacing the words “diluting or concentrative” in Sections 11.2(a), 11.2(c) (in two instances) and 11.2(e)(vii) with the word “material”, (ii) by adding the words “or the Transaction” after the words “theoretical value of the relevant Shares” in Section 11.2(a), 11.2(c) and 11.2(e)(vii) and (iii) by adding the phrase “provided that such event is not based on (a) an observable market, other than the market for Counterparty’s own stock or (y) an observable index, other than an index calculated measured solely by reference to Counterparty’s own operations” at the end of Sections 11.2(a) and 11.2(e)(vii); *provided, further* that adjustments may be made to account for changes in volatility, expected dividends, stock loan rate and liquidity relative to the relevant Shares.

**Extraordinary Events:**

New Shares: Section 12.1(i) of the Equity Definitions is hereby amended by deleting the text in clause (i) in its entirety and replacing it with the phrase “publicly quoted, traded or listed on any of the New York Stock Exchange, The NASDAQ Global Select Market, The NASDAQ Global Market, the Frankfurt Stock Exchange (Prime Standard), the London Stock Exchange (Main Market) or Euronext (in Paris or Amsterdam) (or their respective successors)”.

Share-for-Share: The definition of “Share-for-Share” set forth in Section 12.1(f) of the Equity Definitions is hereby amended by the deletion of the parenthetical in clause (i) thereof.

**Consequence of Merger Events:**

Merger Event: Applicable; *provided* that if an event occurs that constitutes both a Merger Event under Section 12.1(b) of the Equity Definitions and an Additional Termination Event under paragraph 5(f) of this Confirmation, Dealer may elect, in its commercially reasonable judgment, whether the provisions of Section 12.2 of the Equity Definitions or paragraph 5(f) will apply; *provided further* that Section 12.1(b) of the Equity Definitions is hereby amended by deleting the remainder of Section 12.1(b) following the definition of “Reverse Merger” in subsection (iv) thereof.

Share-for-Share: Modified Calculation Agent Adjustment.

Share-for-Other: Cancellation and Payment (Calculation Agent Determination).

Share-for-Combined: Cancellation and Payment (Calculation Agent Determination); *provided* that Dealer may elect Component Adjustment.

**Consequence of Tender Offers:**

Tender Offer: Applicable; *provided* that (i) the definition of “Tender Offer” in Section 12.1 of the Equity Definitions shall be amended by replacing the words “voting shares” in the fourth line thereof with the word “Shares”; (ii) the definition of “Tender Offer Date” in Section 12.1 of the Equity Definitions shall be amended by replacing the words “voting shares” in the first line thereof with the word “Shares”; and (iii) if an event occurs that constitutes both a Tender Offer under Section 12.1(d) of the Equity Definitions and an Additional Termination Event under paragraph 5(f) of this Confirmation, Dealer may elect, in its commercially reasonable judgment, whether the provisions of Section 12.3 of the Equity Definitions or paragraph 5(f) will apply.

Share-for-Share: Modified Calculation Agent Adjustment.

Share-for-Other: Modified Calculation Agent Adjustment.

Share-for-Combined: Modified Calculation Agent Adjustment.

Modified Calculation Agent Adjustment: For greater certainty, the definition of “Modified Calculation Agent Adjustment” in Sections 12.2 and 12.3 of the Equity Definitions shall be amended by adding the following italicized language after the parenthetical provision: “(including adjustments to account for changes in volatility, expected dividends, stock loan rate or liquidity relevant to the Shares or to the Transaction) *during the period from the Exchange Business Day immediately preceding the Announcement Date or the Determination Date, as applicable, to the first Exchange Business Day immediately following the Merger Date (Section 12.2) or Tender Offer Date (Section 12.3)*”.

If, in respect of any Merger Event to which Modified Calculation Agent Adjustment applies, the adjustments to be made in accordance with Section 12.2(e)(i) of the Equity Definitions would result in Counterparty being different from the issuer of the Shares or Counterparty or such issuer being organized in a jurisdiction other than the Netherlands (a “**Foreign Merger**”), then with respect to such Merger Event, as a condition precedent to the adjustments contemplated in Section 12.2(e)(i) of the Equity Definitions, Dealer, the issuer of the Affected Shares and the entity that will be the issuer of the New Shares (the “**New Issuer**”) shall work in good faith to negotiate and enter into such documentation containing representations, warranties and agreements relating to securities law and other issues as requested by Dealer that Dealer has determined, in its reasonable discretion, to be reasonably necessary or appropriate to allow Dealer and Counterparty to continue, or the New Issuer to accede, as applicable, as a party to the Transaction, as adjusted under Section 12.2(e)(i) of the Equity Definitions (which adjustments shall be made without duplication of any adjustments determined pursuant to any other provision of this Transaction), and to preserve Dealer’s hedging or hedge unwind activities in connection with the Transaction in a manner compliant with applicable legal, regulatory or self-regulatory requirements, or with related policies and procedures applicable to Dealer, and if such documentation has not been mutually agreed to on or prior to the Merger Date or if the Calculation Agent determines that no adjustment that it could make under Section 12.2(e)(i) of the Equity Definitions will produce a commercially reasonable result, then, at Dealer’s election, the consequences set forth in Section 12.2(e)(ii) of the Equity Definitions shall apply or the Transaction shall continue without such documentation or adjustment.

Announcement Date: The definition of “Announcement Date” in Section 12.1 of the Equity Definitions shall be amended by (i) replacing the word “leads to the” in the third and the fifth lines thereof with the words “, if completed, would lead to a”; (ii) replacing the words “voting shares” in the fifth line thereof with the word “Shares”; (iii) inserting the words “by any entity” after the word “announcement” in the second and the fourth lines thereof; (iv) replacing the words “a firm” with the word “any” in the second and fourth lines thereof; (v) inserting the words “or to explore the possibility of engaging in” after the words “engage in” in the second line thereto; and (vi) inserting the words “or to explore the possibility of purchasing or otherwise obtaining” after the word “obtain” in the fourth line thereto.

Announcement Event: If an Announcement Event has occurred, the Calculation Agent shall have the right to determine the economic effect of the Announcement Event on the theoretical value of the Transaction (which is limited to any change in volatility, expected dividends, stock loan rate or liquidity relevant to the Shares or to the Transaction, the ability to maintain a commercially reasonable hedge position in the underlying Shares and/or any input in a Black-Scholes-based option pricing model) (i) at a time that it deems appropriate, from the Announcement Date to the date of such determination (the “**Determination Date**”), and (ii) on the Valuation Date or on a date on which a payment amount is determined pursuant to Section 6 of the Agreement or Sections 12.7 or 12.8 of the Equity Definitions, from the Exchange Business Day immediately preceding the Announcement Date or the Determination Date, as applicable, to the Valuation Date or the date on which a payment amount is determined pursuant to Section 6 of the Agreement or Sections 12.7 or 12.8 of the Equity Definitions. If any such economic effect is material, the Calculation Agent may either (i) adjust the terms of the Transaction to reflect such economic effect or (ii) terminate the Transaction, in which case the Determining Party will determine the Cancellation Amount payable by one party to the other; *provided* that the reference in Section 12.8(a) of the Equity Definitions to “Extraordinary Event” shall be replaced for this purpose with a reference to “Announcement Event.” “**Announcement Event**” shall mean the occurrence of the Announcement Date of a Merger Event or Tender Offer or of a potential Merger Event or potential Tender Offer, or any publicly announced change or amendment to any such announced transaction or event (including any announcement relating to the abandonment thereof)

Composition of Combined Consideration: Not Applicable; *provided* that, notwithstanding Sections 12.5(b) and 12.1(f) of the Equity Definitions, to the extent that the composition of the consideration for the relevant Shares pursuant to a Tender Offer or Merger Event could be elected by an actual holder of the Shares, the Calculation Agent will, in its discretion, determine such composition.

Nationalization, Insolvency or Delisting:

Cancellation and Payment (Calculation Agent Determination); *provided* that Section 12.6(a)(iii) of the Equity Definitions is hereby amended and restated in its entirety as follows:

“‘Delisting’ means that the Shares, as adjusted pursuant to the terms of the Transaction, cease (or the Exchange announces that, pursuant to the rules of such Exchange, such Shares will cease) to be listed, traded or publicly quoted on the Exchange for any reason and are not (or will not be) immediately re-listed, re-traded or re-quoted (and fail (or will fail) to continue to be listed, traded or quoted) on any of the Frankfurt Stock Exchange (Prime Standard), the London Stock Exchange (Main Market), Euronext (in Paris or Amsterdam), the New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted (or continue to be listed, traded or quoted) on any such exchange or quotation system (or, if more than one, the exchange or quotation system selected by the Calculation Agent), such exchange or quotation system shall thereafter be deemed to be the Exchange and the Calculation Agent shall make any adjustments to the terms of the Transaction (including, for the avoidance of doubt, modifying the definition of Shares and Settlement Price), as if Modified Calculation Agent Adjustment were applicable to such event.”

**Additional Disruption Events:**

Change in Law:

Applicable; *provided* that Section 12.9(a)(ii) of the Equity Definitions is hereby amended by (i) replacing the phrase “the interpretation” in the third line thereof with the phrase “, or announcement or statement of, the formal or informal interpretation”, (ii) by replacing the word “Shares” where it appears in clause (X) thereof with the words “Hedge Positions”, (iii) by immediately following the word “Transaction” in clause (X) thereof, adding the phrase “in the manner contemplated by the Hedging Party on the Trade Date” and (iv) adding the following proviso to the end of clause (Y) thereof: “provided that (1) such party has used commercially reasonable efforts to avoid such increased cost on terms reasonably acceptable to such party, as long as (i) such party would not incur a materially increased cost (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position), as reasonably determined by such party, in doing so, (ii) such party would not violate any applicable law, rule, regulation or policy of such party, as reasonably determined by such party, in doing so, (iii) such party would not suffer a material penalty, injunction, non-financial burden, reputational harm or other material adverse consequence in doing so, (iv) such party would not incur any material operational or administrative burden in doing so and (v) such party would not, in doing so, be required to take any action that is contrary to the intent of the law or regulation that is subject to the Change in Law and (2) Dealer may exercise its termination right with respect to an event described in this clause (Y) only if Dealer determines, based upon advice of counsel the costs of which are borne by the Dealer, that it is generally exercising its rights to terminate or adjust as a result of such event with respect to any similarly situated customers in the context of the event constituting such Change in Law”.

In addition, Section 12.9(b)(i) of the Equity Definitions is hereby amended by (1) replacing “either party may elect” with “Dealer may elect” and (2) replacing “notice to the other party” with “notice to Counterparty” in the first sentence of such section.

Failure to Deliver:

Not Applicable.

Insolvency Filing:	Applicable.
Hedging Disruption:	<p>Applicable; <i>provided</i> that:</p> <p>(I) Section 12.9(a)(v) of the Equity Definitions is hereby modified by (i) inserting the following words at the end of clause (A) thereof: “in the manner contemplated by the Hedging Party on the Trade Date”, and (ii) inserting the following two phrases at the end of such Section:</p> <p>“For the avoidance of doubt, the term “equity price risk” shall be deemed to include, but shall not be limited to, stock price and volatility risk. For the further avoidance of doubt, any such transactions or assets referred to in phrases (A) or (B) above must be available on commercially reasonable pricing terms. Any inability of the Hedging Party referred to in phrases (A) and (B) above that is solely attributable to the deterioration of the creditworthiness of the Hedging Party shall not be deemed a Hedging Disruption.”, and</p> <p>(II) Section 12.9(b)(iii) of the Equity Definitions is hereby amended by inserting in the third line thereof, after the words “to terminate the Transaction”, the words “or a portion of the Transaction affected by such Hedging Disruption”.</p>
Increased Cost of Hedging:	Applicable.
Loss of Stock Borrow:	<p>Applicable; <i>provided</i> that (a) Sections 12.9(a)(vii) and 12.9(b)(iv) of the Equity Definitions are amended by deleting the words “at a rate equal to or less than the Maximum Stock Loan Rate” and replacing it with the words “at a Borrow Cost equal to or less than the Maximum Stock Loan Rate” and (b) Section 12.9(b)(iv) of the Equity Definitions is hereby amended by (I) deleting (1) subsection (A) in its entirety, (2) the phrase “or (B)” following subsection (A) and (3) the phrase “in each case” in subsection (B); and (II) replacing the phrase “neither the Non-Hedging Party nor the Lending Party lends Shares” with the phrase “such Lending Party does not lend Shares” in the penultimate sentence.</p>
Borrow Cost:	<p>The cost to borrow the relevant Shares, as determined by the Calculation Agent on the relevant date of determination. Such costs shall include, without duplication, (a) the spread below FED FUNDS earned on collateral posted in connection with such borrowed Shares, net of any costs or fees, and (b) any stock loan borrow fee payable for such Shares, expressed as a fixed rate per annum.</p>
Maximum Stock Loan Rate:	200 basis points
Increased Cost of Stock Borrow:	<p>Applicable; <i>provided</i> that (a) Section 12.9(a)(viii) of the Equity Definitions shall be amended by deleting “rate to borrow Shares” and replacing it with “Borrow Cost” and (b) Section 12.9(b)(v) of the Equity Definitions shall be amended by (i) adding the word “or” immediately before the phrase “(B)”, (ii) deleting subsection (C) in its entirety, (iii) replacing “either party” in the penultimate sentence with “the Hedging Party”, (iv) replacing the word “rate” in clause (Y) of the final sentence therein with the words “Borrow Cost”, and (v) deleting clause (X) of the final sentence.</p>
Initial Stock Loan Rate:	25 basis points, as adjusted by the Calculation Agent to reflect any subsequent Price Adjustment due to an Increased Cost of Stock Borrow.

FED FUNDS:	For any day, the rate set forth for such day opposite the caption “Overnight bank funding rate”, as such rate is displayed on the page “OBFR01 <Index> <GO>” on the BLOOMBERG Professional Service, or any successor page; <i>provided</i> that if no rate appears for any day on such page, the rate for the immediately preceding day for which a rate does so appear shall be used for such day.
Hedging Party:	Dealer or an affiliate of Dealer that is involved in the hedging of this Transaction for all applicable Additional Disruption Events.
Hedge Positions:	The definition of “Hedge Positions” in Section 13.2(b) of the Equity Definitions shall be amended by inserting the words “or an affiliate thereof” after the words “a party” in the third line.
Determining Party:	Dealer for all applicable Extraordinary Events and any Announcement Event.
<b>Acknowledgments:</b>	
Non-Reliance:	Applicable.
Agreements and Acknowledgments Regarding Hedging Activities:	Applicable.
Additional Acknowledgments:	Applicable.

### 3. **Mutual Representations, Warranties and Agreements.**

In addition to the representations, warranties and agreements in the Agreement and those contained elsewhere herein, each of Dealer and Counterparty represents and warrants to, and agrees with, the other party that:

- (a) **Commodity Exchange Act.** It is an “eligible contract participant” within the meaning of Section 1a(18) of the U.S. Commodity Exchange Act, as amended (the “CEA”). The Transaction has been subject to individual negotiation by the parties. The Transaction has not been executed or traded on a “trading facility” as defined in the CEA.
- (b) **Securities Act.** It is a “qualified institutional buyer” as defined in Rule 144A under the Securities Act, or an “accredited investor” as defined in Section 2(a)(15)(ii) of the Securities Act.
- (c) **ERISA.** The assets used in the Transaction (1) are not assets of any “plan” (as such term is defined in Section 4975 of the U.S. Internal Revenue Code (the “Code”)) subject to Section 4975 of the Code or any “employee benefit plan” (as such term is defined in Section 3(3) of the U.S. Employee Retirement Income Security Act of 1974, as amended (“ERISA”)) subject to Title I of ERISA, and (2) do not constitute “plan assets” within the meaning of Department of Labor Regulation 2510.3-101, 29 CFR Section 2510-3-101.
- (d) **Notice of Event of Default.** It shall promptly provide written notice to the other party upon obtaining knowledge of the occurrence of any event that would constitute an Event of Default; *provided, however,* that should it be in possession of material non-public information regarding itself, it shall not communicate such information to the other party.
- (e) **No Registration.** It understands, agrees and acknowledges that the other party has no obligation or intention to register the Transaction under the Securities Act, any state securities law or other applicable federal or non-U.S. securities law.
- (f) **Non-reliance.** (A) It is acting for its own account, and it has made its own independent decisions to enter into the Transaction and as to whether the Transaction is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary, (B) It is not relying



on any communication (written or oral) of the other party or any of its affiliates as investment advice or as a recommendation to enter into the Transaction (it being understood that information and explanations related to the terms and conditions of the Transaction shall not be considered investment advice or a recommendation to enter into the Transaction), and (C) no communication (written or oral) received from the other party or any of its affiliates shall be deemed to be an assurance or guarantee as to the expected results of the Transaction.

