

22 July 2004  
22. Juli 2004

Pricing Supplement  
*Konditionenblatt*

Euro 650,000,000 4.625 per cent. Notes due 2014  
*Euro 650.000.000 4,625 % Schuldverschreibungen fällig 2014*

issued pursuant to the  
*begeben aufgrund des*

**Euro 20,000,000,000  
Debt Issuance Programme**

of  
*der*

**RWE Aktiengesellschaft**

and  
*und*

**RWE Finance B.V.**

dated 5 April 2004  
*vom 5. April 2004*

Issue Price: 99.264 per cent.  
*Ausgabepreis: 99,264 %*

Settlement Date: 23 July 2004  
*Tag der Begebung: 23. Juli 2004*

Series No.: 11041  
*Serien Nr.: 11041*

This Pricing Supplement is issued to give details of an issue of Notes under the Euro 20,000,000,000 Debt Issuance Programme of RWE Aktiengesellschaft and RWE Finance B.V. (the "Programme"). The Conditions applicable to the Notes (the "Conditions") and the German or English language translation thereof, if any, are attached to this Pricing Supplement as Annex B and replace in full the Terms and Conditions of the Notes as set out in the Information Memorandum and take precedence over any conflicting provisions in this Pricing Supplement.

*Dieses Konditionenblatt enthält Angaben zur Emission von Schuldverschreibungen unter dem Euro 20.000.000.000 Debt Issuance Programme der RWE Aktiengesellschaft und der RWE Finance B.V. (das „Programm“). Die für die Schuldverschreibungen geltenden Bedingungen (die „Bedingungen“) sowie eine etwaige deutsch- oder englischsprachige Übersetzung sind diesem Konditionenblatt als Annex B beigelegt. Die Bedingungen ersetzen in Gänze die im Information Memorandum abgedruckten Emissionsbedingungen und gehen etwaigen abweichenden Bestimmungen dieses Konditionenblatts vor.*

**Issuer**  
***Emittentin***

RWE Finance B.V.

**Form of Conditions**  
***Form der Bedingungen***

× Integrated  
*Konsolidierte Bedingungen*

**Language of Conditions**  
**Sprache der Bedingungen**

- × German and English (German controlling)  
*Deutsch und Englisch (deutscher Text maßgeblich)*

**CURRENCY, DENOMINATION, FORM, CERTAIN DEFINITIONS (§ 1)**  
**WÄHRUNG, STÜCKELUNG, FORM, DEFINITIONEN (§ 1)**

**Currency and Denomination**  
**Währung und Stückelung**

Specified Currency Euro  
*Festgelegte Währung* Euro

Aggregate Principal Amount Euro 650,000,000  
*Gesamtnennbetrag* Euro 650.000.000

Specified Denomination Euro 1,000  
*Festgelegte Stückelung* Euro 1.000

**Redenomination** No  
**Umstellung** *Nein*

- × **TEFRA D**  
**TEFRA D**

Temporary Global Note exchangeable for Permanent Global Note  
*Vorläufige Globalurkunde austauschbar gegen Dauerglobalurkunde*

**Certain Definitions**  
**Definitionen**

Clearing System

- × Clearstream Banking, société anonyme  
× Euroclear Bank S.A./N.V. as operator of the Euroclear System

Calculation Agent No  
*Berechnungsstelle* *Nein*

**INTEREST (§ 3)**  
**ZINSEN (§ 3)**

- × **Fixed Rate Notes**  
**Festverzinsliche Schuldverschreibungen**

**Rate of Interest and Interest Payment Dates**  
**Zinssatz und Zinszahlungstage**

Rate of Interest 4.625 per cent. per annum  
*Zinssatz* 4,625 % per annum

Interest Commencement Date 23 July 2004  
*Verzinsungsbeginn* 23. Juli 2004

Fixed Interest Date(s) 23 July  
*Festzinstermine* 23. Juli

First Interest Payment Date  
*Erster Zinszahlungstag*

23 July 2005  
*23. Juli 2005*

**Day Count Fraction**  
***Zinstagequotient***

✗ Actual/Actual (ISMA)

**PAYMENTS (§ 4)**  
***ZAHLUNGEN (§ 4)***

**Payment Business Day**  
***Zahlungstag***

Relevant Financial Centre(s) (specify all)  
*Relevante Finanzzentren (alle angeben)*

TARGET

**REDEMPTION (§ 5)**  
***RÜCKZAHLUNG (§ 5)***

**Final Redemption**  
***Rückzahlung bei Endfälligkeit***

Maturity Date  
*Fälligkeitstag*

23 July 2014  
*23. Juli 2014*

**Final Redemption Amount**  
***Rückzahlungsbetrag***

✗ Principal amount  
*Nennbetrag*

**Early Redemption**  
***Vorzeitige Rückzahlung***

**Early Redemption at the Option of the Issuer**  
***Vorzeitige Rückzahlung nach Wahl der Emittentin***

No  
*Nein*

**Early Redemption at the Option of a Holder**  
***Vorzeitige Rückzahlung nach Wahl des Gläubigers***

No  
*Nein*

**AGENTS (§ 6)**

✗ Paying Agents  
*Zahlstellen*

Deutsche Bank Luxembourg S.A.  
2 Boulevard Konrad Adenauer  
L-1115 Luxembourg

**FURTHER ISSUES, PURCHASES AND CANCELLATION (§ 11)**  
***WEITERE EMISSIONEN, RÜCKKAUF, ENTWERTUNG (§ 11)***

Consolidation  
*Konsolidierung*

No  
*Nein*

**NOTICES (§ 12)**  
***MITTEILUNGEN (§ 12)***

**Place and medium of publication**  
***Ort und Medium der Bekanntmachung***

✗ Luxembourg (Luxemburger Wort)  
*Luxemburg (Luxemburger Wort)*

**GENERAL PROVISIONS APPLICABLE TO THE NOTE(S)**  
**ALLGEMEINE BESTIMMUNGEN HINSICHTLICH DER SCHULDVERSCHREIBUNG(EN)**

**Listing(s)** Yes  
**Börsenzulassung(en)** Ja

✗ Luxembourg

**Method of distribution**  
**Vertriebsmethode**

✗ Non-syndicated

Euro 611,472,000 of the Aggregate Principal Amount of the Notes shall be issued directly by the Issuer to the Holders  
*Euro 611.472.000 des Gesamtnennbetrages der Schuldverschreibungen werden direkt von der Emittentin an die Gläubiger ausgegeben*

*Nicht syndiziert*

✗ Syndicated

Euro 38,528,000 of the Aggregate Principal Amount of the Notes shall be underwritten by the Managers specified below  
*Euro 38.528.000 des Gesamtnennbetrages der Schuldverschreibungen werden von den unten angegebenen Manager übernommen.*

*Syndiziert*

**Management Details**  
**Einzelheiten bezüglich des Bankenkonsortiums**

Management Group or Dealer (specify)

In respect of Euro 38,528,000 of the Aggregate Principal Amount of the Notes:  
 Barclays Bank PLC  
 Deutsche Bank AG London  
 HSBC Bank plc

*Bankenkonsortium oder Plazeur (angeben)*

*In bezug auf Euro 38.528.000 des Gesamtnennbetrages der Schuldverschreibungen:*  
 Barclays Bank PLC  
 Deutsche Bank AG London  
 HSBC Bank plc

Commissions  
*Provisionen*

Not Applicable  
*Nicht Zutreffend*

**Stabilising Dealer/Manager**  
**Kursstabilisierender Dealer/Manager**

None  
*keiner*

**Securities Identification Numbers**  
**Wertpapierkennnummern**

Common Code  
*Common Code*

19630242

ISIN  
*ISIN*

XS0196302425

German Securities Code  
*Wertpapierkennnummer (WKN)*

A0DAN1

Any other securities number  
*Sonstige Wertpapiernummer*

**Supplemental Tax Disclosure (specify)**  
**Zusätzliche Steueroffenlegung (einfügen)**

None  
*Keine*

**Selling Restrictions**  
**Verkaufsbeschränkungen**

× TEFRA D  
TEFRA D

Additional Selling Restrictions (specify) None  
*Zusätzliche Verkaufsbeschränkungen (angeben)* *Keine*

**Governing law** **German law**  
**Anwendbares Recht** **Deutsches Recht**

**Rating**  
**Rating**

**Other Relevant Terms and Conditions (specify)** None  
**Andere relevante Bestimmungen (einfügen)** *Keine*

**Further Relevant Information (specify)** See Annexes A and C  
**Weitere relevante Informationen (einfügen)** *Siehe Annexen A und C*

**Listing:**  
**Börsenzulassung:**

The above Pricing Supplement comprises the details required to list this issue of Notes (as from 23 July 2004) pursuant to the Euro 20,000,000,000 Debt Issuance Programme of RWE Aktiengesellschaft and RWE Finance B.V.

*Das vorstehende Konditionenblatt enthält die Angaben, die für die Zulassung dieser Emission von Schuldverschreibungen gemäß dem Euro 20.000.000.000,- Debt Issuance Programme der RWE Aktiengesellschaft und der RWE Finance B.V. (ab dem 23. Juli 2004) erforderlich sind.*

**RESPONSIBILITY**  
**VERANTWORTLICHKEIT**

The Issuer accepts responsibility for the information contained in this Pricing Supplement.  
*Die Emittentin übernimmt für die in diesem Konditionenblatt enthaltenen Informationen die Verantwortung.*

**RWE Finance B.V.**  
(as Issuer)  
(als Emittentin)

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## Annex A

The "Description of RWE Aktiengesellschaft" on pages 79–91 and the "Litigation" section on pages 106-110 of the Information Memorandum dated 5 April 2004 relating to the Programme shall be deemed deleted and replaced by the following:

### "DESCRIPTION OF RWE AKTIENGESELLSCHAFT

#### Incorporation and Seat

RWE Aktiengesellschaft was founded on April 25, 1898 under German law as Rheinisch-Westfälisches Elektrizitätswerk Aktiengesellschaft with its seat in Essen, Germany. In 2000 RWE Aktiengesellschaft ("**RWE Old**") and VEW Aktiengesellschaft ("**VEW**") with its seat in Dortmund, Germany, decided to merge their operations. To achieve this, both RWE Old and VEW transferred their assets in their entirety to RWE Gesellschaft für Beteiligungen mbH which was subsequently converted into a stock corporation (RWE Gesellschaft für Beteiligungen Aktiengesellschaft) with its seat in Essen. RWE Old and VEW were dissolved when the merger became effective on 24 November 2000 and RWE Gesellschaft für Beteiligungen Aktiengesellschaft changed its name to RWE Aktiengesellschaft ("**RWE**", together with its affiliated companies and subsidiaries the "**RWE Group**") to become the legal successor of the former RWE Aktiengesellschaft and VEW.

#### Corporate Objectives

Pursuant to RWE's Articles of Incorporation (Articles of Incorporation, *Satzung*), RWE has the corporate objective to manage a group of enterprises in particular in the following business segments:

- procurement, generation and supply of, and trading in, energy and energy sources, including the construction, operation and any other use of transportation systems for energy and energy sources;
- environmental services and engineering, including the supply of water and treatment of waste water;
- prospecting, extractions and processing of mineral resources and other raw materials;
- electrical engineering, building installations, communications technology and electronics; other areas of mechanical and plant engineering; the provision of engineering services; planning, finance, construction and operation of buildings of all kinds and the provision of building services;
- telecommunications, data transfer and the provision of services and trading using electronic media;
- real estate business; and
- trading, logistics, transportation and the provision of further services, in particular in the forenamed business segments.

RWE is authorized to conclude all transactions which are connected with the object of RWE or which are suited to serve its purpose directly or indirectly. It can also be active itself in the business segments mentioned above.

RWE is entitled to incorporate, acquire or take interests in other enterprises, in particular if the purpose of such enterprises includes in part or in total the above-mentioned business segments. It can combine enterprises in which it holds stakes under its unified control or restrict itself to the management of its holdings. It shall have the power to transfer or hive off its business operations in part or in total to affiliated companies.

#### Capital Stock

The capital stock of RWE amounts to €1,439,756,800. It is divided into

- a) 523,405,000 common shares, and
- b) 39,000,000 non-voting preference shares

The shares are no par value shares made out to the bearer. Pursuant to the resolution adopted by the Annual General Meeting on June 6, 2002, the Executive Board was authorized to purchase up to 57,000,000 of any class of shares in RWE until December 5, 2003. In the financial year 2002, RWE purchased 7,595,000 common shares at €41.53 per individual share certificate. These shares were paid to RWE Power AG as *quid pro quo* for the investment in VEW AG

within the scope of the merger between RWE Old and VEW AG, with RWE (new) as the assuming entity. The acquired shares account for €19,443,200 of the RWE's share capital (1.33% of subscribed capital prior to the capital reduction). As a result of the capital reduction that became effective per the Executive Board resolution of July 2, 2002, pursuant to which the acquired common shares were appropriated, a portion of the RWE's share capital corresponding to these shares was transferred to the capital reserve and the acquisition costs were offset against RWE's retained earnings.

RWE's capital stock shall be conditionally increased by up to €51,200,000 made up of up to 20,000,000 common shares (contingent capital). Beside the satisfaction of subscription rights issued on the basis of the resolution of the Annual General Meeting of RWE on 19 November 1998, the conditional increase of capital stock shall exclusively serve the granting of subscription rights to members of RWE's Executive Board and to members of the management bodies (Executive and Management Boards) of affiliated companies, in accordance with the stipulations of the authorizing resolution adopted by the General Meeting on 22 September 2000. It shall be carried out insofar as use is made of these subscription rights. The new shares shall participate in the profits from the beginning of the fiscal year in which they are issued.

In the event of an increase in the capital stock, the distribution of profits in respect of new shares can deviate from the stipulations of section 60 of the German Stock Corporation Act (*Aktiengesetz*).

In the course of the distribution of profits, the non-voting preference shares shall be entitled to a preferred dividend of €0.13 per preference share.

### Capitalisation

The following table sets forth the actual consolidated capitalisation of RWE at 31 December 2003:

|   | As at 31 December 2003 |              |
|---|------------------------|--------------|
|   | Actual                 | As adjusted  |
|   | €in millions           | €in millions |
| <b>Shareholders' Equity</b>   |                        |              |
| Subscribed capital  | 1,440                  | 1,440        |
| Additional paid-in capital  | 1,288                  | 1,288        |
| Retained earnings including accumulated other comprehensive income and distributable profit | 4,285                  | 4,285        |
| Minority interest   | 2,052                  | 2,052        |
| Total shareholders' equity  | 9,065                  | 9,065        |
| <b>Financial liabilities</b>  |                        |              |
| Bonds including other notes payable   | 22,255                 | 22,902       |
| Commercial papers   | 2,287                  | 2,287        |
| Bank debt   | 5,096                  | 5,096        |
| Financial liabilities payable to affiliates   | 359                    | 359          |
| Financial liabilities payable to associates and other investments                           | 135                    | 135          |
| Other financial liabilities   | 1,658                  | 1,671        |
| Total financial liabilities   | 31,790                 | 32,450       |
| Grand total   | 40,855                 | 41,515       |

The table has been adjusted on a pro-forma basis for Exchangeable bonds issued by RWE as follows:

(i) €200 million on April 5, 2004 which are shown as an increase in the line "Bonds including other notes payable" by €187 million and in the line "Other financial liabilities" by €13 million and (ii) €460 million on June 22, 2004 which are shown as an increase in the line "Bonds including other notes payable" by €460 million; ((i) and (ii) prior to deductions of the commission payable to the Joint Lead Managers and other costs to be borne by RWE)

There have been no other material changes in the consolidated capitalisation of RWE since 31 December 2003 save that the capitalisation table above does not include the following items:

1. At July 21, 2004, RWE AG had issued commercial paper in an aggregate nominal amount of €273 million and USD 2,056 million, respectively.
2. Up to June 18, 2004, RWE AG had repaid private note issues totalling €766.6 million.

