

EVN AG
as Issuer

- and -

DEUTSCHE BANK AKTIENGESELLSCHAFT
as Fiscal Agent

- and -

THE PAYING AGENT

AMENDED AND RESTATED FISCAL AGENCY AGREEMENT

EURO 2,000,000,000
DEBT ISSUANCE PROGRAMME

HENGELER MUELLER
Partnerschaft von Rechtsanwälten

Frankfurt am Main

3 March 2011

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THIS AGENCY AGREEMENT is made on 3 March 2011

BETWEEN

- (1) EVN AG (the "**Issuer**");
- (2) DEUTSCHE BANK AKTIENGESELLSCHAFT (the "**Fiscal Agent**", which expression shall include any successor fiscal agent appointed in accordance with Clause 12);
- (3) DEUTSCHE BANK LUXEMBOURG S.A. (together with the Fiscal Agent, the "**Paying Agents**", which expression shall include any additional or successor paying agent appointed in accordance with Clause 12 and "**Paying Agent**" shall mean any of the Paying Agents).

PREAMBLE

- (A) The Issuer has established a programme (the "**Programme**") for the issuance of Notes (as defined herein) in connection with which it has entered into a dealer agreement dated 16 March 2000 as amended and restated by an Amended and Restated Dealer Agreement of even date herewith (as further amended, supplemented or replaced from time to time, the "**Dealer Agreement**") with the financial institutions named therein (the "**Dealers**", which expression shall include any new dealers appointed, and exclude any institution whose appointment as a dealer has been terminated, in accordance with the Dealer Agreement).
- (B) Notes may be issued on a listed or unlisted basis. Application has been made to list Notes issued under the Programme on the Official List of the Luxembourg Stock Exchange. In connection with such application, the Issuer has procured the preparation of the Prospectus (as defined herein). Notes may also be listed on another stock exchange or stock exchanges as the Issuer and the relevant Dealer(s) may agree, or may not be listed at all.
- (C) The Issuer entered into a fiscal agency agreement dated 16 March 2000 which was last amended and restated by an Amended and Fiscal Agency Agreement dated 3 March 2010 (as further amended, supplemented or replaced from time to time, the "**Agency Agreement**") in relation to the Programme and now the parties hereto wish to record certain arrangements which they have made in relation to amending and restating the Agency Agreement.

IT IS HEREBY AGREED as follows:

1. AMENDMENT AND RESTATEMENT; DEFINITIONS AND INTERPRETATION

(1) The parties hereto agree that, with effect from the date hereof, the Agency Agreement shall for all purposes be amended and restated in the form of this Agreement. Any Notes issued under the Programme on or after the date hereof shall be issued pursuant to this Agreement. This does not affect any Notes issued under the Programme prior to the date of this Agreement.

(2) In this Agreement:

"Agents" means the Fiscal Agent, the Calculation Agent, the Paying Agents or any of them.

"Calculation Agent" means, in relation to any Series of Notes, the institution appointed as calculation agent for the purposes of such Notes and named as such in the relevant Final Terms, in the case of the Fiscal Agent, pursuant to Clause 8 hereof, in the case of a Dealer or any other institution, pursuant to Clause 15 of the Dealer Agreement and, in any case, any successor to such institution in its capacity as such.

"CBL" means Clearstream Banking, société anonyme, Luxembourg.

"Euroclear" means Euroclear Bank SA/NV.

"Exchange Date" means the day on which the Temporary Global Note becomes exchangeable for the Permanent Global Note.

"Frankfurt business day" means a day (other than Saturdays and Sundays) on which commercial banks and foreign exchange markets are open for business (including dealings in foreign exchange and foreign currency deposits) in Frankfurt am Main.

"Global Note" means a Temporary Global Note or a Permanent Global Note.

"Holder" means, in respect of Notes deposited with any Clearing System or other central securities depository, any holder of a proportionate co-ownership or other beneficial interest or right in the Notes so deposited, and otherwise the bearer of a Note.

"Instalment Note" means a Note the principal amount of which is repayable by instalments.

"Interest Commencement Date" means, in the case of interest-bearing Notes, the date specified in the applicable Final Terms from (and including) which such Notes bear interest, which may or may not be the Settlement Date.

"Issue Price" means the price, generally expressed as a percentage of the principal amount of the Notes, at which the Notes will be issued.

"local time" in relation to any payment, means the time in the city in which the relevant bank or the relevant branch or office thereof is located.

"NGN" means a Temporary Global Note or a Permanent Global Note in the form of a New Global Note.

"Permanent Global Note" means (i) a permanent global note substantially in the form set out in Schedule 1 hereto (or in such other form as may be agreed between the Issuer, the Fiscal Agent and the relevant Dealer) issued or to be issued (if indicated in the applicable Final Terms) by the Issuer pursuant to this Agreement in respect of issues of Notes of the same Tranche to which the TEFRA C Rules (as defined below) apply, (ii) a permanent global note substantially in the form set out in Schedule 1 hereto (or in such other form as may be agreed between the Issuer, the Fiscal Agent and the relevant Dealer) issued or to be issued (if indicated in the applicable Final Terms) by the Issuer pursuant to this Agreement in exchange for the whole or part of a Temporary Global Note issued in respect of Notes of the same Tranche to which the TEFRA D Rules (as defined below) apply, or (iii) in the case of Notes with an initial maturity of one year or less, a permanent global note substantially in the form set out in Schedule 1 hereto (or in such other form as may be agreed between the Issuer, the Fiscal Agent and the Dealer) issued or to be issued (if indicated in the applicable Final Terms) by the Issuer pursuant to this Agreement in respect of issues of Notes of the same Tranche to which neither the TEFRA C Rules nor the TEFRA D Rules apply.

"Relevant Agreement" means an agreement between the Issuer and any Dealer(s) for the sale by the Issuer and the purchase by the Dealer(s) of any Notes.

"specified office" of any Agent means the office specified against its name in Schedule 3 hereto or, in the case of any Agent not originally party hereto, specified in its terms of appointment (or, in the case of a Calculation Agent which is a Dealer, specified for the purposes of Clause 16 of the Dealer Agreement) or such other office in the same city as such Agent may specify by notice to the Issuer and the other parties hereto in accordance with Clause 12(9).

"TEFRA C Rules" means U.S. Treasury Regulation Section 1.163-5(c)(2)(i)(C).

"TEFRA D Rules" means U.S. Treasury Regulation Section 1.163-5(c)(2)(i)(D).

"Temporary Global Note" means either (i) a temporary global note substantially in the form set out in Schedule 1 hereto (or in such other form as may be agreed between the Issuer, the Fiscal Agent and the relevant Dealer) initially representing Notes to which the TEFRA D Rules apply (as indicated in the applicable Final Terms) issued or to be issued by the Issuer pursuant to

this Agreement and issued in respect of the Notes of the same Tranche or (ii) in the case of Notes with an initial maturity of one year or less, a temporary global note substantially in the form set out in Schedule 1 hereto (or in such other form as may be agreed between the Issuer, the Fiscal Agent and the relevant Dealer) initially representing Notes to which neither the TEFRA C nor the TEFRA D Rules apply (as indicated in the applicable Final Terms) issued or to be issued by the Issuer pursuant to this Agreement and issued in respect of Notes of the same Tranche.

- (3) Expressions defined elsewhere in this Agreement shall have the meanings so indicated. Expressions defined in the Dealer Agreement and the Terms and Conditions and not otherwise defined in this Agreement shall have the same meanings in this Agreement, except where the context otherwise requires.
- (4) All references in this Agreement to costs or charges or expenses shall include any value added tax or similar tax charged or chargeable in respect thereof, if applicable.

All references in this Agreement to principal and/or interest or both in respect of the Notes or to any moneys payable by the Issuer under this Agreement shall have the meaning set out in § 4 of the Terms and Conditions.

All references in this Agreement to an agreement, instrument or other document (including, without limitation, this Agreement, the Dealer Agreement, the Procedures Memorandum, the Notes and any Conditions appertaining thereto) shall be construed as a reference to that agreement, instrument or document as the same may be amended, varied or supplemented from time to time.

2. APPOINTMENT OF FISCAL AGENT AND PAYING AGENT

- (1) The Issuer hereby appoints the Fiscal Agent, and the Fiscal Agent hereby agrees to act, as agent of the Issuer in relation to Notes, upon the terms and subject to the conditions set out below, for the purposes of:
 - (a) preparing, completing, authenticating and delivering Global Notes;
 - (b) in respect of Global Notes which are NGNs that will not bear the original signature of the Issuer due to their electronic transmission to CBL or Euroclear, as the case may be, as common safekeeper, giving effectuation instructions for each such Global Note;
 - (c) exchanging Temporary Global Notes for Permanent Global Notes in accordance with the terms of such Temporary Global Notes and the Conditions making, or procuring the making of, all notations on Global Notes as may be required, and, in respect of any exchange of Global Notes which are NGNs, instructing CBL and Euroclear to make appropriate entries in their records;

- (d) paying sums due on Global Notes and, in respect of Global Notes which are NGNs, instructing CBL and Euroclear to make appropriate entries in their records;
 - (e) arranging on behalf of and at the expense of the Issuer for notices to be communicated to Holders;
 - (f) ensuring that, as directed by the Issuer where information is required to be provided by the Issuer, all necessary action is taken to comply with any reporting requirements of any competent authority in respect of any relevant currency, except for British pound sterling, as may be in force from time to time with respect to the Notes to be issued under the Programme;
 - (g) subject to the Procedures Memorandum, submitting to the relevant stock exchanges such number of copies of each Final Terms which relates to Notes which are to be listed as it may reasonably require;
 - (h) acting as Calculation Agent in respect of Notes where named as such in the relevant Final Terms and agreed between the Issuer and the Fiscal Agent;
 - (i) performing all other obligations and duties imposed upon it by the Conditions and this Agreement and, in relation to each issue of Notes, the Procedures Memorandum.
- (2) In relation to each issue of NGNs, the Issuer hereby authorises and instructs the Fiscal Agent to elect CBL and/or Euroclear as common safekeeper. From time to time, the Issuer and the Fiscal Agent may agree to vary this election. The Issuer acknowledges that any such election is subject to the right of CBL and Euroclear to jointly determine that the other shall act as common safekeeper in relation to any such issue and agrees that no liability shall attach to the Fiscal Agent in respect of any such election made by it.
- (3) The Issuer hereby appoints the Paying Agent, and the Paying Agent hereby agrees to act, as paying agent of the Issuer in relation to Notes, upon the terms and subject to the conditions set out below, for the purposes of paying sums due on Notes and of performing all other obligations and duties imposed upon it by the Conditions and this Agreement.
- (4) In the case that following a resolution of Holders the Issuer intend(s) to assign any further obligations and duties to the Fiscal Agent (upon the Fiscal Agent's agreement) and/or the Paying Agent, it shall inform the Fiscal Agent and/or Paying Agent of such resolution and relevant additional obligations and duties.

3. THE NOTES

- (1) Each Global Note shall:
 - (a) be printed or typewritten in substantially the form (duly completed) set out in the relevant Schedule hereto (or in such other form as the Issuer, the Fiscal Agent and the Relevant Dealer shall have agreed);
 - (b) have attached thereto the Conditions which may consist of Integrated Conditions or Long-form Conditions;
 - (c) be executed manually by two authorised signatories of the Issuer;
 - (d) be authenticated manually by or on behalf of the Fiscal Agent; and
 - (e) bear a unique serial number.
- (2) The Issuer shall promptly notify in writing the Fiscal Agent of any change in the names of the person or persons whose signatures are to be used.

4. ISSUANCE OF NOTES

- (1) Upon the conclusion of any Relevant Agreement, the Issuer shall, as soon as practicable but in any event, not later than 2.00 p.m. (Frankfurt time) on the third Frankfurt business day prior to the proposed Issue Date in relation to each Tranche:
 - (a) confirm to the Fiscal Agent by telefax or any electronic information system agreed between the Fiscal Agent and the Issuer all such information as the Fiscal Agent may reasonably require to carry out its functions under this Agreement and in particular, whether customary eurobond or medium term note settlement and payment procedures will apply to the relevant Tranche, such details as are necessary to enable it to prepare, complete, authenticate and deliver the Global Note;
 - (b) (if medium term note settlement and payment procedures are to apply and no standard payment instructions have been given to the Fiscal Agent) designate by telefax or SWIFT the account of the Issuer to which payment of the proceeds of issue should be made;
 - (c) deliver to the Fiscal Agent drafts of the Conditions and the Final Terms; and
 - (d) deliver to the Fiscal Agent the Conditions to be attached by the Fiscal Agent to the Global Note (in the case of Integrated Conditions) or a copy of the Final Terms, duly executed on behalf of the Issuer to be attached by the Fiscal Agent to the Global Note together with the Terms and Conditions of the Notes (in the case of Long-Form Conditions).

- (2) On or before 10.00 a.m. (Frankfurt time) or such other time as may be agreed between the Fiscal Agent and the relevant Clearing System on the Frankfurt business day prior to the Issue Date in relation to each Tranche, the Fiscal Agent shall
- (a) authenticate the Global Note;
 - (b) deliver the Global Note to, or to a depository for, the relevant Clearing System, which in the case of CBL and Euroclear shall be a specified common depository (if the Global Note is not an NGN) or specified common safekeeper (if the Global Note is an NGN), and instruct the common safekeeper to effectuate the Global Note (if the same will not bear the original signature of the Issuer, due to its electronic transmission to the common safekeeper);
 - (c) if the Global Note is an NGN, instruct CBL and Euroclear to make the appropriate entries in their records to reflect the initial (in the case of the first Tranche of Notes of any Series) or increased (in the case of a subsequent Tranche of Notes of any Series) outstanding aggregate principal amount of the relevant Series;
 - (d) instruct the relevant Clearing System to credit Notes represented by the Global Note to the Fiscal Agent's distribution account and to hold each such Note to the order of the Issuer pending delivery to the Relevant Dealer(s) on a delivery against payment basis (or on such other basis as shall have been agreed between the Issuer and the Relevant Dealer and notified to the Fiscal Agent) in accordance with the normal procedures of the relevant Clearing System and, following payment, to credit the Notes represented by such Global Note to such securities account(s) as shall have been notified to the Fiscal Agent by the Relevant Dealer(s).

On the Issue Date in respect of the relevant Tranche and against receipt of funds from the Relevant Dealer(s) the Fiscal Agent shall transfer the proceeds of issue value the Issue Date to the account of the Issuer notified in accordance with sub-clause (1) above.

