

Prospectus  
Dated 16 July 2009

*This document constitutes the prospectus of EWE Aktiengesellschaft for the purposes of Article 5.3 of Directive 2003/71/EC of the European Parliament and the Council of 4 November 2003 (the "Prospectus").*



## *EWE Aktiengesellschaft*

(Oldenburg, Federal Republic of Germany)

EUR 500,000,000  
5.250 per cent. Notes due 2021 (the "Notes")  
Issue Price: 98.976 per cent.

Application has been made to the *Commission de Surveillance du Secteur Financier* (the "**Commission**"), in its capacity as competent authority for the purposes of Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading (the "**Prospectus Directive**"), to approve this prospectus.

The Issuer has requested the Commission to provide the competent authorities in the Federal Republic of Germany ("**Germany**") and The Netherlands with a certificate of approval attesting that the Prospectus has been drawn up in accordance with the *Loi relative aux prospectus pour valeurs mobilières* which implements the Prospectus Directive into Luxembourg law ("**Notification**"). The Issuer may request the Commission to provide competent authorities in additional host Member States within the European Economic Area with a Notification.

This Prospectus has been approved by the Commission, has been filed with said authority and will be published in electronic form on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)) and on the website of EWE Aktiengesellschaft ([www.ewe.de](http://www.ewe.de)).

Application has been made to list the Notes on the official list of the Luxembourg Stock Exchange and to admit Notes to trading on the regulated market of the Luxembourg Stock Exchange, which is a regulated market for the purpose of Directive 2004/39/EC on markets in financial instruments.

### Joint Lead Managers

CALYON CREDIT AGRICOLE CIB  
COMMERZBANK CORPORATES & MARKETS  
HSBC  
THE ROYAL BANK OF SCOTLAND

### Co-Managers

BREMER LANDESBANK  
LANDESBANK BADEN-WÜRTTEMBERG  
LANDESBANK HESSEN-THÜRINGEN  
LANDESSPARKASSE ZU OLDENBURG  
OLDENBURGISCHE LANDESBANK AG  
UNICREDIT GROUP (HVB)

## RESPONSIBILITY STATEMENT

EWE Aktiengesellschaft (the "**Issuer**", "**EWE AG**" or the "**Company**" and together with its consolidated subsidiaries, the "**EWE Group**", the "**Group**" or "**EWE**") with its registered office in Oldenburg, Federal Republic of Germany is solely responsible for the information given in this Prospectus.

The Issuer hereby declares that, having taken all reasonable care to ensure that such is the case, the information contained in this Prospectus is, to the best of its knowledge, in accordance with the facts and contains no omission likely to affect its import.

This Prospectus should be read and understood in conjunction with any supplement hereto and with any other documents incorporated herein by reference.

The Issuer has confirmed to the managers set forth in the section "Names and Addresses" (each a "**Manager**" and together the "**Managers**") that this Prospectus contains the information which, according to the particular nature of the Issuer and of the Notes, is necessary to enable investors to make an informed assessment of the assets and liabilities, financial position, profit and losses, and prospects of the Issuer, and of the rights attaching to the Notes; that the information contained herein with respect to the Issuer and the Notes is accurate in all material respects and is not misleading; that any opinions and intentions expressed herein are honestly held and based on reasonable assumptions; that there are no other facts, the omission of which would make any statement, whether fact or opinion, in this Prospectus misleading in any material respect; and that all reasonable enquiries have been made to ascertain all facts and to verify the accuracy of all statements contained herein.

## NOTICE

No person has been authorised to give any information which is not contained in or not consistent with this Prospectus or any other document entered into in relation to the Notes or any information supplied by the Issuer or such other information as in the public domain and, if given or made, such information must not be relied upon as having been authorised by the Issuer, the Managers or any of them.

This Prospectus and any supplement hereto reflect the status as of their respective dates of issue. The delivery of this Prospectus and the offering, sale or delivery of the Notes may not be taken as an implication that the information contained in such documents is accurate and complete subsequent to their respective dates of issue or that there has been no adverse change in the financial situation of the Issuer since such date or that any other information supplied in connection with the Notes is accurate at any time subsequent to the date on which it is supplied or, if different, the date indicated in the document containing the same.

The distribution of this Prospectus and the offering, sale and delivery of Notes in certain jurisdictions may be restricted by law. Persons into whose possession this Prospectus comes are required to inform themselves about and observe any such restrictions. For a description of the restrictions applicable in the United States of America, the United Kingdom, The Netherlands, Japan, Luxembourg and the European Economic Area, see - "Selling Restrictions". In particular, the Notes have not been and will not be registered under the United States Securities Act of 1933, as amended, and are subject to tax law requirements of the United States of America; subject to certain exceptions, Notes may not be offered, sold or delivered within the United States of America or to U.S. persons.

**This Prospectus may not be used for the purpose of an offer or solicitation by anyone in any jurisdiction in which such offer or solicitation is not authorised or to any person to whom it is unlawful to make such an offer or solicitation.**

In this Prospectus all references to "**€**", "**EUR**" or "**euro**" are to the single currency of the member states of the European Union participating in the third stage of European Economic and Monetary Union.

## TABLE OF CONTENTS

SUMMARY .....	4
GERMAN TRANSLATION OF THE SUMMARY .....	10
RISK FACTORS .....	16
TERMS AND CONDITIONS OF THE NOTES .....	20
EWE AG .....	34
TAXATION .....	46
SUBSCRIPTION AND SALE .....	52
GENERAL INFORMATION .....	56
INCORPORATION BY REFERENCE .....	57
NAMES AND ADDRESSES .....	59

## SUMMARY

The following constitutes the summary (the "**Summary**") of the essential characteristics and risks associated with the Issuer and the Notes. This Summary should be read as an introduction to this Prospectus. Any decision by an investor to invest in the Notes should be based on consideration of this Prospectus as a whole, including the documents incorporated by reference and supplements thereto. Where a claim relating to the information contained in this Prospectus is brought before a court, the plaintiff investor might, under the national legislation of such court, have to bear the costs of translating the Prospectus before the legal proceedings are initiated. Civil liability attaches to the Issuer who has tabled this Summary including any translation thereof, and applied for its notification, but only if the Summary is misleading, inaccurate or inconsistent when read together with the other parts of this Prospectus. The following description of certain general features of the Notes does not purport to be complete and is taken from and qualified in its entirety by the remainder of this Prospectus.

### Summary in respect of the Notes

<i>Issuer:</i>	EWE Aktiengesellschaft
<i>Joint Lead Managers:</i>	CALYON Commerzbank Aktiengesellschaft HSBC Bank plc The Royal Bank of Scotland plc
<i>Co-Managers:</i>	Bayerische Hypo- und Vereinsbank Aktiengesellschaft Bremer Landesbank Kreditanstalt Oldenburg -Girozentrale- Landesbank Baden-Württemberg Landesbank Hessen-Thüringen Landessparkasse zu Oldenburg Oldenburgische Landesbank AG
<i>Principal Paying Agent:</i>	Commerzbank Aktiengesellschaft
<i>Currency:</i>	Euro
<i>Denominations of Notes:</i>	Euro 1,000
<i>Form of Notes:</i>	Bearer form  The Notes will be represented by a global Note without interest coupons (the " <b>Global Note</b> ").  Notes in definitive form and interest coupons will not be issued.
<i>Status of the Notes:</i>	The Notes will constitute unsecured and unsubordinated obligations of the Issuer ranking <i>pari passu</i> among themselves and <i>pari passu</i> with all other unsecured and unsubordinated obligations of the Issuer.
<i>Maturity:</i>	12 years
<i>Redemption:</i>	16 July 2021
<i>Taxation:</i>	All payments of principal and interest in respect of the Notes shall be made free and clear of, and without withholding or deduction for, any taxes or

duties of whatever nature imposed or levied by way of withholding or deduction at source by or on behalf of the Federal Republic of Germany, or by or on behalf of any political subdivision or authority therein having power to tax, unless such deduction or withholding is required by law. In such event, the Issuer will, subject to the exceptions set out in the Terms and Conditions, pay such additional amounts as shall result in receipt by the holders of the Notes of such amounts as would have been received by them had no such withholding or deduction been required.

<i>Negative Pledge:</i>	The Terms and Conditions of the Notes contain a negative pledge provision as set out in the Terms and Conditions of the Notes (page 20 of this Prospectus).
<i>Events of Default:</i>	The Terms and Conditions of the Notes provide for events of default entitling holders of the Notes to demand immediate redemption of the Notes (page 27 of this Prospectus).
<i>Cross Default:</i>	The Terms and Conditions of the Notes provide for cross default provisions (page 27 of this Prospectus).
<i>Governing Law:</i>	The Notes will be governed by German law.
<i>Jurisdiction:</i>	Non-exclusive place of jurisdiction for any legal proceedings arising under the Notes is Frankfurt am Main.
<i>Clearance and Settlement:</i>	Notes will be accepted for clearing through Clearstream Banking AG, Frankfurt am Main (" <b>CBF</b> ").
<i>Listing and Admission to Trading:</i>	Application has been made to list the Notes on the official list of the Luxembourg Stock Exchange and to admit them to trading on the regulated market of the Luxembourg Stock Exchange.
<i>Securities numbers:</i>	WKN           A0Z2A1 ISIN           DE000A0Z2A12 Common Code 043978527

**Summary in respect of EWE AG**  
**INFORMATION ABOUT EWE AG**

EWE AG is a stock corporation (*Aktiengesellschaft*) incorporated under German law. Its registered office is located in Tirpitzstrasse 39, 26122 Oldenburg, Germany (Tel.: +49 441 803-0). It is registered with the Commercial Register of the Local Court (*Amtsgericht*) in Oldenburg under HRB 33 under the name EWE Aktiengesellschaft.

**SELECTED FINANCIAL INFORMATION**

The following table sets out selected financial information relating to the EWE Group. The information has been extracted from the audited consolidated financial statements of EWE AG for the years ended 31 December 2008 and 31 December 2007. These consolidated financial statements of EWE AG have been prepared in accordance with the International Financial Reporting Standards as adopted by the EU ("**IFRS**").

<b>In EUR million</b>	<b>2007</b>	<b>2008</b>
Sales (without electricity and natural gas tax)	4,656.2	5,327.3
Operating result (EBIT)	442.9	422.9
Income after income taxes	299.2	207.5
Net cash provided by operating activities	381.4	382.0
Cash outflow for purchases of intangible assets, property, plant and equipment	421.8	446.6
Total assets	6,077.4	7,227.8
Equity	1,782.1	1,932.2

**PRINCIPAL ACTIVITIES**

EWE AG and its subsidiaries supply energy (in particular electricity and gas) and also provide information technology and telecommunications services. EWE AG and its subsidiaries operate in the Ems / Weser / Elbe region of Germany as well as in Lower Saxony and Bremen and its gas operations extend to Eastern Germany, Poland and Turkey. Electricity and gas are predominantly purchased from third parties.

**CORPORATE BODIES**

The Board of Management of EWE AG consists of the following members: Dr. Werner Brinker (CEO), Heiko Harms, Dr. Thomas Neuber and Michael Wagener.

The members of the Supervisory Board are: Günther Boekhoff (Chairman), Rainer Janßen (First Deputy Chairman), Martin Döscher (Second Deputy Chairman), Hans Eveslage (Third Deputy Chairman), Wolfgang Behnke, Hermann Bröring, Claus Christ, Karl-Heinz Funke, Heiner Grotheer, Carsten Hahn, Dr. Hans-Dieter Harig, Gregor

Heller, Dr. Stephan-Andreas Kaulvers, Aloys Kiepe, Sigrid Leidereiter, Gerd Reiners, Immo Schlepper, Alwin Schlörmann, Prof. Dr. Gerd Schwandner and Dierk Schwarting

### **CAPITAL STOCK**

The capital stock of EWE AG amounts to EUR 200,000,000 and is composed of 200,000 registered shares of EUR 1,000 each and is fully paid up. All shares carry the same rights and obligations. One vote is granted per share, and profit is distributed per share. The rights and obligations arising from the shares are governed by the German Stock Corporation Act (*Aktiengesetz*).

## **Summary in respect of Risk Factors**

### **The Notes**

#### **Notes may not be a Suitable Investment**

A potential investor should not invest in the Notes, which are financial instruments the value of which is subject to various factors, unless the investor has the expertise (either alone or with a financial advisor) to evaluate how the Notes will perform under changing conditions, the resulting effects on the value of the Notes and the impact this investment will have on the potential investor's overall investment portfolio.

#### **Liquidity Risk**

There can be no assurance that a liquid secondary market for the Notes will develop or, if it does develop, that it will continue. In an illiquid market, an investor might not be able to sell the Notes at any time at fair market prices. The possibility to sell the Notes might additionally be restricted by country specific reasons.

#### **Market Price Risk**

A holder of the Notes is exposed to the risk of an unfavourable development of market prices of the Notes which materialises if such holder sells the Notes prior to the final maturity of such Notes.

#### **Risk of Early Redemption**

The Issuer has the right to redeem the Notes prior to maturity for reasons set out in the Terms and Conditions of the Notes. Therefore, a holder of the Notes is exposed to the risk that due to early redemption his investment will have a lower than expected yield. Also, such holder may only be able to reinvest on less favourable conditions as compared to the original investment.

#### **Fixed Rate Notes**

The Notes are fixed rate notes. Therefore, a holder of the Notes is exposed to the risk that the price of the Notes falls as a result of changes in the market interest rate.

## **EWE AG**

The following is a summary of risk factors that may affect EWE AG's ability to fulfill its obligations under the Notes.

- Increasing pressure of competition on national and international procurement and sales markets may affect EWE AG's energy and ICT business areas.
- Changes to the overall economic climate and to certain aspects of the legal and social environment caused by the financial crisis may have an impact on EWE AG's business.
- Shortening or stoppage of the supply of natural gas from Russia may have an adverse impact on EWE AG's financial position.
- Failure to meet safety standards and legal requirements may lead to problems in the operating of EWE AG's telecommunications and energy infrastructure and thus may adversely affect the financial position of EWE AG.
- Failure to invest or make acquisitions in its core business may adversely affect EWE AG's business and financial position.
- EWE AG is exposed to financial risks such as liquidity, interest and exchange rate risk.
- EWE AG depends on the proper functionality of its information and communications technology.
- Legal and administration proceedings and other legal risks may adversely affect the financial position of EWE AG.
- The EWE Group is exposed to constant change in the political, legal, and social environment in which it operates; this may have an impact on the profit or loss of the EWE Group.
- The legal framework for regulatory measures leaves room for interpretation. Depending on the interpretation the regulators may take, EWE AG's revenue from network user charges may be adversely affected.
- Members of the EWE Group may become subject to proceedings in connection with public procurements. These might have an adverse impact on the financial position of the EWE Group.

## GERMAN TRANSLATION OF THE SUMMARY

Der folgende Abschnitt stellt die Zusammenfassung (die „**Zusammenfassung**“) der wesentlichen Merkmale und Risiken in Bezug auf die Emittentin und die Schuldverschreibungen dar. Die Zusammenfassung ist als Einleitung zu diesem Prospekt zu verstehen. Ein Anleger sollte jede Entscheidung zur Anlage in die Wertpapiere auf die Prüfung des gesamten Prospekts einschließlich der durch Verweis einbezogenen Dokumente und Nachträgen hierzu stützen. Für den Fall, dass vor einem Gericht Ansprüche aufgrund der in diesem Prospekt enthaltenen Informationen geltend gemacht werden, könnten klagende Anleger aufgrund einzelstaatlicher Rechtsvorschriften die Kosten für eine Übersetzung des Prospekts vor Prozessbeginn zu tragen haben. Die Emittentin, die die Zusammenfassung einschließlich einer Übersetzung davon vorgelegt und deren Meldung beantragt hat, kann haftbar gemacht werden, jedoch nur für den Fall, dass die Zusammenfassung irreführend, unrichtig oder widersprüchlich ist, wenn sie zusammen mit anderen Teilen des Prospekts gelesen wird. Die nachstehende Zusammenfassung der allgemeinen Merkmale ist keine vollständige Darstellung, sondern gehört zum Prospekt und ist im Zusammenhang mit dem Prospekt insgesamt zu lesen.

### **Zusammenfassung in Bezug auf die Schuldverschreibungen**

<i>Emittentin:</i>	EWE Aktiengesellschaft
<i>Joint Lead Manager:</i>	Calyon Credit Agricole CIB Commerzbank Aktiengesellschaft HSBC Bank plc The Royal Bank of Scotland plc
<i>Co-Manager:</i>	Bayerische Hypo- und Vereinsbank Aktiengesellschaft Bremer Landesbank Kreditanstalt Oldenburg -Girozentrale- Landesbank Baden-Württemberg Landesbank Hessen-Thüringen Landessparkasse zu Oldenburg Oldenburgische Landesbank AG
<i>Hauptzahlstelle:</i>	Commerzbank Aktiengesellschaft
<i>Währung:</i>	Euro
<i>Nennbetrag der Schuldverschreibungen:</i>	Euro 1.000
<i>Form der Schuldverschreibungen:</i>	Inhaberschuldverschreibungen  Die Schuldverschreibungen, werden durch eine auf den Inhaber lautende Globalurkunde ohne Zinsscheine (die " <b>Globalurkunde</b> ") verbrieft.  Einzelurkunden und Zinsscheine werden nicht ausgegeben.
<i>Status der Schuldverschreibungen:</i>	Die Schuldverschreibungen bilden unbesicherte nicht nachrangige Verbindlichkeiten der EWE AG, die untereinander und mit allen anderen un-

besicherten und nicht nachrangigen Verbindlichkeiten der EWE AG gleichrangig sind.

<i>Laufzeit:</i>	12 Jahre
<i>Rückzahlung:</i>	16. Juli 2021
<i>Besteuerung:</i>	Alle in Bezug auf die Schuldverschreibungen zahlbaren Kapital- oder Zinsbeträge werden ohne Einbehalt oder Abzug für oder wegen Steuern oder Abgaben gleich welcher Art gezahlt, die von der Bundesrepublik Deutschland, oder für deren Rechnung oder von oder für Rechnung einer politischen Untergliederung oder Steuerbehörde dieses Staates auferlegt oder erhoben werden, es sei denn, ein solcher Einbehalt oder Abzug ist gesetzlich vorgeschrieben. In einem solchen Fall wird die EWE AG zusätzliche Beträge in der Höhe leisten, die erforderlich sind, damit die den Gläubigern der Schuldverschreibungen zufließenden Beträge jeweils den Beträgen entsprechen, die die Gläubiger der Schuldverschreibungen ohne einen solchen Einbehalt oder Abzug erhalten hätten, vorbehaltlich der in den Anleihebedingungen der Schuldverschreibungen angeführten Ausnahmen.
<i>Negativverpflichtung:</i>	Die Anleihebedingungen der Schuldverschreibungen enthalten eine Negativverpflichtung, wie in den Anleihebedingungen angegeben (siehe Seite 20 diese Prospekts).
<i>Kündigungsgründe:</i>	In den Anleihebedingungen sind Kündigungsgründe definiert, die die Gläubiger der Schuldverschreibungen berechtigen, die unverzügliche Rückzahlung der Schuldverschreibungen zu verlangen (siehe Seite 27 diese Prospekts).
<i>Cross Default:</i>	Die Anleihebedingungen enthalten eine Cross-Default-Klausel (siehe Seite 27 diese Prospekts).
<i>Geltendes Recht:</i>	Die Schuldverschreibungen unterliegen deutschem Recht.
<i>Gerichtsstand:</i>	Nicht ausschließlicher Gerichtsstand für alle gerichtlichen Verfahren im Zusammenhang mit den Schuldverschreibungen ist Frankfurt am Main.
<i>Clearing und Abwicklung:</i>	Die Schuldverschreibungen sind für das Clearing durch Clearstream Banking AG, Frankfurt am Main, (" <b>CBF</b> ") akzeptiert.
<i>Börsenzulassung und Börsenhandel:</i>	Die Zulassung der Schuldverschreibungen zum Handel im regulierten Markt sowie die Notierung in der official list der Luxemburger Wertpapierbörse wurde beantragt.
<i>Wertpapierkennnummern:</i>	WKN           A0Z2A1 ISIN           DE000A0Z2A12 Common Code 043978527

## Zusammenfassung in Bezug auf die EWE AG

### INFORMATIONEN ÜBER EWE AG

EWE AG ist eine Aktiengesellschaft nach deutschem Recht. Der Sitz der EWE AG ist Tirpitzstrasse 39, 26122 Oldenburg (Tel.: +49 441 803-0). EWE AG ist im Handelsregister beim Amtsgericht Oldenburg unter der Nummer HRB 33 und der Firma EWE Aktiengesellschaft eingetragen.

