

DEUTSCHE TELEKOM AG
Form 6-K
October 05, 2009

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Form 6-K

REPORT OF FOREIGN PRIVATE ISSUER
PURSUANT TO RULE 13a-16 OR 15d-16
UNDER THE SECURITIES EXCHANGE ACT OF 1934

For the month of October 2009

Commission file number 001-14540

Deutsche Telekom AG
(Translation of Registrant's Name into English)

Friedrich-Ebert-Allee 140,
53113 Bonn,
Germany
(Address of Principal Executive Offices)

Indicate by check mark whether the registrant files or will file annual reports under cover of Form 20-F or Form 40-F.

Form 20-F Form 40-F

Indicate by check mark whether the registrant by furnishing the information contained in this form is also thereby furnishing the information to the Commission pursuant to Rule 12g3-2(b) under the Securities Exchange Act of 1934.

Yes No

This report is deemed submitted and not filed pursuant to the rules and regulations of the Securities and Exchange Commission.

Deutsche Telekom AG
with its registered offices in Bonn, Germany

- ISIN no. DE0005557508 -
- Securities identification code 555 750 -

Invitation
to the extraordinary shareholders' meeting

We hereby invite our shareholders to attend the
extraordinary shareholders' meeting
on Thursday November 19, 2009
at 10:00 a.m. (Central European Time – CET),
to be held at the
TUI Arena, Expo Plaza 7, 30539 Hanover, Germany
(and the adjoining rooms that can be accessed via the TUI Arena).

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Agenda

1. Resolution on the approval of the Spin-off and Take-over Agreement concluded on September 3, 2009 with T-Mobile Deutschland GmbH with its registered offices in Bonn.

T-HOME and T-MOBILE in Germany are to be merged to create a single legal entity in order to increase their competitiveness. Deutsche Telekom AG to this end concluded a Spin-off and Take-over Agreement with T-Mobile Deutschland GmbH with its registered offices in Bonn, which is a wholly owned direct subsidiary of Deutsche Telekom AG, on September 3 2009 in respect of the document notarized by notary public

Dr. Ingrid Doyé with offices in Cologne, and under which the T-HOME business area in the structure specified in the Spin-off and Take-over Agreement (Newly Defined

T-HOME Business Area) with all the associated assets and liabilities shall be transferred by way of a spin-off (§ 123 (3) No. 1 in conjunction with §§ 124 et seq.,

138, 141 et seq. Umwandlungsgesetz (UmwG - Reorganization and Transformation Act) to T-Mobile Deutschland GmbH. The Spin-off and Take-over Agreement shall only take effect, once it has been approved by the shareholders' meeting of

Deutsche Telekom AG and by the shareholders' meeting of T-Mobile Deutschland. It is envisaged that the shareholders' meeting of T-Mobile Deutschland GmbH approves the Spin-off and Take-over Agreement before the extraordinary shareholders' meeting of Deutsche Telekom AG to be held on November 19, 2009. Moreover, the Spin-off shall be valid only if recorded in the commercial register of Deutsche Telekom AG. This may only take place following recording in the commercial register of

T-Mobile Deutschland GmbH.

The Board of Management and the Supervisory Board propose the adoption of the following resolution:

The Spin-off and Take-over Agreement concluded on September 3, 2009 between Deutsche Telekom AG and T-Mobile Deutschland GmbH with registered offices in Bonn, notarized by notary public Dr. Ingrid Doyé with office in Cologne, is approved

Details of the main contents of the Spin-off and Take-over Agreement:

To provide shareholders with some form of initial guidance, the following provides a summary outline of the key provisions of the spin-off and take-over agreement (hereinafter "Spin-off and Take-over Agreement") concluded between Deutsche Telekom AG and T-Mobile Deutschland GmbH with registered offices in Bonn on September 3, 2009 in respect of the document notarized by notary public

Dr. Ingrid Doyé with offices in Cologne. The text of the spin-off and take-over agreement is then provided, excluding the introductory section of the agreement, table of contents, list of annexes, and annexes. Sections 1 through 8 of the Spin-off and Take-over Agreement included therein contain the essential contents of the agreement. Finally the main contents of the Annexes are set out; these Annexes form an integral part of the Spin-off and Take-over Agreement.

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The key provisions of the Spin-off and Take-over Agreement are (for the purposes of guidance) summarized below:

§ Section 1, the preamble, first describes the parties to the Agreement (Sections 1.1 and 1.2) and the economic background to the Spin-off (Section 1.3). In addition, it illustrates the modification to be carried out to the internal organizational structure of the company, aiming to redefine the T-Home business area in such a way that it focuses on fixed-network telephony and broadband services as well as subscriber line-based Internet and entertainment products and services on the German market for consumers and business customers as well as for carriers (Section 1.4). The preamble also includes the provision whereby the Spin-off and Take-over Agreement, in accordance with the provisions in its Sections 3 and 4, transfers parts of the assets and liabilities of Deutsche Telekom AG, which shall form the Newly Defined T-Home Business Area once the new organizational structure has been fully implemented, by way of a spin-off to the accepting company

T-Mobile Deutschland GmbH (Section 1.5). The Spin-off Assets and Liabilities are then specified with reference to the organizational units (Section 1.6). The tax objectives are defined under the last sub-section (Section 1.7).

§ Section 2 includes general provisions, particularly regarding the basic nature and manner of the Spin-off (Section 2.1), the closing balance sheet, the Effective Spin-off Date and the effective transfer date for tax purposes (Section 2.2).

§ Section 3 includes the relevant provisions relating to the identification of the Spin-off Assets and Liabilities and delimits these with regards to the Assets that are not affected by the Spin-off. At the beginning, there is an initially general provision (Section 3.1), which however already includes a series of specifications (which serve to include and exclude certain assets) of the Spin-off Assets and Liabilities, followed by specific provisions governing intangible assets (Section 3.2), property, plant and equipment (Section 3.3), limited easements and other rights recorded in the land register, (Section 3.4), shares in affiliated companies and other equity investments (Section 3.5), current assets (Section 3.6), liabilities and obligations, risks and charges, including the constitution of an obligation (a contractual undertaking to perform the obligation of another party) of T-Mobile Deutschland GmbH vis-à-vis Deutsche Telekom AG in order to assign certain obligations of Deutsche Telekom AG in economic terms to the Spin-off Assets and Liabilities (Section 3.7), liabilities under occupational pensions, partial early retirement arrangements, and long-term time accounts (Section 3.8), agreements and other legal relationships (Section 3.9), additions and disposals prior to the Execution Date (Section 3.10) and retention of title, expectancies and recovery claims (Section 3.11).

§ Section 4 includes provisions on the transfer terms, particularly as regards the execution of the spin-off and the Execution Date (Section 4.1), obstacles to transfer, including a catch-all clause, and the duties of cooperation regarding obstacles to the transfer (Section 4.2), general duties of cooperation (Section 4.3), assets that cannot be assigned to a single party (multi-use assets) and retransfer obligation (Section 4.4), creditor protection and internal settlement as well as indemnity from liability (Section 4.5), special aspects of easements and other land registry rights (Section 4.6), special aspects regarding main distribution frames (Section 4.7) as well as future intragroup delivery and service relationships (Section 4.8).