- (3) Where the Fiscal Agent acts as receiving bank for the Issuer in respect of the proceeds of issue of Notes being issued, if on the relevant Issue Date the Fiscal Agent does not receive the full proceeds of issue in respect of any Note (the "**Defaulted Note**") and, as a result, the Defaulted Note remains in the Fiscal Agent's distribution account with the Clearing System after such Issue Date, the Fiscal Agent shall:
- (i) continue to hold the Defaulted Note to the order of the Issuer;
 - (ii) notify the Issuer forthwith of the non-receipt of the proceeds of issue in respect of the Defaulted Note; and, subsequently,

- (iii) notify the Issuer forthwith upon receipt of the full proceeds of issue in respect of such Defaulted Note.
- (4) The Fiscal Agent shall hold in safe custody all unauthenticated Global Notes delivered to it in accordance with this Clause 4 and shall ensure that the same are authenticated and delivered only in accordance with the terms hereof and, if applicable, the relevant Global Note. The Issuer shall ensure that the Fiscal Agent holds sufficient Global Notes to fulfil its respective obligations under this Clause 4. The Fiscal Agent undertakes to notify the Issuer if it holds insufficient Global Notes for such purposes.
- (5) The Fiscal Agent is authorised by the Issuer to authenticate such Global Notes as may be required to be authenticated hereunder by the signature of any person duly authorised for the purpose by the Fiscal Agent.
- (6) On each occasion on which a portion of a Temporary Global Note is exchanged for a portion of a Permanent Global Note, the Fiscal Agent shall note or procure that there is noted on Annex B to the relevant Global Note the aggregate principal amount thereof so exchanged and the remaining principal amount of the relevant Global Note (which shall be the aggregate principal amount of which is to be written up plus the aggregate principal amount so exchanged) and shall procure the signature of such notation on its behalf. The Fiscal Agent shall cancel or procure the cancellation of each relevant Global Note, against surrender of which it has made full exchange for a further Global Note.
- (7) Where the Fiscal Agent delivers any authenticated Global Note to a common safekeeper for effectuation using electronic means, it is authorised to destroy the Global Note retained by it following its receipt of confirmation from the common safekeeper that the relevant Global Note has been effectuated.
- (8) Subject to the procedures set out in the Procedures Memorandum, for the purposes of this Clause 4 the Fiscal Agent is entitled to treat a telephone, e-mail or telefax communication from a person purporting to be (and who the Fiscal Agent believes in good faith to be) the authorised representative of the Issuer named in the list referred to in, or notified pursuant to, Clause 11(7) as sufficient instructions and authority of the Issuer for the Fiscal Agent to act in accordance with this Clause 4. Any telephone communication shall be followed as soon as practicable by a telefax or e-mail confirmation of such communication.
- (9) If the Fiscal Agent, in its discretion, pays an amount (the "**Advance**") to the Issuer on the basis that a payment (the "**Payment**") has been or will be, received from a Dealer and if the Payment is not received by the Fiscal Agent on the date the Fiscal Agent pays the Issuer, the Issuer shall repay to the Fiscal Agent the Advance and shall pay interest on the Advance (or the unreimbursed portion thereof) from (and including) the date such Advance is made to (but excluding) the earlier of repayment in full of the Advance and

receipt in full by the Fiscal Agent of the Payment (at a rate quoted at that time by the Fiscal Agent as its cost of funding the Advance).

5. EXCHANGE OF NOTES

- (1) The Issuer shall, in relation to each Tranche of Notes which is initially represented by a Temporary Global Note, deliver to the Fiscal Agent not less than five Frankfurt business days before such Temporary Global Note becomes exchangeable therefor, the Permanent Global Note in relation thereto. Such Permanent Global Note shall be delivered to the Fiscal Agent in unauthenticated form, but executed by the Issuer. The Fiscal Agent shall:
 - (a) prepare, complete and authenticate such Permanent Global Note in accordance with the terms hereof and of such Global Note,
 - (b) deliver such Permanent Global Note to, or to the depositary for, the relevant Clearing System which is holding the Temporary Global Note (if such Permanent Global Note is a NGN, to the common safekeeper to effectuate the same, if applicable),
 - (c) instruct the relevant Clearing System to make all notations on the Global Notes as may be required reflecting the reduction, respectively the increase, of the nominal amount of the respective Global Note, and
 - (d) in the case of any Global Note which is an NGN, instruct CBL and Euroclear to make appropriate entries in their records to reflect such exchange.

In the case of a total exchange, the Fiscal Agent shall cancel or arrange for the cancellation of the relevant Global Note.

6. PAYMENTS

- (1) The Issuer shall (a) before 10.00 a.m. local time in the respective financial centre in the case of an amount payable in Japanese yen, New Zealand dollar, Hong Kong dollar, Australian dollar, British pound sterling or euro and (b) not later than 3.00 p.m. Frankfurt time in the case of an amount payable in U.S. dollar or Canadian dollar, and (c) not later than the relevant payment deadline confirmed by the Fiscal Agent to the Issuer in case of an amount payable in any currency other than those mentioned in (a) or (b) on each date on which any payment in respect of any Note becomes due, transfer to such account as the Fiscal Agent shall specify such amount in the currency in which the relevant payment falls to be made as shall be sufficient for the purposes of such funds being settled through such payment system as the Fiscal Agent and the Issuer may agree.

- (2) The Issuer shall ensure that not later than 10.00 a.m. (Frankfurt time) on the third Frankfurt business day immediately preceding the date on which any payment is to be made to the Fiscal Agent pursuant to sub-clause (1), the Fiscal Agent shall receive an irrevocable payment confirmation from the Issuer or on behalf of the Issuer via its paying bank.
- (3) Subject to the payment as provided in sub-clause (1) above being duly made, the Fiscal Agent or the relevant Paying Agent shall pay or cause to be paid all amounts due in respect of the Notes on behalf of the Issuer in the manner provided in the Conditions, provided however, that interest paid on Notes issued pursuant to the TEFRA C or D Rules will only be paid outside of the United States and its possessions.

If any payment provided for in sub-clause (1) is made late but otherwise in accordance with the provisions of this Agreement, the Fiscal Agent and/or each Paying Agent shall nevertheless make payments in respect of the Notes as aforesaid following receipt by it of such payment.

- (4) If for any reason the Fiscal Agent has reason to believe that the amounts to be received by the Fiscal Agent pursuant to sub-clause (1) will be, or the amounts actually received by it pursuant thereto are, insufficient to satisfy all claims in respect of all payments then falling due in respect of the Notes, neither the Fiscal Agent nor any Paying Agent shall be obliged to pay any such claims until the Fiscal Agent has received the full amount of all such payments.
- (5) The Fiscal Agent shall not be obliged to repay any moneys paid to it by the Issuer in respect of any Note unless or until claims against the Issuer in respect of the relevant Notes are prescribed or the obligation to make the relevant payment ceases in accordance with the Conditions. In such event it shall upon request of the Issuer repay, as soon as practicable, to the Issuer such portion of such amount as relates to such claim or payment by paying the same by credit transfer to such account with such bank as the Issuer may by notice to the Fiscal Agent have specified for this purpose.
- (6) If the Fiscal Agent pays any amounts to the Holders or to any Paying Agent at a time when it has not received payment in full in respect of the relevant Notes in accordance with sub-clause (1) (the excess of the amounts so paid over the amounts so received being the "**Shortfall**"), the Issuer shall, in addition to paying amounts due under sub-clause (1), pay to the Fiscal Agent on demand interest (at a rate which represents the Fiscal Agent's cost of funding the Shortfall) on the Shortfall (or the unreimbursed portion thereof) until the receipt in full by the Fiscal Agent of the Shortfall.
- (7) The Fiscal Agent shall on demand reimburse each Paying Agent for payments in respect of Notes properly made by such Paying Agent in accordance with this Agreement and the Conditions unless the Fiscal Agent has notified the Paying Agent, prior to the opening of business in the location of the office of the Paying Agent through which payment in respect of the Notes can be made on the due date of a payment in respect of the Notes, that the Fiscal Agent

does not expect to receive sufficient funds to make payment of all amounts falling due in respect of such Notes.

- (8) All payments due in respect of Notes shall be made to, or to the order of, the holder of the Global Note, subject to and in accordance with the provisions of the Global Note and the Conditions.
- (9) If the amount of principal and/or interest then due for payment is not paid in full (otherwise than by reason of a deduction required by law to be made therefrom), the Fiscal Agent to which a Note is presented for the purpose of making such payment shall make a record of such Shortfall on the Note and such record shall, in the absence of manifest error, be *prima facie* evidence that the payment in question has not to that extent been made.

7. MISCELLANEOUS DUTIES OF THE FISCAL AGENT AND THE PAYING AGENT

Determination of Exchange Date and End of Restricted Period

- (1) If the Notes of the relevant Tranche are initially represented by a Temporary Global Note then the following provisions shall apply in the case that the relevant Clearing System does not determine the Exchange Date and the end of the restricted period:
 - (a) The Fiscal Agent shall determine the Exchange Date for such Temporary Global Note in accordance with the terms thereof. Forthwith upon determining the Exchange Date in respect of any Tranche, the Fiscal Agent shall notify such determination to the Issuer, the Relevant Dealer and the Clearing System.
 - (b) In the case of a Tranche in respect of which there is only one Dealer, the Fiscal Agent will determine the end of the restricted period in respect of such Tranche as being the fortieth day following the date certified by the Relevant Dealer to the Fiscal Agent as being the date as of which distribution of the Notes of that Tranche was completed.
 - (c) In the case of a Tranche in respect of which there is more than one Dealer but which is not issued on a syndicated basis, the Fiscal Agent will determine the end of the restricted period in respect of such Tranche as being the fortieth day following the latest of the dates certified by all the Relevant Dealers to the Fiscal Agent as being the respective dates as of which distribution of the Notes of that Tranche purchased by each such Dealer was completed.
 - (d) In the case of a Tranche issued on a syndicated basis, the Fiscal Agent will determine the end of the restricted period in respect of such Tranche as being the fortieth day following the date certified by the

Lead Manager to the Fiscal Agent as being the date as of which distribution of the Notes of that Tranche was completed.

- (e) Forthwith upon determining the end of the restricted period in respect of any Tranche, the Fiscal Agent shall notify such determination to the Issuer, the Clearing System and the Relevant Dealer(s) (in the case of a non-syndicated issue) or the Lead Manager (in the case of a syndicated issue).

Listing

- (2) Where the Notes of the relevant Tranche are to be listed on any stock exchange, the Fiscal Agent shall on behalf and at the request of the Issuer deliver a copy of the Final Terms in relation to such Tranche and, where Integrated Conditions are specified in such Final Terms, such Conditions to such stock exchange or the relevant listing agent, as agreed between the Issuer and the relevant Dealer and notified to the Fiscal Agent, as soon as practicable but in any event (subject to the timely receipt of such documents) not later than the time required by such stock exchange for submission of Final Terms. The Issuer shall advise the Fiscal Agent of the time required by any such stock exchange (other than the Luxembourg Stock Exchange) for submission of the Final Terms.

Notices

- (3) Upon the receipt by the Fiscal Agent of a demand or notice from any Holder in accordance with the Conditions the Fiscal Agent shall forward a copy thereof to the Issuer.
- (4) On behalf of and at the request and expense of the Issuer the Fiscal Agent shall cause to be published, or delivered to Holders, all notices required to be given by such Issuer to the Holders in accordance with the Conditions. The Issuer will provide the Fiscal Agent with a final copy of such notice:
 - (a) in respect to notices to be published via the Clearing System not later than 10.00 a.m. on the second Frankfurt business day prior to the date of publication;
 - (b) in respect to notices via the website of the Luxembourg Stock Exchange not later than 10.00 a. m. on the fourth Frankfurt business day prior to the date of the publication.

all in addition to the respective notice period according to the Conditions under which such notice is considered to be received by the Holders.

Notice of Withholding or Deduction

- (5) If the Issuer is, in respect of any payment, required to withhold or deduct any amount for or on account of taxes or duties of whatever nature as specifically

contemplated under the Conditions, the Issuer shall give notice thereof to the Fiscal Agent as soon as it becomes aware of the requirement to make such withholding or deduction and shall give to the Fiscal Agent such information it shall require to enable it to comply with such requirement.

Documents Available for Inspection

- (6) Each of the Paying Agents shall hold available for inspection at their specified offices during normal business hours copies of all documents required to be so available as provided in the Prospectus, or in relation to any Notes, the Conditions or Final Terms in respect of such Notes, or as may be required by the rules of any stock exchange on which the Notes may be listed.
- (7) For the above purposes, the Issuer shall furnish to the Fiscal Agent for distribution among the Paying Agents sufficient copies of each of the relevant documents.

New Global Notes

- (8) In respect of any Series of Notes that are NGNs, each Paying Agent agrees that if any information that is required by the Fiscal Agent to perform the duties set out in Schedule 5 hereto becomes known to it, it will promptly provide such information to the Fiscal Agent.

Indemnity

- (9) Each of the Agents shall severally indemnify the Issuer against any claim, demand, action, liability, loss or expense (including properly incurred legal fees and any applicable value added tax) which it may incur, as a result or arising out of any negligent or wilful default by such Agent of its obligations under this Agreement. The indemnity set out in this sub-clause (10) shall survive the termination or expiry of this Agreement.

Cancellation of Global Notes

- (10) Upon fulfilment of all payment obligations of the Issuer in respect of any Notes, the Fiscal Agent shall procure that the relevant Global Note is cancelled and shall deliver the cancelled Note to the Issuer.

Change in the Identity of Dealers

- (11) The Issuer undertakes to notify the Fiscal Agent of any changes in the identity of the Dealers appointed generally in respect of the Programme and the Fiscal Agent agrees to notify the other Paying Agents thereof.

Repayment

- (12) If the presentation period in respect of Notes as specified in § 8 of the Conditions of the Notes shall have lapsed and provided that there is no

outstanding *bona fide* and proper claim in respect of any payment in respect of the Notes, the Fiscal Agent shall on demand pay to the Issuer sums equivalent to any amounts paid to it by the Issuer for the purposes of such payments.

8. APPOINTMENT AND DUTIES OF THE CALCULATION AGENT

- (1) The Fiscal Agent may be appointed as Calculation Agent in respect of any Series of Notes by agreement with the Issuer. The Fiscal Agent shall be deemed to having agreed to act as Calculation Agent in respect of a Series of Notes if it shall have been named as Calculation Agent in the relevant Final Terms not later than five Frankfurt business days before the Issue Date or, if earlier, the first date on which it is required to make any calculation or determination and shall not have notified the Issuer that it does not wish to be so appointed within three Frankfurt business days of receipt by it of the relevant Final Terms.
- (2) If the Fiscal Agent has agreed, or is deemed to having agreed to act as Calculation Agent, it shall perform all matters expressed to be performed by it in, and otherwise comply with, the Conditions and the provisions of this Agreement and, in connection therewith, shall take all such action as may be incidental thereto.
- (3) The Calculation Agent shall in respect of each Series of Notes in relation to which it is appointed perform all the functions and duties imposed on the Calculation Agent by the terms and conditions of such Notes, which will include:
 - (a) obtain such quotes and rates and/or make such determinations, calculations, adjustments, notifications and publications as may be required to be made by it by the Conditions at the times and otherwise in accordance with the Conditions; and
 - (b) maintain a record of all quotations obtained by it and of all amounts, rates and other items determined or calculated by it and make such record available for inspection at all reasonable times during normal business hours by the Issuer and the Paying Agents.
- (4) The Calculation Agent shall indemnify the Issuer against any claim, demand, action, liability, loss or expense (including legal fees and any applicable value added tax) which it may incur, as a result or arising out of any negligent or wilful breach by the Calculation Agent of its obligations under this Agreement.

9. EARLY REDEMPTION OF NOTES

- (1) If the Issuer decides to redeem any Notes for the time being outstanding prior to their Maturity Date in accordance with the Conditions, it shall give notice of such decision to the Fiscal Agent not later than 14 Frankfurt business days

before the date on which it will give notice to the Holders in accordance with the Conditions of such redemption in order to enable the Fiscal Agent to undertake its obligations herein and in the Conditions.

- (2) If only some of the Notes are to be redeemed on such date, the Fiscal Agent shall take the required steps for identifying the Notes to be redeemed in accordance with the Conditions and current market standards.
- (3) The Fiscal Agent shall publish the notice required in connection with any such redemption. Such notice shall specify the date fixed for redemption, the redemption amount, the manner in which redemption will be effected. Such notice will be published in accordance with the Conditions. The Fiscal Agent will also notify the other Paying Agents of any date fixed for redemption of any Notes.
- (4) The Paying Agent shall, upon receipt of any redemption notice by holders of Notes the conditions of which provide for redemption at the option of holders, notify forthwith the Issuer thereof.