### AUSGEWÄHLTE FINANZINFORMATIONEN

Die nachfolgende Tabelle zeigt ausgewählte Finanzinformationen für die EWE Gruppe. Diese Informationen wurden den geprüften Konzernabschlüssen der EWE AG für die Geschäftsjahre 2008 und 2007 entnommen. Diese Konzernabschlüsse der EWE AG wurden nach den International Financial Reporting Standards, wie sie in der EU anzuwenden sind aufgestellt ("IFRS").

In Millionen EUR	2007	2008
Umsatzerlöse (ohne Strom- und Erdgassteuer)	4.656,2	5.327,3
Operatives Ergebnis (EBIT)	442,9	422,9
Ergebnis nach Ertragssteuern	299,2	207,5
Zufluss aus operativer Tätigkeit	381,4	382,0
Auszahlungen für den Erwerb von immateriellen Vermögenswerten und Sachanlagen	421,8	446,6
Summe Aktiva	6.077,4	7.227,8
Eigenkapital	1.782,1	1.932,2

### HAUPTGESCHÄFTSTÄTIGKEIT

EWE AG und ihre Tochtergesellschaften sind in den Bereichen Energieversorgung (insbesondere Strom und Gas) sowie Informationstechnologie und Telekommunikation tätig. Regional werden diese Tätigkeiten im Gebiet Ems-Weser-Elbe sowie Niedersachsen und Bremen und für die Gasversorgung darüber hinaus in den neuen Bundesländern, Polen und in der Türkei ausgeübt. Strom und Gas werden überwiegend fremd bezogen.

### ORGANE

Der Vorstand von EWE AG besteht aus folgenden Mitgliedern: Dr. Werner Brinker (CEO), Heiko Harms, Dr. Thomas Neuber and Michael Wagener.

Die Mitglieder des Aufsichtsrates sind: Günther Boekhoff (Vorsitzender), Rainer Janßen (erster stellvertretender Vorsitzender), Martin Döscher (zweiter stellvertretender Vorsitzender), Hans Eveslage (dritter stellvertretender Vorsitzender), Wolfgang Behnke, Hermann Bröring, Claus Christ, Karl-Heinz Funke, Heiner Grotheer, Carsten Hahn,

Dr. Hans-Dieter Harig, Gregor Heller, Dr. Stephan-Andreas Kaulvers, Aloys Kiepe, Sigrid Leidereiter, Gerd Reiners, Immo Schlepper, Alwin Schlörmann, Prof. Dr. Gerd Schwandner und Dierk Schwarting

### **GEZEICHNETES KAPITAL**

Das gezeichnete Kapital der EWE AG beträgt EUR 200.000.000 aufgeteilt in 200.000 Namensaktien zu je EUR 1.000 und ist vollständig eingezahlt. Mit allen Aktien sind gleiche Rechte und Pflichten verbunden. Eine Aktie gewährt eine Stimme und ist maßgebend für den Anteil am Gewinn. Die Rechte und Pflichten, die aus den Aktien hervorgehen sind durch das deutsche Aktiengesetz geregelt.

## **Zusammenfassung in Bezug auf die Risikofaktoren**

### **Die Schuldverschreibungen**

#### **Schuldverschreibungen als nicht geeignetes Investment**

Potenzielle Anleger sollten in die Schuldverschreibungen, die Finanzinstrumente, deren Wert von verschiedenen Faktoren abhängt, sind, nur investieren, wenn sie (selbst oder durch ihre Finanzberater) über die nötige Expertise verfügen, um die Performance der Schuldverschreibungen unter den wechselnden Bedingungen, die resultierenden Wertveränderungen der Schuldverschreibungen sowie die Auswirkungen einer solchen Anlage auf ihr Gesamtportfolio einzuschätzen.

#### **Liquiditätsrisiko**

Es besteht keine Gewissheit, dass ein liquider Sekundärmarkt für die Schuldverschreibungen entstehen wird oder, sofern er entsteht, dass er fortbestehen wird. In einem illiquiden Markt könnte es sein, dass ein Anleger seine Schuldverschreibungen nicht jederzeit zu angemessenen Marktpreisen veräußern kann. Die Möglichkeit, Schuldverschreibungen zu veräußern, kann darüber hinaus aus landesspezifischen Gründen eingeschränkt sein.

#### **Marktpreisrisiko**

Ein Gläubiger der Schuldverschreibungen ist dem Risiko nachteiliger Entwicklungen der Marktpreise seiner Schuldverschreibungen ausgesetzt, welches sich verwirklichen kann, wenn der Gläubiger seine Schuldverschreibungen vor Endfälligkeit veräußert.

#### **Risiko der Vorzeitigen Rückzahlung**

Der Emittent steht das Recht zu, die Schuldverschreibungen vor Fälligkeit auf Grund des Eintritts eines Ereignisses, welches in den Anleihebedingungen dargelegt ist zurückzuzahlen. Daher ist der Gläubiger der Schuldverschreibungen dem Risiko ausgesetzt, dass infolge der vorzeitigen Rückzahlung seine Kapitalanlage eine geringere Rendite als erwartet aufweisen wird. Außerdem besteht die Möglichkeit, dass der Gläubiger der Schuldverschreibungen eine Wiederanlage nur zu schlechteren als den Bedingungen des ursprünglichen Investments tätigen kann.

#### **Festverzinsliche Schuldverschreibungen**

Die Schuldverschreibungen sind festverzinslich. Daher ist ein Gläubiger der Schuldverschreibungen dem Risiko ausgesetzt, dass der Kurs der Schuldverschreibungen infolge von Veränderungen des aktuellen Marktzinssatzes fällt.

## **EWE AG**

Es folgt eine Zusammenfassung der Risikofaktoren, die sich auf die Fähigkeit der EWE AG auswirken können, ihren Verpflichtungen unter den Schuldverschreibungen nachzukommen.

- Wachsender Wettbewerbsdruck auf den nationalen und internationalen Märkten für Ausschreibungen und Verkauf kann einen Einfluss auf das Energiegeschäft und die ICT Sparte der EWE AG haben.
- Veränderungen des generellen wirtschaftlichen Klimas und einiger Aspekte des juristischen und sozialen Umfelds, die durch die gegenwärtige Wirtschaftskrise verursacht wurden, können einen Einfluss auf die Geschäftstätigkeit der EWE AG haben.
- Eine Verringerung oder ein Ausfall der Gaslieferungen aus Russland kann die finanzielle Situation der EWE AG negativ beeinflussen.
- Falls Sicherheitsmaßnahmen und gesetzliche Standards nicht eingehalten werden können, könnte dies zu Schwierigkeiten in der Energie- und Telekommunikationsinfrastruktur führen, wodurch die finanzielle Situation der EWE AG negativ beeinflusst werden könnte.
- Falls keine geeigneten Investitionen und Akquisitionen in den Kerngeschäftsfeldern der EWE AG gemacht werden können, könnte dies einen negativen Einfluss auf die Geschäfts- und Ertragslage der EWE AG haben.
- Die EWE AG ist finanziellen Risiken, wie zum Beispiel Liquiditätsrisiken, Zins- und Wechselkursrisiken, ausgesetzt.
- Die EWE AG ist auf die volle Funktionalität ihrer Informations- und Kommunikationstechnologie angewiesen.
- Gerichts- oder Verwaltungsverfahren sowie sonstige juristische Risiken können einen negativen Einfluss auf die finanzielle Position der EWE AG haben.
- Die EWE Gruppe ist dem ständigen Wechsel des politischen, juristischen und sozialen Umfelds in dem sie operiert ausgesetzt. Dies kann einen negativen Einfluss auf das Ergebnis der EWE AG haben.
- Der juristische Rahmen für aufsichtsrechtliche Entscheidungen lässt Interpretationsspielraum. Abhängig von der jeweiligen Interpretation der Aufsichtsbehörden kann der Umsatz der EWE AG aus Nutzungsentgelten von Netzwerknutzern negativ beeinflusst werden.
- Mitglieder der EWE Gruppe könnten in Verfahren verwickelt werden, die im Zusammenhang mit öffentlichen Ausschreibungen stehen. Solche Verfahren könnten einen negativen Einfluss auf die finanzielle Situation der EWE AG haben.

## **RISK FACTORS**

The following is a disclosure of risk factors that are material to the Notes in order to assess the market risk associated with these Notes and risk factors that may affect EWE AG's ability to fulfill its obligations under the Notes. Prospective investors should consider these risk factors before deciding to purchase Notes. The following statements are not exhaustive. Prospective investors should consider all information provided in this Prospectus and consult with their own professional advisers if they consider it necessary. In addition, investors should be aware that the risks described may combine and thus intensify one another. The occurrence of one or more risks may have a material adverse effect on the own funds, the financial position and the operating result of the EWE Group.

### **Risk Factors in respect of the Notes**

#### ***Notes may not be a suitable investment for all investors***

Each potential investor in Notes must determine the suitability of that investment in light of its own circumstances. In particular, each potential investor should:

- (i) have sufficient knowledge and experience to make a meaningful evaluation of the Notes, the merits and risks of investing in the Notes and the information contained or incorporated by reference in this Prospectus or any applicable supplement;
- (ii) have access to, and knowledge of, appropriate analytical tools to evaluate, in the context of its particular financial situation and the investment(s) it is considering, an investment in the Notes and the impact the Notes will have on its overall investment portfolio;
- (iii) have sufficient financial resources and liquidity to bear all of the risks of an investment in the Notes;
- (iv) understand thoroughly the terms of the Notes and be familiar with the behavior of financial markets; and
- (v) be able to evaluate (either alone or with the help of a financial adviser) possible scenarios for economic, interest rate and other factors that may affect its investment and its ability to bear the applicable risks.

A potential investor should not invest in the Notes, unless it has the expertise (either alone or with a financial adviser) to evaluate how the Notes will perform under changing conditions, the resulting effects on the value of the Notes and the impact this investment will have on the potential investor's overall investment portfolio.

#### ***Liquidity Risk***

Application has been made to list the Notes on the official list of the Luxembourg Stock Exchange and to admit the Notes to trading on the regulated market of the Luxembourg Stock Exchange. Regardless of whether the Notes are listed or not, there can be no assurance that a liquid secondary market for the Notes will develop or, if it does develop, that it will continue. In an illiquid market, an investor might not be able to sell the Notes at any time at fair market prices. The possibility to sell the Notes might additionally be restricted by country specific reasons.

#### ***Market Price Risk***

The development of market prices of the Notes depends on various factors, such as changes of market interest rate levels, the policies of central banks, overall economic developments, inflation rates or the lack of or excess demand for the type of Notes. The holders of the Notes are, therefore, exposed to the risk of an unfavourable development of market prices of their Notes which materialises if the holders of the Notes sell the Notes prior to the final

maturity of the Notes. Notwithstanding the factors described above, the Issuer is obliged to redeem the Notes at their principal amount at maturity.

### ***Risk of Early Redemption***

EWE AG will always have the right to redeem the Notes if it is required to pay additional amounts (gross-up payments) on the Notes for reasons of taxation as set out in the Terms and Conditions. If EWE AG redeems the Notes prior to maturity or the Notes are subject to early redemption due to an early redemption event, a holder of the Notes is exposed to the risk that due to such early redemption his investment will have a lower than expected yield. Additionally, such holder may only be able to reinvest on less favourable conditions as compared to the original investment.

### ***Fixed Rate Notes***

The Notes are fixed rate notes. Therefore, a holder of the Notes is exposed to the risk that the price of the Note falls as a result of changes in the market interest rate. While the nominal interest rate of the Notes as specified in the Terms and Conditions is fixed during the life of the Notes, the current interest rate on the capital market ("market interest rate") typically changes on a daily basis. As the market interest rate changes, the price of a fixed rate note also changes, but in the opposite direction. If the market interest rate increases, the price of a fixed rate note typically falls, until the yield of such note is approximately equal to the market interest rate. If the market interest rate falls, the price of a fixed rate note typically increases, until the yield of such note is approximately equal to the market interest rate. Notwithstanding the factors described above, the Issuer is obliged to redeem the Notes at their principal amount at maturity.

### ***Taxation***

Potential purchasers of the Notes should be aware that stamp duty and other taxes and/or charges may be levied in accordance with the laws and practices in the countries where the Notes are transferred and other relevant jurisdictions. The summaries set out under the heading "Taxation" discuss only specific tax considerations, and they do not purport to be a comprehensive description of all tax considerations in any particular jurisdiction which may be relevant to a decision to purchase the Notes. Potential purchasers of the Notes should note that the tax treatment of payments in respect of the Notes may be different (and in some cases significantly different) from that set out in those summaries. Potential purchasers of the Notes who are in any doubt as to their tax position should consult their own independent tax advisers. In addition, potential purchasers should be aware that tax regulations and their application by the relevant taxation authorities may change from time to time (Please see in particular subsection EU Savings Tax Directive under the "Taxation" Section). Accordingly, it is not possible to predict the precise tax treatment of the Notes which will apply at any given time.

## **Risk Factors in respect of EWE AG**

### **Business Risks**

In its Energy and ICT (information and communication technologies) business areas, EWE remains exposed to volume and margin risks due to the increasing pressure of competition on both national and international procurement, supply and sales markets. Customers' reluctance to invest in core markets as a result of the financial crisis is a particular risk for IT activities in the ICT business area.

EWE AG currently obtains natural gas from seven main suppliers based on long term contracts. In 2008 26 per cent. of natural gas procured has been delivered (indirectly) from sources in Russia. Economic or political instability or other disruptive events in any source or transit country through which gas must pass before it reaches its final destination in Western Europe can have a material adverse effect on the supply of such gas.

### **Business environment risks**

The changes to the overall economic climate caused by the financial crisis pose potential risks to the development of the Group's business and the achievement of target figures in the operating business areas. Further, the EWE Group is exposed to changes in the political, legal and social environment in the countries in which it operates. Such changes may have a potential to adversely influence the business position of the EWE Group.

Regulatory decisions made by the German Federal Network Agency (*Bundesnetzagentur*) are and will continue to have particular significance for EWE AG. They will have a notable impact on network use charges for electricity and gas as well as the competitive environment in the telecommunications market. Legal risks also continue to exist in connection with the enforceability of necessary gas price adjustments.

### **Operating risks**

EWE's activities require reliable and efficient operations of the complex telecommunications and energy infrastructure facilities as well as of the underground natural gas storage caverns. If the Group would not be able to maintain such operations also in the future, this may have an adverse effect on the business prospects of the Group.

### **Strategic risks**

EWE AG's business strategy involves acquisitions and investments in its core businesses. The success of this strategy depends in part on its ability to successfully identify and acquire, on acceptable terms, suitable companies. The consequence of an inability to comply with its business strategy may be a adverse impact on the Group's business position.

### **Financial risks**

The operational business gives rise to financial risks in the form of liquidity, credit, security prices, interest and exchange rate risks as well as market price risks on the international energy procurement and sales markets which are vital to EWE. In light of the crisis on the financial markets, EWE has stepped up its continuous monitoring, position evaluation and active risk management and is implementing instruments related to relevant target figures to manage risk on the basis of risk guidelines for specific business areas. If one or more of the described risks materialize EWE's financial and/or business position may be adversely affected.

### **Risks from joint Group functions**

The latest information and communications technology is required to provide efficient support for all business processes in the individual business areas. The quality and, in particular, the permanent availability are a critical factor in the success of the business and the further development of the business. In this context extensive hardware and software measures are implemented and constantly refined. If the Group is not able to secure efficient support of the individual business areas the Group's financial and business position may become adversely affected.

### **Legal Risks**

EWE Group is involved in various court cases in connection with its ordinary operations. Claims have been filed against some companies of the Group. Furthermore, Group companies are directly involved in various procedures with public authorities or are affected by their results.

In the end-customer business, EWE is affected by legal procedures including class actions concerning the effectiveness of price mechanisms.

The realisation of one or more legal risks could have adverse effects on the financial position and results of operations of the EWE Group.

### **Regulatory Risk**

The EWE Group operates its business in a political, legal, and social environment which is expected to have a material impact on the performance of the Group.

As of 2009, the network user charges will be set by what is referred to as incentive regulation (*Anreizregulierung*). The legal framework for the calculation of network user charges opens room for interpretation by the competent authorities (e.g. in relation to the skimming of additional proceeds or the retroactive increase of upstream network fees in the segment electricity). Depending on the actual interpretation of the competent authorities the revenue deriving from network fees might vary and thus have an adverse effect on the financial position of the Group.

### **Public Procurement Risk**

EWE is subject to the German public procurement law if they conclude contracts in their capacity as public principal and if no exemptions apply (sections 98 et seqq. of the German Act Against Restraints of Competition – *Gesetz gegen Wettbewerbsbeschränkungen* "GWB").

If a public principal does not comply with the rules of the GWB competitors are allowed (i) to initiate proceedings to achieve a revision of the conclusion of the contract or (ii) to claim damages before civil courts. EWE may become subject to such proceedings because EWE does not comply with German public procurement law.

Furthermore, pursuant to the GWB contracts are void if they have been concluded under violation of the obligation to publicly advertise for bids if this violation is asserted within a period of six months after conclusion of the contract. EWE believes that the probability of proceedings or claims for the voidness of agreements is low. However, it cannot be excluded that such proceedings are opened in certain singular cases. Such proceedings may lead to substantial economic disadvantages in particular if competitors successfully claim damages or EWE is required to obey an unfavourable result of a revision of conclusions of contracts.

## TERMS AND CONDITIONS OF THE NOTES

### ANLEIHEBEDINGUNGEN

### TERMS AND CONDITIONS

#### § 1

#### (Währung, Nennbetrag, Verbriefung, Clearing-System)

#### §1

#### (Currency, Denomination, Form, Clearing System)

- (1) *Währung, Nennbetrag.* Diese von der EWE Aktiengesellschaft, Oldenburg, Bundesrepublik Deutschland, (die „**Anleiheschuldnerin**“) begebene Anleihe im Gesamtnennbetrag von EUR 500.000.000 (in Worten: fünfhundert Millionen Euro) ist eingeteilt in 500.000 Schuldverschreibungen im Nennbetrag von je EUR 1.000 (die „**Schuldverschreibungen**“).
- (2) *Verbriefung.* Die Schuldverschreibungen sind durch eine auf den Inhaber lautende Globalurkunde (die „**Globalurkunde**“) ohne Zinsscheine verbrieft. Einzelurkunden und Zinsscheine werden nicht ausgegeben. Die Globalurkunde trägt die eigenhändige Unterschrift zweier bevollmächtigter Vertreter der Anleiheschuldnerin und eine Kontrollunterschrift der Hauptzahlstelle (wie in § 9(1) definiert). Eine Kopie der Globalurkunde ist für die Inhaber von Schuldverschreibungen (jeder ein „**Anleihegläubiger**“) kostenlos bei der Hauptzahlstelle erhältlich.
- (3) *Clearing System.* Die Globalurkunde wird so lange von Clearstream Banking AG, Frankfurt am Main (das „**Clearing-System**“) verwahrt werden, bis sämtliche Verbindlichkeiten der Anleiheschuldnerin aus den Schuldverschreibungen erfüllt sind.
- (1) *Currency, Denomination.* This issue by EWE Aktiengesellschaft, Oldenburg, Federal Republic of Germany (the "**Issuer**") in the aggregate principal amount of EUR 500,000,000 (in words: five hundred million euro) is divided into 500,000 notes in the denomination of EUR 1,000 each (the "**Notes**").
- (2) *Form.* The Notes are represented by a global note (the "**Global Note**") payable to bearer without interest coupons. Definitive notes representing individual Notes and interest coupons shall not be issued. The Global Note shall be signed manually by two authorised signatories of the Issuer and shall be authenticated by the Principal Paying Agent (as defined in § 9(1)). A copy of the Global Note is available to the holders of the Notes (each a "**Noteholder**") free of charge at the offices of the Principal Paying Agent.
- (3) *Clearing System.* The Global Note will be kept in custody with Clearstream Banking AG, Frankfurt am Main (the "**Clearing System**"), until all obligations of the Issuer under the Notes have been satisfied.