## **Management**

### ***Supervisory Board***

As at the date of this Listing Prospectus, the members of the Supervisory Board of RWE are at present as follows:

Dr.h.c. Friedel Neuber, Duisburg  
– Chairman –  
Former President and CEO,  
Westdeutsche Landesbank –Girozentrale –

Frank Bsirske(\*), Hannover  
– Deputy Chairman –  
Chairman of ver.di Vereinigte Dienstleistungsgewerkschaft e.V.

Dr. Paul Achleitner, Munich  
Executive Vice President, Allianz AG

Carl-Ludwig von Boehm-Bezing, Bad Soden  
Former member of the Board of Management, Deutsche Bank AG

Burkhard Drescher, Oberhausen  
Mayor of the City of Oberhausen

Ralf Hiltenkamp(\*), Arnsberg  
Chairman of the General Works Council of RWE Umwelt Westfalen GmbH & Co. KG

Heinz-Eberhard Holl, Osnabrück  
Former Chief Administrative Officer, Osnabrück rural district

Berthold Huber(\*), Stuttgart  
Trade Union Secretary of IG Metall

Dr. Dietmar Kuhnt, Essen  
Former President and Chief Executive Officer of RWE AG

Dr. Gerhard Langemeyer, Dortmund  
Mayor of the City of Dortmund

Josef Pitz(\*), Angelbachtal  
Chairman of the General Works Council of Heidelberger Druckmaschinen AG

Dr. Wolfgang Reiniger, Essen  
Mayor of the City of Essen

Günter Reppien(\*), Lingen  
Deputy Chairman of the General Works Council of RWE Power AG

Bernhard von Rothkirch(\*), Frechen  
M.A. in mining engineering

Dr. Manfred Schneider, Leverkusen  
Chairman of the Supervisory Board of Bayer AG

Klaus-Dieter Südhofer(\*), Recklinghausen  
Trade Union Secretary of IG Bergbau, Chemie, Energie

Uwe Tigges(\*), Bochum  
Chairman of the General Works Council of RWE Westfalen-Weser-Ems AG

Prof. Karel van Miert, Beersel  
President of the University of Nyenrode

Jürgen Wefers(\*), Wesel  
Chairman of the Works Council of RWE Rhein-Ruhr AG, Location Wesel

Erwin Winkel(\*), Niederzier  
Chairman of the General Works Council of RWE Power AG

(\* Employee representative on the Supervisory Board  
The members of the Supervisory Board may be contacted at the address of RWE in Essen, Germany.

#### *Executive Board*

Harry Roels  
Essen, President and Chief Executive Officer

Dr. Gert Maichel  
Dortmund

Dr. Klaus Sturany  
Dortmund

Jan Zilius  
Essen

Berthold Bonekamp(\*)  
Grevenbroich

(\* Effective April 1, 2004

The members of the Executive Board may be contacted at the address of RWE in Essen, Germany.

#### **Annual Shareholders' Meeting**

Pursuant to RWE's Articles of Incorporation, the Annual General Meeting shall be held at the domicile of RWE or in another German city whose population exceeds 100,000. Unless any other persons are entitled thereto by law or the Articles of Incorporation, the Annual General Meeting shall be called by the Executive Board. Within the first eight months of each fiscal year, the Annual General Meeting shall resolve on the formal discharge of the members of the Executive and Supervisory Boards, the appropriation of profits and on the election of the auditors (Ordinary Annual General Meeting).

Each common share shall carry one vote in the Annual General Meeting.

Unless otherwise provided for by law or in the Articles of Incorporation, the Annual General Meeting shall adopt all resolutions with a simple majority of the votes cast; if a majority of the capital stock represented at the Annual General Meeting is required for resolutions to be adopted, the simple majority of the capital stock represented at such meeting shall suffice.

#### **Independent Auditors**

Independent auditors of RWE Aktiengesellschaft is the Essen, Germany office of PwC Deutsche Revision Aktiengesellschaft Wirtschaftsprüfungsgesellschaft, Frankfurt am Main.

The independent auditors have audited RWE's consolidated financial statements for the fiscal years ended 31 December 2002 and 2003 and have issued unqualified opinions on each of them.

In addition, the independent auditors have audited RWE's unconsolidated financial statements for the fiscal years ended 31 December 2002 and 2003 and have issued unqualified opinions on each of them.

#### **Fiscal Year**

The fiscal year of RWE is the calendar year.

## **BUSINESS**

### **Business strategy**

RWE's strategy is focused on the core business segments of Electricity, Gas and Water. Together, these three activities form a balanced risk portfolio of multi-utility services. In each of these activities RWE holds major market positions. RWE is focussed to generate economies of scale and exploit cross-selling opportunities with its current customer base. RWE is committed to the disposal of non-core businesses.

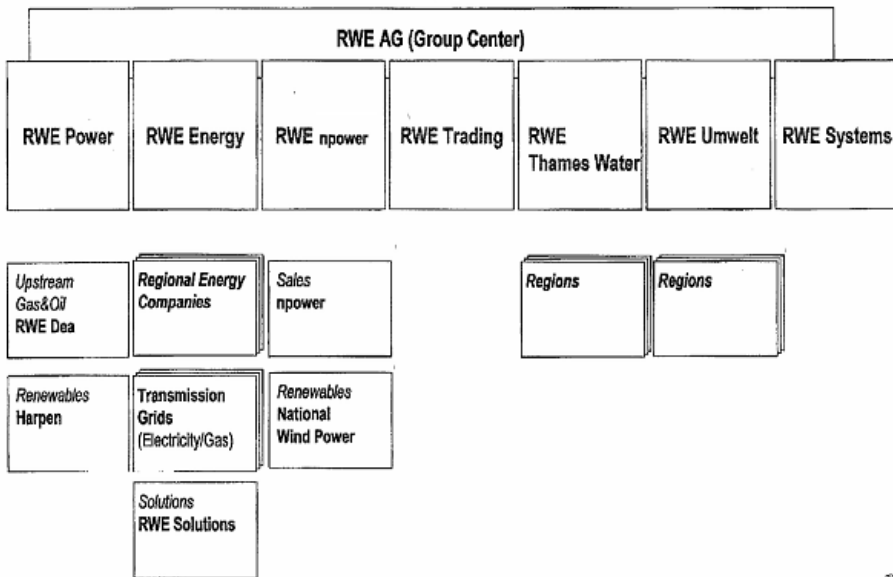
### **Group structure**

The RWE Group changed its organizational structure in October 2003. The following is a list of material changes:

- The electricity and gas business areas along with their ten management companies have been replaced with four divisions: RWE Power, RWE Energy, RWE npower (formerly RWE Innogy; the change of corporate name to RWE npower Holdings plc will be effective as of July 1, 2004) and RWE Trading.
- The majority of RWE Thames Water's continental European water business has also been transferred to RWE Energy. Although this transaction was only concluded on January 1, 2004. The Water Business Area is now the RWE Thames Water Division.
- The environmental services business area, now known as the RWE Umwelt Division, and the non-core business, comprising Heidelberger Druckmaschinen, were not affected by the reorganization.
- RWE Systems will continue to be stated under "Other/Group Center/consolidation."

The following table shows the current organizational structure of RWE and its affiliates and subsidiaries:

# New Group Structure as of Oct. 1, 2003



The change of the corporate name of RWE Innogy into RWE npower will be effective as of July 1, 2004.

## **The new management companies**

**RWE Power** acts as the RWE Group's upstream business. This includes the power plant portfolios of the former RWE Power, RWE Rheinbraun and Harpen, the lignite mines and RWE Dea's gas and oil production.

**RWE Energy** is the downstream business for RWE Group's electricity, gas and water sales in continental Europe. The company unites RWE Plus' sales activities, RWE Net's grid operations, RWE Solutions' industrial customer business, and RWE Group's continental European gas activities. Furthermore, RWE Energy is responsible for the major share of RWE Group's German water business. Six regional integrated energy companies in Germany and another six in the rest of RWE Group's continental European markets operate under RWE Energy. Dedicated companies have also been set up for the long-distance transmission of electricity and gas in Germany and the Czech Republic.

**RWE npower** continues to be the management company in charge of RWE Group's United Kingdom ("UK") electricity and gas business, recognizing that this market is largely separate from the continent. RWE npower's trading business was transferred to RWE Trading as of January 1, 2004. By combining back-office and administrative functions with RWE Group's water utility RWE Thames Water, RWE Group expects to realize €100 million in savings by 2006. In addition, plans exist to merge the customer service units' key functions. In doing so, the aim is not only to cut costs, but also to establish the basis for selling electricity and gas to water customers. The UK market is more favorable for cross-selling to residential and commercial customers than the German market, where gas is only sold by local suppliers.

**RWE Trading** is the RWE Group's hub for all tradable commodities such as electricity, gas, oil and coal, and has the same status as our major management companies. It plays an increasingly important role as risk manager with its indispensable role as internal arbitrator.

**RWE Thames Water** continues to be the management company responsible for RWE Group's water business. Since January 1, 2004, the company has been working with a leaner structure. It now focuses on two instead of four key markets: "Americas" and "Europe," which comprise the core business, and focus on regulated business in North America and the UK. General functions will be merged. Activities outside the two key regions remain in the "International" business segment. With its new organizational structure in place, RWE expects to achieve cost savings in the water business of €60 million by 2006.

**RWE Umwelt**, the RWE Group's environmental services division, was not included in the reorganization, since it had little synergy potential and different strategic value drivers (See "Recent Developments and Outlook"). Due to the fact that RWE Umwelt will not be able to reach its performance targets and due the lack of synergies with the other utility businesses RWE has decided to dispose RWE Umwelt.

As in the past, RWE Systems is RWE Group's internal service provider.

## **Litigation**

Except as disclosed in this document, there are no, nor have there been any legal or arbitration proceedings (including any proceedings which are pending or threatened of which the Issuer is aware) which may have or have had in the 24 months preceding the date of this document a significant effect on the financial position of RWE.

Nevertheless, RWE and its respective group companies are involved in a number of court and arbitration proceedings, the most important of which are listed below.

## **General**

RWE and some group companies are participating in derivative suits which were initiated by outside shareholders as a result of structural measures carried out under corporation law. The company holds the view that the ratios were appropriate and will be upheld in a court review. Nevertheless, the possibility that additional payments may be necessary in individual cases cannot be excluded.

## **Upstream Activities**

Following the agreement between the leading German utilities and the German Government of a mid-term phase out of nuclear energy RWE Power AG has admitted an application for a local interim storage at its nuclear power plants Biblis and Gundremmingen. Following public discussions of the security of these interim storage facilities, the costs of these facilities cannot be calculated exactly. At its nuclear power plant Lingen a similar facility went already into operation.

RWE Power AG is interested third party of a claim to withdraw the operating permission based on atomic energy law for Biblis A and B before the administrative court of Kassel based on alleged insufficient protection against terrorist

airplane attacks. Furthermore RWE Power AG is interested third party in an administrative procedure for the withdrawal of the operating permission for Biblis A based on alleged technical defects.

Government approvals in conjunction with the open-cast mining areas of RWE Power AG (formerly RWE Rheinbraun AG) in Western Germany are currently being issued on schedule. Objections and lawsuits by municipalities, individual citizens, and interest groups against approvals are pending. A special compulsory expropriation procedure based on mining law with regard to a property owned by an environmental group has been initiated. RWE Power AG expects no noteworthy risks for the planned progress of the mining.

RWE npower Holdings plc is subject to claims by or on behalf of current and former employees and contractors in respect of industrial illness and injury. Provisions within the RWE npower Holdings plc Group amount to £ 45 million based on actuarial assessment of current and future claims. The provisions are carried in RWE npower Holdings's plc captive insurance company. To the extent that liability exceeds this provision, RWE npower Holdings plc would be liable for 50% of any excess together with International Power plc.

RWE npower Holdings plc has agreed to indemnify International Power plc in respect of 50% of any liability that may arise out of a series of complaints made to the European Commission by coal mining associations. The complainants allege that the Central Electricity Generating Board ("**CEGB**") breached European competition law legislation in its coal purchasing activities prior to privatisation of the Electricity Supply Industry in 1990. International Power is one of two successor companies of the CEGB that inherit any liabilities relating to this issue. The European Court of Justice has confirmed that the European Commission has the power to investigate these historic complaints. The alleged liability of the CEGB has never been quantified by the complainants.

RWE Dea AG was held liable by the Darmstadt regional government for groundwater and soil contaminations relating to the Hafensinsel Offenbach Site, which was formerly used for the storage of mineral oil products. The cost of clean-up and remediation measures, resulting from this, are estimated to be in the region of €10 million. RWE Dea's AG lawsuit against the order, made by the Darmstadt regional government, is pending for the time being.

Petrokazakhstan Inc. and one of its subsidiaries filed an action before the International Court of Arbitration in Paris seeking to obtain damages in the amount of around US\$ 30 million from RWE Dea AG und EEG-Erdgas Erdöl GmbH, Berlin. The claimants consider their rights as shareholders of the jointly owned company Kazgermuna ("KGM"), Kazakhstan, violated, alleging that the defendants have caused damages to KGM arising from the marketing of KGM crude oil as organized by the defendants. The defendants believe the prospects of success of this action to be fairly limited.

### **Enron claims**

In November 2003 and February 2004 Enron Corp. ("**Enron**") and Enron Capital & Trade Resources International Corp ("**ECTRIC**") issued complaints against RWE npower Holdings Plc ("**npower**") seeking declarations that a guarantee and certain further agreements are void under the US Bankruptcy Code. The guarantee was given to secure certain claims of npower and other RWE Group companies under a complex set of collateral agreements with different subsidiaries of Enron. Under ECTRIC's complaint, the maximum exposure for npower and another npower-Group company, NPower Yorkshire Supply Limited ("**NYSL**"), is £ 27,200,000. If ECTRIC's Complaint were to succeed, NYSL would become liable to ECTRIC for £ 27,200,000 but the amount of npower's claim against another Enron subsidiary and Enron will be correspondingly increased from presently £ 28,622,044 to then £ 55,822,044. Defences together with a motion to dismiss the claim against NYSL have been filed. A trial of the issues, should it reach that stage, is not likely to take place for approximately one year.

## **Downstream Activities**

RWE Energy is the management holding of the German and Continental Companies operating in the field of electricity and natural gas supply, distribution and transport.

A company of the RWE Energy-Group is a claimant in a proceeding being settled by the Cologne district court. The company claims payment of about €20 million concerning unjustified payment cuts by a customer. The whole amount was granted to the RWE company but the court also held that the duration of the delivery contract (originally 20 years) was limited to 5 years. The group company and the defendant filed an appeal at the Düsseldorf higher district court (*Oberlandesgericht*) which will be decided in 2004. The same group company filed a claim against another customer on a similar background for about €10 million.

Several companies of the RWE Energy-Group are involved in court filings due to different opinions on the CHP law (*Kraft-Wärme-Kopplungsgesetz*) of May 10, 2000 (out of force since April 1, 2002). Several operators of CHP power plants are requesting further payment under the CHP law of approximately €100 million. Most of the claims are inactive because a ruling from the Federal Supreme Court (*Bundesgerichtshof*) is expected in 2004. Similar claims are ongoing against the other German transmission system operators. If need be the transmission system operator of the RWE Energy-Group will partly be reimbursed by the other German transmission systems operators.

U.S. Energy Corporation and Crested Corporation are suing Nukem Inc. (a company of the RWE Energy-Group) for damages arising from a joint venture project. In the opinion of RWE Nukem GmbH, of whom Nukem Inc. is a subsidiary, the claim is not justified. Due to the latest developments in the course of litigation, the in former times identified maximum risk of US\$ 40 million will be significantly lower.

A class action before a Texas court, in which RWE Industrie-Lösungen GmbH (a company of the RWE Energy-Group), is a co-defendant along with 79 other companies, involves claims for damages due to alleged participation by the defendants in the manufacture or supply of chemical and/or biological weapons to Iraq during the Gulf War. The amount of the lawsuit is €510 million. The liability risk of the company is considered to be very low because there is no justification for apportioning any blame. The liability insurance company has agreed to cover a substantial part of the costs of the proceedings.