10. FEES AND EXPENSES

- (1) EVN AG shall pay to the Fiscal Agent for account of the Paying Agents and, in case the Fiscal Agent acts as Calculation Agent, the Calculation Agent, such fees as may have been agreed between itself and the Fiscal Agent in respect of the services of such Agents hereunder. The Issuer shall pay to any Calculation Agent such fees as may have been agreed between the Issuer and such Calculation Agent in respect of its services hereunder. The parties to this Agreement agree that, at the request of the relevant Agent, the fees and expenses may be reviewed and increased from time to time in accordance with such Agent's then current fee levels.
- (2) EVN AG shall reimburse each Agent for all expenses (including legal fees and any applicable value added tax) reasonably incurred in connection with its services hereunder.
- (3) EVN AG shall pay all documentary and other taxes and duties (including any interest and penalties thereon or in connection therewith) which may be payable upon or in connection with the execution and delivery of this Agreement and any letters of appointment under which any Agent is appointed as agent hereunder. EVN AG shall indemnify each Agent against any claim, demand, action, liability, loss or expense (including legal fees and any applicable value added tax) which it may incur or which may be made against it as a result or arising out of any failure to pay or delay in paying any amount **on account of any such documentary and other taxes and duties**. The indemnity will survive the termination or expiry of the Agreement.
- (4) The Agents are not under any obligation to take any action under this Agreement which may involve them in any expense or liability, the payment of

which within a reasonable time is not, in their reasonable opinion, assured to it.

11. TERMS OF APPOINTMENT

- (1) Each of the Agents and (in the case of (b), (d), (e) and (f)) each Calculation Agent may, in connection with its services hereunder:
 - (a) except as ordered by a court of competent jurisdiction or as required by law, treat the bearer of any Note as the owner thereof and make payments thereon accordingly;
 - (b) assume that the terms of each Note as issued are correct;
 - (c) refer any question relating to the ownership of any Note to the Issuer for determination by the Issuer and rely upon any determination so made;
 - (d) rely upon the terms of any notice, communication or other document reasonably believed by it to be genuine;
 - (e) engage and pay for the advice or services of any lawyers or other experts whose advice or services may to it seem necessary and rely upon any advice so obtained. Such Agent shall be protected and shall incur no liability as against the Issuer in respect of any action taken, or suffered to be taken, in accordance with such advice and in good faith;
 - (f) treat itself as being released from any obligation to take any action hereunder which it reasonably expects will result in any expense or liability to it, the payment of which within a reasonable time is not, in its reasonable opinion, assured to it; and
 - (g) any of the Agents shall not be liable to account for interest on money paid to it by the Issuer, and money held by it need not be segregated except as required by law.
- (2) In acting hereunder and in connection with the Notes, the Agents shall act solely as agents of the Issuer and will not thereby assume any obligations towards or relationship of agency or trust for or with any of the Holders. For the avoidance of doubt, the Agents shall only be assigned to perform those duties set out in this Agreement and the Conditions of the Notes.
- (3) In acting hereunder and in connection with the Notes, the Agents shall not be liable for the legality, validity or enforceability of any Note.
- (4) Each Agent may purchase, hold and dispose of Notes and may enter into any transaction (including, among other transactions, any depositary, trust or agency transaction) with any Holder or with any other party hereto in the same manner as if it had not been appointed as the agent of the Issuer.

- (5) EVN AG shall indemnify each Agent against any claim, demand, action, liability, loss or expense (including legal fees and any applicable value added tax) which such Agent may incur, otherwise than as a result of or arising out of any negligent or wilful breach by such Agent of its obligations under this Agreement. The indemnity mentioned in this clause shall survive the termination and expiry of this Agreement.
- (6) The obligations of the Agents hereunder shall be several, and not joint.
- (7) EVN AG shall provide the Fiscal Agent with a list of persons authorised to execute documents and take action on its behalf in connection with this Agreement, such list to be signed by two duly authorised signatories of EVN AG. EVN AG shall notify the Fiscal Agent immediately if any of such persons ceases to be so authorised or if any additional person becomes so authorised by notice signed by two duly authorised signatories of EVN AG.

12. CHANGES IN AGENTS

- (1) The Fiscal Agent may (subject as provided in sub-clause (3) below) at any time resign as Fiscal Agent by giving at least 45 days' written notice to the Issuer of such intention on its part, specifying the date on which its desired resignation shall become effective.
- (2) The Fiscal Agent may (subject as provided in sub-clause (3) below) be removed at any time by EVN AG on at least 45 days' notice by the filing with it of an instrument in writing signed on behalf of EVN AG specifying such removal and the date when it shall become effective.
- (3) Any resignation under sub-clause (1) or removal under sub-clauses (2) or (4) shall only take effect upon the appointment by EVN AG as hereinafter provided, of a successor Fiscal Agent and (other than in cases of insolvency of the Fiscal Agent) on the expiry of the notice to be given under Clause 13. EVN AG agrees with the Fiscal Agent that if, by the day falling ten days before the expiry of any notice under sub-clause (1), it has not appointed a successor Fiscal Agent, then the Fiscal Agent shall be entitled, on behalf and at the expense of EVN AG, to appoint as a successor Fiscal Agent in its place a reputable financial institution of good standing which EVN AG shall approve (such approval not to be unreasonably withheld or delayed).
- (4) In case at any time the Fiscal Agent resigns, or is removed, or becomes incapable of acting or is adjudged insolvent, or files a voluntary petition in insolvency or makes an assignment for the benefit of its creditors or consents to the appointment of an administrator, liquidator or other receiver of all or a substantial part of its property, or admits in writing its inability to pay or meet its debts as they mature or suspends payment thereof, or if any order of any court is entered approving any petition filed by or against it under the provisions of any applicable bankruptcy or insolvency law, a successor Fiscal

Agent, which shall be a reputable financial institution of good standing may be appointed by EVN AG by an instrument in writing filed with the successor Fiscal Agent. Upon the appointment as aforesaid of a successor Fiscal Agent and acceptance by the latter of such appointment and (other than in case of insolvency of the Fiscal Agent when it shall be of immediate effect) upon expiry of the notice to be given under Clause 13 the Fiscal Agent so superseded shall cease to be the Fiscal Agent hereunder.

- (5) Subject to the applicable provisions of the Conditions, the Issuer may, after prior consultation with the Fiscal Agent, terminate the appointment of any Paying Agent or Calculation Agent at any time and/or appoint one or more further Paying Agents or Calculation Agent by giving to the Fiscal Agent, and to the relevant Paying Agent at least 45 days' notice in writing to that effect (other than in the case of insolvency of the Paying Agent or Calculation Agent).
- (6) Subject to the applicable provisions of the Conditions, any Paying Agent or Calculation Agent may resign its appointment hereunder at any time by giving the Issuer and the Fiscal Agent at least 45 days' written notice to that effect.
- (7) Upon its resignation or removal becoming effective, the Fiscal Agent:
 - (a) shall forthwith transfer all moneys held by it hereunder and, if applicable, the documents and records referred to in Clauses 7(7) and (8) and all Global Notes surrendered and not yet cancelled to the successor Fiscal Agent hereunder; and
 - (b) shall be entitled to the payment by the Issuer of its fees and expenses on a pro rata basis for the period acting as Fiscal Agent for the services therefore rendered hereunder in accordance with the terms of Clause 10.
- (8) Upon its appointment becoming effective, a successor Fiscal Agent or Calculation Agent and any new Paying Agent shall, without further act, become vested with all the rights, duties and obligations of its predecessor or, as the case may be, a Paying Agent with like effect as if originally named as Fiscal Agent or (as the case may be) Paying Agent or Calculation Agent hereunder.
- (9) If the Fiscal Agent or any Paying Agent or Calculation Agent determines to change its specified office it shall (after having, in any such case other than a change of specified office within the same city, obtained the prior written approval of the Issuer thereto) give to the Issuer and (if applicable) the Fiscal Agent written notice of such determination giving the address of the new specified office which shall be in the same city and stating the date on which such change is to take effect, which shall not be less than 45 days thereafter. The Fiscal Agent (on behalf of the Issuer) shall within 15 days of receipt of such notice (unless the appointment of the Fiscal Agent or the Paying Agent or Calculation Agent, as the case may be, is to terminate pursuant to the above

sub-clauses on or prior to the date of such change) give or cause to be given not more than 45 days' nor less than 30 days' notice thereof to the Holders in accordance with the Conditions.

13. MERGER AND CONSOLIDATION

Any corporation into which the Fiscal Agent, Paying Agent or Calculation Agent may be merged or converted, or any corporation with which the Fiscal Agent, Paying Agent or Calculation Agent may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Fiscal Agent, Paying Agent or Calculation Agent shall be a party, or any corporation to which the Fiscal Agent, Paying Agent or Calculation Agent shall sell or otherwise transfer all or substantially all the assets of the Fiscal Agent, Paying Agent or Calculation Agent shall, on the date when such merger, conversion, consolidation or transfer becomes effective and to the extent permitted by any applicable laws, become the successor Fiscal Agent, Paying Agent or Calculation Agent under this Agreement without the execution or filing of any paper or any further act on the part of the parties hereto, unless otherwise required by EVN AG and after the said effective date all references in this Agreement to the Fiscal Agent, Paying Agent or Calculation Agent shall be deemed to be references to such corporation. Written notice of any such merger, conversion, consolidation or transfer shall be given to EVN AG by the Fiscal Agent, Paying Agent or Calculation Agent concerned.

14. NOTIFICATION OF CHANGES TO AGENTS

Following receipt of notice of resignation from the Fiscal Agent, Paying Agent or Calculation Agent and forthwith upon appointing a successor Fiscal Agent, Paying Agent or Calculation Agent or on giving notice to terminate the appointment of any Fiscal Agent, Paying Agent or Calculation Agent, the Fiscal Agent (on behalf of and at the expense of the Issuer) shall give or cause to be given not more than 45 days' nor less than 30 days' notice thereof to the Holders in accordance with the Conditions.

15. COMMUNICATION BETWEEN THE PARTIES

A copy of all communications relating to this Agreement between the Issuer and the Holders on the one hand and any of the Paying Agents (other than the Fiscal Agent or the Calculation Agent) on the other hand shall be sent by the Paying Agent or the Calculation Agent to the Fiscal Agent.

16. TAXES AND DUTIES

The Issuer agrees to pay any and all stamp, registration or documentary taxes or duties which may be payable in connection with the execution, delivery, performance and enforcement of this Agreement.

17. NOTICES AND COMMUNICATIONS

(1) **Form of and Address for Notices.** All notices and communications under this Agreement shall be by letter or telefax, posted or delivered by hand or telephone or any other form of communication agreed between the parties hereto. Each notice or communication shall be given as follows:

(a) if to the Issuer, at:

EVN AG
EVN Platz
2244 Maria Enzersdorf
Austria

Telephone: 0043 22 36 200 12400
Telefax: 0043 22 36 200 84708
Attention: Dr. Christian Macha

(b) if to the Fiscal Agent or a Paying Agent at:

Deutsche Bank Aktiengesellschaft
Große Gallusstraße 10-14
60272 Frankfurt am Main
Federal Republic of Germany

Telephone: +49 69 910 43534
Telefax: +49 69 910 41527
E-Mail: frankfurt.mmi@db.com
Attention: Group Technology and Operations

(c) if to the Paying Agent, at:

Deutsche Bank Luxembourg S.A.
2, Boulevard Konrad Adenauer
1115 Luxembourg
Luxembourg

Telephone: +352 421 22 622
Telefax: +352 465 802
Attention: Paying Agency Services

(d) if to the Calculation Agent, where the Fiscal Agent is the Calculation Agent, at:

Deutsche Bank Aktiengesellschaft
Große Gallusstraße 10-14
60272 Frankfurt am Main

Federal Republic of Germany

Telephone: +49 69 910 30819
Telefax: +49 69 910 38 672
E-Mail: frankfurt.corpactions@db.com
Attention: Corporate Actions

(or in the case of a Fiscal Agent not originally a party hereto, specified by notice to the other parties hereto at or about the time of its appointment as the agent of the Issuer)

- (e) if to the Calculation Agent where the Fiscal Agent is not the Calculation Agent to it at the address, telefax number or telephone number, specified by notice to the other parties hereto at or about the time of its appointment as agent of the Issuer

or, in any case, to such other address, telefax number or telephone number or for the attention of such other person or department as the addressee has by prior notice to the sender specified for the purpose.

- (2) **Effectiveness.** Every notice or communication sent in accordance with sub-clause (1) shall be effective as follows:

- (a) **Letter, Telefax or E-mail:** if sent by letter or telefax upon receipt by the addressee;
- (b) **Telephone:** if made on the telephone, upon being made.

In the case of (a) above, any such notice or communication which would otherwise take effect after 4.00 p.m. in the place of the addressee on any particular day or, in the case of (b) above, if a notice is left on a mail-box, such notice shall not take effect until 10.00 a.m. on the immediately succeeding business day in the place of the addressee.

18. GOVERNING LAW, PLACE OF JURISDICTION AND PROCESS AGENT

- (1) **Governing Law.** This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, German law.
- (2) **Place of Jurisdiction.** Any action or other legal proceedings ("**Proceedings**") arising out of or in connection with this Agreement shall be brought in the District Court (*Landgericht*) in Frankfurt am Main.

Nothing contained herein shall limit the right of any party hereto to take Proceedings against any other party hereto in any other court of competent jurisdiction.

- (3) **Process Agent.** The Issuer hereby appoints WTE Wassertechnik GmbH, with current address at Ruhrallee 185, 45136 Essen, Federal Republic of Germany ("**WTE**"), as its agent for service of process in any proceedings brought, or to be brought, in any court in the Federal Republic of Germany and agrees to authorise and empower WTE by written power of attorney, substantially in the form as set out in Appendix F(a) to the Dealer Agreement, to accept such service on its behalf. WTE undertakes with the Arranger (i) to present such power of attorney pursuant to section 171 sentence 2 German Civil Procedure Code (*Zivilprozeßordnung*) to any person who effects service of process, (ii) promptly upon acceptance of such service to notify the Issuer thereof by fax, and (iii) to send the Issuer the original of the documents served on him. If the appointment of the person mentioned in this sub-clause ceases to be effective, the Issuer shall forthwith appoint a person in Germany to accept service of process on its behalf in Germany and notify the name and address of such person to the Arranger and, failing such appointment within fifteen days, the Arranger shall be entitled to appoint such a person by written notice addressed to the Issuer. Nothing contained herein shall affect the right of the Arranger to serve process in any other manner permitted by law.

19. SEVERABILITY AND PARTIAL INVALIDITY

Should any provision of this Agreement be or become invalid in whole or in part, the other provisions shall remain in force. The invalid provision shall be deemed substituted by a valid provision which accomplishes as far as legally possible the economic purposes of the invalid provision.

20. AMENDMENT

This Agreement may be amended by agreement in writing among the parties hereto without the consent of the Holders.

21. COUNTERPARTS

This Agreement may be signed in any number of counterparts, all of which, taken together, shall constitute one and the same agreement

IN WITNESS WHEREOF, the parties hereto have executed this Fiscal Agency Agreement as of the date first above written.