#### § 2

#### (Status, Negativverpflichtung)

#### §2

#### (Status, Negative Pledge)

- (1) *Status.* Die Schuldverschreibungen begründen nicht besicherte und nicht nachrangige Verbindlichkeiten der Anleiheschuldnerin, die untereinander und mit allen anderen nicht besicherten und nicht nachrangigen Verbindlichkeiten der Anleiheschuldnerin gleichrangig sind, soweit diesen Verbindlichkeiten nicht durch zwingende gesetzliche Bestimmungen ein Vorrang eingeräumt wird.
- (2) *Negativverpflichtung.* Die Anleiheschuldnerin verpflichtet sich, solange Schuldverschreibungen ausstehen, jedoch nur bis zu dem Zeitpunkt, an dem alle Beträge an Kapital und Zinsen der Hauptzahlstelle zur Verfügung gestellt worden sind, (i) weder ihr gegenwärtiges noch ihr zukünftiges Vermögen ganz oder teilweise zur Besicherung einer gegenwärtigen oder zukünftigen Kapitalmarkt-
- (1) *Status.* The obligations under the Notes constitute unsecured and unsubordinated obligations of the Issuer ranking *pari passu* among themselves and *pari passu* with all other unsecured and unsubordinated obligations of the Issuer, unless such obligations are accorded priority under mandatory provisions of statutory law.
- (2) *Negative Pledge.* So long as any of the Notes remains outstanding, but only up to the time all amounts of principal and interest have been placed at the disposal of the Principal Paying Agent, the Issuer undertakes (i) not to grant or permit to subsist any encumbrance *in rem* over any or all of its present or future assets as security for any present or future Capital Market Indebtedness (as defined below) issued or guaranteed by the

verbindlichkeit (wie unten definiert), die von der Anleiheschuldnerin, einer ihrer wesentlichen Tochtergesellschaften (wie unten definiert) oder einer anderen Person eingegangen oder gewährleistet ist, dinglich zu belasten oder eine solche Belastung zu diesem Zweck bestehen zu lassen, und (ii) ihre wesentlichen Tochtergesellschaften zu veranlassen (soweit rechtlich möglich und zulässig), weder ihr gegenwärtiges noch ihr zukünftiges Vermögen ganz oder teilweise zur Besicherung einer gegenwärtigen oder zukünftigen Kapitalmarktverbindlichkeit, die von der Anleiheschuldnerin, einer ihrer wesentlichen Tochtergesellschaften oder einer anderen Person eingegangen oder gewährleistet ist, dinglich zu belasten oder eine solche Belastung zu diesem Zweck bestehen zu lassen, ohne gleichzeitig die Anleihegläubiger an derselben Sicherheit oder einer sonstigen Sicherheit, welche von einer unabhängigen, von der Anleihegläubigerin beauftragten Wirtschaftsprüfungsgesellschaft von internationalem Rang als gleichwertige Sicherheit anerkannt wurde, im gleichen Rang und gleichen Verhältnis teilnehmen zu lassen. Jede gemäß diesem § 2(2) zu gewährende Sicherheit kann auch zu Gunsten einer bzw. einer/s als Treuhänderin der Anleihegläubiger handelnden und von der Anleiheschuldnerin beauftragten Bank, Finanzinstituts oder Wirtschaftsprüfungsgesellschaft von internationalem Rang bestellt werden. Satz 1 ist nicht auf als Sicherheit für Kapitalmarktverbindlichkeiten bestellte Belastungen anwendbar,

- (a) welche von einer Person bestellt wurden,
- (i) die nach dem Begebungstag (wie in § 3(1) definiert) eine wesentliche Tochtergesellschaft wird; oder
  - (ii) die nach dem Begebungstag (wie in § 3(1) definiert) mit der Anleiheschuldnerin oder einer wesentlichen Tochtergesellschaft verschmolzen wird,

und welche zu dem Zeitpunkt, in dem diese Person eine wesentliche Tochtergesellschaft wird oder mit der Anleiheschuldnerin oder einer wesentlichen Tochtergesellschaft verschmolzen wird, bereits bestanden, welche nicht im Hinblick darauf, dass diese Person eine wesentliche Tochtergesellschaft wird oder mit der Anleiheschuldnerin oder einer wesentlichen Tochtergesellschaft verschmolzen wird, bestellt wurden und für die der besicherte Kapitalbetrag nicht nach dem Zeitpunkt, in dem diese Person eine wesentliche Tochtergesellschaft wird oder mit der Anleihe-

Issuer or by any of its Principal Subsidiaries (as defined below) or by any other person, and (ii) to procure (to the extent legally possible and permissible) that none of its Principal Subsidiaries will grant or permit to subsist any encumbrance *in rem* over any or all of its present or future assets, as security for any present or future Capital Market Indebtedness issued or guaranteed by the Issuer or by any of its Principal Subsidiaries or by any other person, without at the same time having the Noteholders share equally and rateably in such security or such other security as may have been approved by an independent accounting firm of recognised international standing appointed by the Issuer as being equivalent security. Any security which may have to be provided pursuant to this §2(2) may, alternatively, also be provided to a bank, financial institution or accounting firm of recognised international standing appointed by the Issuer and acting as trustee for the Noteholders. Sentence one shall not apply in relation to encumbrances granted as security for Capital Market Indebtedness

- (a) by a person
- (i) which becomes a Principal Subsidiary after the Issue Date (as defined in §3(1)); or
  - (ii) which is merged with the Issuer or a Principal Subsidiary after the Issue Date (as defined §3(1)),

where such encumbrance is already in existence at the time such person becomes a Principal Subsidiary or is merged with the Issuer or a Principal Subsidiary, is not created in contemplation of such person becoming a Principal Subsidiary or being merged with the Issuer or a Principal Subsidiary and where the principal amount secured is not increased after such person becomes a Principal Subsidiary or is merged with the Issuer or a Principal Subsidiary;

schuldnerin oder einer wesentlichen Tochtergesellschaft verschmolzen wurde, erhöht wird;

- (b) welche von der Anleiheschuldnerin oder einer wesentlichen Tochtergesellschaft nach dem Begebungstag (wie in § 3(1) definiert) erworbene Vermögenswerte betreffen, sofern die Belastung zum Zeitpunkt dieses Erwerbs schon bestand, nicht im Hinblick auf diesen Erwerb bestellt wurde und der besicherte Betrag nicht nach dem Zeitpunkt dieses Erwerbs erhöht wurde;
- (c) welche zur Besicherung der gänzlichen oder teilweisen Finanzierung oder Refinanzierung des Erwerbs, der Errichtung oder Entwicklung von Projekten (Projektfinanzierungen) nach dem Begebungstag (wie in § 3(1) definiert) bestellt wurden, sofern der Rückgriff der Gläubiger aus der Kapitalmarktverbindlichkeit auf die zu einem solchen Projekt gehörenden Vermögenswerte (einschließlich von Anteilen an Projektgesellschaften) beschränkt ist; oder
- (d) welche zur Erfüllung eines Anspruchs gemäß §§ 125, 22 Umwandlungsgesetz bestellt wurden.

- (b) and affecting any asset acquired by the Issuer or a Principal Subsidiary after the Issue Date (as defined in §3(1)) where such encumbrance is already in existence at the time of such acquisition, is not created in contemplation thereof and where the principal amount secured is not increased after such acquisition;
- (c) the purpose of which is to finance in whole or in part or to refinance the acquisition, establishment or development of projects (*Projektfinanzierungen*) after the Issue Date (as defined in §3(1)), provided that the recourse of the holders of Capital Market Indebtedness is limited to assets pertaining to such project (including any interest in project companies); or
- (d) in satisfaction of a claim under §§ 125, 22 of the German Transformation Act (*Umwandlungsgesetz*).

„**Kapitalmarktverbindlichkeit**“ im Sinne dieser Emissionsbedingungen ist (i) jede gegenwärtige oder zukünftige Verbindlichkeit zur Rückzahlung aufgenommener Geldbeträge, die durch Schuldverschreibungen oder sonstige Wertpapiere, die an einer Börse oder an einem anderen organisierten Markt notiert oder gehandelt werden oder hinsichtlich derer ein solcher Handel beabsichtigt ist, verbrieft, verkörpert oder dokumentiert sind sowie (ii) Schuldscheindarlehen, die über die Laufzeit der Schuldverschreibungen einen Gesamtbetrag von Euro 100.000.000 übersteigen und (iii) jede Garantie oder sonstige Gewährleistung einer solchen Verbindlichkeit.

„**Wesentliche Tochtergesellschaft**“ bezeichnet eine Tochtergesellschaft (wie unten definiert) der Anleiheschuldnerin, deren in ihrem letzten geprüften Abschluss ausgewiesene Summe der Aktiva und/oder EBITDA (wie unten definiert), ohne Berücksichtigung konzerninterner Posten (jeweils auf konsolidierter Basis, falls die betreffende Tochtergesellschaft ihrerseits einen Konzernabschluss erstellt), zum Zeitpunkt dieses Abschlusses bzw. für den Zeitraum, auf den sich dieser Abschluss bezieht, mindestens 5 % der im letzten geprüften Abschluss des Konzerns ausgewiesenen Summe der Aktiva und/oder des EBITDA des Konzerns (wie unten definiert) beträgt. „**Konzern**“ bezeichnet die Anleiheschuldnerin und ihre jeweiligen Tochtergesell-

„**Capital Market Indebtedness**“ means in these Terms and Conditions (i) any current or future obligation for the repayment of borrowed money which is in the form of, or represented by, notes or other securities which are listed or traded on a stock exchange or another organised market or for which listing or trading is anticipated, (ii) assignable loans (*Schuldscheindarlehen*) which exceed a total amount of EUR 100,000,000 during the duration of the Notes and (iii) any guarantee or other security granted for such obligation.

„**Principal Subsidiary**“ means a Subsidiary (as defined below) of the Issuer the total assets and/or EBITDA (as defined below) of which, as determined by reference to its latest audited financial statements excluding intra-group items (in each case consolidated where that Subsidiary itself draws up consolidated financial statements), as at the date at which those financial statements were prepared or, as the case may be, for the financial period to which those financial statements relate, account for 5 per cent. or more of the total assets and/or EBITDA of the Group (as defined below) (determined by reference to the latest audited consolidated financial statements of the Group). „**Group**“ means the Issuer and its Subsidiaries from time to time, taken as a whole. „**Subsidiary**“ means at any time any enterprise

schaften, betrachtet als Ganzes. „**Tochtergesellschaft**“ bezeichnet für einen bestimmten Zeitpunkt jedes ausweislich des letzten geprüften Konzernabschluss der Anleiheschuldnerin voll konsolidierte Unternehmen (einschließlich jedes Unternehmens, welches in diesem Abschluss voll zu konsolidieren wäre, wenn der Abschluss zu dem jeweils anwendbaren Zeitpunkt erstellt würde, aber ausschließlich jedes Unternehmens, welches in diesem Abschluss nicht mehr voll zu konsolidieren wäre, wenn der Abschluss zu dem jeweils anwendbaren Zeitpunkt erstellt würde).

which was fully consolidated in the latest audited consolidated financial statements of the Issuer (including any enterprise which would have to be fully consolidated in such financial statements if at the relevant time such financial statements would be drawn up, but excluding any enterprise which would no longer have to be fully consolidated in such financial statements if at the relevant time such financial statements would be drawn up).

„**EBITDA**“ bezeichnet den Jahresüberschuss der jeweiligen Tochtergesellschaft bzw. des Konzerns vor (i) Abzug von Aufwendungen oder Rückstellungen für Steuern vom Einkommen und vom Ertrag, (ii) Abzug von Zinsen und ähnlichen Aufwendungen und Addition von Zinsen und ähnlichen Erträgen im Zusammenhang mit Finanzverbindlichkeiten, (iii) Abzug für Abschreibungen auf immaterielle Vermögensgegenstände des Anlagevermögens und Sachanlagen, (iv) Addition von außerordentlichen Erträgen und Abzug von außerordentlichen Aufwendungen (einschließlich Zinsen für Betriebsprüfungen, Verschmelzungsverluste, Teilwertabschreibung und Beteiligungsvorsorge, jedoch nur soweit dies nicht zu Doppelberücksichtigung führt), (v) Abschreibungen auf Finanzanlagen und (vi) Erträgen oder Verlusten aus Wertpapieren und Ausleihungen des Finanzanlagevermögens.

"**EBITDA**" means net income of the relevant Subsidiary or, as the case may be, of the Group before (i) deduction of any expenses and provisions on account of taxation on income, (ii) deduction or addition of any interest, commissions, discounts and other fees and charges incurred in respect of any financial indebtedness, (iii) deduction on account of depreciation and amortization on intangible fixed assets and tangible assets, (iv) addition of any extraordinary income and deduction of any extraordinary expenses (including interest for tax audits, merger losses, write down for impaired assets and write down for impaired participations, in each case without double counting), (v) write downs on financial assets and (vi) income or losses from long term securities and loans.

### § 3 (Zinsen)

- (1) *Zinssatz und Zinszahltag.* Die Schuldverschreibungen werden bezogen auf ihren Nennbetrag mit jährlich 5,250 % ab dem 16. Juli 2009 (einschließlich) (der „**Begebungstag**“) bis zum Fälligkeitstag (wie in § 4(1) definiert) (ausschließlich) verzinst. Die Zinsen sind nachträglich am 16. Juli eines jeden Jahres (jeweils ein „**Zinszahltag**“) zahlbar. Der erste Zinszahltag ist der 16. Juli 2010.
- (2) *Auflaufende Zinsen.* Falls die Anleiheschuldnerin die Schuldverschreibungen bei Fälligkeit nicht einlöst, erfolgt die Verzinsung der Schuldverschreibungen vom Tag der Fälligkeit bis zum Tag der tatsächlichen Rückzahlung der Schuldverschreibungen in Höhe des gesetzlich festgelegten Satzes für Verzugszinsen.
- (3) *Berechnung der Zinsen für Teile von Zeiträumen.* Sofern Zinsen für einen Zeitraum von weniger als einem Jahr zu berechnen sind, erfolgt die Berechnung auf der Grundlage der tatsächlich verstrichenen Tage, geteilt durch die Anzahl der Tage (365 bzw. 366) im jeweiligen Zinsjahr.

### §3 (Interest)

- (1) *Rate of Interest and Interest Payment Dates.* The Notes shall bear interest on their principal amount at the rate of 5.250 per cent. per annum from (and including) 16 July 2009 (the "**Issue Date**") to (but excluding) the Maturity Date (as defined in §4(1)). Interest shall be payable in arrear on 16 July in each year (each such date, an "**Interest Payment Date**"). The first Interest Payment Date shall be 16 July 2010.
- (2) *Accrual of Interest.* If the Issuer shall fail to redeem the Notes when due, interest shall continue to accrue beyond the due date until the actual redemption of the Notes at the default rate of interest established by law.
- (3) *Calculation of Interest for Partial Periods.* If interest is required to be calculated for a period of less than a full year, such interest shall be calculated on the basis of the actual number of days elapsed divided by the number of days (365 or 366) in the respective interest year.

**§ 4  
(Rückzahlung)**

- (1) *Rückzahlung bei Endfälligkeit.* Soweit nicht zuvor bereits ganz oder teilweise zurückgezahlt oder angekauft und entwertet, werden die Schuldverschreibungen zu ihrem Nennbetrag am 16. Juli 2021 (der „**Fälligkeitstag**“) zurückgezahlt.
- (2) *Vorzeitige Rückzahlung aus steuerlichen Gründen.* Die Schuldverschreibungen können nach Wahl der Anleiheschuldnerin jederzeit insgesamt, jedoch nicht teilweise, mit einer Kündigungsfrist von nicht weniger als 30 Tagen durch eine unwiderrufliche Mitteilung an die Anleihegläubiger vorzeitig gekündigt und zu ihrem Nennbetrag zuzüglich bis zum für die Rückzahlung festgesetzten Tag aufgelaufener Zinsen gemäß § 5 zurückgezahlt werden, falls (i) die Anleiheschuldnerin am nächstfolgenden Fälligkeitstag einer Zahlung unter den Schuldverschreibungen infolge einer Änderung oder Ergänzung der Steuer- oder Abgabengesetze und -Vorschriften der Bundesrepublik Deutschland („**Deutschland**“) oder deren politischen Untergliederungen oder Steuerbehörden oder infolge einer Änderung der Anwendung oder der amtlichen Auslegung dieser Gesetze und Vorschriften (vorausgesetzt, diese Änderung oder Ergänzung wird am oder nach dem Tag, an dem die Schuldverschreibungen begeben werden, wirksam) zur Zahlung von Zusätzlichen Beträgen (wie in § 6 definiert) verpflichtet ist oder sein wird und (ii) diese Verpflichtung nicht dadurch vermieden werden kann, dass die Anleiheschuldnerin ihr zur Verfügung stehende zumutbare Maßnahmen (nicht aber eine Ersetzung der Anleiheschuldnerin gemäß § 10) ergreift. Vor Bekanntgabe einer Mitteilung über eine Rückzahlung gemäß diesen Bestimmungen hat die Anleiheschuldnerin der Hauptzahlstelle eine von einem Mitglied der Geschäftsführung der Anleiheschuldnerin unterzeichnete Bescheinigung zukommen zu lassen, der zufolge die Anleiheschuldnerin berechtigt ist, eine entsprechende Rückzahlung zu leisten, und in der nachvollziehbar dargelegt ist, dass die Bedingungen für das Recht der Anleiheschuldnerin zur Rückzahlung gemäß diesen Bestimmungen erfüllt sind.

**§ 5  
(Zahlungen)**

- (1) *Zahlungen auf Kapital und Zinsen.* Zahlungen von Kapital und Zinsen auf die Schuldverschreibungen erfolgen gemäß anwendbarer steuerlicher und sonstiger Gesetze und Vorschriften in Euro an das Clearing- System oder dessen Order zur Gutschrift auf den Konten der betreffenden Kontoinhaber bei

**§4  
(Redemption)**

- (1) *Final Redemption.* Unless previously redeemed in whole or in part or purchased and cancelled, the Notes shall be redeemed at their nominal amount on 16 July 2021 (the "**Maturity Date**").
- (2) *Early Redemption for Reason of Taxation.* The Notes may be redeemed at their nominal amount together with interest accrued to the date fixed for redemption at the option of the Issuer in whole, but not in part, at any time, on giving not less than 30 days' notice to the Noteholders (which notice shall be irrevocable) by settlement in cash in accordance with §5 if (i) on the occasion of the next payment due under the Notes, the Issuer has or will become obliged to pay Additional Amounts (as defined in §6) as a result of any change in, or amendment to, the laws or regulations of the Federal Republic of Germany ("**Germany**") or any political subdivision or any authority thereof or therein having power to tax, or any change in the application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after the date on which the Notes were issued, and (ii) such obligation cannot be avoided by the Issuer taking reasonable measures (but no Substitution of the Issuer as defined in §10) available to it. Before the publication of any notice of redemption pursuant to this paragraph, the Issuer shall deliver to the Principal Paying Agent a certificate signed by an executive director of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer so to redeem have occurred.