In accordance with a contract for the construction of a pulp and paper mill in Iran, entered into 1991, companies of the RWE Energy-Group, participating in the contracting consortium, had to provide the Iranian client (Mazandasan Wood & Paper Industries Company) with first demand bank guarantees in an amount of approximately €21 million. The client has not returned these guarantees although the consortium has performed its obligations. The client has also refused to pay for additional supervisory services which were rendered by the consortium, amounting for the companies of the RWE Energy-Group to approximately €25.6 million. As all attempts by the consortium to resolve the dispute with the client on an amicable basis were unsuccessful, the consortium has commenced arbitration proceedings at the International Chamber of Commerce.

Several companies of the RWE Energy-Group are defendants in court claims or arbitration proceedings in their functions as former electricity network owners. These companies, which now operate as supply companies, have since 1995 sold several local electricity networks to other utility companies. The claimants suppose for different reasons an overpayment for various networks which is not defined yet but could amount to more than €20 million.

In January 2001, RWE Powerline GmbH concluded a contract to purchase powerline communications systems. The parties are now in dispute as to whether the technology supplied meets contractual requirements or has defects. Moreover, RWE Powerline GmbH brought an action against the contractual partner for the provision of a contractually due guarantee. While this legal dispute is also still pending, the contractual partner has put forward a counterclaim for allegedly outstanding receivables in the amount approximately of €20 million.

Several companies of the RWE Energy-Group operating in the Czech Republic are defendants in court proceedings due to different opinions on the supply of natural gas of the time before privatization. Until privatization the whole natural gas industry in the Czech Republic was one state owned company. Third parties now held the newly created companies responsible for internal supplies of natural gas inside the former state company. Transgas is participant beside the still existing state owned gas company in another law suit concerning damages claimed by third parties due to a never realised gas storage project. RWE Energy considers all claims unjustified.

## **Environmental Services**

RWE Umwelt AG is participant in several lawsuits at the higher district court (*Oberlandesgericht*) of Düsseldorf in connection with the envisaged participation in Entsorgungsbetriebe Essen GmbH, Essen, and AWISTA GmbH,

Düsseldorf. The Federal Cartel Office has approved these envisaged participations of RWE Umwelt AG. A competitor of RWE Umwelt AG has sued the Federal Cartel Office and the local procurement authorities in charge.

RWE Umwelt West GmbH, a 100% subsidiary of RWE Umwelt AG, initiated arbitration proceedings against AWA Abfallwirtschaft Kreis und Stadt Aachen GmbH (AWA) to demand a price alignment, due to the deterioration of the economic circumstances of the contract with AWA dated March 19, 1997. The price alignment demanded amounts to approximately €20 million.

### **Trading**

RWE Trading GmbH is a claimant in a proceeding being settled by the Essen district court. RWE Trading GmbH claims payments of about €9.6 million plus interest concerning payment cuts of the defendant during the contractual term of a power purchase agreement. These payments claims correspond to surcharges raised by RWE Trading GmbH and (former) RWE Plus AG as legal predecessor of RWE Trading GmbH with regard to this particular customer relationship. The aforementioned surcharges had been imposed on the customer as a result of the introduction of the Act on granting Priority to Renewable Sources in March 2000 and the Act on protecting the Generation of Electric Power from Cogeneration in May 2000. Recently the Federal Supreme Court (*Bundesgerichtshof*) has confirmed in two cases that Electricity Supply Companies are entitled to pass the corresponding surcharges on its customers. Hence, RWE Trading GmbH intends to continue with the court proceedings in order to sue Corus for these payment claims.

### **Miscellaneous**

Various companies in which RWE directly or indirectly does not hold majority shareholdings are also involved in a number of legal proceedings.

### **Foundation for the Compensation of Former Forced Labourers**

RWE welcomes the Foundation Initiative by German business and the legal security being sought for the affected companies in this context on that basis of the governmental agreement between Germany and the United States of America. RWE and VEW, along with their affiliated companies, have joined the Foundation Initiative. This Initiative established the Foundation for Remembrance, Responsibility and the Future on August 12, 2001.

**SUMMARY CONSOLIDATED FINANCIAL INFORMATION ON RWE AG FOR THE FISCAL YEAR ENDED DECEMBER 31, 2003**

Set out below is a summary of the consolidated financial information on RWE which is derived from the consolidated balance sheets as of December 31, 2003, and from the consolidated income statements and consolidated statements of cash flows for the fiscal year then ended. In addition set out below is a summary of the consolidated financial information on RWE which is derived from the audited consolidated balance sheets as of December 31, 2002 and from the consolidated income statements and consolidated statements of cash flow for the fiscal year then ended. The consolidated financial statements have been prepared in accordance with the International Accounting Standards (IAS). The Notes to the financial statements are an integral part of these financial statements.

**CONSOLIDATED INCOME STATEMENT FOR THE YEAR ENDED ON DECEMBER 31, 2003**

|  | <u>2003</u>                                 | <u>2002</u> |
|--|---|-------------|
|  | €in millions<br>(except for per share data) |             |
| <b>Revenue<sup>(1)</sup></b>   | 43,875                                      | 46,633      |
| Discontinuing operations   | (–)   | (7,682)     |
| Mineral oil tax/natural gas tax/electricity tax                        | 1,104                                       | 3,146       |
| Discontinuing operations   | (–)   | (2,341)     |
| Revenue (without mineral oil tax, electricity tax)                     | 42,771                                      | 43,487      |
| Changes in finished goods and work in progress                         | –1  | 28          |
| Other own work capitalized   | 320   | 335         |
| Other operating income   | 4,380                                       | 4,364       |
| Cost of materials <sup>(2)</sup>                                       | 22,923                                      | 24,446      |
| Staff costs  | 7,530                                       | 7,527       |
| Depreciation, amortization and impairment losses                       | 4,511                                       | 4,044       |
| Goodwill amortization  | (985)                                       | (780)       |
| Other operating expenses   | 7,805                                       | 7,397       |
| <b>Income from operating activities</b>                                | 4,701                                       | 4,800       |
| Result of investments  | 300   | 554         |
| Financial result   | –2,878                                      | –2,632      |
| <b>Income before tax</b>   | 2,123                                       | 2,722       |
| Discontinuing operations   | (–)   | (867)       |
| Taxes on income  | 1,187                                       | 1,367       |
| Discontinuing operations   | (–)   | (9)         |
| <b>Income after tax</b>  | 936   | 1,355       |
| Discontinuing operations   | (–)   | (769)       |
| Minority interest  | –17   | 305         |
| <b>Net income</b>  | 953   | 1,050       |
| Discontinuing operations   | (–)   | (769)       |
| <b>Basic and diluted earnings per common share and preferred share</b> | 1.69  | 1.87        |
| Discontinuing operations   | (–)   | (1.37)      |

<sup>(1)</sup> Revenue generated by energy trading operations is stated as net figures. This means that revenue reflects realized growth margins.

<sup>(2)</sup> A total of €15,910 million in material cost (2002: €8,887 million) were netted out against energy trading revenue.

**CONSOLIDATED BALANCE SHEET FOR THE PERIOD ENDED DECEMBER 31, 2003**

|  | <u>December 31, 2003</u> | <u>December 31, 2002</u> |
|--|--------------------------|--------------------------|
|  | €in millions             |                          |
| <b>ASSETS</b>                          |                          |                          |
| <b>Non-current assets</b>              |                          |                          |
| Intangible assets                      | 19,418                   | 18,518                   |
| Property, plant and equipment          | 36,210                   | 33,779                   |
| Financial assets <sup>(1)</sup>        | <u>6,778</u>             | <u>9,280</u>             |
|  | 62,406                   | 61,577                   |
| <b>Current assets</b>                  |                          |                          |
| Inventories                            | 3,285                    | 3,505                    |
| Accounts receivable and other assets   | 16,947                   | 16,371                   |
| Marketable securities                  | 9,615                    | 8,459                    |
| Cash and cash equivalents              | <u>2,181</u>             | <u>2,143</u>             |
|  | 32,028                   | 30,478                   |
| Deferred taxes                         | 4,325                    | 7,593                    |
| Prepaid expenses                       | <u>383</u>               | <u>625</u>               |
|  | <u>99,142</u>            | <u>100,273</u>           |
| <b>EQUITY AND LIABILITIES</b>          |                          |                          |
| <b>Equity/minority interests</b>       |                          |                          |
| Group interest                         | 7,013                    | 6,429                    |
| Subscribed capital                     | 1,440                    | 1,440                    |
| Additional paid-in capital             | 1,288                    | 1,288                    |
| Retained earnings                      | 4,153                    | 3,848                    |
| Accumulated other comprehensive income | -571                     | -766                     |
| Distributable profit                   | 703                      | 619                      |
| Minority interest                      | <u>2,052</u>             | <u>2,495</u>             |
|  | 9,065                    | 8,924                    |
| <b>Provisions</b>                      | 37,671                   | 40,187                   |
| <b>Liabilities<sup>(2)</sup></b>       | 44,061                   | 41,140                   |
| <b>Deferred taxes</b>                  | 4,526                    | 6,566                    |
| <b>Deferred income.</b>                | <u>3,819</u>             | <u>3,456</u>             |
|  | <u>99,142</u>            | <u>100,273</u>           |

<sup>(1)</sup> €3,674 million of which are allocable to financial assets accounted for at equity (previous year: €4,030 million).

<sup>(2)</sup> €23,100 million of which are long-term interest-bearing liabilities (previous year: €23,935 million).

**CONSOLIDATED CASH FLOW STATEMENT FOR THE PERIOD FROM JANUARY 1 TO DECEMBER 31, 2003**

|  | <u>2003</u>         | <u>2002</u>         |
|--|---------------------|---------------------|
|  | €in millions        |                     |
| <b>Income after tax</b>  | 936                 | 1,355               |
| Depreciation, amortization, impairment losses and write-backs  | 4,528               | 4,227               |
| Change in provisions   | 269                 | 304                 |
| Change in deferred taxes   | 456                 | -70                 |
| Other non-cash terms (mainly equity accounting method and results of non-current asset disposals)  | -838                | -1,236              |
| Changes in net working capital   | -58                 | 1,116               |
| Changes in other balance sheet items   | -4                  | 237                 |
| <b>Cash flow from operating activities</b>   | <u>5,289</u>        | <u>5,933</u>        |
| Discontinuing operations   | (-)                 | (300)               |
| Intangible assets/property plant and equipment   |                     |                     |
| Capital expenditure  | -4,362              | -4,095              |
| Proceeds from sale of assets   | 506                 | 594                 |
| Acquisitions, investments and loans to associates and other investments  |                     |                     |
| Capital expenditure  | -5,373              | -12,890             |
| Proceeds from sale of assets/divestments   | 2,995               | 1,614               |
| Change in securities marketable and cash investments   | -582                | 254                 |
| <b>Cash flow from investing activities</b>   | <u>-6,816</u>       | <u>-14,523</u>      |
| Discontinuing operations   | (-)                 | (-318)              |
| Capital contributions to RWE AG and share of minority interests in capital contributions to subsidiaries and share buybacks of RWE Group companies | (-)                 | (-)                 |
| Dividends paid to RWE shareholders and minority interests  | -895                | -838                |
| Issuance of financial liabilities  | 8,498               | 14,036              |
| Repayment of financial liabilities   | -5,964              | -6,136              |
| <b>Cash flows from financing activities</b>  | <u>1,639</u>        | <u>7,062</u>        |
| Discontinuing operations   | (-)                 | (-42)               |
| <b>Net change in cash and cash equivalents</b>   | <u>112</u>          | <u>-1,528</u>       |
| Effects of exchange rate changes and other changes in value  | -74                 | -86                 |
| Effects of changes in the scope of consolidation   | (-)                 | -85                 |
| <b>Total net change in cash and cash equivalents</b>   | <u>38</u>           | <u>-1,699</u>       |
| Cash and cash equivalents at beginning of fiscal year  | <u>2,143</u>        | <u>3,842</u>        |
| <b>Cash and cash equivalents at end of fiscal year</b>   | <u><u>2,181</u></u> | <u><u>2,143</u></u> |

## **Recent Developments and Outlook**

### **Political and regulatory environment**

Uncertainty in the run-up to political decisions will shape the energy sector. Basic political conditions play a key role in the utility markets. In Germany and the UK – RWE Group's key markets – the future of the energy supply sector is about to be determined. As the debate on supply security and climate protection progresses, none of the market participants can be certain about the course that will be charted, because there are conflicts of interest. This gives rise to a host of risks for economies and the energy industry. Power outages in several countries in Europe and North America have proven how urgently we need solutions that are feasible both economically and environmentally. As one of Europe's largest power utilities, RWE Group has significant responsibility in this discourse and play a proactive role when political decisions are made. This applies first and foremost to the three following political fields:

In July 2003, the European Parliament and the European Council reached an agreement on the fundamentals of a system for trading greenhouse gas emissions. January 1, 2005 is the official starting date. The goal is to ensure that the EU is capable of complying with the climate protection commitments entered into within the scope of the Kyoto Protocol. Companies that reduce greenhouse gas emissions by making use of environmental friendly technologies or by modifying manufacturing processes will be entitled to sell surplus emissions allowances. Conversely, companies whose emissions exceed the allowances that have been allotted to them will have to purchase emissions allowances to make up the difference. Initially, the European emissions trading system will include CO<sub>2</sub> emissions from power and heat producers as well as from industrial enterprises. EU requirements are now being included in national allocation plans ("NAPs") in the individual member states. NAPs detail the allotment of emissions allowances to companies and production facilities. Reliable assessments of the economic impact that the emissions trading system will have on the RWE Group (especially as far as budgeting and investment projects are concerned) will only be possible once the distribution of emissions allowances has been definitively determined by the allocation plans and the political process is finalised. By May 2004 UK and German Governments have published draft NAPs and Germany has submitted the draft to EU authorities. Both plans regulate the allocation of CO<sub>2</sub> emissions allowances to UK plan operators in the first phase of the EU emissions trading scheme from 2005 to 2007. The UK government already acknowledged that electricity prices are likely to increase, to reflect the extra costs of carbon mitigation.

The new EU directives on Electricity and Gas require all member states to implement a new regulatory scheme as of July 1, 2004. The Ministry of Economics and Labour has published in February a draft of an amendment of the German Energy Act. It is planned to appoint the Regulierungsbehörde für Telekommunikation und Post ("**RegTP**"), Regulatory Authority for Telecommunications and Post) as the new Energy Market Regulator. This authority will be responsible to supervise the German electricity and gas market with respect to the access to the grid as well as to the methodology for the calculation of tariffs. For the electricity sector the market regulation will probably follow the cost based model of the Electricity II Plus Agreement. Regarding the Gas Sector the less detailed Gas II Association Agreement will be taken as a basis and combined with new elements (e.g. so called Entry-Exit-model).

In this context it has to be noted that the Oberlandesgericht Düsseldorf has overruled two decisions issued by the Federal Cartel Office forcing an E.ON subsidiary and another local distribution company to reduce its grid tariffs which were based on the Electricity Association Agreement II plus. It is still open whether the Federal Cartel Office will lodge a complaint against the second decision of the Oberlandesgericht Düsseldorf.

In December 2003, the German Federal Cabinet approved its draft amendment to the German Renewable Energy Act. But it did not focus its attention on aspects of economic feasibility. Subsidies for wind energy and biomass-fired installations promote the unprofitable generation of electric power both short and long term. More than anyone else, energy-intensive industries continue to be put at a significant disadvantage as policymakers lift electricity prices. Promoting renewables-based energy thus continues to burden Germany as an industrial location.

### **RWE npower sets the future course for the expansion of wind power capacity**

In January 2004, RWE npower reached an agreement with its equity partners to jointly increase wind power capacity in the United Kingdom ("**UK**"). Over the next three years, RWE Group's UK power business will incorporate its existing plants and engineering projects into a joint venture, with ownership split equally among the three partners. The joint-venture company will have about £ 100 million in equity. Debt providers have already made binding commitments for £ 300 million in loans. The goal is to raise wind power capacity to 430 MW from its current level of about 220 MW. This joint venture will strengthen RWE Group's competitive position in the field of renewable based energy and limit the capital needed for investment.

