

Aareal Bank AG,  
Paulinenstraße 15, 65189 Wiesbaden, Germany,  
registered under no. HRB 13184 in the Wiesbaden Commercial Register

- hereinafter "**Aareal**" -

and

Participation Achte Beteiligungs GmbH,  
Paulinenstraße 15, 65189 Wiesbaden, Germany,  
registered under no. HRB 28255 in the Wiesbaden Commercial Register

- hereinafter "**Participation Achte**" -

conclude

the following

### **Control and Profit Transfer Agreement**

in order to create or strengthen the value added, corporation and trade tax group between the two parties:

#### **Article 1 Control**

Participation Achte delegates its corporate management to Aareal. The latter is authorised to issue instructions to the Management Board of Participation Achte on the management of the company, including both general and specific instructions. Participation Achte undertakes to comply with the instructions issued by Aareal. Aareal's authority to issue instructions shall not extend to decisions on the continuation, change or termination of this agreement.

#### **Article 2 Profit transfer**

- (1) Participation Achte undertakes to transfer its entire profits for the abbreviated financial year 2015 and all following financial years to Aareal.
- (2) Within the meaning of paragraph 1 above, profit is – at most – the annual net income earned pursuant to applicable German commercial law without the transfer of profit, less any losses carried forward from the previous year, the amounts to be transferred to legal reserves and any amount of the net income that may not be distributed in accordance with section 268 (8) of the German Commercial Code.
- (3) Participation Achte may allocate amounts from its net income to retained earnings pursuant to section 272 (3) of the German Commercial Code only to the extent this is permissible under applicable commercial law and justified in economic terms on the basis of a reasonable commercial assessment.
- (4) In addition, the provisions of section 301 of the German Public Limited Companies Act as most recently amended apply. To the extent that paragraphs 1 to 3 contradict section 301 of the German Public Limited Companies Act (as amended), the provisions of section 301 of the German Public Limited Companies Act shall prevail.

#### **Article 3 Loss Assumption**

- (1) Section 302 of the German Public Limited Companies Act shall apply mutatis mutandis.

- (2) According to sections 352 and 353 of the German Commercial Code, the interest payable on loss compensation claims amounts to 5% p.a. from the balance sheet date.

#### **Article 4 Term and termination of the agreement**

- (1) This agreement becomes effective upon entry into the commercial register at the registered office of Participation Achte. With the exception of Article 1, it applies with retroactive effect from the beginning of the financial year in which it is entered in Participation Achte's commercial register.
- (2) This agreement is concluded for a period of 5 (five) years (minimum term). Should the end of this minimum term not coincide with the end of a financial year of Participation Achte, the term shall be extended to the end of the financial year in question. The minimum term starts at the beginning of the financial year for which the income tax effects of Participation Achte pursuant to section 14 of the German Corporate Income Tax Act and section 2 (2) sentence 2 of the German Trade Tax Act first set in. The agreement may be terminated with 6 months' notice, but no earlier than at the end of the minimum term. If the agreement is not terminated, it will be automatically extended by one year at a time, subject to the same notice period.
- (3) However, the inter-company agreement may also be terminated without notice before the end of the minimum term if there is due cause. In particular, Aareal has the right to immediate termination for cause if it no longer holds a majority interest in Participation Achte.

#### **Article 5 Final provisions**

- (1) Both contractual parties shall receive a copy of the agreement.
- (2) For the interpretation of this agreement, sections 14 and 17 of the German Corporate Tax Act must be considered.
- (3) Should a provision of this agreement be or become void or unfeasible or should the agreement contain a loophole, this shall not affect the validity of the rest of the agreement. Instead of the void, unfeasible or incomplete provision, the valid or feasible provision that commercially comes closest to the sense and purpose of the void, unfeasible or missing provision shall be considered agreed. It is the express will of the parties that this severability clause not merely reverses the burden of proof but that section 139 of the German Civil Code be waived overall so that this agreement shall remain in force despite an invalid provision or loophole.
- (4) Participation Achte shall register this agreement for entry in the commercial register immediately after it has been approved by the shareholders' meeting of Participation Achte and the General Meeting of Aareal.

Wiesbaden,

Wiesbaden,

Aareal Bank AG

Participation Achte Beteiligungs GmbH

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(Dr Schumacher)

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(Merkens)

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(Dick)

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(Weiß)