**§5  
(Payments)**

- (1) *Payment of Principal and Interest.* Payment of principal in respect of and interest on the Notes shall be made, subject to applicable fiscal and other laws and regulations, in Euro to the Clearing System or to its order for credit to the accounts of the relevant account holders of

dem Clearing- System.

- (2) *Geschäftstag*. Fällt der Fälligkeitstag einer Zahlung in Bezug auf eine Schuldverschreibung auf einen Tag, der kein Geschäftstag ist, hat der Anleihegläubiger keinen Anspruch auf Zahlung vor dem nächsten Geschäftstag und ist nicht berechtigt, zusätzliche Zinsen oder sonstige Zahlungen auf Grund dieser Verspätung zu verlangen.

„**Geschäftstag**“ ist jeder Tag (außer einem Samstag und einem Sonntag) an dem das Clearing-System betriebsbereit ist und alle für die Abwicklung von Zahlungen in Euro wesentlichen Teile des Trans-European Automated Real-time Gross settlement Express Transfer (TARGET2) Systems betriebsbereit sind.

- (3) *Erfüllung*. Die Emittentin wird durch Leistung der Zahlung an das Clearing-System oder dessen Order von ihrer Zahlungspflicht befreit.
- (4) *Bezugnahmen auf Zinsen*. Bezugnahmen in diesen Anleihebedingungen auf „Zinsen“ schließen alle gegebenenfalls nach § 6 zahlbaren Zusätzlichen Beträge mit ein.

## § 6 (Besteuerung)

Alle in Bezug auf die Schuldverschreibungen zahlbaren Kapital- oder Zinsbeträge werden ohne Einbehalt oder Abzug für oder wegen Steuern oder Abgaben gleich welcher Art gezahlt, die von oder in der Bundesrepublik Deutschland, oder für deren Rechnung oder von oder für Rechnung einer politischen Untergliederung oder Steuerbehörde dieses Staates auferlegt oder erhoben werden, es sei denn, ein solcher Abzug oder Einbehalt ist gesetzlich vorgeschrieben. In einem solchen Fall wird die Anleiheschuldnerin diejenigen zusätzlichen Beträge („**Zusätzliche Beträge**“) zahlen, die erforderlich sind, damit die den Anleihegläubigern zufließenden Beträge jeweils den Beträgen entsprechen, die die Anleihegläubiger ohne einen solchen Einbehalt oder Abzug erhalten hätten; jedoch sind solche zusätzlichen Beträge nicht zu zahlen:

- (a) in Bezug auf die deutsche Kapitalertragsteuer oder jede andere Steuer, welche die deutsche Kapitalertragsteuer ersetzen sollte;
- (b) an einen Anleihegläubiger oder an einen Dritten für einen Anleihegläubiger, falls dieser Anleihegläubiger auf Grund einer über die bloße Inhaberschaft der Schuldverschreibungen oder den Erhalt der unter diesen zu leistenden Zahlungen hinausgehenden gegenwärtigen

the Clearing System.

- (2) *Business Day*. If the date for payment of any amount in respect of any Note is not a Business Day then the Noteholder shall not be entitled to payment until the next such day and shall not be entitled to further interest or other payment in respect of such delay.

„**Business Day**“ means a day (other than Saturday and Sunday) on which the Clearing System is operative and all relevant parts of the Trans-European Automated Realtime Gross settlement Express Transfer (TARGET2) system are open to effect payments in Euro.

- (3) *Discharge*. The Issuer shall be discharged by payment to, or to the order of, the Clearing System.
- (4) *References to Interest*. References in these Terms and Conditions to "interest" shall be deemed to include, as applicable, any Additional Amounts which may be payable under §6.

## §6 (Taxation)

All payments of principal and interest in respect of the Notes shall be made free and clear of, and without withholding or deduction for, any taxes or duties of whatever nature imposed or levied by way of withholding or deduction at source by or on behalf of the Federal Republic of Germany, or by or on behalf of any political subdivision or authority therein having power to tax, unless such withholding or deduction is required by law. In such event, the Issuer shall pay such additional amounts (the "**Additional Amounts**") as shall result in receipt by the Noteholders of such amounts as would have been received by them had no such withholding or deduction been required, except that no Additional Amounts shall be payable with respect to any Note

- (a) as far as German *Kapitalertragsteuer* or any other tax which may substitute the German *Kapitalertragsteuer* is concerned;
- (b) to, or to a third party on behalf of, a Noteholder where such Noteholder is liable to such withholding or deduction by reason of having, or having had, some connection with Germany other than by reason only of the holding of such Note or the receipt of the relevant payment in respect thereof;

tigen oder ehemaligen Verbindung zur Bundesrepublik Deutschland einem solchen Einbehalt oder Abzug unterliegt;

- (c) an einen Anleihegläubiger oder an einen Dritten für einen Anleihegläubiger, falls kein Einbehalt oder Abzug erfolgen müsste, wenn die Schuldverschreibungen zum Zeitpunkt der fraglichen Zahlung einem Depot bei einer nicht in der Bundesrepublik Deutschland ansässigen Bank gutgeschrieben gewesen wären;
  - (d) falls der Einbehalt oder Abzug auf Zahlungen auf Grund der Richtlinie des Rates der Europäischen Union 2003/48/EC (oder jedwede Veränderung dieser Richtlinie) oder einer anderen Richtlinie oder Verordnung, welche die Beschlüsse des ECOFIN Ratstreffens vom 26. bis 27. November 2000 bezüglich der Besteuerung von Kapitalerträgen umsetzt oder eines sonstigen internationalen Abkommens oder einer sonstigen internationalen Verständigung in Bezug auf eine solche Besteuerung, an dem/der Deutschland und/oder die Europäische Union als Partei teilnimmt, oder auf Grund eines eine solche Richtlinie, Verordnung oder Verständigung oder ein solches Abkommen umsetzenden oder sie befolgenden oder zu ihrer Befolgung erlassenen Gesetzes erfolgt;
  - (e) soweit der Einbehalt oder Abzug im Hinblick auf einen Anleihegläubiger oder im Hinblick auf einen Dritten für einen Anleihegläubiger vorzunehmen ist, der einen solchen Einbehalt oder Abzug dadurch rechtmäßigerweise hätte vermeiden können (aber nicht vermieden hat), dass er gesetzliche Vorschriften beachtet, oder dafür sorgt, dass Dritte dieses tun, oder dass er eine Nichtansässigkeitserklärung oder einen ähnlichen Antrag auf Befreiung gegenüber den am Zahlungsort zuständigen Steuerbehörden abgibt oder dafür sorgt, dass Dritte dieses tun; oder
  - (f) soweit der Einbehalt oder Abzug zu einem Zeitpunkt vorzunehmen ist, der mehr als 30 Tage nach dem Tag der erstmaligen Fälligkeit der Zahlung oder (im Fall des Zahlungsverzugs) dem Tag der vollständigen Zahlung des fälligen Betrages liegt.
- (c) to, or to a third party on behalf of, a Noteholder where no such withholding or deduction would have been required to be withheld or deducted if the Notes were credited at the time of payment to a securities deposit account with a bank outside Germany;
  - (d) where such withholding or deduction is imposed pursuant to European Council Directive 2003/48/EC (or any amendment thereof) or any other directive or regulation implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 on taxation of savings income or any international treaty or understanding relating to such taxation and to which Germany and/or the European Union is a party or any law implementing or complying with, or introduced in order to conform to such directive, regulation, treaty or understanding;
  - (e) to the extent such withholding or deduction is required by or on behalf of a Noteholder who could lawfully avoid (but has not so avoided) such withholding or deduction by complying or procuring that any third party complies with any statutory requirements or by making or procuring that a third party makes a declaration of non-residence or other similar claim for exemption to any tax authority in the place where the payment is effected;
  - (f) to the extent such withholding or deduction is required more than 30 days after the date on which payment in respect of it first becomes due or (if any amount of the money payable is improperly withheld or refused) the date on which payment in full of the amount outstanding is made.

**§ 7  
(Verjährung)**

Die in § 801 Absatz 1 Satz 1 BGB bestimmte Vorleistungsfrist wird für die Schuldverschreibungen auf zehn Jahre abgekürzt.

**§7  
(Prescription)**

The presentation period provided in § 801 paragraph 1, sentence 1 of the German Civil Code (*Bürgerliches Gesetzbuch*) is reduced to ten years for the Notes.

**§ 8  
(Kündigungsgründe)**

(1) *Kündigungsgründe.* Jeder Anleihegläubiger ist berechtigt, seine Schuldverschreibungen zu kündigen und deren sofortige Rückzahlung zu ihrem Nennbetrag, zuzüglich etwaiger bis zum Tage der Rückzahlung aufgelaufener Zinsen zu verlangen, falls

- (a) Kapital oder Zinsen nicht innerhalb von 30 Tagen nach dem betreffenden Fälligkeitstermin gezahlt sind;
- (b) die Anleiheschuldnerin die ordnungsgemäße Erfüllung irgendeiner anderen Verpflichtung aus den Schuldverschreibungen unterlässt und diese Unterlassung nicht geheilt werden kann oder, falls sie geheilt werden kann, länger als 30 Tage fort dauert, nachdem die Hauptzahlstelle hierüber eine Benachrichtigung von einem Anleihegläubiger erhalten hat;
- (c) eine Finanzverbindlichkeit der Anleiheschuldnerin oder einer ihrer wesentlichen Tochtergesellschaften wegen der Verletzung einer ihrer Bestimmungen vorzeitig fällig wird, oder die Anleiheschuldnerin oder eine ihrer wesentlichen Tochtergesellschaften eine Zahlungsverpflichtung aus einer Finanzverbindlichkeit oder auf Grund einer Garantie oder sonstigen Gewährleistung für eine Finanzverbindlichkeit Dritter nicht innerhalb von 30 Tagen nach Fälligkeit, bzw. im Falle einer Garantie oder sonstigen Gewährleistung, nicht innerhalb von 30 Tagen nach Inanspruchnahme aus dieser Garantie oder sonstigen Gewährleistung, erfüllt; es sei denn, der Gesamtnennbetrag aller dieser Finanzverbindlichkeiten und/oder Garantien oder sonstiger Gewährleistungen für Finanzverbindlichkeiten beträgt weniger als Euro 30.000.000 oder den Gegenwert davon in anderen Währungen;
- (d) die Anleiheschuldnerin ihre Zahlungsunfähigkeit bekannt gibt oder ihre Zahlungen einstellt;
- (e) ein Gericht ein Insolvenzverfahren gegen die Anleiheschuldnerin eröffnet, oder die Anleiheschuldnerin die Eröffnung eines solchen Ver-

**§8  
(Events of Default)**

(1) *Events of Default.* Each Noteholder shall be entitled to declare his Notes due and demand immediate redemption thereof at their principal amount, together with accrued interest (if any) to the date of repayment, in the event that

- (a) principal or interest is not paid within 30 days from the relevant due date;
- (b) the Issuer fails duly to perform any other obligation arising from the Notes which failure is not capable of remedy or, if such failure is capable of remedy, such failure continues for more than 30 days after the Principal Paying Agent has received notice thereof from a Noteholder;
- (c) any Financial Indebtedness of the Issuer or any Principal Subsidiary becomes prematurely due as a result of a breach of the terms thereof, or the Issuer or any Principal Subsidiary fails to fulfil any payment obligation under any Financial Indebtedness or under any guarantee or other indemnity given for any Financial Indebtedness of others within 30 days from its due date or, in the case of a guarantee or other indemnity, within 30 days after the guarantee or other indemnity has been invoked, unless the aggregate amount of all such Financial Indebtedness and/ or guarantees or other indemnities for Financial Indebtedness is less than EUR 30,000,000 or the equivalent thereof in any other currency;
- (d) the Issuer announces its inability to meet its financial obligations or ceases its payments;
- (e) a court opens insolvency proceedings against the Issuer or the Issuer applies for or institutes such proceedings or offers or makes an arrangement

fahrens beantragt oder eine allgemeine Schuldenregelung zugunsten ihrer Gläubiger an bietet oder trifft, oder ein Dritter weder willkürlich noch rechtsmissbräuchlich die Eröffnung eines Insolvenzverfahrens gegen die Anleihe-schuldnerin beantragt und derartige Verfahren nicht innerhalb einer Frist von 60 Tagen aufgehoben oder ausgesetzt werden; oder

- (f) die Anleiheschuldnerin in Liquidation tritt, es sei denn, dies geschieht durch eine Restrukturierungsmaßnahme.

„**Finanzverbindlichkeit**“ bezeichnet jede Verbindlichkeit aus aufgenommenen Geldern unabhängig davon, ob sie in Schuldverschreibungen oder anderen Wertpapieren verbrieft ist oder nicht.

- (2) *Heilung; Vorlegung.* Das Kündigungsrecht erlischt, falls der Kündigungsgrund vor Ausübung des Rechts geheilt wurde.

- (3) *Quorum.* In den Fällen des § 8(1)(b) oder (1)(c) wird eine Kündigung, sofern nicht bei deren Eingang zugleich einer der in § 8(1)(a), (1)(d), (1)(1)(e) oder (1)(f) bezeichneten Kündigungsgründe vorliegt, erst wirksam, wenn bei der Hauptzahlstelle Kündigungserklärungen von Anleihegläubigern von Schuldverschreibungen im Nennbetrag von mindestens 1/10 des Nennbetrages der dann ausstehenden Schuldverschreibungen eingegangen sind.

- (4) *Mitteilung.* Eine Benachrichtigung, einschließlich einer Kündigung der Schuldverschreibungen gemäß obigem Absatz (1), ist schriftlich in deutscher oder englischer Sprache zu erklären und der Hauptzahlstelle zusammen mit einem Nachweis in geeigneter Weise, aus dem sich ergibt, dass der jeweilige Anleihegläubiger zum Zeitpunkt der Benachrichtigung Inhaber der jeweiligen Schuldverschreibungen ist, persönlich oder per Einschreiben zu übermitteln.

## § 9 (Beauftragte Stellen)

- (1) *Bestellung.* Die Hauptzahlstelle (die „**Hauptzahlstelle**“) und ihre Geschäftsstelle (die durch Geschäftsstellen innerhalb derselben Stadt ersetzt werden können) lauten:

Hauptzahlstelle: Commerzbank Aktiengesellschaft

- (2) *Änderung der Bestellung oder Abberufung.* Die Anleiheschuldnerin behält sich das Recht vor, je-

for the benefit of its creditors generally, or a third party neither arbitrarily nor abusive applies for insolvency proceedings against the Issuer and such proceedings are not discharged or stayed within 60 days; or

- (f) the Issuer goes into liquidation or dissolution unless through a Restructuring Measure.

“**Financial Indebtedness**“ means any indebtedness for borrowed money whether or not represented or evidenced by bonds, notes, other securities or certificates.

- (2) *Cured Situations; Prescription.* The right to declare Notes due shall terminate if the situation giving rise to it has been cured before the right is exercised.

- (3) *Quorum.* In the events specified in §8(1)(b) or (1)(c), any notice declaring Notes due shall, unless at the time such notice is received any of the events specified in §8(1)(a), (1)(d), (1)(1)(e) or (1)(f) entitling Noteholders to declare their Notes due has occurred, become effective only when the Principal Paying Agent has received such notices from the Noteholders of at least one-tenth in principal amount of Notes then outstanding.

- (4) *Notice.* Any notice, including any notice declaring Notes due, in accordance with sub-paragraph (1) above shall be made by means of a written declaration in the German or English language delivered by hand or registered mail to the Principal Paying Agent together with appropriate proof that such Noteholder at the time of such notice is a holder of the relevant Notes.

## §9 (Agents)

- (1) *Appointment.* The principal paying agent (the “**Principal Paying Agent**“) and its office (which can be substituted with other offices in the same city) is:

Principal Paying Agent: Commerzbank Aktiengesellschaft

- (2) *Variation or Termination of Appointment.* The Issuer reserves the right at any time to vary or terminate the

derzeit die Bestellung einer beauftragten Zahlstelle zu ändern oder zu beenden und eine andere Hauptzahlstelle oder zusätzliche oder andere Zahlstellen zu bestellen. Die Anleiheschuldnerin wird (i) zu jedem Zeitpunkt eine Hauptzahlstelle unterhalten und (ii) solange die Schuldverschreibungen an einem regulierten Markt einer Börse notiert sind, eine Zahlstelle mit bezeichneter Geschäftsstelle an einem von den Regeln dieser Börse vorgeschriebenen Ort unterhalten. Jede Änderung, Abberufung, Bestellung oder sonstige Anpassung wird nur wirksam (außer im Insolvenzfall, in dem die Wirksamkeit sofort eintritt), nachdem eine Mitteilung an die Anleihegläubiger gemäß § 12 mit einer Frist von mindestens 30 und nicht mehr als 45 Tagen erfolgt ist.

appointment of any paying agent and to appoint another Principal Paying Agent or additional or other paying agents provided that the Issuer shall (i) at all times maintain a Principal Paying Agent and (ii) so long as the Notes are listed on a regulated market of a stock exchange, maintain a paying agent with a specified office in such place as may be required by the rules of such stock exchange. Any variation, termination, appointment or change shall only take effect (other than in the case of insolvency, when it shall be of immediate effect) after not less than 30 nor more than 45 days' prior notice thereof shall have been given to the Noteholders in accordance with §12.

- (3) *Beauftragte der Anleiheschuldnerin.* Jede Zahlstelle handelt ausschließlich als Beauftragte der Anleiheschuldnerin und übernimmt keine Verpflichtungen gegenüber und begründet kein Auftrags- oder Treuhandverhältnis mit den Anleihegläubigern.

- (3) *Agent of the Issuer.* Any paying agent acts solely as the agent of the Issuer and does not assume any obligations towards or relationship of agency or trust for any Noteholder.