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§ Section 5 regulates in particular the consideration in the form of a new share in T-Mobile Deutschland GmbH (Section 5.1) and contains details of the granting of special rights and benefits (Section 5.2).

§ Section 6 contains details of the consequences of the Spin-off for employees and employee representatives.

§ Section 7 contains details or provisions regarding civil servant employment relationships.

§ Section 8 contains other provisions, especially regarding change of the effective date (Section 8.1), applicable law and forum (Section 8.2), costs and taxes (Section 8.3), entry into effect, filing for recording in the commercial register (Section 8.5) as well as a severability clause (Section 8.4) and the clarification that the Annexes form an integral component of the Agreement (Section 8.6).

The text of the Spin-off and Take-over Agreement excluding the introductory section of the agreement, table of contents, list of Annexes, and Annexes reads as follows:

„1.

PREAMBLE

1.1 Deutsche Telekom AG, with its registered offices in Bonn, is recorded in the commercial register of the Bonn Local Court under HRB 6794.

1.2 T-Mobile Deutschland GmbH, with its registered offices in Bonn, is recorded in the commercial register of the Bonn Local Court under HRB 5919. Upon conclusion of this Spin-off and Take-over Agreement, T-Mobile Deutschland GmbH's registered share capital, which is held in full by Deutsche Telekom AG, is EUR 520,000,000; it is fully paid in.

1.3 In its three strategic business areas, the Deutsche Telekom Group, whose parent is Deutsche Telekom AG, offers products and services for consumers and business customers as well as for carriers (other network operators). The three business areas are:

(i) fixed line telephony and broadband services as well as Internet and entertainment offerings;

(ii) mobile voice and data communication offerings;

and

(iii) telecommunications and IT solutions for selected corporate customers and MNCs (multi-national corporations) and for the public and healthcare sector.

In Germany, these three business areas are covered by T-HOME (fixed network telephony and broadband services as well as Internet and entertainment offerings), T-MOBILE (mobile voice and data communications offers) and

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T-SYSTEMS (telecommunications and IT solutions for selected corporate customers and MNCs as well as for the public and healthcare sector).

Both T-HOME and T-MOBILE offer their goods and services in Germany on the consumer and business customer market, with the exception of the selected major corporations, which are handled by T-SYSTEMS. T-HOME and

T-MOBILE have already been working together in Germany in a number of fields. The cooperation extends primarily to the sales and service activities, which have been integrated for some two years.

In this respect, the Germany telephony market is saturated in both business areas, whereas the German data and broadband market is continuing to expand. Further growth opportunities are resulting from the increasing demand for integrated and innovative mobile/fixed network offerings. These opportunities cannot be properly exploited given the current legal structures.

A merger between T-HOME and T-MOBILE in Germany into a single legal unit offers significant advantages compared to a continued legal separation of the domestic activities into the relevant business areas. It would, inter alia, further the aim of fully utilizing additional revenue opportunities in the respective current customer relationships. In this respect, the number of so-called double customers (fixed network and mobile) should be increased. Moreover, customer satisfaction should be improved through integrated offerings and services provided from under one roof, thus enhancing customer retention, while cost synergies should be utilized. A merger between T-HOME and T-MOBILE in Germany into a single legal unit permits a significant increase in competitiveness as a whole. Therefore a major step for this merger should be the transfer of the T-HOME Business Area, which is currently part of Deutsche Telekom AG, to T-Mobile Deutschland GmbH in accordance with the provisions of this Spin-off and Take-over Agreement.

- 1.4 On July 1, 2009, apart from restructuring the segments of the Deutsche Telekom Group such that they are broken down into the "Germany" ("GER"), "USA" ("USA"), "Europe" ("EUR"), "Southern and Eastern Europe" ("SEE"), "System Business" ("SYS") and "Group Headquarters & Shared Services" ("GHS") segments, Deutsche Telekom AG began to modify its company-internal organizational structure. The aim of the changes in the organizational structure effected per July 1, 2009 and those still outstanding is to redefine the T-HOME Business Area such that it concentrates on fixed line telephony and broadband services and on connection-based Internet and entertainment offers on the German market for consumers and business customers and carriers. Individual units that perform additional tasks within Deutsche Telekom AG, particularly international ones, have been or – where the changes in the organizational structure are still outstanding – will be removed from the T-HOME Business Area.
- 1.5 By virtue of the Spin-off and Take-over Agreement, portions of Deutsche Telekom AG's assets and liabilities, which shall form part of the Newly Defined T-HOME Business Area following full implementation of the new organizational structure whose introduction was commenced on July 1, 2009, shall be transferred to T-MOBILE Deutschland GmbH by way of spin-off by means of acquisition subject to Sections 3 and 4 (§ 123 (3) No. 1 in conjunction with §§ 124 et seq., 138, 141 et seq. of the Umwandlungsgesetz (UmwG--German Reorganization and Transformation Act) (hereinafter "UmwG").

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1.6 In this respect, based on the organizational structure as at July 1, 2009, the following shall be transferred from Deutsche Telekom AG to T-Mobile Deutschland GmbH together with all associated Assets subject to Sections 3 and 4:

(i) the areas that, within the organization, are supervised by the chairman of the "T-HOME Divisional Board of Management" (unless expressly provided otherwise below, including any and all organizational sub-units):

"Marketing" ("M"), but not including "Event Marketing" ("M 43") and "Trade Fair Management" ("M 44") in the "Market Communication"

("M 4") department, which will both remain with Deutsche Telekom AG, and not including the following units: "Business International" ("BIN" or "ICSS") and "Product Management International" ("PM 1"), i.e. not including the international wholesale activities of the "Wholesale Center" ("Z W"), which shall also remain with Deutsche Telekom AG;

"Sales" ("V"),

"Technology" ("T") including the German Fixed Line Network, but not including the "Telekom Global Network" ("TGN") including the "International Network Management Center Frankfurt" ("INMC"), which shall also remain with Deutsche Telekom AG;

"Technical Customer Service" ("TK"),

"Customer Service" ("KS"),

"Market and Quality Management" ("MQM"), but not including "Product and Quality Management" ("MQM 41") and the area management of the "Terminal Equipment" department ("MQM 4"), which shall both remain with Deutsche Telekom AG;

"Information Technology" ("IT"), but not including the "International" ("IT 3") sub-unit, which shall remain with Deutsche Telekom AG, and not including the following sub-units of the "Information Technology Center" ("Z IT"), which shall also remain with Deutsche Telekom AG with one specific reverse exception: the "Enterprise Middleware Management" ("Z IT 752") sub-department, the "IT Solutions Finances & Controlling" ("Z IT 4") department with the reverse exception that the section of the "Master Database and Sox" ("Z IT 437") sub-department that is involved with defining the SOX requirements for all national IT applications, shall be transferred to T-Mobile Deutschland GmbH, the section of the "Business Support and Reporting" ("ZIT22") sub-department that is involved with governing body support in complex IT projects, the positions of those employees in the "IT Infrastructure" ("Z IT 5") department who, as at June 30, 2009, already perform tasks for Deutsche Telekom AG involving license management, IT infrastructure standardization and contract management with IT service providers, and that section of the "IT Projects" ("Z IT 01") sub-department that is responsible for general management of Group IT projects in the ERP environment;

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"Financing and Controlling" ("FC"), but not including the "International Business" ("IB"), "Controlling Global Network" ("CT34"), and "Accounting & Financial Statements T-Home" ("BA") departments, which shall remain with Deutsche Telekom AG, and not including the "Participation Controlling/Capital Market Communication" ("CBW 3") sub-unit with the reverse exception that the part involved with national interest controlling shall be transferred to T-Mobile Deutschland GmbH while the remaining part shall remain with Deutsche Telekom AG,

and

"Human Resources" ("HR"),

(ii) the "Business Customers" ("DT GK") business unit, which passed to Deutsche Telekom AG upon recording of the merger between T-Systems Business Services GmbH with its registered offices in Bonn with Deutsche Telekom AG in the commercial register of Deutsche Telekom AG on April 1, 2009;

and

(iii) the Management Board Support ("VBV Support Office") and "Strategy T-Home" ("VBV1") organizational units directly supervised by the chairman of the "T-HOME Divisional Board of Management".