#### 4. **Representations, Warranties and Agreements of Counterparty.**

In addition to the representations and warranties in the Agreement and those contained elsewhere herein, Counterparty further represents, warrants and agrees that:

- (a) The representations and warranties of Counterparty set forth in Section 1 of the Purchase Agreement dated as of the Trade Date between Counterparty, Goldman Sachs International, J.P. Morgan Securities PLC, Barclays Bank PLC, Credit Suisse Securities (Europe) Limited and Merrill Lynch International (the “**Initial Purchasers**”) (the “**Purchase Agreement**”) relating to the issuance of 0.50% Senior Unsecured Convertible Notes due 2023 (the “**Convertible Notes**”) are true and correct and are hereby deemed to be repeated to Dealer as if set forth herein;
- (b) Without prejudice to the right of Counterparty to deliver (existing) treasury Shares rather than issue new Shares, the Maximum Amount of Shares of Counterparty issuable in connection with this Warrant Transaction (the “**Warrant Shares**”) are available for issuance by all required corporate action of Counterparty. The Warrant Shares have been duly authorized, including by the Counterparty’s general meeting of shareholders. When delivered as contemplated by the terms of the Warrants in accordance with the terms and conditions hereof, the Warrant Shares will be validly issued, fully-paid and non-assessable; and the issuance of the Warrant Shares will not be subject to any pre-emptive or similar rights;
- (c) Counterparty has full right, power and authority to enter into this Confirmation, to grant the Warrant issue and deliver any Warrant Shares and there are no legal restrictions affecting the issue and delivery thereof.
- (d) Taking into account the rights already granted to subscribe for any ordinary shares in the capital of the Counterparty and to convert securities into ordinary shares in the capital of the Counterparty and taking into account the number of shares in the capital of the Counterparty already issued, the authorised share capital (*maatschappelijk kapitaal*) as included in its articles of association will provide sufficient headroom for the grant of the Warrant or the issuance of any Warrant Shares upon the exercise thereof and upon the exercise of the rights already granted. Furthermore, Counterparty shall ensure that, from time to time, its authorised share capital (*maatschappelijk kapitaal*) as included in its articles of association, shall provide sufficient headroom for the issuance of any Warrant Shares upon the exercise of the Warrant;
- (e) Neither the grant of the Warrant nor the issuance of any Warrant Shares by Counterparty to Dealer upon the exercise of the Warrant in accordance with the terms and conditions hereof, shall require Counterparty to issue a prospectus within the meaning of EU Directive 2003/71/EC, as amended, or under or pursuant to any other applicable laws;
- (f) Counterparty complies, and will comply, with any applicable filing and notice requirements in connection with the transactions contemplated hereby;
- (g) Counterparty shall promptly provide written notice to Dealer upon obtaining knowledge of the occurrence of any event that would constitute a Potential Adjustment Event, a Merger Event or any other Extraordinary Event; *provided, however*, that should Counterparty be in possession of material

non-public information regarding Counterparty, Counterparty shall not communicate such information to Dealer;

- (h) Counterparty has total assets of at least USD 50,000,000 as of the date hereof;
- (i) Counterparty is entering into the Transaction, solely for the purposes stated in the board resolution authorizing the Transaction (a copy of which, and such other certificates as Dealer may reasonably request, Counterparty shall deliver to Dealer on or before the Trade Date) and in its public disclosure, and there is no internal policy, whether written or oral, of Counterparty that would prohibit Counterparty from entering into any aspect of the Transaction, including, but not limited to, the issuance of Shares to be made pursuant hereto;
- (j) Counterparty has not violated and will not violate any applicable law (including, without limitation, the Securities Act, the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”) and Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC, in each case and the regulations promulgated thereunder) in connection with the Transaction;
- (k) As of the Trade Date and as of the date on which Counterparty delivers any Termination Delivery Units, Counterparty (i) has not filed a request for bankruptcy or been declared bankrupt by a judgment of a competent court in the Netherlands within the meaning of Section 1 of the Netherlands Bankruptcy Act (“*Faillissementswet*”) or filed a request for a suspension of payments within the meaning of Section 213 of the Netherlands Bankruptcy Act and (ii) is not and shall not be after giving effect to the Transactions, “insolvent” (as such term is defined in Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the “**Bankruptcy Code**”));
- (l) Each of Counterparty’s filings under the Securities Act, the Exchange Act, or other applicable securities laws that are required to be filed have been filed and that, as of the respective dates thereof and as of the Trade Date, such filings when considered as a whole (with the more recent such filings deemed to amend inconsistent statements contained in any earlier such filings) do not contain any misstatement of a material fact or any omission of a material fact required to be stated therein or necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading;
- (m) On the Trade Date, none of Counterparty and its officers and directors is aware or in possession of any material non-public information or inside information (*voorwetenschap*), as defined in article 5:53 of the Dutch Financial Markets Supervision Act (Wet op het financieel toezicht) (the “**FMSA**”), regarding Counterparty, the Shares or trading in the Shares. “Material” information for these purposes is any information to which an investor would reasonably attach importance in reaching a decision to buy, sell or hold any securities of Counterparty;
- (n) Counterparty is not, and after giving effect to the Transactions will not be, required to register as an “investment company” as such term is defined in the Investment Company Act of 1940, as amended;
- (o) Counterparty understands, agrees and acknowledges that no obligations of Dealer to it hereunder shall be entitled to the benefit of deposit insurance and that such obligations shall not be guaranteed by any affiliate of Dealer or any governmental agency;
- (p) Without limiting the generality of Section 13.1 of the Equity Definitions, Counterparty acknowledges that Dealer is not making any representations or warranties with respect to the treatment of the Transaction under any accounting standards including ASC Topic 260, *Earnings Per Share*, ASC Topic 815, *Derivatives and Hedging*, ASC Topic 480, *Distinguishing Liabilities from Equity* and ASC

815-40, *Derivatives and Hedging – Contracts in Entity’s Own Equity* (or any successor issue statements) or under FASB’s Liabilities & Equity Project;

- (q) Counterparty is not entering into the Transaction for the purpose of (i) creating actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for the Shares) or (ii) raising or depressing or otherwise manipulating the price of, or facilitating a distribution of, the Shares (or any security convertible into or exchangeable for the Shares);
- (r) Counterparty shall deliver to Dealer an opinion of counsel, dated as of the Trade Date and reasonably acceptable to Dealer in form and substance, with respect to the matters set forth in Section 3(a) of the Agreement and paragraph 4(b) of this Confirmation; *provided* that such opinion of counsel may contain customary exceptions, assumptions and qualifications;
- (s) No federal, state or local (including non-U.S. jurisdictions) law, rule, regulation or regulatory order applicable to Counterparty or the Shares would give rise to any reporting, consent, registration or other requirement (including without limitation a requirement to obtain prior approval from any person or entity) as a result of Dealer or its affiliates owning or holding (however defined) Shares;
- (t) Counterparty has not entered into any obligation or undertaking that would contractually limit it from effecting Net Share Settlement under this Transaction and it agrees not to enter into any such obligation or undertaking during the term of this Transaction;
- (u) Counterparty shall not take any action to decrease the number of Available Shares below the Maximum Amount (each as defined below);
- (v) (x)(A) On the Trade Date, the Shares or securities that are convertible into, or exchangeable or exercisable for Shares, are not, and shall not be, subject to a “restricted period,” as such term is defined in Regulation M under the Exchange Act (“**Regulation M**”) other than the distribution of the convertible notes subject to the Purchase Agreement and (B) Counterparty shall not engage in any “distribution,” as such term is defined in Regulation M, other than a distribution meeting the requirements of the exceptions set forth in sections 101(b)(10) and 102(b)(7) of Regulation M until the second Exchange Business Day immediately following the Initial Period (as defined below), and (y)(A) during the period starting on the first Expiration Date and ending on the last Expiration Date (the “**Settlement Period**”), the Shares or securities that are convertible into, or exchangeable or exercisable for Shares, are not, and shall not be, subject to a “restricted period,” as defined in Regulation M and (B) Counterparty shall not engage in any “distribution,” as such term is defined in Regulation M, other than a distribution meeting the requirements of the exceptions set forth in sections 101(b)(10) and 102(b)(7) of Regulation M, until the second Exchange Business Day immediately following the Settlement Period;
- (w) During (A) the period starting on the Trade Date and ending on the Last Initial Hedge Date (the “**Initial Period**”) and (B) the Settlement Period, and on any other Exercise Date, neither Counterparty nor any “affiliate” or “affiliated purchaser” (each as defined in Rule 10b-18 under the Exchange Act (“**Rule 10b-18**”)) shall directly or indirectly (including, without limitation, by means of any cash-settled or other derivative instrument) purchase, offer to purchase, place any bid or limit order that would effect a purchase of, or commence any tender offer relating to, any Shares (or an equivalent interest, including a unit of beneficial interest in a trust or limited partnership or a depository share) or any security convertible into or exchangeable or exercisable for Shares, except through Dealer;
- (x) Counterparty agrees that it (A) will not during the Initial Period or the Settlement Period make, or permit to be made, any public announcement (as defined in Rule 165(f) under the Securities Act) of any Merger Transaction or potential Merger Transaction unless such public announcement is made prior to the opening or after the close of the regular trading session on the Exchange for the Shares (a “**Public Announcement**”); (B) shall promptly (but in any event prior to the next opening of the

regular trading session on the Exchange) notify Dealer following any such announcement that such announcement has been made; and (C) shall promptly (but in any event prior to the next opening of the regular trading session on the Exchange) provide Dealer with written notice specifying (i) Counterparty's average daily Rule 10b-18 Purchases (as defined in Rule 10b-18) during the three full calendar months immediately preceding the announcement date that were not effected through Dealer or its affiliates and (ii) the number of Shares purchased pursuant to the proviso in Rule 10b-18(b)(4) under the Exchange Act for the three full calendar months preceding the announcement date. Such written notice shall be deemed to be a certification by Counterparty to Dealer that such information is true and correct. In addition, Counterparty shall promptly notify Dealer of the earlier to occur of the completion of such transaction and the completion of the vote by target shareholders. Counterparty acknowledges that a Public Announcement could result in the occurrence of a Regulatory Disruption, and the parties agree that any such occurrence shall be treated as a Potential Adjustment Event hereunder. "**Merger Transaction**" means any merger, acquisition or similar transaction involving a recapitalization as contemplated by Rule 10b-18(a)(13)(iv) under the Exchange Act; and

- (y) Counterparty has discussed the Transaction contemplated hereunder with its outside tax advisors and has received appropriate comfort from such tax advisors that the tax treatment Counterparty will apply to the Transaction is proper under applicable law.

## 5. **Other Provisions.**

- (a) **Designation by Dealer.** Notwithstanding any other provision in this Confirmation to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any Shares or other securities to or from Counterparty, Dealer may designate any of its affiliates to purchase, sell, receive or deliver such Shares or other securities and otherwise to perform Dealer's obligations in respect of the Transaction and any such designee may assume such obligations. Dealer shall be discharged of its obligations to Counterparty solely to the extent of and upon any such performance; provided that Dealer's obligation shall be reinstated (and Dealer shall have the right to designate another of its affiliates to perform such obligation), as though such performance had not been rendered by such affiliate, in the event and to the extent Counterparty is required to repay or reimburse the amount or value of any payment or other performance by such affiliate on the grounds of the insolvency or other legal, regulatory or contractual constraint on affiliate's payment or performance of such obligation.
- (b) **Repurchase and Par Value Notices.**
  - (i) On any day on which both (A) Counterparty effects any repurchase of Shares and (B) Counterparty does not qualify as a "foreign private issuer" as defined in Rule 3b-4 under the Exchange Act, Counterparty shall promptly give Dealer a written notice of such repurchase (a "**Repurchase Notice**") on such day if following such repurchase, the Warrant Equity Percentage as determined on such day is (1) equal to or greater than 5.0% or (2) greater by 0.5% than the Warrant Equity Percentage included in the immediately preceding Repurchase Notice (or, in the case of the first such Repurchase Notice, greater than the Warrant Equity Percentage as of the Trade Date). The "**Warrant Equity Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the product of the Number of Warrants in aggregate and the Warrant Entitlement under this Transaction or any other warrant transaction between the parties and (B) the denominator of which is the number of Shares outstanding on such day. Counterparty agrees to indemnify and hold harmless Dealer and its affiliates and their respective officers, directors, employees, affiliates, advisors, agents and controlling persons (each, an "**Indemnified Person**") from and against any and all losses (including losses relating to Dealer's hedging activities as a consequence of becoming, or of the risk of becoming, a Section 16 "insider", including without limitation, any forbearance from hedging activities or cessation of hedging activities and any losses in connection therewith with respect to the Transaction), claims, damages,

judgments, liabilities and expenses (including reasonable attorney's fees), joint or several, which an Indemnified Person may become subject to, as a result of Counterparty's failure to provide Dealer with a Repurchase Notice on the day and in the manner specified in this paragraph, and to reimburse, within 30 days, upon written request, each of such Indemnified Persons for any reasonable legal or other expenses incurred in connection with investigating, preparing for, providing testimony or other evidence in connection with or defending any of the foregoing. If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against the Indemnified Person in respect of the foregoing, such Indemnified Person shall promptly notify Counterparty in writing, and Counterparty, upon request of the Indemnified Person, shall retain counsel reasonably satisfactory to the Indemnified Person to represent the Indemnified Person and any others Counterparty may designate in such proceeding and shall pay the fees and expenses of such counsel related to such proceeding. Counterparty shall not be liable for any settlement of any proceeding contemplated by this paragraph that is effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, Counterparty agrees to indemnify any Indemnified Person from and against any loss or liability by reason of such settlement or judgment. Counterparty shall not, without the prior written consent of the Indemnified Person, effect any settlement of any pending or threatened proceeding contemplated by this paragraph that is in respect of which any Indemnified Person is or could have been a party and indemnity could have been sought hereunder by such Indemnified Person, unless such settlement includes an unconditional release of such Indemnified Person from all liability on claims that are the subject matter of such proceeding on terms reasonably satisfactory to such Indemnified Person. If the indemnification provided for in this paragraph is unavailable to an Indemnified Person or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then Counterparty hereunder, in lieu of indemnifying such Indemnified Person thereunder, shall contribute to the amount paid or payable by such Indemnified Person as a result of such losses, claims, damages or liabilities. The remedies provided for in this paragraph are not exclusive and shall not limit any rights or remedies which may otherwise be available to any Indemnified Person at law or in equity. The indemnity and contribution agreements contained in this paragraph shall remain operative and in full force and effect regardless of the termination of the Transaction.

- (ii) Counterparty shall notify Dealer in writing in reasonable detail no less than 30 days prior to the record date or other date of effectiveness of any event (a "**Par Value Event**") that could result in the amount of the Premium being less than the aggregate par value of the Maximum Amount of Shares following such event, which notice shall also contain the anticipated record or other effective date of such event (a "**Par Value Notice**"); *provided, however,* that should Counterparty be in possession of material non-public information regarding Counterparty (without limiting Counterparty's obligations to disclose such information generally pursuant to the FMSA), Counterparty shall not communicate such information to Dealer.
- (c) **Transfer or Assignment.** Counterparty may not transfer or assign any of its rights or obligations under the Transaction or the Agreement without the prior written consent of Dealer. Notwithstanding any provision of the Agreement to the contrary, Dealer may, subject to applicable law, freely transfer and assign all of its rights and obligations under the Transaction and the Agreement without the consent of Counterparty to any affiliate of Dealer, or to any third party with a rating (or whose guarantor has a rating) for its long term, unsecured and unsubordinated indebtedness of A- or better by Standard & Poor's Ratings Services or its successor ("**S&P**"), or A3 or better by Moody's Investors Service, Inc. or its successor ("**Moody's**") or, if either S&P or Moody's ceases to rate such debt, at least an equivalent rating or better by a substitute rating agency mutually agreed by Counterparty and Dealer; *provided* that Dealer shall not transfer or assign any of its rights and obligations under

the Transaction and the Agreement to any third party that, to the Dealer's knowledge, purchased any Convertible Notes from any of the Initial Purchasers.

If at any time at which (1) the Equity Percentage exceeds (A) for so long as Counterparty qualifies as a "foreign private issuer" as defined in Rule 3b-4 under the Exchange Act, 14.5% or (B) at any time Counterparty does not qualify as a "foreign private issuer" as defined in Rule 3b-4 under the Exchange Act, 8.0% or (2) Dealer, Dealer Group (as defined below) or any person whose ownership position would be aggregated with that of Dealer or Dealer Group (Dealer, Dealer Group or any such person, a "**Dealer Person**") under any relevant corporate law or state or federal or non-U.S. bank holding company or banking laws, or other federal, state, local or non-U.S. laws, regulations, regulatory orders or organizational documents or contracts of Counterparty that are applicable to ownership of Shares, other than Chapter 5.3 of the Dutch Financial Supervision Act (*Wet op het financieel toezicht*) ("**Applicable Laws**"), owns, beneficially owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership in excess of a number of Shares equal to (x) the number of Shares that would give rise to reporting or registration obligations or other requirements (including obtaining prior approval by a state, federal, local or non-U.S. regulator) of a Dealer Person, or could result in an adverse effect on a Dealer Person, as determined by Dealer in its reasonable discretion, under Applicable Laws and with respect to which such requirements have not been met or the relevant approval has not been received *minus* (y) 1.0% of the number of Shares outstanding on the date of determination (either such condition described in clause (1) or (2), an "**Excess Ownership Position**") and Dealer is unable, after commercially reasonable efforts, to effect a transfer or assignment on pricing terms and within a time period reasonably acceptable to it of all or a portion of the Transaction such that an Excess Ownership Position no longer exists, Dealer may designate any Scheduled Trading Day as an Early Termination Date with respect to a portion (the "**Terminated Portion**") of the Transaction, such that an Excess Ownership Position no longer exists. In the event that Dealer so designates an Early Termination Date with respect to a portion of this Transaction, a payment shall be made pursuant to Section 6 of the Agreement as if (x) an Early Termination Date had been designated in respect of a Transaction having terms identical to this Transaction and a Number of Shares equal to the Terminated Portion, (y) Counterparty shall be the sole Affected Party with respect to such partial termination and (z) such Transaction shall be the only Terminated Transaction (and, for the avoidance of doubt, the provisions of paragraph 5(i) shall apply to any amount that is payable by Dealer to Counterparty pursuant to this sentence). The "**Equity Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares that Dealer and any of its affiliates subject to aggregation with Dealer, for purposes of the "beneficial ownership" test under Section 13 of the Exchange Act, and all persons who may form a "group" (within the meaning of Rule 13d-5(b)(1) under the Exchange Act) with Dealer ("**Dealer Group**"), beneficially own (within the meaning of Section 13 of the Exchange Act) on such day and (B) the denominator of which is the number of Shares outstanding on such day.