**§ 10**  
**(Ersetzung der Anleiheschuldnerin)**

**§10**  
**(Substitution of the Issuer)**

- (1) *Ersetzung.* Die Anleiheschuldnerin ist berechtigt, sofern sie sich nicht mit einer Zahlung von Kapital oder Zinsen auf die Schuldverschreibungen in Verzug befindet, ohne Zustimmung der Anleihegläubiger jederzeit ein mit ihr verbundenes Unternehmen (wie unten definiert) an ihrer Stelle als Hauptschuldnerin (die „**Nachfolgeschuldnerin**“) für alle Verpflichtungen aus und im Zusammenhang mit den Schuldverschreibungen einzusetzen (wobei alle Fälle der vollständigen oder teilweisen Gesamtrechtsnachfolge keine Ersetzung im Sinne dieses § 10 darstellen und vorbehaltlich anwendbaren Rechts und der anderen Vorschriften dieser Anleihebedingungen zulässig sind), vorausgesetzt, dass:

- (1) *Substitution.* The Issuer may, without the consent of the Noteholders, if no payment of principal of or interest on any of the Notes is in default, at any time substitute for the Issuer (other than by way of total or partial universal succession (*Gesamtrechtsnachfolge*) which shall not constitute a substitution within the meaning of this §10 and shall be permitted subject to applicable law and the other provisions of these Terms and Conditions) any Affiliate (as defined below) of the Issuer as principal debtor in respect of all obligations arising from or in connection with the Notes (the "**Substitute Debtor**") provided that:

- (a) die Nachfolgeschuldnerin alle Verpflichtungen der Anleiheschuldnerin in Bezug auf die Schuldverschreibungen übernimmt;
- (b) die Anleiheschuldnerin und die Nachfolgeschuldnerin alle erforderlichen Genehmigungen erhalten haben und die zur Erfüllung der Zahlungsverpflichtungen aus den Schuldverschreibungen erforderlichen Beträge in der hierin festgelegten Währung ohne Abzug oder Einbehalt wegen in dem Land, in dem die Nachfolgeschuldnerin oder die Anleiheschuldnerin ihren Sitz oder Steuersitz haben, erhobener Steuern oder anderer Abgaben jeder Art an die Hauptzahlstelle zahlen können;

- (a) the Substitute Debtor assumes all obligations of the Issuer in respect of the Notes;
- (b) the Issuer and the Substitute Debtor have obtained all necessary authorisations and may transfer to the Principal Paying Agent in the currency required hereunder and without being obligated to deduct or withhold any taxes or other duties of whatever nature levied by the country in which the Substitute Debtor or the Issuer has its domicile or tax residence, all amounts required for the fulfilment of the payment obligations arising under the Notes;

- |   |   |
|---|---|
| <p>(c) die Nachfolgeschuldnerin sich verpflichtet hat, jeden Anleihegläubiger hinsichtlich solcher Steuern oder Abgaben freizustellen, die einem Anleihegläubiger als Folge der Ersetzung auferlegt werden;</p>   | <p>(c) the Substitute Debtor has agreed to indemnify and hold harmless each Noteholder against any tax or duty imposed on such Noteholder in respect of such substitution;</p>  |
| <p>(d) die Anleiheschuldnerin unwiderruflich und unbedingt gegenüber den Anleihegläubigern die Zahlung aller von der Nachfolgeschuldnerin auf die Schuldverschreibungen zahlbaren Beträge garantiert;</p>   | <p>(d) the Issuer irrevocably and unconditionally guarantees in favour of each Noteholder the payment of all sums payable by the Substitute Debtor in respect of the Notes;</p>   |
| <p>(e) die Kreditqualität der Schuldverschreibungen durch die Ersetzung nicht wesentlich nachteilig beeinträchtigt wird;</p>  | <p>(e) the credit quality of the Notes will not be materially adversely affected due to such substitution;</p>  |
| <p>(f) die Nachfolgeschuldnerin, falls sie ihren Sitz in einem anderen Land als Deutschland hat, einen Zustellungsbevollmächtigten mit Sitz in Deutschland für Rechtstreitigkeiten und andere Verfahren (wie unten definiert) vor deutschen Gerichten bestellt hat; und</p> | <p>(f) the Substitute Debtor, if a foreign company, has appointed an authorised agent domiciled in Germany for accepting services of process for any legal disputes or other Proceedings (as defined below) before German courts; and</p> |
| <p>(g) der Hauptzahlstelle jeweils ein von anerkannten Rechtsanwälten erstelltes Rechtsgutachten bezüglich jeder betroffenen Rechtsordnung vorgelegt wird, das bestätigt, dass die Bestimmungen in den vorstehenden Unterabsätzen (a), (b), (c) und (d) erfüllt wurden;</p> | <p>(g) there shall have been delivered to the Principal Paying Agent one opinion for each jurisdiction affected of lawyers of recognised standing to the effect that sub-paragraphs (a), (b), (c) and (d) above have been satisfied.</p>  |

In diesem § 10 bedeutet „**verbundenes Unternehmen**“ ein Unternehmen, das seinen Sitz in einem Mitgliedstaat der Europäischen Union oder der Europäischen Freihandelsassoziation (EFTA) hat und dessen stimmberechtigte Anteile direkt oder indirekt zu mehr als 90% von der Anleiheschuldnerin gehalten werden.

For purposes of this §10, "**Affiliate**" shall mean any enterprise which has its seat within a member state of the European Union or the European Free Trade Association (EFTA) and of which more than 90 per cent. of the voting stock is held directly or indirectly by the Issuer.

- |   |   |
|---|---|
| <p>(2) <i>Bekanntmachung.</i> Jede Ersetzung ist gemäß § 12 bekannt zu machen.</p>  | <p>(2) <i>Notice.</i> Notice of any such substitution shall be published in accordance with §12.</p>  |
| <p>(3) <i>Änderung von Bezugnahmen.</i> Im Fall einer Ersetzung gilt jede Bezugnahme in diesen Anleihebedingungen auf die Anleiheschuldnerin ab dem Zeitpunkt der Ersetzung als Bezugnahme auf die Nachfolgeschuldnerin, und jede Bezugnahme auf das Land, in dem die Anleiheschuldnerin ihren Sitz oder Steuersitz hat, gilt ab diesem Zeitpunkt als Bezugnahme auf das Land, in dem die Nachfolgeschuldnerin ihren Sitz oder Steuersitz hat. Des Weiteren gilt im Fall einer Ersetzung folgendes:</p> | <p>(3) <i>Change of References.</i> In the event of any such substitution, any reference in these Terms and Conditions to the Issuer shall from then on be deemed to refer to the Substitute Debtor and any reference to the country in which the Issuer is domiciled or resident for taxation purposes shall from then on be deemed to refer to the country of domicile or residence for taxation purposes of the Substitute Debtor. Furthermore, in the event of such substitution the following shall apply:</p> |
| <p>(a) in § 6 und § 4(2) gilt eine alternative Bezugnahme auf die Bundesrepublik Deutschland als aufgenommen (zusätzlich zu der Bezugnahme nach Maßgabe des vorstehenden Satzes auf</p>   | <p>(a) in §6 and §4(2) an alternative reference to Germany shall be deemed to have been included (in addition to the reference according to the preceding sentence to the country of domicile or resi-</p>  |

das Land, in dem die Nachfolgeschuldnerin ihren Sitz oder Steuersitz hat); und

- (b) in § 8(1)(b) bis (f) und in § 2(2) gilt eine alternative Bezugnahme auf die Anleiheschuldnerin in ihrer Eigenschaft als Garantin als aufgenommen (zusätzlich zu der Bezugnahme auf die Nachfolgeschuldnerin).

## § 11

### (Begebung weiterer Schuldverschreibungen. Ankauf und Entwertung)

- (1) *Begebung weiterer Schuldverschreibungen.* Die Anleiheschuldnerin ist berechtigt, ohne Zustimmung der Anleihegläubiger weitere Schuldverschreibungen mit gleicher Ausstattung (abgesehen vom Begebungstag, dem Verzinsungsbeginn und/oder dem Emissionspreis) so zu begeben, dass diese mit den Schuldverschreibungen eine einheitliche Serie bilden, wobei in diesem Fall der Begriff „Schuldverschreibungen“ entsprechend auszulegen ist.
- (2) *Ankauf.* Die Anleiheschuldnerin ist berechtigt, Schuldverschreibungen im Markt oder anderweitig zu jedem beliebigen Preis zu kaufen. Die von der Anleiheschuldnerin erworbenen Schuldverschreibungen können nach Wahl der Anleiheschuldnerin von ihr gehalten, weiterverkauft oder entwertet werden.
- (3) *Entwertung.* Sämtliche vollständig zurückgezahlten Schuldverschreibungen sind unverzüglich zu entwerten und können nicht wiederbegeben oder wiederverkauft werden.

## § 12

### (Mitteilungen)

- (1) *Bekanntmachung.* Alle die Schuldverschreibungen betreffenden Mitteilungen erfolgen durch elektronische Publikation auf der Website der Luxemburger Börse ([www.bourse.lu](http://www.bourse.lu)) und im elektronischen Bundesanzeiger in Übereinstimmung mit allen einschlägigen Gesetzen. Jede Mitteilung gilt am dritten Tag nach dem Tag der Veröffentlichung als wirksam erfolgt.
- (2) *Mitteilungen an das Clearing System.* Solange Schuldverschreibungen an der offiziellen Liste der Luxemburger Börse notiert und zum Handel am regulierten Markt der Luxemburger Börse zugelassen sind, findet Absatz (1) Anwendung. Soweit dies Mitteilungen über den Zinssatz betrifft und vorbehaltlich aller einschlägigen Gesetze, kann die Emittentin eine Veröffentlichung nach Absatz (1)

dence for taxation purposes of the Substitute Debtor); and

- (b) in §8(1)(b) to (f) and in §2(2) an alternative reference to the Issuer in its capacity as guarantor shall be deemed to have been included (in addition to the reference to the Substitute Debtor).

## §11

### (Further Issues. Purchases. Cancellation)

- (1) *Further Issues.* The Issuer may from time to time without the consent of the Noteholders issue further notes having the same conditions as the Notes (except for the settlement date, interest commencement date and/or issue price) so that the same shall be consolidated and form a single series with such Notes, and references to "Notes" shall be construed accordingly.
- (2) *Purchases.* The Issuer may at any time purchase Notes at any price in the open market or otherwise. Such Notes may be held, resold or cancelled, all at the option of the Issuer.
- (3) *Cancellation.* All Notes redeemed in full shall be cancelled forthwith and may not be reissued or resold.

## §12

### (Notices)

- (1) *Publication.* All notices concerning the Notes will be made by means of electronic publication on the internet website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)) and in the electronic federal gazette (*elektronischer Bundesanzeiger*) in accordance with all applicable laws. Any notice so given will be deemed to have been validly given on the third day following the date of such publication.
- (2) *Notification to Clearing System.* So long as any Notes are listed on the official list of the Luxembourg Stock Exchange and admitted them to trading on the regulated market of the Luxembourg Stock Exchange, subparagraph (1) shall apply. In the case of notices regarding the Rate of Interest and subject to all applicable laws, the Issuer may deliver the relevant notice to the Clearing System for communication by the Clear-

durch eine Mitteilung an das Clearing-System zur Weiterleitung und die Anleihegläubiger ersetzen; jede derartige Mitteilung gilt am fünften Tag nach dem Tag der Mitteilung an das Clearing-System als den Anleihegläubigern mitgeteilt.

### § 13

#### (Anwendbares Recht. Gerichtsstand und gerichtliche Geltendmachung)

- (1) *Anwendbares Recht.* Die Schuldverschreibungen unterliegen deutschem Recht.
- (2) *Gerichtsstand.* Nicht- ausschließlicher Gerichtsstand für sämtliche aus oder im Zusammenhang mit den Schuldverschreibungen entstehenden Klagen oder sonstigen Verfahren („**Rechtsstreitigkeiten**“) ist Frankfurt am Main. Die Anleihegläubiger können ihre Ansprüche jedoch auch vor anderen zuständigen Gerichten geltend machen.
- (3) *Gerichtliche Geltendmachung.* Jeder Anleihegläubiger ist berechtigt, in jeder Rechtsstreitigkeit gegen die Anleiheschuldnerin oder in jeder Rechtsstreitigkeit, in der der Anleihegläubiger und die Anleiheschuldnerin Partei sind, seine Rechte aus diesen Schuldverschreibungen im eigenen Namen auf der folgenden Grundlage geltend zu machen und durchzusetzen: (i) einer Bescheinigung der Depotbank, bei welcher der Anleihegläubiger für die Schuldverschreibungen ein Wertpapierdepot unterhält, die (a) den vollständigen Namen und die vollständige Adresse des Anleihegläubigers enthält, (b) den Gesamtnennbetrag der Schuldverschreibungen, die unter dem Datum der Bescheinigung auf dem Wertpapierdepot verbucht sind, bezeichnet und (c) bestätigt, dass die Depotbank dem Clearing- System die unter (a) und (b) bezeichneten Informationen schriftlich mitgeteilt hat; und (ii) eine Kopie der Globalurkunde, deren Übereinstimmung mit dem Original eine vertretungsberechtigte Person des Clearing- Systems oder eines Verwahrers für das Clearing- System bestätigt hat; wobei die Vorlage der Originalbelege oder der Globalurkunde in einer solchen Rechtsstreitigkeit nicht erforderlich ist.

„**Depotbank**“ bezeichnet jede Bank oder jedes sonstige Finanzinstitut, einschließlich des Clearing- Systems, von anerkanntem Rang und mit Erlaubnis zum Betrieb des Wertpapierverwahrungsgeschäfts, bei dem ein Anleihegläubiger ein Wertpapier-Depot für die Schuldverschreibungen unterhält.

Jeder Anleihegläubiger ist, ohne das Vorangehende einzuschränken, zur Geltendmachung und Durchsetzung seiner Rechte unter den Schuldverschrei-

ing System to the Noteholders, in lieu of publication set forth in subparagraph (1) above; any such notice shall be deemed to have been given to the Noteholders on the fifth day after the day on which the said notice was given to the Clearing System.

### §13

#### (Governing Law. Jurisdiction. Enforcement)

- (1) *Governing Law.* The Notes shall be governed by German law.
- (2) *Jurisdiction.* The non-exclusive place of jurisdiction for all proceedings arising out of or in connection with the Notes ("**Proceedings**") shall be Frankfurt am Main. The Noteholders, however, may also pursue their claims before any other court of competent jurisdiction.
- (3) *Enforcement.* Any Noteholder may in any Proceedings against the Issuer, or to which such Noteholder and the Issuer are parties, protect and enforce in his own name his rights arising under such Notes on the basis of (i) a statement issued by the Custodian with whom such Noteholder maintains a securities account in respect of the Notes (a) stating the full name and address of the Noteholder, (b) specifying the aggregate principal amount of Notes credited to such securities account on the date of such statement and (c) confirming that the Custodian has given written notice to the Clearing System containing the information pursuant to (a) and (b) and (ii) a copy of the Global Note certified as being a true copy by a duly authorised officer of the Clearing System or a depository of the Clearing System, without the need for production in such Proceedings of the actual records or the Global Note.

"**Custodian**" means any bank or other financial institution of recognised standing authorised to engage in securities custody business with which the Noteholder maintains a securities account in respect of the Notes and includes the Clearing System.

Each Noteholder may, without prejudice to the foregoing, protect and enforce his rights under the Notes also in any other manner permitted in the country of

bungen auch in jeder anderen im Land der Rechts-  
streitigkeit zulässigen Art und Weise berechtigt.

the Proceedings.

**§ 14**  
**(Sprache)**

**§14**  
**(Language)**

Diese Anleihebedingungen sind in deutscher Sprache  
abgefasst und in die englische Sprache übersetzt wor-  
den. Der deutsche Text ist bindend und maßgeblich.  
Die Übersetzung in die englische Sprache ist unver-  
bindlich.

These Terms and Conditions are written in the German  
language and provided with an English language transla-  
tion. The German text shall be controlling and binding.  
The English language translation is provided for conveni-  
ence only.

## EWE AG

### 1. STATUTORY AUDITORS

PricewaterhouseCoopers Aktiengesellschaft, Wirtschaftsprüfungsgesellschaft, Bloherfelder Straße 130, 26129 Oldenburg (hereinafter referred to as “PwC”), was appointed as the statutory auditor of EWE AG for fiscal years ended 31 December 2008 and 31 December 2007. PwC has audited the consolidated financial statements of EWE AG as of and for the fiscal years ended 31 December 2008 and 31 December 2007 and has issued unqualified auditor’s reports (*uneingeschränkte Bestätigungsvermerke*) in each case. PwC is a member of the Chamber of Public Accountants (*Wirtschaftsprüfungskammer*), Rauchstrasse 26, 10787 Berlin, Germany.

### 2. SELECTED FINANCIAL INFORMATION

The following table sets out selected financial information relating to EWE AG. The information has been extracted from the audited consolidated financial statements of EWE AG for the years ended 31 December 2008 and 31 December 2007. These consolidated financial statements of EWE AG have been prepared in accordance with the International Financial Reporting Standards as adopted by the EU (“IFRS”).

In EUR million	2007	2008
Sales (without electricity and natural gas tax)	4,656.2	5,327.3
Operating result (EBIT)	442.9	422.9
Income after income taxes	299.2	207.5
Net cash provided by operating activities	381.4	382.0
Cash outflow for purchases of intangible assets, property, plant and equipment	421.8	446.6
Total assets	6,077.4	7,227.8
Equity	1,782.1	1,932.2

### 3. GENERAL INFORMATION ABOUT EWE AG

#### A. INCORPORATION, REGISTRATION, REGISTERED OFFICE

EWE AG was created by the merger of two electricity utilities in November 1930, WESAG, established in 1929 by the City of Leer and Preussische Elektrizitäts Aktiengesellschaft, and OLDAG, established in May 1930 by the City of Oldenburg and Preussische Elektrizitäts Aktiengesellschaft, to form Stromversorgungs-AG Oldenburg Ostfriesland (STROSAG). A number of acquisitions of mostly local government-owned electricity utilities and regional supply associations and the subsequent merger with Landeselektrizitätsverband Oldenburg (LEV) in 1943 led to the creation of Energieversorgung Weser-Ems Aktiengesellschaft, whose name was changed in 1992 to EWE Aktiengesellschaft. EWE AG’s registered offices are at Tirpitzstrasse 39 in 26122 Oldenburg, Germany (Tel.: +49 441 803-0). The Company is registered in the Commercial Register of the Local Court (*Amtsgericht*) of Oldenburg under the number HRB 33.

## B. OBJECTS

Pursuant to section 2 para 1 of its Articles of Association (*Satzung*) EWE AG's objects are:

- Establishment, acquisition and operation of facilities in the areas energy, water, disposal and recycling, telecommunications and traffic;
- Production, including examination of resources, acquisition, distribution and trading, including forward transactions, of energy, production, acquisition and distribution of water and provision of telecommunication services;
- Establishment, acquisition, operation and distribution of systems in the telecommunications and information technology and provision of services in the areas of telecommunications- and information technology;
- Advising on and promotion of measures reducing the consumption of energy and water, including establishment and operation of respective facilities;
- Research and development in the areas energy, information technology and telecommunications.

EWE mainly operates in the Ems / Weser / Elbe region of Germany as well as in Lower Saxony and Bremen and its gas operations extend to Eastern Germany, Poland and Turkey. Electricity and gas are predominantly purchased from third parties.

## C. CAPITAL STOCK

The capital stock of EWE AG amounts to EUR 200,000,000 and is composed of 200,000 registered shares of EUR 1,000 each and is fully paid up. All shares carry the same rights and obligations. One vote is granted per share, and profit is distributed per share. The rights and obligations arising from the shares are governed by the German Stock Corporation Act (*Aktiengesetz*).