### **Sale of stake in Hochtief AG**

In April 2004, RWE completed an offering to sell its 39.3m shareholding in Hochtief AG by way of a combined equity and equity-linked offering. The offering, which represented 56% of Hochtief AG's share capital primarily consisted of

an equity placing of approximately 32.6 m Hochtief AG shares with a placement price of €23.00 per share, which was complemented by Bonds issued by RWE exchangeable into Hochtief shares.

### **Sale of stake in Heidelberger Druckmaschinen Aktiengesellschaft**

In June 2004, RWE completed an offering to sell its 43m shareholding in Heidelberger Druckmaschinen Aktiengesellschaft by way of a combined equity and equity-linked offering. The offering, which represented approximately 50% of Heidelberger Druckmaschinen Aktiengesellschaft's share capital primarily consisted of an equity placing of 30m Heidelberger Druckmaschinen Aktiengesellschaft shares, which closed in May 2004 and which was complemented by the Bonds issued in accordance with this Listing Prospectus.

### **Municipal utilities portfolio optimized**

In North Rhine-Westphalia, RWE's strongest region in terms of revenue, RWE expanded its portfolio by acquiring stakes in the municipal utilities of Wuppertal (20%), Velbert (20%) and Remscheid (25%). The German Cartel Office gave RWE the clearance on the condition that RWE sheds its interests in the municipal utilities of Leipzig (40%) and Düsseldorf (20%). RWE strategic options in these two utilities have been limited due to their shareholder structures. RWE Group already sold its stake in the east German utility to LW Leipziger Versorgungs- und Verkehrsgesellschaft mbH, a subsidiary of the City of Leipzig, for €199 million.

### **RWE Umwelt disposal planned**

Despite comprehensive cost reductions and corporate restructuring, RWE Umwelt will not meet its cost of capital by 2005. Consequently RWE Umwelt is no longer considered a core business and an exit is planned.

### **Outlook for 2004**

#### **Continued economic recovery expected**

According to forecasts made for the financial year currently underway, global growth should amount to 3.5%. Once again, the US economy will be the driving force. However, the USA's increasing foreign trade deficit also harbors economic risks. Countries of the European Monetary Union are expected to experience a moderate upswing. The strong euro, persistently weak demand on the EU single market, and high budget deficits hamper growth prospects. Germany's growth forecasts range from 1.4% to 1.8%. Great Britain's economy is set to increase its GDP by a robust 3.0%. Central Eastern European EU accession countries are likely to benefit from the improved economic situation in western EU member states and continue to record above-average growth rates.

#### **Sights set on operating discipline**

Increasing profitability will continue to take center stage at RWE in 2004. RWE's substantially broader international positioning and the RWE Group's new organizational structure must be reinforced and refined. Fiercer competition calls for operational discipline and further progress in customer orientation and cost optimization. Upcoming political decisions, which will have a substantial impact on RWE Group's business, will require flexible action. Therefore, 2004 will be an important year in terms of establishing our future competitiveness. RWE will focus on the following points:

Improving earnings from existing activities will be at the center of attention. RWE Group anticipates a slight rise in its operating result in 2004, given the exceptionally high level achieved in 2003. Higher electricity prices, ongoing price negotiations in the water business and RWE Group's continued cost cutting program will help to achieve this goal. Rising hard coal prices represent a risk in 2004. RWE Group plans to increase its operating result organically by an average of at least 5% per annum in the years ahead. No large-scale acquisitions are planned. But this does not rule out the possibility of rounding off existing competitive positions with small acquisitions. Fine-tuning of the structural rollout will last until the end of the year. More effective sales channels, faster implementation processes and achieving RWE Group's cost targets are its priorities in this area. The integration of the companies RWE Group acquired in the last few years is on schedule. RWE Group wants to have all these activities start adding value to the Group by fiscal 2006. Since RWE Group's Czech gas companies achieved this goal in 2003, earlier than anticipated, RWE Group will concentrate on the water business and its UK energy operations. RWE Group will shed more activities in the core business that are no longer a strategic fit.

RWE Group raised the cost-cutting target for the efficiency-enhancement program associated with the reorganization by €200 million to €500 million. RWE Group expects to achieve the goal established for the cost-cutting program that was launched in 2000 by year-end, trimming costs by approximately €2.6 billion. Concurrently, RWE Group will roll out the efficiency-enhancement program associated with the reorganization. Its original target was to reduce annual costs by €300 million by 2006. By taking additional measures in the German energy business and across the board in

RWE Group's water business, RWE Group lifted this target to €500 million. Improving performance is the top priority at RWE Umwelt. RWE Group will continue to press ahead with the restructuring programs in this company.

RWE Group intends to reduce net debt to less than €17 billion by the end of 2005. This figure is based on an exchange rate of €1 = US\$ 1.20 or £ 0.70 and does not take into account proceeds from the sale of non-core businesses. RWE Group already achieved its goal of securing financial stability last year by lowering net debt considerably. Nevertheless, RWE Group will reduce its net debt even further. Its new target figure on the basis of the following currency ratios is: €1 = US\$1.20 or £ 0.70. Proceeds from the possible disposal of non-core businesses will give RWE Group financial flexibility to implement strategic measures that will increase value added.

Revenue is expected to drop below the 2003's level of €43.9 billion. This is primarily due to the sale of RWE's stake of CONSOL Energy and Heidelberger Druckmaschinen. In addition the US-Dollar is expected to be weaker than in 2003 on the whole. As mentioned previously the forecast is based on the following exchange rates: €1 = US\$ 1.20 or £ 0.70. After adjusting for the foreign exchange impact and the deconsolidations mentioned, we expect organic growth in a single-digit percentage range.

RWE Group will post another increase in operating result over the very good figure recorded in 2003. RWE Group expects a single-digit growth rate. On a comparable basis, i.e. excluding consolidation effects from the sale of CONSOL Energy, RWE Group expects the operating result to be on par with the high level recorded in 2003. RWE is confident that it will be able to compensate for unfavorable trends in hard coal and crude oil prices, currency exchange rates, and weather conditions. Furthermore, RWE expects the non-core business to be back in the black with its operating result.

The net income is expected to improve considerably. The anticipated driving force is an increase in the non-operating result since goodwill amortization will cease and RWE Group will not be burdened by the one-off charges incurred in 2003. The financial result will also rise mainly based on a lower interest charge on long term provisions. Therefore, RWE Group expects net income including as well as excluding goodwill amortization to post double-digit growth. Having achieved the added value-targeted for 2003, RWE Group sets a new goal for its value management. RWE aims to achieve a return on capital employed ("**ROCE**") of 11% for the RWE Group as a whole by 2005. The former target was for the core business. Replacing absolute value added with ROCE will make it easier to compare RWE with its peer."

## Annex B

### TERMS AND CONDITIONS OF THE NOTES GERMAN LANGUAGE VERSION (DEUTSCHE FASSUNG DER EMISSIONSBEDINGUNGEN)

Diese Serie von Schuldverschreibungen wird begeben gemäß einem Fiscal Agency Agreement vom 23. März 2001, ergänzt durch ein Supplemental Fiscal Agency Agreement vom 28. März 2002 (zusammen, das „Agency Agreement“) zwischen RWE Aktiengesellschaft („RWE“), RWE Finance B.V. („RWE Finance“) (einzeln jeweils die „Emittentin“ und zusammen die „Emittentinnen“) und der Deutsche Bank Aktiengesellschaft als Fiscal Agent (der „Fiscal Agent“, wobei dieser Begriff jeden Nachfolger des Fiscal Agent gemäß dem Agency Agreement einschließt) und den anderen darin genannten Parteien. Kopien des Agency Agreement können kostenlos bei der bezeichneten Geschäftsstelle des Fiscal Agent und bei den bezeichneten Geschäftsstellen einer jeden Zahlstelle sowie am Sitz einer jeden Emittentin bezogen werden. Die Schuldverschreibungen sind mit einer unbedingten und unwiderruflichen Garantie der RWE Aktiengesellschaft (die „Garantin“) versehen.

#### § 1

#### WÄHRUNG, STÜCKELUNG, FORM, BESTIMMTE DEFINITIONEN

- (1) *Währung; Stückelung.* Diese Serie der Schuldverschreibungen (die „Schuldverschreibungen“) der RWE Finance B.V. (die „Emittentin“) wird in Euro (die „festgelegte Währung“) im Gesamtnennbetrag von Euro 650.000.000 (in Worten: sechshundertundfünfzig Millionen Euro) in einer Stückelung von Euro 1.000 (die „festgelegte Stückelung“) begeben.
- (2) *Form.* Die Schuldverschreibungen lauten auf den Inhaber.
- (3) *Vorläufige Globalurkunde – Austausch.*
  - (a) Die Schuldverschreibungen sind anfänglich durch eine vorläufige Globalurkunde (die „vorläufige Globalurkunde“) ohne Zinsscheine verbrieft. Die vorläufige Globalurkunde wird gegen Schuldverschreibungen in den festgelegten Stückelungen, die durch eine Dauerglobalurkunde (die „Dauerglobalurkunde“) ohne Zinsscheine verbrieft sind, ausgetauscht. Die vorläufige Globalurkunde und die Dauerglobalurkunde tragen jeweils die eigenhändigen Unterschriften zweier ordnungsgemäß bevollmächtigter Vertreter der Emittentin und sind jeweils von dem Fiscal Agent oder in dessen Namen mit einer Kontrollunterschrift versehen. Einzelurkunden und Zinsscheine werden nicht ausgegeben.
  - (b) Die vorläufige Globalurkunde wird an einem Tag (der „Austauschtag“) gegen die Dauerglobalurkunde ausgetauscht, der nicht mehr als 180 Tage nach dem Tag der Begebung der durch die vorläufige Globalurkunde verbrieften Schuldverschreibungen liegt. Der Austauschtag darf nicht weniger als 40 Tage nach dem Tag der Begebung liegen. Ein solcher Austausch darf nur nach Vorlage von Bescheinigungen erfolgen, wonach der oder die wirtschaftlichen Eigentümer der durch die vorläufige Globalurkunde verbrieften Schuldverschreibungen keine U.S.-Personen sind (ausgenommen bestimmte Finanzinstitute oder bestimmte Personen, die Schuldverschreibungen über solche Finanzinstitute halten). Zinszahlungen auf durch eine vorläufige Globalurkunde verbrieft Schuldverschreibungen erfolgen erst nach Vorlage solcher Bescheinigungen. Eine gesonderte Bescheinigung ist für jede solche Zinszahlung erforderlich. Jede Bescheinigung, die am oder nach dem 40. Tag nach dem Tag der Ausgabe der durch die vorläufige Globalurkunde verbrieften Schuldverschreibungen eingeht, wird als ein Ersuchen behandelt werden, diese vorläufige Globalurkunde gemäß Absatz (b) dieses § 1 Absatz (3) auszutauschen. Wertpapiere, die im Austausch für die vorläufige Globalurkunde geliefert werden, dürfen nur außerhalb der Vereinigten Staaten (wie in § 6 Absatz 2 definiert) geliefert werden.
- (4) *Clearing System.* Die Dauerglobalurkunde wird solange von einem oder im Namen eines Clearing Systems verwahrt, bis sämtliche Verbindlichkeiten der Emittentin aus den Schuldverschreibungen erfüllt sind. „Clearing System“ bedeutet jeweils folgendes: Clearstream Banking, société anonyme, Euroclear Bank S.A./N.V. als Betreiberin des Euroclear Systems („Euroclear“), sowie jeder Funktionsnachfolger.
- (5) *Gläubiger von Schuldverschreibungen.* „Gläubiger“ bedeutet jeder Inhaber eines Miteigentumsanteils oder anderen vergleichbaren Rechts an den Schuldverschreibungen.

## § 2

### STATUS, NEGATIVVERPFLICHTUNG

- (1) *Status.* Die Schuldverschreibungen begründen nicht besicherte und nicht nachrangige Verbindlichkeiten der Emittentin, die untereinander und mit allen anderen nicht besicherten und nicht nachrangigen Verbindlichkeiten der Emittentin gleichrangig sind, soweit diesen Verbindlichkeiten nicht durch zwingende gesetzliche Bestimmungen ein Vorrang eingeräumt wird.
- (2) *Negativverpflichtung.* Solange Schuldverschreibungen noch ausstehen (aber nur bis zu dem Zeitpunkt, in dem alle Beträge an Kapital und Zinsen dem Fiscal Agent zur Verfügung gestellt worden sind) verpflichtet sich die Emittentin, ihr gegenwärtiges oder zukünftiges Vermögen weder ganz noch teilweise mit Grundpfandrechten, Pfandrechten oder sonstigen dinglichen Sicherungsrechten (zusammen, die „dinglichen Sicherheiten“) zur Besicherung von gegenwärtigen oder zukünftigen Kapitalmarktverbindlichkeiten der Emittentin oder eines Dritten zu belasten oder solche Rechte zu einem solchen Zweck bestehen zu lassen, ohne gleichzeitig die Gläubiger an derselben Sicherheit in gleicher Weise und im gleichen Verhältnis teilnehmen zu lassen. Dies gilt nicht insoweit, als die dingliche Sicherheit für Kapitalmarktverbindlichkeiten eines Unternehmens bestellt ist, das mit der Emittentin oder der Garantin verschmolzen oder von der Emittentin oder der Garantin erworben worden ist und diese Sicherheit im Zeitpunkt der Verschmelzung oder des Erwerbs schon bestanden hat, nicht zum Zwecke der Finanzierung der Verschmelzung oder des Erwerbs eingeräumt wurde und nach der Verschmelzung oder dem Erwerb in ihrem Umfang nicht erweitert und nicht verlängert wird. Satz 1 dieses § 2 Absatz 2 gilt ebenfalls nicht für die Belastung mit Sicherungsrechten zur Besicherung von Kapitalmarktverbindlichkeiten, die zum Zweck der Finanzierung, Teil- oder Refinanzierung der Kosten des Erwerbs, der Errichtung oder Entwicklung eines Projekts eingegangen werden, vorausgesetzt, daß (i) die Gläubiger einer solchen Kapitalmarktverbindlichkeit auf das dem Projekt zuzurechnende Vermögen (einschließlich der Anteile an Projektgesellschaften) und in Übereinstimmung mit der Marktpraxis abgegebene marktübliche Garantien als Rückzahlungsquelle beschränkt sind und (ii) die Sicherungsrechte ausschließlich an diesem Vermögen bestellt werden.
- (3) *Garantie und Negativverpflichtung der Garantin.* Die Garantin hat in einer separaten Urkunde eine Garantie (die „Garantie“) und eine Negativverpflichtung (die „Negativverpflichtung“) abgegeben (zusammen, die „Garantie und Negativverpflichtung“).
- (a) In der Garantie übernimmt die Garantin die unbedingte und unwiderrufliche Garantie für die ordnungsgemäße Zahlung von Kapital und Zinsen und sonstiger auf die Schuldverschreibungen zahlbarer Beträge.
- (b) In der Negativverpflichtung verpflichtet sich die Garantin zunächst, solange Schuldverschreibungen noch ausstehen (aber nur bis zu dem Zeitpunkt, in dem alle Beträge an Kapital und Zinsen dem Fiscal Agent zur Verfügung gestellt worden sind), ihr gegenwärtiges oder zukünftiges Vermögen weder ganz noch teilweise mit Grundpfandrechten, Pfandrechten oder sonstigen dinglichen Sicherungsrechten (zusammen, die „dinglichen Sicherheiten“) zur Besicherung von gegenwärtigen oder zukünftigen Kapitalmarktverbindlichkeiten der Garantin oder eines Dritten zu belasten oder solche Rechte zu einem solchen Zweck bestehen zu lassen, ohne gleichzeitig die Gläubiger an derselben Sicherheit in gleicher Weise und im gleichen Verhältnis teilnehmen zu lassen. Dies gilt nicht insoweit, als die dingliche Sicherheit für Kapitalmarktverbindlichkeiten eines Unternehmens bestellt ist, das mit der Garantin verschmolzen oder von der Garantin erworben worden ist und diese Sicherheit im Zeitpunkt der Verschmelzung oder des Erwerbs schon bestanden hat, nicht zum Zwecke der Finanzierung der Verschmelzung oder des Erwerbs eingeräumt wurde und nach der Verschmelzung oder dem Erwerb in ihrem Umfang nicht erweitert und nicht verlängert wird. Satz 1 dieses § 2 Absatz 3 (b) gilt ebenfalls nicht für die Belastung mit Sicherungsrechten zur Besicherung von Kapitalmarktverbindlichkeiten, die zum Zweck der Finanzierung, Teil- oder Refinanzierung der Kosten des Erwerbs, der Errichtung oder Entwicklung eines Projekts eingegangen werden, vorausgesetzt, daß (i) die Gläubiger einer solchen Kapitalmarktverbindlichkeit auf das dem Projekt zuzurechnende Vermögen (einschließlich der Anteile an Projektgesellschaften) und in Übereinstimmung mit der Marktpraxis abgegebene marktübliche Garantien als Rückzahlungsquelle beschränkt sind und (ii) die Sicherungsrechte ausschließlich an diesem Vermögen bestellt werden.
- (c) In der Negativverpflichtung verpflichtet sich die Garantin alsdann weiter sicherzustellen, solange Schuldverschreibungen noch ausstehen (aber nur bis zu dem Zeitpunkt, in dem alle Beträge an Kapital und Zinsen dem Fiscal Agent zur Verfügung gestellt worden sind) – soweit ihr dies nach ihrem billigen Urteil rechtlich möglich ist –, daß ihre wesentlichen Tochtergesellschaften (wie unten definiert) ihr gegenwärtiges oder zukünftiges Vermögen weder ganz noch teilweise mit Grundpfandrechten, Pfandrechten oder sonstigen dinglichen Sicherungsrechten (zusammen, die „dinglichen Sicherheiten“) zur Besicherung von gegenwärtigen oder zukünftigen Kapitalmarktverbindlichkeiten der jeweiligen wesentlichen Tochtergesellschaft oder eines Dritten belasten oder solche Rechte zu einem solchen Zweck bestehen lassen. Dies gilt nicht, sofern die dingliche Sicherheit für Kapitalmarktverbindlichkeiten einer Tochtergesellschaft bestellt ist, die während der Laufzeit der Schuldverschreibungen wesentliche Tochtergesellschaft wird und diese dingliche Sicherheit zu diesem Zeitpunkt schon bestanden hat und in ihrem Umfang nicht erweitert und nicht verlängert wird. Satz 1