(i) to (iii) referred to previously and hereinafter as the "Newly Defined T-HOME Business Area").

Based on the organizational structure in place per July 1, 2009, the following, inter alia, shall not be included in the Newly Defined T-HOME Business Area and shall therefore not be included in the transfer pursuant to this Spin-off and Take-over Agreement: the "Products & Innovation" ("P & I") area with the "Product House" sub-area, including the associated equity investments. Also not included in the transfer pursuant to this Spin-off and Take-over Agreement shall be the remaining areas forming part of the "Group Headquarters & Shared Services" ("GHS") segment as at July 1, 2009, including the associated equity investments, as well as – apart from the participation in T-Mobile Deutschland GmbH – the equity investments held by the "USA" ("USA"), "Europe" ("EUR"), "Southern and Eastern Europe" ("SEE") and "System Business" ("SYS") segments and various support units including the "Regulation" ("VBV2") unit.

1.7 The Newly Defined T-HOME Business Area is to be transferred as an operating business unit. Therefore it is intended that this Spin-off and Take-over Agreement shall include the transfer, in particular, of all Assets that are used exclusively by the Newly Defined T-HOME Business Area and that constitute a material operating basis for the Newly Defined T-HOME Business Area as an operating business; should Assets that constitute a material operating basis for the Newly Defined T-HOME Business Area as an operating business not be exclusively used by the Newly Defined T-HOME Business Area, the transfer shall be replaced by the grant of a long-term license.

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2. GENERAL PROVISIONS

2.1 Spin-off by means of acquisition

Deutsche Telekom AG, with its registered offices in Bonn, as the transferring legal entity, shall transfer by way of spin-off by means of acquisition pursuant to § 123(3) No. 1 UmwG in their entirety those parts of its assets and liabilities that are defined in Section 3 as Spin-off Assets and Liabilities to T-Mobile Deutschland GmbH, with its registered offices in Bonn, as the receiving legal entity against grant of a new share in T-Mobile Deutschland GmbH (hereinafter referred to as the "Spin-off").

2.2 Closing Balance Sheet, Effective Spin-off Date, effective transfer date for tax purposes

- (a) The Spin-off shall be based on the audited balance sheet of Deutsche Telekom AG per December 31, 2009 as closing balance sheet (hereinafter referred to as the "Closing Balance Sheet"). T-Mobile Deutschland GmbH shall recognize the assets and liabilities transferred to it using the same carrying amounts recognized by Deutsche Telekom AG and carry them in its financial accounts and tax accounts using the respective carrying amounts recognized by Deutsche Telekom AG.
- (b) As between Deutsche Telekom AG and T-Mobile Deutschland GmbH, the transfer shall enter into effect on January 1, 2010 (hereinafter referred to as the "Effective Spin-off Date"). Commencing January 1, 2010, any and all actions and transactions on the part of Deutsche Telekom AG relating to the Spin-off Assets and Liabilities as defined in Section 3 shall be deemed effected for the account of T-Mobile Deutschland GmbH. Deutsche Telekom AG and T-Mobile Deutschland GmbH shall place each other in the positions in which they would be if the Spin-off Assets and Liabilities had already been transferred to T-Mobile Deutschland GmbH on the Effective Spin-off Date.
- (c) The effective transfer date for tax purposes shall be December 31, 2009 in accordance with § 20 (6) sentence 2 of the UmwG.

3. SPIN-OFF ASSETS AND LIABILITIES

3.1 Subject matter of the Spin-off

- (a) Deutsche Telekom AG shall transfer the following in their entirety to T-Mobile Deutschland GmbH:
 - (i) any and all tangible and intangible fixed assets, shown both as assets and liabilities, including contractual relations and other legal relations and legal positions of any kind, receivables and liabilities, uncertain liabilities, potential liabilities and future and conditional receivables and liabilities for which the legal basis has already been created, irrespective of whether these must or may be recorded in the balance sheet or have actually been recorded in the balance sheet (previously and hereinafter referred to as "Assets" or if individual Assets are meant, "Asset") and that are attributable to the Newly Defined T-HOME Business Area, unless expressly exempted from the transfer below;

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- (ii) including any and all Assets of the "Business Customers" ("DT GK") business unit that were transferred to Deutsche Telekom AG upon recording in the commercial register of Deutsche Telekom AG of the merger between T-Systems Business Services GmbH, with its registered offices in Bonn, and Deutsche Telekom AG on April 1, 2009;

and

- (iii) including any and all Assets expressly attributable below to the Spin-off Assets and Liabilities.

((i) to (iii) previously and hereinafter referred to as the "Spin-off Assets and Liabilities").

The assets and liabilities of the Spin-off Assets and Liabilities per July 1, 2009 are indicated in the pro forma balance sheet per July 1, 2009 attached as Annex 3.1 (a). The provisions of Section 2.2 (a) sentence 1 and Section 3.10 shall remain unaffected.

- (b) The Spin-off Assets and Liabilities shall include, in particular, any and all Assets that constitute a material operating basis for the Newly Defined T-HOME Business Area as an operating business unit and that are used exclusively by the Newly Defined T-HOME Business Area.
- (c) Unless expressly provided otherwise below in Section 3.1 (d) and (e) or in Sections 3.2 to 3.10, the Spin-off Assets and Liabilities shall include, in particular, any and all Assets that per January 1, 2010 are shown in the company codes 1001, 1021 and 1022 in the "Software Integration Telekom" ("SINTEL R/3") accounting system, i.e. the SAP R/3 central management system and the interface systems of Deutsche Telekom AG (hereinafter - and in relation to January 1, 2010 - referred to as "Company Codes Included in the Spin-off").
- (d) The following shall in any event not be included in the Spin-off Assets and Liabilities and shall therefore be excluded from the transfer:
 - (i) any and all trademarks, design models, patents and utility models of Deutsche Telekom AG;
 - (ii) any and all real estate, buildings and hereditary building rights of Deutsche Telekom AG;
- (iii) the agreements concerning a collateral promise in relation to commitments for company occupational pensions and partial early retirement arrangements that Deutsche Telekom AG concluded on June 21, 2007 with Deutsche Telekom Netzproduktion GmbH, with its registered offices in Bonn, on June 22, 2007 with Deutsche Telekom Kundenservice GmbH, with its registered offices in Bonn, and on June 22, 2007 with Deutsche Telekom Technischer Service GmbH, with its registered offices in Bonn, together with the rights and obligations under such collateral promise and any agreements concerning the assumption

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of contractual undertakings to perform the obligation of another party concluded by Deutsche Telekom AG with the three aforementioned companies in conjunction with the collateral promise, in each case including any and all rights and obligations resulting from such agreements;

(iv) the interest held in T-Mobile Deutschland GmbH by Deutsche Telekom AG;

(v) the control agreement dated December 4, 2000 in place between Deutsche Telekom AG and T-Mobile Deutschland GmbH, together with any and all rights and obligations resulting from such agreement;

and

(vi) the profit and loss transfer agreement dated December 4, 2000 in place between Deutsche Telekom AG and T-Mobile Deutschland GmbH, together with any and all rights and obligations resulting from such agreement.

