Joint Report

by the Board of Management of Bayer Aktiengesellschaft, Leverkusen (“BAYER”)

and

the Management of Bayer Chemicals GmbH, Leverkusen (“BCH”),

on the revision of the Control and Profit and Loss Transfer Agreement
dated February 18, 2022

in accordance with Section 293a of the German Stock Corporation Act (AktG)

In order to inform their respective stockholders and members and to prepare the resolution for the Annual Stockholders’ Meeting of BAYER and the General Meeting of BCH, the Board of Management of BAYER and the Management of BCH are submitting the following Joint Report on the revised version of the Control and Profit and Loss Transfer Agreement dated November 19, 2002, between BAYER and BCH:

I. REVISED CONTROL AND PROFIT AND LOSS TRANSFER AGREEMENT, EFFECTIVE DATE

BAYER and Bayer Chemicals Aktiengesellschaft as the legal predecessor of BCH entered into a Control and Profit and Loss Transfer Agreement on November 19, 2002. This Control and Profit and Loss Agreement has been amended and revised by BAYER and BCH. The revised Control and Profit and Loss Agreement was concluded on February 18, 2022. It will be submitted for approval in accordance with Sections 293 and 295 of the AktG to BAYER’s Annual Stockholders’ Meeting on April 29, 2022. It is planned that BCH’s General Meeting will approve the conclusion of the revised Control and Profit and Loss Transfer Agreement by way of a notarized resolution dated March 1, 2022. The revised version of the Control and Profit and Loss Transfer Agreement must also be entered in the commercial register at the registered office of BCH in order to take effect.

II. PARTIES TO THE AGREEMENT

BAYER is a stock corporation (Aktiengesellschaft) entered in the commercial register of the Local Court of Cologne (Amtsgericht) under the number HRB 48248 with its registered office in Leverkusen. BAYER’s fiscal year is the calendar year. According to the Company’s Articles of Incorporation, the purpose of the Company is manufacturing, marketing and other industrial activities, or the provision of services, in the fields of healthcare and agriculture. The Company may also perform these activities in the fields of polymers and chemicals. BAYER is the holding company of the Bayer Group. The Company is authorized to undertake all business that is related to, or directly or indirectly serves, the purpose of the Company. The Company may establish, acquire and invest in other enterprises, especially those whose corporate purpose fully or partially extends to the aforementioned areas. It may bring companies in which it holds participating interests under its uniform control, or confine itself to the administration thereof. It may transfer their operations in full or in part to newly established or existing subsidiaries.

BAYER's total assets in 2019 and 2020 were approximately EUR 85 billion and approximately EUR 83 billion, respectively, and its distributable profit was around EUR 2,751 billion in 2019 and around EUR 1,965 billion in 2020. In 2021, total assets were approximately EUR 84 billion and distributable profit was around EUR 2,055 billion.

BCH is a German limited liability company (Gesellschaft mit beschränkter Haftung) entered in the commercial register of the Local Court of Cologne under the number HRB 49893. It was established by way of a change in the legal form of Bayer Chemicals Aktiengesellschaft. Its fiscal year is the calendar year. The company's registered office is in Leverkusen. The share capital amounts to EUR 10,000,000.00. BAYER is the sole stockholder. The object of the company is to manage its own assets.

BCH's total assets amounted to around EUR 479 million in 2019, around EUR 501 million in 2020, and around EUR 484 million in 2021. The net loss before loss absorption amounted to approximately EUR 23 million in 2019, approximately EUR 34 million in 2020 and approximately EUR 36 million in 2021.

III. EXPLANATION OF THE REVISED CONTROL AND PROFIT AND LOSS TRANSFER AGREEMENT

1. Management

In accordance with § 1 of the revised Control and Profit and Loss Transfer Agreement, BCH places the management of its company under the control of BAYER. BAYER is entitled to issue instructions to the Management of BCH with regard to the management of the company. To the extent that no instructions are issued, the Management of BCH manages the company at its own responsibility.

The right to issue instructions is determined in accordance with Section 308 of the AktG, as amended. BCH is required to follow legitimate instructions. Instructions can also be issued that are detrimental to BCH if they serve the interests of BAYER and companies that are members of the Bayer Group. The Management is not required to comply with any prohibited instructions, for example, instructions that would violate mandatory statutory provisions if they were to be followed. Furthermore, no instruction to amend, maintain, or terminate the Agreement may be issued.

BAYER shall only exercise its right to issue instructions through the Board of Management. Any instruction must be issued in writing.

In this respect, there are no changes to the content of the original version of the Agreement.

2. Profit Transfer

In accordance with § 2 of the revised Control and Profit and Loss Transfer Agreement, BCH agrees to transfer its entire profit to BAYER. Subject to the creation or release of reserves, net income for the year before transfer of profit, less any loss carried forward from the previous year, and the amount subject to a restriction on distribution in accordance with Section 268, Paragraph 8 of the German Commercial Code (HGB), must be transferred. BCH may transfer amounts from net income for the year to other retained earnings (Section 272, Paragraph 3 of the HGB) with BAYER's consent to the extent that this is permissible under commercial law and is economically justified, based on prudent business judgment. Other retained earnings created during the course of the Agreement must be released if required by BAYER and must be used to offset the net loss for a year or transferred as profit. The transfer of amounts resulting from the release of other retained earnings created before the commencement of this Agreement or from capital reserves is excluded. These provisions correspond to the restrictions on transferring profit set out in Section 301 of the AktG that apply in this case, with the necessary modifications. Section 301 of the AktG, as amended, also applies, with the necessary modifications.