dieses § 2 Absatz 3 (c) gilt ferner nicht insoweit, als die dingliche Sicherheit für Kapitalmarktverbindlichkeiten eines Unternehmens bestellt ist, das mit der wesentlichen Tochtergesellschaft verschmolzen oder von der wesentlichen Tochtergesellschaft erworben worden ist und diese Sicherheit im Zeitpunkt der Verschmelzung oder des Erwerbs schon bestanden hat, nicht zum Zwecke der Finanzierung der Verschmelzung oder des Erwerbs eingeräumt wurde und nach der Verschmelzung oder dem Erwerb in ihrem Umfang nicht erweitert und nicht verlängert wird. Die Regelung gemäß Satz 1 dieses § 2 Absatz 3 (c) gilt schließlich ebenfalls nicht für die Belastung mit Sicherungsrechten zur Besicherung von Kapitalmarktverbindlichkeiten, die zum Zweck der Finanzierung, Teil- oder Refinanzierung der Kosten des Erwerbs, der Errichtung oder Entwicklung eines Projekts eingegangen werden, vorausgesetzt, daß (i) die Gläubiger einer solchen Kapitalmarktverbindlichkeit auf das dem Projekt zuzurechnende Vermögen (einschließlich der Anteile an Projektgesellschaften) und in Übereinstimmung mit der Marktpraxis abgegebene marktübliche Garantien als Rückzahlungsquelle beschränkt sind und (ii) die Sicherungsrechte ausschließlich an diesem Vermögen bestellt werden.

- (d) Die Garantie und Negativverpflichtung stellt einen Vertrag zugunsten eines jeden Gläubigers als begünstigtem Dritten gemäß § 328 Absatz (1) BGB dar, welcher das Recht eines jeden Gläubigers begründet, Erfüllung aus der Garantie und der Negativverpflichtung unmittelbar von der Garantin zu verlangen und die Garantie und die Negativverpflichtung unmittelbar gegenüber der Garantin durchzusetzen. Kopien der Garantie und der Negativverpflichtung können kostenlos am Sitz der Garantin und bei der bezeichneten Geschäftsstelle des Fiscal Agent gemäß § 6 bezogen werden.
- (4) Kapitalmarktverbindlichkeit und wesentliche Tochtergesellschaft. Für die Zwecke dieses § 2 bedeutet:
  - (a) der Begriff „Kapitalmarktverbindlichkeit“ jede Verbindlichkeit aus aufgenommenen Geldern, die durch Schuldverschreibungen oder sonstige Wertpapiere, die an einer Börse oder an einem anderen organisierten Markt notiert oder gehandelt werden oder werden können, verbrieft, verkörpert oder dokumentiert sind, sowie jede Garantie oder sonstige Gewährleistung einer solchen Verbindlichkeit; und
  - (b) „wesentliche Tochtergesellschaft“ jedes Unternehmen, das im jeweils letzten Konzernabschluß der Garantin konsolidiert wurde und (i) dessen Umsatz (wie nachfolgend definiert) gemäß seines geprüften, nicht konsolidierten Jahresabschlusses (bzw. wenn die betreffende Tochtergesellschaft selbst konsolidierte Jahresabschlüsse erstellt, deren konsolidierter Umsatz gemäß ihres geprüften, konsolidierten Jahresabschlusses), der für die Zwecke des jeweils letzten geprüften konsolidierten Konzernabschlusses der Garantin benutzt wurde, mindestens fünf Prozent des Gesamtumsatzes der Garantin und deren konsolidierten Konzerngesellschaften betragen hat, wie aus dem jeweils letzten geprüften, konsolidierten Konzernabschluß ersichtlich und (ii) dessen Bilanzsumme gemäß seines geprüften, nicht konsolidierten Jahresabschlusses (bzw. wenn die betreffende Tochtergesellschaft selbst konsolidierte Jahresabschlüsse erstellt, deren konsolidierte Bilanzsumme gemäß ihres geprüften, konsolidierten Jahresabschlusses), der für die Zwecke des jeweils letzten geprüften, konsolidierten Konzernabschlusses der Garantin benutzt wurde, mindestens fünf Prozent der konsolidierten Bilanzsumme der Garantin und deren konsolidierten Konzerntochtergesellschaften betragen hat, wie es aus dem jeweils letzten geprüften, konsolidierten Konzernabschluß ersichtlich ist. Zu den „wesentlichen Tochtergesellschaften“ rechnet nicht eine solche Gesellschaft, die zwar im jeweils letzten Konzernabschluß der Garantin konsolidiert wurde, die aber nach dem Stichtag dieses Abschlusses zum Zeitpunkt einer etwaigen Begründung von dinglichen Sicherheiten an ihrem gegenwärtigen oder zukünftigen Vermögen zur Besicherung von Kapitalmarktverbindlichkeiten nicht mehr von der Garantin zu konsolidieren wäre, es sei denn, daß zu diesem Zeitpunkt absehbar ist, daß diese Gesellschaft nicht dauerhaft aus dem Kreis der konsolidierungspflichtigen Tochtergesellschaften ausscheidet. Für die Zwecke dieses Absatzes (b) des § 2 Absatz (4) bedeutet „Umsatz“ die Umsatzerlöse ohne Mineralöl-, Erdgas- und Stromsteuer.

### § 3 ZINSEN

- (1) *Zinssatz und Zinszahlungstage.* Die Schuldverschreibungen werden bezogen auf ihren Nennbetrag verzinst, und zwar vom 23. Juli 2004 (einschließlich) bis zum Fälligkeitstag (wie in § 5 Absatz (1) definiert) (ausschließlich) mit jährlich 4,625 %. Die Zinsen sind nachträglich am 23. Juli eines jeden Jahres zahlbar (jeweils ein „Zinszahlungstag“). Die erste Zinszahlung erfolgt am 23. Juli 2005.
- (2) *Auflaufende Zinsen.* Falls die Emittentin die Schuldverschreibungen bei Fälligkeit nicht einlöst, erfolgt die Verzinsung der Schuldverschreibungen vom Tag der Fälligkeit bis zum Tag der tatsächlichen Rückzahlung der Schuldverschreibungen in Höhe des gesetzlich festgelegten Satzes für Verzugszinsen.<sup>1</sup>

<sup>1</sup> Der gesetzliche Verzugszinssatz beträgt für das Jahr fünf Prozentpunkte über dem von der Deutsche Bundesbank von Zeit zu Zeit veröffentlichten Basiszinssatz, §§ 288 Absatz 1, 247 Absatz 1 BGB.

- (3) *Berechnung der Zinsen für Teile von Zeiträumen.* Sofern Zinsen für einen Zeitraum von weniger als einem Jahr zu berechnen sind, erfolgt die Berechnung auf der Grundlage des Zinstagequotienten (wie nachstehend definiert).
- (4) *Zinstagequotient.* „Zinstagequotient“ bezeichnet im Hinblick auf die Berechnung eines Zinsbetrages auf eine Schuldverschreibung für einen beliebigen Zeitraum (der „Zinsberechnungszeitraum“) die tatsächliche Anzahl von Tagen im Zinsberechnungszeitraum, dividiert durch die tatsächliche Anzahl von Tagen in der jeweiligen Zinsperiode.

#### § 4

#### ZAHLUNGEN

- (1)(a) *Zahlungen auf Kapital.* Zahlungen auf Kapital in bezug auf die Schuldverschreibungen erfolgen nach Maßgabe des nachstehenden Absatzes 2 an das Clearing System oder dessen Order zur Gutschrift auf den Konten der jeweiligen Kontoinhaber des Clearing Systems.
- (b) *Zahlung von Zinsen.* Die Zahlung von Zinsen auf Schuldverschreibungen erfolgt nach Maßgabe von Absatz (2) an das Clearing System oder dessen Order zur Gutschrift auf den Konten der jeweiligen Kontoinhaber des Clearing Systems.

Die Zahlung von Zinsen auf Schuldverschreibungen, die durch die vorläufige Globalurkunde verbrieft sind, erfolgt nach Maßgabe von Absatz (2) an das Clearing System oder dessen Order zur Gutschrift auf den Konten der jeweiligen Kontoinhaber des Clearing Systems, und zwar nach ordnungsgemäßer Bescheinigung gemäß § 1 Absatz (3)(b).

- (2) *Zahlungsweise.* Vorbehaltlich geltender steuerlicher und sonstiger gesetzlicher Regelungen und Vorschriften erfolgen zu leistende Zahlungen auf die Schuldverschreibungen in Euro.
- (3) *Erfüllung.* Die Emittentin wird durch Leistung der Zahlung an das Clearing System oder dessen Order von ihrer Zahlungspflicht befreit.
- (4) *Zahltag.* Fällt der Fälligkeitstag einer Zahlung in bezug auf eine Schuldverschreibung auf einen Tag, der kein Zahltag ist, dann hat der Gläubiger keinen Anspruch auf Zahlung vor dem nächsten Zahltag am jeweiligen Geschäftsort. Der Gläubiger ist nicht berechtigt, weitere Zinsen oder sonstige Zahlungen aufgrund dieser Verspätung zu verlangen.

Für diese Zwecke bezeichnet „Zahltag“ einen Tag, der ein Tag (außer einem Samstag oder Sonntag) ist, an dem das Clearing System sowie alle betroffenen Bereiche des Trans-European Automated Real-time Gross Settlement Express Transfer System (TARGET) betriebsbereit sind, um die betreffenden Zahlungen weiterzuleiten.

- (5) *Bezugnahmen auf Kapital und Zinsen.* Bezugnahmen in diesen Emissionsbedingungen auf Kapital der Schuldverschreibungen schließen, soweit anwendbar, die folgenden Beträge ein: den Rückzahlungsbetrag der Schuldverschreibungen; den vorzeitigen Rückzahlungsbetrag der Schuldverschreibungen; sowie jeden Aufschlag sowie sonstige auf oder in bezug auf die Schuldverschreibungen zahlbaren Beträge. Bezugnahmen in diesen Emissionsbedingungen auf Zinsen auf die Schuldverschreibungen sollen, soweit anwendbar, sämtliche gemäß § 7 zahlbaren zusätzlichen Beträge einschließen.

- (6) *Hinterlegung von Kapital und Zinsen.* Die Emittentin ist berechtigt, beim Amtsgericht Frankfurt am Main Zins- oder Kapitalbeträge zu hinterlegen, die von den Gläubigern nicht innerhalb von zwölf Monaten nach dem Fälligkeitstag beansprucht worden sind, auch wenn die Gläubiger sich nicht in Annahmeverzug befinden. Soweit eine solche Hinterlegung erfolgt, und auf das Recht der Rücknahme verzichtet wird, erlöschen die diesbezüglichen Ansprüche der Gläubiger gegen die Emittentin.

#### § 5

#### RÜCKZAHLUNG

- (1) *Rückzahlung bei Endfälligkeit.* Soweit nicht zuvor bereits ganz oder teilweise zurückgezahlt oder angekauft und entwertet, werden die Schuldverschreibungen zu ihrem Rückzahlungsbetrag am 23. Juli 2014 (der „Fälligkeitstag“) zurückgezahlt. Der Rückzahlungsbetrag in bezug auf jede Schuldverschreibung entspricht dem Nennbetrag der Schuldverschreibungen.
- (2) *Vorzeitige Rückzahlung aus steuerlichen Gründen.* Die Schuldverschreibungen können insgesamt, jedoch nicht teilweise, nach Wahl der Emittentin mit einer Kündigungsfrist von nicht weniger als 30 und nicht mehr als 60 Tagen gegenüber dem Fiscal Agent und gemäß § 12 gegenüber den Gläubigern vorzeitig gekündigt und zu ihrem vorzeitigen Rückzahlungsbetrag (wie nachstehend definiert) zuzüglich bis zum für die Rückzahlung festgesetzten Tag aufgelaufener Zinsen zurückgezahlt werden, falls die Emittentin oder die Garantin als Folge einer Änderung oder

Ergänzung der Steuer- oder Abgabengesetze und -vorschriften der Bundesrepublik Deutschland oder der Niederlande oder deren politischen Untergliederungen oder Steuerbehörden oder als Folge einer Änderung oder Ergänzung der Anwendung oder der offiziellen Auslegung dieser Gesetze und Vorschriften (vorausgesetzt, diese Änderung oder Ergänzung wird am oder nach dem Tag, an dem die letzte Tranche dieser Serie von Schuldverschreibungen begeben wird, wirksam) am nächstfolgenden Zinszahlungstag (wie in § 3 Absatz (1) definiert) zur Zahlung von zusätzlichen Beträgen (wie in § 7 dieser Bedingungen definiert) verpflichtet sein wird und diese Verpflichtung nicht durch das Ergreifen vernünftiger, der Emittentin oder der Garantin zur Verfügung stehender Maßnahmen vermieden werden kann.

Eine solche Kündigung darf allerdings nicht (i) früher als 90 Tage vor dem frühestmöglichen Termin erfolgen, an dem die Emittentin, oder die Garantin verpflichtet wäre, solche zusätzlichen Beträge zu zahlen, falls eine Zahlung auf die Schuldverschreibungen dann fällig sein würde, oder (ii) erfolgen, wenn zu dem Zeitpunkt, zu dem die Kündigung erfolgt, die Verpflichtung zur Zahlung von zusätzlichen Beträgen nicht mehr wirksam ist.

Eine solche Kündigung hat gemäß § 12 zu erfolgen. Sie ist unwiderruflich, muß den für die Rückzahlung festgelegten Termin nennen und eine zusammenfassende Erklärung enthalten, welche die das Rückzahlungsrecht der Emittentin begründenden Umstände darlegt.

