

## **Domination Agreement**

Between

**Deutsche Wohnen AG**, Frankfurt am Main, registered with the commercial register  
of the local court of Frankfurt am Main under docket number HRB 42388

– “**Deutsche Wohnen**” in the following –

and

**GSW Immobilien AG**, Berlin, registered with the commercial register  
of the local court of Charlottenburg under docket number HRB 125788

– “**GSW**” in the following –

## § 1 Management Control and Instruction

- (1) GSW assigns the management control (*Leitung*) of its company to Deutsche Wohnen. Deutsche Wohnen is accordingly entitled to issue instructions (*Weisungen*) which are binding on the Management Board of GSW, both generally and with regard to individual cases. Deutsche Wohnen will exercise its right to issue instructions through its Management Board or (as far as legally permissible) through persons given explicit power of attorney by the Management Board, specifying the extent and duration of this authority.
- (2) No instruction may be given to maintain, amend or terminate the present agreement. Instructions must be in writing (Section 126 b German Civil Code (*BGB*)). In urgent cases instructions may also be given orally, but must be confirmed by Deutsche Wohnen in writing (Section 126 b German Civil Code (*BGB*)) without delay.
- (3) The Management Board of GSW is required to comply with the instructions of Deutsche Wohnen.

## § 2 Right to Information

Deutsche Wohnen is entitled to inspect the books and records of GSW at any time. The Management Board of GSW is required to supply Deutsche Wohnen at any time with all requested information on all matters relating to GSW. Notwithstanding the rights agreed above, GSW is required to keep Deutsche Wohnen continuously informed of the business development, and specifically of material transactions.

## § 3 Assumption of Losses

- (1) An assumption of any losses (*Verlustübernahme*) by Deutsche Wohnen is agreed pursuant to the provisions of Section 302 German Stock Corporation Act (*AktG*), as amended from time to time.
- (2) The obligation to assume losses applies for the first time to the entire financial year in which this agreement becomes effective pursuant to Section 6(2).
- (3) In event that this agreement is ended during a financial year, and specifically in the event of termination for good cause (*wichtiger Grund*), Deutsche Wohnen is required to assume a prorated loss by GSW as shown in the balance sheet to be drawn up for the date of termination.

## § 4 Compensation

- (1) Deutsche Wohnen guarantees the minority shareholders of GSW for the duration of this agreement a fixed annual payment in the form of a Guaranteed Dividend ("**Guaranteed Dividend**"), payable for the first time for the financial year in which

the agreement becomes effective pursuant to Section 6(2). If this agreement ends during a financial year of GSW or GSW declares a short financial year during the period in which the obligation to assume losses pursuant to Section 3(1) of this agreement is effective, the Guaranteed Dividend is reduced *pro rata temporis*. To the extent the dividend paid by GSW for a financial year (including any part payments) for each no-par share of GSW is less than the Guaranteed Dividend, Deutsche Wohnen will pay each minority shareholder of GSW the difference for each no-par share. The due date for any payment of the difference is based on the statutory provisions.

- (2) The Guaranteed Dividend for each GSW financial year and each bearer GSW share representing a notional value of EUR 1.00 of the share capital shall be a gross sum of EUR 1.66 ("**Gross Compensation Amount**") less any corporate income tax and solidarity surcharge at the prevailing rate for the relevant financial year ("**Net Compensation Amount**"). In the circumstances at the time of signature of this agreement, the Gross Compensation Amount is subject to 15 % corporate income tax plus 5.5 % solidarity surcharge, or EUR 0.26 for each no-par share of GSW. This results under the circumstances at the time of signature of this agreement in a Guaranteed Dividend of EUR 1.40 for each no-par share of GSW for an entire financial year of GSW. For the sake of clarity it is agreed that any withholding tax (such as capital gains tax) shall be withheld from the Net Compensation Amount to the extent required by statute.
- (3) In the event of capital measures by Deutsche Wohnen or GSW, the Guaranteed Dividend will be adjusted, if required by statute.
- (4) If proceedings are initiated pursuant to Section 1 number 1 German Act on Appraisal Proceedings (*SpruchG*) and the court legally binding adjudicates a higher Guaranteed Dividend than agreed in this agreement, the minority shareholders are entitled, even if they have already received compensation in the interim pursuant to Section 5, to demand a corresponding payment in addition to the payments already received by them on the basis of the Guaranteed Dividend. Similarly, all other minority shareholders will be treated in the same way if Deutsche Wohnen commits to a higher Guaranteed Dividend for a GSW shareholder in a settlement to avoid or end proceedings pursuant to Section 1 number 1 German Act on Appraisal Proceedings.

## **§ 5 Settlement**

- (1) Deutsche Wohnen undertakes on request by a minority shareholder of GSW to acquire the shareholder's shares in exchange for bearer shares in Deutsche Wohnen representing a notional value of EUR 1.00 each in the share capital in the ratio of 7 shares of Deutsche Wohnen for 3 shares of GSW ("**Exchange Ratio**"). The exchange does not include dividend coupons and renewal talons not yet called. In the event that shareholders of GSW exchange their GSW shares for shares of Deutsche Wohnen

before receiving a dividend and/or payment under the Guaranteed Dividend for the financial year 2014 or subsequent financial years they shall as far as practically and legally possible be granted shares in Deutsche Wohnen that participate in profit from the start of the last financial year that ended before they were created. In the event that shareholders of GSW exchange their GSW shares for shares of Deutsche Wohnen after receiving a dividend and/or payment under the Guaranteed Dividend for the financial year 2014 or subsequent financial years or where it is not practically or legally possible to grant shares with that participation in profit as described in the previous sentence they shall be granted Deutsche Wohnen shares that participate in profit from the start of the financial year in which they are created.

