



Joint Report
of the Board of Executive Directors of K+S Aktiengesellschaft, Kassel,
and
the Management of the K+S Holding GmbH, Kassel,
in accordance with Section 293a of the German Stock Corporation Act
on the conclusion of a control and profit and loss transfer agreement
dated 10 March 2020

I. Introduction

On 10 March 2020, K+S Aktiengesellschaft with its registered office in Kassel, entered in the Commercial Register of the District Court of Kassel under HRB 2669 (hereinafter also referred to as "**Parent Company**"), and K+S Holding GmbH with its registered office in Kassel, entered in the Commercial Register of the District Court of Kassel under HRB 18068 (hereinafter also referred to as: "**Subsidiary Company**"), concluded a control and profit and loss transfer agreement (hereinafter also referred to as "**Agreement**"). In the Agreement, the Subsidiary Company is subordinated to the management of the Parent Company and undertakes to transfer its entire profit to the Parent Company. In turn, the Parent Company undertakes to assume the losses of the Subsidiary Company.

The text of the contract of 10 March 2020 is attached to this report.

The Board of Executive Directors of K+S Aktiengesellschaft and the management of K+S Holding GmbH jointly submit the following report on the conclusion of the Agreement pursuant to Section 293a of the German Stock Corporation Act (hereinafter referred to as "**AktG**")

II. Contract partner

1. K+S Aktiengesellschaft

K+S Aktiengesellschaft is a listed company listed on the German MDAX share index and entered in the Commercial Register of the Kassel District Court under HRB 2669. K+S Aktiengesellschaft is the Parent Company of the K+S Group. The K+S Group employs more than 14,000 people worldwide and in the financial year 2019 achieved group revenues of 4.070 billion euros.

The object of the Company is the extraction, processing and distribution of potash and rock salts as well as other mineral resources and the main and secondary products arising in this connection as well as the use of the underground caverns created by mining, the reutilization



and disposal of waste, the production and distribution of mixed fertilizers as well as chemical products of all kinds and the trade in all the aforementioned mineral resources and goods, the administration and utilization of real property as well as the performance of all related transactions and measures which appear necessary or useful to achieve the Company's purpose.

The Company is entitled to establish branches in Germany and abroad, to acquire interests in other companies, to lease, acquire and establish such companies.

2. K+S Holding GmbH

On 29 October 2019, K+S Holding GmbH was newly entered in the Commercial Register of the District Court of Kassel under HRB 18068. The sole shareholder of K+S Holding GmbH is K+S Aktiengesellschaft.

The object of the Company is to hold and manage interests in other companies as well as to acquire companies, businesses and assets of all kinds.

The Company may engage in all transactions that are directly or indirectly suitable for serving the corporate purpose. It is entitled to establish, acquire and sell companies and shareholdings and to establish representative offices and branches.

By way of a spin-off, K+S Holding GmbH has acquired assets from the former K+S Salz GmbH, Hanover, entered in the Commercial Register of the District Court of Hanover under HRB 201123, namely its shares in K+S Netherlands Holding B.V., Harlingen, the Netherlands, entered in the Dutch register of companies maintained by the Dutch Chamber of Commerce (Kamer van Koophandel) under KvK number 01113914, and in K+S Belgium Holding B.V.B.A., Machelen (Brabant), Belgium, entered in the Belgian business register (Central Database of Enterprises - ZDU) under company number 0716.977.874, as well as its cash account receivable from K+S Aktiengesellschaft, on the basis of a spin-off plan dated 3 July 2019, with effect from 1 January 2019. Thereafter, K+S Holding GmbH directly holds interests in the following companies of the K+S Group:

- + K+S Netherlands Holding B.V., Harlingen, Netherlands (100%) and
- + K+S Belgium Holding B.V.B.A., Machelen (Brabant), Belgium (100%).

In financial year 2019, K+S Holding GmbH generated earnings of -11,948.42 euros. As of 31 December 2019, the balance sheet shows equity of 4,453,326,394.72 euros with a balance sheet total of 4,453,304,403.61 euros.

The annual financial statements of K+S Holding GmbH are included in the consolidated financial statements of K+S Aktiengesellschaft.

