

## General Meeting of Shareholders of E.ON SE on May 14, 2019

### Documentation for Item 7 of the Agenda:

#### a) Resolution on the approval of the Control and Profit and Loss Transfer Agreement between E.ON SE and E.ON 11. Verwaltungs GmbH

- Control and Profit and Loss Transfer Agreement between E.ON SE and E.ON 11. Verwaltungs GmbH dated March 18, 2019
- Joint Report of the Management Board of E.ON SE and the Management of E.ON 11. Verwaltungs GmbH pursuant to Section 293a AktG
- Annual financial statements for the financial year 2018 of E.ON 11. Verwaltungs GmbH

**Annual financial statements and management reports of E.ON SE for the last three financial years can be downloaded from the website of E.ON SE ([www.eon.com/agm-2019](http://www.eon.com/agm-2019)).**

#### b) Resolution on the approval of the Control and Profit and Loss Transfer Agreement between E.ON SE and E.ON 12. Verwaltungs GmbH

- Control and Profit and Loss Transfer Agreement between E.ON SE and E.ON 12. Verwaltungs GmbH dated March 18, 2019
- Joint Report of the Management Board of E.ON SE and the Management of E.ON 12. Verwaltungs GmbH pursuant to Section 293a AktG
- Annual financial statements for the financial year 2018 of E.ON 12. Verwaltungs GmbH

**Annual financial statements and management reports of E.ON SE for the last three financial years can be downloaded from the website of E.ON SE ([www.eon.com/agm-2019](http://www.eon.com/agm-2019)).**

**a) Resolution on the approval of the Control and Profit and Loss Transfer Agreement between E.ON SE and E.ON 11. Verwaltungs GmbH**

**Control and Profit and Loss Transfer Agreement**

between

E.ON SE

Brüsseler Platz 1, 45131 Essen

with registered office in Essen,

registered in the commercial register of the local court of Essen under HRB 28196

(hereinafter referred to as “**E.ON**”)

and

E.ON 11. Verwaltungs GmbH

Brüsseler Platz 1, 45131 Essen

with registered office in Essen,

registered in the commercial register of the local court of Essen under HRB 29626

(hereinafter referred to as “**E.ON 11.**”)

**§ 1**

**Control**

E.ON 11. subordinates the management of its company to E.ON. As a consequence, E.ON shall be entitled to issue binding instructions to the management of E.ON 11. with regard to the way in which the company is to be managed. Notwithstanding the authority to issue binding instructions, the responsibility for the management and the representation of E.ON 11. shall continue to rest with the management of E.ON 11.

**§ 2**

**Profit Transfer**

- (1) E.ON 11. undertakes to transfer its entire profit to E.ON in accordance with all provisions of sec. 301 AktG, as amended from time to time.

- (2) Other retained earnings created during the term of this agreement shall be dissolved by E.ON 11. upon request of E.ON and transferred as profits.
- (3) E.ON 11. may allocate amounts from the annual net income to retained earnings (sec. 272 para. 3 HGB) with the approval of E.ON to such extent as this is permissible under commercial law and economically sensible according to a reasonable commercial assessment.
- (4) The claim for profit transfer shall arise at the end of each financial year of E.ON 11. It shall fall due for value at that date.

### § 3

#### **Assumption of Losses**

- (1) E.ON shall be obliged towards E.ON 11. to assume the latter's losses in accordance with all provisions of sec. 302 AktG, as amended from time to time.
- (2) § 2 para. 4 shall apply *mutatis mutandis*.

### § 4

#### **Taking Effect and Term**

- (1) With regard to § 1, the agreement shall take effect as of the registration of this agreement in the commercial register of E.ON 11., other than that, as of January 1, 2019.
- (2) The agreement shall be bindingly concluded for a term of five years (*Zeitjahre*) until December 31, 2023, and shall be extended, without changes, by one year in each case, unless it is terminated by one of the contractual parties with effect as of the end of the financial year of E.ON 11. until no later than three months prior to the end of the financial year of E.ON 11. Otherwise, the agreement may only be terminated without notice for good cause. In particular, it shall constitute good cause if E.ON transfers all shares in E.ON 11. to a third party.
- (3) Applying sec. 307 AktG *mutatis mutandis*, the agreement shall terminate with effect as of the end of that financial year in which an outside shareholder holds shares in E.ON 11.

**§ 5**

**Severability**

The invalidity of one or several provisions of this agreement shall not affect the validity of the remaining provisions.

Essen, March 18, 2019

**E.ON SE**

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(Dr. Johannes Teysen)

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(Dr. Marc Spieker)

Essen, March 18, 2019

**E.ON 11. Verwaltungs GmbH**

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(Dr. Guntram Würzberg)

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(Dr. Christoph Radke)

**Joint Report**  
**of the Management Board of E.ON SE and**  
**the Management of E.ON 11. Verwaltungs GmbH**

pursuant to sec. 293a of the German Stock Corporation Act (*Aktiengesetz* – “**AktG**”) on the Control and Profit and Loss Transfer Agreement between E.ON SE and E.ON 11. Verwaltungs GmbH dated March 18, 2019.

