

DIEBOLD INC  
Form 424B3  
February 09, 2016  
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Filed Pursuant to Rule 424(b)(3)  
Registration No. 333-208186

This document has neither been reviewed nor approved by the German Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht*) (BaFin). In connection with the voluntary takeover offer (*Freiwilliges Übernahmeangebot*) that is being made in accordance with the German Takeover Act (*Wertpapiererwerbs- und Übernahmegesetz*) and applicable regulations to acquire all ordinary shares in Wincor Nixdorf Aktiengesellschaft, Diebold, Incorporated (the Bidder) filed a German language exchange offer document with BaFin, which publication was approved by BaFin on February 4, 2016 (the Offer Document). The Offer Document and an English translation thereof that was neither reviewed nor approved by BaFin were published by the Bidder on February 5, 2016 on the internet at <http://www.Diebold.com> under *Company/Investor Relations*. This document and the English translation of the Offer Document that was published by the Bidder on the internet at <http://www.Diebold.com> on February 5, 2016 are identical in all substantive respects, except that this document includes under 35. *Exhibits* additional sections entitled *Unaudited Condensed Group Interim Financial Statements of Wincor Nixdorf Aktiengesellschaft for the Three Months Ended December 31, 2015 and Selected Explanatory Notes*, *Legal Matters*, *Experts*, *Incorporation by Reference*, and a copy of the Business Combination Agreement. In addition, this document does not include a report pursuant to paragraph 20.2 of Annex I of Commission Regulation (EC) No 809/2004. These modifications do not affect the Offer Document under which the offer is being made. Where this document makes reference to its publication pursuant to the German Takeover Act or that its publication has been approved by BaFin, such reference shall be deemed to relate to the Offer Document only.

Shareholders of Wincor Nixdorf Aktiengesellschaft, particularly shareholders with a place of residence, registered office or habitual abode outside of Germany, should pay particular attention to Section 1 of this Offer Document.

## OFFER DOCUMENT

Voluntary Public Takeover Offer

(Combined Cash and Exchange Offer)

by

Diebold, Incorporated

Edgar Filing: DIEBOLD INC - Form 424B3

5995 Mayfair Road, P.O. Box 3077, North Canton, Ohio 44720-8077,

United States

to the shareholders of

**Wincor Nixdorf Aktiengesellschaft**

Heinz-Nixdorf-Ring 1, 33106 Paderborn,

Germany

to acquire all ordinary bearer shares of Wincor Nixdorf Aktiengesellschaft

without par value for

**payment of 38.98**

**and**

**0.434 common shares of Diebold, Incorporated**

**for**

**each tendered share of Wincor Nixdorf Aktiengesellschaft**

**Acceptance Period:**

**February 5, 2016 to March 22, 2016, at 24:00 hours (Central European Time)**

Wincor Nixdorf Shares: ISIN DE000A0CAYB2

Tendered Wincor Nixdorf Shares: ISIN DE000A169QN2

Diebold Shares: ISIN US2536511031

Common shares of Diebold, Incorporated are traded on the New York Stock Exchange under the symbol DBD.

**The offer is subject to the satisfaction or, where permissible, waiver of certain conditions. Settlement of the offer and payment of the offer consideration will not be made until the regulatory condition has been satisfied (or waived). If the regulatory condition is not satisfied (or waived) on or prior to November 21, 2016, the offer will terminate and settlement will not occur. As a result, settlement of the offer and payment of the offer consideration may be made on a date that is significantly later than the expiration of the offer acceptance period (after which withdrawal rights will cease) or the expiration of the additional acceptance period, or may not occur.**

**Neither the U.S. Securities and Exchange Commission nor any U.S. state securities commission or regulatory authority has approved or disapproved of the securities to be issued in connection with the business**

**combination or passed upon the adequacy or accuracy of this document. Any representation to the contrary is a criminal offense under U.S. law.**

**Information about the exchange offer is contained in this exchange offer document, which we urge you to read. In particular, see Risk Factors beginning on page 1 in Annex 4 of this document.**

**Prospectus dated February 5, 2016.**

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**1.1 Implementation of the Takeover Offer According to the Provisions of the German Securities Acquisition and Takeover Act**