EVN AG
as Issuer

DEUTSCHE BANK AKTIENGESELLSCHAFT
as Fiscal Agent

DEUTSCHE BANK LUXEMBOURG S.A.
as Luxembourg Paying Agent

SCHEDULE 1
PART I

[German language form of Global Note]

Common Code Nr. • Serien Nr. • [Sonstige Wertpapier-Kenn-Nr. •]
ISIN Nr. •

[Any United States person who holds this obligation will be subject to limitations under the United States income tax laws including the limitations provided in sections 165(j) and 1287(a) of the Internal Revenue Code.]¹

EVN AG,
Maria Enzersdorf, Republik Österreich

[Vorläufige] [Dauer-] Globalurkunde

über

[bis zu]² [**Währung und Gesamtnennbetrag der Emission**]

SCHULDVERSCHREIBUNGEN fällig

[**Fälligkeitsjahr**]

Diese [Vorläufige] [Dauer-] Globalurkunde verbrieft eine ordnungsgemäß genehmigte Emission von [**Währung und Gesamtnennbetrag der Emission**] Schuldverschreibungen, fällig [**Fälligkeitsjahr**] (die "**Schuldverschreibungen**") der EVN AG (die "**Emittentin**"). Bezugnahmen in dieser Urkunde auf die "**Bedingungen**" verstehen sich auf die [**im Falle nicht-konsolidierter Bedingungen: Emissionsbedingungen**] in der durch die endgültigen Bedingungen für die Schuldverschreibungen (die "**Endgültigen Bedingungen**") vervollständigten, geänderten, ergänzten oder ersetzten Form. Die Emissionsbedingungen und die Endgültigen Bedingungen sind dieser Urkunde beigefügt. [**im Falle konsolidierter Bedingungen: Bedingungen**, die dieser Urkunde beigefügt sind]. Die Bedingungen sind Teil dieser [Vorläufige] [Dauer-] Globalurkunde. Die in den Bedingungen definierten Begriffe haben, soweit hierin verwendet, in dieser Urkunde die gleiche Bedeutung.

Die Emittentin verpflichtet sich, dem Inhaber dieser Urkunde die auf die durch diese [Vorläufige] [Dauer-] Globalurkunde verbrieften Schuldverschreibungen zahlbaren Beträge gemäß den Bedingungen zu zahlen.

[Bei jeder Rückzahlung oder jedem Kauf und jeder Entwertung von Schuldverschreibungen, die durch diese [Vorläufige] [Dauer-] Globalurkunde verbrieft werden, werden die Einzelheiten der Rückzahlung oder des Kaufs und der

¹ Dieser Absatz ist entbehrlich, wenn die Schuldverschreibungen eine ursprüngliche Laufzeit von einem Jahr oder weniger haben.

² Einzufügen im Falle von TEFRA D und falls die Globalurkunde bei CBF eingeliefert wird.

Entwertung von der oder für die Emittentin in Anhang A zu dieser Urkunde vermerkt. Der entsprechende Vermerk im Anhang A zu dieser Urkunde, in dem die Rückzahlung oder der Kauf und die Entwertung vermerkt werden, ist von der oder für die Emittentin zu unterzeichnen. Nach der Rückzahlung oder dem Kauf und der Entwertung ist der Gesamtnennbetrag dieser [Vorläufigen] [Dauer-] Globalurkunde um den gesamten Nennbetrag der zurückgezahlten oder gekauften und entwerteten Schuldverschreibungen reduziert. Der Gesamtnennbetrag dieser [Vorläufigen] [Dauer-] Globalurkunde nach der Rückzahlung oder dem Kauf und der Entwertung ist dann der jeweils letzte in der betreffenden Spalte in Teil I oder II des Anhangs A zu dieser Urkunde vermerkte Gesamtnennbetrag.]³

[Diese Vorläufige Globalurkunde wird gemäß § 1 der Bedingungen gegen eine Dauer-Globalurkunde ausgetauscht. Bei vollständigem Austausch ist diese Globalurkunde der Emissionsstelle auszuhändigen.]

[Falls diese Globalurkunde eine NGN⁴ ist, einfügen: Da diese [Vorläufige] [Dauer-] Globalurkunde eine NGN ist, wird insbesondere auf § 1 der Bedingungen hingewiesen.]

Diese [Vorläufige] [Dauer-] Globalurkunde unterliegt deutschem Recht.

Diese [Vorläufige] [Dauer-] Globalurkunde ist nur gültig, wenn sie die Kontrollunterschrift der Emissionsstelle oder ihres Beauftragten trägt.

[Falls diese Globalurkunde eine NGN⁵ ist und infolge der elektronischen Übertragung zu CBL und Euroclear als common safekeeper keine Originalunterschrift der Emittentin tragen wird, einfügen: Zu ihrer Gültigkeit bedarf diese [Vorläufige] [Dauer-] Globalurkunde der Bestätigung der Wirksamkeit durch den von den ICSDs bestellten common safekeeper.]

Maria Enzersdorf, den **[Datum]**

EVN AG

[Unterschriftsberechtigte(r)]

³ Dieser Absatz und Anhang A entfallen, wenn die Globalurkunde eine NGN ist; Anhang B wird in diesem Fall Anhang A.

⁴ Wie in § 1 der Bedingungen definiert.

Kontrollunterschrift (ohne Obligo,
Gewährleistung oder Rückgriff)

[Agent]

Unterschriftsberechtigter

[Bestätigung der Wirksamkeit
(ohne Obligo, Gewährleistung oder
Rückgriff)

.....
als common safekeeper:

Unterschriftsberechtigte(r)

**[Im Falle nicht-konsolidierter Bedingungen:
Die Emissionsbedingungen und die Endgültigen Bedingungen sind als Anlage
beizufügen.]**

**[Im Falle konsolidierter Bedingungen:
Die Bedingungen sind als Anlage beizufügen.]**

ANHANG A

Teil I
Tilgungen

Tilgungstag	Gesamtbetrag des zahlbaren Kapitalbetrages	Gezahlter Kapital- betrag	Verbleibender Gesamtnennbet- rag dieser Global- urkunde nach Zahlung	Bestätigung der Zahlung durch oder für die Emittentin
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Teil II
Kauf und Entwertung

Tag des Kaufs und der Entwertung	Betrag des Kaufs und der Entwertung	Verbleibender Gesamtnennbe- trag dieser Globalur- kunde nach Kauf und Entwertung	Bestätigung des Kaufs und der Entwertung durch oder für die Emittentin
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[Im Falle einer Emission von Schuldverschreibungen, auf die die TEFRA D Rules Anwendung finden, werden die folgenden Muster der Bestätigung oder andere üblicherweise verwendete Muster der Vorläufigen Globalurkunde beigefügt.]

ANLAGE I

[Form of certificate to be given in relation to exchanges of this Temporary Global Note by the relevant Clearing System for the Permanent Global Note:]

EVN AG

***[Aggregate principal amount and title of Notes]
(the "Securities")***

This is to certify that, based solely on certifications we have received in writing, by telefax or by electronic transmission from member organisations appearing in our records as persons being entitled to a portion of the principal amount set forth below (our "**Member Organisations**") substantially to the effect set forth in the Fiscal Agency Agreement, as of the date hereof, [] principal amount of the above-captioned Securities (i) is owned by persons that are not citizens or residents of the United States, domestic partnerships, domestic corporations or any estate or trust the income of which is subject to United States Federal income taxation regardless of its source ("**United States persons**"), (ii) is owned by United States persons that (a) are foreign branches of United States financial institutions (as defined in U.S. Treasury Regulations Section 1.165-12(c)(1)(v) ("**financial institutions**")) purchasing for their own account or for resale, or (b) acquired the Securities through and are holding through on the date hereof (as such terms "acquired through" and "holding through" are described in U.S. Treasury Regulations Section 1.163-5(c)(2)(i)(D)(6)) foreign branches of United States financial institutions (and in either case (a) or (b), each such United States financial institution has agreed, on its own behalf or through its agent, that we may advise the Issuer or the Issuer's agent that it will comply with the requirements of Section 165(j)(3)(A), (B) or (C) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder), or (iii) is owned by United States or foreign financial institutions for purposes of resale during the restricted period (as defined in U.S. Treasury Regulations Section 1.163-5(c)(2)(i)(D)(7)), and to the further effect that United States or foreign financial institutions described in clause (iii) above (whether or not also described in clause (i) or (ii)) have certified that they have not acquired the Securities for purposes of resale directly or indirectly to a United States person or to a person within the United States or its possessions.

As used herein, "**United States**" means the United States of America (including the States and the District of Columbia) and its "**possessions**" include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands.

We further certify (i) that we are not making available herewith for exchange (or, if relevant, exercise of any rights or collection of any interest) any portion of the temporary global security excepted in such certifications and (ii) that as of the date hereof we have not received any notification from any of our Member Organisations to the effect that the statements made by such Member Organisations with respect to any portion of the part submitted herewith for exchange (or, if relevant, exercise of

any rights or collection of any interest) are no longer true and cannot be relied upon as at the date hereof.

We understand that this certification is required in connection with certain tax laws and, if applicable, certain securities laws of the United States. In connection therewith, if administrative or legal proceedings are commenced or threatened in connection with which this certification is or would be relevant, we irrevocably authorise you to produce this certification to any interested party in such proceedings.

Date: []*

[Clearstream Banking AG, Frankfurt / Euroclear Bank SA/NV / Clearstream Banking société anonyme, Luxembourg / Oesterreichische Kontrollbank Aktiengesellschaft / other Clearing System]

By: _____
[*authorised signature*]

* To be dated not earlier than the Exchange Date.

ANLAGE II

[Form of certificate to be given in relation to payments of interest falling due before the exchanges of this Temporary Global Note by the relevant Clearing System for the Permanent Global Note:]

EVN AG

***[Aggregate principal amount and title of Notes]
(the "Securities")***

This is to certify that, based solely on certifications we have received in writing, by telefax or by electronic transmission from member organisations appearing in our records as persons being entitled to a portion of the principal amount set forth below (our "**Member Organisations**") substantially to the effect set forth in the Fiscal Agency Agreement, as of the date hereof, [] principal amount of the above-captioned Securities (i) is owned by persons that are not citizens or residents of the United States, domestic partnerships, domestic corporations or any estate or trust the income of which is subject to United States Federal income taxation regardless of its source ("**United States persons**"), (ii) is owned by United States persons that (a) are foreign branches of United States financial institutions (as defined in U.S. Treasury Regulations Section 1.165-12(c)(1)(v) ("**financial institutions**")) purchasing for their own account or for resale, or (b) acquired the Securities through and are holding through on the date hereof (as such terms "acquired through" and "holding through" are described in U.S. Treasury Regulations Section 1.163-5(c)(2)(i)(D)(6)) foreign branches of United States financial institutions (and in either case (a) or (b), each such United States financial institution has agreed, on its own behalf or through its agent, that we may advise the Issuer or the Issuer's agent that it will comply with the requirements of Section 165(j)(3)(A), (B) or (C) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder), or (iii) is owned by United States or foreign financial institutions for purposes of resale during the restricted period (as defined in U.S. Treasury Regulations Section 1.163-5(c)(2)(i)(D)(7)), and to the further effect that United States or foreign financial institutions described in clause (iii) above (whether or not also described in clause (i) or (ii)) have certified that they have not acquired the Securities for purposes of resale directly or indirectly to a United States person or to a person within the United States or its possessions.

As used herein, "**United States**" means the United States of America (including the States and the District of Columbia) and its "**possessions**" include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands.

We further certify (i) that we are not making available herewith for exchange (or, if relevant, exercise of any rights or collection of any interest) any portion of the temporary global security excepted in such certifications and (ii) that as of the date hereof we have not received any notification from any of our Member Organisations to the effect that the statements made by such Member Organisations with respect to any portion of the part submitted herewith for exchange (or, if relevant, exercise of

any rights or collection of any interest) are no longer true and cannot be relied upon as at the date hereof.

We understand that this certification is required in connection with certain tax laws and, if applicable, certain securities laws of the United States. In connection therewith, if administrative or legal proceedings are commenced or threatened in connection with which this certification is or would be relevant, we irrevocably authorise you to produce this certification to any interested party in such proceedings.

Date: []*

[Clearstream Banking AG, Frankfurt / Euroclear Bank SA/NV / Clearstream Banking société anonyme, Luxembourg / Oesterreichische Kontrollbank Aktiengesellschaft / other Clearing System]

By: _____
[*authorised signature*]

* To be dated not earlier than the relevant interest payment date.

ANLAGE III

[Form of account holders certification referred to in the preceding certificates:]

EVN AG

***[Aggregate principal amount and title of Notes]
(the "Securities")***

This is to certify that as of the date hereof, and except as set forth below, the above-captioned Securities held by you for our account (i) are owned by persons that are not citizens or residents of the United States, domestic partnerships, domestic corporations or any estate or trust the income of which is subject to the United States Federal income taxation regardless of its source ("**United States persons**"), (ii) are owned by United States person(s) that (a) are foreign branches of a United States financial institution (as defined in U.S. Treasury Regulations Section 1.165-12(c)(1)(v)) ("**financial institutions**") purchasing for their own account or for resale, or (b) acquired the Securities through and are holding through on the date hereof (as such terms "acquired through" and "holding through" are described in U.S. Treasury Regulations Section 1.163-5(c)(2)(i)(D)(6)) foreign branches of United States financial institutions (and in either case (a) or (b), each such United States financial institution hereby agrees, on its own behalf or through its agent, that you may advise the Issuer or the Issuer's agent that it will comply with the requirements of Section 165(j)(3)(A), (B) or (C) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder), or (iii) are owned by United States or foreign financial institution(s) for purposes of resale during the restricted period (as defined in U.S. Treasury Regulations Section 1.163-5(c)(2)(i)(D)(7)), and in addition if the owner of the Securities is a United States or foreign financial institution described in clause (iii) above (whether or not also described in clause (i) or (ii)) this is further to certify that such financial institution has not acquired the Securities for purposes of resale directly or indirectly to a United States person or to a person within the United States or its possessions.

As used herein, "**United States**" means the United States of America (including the States and the District of Columbia) and its "**possessions**" include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands.

We undertake to advise you promptly by telefax on or prior to the date on which you intend to submit your certification relating to the Securities held by you for our account in accordance with your operating procedures if any applicable statement herein is not correct on such date, and, in the absence of any such notification, it may be assumed that this certification applies as of such date.

This certification excepts and does not relate to [] of such interest in the above Securities in respect of which we are not able to certify and as to which we understand exchange and delivery of definitive Securities (or, if relevant, exercise of any rights or collection of any interest) cannot be made until we do so certify.

We understand that this certification is required in connection with certain tax laws and, if applicable, certain securities laws of the United States. In connection therewith, if administrative or legal proceedings are commenced or threatened, in connection with which this certification is or would be relevant, we irrevocably authorise you to produce this certification to any interested party in such proceedings.

Date: []*

[Account Holder] as or as agent for the beneficial owner of the Notes.

By: _____
[*authorised signature*]

* To be dated not earlier than fifteen days before the Exchange Date or, as the case may be, the relevant interest payment date.

SCHEDULE 1
PART II

[English language form of Global Note]

Series No: •

Common Code No. •
ISIN No. •

[Other Security Identification No. •]

[Any United States person who holds this obligation will be subject to limitations under the United States income tax laws including limitations provided in sections 165(j) and 1287(a) of the Internal Revenue Code.]⁵

EVN AG,
Maria Enzersdorf, Republic of Austria

[Temporary] [Permanent] Global Note

representing
[up to]⁶ [**Currency and Aggregate Principal Amount of Issue**]

NOTES due

[**Year of Maturity**]

This certificate constitutes a [Temporary] [Permanent] Global Note in respect of a duly authorised issue of [**Currency and Aggregate Principal Amount of Issue**] Notes due [**Year of Maturity**] (the "**Notes**") of EVN AG (the "**Issuer**"). References herein to the "**Conditions**" shall be to the [**in the case of Long-Form Conditions: Terms and Conditions of the Notes as completed, modified, supplemented or replaced by the final terms relating to the Notes (the "Final Terms"), both as annexed hereto**] [**in the case of Integrated Conditions: Terms and Conditions of the Notes as annexed hereto**]. The Conditions form part of this [Temporary] [Permanent] Global Note. Expressions defined in the Conditions shall bear the same meanings when used in this [Temporary] [Permanent] Global Note.