**I. General information**

The Management Board of E.ON SE and the Management of E.ON 11. Verwaltungs GmbH hereby render the following report pursuant to sec. 293a AktG on the Control and Profit and Loss Transfer Agreement dated March 18, 2019 (the „**Agreement**“) between E.ON SE and E.ON 11. Verwaltungs GmbH (hereinafter also the "**Subsidiary**"), which will be presented to the General Meeting of Shareholders of E.ON SE for approval.

The Agreement requires both the approval of the General Meeting of Shareholders of E.ON SE as well as the approval of the shareholders' meeting (*Gesellschafterversammlung*) of the Subsidiary in order to take effect. The Management Board and the Supervisory Board of E.ON SE will propose to the annual General Meeting of Shareholders of E.ON SE, which has been convened for May 14, 2019, that the conclusion of the Agreement be approved. Conclusion of the Agreement will also be proposed for approval at the shareholders' meeting of the Subsidiary, which is scheduled for March 2019.

Pursuant to sec. 294 para. 2 AktG, the Agreement must also be registered in the commercial register for the Subsidiary's registered office in order to take effect. In respect of the provisions governing the transfer of profits and losses (but not in respect of the control-related terms thereof), the Agreement will apply with retroactive effect as of the beginning of January 1, 2019.

**II. Parties to the Control and Profit and Loss Transfer Agreement**

**1. E.ON SE**

E.ON SE, having its registered seat in Essen and being registered in the commercial register of the Local Court (*Amtsgericht*) of Essen under HRB 28196, is a listed European Company (*Societas Europaea*) and the parent company of the E.ON Group. As of December 31, 2018, the E.ON Group

### *Non-binding convenience translation from German into English*

had 43.302 employees worldwide (full-time equivalents) and generated revenue of around EUR 30,3 billion in the financial year 2018.

According to its Articles of Association, the corporate purpose of the company is the provision of energy supply (primarily electricity and gas) and water supply as well as the provision of disposal services. The company's activities may encompass the generation and/or production, transmission and/or transport, the acquisition, distribution and trading. Facilities of all kinds may be built, acquired and operated, and services and cooperations of all kinds may be performed.

The company may conduct its business activities in the aforementioned industries or in related industries itself or through subsidiaries and/or companies in which it holds an interest. It is entitled to take all actions and measures that are connected with its corporate purpose or which are suitable to directly or indirectly serve such purpose.

The company may also establish, acquire or hold an interest in other enterprises, in particular in such enterprises whose corporate purpose extends, in whole or in part, to the aforementioned business areas. In addition, it is entitled to acquire interests in enterprises of any kind with the primary purpose of a financial investment. The company may change the structure of the enterprises in which it holds an interest, may unite them under a unified management or confine itself to managing them and may dispose of the interests it holds.

## **2. The Subsidiary**

E.ON 11. Verwaltungs GmbH, having its registered seat in Essen and being registered in the commercial register of the Local Court (*Amtsgerichts*) of Essen under HRB 29626, is a wholly-owned direct subsidiary of E.ON SE in the legal form of a German limited liability company (*Gesellschaft mit beschränkter Haftung*).

The Subsidiary was incorporated by notarized incorporation agreement dated November 16, 2018 (notarial deed no. 637/2018 of the notary public Dr. Wolf Hendrik Zürbig, Essen). The financial year of the subsidiary is the calendar year. Its registered share capital is EUR 25,000.00.

According to its Articles of Association, the corporate purpose of the Subsidiary is the holding and administration of its own assets.

According to the annual financial statements prepared in accordance with the German Commercial Code (*Handelsgesetzbuch* – “**HGB**”), the Subsidiary generated an annual net loss in the amount of EUR 813.91 in the financial year 2018. The balance sheet as of December 31, 2018 reports total assets of EUR 24,341.09 and equity of EUR 24,186.09. The Subsidiary does not have any employees as at the date of this report.

### **III. Legal and economic reasons for the conclusion of the Control and Profit and Loss Transfer Agreement**

Following its incorporation as a shelf company at the end of the year 2018, the Subsidiary shall be connected to E.ON SE by a control and profit and loss transfer agreement for the first time. The conclusion and the effective implementation of a control and profit and loss transfer agreement are (with regard to the control-related terms thereof) best suited to ensure the uniform control of the Subsidiary's management and its integration into the E.ON Group. The Control and Profit and Loss Transfer Agreement will in particular enable the Management Board of E.ON SE to issue directions to the Subsidiary's management to a broad extent and in a facilitated manner in the overriding interest of the Group and to ensure that E.ON SE and the Subsidiary will conduct their operations in a uniform manner.