This offer document (the **Offer Document** ) describes the voluntary public takeover offer by way of a combined cash and exchange offer (the **Takeover Offer** ) made by Diebold, Incorporated, registered under the laws of the state of Ohio, United States and with its principal executive offices at 5995 Mayfair Road, P.O. Box 3077, North Canton, Ohio 44720-8077, United States (the **Bidder** , and together with its subsidiaries and affiliated companies, the **Diebold Group** ), to the shareholders of Wincor Nixdorf Aktiengesellschaft, with its registered office in Paderborn, Germany, registered with the commercial register (*Handelsregister*) of the Local Court Paderborn under registration number HRB 6846 (the **Target** or **Wincor Nixdorf** , and together with its subsidiaries and affiliated companies, the **Wincor Nixdorf Group** ) (the shareholders of **Wincor Nixdorf**, the **Wincor Nixdorf Shareholders** and the ordinary bearer shares without par value of Wincor Nixdorf with the International Securities Identification Number ( **ISIN** ) DE000A0CAYB, the **Wincor Nixdorf Shares** ).

The Takeover Offer is a voluntary public offer to acquire securities pursuant to the German Securities Acquisition and Takeover Act (*Wertpapiererwerbs- und Übernahmegesetz*, the **Takeover Act** ) in conjunction with the German Regulation on the Content of the Offer Document, Consideration for Takeover Offers and Mandatory Offers and the Release from the Obligation to Publish and Issue an Offer (*Verordnung über den Inhalt der Angebotsunterlage, die Gegenleistung bei Übernahmeangeboten und Pflichtangeboten und die Befreiung von der Verpflichtung zur Veröffentlichung und zur Abgabe eines Angebots* WpÜG-Angebotsverordnung, the **Takeover Offer Regulation** ). The Takeover Offer is exclusively carried out in accordance with German law and applicable provisions of the securities laws of the United States of America (the **United States** ), including the U.S. Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (the **Exchange Act** ) and the U.S. Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder (the **Securities Act** ).

Pursuant to applicable U.S. securities laws, including Section 5 of the Securities Act, and Rule 145 thereunder, the Bidder is required to file a registration statement on Form S-4 (the **Registration Statement** ) with respect to the common shares (ISIN US2536511031) offered in this Takeover Offer (the **Diebold Offer Shares** ). The Takeover Offer may only be settled after the U.S. Securities and Exchange Commission (the **SEC** ) declares the Registration Statement effective. Once the Bidder has satisfactorily addressed all SEC comments in an amendment to the Registration Statement, the Bidder may request effectiveness and the SEC will declare the Registration Statement effective. The Diebold Offer Shares will be fully fungible with the other common shares of the Bidder (the Diebold Offer Shares and the other common shares of the Bidder together, the **Diebold Shares** ), including with respect to dividend entitlements (based on the Bidder's quarterly dividend distribution) as well as voting rights, and the Diebold Offer Shares will be admitted to trading on the New York Stock Exchange (the **NYSE** ) and all Diebold Shares will be admitted to trading on the Frankfurt Stock Exchange (*Frankfurter Wertpapierbörse*) ( **Frankfurt Stock Exchange** ). On the basis of the Early Commencement Rule (as defined in Section 10.2.2), the Bidder may begin the Takeover Offer pursuant to a preliminary prospectus filed with the SEC prior to the effectiveness of the Registration Statement (see Section 10.2).

**Annex 4** contains information according to Section 2 no. 2 of the Takeover Offer Regulation in conjunction with Section 7 of the German Securities Prospectus Act (*Wertpapierprospektgesetz*, the **Securities Prospectus Act** ) and the Commission Regulation (EC) No 809/2004 of April 29, 2004 implementing Directive 2003/71/EC of the European Parliament and of the European Council with regards to information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements (the **EU**

**Prospectus Regulation** ). **Annex 4** forms part of this Offer Document and should be read together with the main part of this Offer Document.

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With the exception of **Annex 1** (Financing Confirmation), **Annex 2** (List of Persons Acting in Concert with the Bidder (Subsidiaries of Diebold)), **Annex 3** (List of Persons Acting in Concert with the Target (Subsidiaries of Wincor Nixdorf)), **Annex 4** (Section 2 no. 2 of the Takeover Offer Regulation in conjunction with Section 7 Securities Prospectus Act) and **Annex 5** (Share Price and Liquidity Analysis), there are no further documents that form part of this Offer Document.

