

Control and Profit and Loss Pooling Agreement

by and between

RWE Aktiengesellschaft (previously: 'RWE Gesellschaft für Beteiligungen mbH'),
Opernplatz 1, 45128 Essen/Germany

- hereinafter referred to as "Controlling Company" -.

and

RWE Supply & Trading GmbH (previously: 'RWE Trading GmbH'),
Altenessener Straße 27, 45141 Essen/Germany

- hereinafter referred to as "Controlled Company" -.

The Control and Profit and Loss Pooling Agreement dated June 27, 2000 shall be amended and replaced by the following with effect from the entry of the contractual amendment into the Commercial Register of the Controlled Company's domicile:

Section 1 Management

The Controlled Company places the management of its company in the hands of the Controlling Company. The Controlling Company shall therefore be authorised to issue instructions to the Controlled Company regarding the management of the company. The Controlled Company is therefore organisationally, financially and economically incorporated into the Controlling Company.

Section 2
Transfer of profits

- (1) The Controlled Company commits to transfer its entire profit to the Controlling Company. Subject to the formation or reversal of reserves pursuant to Para. 2, it shall transfer the net income earned without the profit transfer minus any losses carried forward from the previous year and any partial amount of the net income that must not be distributed in accordance with Sec. 268, Para. 8 of the German Commercial Code (HGB).
- (2) Subject to the approval of Controlling Company, the Controlled Company may allocate funds from the net income to other retained earnings, if this is permitted under commercial law and appears to be commercially justifiable applying the prudence of an ordinary businessman. The other retained earnings accrued during the duration of this Agreement according to Sec. 272, Para. 3 HGB shall be released on request of the Controlling Company and shall be used for compensating a net loss or transferred as profit. The transfer of funds from the release of other retained earnings according to Sec. 272, Para. 3 HGB that were accrued before commencement of this Agreement shall be excluded.
- (3) The provisions of Sec. 301 of the German Stock Corporation Act (AktG) apply mutatis mutandis in their currently valid version.
- (4) The obligation to transfer the profit applies as of July 1, 2000.

Section 3
Assumption of Losses

- (1) The Controlling Company shall be obliged to offset any net loss incurred during the term of the Agreement to the extent that said loss is not offset pursuant to Sec. 2, Para. 2, Sentence 2 by withdrawing funds from other retained earnings that were accrued during the term of the Agreement.
- (2) The provisions of Sec. 302 AktG apply mutatis mutandis in their currently valid version. This applies in particular to the provisions governing the waiver and/or

settlement of the compensation claim (Sec. 302, Para. 3 AktG) as well as the statute of limitations (Sec. 302, Para. 4 AktG).

Section 4

Effective Date and Term of the Agreement

- (1) This Agreement shall be concluded subject to the approval of the Annual General Meeting of the Controlling Company and the shareholder meeting of the Controlled Company.
- (2) This Agreement shall take effect upon entry into the Commercial Register at the registered office of the Controlling Company and shall apply—with the exception of the right to issue instructions in accordance with Sec. 1 above—retroactively as of the commencement of the obligation to transfer the profit.
- (3) The Agreement shall be concluded with a fixed term until December 31, 2015. In the event that the amendment to this Agreement is not entered into the Commercial Register at the registered office of the Controlling Company by December 31, 2010 at the latest, the Agreement's term under Sentence 1 shall extend until the end of the fifth calendar year from that fiscal year of the Controlled Company in which the amendment to the Agreement was registered into the Commercial Register at the registered office of the controlling Company. In the event that the Controlled Company should introduce a fiscal year that does not run concurrent to the calendar year, the term shall extend until the end of that fiscal year which falls within the end of the fixed term under Sentences 1 and 2 above. The Agreement shall be automatically renewed by another year if it is not terminated by one of the Parties at least six months before expiry.
- (4) This shall not affect the right to terminate the Agreement for good cause. The Controlling Company shall in particular be entitled to termination for good cause if it no longer holds a majority interest in the Controlled Company. The termination can be without notice, on a specific date between the assumption of the transfer obligation and the actual transfer, or per the end of a fiscal year in which the assumption of the transfer obligation and actual transfer falls.

Essen, January 25, 2010

Essen, January 25, 2010

RWE Aktiengesellschaft

RWE Supply & Trading GmbH

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