Although the Subsidiary's shareholders' meeting may issue directions to the management, there is no legal certainty as to the extent to which the shareholders' meeting (or any other corporate body authorized to do so under the articles of association) may also issue disadvantageous directions to the management. The Control and Profit and Loss Transfer Agreement provides the necessary legal clarity and allows even disadvantageous directions to be issued to a broad extent. Moreover, a formal resolution is required for each direction issued by the shareholders' meeting. For these reasons, the power granted to the shareholders' meeting to issue directions is not as suited to achieving the intended uniform control of the Subsidiary as a control agreement.

The conclusion of a control and profit and loss transfer agreement allows E.ON SE (with regard to the profit and loss transfer terms thereof) to optimize its tax situation. The conclusion of an effective profit and loss transfer agreement and its actual implementation is a requirement for establishing a fiscal unity for both corporate income and trade tax purposes (*körperschafts- und gewerbsteuerliche Organschaft*). The fiscal unity for both corporate income and trade tax purposes has the benefit of allowing the positive and negative results of the companies forming part of the fiscal entity to be set off simultaneously.

The Control and Profit and Loss Transfer Agreement does not have any particular consequences from the perspective of E.ON SE's shareholders, other than the obligation to assume losses, in particular because no compensation or settlement payments are due to outside shareholders.

### **IV. Explanation of the Control and Profit and Loss Transfer Agreement**

The key provisions of the Control and Profit and Loss Transfer Agreement between E.ON SE and E.ON 11. Verwaltungs GmbH are explained below:

## **§ 1 Management of the Subsidiary's Business**

Pursuant to § 1 sentence 1 of the Agreement, the Subsidiary places the management of its company under the control of E.ON SE. This is to lay down the transfer of decision-making powers to the controlling company, which is an essential element of a control agreement.

§ 1 sentence 2 of the Agreement provides for the controlling company's power to issue directions, which is a characteristic feature of a control agreement. E.ON SE is thus entitled to issue directions to the Subsidiary's management with respect to the management of its business. As the Agreement does not contain any provisions to the contrary, directions may also be issued which are disadvantageous to the Subsidiary pursuant to sec. 308 para. 1 sentence 2 AktG, provided that they serve the interests of E.ON SE or the E.ON Group. E.ON SE may thus exercise a comprehensive controlling influence on the management of the Subsidiary's business.

The above provisions are customary for a control agreement.

## **§ 2 Transfer of Profits**

§ 2 para. 1 of the Agreement lays down the obligation to transfer the entire profits to the other contracting party, which is a characteristic feature of a profit and loss transfer agreement. Under this provision, the Subsidiary is obligated to transfer all of its profits in accordance with all the provisions contained in the latest version of sec. 301 AktG to E.ON SE during the term of the Agreement.

The reference to the provisions of sec. 301 AktG contained in § 2 para. 1 of the Agreement is dynamic, which means that it always refers to the latest version of sec. 301 AktG.

Pursuant to § 2 para. 2 of the Agreement, the Subsidiary must upon request of E.ON SE withdraw the amounts allocated to the other revenue reserves (*andere Gewinnrücklagen*) during the term of the Agreement and transfer them as profits.

Pursuant to § 2 para. 3 of the Agreement, the Subsidiary may, with the approval of E.ON SE, only allocate amounts from the annual net profits to the revenue reserves (*Gewinnrücklagen*) (sec. 272 para. 3 HGB) to the extent this is permissible under applicable commercial law and justified in economic terms on the basis of a reasonable commercial assessment.

Pursuant to § 2 para. 4 of the Agreement, the claim for transfer of profits will arise and fall due at the end of the Subsidiary's financial year.

The provisions described above are customary for a control and profit and loss transfer agreement.

### **§ 3 Assumption of Loss**

§ 3 para. 1 of the Agreement provides for the obligation of E.ON SE to assume any losses in line with the provisions contained in the latest version of sec. 302 AktG. E.ON SE is thus obligated to compensate any annual net loss that would otherwise, i.e. without such transfer of losses, be generated by the Subsidiary during the term of the Agreement, unless such annual net loss is compensated by withdrawal of any amounts from other revenue reserves to which funds were allocated during the term of the Agreement (latest version of sec. 302 para. 1 AktG). E.ON SE thus bears the economic risk for the Subsidiary in this regard. This obligation to assume losses is a mandatory consequence of a control and profit and loss transfer agreement.

The reference to the provisions of sec. 302 AktG contained in § 3 para. 1 of the Agreement is dynamic, which means that it always refers to the latest version of sec. 302 AktG.

As a result of the reference to sec. 302 AktG, the following other provisions are of relevance: Pursuant to the current version of Section 302 para. 3 AktG, the Subsidiary may waive or settle the claim for compensation (of losses) in principle no earlier than three years from the date on which the registration of the termination of the Agreement in the commercial register was announced pursuant to sec. 10 HGB. Pursuant to the current version of sec. 302 para. 4 AktG, the claim for compensation of losses becomes statute-barred after ten years from the date on which the registration of the termination of the Agreement in the commercial register was announced pursuant to sec. 10 HGB.