(e) The liabilities of Deutsche Telekom AG under those agreements to which the contract numbers set forth in Annex 3.1 (e) are allotted in the "Integrated Treasury System" ("ITS") shall form part of the Spin-off Assets and Liabilities in economic terms, but, in relation to the respective outside creditors, shall remain with Deutsche Telekom AG as debtor. Accordingly, in legal terms, they shall be exempted from the assets and liabilities being transferred to

T-Mobile Deutschland GmbH upon the entry into effect of the Spin-off, although T-Mobile Deutschland GmbH agrees to satisfy such liabilities pursuant to Section 3.7 (g) inter se in relation to Deutsche Telekom AG.

3.2 Intangible fixed assets

(a) Unless expressly provided otherwise in Section 3.1 (d) and (e) or in Sections 3.2 to 3.10, the Spin-off Assets and Liabilities shall include any and all intangible fixed assets shown in the Company Codes Included in the Spin-off or otherwise attributable to the Newly Defined T-HOME Business Area, i.e. – unless expressly provided otherwise in Section 3.1 (d) and (e) or in Sections 3.2 to 3.10 – in particular:

(i) any concessions, licenses and similar rights (allotment rights, syndicate rights, rights of use, subscription rights, usufructuary rights, supply and distribution rights, rights of transmission and rights of way, emission reduction certificates, rights to use telephone numbers including porting IDs, IP addresses, rights for linear transmission of film and television products, rights for the transmission of sporting events etc.) attributable to the Newly Defined T-HOME Business Area and similar assets (unprotected inventions, know-how, secret procedures, customer indexes, film and sound recordings etc.);

and

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- (ii) any rights and legal positions attributable to the Newly Defined T-HOME Business area, in particular, rights to down payments made on intangible fixed assets;

in each case including any and all rights and obligations under contractual or other legal relations underlying such Assets or associated therewith.

(b) The Spin-off Assets and Liabilities shall include:

- (i) any and all rights in the network-specific software used in the Fixed Line Network, inter alia, rights in technical systems, platforms and other technical elements for transmission and switching as well software used for other network management in and belonging to the Fixed Line Network, in particular, the self-created and third party-created software set forth in Annex 3.2 (b) (i), subject to the exception that where licenses are limited to technical elements of the Fixed Line Network, only such licenses limited to technical elements of the Fixed Line Network shall be covered by this Section 3.2 (b) (i), i.e. licenses concerning the same software that are limited to other technical elements, in particular, technical elements pertaining to the "Telekom Global Network" ("TGN") (see Section 3.2 (f) (iv)) shall not be covered by this Section 3.2 (b) (i);
- (ii) any and all rights in the network-specific software used in the "Technical Launch Center" ("ZTE") including rights in the software for management and operation of systems and platforms that show future products and developments for tests and validations, in particular, the self-created and third party-created software set forth in Annex 3.2 (b) (i), subject to the exception that where licenses are limited to technical elements of the "Technical Launch Center" ("ZTE"), only such licenses limited to technical elements of the "Technical Launch Center" ("ZTE") shall be covered by this Section 3.2 (b) (i), i.e. licenses concerning the same software that are limited to other technical elements, in particular, technical elements pertaining to the "Telekom Global Network" ("TGN") (see Section 3.2 (f) (iv)) shall not be covered by this Section 3.2 (b) (ii)
- (iii) any and all rights in the specific software for the service production of the value-added network services (the value-added network services include public telecommunications, information, data editing, value-added solutions such as national and international voice value-added network services, including value-added solutions for customers that are also customers of T-Systems Enterprise Services GmbH; value-added network services are defined in greater detail in Annex 3.2 (b) (iii) (X)) used in the "Value-added Network Services Center" ("ZMD"), in particular, rights in the self-created and third party-created software set forth in Annex 3.2 (b) (iii) (Y);
- (iv) any rights in software that is not network-specific and supports business processes and set forth in Annex 3.2 (b) (iv);

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- (v) any and all rights in standard software that is exclusively used in the Newly Defined T-HOME Business Area and any and all rights in standard software that is exclusively used in the Newly Defined T-HOME Business area;

and

- (vi) any and all rights in software that is used exclusively in the "Business Customers" ("DT GK") business unit and any and all rights in software that is used exclusively in the "Business Customers" ("DT GK") business unit, even if they have not yet been covered by paragraphs (i) to (v);

in each case including any rights in further developments contractually granted in association with such rights or to which Deutsche Telekom AG is otherwise entitled. In this respect, "Software Rights" previously and hereinafter includes both licenses and any and all other rights in or under the software and to software.

- (c) The Spin-off Assets and Liabilities shall include the know-how attributable to the Newly Defined T-HOME Business Area, in particular:

- (i) any know-how associated with the Fixed Line Network, including the architecture and solution concepts, technical specifications and data and work instructions for the Fixed Line Network;

- (ii) any know-how associated with the test and reference systems of the "Technology Launch Center" ("ZTE"), including the architecture concepts (system architectures), solution concepts, technical specifications and data and work instructions for innovative implementation of product and platform developments for the Fixed Line Network, in particular those for which an entrepreneurial decision for implementation has already been made;

and

- (iii) the know-how associated with the "Value-added Network Services Center" ("ZMD"), including the architecture and solution concepts, technical specifications and data and work instructions for value-added network services (see Section 3.2 (b) (iii)).

- (d) The Spin-off Assets and Liabilities shall include any and all contents of the technical databases, customer databases and other databases attributable to the Newly Defined T-HOME Business Area and any rights therein, thereon or thereunder.

- (e) The Spin-off Assets and Liabilities shall include the established customer base attributable to the Newly Defined T-HOME Business Area, in particular:

- (i) the customer base from the business involving national line-based products (irrespective of the technology, for example, PSTN, IP etc.) such as voice connections, DSL connections, double/triple play connections, data products, TDN (Telekom Designed Network) solutions, T-VPN (Virtual Private Networks) voice solutions, national wholesale/resale products, national wholesale solutions, interconnect products and solutions, in particular, those consisting of the customers set forth in Annex 3.2 (e) (i);

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(ii) the established customer base from the business with non-line-based products such as ISP products (Internet access), value-added network services (see Section 3.2 (b) (iii)), including value-added solutions for customers that are also customers of T-Systems Enterprise Services GmbH, with its registered offices in Frankfurt am Main, leased equipment (for example leased telephones, routers, telecommunications systems, PCs), services (for example assembly, remote services), in particular those consisting of the customers set forth in Annex 3.2 (e) (ii), with the exception, however, of the established customer base from the "Product House" business with digital services (non-access products);

(iii) the established customer base from the business involving dependent services for the categories specified in paragraphs (i) and (ii), for example, connection-related add-on options (e.g. mailbox, security package, homepage, add-on options such as Entertain etc., provided these are booked via T-HOME Access, irrespective of availability on the free Internet), rate options (for example, discounts for time/volume thresholds, hot spot), equipment extensions (for example, extensions to telecommunications systems), service level agreements (individual service agreements, for example, for fault clearance times) and infrastructure services (for example collocation and ventilation technology, including associated ancillary services and emergency power systems);

and

(iv) the established customer base of the "Business Customers" ("DT GK") business unit, in particular, those consisting of the customers set forth in Annex 3.2 (e) (iv) (X), including the established customer base concerning the AGB network business consisting of those customers that are also customers of T-Systems Enterprise Services GmbH, with its registered offices in Frankfurt am Main, in particular, those customers set forth in Annex 3.2 (e) (iv) (Y), even if not yet covered by paragraphs (i) to (iii). In this respect, the AGB network business means any and all agreements that relate to provision of a service according to one or more of the item and service numbers (AL numbers) set forth in Annex 3.2 (e) (iv) (Z).