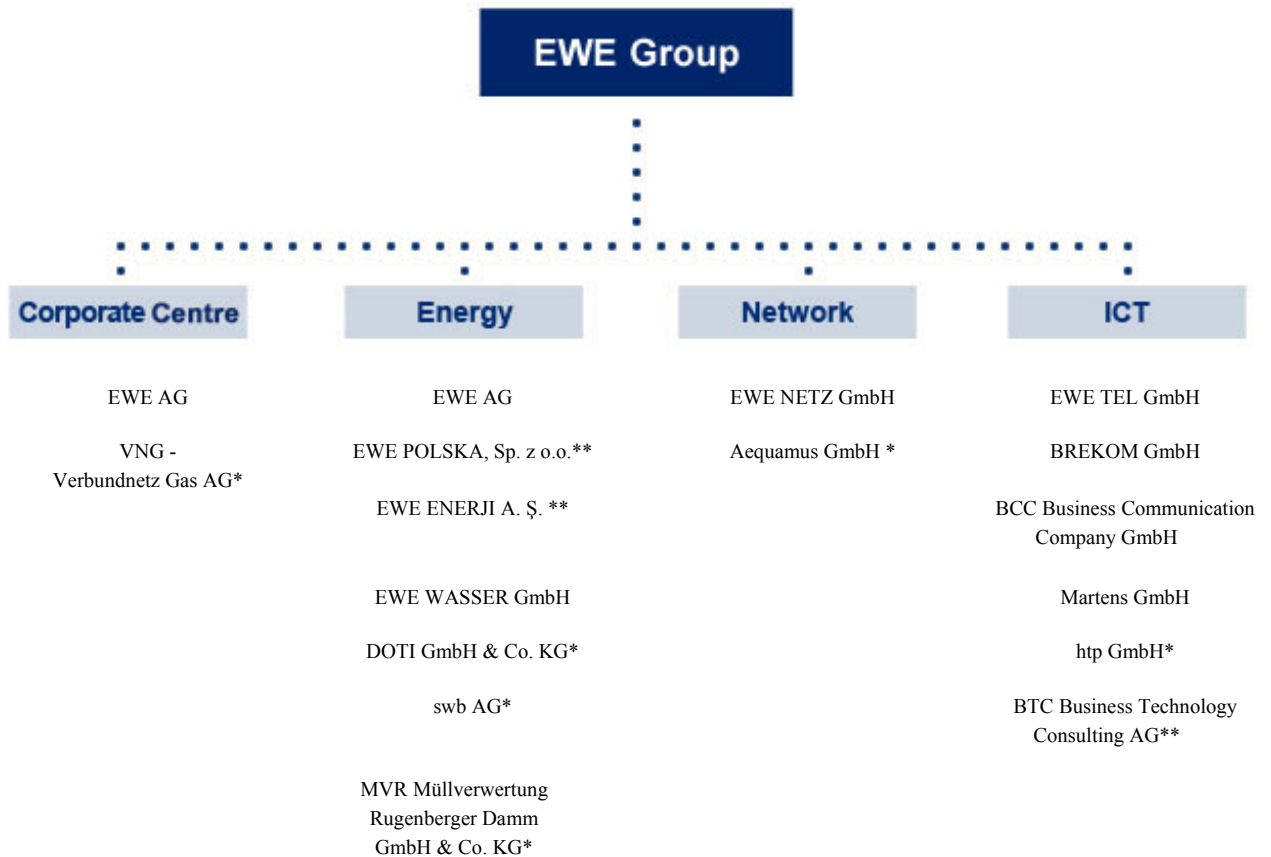
## D. INVESTMENTS & INVESTMENT POLICY

On 17 April 2009, EWE AG announced its intention to buy a further stake in addition to the 49 per cent. stake currently held in the utility swb AG (*Stadtwerke Bremen*), in order to fully consolidate this shareholding. EWE AG plans to acquire a stake of 51 per cent minus one share, which the Free Hanseatic City of Bremen ("**Bremen**") will acquire from Essent N.V. and which Bremen intends to sell on. The Senate of Bremen has agreed on 23 June 2009 to the sale and the federal cartel office (*Bundeskartellamt*) has authorized the transaction on 30 June 2009. The closing of this transaction is expected in August 2009 following the closing of the transaction between Essent N.V. and Bremen. The funding for the additional stake of up to 51 per cent. will occur either by a bridge loan facility already in place or a cash inflow by way of capital increase in connection with the announced EnBW Energie Baden-Württemberg AG ("**EnBW**") participation in EWE AG.

EWE AG currently invests more than EUR 130m in storage capacities for natural gas in Lower Saxony and Brandenburg.

## 4. BUSINESS OVERVIEW

### A. OVERVIEW



\* Associated Company \*\* Subgroup (as of 1 April 2009)

As a multi-service provider, the EWE Group is active in three business areas: energy, network, and information and telecommunications technology. EWE has developed an integrated service for its customers. The Group is a major employer in its region with more than 5,000 employees.

EWE is one of the largest energy companies in Germany. Approximately one million electricity customers and approximately 1.2 million natural gas customers are supplied by EWE. The EWE Group is involved along the entire value creation chain in the area of natural gas and electricity supply. EWE has expertise in transporting and storing natural gas as well as operating its own networks. EWE also decided early on to focus on producing electricity and heat from renewable energies. The Group is one of the leading energy service providers in the northern German core region between the Ems and Elbe rivers. EWE is also increasingly marketing its services in other regions as well as internationally, for example in Poland and Turkey where EWE holds stakes in enterprises that have more than 600,000 customers.

EWE's network infrastructure is the basis for an efficient energy supply and contributes actively to a sustainable energy supply. Environmentally friendly energy – for example wind or solar energy - is produced locally, placing huge demands on network management. EWE developed its expertise in efficient energy network management into a

new core competency in the early 90's and established its information technology and telecommunications segment against the background of the liberalised telecommunications market.

The telecommunications segment comprises several regional telecommunications service providers, increasing presence in their respective regions. The Group's products range from traditional landline connections to internet services and mobile telephone services. EWE's landline segment is one of the leading providers in the northern German Ems/Weser/Elbe region. The IT segment is another strong supporting pillar in this business area. This segment comprises IT consulting services as well as agency services such as setting up online shops or websites. EWE AG's subsidiary BTC Business Technology AG ("**BTC**") has grown into one of the largest IT consultancy houses in Germany and is involved in several industries in addition to the energy sector. The ICT business area is one of the Group's growth drivers.

EWE AG operates branches all over the Ems/Elbe region.

## B. PRINCIPAL MARKETS

EWE is a multiservice group for energy, telecommunications and information technology. It combines a strong regional position in the energy market with the dynamic growth of the technology-driven telecommunications and IT market. Geographically EWE operates in the Ems / Weser / Elbe region of Germany as well as in Lower Saxony and Bremen and its gas operations extend to Eastern Germany, Poland and Turkey.

## C. THE SEGMENTS AND BUSINESS AREAS OF EWE

### *Energy*

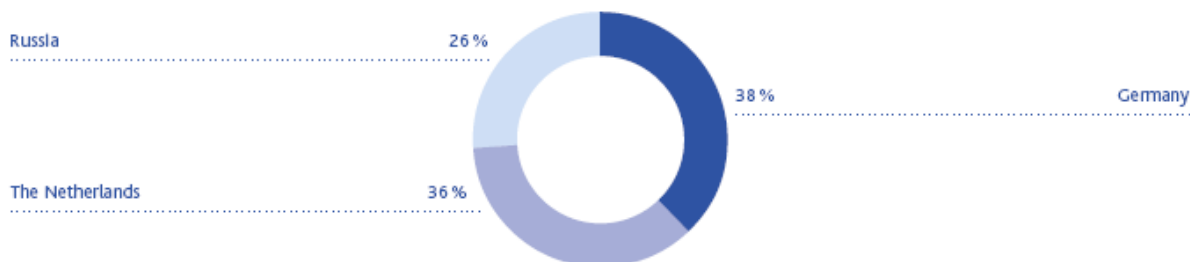
The supply of energy is the EWE Group's core business. The Company delivers natural gas and electricity to customers in northwest and northeast Germany. The Group also conducts business through foreign affiliates in Poland and Turkey.

EWE covers the entire value creation chain for the supply of energy with natural gas, from production to distribution and sales. The natural gas comes from its own production as well as several domestic and overseas sources. Long-term contracts ensure that EWE will continue to have access to international natural gas sources in the future. As a direct importer EWE is also an upstream supplier of the municipal utilities in the region. EWE AG has special expertise in the area of natural gas storage. As a pioneer of underground storage, EWE is capable of compensating for supply bottlenecks with natural gas stored underground and distributing it to customers through its own network infrastructure.

EWE buys natural gas from suppliers in Germany and abroad. The following diagram shows the origin of total purchases of 40.7 billion kWh in 2008:

### Diversified natural gas procurement

without VNG



EWE operates 25 caverns at the Huntorf and Nüttormoor natural gas storage facilities in Lower Saxony and a further one at Rüdersdorf near Berlin. This gives EWE a current storage capacity (working gas volume) of 1.5 billion cubic metres. More than half of the storage capacity is sold to third parties. Increasing gas trading, declining domestic gas production in Germany and North-Western Europe and stronger gas flows from East to West mean that the need for storage capacities in Europe is set to grow further. This is the background to EWE's investment in expanding and modernising the gas storage facilities and the plans to develop new capacities which were pursued in 2008.

EWE AG also covers the entire value creation chain for electricity as a one-stop supplier. Renewable energy sources – particularly wind energy – play an increasingly important role in the Group's own energy production. The network area includes the windy coastal areas of Lower Saxony. For this reason EWE AG made the decision early on to expand and develop its comprehensive expertise in wind energy technology. The Group considers itself to be one of Germany's technology leaders in this area and continuously implements progressive technology to expand on the advantage provided by its expertise through participations in important offshore projects like alpha ventus and Riffgat. EWE also makes use of the rural character of the region in which the Group is mainly active in order to exploit the energy potential of biomass. The EWE Group has also recently intensified its commitment to photovoltaics: it plans to install the largest photovoltaics system in any stadium in Germany as part of the expansion of the Weser stadium in Bremen.

EWE purchases electricity from upstream suppliers and on wholesale markets. In 2008 the EWE Group purchased a total of 12.9 billion kilowatt-hours (kWh) from third parties. Electricity is primarily purchased by using short-term buying and selling on the spot market. Although the procurement markets as a whole were affected by the turmoil on the international financial markets the financial crisis had no direct impact on the EWE Group's supply and procurement contracts in 2008. EWE also provides services and manages energy trading for municipal utilities.

In the area of power generation EWE has its own production capacities in the field of renewable energies (wind, biomass, biogas, solar), with total output of 87.6 megawatts (MW). In 2008, installed capacity for wind energy was again expanded (up 20.2 per cent). EWE intends to further develop the production of electricity from renewable energies. Two off-shore wind energy projects in the German North Sea are under development.

#### *Network*

EWE is developing new integrated multi-service products and services by combining natural gas, electricity and telecommunications networks. The Company believes that its network infrastructure is one of the most modern, secure and efficient in Europe.

EWE has concentrated its network infrastructure expertise in its wholly owned subsidiary EWE NETZ GmbH. EWE NETZ GmbH was founded in 2006 as a result of EU regulations for the unbundling of energy supply. It operates an electricity grid some 80,000 km in length in the Ems / Weser / Elbe region, a 50,000 km gas network in the Ems / Weser / Elbe and Brandenburg regions, on the island of Rügen and in the Northern part of West Pomerania as well as a telecommunications network covering some 30,000 km. All the activities for providing drinking water to Bremervörde, Cuxhaven, Oldenburg, Scheeßel and Varel are also pooled in this business area. The electricity network is almost entirely underground, making it more resistant to disruptions. The Company believes that EWE NETZ GmbH's energy networks are among the most secure and powerful in Europe.

EWE NETZ GmbH is not only responsible for operating and maintaining the networks, but also provides innovative solutions for modern network management. This is the foundation which EWE uses to develop and provide complex products and services for supplying energy, conserving energy and improving energy efficiency. The Group aims to intertwine the supply of energy with telecommunications services to a greater extent in the future.

## *ICT*

EWE's information and telecommunications technologies are important for customer-oriented value added services and products with high future potential which incorporate an efficient electricity and gas supply. An attractive multimedia range drives growth in the traditional telecommunications area.

EWE AG believes that its subsidiaries in the information technology and telecommunications segments have established themselves successfully in their markets. Several telecommunications companies in northern Germany as well as the international IT services provider BTC, together with its own subsidiaries, belong to the Group.

EWE's telecommunications companies provide their customers with the entire range of landline, internet and mobile phone services. The Group's high-performance network infrastructure, which it has consistently modernised over recent years and intends to expand in the future, is an important driving factor. One example is the expansion of fibre optic networks which makes it possible to provide attractive bundle offers of traditional telecommunications services, TV and multimedia products. The subsidiary EWE TEL GmbH is one of the largest regional telecommunications companies in Germany with approximately 433,000 customers in 2008.

EWE AG's subsidiary BTC has developed itself into an IT company which is both domestically and internationally active in providing a wide range of tailored IT solutions. Since 2000, the company has provided innovative system solutions for its corporate customers, from process consulting to integrating IT systems and system management. EWE's telecommunications and IT expertise also plays a key role in innovations in the convergence of energy, telecommunications and IT services. The Group is particularly involved in this area and is already developing new services for tomorrow's markets.

EWE's training building "ZentrumZukunft" is one example of the convergence of telecommunications, IT and energy services. In addition to a wide range of information and entertainment services, all of the information related to the building's energy supply can be accessed and controlled from a central information portal. Another example is the eTelligence pilot project, which makes plans for the energy supply of the future a reality. At its core lies a regional electricity marketplace which brings producers, consumers, energy service providers and network operators together. Participants can connect with each other through cutting edge information and communications technology.

## **5. RESEARCH AND DEVELOPMENT**

EWE's research and development is a central element in the strategic development of the Group and a foundation for the development of new products and services.

EWE's energy research is focussed on finding solutions which allow decentralised renewable energy to be integrated into the existing energy system. EWE AG also focuses its activities on decentralised micro combined heat and power and producing electricity and heat from renewable energy sources.

EWE's own research and development is complemented by a network of external research institutions and experienced market partners. This allows the Group to expand its expertise, open up new possibilities and bring innovations onto the market without delay.

EWE concentrates on energy conversion projects which attempt to increase efficiency by using combined heat and power and producing electricity and warmth from renewable resources. One example of the Group's commitment to the field of energy conversion is fuel cell technology, which EWE has been advancing in field tests for years together with fuel cell system manufacturers. EWE is an active partner of "Callux", the nationwide largest field test of fuel cells for privately owned houses. EWE has developed into an acknowledged pacesetter in fuel cell technology and regularly brings its expertise in this area to bear on funded projects, both domestically and overseas.

One form of renewable energy that EWE particularly focuses on is wind energy. It is heavily involved in developing innovative solutions in this area. One example is the implementation of the first German offshore wind park, alpha ventus. The wind park is being constructed by DOTI (Deutsche Offshore-Testfeld und Infrastruktur-GmbH & Co. KG), which was formed in 2006. With a 47.5 per cent holding, EWE AG is the largest shareholder of the Company. The alpha ventus test site will comprise 12 multi-megawatt (> 5 MW) wind turbines which produce enough electricity for 50.000 households per year. The project partners are working closely with wind turbine manufacturers and the Federal Environment Ministry. EWE AG is also involved in the development of another wind park project in the German North Sea. Together with the partner ENOVA, in November 2008 EWE AG founded the company RIFFGAT GmbH & Co. KG, which will be responsible for building and operating of the wind park.

Another regenerative energy that EWE AG believes has an interesting future is biogas. At the end of 2007, EWE opened one of the first biogas purification plants in Germany in Werlte, Lower Saxony. The plant processes the biogas that it produces in such a way as to achieve the quality of natural gas and then feeds it directly into the local network. This allows biogas to be used as a fuel as well as to create electricity and heat.

One of the latest R&D projects is a strategic partnership in the field of electric mobility. EWE AG is convinced that eco-friendly motorised transportation and mobile electricity storage devices will play an important part in the energy supply of the future. EWE and car manufacturer Karmann (Osnabrück) are planning to construct a number of pilot vehicles between 2009 and 2011. These electric vehicles will be incorporated in EWE's electricity and telecommunications network and intelligent control systems will be developed for battery and network management.

## **6. MATERIAL CONTRACTS**

On 10 July 2008, EWE AG and its direct and indirect shareholders entered into agreements with EnBW pursuant to which EnBW will acquire a stake of 26 per cent. in the ordinary share capital of EWE AG. To acquire the stake EnBW will purchase shares deriving from a capital increase at EWE AG and further shares disposed by Weser-Ems-Energiebeteiligungen GmbH, a current shareholder of EWE AG. The transaction described above, which has a total value of approximately EUR 2bn, has been approved with certain conditions (*Auflagen*) by the federal cartel office (*Bundeskartellamt*) on 6 July 2009. These conditions require that either VNG (as defined below) or GESO Beteiligungs- und Beratungs AG, which is currently held by EnBW, be disposed to third parties.

On 14 May 2009, EWE AG entered into an agreement with EnBW pursuant to which EWE shall dispose its stake in Verbundnetz Gas AG ("**VNG**") to EnBW. The transfer of the stake is conditional upon *inter alia* the approval of VNG's general meeting and the approval of the federal cartel office (*Bundeskartellamt*).

EWE AG entered into agreements with Bremen which allow EWE AG to acquire 51 per cent. minus one share of a stake in swb AG (*Stadtwerke Bremen*). The Senate of Bremen has agreed on 23 June 2009 to the sale and the federal cartel office (*Bundeskartellamt*) has authorized the transaction on 30 June 2009. The closing of this transaction is expected in August 2009 following the closing of the transaction between Essent N.V. and Bremen.

## **7. TREND INFORMATION**

Save as disclosed in this Prospectus, there has been no material adverse change in the prospects of EWE AG since 31 December 2008.

### **A. OUTLOOK**

In light of the severe economic slump brought on by the financial crisis, EWE AG can make no quantitative statement about how its sales and earnings figures will develop. Qualitatively, EWE is cautiously optimistic that Group sales will remain stable or grow in 2009. However, if the economic situation deteriorates further, sales as well as earnings figures could turn out lower than in the 2008 financial year.

## B. RECENT DEVELOPMENTS

EnBW is looking to acquire a 26 per cent stake in EWE AG. EWE's shareholders had agreed to EnBW's acquisition in July 2008. The federal cartel office (*Bundeskartellamt*) has given its approval with certain conditions (*Auflagen*) on 6 July 2009.

Depending on EnBW acquiring a stake in EWE AG, EWE AG has announced to sell its shareholding in Leipzig-based Verbundnetz Gas AG. The transfer of the stake is still subject to certain conditions including the consent of the VNG general meeting and the approval of the federal cartel office (*Bundeskartellamt*).

Further, EWE AG is preparing to raise its stake in Bremen-based utility swb AG (*Stadtwerke Bremen*) and turn it into a shareholding of 100 per cent. minus one share.

## 8. ADMINISTRATIVE, MANAGEMENT AND SUPERVISORY BODIES

### A. MANAGEMENT BOARD

The Board of Management of EWE AG consists of the following members:

Dr. Werner Brinker, Chief Executive Officer and Board member for Sales and Marketing, Rastede

Heiko Harms, Chief Operating Officer, Rastede

Dr. Thomas Neuber, Chief Officer of Procurement and Production, Oldenburg

Michael Wagener, Chief Financial Officer and Board member for Human Resources, Rastede

### B. SUPERVISORY BOARD

The Supervisory Board of EWE AG consists of the following members:

Günther Boekhoff Chairman	Honorary Mayor of Leer
Rainer Janßen First Deputy Chairman	Technical Supervisor, EWE NETZ GmbH, Varel
Martin Döscher Second Deputy Chairman	Honorary District Administrator, Köhlen
Hans Eveslage Third Deputy Chairman	District Administrator, Cloppenburg
Wolfgang Behnke	Systems Integrator, EWE AG, Oldenburg
Hermann Bröring	District Administrator, Meppen
Claus Christ	Technical Supervisor, EWE NETZ GmbH, Remels
Karl-Heinz Funke	Minister (retd.), Varel

Heiner Grotheer	Managing Director, Osterholz-Scharmbeck
Carsten Hahn	Administrator, Osterholz-Scharmbeck
Dr. Hans-Dieter Harig	Chief Executive Officer (retd.), E.ON Energie AG, Hannover
Gregor Heller	Senior Sales Consultant, EWE AG, Haselünne
Dr. Stephan-Andreas Kaulvers	Chief Executive Officer of Bremer Landesbank, Bremen
Aloys Kiepe	ver.di District Trade Secretary, Emden
Sigrid Leidereiter	ver.di District Trade Secretary, Bremen
Gerd Reiners	EWE Board member for technology (retd.), Oldenburg
Immo Schlepper	ver.di Trade Union Secretary, Oldenburg
Alwin Schlörmann	Head of Business Region, Bad Zwischenahn
Prof. Dr. Gerd Schwandner	Mayor, Oldenburg
Dierk Schwarting	Technical Supervisor, EWE NETZ GmbH, Ganderkesee

The members of the Board of Management and the Supervisory Board can be contacted at EWE AG's business address: Tirpitzstraße 39, 26122 Oldenburg (Tel.: +49 441 803-0).