§ 3 para. 2 of the Agreement determines that the provision on the arising and the due date of the claim for transfer of profits shall apply *mutatis mutandis* to the obligation to assume losses.

The provisions described above are customary for a control and profit and loss transfer agreement.

### **§ 4 Effectiveness and Term**

Pursuant to § 4 para. 1 of the Agreement, the control-related terms of the Agreement will take effect upon the Agreement's registration in the commercial register for the Subsidiary. The requirement of registration in the commercial register at the place of the Subsidiary's registered seat for the effectiveness of the Agreement also ensues from sec. 294 para. 2 AktG. In all other respects, i.e. with regard to the provisions on the transfer of profits and assumption of losses, the Agreement applies with retroactive effect from the beginning of January 1, 2019.

§ 4 para. 2 of the Agreement contains provisions concerning the term and termination of the Agreement. § 4 para. 2 sentence 1 of the Agreement provides that the Agreement will be concluded for a fixed term of five full years (*Zeitjahre*) until the end of December 31, 2023. Current legislation (sec. 14 para. 1 sentence 1 no. 3 KStG in conjunction with sec. 17 KStG) requires a minimum contractual term of five full years for the establishment of a fiscal unity for income tax purposes (*ertragsteuerliche Organshaft*).

*Non-binding convenience translation from German into English*

Pursuant to § 4 para. 2 sentence 1 of the Agreement, the Agreement shall, following expiration of the minimum contractual term, be extended by one year in each case, unless it is terminated by one of the contractual parties with effect as of the end of the financial year of the Subsidiary until no later than three months prior to the end of the financial year of the Subsidiary, taking into account the minimum contractual term.

Moreover, § 4 para. 2 sentence 2 of the Agreement clarifies that the Agreement may be terminated in writing for good cause (*aus wichtigem Grund*) without observing any notice period. Pursuant to § 4 para. 2 sentence 3 of the Agreement it shall in particular constitute good cause if E.ON SE transfers all shares in the Subsidiary to a third party.

Pursuant to § 4 para. 3 of the Agreement, the Agreement shall terminate with effect as of the end of that financial year in which an outside shareholder holds shares in the Subsidiary (applying sec. 307 AktG *mutatis mutandis*).

#### **§ 5 Final provisions**

The so-called severability clause contained in § 5 of the Agreement ensures the validity and practicability of the Agreement in the event that individual or several provisions are invalid.

#### **V. Determinations pursuant to sec. 304, 305 AktG / Audit of the Control and Profit and Loss Transfer Agreement**

It is not necessary to include a provision governing compensation or settlement payments for outside shareholders of the Subsidiary in the Control and Profit and Loss Transfer Agreement, since the Subsidiary does not have any outside shareholders; E.ON SE is the sole shareholder of the Subsidiary, directly holding 100% of its shares. It is therefore not necessary to have the companies involved officially valued in order to determine adequate compensation or settlement payments. Since E.ON SE directly holds all shares in the Subsidiary, it is not necessary for the Agreement to be examined by qualified auditors (contract auditors (*Vertragsprüfer*)) pursuant to sec. 293b para. 1 AktG.

*[Signature page to follow]*

Essen, March 18, 2019

**E.ON SE**

**The Management Board**

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(Dr. Johannes Teysen)

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(Dr.-Ing. Leonhard Birnbaum)

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(Dr. Marc Spieker)

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(Dr. Karsten Wildberger)

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(Dr. Thomas König)

Essen, March 18, 2019

**E.ON 11. Verwaltungs GmbH**

**The Management**

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(Dr. Guntram Würzberg)

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(Dr. Christoph Radke)

**Annual financial statements for the financial year 2018 of E.ON 11. Verwaltungs  
GmbH**

Non-binding convenience translation from German into English

**E.ON 11. Verwaltungs GmbH, Essen**

**Balance sheet for the short fiscal year from November 30, 2018 to December 31, 2018**

<b>Assets</b>	<b>Opening balance</b>		<b>Liabilities</b>	<b>31.12.2018</b>	<b>30.11.2018</b>
	<b>31.12.2018</b>	<b>30.11.2018</b>		<b>Euro</b>	<b>Euro</b>
	<b>Euro</b>	<b>Euro</b>		<b>Euro</b>	<b>Euro</b>
<b>A. Current assets</b>			<b>A. Equity</b>		
I. Cash at banks	24.341,09	25.000,00	I. Subscribed capital	25.000,00	25.000,00
	<b>24.341,09</b>	<b>25.000,00</b>	II. Annual net loss	-813,91	0,00
				<b>24.186,09</b>	<b>25.000,00</b>
			<b>B. Provisions</b>		
			Other provisions	155,00	0,00
				<b>155,00</b>	<b>0,00</b>
	<b>24.341,09</b>	<b>25.000,00</b>		<b>24.341,09</b>	<b>25.000,00</b>

**Exemption from the preparation of notes to the financial statements**

Pursuant to sec. 264 para. 1 sentence 5 HGB a micro corporation (*Kleinstkapitalgesellschaft*) in accordance with sec. 267a HGB in the form of a limited liability company is exempted from the preparation of notes to the financial statements provided that the company provides information on facts and circumstances pursuant to sec. 251 and 268 para. 7 HGB as well as sec. 285 no. 9c HGB below the balance sheet. No facts and circumstances existed in accordance with these provisions as of December 31, 2018.