With this Takeover Offer, the Bidder is not making any public offer pursuant to any laws other than the laws of Germany and the laws of the United States. Consequently, unless required by mandatory law, no other announcements have been made, and no other registrations, approvals, admissions or authorizations have been applied for or granted, in respect of this Offer Document and/or the Takeover Offer outside Germany or the United States (with respect to the publication and dissemination of the Offer Document please refer to Section 1.5). As a result, the Wincor Nixdorf Shareholders cannot rely upon the application of foreign laws for investor protection.

### **1.2 Special Information for Wincor Nixdorf Shareholders whose place of residence, seat or habitual abode is in the United States**

The Takeover Offer is being made in the United States in reliance on, and in compliance with, applicable provisions of Section 14(e) and Regulation 14E of the Exchange Act. The Takeover Offer refers to shares of a German company and is subject to the legal provisions of the Federal Republic of Germany regarding the implementation and disclosure requirements for such an offer which differ substantially from the corresponding legal provisions of the United States. For example, certain financial information in this Offer Document has been determined in accordance with the International Financial Reporting Standards (the **IFRS**) as adopted by the European Union and may therefore not be comparable to financial information relating to U.S. companies and other companies whose financial information is determined in accordance with the Generally Accepted Accounting Principles of the United States (the **U.S. GAAP**). Furthermore, the payment and settlement procedure with respect to the Takeover Offer will comply with the relevant German rules which differ from payment and settlement procedures customary in the United States, particularly with regard to the payment date of the consideration.

### **1.3 Publication of the Decision to Launch a Takeover Offer**

On November 23, 2015, the Bidder published its decision to launch the Takeover Offer under Section 10 para. 1 sentence 1 Takeover Act. The referenced publication of the Bidder is available on the internet at <http://www.diebold.com/> in the *Investor Relations* section.

### **1.4 Review of the Offer Document by BaFin**

The German Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht*) (the **BaFin**) has reviewed this Offer Document in the German language and has approved its publication on February 4, 2016. The English translation has not been subject to review by the BaFin. No other documents form a part of this Takeover Offer.

This Takeover Offer is exclusively carried out in accordance with German law and certain applicable provisions of the securities laws of the United States (see Section 1.1). Registrations, admissions or approvals of this Offer Document and/or this Takeover Offer under any other laws have not been made so far and are not intended.

### **1.5 Publication and Dissemination of this Offer Document**

The Bidder has published this Offer Document in German in accordance with Sections 34, 14 paras. 2 and 3 Takeover Act on February 5, 2016, by (i) making an announcement on the internet at <http://www.diebold.com/> in the *Investor Relations* section, and (ii) keeping copies available for distribution free of charge for all Wincor Nixdorf Shareholders through Deutsche Bank Aktiengesellschaft, Taunusanlage 12, 60325 Frankfurt am Main, Germany (inquiries by facsimile at +49 69 910 38794 or by email at

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dct.tender-offers@db.com) (the **Settlement Agent** ). The Bidder has provided a non-binding English translation to the Wincor Nixdorf Shareholders in the same way. Only the German Offer Document, whose publication has been approved by BaFin on February 4, 2016, has binding effect for this Takeover Offer.

The announcement pursuant to Section 14 para. 3 sentence 1 no. 2 Takeover Act, regarding the availability of this Offer Document through the Settlement Agent for distribution free of charge and the internet address under which this Offer Document is published, was published by the Bidder in the Federal Gazette (*Bundesanzeiger*) on February 5, 2016.

Immediately after approval of the publication of the German Offer Document by BaFin, the non-binding English translation of this Offer Document will be filed by the Bidder with the SEC and will be available electronically through the SEC's Electronic Data Gathering, Analysis and Retrieval ( **EDGAR** ) system. The English translation of this Offer Document can be located on EDGAR at <http://www.sec.gov/edgar/searchedgar/companysearch.html>. On this website, search for Diebold Inc under company name. The English translation of this Offer Document is also available on the internet at <http://www.diebold.com/> in the *Investor Relations* section. In addition, the Settlement Agent keeps the non-binding English translation for distribution free of charge.