- (d) *Reserved.*
- (e) **Bail-In Protocol.** Notwithstanding anything contained in this Agreement, the parties agree that the provisions of the ISDA 2016 Bail-In Article 55 BRRD Protocol published by the International Swaps and Derivatives Association, Inc. on 14 July 2016 (the "**Bail-In Protocol**") shall be deemed to be incorporated into and apply to the Agreement with effect from the date of this Confirmation as if references in those provisions to "Protocol Covered Agreement" as defined in the Bail-in Protocol were references to the Agreement, and on the basis that references to the "Implementation Date" in the Bail-in Protocol shall be deemed to be references to the date of this Confirmation.
- (f) **Additional Termination Events.** The occurrence of any of the following shall constitute an Additional Termination Event with respect to which (1) Counterparty shall be the sole Affected Party and (2) the Transaction shall be the sole Affected Transaction; *provided* that with respect to any of the following Additional Termination Events described in clauses (i) or (ii) below, Dealer may choose

to treat one or more parts of the Transaction as the sole Affected Transaction and either to terminate each such part on different days or to calculate the amount owing in connection with such Additional Termination Event by reference to a Share price determined over a period not to exceed 50 Exchange Business Days, and, upon termination of an Affected Transaction, a Transaction with a Number of Warrants equal to the unaffected number of Warrants shall be treated for all purposes as the Transaction, which shall remain in full force and effect and, for the avoidance of doubt, shall be subject to all relevant provisions and adjustments as if an Additional Termination Event had not occurred; *and, provided further*, that, without limiting the foregoing, notwithstanding the provisions of Section 6(b)(iv) of the Agreement, Counterparty shall also have the right to designate an Early Termination Date with respect to the Additional Termination Event described in clause (ii) below if Counterparty (x) provides a certificate that includes a representation that Counterparty is not, as of the date of such certificate, aware of any material non-public information concerning itself or the Shares (where “material” shall have the meaning set forth in paragraph 5(o) below) and (y) satisfies such other conditions, including making additional representations and warranties, relating to securities law and other issues as requested by the Calculation Agent:

- (i) if at any time Dealer is unable, or reasonably determines that it is inadvisable, to hedge its obligations pursuant to this Transaction in the public market without registration under the Securities Act or as a result of any legal, regulatory or self-regulatory requirements or related policies and procedures (whether or not such requirements, policies or procedures are imposed by law or have been voluntarily adopted by Dealer);
  - (ii) if at any time an Early Termination Date is designated with respect to the transaction relating to the Convertible Notes described in the confirmation between the parties hereto regarding the Bond Hedge Transaction dated as of September 6, 2017 (the “**Bond Hedge Transaction**”) or the Bond Hedge Transaction is otherwise cancelled or terminated prior to its expiration for any reason; or
  - (iii) if at any time Dealer receives a Par Value Notice, unless the Calculation Agent shall have determined that the applicable Par Value Event would not result in the amount of the Premium being less than the aggregate par value of the Maximum Amount of Shares following such event (a “**Par Value ATE**”); *provided* that, notwithstanding anything to the contrary in the Agreement, Dealer shall designate an Early Termination Date in respect of a Par Value ATE no later than the anticipated record or other effective date of such event specified in the Par Value Notice.
- (g) **No Collateral.** Notwithstanding any provision of this Confirmation, the Agreement, Equity Definitions or any other agreement between the parties to the contrary, the obligations of Counterparty under the Transaction are not secured by any collateral.
- (h) **Netting and Setoff.** Obligations under the Transaction shall not be netted, recouped or set off (including pursuant to Section 6 of the Agreement) against any other obligations of the parties, whether arising under the Agreement, this Confirmation, under any other agreement between the parties hereto, by operation of law or otherwise, and no other obligations of the parties shall be netted, recouped or set off (including pursuant to Section 6 of the Agreement) against obligations under the Transaction, whether arising under the Agreement, this Confirmation, under any other agreement between the parties hereto, by operation of law or otherwise, and each party hereby waives any such right of setoff, netting or recoupment; provided that both parties agree that subparagraph (ii) of Section 2(c) of the Agreement shall apply to the Transaction.
- (i) **Alternative Calculations and Counterparty Payment on Early Termination and on Certain Extraordinary Events.** If Counterparty owes Dealer any amount in connection with the Transaction (i) pursuant to Sections 12.2, 12.3, 12.6, 12.7 or 12.9 of the Equity Definitions (except in the case of an Extraordinary Event in which the consideration or proceeds to be paid to all holders of Shares as

a result of such event consists solely of cash) or (ii) pursuant to Section 6(d)(ii) of the Agreement (a “**Payment Obligation**”), Counterparty shall satisfy any such Payment Obligation by delivery of Termination Delivery Units (as defined below) unless Counterparty elects to satisfy any such Payment Obligation by delivery of cash (in which case the provisions in Sections 12.2, 12.3, 12.6, 12.7 or 12.9 of the Equity Definitions or Section 6(d)(ii) of the Agreement, as the case may be, shall apply in lieu of the provision set forth in this paragraph below) by giving irrevocable telephonic notice of such election to Dealer, confirmed in writing within one Scheduled Trading Day, no later than noon New York time on the Early Termination Date or other date the Transaction is cancelled or terminated, as applicable, where such notice shall include a representation and warranty from Counterparty that it is not, as of the date of the telephonic notice and the date of such written notice, aware of any material non-public information concerning itself or the Termination Delivery Units (where “material” shall have the meaning set forth in paragraph 5(o) below). Unless Counterparty timely elects to satisfy any such Payment Obligation by delivering cash, within a commercially reasonable period of time following the relevant Early Termination Date or other relevant date on which the Transaction is cancelled or terminated, as applicable, Counterparty shall deliver to Dealer a number of Termination Delivery Units having a fair market value (net of any brokerage and underwriting commissions and fees, including any customary private placement fees) equal to the amount of such Payment Obligation (such number of Termination Delivery Units to be delivered to be determined by the Calculation Agent as the number of whole Termination Delivery Units that could be sold over a commercially reasonable period of time to generate proceeds equal to the cash equivalent of such Payment Obligation). In addition, if, in the good faith commercially reasonable judgment of Dealer, for any reason, the Termination Delivery Units deliverable pursuant to this paragraph would not be immediately freely transferable by Dealer under Rule 144, then Dealer may elect either to (x) accept delivery of such Termination Delivery Units notwithstanding any restriction on transfer or (y) require that such delivery take place pursuant to paragraph 5(j) below. If the provisions set forth in this paragraph are applicable, the provisions of Sections 9.8, 9.9, 9.11 (modified as described above) and 9.12 of the Equity Definitions shall be applicable, except that all references to “Shares” shall be read as references to “Termination Delivery Units.” “**Termination Delivery Units**” means in the case of a Termination Event, Event of Default, Additional Disruption Event or Delisting, one Share or, in the case of Nationalization, Insolvency, Tender Offer or Merger Event, a unit consisting of the number or amount of each type of property received by a holder of one Share (without consideration of any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Nationalization, Insolvency, Tender Offer or Merger Event; provided that if such Nationalization, Insolvency, Tender Offer or Merger Event involves a choice of consideration to be received by all holders, such holder shall be deemed to have elected to receive the maximum possible amount of cash.

- (j) **Registration/Private Placement Procedures.** If, following (x) the designation of an Early Termination Date or any other cancellation or termination of the Transaction prior to its expiration or (y) the adoption of or any change in any applicable law or regulation, or the promulgation of or any change in, or announcement or statement of, the formal or informal interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation, in each case on or after the Trade Date, in the reasonable opinion of Dealer, following any delivery of Shares or Termination Delivery Units to Dealer hereunder, such Shares or Termination Delivery Units would be in the hands of Dealer subject to any applicable restrictions with respect to any registration or qualification requirement or prospectus delivery requirement for such Shares or Termination Delivery Units pursuant to any applicable federal or state securities law (including, without limitation, any such requirement arising under Section 5 of the Securities Act as a result of such Shares or Termination Delivery Units being “restricted securities”, as such term is defined in Rule 144 under the Securities Act, or as a result of the sale of such Shares or Termination Delivery Units) (such Shares or Termination Delivery Units, “**Restricted Shares**”), then delivery of such Restricted Shares shall be effected pursuant to either clause (i) or (ii) below at the election of Counterparty, unless waived by Dealer. Notwithstanding the foregoing, solely in respect of any Number of Warrants exercised or deemed exercised on any Expiration Date, Counterparty shall elect, prior to the first Settlement



Date for the first Expiration Date, a Private Placement Settlement (as defined below) or Registered Settlement (as defined below) for all deliveries of Restricted Shares for all such Expiration Dates which election shall be applicable to all Settlement Dates for such Warrants and the procedures in clause (i) or clause (ii) below shall apply for all such delivered Restricted Shares on an aggregate basis commencing after the final Settlement Date for such Warrants. The Calculation Agent shall make reasonable adjustments to settlement terms and provisions under this Confirmation to reflect a single Private Placement or Registered Settlement for such aggregate Restricted Shares delivered hereunder.

- (i) If Counterparty elects to settle the Transaction pursuant to this clause (i) (a “**Private Placement Settlement**”), then delivery of Restricted Shares by Counterparty shall be effected in customary private placement procedures with respect to such Restricted Shares reasonably acceptable to Dealer; *provided* that Counterparty may not elect a Private Placement Settlement if, on the date of its election, it has taken, or caused to be taken, any action that would make unavailable either the exemption pursuant to Section 4(a)(2) of the Securities Act for the sale by Counterparty to Dealer (or any affiliate designated by Dealer) of the Restricted Shares or the exemption pursuant to Section 4(a)(1) or Section 4(a)(3) of the Securities Act for resales of the Restricted Shares by Dealer (or any such affiliate of Dealer). The Private Placement Settlement of such Restricted Shares shall include customary representations, covenants, blue sky and other governmental filings and/or registrations, indemnities to Dealer, due diligence rights (for Dealer or any designated buyer of the Restricted Shares by Dealer), opinions and certificates, and such other documentation as is customary for private placement agreements, all reasonably acceptable to Dealer. In the case of a Private Placement Settlement, Dealer shall determine the appropriate discount (in the case of settlement of Termination Delivery Units pursuant to paragraph 5(i) above) or any Settlement Price (in the case of settlement of Shares pursuant to Section 2 above) applicable to such Restricted Shares in a commercially reasonable manner and appropriately adjust the number of such Restricted Shares to be delivered to Dealer hereunder. Notwithstanding the Agreement or this Confirmation, the date of delivery of such Restricted Shares shall be the Scheduled Trading Day following notice by Dealer to Counterparty, of such applicable discount and the number of Restricted Shares to be delivered pursuant to this clause (i). For the avoidance of doubt, delivery of Restricted Shares shall be due as set forth in the previous sentence and not be due on the date described in paragraph 5(i) (in the case of settlement of Termination Delivery Units) or on the Settlement Date (in the case of settlement in Shares pursuant to Section 2 above).
- (ii) If Counterparty elects to settle the Transaction pursuant to this clause (ii) (a “**Registration Settlement**”), then Counterparty shall promptly (but in any event no later than the beginning of the Resale Period (as defined below)) file and use its reasonable best efforts to make effective under the Securities Act a registration statement or supplement or amend an outstanding registration statement in form and substance reasonably satisfactory to Dealer, to cover the resale of such Restricted Shares (and any Make-whole Shares) in accordance with customary resale registration procedures, including covenants, conditions, representations, underwriting discounts (if applicable), commissions (if applicable), indemnities, due diligence rights, opinions and certificates, and such other documentation as is customary for equity resale underwriting agreements, all reasonably acceptable to Dealer. If Dealer, in its sole reasonable discretion, is not satisfied with such procedures and documentation Private Placement Settlement shall apply. If Dealer is satisfied with such procedures and documentation, it shall sell the Restricted Shares pursuant to such registration statement as promptly as commercially

reasonable during a period (the “**Resale Period**”) commencing on the Exchange Business Day following delivery of such Restricted Shares (and any Make-whole Shares) and ending on the earliest of (i) the Exchange Business Day on which Dealer completes the sale of all Restricted Shares or, in the case of settlement of Termination Delivery Units, a sufficient number of Restricted Shares so that the realized net proceeds of such sales exceed the Payment Obligation (as defined above) and (ii) the date upon which all Restricted Shares have been sold or transferred pursuant to Rule 144 (or similar provisions then in force) under the Securities Act.

(iii) (A) If (ii) above is applicable and the aggregate Option Cash Settlement Amount for all Valuation Dates (the “**Aggregate Option Cash Settlement Amount**”) or the Payment Obligation, as applicable, exceeds the realized net proceeds from such resale, or if (i) above is applicable and the Freely Tradeable Value (as defined below) of the Aggregate Option Cash Settlement Amount or the Payment Obligation (in each case as adjusted pursuant to (i) above), as applicable, exceeds the realized net proceeds from such resale, Counterparty shall transfer to Dealer by the open of the regular trading session on the Exchange on the Scheduled Trading Day immediately following the last day of the Resale Period the amount of such excess (the “**Additional Amount**”), at Counterparty’s option, either in cash or in a number of Shares (“**Make-whole Shares**”; *provided* that the aggregate number of Shares and Make-whole Shares delivered shall not exceed the Maximum Amount) that, based on the Settlement Price on the last day of the Resale Period (as if such day was the “**Valuation Date**” for purposes of computing such Settlement Price), has a value equal to the Additional Amount. The Resale Period shall continue to enable the sale of the Make-whole Shares. If Counterparty elects to pay the Additional Amount in Make-whole Shares, the requirements and provisions for either Private Placement Settlement or Registration Settlement shall apply to such payment. This provision shall be applied successively until the Additional Amount is equal to zero, subject to paragraph 5(m) below. “**Freely Tradeable Value**” means the value of the number of Shares delivered to Dealer which such Shares would have if they were freely tradeable (without prospectus delivery) upon receipt by Dealer, as determined by the Calculation Agent by commercially reasonable means.

(B) If (ii) above is applicable and the realized net proceeds from such resale (including the sale of any Make-whole Shares) exceed the Aggregate Option Cash Settlement Amount or the Payment Obligation, as applicable, or if (i) above is applicable and the realized net proceeds from such resale (including the sale of any Make-whole Shares) exceed the Freely Tradeable Value (as defined below) of the Aggregate Option Cash Settlement Amount or the Payment Obligation (in each case as adjusted pursuant to (i) above), as applicable, Dealer shall transfer to Counterparty the amount of such excess (the “**Dealer Additional Amount**”), at Counterparty’s option, either in cash or in a number of Shares (“**Dealer Make-whole Shares**”) that has a value equal to the Dealer Additional Amount, as determined by the Calculation Agent. The transfer of the Dealer Additional Amount shall be made (x) if in cash, by the open of the regular trading session on the Exchange on the Exchange Business Day immediately following the last day of the Resale Period, and (y) if in Shares, one Settlement Cycle following the date Dealer is able, using commercially reasonable efforts, to purchase Dealer Make-whole Shares. This provision shall be applied successively until the Dealer Additional Amount is equal to zero.

In the event Counterparty shall not have delivered the full number of Restricted Shares otherwise applicable as a result of the proviso above relating to the Maximum Amount, as defined below, (such deficit, the “**Deficit Restricted Shares**”), Counterparty shall be continually obligated to deliver, from time to time until the full number of Deficit Restricted Shares have been delivered pursuant to this paragraph, Restricted Shares when, and to the extent, that (i) Shares are repurchased, acquired or otherwise received by Counterparty or any of its subsidiaries after the Trade Date (whether or not in exchange for cash, fair value or any other consideration), (ii) authorized and unissued Shares reserved for issuance in respect of other transactions prior to such date which prior to the relevant date become no longer so reserved and (iii) Counterparty additionally authorizes any unissued Shares that are not reserved for other transactions. Counterparty shall immediately notify Dealer of the occurrence of any of the foregoing events (including the number of Shares subject to clause (i), (ii) or (iii) and the corresponding number of Restricted Shares to be delivered) and promptly deliver such Restricted Shares thereafter.

- (iv) Without limiting the generality of the foregoing, Counterparty agrees that any Restricted Shares delivered to Dealer, as purchaser of such Restricted Shares, (A) may be transferred by and among Dealer and its affiliates and Counterparty shall effect such transfer without any further action by Dealer and (B) after the minimum “holding period” within the meaning of Rule 144(d) under the Securities Act has elapsed after any settlement date for such Restricted Shares, Counterparty shall promptly remove, or cause the transfer agent for such Restricted Shares to remove, any legends referring to any such restrictions or requirements from such Restricted Shares upon delivery by Dealer (or such affiliate of Dealer) to Counterparty or such transfer agent of any seller’s and broker’s representation letters customarily delivered by Dealer in connection with resales of restricted securities pursuant to Rule 144 under the Securities Act, without any further requirement for the delivery of any certificate, consent, agreement, opinion of counsel, notice or any other document, any transfer tax stamps or payment of any other amount or any other action by Dealer (or such affiliate of Dealer).

If the Private Placement Settlement or the Registration Settlement shall not be effected as set forth in clauses (i), (ii) or (iii), as applicable, then failure to effect such Private Placement Settlement or such Registration Settlement shall constitute an Event of Default with respect to which Counterparty shall be the Defaulting Party.

- (k) **Limit on Beneficial Ownership.** Notwithstanding any other provisions hereof, Dealer may not exercise any Warrant hereunder, Automatic Exercise shall not apply with respect thereto, and no delivery hereunder (including pursuant to paragraphs 5(j), (l) or (m)) shall be made, to the extent (but only to the extent) that, the receipt of any Shares upon such exercise or delivery would result in the existence of an Excess Ownership Position. Any purported delivery hereunder shall be void and have no effect to the extent (but only to the extent) that such delivery would result in the existence of an Excess Ownership Position. Subject to paragraph 5(c), if any delivery owed to Dealer hereunder or any exercise is not made, in whole or in part, as a result of this provision, Counterparty’s obligation to make such delivery and Dealer’s right to exercise a Warrant shall not be extinguished and Counterparty shall make such delivery as promptly as practicable after, but in no event later than one Scheduled Trading Day after, Dealer gives notice to Counterparty that, such exercise or delivery would not result in the existence of an Excess Ownership Position. Dealer shall use commercially reasonable efforts to take steps so that it is able to accept delivery as soon as reasonably practicable.