**Company, seat**

E.ON 11. Verwaltungs GmbH  
Registered seat of the company: Essen  
Commercial register HRB 29626 at the local court of Essen

E.ON 11. Verwaltungs GmbH  
The Management

Essen, January 30, 2019

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Dr. Christoph Radke

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Dr. Guntram Würzberg

**E.ON 11. Verwaltungs GmbH, Essen**

**Profit and loss account  
for the short fiscal year from November 30, 2018 to December 31, 2018**

	<b>November 30, 2018 to December 31, 2018</b> EUR
1. Other operating expenses	-813,91
2. Annual net loss	-813,91

**b) Resolution on the approval of the Control and Profit and Loss Transfer Agreement between E.ON SE and E.ON 12. Verwaltungs GmbH**

**Control and Profit and Loss Transfer Agreement**

between

E.ON SE

Brüsseler Platz 1, 45131 Essen

with registered office in Essen,

registered in the commercial register of the local court of Essen under HRB 28196

(hereinafter referred to as “**E.ON**”)

and

E.ON 12. Verwaltungs GmbH

Brüsseler Platz 1, 45131 Essen

with registered office in Essen,

registered in the commercial register of the local court of Essen under HRB 29627

(hereinafter referred to as “**E.ON 12.**”)

**§ 1**

**Control**

E.ON 12. subordinates the management of its company to E.ON. As a consequence, E.ON shall be entitled to issue binding instructions to the management of E.ON 12. with regard to the way in which the company is to be managed. Notwithstanding the authority to issue binding instructions, the responsibility for the management and the representation of E.ON 12. shall continue to rest with the management of E.ON 12.

**§ 2**

**Profit Transfer**

- (1) E.ON 12. undertakes to transfer its entire profit to E.ON in accordance with all provisions of sec. 301 AktG, as amended from time to time.

- (2) Other retained earnings created during the term of this agreement shall be dissolved by E.ON 12. upon request of E.ON and transferred as profits.
- (3) E.ON 12. may allocate amounts from the annual net income to retained earnings (sec. 272 para. 3 HGB) with the approval of E.ON to such extent as this is permissible under commercial law and economically sensible according to a reasonable commercial assessment.
- (4) The claim for profit transfer shall arise at the end of each financial year of E.ON 12. It shall fall due for value at that date.

### **§ 3**

#### **Assumption of Losses**

- (1) E.ON shall be obliged towards E.ON 12. to assume the latter's losses in accordance with all provisions of sec. 302 AktG, as amended from time to time.
- (2) § 2 para. 4 shall apply *mutatis mutandis*.

### **§ 4**

#### **Taking Effect and Term**

- (1) With regard to § 1, the agreement shall take effect as of the registration of this agreement in the commercial register of E.ON 12., other than that, as of January 1, 2019.
- (2) The agreement shall be bindingly concluded for a term of five years (*Zeitjahre*) until December 31, 2023, and shall be extended, without changes, by one year in each case, unless it is terminated by one of the contractual parties with effect as of the end of the financial year of E.ON 12. until no later than three months prior to the end of the financial year of E.ON 12. Otherwise, the agreement may only be terminated without notice for good cause. In particular, it shall constitute good cause if E.ON transfers all shares in E.ON 12. to a third party.
- (3) Applying sec. 307 AktG *mutatis mutandis*, the agreement shall terminate with effect as of the end of that financial year in which an outside shareholder holds shares in E.ON 12.

**§ 5**

**Severability**

The invalidity of one or several provisions of this agreement shall not affect the validity of the remaining provisions.

Essen, March 18, 2019

**E.ON SE**

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(Dr. Johannes Teysen)

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(Dr. Marc Spieker)

Essen, March 18, 2019

**E.ON 12. Verwaltungs GmbH**

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(Dr. Guntram Würzberg)

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(Dr. Christoph Radke)

**Joint Report**  
**of the Management Board of E.ON SE and**  
**the Management of E.ON 12. Verwaltungs GmbH**

pursuant to sec. 293a of the German Stock Corporation Act (*Aktiengesetz* – “**AktG**”) on the Control and Profit and Loss Transfer Agreement between E.ON SE and E.ON 12. Verwaltungs GmbH dated March 18, 2019.

**I. General information**

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The Agreement requires both the approval of the General Meeting of Shareholders of E.ON SE as well as the approval of the shareholders' meeting (*Gesellschafterversammlung*) of the Subsidiary in order to take effect. The Management Board and the Supervisory Board of E.ON SE will propose to the annual General Meeting of Shareholders of E.ON SE, which has been convened for May 14, 2019, that the conclusion of the Agreement be approved. Conclusion of the Agreement will also be proposed for approval at the shareholders' meeting of the Subsidiary, which is scheduled for March 2019.