- (2) Compensation for fractional rights to shares of Deutsche Wohnen ("**Fractional Share Rights**") is in cash. For the purposes of compensation in cash, the Fractional Share Rights due to individual shareholders are pooled into full shares for all shares issued at a given date, and the resulting shares of Deutsche Wohnen are sold on the stock exchange by the settlement agent; the holders of fractional share rights receive a compensation in cash in the amount of the share in the proceeds corresponding to their Fractional Share Rights. To the extent Fractional Share Rights are left over after pooling, a cash compensation will be made equaling the prorated closing price of Deutsche Wohnen AG stock in Xetra trading (or a corresponding successor system) in Frankfurt am Main on the day before such cash is credited by the settlement agent.
- (3) The obligation of Deutsche Wohnen to acquire the shares is for a limited period of time. The time limitation period ends two months after the date on which the entry of the existence of this agreement in the commercial register of the seat of GSW is deemed to have been made known in accordance with Section 10 German Commercial Code (*HGB*). This time limitation period is deemed to have been observed if written declaration of acceptance is received on time by Deutsche Wohnen. This does not prejudice the minority shareholders' rights under Section 305 paragraph 4 sentence 3 German Stock Corporation Act (*AktG*).
- (4) In the event of capital measures by Deutsche Wohnen or GSW before expiration of the time limitation period specified in Section 5(3), the Exchange Ratio will be adjusted if required by statute.
- (5) If proceedings are initiated pursuant to German Act on Appraisal Proceedings (*SpruchG*) and the court adjudicates a higher settlement, shareholders who have already received settlement can also require a corresponding supplement to the settlement already received. Similarly, all other minority shareholders of GSW will be treated in the same way by adjusting the Exchange Ratio or an additional cash payment if Deutsche Wohnen commits to a higher settlement for a shareholder of GSW in a settlement to avoid or end proceedings pursuant to Section 1 number 1 German Act on Appraisal Proceedings (*SpruchG*).
- (6) The transfer of shares of GSW in exchange for the shares of Deutsche Wohnen to be

granted is without charge to minority shareholders of GSW, provided that they have a domestic securities deposit account.

### **§ 6 Effectiveness**

- (1) This agreement requires approval by the general meetings of GSW and Deutsche Wohnen.
- (2) The agreement becomes effective on entry in the commercial register of the seat of GSW and (with the exception of the management and instruction right pursuant to Section 1) applies retroactively from the start of the financial year of GSW in which it becomes effective through entry in the commercial register of the seat of GSW.

### **§ 7 Term of Agreement, Termination**

- (1) This agreement is entered into for an indefinite period of time. This agreement can be ordinarily terminated with notice of three months to the end of a financial year of GSW. Any notice of termination must be in writing.
- (2) This does not affect the right of termination for good cause (*wichtiger Grund*) without notice. Good cause is in particular
  - a) any event as a result of which Deutsche Wohnen no longer directly holds the majority of the voting rights arising from the shares of GSW or it has undertaken in an agreement to transfer shares of GSW to a third party with the result that upon the planned execution of the agreement or the conditional execution of the agreement contingent upon the discharge of external conditions it no longer directly holds the majority of the voting rights arising from the shares of GSW;
  - b) conclusion of a combined domination and profit and loss transfer agreement or isolated profit and loss transfer agreement between the parties or between GSW and a controlled company of Deutsche Wohnen (excluding GSW and companies affiliated with GSW);
  - c) any changes in tax legislation or case law affecting the existence or absence of a fiscal union between the two parties to this agreement; or
  - d) the transformation of GSW or Deutsche Wohnen, particularly as a result of a carve-out, merger or change of the legal form.
- (3) In the event of termination for good cause (*wichtiger Grund*) without notice, this

Agreement lapses at the end of the date stated in the notice of termination provided that this is no earlier than the day on which notice of termination is served.

- (4) If the agreement ends, Deutsche Wohnen must furnish security to creditors of GSW pursuant to Section 303 German Stock Corporation Act (*AktG*).

### **§ 8 Final provisions**

- (1) Amendments and supplements to this Agreement must be in writing to be effective. This specifically also applies to this clause requiring written form. The provisions of Section 295 German Stock Corporation Act (*AktG*) apply.
- (2) If a provision of this agreement is or becomes invalid or infeasible or if there is a gap in the agreement, this does not affect the validity of the other provisions of the agreement. The parties shall agree an appropriate provision in place of the invalid or infeasible provision which comes as close as legally possible to what the parties intended or would have intended for the purpose of the agreement. The parties declare explicitly that the present agreement is not intended to form a legal unity (Section 139 German Civil Code (*BGB*)) with agreements concluded between the parties in the past or which may be concluded between the parties in the future.
- (3) Berlin is the place of performance for reciprocal obligations and sole venue.

Berlin as of April\_\_\_\_, 2014

**Deutsche Wohnen AG**

For the Management Board

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Michael Zahn

(Chairman of the Management Board)

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Lars Wittan

(Member of the Management Board)

**GSW Immobilien AG**

For the Management Board

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Michael Zahn

(Chairman of the Management Board)

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Andreas Segal

(Member of the Management Board)