The Issuer agrees to pay to the bearer hereof the amounts payable in respect of the Notes represented by this [Temporary] [Permanent] Global Note in accordance with the Conditions.

[On any redemption in respect of, or purchase and cancellation of, any of the Notes represented by this [Temporary] [Permanent] Global Note details of such redemption or purchase and cancellation (as the case may be) shall be entered by or on behalf of the Issuer in Annex A hereto and the relevant space in Annex A hereto recording

⁵ This legend is not required in case of Notes with a maturity (including unilateral rollovers and extensions) of one year or less.

⁶ To be inserted in the case of TEFRA D and if the Global Note will be deposited with CBF.

any such redemption or purchase and cancellation (as the case may be) shall be signed by or on behalf of the Issuer. Upon any such redemption or purchase and cancellation, the aggregate principal amount of this [Temporary] [Permanent] Global Note shall be reduced by the total principal amount of Notes so redeemed or purchased and cancelled. The aggregate principal amount of this [Temporary] [Permanent] Global Note following any such redemption or purchase and cancellation as aforesaid shall be the aggregate principal amount most recently entered in the relevant column in Part I or II of Annex A hereto.]⁷

[This Temporary Global Note shall be exchanged into a Permanent Global Note in accordance with § 1 of the Conditions. On an entire exchange of this Global Note, this Global Note shall be surrendered to the Fiscal Agent.]

[In case this Global Note is an NGN⁸ insert: As this [Temporary] [Permanent] Global Note is an NGN, specific reference is made to § 1 of the Conditions.]

This [Temporary] [Permanent] Global Note is governed by, and shall be construed in accordance with, German law.

This [Temporary] [Permanent] Global Note shall not be valid unless authenticated by or on behalf of the Fiscal Agent.

[In case this Global Note is an NGN¹⁰ and will not bear the original signature of the Issuer due to its electronic transmission to CBL or Euroclear as common safekeeper, insert: This [Temporary] [Permanent] Global Note shall require to be effectuated by the entity appointed as common safekeeper by the ICSDs in order to be valid.]

Maria Enzersdorf, [**Date**]

EVN AG

[Authorised Signatory(ies)]

Authenticated without recourse,
warranty or liability by

[Agent]

By:

⁷ This paragraph and Annex A are to be deleted in case the Global Note is an NGN and Annex B is to be designated in such case Annex A.

⁸ As defined in § 1 of the Conditions.

[Effectuated without recourse,
warranty or liability by

.....
as common safekeeper

By: (By:)]

**[In the case of Long-Form Conditions:
The Terms and Conditions of the Notes and the Final Terms are to be added by
attachment hereafter.]**

**[In the case of Integrated Conditions:
The Conditions are to be added by attachment hereafter.]**

ANNEX A

Part I
Redemptions

Date of redemption	Total amount of principal payable	Amount of principal paid	Remaining aggregate principal amount of this Global Note following such redemption	Confirmation of redemption by or on behalf of the Issuer
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Part II
Purchases and Cancellations

Date of purchase and cancellation	Part of aggregate principal amount of this Global Note purchased and cancelled	Remaining aggregate principal amount of this Global Note following such purchase and cancellation	Confirmation of purchase and cancellation by or on behalf of the Issuer
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[In the case of Temporary Global Notes, the following forms of certification (or such other form as shall customarily be used) will be attached to the Temporary Global Note.]

EXHIBIT I

[Insert certificate to be given in relation to exchanges of this Temporary Global Note for the Permanent Global Note - See Exhibit I (Anlage I) to German language form of Global Note]

EXHIBIT II

[Insert certificate to be given in relation to payments of interest falling due before the exchanges of a Temporary Global Note for a Permanent Global Note - See Exhibit II (Anlage II) to German language form of Global Note]

EXHIBIT III

[Insert account holder's certification referred to in the preceding certificates - See Exhibit III (Anlage III) to German language form of Global Note]

SCHEDULE 2

[On letterhead of the Issuer]

*[Calculation Agent Appointment Letter]
[for use if the Calculation Agent is not a Dealer]*

[Date]

**[Name of Calculation Agent]
[Address]**

**EVN AG
Euro 2,000,000,000 Debt Issuance Programme**

Dear Sirs,

We refer to the Amended and Restated Fiscal Agency Agreement dated 3 March 2011 entered into in respect of the above Debt Issuance Programme (such agreement, as modified or amended from time to time, the "**Agency Agreement**") between EVN AG and Deutsche Bank Aktiengesellschaft, as fiscal agent and certain other financial institutions named therein, a copy of which has been supplied to you by us.

Expressions defined in the Agency Agreement shall have the same meanings when used herein.

[If a third party is appointed for one Series of Notes only, insert: We hereby appoint you as Calculation Agent at your specified office detailed in the Confirmation as our agent in relation to **[specify relevant Series of Notes]** (the "**Notes**") upon the terms of the Agency Agreement for the purposes specified in the Agency Agreement and in the Conditions and all matters incidental thereto.]

[If a third party is appointed for more than one Series of Notes, insert: We hereby appoint you as Calculation Agent at your specified office detailed in the Confirmation set out below as our agent in relation to each Series of Notes in respect of which you are named as Calculation Agent in the relevant Final Terms upon the terms of the Agency Agreement and (in relation to each such Series of Notes) in the Terms and Conditions and all matters incidental thereto.]

[We hereby agree that, notwithstanding the provisions of the Agency Agreement or the Conditions, your appointment as Calculation Agent may only be revoked in

accordance with the terms and conditions thereof if you have been negligent in the exercise of your obligations thereunder or have failed to exercise or perform your obligations thereunder.]

The fees and expenses payable in connection with the calculation agency function of the Calculation Agent are dealt with in a separate side letter of even date herewith.

Please complete and return to us the Confirmation on the copy of this letter duly signed by authorised signatories confirming your acceptance of this appointment.

This letter is governed by, and construed in accordance with, German law and the provisions of Clauses 18 and 19 of the Agency Agreement shall apply to this letter as if set out herein in full.

Yours faithfully

EVN AG

[On letterhead of the Calculation Agent]

CONFIRMATION

[Date]

EVN AG
EVN Platz
2244 Maria Enzersdorf
Austria

**EVN AG
Euro 2,000,000,000 Debt Issuance Programme**

Dear Sirs,

[If a third party is appointed for one Series of Notes only, insert: We hereby accept our appointment as Calculation Agent of the Issuer in relation to the Notes, and shall perform all matters expressed to be performed by the Calculation Agent in, and shall otherwise comply with, the Terms and Conditions and the provisions of the Agency Agreement and, in connection therewith, shall take all such action as may be incidental thereto.]

[If a third party is appointed for more than one Series of Notes, insert: We hereby accept our appointment as Calculation Agent of the Issuer in relation to each Series of Notes in respect of which we are named as Calculation Agent in the relevant Final Terms, and shall perform all matters expressed to be performed by the Calculation Agent in, and shall otherwise comply with (in relation to each such Series of Notes) the Terms and Conditions and the provisions of the Agency Agreement and, in connection therewith, shall take all such action as may be incidental thereto.]

For the purposes of [the Notes] [each such Series of Notes] and the Agency Agreement our specified office and communication details are as follows:

Address: []

Fax: []

Attention: []

[Calculation Agent]

By:

Date: []

SCHEDULE 3

[The Specified Offices of the Fiscal Agent and Paying Agents]

FISCAL AGENT

Deutsche Bank Aktiengesellschaft
Grosse Gallusstrasse 10-14
60272 Frankfurt am Main
Federal Republic of Germany

PAYING AGENT

Deutsche Bank Luxembourg S.A.
2, Boulevard Konrad Adenauer
1115 Luxembourg
Luxembourg

SCHEDULE 4
PART I

*[Form of Guarantee to be issued in case of a substitution in accordance with the
Terms and Conditions]*

GARANTIE

der

EVN AG
Maria Enzersdorf, Republik Österreich,

zugunsten der Gläubiger der **[Beschreibung der Anleihe einfügen]** (die
"Schuldverschreibungen"),

IM HINBLICK DARAUFG, DASS:

- (A) die EVN AG gemäß § 10 der Emissionsbedingungen die **[Namen der Nachfolgeschuldnerin einfügen]** an ihre Stelle als Hauptschuldnerin für sämtliche Verpflichtungen aus oder im Zusammenhang mit den Schuldverschreibungen eingesetzt hat,
- (B) die EVN AG (die "**Garantin**") die ordnungsgemäße Zahlung von Kapital und Zinsen sowie von allen sonstigen Beträgen, die auf die Schuldverschreibungen zu zahlen sind, garantieren möchte.

WIRD FOLGENDES VEREINBART:

- (1)(a) Die Garantin übernimmt gegenüber jedem Gläubiger der Schuldverschreibungen auf erste Aufforderung und unter Verzicht auf jegliche Einwendung oder Einrede, die unbedingte und unwiderrufliche Garantie für die ordnungsgemäße und pünktliche Zahlung bei Fälligkeit gemäß den Emissionsbedingungen von Kapital und Zinsen auf die Schuldverschreibungen sowie von allen sonstigen Beträgen, die gemäß den Emissionsbedingungen auf die Schuldverschreibungen zahlbar sind.
- (b) Diese Garantie begründet eine nicht besicherte und nicht nachrangige Verbindlichkeit der Garantin, die mit allen anderen jeweils bestehenden, nicht besicherten und nicht nachrangigen Verbindlichkeiten der Garantin gleichrangig ist.

Solange die Schuldverschreibungen ausstehen, jedoch nur bis zu dem Zeitpunkt, an dem alle Beträge an Kapital und Zinsen der Emissionsstelle zur Verfügung gestellt worden sind, verpflichtet sich die Garantin und stellt für ihre Wesentlichen Tochtergesellschaften (wie in § 9 der Emissionsbedingungen)

sicher, keine Finanzverbindlichkeiten (einschließlich dafür gegebener Garantien oder Gewährleistungen) durch Belastung ihres gegenwärtigen oder zukünftigen Vermögens bzw. des Vermögens einer Wesentlichen Tochtergesellschaft zu besichern oder eine solche Besicherung bestehen zu lassen (ausgenommen "**zugelassene Sicherheiten**"), ohne gleichzeitig entweder die Gläubiger zur gleichen Zeit und im gleichem Rang an solchen Sicherheiten teilnehmen zu lassen oder den Gläubigern eine andere Sicherheit zu bestellen, die von den externen Wirtschaftsprüfern der Garantin als gleichwertige Sicherheit anerkannt wird.

"**Finanzverbindlichkeit**" bezeichnet jede Verbindlichkeit zur Zahlung aufgenommener Geldbeträge, die (i) durch Schuldverschreibungen oder sonstige Wertpapiere, die an einer Börse oder einem anderen Wertpapiermarkt (einschließlich des außerbörslichen Handels) notiert oder gehandelt werden oder werden könnten, verbrieft oder verkörpert sind, oder (ii) in der Form eines Schuldscheindarlehens aufgenommen werden.

"**Zugelassene Sicherheiten**" sind

- (i) Sicherheiten, die kraft Gesetzes eingeräumt sind;
- (ii) jede Sicherheit an der Gesamtheit oder einem Teil des Vermögens einer Gesellschaft, die nach dem Begebungstag eine Tochtergesellschaft der Garantin wird und die vor dem Tag des Erwerbs bestellt wurde, unter der Voraussetzung, dass diese Sicherheit nicht in der Erwägung eines solchen Erwerbs bestellt wurde und die hierdurch gesicherte Summe nicht in Erwägung des Erwerbs, oder seit dem Tag des Erwerbs, erhöht wurde;
- (iii) für Finanzverbindlichkeiten bereits bestehende Sicherheiten solange sie diese Finanzverbindlichkeiten besichern sowie künftige diese bestehenden Sicherheiten ersetzende andere Sicherheiten bis zur gleichen Höhe, jedoch nur soweit und solange sie der Besicherung einer bestehenden, gegenwärtigen oder künftigen Finanzverbindlichkeit dienen; und

Sicherheiten, die bei der Finanzierung von Investitionen / Akquisitionen an diesen Investitions- bzw. Akquisitionsobjekten bestellt werden.

- (c) Sämtliche Zahlungen aufgrund dieser Garantie sind an der Quelle ohne Einbehalt oder Abzug von oder aufgrund von gegenwärtigen oder zukünftigen Steuern oder sonstigen Abgaben gleich welcher Art zu leisten, die von oder in der Republik Österreich oder **[Sitzland der Nachfolgeschuldnerin einfügen]** oder für deren Rechnung oder von oder für Rechnung einer politischen Untergliederung oder Steuerbehörde der Republik Österreich oder **[Sitzland der Nachfolgeschuldnerin einfügen]** an der Quelle auferlegt oder erhoben werden, es sei denn, ein solcher Einbehalt oder Abzug ist gesetzlich vorgeschrieben. In diesem Fall hat die Garantin diejenigen zusätzlichen Beträge (die "**zusätzlichen Beträge**") zu zahlen, die erforderlich sind, damit die den Gläubigern aufgrund dieser Garantie zufließenden Nettobeträge nach einem solchen Einbehalt oder Abzug jeweils den Beträgen entsprechen, die ohne einen solchen Einbehalt oder Abzug von den Gläubigern empfangen

worden wären. Die Verpflichtung zur Zahlung solcher zusätzlichen Beträge besteht jedoch nicht für solche Steuern und Abgaben, die:

- (a) von einer als Depotbank oder Inkassobeauftragter des Gläubigers handelnden Person oder sonst auf andere Weise zu entrichten sind als dadurch, dass die Emittentin von den von ihr zu leistenden Zahlungen von Kapital oder Zinsen einen Abzug oder Einbehalt vornimmt; oder
 - (b) wegen einer gegenwärtigen oder früheren persönlichen oder geschäftlichen Beziehung des Gläubigers zu der Republik Österreich zu zahlen sind, und nicht allein deshalb, weil Zahlungen auf die Schuldverschreibungen aus Quellen in der Republik Österreich stammen (oder für Zwecke der Besteuerung so behandelt werden) oder dort besichert sind, wobei die österreichische Kapitalertragsteuer in ihrer jeweiligen Form (oder zukünftige, diese ablösenden Steuern oder Zuschläge) als unter diesen Unterabsatz (b) fallende Steuern anzusehen sind, in Bezug auf die folglich keine zusätzlichen Beträge zu zahlen sind; oder
 - (c) aufgrund (i) einer Richtlinie oder Verordnung der Europäischen Union betreffend die Besteuerung von Zinserträgen oder (ii) einer zwischenstaatlichen Vereinbarung über deren Besteuerung, an der die Republik Österreich oder die Europäische Union beteiligt ist, oder (iii) einer gesetzlichen Vorschrift, die diese Richtlinie, Verordnung oder Vereinbarung umsetzt oder befolgt, abzuziehen oder einzubehalten sind; oder
 - (d) von einer Zahlstelle einbehalten oder abgezogen werden, wenn die Zahlung von einer anderen Zahlstelle ohne den Einbehalt oder Abzug hätte vorgenommen werden können; oder
 - (e) wegen einer Rechtsänderung zu zahlen sind, welche später als 30 Tage nach Fälligkeit der betreffenden Zahlung oder, wenn dies später erfolgt, ordnungsgemäßer Bereitstellung aller fälligen Beträge und einer diesbezüglichen Bekanntmachung gemäß den Emissionsbedingungen wirksam wird.
- (d) Die Verpflichtungen der Garantin aus dieser Garantie (i) sind selbständig und unabhängig von den Verpflichtungen der die Nachfolgeschuldnerin aus den Schuldverschreibungen, (ii) bestehen unabhängig von der Rechtmäßigkeit, Gültigkeit, Verbindlichkeit oder Durchsetzbarkeit der Schuldverschreibungen und (iii) werden nicht durch Ereignisse, Bedingungen oder Umstände tatsächlicher oder rechtlicher Art berührt, außer durch die vollständige, endgültige und unwiderrufliche Erfüllung sämtlicher in den Schuldverschreibungen eingegangenen Zahlungsverpflichtungen.
- (2) Diese Garantie und alle darin enthaltenen Vereinbarungen stellen einen Vertrag zugunsten der Gläubiger als begünstigte Dritte gemäß § 328 Absatz 1 BGB dar. Sie begründen das Recht eines jeden Gläubigers, die Erfüllung der hierin

eingegangenen Verpflichtungen unmittelbar von der Garantin zu fordern und diese Verpflichtungen unmittelbar gegenüber der Garantin durchzusetzen.