None of the above members of the Board of Management and Supervisory Board have declared any potential conflict of interest between any duties to EWE AG and their private interest or other duties.

## **9. BOARD PRACTICE**

### **A. AUDIT COMMITTEE OF THE SUPERVISORY BOARD**

Pursuant to the bylaws of the Supervisory Board the Supervisory Board has to form an audit committee (the "**Audit Committee**"). The Audit Committee is staffed with eight members who have to cope with the tasks set forth in the bylaws of the Supervisory Board.

The main focus of the work of the Audit Committee is to deal with issues relating to the Company's accounting, compliance, and risk management; the legally mandated independence of the Company's Independent Auditor; the establishment of auditing priorities and agreements on the Independent Auditor's fees. The Audit Committee also prepares the Supervisory Board's decision on the approval of the Financial Statements of the EWE AG and of the Consolidated Financial Statements. It also prepares resolutions for the acceptance of warranties and guarantees. It also examines the Company's annual finance and performance plan. Furthermore the Audit Committee deals with resolutions concerning certain social facilities for personnel.

*Members of the Audit Committee:*

Günther Boekhoff

Wolfgang Behnke

Heiner Grotheer

Karl-Heinz Funke

Rainer Janßen

Gregor Heller

Dierk Schwarting

Dr. Stephan-Andreas Kaulvers

## B. CORPORATE GOVERNANCE

EWE Aktiengesellschaft follows and complies with the recommendations of the Government Commission German Code of Corporate Governance as published on 6 June 2008 with the following exceptions and has complied with them continuously since making the last declaration of conformity. The exceptions are mainly due to the fact that EWE Aktiengesellschaft is not a broadly held publicly listed company but has only two shareholders.

### **Annual General Meeting**

- The Board of Management does not publish the reports and documents required by law for the Annual General Meeting, including the annual report, on the Company's website at the same time as the agenda, but sends them directly to the two shareholders (2.3.1).
- Notification of the Annual General Meeting and the documents convening the meeting are not sent to financial services providers in Germany and abroad and to shareholders' associations (2.3.2).
- No proxies are appointed to whom the shareholders can give voting instructions (2.3.3).

### **Board of Management**

- The remuneration system for the Board of Management is discussed and regularly reviewed solely by the Steering Committee of the Supervisory Board (4.2.2). The remuneration of the members of the Board of Management does not include long-term incentive components and the Chairman of the Supervisory Board has not informed the Annual General Meeting about the main principles of the remuneration system (4.2.3).
- The remuneration system is not explained as part of the corporate governance report (4.2.5). For retirement benefit commitments, the annual addition to the pension provisions or contribution to a pension fund is not disclosed (4.2.5).

### **Supervisory Board**

- The Supervisory Board sets no age limit for Board members (5.1.2).
- The Chairman of the Finance and Audit Committee represents the main shareholder. The Finance and Audit Committee includes members with particular knowledge and experience of applying accounting principles and internal controlling procedures (5.3.2).
- The Supervisory Board has not formed a Nomination Committee (5.3.3).
- Members of the Supervisory Board are allowed to hold board seats or advisory positions at major competitors of the Company (5.4.2).
- The members of the Supervisory Board do not receive performance-related remuneration

in addition to their fixed remuneration. The remuneration for the members of the Supervisory Board is not disclosed individually in the corporate governance report (5.4.6).

#### **Transparency**

- The internet is not used to inform all shareholders and investors equally and at the same time (6.4).
- Regular publication dates are not published in a financial calendar as part of ongoing public relations work (6.7).

#### **Accounting**

- Information for shareholders and third parties is mainly provided by means of the consolidated financial statements and the half-yearly financial report, but not by means of quarterly financial reporting or interim statements (7.1.1).
- The consolidated financial statements are not published within 90 days and the interim reports are not published within 45 days of the end of the reporting period. Neither the Supervisory Board nor its Audit Committee discuss half-yearly financial reports with the Board of Management prior to publication (7.1.2).
- Information (name and registered offices of the Company, equity interest, total equity, result of the last financial year) is not published for all companies in which EWE Aktiengesellschaft holds a stake which is not of minor importance for the Company (7.1.4).

### **10. MAJOR SHAREHOLDERS**

The shareholders of EWE AG as of the date of this Prospectus are shown in the table below. Upon the successful completion of the acquisition of shares in EWE by EnBW as described under "Material Contracts" the shareholder structure will change accordingly.

Shareholder	Percentage
Energieverband Elbe-Weser Beteiligungsholding GmbH	18
Weser-Ems-Energiebeteiligungen GmbH	82

### **11. HISTORICAL FINANCIAL INFORMATION**

The audited consolidated financial statements of EWE AG for the fiscal year ending 31 December 2008 which have been prepared in accordance with International Financial Reporting Standards as adopted by the EU (IFRS) and the auditor's report (*Bestätigungsvermerk*) thereon, together contained in EWE AG's Annual Report (*Geschäftsbericht*) 2008 on pages 80 to 154, are incorporated by reference into this Prospectus.

The audited consolidated financial statements of EWE AG for the fiscal year ending 31 December 2007 which have been prepared in accordance with International Financial Reporting Standards as adopted by the EU (IFRS) and the auditor's report (*Bestätigungsvermerk*) thereon, together contained in EWE AG's Annual Report 2007 on pages 78 to 156, are incorporated by reference into this Prospectus.

### **12. LEGAL AND ARBITRATION PROCEEDINGS**

There are no nor have there been any governmental, legal or arbitration proceedings, involving EWE AG or any of its subsidiaries (and, so far as EWE AG is aware, no such proceedings are pending or threatened) which may have or have or have had during the twelve months prior to the date of this Prospectus a significant effect on the financial position or profitability of EWE AG or its subsidiaries as a whole.

**13. SIGNIFICANT CHANGE IN THE FINANCIAL OR TRADING POSITION OF EWE AG**

Save as disclosed in this Prospectus, there has been no significant change in the financial or trading position of EWE AG since 31 December 2008.

## TAXATION

The following is a general discussion of certain tax consequences under the tax laws of the Federal Republic of Germany, The Netherlands and the Grand-Duchy of Luxembourg of the acquisition and ownership of the Notes. This discussion does not purport to be a comprehensive description of all tax considerations which may be relevant to a decision to purchase the Notes. In particular, this discussion does not consider any specific facts or circumstances that may apply to a particular purchaser. This summary is based on the laws of the Federal Republic of Germany, The Netherlands, the Grand-Duchy of Luxembourg, the United Kingdom, Ireland and the Republic of Austria currently in force and as applied on the date of this Prospectus, which are subject to change, possibly with retroactive or retrospective effect. The information contained within this section is limited to taxation issues, and prospective investors should not apply any information set out below to other areas, including (but not limited to) the legality of transactions involving the Notes.

**PROSPECTIVE PURCHASERS OF THE NOTES ARE ADVISED TO CONSULT THEIR OWN TAX ADVISORS AS TO THE TAX CONSEQUENCES OF THE PURCHASE, OWNERSHIP AND DISPOSITION OF THE NOTES, INCLUDING THE EFFECT OF ANY STATE OR LOCAL TAXES UNDER THE TAX LAWS APPLICABLE IN THE FEDERAL REPUBLIC OF GERMANY, THE NETHERLANDS, THE GRAND-DUCHY OF LUXEMBOURG AND EACH COUNTRY OF WHICH THEY ARE RESIDENTS.**

### **I. Federal Republic of Germany ("Germany")**

#### **1. Tax Residents**

Persons (individuals and corporate entities) who are tax resident in Germany (in particular, persons having a residence, habitual abode, seat or place of management in Germany) are subject to income taxation (income tax or corporate income tax, as the case may be, plus solidarity surcharge thereon plus church tax, if applicable) on their worldwide income, regardless of its source, including interest from debt of any kind (such as the Notes) and, in general, capital gains.

#### **a. Taxation if the Notes are held as private assets (*Privatvermögen*)**

In the case of German tax-resident individual investors (*unbeschränkt Steuerpflichtige*) holding the Notes as private assets (*Privatvermögen*), the following applies:

##### **i. Income**

Payments of interest on the Notes qualify as taxable income from capital investments (*Einkünfte aus Kapitalvermögen*) pursuant to section 20 para 1 no 7 German Income Tax Act ("**ITA**" - *Einkommensteuergesetz*).

Capital gains / capital losses realised upon sale of the Notes, computed as the difference between the acquisition costs and the sales proceeds reduced by expenses directly and factually related to the sale, qualify as (negative) income from capital investments. If the Notes are assigned, redeemed or repaid rather than sold, such transaction is treated like a sale.

##### **ii. Taxation of income**

Income from capital investments is taxed at a separate tax rate for income from capital investments (*gesonderter Steuertarif für Einkünfte aus Kapitalvermögen*), which is 26.375 per cent. (including solidarity surcharge (*Solidaritätszuschlag*)) plus, if applicable, church tax. When computing the income from capital investments, the saver's lump sum amount (*Sparer-Pauschbetrag*) of EUR 801 (EUR 1,602 in the case of jointly assessed husband and wife) will be deducted. The deduction of the actual income related expenses, if any, is excluded. The taxation of income from capital investments shall take place mainly by way of levying withholding tax (please see iii. below). If and to

the extent German withholding has been levied, such withholding tax shall, in principle, become definitive and replace the investor's income taxation. If no withholding tax has been levied other than by virtue of a withholding tax exemption certificate (*Freistellungsauftrag*) and in certain other cases, the investor is nevertheless obliged to file a tax return, and the income from capital investments will then be taxed within the assessment procedure. However, the separate tax rate for income from capital investments applies in most cases also within the assessment procedure.

### **iii. German withholding tax**

With regard to income from capital investments, German withholding tax will be levied if the Notes are held in a custodial account which the investor maintains with a German branch of a German or non-German credit or financial services institution or with a securities trading business or securities trading bank (a "**German Disbursing Agent**"). The tax base is, in principle, equal to the taxable income as set out in i. above. However, in the case of capital gains, if the acquisition costs of the Notes are not proven to the German Disbursing Agent, withholding tax is applied to 30 per cent. of the proceeds from the redemption, sale or assignment of the Notes. When computing the tax base for withholding tax purposes, the German Disbursing Agent may deduct any negative income from capital investments in the same calendar year or unused negative income from capital investments in previous calendar years.

German withholding tax will be levied at a flat withholding tax rate of 26.375 per cent. (including solidarity surcharge) plus, if applicable, church tax.

No German withholding tax will be levied if the investor filed a withholding tax exemption certificate (*Freistellungsauftrag*) with the German Disbursing Agent, but only to the extent the income from capital investments does not exceed the maximum exemption amount shown on the withholding tax exemption certificate. Currently, the maximum exemption amount is EUR 801 (EUR 1,602 in the case of jointly assessed husband and wife). Similarly, no withholding tax will be levied if the investor has submitted to the German Disbursing Agent a certificate of non-assessment (*Nichtveranlagungs-Bescheinigung*) issued by the relevant local tax office.

### **b. Taxation if the Notes are held as business assets (*Betriebsvermögen*)**

In the case of German tax-resident corporations or individual investors (*unbeschränkt Steuerpflichtige*) holding the Notes as business assets (*Betriebsvermögen*), interest payments and capital gains will be subject to corporate income tax or income tax, as the case may be, (in each case plus 5.5 per cent. solidarity surcharge thereon), trade tax, if applicable, and church tax, if applicable. Capital losses might be ring-fenced.

The provisions regarding German withholding tax apply, in principle, as set out in section a. iii. above. However, investors holding the Notes as business assets cannot file a withholding tax exemption certificate with the German Disbursing Agent. Instead, no withholding tax will be levied on capital gains from the redemption, sale or assignment of the Notes if (a) the Notes are held by a company satisfying the requirements of section 43 para 2 sentence 3 no 1 ITA or (b) the proceeds from the Notes qualify as income of a domestic business and the investor notifies this to the German Disbursing Agent by use of the officially required form.

Any withholding tax levied is credited as prepayment against the German (corporate) income tax amount. If the tax withheld exceeds the respective (corporate) income tax amount, the difference will be refunded within the tax assessment procedure.

## **2. Non-residents**

Persons who are not tax resident in Germany are not subject to tax with regard to income from the Notes unless (i) the Notes are held as business assets (*Betriebsvermögen*) of a German permanent establishment (including a permanent representative) which is maintained by the investor or (ii) the income under the Notes qualifies for other reasons

as taxable German source income. If a non-resident person is subject to tax with its income from the Notes, in principle, similar rules apply as set out above with regard to German tax resident persons (please see 1. above).

If the income is subject to German tax as set out in the preceding paragraph, German withholding tax will be applied like in the case of a German tax resident person.

### **3. Inheritance and Gift Tax**

Inheritance or gift taxes with respect to any Note will, in principle, arise under German law if, in the case of inheritance tax, either the decedent or the beneficiary or, in the case of gift tax, either the donor or the donee is a resident of Germany or if such Note is attributable to a German trade or business for which a permanent establishment is maintained or a permanent representative has been appointed. In addition, certain German expatriates will be subject to inheritance and gift tax.

### **4. Other Taxes**

No stamp, issue, registration or similar taxes or duties is currently payable in Germany in connection with the issuance, delivery or execution of the Notes. Currently, net assets tax (*Vermögensteuer*) is not levied in Germany.

## **II. Luxembourg**

### *Withholding Tax*

All payments of interest and principal by the Issuer in the context of the holding, disposal, redemption or repurchase of the Notes can be made free and clear of any withholding or deduction for or on account of any taxes of whatsoever nature imposed, levied, withheld, or assessed by Luxembourg or any political subdivision or taxing authority thereof or therein, in accordance with the applicable Luxembourg law, subject however to:

- (i) the application of the Luxembourg laws of 21 June, 2005 implementing the European Union Savings Directive (Council Directive 2003/48/EC) and several agreements concluded with certain dependent or associated territories and providing for the possible application of a withholding tax (20 per cent. from 1 July 2008 to 30 June 2011 and 35 per cent. from 1 July 2011) on interest paid to certain non Luxembourg resident investors (individuals and certain types of entities called “residual entities”) in the event of the Issuer appointing a paying agent in Luxembourg within the meaning of the above-mentioned directive (see section “**EU Savings Tax Directive**” below) or agreements;
- (ii) the application as regards Luxembourg resident individuals of the Luxembourg law of 23 December 2005 which has introduced a 10 per cent. withholding tax (which is final when Luxembourg resident individuals are acting in the context of the management of their private wealth) on savings income (i.e. with certain exemptions, savings income within the meaning of the Luxembourg laws of 21 June 2005 implementing the EU Savings Directive (Council Directive 2003/48/EC)). This law should apply to savings income accrued as from 1 July 2005 and paid as from 1 January 2006.

Responsibility for the withholding of tax in application of the above-mentioned Luxembourg laws of 21 June 2005 and 23 December 2005 is assumed by the Luxembourg paying agent within the meaning of these laws and not by the Issuer.

## **III. The Netherlands**

*The following summary of certain Dutch taxation matters is based on the laws and practice in force as of the date of this Prospectus and is subject to any changes in law and the interpretation and application thereof, which changes could be made with retroactive effect. The following summary does not purport to be a comprehensive description of*

*all the tax considerations that may be relevant to a decision to acquire, hold or dispose of a Note, and does not purport to deal with the tax consequences applicable to all categories of investors, some of which may be subject to special rules.*

*Generally speaking, an individual has a substantial interest in a company if (a) such individual, either alone or together with his partner, directly or indirectly has, or (b) certain relatives of such individual or his partner directly or indirectly have, (I) the ownership of, a right to acquire the ownership of, or certain rights over, shares representing 5 per cent or more of either the total issued and outstanding capital of such company or the issued and outstanding capital of any class of shares of such company, or (II) the ownership of, or certain rights over, profit participating certificates (winstbewijzen) that relate to 5 per cent or more of either the annual profit or the liquidation proceeds of such company.*

*Generally speaking, an entity has a substantial interest in a company if such entity, directly or indirectly has (I) the ownership of, a right to acquire the ownership of, or certain rights over, shares representing 5 per cent or more of either the total issued and outstanding capital of such company or the issued and outstanding capital of any class of shares of such company, or (II) the ownership of, or certain rights over, profit participating certificates (winstbewijzen) that relate to 5 per cent or more of either the annual profit or the liquidation proceeds of such company. An entity has a deemed substantial interest in such company if such entity has disposed of or is deemed to have disposed of all or part of a substantial interest on a non-recognition basis.*

*For the purpose of this summary, the term entity means a corporation as well as any other person that is taxable as a corporation for Dutch corporate tax purposes.*

***Investors are advised to consult their professional advisers as to the tax consequences of purchase, ownership and disposition of Notes.***

## **1. WITHHOLDING TAX**

All payments made by the Issuer of interest and principal under the Notes can be made free of withholding or deduction for any taxes of whatsoever nature imposed, levied, withheld or assessed by The Netherlands or any political subdivision or taxing authority thereof or therein, unless the Notes qualify as debt effectively functioning as equity for the purposes of article 10, paragraph 1, sub d of the Dutch Corporate Tax Act 1969 (*Wet op de vennootschapsbelasting 1969*).

## **2. TAXES ON INCOME AND CAPITAL GAINS**

### **Residents**

#### **Resident entities**

An entity holding a Note which is, or is deemed to be, resident in The Netherlands for corporate tax purposes and which is not tax exempt, will generally be subject to corporate tax in respect of income or a capital gain derived from a Note at rates up to 25.5 per cent.

#### **Resident individuals**

An individual holding a Note who is, is deemed to be, or has elected to be treated as, resident in The Netherlands for income tax purposes will be subject to income tax in respect of income or a capital gain derived from a Note at rates up to 52 per cent if:

- (i) the income or capital gain is attributable to an enterprise from which the holder derives profits (other than as a shareholder); or

(ii) the income or capital gain qualifies as income from miscellaneous activities (*belastbaar resultaat uit overige werkzaamheden*) as defined in the Income Tax Act (*Wet inkomstenbelasting 2001*), including, with-out limitation, activities that exceed normal, active asset management (*normaal, actief vermogensbeheer*).

If neither condition (i) nor (ii) applies, an individual holding a Note will be subject to income tax on the basis of a deemed return, regardless of any actual income or capital gain derived from a Note. The deemed return amounts to 4 per cent. of the average value of the individual's net assets in the relevant fiscal year (including the Note). Subject to application of personal allowances, the deemed return will be taxed at a rate of 30 per cent.

#### **Non-residents**

A holder of a Note which is not, is not deemed to be, and - in case the holder is an individual - has not elected to be treated as, resident in The Netherlands for the relevant tax purposes will not be subject to taxation on income or a capital gain derived from a Note unless:

(i) the income or capital gain is attributable to an enterprise or part thereof which is either effectively managed in The Netherlands or carried on through a permanent establishment (*vaste inrichting*) or permanent representative (*vaste vertegenwoordiger*) in The Netherlands; or

(ii) the holder is an individual and the income or capital gain qualifies as income from miscellaneous activities (*belastbaar resultaat uit overige werkzaamheden*) in The Netherlands as defined in the Income Tax Act (*Wet inkomstenbelasting 2001*), including, without limitation, activities that exceed normal, active asset management (*normaal, actief vermogensbeheer*).

### **3. GIFT AND INHERITANCE TAXES**

Dutch gift or inheritance taxes will not be levied on the occasion of the transfer of a Note by way of gift by, or on the death of, a holder, unless:

(i) the holder is or is deemed to be resident in The Netherlands for the purpose of the relevant provisions; or

(ii) the transfer is construed as an inheritance or gift made by, or on behalf of, a person who, at the time of the gift or death, is or is deemed to be resident in The Netherlands for the purpose of the relevant provisions; or

(iii) the Note is attributable to an enterprise or part thereof which is either effectively managed in The Netherlands or carried on through a permanent establishment (*vaste inrichting*) or permanent representative (*vaste vertegenwoordiger*) in The Netherlands.