Pursuant to sec. 294 para. 2 AktG, the Agreement must also be registered in the commercial register for the Subsidiary's registered office in order to take effect. In respect of the provisions governing the transfer of profits and losses (but not in respect of the control-related terms thereof), the Agreement will apply with retroactive effect as of the beginning of January 1, 2019.

**II. Parties to the Control and Profit and Loss Transfer Agreement**

**1. E.ON SE**

E.ON SE, having its registered seat in Essen and being registered in the commercial register of the Local Court (*Amtsgericht*) of Essen under HRB 28196, is a listed European Company (*Societas Europaea*) and the parent company of the E.ON Group. As of December 31, 2018, the E.ON Group

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had 43.302 employees worldwide (full-time equivalents) and generated revenue of around EUR 30,3 billion in the financial year 2018.

According to its Articles of Association, the corporate purpose of the company is the provision of energy supply (primarily electricity and gas) and water supply as well as the provision of disposal services. The company's activities may encompass the generation and/or production, transmission and/or transport, the acquisition, distribution and trading. Facilities of all kinds may be built, acquired and operated, and services and cooperations of all kinds may be performed.

The company may conduct its business activities in the aforementioned industries or in related industries itself or through subsidiaries and/or companies in which it holds an interest. It is entitled to take all actions and measures that are connected with its corporate purpose or which are suitable to directly or indirectly serve such purpose.

The company may also establish, acquire or hold an interest in other enterprises, in particular in such enterprises whose corporate purpose extends, in whole or in part, to the aforementioned business areas. In addition, it is entitled to acquire interests in enterprises of any kind with the primary purpose of a financial investment. The company may change the structure of the enterprises in which it holds an interest, may unite them under a unified management or confine itself to managing them and may dispose of the interests it holds.

## **2. The Subsidiary**

E.ON 12. Verwaltungs GmbH, having its registered seat in Essen and being registered in the commercial register of the Local Court (*Amtsgerichts*) of Essen under HRB 29627, is a wholly-owned direct subsidiary of E.ON SE in the legal form of a German limited liability company (*Gesellschaft mit beschränkter Haftung*).

The Subsidiary was incorporated by notarized incorporation agreement dated November 16, 2018 (notarial deed no. 638/2018 of the notary public Dr. Wolf Hendrik Zürbig, Essen). The financial year of the subsidiary is the calendar year. Its registered share capital is EUR 25,000.00.

According to its Articles of Association, the corporate purpose of the Subsidiary is the holding and administration of its own assets.

According to the annual financial statements prepared in accordance with the German Commercial Code (*Handelsgesetzbuch – "HGB"*), the Subsidiary generated an annual net loss in the amount of EUR 813.91 in the financial year 2018. The balance sheet as of December 31, 2018 reports total assets of EUR 24,341.09 and equity of EUR 24,186.09. The Subsidiary does not have any employees as at the date of this report.

### **III. Legal and economic reasons for the conclusion of the Control and Profit and Loss Transfer Agreement**

Following its incorporation as a shelf company at the end of the year 2018, the Subsidiary shall be connected to E.ON SE by a control and profit and loss transfer agreement for the first time. The conclusion and the effective implementation of a control and profit and loss transfer agreement are (with regard to the control-related terms thereof) best suited to ensure the uniform control of the Subsidiary's management and its integration into the E.ON Group. The Control and Profit and Loss Transfer Agreement will in particular enable the Management Board of E.ON SE to issue directions to the Subsidiary's management to a broad extent and in a facilitated manner in the overriding interest of the Group and to ensure that E.ON SE and the Subsidiary will conduct their operations in a uniform manner.

Although the Subsidiary's shareholders' meeting may issue directions to the management, there is no legal certainty as to the extent to which the shareholders' meeting (or any other corporate body authorized to do so under the articles of association) may also issue disadvantageous directions to the management. The Control and Profit and Loss Transfer Agreement provides the necessary legal clarity and allows even disadvantageous directions to be issued to a broad extent. Moreover, a formal resolution is required for each direction issued by the shareholders' meeting. For these reasons, the power granted to the shareholders' meeting to issue directions is not as suited to achieving the intended uniform control of the Subsidiary as a control agreement.

The conclusion of a control and profit and loss transfer agreement allows E.ON SE (with regard to the profit and loss transfer terms thereof) to optimize its tax situation. The conclusion of an effective profit and loss transfer agreement and its actual implementation is a requirement for establishing a fiscal unity for both corporate income and trade tax purposes (*körperschafts- und gewerbsteuerliche Organschaft*). The fiscal unity for both corporate income and trade tax purposes has the benefit of allowing the positive and negative results of the companies forming part of the fiscal entity to be set off simultaneously.

The Control and Profit and Loss Transfer Agreement does not have any particular consequences from the perspective of E.ON SE's shareholders, other than the obligation to assume losses, in particular because no compensation or settlement payments are due to outside shareholders.