- (l) **Share Deliveries.** Counterparty acknowledges and agrees that, to the extent that Dealer is not then an affiliate, as such term is used in Rule 144 under the Securities Act, of Counterparty and has not been such an affiliate of Counterparty for 90 days (it being understood that Dealer shall not be considered such an affiliate of Counterparty solely by reason of its receipt of or right to receive Shares pursuant to this Transaction), and otherwise satisfies all holding period and other requirements of Rule 144 under the Securities Act applicable to it, any Shares or Termination Delivery Units delivered hereunder at any time after 1 year from the Premium Payment Date shall be eligible for resale under Rule 144 under the Securities Act, and Counterparty agrees to promptly remove, or cause the transfer agent for such Shares or Termination Delivery Units to remove, any legends referring to any restrictions on resale under the Securities Act from such Shares or Termination Delivery Units. Counterparty further agrees that with respect to any Shares or Termination Delivery Units delivered hereunder at any time after 6 months from the Premium Payment Date but prior to 1 year from the Premium Payment Date, to the extent that Counterparty then satisfies the current information requirement of Rule 144 under the Securities Act, Counterparty shall promptly remove, or cause the transfer agent for such Shares or Termination Delivery Units to remove, any legends referring to any such restrictions or requirements from such Shares or Termination Delivery Units upon delivery by Dealer to Counterparty or such transfer agent of any customary seller's and broker's representation letters in connection with resales of such Shares or Termination Delivery Units pursuant to Rule 144 under the Securities Act, without any further requirement for the delivery of any certificate, consent, agreement, opinion of counsel, notice or any other document, any transfer tax stamps or payment of any other amount or any other action by Dealer. Counterparty further agrees and acknowledges that Dealer shall run a holding period under Rule 144 under the Securities Act with respect to the Warrants and/or any Shares or Termination Delivery Units delivered hereunder notwithstanding the existence of any other transaction or transactions between Counterparty and Dealer relating to the Shares. Counterparty further agrees that Shares or Termination Delivery Units delivered hereunder prior to the date that is 6 months from the Premium Payment Date may be freely transferred by Dealer to its affiliates, and Counterparty shall effect such transfer without any further action by Dealer. Notwithstanding anything to the contrary herein, Counterparty agrees that any delivery of Shares or Termination Delivery Units shall be effected by book-entry transfer through the facilities of the Clearance System if, at the time of such delivery, such Shares or Termination Delivery Units would not contain any restrictive legend as described above. Notwithstanding anything to the contrary herein, to the extent the provisions of Rule 144 under the Securities Act or any successor rule are amended, or the applicable interpretation thereof by the Securities and Exchange Commission or any court changes after the Trade Date, including without limitation to lengthen or shorten the holding periods, the agreements of Counterparty herein shall be deemed modified to the extent necessary, in the opinion of outside counsel of Counterparty, to comply with Rule 144 under the Securities Act, including Rule 144, as in effect at the time of delivery of the relevant Shares or Termination Delivery Units.
- (m) **Maximum Share Delivery.** Notwithstanding any other provision of this Confirmation or the Agreement, in no event will Counterparty be required to deliver more than [ ] Shares (the "**Maximum Amount**") in the aggregate to Dealer in connection with the Transaction, subject to the provisions below regarding Deficit Shares and to adjustment from time to time in accordance with the provisions of this Confirmation or the Equity Definitions. Counterparty represents and warrants to Dealer (which representation and warranty shall be deemed to be repeated on each day that the Transaction is outstanding) that the Maximum Amount is equal to or less than the number of authorized but unissued Shares of Counterparty in respect of which rights to subscribe have not been granted ("reserved") in connection with transactions in the Shares (other than the Transaction) on the date of the determination of the Maximum Amount (such Shares, the "**Available Shares**"). In the event Counterparty shall not have delivered the full number of Shares otherwise due in connection with the Transaction as a result of the first sentence of this paragraph relating to the Maximum Amount (such deficit, the "**Deficit Shares**"), Counterparty shall be continually obligated to deliver, from time to time until the full number of Deficit Shares have been delivered pursuant to this paragraph, Shares when, and to the extent, that (i) Shares are repurchased, acquired or otherwise received by Counterparty or any of its

subsidiaries after the Trade Date (whether or not in exchange for cash, fair value or any other consideration), (ii) authorized and unissued Shares reserved for issuance in respect of other transactions prior to such date which prior to the relevant delivery date become no longer so reserved and (iii) Counterparty additionally authorizes any unissued Shares that are not reserved for other transactions. Counterparty shall immediately notify Dealer of the occurrence of any of the foregoing events (including the aggregate number of Shares subject to clause (i), (ii) or (iii) and the corresponding number of Shares to be delivered) and promptly deliver of such aggregate number of Shares thereafter. Counterparty shall not enter into any transaction, or take any other action, that would result in an adjustment to the maximum number of Shares deliverable under this paragraph (m) resulting in the issuance of a number of Shares that would require stockholder approval under applicable law, exchange regulations or otherwise, without having obtained prior stockholder approval.

- (n) **Par Value of Shares.** The parties acknowledge and agree that Counterparty may allocate all or any portion of the Premium to reflect the payment of the par value of the Shares delivered to Dealer under this Transaction. Counterparty covenants that it will not cause or permit anything to be done that would cause the Premium to be inadequate in respect of the par value for any Shares delivered to Dealer hereunder.
- (o) **No Material Non-Public Information.** Dealer shall provide a written notice to Counterparty promptly following the date on which Dealer has completed all purchases or sales of Shares or other transactions to hedge initially its exposure with respect to the Transaction (such date, the “**Last Initial Hedge Date**”), which it shall complete as soon as reasonably practicable. On each day during the period beginning on the Trade Date and ending on the earlier of (i) the 3<sup>rd</sup> Exchange Business Day following the Trade Date and (ii) the Last Initial Hedge Date, Counterparty represents and warrants to Dealer that none of Counterparty and its officers and directors is aware or in possession of any material non-public information or any information constituting inside information (*voorwetenschap*), as defined in article 5:53 of the FMSA, concerning Counterparty, the Shares or trading in the Shares. “Material” information for these purposes is any information to which an investor would reasonably attach importance in reaching a decision to buy, sell or hold any securities of Counterparty.
- (p) **Tax Disclosure.** Notwithstanding anything to the contrary herein, in the Equity Definitions or in the Agreement, and notwithstanding any express or implied claims of exclusivity or proprietary rights, the parties (and each of their employees, representatives or other agents) are authorized to disclose to any and all persons, beginning immediately upon commencement of their discussions and without limitation of any kind, the tax treatment and tax structure of the Transaction, and all materials of any kind (including opinions or other tax analyses) that are provided by either party to the other relating to such tax treatment and tax structure.
- (q) **Status of Claims in Bankruptcy.** Dealer acknowledges and agrees that this Confirmation is not intended to convey to Dealer rights with respect to the Transaction that are senior to the claims of common stockholders of Counterparty in any Dutch bankruptcy proceedings of Counterparty; *provided* that nothing herein shall limit or shall be deemed to limit Dealer’ right to pursue remedies in the event of a breach by Counterparty of its obligations and agreements with respect to the Transaction; *provided further* that nothing in this paragraph shall limit or shall be deemed to limit Dealer’ rights in respect of any transactions other than the Transaction.
- (r) **Securities Contract.** The parties hereto agree and acknowledge that Dealer is one or more of a “financial institution” and “financial participant” within the meaning of Sections 101(22) and 101(22A) of the Bankruptcy Code. The parties hereto further agree and acknowledge (A) that this Confirmation is a “securities contract,” as such term is defined in Section 741(7) of the Bankruptcy Code, with respect to which each payment and delivery hereunder or in connection herewith is a “termination value,” “payment amount” or “other transfer obligation” within the meaning of Section 362 of the Bankruptcy Code and a “settlement payment” (as such term is defined in Section 741(8)

of the Bankruptcy Code) or a “transfer” within the meaning of Section 546 of the Bankruptcy Code and (B) that Dealer is entitled to the protections afforded by, among other sections, Section 362(b)(6), 362(b)(27), 362(o), 546(e), 546(j), 548(d)(2), 555 and 561 of the Bankruptcy Code.

- (s) **Right to Extend.** Dealer may postpone any potential Expiration Date or postpone or extend any other date of valuation or delivery with respect to some or all of the relevant Warrants (in which event the Calculation Agent shall make appropriate adjustments to the Net Share Amount for such Expiration Date), if Dealer determines, in its commercially reasonable discretion, that such postponement or extension is necessary or appropriate to (i) preserve Dealer’s or its affiliate’s hedging or hedge unwind activity hereunder in light of existing liquidity conditions in the cash market, the stock loan market or any other relevant market or (ii) enable Dealer or its affiliate to effect purchases or sales of Shares in connection with its hedging, hedge unwind or settlement activity hereunder in a manner that would, if Dealer or such affiliate were Issuer or an affiliated purchaser of Issuer, be in compliance with applicable legal, regulatory or self-regulatory requirements, or with related policies and procedures applicable to Dealer and/or such affiliate; *provided* that Dealer may not postpone or extend any such date by more than 100 Exchange Business Days.
- (t) **Adjustments.** For the avoidance of doubt, whenever the Calculation Agent is called upon to make an adjustment pursuant to the terms of this Confirmation or the Equity Definitions to take into account the effect of an event, the Calculation Agent shall make such adjustment by reference to the effect of such event on the Hedging Party, assuming that the Hedging Party maintains a commercially reasonable hedge position.
- (u) **Wall Street Transparency and Accountability Act of 2010.** The parties hereby agree that none of (i) Section 739 of the Wall Street Transparency and Accountability Act of 2010 (the “WSTAA”), (ii) any similar legal certainty provision included in any legislation enacted, or rule or regulation promulgated, on or after the Trade Date, (iii) the enactment of the WSTAA or any regulation under the WSTAA, (iv) any requirement under the WSTAA or (v) any amendment made by the WSTAA shall limit or otherwise impair either party’s right to terminate, renegotiate, modify, amend or supplement this Confirmation, any Transaction hereunder or the Agreement, as applicable, arising from a termination event, force majeure, illegality, increased cost, regulatory change or similar event under this Confirmation, the Equity Definitions or the Agreement (including, but not limited to, any right arising from any Change in Law, Insolvency Filing, Hedging Disruption, Increased Cost of Hedging, Loss of Stock Borrow, Increased Cost of Stock Borrow, or Illegality (as defined in the Agreement)).
- (v) **Payments on Early Termination.** The parties hereto agree that for the Transaction, for the purposes of Section 6(e) of the Agreement, Second Method and Loss will apply. The Termination Currency shall be USD.
- (w) **Governing Law.** This Confirmation and the Agreement, and any claims, causes of action or disputes arising hereunder or thereunder or relating hereto or thereto, shall be governed by the laws of the State of New York (without reference to choice of law doctrine that would lead to the application of the laws of any jurisdiction other than New York).
- (x) **Waiver of Jury Trial.** EACH PARTY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING RELATING TO THE TRANSACTION. EACH PARTY (I) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF SUCH A SUIT, ACTION OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER AND (II) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HAVE BEEN INDUCED TO ENTER INTO THE TRANSACTION, AS

APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS PROVIDED HEREIN.

- (y) **Submission to Jurisdiction.** THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK AND THE UNITED STATES COURT FOR THE SOUTHERN DISTRICT OF NEW YORK IN CONNECTION WITH ALL MATTERS RELATING HERETO AND WAIVE ANY OBJECTION TO THE LAYING OF VENUE IN, AND ANY CLAIM OF INCONVENIENT FORUM WITH RESPECT TO, THESE COURTS.
- (z) **Process Agent.** For purposes of Section 13(c) of the Agreement, Counterparty appoints QIAGEN North American Holdings, Inc. at 19300 Germantown Road, Germantown, MD 20874 as its Process Agent.
- (aa) **Understanding and Acknowledgement.** Counterparty understands and acknowledges that notwithstanding any other relationship between Counterparty and Dealer (and Dealer's affiliates), in connection with this Transaction and any other over-the-counter derivative transaction between Counterparty and Dealer or Dealer's affiliates, Dealer or its affiliates, as the case may be, is acting as principal and is not a fiduciary or adviser to Counterparty in respect of any such transaction, including any entry into or exercise, amendment, unwind or termination thereof.
- (bb) *Reserved.*
- (cc) *Reserved.*
- (dd) **Part 2(b) of the ISDA Schedule – Payee Representation:**

For the purpose of Section 3(f) of this Agreement, Counterparty makes the following representation to Dealer:

No payment received or to be received by Counterparty under this Agreement will be effectively connected to the conduct of a trade or business within the United States.

For the purpose of Section 3(f) of this Agreement, Dealer makes the following representation to Counterparty:

No payment received or to be received by Dealer under this Agreement will be effectively connected to the conduct of a trade or business within the United States.

- (ee) **Part 3(a) of the ISDA Schedule – Tax Forms:**

**Party Required to Deliver Document**

	Form/Document/Certificate	Date by which to be Delivered
Counterparty	A complete and duly executed United States Internal Revenue Service Form W-8BEN-E (or successor thereto.)	(i) Upon execution and delivery of this Agreement; (ii) promptly upon reasonable demand by Dealer; and (iii) promptly upon learning that any such Form previously provided by Counterparty has become obsolete or incorrect.
Dealer	A complete and duly executed United States Internal Revenue Service Form W-8BEN-E (or successor thereto.)	(i) Upon execution and delivery of this Agreement; (ii) promptly upon reasonable demand by Counterparty; and (iii) promptly upon learning that any such Form previously provided by Dealer has become obsolete or incorrect.

(ff) **2015 Section 871(m) Protocol:** Dealer is adherent to the ISDA 2015 Section 871(m) Protocol published by the International Swaps and Derivatives Association, Inc. on November 2, 2015, as may be amended or modified from time to time (the “**2015 Section 871(m) Protocol**”). In the event that Counterparty is not an adherent to the 2015 Section 871(m) Protocol, Dealer and Counterparty hereby agree that this Agreement shall be treated as a Covered Master Agreement (as that term is defined in the 2015 Section 871(m) Protocol) and this Agreement shall be deemed to have been amended in accordance with the modifications specified in the Attachment to the 2015 Section 871(m) Protocol.

(gg) **Additional ISDA Schedule Terms**

(i) **Automatic Early Termination.** The “Automatic Early Termination” provision of Section 6(a) of the Agreement will not apply to Dealer and will not apply to Counterparty.

(ii) **Consent to Recording.** Each party (i) consents to the monitoring or recording, at any time and from time to time, by the other party of any and all communications between officers or employees of the parties, (ii) waives any further notice of such monitoring or recording, and (iii) agrees to notify (and, if required by law, obtain the consent of) its officers and employees with respect to such monitoring or recording. Any such recording may be submitted in evidence to any court or in any Proceeding for the purpose of establishing any matters pertinent to this Transaction.

(iii) **Severability.** In the event any one or more of the provisions contained in this Confirmation or the Agreement shall be held illegal, invalid or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby.

(iv) In the event that (i) an Early Termination Date occurs or is designated with respect to the Transaction as a result of a Termination Event or an Event of Default (other than an Event of Default arising under Section 5(a)(ii) or 5(a)(iv) of the Agreement) and, as a result, Dealer owes to Counterparty an amount calculated under Section 6(e) of the Agreement, or (ii) Dealer owes to Counterparty, pursuant to Section 12.7 or Section 12.9 of the Equity Definitions, an amount calculated under Section 12.8 of the Equity Definitions, such amount shall be deemed to be zero.

(hh) **Foreign Merger.** If, at any reasonable time following the occurrence of any Foreign Merger, the Calculation Agent reasonably determines in its good faith judgment that (x) such Foreign Merger has had a material adverse effect on Dealer’s rights and obligations under the Transaction or (y) Dealer would incur an increased (as compared with circumstances existing on the Trade Date) amount of tax, duty, expense or fee (other than brokerage commissions and excluding (I) any *de minimis* increased amount of tax, duty, expense or fee, as determined by the Calculation Agent, and (II) such increased amount that is incurred solely due to the deterioration of the creditworthiness of Dealer and/or any of its affiliates that are conducting hedging in connection with this Transaction), to (1)



acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the economic risk of entering into and performing its obligations with respect to the Transaction, or (2) realize, recover or remit the proceeds of any such transaction(s) or asset(s) (each of the events described in clause (x) and clause (y) above, a “**Foreign Merger Event**”), then, in either case, the Calculation Agent shall give prompt notice to Counterparty of such Foreign Merger Event, and Dealer, the issuer of the Affected Shares and the New Issuer shall work in good faith to negotiate and enter into additional documentation or modify the terms of the existing documentation in a manner that Dealer has determined, in its reasonable discretion, to be reasonably necessary or appropriate to allow Dealer and Counterparty to continue, or New Issuer to accede, as applicable, as a party to the Transaction in the context of the Foreign Merger Event. If the additional documentation or modification to the terms of the existing documentation has not been mutually agreed to within 5 Scheduled Trading Days of the Calculation Agent’s notice, the Calculation Agent shall give notice to Counterparty of a commercially reasonable Price Adjustment that the Calculation Agent determines, in its good faith, commercially reasonable judgment, appropriate to account for the economic effect on the Transaction of such Foreign Merger Event (without duplication of any adjustments determined pursuant to any other provision of this Transaction) and provide Counterparty with supporting documentation for such Price Adjustment (unless the Calculation Agent determines in its good faith, commercially reasonable judgment that no Price Adjustment will produce a commercially reasonable result, in which case the Calculation Agent shall so notify Counterparty). Unless the Calculation Agent determines in its good faith, commercially reasonable judgment that no Price Adjustment will produce a commercially reasonable result, within two Scheduled Trading Days of receipt of such notice, Counterparty shall notify Dealer that it elects to (A) agree to amend the Transaction to take into account such Price Adjustment or (B) pay Dealer an amount determined by the Calculation Agent (and in respect of which the Calculation Agent has provided to Counterparty supporting documentation) that corresponds to such Price Adjustment (and, in each case, Counterparty shall be deemed to have repeated the representation set forth in Section 5(o) of this Confirmation as of the date of such election). If Counterparty fails to give such notice to Dealer of its election by the end of that second Scheduled Trading Day, or if the Calculation Agent determines in its good faith, commercially reasonable judgment that no Price Adjustment will produce a commercially reasonable result, then such failure or such determination, as the case may be, shall constitute an Additional Termination Event applicable to the Transaction and, with respect to such Additional Termination Event, (1) Counterparty shall be deemed to be the sole Affected Party, (2) the Transaction shall be the sole Affected Transaction and (3) Dealer shall be the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement.

- (ii) **Contractual Recognition of UK Stay in Resolution.** Notwithstanding anything contained in Agreement, the parties agree that the provisions of paragraphs 1 to 4 (inclusive) of the UK (PRA Rule) Jurisdictional Module (the “**UK Module**”) published by the International Swaps and Derivatives Association, Inc. on 3 May 2016, as amended from time to time, shall be deemed to be incorporated into the Agreement as if references in those provisions to “Covered Agreement” were references to the Agreement, and on the basis that: (i) Dealer shall be treated as a “Regulated Entity” and as a “Regulated Entity Counterparty” with respect to Counterparty, (ii) Counterparty shall be treated as a “Module Adhering Party”, and (iii) references to the “Implementation Date” in the UK Module shall be deemed to be references to 1 January 2017.
  
- (jj) **Withholding Tax Imposed on Payments to Non-US Counterparties Under the United States Foreign Account Tax Compliance Act.** “Indemnifiable Tax” as defined in Section 14 of this Agreement shall not include any U.S. federal withholding tax imposed or collected pursuant to Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986, as amended (the “**Code**”), any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code (a “**FATCA Withholding Tax**”). For the avoidance of

doubt, a FATCA Withholding Tax is a Tax the deduction or withholding of which is required by applicable law for the purposes of Section 2(d) of this Agreement.

