

# **Profit and Loss Transfer Agreement**

between Wacker Chemie AG  
Hanns-Seidel-Platz 4  
81737 München

- hereinafter „fiscal parent company“ -

and Wacker-Chemie Achte Venture GmbH  
Hanns-Seidel-Platz 4  
81737 München

- hereinafter „fiscal subsidiary company“ -

## **Preamble**

The fiscal parent company holds all shares in the fiscal subsidiary company.

Due to the business, financial and organizational incorporation of the fiscal subsidiary company, the parties agree to the following to establish fiscal unity (i.e. a German tax-consolidated group known as "Organschaft") in terms of Sections 14 et seq. of the German Corporation Tax Law (KStG):

## **Section 1 Profit-and-Loss Transfer**

As of the first day of the fiscal year of the fiscal subsidiary company in which this agreement is registered with the Commercial Registry at the domicile of the fiscal subsidiary company, the fiscal subsidiary company acts, internally speaking, solely in the interest of the fiscal parent company. It is obligated to transfer all profits and losses to the fiscal parent company. This obligation becomes effective for the first time upon this agreement's entering into force in the current fiscal year. The maximum, legally permissible sum shall be transferred (Section 301 of the German Stock Corporation Act (AktG) in its valid version from time to time).

## **Section 2 Transfer of Losses**

The fiscal parent company shall undertake to compensate the annual net losses incurred by the fiscal subsidiary company during the term of this agreement. The transfer of losses shall be based on Section 302 of the German Stock Corporation Act in its currently valid version.

## **Section 3 Preparation of the Annual Financial Statements**

The annual financial statements of the fiscal subsidiary company shall be prepared in consultation with the fiscal parent company.

#### **Section 4 Settlement Date**

1. Settlement of claims to the transfer of profits and to compensation of annual net losses incurred shall be due – with effect on the last day of the fiscal subsidiary company's particular fiscal year – on the date on which the fiscal subsidiary company's annual financial statements were adopted. Sections 352 and 353 of the German Commercial Code (HGB) apply analogously to the claim to the transfer of profits and to compensation of annual net losses incurred .
2. Prior to adoption of the annual financial statements, the fiscal parent company can claim advance payments on the expected profits that are due to said company with regard to a particular fiscal year, insofar as the fiscal subsidiary company's liquidity allows for the remittance of said advance payments.
3. Mutatis mutandis, the fiscal subsidiary company can demand advance payments on net losses that are expected to be offset in a particular fiscal year insofar as such advance payments are necessary for the fiscal subsidiary company's liquidity.
4. Instalment payments as per Subsections 2 or 3 are non-interest-bearing.

#### **Section 5 Contractual Duration**

1. This agreement takes effect retroactively as of the beginning of the fiscal subsidiary companies' fiscal year in which the agreement becomes effective by registration in the Commercial Registry at the domicile of the fiscal subsidiary company and shall remain effective for an unlimited period. The agreement may be terminated with a notice of three months prior to and effective upon the end of the fiscal year of the fiscal subsidiary company, but in no event shall a termination be possible before the end of the fifth full year after the beginning of the fiscal year of the fiscal subsidiary company in which the agreement becomes effective.
2. This agreement can be terminated effective immediately at any time in case of good cause. One example of good cause is if the fiscal parent company's stake in the fiscal subsidiary company no longer fulfills the scope required under tax law for financial incorporation.

#### **Section 6 Contingency of Approval**

This agreement has been concluded contingent upon the approval of the shareholders' meetings of the contractual parties.

#### **Section 7 Partial Invalidity**

Should any one provision of this agreement be or become invalid or unworkable or it transpires that this agreement contains an omission, the remaining provisions shall be unaffected thereby. In this case, the parties shall undertake to replace the invalid and/or unworkable provision with a permissible provision which economically comes closest to the original provision, and/or the parties would have agreed to, in accordance with their business intentions under this contract, if they had noticed the invalid or unworkable nature of the provision or had noticed the omission.

Munich,

Wacker Chemie AG

Wacker-Chemie Achte Venture GmbH

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Dr. Rudolf Staudigl  
Chairman of the Executive Board

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Goetz N. Neumann  
Managing Director

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Dr. Joachim Rauhut  
Member of the Executive Board