### **IV. Explanation of the Control and Profit and Loss Transfer Agreement**

The key provisions of the Control and Profit and Loss Transfer Agreement between E.ON SE and E.ON 12. Verwaltungs GmbH are explained below:

## **§ 1 Management of the Subsidiary's Business**

Pursuant to § 1 sentence 1 of the Agreement, the Subsidiary places the management of its company under the control of E.ON SE. This is to lay down the transfer of decision-making powers to the controlling company, which is an essential element of a control agreement.

§ 1 sentence 2 of the Agreement provides for the controlling company's power to issue directions, which is a characteristic feature of a control agreement. E.ON SE is thus entitled to issue directions to the Subsidiary's management with respect to the management of its business. As the Agreement does not contain any provisions to the contrary, directions may also be issued which are disadvantageous to the Subsidiary pursuant to sec. 308 para. 1 sentence 2 AktG, provided that they serve the interests of E.ON SE or the E.ON Group. E.ON SE may thus exercise a comprehensive controlling influence on the management of the Subsidiary's business.

The above provisions are customary for a control agreement.

## **§ 2 Transfer of Profits**

§ 2 para. 1 of the Agreement lays down the obligation to transfer the entire profits to the other contracting party, which is a characteristic feature of a profit and loss transfer agreement. Under this provision, the Subsidiary is obligated to transfer all of its profits in accordance with all the provisions contained in the latest version of sec. 301 AktG to E.ON SE during the term of the Agreement.

The reference to the provisions of sec. 301 AktG contained in § 2 para. 1 of the Agreement is dynamic, which means that it always refers to the latest version of sec. 301 AktG.

Pursuant to § 2 para. 2 of the Agreement, the Subsidiary must upon request of E.ON SE withdraw the amounts allocated to the other revenue reserves (*andere Gewinnrücklagen*) during the term of the Agreement and transfer them as profits.

Pursuant to § 2 para. 3 of the Agreement, the Subsidiary may, with the approval of E.ON SE, only allocate amounts from the annual net profits to the revenue reserves (*Gewinnrücklagen*) (sec. 272 para. 3 HGB) to the extent this is permissible under applicable commercial law and justified in economic terms on the basis of a reasonable commercial assessment.

Pursuant to § 2 para. 4 of the Agreement, the claim for transfer of profits will arise and fall due at the end of the Subsidiary's financial year.

The provisions described above are customary for a control and profit and loss transfer agreement.

### **§ 3 Assumption of Loss**

§ 3 para. 1 of the Agreement provides for the obligation of E.ON SE to assume any losses in line with the provisions contained in the latest version of sec. 302 AktG. E.ON SE is thus obligated to compensate any annual net loss that would otherwise, i.e. without such transfer of losses, be generated by the Subsidiary during the term of the Agreement, unless such annual net loss is compensated by withdrawal of any amounts from other revenue reserves to which funds were allocated during the term of the Agreement (latest version of sec. 302 para. 1 AktG). E.ON SE thus bears the economic risk for the Subsidiary in this regard. This obligation to assume losses is a mandatory consequence of a control and profit and loss transfer agreement.

The reference to the provisions of sec. 302 AktG contained in § 3 para. 1 of the Agreement is dynamic, which means that it always refers to the latest version of sec. 302 AktG.

As a result of the reference to sec. 302 AktG, the following other provisions are of relevance: Pursuant to the current version of Section 302 para. 3 AktG, the Subsidiary may waive or settle the claim for compensation (of losses) in principle no earlier than three years from the date on which the registration of the termination of the Agreement in the commercial register was announced pursuant to sec. 10 HGB. Pursuant to the current version of sec. 302 para. 4 AktG, the claim for compensation of losses becomes statute-barred after ten years from the date on which the registration of the termination of the Agreement in the commercial register was announced pursuant to sec. 10 HGB.

§ 3 para. 2 of the Agreement determines that the provision on the arising and the due date of the claim for transfer of profits shall apply *mutatis mutandis* to the obligation to assume losses.

The provisions described above are customary for a control and profit and loss transfer agreement.

### **§ 4 Effectiveness and Term**

Pursuant to § 4 para. 1 of the Agreement, the control-related terms of the Agreement will take effect upon the Agreement's registration in the commercial register for the Subsidiary. The requirement of registration in the commercial register at the place of the Subsidiary's registered seat for the effectiveness of the Agreement also ensues from sec. 294 para. 2 AktG. In all other respects, i.e. with regard to the provisions on the transfer of profits and assumption of losses, the Agreement applies with retroactive effect from the beginning of January 1, 2019.

§ 4 para. 2 of the Agreement contains provisions concerning the term and termination of the Agreement. § 4 para. 2 sentence 1 of the Agreement provides that the Agreement will be concluded for a fixed term of five full years (*Zeitjahre*) until the end of December 31, 2023. Current legislation (sec. 14 para. 1 sentence 1 no. 3 KStG in conjunction with sec. 17 KStG) requires a minimum contractual term of five full years for the establishment of a fiscal unity for income tax purposes (*ertragsteuerliche Organschaft*).

