

E.ON Shareholders Meeting  
on May 6, 2009

Documentation for Item 13 of the Agenda

## **E.ON Shareholders Meeting on May 6, 2009**

### **Documentation for Item 13 of the Agenda:**

Consent to the Agreement on Domination and Distribution of Profits and Losses between E.ON AG and E.ON Zweiundzwanzigste Verwaltungs GmbH

(Translation – the German original text is binding)

1. Agreement on Domination and Distribution of Profits and Losses between E.ON AG and E.ON Zweiundzwanzigste Verwaltungs GmbH of February 5, 2009
2. Joint Report by the board of management of E.ON AG and by the management of E.ON Zweiundzwanzigste Verwaltungs GmbH corresponding to Section 293 a of the German Stock Corporation Act (AktG)
3. Annual financial statement of E.ON Zweiundzwanzigste Verwaltungs GmbH i.Gr. as of December 31, 2008.

**The annual financial statements and reports of the board of management of E.ON AG for the last three financial years are available to inspection separately.**

## **Agreement on Domination and Distribution of Profits and Losses**

between

### **E.ON AG**

E.ON-Platz 1,

40479 Düsseldorf,

registered in the commercial register at the Local Court Düsseldorf under HRB 22315

- hereinafter „E.ON AG“-

and

### **E.ON Zweiundzwanzigste Verwaltungs GmbH**

E.ON-Platz 1,

40479 Düsseldorf,

registered in the commercial register at the Local Court Düsseldorf under HRB 60300,

- hereinafter „E.ON Zweiundzwanzigste“ -

### **Section 1 Domination**

E.ON Zweiundzwanzigste subjects the control over its company to E.ON AG. Accordingly, E.ON AG is entitled to issue instructions to the management of E.ON Zweiundzwanzigste on how to manage the company. Irrespective of the instruction right, the management of E.ON Zweiundzwanzigste remains obliged to manage and represent E.ON Zweiundzwanzigste.

### **Section 2 Distribution of Profits**

(1) E.ON Zweiundzwanzigste commits itself to distribute its entire profit to E.ON AG.

- (2) According to Section 301 of the German Stock Corporation Act (AktG), the entire annual profit resulting without the distribution of profits, reduced by any losses carried forward from the previous year, shall be distributed. Any other profit reserves established during the term of this Agreement shall be dissolved upon request of E.ON AG and distributed as profit by E.ON Zweiundzwanzigste.
- (3) With the approval of E.ON AG, E.ON Zweiundzwanzigste may credit part of the annual profit to the profit reserves (Section 272 paragraph 3 of the German Commercial Code (HGB)) to the extent permitted under commercial law and to the extent this is economically justified from a reasonable commercial point of view.
- (4) The claim to the distribution of profits arises as of the end of the financial year.

### **Section 3 Assumption of Losses**

- (1) E.ON AG is obliged vis-à-vis E.ON Zweiundzwanzigste to assume losses pursuant to Section 302 of the German Stock Corporation Act (AktG), as amended, i.e. subject to the requirements for Agreements on Distribution of Profits and Losses with stock corporations set forth therein and to the extent applicable.
- (2) Sec. 2 paragraph 4 applies accordingly.

### **Section 4 Term and Effectiveness**

- (1) In respect to Section 1, the Agreement is effective for the period from the registration of this Agreement in the commercial register of E.ON Zweiundzwanzigste, in all other respects from January 1, 2008. It is concluded for a fixed period of five years until the end of December 31, 2013, and continues unchanged for consecutive one-year periods, unless terminated by either party upon a prior notice period of at least three month prior to the end of a financial year. Otherwise, the Agreement may only be terminated without prior notice for important cause. An important cause exists in particular also, if E.ON AG transfers all shares in E.ON Zweiundzwanzigste to a third party.

- (2) In analogous application of Section 307 of the German Stock Corporation Act (AktG), the Agreement ends as of the end of the financial year, in which an outside shareholder takes up a participation in E.ON Zweiundzwanzigste.

**Section 5**  
**Severability Clause**

The ineffectiveness of one or several provisions of this Agreement shall leave the effectiveness of the remaining provisions unaffected.