III. Entry into force of the contract

K+S Aktiengesellschaft and K+S Holding GmbH concluded the control and profit transfer agreement on 10 March 2020.

The Agreement is subject to the approval of the Annual General Meeting of K+S Aktiengesellschaft. For this reason, the Supervisory Board and the Board of Executive Directors



of K+S Aktiengesellschaft will propose to the Annual General Meeting on 12 May 2020 that the Agreement be approved.

With regard to the appropriation of earnings (transfer of profits and assumption of losses), the Agreement applies for the first time to the financial year of K+S Holding GmbH, which begins on 1 January 2020, but at the earliest to the financial year of K+S Holding GmbH in which the Agreement takes effect.

To become effective, the Agreement also requires the approval of the shareholders' meeting of K+S Holding GmbH. The shareholders' meeting approved the Agreement today.

In order to become effective, the Agreement must last be entered in the Commercial Register of K+S Holding GmbH.

IV. Legal and economic reasons for the conclusion of the contract

The aim of the Agreement is to establish a corporation tax and trade tax group between K+S Aktiengesellschaft and K+S Holding GmbH from the beginning of financial year 2020 (1 January to 31 December 2020) of both companies.

Pursuant to Section 14 (1) Sentence 1 of the German Corporation Tax Act (hereinafter referred to as "**KStG**") in conjunction with Section 17 (1) of the KStG, the conclusion of the Agreement is a mandatory precondition for the corporation and trade tax group between K+S Holding GmbH as a Subsidiary Company and K+S Aktiengesellschaft as the Parent Company.

As a result of the fiscal unity relationship, profits and losses of the Subsidiary Company are allocated directly to the Parent Company for tax purposes. Therefore, at the level of the Parent Company, positive and negative earnings can be offset against each other for tax purposes. This can result in tax advantages depending on the tax earnings situation of the companies involved. Without this Agreement, such a complete taxable profit offset is not possible.

In addition, profits are transferred to K+S Aktiengesellschaft within the framework of the fiscal unity without any additional tax burden. Without the existence of a tax group, profits of K+S Holding GmbH could at best be distributed to K+S Aktiengesellschaft by way of a dividend payment; in this case, under current legislation, 5% of the dividend payment of K+S Aktiengesellschaft would be subject to corporation and trade tax.

Apart from the obligation of K+S Aktiengesellschaft to assume losses, from the perspective of the shareholders of K+S Aktiengesellschaft, there are no particular consequences arising from the Agreement, especially because, in accordance with Sections 304 and 305 of the AktG, no compensation or settlement for outside shareholders is owed.

The conclusion of the Agreement does not entail any changes in the shareholdings in the contracting companies.

The Agreement places the Subsidiary Company under the management of the Parent Company. The Parent Company is entitled to issue general or specific instructions to the management of the Subsidiary Company. The Subsidiary Company undertakes to follow the instructions of the Parent Company.



V. Detailed explanation of the contract

The Agreement is an inter-company agreement in accordance with Section 291 (1) Sentence 1 of the AktG, which combines the elements of a control agreement (Section 291 (1) Sentence 1 sub-section 1 of the AktG) and a profit and loss transfer agreement (Section 291 (1) Sentence 1 sub-section 2 of the AktG).

1. Control

Pursuant to Section 1 (1) of the Agreement, the Subsidiary Company is subordinated to the management of the Parent Company. The Parent Company is entitled to issue general or specific instructions to the management of the Subsidiary Company. The Subsidiary Company undertakes to follow the instructions of the Parent Company.

The management of the Subsidiary Company shall continue to be incumbent upon the Subsidiary Company's management to manage the business and represent the Subsidiary Company. The legal independence of both companies remains unaffected.

The Parent Company may not issue instructions to the management of the Subsidiary Company to amend, maintain or terminate the Agreement.