*Non-binding convenience translation from German into English*

Pursuant to § 4 para. 2 sentence 1 of the Agreement, the Agreement shall, following expiration of the minimum contractual term, be extended by one year in each case, unless it is terminated by one of the contractual parties with effect as of the end of the financial year of the Subsidiary until no later than three months prior to the end of the financial year of the Subsidiary, taking into account the minimum contractual term.

Moreover, § 4 para. 2 sentence 2 of the Agreement clarifies that the Agreement may be terminated in writing for good cause (*aus wichtigem Grund*) without observing any notice period. Pursuant to § 4 para. 2 sentence 3 of the Agreement it shall in particular constitute good cause if E.ON SE transfers all shares in the Subsidiary to a third party.

Pursuant to § 4 para. 3 of the Agreement, the Agreement shall terminate with effect as of the end of that financial year in which an outside shareholder holds shares in the Subsidiary (applying sec. 307 AktG *mutatis mutandis*).

#### **§ 5 Final provisions**

The so-called severability clause contained in § 5 of the Agreement ensures the validity and practicability of the Agreement in the event that individual or several provisions are invalid.

#### **V. Determinations pursuant to sec. 304, 305 AktG / Audit of the Control and Profit and Loss Transfer Agreement**

It is not necessary to include a provision governing compensation or settlement payments for outside shareholders of the Subsidiary in the Control and Profit and Loss Transfer Agreement, since the Subsidiary does not have any outside shareholders; E.ON SE is the sole shareholder of the Subsidiary, directly holding 100% of its shares. It is therefore not necessary to have the companies involved officially valued in order to determine adequate compensation or settlement payments. Since E.ON SE directly holds all shares in the Subsidiary, it is not necessary for the Agreement to be examined by qualified auditors (contract auditors (*Vertragsprüfer*)) pursuant to sec. 293b para. 1 AktG.

*[Signature page to follow]*

Essen, March 18, 2019

**E.ON SE**

**The Management Board**

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(Dr. Johannes Teysen)

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(Dr.-Ing. Leonhard Birnbaum)

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(Dr. Marc Spieker)

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(Dr. Karsten Wildberger)

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(Dr. Thomas König)

Essen, March 18, 2019

**E.ON 12. Verwaltungs GmbH**

**The Management**

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(Dr. Guntram Würzberg)

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(Dr. Christoph Radke)

**Annual financial statements for the financial year 2018 of E.ON 12. Verwaltungs  
GmbH**

Non-binding convenience translation from German into English

**E.ON 12. Verwaltungs GmbH, Essen**

**Balance sheet for the short fiscal year from November 30, 2018 to December 31, 2018**

<b>Assets</b>	<b>Opening balance</b>		<b>Liabilities</b>	<b>31.12.2018</b>	<b>30.11.2018</b>
	<b>31.12.2018</b>	<b>30.11.2018</b>		<b>Euro</b>	<b>Euro</b>
	<b>Euro</b>	<b>Euro</b>		<b>Euro</b>	<b>Euro</b>
<b>A. Current assets</b>			<b>A. Equity</b>		
I. Cash at banks	24.341,09	25.000,00	I. Subscribed capital	25.000,00	25.000,00
	<b>24.341,09</b>	<b>25.000,00</b>	II. Annual net loss	-813,91	0,00
				<b>24.186,09</b>	<b>25.000,00</b>
			<b>B. Provisions</b>		
			Other provisions	155,00	0,00
				<b>155,00</b>	<b>0,00</b>
	<b>24.341,09</b>	<b>25.000,00</b>		<b>24.341,09</b>	<b>25.000,00</b>

**Exemption from the preparation of notes to the financial statements**

Pursuant to sec. 264 para. 1 sentence 5 HGB a micro corporation (*Kleinstkapitalgesellschaft*) in accordance with sec. 267a HGB in the form of a limited liability company is exempted from the preparation of notes to the financial statements provided that the company provides information on facts and circumstances pursuant to sec. 251 and 268 para. 7 HGB as well as sec. 285 no. 9c HGB below the balance sheet. No facts and circumstances existed in accordance with these provisions as of December 31, 2018.

**Company, seat**

E.ON 12. Verwaltungs GmbH  
Registered seat of the company: Essen  
Commercial register HRB 29627 at the local court of Essen

E.ON 12. Verwaltungs GmbH  
The Management

Essen, January 30, 2019

\_\_\_\_\_  
Dr. Christoph Radke

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Dr. Guntram Würzberg

**E.ON 12. Verwaltungs GmbH, Essen**

**Profit and loss account  
for the short fiscal year from November 30, 2018 to December 31, 2018**

	<b>November 30, 2018 to December 31, 2018</b> EUR
1. Other operating expenses	-813,91
2. Annual net loss	-813,91