- (kk) **Reporting Confidentiality.** The parties agree that solely as between Dealer and Counterparty, the definitions and provisions contained in the ISDA 2013 Reporting Protocol published by the International Swaps and Derivatives Association, Inc. on May 10, 2013, including the Attachment thereto (the “**Reporting Protocol**”), will be deemed to be incorporated into this Confirmation, mutatis mutandis, as though such definitions and provisions were set out in full herein, with such conforming changes as are necessary to deal with what would otherwise be inappropriate or incorrect cross references. The parties further agree that the Implementation Date (as such term is defined in the Reporting Protocol) shall be the Trade Date of this Confirmation.

6. **Account Details:**

- (a) Account for payments to Counterparty:

For USD:

Bank: Deutsche Bank Trust Company Americas

SWIFT: BKTRUS33

Acct: Qiagen N.V.

Acct No. / IBAN.: 04900890

For EUR:

Bank: Deutsche Bank AG, Düsseldorf

SWIFT: DEUTDEDDXXX

Acct: Qiagen N.V.

Acct No. / IBAN.: DE90 3007 0010 0755 1674 00

- (b) Account for payments to Dealer:

To be advised separately.

Account for delivery of Shares to Dealer:

To be advised separately.

7. **Offices:**

The Office of Counterparty for the Transaction is: [ ]

The Office of Dealer for the Transaction is: [ ]

8. **Notices:**

For purposes of this Confirmation:

- (a) Address for notices or communications to Counterparty:

Qiagen N.V.

Hulsterweg 82

5912 PL Venlo

The Netherlands

Attention: Global Treasury

Telephone No.: 31 77 355 6644

Facsimile No.: 31 77 355 6640

(b) Address for notices or communications to Dealer:

[ ]

This Confirmation may be executed in several counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

**THE SECURITIES REPRESENTED BY THE CONFIRMATION HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, OR ANY OTHER UNITED STATES FEDERAL OR STATE SECURITIES LAWS; SUCH SECURITIES MAY NOT BE SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF APPROPRIATE REGISTRATION UNDER SUCH SECURITIES LAWS OR EXCEPT IN A TRANSACTION EXEMPT FROM OR NOT SUBJECT TO THE REGISTRATION REQUIREMENTS OF SUCH SECURITIES LAWS.**

Please confirm that the foregoing correctly sets forth the terms of our agreement by executing a copy of this Confirmation and returning it to us.

Sincerely yours,

[ ]

By: \_\_\_\_\_  
Name:  
Title:

Confirmed as of the date first written:

**QIAGEN N.V.**

By: \_\_\_\_\_  
Name:  
Title:

## SCHEDULE A

For purposes of this Transaction, the following terms shall have the following values/meanings:

1. Strike Price: USD50.9664.
2. USD Premium: [ ].
3. Premium: The USD Premium, as converted into EUR at the “ask” spot rate of exchange of EUR for USD as quoted on Bloomberg page “WMCO”, at 4:00 p.m. New York time on the first day that is both a New York Banking Day and a London Banking Day after the Trade Date, or if such rate of exchange is not quoted thereon at such time, as converted into EUR by the Calculation Agent in a commercially reasonable manner. Promptly following the determination thereof, the Calculation Agent shall provide written notice to Counterparty specifying the Premium.
4. Premium Payment Date: The closing date for the initial issuance of the Convertible Notes.
5. Final Disruption Date: September 18, 2023.

SCHEDULE B

For each Component of the Transaction, the Number of Warrants and Expiration Date is set forth below.

<u>Component Number</u>	<u>Number of Warrants</u>	<u>Expiration Date</u>
1.	[]	6/26/2023
2.	[]	6/27/2023
3.	[]	6/28/2023
4.	[]	6/29/2023
5.	[]	6/30/2023
6.	[]	7/5/2023
7.	[]	7/6/2023
8.	[]	7/7/2023
9.	[]	7/10/2023
10.	[]	7/11/2023
11.	[]	7/12/2023
12.	[]	7/13/2023
13.	[]	7/14/2023
14.	[]	7/17/2023
15.	[]	7/18/2023
16.	[]	7/19/2023
17.	[]	7/20/2023
18.	[]	7/21/2023
19.	[]	7/24/2023
20.	[]	7/25/2023
21.	[]	7/26/2023
22.	[]	7/27/2023
23.	[]	7/28/2023
24.	[]	7/31/2023
25.	[]	8/1/2023
26.	[]	8/2/2023
27.	[]	8/3/2023
28.	[]	8/4/2023
29.	[]	8/7/2023
30.	[]	8/8/2023
31.	[]	8/9/2023
32.	[]	8/10/2023
33.	[]	8/11/2023
34.	[]	8/14/2023
35.	[]	8/15/2023
36.	[]	8/16/2023
37.	[]	8/17/2023
38.	[]	8/18/2023
39.	[]	8/21/2023
40.	[]	8/22/2023
41.	[]	8/23/2023

42.	[ ]	8/24/2023
43.	[ ]	8/25/2023
44.	[ ]	8/28/2023
45.	[ ]	8/29/2023
46.	[ ]	8/30/2023
47.	[ ]	8/31/2023
48.	[ ]	9/1/2023
49.	[ ]	9/5/2023
50.	[ ]	9/6/2023

**DATE:** As of September 6, 2017

**TO:** Qiagen N.V.  
Hulsterweg 82  
5912 PL Venlo  
The Netherlands

**ATTENTION:** Global Treasury

**TELEPHONE:** 31 77 355 6644

**FACSIMILE:** 31 77 355 6640

**FROM:** [ ]

**SUBJECT:** Bond Hedge Transaction

The purpose of this letter agreement (this “**Confirmation**”) is to confirm the terms and conditions of the Transaction entered into between [ ] (“**Dealer**”) and Qiagen N.V. (“**Counterparty**”) on the Trade Date specified below (the “**Transaction**”). This Confirmation constitutes a “Confirmation” as referred to in the Agreement specified below.

The definitions and provisions contained in the 2002 ISDA Equity Derivatives Definitions (the “**Equity Definitions**”), as published by the International Swaps and Derivatives Association, Inc., are incorporated into this Confirmation. Certain defined terms used herein have the meanings assigned to them in the Indenture to be dated on or about September 13, 2017 between Counterparty, Deutsche Trustee Company Limited, as Trustee, Deutsche Bank AG, London Branch, as Paying Agent and Conversion Agent and Deutsche Bank Luxembourg S.A., as Note Registrar, Transfer Agent and Authentication Agent (as such definitions may be amended, modified or supplemented from time to time, but only if such amendment, modification or supplement is consented to by Dealer and Counterparty in writing, the “**Indenture**”) relating to USD 400,000,000 principal amount of 0.50% Senior Unsecured Convertible Notes due 2023 (the “**Convertible Notes**”) issued by Counterparty. In the event of any inconsistency between the Indenture and this Confirmation, this Confirmation shall govern. For the avoidance of doubt, references herein to sections of the Indenture are based on the draft of the Indenture most recently reviewed by the parties at the time of this Confirmation. If any relevant sections of the Indenture are changed, added, or renumbered following execution of this Confirmation, the parties will amend this Confirmation in good faith to preserve the economic intent of the parties.

Each party is hereby advised, and each such party acknowledges, that the other party has engaged in, or refrained from engaging in, substantial financial transactions and has taken other material actions in reliance upon the parties’ entry into the Transaction to which this Confirmation relates on the terms and conditions set forth below.

1. This Confirmation evidences a complete and binding agreement between Dealer and Counterparty as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall supplement, form a part of, and be subject to, an agreement in the form of the ISDA 1992 Master Agreement (Multicurrency – Cross Border) as if Dealer and Counterparty had executed an agreement (the “**Agreement**”) in such form (without any Schedule but provided that (i) the “Cross Default” provisions of Section 5(a)(vi) shall be applicable to Dealer and to Counterparty, (ii) the words “, or becoming capable at such time of being declared,” shall be deleted from such Section 5(a)(vi), (iii) the “Threshold Amount” in relation to Counterparty shall be \$50,000,000 and in relation to Dealer shall be an amount equal to three percent (3%) of the shareholders’ equity of Dealer as of the Trade Date, and (iv) “Specified Indebtedness” shall not include any obligation in respect of deposits received in the ordinary course of a party’s banking business, and with such other elections set forth in this Confirmation) on the Trade Date. In the event of any inconsistency among this Confirmation, the Equity Definitions or the Agreement, the following will prevail for purposes of the Transaction in the order of precedence indicated: (i) this Confirmation; (ii) the Equity Definitions; and (iii) the Agreement. The parties hereby agree that no Transaction other than the Transaction to which this Confirmation relates shall be governed by the Agreement.

2. The terms of the particular Transaction to which this Confirmation relates are as follows:



**General Terms:**

Trade Date: September 6, 2017.

Option Style: Modified American, as described below under “Procedures for Exercise”.

Option Type: Call.

Buyer: Counterparty.

Seller: Dealer.

Shares: The ordinary shares, par value EUR 0.01 per share, of Counterparty (NASDAQ ticker symbol “QGEN”).

Number of Options: [ ]

Option Entitlement: As of any date, a number of Shares per Option equal to the Applicable Percentage *multiplied by* the “Conversion Ratio” (as defined in the Indenture) as of such date (but without regard to any adjustments to the “Conversion Ratio” pursuant to Section 12.03 or to Section 12.04(h) of the Indenture).

Strike Price: As provided in Schedule A to this Confirmation.

Applicable Percentage: [ ]%.

Premium: As provided in Schedule A to this Confirmation.

Premium Payment Date: As provided in Schedule A to this Confirmation.

Exchange: The NASDAQ Global Select Market.

Related Exchange(s): All Exchanges.

Calculation Agent: Dealer; *provided* that all determinations made by Calculation Agent shall be made in good faith and in a commercially reasonable manner; *provided further* that (i) upon receipt of written request from Counterparty, the Calculation Agent shall promptly provide Counterparty with a written explanation describing in reasonable detail any calculation, adjustment, or determination made by it (including any quotation, market data or information from internal or external sources used in making such calculation, adjustment or determination, as the case may be, but without disclosing Calculation Agent’s proprietary models or other information that may be proprietary or confidential) and shall use commercially reasonable efforts to provide such written explanation within five (5) Exchange Business Days from receipt of such request, (ii) if an Event of Default described in Section 5(a)(vii) of the Agreement has occurred and is continuing with respect to Dealer, the Calculation Agent shall be a leading recognized dealer in equity derivatives designated in good faith by Counterparty for so long as such Event of Default is continuing and (iii) if Counterparty promptly disputes in writing any calculation, adjustment or determination and provides reasonable detail as to the basis for such dispute, the Calculation Agent shall discuss the dispute with Counterparty and shall consider in good faith any alternative calculations, adjustments or determinations proposed by Counterparty, it being understood that the Calculation Agent’s calculation, adjustment or determination, modified to the extent the Calculation Agent determines appropriate after such consideration, shall apply to the Transaction.

**Procedures for Exercise:**

Conversion Dates:	Each “Conversion Date” (as defined in the Indenture) occurring during the Exercise Period for Convertible Notes in denominations of USD 200,000 principal amount that are surrendered for conversion on such Conversion Date in accordance with the terms of the Indenture, subject to “Notice of Exercise” below (such Convertible Notes, the “ <b>Relevant Convertible Notes</b> ”).
Exercisable Options:	In respect of each Conversion Date, a number of Options equal to the number of Relevant Convertible Notes in denominations of USD 200,000 principal amount surrendered for conversion on such Conversion Date in accordance with the terms of the Indenture, subject to “Notice of Exercise” below, but no greater than the Number of Options.
Free Convertibility Date:	March 13, 2023.
Exercise Period:	The period from and including the Premium Payment Date to and including the Expiration Date.
Expiration Date:	Notwithstanding anything to the contrary in Section 3.1(f) of the Equity Definitions, “Expiration Date” shall mean the earlier of (x) the last day on which any Convertible Notes remain outstanding and (y) the fifth Scheduled Trading Day immediately preceding the “Maturity Date” (as defined in the Indenture).
Multiple Exercise:	Applicable, as provided under “Exercisable Options” above.
Automatic Exercise:	Applicable; <i>provided</i> that such Exercisable Options shall be exercised or deemed exercised only if Counterparty has provided a Notice of Exercise to Dealer in accordance with “Notice of Exercise” below.

Notice of Exercise:

Notwithstanding anything to the contrary in the Equity Definitions or under “Exercisable Options” above, Counterparty shall notify Dealer in writing prior to 5:00 p.m., New York City time, on the day that is at least two Scheduled Trading Days prior to the first day of the applicable Conversion Period (as defined below) in respect of the Options being exercised (or, in the case of an Early Conversion prior to the Conversion Period, prior to 5:00 p.m., New York City time, on the day that is at least two Scheduled Trading Days’ prior to the first day of the applicable “Calculation Period” (as defined in the Indenture)) (the “**Exercise Notice Deadline**”) of (i) the number of such Options (including, if applicable, whether all or any portion of the Convertible Notes relating to such Options are Convertible Notes as to which additional Shares would be added to the “Conversion Ratio” (as defined in the Indenture) pursuant to Section 12.03 of the Indenture (the “**Make-Whole Convertible Notes**”)) and (ii) the scheduled first day of the applicable Conversion Period (or, in the case of an Early Conversion, the scheduled first day of the applicable “Calculation Period” (as defined in the Indenture)); *provided* that (I) in respect of any Options relating to Relevant Convertible Notes with a Conversion Date occurring on or after the Free Convertibility Date (other than Make-Whole Convertible Notes), such notice may be given on or prior to the Scheduled Trading Day immediately preceding the Expiration Date and need only specify the information required in clause (i) above, and (II) with respect to (a) any Exercisable Options exercised prior to the Free Convertibility Date or (b) any Exercisable Options relating to Make-Whole Convertible Notes exercised on or after the Free Convertibility Date (any exercise pursuant to clause (a) or (b), an “**Early Conversion**”), an Additional Termination Event shall be deemed to occur with respect to a number of Options equal to the number of Exercisable Options so exercised, as provided in clause (D) under “Additional Termination Events” in paragraph 5(b) below.

Notwithstanding the foregoing, notice in respect of any exercise of Options hereunder (and the related exercise of Options) shall be effective if given after 5:00 p.m., New York City time, on the Exercise Notice Deadline, but prior to 5:00 p.m., New York City time, on the fifth Scheduled Trading Day following the Exercise Notice Deadline, in which event the Calculation Agent shall have the right to adjust the Cash Settlement Amount as appropriate to reflect the additional costs (including, but not limited to, hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities (including the unwinding of any hedge position) as a result of Dealer not having received such notice on or prior to the Exercise Notice Deadline and, if appropriate, to delay the Settlement Date.

**Settlement Terms:**

Settlement Method:

For any Option, Cash Settlement.

Cash Settlement:

In lieu of Section 8.1 of the Equity Definitions, Dealer will pay to Counterparty, on the relevant Settlement Date for each Option, an amount of cash (the “**Cash Settlement Amount**”) equal to the *sum* of the amounts determined for each Trading Day during the applicable Conversion Period for such Option consisting of (i) the Daily Option Value for such Trading Day, *divided by* (ii) the number of Trading Days in the applicable Conversion Period.

Daily Option Value:

For any Trading Day, an amount equal to (i) the Option Entitlement on such Trading Day, *multiplied by* (ii)(x) the VWAP Price on such Trading Day *minus* (y) the Strike Price on such Trading Day; *provided* that if the calculation contained in clause (ii) above results in a negative number, the Daily Option Value for such Trading Day shall be deemed to be zero. In no event will the Daily Option Value be less than zero.

Trading Day:

A day on which trading in the Shares generally occurs on the Exchange and there is no Market Disruption Event. If the Shares are not so traded or quoted, “Trading Day” means Business Day.

Scheduled Trading Day:	Any day that is scheduled to be a Trading Day.
Business Day:	A day (other than a Saturday or Sunday) on which banks are open for general business in New York City, London, Amsterdam and Frankfurt and (in relation to any date for the payment or purchase of a currency other than U.S. dollars) the principal financial center of the country of that currency.
Market Disruption Event:	Section 6.3(a) of the Equity Definitions is hereby replaced in its entirety by the following:  “‘Market Disruption Event’ means (a) a failure by the Exchange to open for trading during its regular trading session or (b) the occurrence or existence, prior to 1:00 p.m., local time, on any Trading Day for the Shares, of an aggregate one half-hour period of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or quotation system or otherwise) in the Shares or in any options, contracts or futures contracts relating to the Shares.”
VWAP Price:	On any Trading Day, the per Share volume-weighted average price of the Shares as displayed under the heading “Bloomberg VWAP” on Bloomberg page “QGEN US <equity> AQR” (or its equivalent successor if such page is not available) in respect of the period from the scheduled opening of trading of the primary trading session on the Exchange until the scheduled close of trading of the primary trading session on such Trading Day (or if such volume-weighted average price is unavailable on any such Trading Day, the market value of one Share on such Trading Day as determined by the Calculation Agent using a volume-weighted average price method), determined without regard to after-hours trading or any other trading outside of the regular trading session.
Conversion Period:	For any Option, the 50 consecutive Trading Days commencing on, and including, the 55th Scheduled Trading Day immediately prior to the “Maturity Date” (as defined in the Indenture).
Settlement Date:	For any Option, the third Business Day immediately following the final Trading Day of the applicable Conversion Period for such Option.
Settlement Currency:	USD.

**Share Adjustments:**

Method of Adjustment:

Calculation Agent Adjustment, which means that, notwithstanding Section 11.2(c) of the Equity Definitions, upon any adjustment to the “Conversion Ratio” (as defined in the Indenture) and/or the nature of the Shares under the Convertible Notes pursuant to the Indenture (other than an increase in the “Conversion Ratio” pursuant to Sections 12.03 and 12.04(h) of the Indenture), the Calculation Agent will make a corresponding adjustment to any one or more of the Strike Price, Number of Options, the Option Entitlement and any other term relevant to the exercise, settlement, payment or other terms of the Transaction. Counterparty agrees that it will notify Dealer prior to the effectiveness of any such adjustment and, if the Calculation Agent in good faith disagrees with any adjustment to the Convertible Notes that involves an exercise of discretion by Counterparty, its board of directors or the “Calculation Agent” or an “Independent Expert” under the Indenture (including, without limitation, pursuant to Section 12.04(g) of the Indenture or in connection with any proportional adjustment or the determination of the fair value of any securities, property, rights or other assets), then in each such case, the Calculation Agent will determine the adjustment to be made to any one or more of the Strike Price, Number of Options, Option Entitlement and any other terms relevant to the exercise, settlement or payment for the Transaction in a commercially reasonable manner.