### **4. VALUE ADDED TAX**

There is no Dutch value added tax payable by a holder of a Note in respect of payments in consideration for the issue of the Notes or in respect of the payment of interest or principal under the Notes, or the transfer of the Notes.

### **5. OTHER TAXES**

There is no Dutch registration tax, stamp duty or any other similar tax or duty payable in The Netherlands by a holder of a Note in respect of or in connection with the execution, delivery and/or enforcement by legal proceedings (including any foreign judgement in the courts of The Netherlands) of the Notes or the performance of the Issuer's obligations under the Notes.

## 6. RESIDENCE

A holder of a Note will not be, or deemed to be, resident in The Netherlands for tax purposes and, subject to the exceptions set out above, will not otherwise be subject to Dutch taxation, by reason only of acquiring, holding or disposing of a Note or the execution, performance, delivery and/or enforcement of a Note.

## 7. EU COUNSEL DIRECTIVE ON TAXATION OF SAVINGS INCOME

In accordance with EC Council Directive 2003/48/EC on the taxation of savings income, The Netherlands will provide to the tax authorities of another EU member state (and certain non-EU countries and associated territories specified in that directive) details of payments of interest or other similar income paid by a person within The Netherlands to, or collected by such a person for, an individual resident in such other state.

### IV. EU Savings Tax Directive

On 3 June 2003, the EU Council of Economic and Finance Ministers adopted a directive regarding the taxation of savings income (the "**EU Savings Directive**") effective from 1 July 2005. Under the directive, each Member State is required to provide to the tax authorities of another Member State details of payments of interest within the meaning of the EU Savings Directive or other similar income paid by a paying agent within the meaning of the EU Savings Directive, to an individual resident or certain types of entities called "**residual entities**", within the meaning of the EU Savings Directive (the "**Residual Entities**"), established in that other Member State (or certain dependent or associated territories). For a transitional period, however, Austria, Belgium and Luxembourg are permitted to apply an optional information reporting system whereby if a beneficial owner, within the meaning of the EU Savings Directive, does not comply with one of two procedures for information reporting, the relevant Member State will levy a withholding tax on payments to such beneficial owner. The tax rate of the withholding is of 20 per cent. from 1 July 2008 to 30 June 2011 and 35 per cent. as from 1 July 2011. The transitional period is to terminate at the end of the first full fiscal year following agreement by certain non-EU countries to the exchange of information relating to such payments. See "European Union Directive on Taxation of Savings Income in the Form of Interest Payments" (Council Directive 2003/48/EC).

Also with effect from 1 July 2005, a number of non-EU countries (Switzerland, Andorra, Liechtenstein, Monaco and San Marino) and certain dependant or associated territories (Jersey, Guernsey, Isle of Man, Montserrat, British Virgin Islands, Netherlands Antilles and Aruba) have agreed to adopt similar measures (either provision of information or transitional withholding) in relation to payments made by a paying agent (within the meaning of the EU Savings Directive) within its jurisdiction to, or collected by such a paying agent for, an individual resident or a Residual Entity established in a Member State. In addition, Luxembourg has entered into reciprocal provision of information or transitional withholding arrangements with certain of those dependent or associated territories in relation to payments made by a paying agent (within the meaning of the EU Savings Directive) in Luxembourg to, or collected by such a paying agent for, an individual resident or a Residual Entity established in one of those territories.

The European Commission has announced on 13 November 2008 proposals to amend the EU Savings Directive. If implemented, the proposed amendments would, inter alia, (i) extend the scope of the EU Savings Directive to payments made through certain intermediate structures (whether or not established in a Member State) for the ultimate benefit of EU resident individuals, and (ii) provide for a wider definition of interest subject to the EU Savings Directive.

## SUBSCRIPTION AND SALE

### Underwriting

Pursuant to a subscription agreement dated 14 July 2009 (the “**Subscription Agreement**”) between the Issuer and the Managers, the Managers will agree, subject to certain conditions, to subscribe and pay for the Notes at an issue price of 98.976 per cent. less certain customary management and underwriting commissions and to sell the Notes. The conditions as referred to in the first sentence of this paragraph will be customary closing conditions as set out in the Subscription Agreement. The Issuer has furthermore agreed to reimburse the Managers for certain expenses incurred in connection with the issue of the Notes. The expenses of the issue of the Notes will be approximately EUR 500,000.

In the Subscription Agreement, the Issuer has made certain representations and warranties in respect of its legal and financial matters. The Subscription Agreement entitles the Managers to terminate its obligations thereunder in certain circumstances prior to payment of the purchase price of the Notes. The Issuer has agreed to indemnify the Managers against certain liabilities in connection with the offer and sale of the Notes. The Subscription Agreement is governed by German law.

The Managers (or their affiliates) have provided from time to time, and expect to provide in the future, investment services to the Issuer (or its affiliates), for which the Managers (or their affiliates) have received or will receive customary fees and commissions.

To the Issuer’s knowledge, there are no interests of natural and legal persons involved in the issue, including conflicting ones, that are material to the issue.

The Notes will be issued on 16 July 2009. The rights attached to the Notes take effect as of such issue date. For the subscribers of the Notes the yield is 5.368 per cent. *per annum*.<sup>1</sup>

### Selling Restrictions

#### General

Each Manager has represented, warranted and undertaken that it has complied and will comply with all applicable laws and regulations in each country or jurisdiction in or from which it purchases, offers, sells or delivers Notes or possesses, distributes or publishes the Prospectus or any related offering material and will obtain any consent, approval or permission required by it for the purchase, offer, sale or delivery by it of Notes under the laws and regulations in force in any jurisdiction to which it is subject or in which it makes such purchases, offers, sales or deliveries and neither any of the Issuer nor any other Manager shall have any responsibility therefor.

#### United States of America (the “United States”)

- (a) Each Manager has acknowledged that the Notes have not been and will not be registered under the Securities Act and may not be offered or sold within the United States except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act. Each Manager has represented, warranted and undertaken that it has not offered or sold, and will not offer or sell, any Note constituting part of its allotment within the United States except in accordance with Rule 903 of Regulation S under the Securities Act. Accordingly, each Manager has

---

<sup>1</sup> Calculated on the basis of the issue price of 98.976 per cent. using the calculation method of ICMA (International Capital Markets Association).

further represented, warranted and undertaken that neither it, its affiliates nor any persons acting on its or their behalf have engaged or will engage in any directed selling efforts with respect to any Note.

The Notes are subject to U.S. tax law requirements and may not be offered, sold or delivered within the United States or its possessions or to a United States person, except in transactions permitted by U.S. tax regulations. Terms used in this paragraph have the meanings given to them by the United States Revenue Code and regulations thereunder.

In addition, until 40 days after the commencement of the offering, an offer or sale of Notes within the United States by a dealer (whether or not participating in the offering) may violate the registration requirements of the Securities Act.

- (b) From and after the time that the Issuer notifies the Managers in writing that it is no longer able to make the representation set forth in Clause 6.11 of the Subscription Agreement, each Manager has (i) acknowledged that the Notes have not been and will not be registered under the Securities Act and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons except in certain transactions exempt from the registration requirements of the Securities Act; (ii) represented, warranted and undertaken that it has not offered, sold or delivered any Notes, and will not offer, sell or deliver any Notes, (x) as part of its distribution at any time or (y) otherwise until 40 days after the later of the commencement of the offering and closing date, except in accordance with Rule 903 of Regulation S under the Securities Act; and accordingly, (iii) further represented, warranted and undertaken that neither it, its affiliates nor any persons acting on its or their behalf have engaged or will engage in any directed selling efforts with respect to any Note, and it and they have complied and will comply with the offering restrictions requirements of Regulation S; and (iv) also agreed that, at or prior to confirmation of any sale of Notes, it will have sent to each distributor, dealer or person receiving a selling concession, fee or other remuneration that purchases Notes from it during the distribution compliance period a confirmation or notice to substantially the following effect:

"The Notes covered hereby have not been registered under the U.S. Securities Act of 1933, as amended (the "**Securities Act**"), and may not be offered or sold within the United States or to, or for the account or benefit of, U. S. persons by any person referred to in Rule 903(b)(2)(iii) of Regulation S under the Securities Act (i) as part of their distribution at any time or (ii) otherwise until 40 days after the later of the commencement of the offering and the closing date, except in either case in accordance with Regulation S under the Securities Act. Terms used above have the meanings given to them by Regulation S under the Securities Act."

- (c) Each Manager who has purchased Notes hereunder shall determine and notify to the Principal Paying Agent and the Issuer the completion of the distribution of the Notes. On the basis of such notification or notifications, the Principal Paying Agent agrees to notify such Manager/Lead Manager of the end of the restricted period with respect to the Notes. Terms used in this paragraph have the meanings given to them by Regulation S.
- (d) Each Manager has represented, warranted and undertaken that it has not entered and will not enter into any contractual arrangement with respect to the distribution or delivery of Notes, except with its affiliates or with the prior written consent of the Issuer.
- (e) Notes will be issued in accordance with the provisions of U.S. Treas.Reg. § 1.163-5(c) (2) (i) (C) (the "**TEFRA C Rules**").

In addition, Notes must be issued and delivered outside the United States and its possessions in connection with their original issuance. Each Manager has represented, warranted and undertaken that it, in connection with the original issuance of Notes has not offered sold or delivered and will not offer, sell or deliver, directly or indirectly, Notes within the United States or its possessions in connection with their original issuance. Further, each Manager has represented, warranted and undertaken in connection with the original issuance of Notes, that it has not communicated, and will not communicate, directly or indirectly, with a prospective purchaser if either such Manager or such purchaser is within the United States or its possessions and will not otherwise involve its U.S. office in the offer or sale of Notes. Terms used in this paragraph have the meanings given to them by the U.S. Internal Revenue Code and regulations thereunder, including the TEFRA C Rules.

### **Public Offer Selling Restriction Under the Prospectus Directive**

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a "**Relevant Member State**"), each Manager has represented, warranted and agreed that with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the "**Relevant Implementation Date**") it has not made and will not make an offer of Notes which are the subject of the offering contemplated by the Prospectus to the public in that Relevant Member State except that it may, with effect from and including the Relevant Implementation Date, make an offer of such Notes to the public in that Relevant Member State:

- (a) *Approved prospectus*: if the Notes specify that an offer of those Notes may be made other than pursuant to Article 3(2) of the Prospectus Directive in that Relevant Member State (a "**Non-exempt Offer**"), following the date of publication of a prospectus in relation to such Notes which has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State in accordance with the Prospectus Directive;
- (b) *Authorised institutions*: at any time to legal entities which are authorised or regulated to operate in the financial markets or, if not so authorised or regulated, whose corporate purpose is solely to invest in securities;
- (c) *Significant enterprises*: at any time to any legal entity which has two or more of (1) an average of at least 250 employees during the last financial year; (2) a total balance sheet of more than EUR 43,000,000 and (3) an annual net turnover of more than EUR 50,000,000, all as shown in its last annual or consolidated accounts; or
- (d) *Fewer than 100 offerees*: at any time to fewer than 100 natural or legal persons (other than qualified investors as defined in the Prospectus Directive) subject to obtaining the prior consent of the relevant Manager or Managers nominated by the Issuer for any such offer; or
- (e) *Other exempt offers*: at any time in any other circumstances falling within Article 3(2) of the Prospectus Directive,

provided that no such offer of Notes referred to in (b) to (e) above shall require an Issuer or any Manager to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive.

For the purposes of this provision, the expression an "**offer of Notes to the public**" in relation to any Notes in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe the

Notes, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State and the expression "**Prospectus Directive**" means Directive 2003/71/EC and includes any relevant implementing measure in each Relevant Member State.

#### **Selling Restrictions Addressing Additional Luxembourg Securities Laws**

- (i) The Notes having a maturity of less than 12 months that may qualify as securities and money market instruments in accordance with article 4 2. j) of the Luxembourg law dated 10 July 2005 on prospectuses for securities (the "**Luxembourg Prospectus Law**") and implementing Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading, may not be offered or sold to the public within the territory of the Grand-Duchy of Luxembourg unless:
- (ii) (a) a simplified prospectus has been duly approved by the *Commission de Surveillance du Secteur Financier* pursuant to part III of the Luxembourg Prospectus Law; or (b) the offer benefits from an exemption to or constitutes a transaction not subject to, the requirement to publish a prospectus under part III of the Luxembourg Prospectus Law.

#### **Selling Restrictions Addressing Additional United Kingdom Securities Laws**

Each Manager has represented and agreed that:

- a) it has only communicated or caused to be communicated and will only communicate or cause to be communicated any invitation or inducement to engage in investment activity (within the meaning of section 21 of the FSMA) received by it in connection with the issue or sale of any Notes in circumstances in which section 21 (1) of the FSMA does not apply to the Issuer; and
- b) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to any Notes in, from or otherwise involving the United Kingdom.

## GENERAL INFORMATION

### Listing and Admission to Trading

Application has been made to list Notes on the official list of the Luxembourg Stock Exchange and to admit them to trading on the regulated market of the Luxembourg Stock Exchange.

### Authorisation

The issue of Notes was authorised by the management board of EWE AG on 17 June 2009.

### Use of Proceeds

The net proceeds from the issue of Notes by EWE AG in the amount of 493,080,000 will be used for general corporate purposes.

### Clearing

The Notes have been accepted for clearance through Clearstream Banking AG, Frankfurt am Main (Neue Börsestrasse 1, 60487 Frankfurt am Main). The Common Code is 043978527, the German WKN is A0Z2A1 and the International Securities Identification Number (ISIN) is DE000A0Z2A12.

### Rating

The Notes have been rated as follows:

Standard & Poor's, a division of The McGraw-Hill Companies, Inc.:	A-	(negative watch)
Moody's Investors Service, Inc.:	A2	(stable)

The Issuer has been rated as follows:

Standard & Poor's, a division of The McGraw-Hill Companies, Inc.:	A-	(negative watch)
Moody's Investors Service, Inc.:	A2	(stable)

A rating is not a recommendation to buy, sell or hold securities of the Issuer and may be subject to suspension, reduction or withdrawal at any time by the assigning rating agency. A suspension, reduction or withdrawal of the rating assigned to the Issuer may adversely affect the market price of the Notes.

### Documents on Display

For so long as any Notes shall be outstanding, copies and, where appropriate, English translations of the following documents may be inspected (and in the case of (b) will be available free of charge and can be found on the website of the Luxembourg Stock Exchange at [www.bourse.lu](http://www.bourse.lu)) during normal business hours at the specified office of the Paying Agent in Luxembourg, namely:

- (a) The constitutional documents of the Issuer;
- (b) the Prospectus any supplement thereto, if any, and any document incorporated by reference therein.

## INCORPORATION BY REFERENCE

The following documents are incorporated by reference into this Prospectus:

- EWE AG Annual Report 2007
  - the audited consolidated financial statements of EWE AG for the fiscal year ended on 31 December, 2007 consisting of
    - Income statement (page 79 of the Annual Report of 2007),
    - Balance sheet (page 80 to 81 of the Annual Report of 2007),
    - Cash flow statement (page 82 of the Annual Report of 2007),
    - Statement of recognised income and expenses (page 83 of the Annual Report of 2007),
    - Notes to the consolidated financial statements (pages 84 to 155 of the Annual Report of 2007),
  - the Auditor's report (page 156 of the Annual Report of 2007)
- EWE AG Annual Report 2008
  - parts of the Group Management Report of the EWE AG for the fiscal year ended on 31 December, 2008 consisting of the sections headed as follows
    - Energy market (page 48 to 50 of the Annual Report of 2008),
    - Telecommunications market (page 51 of the Annual Report 2008),
    - Legal environment (page 51 to 53 of the Annual Report 2008),
    - Group strategy (page 54 of the Annual Report 2008),
    - Group structure and management (page 55 to 64 of the Annual Report 2008),
    - Personnel (page 65 to 66 of the Annual Report 2008),
    - Research and development (page 67 to 68 of the Annual Report 2008),
    - Earnings position (page 69 to 70 of the Annual Report 2008),
    - Assets and financial position (page 71 of the Annual Report 2008),
    - Performance of the business areas (page 72 to 75 of the Annual Report 2008),
    - Risk report (page 76 to 77 of the Annual Report 2008)
  - the audited consolidated financial statements of EWE AG for the fiscal year ended on 31 December, 2008 consisting of
    - Income statement (page 81 of the Annual Report of 2008),
    - Balance sheet (page 82 to 83 of the Annual Report of 2008),

- Cash flow statement (page 84 of the Annual Report of 2008),
  - Statement of recognised income and expenses (page 85 of the Annual Report of 2008),
  - Notes to the consolidated financial statements (pages 86 to 153 of the Annual Report of 2008),
- the Auditor's report (page 154 of the Annual Report of 2008)

All information not listed above but included in the documents incorporated by reference is given for information purposes only.

As long as any Notes are listed on the official list of the Luxembourg Stock Exchange and are admitted to trading on the regulated market of the Luxembourg Stock Exchange and any applicable laws so require the documents incorporated by reference are available on the website of the Luxembourg Stock Exchange ([www.bourse.lu](http://www.bourse.lu)) and may be inspected and are available free of charge during normal business hours at the specified office of the Paying Agent at Kaiserplatz, 60261 Frankfurt am Main, Germany.

## **NAMES AND ADDRESSES**

### **ISSUER**

EWE Aktiengesellschaft  
Tirpitzstraße 39  
26122 Oldenburg  
Germany

### **PRINCIPAL PAYING AGENT**

Commerzbank Aktiengesellschaft  
Kaiserplatz  
60261 Frankfurt am Main  
Germany

### **JOINT LEAD MANAGERS**

CALYON  
Taubusanlage 14  
D- 60325 Frankfurt am Main  
Germany

Commerzbank Aktiengesellschaft  
Kaiserplatz  
60261 Frankfurt am Main  
Germany

HSBC Bank plc  
8 Canada Square  
London E14 5HQ  
United Kingdom

The Royal Bank of Scotland plc  
135 Bishopsgate  
London EC2M 3UR  
United Kingdom

### **CO-MANAGERS**

Bayerische Hypo- und Vereinsbank  
Aktiengesellschaft  
Arabellastraße 12  
81925 Munich  
Germany

Bremer Landesbank Kreditanstalt Oldenburg  
-Girozentrale-  
Domshof 26  
28195 Bremen  
Germany

Landesbank Baden-Württemberg  
Am Hauptbahnhof 2  
70173 Stuttgart  
Germany

Landesbank Hessen-Thüringen  
Neue Mainzer Straße 10-58  
60311 Frankfurt am Main  
Germany

Landessparkasse zu Oldenburg  
Berliner Platz 1  
26123 Oldenburg  
Germany

Oldenburgische Landesbank AG  
Stau 15/17  
26122 Oldenburg  
Germany

**LAWYERS**

*To the Issuer*  
Clifford Chance  
Partnerschaftsgesellschaft  
Mainzer Landstrasse 46  
60325 Frankfurt am Main  
Germany

*To the Managers*  
Hengeler Mueller  
Partnerschaft von Rechtsanwälten  
Bockenheimer Landstrasse 24  
60323 Frankfurt am Main  
Germany

**LISTING AGENT**

Commerzbank Aktiengesellschaft  
Kaiserplatz  
60261 Frankfurt am Main  
Germany

**AUDITOR**

PricewaterhouseCoopers Aktiengesellschaft  
Wirtschaftsprüfungsgesellschaft  
Bloherfelder Straße 130  
26129 Oldenburg  
Germany