In addition, the U.S. Shareholders of Wincor Nixdorf can request, free of charge, the delivery of the English translation of this Offer Document to the United States either through the aforementioned internet address or by contacting the Settlement Agent using the aforementioned contact details. The Bidder will also announce by way of an English language press release via an electronically operated information distribution system in the United States where copies of this Offer Document will be available free of charge and at which internet address this Offer Document is published. The aforementioned publications serve the purpose of complying with the mandatory provisions of the Takeover Act and of complying with the Securities Act and the Exchange Act. In addition, in the United States, the Bidder has filed a Registration Statement with the SEC that includes a prospectus of the Bidder to be used in connection with the Takeover Offer made to U.S. shareholders of Wincor Nixdorf. After the Registration Statement is declared effective by the SEC, the prospectus will be available electronically through the SEC's EDGAR system at <http://www.sec.gov/edgar/searchedgar/companysearch.html>.

Except as set forth above, no publications of this Offer Document are intended.

This Offer Document has been prepared without taking into account any particular person's objectives, financial situation or needs. Therefore, Wincor Nixdorf Shareholders should, before acting based on the information contained in this Offer Document, consider such information with regard to their personal objectives, financial situation and needs as well as individual tax situation.

This Takeover Offer and this Offer Document shall not constitute the publication of an offer or an advertisement of an offer pursuant to laws and regulations of jurisdictions other than those of Germany and the United States. In particular, this Offer Document, or any summary or excerpt thereof, shall not be directly or indirectly distributed, disseminated or circulated outside Germany or the United States if and to the extent such distribution, dissemination or circulation is not in compliance with applicable foreign regulations, or depends on the issuance of authorizations, compliance with official procedures or any other legal requirements, and such conditions are not satisfied. The Bidder has not approved the publication, sending, distribution or dissemination of the Offer Document or other documents associated with the Takeover Offer by third parties outside the Federal Republic of Germany or the United States. The Bidder is not responsible for ensuring that the publication, distribution, dissemination or circulation of this Offer Document outside Germany and the United States is consistent with the provisions of legal systems other than those of Germany and the United States.

The Bidder makes this Offer Document available, upon request, to the respective custodian securities services companies that hold custody of the Wincor Nixdorf Shares (each, a **Custodian Bank** ) for distribution to the Wincor Nixdorf Shareholders with domicile, registered office or habitual abode in Germany, the European Union, the European Economic Area and the United States only. The Custodian

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Banks may not otherwise publish, send, distribute or disseminate this Offer Document, unless this takes place in accordance with all applicable domestic and foreign legal provisions.

### **1.6 Acceptance of the Takeover Offer outside Germany and the United States**

The acceptance of the Takeover Offer outside Germany and the United States may be subject to legal restrictions.

The Takeover Offer may be accepted by all domestic and foreign Wincor Nixdorf Shareholders (including those with domicile, registered office or habitual abode in Germany, the European Union, the European Economic Area and the United States) in accordance with this Offer Document and the relevant applicable legal provisions. Wincor Nixdorf Shareholders who come into possession of this Offer Document outside of Germany and the United States and/or who wish to accept the Takeover Offer outside of Germany and the United States are advised to inform themselves of the relevant applicable legal provisions and to comply with them. Neither the Bidder nor persons acting in concert with the Bidder within the meaning of Section 2 para. 5 sentences 1 and 3 Takeover Act assume responsibility for the admissibility of the acceptance of the Takeover Offer outside of Germany and the United States being permissible under the relevant applicable legal provisions.

Unless required by mandatory law, no action has been or will be taken in any jurisdiction other than Germany or the United States that would permit a public offering of the Diebold Offer Shares, or permit possession or distribution of this Offer Document or any advertising material relating to the Diebold Offer Shares, except as described in Section 1.5.

## **2. Notes on the Information Contained in this Offer Document**

### **2.1 General**

References to the time in this Offer Document refer to local time in Frankfurt am Main, Germany (Central European Time or Central European Summer Time), unless stated otherwise. References to a **Business Day** refer to a day other than a Saturday, Sunday or other day on which banks in Frankfurt am Main, Germany, or New York, New York, United States, are generally closed. To the extent that expressions such as *currently*, *at the present time*, *at the moment*, *now*, *at present* or *today* are used in this Offer Document, they refer to the point in time of publication of the Offer Document, except as otherwise expressly stated.

References to *€* refer to the legal currency of Germany and certain other member states of the European Union as from January 1, 1999; references to *\$* refer to the legal currency of the United States. References to *subsidiaries* relate to subsidiaries within the meaning of Section 2 para. 6 Takeover Act.