Düsseldorf, February 5, 2009

E.ON AG

(Dr. Marcus Schenck)

(Heinrich Montag)

E.ON Zweiundzwanzigste Verwaltungs GmbH

(Karl-Heinz Feldmann)

(Dr. Patrick Wolff)

*Joint Report pursuant to Section 293a  
of the German Stock Corporation Act (AktG)  
by the Board of Management of E.ON AG, Düsseldorf,  
and*

*by the Management of E.ON Zweiundzwanzigste Verwaltungs GmbH, Düsseldorf,*

*on the Agreement on Domination and Distribution of Profits and Losses of February 5, 2009,*

*between*

*E.ON AG, Düsseldorf,*

*and*

*E.ON Zweiundzwanzigste Verwaltungs GmbH, Düsseldorf*

On February 5, 2009, E.ON AG, Düsseldorf, has concluded an agreement on domination and distribution of profits and losses (hereinafter: Agreement) with E.ON Zweiundzwanzigste Verwaltungs GmbH, Düsseldorf.

The Agreement will be submitted to the ordinary shareholders' meeting of E.ON AG on March 6, 2009, as an inter-company agreement for consent pursuant to Section 293 of the German Stock Corporation Act (AktG). The shareholders' meeting of E.ON Zweiundzwanzigste Verwaltungs GmbH has already consented to the Agreement on February 9, 2009. In order to inform the shareholders of E.ON AG and to prepare their resolution, the Board of Management of E.ON AG and the management of E.ON Zweiundzwanzigste Verwaltungs GmbH hereby submit the following joint report on the Agreement pursuant to Section 293a of the German Stock Corporation Act (AktG).

E.ON Zweiundzwanzigste Verwaltungs GmbH was established on November 3, 2008, by the sole shareholder E.ON AG, and registered in the commercial register at the Local Court Düsseldorf on January 23, 2009, under HRB 60300. Its registered capital amounts to EUR 25,000.

The object of E.ON Zweiundzwanzigste Verwaltungs GmbH's business is the acquisition, maintenance, management and sale of shares and assets as well as the take-over of activities in management.

E.ON Zweiundzwanzigste Verwaltungs GmbH has no activities so far. The Agreement, however, will already be submitted to the ordinary shareholders' meeting of E.ON AG for consent, in order

to integrate E.ON Zweiundzwanzigste Verwaltungs GmbH already in E.ON AG's profit pool for tax purposes in the current financial year.

In essence, the Agreement has the following content:

- E.ON Zweiundzwanzigste Verwaltungs GmbH subjects the control over its company to E.ON AG. Therefore E.ON AG is entitled to instruct the management of E.ON Zweiundzwanzigste Verwaltungs GmbH in respect of controlling the company.
- E.ON Zweiundzwanzigste Verwaltungs GmbH commits itself to distribute its entire profit to E.ON AG.
- With the approval of E.ON AG, E.ON Zweiundzwanzigste Verwaltungs GmbH may credit part of the annual profit to the profit reserves (Section 272 para. 3 of the German Commercial Code (HGB)), to the extent permitted under commercial law and to the extent this is economically justified from a reasonable commercial point of view.
- Pursuant to Section 302 of the German Stock Corporation Act (AktG), in its respective applicable version, i.e. according to the requirements relating to agreements on distribution of profits and losses with stock companies and in its respective applicable scope, E.ON AG undertakes to compensate any annual loss of E.ON Zweiundzwanzigste Verwaltungs GmbH.
- In respect to the domination, the Agreement is effective for the period from the registration of the Agreement in the commercial register of E.ON Zweiundzwanzigste Verwaltungs GmbH, in all other respects from the beginning of the current financial year of E.ON Zweiundzwanzigste Verwaltungs GmbH. It is concluded for a fixed period of five years until the end of December 31, 2013, and continues unchanged for consecutive one-year periods, unless terminated by either party with a prior notice period of at least three months to the end of a financial year. Otherwise, the Agreement may only be terminated without prior notice for important cause. In particular the transfer of all shares of E.ON Zweiundzwanzigste Verwaltungs GmbH by E.ON AG to a third person constitutes such an important cause.

Since E.ON AG is the sole shareholder of E.ON Zweiundzwanzigste Verwaltungs GmbH, any provisions pertaining to the guaranteed dividend for and compensation of outside shareholders are not required in the Agreement. Therefore, a valuation of the companies involved as well as an audit of the inter-company agreement corresponding to Section 293b of the German Stock Corporation Act (AktG) did not have to take place.

