

Control and Profit and Loss Pooling Agreement

between

RWE Energy AG,
Rheinlanddamm 24, 44139 Dortmund
registered in the Commercial Registry maintained with the Municipal Court in Dortmund,
File HR B, Section 11622

- referred to as "**Controlling Company**" hereinafter -

and

RWE Beteiligungsverwaltung Ausland GmbH
Opernplatz 1, 45128 Essen,
in the course of formation

- referred to as "**Controlled Company**" hereinafter -

Section 1 Management

The Controlled Company shall place the management of its company under the control of the Controlling Company. Accordingly, the Controlling Company shall be authorised to issue instructions to the Controlled Company's management regarding the management of the company. The Controlled Company shall thus be incorporated into the Controlling Company in organisational, financial and commercial terms.

Section 2 Transfer of Profits

- (1) The Controlled Company shall undertake to transfer its profits to the Controlling Company in full. Subject to the accrual or release of provisions pursuant to Paragraph 2, the net profit for the year before profit and loss pooling - minus any net loss carried forward from the preceding year - shall be transferred.

- (2) The Controlled Company may transfer funds from its net profit for the year to other retained earnings with the Controlling Company's approval insofar as permissible under German commercial law and warranted by sound commercial reasoning. Other retained earnings in accordance with Section 272, Paragraph 3 of the German Commercial Code accrued during the term of this Agreement shall be released on the Controlling Company's request and to offset any net loss for the year or for transfer as profit. The transfer of funds from the release of other retained earnings pursuant to Section 272, Paragraph 3 of the German Commercial Code accrued prior to the beginning of the term of this Agreement shall be exempted.
- (3) The valid version of Section 301 of the German Stock Corporation Act shall apply analogously.
- (4) The profit-transfer obligation shall apply to the full profit for the first time in the Controlled Company's truncated financial year beginning in the month in which the Controlled Company is established, i.e. May 2009. If the Control Profit and Loss Pooling Agreement is not registered in the Commercial Register by the end of the day on 31 December 2009, the obligation in relation to the full profit shall enter into force for the first time for the Controlled Company's financial year beginning in the year in which the registration in the Commercial Register takes place.

Section 3 Assumption of Losses

- (1) The valid version of Section 302 of the German Stock Corporation Act shall apply analogously.
- (2) In particular, the Controlling Company shall be obliged to offset any net loss for the year incurred during the term of this Agreement unless such loss is offset by drawing funds from other retained earnings in accordance with Section 2, Paragraph 2, Sentence 2 which have been transferred to other retained earnings during the term of this Agreement. Furthermore, the provisions governing the waiver and settlement of the entitlement to offset losses (Section 302, Paragraph 3 of the German Stock Corporation Act) and the statutes of limitation (Section 302, Paragraph 4 of the German Stock Corporation Act) shall apply.

Section 4
Entry into Force and Term of the Agreement

- (1) This Agreement shall be concluded subject to the approval of the Shareholders' Meeting of the Controlling Company and the Shareholders' Meeting of the Controlled Company.
- (2) This Agreement shall enter into force upon its registration in the Commercial Register of the Controlled Company's domicile and - with the exception of the authority to issue instructions according to Section 1 - it shall take retroactive effect from the beginning of the Controlled Company's financial year for which the obligation to transfer profits enters into force for the first time pursuant to Section 2, Paragraph 4.
- (3) This Agreement shall be concluded for a fixed term expiring at the end of the five-year period starting at the beginning of the Controlled Company's financial year for which the obligation to transfer profits enters into force for the first time pursuant to Section 2, Paragraph 4 and at least until 31 December 2014. If the Controlled Company introduces a financial year deviating from the calendar year, the term of this Agreement shall be extended until the end of the financial year underway during the expiry of the fixed term set forth in Sentence 1. This Agreement shall be extended for one year at a time unless it is terminated by a contracting party no later than six months before its expiry.
- (4) The right to terminate for good reason shall not be affected by this. The Controlling Company shall be entitled in particular to terminate this Agreement for good reason if it ceases to hold a majority interest in the Controlled Company or if it has assumed an obligation to relinquish said majority interest. Such termination may be effected without notice or at the end of the financial year of the Controlled Company underway during the sale or transfer of the majority interest.

Dortmund, 19 May 2009

Dortmund, 19 May 2009

[Signed] _____ [Signed] _____
RWE Energy
Aktiengesellschaft

[Signed] _____ [Signed] _____
RWE Beteiligungsverwaltung
Ausland GmbH