

## **Control and Profit-and-Loss Transfer Agreement**

between

### **Siemens Aktiengesellschaft**

with registered offices in Berlin and Munich, registered with the register of companies at the District Court of Charlottenburg under registration number HRB 12300 B and with the register of companies at the District Court of Munich under registration number HRB 6684,  
(hereinafter referred to as "**Siemens AG**")

and

### **Kyros 58 GmbH**

with registered office in Munich, registered with the register of companies at the District Court of Munich under registration number HRB 241287,  
(hereinafter referred to as "**Subsidiary**")

## **Preamble**

Siemens AG is the sole shareholder of the Subsidiary.

## **Article 1 - Control**

- 1.1 The Subsidiary shall subordinate management of its company to Siemens AG.
- 1.2 Siemens AG shall accordingly have the right to give instructions to the Management of the Subsidiary on how the Subsidiary is to be managed (including its entire commercial sphere within the meaning of the Value-Added Tax Act (UStG)). The Management of the Subsidiary shall be obliged to obey the instructions.

## **Article 2 - Transfer of profits**

- 2.1 The Subsidiary undertakes to transfer its entire profits to Siemens AG in accordance with the provisions of Section 301 of the German Stock Corporation Act (AktG), as amended from time to time.
- 2.2 With the consent of Siemens AG, the Subsidiary may appropriate amounts from the annual net income to other retained earnings pursuant to Section 272 (3) of the German Commercial Code (HGB) insofar as this is permitted under commercial law and economically justified based on reasonable business judgment. The formation of statutory reserves is permitted.
- 2.3 Upon request by Siemens AG, amounts appropriated to other retained earnings pursuant to Section 272 (3) of the German Commercial Code (HGB) during the term of this agreement shall be released and used to compensate an annual net loss or be transferred as profits. The transfer of capital reserves and retained earnings existing prior to the date of this agreement shall be excluded.
- 2.4 Upon request by Siemens AG, profits shall be transferred in advance during the year, if and to the extent this is legally permissible.
- 2.5 If this agreement does not end prior to the expiration of the Subsidiary's fiscal year, the entitlement to the transfer of profits shall arise at the end of the Subsidiary's fiscal year and shall be due taking that date as value date.

- 2.6 The obligation to transfer profits shall apply retroactively as of the beginning of the Subsidiary's fiscal year in which this agreement becomes effective in accordance with Article 4.1.

### **Article 3 - Assumption of losses**

- 3.1 Siemens AG shall be obliged to assume the losses of the Subsidiary in accordance with the provisions of Section 302 of the German Stock Corporation Act (AktG), as amended from time to time.
- 3.2 If this agreement does not end prior to the expiration of the Subsidiary's fiscal year, the entitlement to the assumption of losses shall arise at the end of the Subsidiary's fiscal year and shall be due taking that date as value date.
- 3.3 The obligation to assume losses shall apply retroactively as of the beginning of the Subsidiary's fiscal year in which this agreement becomes effective in accordance with Article 4.1.

### **Article 4 - Effectiveness and term**

- 4.1 This agreement becomes effective upon registration in the register of companies at the registered office of the Subsidiary.
- 4.2 This agreement shall be concluded for an indefinite period of time. It may be terminated ordinarily upon three (3) months' notice prior to the end of the Subsidiary's fiscal year, but for the first time to the end of the Subsidiary's fiscal year that ends at least five (5) years in time after the beginning of the Subsidiary's fiscal year in which this agreement became effective. In addition to the above notice period, Siemens AG can terminate this agreement ordinarily at any time upon two (2) weeks' prior notice once the minimum term specified in the above sentence has expired.
- 4.3 The right to terminate this agreement for good cause without observing a notice period shall remain unaffected. Good cause shall exist in particular in the event of insolvency, merger, split-up or liquidation of Siemens AG or the Subsidiary; it shall also exist if Siemens AG disposes of or contributes shares and thus no longer directly holds all the shares in the Subsidiary, or an outside shareholder participates in the Subsidiary for the first time within the meaning of Section 307 of the German Stock Corporation Act (AktG) as a result of Siemens AG disposing of or contributing shares. In the event that shares are disposed of or contributed, Siemens AG may also terminate this agreement as of the date of conclusion of the promissory agreement relating to the disposal or contribution of the shares in the Subsidiary, effective the date of transfer of the shares or at an earlier

date. Good cause shall also exist in the event of an initial public offering ("IPO") of the Subsidiary; in such a case, this agreement can also be terminated as of the date on which the prospectus is approved by the responsible authority, effective the date on which the IPO is completed (transfer of the shares to the investors) or at an earlier date.

- 4.4 Notice of termination of this agreement shall be given to the other party in writing.

#### **Article 5 - Final provisions**

- 5.1 The interpretation of individual provisions of this agreement shall be subject to Section 14 and Section 17 of the German Corporation Tax Act (KStG), as amended from time to time.
- 5.2 Should any provision of this agreement be or become ineffective or unenforceable in whole or in part or should this agreement contain a gap, this shall not affect the validity of the remaining provisions of this agreement. In place of the ineffective or unenforceable provision, the parties shall agree on an effective or enforceable provision which, in its economic effect, comes as close as legally possible to that of the ineffective or unenforceable provision. In the event of a gap in this agreement, the parties shall agree on a provision that would have been intended, in light of the object and purpose of this agreement, had they considered the point on concluding this agreement.
- 5.3 If, under the terms of this agreement, a declaration is to be made in writing, such a declaration shall be signed by the declaring party, signing his/her name in his/her own hand, and transmitted to the other party as an original. The written form described above may not be replaced by the electronic form.
- 5.4 Place of performance and jurisdiction for both parties shall be Munich.

Munich, November 26, 2018

#### **Siemens Aktiengesellschaft**

[signed]

Kaeser

(President and Chief Executive Officer)

[signed]

Dr. Thomas

(Member of the Managing Board)

Munich, November 26, 2018

**Kyros 58 GmbH**

[signed]

Steffen Großberger  
(Managing Director)

[signed]

Wolfgang Seltmann  
(Managing Director)

This document prepared for the convenience of English speaking readers is a translation of the German original. For purposes of interpretation, the German text shall be authoritative and final.