(f) The following shall not be included in the Spin-off Assets and Liabilities and shall be excluded from the transfer accordingly:

(i) the IT applications developed and supported by the "IT Solutions Finances & Controlling" ("Z IT 4") sub-department, which support the secondary processes of financing, controlling and purchasing;

(ii) the rights in the software set forth in Annex 3.2 (f) (ii);

(iii) the rights in the network-specific software used exclusively in the "Telekom Global Network" ("TGN");

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(iv) the licenses limited to the technical elements of the "Telekom Global Network" ("TGN") concerning the network-specific software used in the "Telekom Global Network" ("TGN");

(v) long-term licenses for capacity abroad ("DDP");

(vi) the established customer base from the business involving international wholesale/resale products and international wholesale solutions and termination and peering, including customers of the "Business International" ("BIN" or "ICSS") units from use of the "Telekom Global Network" ("TGN");

and

(vii) the established customer base from the "Product House" business with digital services (non-access products) and rights in the items and works of the relevant business underlying the products (including video-on-demand, music rights and other licenses).

3.3 Property, plant and equipment

(a) Unless expressly provided otherwise in Section 3.1 (d) and (e) or in Sections 3.2 to 3.10, the Spin-off Assets and Liabilities shall include any and all property, plant and equipment shown in the Company Codes Included in the Spin-off and other property, plant and equipment attributable to the Newly Defined T-HOME Business Area, i.e., unless expressly provided otherwise in Section 3.1 (d) and (e) or in Sections 3.2 to 3.10, the following, in particular:

(i) the technical systems and machinery attributable to the Newly Defined T-HOME Business Area;

(ii) other systems and items pertaining to the plant and equipment and attributable to the Newly Defined T-HOME Business Area;

and

(iii) any rights and legal positions attributable to the Newly Defined T-HOME Business Area, in particular, rights based on down payments rendered for property, plant and equipment, and property, plant and equipment under construction, in particular, Fixed Line Network expansions that have not yet been completed;

in each case including any and all rights and obligations under contractual or other legal relations underlying such Assets or associated therewith.

(b) The Spin-off Assets and Liabilities shall include the entire Fixed Line Network of Deutsche Telekom AG located in the territory of the Federal Republic of Germany, including the telecommunications lines, i.e. telecommunications cable systems located aboveground and underground, including associated switching and distribution equipment, pylons and supports, manholes and cable channels and other components of the cable routes, together with accessories, with the exception, however, of the network elements attributable to the "Telekom Global Network" ("TGN") and the technical systems and machinery attributable to the "Products & Innovation" ("P & I") area (previously and hereinafter referred to as the "Fixed Line Network") including any and all rights in components of the Fixed Line Network.

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The Fixed Line Network shall include, in particular:

- (i) all customer network connections, the outside plant termination points (APL) and the network, including the telecommunications lines, associated technical systems and machinery and accessories between the outside plant termination point and main distribution frames, in particular, the cable distribution boxes (KVz) and the multi-function cabinet (MFG), in each case including the technical systems therein ("Access" network level);
- (ii) the main distribution frames specified in Annex 3.3 (b) (ii) consisting, inter alia, of the converging telecommunications lines, technical systems and machinery;
- (iii) the network elements behind the main distribution frames when viewed from the outside plant termination point, including telecommunications lines, associated technical systems and machinery and accessories, the "Aggregation" network level, in particular, the Asynchronous Transfer Mode (ATM) and Ethernet nodes (routers) on such level, and the "backbone" network level, in particular, the computers that control the telecommunications traffic (so-called network nodes);
- (iv) the exchanges at the main distribution frames specified in Section 3.3 (b) (ii);

and

- (v) any and all network-related hardware, in particular, hardware for transmission, switching and other network management for the three network levels (access, aggregation and backbone);

in each case with the exception of the network elements attributable to the "Telekom Global Network" ("TGN") and the technical systems and machinery attributable to the "Products & Innovation" ("P & I") area.

The Fixed Line Network is linked with networks of other carriers and third parties and to this extent extends to the technical transfer points as part of the collocation.

The following network elements shall not be included in the Spin-off Assets and Liabilities and shall instead be attributable to the "Telekom Global Network" ("TGN"):

- (vi) the submarine cable systems including the technical systems and main distribution frames in the submarine cable termination points at the German coastlines with the operating site codes 493100, 493600, 382107 and 465100;
- (vii) any and all technical systems and machinery and other property, plant and equipment located in the building of the "International Network Management Center Frankfurt" ("INMC") (operating site code 691601), with the exception of the cable feeds to the cable distribution room;

and

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(viii) the technical systems and machinery set forth in Annex 3.3 (b) (viii).

The following technical systems and machinery shall not be included in the Spin-off Assets and Liabilities but shall instead be attributable to the "Products

& Innovation" ("P & I") area:

(ix) the technical systems and machinery set forth in Annex 3.3 (b) (ix).

- (c) The Spin-off Assets and Liabilities shall include any and all terminal equipment and in-house networks, provided these are owned by Deutsche Telekom AG.
- (d) The Spin-off Assets and Liabilities shall include the test and reference systems of the "Technical Launch Center" ("ZTE"), in particular, the hardware systems (network elements, servers, routers, cable systems etc.), which show future products and developments for tests and validations, testing and checking devices and the replica of the Cu cable network (cable testing system).
- (e) The Spin-off Assets and Liabilities shall include the property, plant and equipment attributable to the "Value-added Network Services Center" ("ZMD"), in particular, the information telephony platform, the public telecommunications centers (terminal equipment and housing), advertising, conference call bridges plus back-end systems, hardware for customer-specific value-added network services and for the AtX platform.
- (f) The Spin-off Assets and Liabilities shall include the Assets defined according to system classes in Annex 3.3 (f), unless they are attributable pursuant to Section 3.3 (b) (vi) to (viii) to the "Telekom Global Network" ("TGN") or, pursuant to Section 3.3 (b) (ix), to the "Products & Innovation" ("P & I") area (components of the Fixed Line Network and the so-called network periphery).
- (g) The Spin-off Assets and Liabilities shall include any and all Assets pertaining to the property, plant and equipment of the "Business Customers" ("DT GK") business unit, even if they are not yet covered by Section 3.3 (b) to (f).
- (h) The following shall not be included in the Spin-off Assets and Liabilities and shall be excluded from the transfer accordingly:
 - (i) the network elements attributable to the "Telekom Global Network" ("TGN") pursuant to Section 3.3 (b) (vi) to (viii);

and

- (ii) the technical systems and machinery attributable to the "Products & Innovation" ("P & I") area pursuant to Section 3.3 (b) (ix).