(3) *Vorzeitiger Rückzahlungsbetrag.* Für die Zwecke des § 9 und des Absatzes (2) dieses § 5, entspricht der vorzeitige Rückzahlungsbetrag einer Schuldverschreibung dem Rückzahlungsbetrag.

## § 6

### DER FISCAL AGENT UND DIE ZAHLSTELLE

(1) *Bestellung; bezeichnete Geschäftsstelle.* Der anfänglich bestellte Fiscal Agent und die anfänglich bestellte Zahlstelle und deren bezeichnete Geschäftsstellen lauten wie folgt:

Fiscal Agent: Deutsche Bank Aktiengesellschaft  
Trust & Securities Services  
Große Gallusstraße 10–14  
60272 Frankfurt am Main

Zahlstelle: Deutsche Bank Luxembourg S.A.  
2 Boulevard Konrad Adenauer  
L-1115 Luxembourg

Der Fiscal Agent und die Zahlstelle behalten sich das Recht vor, jederzeit ihre bezeichneten Geschäftsstellen durch eine andere bezeichnete Geschäftsstelle in derselben Stadt zu ersetzen.

(2) *Änderung der Bestellung oder Abberufung.* Die Emittentin behält sich das Recht vor, jederzeit die Bestellung der Emissionsstelle oder einer Zahlstelle zu ändern oder zu beenden und eine andere Emissionsstelle oder zusätzliche oder andere Zahlstellen zu bestellen. Die Emittentin wird zu jedem Zeitpunkt (i) eine Emissionsstelle unterhalten und (ii) solange die Schuldverschreibungen an der Luxemburger Börse notiert sind, eine Zahlstelle (die die Emissionsstelle sein kann) mit bezeichneter Geschäftsstelle in Luxemburg und/oder an solchen anderen Orten unterhalten, die die Regeln dieser Börse verlangen. Eine Änderung, Abberufung, Bestellung oder ein sonstiger Wechsel wird nur wirksam (außer im Insolvenzfall, in dem eine solche Änderung sofort wirksam wird), sofern die Gläubiger hierüber gemäß § 12 vorab unter Einhaltung einer Frist von mindestens 30 und nicht mehr als 45 Tagen informiert wurden. Für die Zwecke dieser Emissionsbedingungen bezeichnet „Vereinigte Staaten“ die Vereinigten Staaten von Amerika (einschließlich deren Bundesstaaten und des District of Columbia) sowie deren Territorien (einschließlich Puerto Ricos, der U.S. Virgin Islands, Guam, American Samoa, Wake Island und Northern Mariana Islands).

(3) *Erfüllungsgelhilfe(n) der Emittentin.* Der Fiscal Agent und die Zahlstelle handeln ausschließlich als Erfüllungsgelhilfen der Emittentin und übernehmen keinerlei Verpflichtungen gegenüber den Gläubigern und es wird kein Auftrags- oder Treuhandverhältnis zwischen ihnen und den Gläubigern begründet.

## § 7

### STEUERN

Sämtliche auf die Schuldverschreibungen zu zahlenden Beträge sind ohne Einbehalt oder Abzug von oder aufgrund von gegenwärtigen oder zukünftigen Steuern oder sonstigen Abgaben gleich welcher Art zu leisten, die von oder in den Niederlanden oder der Bundesrepublik Deutschland oder für deren Rechnung oder von oder für Rechnung einer politischen Untergliederung oder Steuerbehörde der oder in den Niederlanden oder der Bundesrepublik Deutschland auferlegt oder erhoben werden, es sei denn, ein solcher Einbehalt oder Abzug ist gesetzlich vorgeschrieben. In diesem Fall wird die Emittentin diejenigen zusätzlichen Beträge (die „zusätzlichen Beträge“) zahlen, die erforderlich sind, damit die den Gläubigern zufließenden Nettobeträge nach diesem Einbehalt oder Abzug jeweils den Beträgen

entsprechen, die ohne einen solchen Einbehalt oder Abzug von den Gläubigern empfangen worden wären; die Verpflichtung zur Zahlung solcher zusätzlicher Beträge besteht jedoch nicht im Hinblick auf Steuern und Abgaben, die:

- (a) von einer als Depotbank oder Inkassobeauftragter des Gläubigers handelnden Person oder sonst auf andere Weise zu entrichten sind als dadurch, daß die Emittentin aus den von ihr zu leistenden Zahlungen von Kapital oder Zinsen einen Abzug oder Einbehalt vornimmt; oder
- (b) wegen einer gegenwärtigen oder früheren persönlichen oder geschäftlichen Beziehung des Gläubigers zu den Niederlanden oder der Bundesrepublik Deutschland zu zahlen sind, und nicht allein deshalb, weil Zahlungen auf die Schuldverschreibungen aus Quellen in den Niederlanden oder der Bundesrepublik Deutschland stammen (oder für Zwecke der Besteuerung so behandelt werden) oder dort besichert sind; oder
- (c) aufgrund (i) einer Richtlinie oder Verordnung der Europäischen Union betreffend die Besteuerung von Zinserträgen oder (ii) einer zwischenstaatlichen Vereinbarung über deren Besteuerung, an der die Bundesrepublik Deutschland oder die Niederlande oder die Europäische Union beteiligt ist, oder (iii) einer gesetzlichen Vorschrift, die diese Richtlinie, Verordnung oder Vereinbarung umsetzt oder befolgt, abzuziehen oder einzubehalten sind; oder
- (d) aufgrund einer Rechtsänderung zu zahlen sind, welche später als 30 Tage nach Fälligkeit der betreffenden Zahlung von Kapital oder Zinsen oder, wenn dies später erfolgt, ordnungsgemäßer Bereitstellung aller fälligen Beträge und einer diesbezüglichen Bekanntmachung gemäß § 12 wirksam wird; oder
- (e) von einer Zahlstelle abgezogen oder einbehalten werden, wenn eine andere Zahlstelle die Zahlung ohne einen solchen Abzug oder Einbehalt hätte leisten können.

## § 8

### VORLEGUNGSFRIST

Die in § 801 Absatz 1 Satz 1 BGB bestimmte Vorlegungsfrist wird für die Schuldverschreibungen auf zehn Jahre verkürzt.

## § 9

### KÜNDIGUNG

- (1) *Kündigungsgründe.* Jeder Gläubiger ist berechtigt, seine Schuldverschreibung zu kündigen und deren sofortige Rückzahlung zu ihrem vorzeitigen Rückzahlungsbetrag (wie in § 5 beschrieben), zuzüglich etwaiger bis zum Tage der Rückzahlung aufgelaufener Zinsen zu verlangen, falls:
- (a) die Emittentin Kapital oder Zinsen nicht innerhalb von 30 Tagen nach dem betreffenden Fälligkeitstag zahlt; oder
  - (b) die Emittentin die ordnungsgemäße Erfüllung einer anderen Verpflichtung aus den Schuldverschreibungen oder die Garantin die Erfüllung einer Verpflichtung aus der Garantie unterläßt und diese Unterlassung nicht geheilt werden kann oder, falls sie geheilt werden kann, länger als 60 Tage fort dauert, nachdem der Fiscal Agent hierüber eine Benachrichtigung von einem Gläubiger erhalten hat; oder
  - (c) die Emittentin oder die Garantin oder eine wesentliche Tochtergesellschaft (wie in § 2 Absatz (4) definiert) Kapitalmarktverbindlichkeiten (wie in § 2 Absatz (4) definiert) ohne Rechtsgrund nicht binnen 30 Tagen nach dem Fälligkeitstag erfüllt oder ein Gläubiger infolge Vorliegens eines außerordentlichen Kündigungsgrundes (wie immer beschrieben) berechtigt ist, eine solche Kapitalmarktverbindlichkeit der Emittentin oder der Garantin oder einer wesentlichen Tochtergesellschaft vorzeitig fällig zu stellen, es sei denn, der Gesamtbetrag solcher Kapitalmarktverbindlichkeiten beträgt weniger als Euro 50.000.000 (oder deren Gegenwert in anderer Währung); oder
  - (d) die Emittentin oder die Garantin ihre Zahlungsunfähigkeit bekanntgibt oder ihre Zahlungen einstellt; oder
  - (e) ein Gericht ein Insolvenzverfahren gegen die Emittentin oder die Garantin eröffnet, oder die Emittentin oder die Garantin ein solches Verfahren einleitet oder beantragt oder eine allgemeine Schuldenregelung zugunsten ihrer Gläubiger anbietet oder trifft, oder die Emittentin ein „surseance van betaling“ (im Sinne des niederländischen Insolvenzrechts) beantragt, oder ein Dritter ein Insolvenzverfahren gegen die Emittentin oder die Garantin beantragt und ein solches Verfahren nicht innerhalb einer Frist von 60 Tagen aufgehoben oder ausgesetzt worden ist; oder

- (f) die Emittentin oder die Garantin in Liquidation tritt, es sei denn, dies geschieht im Zusammenhang mit einer Verschmelzung oder einer anderen Form des Zusammenschlusses mit einer anderen Gesellschaft und diese Gesellschaft übernimmt alle Verpflichtungen, die die Emittentin oder die Garantin im Zusammenhang mit diesen Schuldverschreibungen eingegangen ist; oder
- (g) in den Niederlanden oder in der Bundesrepublik Deutschland ein Gesetz, eine Verordnung oder behördliche Anordnung Geltung erlangt, durch welche die Emittentin rechtlich gehindert ist, die von ihr gemäß diesen Emissionsbedingungen oder der Garantin gemäß den Bestimmungen der Garantie übernommenen Verpflichtungen zu erfüllen und diese Lage nicht binnen 90 Tagen behoben ist.

Das Kündigungsrecht erlischt, falls der Kündigungsgrund vor Ausübung des Rechts geheilt wurde.

(2) *Quorum.* In den Fällen des Absatz (1) (b) oder (1) (c) wird eine Kündigung, sofern nicht bei deren Eingang zugleich einer der in Absatz (1) (a), (1) (d), (1) (e) oder (1) (f) bezeichneten Kündigungsgründe vorliegt, erst wirksam, wenn bei dem Fiscal Agent Kündigungserklärungen von Gläubigern von Schuldverschreibungen im Nennbetrag von mindestens <sup>1</sup>310 der dann ausstehenden Schuldverschreibungen eingegangen sind.

(3) *Benachrichtigung.* Eine Benachrichtigung, einschließlich einer Kündigung der Schuldverschreibungen gemäß Absatz (1) ist schriftlich in deutscher oder englischer Sprache gegenüber dem Fiscal Agent zu erklären und persönlich oder per Einschreiben an dessen bezeichnete Geschäftsstelle zu übermitteln. Der Benachrichtigung ist ein Nachweis beizufügen, aus dem sich ergibt, daß der betreffende Gläubiger zum Zeitpunkt der Abgabe der Benachrichtigung Inhaber der betreffenden Schuldverschreibung ist. Der Nachweis kann durch eine Bescheinigung der Depotbank (wie in § 13 Absatz (3) definiert) oder auf andere geeignete Weise erbracht werden.

## **§ 10 ERSETZUNG**

(1) *Ersetzung.* Die Emittentin ist jederzeit berechtigt, sofern sie sich nicht mit einer Zahlung von Kapital oder Zinsen auf die Schuldverschreibungen in Verzug befindet, ohne Zustimmung der Gläubiger entweder die Garantin oder ein mit der Garantin verbundenes Unternehmen (wie unten definiert) an ihrer Stelle als Hauptschuldnerin (die „Nachfolgeschuldnerin“) für alle Verpflichtungen aus und im Zusammenhang mit diesen Schuldverschreibungen einzusetzen, vorausgesetzt, daß:

- (a) die Nachfolgeschuldnerin alle Verpflichtungen der Emittentin in bezug auf die Schuldverschreibungen übernimmt;
- (b) die Nachfolgeschuldnerin alle erforderlichen Genehmigungen erhalten hat und berechtigt ist, an den Fiscal Agent die zur Erfüllung der Zahlungsverpflichtungen aus den Schuldverschreibungen zahlbaren Beträge in der festgelegten Währung zu zahlen, ohne verpflichtet zu sein, jeweils in dem Land, in dem die Nachfolgeschuldnerin oder die Emittentin ihren Sitz oder Steuersitz haben, erhobene Steuern oder andere Abgaben jeder Art abzuziehen oder einzubehalten;
- (c) die Nachfolgeschuldnerin sich verpflichtet hat, jeden Gläubiger hinsichtlich solcher Steuern, Abgaben oder behördlichen Lasten freizustellen, die einem Gläubiger bezüglich der Ersetzung auferlegt werden;
- (d) sichergestellt ist, daß sich die Verpflichtungen der Garantin aus der Garantie und der Negativverpflichtung des Debt Issuance Programms der Emittenten auch auf die Schuldverschreibungen der Nachfolgeschuldnerin erstrecken; und
- (e) dem Fiscal Agent jeweils eine Bestätigung bezüglich der betroffenen Rechtsordnungen von anerkannten Rechtsanwälten vorgelegt wird, daß die Bestimmungen in den vorstehenden Unterabsätzen (a), (b), (c) und (d) erfüllt wurden.

Für die Zwecke dieses § 10 bedeutet „verbundenes Unternehmen“ ein verbundenes Unternehmen im Sinne von § 15 Aktiengesetz.

(2) *Bekanntmachung.* Jede Ersetzung ist gemäß § 12 bekannt zu machen.

(3) *Änderung von Bezugnahmen.* Im Fall einer Ersetzung gilt jede Bezugnahme in diesen Emissionsbedingungen auf die Emittentin ab dem Zeitpunkt der Ersetzung als Bezugnahme auf die Nachfolgeschuldnerin und jede Bezugnahme auf das Land, in dem die Emittentin ihren Sitz oder Steuersitz hat, gilt ab diesem Zeitpunkt als Bezugnahme auf das Land, in dem die Nachfolgeschuldnerin ihren Sitz oder Steuersitz hat. Des weiteren gilt im Fall einer Ersetzung folgendes:

In § 7 und § 5 Absatz (2) gilt eine alternative Bezugnahme auf die Niederlande als aufgenommen (zusätzlich zu der Bezugnahme nach Maßgabe des vorstehenden Satzes auf das Land, in dem die Nachfolgeschuldnerin ihren Sitz oder Steuersitz hat).

## § 11 BEGEBUNG WEITERER SCHULDVERSCHREIBUNGEN, ANKAUF UND ENTWERTUNG

(1) *Begebung weiterer Schuldverschreibungen.* Die Emittentin ist berechtigt, jederzeit ohne Zustimmung der Gläubiger weitere Schuldverschreibungen mit gleicher Ausstattung (gegebenenfalls mit Ausnahme des Tags der Begebung, des Verzinsungsbeginns und/oder des Ausgabepreises) in der Weise zu begeben, daß sie mit diesen Schuldverschreibungen eine einheitliche Serie bilden.

(2) *Ankauf.* Die Emittentin ist berechtigt, jederzeit Schuldverschreibungen im Markt oder anderweitig zu jedem beliebigen Preis zu kaufen. Die von der Emittentin erworbenen Schuldverschreibungen können nach Wahl der Emittentin von ihr gehalten, weiterverkauft oder bei dem Fiscal Agent zwecks Entwertung eingereicht werden. Sofern diese Käufe durch öffentliches Angebot erfolgen, muß dieses Angebot allen Gläubigern gemacht werden.

(3) *Entwertung.* Sämtliche vollständig zurückgezahlten Schuldverschreibungen sind unverzüglich zu entwerten und können nicht wiederbegeben oder wiederverkauft werden.

## § 12 MITTEILUNGEN

(1) *Bekanntmachung.* Alle die Schuldverschreibungen betreffenden Mitteilungen sind in einer Tageszeitung mit allgemeiner Verbreitung in Luxemburg, voraussichtlich dem *Luxemburger Wort*, zu veröffentlichen. Jede derartige Mitteilung gilt am dritten Tag nach dem Tag der Veröffentlichung (oder bei mehreren Veröffentlichungen am dritten Tag nach dem Tag der ersten solchen Veröffentlichung) als wirksam erfolgt.

