

**Declaration by the Management Board and Supervisory Board  
of Fresenius SE  
on the recommendations of the  
“Government Commission on the German Corporate Governance Code”  
as amended on June 6, 2008 and  
in accordance with Art 161 German Stock Corporation Act (AktG)**

The Management Board and the Supervisory Board of Fresenius SE declare that the recommendations of the “Government Commission on the German Corporate Governance Code” published by the Federal Ministry of Justice in the official section of the electronic Federal Gazette have been and are being complied with and were complied with in the past. The Management Board and the Supervisory Board also intend to follow the recommendations of the German Corporate Governance Code in the future. Merely the following recommendations have not been or are not being adhered to:

- Code clause 4.2.3 paragraph 3 recommends that the Supervisory Board shall agree to a cap for stock options and comparable instruments in the event of extraordinary, unforeseen developments. The Stock Option Plan 2008 does not contain any such regulation.
- Pursuant to clause 5.4.1 of the Code, an age limit is to be specified for the members of the Supervisory Board. According to clause 5.1.2 paragraph 2, the same shall apply to the members of the Management Board. As in the past, Fresenius will refrain from introducing an age limit for members of the Management and Supervisory Boards, as this would limit the selection of qualified candidates.
- Pursuant to Code clause 4.2.2 paragraph 1, at the proposal of the committee dealing with Management Board contracts, the full Supervisory Board shall resolve on and regularly review the remuneration system for the Management Board including the major contract elements. The Personnel Committee of the Supervisory Board of Fresenius is responsible for determining and regularly reviewing the remuneration system for the Management Board including the major contract elements.
- Pursuant to Code clause 4.2.3 paragraph 4, in concluding Management Board contracts, care shall be taken to ensure that payments made to a Management Board member on premature termination of his contract without good cause including all ancillary payments, do not exceed the value of two years’ compensation (severance payment cap) and remunerate for no more than the remaining term of

the contract. The employment contracts of the members of the Management Board of Fresenius SE do not include any provision for the event of a premature termination of the contract without good cause. Such severance provisions would conflict with the concept practiced by Fresenius in accordance with the German Stock Corporation Act of regularly concluding employment contracts with members of the Management Board for the period of the appointment. As matter of principle, therefore, any premature termination of the employment contract requires a good cause.

Bad Homburg, May 8, 2009

Supervisory Board

Management Board