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3.4 Limited personal easements and other rights recorded in the land register

The Spin-off Assets and Liabilities shall include any and all limited personal easements and other rights recorded in the land register that are recorded (i) in favor of Deutsche Telekom AG or one of its legal predecessors, and (ii) that secure the creation, use or development of Spin-off Assets and Liabilities, in particular, that confer rights to use the real estate for telecommunications systems or telecommunications lines or that otherwise operate to secure cable and line rights or rights in conjunction with the operation and use of exchanges, with the exemption of limited personal easements and other rights recorded in the land register that are limited to pure rights of way for pedestrians or traffic. The Spin-off Assets and Liabilities shall include, in particular, the limited personal easements and rights recorded in the land register in favor of Deutsche Telekom AG or one of its legal predecessors specified in Annex 3.4 in relation to the real estate or buildings set forth therein.

3.5 Shares in affiliated companies and other equity investments

The Spin-off Assets and Liabilities shall include any and all shares and equity investments held by Deutsche Telekom AG in the companies set forth in Annex 3.5, in each case together with any and all associated rights and duties. Section 3.9 (j) (viii) shall remain unaffected. Where equity investments in partnerships are concerned (for tax purposes: commercial partnerships (Mitunternehmerschaften)), these shall be transferred together with the partnership's "special business assets and liabilities" (Sonderbetriebsvermögen) if this is an operating base of the commercial partnership (Sonderbetriebsvermögen I) or to the co-ownership interest (Sonderbetriebsvermögen II). The provisions of Sections 4.2 (b) and 4.8 (d) shall apply mutatis mutandis. Shares and equity investments in companies other than those stipulated in sentence 1 do not constitute Spin-off Assets and Liabilities and are accordingly excluded from transfer unless otherwise stipulated in Section 4.2 (b).

3.6 Current assets

- (a) Unless expressly provided otherwise in Section 3.1 (d) and (e) or in Sections 3.2 to 3.10, the Spin-off Assets and Liabilities shall include any and all current assets shown in the Company Codes Included in the Spin-off and other current assets attributable to the Newly Defined T-HOME Business Area, i.e., unless expressly provided otherwise in Section 3.1 (d) and (e) or in Sections 3.2 to 3.10, the following, in particular:
- (i) the inventories attributable to the Newly Defined T-HOME Business Area, in particular, raw materials, manufacturing and operating supplies and other inventories, unfinished products and services, finished products and goods, in each case including any and all rights and legal positions, in particular, rights under down payments rendered, and expendables;
 - (ii) the receivables for goods and services attributable to the Newly Defined T-HOME Business Area, including those against affiliated companies and companies in which an interest is held, and other Assets;

and

- (iii) legal relations based on accruals and attributable to the Newly Defined T-HOME Business Area;

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in each case including any and all rights and obligations under contractual or other legal relations underlying such Assets or associated therewith.

- (b) The Spin-off Assets and Liabilities shall include any and all rights and duties under banking and account agreements concerning the accounts set forth in Annex 3.6 (b).
- (c) The Spin-off Assets and Liabilities shall include any and all of the current assets of the "Business Customers" ("DT GK") business unit, even if they are not yet covered by Section 3.6 (b).

3.7 Liabilities and obligations, risks and charges

- (a) Unless expressly provided otherwise in Section 3.1 (d) and (e) or in Sections 3.2 to 3.10, the Spin-off Assets and Liabilities shall include any and all liabilities and obligations shown in the Company Codes Included in the Spin-off or otherwise attributable to the Newly Defined T-HOME Business Area, including uncertain liabilities, potential liabilities and future liabilities of Deutsche Telekom AG, the legal basis for which has already been created, i.e., unless expressly provided otherwise in Section 3.1 (d) and (e) or in Sections 3.2 to 3.10, the following in particular if these are attributable to the Newly Defined T-HOME Business Area:

- (i) liabilities from down payments on orders received;

- (ii) liabilities for goods and services;

- (iii) liabilities to affiliated companies or companies in which an interest is held;

- (iv) other liabilities;

- (v) uncertain liabilities and charges for which provisions are recognized (in this respect, the procedures set forth in Section 3.8 shall apply to pension commitments);

and

- (vi) legal relations underlying deferred payments.

- (b) The Spin-off Assets and Liabilities shall include the liabilities and obligations under the agreements and other legal relations forming part of the Spin-off Assets and Liabilities pursuant to Section 3.9 (b) to (h).
- (c) The Spin-off Assets and Liabilities shall include the dismantling obligations with regard to the Fixed Line Network and dismantling obligations for public telecommunications centers.
- (d) The Spin-off Assets and Liabilities shall include grant back rights under security provided attributable to the Newly Defined T-HOME Business Area, in particular, those in conjunction with the agreements specified in Section 3.9 (c) and, if these do not consist of a cash payment, the security corresponding to the aforementioned grant back obligations (ownership by way of security, legal positions under guarantee agreements etc.).

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- (e) The Spin-off Assets and Liabilities shall include any and all liabilities and obligations, risks and charges of the "Business Customers" ("DT GK") business unit, even if they are not yet covered by Section 3.7 (b) to (d).
- (f) The Spin-off Assets and Liabilities shall include liabilities under those loan agreements with Deutsche Telekom International Finance B.V., with its registered offices in Amsterdam, the Netherlands, to which the following contracting numbers are allotted in the "Integrated Treasury System" ("ITS"): 21332 (loan from MTN 21403 (ISIN XS0132407957) due on July 11, 2011), 24408 (loan from MTN 25656 (ISIN XS0155312829) due on May 29, 2012) and 27596 (loan from MTN 27565 (ISIN XS0166575067) due on December 9, 2010).
- (g) T-Mobile Deutschland GmbH promises Deutsche Telekom AG inter se with economic effect from the Effective Spin-off Date to satisfy Deutsche Telekom AG's liabilities under those agreements allotted the contract numbers specified in Annex 3.1 (e) in the "Integrated Treasury System" ("ITS").
- (h) The following shall not be included in the Spin-off Assets and Liabilities and shall be excluded from the transfer accordingly:
 - (i) the liabilities and obligations attributable to the "Telekom Global Network" ("TGN"), in particular, for licenses in international capacities with ongoing operating and restoration services and the dismantling obligations concerning submarine cables;
 - (ii) the liabilities and obligations under the agreements and other legal relations not included in the Spin-off Assets and Liabilities pursuant to Section 3.9 (j).