Potential Adjustment Events:

Notwithstanding Section 11.2(e) of the Equity Definitions, a “Potential Adjustment Event” means an occurrence of any event or condition, as set forth in Section 12.04(a)-(e) and (g) of the Indenture that would result in an adjustment to the “Conversion Ratio” (as defined in the Indenture) of the Convertible Notes; *provided* that in no event shall there be any adjustment hereunder as a result of an adjustment to the “Conversion Ratio” pursuant to Sections 12.03 or 12.04(h) of the Indenture.

**Extraordinary Events:**

Merger Events:

Notwithstanding Section 12.1(b) of the Equity Definitions, a “Merger Event” means the occurrence of any event or condition set forth in Section 12.05 of the Indenture.

Notice of Merger Consideration:

Upon the occurrence of a Merger Event that causes the Shares to be converted into or exchanged for more than a single type of consideration (determined based in part upon the form of election of the holders of the Shares), Counterparty shall promptly notify the Calculation Agent in writing of the types and amounts of consideration that holders of Shares have affirmatively elected to receive upon consummation of such Merger Event; *provided* that in no event shall the date of such notification be later than the date on which such Merger Event is consummated.

Consequences of Merger Events:

Notwithstanding Section 12.2 of the Equity Definitions, upon the occurrence of a Merger Event, the Calculation Agent shall make a corresponding adjustment in respect of any adjustment under the Indenture to any one or more of the nature of the Shares, the Strike Price, the Number of Options, the Option Entitlement and any other term relevant to the exercise, settlement, payment or other terms of the Transaction; provided, however, that such adjustment shall be made without regard to any adjustment to the “Conversion Ratio” (as defined in the Indenture) for the issuance of additional shares as set forth in 12.03 or 12.04(h) of the Indenture.

If, in respect of any Merger Event to which the immediately preceding paragraph applies, the adjustments to be made in accordance with such paragraph would result in Counterparty being different from the issuer of the Shares or Counterparty or such issuer being organized in a jurisdiction other than the Netherlands (a “**Foreign Merger**”), then with respect to such Merger Event, as a condition precedent to the adjustments contemplated in the immediately preceding paragraph, Dealer, Counterparty and the entity that will be the issuer of the Shares (the “**New Issuer**”) shall work in good faith to negotiate and enter into such documentation containing representations, warranties and agreements relating to securities law and other issues as requested by Dealer that Dealer has determined, in its reasonable discretion, to be reasonably necessary or appropriate to allow Dealer and Counterparty to continue, or the New Issuer to accede, as applicable, as a party to the Transaction, as adjusted under the immediately preceding paragraph (which adjustments shall be made without duplication of any adjustments determined pursuant to any other provision of this Transaction), and to preserve Dealer’s hedging or hedge unwind activities in connection with the Transaction in a manner compliant with applicable legal, regulatory or self-regulatory requirements, or with related policies and procedures applicable to Dealer (whether or not such requirements, policies or procedures are imposed by law or have been voluntarily adopted by Dealer), and if such documentation has not been mutually agreed to on or prior to the Merger Date or if the Calculation Agent determines that the adjustment under the immediately preceding paragraph will not produce a commercially reasonable result, then, at Dealer’s election, Cancellation and Payment (Calculation Agent Determination) shall apply or the Transaction shall continue without such documentation or adjustment.

Nationalization, Insolvency or Delisting:

Cancellation and Payment (Calculation Agent Determination); *provided* that Section 12.6(a)(iii) of the Equity Definitions is hereby amended and restated in its entirety as follows:

“‘Delisting’ means that the Shares, as adjusted pursuant to the terms of the Transaction, cease (or the Exchange announces that, pursuant to the rules of such Exchange, such Shares will cease) to be listed, traded or publicly quoted on the Exchange for any reason and are not (or will not be) immediately re-listed, re-traded or re-quoted (and fail (or will fail) to continue to be listed, traded or quoted) on any of the Frankfurt Stock Exchange (Prime Standard), the London Stock Exchange (Main Market), Euronext (in Paris or Amsterdam), the New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted (or continue to be listed, traded or quoted) on any such exchange or quotation system (or, if more than one, the exchange or quotation system selected by the Calculation Agent), such exchange or quotation system shall thereafter be deemed to be the Exchange and the Calculation Agent shall make any adjustments to the terms of the Transaction (including, for the avoidance of doubt, modifying the definition of Shares and Settlement Price), as if Modified Calculation Agent Adjustment were applicable to such event.”

**Additional Disruption Events:**

Change in Law:	Applicable; <i>provided</i> that Section 12.9(a)(ii) of the Equity Definitions is hereby amended by (i) replacing the phrase “the interpretation” in the third line thereof with the phrase “, or announcement or statement of, the formal or informal interpretation”, (ii) by replacing the word “Shares” where it appears in clause (X) thereof with the words “Hedge Positions”, (iii) by immediately following the word “Transaction” in clause (X) thereof, adding the phrase “in the manner contemplated by the Hedging Party on the Trade Date” and (iv) adding the following proviso to the end of clause (Y) thereof: “provided that (1) such party has used commercially reasonable efforts to avoid such increased cost on terms reasonably acceptable to such party, as long as (i) such party would not incur a materially increased cost (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position), as reasonably determined by such party, in doing so, (ii) such party would not violate any applicable law, rule, regulation or policy of such party, as reasonably determined by such party, in doing so, (iii) such party would not suffer a material penalty, injunction, non-financial burden, reputational harm or other material adverse consequence in doing so, (iv) such party would not incur any material operational or administrative burden in doing so and (v) such party would not, in doing so, be required to take any action that is contrary to the intent of the law or regulation that is subject to the Change in Law and (2) Dealer may exercise its termination right with respect to such event described in this clause (Y) only if Dealer determines, based upon advice of counsel the costs of which are borne by the Dealer, that it is generally exercising its rights to terminate or adjust as a result of such event with respect to any similarly situated customers in the context of the event constituting such Change in Law”.
Failure to Deliver:	Not Applicable.
Insolvency Filing:	Applicable.
Hedging Disruption:	Applicable; <i>provided</i> that: (I) Section 12.9(a)(v) of the Equity Definitions is hereby modified by (i) inserting the following words at the end of clause (A) thereof: “in the manner contemplated by the Hedging Party on the Trade Date”, and (ii) inserting the following two phrases at the end of such Section: “For the avoidance of doubt, the term “equity price risk” shall be deemed to include, but shall not be limited to, stock price and volatility risk. For the further avoidance of doubt, any such transactions or assets referred to in phrases (A) or (B) above must be available on commercially reasonable pricing terms. Any inability of the Hedging Party referred to in phrases (A) and (B) above that is solely attributable to the deterioration of the creditworthiness of the Hedging Party shall not be deemed a Hedging Disruption.”, and (II) Section 12.9(b)(iii) of the Equity Definitions is hereby amended by inserting in the third line thereof, after the words “to terminate the Transaction”, the words “or a portion of the Transaction affected by such Hedging Disruption”.
Increased Cost of Hedging:	Applicable.
Hedging Party:	Dealer or an affiliate of Dealer that is involved in the hedging of this Transaction for all applicable Additional Disruption Events.
Hedge Positions:	The definition of “Hedge Positions” in Section 13.2(b) of the Equity Definitions shall be amended by inserting the words “or an affiliate thereof” after the words “a party” in the third line.
Determining Party:	Dealer for all applicable Extraordinary Events.

**Acknowledgments:**

Non-Reliance:	Applicable.
Agreements and Acknowledgments Regarding Hedging Activities:	Applicable.
Additional Acknowledgments:	Applicable.

**3. Mutual Representations, Warranties and Agreements.**

In addition to the representations, warranties and agreements in the Agreement and those contained elsewhere herein, each of Dealer and Counterparty represents and warrants to, and agrees with, the other party that:

- (a) **Commodity Exchange Act.** It is an “eligible contract participant” within the meaning of Section 1a(18) of the U.S. Commodity Exchange Act, as amended (the “CEA”). The Transaction has been subject to individual negotiation by the parties. The Transaction has not been executed or traded on a “trading facility” as defined in the CEA.
- (b) **Securities Act.** It is a “qualified institutional buyer” as defined in Rule 144A under the Securities Act, or an “accredited investor” as defined in Section 2(a)(15)(ii) of the Securities Act.
- (c) **ERISA.** The assets used in the Transaction (1) are not assets of any “plan” (as such term is defined in Section 4975 of the U.S. Internal Revenue Code (the “Code”)) subject to Section 4975 of the Code or any “employee benefit plan” (as such term is defined in Section 3(3) of the U.S. Employee Retirement Income Security Act of 1974, as amended (“ERISA”)) subject to Title I of ERISA, and (2) do not constitute “plan assets” within the meaning of Department of Labor Regulation 2510.3-101, 29 CFR Section 2510-3-101.
- (d) **Notice of Event of Default.** It shall promptly provide written notice to the other party upon obtaining knowledge of the occurrence of any event that would constitute an Event of Default; *provided, however,* that should it be in possession of material non-public information regarding itself, it shall not communicate such information to the other party.
- (e) **No Registration.** It understands, agrees and acknowledges that the other party has no obligation or intention to register the Transaction under the Securities Act, any state securities law or other applicable federal or non-U.S. securities law.
- (f) **Non-reliance.** (A) It is acting for its own account, and it has made its own independent decisions to enter into the Transaction and as to whether the Transaction is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary, (B) it is not relying on any communication (written or oral) of the other party or any of its affiliates as investment advice or as a recommendation to enter into the Transaction (it being understood that information and explanations related to the terms and conditions of the Transaction shall not be considered investment advice or a recommendation to enter into the Transaction), and (C) no communication (written or oral) received from the other party or any of its affiliates shall be deemed to be an assurance or guarantee as to the expected results of the Transaction.

**4. Representations, Warranties and Agreements of Counterparty.**

In addition to the representations and warranties in the Agreement and those contained elsewhere herein, Counterparty further represents, warrants and agrees that:

- (a) The representations and warranties of Counterparty set forth in Section 1 of the Purchase Agreement dated as of the Trade Date between Counterparty, Goldman Sachs International, J.P. Morgan Securities PLC, Barclays Bank PLC, Credit Suisse Securities (Europe) Limited and Merrill Lynch International



(the “**Initial Purchasers**”) (the “**Purchase Agreement**”) relating to the issuance of the Convertible Notes are true and correct and are hereby deemed to be repeated to Dealer as if set forth herein;

- (b) As of the Trade Date or the Premium Payment Date, Counterparty (i) has neither (A) filed a request for bankruptcy or been declared bankrupt by a judgment of a competent court in the Netherlands within the meaning of Section 1 of the Netherlands Bankruptcy Act (“Faillissementswet”) nor (B) filed a request for a suspension of payments within the meaning of Section 213 of the Netherlands Bankruptcy Act and (ii) is not and shall not be after giving effect to the Transactions, “insolvent” (as such term is defined in Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the “**Bankruptcy Code**”)); and on each such date Counterparty would be able to purchase a number of Shares equal to the Number of Shares in compliance with the laws of the jurisdiction of Counterparty’s incorporation or organization;
- (c) Counterparty shall promptly provide written notice to Dealer upon obtaining knowledge of the occurrence of any event that would constitute a Potential Adjustment Event, a Merger Event or any other Extraordinary Event; *provided, however*, that should Counterparty be in possession of material non-public information regarding Counterparty, Counterparty shall not communicate such information to Dealer;
- (d) Counterparty has not violated and will not violate any applicable law (including, without limitation, the Securities Act, the Exchange Act and Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC, in each case and the regulations promulgated thereunder) in connection with the Transaction;
- (e) Counterparty has not entered into the Transaction with the intent to avoid any regulatory filings;
- (f) Each of Counterparty’s filings under the Securities Act, the Exchange Act, or other applicable securities laws that are required to be filed have been filed and that, as of the respective dates thereof and as of the Trade Date, such filings when considered as a whole (with the more recent such filings deemed to amend inconsistent statements contained in any earlier such filings) do not contain any misstatement of a material fact or any omission of a material fact required to be stated therein or necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading;
- (g) Counterparty is not, and after giving effect to the Transactions will not be, required to register as an “investment company” as such term is defined in the Investment Company Act of 1940, as amended;
- (h) Counterparty understands, agrees and acknowledges that no obligations of Dealer to it hereunder shall be entitled to the benefit of deposit insurance and that such obligations shall not be guaranteed by any affiliate of Dealer or any governmental agency;
- (i) Counterparty has total assets of at least USD 50,000,000 as of the date hereof;
- (j) Without limiting the generality of Section 13.1 of the Equity Definitions, Counterparty acknowledges that Dealer is not making any representations or warranties with respect to the treatment of the Transaction under any accounting standards including ASC Topic 260, Earnings Per Share, ASC Topic 815, Derivatives and Hedging, ASC Topic 480, Distinguishing Liabilities from Equity and ASC 815-40, Derivatives and Hedging – Contracts in Entity’s Own Equity (or any successor issue statements) or under FASB’s Liabilities & Equity Project;
- (k) Counterparty is not entering into the Transaction for the purpose of (i) creating actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for the Shares) or (ii) raising or depressing or otherwise manipulating the price of, or facilitating a distribution of, the Shares (or any security convertible into or exchangeable for the Shares);

- (l) Counterparty has not entered into any obligation or undertaking that would contractually limit it from effecting Cash Settlement under this Transaction and it agrees not to enter into any such obligation or undertaking during the term of this Transaction;
- (m) Counterparty shall deliver to Dealer an opinion of counsel, dated as of the Trade Date and reasonably acceptable to Dealer in form and substance, with respect to the matters set forth in Section 3(a) of the Agreement; *provided* that such opinion of counsel may contain customary exceptions, assumptions and qualifications;
- (n) Counterparty is entering into the Transaction, solely for the purposes stated in the board resolution authorizing the Transaction (a copy of which, and such other certificates as Dealer may reasonably request, Counterparty shall deliver to Dealer on or before the Trade Date) and in its public disclosure, and there is no internal policy, whether written or oral, of Counterparty that would prohibit Counterparty from entering into any aspect of the Transaction;
- (o) To Counterparty's knowledge, other than reporting requirements pursuant to Chapter 5.3 of the Dutch Financial Supervision Act (*Wet op het financieel toezicht*) and Sections 13 or 16 of the Exchange Act, no federal, state or local (including non-U.S. jurisdictions) law, rule, regulation or regulatory order applicable to Counterparty or the Shares as a result of Counterparty's particular business would give rise to any reporting, consent, registration or other requirement (including without limitation a requirement to obtain prior approval from any person or entity) as a result of Dealer or its affiliates owning or holding (however defined) Shares; *provided* that Counterparty makes no representation or warranty regarding any such requirement that is applicable generally to the ownership of equity securities by Dealer or its affiliates solely as a result of their being a financial institution or broker-dealer; and
- (p) Counterparty has discussed the Transaction with its outside tax advisors and has received appropriate comfort from such tax advisors that the tax treatment Counterparty will apply to the Transaction is proper under applicable law.

## 5. Other Provisions.

- (a) **Designation by Dealer.** Notwithstanding any other provision in this Confirmation to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any securities or other assets to or from Counterparty, Dealer may designate any of its affiliates to purchase, sell, receive or deliver such securities or other assets and otherwise to perform Dealer's obligations in respect of the Transaction and any such designee may assume such obligations. Dealer shall be discharged of its obligations to Counterparty solely to the extent of and upon any such performance; *provided* that Dealer's obligation shall be reinstated (and Dealer shall have the right to designate another of its affiliates to perform such obligation), as though such performance had not been rendered by such affiliate, in the event and to the extent Counterparty is required to repay or reimburse the amount or value of any payment or other performance by such affiliate on the grounds of the insolvency or other legal, regulatory or contractual constraint on affiliate's payment or performance of such obligation.
- (b) **Additional Termination Events.**

If (A) an Amendment Event (as defined below) occurs, (B) an "Event of Default" with respect to Counterparty under the terms of the Convertible Notes as set forth in Section 6.01 of the Indenture occurs and the outstanding Convertible Notes have been declared immediately due and payable in accordance with Section 6.02 of the Indenture, (C) a Repayment Event occurs or (D) an Early Conversion occurs, then, (i) in the case of (A), (B) or (C), an Additional Termination Event shall occur in respect of which (1) Counterparty shall be the sole Affected Party and the Transaction shall be the sole Affected Transaction and (2) notwithstanding anything to the contrary in the Agreement, Dealer shall designate an Early Termination Date in respect of such Affected Transaction, which shall be no earlier than one Scheduled Trading Day following the occurrence of the event; *provided* that, in the case of a Repayment Event, the Transaction shall be subject to termination only in respect of

the number of Convertible Notes that cease to be outstanding in connection with or as a result of such Repayment Event and (ii) in the case of (D), (1) an Additional Termination Event shall occur hereunder with respect to a number of Options equal to the number of the relevant Exercisable Options (the “**Affected Number of Options**”), in which case (x) the sole Affected Transaction shall consist of a transaction identical to the Transaction except that Number of Options for such Affected Transaction shall equal the Affected Number of Options and Counterparty shall be deemed the sole Affected Party and (y) the Transaction shall remain in full force and effect, except that the Number of Options subject to the Transaction immediately prior to the Conversion Date for such Early Conversion shall as of such Conversion Date be reduced by the Affected Number of Options; (2) notwithstanding anything to the contrary in the Agreement, Dealer shall designate an Early Termination Date in respect of such Affected Transaction, which shall be no earlier than one Scheduled Trading Day following the Conversion Date for the related Early Conversion; and (3) for the avoidance of doubt, in determining the amount payable in respect of such Affected Transaction pursuant to Section 6 of the Agreement, the Dealer (I) shall, if the Early Conversion relates to more than USD1,000,000.00 principal amount of Convertible Notes, use commercially reasonable efforts to determine the Share price for purposes of such determination over a period consistent with the “Calculation Period” under the Indenture for the related Early Conversion and (II) shall assume that (x) the relevant Early Conversion and any adjustments, agreements, payments, deliveries or acquisitions by or on behalf of Counterparty leading thereto had not occurred, (y) no adjustments to the Conversion Ratio have occurred pursuant to Section 12.03 or Section 12.04(h) of the Indenture and (z) the corresponding Convertible Notes remain outstanding.