(2) *Mitteilungen an das Clearing System.* Die Emittentin ist berechtigt, eine Zeitungsveröffentlichung nach vorstehendem Absatz (1) durch eine Mitteilung an das Clearing System zur Weiterleitung an die Gläubiger zu ersetzen, vorausgesetzt, daß in Fällen, in denen die Schuldverschreibungen an einer Börse notiert sind, die Regeln dieser Börse diese Form der Mitteilung zulassen. Jede derartige Mitteilung gilt am siebten Tag nach dem Tag der Mitteilung an das Clearing System als den Gläubigern mitgeteilt. Solange die Schuldverschreibungen an der Luxemburger Börse notiert sind, haben alle die Schuldverschreibungen betreffenden Mitteilungen in der in Absatz (1) vorgesehenen Form zu erfolgen.

## § 13 ANWENDBARES RECHT, GERICHTSSTAND UND GERICHTLICHE GELTENDMACHUNG

(1) *Anwendbares Recht.* Form und Inhalt der Schuldverschreibungen sowie die Rechte und Pflichten der Gläubiger und der Emittentin bestimmen sich in jeder Hinsicht nach deutschem Recht.

(2) *Gerichtsstand.* Nicht ausschließlich zuständig für sämtliche im Zusammenhang mit den Schuldverschreibungen entstehenden Klagen oder sonstige Verfahren („Rechtsstreitigkeiten“) ist das Landgericht Frankfurt am Main.

(3) *Bestellung von Zustellungsbevollmächtigten.* Für etwaige Rechtsstreitigkeiten vor deutschen Gerichten bestellt die Emittentin die RWE Aktiengesellschaft, Opernplatz 1, 45128 Essen, Bundesrepublik Deutschland, zu ihrer Zustellungsbevollmächtigten in Deutschland.

(4) *Gerichtliche Geltendmachung.* Jeder Gläubiger von Schuldverschreibungen ist berechtigt, in jedem Rechtsstreit gegen die Emittentin oder in jedem Rechtsstreit, in dem der Gläubiger und die Emittentin Partei sind, seine Rechte aus diesen Schuldverschreibungen im eigenen Namen auf der folgenden Grundlage zu schützen oder geltend zu machen: (i) er bringt eine Bescheinigung der Depotbank bei, bei der er für die Schuldverschreibungen ein Wertpapierdepot unterhält, welche (a) den vollständigen Namen und die vollständige Adresse des Gläubigers enthält, (b) den Gesamtnennbetrag der Schuldverschreibungen bezeichnet, die unter dem Datum der Bestätigung auf dem Wertpapierdepot verbucht sind und (c) bestätigt, daß die Depotbank gegenüber dem Clearing System eine schriftliche Erklärung abgegeben hat, die die vorstehend unter (a) und (b) bezeichneten Informationen enthält; und (ii) er legt eine Kopie der die betreffenden Schuldverschreibungen verbriefenden Globalurkunde vor, deren Übereinstimmung mit dem Original eine vertretungsberechtigte Person des Clearing Systems oder des Verwahrers des Clearing Systems bestätigt hat, ohne daß eine Vorlage der Originalbelege oder der die Schuldverschreibungen verbriefenden Globalurkunde in einem solchen Verfahren erforderlich wäre. Für die Zwecke des Vorstehenden bezeichnet „Depotbank“ jede Bank oder ein sonstiges anerkanntes Finanzinstitut, das berechtigt ist, das Wertpapierverwahrungsgeschäft zu betreiben und bei

der/dem der Gläubiger ein Wertpapierdepot für die Schuldverschreibungen unterhält, einschließlich des Clearing Systems. Unbeschadet des Vorstehenden kann jeder Gläubiger seine Rechte aus den Schuldverschreibungen auch auf jede andere Weise schützen oder geltend machen, die im Land des Rechtsstreits prozessual zulässig ist.

**§ 14**  
**SPRACHE**

Diese Emissionsbedingungen sind in deutscher Sprache abgefaßt. Eine Übersetzung in die englische Sprache ist beigelegt. Der deutsche Text ist bindend und maßgeblich. Die Übersetzung in die englische Sprache ist unverbindlich.

**TERMS AND CONDITIONS OF THE NOTES**  
**ENGLISH LANGUAGE VERSION**

This Series of Notes is issued pursuant to a Fiscal Agency Agreement dated as of 23 March 2001 as supplemented by a Supplemental Fiscal Agency Agreement dated 28 March 2002 (together, the "Agency Agreement") between RWE Aktiengesellschaft ("RWE"), RWE Finance B.V. ("RWE Finance") (each an "Issuer" and together the "Issuers") and Deutsche Bank Aktiengesellschaft as fiscal agent (the "Fiscal Agent", which expression shall include any successor fiscal agent thereunder) and the other parties named therein. Copies of the Agency Agreement may be obtained free of charge at the specified office of the Fiscal Agent, at the specified office of any Paying Agent and at the principal office of each Issuer. The Notes have the benefit of an unconditional and irrevocable guarantee by RWE Aktiengesellschaft (the "Guarantor").

**§ 1**

**CURRENCY, DENOMINATION, FORM, CERTAIN DEFINITIONS**

- (1) *Currency; Denomination.* This Series of Notes (the "Notes") of RWE Finance B.V. (the "Issuer") is being issued in Euro (the "Specified Currency") in the aggregate principal amount of Euro 650,000,000 (in words: six hundred and fifty million Euro) in the denomination of Euro 1,000 (the "Specified Denomination").
- (2) *Form.* The Notes are being issued in bearer form.
- (3) *Temporary Global Note – Exchange.*
  - (a) The Notes are initially represented by a temporary global note (the "Temporary Global Note") without coupons. The Temporary Global Note will be exchangeable for Notes in Specified Denominations represented by a permanent global note (the "Permanent Global Note") without coupons. The Temporary Global Note and the Permanent Global Note shall each be signed manually by two authorised signatories of the Issuer and shall each be authenticated by or on behalf of the Fiscal Agent. Definitive Notes and interest coupons will not be issued.
  - (b) The Temporary Global Note shall be exchanged for the Permanent Global Note on a date (the "Exchange Date") not later than 180 days after the date of issue of the Notes represented by the Temporary Global Note. The Exchange Date will not be earlier than 40 days after the date of issue. Such exchange shall only be made upon delivery of certifications to the effect that the beneficial owner or owners of the Notes represented by the Temporary Global Note is not a U.S. person (other than certain financial institutions or certain persons holding Notes through such financial institutions). Payment of interest on Notes represented by a Temporary Global Note will be made only after delivery of such certifications. A separate certification shall be required in respect of each such payment of interest. Any such certification received on or after the 40<sup>th</sup> day after the date of issue of the Notes represented by the Temporary Global Note will be treated as a request to exchange such Temporary Global Note pursuant to subparagraph (b) of this § 1(3). Any securities delivered in exchange for the Temporary Global Note shall be delivered only outside of the United States (as defined in § 6 (2)).
- (4) *Clearing System.* The Permanent Global Note will be kept in custody by or on behalf of the Clearing System until all obligations of the Issuer under the Notes have been satisfied. "Clearing System" means each of the following: Clearstream Banking, société anonyme, Euroclear Bank S.A./N.V. as operator of the Euroclear System ("Euroclear") and any successor in such capacity.
- (5) *Holder of Notes.* "Holder" means any holder of a proportionate co-ownership or other beneficial interest or right in the Notes.

**§ 2**

**STATUS, NEGATIVE PLEDGE**

- (1) *Status.* The obligations under the Notes constitute unsecured and unsubordinated obligations of the Issuer ranking *pari passu* among themselves and *pari passu* with all other unsecured and unsubordinated obligations of the Issuer, unless such obligations are accorded priority under mandatory provisions of statutory law.
- (2) *Negative Pledge.* So long as any Notes remain outstanding, but only up to the time all amounts of principal and interest have been placed at the disposal of the Fiscal Agent, the Issuer undertakes not to create or permit to subsist any mortgage, charge, pledge, lien or other encumbrance *in rem*, (together, "encumbrances *in rem*"), upon any or all of its present or future assets as security for any present or future Capital Market Indebtedness of the Issuer or any third party without having the Holders at the same time share equally and rateably in such security. This does not apply to the extent any encumbrance *in rem* was created for any Capital Market Indebtedness of a company which has merged with the Issuer or the Guarantor, provided that such encumbrance was already in existence at the time of the merger or the

acquisition, was not created for the purpose of financing the merger or the acquisition and is not increased in amount and not extended following the merger or the acquisition. Furthermore, sentence 1 of this § 2 subparagraph (2) does not apply to encumbrances created to secure Capital Market Indebtedness, the purpose of which is to finance in whole or in part or to re-finance the acquisition, establishment or development of projects; provided that (i) the recourse of the holders of such Capital Market Indebtedness is limited to assets pertaining to such project (including any interests in project companies) and customary guarantees issued in accordance with market practice as the source of repayment; and (ii) the encumbrances are created exclusively upon these assets.

(3) *Guarantee and Negative Pledge of the Guarantor.* The Guarantor has given in a separate certificate a guarantee (the “Guarantee”) and a negative pledge (the “Negative Pledge” and together, the “Guarantee and Negative Pledge”).

(a) In the Guarantee the Guarantor unconditionally and irrevocably guarantees the due payment of principal of, and interest on, and any other amounts expressed to be payable under the Notes.

(b) In the Negative Pledge the Guarantor undertakes so long as any Notes remain outstanding, but only up to the time all amounts of principal and interest have been placed at the disposal of the Fiscal Agent, not to create or permit to subsist any mortgage, charge, pledge, lien or other encumbrance *in rem* (together, the “encumbrances *in rem*”) upon any or all of its present or future assets as security for any present or future Capital Market Indebtedness of the Guarantor or any third party without having the Holders at the same time share equally and rateably in such security. This does not apply to the extent any encumbrance *in rem* was created for any Capital Market Indebtedness of a company which has merged with the Guarantor or which has been acquired by the Guarantor, provided that such encumbrance was already in existence at the time of the merger or the acquisition, was not created for the purpose of financing the merger or the acquisition and is not increased in amount and not extended following the merger or the acquisition. Furthermore, sentence 1 of this § 2 subparagraph (3) (b) does also not apply to encumbrances created to secure Capital Market Indebtedness, the purpose of which is to finance in whole or in part or to re-finance the acquisition, establishment or development of projects; provided that (i) the recourse of the holders of such Capital Market Indebtedness is limited to assets pertaining to such project (including any interests in project companies) and customary guarantees issued in accordance with market practice as the source of repayment; and (ii) the encumbrances are created exclusively upon these assets.

(c) In the Negative Pledge the Guarantor further undertakes to procure, so long as any Notes remain outstanding but only up to the time all amounts of principal and interest have been placed at the disposal of the Fiscal Agent, to the extent legally possible in accordance with its *bona fide* judgement, that its Principal Subsidiaries (as defined below) will not create or permit to subsist any mortgage, charge, pledge, lien or other encumbrance *in rem* (together, the “encumbrances *in rem*”) upon any or all of its present or future assets to secure any present or future Capital Market Indebtedness of the relevant Principal Subsidiary or any third party. This does not apply to the extent any encumbrance *in rem* was created for any Capital Market Indebtedness of a subsidiary, which becomes Principal Subsidiary during the term of the Notes, provided that such encumbrance was already in existence at this time and is not increased in amount and not extended. Furthermore, sentence 1 of this § 2 subparagraph (3) (c) does not apply to the extent any encumbrance *in rem* was created for any Capital Market Indebtedness of a company which has merged with the Principal Subsidiary or which has been acquired by the Principal Subsidiary, provided that such encumbrance was already in existence at the time of the merger or the acquisition, was not created for the purpose of financing the merger or the acquisition and is not increased in amount and not extended following the merger or the acquisition. Finally, the provision stated in sentence 1 of this § 2 subparagraph (3) (c) does not apply to encumbrances created to secure Capital Market Indebtedness, the purpose of which is to finance in whole, in part or to re-finance the acquisition, establishment or development of projects; provided that (i) the recourse of the holders of such Capital Market Indebtedness is limited to assets pertaining to such project (including any interests in project companies) and customary guarantees issued in accordance with market practice as the source of repayment; and (ii) the encumbrances are created exclusively upon these assets.

(d) The Guarantee constitutes a contract for the benefit of the Holders from time to time as third party beneficiaries in accordance with § 328(1) of the German Civil Code <sup>(2)</sup>, giving rise to the right of each Holder to require performance of the Guarantee and the Negative Pledge directly from the Guarantor and to enforce the Guarantee and the Negative Pledge directly against the Guarantor. Copies of the Guarantee and the Negative Pledge may be obtained free of charge at the principal office of the Guarantor and at the specified office of the Fiscal Agent set forth in § 6.

(4) *Capital Market Indebtedness and Principal Subsidiary.* For the purpose of this § 2:

(a) “Capital Market Indebtedness” shall mean any obligation for the payment of borrowed money which is, in the form of, or represented or evidenced by bonds, or other instruments which are, or are capable of being, listed,

quoted, dealt in or traded on any stock exchange or in any organised market and any guarantee or other indemnity in respect of such obligation; and

- (b) “Principal Subsidiary” shall mean any company which was consolidated in the latest group accounts of the Guarantor and (i) whose Sales (as defined below), as shown in its audited, non-consolidated accounts (or; where the subsidiary concerned prepares itself consolidated accounts, consolidated Sales as shown in its audited, consolidated accounts) which have been used for the purposes of the latest audited, consolidated group accounts of the Guarantor, amount to at least five per cent. of the overall Sales of the Guarantor and its consolidated subsidiaries, as shown in its latest audited, consolidated group accounts; and (ii) whose total assets as shown in its audited, non-consolidated accounts (or; where the subsidiary concerned prepares itself consolidated accounts, consolidated total assets as shown in its audited, consolidated accounts) which have been used for the purposes of the latest audited, consolidated group accounts of the Guarantor, amount to at least five per cent. of the overall total assets of the Guarantor and its consolidated subsidiaries, as shown in its latest audited, consolidated group accounts. The term „Principal Subsidiary“ does not include any company which, although it was consolidated in the respective latest group accounts of the Guarantor, would no longer have to be consolidated by the Guarantor subsequent to the relevant date of such accounts upon the creation of any encumbrance in rem on its present or future assets as security for any Capital Market Indebtedness, unless it is foreseeable at that time that such company will not permanently cease to rank among the subsidiaries subject to consolidation. For the purpose of this subparagraph (b) of this § 2 (4), “Sales” shall mean net sales without mineral oil tax, gas tax and electricity tax.

### § 3 INTEREST

- (1) *Rate of Interest and Interest Payment Dates.* The Notes shall bear interest on their principal amount at the rate of 4.625 per cent. per annum from (and including) 23 July 2004 to (but excluding) the Maturity Date (as defined in § 5(1)). Interest shall be payable in arrear on 23 July in each year (each such date, an “Interest Payment Date”). The first payment of interest shall be made on 23 July 2005.
- (2) *Accrual of Interest.* If the Issuer shall fail to redeem the Notes when due, interest shall continue to accrue beyond the due date until the actual redemption of the Notes at the default rate of interest established by law.<sup>2</sup>
- (3) *Calculation of Interest for Partial Periods.* If interest is required to be calculated for a period of less than a full year, such interest shall be calculated on the basis of the Day Count Fraction (as defined below).
- (4) *Day Count Fraction.* “Day Count Fraction” means with regard to the calculation of interest on any Note for any period of time (the “Calculation Period”) the actual number of days in the Calculation Period divided by the actual number of days in the respective interest period.

### § 4 PAYMENTS

- (1)(a) *Payment of Principal.* Payment of principal in respect of Notes shall be made, subject to subparagraph (2) below, to the Clearing System or to its order for credit to the accounts of the relevant account holders of the Clearing System.
- (b) *Payment of Interest.* Payment of interest on Notes shall be made, subject to sub-paragraph (2), to the Clearing System or to its order for credit to the relevant account holders of the Clearing System.