(3) Die Emissionsstelle handelt nicht als Treuhänder oder in einer ähnlichen Eigenschaft für die Gläubiger.

(4) Die in dieser Garantie verwendeten und nicht anders definierten Begriffe haben die ihnen in den beigefügten Emissionsbedingungen zugewiesene Bedeutung.

(5) Diese Garantie unterliegt deutschem Recht.

(6) Diese Garantie ist in deutscher Sprache abgefaßt. Eine unverbindliche Übersetzung in die englische Sprache ist beigefügt.

(7) Das Original dieser Garantie wird der Emissionsstelle ausgehändigt und von dieser verwahrt.

(8) Erfüllungsort ist Maria Enzersdorf.

(9) Gerichtsstand für alle Rechtsstreitigkeiten aus oder im Zusammenhang mit dieser Garantie ist Wien. Jeder Gläubiger kann seine Ansprüche jedoch auch vor jedem anderen zuständigen Gericht geltend machen.

(10) Jeder Gläubiger kann in jedem Rechtsstreit gegen der Garantin und in jedem Rechtsstreit, in dem er und die Garantin Partei sind, seine Rechte aus dieser Garantie auf der Grundlage einer von einer vertretungsberechtigten Person der Emissionsstelle beglaubigten Kopie dieser Garantie ohne Vorlage des Originals im eigenen Namen wahrnehmen und durchsetzen.

Maria Enzersdorf, den **[Datum]**

EVN AG

Wir nehmen die Bedingungen der vorstehenden Garantie ohne Obligo, Gewährleistung oder Haftung an.

[Ort], den **[Datum]**

Deutsche Bank Aktiengesellschaft

[Emissionsbedingungen]

SCHEDULE 4
PART II

[English Translation of Form of Guarantee to be issued in case of a substitution in accordance with the Terms and Conditions]

Non-binding translation of the Guarantee:

GUARANTEE

of

EVN AG
Maria Enzersdorf, Republic of Austria,

for the benefit of the holders of [insert description of Notes] (the "**Notes**")

WHEREAS:

(A) EVN AG has substituted for itself [insert name of Substituted Debtor] (the "**Substituted Debtor**") as principal debtor in respect of all obligations arising from or in connection with the Notes under § 10 of the Terms and Conditions of the Notes (the "**Conditions**").

(B) EVN AG (the "**Guarantor**") wishes to guarantee the due payment of principal, interest and any other amounts payable in respect of any and all Notes.

IT IS AGREED AS FOLLOWS:

(1)(a) The Guarantor unconditionally and irrevocably guarantees to the holder of each Note (each a "**Holder**") upon first demand and without raising any defence the due and punctual payment of the principal of, and interest on, the Notes, and any other amounts which may be expressed to be payable under any Note, as and when the same shall become due, in accordance with the Conditions.

(b) This Guarantee constitutes an unsecured and unsubordinated obligation of the Guarantor and ranks *pari passu* with all other unsecured and unsubordinated obligations of the Guarantor outstanding from time to time.

So long as any of the Notes remains outstanding, but only until all amounts of principal and interest have been made available to the Fiscal Agent, the Guarantor undertakes, and shall procure in respect of its Material Subsidiaries (as defined in the Conditions) neither to create nor permit to subsist any lien or other security interest (other than "**Permitted Securities**") upon any of its or any of its Material Subsidiaries' present or future assets to secure any Financial Indebtedness (including any guarantees or indemnities in respect

thereof), without at the same time according to the Holders equally and rateably the same security interest or such other security as will be recognised by the external auditors of the Guarantor as being an equal security.

"Financial Indebtedness" means any obligation for the payment of borrowed monies which is (i) in the form of, or represented by, bonds, notes, debentures or similar security, which are or are capable of being listed or traded on a stock exchange or other securities market (including any over-the-counter market), or (ii) in the form of assignable loans (*Schuldscheindarlehen*).

"Permitted Securities" means

- (i) any security arising solely by operation of law,
- (ii) any security on the whole or any part of the present or future assets of any company which becomes a Subsidiary of the Guarantor after the Issue Date and where such security was created prior to the date of such acquisition provided that such security was not created in contemplation of such acquisition and the amount thereby secured has not been increased in contemplation of, or since the date of, such acquisition,
- (iii) any existing security on Financial Indebtedness as long as such security is given in relation to such Financial Indebtedness and any other future security replacing such existing security up to the original amount thereof, but only and unless such security is given in relation to any existing or future Financial Indebtedness, and

any security which is given on the occurrence of an investment or acquisition where the security is given for the object to be financed or acquired.

- (c) All amounts payable under this Guarantee shall be made without withholding or deduction for or on account of any present or future taxes or duties of whatever nature imposed or levied by way of withholding or deduction at source by or on behalf of the Republic of Austria or **[insert country in which Substituted Debtor has its seat]** or any political subdivision thereof or any authority thereof or therein having power to tax, unless such withholding or deduction is required by law. In such event, the Guarantor shall pay such additional amounts as shall be necessary in order that the net amounts received by the Holders pursuant to this Guarantee, after such withholding or deduction, shall equal the respective amounts which would otherwise have been receivable in the absence of such withholding or deduction. No such additional amounts shall be payable on account of any taxes or duties which:
 - (a) are payable by any person acting as custodian bank or collecting agent on behalf of a Holder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments of principal or interest made by it, or
 - (b) are payable by reason of the Holder having, or having had, some personal or business connection with the Republic of Austria and not merely by reason of the fact that payments in respect of the Notes are,

or for purposes of taxation are deemed to be, derived from sources in, or are secured in, the Republic of Austria, it being understood that the Austrian withholding tax on investment income (*Kapitalertragsteuer*) as in effect from time to time, or any future taxes or surcharges substituting the foregoing, are taxes falling under this clause (b), in respect of which, accordingly, no additional amounts will be payable, or

- (c) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which the Republic of Austria or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding, or
 - (d) are deducted or withheld by a paying agent and such deduction or withholding could be avoided if payments could be made by another paying agent without such deduction or withholding, or
 - (e) are payable by reason of a change in law that becomes effective more than 30 days after the relevant payment becomes due, or is duly provided for and notice thereof is published in accordance with the Conditions, whichever occurs later.
- (d) The obligations of the Guarantor under this Guarantee (i) shall be separate and independent from the obligations of the Substituted Debtor under the Notes, (ii) shall exist irrespective of the legality, validity and binding effect or enforceability of the Notes, and (iii) shall not be affected by any event, condition or circumstance of whatever nature, whether factual or legal, save the full, definitive and irrevocable satisfaction of any and all payment obligations expressed to be assumed under the Notes.
- (2) This Guarantee and all undertakings contained herein constitute a contract for the benefit of the Holders from time to time as third party beneficiaries pursuant to § 328(1) *BGB* (German Civil Code)¹. They give rise to the right of each such Holder to require performance of the obligations undertaken herein directly from the Guarantor, and to enforce such obligations directly against the Guarantor.
- (3) The Fiscal Agent does not act in a fiduciary or in any other similar capacity for the Holders.
- (4) Terms used in this Guarantee and not otherwise defined herein shall have the meaning attributed to them in the Conditions, a copy of which is attached hereto.
- (5) This Guarantee shall be governed by, and construed in accordance with, German law.

¹ In English language translation § 328 (1) *BGB* (German Civil Code) reads as follows:
"A contract may stipulate performance for the benefit of a third party, to the effect that the third party acquires the right directly to demand performance."

(6) This Guarantee is written in the German language and attached hereto is a non-binding English translation.

(7) The original version of this Guarantee shall be delivered to, and kept by, the Fiscal Agent.

(8) Place of performance shall be Maria Enzersdorf.

(9) The place of jurisdiction for all legal proceedings arising out of or in connection with this Guarantee shall be Vienna. Each Holder may, however, also pursue his claims before any other court of competent jurisdiction.

(10) On the basis of a copy of this Guarantee certified as being a true copy by a duly authorised officer of the Fiscal Agent, each Holder may protect and enforce in his own name his rights arising under this Guarantee in any legal proceedings against the Guarantor or to which such Holder and the Guarantor are parties, without the need for production of this Guarantee in such proceedings.

Maria Enzersdorf, **[date]**

EVN AG

We accept the terms of the above Guarantee without recourse, warranty or liability.

[place], [date]

Deutsche Bank Aktiengesellschaft

[Terms and Conditions of the Notes]

SCHEDULE 5

[Specific Duties of the Fiscal Agent in the Case of NGNs]

In relation to each Series of Notes that are NGNs, the Fiscal Agent will comply with the following provisions:

1. The Fiscal Agent will inform each of Euroclear and CBL (the "**ICSDs**"), through the common service provider appointed by the ICSDs to service the Notes (the "**CSP**"), of the initial issue outstanding amount ("**IOA**") for each Tranche on or prior to the relevant Issue Date.
2. If any event occurs that requires a mark up or mark down of the records which an ICSD holds for its customers to reflect such customers' interest in the Notes, the Fiscal Agent will (to the extent known to it) promptly provide details of the amount of such mark up or mark down, together with a description of the event that requires it, to the ICSDs (through the CSP) to ensure that the IOA of the Notes remains at all times accurate.
3. The Fiscal Agent will regularly reconcile its record of the IOA of the Notes with information received from the ICSDs (through the CSP) with respect to the IOA maintained by the ICSDs for the Notes and will promptly inform the ICSDs (through the CSP) of any discrepancies.
4. The Fiscal Agent will promptly assist the ICSDs (through the CSP) in resolving any discrepancy identified in the IOA of the Notes.
5. The Fiscal Agent will promptly provide to the ICSDs (through the CSP) details of all amounts paid by it under the Notes (or, where the Notes provide for delivery of assets other than cash, of the assets so delivered).
6. The Fiscal Agent will (to the extent known to it) promptly provide to the ICSDs (through the CSP) notice of any changes to the Notes that will affect the amount of, or date for, any payment due under the Notes.
7. The Fiscal Agent will (to the extent known to it) promptly provide to the ICSDs (through the CSP) copies of all information that is given to the holders of the Notes.
8. The Fiscal Agent will promptly pass on to the Issuer all communications it receives from the ICSDs directly or through the CSP relating to the Notes.
9. The Fiscal Agent will (to the extent known to it) promptly notify the ICSDs (through the CSP) of any failure by the Issuer to make any payment or delivery due under the Notes when due.

SCHEDULE 6

[Provisions Regarding Resolutions of Holders]

ENGLISH LANGUAGE VERSION

The following provisions regarding resolutions of Holders constitute part of the Terms and Conditions of the Notes and are incorporated therein by reference.

Part A

PROVISIONS APPLICABLE TO RESOLUTIONS TO BE PASSED AT MEETINGS OF HOLDERS

§ 1

Convening the Meeting of Holders

(1) Meetings of Holders (each a " **Holders' Meeting** ") shall be convened by the Issuer or by the Holders' Representative. A Holders' Meeting must be convened if one or more Holders holding together not less than 5 per cent. of the outstanding Notes so require in writing, stating that they wish to appoint or remove a Holders' Representative, that pursuant to § 5(5) sentence 2 of the Act on Debt Securities (*Schuldverschreibungsgesetz*) a notice of termination ceases to have effect or that they have another specific interest in having a Holders' Meeting convened.

(2) Holders whose legitimate request is not fulfilled may apply to the competent court to authorise them to convene a Holders' Meeting. The court may also determine the chairman of the meeting. Any such authorisation must be disclosed in the publication of the convening notice.

(3) The competent court shall be the court at place of the registered office of the Issuer, or if the Issuer has no registered office in Germany, the local court (*Amtsgericht*) in Frankfurt am Main. The decision of the court may be appealed.

(4) The Issuer shall bear the costs of the Holders' Meeting and, if the court has granted leave to the application pursuant to subsection (2) above, also the costs of such proceedings.

§ 2

Notice Period, Registration, Proof

(1) A Holders' Meeting shall be convened not less than 14 days before the date of the meeting.

(2) If the Convening Notice (as defined in § 4(1)) provide(s) that attendance at a Holders' Meeting or the exercise of the voting rights shall be dependent upon a registration of the Holders before the meeting, then for purposes of calculating the period pursuant to subparagraph (1) the date of the meeting shall be replaced by the date by which the Holders are required to register. The registration notice must be received at the address set forth in the Convening Notice no later than on the third day before the Holders' Meeting.

(3) The Convening Notice shall provide what proof is required to be entitled to take part in the Holders' Meeting. Unless otherwise provided in the Convening Notice, for Notes represented by a Global Note a voting certificate obtained from an agent to be appointed by the Issuer shall entitle its bearer to attend and vote at the Holders' Meeting. A voting certificate may be obtained by a Holder if at least six days before the time fixed for the Holders' Meeting, such Holder (a) deposits its Notes for such purpose with an agent to be appointed by the Issuer or to the order of such agent with a Custodian or other depository nominated by such agent for such purpose or (b) blocks its Notes in an account with a Custodian in accordance with the procedures of the Custodian and delivers a confirmation stating the ownership and blocking of its Notes to the agent of the Issuer. The voting certificate shall be dated and shall specify the Holders' Meeting concerned and the total number, the outstanding amount and the serial numbers (if any) of the Notes either deposited or blocked in an account with the Custodian. The Convening Notice may also require a proof of identity of a person exercising a voting right. Once the relevant agent of the Issuer has issued a voting certificate for a Holders' Meeting in respect of a Note, the Notes shall neither be released nor permitted to be transferred until either such Holders' Meeting has been concluded or the voting certificate has been surrendered to the relevant agent of the Issuer. "**Custodian**" means any bank or other financial institution of recognised standing authorised to engage in securities custody business with which the Holder maintains a securities account in respect of the Notes and includes the Clearing System.

§ 3

Place of the Holders' Meeting

If the Issuer has its registered office in Germany, the Holders' Meeting shall be held at the place of such registered office. If the Notes are admitted for trading on a stock exchange within the meaning of § 1(3e) of the Banking Act (*Gesetz über das Kreditwesen*) which is located in a member state of the European Union or a state which is a signatory of the agreement on the European Economic Area, the Holders' Meeting may also be held at the place of the relevant stock exchange. § 30a(2) of the Securities Trading Act (*Wertpapierhandelsgesetz*) shall remain unaffected.