In this respect, there are no material changes from the corresponding provision of the original version of the Agreement. Essentially, there were only adjustments in line with the provision of Section 301 of the AktG. There is also a dynamic reference to Section 301 of the AktG ("as amended").

3. Absorption of Losses

In accordance with § 3 of the revised Agreement, BAYER is required to absorb the losses in accordance with Section 302 of the AktG, as amended. Pursuant to Section 302 of the AktG, BAYER is obligated to compensate any net loss for the year arising during the term of the Agreement to the extent that it is not offset by withdrawing amounts from other retained earnings that were transferred to them during the course of the Agreement. By way of application of Section 302, Paragraph 3 of the AktG, with the necessary modifications, BCH may in general not waive or settle the claim to have losses offset until three years after the date on which entry of the termination of the Agreement in the commercial register is deemed to have been announced pursuant to Section 10 of the HGB. In accordance with Section 302, Paragraph 4 of the AktG, the statute of limitation for any claims by BCH is ten years starting from the day on which notice of the entry of the termination of the Agreement in the commercial register has been given pursuant to Section 10 of the HGB.

The provision on the absorption of losses also remains essentially unchanged. There is only a dynamic reference to Section 302 of the AktG ("as amended").

4. Effective Date and Duration

The revised Control and Profit and Loss Transfer Agreement takes effect upon entry in the commercial register at the registered office of BCH and applies retroactively for the period from the start of the fiscal year in which the entry was made, except for the right to issue instructions. For the period prior to the effective date of the revised Agreement, the original Agreement dated November 19, 2002, shall apply. This explains the order of the phased applicability of the different versions.

The Agreement can be terminated by giving six months' notice of termination effective as of the end of a fiscal year, but not before the end of the fiscal year that ends at least five years after the beginning of the fiscal year in which the revised Agreement takes effect. A minimum term of five years from the effective date of the Agreement, as amended, is again agreed in this respect.

If the Agreement is not terminated, it shall be automatically extended by one fiscal year in each case, subject to the same notice period. The existing requirement continues to apply in this respect.

In addition, the Agreement can be terminated for good cause without compliance with any notice period. This applies especially to BAYER in the event that BAYER no longer holds a majority interest in BCH, another investor has acquired a stake in BCH, or one of the cases set out in administrative order R 14.5, Paragraph 6, Sentence 2 of the German Corporate Tax Guidelines (KStR) of 2015 or an administrative order replacing it applies. In accordance with R 14.5, Paragraph 6, Sentence 2 of the KStR of 2015, good cause for extraordinary termination also extends to the sale or contribution of the tax group subsidiary by the tax group parent as well as to the merger, split-off or liquidation of the tax group parent or the tax group subsidiary; these are now expressly defined as a good cause in the Agreement. The reasons for termination for good cause are thus specified in greater detail than in § 4 of the original Agreement. This is advisable as set out in administrative order R 14.5, Paragraph 6, Sentence 2 of the KStR of 2015.

5. No Entitlement to Payment of Compensation or a Settlement Payment Pursuant to Section 304 and Section 305 of the AktG; no Audit of Agreement

The revised Agreement, like the original Agreement, does not provide for any compensation payments or any settlement payment for noncontrolling interest shareholders because BAYER is the sole stockholder of BCH.

Since BAYER holds all of the shares of BCH, there is no requirement for the revised Control and Profit and Loss Transfer Agreement to be audited by an expert auditor (contract auditor) as set out in Section 293b, Paragraph 1 of the AktG, with the necessary modifications, nor is there a requirement for any audit report to be prepared pursuant to Section 293e of the AktG.

IV. ECONOMIC IMPORTANCE AND PURPOSE OF THE REVISED CONTROL AND PROFIT AND LOSS TRANSFER AGREEMENT

The revised Control and Profit and Loss Transfer Agreement primarily serves the purpose of maintaining the consolidated tax group between BAYER and BCH. In particular, with respect to the obligation to absorb losses, dynamic reference must be made to Section 302 of the AktG following the change of legal form to create BCH. That is because such a reference is now required by Section 17, Paragraph 1, Sentence 2, No. 2 of the KStG. In addition, Section 14, Paragraph 1, Sentence 1, No. 3 of the KStG sets out that the Profit and Loss Transfer Agreement must be concluded for a minimum of five years. The revised Agreement therefore includes both the dynamic reference to Section 302 of the AktG and a contractually agreed minimum term of five years.

The consolidated tax group for corporate income tax and trade tax purposes thus maintained results in consolidated taxation of BCH (the tax group subsidiary) and BAYER (the tax group parent). This enables profits and losses to be offset against each other for tax purposes. Only BAYER as the tax group parent is thus liable for corporate income tax and trade tax. The revised Control and Profit and Loss Transfer Agreement therefore still enables the tax-optimized recognition of the profits and losses of BCH in the context of a consolidated tax group for corporate income tax and trade tax purposes.

Apart from this, no material changes have been made to the content; most of the amendments only entail editorial changes. The changes therefore do not have any financial or operational impact on the companies involved.

On the whole, the revised Agreement contains the standard provisions agreed when a group of companies is established.

V. ALTERNATIVES TO ENTERING INTO THE CONTROL AND PROFIT AND LOSS AGREEMENT

There was no economically reasonable alternative to entering into the revised Control and Profit and Loss Transfer Agreement between BAYER and BCH that could have achieved the objectives described above in the same manner or better. In particular, entering into other types of intercompany agreement within the meaning of Section 292 of the AktG (company lease agreement, company surrender agreement, profit pool, or agreement as to the partial absorption of profit and loss) or a management agreement cannot maintain the consolidated taxation of BAYER and BCH.

Leverkusen, February 18, 2022

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Leverkusen, February 18, 2022

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