“**Amendment Event**” means that Counterparty amends, modifies, supplements or obtains a waiver with respect to (A) any term of the Indenture or the Convertible Notes governing the principal amount, coupon, maturity, repurchase obligation of Counterparty, redemption right of Counterparty, any term relating to conversion of the Convertible Notes (including changes to the conversion ratio, conversion settlement dates or conversion conditions), or (B) any term that would require consent of the holders of not less than 100% of the principal amount of the Convertible Notes to amend, in each case without the prior written consent of Dealer, such consent not to be unreasonably withheld.

“**Repayment Event**” means that (A) any Convertible Notes are repurchased (whether in connection with or as a result of a change of control, howsoever defined, or for any other reason) by Counterparty or any of its subsidiaries, (B) any Convertible Notes are delivered to Counterparty or any of its subsidiaries in exchange for delivery of any property or assets of Counterparty or any of its subsidiaries (howsoever described), (C) any principal of any of the Convertible Notes is repaid prior to the final maturity date of the Convertible Notes (whether following acceleration of the Convertible Notes or otherwise), or (D) any Convertible Notes are exchanged by or for the benefit of the holders thereof for any other securities of Counterparty or any of its affiliates (or any other property, or any combination thereof) pursuant to any exchange offer or similar transaction; provided that, in the case of clause (B) and clause (D), conversions of the Convertible Notes pursuant to the terms of the Indenture as in effect on the date hereof shall not be Repayment Events.

- (c) **Understanding and Acknowledgement.** Counterparty understands and acknowledges that notwithstanding any other relationship between Counterparty and Dealer (and Dealer’s affiliates), in connection with this Transaction and any other over-the-counter derivative transaction between Counterparty and Dealer or Dealer’s affiliates, Dealer or its affiliates, as the case may be, is acting as principal and is not a fiduciary or adviser to Counterparty in respect of any such transaction, including any entry into or exercise, amendment, unwind or termination thereof.
- (d) **Amendments to Equity Definitions.** Section 12.9(b)(i) of the Equity Definitions is hereby amended by (1) replacing “either party may elect” with “Dealer may elect” and (2) replacing “notice to the other party” with “notice to Counterparty” in the first sentence of such section.
- (e) **Repurchase Notices.** On any day on which both (i) Counterparty effects any repurchase of Shares and (ii) Counterparty does not qualify as a “foreign private issuer” as defined in Rule 3b-4 under the Exchange Act, Counterparty shall promptly give Dealer a written notice of such repurchase (a

“**Repurchase Notice**”) on such day if following such repurchase, the Options Equity Percentage as determined on such day is (i) equal to or greater than 5.0% and (ii) greater by 0.5% than the Options Equity Percentage included in the immediately preceding Repurchase Notice (or, in the case of the first such Repurchase Notice, greater than the Options Equity Percentage as of the Trade Date). The “**Options Equity Percentage**” as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the product of the Number of Options in aggregate and the Option Entitlement under this Transaction or any other bond hedge transaction between the parties and (B) the denominator of which is the number of Shares outstanding on such day. Counterparty agrees to indemnify and hold harmless Dealer and its affiliates and their respective officers, directors, employees, affiliates, advisors, agents and controlling persons (each, an “**Indemnified Person**”) from and against any and all losses (including losses relating to Dealer’s hedging activities as a consequence of becoming, or of the risk of becoming, a Section 16 “insider”, including without limitation, any forbearance from hedging activities or cessation of hedging activities and any losses in connection therewith with respect to the Transaction), claims, damages, judgments, liabilities and expenses (including reasonable attorney’s fees), joint or several, which an Indemnified Person may become subject to, as a result of Counterparty’s failure to provide Dealer with a Repurchase Notice on the day and in the manner specified in this paragraph, and to reimburse, within 30 days, upon written request, each of such Indemnified Persons for any reasonable legal or other expenses incurred in connection with investigating, preparing for, providing testimony or other evidence in connection with or defending any of the foregoing. If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against the Indemnified Person in respect of the foregoing, such Indemnified Person shall promptly notify Counterparty in writing, and Counterparty, upon request of the Indemnified Person, shall retain counsel reasonably satisfactory to the Indemnified Person to represent the Indemnified Person and any others Counterparty may designate in such proceeding and shall pay the fees and expenses of such counsel related to such proceeding. Counterparty shall not be liable for any settlement of any proceeding contemplated by this paragraph that is effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, Counterparty agrees to indemnify any Indemnified Person from and against any loss or liability by reason of such settlement or judgment. Counterparty shall not, without the prior written consent of the Indemnified Person, effect any settlement of any pending or threatened proceeding contemplated by this paragraph that is in respect of which any Indemnified Person is or could have been a party and indemnity could have been sought hereunder by such Indemnified Person, unless such settlement includes an unconditional release of such Indemnified Person from all liability on claims that are the subject matter of such proceeding on terms reasonably satisfactory to such Indemnified Person. If the indemnification provided for in this paragraph is unavailable to an Indemnified Person or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then Counterparty hereunder, in lieu of indemnifying such Indemnified Person thereunder, shall contribute to the amount paid or payable by such Indemnified Person as a result of such losses, claims, damages or liabilities. The remedies provided for in this paragraph are not exclusive and shall not limit any rights or remedies which may otherwise be available to any Indemnified Person at law or in equity. The indemnity and contribution agreements contained in this paragraph shall remain operative and in full force and effect regardless of the termination of the Transaction

- (f) **Rule 10b-18.** Except as disclosed to Dealer in writing prior to the date on which the offering of the Convertible Notes was first announced, Counterparty represents and warrants to Dealer that it has not made any purchases of blocks by or for itself or any of its Affiliated Purchasers pursuant to the one block purchase per week exception in Rule 10b-18(b)(4) under the Exchange Act during each of the four calendar weeks preceding such date and the calendar week in which such date occurs (“**Rule 10b-18 purchase**,” “**blocks**” and “**Affiliated Purchaser**” each as defined in Rule 10b-18 under the Exchange Act (“**Rule 10b-18**”). Counterparty agrees and acknowledges that it shall not, and shall cause its affiliates and Affiliated Purchasers not to, directly or indirectly (including by means of a derivative instrument), enter into any transaction to purchase any Shares during the period beginning on such date and ending on the Last Initial Hedge Date (as defined below).

- (g) **Regulation M.** Counterparty represents and warrants to Dealer that Counterparty (A) was not on the date on which the offering of the Convertible Notes was first announced, has not since such date, and is not on the date hereof, engaged in a distribution, as such term is used in Regulation M under the Exchange Act (“**Regulation M**”), of any securities of Counterparty, other than the distribution of the Convertible Notes and (B) shall not engage in any “distribution,” as such term is defined in Regulation M, other than a distribution meeting the requirements of the exceptions set forth in sections 101(b)(10) and 102(b)(7) of Regulation M, until the second Exchange Business Day immediately following the Last Initial Hedge Date (as defined below).
- (h) **Early Unwind.** In the event (x) the sale of Convertible Notes is not consummated with the Initial Purchasers for any reason by 12:00 p.m. London time on September 13, 2017 (or such later date as agreed upon by the parties) or (y) the Initial Purchasers have terminated the Purchase Agreement pursuant to Section 10 thereof (September 13, 2017, such later agreed date, or the date Dealer becomes aware that the Initial Purchasers have terminated the Purchase Agreement, as applicable, the “**Early Unwind Date**”), the Transaction shall automatically terminate (the “**Early Unwind**”), on the Early Unwind Date and (i) the Transaction and all of the respective rights and obligations of Dealer and Counterparty under the Transaction shall be cancelled and terminated and (ii) each party shall be released and discharged by the other party from and agrees not to make any claim against the other party with respect to any obligations or liabilities of the other party arising out of and to be performed in connection with the Transaction either prior to or after the Early Unwind Date; *provided* that, unless the Early Unwind Date occurred as a result of a breach of the Purchase Agreement by Dealer, Counterparty shall purchase from Dealer on the Early Unwind Date all Shares purchased by Dealer or one of more of its affiliates for the purpose of hedging the Transaction and reimburse Dealer for any costs or expenses (including, without duplication, market losses) relating to the unwinding of its hedging activities in connection with the Transaction (including any loss or cost incurred as a result of its terminating, liquidating, obtaining or reestablishing any hedge or related trading position) *less* any gain for the Dealer for the unwind of such hedging activity. Any such unwind must be performed by the Dealer in a commercially reasonable manner, it being understood that Dealer shall not increase its hedge positions after the Early Unwind Date. The amount of any such reimbursement shall be determined by Dealer in its sole good faith discretion and, upon request by Counterparty, documented to Counterparty in reasonable detail. Dealer shall notify Counterparty of such amount and Counterparty shall pay such amount in immediately available funds on the Early Unwind Date. Dealer and Counterparty represent and acknowledge to the other that, subject to the proviso included in this paragraph, upon an Early Unwind, all obligations with respect to the Transaction shall be deemed fully and finally discharged.
- (i) **Transfer or Assignment.** Counterparty may not transfer or assign any of its rights or obligations under the Transaction or the Agreement without the prior written consent of Dealer. Notwithstanding any provision of the Agreement to the contrary, Dealer may, subject to applicable law, freely transfer and assign all of its rights and obligations under the Transaction or the Agreement without the consent of Counterparty to any affiliate of Dealer with a rating (or whose guarantor has a rating) for its long term, unsecured and unsubordinated indebtedness of A- or better by Standard & Poor’s Ratings Services or its successor (“**S&P**”), or A3 or better by Moody’s Investors Service, Inc. or its successor (“**Moody’s**”) or, if either S&P or Moody’s ceases to rate such debt, at least an equivalent rating or better by a substitute rating agency mutually agreed by Counterparty and Dealer.

If at any time at which (1) the Equity Percentage exceeds (A) for so long as Counterparty qualifies as a “foreign private issuer” as defined in Rule 3b-4 under the Exchange Act, 14.5% or (B) at any time Counterparty does not qualify as a “foreign private issuer” as defined in Rule 3b-4 under the Exchange Act, 8.0% or (2) Dealer, Dealer Group (as defined below) or any person whose ownership position would be aggregated with that of Dealer or Dealer Group (Dealer, Dealer Group or any such person, a “**Dealer Person**”) under any relevant Dutch corporate law or state or federal or non-U.S. bank holding company or banking laws, or other federal, state, local or non-U.S. laws, regulations, regulatory orders or organizational documents or contracts of Counterparty that are applicable to ownership of Shares, other than Chapter 5.3 of the Dutch Financial Supervision Act (*Wet op het financieel toezicht*), (“**Applicable Laws**”), owns, beneficially owns, constructively owns, controls,

holds the power to vote or otherwise meets a relevant definition of ownership in excess of a number of Shares equal to (x) the number of Shares that would give rise to reporting or registration obligations or other requirements (including obtaining prior approval by a state, federal, local or non-U.S. regulator) of a Dealer Person, or could result in an adverse effect on a Dealer Person, as determined by Dealer in its reasonable discretion, under Applicable Laws and with respect to which such requirements have not been met or the relevant approval has not been received *minus* (y) 1.0% of the number of Shares outstanding on the date of determination (either such condition described in clause (1) or (2), an “**Excess Ownership Position**”) and Dealer is unable, after commercially reasonable efforts, to effect a transfer or assignment on pricing terms and within a time period reasonably acceptable to it of all or a portion of the Transaction such that an Excess Ownership Position no longer exists, Dealer may designate any Scheduled Trading Day as an Early Termination Date with respect to a portion (the “**Terminated Portion**”) of the Transaction, such that an Excess Ownership Position no longer exists. In the event that Dealer so designates an Early Termination Date with respect to a portion of this Transaction, a payment shall be made pursuant to Section 6 of the Agreement as if (x) an Early Termination Date had been designated in respect of a Transaction having terms identical to this Transaction and a Number of Shares equal to the Terminated Portion, (y) Counterparty shall be the sole Affected Party with respect to such partial termination and (z) such Transaction shall be the only Terminated Transaction. The “**Equity Percentage**” as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares that Dealer and any of its affiliates subject to aggregation with Dealer, for purposes of the “beneficial ownership” test under Section 13 of the Exchange Act, and all persons who may form a “group” (within the meaning of Rule 13d-5(b)(1) under the Exchange Act) with Dealer (“**Dealer Group**”), beneficially own (within the meaning of Section 13 of the Exchange Act) on such day and (B) the denominator of which is the number of Shares outstanding on such day.

- (j) **Ratings Decline.** If at any time the long term, unsecured and unsubordinated indebtedness of Dealer is rated lower than Baa3 by Moody’s and lower than BBB- by S&P (any such rating, a “**Ratings Downgrade**”), then Counterparty may, at any time following the occurrence and during the continuation of such Ratings Downgrade, provide written notice to Dealer specifying that it elects for this provision to apply (a “**Trigger Notice**”). Upon receipt by Dealer of a Trigger Notice from Counterparty, Dealer shall promptly elect that either (i) the parties shall negotiate in good faith terms for collateral arrangements (including, at Dealer’s election, custody by a third party) pursuant to which Dealer is required to provide collateral (including, but not limited to, equity or equity-linked securities issued by Counterparty) to Counterparty in respect of the Transaction with a value equal to the full mark-to-market exposure of Counterparty under the Transaction, as determined by Dealer in a good faith commercially reasonable manner, or (ii) an Additional Termination Event shall occur and, with respect to such Additional Termination Event, (A) Counterparty shall be deemed to be the sole Affected Party, and (B) the Transaction shall be the sole Affected Transaction. If requested by Counterparty at any time following the Premium Payment Date, the parties shall commence negotiation of documentation for such collateral arrangements.
- (k) *Reserved.*
- (l) **Bail-In Protocol.** Notwithstanding anything contained in this Agreement, the parties agree that the provisions of the ISDA 2016 Bail-In Article 55 BRRD Protocol published by the International Swaps and Derivatives Association, Inc. on 14 July 2016 (the “**Bail-In Protocol**”) shall be deemed to be incorporated into and apply to the Agreement with effect from the date of this Confirmation as if references in those provisions to “Protocol Covered Agreement” as defined in the Bail-in Protocol were references to the Agreement, and on the basis that references to the “Implementation Date” in the Bail-in Protocol shall be deemed to be references to the date of this Confirmation.
- (m) **Netting and Setoff.** In addition to any rights of set-off a party may have as a matter of law or otherwise, upon the occurrence of an Event of Default or Termination Event with respect to a party who is the Defaulting Party or the Affected Party (“**X**”), the other party (“**Y**”) will have the right (but not be obliged) without prior notice to X or any other person to set off or apply any obligation of X owed to Y (whether or not matured or contingent and whether or not arising under the Agreement,

and regardless of the currency, place of payment or booking office of the obligation) against any obligation of Y owed to X (whether or not matured or contingent and whether or not arising under the Agreement, and regardless of the currency, place of payment or booking office of the obligation). Y will give notice to the other party of any set-off effected under this paragraph. Amounts (or the relevant portion of such amounts) subject to set-off may be converted by Y into the Termination Currency at the rate of exchange at which such party would be able, acting in a reasonable manner and in good faith, to purchase the relevant amount of such currency. If any obligation is unascertained, Y may in good faith estimate that obligation and set-off in respect of the estimate, subject to the relevant party accounting to the other when the obligation is ascertained. Nothing in this section shall be effective to create a charge or other security interest. Notwithstanding the foregoing, the rights of Y pursuant to this provision shall not permit the exercise of set-off rights in respect of obligations owed by either party pursuant to any Equity Contract. **“Equity Contract”** shall mean for purposes of this paragraph any transaction relating to Shares between X and Y that qualifies as ‘equity’ under accounting rules applicable to Counterparty.

- (n) **Contractual Recognition of UK Stay in Resolution.** Notwithstanding anything contained in Agreement, the parties agree that the provisions of paragraphs 1 to 4 (inclusive) of the UK (PRA Rule) Jurisdictional Module (the **“UK Module”**) published by the International Swaps and Derivatives Association, Inc. on 3 May 2016, as amended from time to time, shall be deemed to be incorporated into the Agreement as if references in those provisions to “Covered Agreement” were references to the Agreement, and on the basis that: (i) Dealer shall be treated as a “Regulated Entity” and as a “Regulated Entity Counterparty” with respect to Counterparty, (ii) Counterparty shall be treated as a “Module Adhering Party”, and (iii) references to the “Implementation Date” in the UK Module shall be deemed to be references to 1 January 2017.
- (o) **Withholding Tax Imposed on Payments to Non-US Counterparties Under the United States Foreign Account Tax Compliance Act.** “Indemnifiable Tax” as defined in Section 14 of this Agreement shall not include any U.S. federal withholding tax imposed or collected pursuant to Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986, as amended (the **“Code”**), any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code (a **“FATCA Withholding Tax”**). For the avoidance of doubt, a FATCA Withholding Tax is a Tax the deduction or withholding of which is required by applicable law for the purposes of Section 2(d) of this Agreement.
- (p) **Registration.** Counterparty hereby agrees that if, in the good faith reasonable judgment of Dealer, the Shares (**“Hedge Shares”**) acquired by Dealer for the purpose of hedging its obligations pursuant to the Transaction cannot be sold in the public market by Dealer without registration under the Securities Act, Counterparty shall, at its election, either (i) in order to allow Dealer to sell the Hedge Shares in a registered offering, make available to Dealer an effective registration statement under the Securities Act and (A) enter into an agreement, in form and substance satisfactory to Dealer, substantially in the form of an underwriting agreement for a registered offering (without any underwriter compensation), (B) provide accountant’s “comfort” letters customary in form for registered offerings of equity securities, (C) provide disclosure opinions of nationally recognized outside counsel to Counterparty reasonably acceptable to Dealer, (D) provide other customary opinions, certificates and closing documents customary in form for registered offerings of equity securities and (E) afford Dealer a reasonable opportunity to conduct a due diligence investigation with respect to Counterparty customary in scope for underwritten offerings of equity securities; *provided, however*, that if Dealer, in its sole reasonable discretion, is not satisfied with access to due diligence materials, the results of its due diligence investigation, or the procedures and documentation for the registered offering referred to above, then clause (ii) or clause (iii) of this paragraph shall apply at the election of Counterparty; (ii) in order to allow Dealer to sell the Hedge Shares in a private placement, enter into and comply with a private placement agreement substantially similar to private placement purchase agreements customary for private placements of equity securities, in form and substance satisfactory to Dealer (in which case, the Calculation Agent shall make any adjustments

to the terms of the Transaction that are necessary, in its reasonable judgment, to compensate Dealer for any commercially reasonable discount from the public market price of the Shares incurred on the sale of Hedge Shares in a private placement); or (iii) purchase the Hedge Shares from Dealer at the closing price on such Exchange Business Days, and in the amounts, requested by Dealer.