2. Transfer of profits

Pursuant to Section 2 (1) of the Agreement, the Subsidiary Company undertakes to transfer its entire profit to the Parent Company up to the maximum amount pursuant to Section 301 s Sentence 1 of the AktG as amended. Pursuant to Section 301 Sentence 1 of the AktG, the maximum amount of the profit transfer is the net income for the year, reduced by any loss carried forward from the previous year, by the amount to be allocated to the statutory reserves pursuant to Section 300 of the AktG and the amount blocked from distribution pursuant to Section 268 (2) of the HGB.

Pursuant to Section 2 (2) of the Agreement, the Subsidiary Company may, with the approval of the Parent Company, allocate amounts from the net income for the year to the revenue reserves only to the extent permissible under commercial law and economically justified by reasonable commercial assessment. Pursuant to Section 301 Sentence 2 of the AktG, amounts which have been allocated to other revenue reserves during the term of the Agreement may, upon request of the Parent Company, be withdrawn from such reserves and transferred as profit.

The transfer of amounts from the dissolution of revenue reserves and of profit carried forward is excluded in accordance with Section 2 (4) of the Agreement, insofar as they were transferred to revenue reserves or arose in financial years prior to the application of the Agreement. The transfer of amounts from the release of capital reserves pursuant to Section 272 (2) of the HGB is generally excluded.

The obligation of the Subsidiary Company to transfer its entire profit also includes the profit from the sale of all its assets and a transfer profit from conversions in accordance with Section 2 (5) of the Agreement. The above provision shall not apply to profits accruing after the dissolution of the Subsidiary Company.



Pursuant to Section 2 (6) of the Agreement, the entitlement to the transfer of profits arises at the end of each financial year of the Subsidiary Company (currently 31 December) and becomes due for payment upon adoption of the annual financial statements of the Subsidiary Company for the past financial year.

3. Loss assumption

Pursuant to Section 3 (1) of the Agreement, the provisions of Section 302 of the AktG in its currently valid version, apply to the assumption of losses by the Parent Company. According to these provisions, the Parent Company must compensate for any net loss for the year arising during the term of the Agreement, unless such loss is compensated by withdrawing amounts from other revenue reserves which were allocated to them during the term of the Agreement.

In accordance with Section 3 (2) of the Agreement, the claim for loss compensation arises at the end of the financial year of the Subsidiary Company and is due for payment on the same date.

4. Preparation of the annual financial statements

Section 4 of the Agreement provides for the obligation of the Subsidiary Company to prepare and adopt the annual financial statements of the Subsidiary Company prior to the annual financial statements of the Parent Company and to submit them to the Parent Company for information, review and voting prior to their adoption.

5. Rights to information

Section 5 of the Agreement contains unrestricted information rights of the Parent Company with respect to the Subsidiary Company; the latter has an ongoing duty to provide information.

6. Term of the contract, termination

The contract is concluded for an indefinite period of time in accordance with Section 6. Ordinary termination is possible in writing for the first time after the expiry of five years / sixty months from the beginning of the financial year to which the Agreement applies for the first time, subject to a notice period of three months.

A termination for good cause remains unaffected. Good cause includes, in particular, the sale, contribution or other transfer of shares in K+S Holding GmbH, the merger, splitting or liquidation of K+S Aktiengesellschaft or K+S Holding GmbH, the change of the legal form of K+S Holding GmbH (unless K+S Holding GmbH is converted into a corporation with a different legal form), the transfer of the registered office or administrative headquarters of K+S Holding GmbH or K+S Aktiengesellschaft abroad if this results in the loss of the fiscal unity. Termination for good cause must also be made in writing.

VI. No claims for compensation or settlement

Obligations of K+S Aktiengesellschaft to make compensation or settlement payments pursuant to Sections 304, 305 of the AktG are governed by the control and profit transfer agreement dated 10 March 2020 are not justified for lack of any outside shareholders.



VII. No contract review

The sole shareholder of K+S Holding GmbH is K+S Aktiengesellschaft. For this reason, pursuant to Section 293b (1), Sentence 2 of the AktG, the control and profit and loss transfer agreement does not need to be audited by a court-appointed auditor pursuant to Sections 293b et seqq. of the AktG.

Kassel, 10 March 2020

K+S Aktiengesellschaft

Lohr

Boeckers

Roberts

K+S Holding GmbH

Bettenhausen

Gerke