3.8 Liabilities under occupational pensions, partial early retirement arrangements, and long-term time accounts

- (a) As against the transferred employees, T-Mobile Deutschland GmbH shall with economic effect upon the Effective Spin-off Date assume all rights and duties under the company pension commitments granted by Deutsche Telekom AG. For entitlements to occupational pension benefits accrued by the effective spin-off date by employees transferred from T-Mobile Deutschland GmbH pursuant to Annex 3.8 (a), Deutsche Telekom AG shall, via intragroup cost allocation, transfer to T-Mobile Deutschland GmbH assets equal to the liabilities arising from the defined benefit obligation (DBO) in accordance with IAS 19 for pension provisions recognized in the annual financial statements as of December 31, 2009. The data pool of Deutsche Telekom AG as captured in the inventory on September 30, 2009 shall form the data basis. The precise amount to be transferred to T-Mobile Deutschland GmbH by Deutsche Telekom AG shall be calculated by T-Mobile Deutschland GmbH in consultation with Deutsche Telekom AG without undue delay following the end of the fiscal year on December 31, 2009 and no later than March 31, 2010. The calculation shall be based on the same assumptions used in the preparation of the consolidated financial statements of Deutsche Telekom AG as of December 31, 2009.
- (b) T-Mobile Deutschland GmbH shall assume with economic effect upon the Effective Spin-off Date any and all rights and duties under the current liabilities of Deutsche Telekom AG, namely, pension commitments (under pension claims and expectancies) of Deutsche Telekom AG vis-à-vis employees who leave between the Effective Spin-off Date and the Execution Date but whose employment relationship would pass to T-Mobile Deutschland GmbH in the manner described in Section 6.2 if it were to continue unchanged until the Execution Date. The provisions set forth in Section 3.8 (a) shall apply mutatis mutandis for the transfer of Assets.

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- (c) Deutsche Telekom AG's rights and duties under pension liabilities existing at Deutsche Telekom AG towards employees who have already left as at the Effective Spin-off Date (occupational pension recipients and potential pension beneficiaries) shall remain with Deutsche Telekom AG and shall not be assumed by T-Mobile Deutschland GmbH.
- (d) In consideration for the obligations under partial early retirement arrangements and long-term time accounts assumed, T-Mobile Deutschland GmbH shall receive Assets equivalent to the obligations valued under IFRS. It agrees to invest such Assets directly and protected against insolvency in accordance with the relevant statutory provisions. The shares in the Contractual Trust Arrangement (CTA) recorded in the balance sheet for covering the obligations under the partial early retirement arrangements and long-term time accounts of the assumed employees at Deutsche Telekom AG shall remain with Deutsche Telekom AG.

3.9 Agreements and other legal relations

- (a) Unless expressly provided otherwise in Section 3.1 (d) and (e) or in Sections 3.2 to 3.10, the Spin-off Assets and Liabilities shall include any and all rights and duties shown in the Company Codes Included in the Spin-off or other contractual or other legal relations and legal positions attributable to the Newly Defined T-HOME Business Area, irrespective of whether these are of a private law or public law nature.

(b) The Spin-off Assets and Liabilities shall include:

- (i) any and all agreements whose subject matter concerns the software rights covered by Section 3.2 (b);
- (ii) any and all agreements between Deutsche Telekom AG and T-Systems Enterprise Services GmbH, with its registered offices in Frankfurt am Main, whose subject matter concerns the provision and operation of software set forth in Annex 3.2 (b) (iv);
- (iii) any and all agreements between Deutsche Telekom AG and T-Systems Enterprise Services GmbH, with its registered offices in Frankfurt am Main, whose subject matter concerns the provision and operation of workplace systems of the Newly Defined T-HOME Business Area;

and

- (iv) the agreements set forth in Section 3.7 (f) with Deutsche Telekom International Finance B.V., with its registered offices in Amsterdam, the Netherlands;

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in each case with any and all rights and duties resulting from such agreements.

(c) The Spin-off Assets and Liabilities shall include:

- (i) any and all agreements with customers whose subject matter concerns national line-based products (irrespective of the technology, such as PSTN, IP etc.), such as voice connections, DSL connections, double/triple play connections, data products, TDN (Telekom Designed Network) solutions, T-VPN (Virtual Private Networks) voice solutions, national wholesale/resale products, national whole solutions, interconnect products and solutions, in particular, those with the customers set forth in Annex 3.2 (e) (i);
- (ii) any and all agreements whose subject matter concerns non-line-based products such as ISP products (Internet access), value-added network services (see Section 3.2 (b) (iii)), including value-added solutions for customers that are also customers of T-Systems Enterprise Services GmbH, with its registered offices in Frankfurt am Main, leased equipment (for example, leased telephones, routers, telecommunications systems, PCs), services (such as assembly, remote services), in particular those with the customers set forth in Annex 3.2 (e) (ii), with the exception, however, of customers from the "Product House" business with digital services (non-access products);
- (iii) any and all agreements with customers whose subject matter concerns independent services from the categories specified in paragraphs (i) and (ii) such as connection-related add-on options (e.g. mailbox, security package, homepage, add-on options for Entertain etc., provided these are booked via T-HOME Access, irrespective of availability in the free Internet), rate options (for example, discounts for time/volume thresholds, hot spots), equipment extensions (for example, extensions of telecommunications systems), service level agreements (individual service agreements, for example, concerning fault clearance times) and infrastructure services (for example, collocation and ventilation technology including associated supplementary services and emergency power systems);

and

- (iv) any and all agreements by the "Business Customers" ("DT GK") business unit with the customers attributable to such business unit, in particular, with the customers set forth in Annex 3.2 (e) (iv) (X), including the customers from the AGB network business that are also customers of T-Systems Enterprise Services GmbH, with its registered offices in Frankfurt am Main, in particular, those customers set forth in Annex 3.2 (e) (iv) (Y), even if they are not yet covered in paragraphs (i) to (iii). In this respect, the AGB network business means all agreements that concern the provision of a service based on one or more of the item and service numbers (AL numbers) set forth in Annex 3.2 (e) (iv) (Z);

in each case with any and all rights and duties resulting from such agreements. These agreements shall also include such agreements that are created by way of administrative order issued to Deutsche Telekom AG by the Bundesnetzagentur (Federal Network Agency for Electricity, Gas, Telecommunications, Post and Railway). Moreover, the Spin-off Assets and Liabilities shall include any and all agreements relating to the agreements under paragraphs (i) to (iv) concerning security in favor of Deutsche Telekom AG (such as guarantee agreements).

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(d) The Spin-off Assets and Liabilities shall include:

- (i) any and all agreements with owners of real estate whose subject matter concerns the transmission and use of telecommunications lines and any and all agreements whose subject matter concerns joint use of other facilities intended for the installation of telecommunications cables (so-called joint use agreements or permission contracts (Gestattungsverträge));
- (ii) any and all agreements with owners of real estate whose subject matter concerns subscriber lines (agreements for the use of real estate and so-called property owner's declarations);
- (iii) any and all agreements with other carriers or third parties concerning rights in their networks located in the territory of the Federal Republic of Germany and concerning network-based services provided via such networks and for the invoicing of receivables of Deutsche Telekom AG;
- (iv) any and all agreements whose subject matter concerns the provisions for the allocation of costs for modification and extension work on the Fixed Line Network;
- (v) any and all agreements (for example, with carriers or municipalities) whose subject matter concerns broadband expansion in Germany;
- (vi) any and all cooperation agreements associated with the Fixed Line Network with respect to which performance is rendered by Deutsche Telekom AG free of charge;
- (vii) any and all agreements, in particular, lease agreements, concerning the use of third party real estate for setting up public telecommunications centers and agreements concerning the acquisition, development, operation and marketing of advertising space on private and public property as well as marketing and brokerage agreements for "Out of Home Media";

and

- (viii) any and all license agreements pursuant to § 45 a of the Telekommunikationsgesetz (Telecommunications Act) of 2004 or previous provisions;

in each case with any and all rights and duties resulting from such agreements.