§ 4

Contents of the Convening Notice, Publication

(1) The Convening Notice (the "**Convening Notice**") shall state the name, the place of the registered office of the Issuer, the time and venue of the Holders' Meeting, and the conditions on which attendance in the Holders' Meeting and the exercise of voting rights is made dependent, including the matters referred to in § 2(2) and (3).

(2) The Convening Notice shall be published promptly in the electronic Federal Gazette (*elektronischer Bundesanzeiger*) and additionally in accordance with the provisions of § [13] (Notices) of the Terms and Conditions. The costs of publication shall be borne by the Issuer.

(3) From the date on which the Holders' Meeting is convened until the date of the Holders' Meeting, the Issuer shall make available to the Holders, on the Issuer's website the Convening Notice and the precise conditions on which the attendance of the Holders' Meeting and the exercise of voting rights shall be dependent.

§ 5 Agenda

(1) The person convening the Holders' Meeting shall make a proposal for resolution in respect of each item on the agenda to be passed upon by the Holders.

(2) The agenda of the Holders' Meeting shall be published together with the Convening Notice. § 4(2) and (3) shall apply *mutatis mutandis*. No resolution may be passed on any item of the agenda which has not been published in the prescribed manner.

(3) One or more Holders holding together not less than 5 per cent. of the outstanding Notes may require that new items are published for resolution. § 1(2) to (4) shall apply *mutatis mutandis*. Such new items shall be published no later than the third day preceding the Holders' Meeting.

(4) Any counter motion announced by a Holder before the Holders' Meeting shall promptly be made available by the Issuer to all Holders up to the day of the Holders' Meeting on the Issuer's website.

§ 6 Proxy

(1) Each Holder may be represented at the Holders' Meeting by proxy. Such right shall be set out in the Convening Notice regarding the Holders' Meeting. The Convening Notice shall further specify the prerequisites for valid representation by proxy.

(2) The power of attorney and the instructions given by the principal to the proxy holder shall be made in text form (*Textform*). If a person nominated by the Issuer is appointed as proxy, the relevant power of attorney shall be kept by the Issuer in a verifiable form for a period of three years.

§ 7 Chair, Quorum

(1) The person convening the Holders' Meeting shall chair the meeting unless another chairman has been determined by the court.

(2) In the Holders' Meeting the chairman shall prepare a roster of Holders present or represented by proxy. Such roster shall state the Holders' names, their registered office or place of residence as well as the number of voting rights represented by each Holder. Such roster shall be signed by the chairman of the meeting and shall promptly be made available to all Holders.

(3) A quorum shall be constituted for the Holders' Meeting if the persons present represent by value not less than 50 per cent. of the outstanding Notes. If it is determined at the meeting that no quorum exists, the chairman may convene a second meeting for the purpose of passing a new resolution. Such second meeting shall require no quorum. For those resolutions the valid adoption of which requires a qualified majority, the persons present at the meeting must represent not less than 25 per cent. of the outstanding Notes. Notes for which voting rights are suspended shall not be included in the outstanding Notes.

§ 8

Information Duties, Voting, Minutes

(1) The Issuer shall be obliged to give information at the Holders' Meeting to each Holder upon request in so far as such information is required for an informed judgment regarding an item on the agenda or a proposed resolution.

(2) The provisions of the German Stock Corporation Act (*Aktiengesetz*) regarding the voting of shareholders at general meetings shall apply *mutatis mutandis* to the casting and counting of votes, unless otherwise provided for in the Convening Notice.

(3) In order to be valid each resolution passed at the Holders' Meeting shall be recorded in minutes of the meeting. If the Holders' Meeting is held in Germany, the minutes shall be recorded by a notary. If a Holders' Meeting is held abroad, it must be ensured that the minutes are taken in form and manner equivalent to minutes taken by a notary. § 130(2) to (4) of the Stock Corporation Act (*Aktiengesetz*) shall apply *mutatis mutandis*. Each Holder present or represented by proxy at the Holders' Meeting may request from the Issuer, for up to one year after the date of the meeting, a copy of the minutes and any annexes.

§ 9

Publication of Resolutions

(1) The Issuer shall at its expense cause publication of the resolutions passed in appropriate form. If the registered office of the Issuer is located in Germany, the resolutions shall promptly be published in the electronic Federal Gazette (*elektronischer Bundesanzeiger*) and additionally in accordance with the provisions of § [13] (Notices) of the Terms and Conditions. The publication prescribed in § 30e(1) of the Securities Trading Act (*Wertpapierhandelsgesetz*) shall be sufficient.

(2) In addition, the Issuer shall make available to the public the resolutions passed and, if the resolutions amend the Terms and Conditions, the wording of the original Terms and Conditions, for a period of not less than one month commencing on the day following the date of the Holders' Meeting. Such publication shall be made on the Issuer's website.

§ 10 Insolvency Proceedings in Germany

(1) If insolvency proceedings have been instituted over the assets of the Issuer in Germany, then any resolutions of Holders shall be subject to the provisions of the Insolvency Code (*Insolvenzordnung*), unless otherwise provided for in the provisions set out below. § 340 of the Insolvency Code shall remain unaffected.

(2) The Holders may by majority resolution appoint a Holders' Representative to exercise their rights jointly in the insolvency proceedings. If no Holders' Representative has been appointed, the insolvency court shall convene a Holders' Meeting for this purpose in accordance with the provisions of the Act on Debt Securities (*Schuldverschreibungsgesetz*).

(3) The Holders' Representative shall be obliged and exclusively entitled to assert the rights of the Holders in the insolvency proceedings. The Holders' Representative does not need to present the debt instrument.

(4) In any insolvency plan, the Holders shall be offered equal rights.

(5) The insolvency court shall cause that any publications pursuant to the provisions of the Act on Debt Securities (*Schuldverschreibungsgesetz*) are published additionally in the internet on the website prescribed in § 9 of the Insolvency Code.

§ 11 Action to set aside Resolutions

(1) An action to set aside a resolution of Holders may be filed on grounds of a breach of law or of the Terms and Conditions. A resolution of Holders may be subject to an action to set aside by a Holder on grounds of inaccurate, incomplete or denied information only if the furnishing of such information was considered to be essential in the reasonable judgement of such Holder for its voting decision.

(2) An action to set aside a resolution may be brought by:

1. any Holder who has taken part in the vote and has raised an objection against the resolution in the time required, provided that such Holder has acquired the Note before the publication of the Convening Notice for the Holders' Meeting or before the call to vote in a voting without a meeting;

2. any Holder who did not take part in the vote, provided that his exclusion from voting was unlawful, the meeting had not been duly convened, the voting had not been duly called for, or if the subject matter of a resolution had not been properly notified.

(3) The action to set aside a resolution passed by the Holders is to be filed within one month following the publication of such resolution. The action shall be directed against the Issuer. The court of exclusive jurisdiction in the case of an Issuer having its registered office in Germany shall be the Regional Court (*Landgericht*) at the

place of such registered office or, in case of an Issuer having its registered office abroad, the Regional Court (*Landgericht*) of Frankfurt am Main. § 246(3) sentences 2 to 6 of the Stock Corporation Act (*Aktiengesetz*) shall apply *mutatis mutandis*. A resolution which is subject to court action may not be implemented until the decision of the court has become *res judicata*, unless the court competent pursuant to sentence 3 above rules, pursuant to § 246a of the Stock Corporation Act (*Aktiengesetz*), upon application of the Issuer that the filing of such action to be set aside does not impede the implementation of such resolution. § 246a(1) sentence 1, (2), (3) sentences 2, 3 and 6 and (4) of the Stock Corporation Act (*Aktiengesetz*) shall apply *mutatis mutandis*. An immediate complaint (*sofortige Beschwerde*) shall be permitted against the court order. An appeal on points of law (*Rechtsbeschwerde*) shall not be permitted.

§ 12 Implementation of Resolutions

(1) Resolutions passed by the Holders' Meeting which amend or supplement the contents of the Terms and Conditions shall be implemented by supplementing or amending the relevant Global Note. If the Global Note is held with a securities depositary, the chairman of the meeting shall to this end transmit the resolution passed and recorded in the minutes to the securities depositary requesting it to attach the documents submitted to the existing documents in an appropriate manner. The chairman shall confirm to the securities depositary that the resolution may be implemented.

(2) The Holders' Representative may not exercise any powers or authorisations granted to it by resolution for as long as the underlying resolution may not be implemented.

Part B
PROVISIONS APPLICABLE TO RESOLUTIONS TO BE PASSED
BY VOTES OF HOLDERS WITHOUT MEETINGS

Taking of Votes without Meeting

(1) §§ 1 to 12 of Part A shall apply *mutatis mutandis* to the taking of votes without a meeting, unless otherwise provided in paragraphs (2) through (5) below.

(2) The voting shall be conducted by the person presiding over the taking of votes. Such person shall be a notary appointed by the Issuer, or the Holders' Representative if the latter has called for the taking of votes, or a person appointed by the court. § 1(2) sentence 2 of Part A shall apply *mutatis mutandis*.

(3) The call for the taking of votes shall specify the period within which votes may be cast. Such period shall not be less than 72 hours. During such period, the Holders may cast their votes in text form (*Textform*) to the person presiding over the taking of votes. The Convening Notice may provide for other forms of casting votes. The call for the taking of votes shall give details as to the prerequisites which must be met for the votes to qualify for being counted.

(4) The person presiding over the taking of votes shall determine the entitlement to vote on the basis of proof presented and shall prepare a roster of the Holders entitled to vote. If a quorum does not exist, the person presiding over the taking of votes may convene a Holders' Meeting. Such meeting shall be deemed to be a second meeting within the meaning of § 7(3) sentence 3 of Part A. Minutes shall be taken of each resolution passed. § 8(3) sentences 2 and 3 of Part A shall apply *mutatis mutandis*. Each Holder who has taken part in the vote may request from the Issuer, for up to one year following the end of the voting period, a copy of the minutes and any annexes.

(5) Each Holder who has taken part in the vote may object in writing to the result of the vote within two weeks following the publication of the resolutions passed. The objection shall be decided upon by the person presiding over the taking of votes. If he remedies the objection, he shall promptly publish the result. § 9 of Part A shall apply *mutatis mutandis*. If the person presiding over the taking of votes does not remedy the objection, he shall promptly inform the objecting Holder in writing.

(6) The Issuer shall bear the costs of a vote taken without meeting and, if the court has granted leave to the application pursuant to § 1(2) of Part A, also the costs of such proceedings.

GERMAN LANGUAGE VERSION

Die folgenden Bestimmungen über Beschlüsse der Gläubiger sind in die Anleihebedingungen einbezogen und damit Teil dieser Bedingungen.

Abschnitt A

BESTIMMUNGEN ÜBER GLÄUBIGERBESCHLÜSSE, DIE IN EINER GLÄUBIGERVERSAMMLUNG GEFASST WERDEN

§ 1

Einberufung der Gläubigerversammlung

(1) Die Gläubigerversammlung wird von der Emittentin oder von dem gemeinsamen Vertreter der Gläubiger einberufen. Sie ist einzuberufen, wenn Gläubiger, deren Schuldverschreibungen zusammen 5 Prozent der ausstehenden Schuldverschreibungen erreichen, dies schriftlich mit der Begründung verlangen, sie wollten einen gemeinsamen Vertreter bestellen oder abberufen, sie wollten nach § 5 Absatz 5 Satz 2 des Schuldverschreibungsgesetzes über das Entfallen der Wirkung der Kündigung beschließen oder sie hätten ein sonstiges besonderes Interesse an der Einberufung.

(2) Gläubiger, deren berechtigtem Verlangen nicht entsprochen worden ist, können bei Gericht beantragen, sie zu ermächtigen, die Gläubigerversammlung einzuberufen. Das Gericht kann zugleich den Vorsitzenden der Versammlung bestimmen. Auf die Ermächtigung muss in der Bekanntmachung der Einberufung hingewiesen werden.

(3) Zuständig ist das Gericht, in dessen Bezirk die Emittentin ihren Sitz hat oder mangels eines Sitzes in der Bundesrepublik Deutschland das Amtsgericht Frankfurt am Main. Gegen die Entscheidung des Gerichts ist die Beschwerde statthaft.

(4) Die Emittentin trägt die Kosten der Gläubigerversammlung und, wenn das Gericht dem Antrag nach Absatz 2 stattgegeben hat, auch die Kosten dieses Verfahrens.

§ 2

Frist, Anmeldung, Nachweis

(1) Die Gläubigerversammlung ist mindestens 14 Tage vor dem Tag der Versammlung einzuberufen.

(2) Sieht die Einberufung (wie in § 4(1) definiert) vor, dass die Teilnahme an der Gläubigerversammlung oder die Ausübung der Stimmrechte davon abhängig ist, dass sich die Gläubiger vor der Versammlung anmelden, so tritt für die Berechnung der Einberufungsfrist an die Stelle des Tages der Versammlung der Tag, bis zu dessen Ablauf sich die Gläubiger vor der Versammlung anmelden müssen. Die Anmeldung muss unter der in der Bekanntmachung der Einberufung mitgeteilten Adresse spätestens am dritten Tag vor der Gläubigerversammlung zugehen.

(3) Die Einberufung kann vorsehen, wie die Berechtigung zur Teilnahme an der Gläubigerversammlung nachzuweisen ist. Sofern die Einberufung nichts anderes bestimmt, berechtigt ein von einem durch die Emittentin zu ernennenden Beauftragten ausgestellter Stimmzettel seinen Inhaber zur Teilnahme an und zur Stimmabgabe in der Gläubigerversammlung. Der Stimmzettel kann vom Gläubiger bezogen werden, indem er mindestens sechs Tage vor der für die Gläubigerversammlung bestimmten Zeit (a) seine Schuldverschreibungen bei einem durch die Emittentin zu ernennenden Beauftragten oder gemäß einer Weisung dieses Beauftragten bei einer von dem Beauftragten benannten Depotbank oder anderen Verwahrer für die Zwecke der Teilnahme an und Stimmabgabe in der Gläubigerversammlung hinterlegt hat oder (b) seine Schuldverschreibungen bei einer Depotbank in Übereinstimmung mit deren Verfahrensregeln gesperrt sowie einen Nachweis über die Inhaberschaft und Sperrung der Schuldverschreibungen an den Beauftragten der Emittentin geliefert hat. Der Stimmzettel ist zu datieren und muss die fragliche Gläubigerversammlung bezeichnen sowie den ausstehenden Betrag und etwaige Seriennummern der Schuldverschreibungen, die entweder hinterlegt oder bei einer Depotbank gesperrt sind, angeben. Die Einberufung kann auch die Erbringung eines Identitätsnachweises der ein Stimmrecht ausübenden Person vorsehen. Hat der jeweilige Beauftragte der Emittentin einen Stimmzettel für eine Schuldverschreibung ausgegeben, dürfen die Schuldverschreibungen solange nicht freigegeben bzw. deren Übertragung zugelassen werden, bis entweder die Gläubigerversammlung beendet oder der jeweiligen Beauftragten der Stimmzettel zurückgegeben worden ist. "**Depotbank**" bezeichnet jede Bank oder ein sonstiges anerkanntes Finanzinstitut, das berechtigt ist, das Wertpapierverwahrungsgeschäft zu betreiben und bei der/dem der Gläubiger ein Wertpapierdepot für die Schuldverschreibungen unterhält, einschließlich des Clearing Systems.