- (q) **Tax Disclosure.** Notwithstanding anything to the contrary herein, in the Equity Definitions or in the Agreement, and notwithstanding any express or implied claims of exclusivity or proprietary rights, the parties (and each of their employees, representatives or other agents) are authorized to disclose to any and all persons, beginning immediately upon commencement of their discussions and without limitation of any kind, the tax treatment and tax structure of the Transaction, and all materials of any kind (including opinions or other tax analyses) that are provided by either party to the other relating to such tax treatment and tax structure.
- (r) **2015 Section 871(m) Protocol:** Dealer is adherent to the ISDA 2015 Section 871(m) Protocol published by the International Swaps and Derivatives Association, Inc. on November 2, 2015, as may be amended or modified from time to time (the “**2015 Section 871(m) Protocol**”). In the event that Counterparty is not an adherent to the 2015 Section 871(m) Protocol, Dealer and Counterparty hereby agree that this Agreement shall be treated as a Covered Master Agreement (as that term is defined in the 2015 Section 871(m) Protocol) and this Agreement shall be deemed to have been amended in accordance with the modifications specified in the Attachment to the 2015 Section 871(m) Protocol.
- (s) **Securities Contract.** The parties hereto agree and acknowledge that Dealer is one or more of a “financial institution” and “financial participant” within the meaning of Sections 101(22) and 101(22A) of the Bankruptcy Code. The parties hereto further agree and acknowledge (A) that this Confirmation is a “securities contract,” as such term is defined in Section 741(7) of the Bankruptcy Code, with respect to which each payment and delivery hereunder or in connection herewith is a “termination value,” “payment amount” or “other transfer obligation” within the meaning of Section 362 of the Bankruptcy Code and a “settlement payment” (as such term is defined in Section 741(8) of the Bankruptcy Code) or a “transfer” within the meaning of Section 546 of the Bankruptcy Code and (B) that Dealer is entitled to the protections afforded by, among other sections, Section 362(b)(6), 362(b)(27), 362(o), 546(e), 546(j), 548(d)(2), 555 and 561 of the Bankruptcy Code.
- (t) **No Material Non-Public Information.** Dealer shall provide a written notice to Counterparty promptly following the date on which Dealer has completed all purchases of Shares or other transactions to hedge initially its exposure with respect to the Transaction (such date, the “**Last Initial Hedge Date**”), which it shall complete as soon as reasonably practicable. On each day during the period beginning on the Trade Date and ending on the earlier of (i) the 3<sup>rd</sup> Exchange Business Day following the Trade Date and (ii) the Last Initial Hedge Date, Counterparty represents and warrants to Dealer that none of Counterparty and its officers and directors is aware or in possession of any material non-public information or any information constituting inside information (*voorwetenschap*), as defined in article 5:53 of the Dutch Financial Markets Supervision Act, concerning Counterparty, the Shares or trading in the shares. “Material” information for these purposes is any information to which an investor would reasonably attach importance in reaching a decision to buy, sell or hold any securities of Counterparty.
- (u) **Right to Extend.** Dealer may postpone any Exercise Date or postpone or extend any other date of valuation or delivery with respect to some or all of the relevant Options (in which event the Calculation Agent shall make appropriate adjustments to the Cash Settlement Amount for such Options), if Dealer determines, in its commercially reasonable discretion, that such postponement or extension is necessary or appropriate to preserve Dealer’ or its affiliate’s hedging or hedge unwind activity hereunder in light of existing liquidity conditions or to enable Dealer or its affiliate to effect purchases of Shares in connection with its hedging, hedge unwind or settlement activity hereunder in a manner that would, if Dealer or such affiliate were Issuer or an affiliated purchaser of Issuer, be in compliance with applicable legal, regulatory or self-regulatory requirements, or with related policies and procedures applicable to Dealer and/or such affiliate; provided that Dealer may not postpone or extend any such date by more than 100 Trading Days.



- (v) **Wall Street Transparency and Accountability Act of 2010.** The parties hereby agree that none of (i) Section 739 of the Wall Street Transparency and Accountability Act of 2010 (the “WSTAA”), (ii) any similar legal certainty provision included in any legislation enacted, or rule or regulation promulgated, on or after the Trade Date, (iii) the enactment of the WSTAA or any regulation under the WSTAA, (iv) any requirement under the WSTAA or (v) any amendment made by the WSTAA shall limit or otherwise impair either party’s right to terminate, renegotiate, modify, amend or supplement this Confirmation, any Transaction hereunder or the Agreement, as applicable, arising from a termination event, force majeure, illegality, increased cost, regulatory change or similar event under this Confirmation, the Equity Definitions or the Agreement (including, but not limited to, any right arising from any Change in Law, Insolvency Filing, Hedging Disruption, Increased Cost of Hedging, Loss of Stock Borrow, Increased Cost of Stock Borrow, or Illegality (as defined in the Agreement)).
- (w) **Payments on Early Termination.** The parties hereto agree that for the Transaction, for the purposes of Section 6(e) of the Agreement, Second Method and Loss will apply and in the event that (i) an Early Termination Date occurs or is designated with respect to the Transaction as a result of a Termination Event or an Event of Default (other than an Event of Default arising under Section 5(a) (ii) or 5(a)(iv) of the Agreement) and, as a result, Counterparty owes to Dealer pursuant to Section 6(e) of the Agreement an amount calculated thereunder, such amount shall be deemed to be zero. The Termination Currency shall be USD.
- (x) **Governing Law.** This Confirmation and the Agreement, and any claims, causes of action or disputes arising hereunder or thereunder or relating hereto or thereto, shall be governed by the laws of the State of New York (without reference to choice of law doctrine that would lead to the application of the laws of any jurisdiction other than New York).
- (y) **Waiver of Jury Trial.** EACH PARTY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING RELATING TO THE TRANSACTION. EACH PARTY (I) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF SUCH A SUIT, ACTION OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER AND (II) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HAVE BEEN INDUCED TO ENTER INTO THE TRANSACTION, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS PROVIDED HEREIN.
- (z) **Submission to Jurisdiction.** THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK AND THE UNITED STATES COURT FOR THE SOUTHERN DISTRICT OF NEW YORK IN CONNECTION WITH ALL MATTERS RELATING HERETO AND WAIVE ANY OBJECTION TO THE LAYING OF VENUE IN, AND ANY CLAIM OF INCONVENIENT FORUM WITH RESPECT TO, THESE COURTS.
- (aa) **Process Agent.** For purposes of Section 13(c) of the Agreement, Counterparty appoints QIAGEN North American Holdings, Inc. at 19300 Germantown Road, Germantown, MD 20874 as its Process Agent.
- (bb) *Reserved.*
- (cc) *Reserved.*
- (dd) **Part 2(b) of the ISDA Schedule – Payee Representation:**

For the purpose of Section 3(f) of this Agreement, Counterparty makes the following representation to Dealer:

No payment received or to be received by Counterparty under this Agreement will be effectively connected to the conduct of a trade or business within the United States.

For the purpose of Section 3(f) of this Agreement, Dealer makes the following representation to Counterparty:

No payment received or to be received by Dealer under this Agreement will be effectively connected to the conduct of a trade or business within the United States.

(ee) **Part 3(a) of the ISDA Schedule – Tax Forms:**

**Party Required to Deliver Document**

	Form/Document/Certificate	Date by which to be Delivered
Counterparty	A complete and duly executed United States Internal Revenue Service Form W-8BEN-E (or successor thereto.)	(i) Upon execution and delivery of this Agreement; (ii) promptly upon reasonable demand by Dealer; and (iii) promptly upon learning that any such Form previously provided by Counterparty has become obsolete or incorrect.
Dealer	A complete and duly executed United States Internal Revenue Service Form [ ] (or successor thereto.)	(i) Upon execution and delivery of this Agreement; (ii) promptly upon reasonable demand by Counterparty; and (iii) promptly upon learning that any such Form previously provided by Dealer has become obsolete or incorrect.

(ff) **Additional ISDA Schedule Terms**

(i) **Automatic Early Termination.** The “Automatic Early Termination” provision of Section 6(a) of the Agreement will not apply to Dealer and will not apply to Counterparty.

(ii) **Consent to Recording.** Each party (i) consents to the monitoring or recording, at any time and from time to time, by the other party of any and all communications between officers or employees of the parties, (ii) waives any further notice of such monitoring or recording, and (iii) agrees to notify (and, if required by law, obtain the consent of) its officers and employees with respect to such monitoring or recording. Any such recording may be submitted in evidence to any court or in any Proceeding for the purpose of establishing any matters pertinent to this Transaction.

(iii) **Severability.** In the event any one or more of the provisions contained in this Confirmation or the Agreement shall be held illegal, invalid or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby.

(gg) **Foreign Merger.** If, at any reasonable time following the occurrence of any Foreign Merger, the Calculation Agent reasonably determines in its good faith judgment that (x) such Foreign Merger has had a material adverse effect on Dealer’s rights and obligations under the Transaction or (y) Dealer would incur an increased (as compared with circumstances existing on the Trade Date) amount of tax, duty, expense or fee (other than brokerage commissions and excluding (I) any *de minimis* increased amount of tax, duty, expense or fee, as determined by the Calculation Agent, and (II) such increased amount that is incurred solely due to the deterioration of the creditworthiness of Dealer and/or any of its affiliates that are conducting hedging in connection with this Transaction), to (1) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the economic risk of entering into and performing its obligations with respect to the Transaction, or (2) realize, recover or remit the proceeds of any such transaction(s) or

asset(s) (each of the events described in clause (x) and clause (y) above, a “**Foreign Merger Event**”), then, in either case, the Calculation Agent shall give prompt notice to Counterparty of such Foreign Merger Event, and Dealer, the issuer of the Affected Shares and the New Issuer shall work in good faith to negotiate and enter into additional documentation or modify the terms of the existing documentation in a manner that Dealer has determined, in its reasonable discretion, to be reasonably necessary or appropriate to allow Dealer and Counterparty to continue, or New Issuer to accede, as applicable, as a party to the Transaction in the context of the Foreign Merger Event. If the additional documentation or modification to the terms of the existing documentation has not been mutually agreed to within 5 Scheduled Trading Days of the Calculation Agent’s notice, the Calculation Agent shall give notice to Counterparty of a commercially reasonable Price Adjustment that the Calculation Agent determines, in its good faith, commercially reasonable judgment, appropriate to account for the economic effect on the Transaction of such Foreign Merger Event (without duplication of any adjustments determined pursuant to any other provision of this Transaction) and provide Counterparty with supporting documentation for such Price Adjustment (unless the Calculation Agent determines in its good faith, commercially reasonable judgment that no Price Adjustment will produce a commercially reasonable result, in which case the Calculation Agent shall so notify Counterparty). Unless the Calculation Agent determines in its good faith, commercially reasonable judgment that no Price Adjustment will produce a commercially reasonable result, within two Scheduled Trading Days of receipt of such notice, Counterparty shall notify Dealer that it elects to (A) agree to amend the Transaction to take into account such Price Adjustment or (B) pay Dealer an amount determined by the Calculation Agent (and in respect of which the Calculation Agent has provided to Counterparty supporting documentation) that corresponds to such Price Adjustment (and, in each case, Counterparty shall be deemed to have repeated the representation set forth in Section 5(t) of this Confirmation as of the date of such election). If Counterparty fails to give such notice to Dealer of its election by the end of that second Scheduled Trading Day, or if the Calculation Agent determines in its good faith, commercially reasonable judgment that no Price Adjustment will produce a commercially reasonable result, then such failure or such determination, as the case may be, shall constitute an Additional Termination Event applicable to the Transaction and, with respect to such Additional Termination Event, (1) Counterparty shall be deemed to be the sole Affected Party, (2) the Transaction shall be the sole Affected Transaction and (3) Dealer shall be the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement.

- (hh) **Reporting Confidentiality.** The parties agree that solely as between Dealer and Counterparty, the definitions and provisions contained in the ISDA 2013 Reporting Protocol published by the International Swaps and Derivatives Association, Inc. on May 10, 2013, including the Attachment thereto (the “**Reporting Protocol**”), will be deemed to be incorporated into this Confirmation, mutatis mutandis, as though such definitions and provisions were set out in full herein, with such conforming changes as are necessary to deal with what would otherwise be inappropriate or incorrect cross references. The parties further agree that the Implementation Date (as such term is defined in the Reporting Protocol) shall be the Trade Date of this Confirmation.

6. **Account Details:**

- (a) Account for payments to Counterparty:

Bank: Deutsche Bank Trust Company Americas  
SWIFT: BKTRUS33  
Acct: Qiagen N.V.  
Acct No.: 04900890

- (b) Account for payments to Dealer:

To be advised separately.

7. **Offices:**

The Office of Counterparty for the Transaction is: Inapplicable, Counterparty is not a Multibranch Party.

The Office of Dealer for the Transaction is: Inapplicable, Dealer is not a Multibranch Party.

8. **Notices:**

For purposes of this Confirmation:

- (a) Address for notices or communications to Counterparty:

Qiagen N.V.  
Hulsterweg 82  
5912 PL Venlo  
The Netherlands  
Attention: Global Treasury  
Telephone No.: 31 77 355 6644  
Facsimile No.: 31 77 355 6640

- (b) Address for notices or communications to Dealer:

[ ]

This Confirmation may be executed in several counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

Please confirm that the foregoing correctly sets forth the terms of our agreement by executing a copy of this Confirmation and returning it to us.

[ ]

By: \_\_\_\_\_  
Name:  
Title:

Confirmed as of the date first written:

**QIAGEN N.V.**

By: \_\_\_\_\_  
Name:  
Title:

SCHEDULE A

For purposes of this Transaction, the following terms shall have the following values/meanings:

1. Strike Price: USD200,000.00 *divided* by 4,829.7279, or approximately USD41.4102
2. Premium: [ ]
3. Premium Payment Date: The closing date for the initial issuance of the Convertible Notes

## LIST OF SUBSIDIARIES

The following is a list of the Registrant's subsidiaries as of December 31, 2017, other than certain subsidiaries that did not in the aggregate constitute a significant subsidiary.

<b>Company Name</b>	<b>Jurisdiction of Incorporation</b>
Amnisure International, LLC	USA
Cellectis Ltd.	Australia
MO BIO Laboratories, Inc.	USA
QIAGEN Aarhus A/S	Denmark
QIAGEN AB	Sweden
QIAGEN AG	Switzerland
QIAGEN Australia Holding Pty. Ltd.	Australia
QIAGEN Benelux B.V.	Netherlands
QIAGEN Beverly, Inc.	USA
QIAGEN China (Shanghai) Co. Ltd.	China
QIAGEN Deutschland Holding GmbH	Germany
QIAGEN Finance (Ireland) Ltd.	Ireland
QIAGEN Finance (Malta) Ltd.	Malta
QIAGEN France S.A.S.	France
QIAGEN Gaithersburg, Inc.	USA
QIAGEN GmbH	Germany
QIAGEN Hamburg GmbH	Germany
QIAGEN Inc. (Canada)	Canada
QIAGEN Inc. (USA)	USA
QIAGEN Instruments AG	Switzerland
QIAGEN K.K.	Japan
QIAGEN Lake Constance GmbH	Germany
QIAGEN Ltd.	UK
QIAGEN Manchester Ltd.	UK
QIAGEN Marseille SA	France
QIAGEN North American Holdings Inc.	USA
QIAGEN Pty. Ltd.	Australia
QIAGEN Redwood City, Inc.	USA
QIAGEN Sciences, LLC	USA
QIAGEN S.r.l.	Italy
QIAGEN U.S. Finance Holdings (Luxembourg) SARL	Luxembourg
QIAGEN U.S. Finance, Inc.	USA
QIAGEN Waltham, Inc.	USA

## CERTIFICATION UNDER SECTION 302

I, Peer M. Schatz, certify that:

1. I have reviewed this annual report on Form 20-F of QIAGEN N.V;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the company as of, and for, the periods presented in this report;
4. The company's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the company and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and
5. The company's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the audit committee of the company's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the company's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the company's internal control over financial reporting.

Date: March 5, 2018

/s/ Peer M. Schatz

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Peer M. Schatz

Managing Director and Chief Executive Officer



## CERTIFICATION UNDER SECTION 302

I, Roland Sackers, certify that:

1. I have reviewed this annual report on Form 20-F of QIAGEN N.V;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the company as of, and for, the periods presented in this report;
4. The company's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the company and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and
5. The company's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the audit committee of the company's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the company's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the company's internal control over financial reporting.

Date: March 5, 2018

/s/ Roland Sackers

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Roland Sackers  
Managing Director and Chief Financial Officer

## CERTIFICATIONS UNDER SECTION 906

Pursuant to section 906 of the Sarbanes-Oxley Act of 2002 (subsections (a) and (b) of section 1350, chapter 63 of title 18, United States Code), each of the undersigned officers of QIAGEN N.V., does hereby certify, to such officer's knowledge, that:

The Annual Report for the year ended December 31, 2017 (the "Form 20-F") of the Company fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, and the information contained in the Form 20-F fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: March 5, 2018

/s/ Peer M. Schatz

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Peer M. Schatz

Managing Director and Chief Executive Officer

Dated: March 5, 2018

/s/ Roland Sackers

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Roland Sackers

Managing Director and Chief Financial Officer

**Consent of Independent Registered Public Accounting Firm**

The Supervisory Board  
QIAGEN N.V.:

We consent to the incorporation by reference in the registration statement (No. 333-162052) on Form F-3 and the registration statements (Nos. 333-178035, 333-127393, 333-145171, 333-203220, and 333-217742) on Form S-8 of QIAGEN N.V. of our reports dated March 5, 2018 with respect to the consolidated balance sheets of QIAGEN N.V. as of December 31, 2017 and 2016, and the related consolidated statements of income, comprehensive income, changes in equity, and cash flows for each of the years in the three-year period ended December 31, 2017, and the related notes and financial statement schedule as listed in Item 18 (A) (collectively, the “consolidated financial statements”), and the effectiveness of internal control over financial reporting as of December 31, 2017, which reports appear in the December 31, 2017 annual report on Form 20-F of QIAGEN N.V.

/s/ KPMG AG Wirtschaftsprüfungsgesellschaft

Düsseldorf, Germany  
March 5, 2018