Payment of interest on Notes represented by the Temporary Global Note shall be made, subject to subparagraph (2), to the Clearing System or to its order for credit to the relevant account holders of the Clearing System, upon due certification as provided in § 1(3)(b).

- (2) *Manner of Payment.* Subject to applicable fiscal and other laws and regulations, payments of amounts due in respect of the Notes shall be made in Euro.
- (3) *Discharge.* The Issuer shall be discharged by payment to, or to the order of, the Clearing System.
- (4) *Payment Business Day.* If the date for payment of any amount in respect of any Note is not a Payment Business Day then the Holder shall not be entitled to payment until the next such day in the relevant place and shall not be entitled to further interest or other payment in respect of such delay.

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<sup>2</sup> The default rate of interest established by law is five percentage points above the basic rate of interest published by *Deutsche Bundesbank* from time to time; §§ 288(1), 247(1) German Civil Code.

For these purposes, "Payment Business Day" means any day which is a day (other than a Saturday or a Sunday) on which the Clearing System as well as all relevant parts of the Trans-European Automated Real-time Gross Settlement Express Transfer System (TARGET) are operational to forward the relevant payment.

(5) *References to Principal and Interest.* References in these Terms and Conditions to principal in respect of the Notes shall be deemed to include, as applicable: the Final Redemption Amount of the Notes; the Early Redemption Amount of the Notes; and any premium and any other amounts which may be payable under or in respect of the Notes. References in these Terms and Conditions to interest in respect of the Notes shall be deemed to include, as applicable, any Additional Amounts which may be payable under § 7.

(6) *Deposit of Principal and Interest.* The Issuer may deposit with the Amtsgericht in Frankfurt am Main principal or interest not claimed by Holders within twelve months after the Maturity Date, even though such Holders may not be in default of acceptance of payment. If and to the extent that the deposit is effected and the right of withdrawal is waived, the respective claims of such Holders against the Issuer shall cease.

## **§ 5 REDEMPTION**

(1) *Final Redemption.* Unless previously redeemed in whole or in part or purchased and cancelled, the Notes shall be redeemed at their Final Redemption Amount on 23 July 2014 (the "Maturity Date"). The Final Redemption Amount in respect of each Note shall be its principal amount.

(2) *Early Redemption for Reasons of Taxation.* If as a result of any change in, or amendment to, the laws or regulations of the Federal Republic of Germany or The Netherlands or any political subdivision or taxing authority thereto or therein affecting taxation or the obligation to pay duties of any kind, or any change in, or amendment to, an official interpretation or application of such laws or regulations, which amendment or change is effective on or after the date on which the last tranche of this series of Notes was issued, the Issuer or the Guarantor is required to pay Additional Amounts (as defined in § 7 herein) on the next succeeding Interest Payment Date (as defined in § 3(1)), and this obligation cannot be avoided by the use of reasonable measures available to the Issuer or the Guarantor, as the case may be, the Notes may be redeemed, in whole but not in part, at the option of the Issuer, upon not more than 60 days' nor less than 30 days' prior notice of redemption given to the Fiscal Agent and, in accordance with § 12 to the Holders, at their Early Redemption Amount (as defined below), together with interest accrued to the date fixed for redemption.

However, no such notice of redemption may be given (i) earlier than 90 days prior to the earliest date on which the Issuer or the Guarantor would be obligated to pay such Additional Amounts were a payment in respect of the Notes then due, or (ii) if at the time such notice is given, such obligation to pay such Additional Amounts does not remain in effect.

Any such notice shall be given in accordance with § 12. It shall be irrevocable, must specify the date fixed for redemption and must set forth a statement in summary form of the facts constituting the basis for the right of the Issuer so to redeem.

(3) *Early Redemption Amount.* For purposes of § 9 and subparagraph (2) of this § 5, the Early Redemption Amount of a Note shall be its Final Redemption Amount.

## **§ 6 THE FISCAL AGENT AND THE PAYING AGENT**

(1) *Appointment; Specified Office.* The initial Fiscal Agent and the initial Paying Agent and their initial specified offices shall be:

Fiscal Agent: Deutsche Bank Aktiengesellschaft  
Trust & Securities Services  
Grosse Gallusstrasse 10-14  
D-60272 Frankfurt am Main

Paying Agent: Deutsche Bank Luxembourg S.A.  
2 Boulevard Konrad Adenauer  
L-1115 Luxembourg

The Fiscal Agent and the Paying Agent reserve the right at any time to change their specified offices to some other specified office in the same city.

(2) *Variation or Termination of Appointment.* The Issuer reserves the right at any time to vary or terminate the appointment of the Fiscal Agent or any Paying Agent and to appoint another Fiscal Agent or additional or other Paying Agents. The Issuer shall at all times maintain (i) a Fiscal Agent and (ii) so long as the Notes are listed on the Luxembourg Stock Exchange, a Paying Agent (which may be the Fiscal Agent) with a specified office in Luxembourg and/or in such other place as may be required by the rules of such stock exchange. Any variation, termination, appointment or change shall only take effect (other than in the case of insolvency, when it shall be of immediate effect) after not less than 30 nor more than 45 days' prior notice thereof shall have been given to the Holders in accordance with § 12. For purposes of these Terms and Conditions, "United States" means the United States of America (including the States thereof and the District of Columbia) and its possessions (including Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and Northern Mariana Islands).

(3) *Agent of the Issuer.* The Fiscal Agent and the Paying Agent act solely as the agents of the Issuer and do not assume any obligations towards or relationship of agency or trust for any Holder.

## § 7

### TAXATION

All amounts payable in respect of the Notes shall be made without withholding or deduction for or on account of any present or future taxes or duties of whatever nature imposed or levied by way of withholding or deduction by or on behalf of The Netherlands or the Federal Republic of Germany or any political subdivision or any authority thereof or therein having power to tax unless such withholding or deduction is required by law. In such event, the Issuer will pay such additional amounts (the "Additional Amounts") as shall be necessary in order that the net amounts received by the Holders, after such withholding or deduction shall equal the respective amounts which would otherwise have been receivable in the absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes or duties which:

- (a) are payable by any person acting as custodian bank or collecting agent on behalf of a Holder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments of principal or interest made by it, or
- (b) are payable by reason of the Holder having, or having had, some personal or business connection with The Netherlands or the Federal Republic of Germany and not merely by reason of the fact that payments in respect of the Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, The Netherlands or the Federal Republic of Germany, or
- (c) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which the Federal Republic of Germany or the Netherlands or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding, or
- (d) are payable by reason of a change in law that becomes effective more than 30 days after the relevant payment becomes due, or is duly provided for and notice thereof is published in accordance with § 12, whichever occurs later, or
- (e) are deducted or withheld by a Paying Agent from a payment if the payment could have been made by another Paying Agent without such deduction or withholding.

## § 8

### PRESENTATION PERIOD

The presentation period provided in § 801 paragraph 1, sentence 1 BGB (German Civil Code) is reduced to ten years for the Notes.

## § 9

### EVENTS OF DEFAULT

(1) *Events of default.* Each Holder shall be entitled to declare his Notes due and demand immediate redemption thereof at the Early Redemption Amount (as described in § 5), together with accrued interest (if any) to the date of repayment, in the event that

- (a) the Issuer fails to pay principal or interest within 30 days from the relevant due date, or

- (b) the Issuer fails duly to perform any other obligation arising from the Notes or the Guarantor fails to perform any obligation arising from the Guarantee which failure is not capable of remedy or, if such failure is capable of remedy, such failure continues for more than 60 days after the Fiscal Agent has received notice thereof from a Holder, or
- (c) the Issuer or the Guarantor or a Principal Subsidiary (as defined in § 2 subparagraph (4)) fails to fulfil without legal cause any payment obligation under any Capital Market Indebtedness (as defined in § 2 subparagraph (4)) within 30 days from its due date or any creditor is entitled to declare due and payable any Capital Market Indebtedness of the Issuer or the Guarantor or a Principal Subsidiary prior to its stated maturity for reason of default (howsoever defined); unless the aggregate amount of all such Capital Market Indebtedness is less than Euro 50,000,000 (or the equivalent in other currencies), or
- (d) the Issuer or the Guarantor announces its inability to meet its financial obligations or ceases its payments, or
- (e) a court opens insolvency proceedings against the Issuer or the Guarantor or the Issuer or the Guarantor applies for or institutes such proceedings or offers or makes an arrangement for the benefit of its creditors generally, or the Issuer applies for a “*surseance van betaling*” (within the meaning of The Bankruptcy Act of The Netherlands), or a third party applies for insolvency proceedings against the Issuer or the Guarantor and such proceedings are not discharged or stayed within 60 days, or
- (f) the Issuer or the Guarantor goes into liquidation unless this is done in connection with a merger, or other form of combination with another company and such company assumes all obligations contracted by the Issuer or the Guarantor, as the case may be, in connection with this issue, or
- (g) any governmental order, decree or enactment shall gain recognition in The Netherlands or the Federal Republic of Germany whereby the Issuer is legally prevented from performing its obligations as set forth in these Terms and Conditions or the Guarantor is legally prevented from performing its obligations as set forth in the terms and conditions of the Guarantee and this situation is not cured within 90 days.

The right to declare Notes due shall terminate if the situation giving rise to it has been cured before the right is exercised.

(2) *Quorum.* In the events specified in subparagraph (1) (b) or subparagraph (1) (c), any notice declaring Notes due shall, unless at the time such notice is received any of the events specified in subparagraph (1) (a), (1) (d), (1) (e), (1) (f) entitling Holders to declare their Notes due has occurred, become effective only when the Fiscal Agent has received such notices from the Holders of at least one-tenth in principal amount of Notes then outstanding.

(3) *Notice.* Any notice, including any notice declaring Notes due, in accordance with subparagraph (1) shall be made by means of a written declaration in the German or English language delivered by hand or registered mail to the specified office of the Fiscal Agent together with proof that such Holder at the time of such notice is a holder of the relevant Notes by means of a certificate of his Custodian (as defined in § 13(3)) or in other appropriate manner.

## § 10 SUBSTITUTION

(1) *Substitution.* The Issuer may, without the consent of the Holders, if no payment of principal or interest on any of the Notes is in default, at any time substitute for the Issuer either the Guarantor or any Affiliate (as defined below) of the Guarantor as principal debtor in respect of all obligations arising from or in connection with this issue (the “Substitute Debtor”) provided that:

- (a) the Substitute Debtor assumes all obligations of the Issuer in respect of the Notes;
- (b) the Substitute Debtor has obtained all necessary authorisations and may transfer to the Fiscal Agent in the currency required and without being obligated to deduct or withhold any taxes or other duties of whatever nature levied by the country in which the Substitute Debtor or the Issuer has its domicile or tax residence, all amounts required for the fulfilment of the payment obligations arising under the Notes;
- (c) the Substitute Debtor has agreed to indemnify and hold harmless each Holder against any tax, duty, assessment or governmental charge imposed on such Holder in respect of such substitution;
- (d) it is guaranteed that the obligations of the Guarantor from the Guarantee and the Negative Pledge of the Debt Issuance Programme of the Issuers apply also to the Notes of the Substitute Debtor; and

- (e) there shall have been delivered to the Fiscal Agent one opinion for each jurisdiction affected of lawyers of recognised standing to the effect that subparagraphs (a), (b), (c) and (d) above have been satisfied.

For purposes of this § 10, “Affiliate” shall mean any affiliated company (*verbundenes Unternehmen*) within the meaning of § 15 Aktiengesetz (German Stock Corporation Act).

- (2) *Notice.* Notice of any such substitution shall be published in accordance with § 12.
- (3) *Change of References.* In the event of any such substitution, any reference in these Terms and Conditions to the Issuer shall from then on be deemed to refer to the Substitute Debtor and any reference to the country in which the Issuer is domiciled or resident for taxation purposes shall from then on be deemed to refer to the country of domicile or residence for taxation purposes of the Substitute Debtor. Furthermore, in the event of such substitution the following shall apply:

In § 7 and § 5(2) an alternative reference to The Netherlands shall be deemed to have been included in addition to the reference according to the preceding sentence to the country of domicile or residence for taxation purposes of the Substitute Debtor.

## § 11

### FURTHER ISSUES, PURCHASES AND CANCELLATION

- (1) *Further Issues.* The Issuer may from time to time, without the consent of the Holders, issue further Notes having the same terms and conditions as the Notes in all respects (or in all respects except for the settlement date, interest commencement date and/or issue price) so as to form a single Series with the Notes.
- (2) *Purchases.* The Issuer may at any time purchase Notes in the open market or otherwise and at any price. Notes purchased by the Issuer may, at the option of the Issuer, be held, resold or surrendered to the Fiscal Agent for cancellation. If purchases are made by tender, tenders for such Notes must be made available to all Holders of such Notes alike.
- (3) *Cancellation.* All Notes redeemed in full shall be cancelled forthwith and may not be reissued or resold.

## § 12

### NOTICES

- (1) *Publication.* All notices concerning the Notes shall be published in a leading daily newspaper having general circulation in Luxembourg. This newspaper is expected to be the *Luxemburger Wort*. Any notice so given will be deemed to have been validly given on the third day following the date of such publication (or, if published more than once, on the third day following the first day of any such publication).
- (2) *Notification to Clearing System.* The Issuer may, in lieu of publication in the newspapers set forth in subparagraph (1) above, deliver the relevant notice to the Clearing System, for communication by the Clearing System to the Holders, provided that, so long as any Notes are listed on any stock exchange, the rules of such stock exchange permit such form of notice. Any such notice shall be deemed to have been given to the Holders on the seventh day after the day on which the said notice was given to the Clearing System. So long as any Notes are listed on the Luxembourg Stock Exchange, all notices concerning the Notes shall be published in accordance with subparagraph (1).

## § 13

### APPLICABLE LAW, PLACE OF JURISDICTION AND ENFORCEMENT

- (1) *Applicable Law.* The Notes, as to form and content, and all rights and obligations of the Holders and the Issuer, shall be governed by German law.
- (2) *Submission to Jurisdiction.* The District Court (*Landgericht*) in Frankfurt am Main shall have non-exclusive jurisdiction for any action or other legal proceedings (“Proceedings”) arising out of or in connection with the Notes.
- (3) *Appointment of Authorised Agent.* For any Proceedings before German courts, the Issuer appoints RWE Aktiengesellschaft, Opernplatz 1, 45128 Essen, Federal Republic of Germany as its authorised agent for service of process in Germany.
- (4) *Enforcement.* Any Holder of Notes may in any proceedings against the Issuer, or to which such Holder and the Issuer are parties, protect and enforce in his own name his rights arising under such Notes on the basis of (i) a statement issued by the Custodian with whom such Holder maintains a securities account in respect of the Notes (a) stating the full name and address of the Holder, (b) specifying the aggregate principal amount of Notes credited to such securities

account on the date of such statement and (c) confirming that the Custodian has given written notice to the Clearing System containing the information pursuant to (a) and (b) and (ii) a copy of the Note in global form certified as being a true copy by a duly authorised officer of the Clearing System or a depository of the Clearing System, without the need for production in such proceedings of the actual records or the global note representing the Notes. For purposes of the foregoing, "Custodian" means any bank or other financial institution of recognised standing authorised to engage in securities custody business with which the Holder maintains a securities account in respect of the Notes and includes the Clearing System. Each Holder may, without prejudice to the foregoing, protect and enforce his rights under these Notes also in any other way which is admitted in the country of the Proceedings.

**§ 14**  
**LANGUAGE**

These Terms and Conditions are written in the German language and provided with an English language translation. The German text shall be controlling and binding. The English language translation is provided for convenience only.

## ANNEX C

The "Description of RWE Finance B.V." on pages 92 to 94 of the Information Memorandum is supplemented with the following information:

1. RWE Finance's Articles of Association were last amended on 12 January 2003.

2. The persons authorised to represent RWE Finance are as follows:

Dr. Jan Willem Fabius  
Georg K. Lambertz  
Maarten Hoogeweegen  
Ron Ton

3. RWE Finance has not paid out any annual dividends for each of the last five years.