

Profit transfer agreement

between

1. **ERWE Immobilien AG,**

with its registered office in Frankfurt am Main,

registered in the commercial register of the local court of Frankfurt am Main under HRB 113320,

(hereinafter referred to as the "**Controlling Company**")

and

2. **ERWE Properties GmbH,**

with its registered office in Frankfurt am Main,

registered in the commercial register of the local court of Frankfurt am Main under HRB 109499,

(hereinafter referred to as the "**Controlled Company**")

both together also called "**Parties**".

Preamble

The Controlling Company holds 100% of the shares in the Controlled Company. In view of the existing financial integration of the Controlled Company into the company of the Controlling Company, the following profit and loss transfer agreement is to be concluded in order to establish a fiscal unity for corporate income tax and trade tax purposes within the meaning of Sections 14 et seq. KStG, § 2 para. 2 sentence 2 GewStG, the following profit and loss transfer agreement is to be concluded. Both companies remain legally independent.

§ 1 Profit transfer

The Controlled Company undertakes to transfer its entire profit to the Controlling Company. Subject to the formation and reversal of reserves in accordance with Section 3 of this Agreement and Section 301 of the German Stock Corporation Act (AktG), as amended from time to time, the net income for the year calculated in accordance with the applicable provisions of German commercial law, excluding the profit transfer. The legal limits of the profit transfer and the tax regulations for the recognition of a tax group shall be complied with.

§ 2 Assumption of loss

The provisions of Section 302 AktG, as amended from time to time, shall apply mutatis mutandis to the assumption of losses. The claim for compensation of the net loss for the year is due on the balance sheet date of the respective fiscal year of the Controlled Company.

§ 3 Accumulation and release of reserves

- (1) The Controlled Company may, with the consent of the Controlling Company, allocate amounts from the net income for the year to revenue reserves (Section 272 (3) HGB), with the exception of statutory reserves, provided that this is permissible under commercial law and economically justified on the basis of a reasonable commercial assessment.
- (2) Other revenue reserves formed during the term of this Agreement pursuant to Section 272 (3) HGB must be dissolved at the request of the Controlling Company and used to offset any net loss for the year or transferred as profit.
- (3) The transfer of amounts as well as the compensation of a net loss for the year from amounts resulting from the release of reserves pursuant to § 272 para. 2 no. 4 of the German Commercial Code (HGB) as well as from retained earnings and profit carryforwards which were formed or accrued prior to the entry into force of this Agreement shall be excluded.

§ 4 Maturity of the claim to profit transfer

The claim to transfer of the profit pursuant to § 1 of this Agreement shall become due in each case upon adoption of the annual financial statements for the relevant fiscal year of the Controlled Company.

§ 5 Effectiveness, duration and termination

- (1) This agreement is concluded subject to the approval of the Annual General Meeting of the Controlling Company and the approval of the shareholders' meeting of the Controlled Company.
- (2) This Agreement shall become effective upon registration in the commercial register of the Controlled Company and shall apply retroactively as of the beginning of the Controlled Company's fiscal year in which this Agreement becomes effective.
- (3) This contract is concluded for an indefinite period.
- (4) It may be terminated by giving one month's notice to the end of a fiscal year of the Controlled Company, but not earlier than a date which is at least 6 (six) calendar years after the beginning of the fiscal year of the Controlled Company in which the agreement is concluded in accordance with § 5 para. 2 of this contract has become effective.
- (5) This contract may be terminated without notice for good cause. Good cause shall be deemed to exist in particular if
 - a) the tax recognition of the trade and corporate tax group has been denied by a tax assessment notice or a judgement that has become res judicata or the denial is threatened on the basis of administrative instructions;
 - b) the controlling company no longer holds a majority of the voting rights in the controlled company;
 - c) the controlling company sells or contributes the shares in the controlled company;
 - d) the Controlling Company or the Controlled Company are merged, split or liquidated.
- (6) In any case, the notice of termination must be in writing.

§ 6 Final provisions

- (1) Should any provision of this contract be or become invalid or unenforceable, or should a loophole in this contract become apparent, the following shall apply

this shall not affect the remaining provisions of this contract. In this case, the invalid or unenforceable provision shall be replaced by the valid and enforceable provision that comes closest to the invalid or unenforceable provision in economic terms, or the gap shall be filled in this case by the provision that the parties would have agreed upon according to their economic intention if they had considered this point.

- (2) The costs of the conclusion of the agreement and the measures necessary for its effectiveness, such as notary and court costs for resolutions and commercial register applications, shall be borne by the Controlling Company.

For the **Controlling Company**, represented by the

Management Board Frankfurt am Main, 27 October 2020



Axel Harloff

Board of Directors



Rüdiger Weitzel

Member of the Board of Directors

For the **Controlled Company**, represented by the Managing Director

Frankfurt am Main, 27 October 2020



Rüdiger Weitzel

Managing Director