The Bidder has not authorized third parties to make statements about the Takeover Offer or this Offer Document. If third parties nevertheless make such statements, such statements shall neither be attributable to the Bidder, nor to persons acting jointly with the Bidder.

### **2.2 Status and Sources of Information Contained in this Offer Document**



Unless expressly noted otherwise, all information and statements on intentions and all other information in this Offer Document are based on the knowledge or the intention of the Bidder at the time of the publication of this Offer Document.

The information regarding Wincor Nixdorf and Wincor Nixdorf Group contained in this Offer Document is based, among other things, on information made available during due diligence that was carried out prior to the conclusion of the Business Combination Agreement (as defined in Section 7.3). The due diligence was limited in time and scope due to the nature of the transaction (public takeover of a listed company); it was carried out between September and November 2015 and covered financial, legal and operational matters (see also Section 7.1). Additional information was provided to the Bidder by Wincor Nixdorf in the course of the preparation of the Registration Statement and this Offer Document, including oral information. In addition, information regarding Wincor Nixdorf and Wincor Nixdorf Group contained in this Offer Document is based on

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publicly accessible sources (such as published annual reports, annual financial statements, prospectuses, press releases or analyst presentations), in particular information published on internet at <http://www.wincor-nixdorf.com>, as well as Wincor Nixdorf's articles of association ( **Wincor Nixdorf Articles of Association** ) and information derived from the commercial register, and the Business Combination Agreement (as defined in Section 7.3). Beyond the aforementioned due diligence and discussion with Wincor Nixdorf management and advisors, the Bidder did not review all information independently. The Bidder cannot rule out that the information about Wincor Nixdorf and Wincor Nixdorf Group described in this Offer Document has changed since its publication.

### **2.3 Forward-Looking Statements**

This Offer Document and the documents referred to in it contain certain forward-looking statements. These statements do not represent facts and are characterized by words such as *expect*, *believe*, *estimate*, *intend*, *aim*, *assume* or similar words. Such statements express the intentions, opinions or current expectations of the Bidder, persons acting in concert with it within the meaning of Section 2 para. 5 sentences 1 and 3 Takeover Act, as well as their subsidiaries, with respect to possible future events, *e.g.*, regarding possible consequences of the Takeover Offer for Wincor Nixdorf and the Wincor Nixdorf Shareholders or for future financial results of Wincor Nixdorf.

Such forward-looking statements are based on current plans, estimates and forecasts which the Bidder, the persons acting in concert with it within the meaning of Section 2 para. 5 sentences 1 and 3 Takeover Act, as well as their subsidiaries, have made to the best of their knowledge, but which do not claim to be correct in the future.

Forward-looking statements are subject to risks and uncertainties that are difficult to predict and generally cannot be influenced by the Bidder, the persons acting in concert with it within the meaning of Section 2 para. 5 sentences 1 and 3 Takeover Act, as well as their subsidiaries. The forward-looking statements contained in this Offer Document could turn out to be incorrect and future events and developments could considerably deviate from the forward-looking statements contained in this Offer Document.

It is possible that the Bidder may change its intentions and the estimates outlined in this Offer Document after the publication of this Offer Document, subject to existing contractual agreements.

### **2.4 No Updates**

The Bidder will only update this Offer Document to the extent permissible and required under the Takeover Act, and will comply with its obligations under United States law in accordance with the Exchange Act to inform security holders of any material change in the information published, sent or given to security holders. The Bidder will also, as applicable, publish additional accompanying information regarding the Takeover Offer, which will be made available on the internet at <http://www.diebold.com> in the *Investor Relations* section, and will file such information in English on the SEC's website under the link to the EDGAR system described in Section 1.5.

### **3. Summary of the Takeover Offer**

The following summary contains an overview of selected information provided in this Offer Document. It is supplemented by, and should be read in conjunction with, the information and particulars set out elsewhere in this Offer Document. Therefore, this summary does not contain all information that may be relevant for Wincor Nixdorf Shareholders. Thus, Wincor Nixdorf Shareholders should carefully read the entire Offer Document.

Wincor Nixdorf Shareholders, particularly Wincor Nixdorf Shareholders with a place of residence, registered office or habitual abode outside Germany, should pay particular attention to the information set out in Section 1 of this Offer Document, General Information on the Implementation of the Takeover Offer, Particularly for Shareholders with a Place of Residence, Registered Office or Habitual Abode Outside Germany .

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