By providing E.ON AG with the possibility to issue instructions, the Agreement creates the legal framework for the necessary close interlinking of E.ON AG and E.ON Zweiundzwanzigste

Verwaltungs GmbH and would insofar ensure E.ON AG's entrepreneurial management of these activities.

Based on the Agreement, any profits and losses arising at E.ON Zweiundzwanzigste Verwaltungs GmbH are assumed by E.ON AG under commercial law and attributed to it for tax law purposes. Thereby, it becomes possible to integrate E.ON Zweiundzwanzigste Verwaltungs GmbH in E.ON AG's profit pool for tax purposes and balance its profits and losses for tax purposes.

From the date of convening the shareholders' meeting, the Agreement on Domination and Distribution of Profits and Losses, the financial statements of E.ON Zweiundzwanzigste Verwaltungs GmbH i.Gr. for the financial year 2008, and the annual financial statements and reports of E.ON AG for the last three financial years as well as the joint report by of E.ON AG and by the management of E.ON Zweiundzwanzigste Verwaltungs GmbH are available for inspection by the shareholders in the offices of E.ON AG, E.ON-Platz 1, 40479 Düsseldorf, and of E.ON Zweiundzwanzigste Verwaltungs GmbH, with business address at E.ON AG, E.ON Platz 1, 40479 Düsseldorf.

The aforementioned documentation will also be laid out during the shareholders' meeting of E.ON AG. Every shareholder will receive a copy of these documents free of charge and without undue delay upon request.

Düsseldorf, in March 2009

E.ON AG

The Board of Management

(Dr. Bernotat)

(Dr. Teyssen)

(Dänzer-Vanotti)

(L. Feldmann)

(Dr. Schenck)

E.ON Zweiundzwanzigste Verwaltungs GmbH

The Management

(K.-H. Feldmann)

(Dr. Wolff)

**E.ON Zweifundzwanzigste Verwaltungs GmbH IGr, Düsseldorf**  
**Balance Sheet as of December 31, 2008**

ASSETS	As of Dec. 31, 2008 €	EQUITY & LIABILITIES	As of Dec. 31, 2008 €
A. Current assets			
I. Balances in bank accounts	25.000,00	I. Capital stock	25.000,00
	<u>25.000,00</u>	II. Net loss for the year	-471,58
			<u>24.528,42</u>
		B. Liabilities	
		1. Trade payables	471,58
		(of which with a time to maturity of	
		up to one year: € 471,58)	
			<u>471,58</u>
	<u>25.000,00</u>		<u>25.000,00</u>

**E.ON Zweiundzwanzigste Verwaltungs GmbH iGr, Düsseldorf**

**Income Statement for the Period**  
**from November 3 to December 31, 2008**

	<u>2008</u>
	€
1. Other operating expenses	-471.58
2. Net loss for the year	-471.58

**Notes**  
**E.ON Zweiundzwanzigste Verwaltungs GmbH iGr, Düsseldorf**  
**for the Short Fiscal Year 2008**

**General Information**

E.ON Zweiundzwanzigste Verwaltungs GmbH iGr, Düsseldorf is a small corporation as defined in Section 267(1) of the German Commercial Code (HGB).

The preparation of a management report is waived in accordance with Section 264(1) of the German Commercial Code (HGB).

The purpose of the company is to acquire, hold, manage and sell equity interests and assets and to perform business management activities.

The company's books are kept in €.

**Accounting Policies**

Liabilities are reported with their amounts repayable. Their time to maturity is less than one year.

## **Explanations on the Balance Sheet and the Income Statement**

The equity has been fully paid up and is held exclusively by E.ON AG.

Other Operating Expenses are made up entirely of legal and notary fees.

## **Other Information**

E.ON Zweiundzwanzigste Verwaltungs GmbH iGr is a subsidiary of E.ON AG, Düsseldorf. Because of the company's minor importance, it is not included in the consolidated financial statements of E.ON AG. The present financial statements will be filed to the operator of the electronic Federal Official Gazette and will be published in the electronic Federal Official Gazette.

In 2008, the company's Managing Directors were:

Dr. Patrick Wolff, Düsseldorf (Vice President Legal and Compliance 1 E.ON AG)

Karl-Heinz Feldmann, Duisburg (Senior Vice President Legal and Compliance E.ON AG)

Düsseldorf, January 21, 2009

E.ON Zweiundzwanzigste Verwaltungs GmbH iGr

- The Managing Directors -

Dr. Patrick Wolff

Karl-Heinz Feldmann