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(e) The Spin-off Assets and Liabilities shall include:

- (i) the purchasing agreements with Group-external third parties with the contract numbers set forth in Annex 3.9 (e) (i), which are filed under such contract numbers, inter alia, in the central SAP system of Deutsche Telekom AG or in the central SAP system of T-Systems Enterprise Services GmbH, with its registered offices in Frankfurt am Main, including the individual agreements and individual retrievals based on such purchase agreements;
- (ii) the purchasing agreements with third parties with the contract numbers set forth in Annex 3.9 (e) (ii), which are filed under such contract numbers, inter alia, in the central SAP system of Deutsche Telekom AG or in the central SAP system of T-Systems Enterprise Services GmbH, with its registered offices in Frankfurt am Main, including the individual agreements and individual retrievals based on such purchase agreements;
- (iii) the sport marketing agreements set forth in Annex 3.9 (e) (iii);
- (iv) any and all agreements concerning rights for linear transmission of film and television products, in particular, the agreement set forth in Annex 3.9 (e) (iv) and the archive rights corresponding with such agreements;

and

- (v) the contractual relationship between Deutsche Telekom AG and Active Billing GmbH & Co. KG, with its registered offices in Bonn, concerning services for third party billing;

in each case with any and all rights and duties resulting from such agreements.

(f) The Spin-off Assets and Liabilities shall include any and all rights and duties under public law agreements, approvals, permits, permissions, consents, licenses and other entitlements (hereinafter referred to as "Public Law Authorizations") and other public law dispositions, decisions and other sovereign measures (hereinafter referred to as "Other Public Law Measures") of any kind attributable to the Newly Defined T-HOME Business Area. These shall include, in particular:

- (i) Public Law Authorizations and Other Public Law Measures for the systems requiring approval during the course of the Spin-off and other operating approvals;
- (ii) Public Law Authorizations and Other Public Law Measures in conjunction with the establishment and expansion, maintenance and use of the Fixed Line Network;

and

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- (iii) Public Law Authorizations associated with the business operations of the Newly Defined T-HOME Business Area and Other Public Law Measures in accordance with the Telecommunications Act of 2004, previous provisions or legal provisions issued on the basis thereof.
- (g) The Spin-off Assets and Liabilities shall include any and all legal provisions under the tender processes attributable to the Newly Defined T-HOME Business Area subject to public procurement law (for example, prequalifications, qualifying competitions and bids), in particular, resulting from tendering processes as part of the "More Broadband for Germany" (Mehr Breitband für Deutschland) project.
- (h) The Spin-off Assets and Liabilities shall include any and all of the following if these are attributable to other items of the Spin-off Assets and Liabilities or are otherwise attributable to the Newly Defined T-HOME Business Area:
 - (i) procedural legal positions, including those under administrative proceedings and arbitration proceedings, with third parties and any and all contractual agreements with third parties that concern the acknowledgement or corresponding enforcement of results of judicial proceedings, administrative proceedings and arbitration proceedings or the assertion of rights reserved by the parties to the relevant proceedings;

and

- (ii) enforceable rights under completed, final and binding dunning proceedings and other legal relationships under procedural law as at the Execution Date;

particularly those under the proceedings set forth in Annex 3.9 (h).

- (i) The Asset to be spun-off shall include any and all contractual and other legal relations and legal positions of "Business Customers" ("DT GK") business unit, even if they are not yet covered by Section 3.9 (b) to (h).
- (j) The following shall not be included in the Spin-off Assets and Liabilities and shall be excluded from the transfer accordingly:
 - (i) any and all agreements whose subject matter concerns the rights in the software set forth in Annex 3.2 (f) (ii);
 - (ii) any and all agreements with customers whose subject matter concerns the international wholesale/resale products or international wholesale solutions, termination or peering, including customers of the "Business International" ("BIN" or "ICSS") units from use of the "Telekom Global Network" ("TGN");
 - (iii) any and all agreements with customers and suppliers (licensors) whose subject matter concerns digital services (non-access products) of the "Product House" (including video-on-demand rights, music rights and other licenses);

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- (iv) any and all lease agreements with GMG Generalmietgesellschaft mbH, with its registered offices in Bonn,
- (v) the purchasing agreements with third parties with the contract numbers set forth in Annex 3.9 (j) (v) that are filed under such contract numbers, inter alia, in the central SAP system of Deutsche Telekom AG or in the central SAP system of T-Systems Enterprise Services GmbH, with its registered offices in Frankfurt am Main, including individual agreements concluded on the basis of such purchase agreements and individual retrievals, provided these are not attributed to the Spin-off Assets and Liabilities in Section 3.9 (e) (i);
- (vi) the purchasing agreements with affiliated companies set forth in Annex 3.9 (j) (vi) that are filed under such contract numbers, inter alia, in the central SAP system of Deutsche Telekom AG or in the central SAP system of T-Systems Enterprise Services GmbH, with its registered offices in Frankfurt am Main, including individual agreements concluded on the basis of such purchase agreements and individual retrievals, provided these are not attributed to the Spin-off Assets and Liabilities in Section 3.9 (e) (ii),
- (vii) sport marketing agreements other than those specified in Annex 3.9 (e) (iii);

and

- (viii) any and all control agreements, profit and loss transfer agreements, and control and profit and loss transfer agreements in place between Deutsche Telekom AG and the companies set forth in Annex 3.5;

in each case with any and all rights and duties resulting from such agreements.

3.10 Additions and disposals prior to the Execution Date

The portfolio of the Spin-off Assets and Liabilities as at the Execution Date shall govern the scope of the Assets. Any additions or disposals in the Assets as at the Execution Date shall be taken into account in the transfer. Accordingly, the Spin-off Assets and Liabilities – unless expressly provided otherwise in Section 3.1 (d) and (e) or in Sections 3.2 to 3.9 – shall also include those Assets attributable to the Newly Defined T-HOME Business Area, including substitute products received by or created in the Newly Defined T-HOME Business Area by the Execution Date. Similarly, those Assets attributable to the Newly Defined T-HOME Business Area pursuant to this Agreement that have been sold prior to the Execution Date or are not or no longer held by Deutsche Telekom AG as of the Execution Date shall not be transferred to T-Mobile Deutschland GmbH.

3.11 Retention of title, expectancies and recovery claims

Should the items forming part of the Spin-off Assets and Liabilities be subject to third party retentions of title as of the Execution Date or should Deutsche Telekom AG have transferred title therein to third parties by way of security, the Spin-off Assets and Liabilities shall include any and all rights and duties vesting in Deutsche Telekom AG in this context, including expectancies and recovery claims. Should the items forming part of the Spin-off Assets and Liabilities be subject to joint ownership as of the Execution Date, Deutsche Telekom AG's joint ownership interest shall form part of the Spin-off Assets and Liabilities.

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4. MODALITIES OF TRANSFER

4.1 Spin-off execution, Execution Date

- (a) The transfer of the Spin-off Assets and Liabilities shall take place with effect in rem as at the date of recording of the Spin-off in the commercial register of Deutsche Telekom AG (previously and hereinafter referred to as the "Execution Date").