§ 3

Ort der Gläubigerversammlung

Die Gläubigerversammlung soll bei einer Emittentin mit Sitz in der Bundesrepublik Deutschland am Sitz der Emittentin stattfinden. Sind die Schuldverschreibungen an einer Wertpapierbörse im Sinne des § 1 Absatz 3e des Kreditwesengesetzes zum Handel zugelassen, deren Sitz in einem Mitgliedstaat der Europäischen Union oder in einem anderen Vertragsstaat des Abkommens über den Europäischen Wirtschaftsraum ist, so kann die Gläubigerversammlung auch am Sitz dieser Wertpapierbörse stattfinden. § 30a Absatz 2 des Wertpapierhandelsgesetzes bleibt unberührt.

§ 4

Inhalt der Einberufung, Bekanntmachung

(1) In der Einberufung (die "**Einberufung**") müssen die Firma, der Sitz der Emittentin, die Zeit und der Ort der Gläubigerversammlung sowie die Bedingungen angegeben werden, von denen die Teilnahme an der Gläubigerversammlung und die Ausübung des Stimmrechts abhängen, einschließlich der in § 2 Absatz 2 und 3 genannten Voraussetzungen.

(2) Die Einberufung ist unverzüglich im elektronischen Bundesanzeiger sowie

zusätzlich gemäß den Bestimmungen in § [13] (Mitteilungen) der Anleihebedingungen öffentlich bekannt zu machen. Die Kosten der Bekanntmachung hat die Emittentin zu tragen.

(3) Die Emittentin hat die Einberufung und die genauen Bedingungen, von denen die Teilnahme an der Gläubigerversammlung und die Ausübung des Stimmrechts abhängen, vom Tag der Einberufung an bis zum Tag der Gläubigerversammlung im Internet unter ihrer Adresse den Gläubigern zugänglich zu machen.

§ 5 Tagesordnung

(1) Zu jedem Gegenstand, über den die Gläubigerversammlung beschließen soll, hat der Einberufende in der Tagesordnung einen Vorschlag zur Beschlussfassung zu machen.

(2) Die Tagesordnung der Gläubigerversammlung ist mit der Einberufung bekannt zu machen. § 4 Absatz 2 und 3 gilt entsprechend. Über Gegenstände der Tagesordnung, die nicht in der vorgeschriebenen Weise bekannt gemacht sind, dürfen Beschlüsse nicht gefasst werden.

(3) Gläubiger, deren Schuldverschreibungen zusammen 5 Prozent der ausstehenden Schuldverschreibungen erreichen, können verlangen, dass neue Gegenstände zur Beschlussfassung bekannt gemacht werden; § 1 Absatz 2 bis 4 gilt entsprechend. Diese neuen Gegenstände müssen spätestens am dritten Tag vor der Gläubigerversammlung bekannt gemacht sein.

(4) Gegenanträge, die ein Gläubiger vor der Versammlung angekündigt hat, muss die Emittentin unverzüglich bis zum Tag der Gläubigerversammlung im Internet unter ihrer Adresse den Gläubigern zugänglich machen.

§ 6 Vertretung

(1) Jeder Gläubiger kann sich in der Gläubigerversammlung durch einen Bevollmächtigten vertreten lassen. Hierauf ist in der Einberufung der Gläubigerversammlung hinzuweisen. In der Einberufung ist auch anzugeben, welche Voraussetzungen erfüllt sein müssen, um eine wirksame Vertretung zu gewährleisten.

(2) Die Vollmacht und Weisungen des Vollmachtgebers an den Vertreter bedürfen der Textform. Wird ein von der Emittentin benannter Stimmrechtsvertreter bevollmächtigt, so ist die Vollmachtserklärung von der Emittentin drei Jahre nachprüfbar festzuhalten.

§ 7 Vorsitz, Beschlussfähigkeit

(1) Der Einberufende führt den Vorsitz in der Gläubigerversammlung, sofern nicht das Gericht einen anderen Vorsitzenden bestimmt hat.

(2) In der Gläubigerversammlung ist durch den Vorsitzenden ein Verzeichnis der erschienenen oder durch Bevollmächtigte vertretenen Gläubiger aufzustellen. Im Verzeichnis sind die Gläubiger unter Angabe ihres Namens, Sitzes oder Wohnorts sowie der Zahl der von jedem vertretenen Stimmrechte aufzuführen. Das Verzeichnis ist vom Vorsitzenden der Versammlung zu unterschreiben und allen Gläubigern unverzüglich zugänglich zu machen.

(3) Die Gläubigerversammlung ist beschlussfähig, wenn die Anwesenden wertmäßig mindestens 50 Prozent der ausstehenden Schuldverschreibungen vertreten. Wird in der Gläubigerversammlung die mangelnde Beschlussfähigkeit festgestellt, kann der Vorsitzende eine zweite Versammlung zum Zweck der erneuten Beschlussfassung einberufen. Die zweite Versammlung ist beschlussfähig; für Beschlüsse, zu deren Wirksamkeit eine qualifizierte Mehrheit erforderlich ist, müssen die Anwesenden mindestens 25 Prozent der ausstehenden Schuldverschreibungen vertreten. Schuldverschreibungen, deren Stimmrechte ruhen, zählen nicht zu den ausstehenden Schuldverschreibungen.

§ 8 Auskunftspflicht, Abstimmung, Niederschrift

(1) Die Emittentin hat jedem Gläubiger auf Verlangen in der Gläubigerversammlung Auskunft zu erteilen, soweit sie zur sachgemäßen Beurteilung eines Gegenstands der Tagesordnung oder eines Vorschlags zur Beschlussfassung erforderlich ist.

(2) Auf die Abgabe und die Auszählung der Stimmen sind die Vorschriften des Aktiengesetzes über die Abstimmung der Aktionäre in der Hauptversammlung entsprechend anzuwenden, soweit nicht in der Einberufung etwas anderes vorgesehen ist.

(3) Jeder Beschluss der Gläubigerversammlung bedarf zu seiner Gültigkeit der Beurkundung durch eine über die Verhandlung aufgenommene Niederschrift. Findet die Gläubigerversammlung in der Bundesrepublik Deutschland statt, so ist die Niederschrift durch einen Notar aufzunehmen; bei einer Gläubigerversammlung im Ausland muss eine Niederschrift gewährleistet sein, die der Niederschrift durch einen Notar gleichwertig ist. § 130 Absatz 2 bis 4 des Aktiengesetzes gilt entsprechend. Jeder Gläubiger, der in der Gläubigerversammlung erschienen oder durch Bevollmächtigte vertreten war, kann binnen eines Jahres nach dem Tag der Versammlung von der Emittentin eine Abschrift der Niederschrift und der Anlagen verlangen.

§ 9 Bekanntmachung von Beschlüssen

(1) Die Emittentin hat die Beschlüsse der Gläubiger auf ihre Kosten in geeigneter Form öffentlich bekannt zu machen. Hat die Emittentin ihren Sitz in der Bundesrepublik Deutschland, so sind die Beschlüsse unverzüglich im elektronischen Bundesanzeiger sowie zusätzlich gemäß den Bestimmungen in § [13] (Mitteilungen) der Anleihebedingungen zu veröffentlichen; die nach § 30e Absatz 1 des Wertpapierhandelsgesetzes vorgeschriebene Veröffentlichung ist jedoch ausreichend.

(2) Außerdem hat die Emittentin die Beschlüsse der Gläubiger sowie, wenn ein Gläubigerbeschluss die Anleihebedingungen ändert, den Wortlaut der ursprünglichen Anleihebedingungen vom Tag nach der Gläubigerversammlung an für die Dauer von mindestens einem Monat im Internet unter ihrer Adresse der Öffentlichkeit zugänglich zu machen.

§ 10 Insolvenzverfahren

(1) Ist über das Vermögen der Emittentin in der Bundesrepublik Deutschland das Insolvenzverfahren eröffnet worden, so unterliegen die Beschlüsse der Gläubiger den Bestimmungen der Insolvenzordnung, soweit in den folgenden Absätzen nicht anderes bestimmt ist. § 340 der Insolvenzordnung bleibt unberührt.

(2) Die Gläubiger können durch Mehrheitsbeschluss zur Wahrnehmung ihrer Rechte im Insolvenzverfahren einen gemeinsamen Vertreter für alle Gläubiger bestellen. Soweit ein gemeinsamer Vertreter für alle Gläubiger noch nicht bestellt worden ist, hat das Insolvenzgericht zu diesem Zweck eine Gläubigerversammlung nach den Vorschriften des Schuldverschreibungsgesetzes einzuberufen.

(3) Ein gemeinsamer Vertreter für alle Gläubiger ist allein berechtigt und verpflichtet, die Rechte der Gläubiger im Insolvenzverfahren geltend zu machen, dabei braucht er die Schuldurkunde nicht vorzulegen.

(4) In einem Insolvenzplan sind den Gläubigern gleiche Rechte anzubieten.

(5) Das Insolvenzgericht wird veranlassen, dass die Bekanntmachungen nach den Bestimmungen des Schuldverschreibungsgesetzes zusätzlich im Internet unter der durch § 9 der Insolvenzordnung vorgeschriebenen Adresse veröffentlicht werden.

§ 11 Anfechtung von Beschlüssen

(1) Ein Beschluss der Gläubiger kann wegen Verletzung des Gesetzes oder der Anleihebedingungen durch Klage angefochten werden. Wegen unrichtiger, unvollständiger oder verweigerter Erteilung von Informationen kann ein Beschluss der Gläubiger nur angefochten werden, wenn ein objektiv urteilender Gläubiger die

Erteilung der Information als wesentliche Voraussetzung für sein Abstimmungsverhalten angesehen hätte.

(2) Zur Anfechtung ist befugt

1. jeder Gläubiger, der an der Abstimmung teilgenommen und gegen den Beschluss fristgerecht Widerspruch erklärt hat, sofern er die Schuldverschreibung vor der Bekanntmachung der Einberufung der Gläubigerversammlung oder vor der Aufforderung zur Stimmabgabe in einer Abstimmung ohne Versammlung erworben hatte;
2. jeder Gläubiger, der an der Abstimmung nicht teilgenommen hat, wenn er zur Abstimmung zu Unrecht nicht zugelassen worden ist oder wenn die Versammlung nicht ordnungsgemäß einberufen oder zur Stimmabgabe nicht ordnungsgemäß aufgefordert worden ist oder wenn ein Gegenstand der Beschlussfassung nicht ordnungsgemäß bekannt gemacht worden ist.

(3) Die Klage ist binnen eines Monats nach der Bekanntmachung des Beschlusses zu erheben. Sie ist gegen die Emittentin zu richten. Zuständig für die Klage ist bei einer Emittentin mit Sitz in der Bundesrepublik Deutschland ausschließlich das Landgericht, in dessen Bezirk die Emittentin ihren Sitz hat, oder mangels eines Sitzes in der Bundesrepublik Deutschland das Landgericht Frankfurt am Main; § 246 Absatz 3 Satz 2 bis 6 des Aktiengesetzes gilt entsprechend. Vor einer rechtskräftigen Entscheidung des Gerichts darf der angefochtene Beschluss nicht vollzogen werden, es sei denn, das nach Satz 3 zuständige Gericht stellt auf Antrag der Emittentin nach Maßgabe des § 246a des Aktiengesetzes fest, dass die Erhebung der Klage dem Vollzug des angefochtenen Beschlusses nicht entgegensteht; § 246a Absatz 1 Satz 1, Absatz 2, Absatz 3 Satz 2, 3 und 6, Absatz 4 des Aktiengesetzes gilt entsprechend. Gegen den Beschluss findet die sofortige Beschwerde statt. Die Rechtsbeschwerde ist ausgeschlossen.

§ 12

Vollziehung von Beschlüssen

(1) Beschlüsse der Gläubigerversammlung, durch welche der Inhalt der Anleihebedingungen abgeändert oder ergänzt wird, sind in der Weise zu vollziehen, dass die maßgebliche Sammelurkunde ergänzt oder geändert wird. Im Fall der Verwahrung der Sammelurkunde durch eine Wertpapiersammelbank hat der Versammlungsleiter dazu den in der Niederschrift dokumentierten Beschlussinhalt an die Wertpapiersammelbank zu übermitteln mit dem Ersuchen, die eingereichten Dokumente den vorhandenen Dokumenten in geeigneter Form beizufügen. Er hat gegenüber der Wertpapiersammelbank zu versichern, dass der Beschluss vollzogen werden darf.

(2) Der Gemeinsame Vertreter darf von der ihm durch Beschluss erteilten Vollmacht oder Ermächtigung keinen Gebrauch machen, solange der zugrunde liegende Beschluss noch nicht vollzogen werden darf.

Abschnitt B
BESTIMMUNGEN ÜBER GLÄUBIGERBESCHLÜSSE, DIE IN EINER
ABSTIMMUNG OHNE VERSAMMLUNG GEFASST WERDEN

Abstimmung ohne Versammlung

(1) Auf die Abstimmung ohne Versammlung sind die Vorschriften der §§ 1 bis 12 des Abschnitts A entsprechend anzuwenden, soweit in den folgenden Absätzen nichts anderes bestimmt ist.

(2) Die Abstimmung wird vom Abstimmungsleiter geleitet. Abstimmungsleiter ist ein von der Emittentin beauftragter Notar oder der gemeinsame Vertreter der Gläubiger, wenn er zu der Abstimmung aufgefordert hat, oder eine vom Gericht bestimmte Person. § 1 Absatz 2 Satz 2 des Abschnitts A ist entsprechend anwendbar.

(3) In der Aufforderung zur Stimmabgabe ist der Zeitraum anzugeben, innerhalb dessen die Stimmen abgegeben werden können. Er beträgt mindestens 72 Stunden. Während des Abstimmungszeitraums können die Gläubiger ihre Stimme gegenüber dem Abstimmungsleiter in Textform abgeben. In der Einberufung können auch andere Formen der Stimmabgabe vorgesehen werden. In der Aufforderung muss im Einzelnen angegeben werden, welche Voraussetzungen erfüllt sein müssen, damit die Stimmen gezählt werden.

(4) Der Abstimmungsleiter stellt die Berechtigung zur Stimmabgabe anhand der eingereichten Nachweise fest und erstellt ein Verzeichnis der stimmberechtigten Gläubiger. Wird die Beschlussfähigkeit nicht festgestellt, kann der Abstimmungsleiter eine Gläubigerversammlung einberufen; die Versammlung gilt als zweite Versammlung im Sinne des § 7 Absatz 3 Satz 3 des Abschnitts A. Über jeden in der Abstimmung gefassten Beschluss ist eine Niederschrift aufzunehmen; § 8 Absatz 3 Satz 2 und 3 des Abschnitts A gilt entsprechend. Jeder Gläubiger, der an der Abstimmung teilgenommen hat, kann binnen eines Jahres nach Ablauf des Abstimmungszeitraums von der Emittentin eine Abschrift der Niederschrift nebst Anlagen verlangen.

(5) Jeder Gläubiger, der an der Abstimmung teilgenommen hat, kann gegen das Ergebnis schriftlich Widerspruch erheben binnen zwei Wochen nach Bekanntmachung der Beschlüsse. Über den Widerspruch entscheidet der Abstimmungsleiter. Hilft er dem Widerspruch ab, hat er das Ergebnis unverzüglich bekannt zu machen; § 9 des Abschnitts A gilt entsprechend. Hilft der Abstimmungsleiter dem Widerspruch nicht ab, hat er dies dem widersprechenden Gläubiger unverzüglich schriftlich mitzuteilen.

(6) Die Emittentin hat die Kosten einer Abstimmung ohne Versammlung zu tragen und, wenn das Gericht einem Antrag nach § 1 Absatz 2 des Abschnitts A stattgegeben hat, auch die Kosten des Verfahrens.