



## **Articles of Association of Uniper SE**

### **General provisions**

#### **§ 1**

- (1) The Company is a European Company (Societas Europea – SE) and operates under the name Uniper SE. It has its registered office in Düsseldorf.
- (2) The financial year is the calendar year.

### **Purpose of the Company**

#### **§ 2**

- (1) The purpose of the Company is to provide energy (primarily electricity and gas). The business activities may encompass the production and exploitation, transmission and transport, acquisition, distribution and trading with energy. Facilities of all kinds may be built, acquired and operated, and services and cooperations of all kinds may be performed.

- (2) The Company may conduct its business in the areas specified in para. 1, or in related areas, itself or through subsidiaries or companies in which it holds an interest. It is entitled to take all actions and measures that are connected with or suitable to directly or indirectly serve the corporate purpose.
- (3) The Company may also establish, acquire or hold an interest in other enterprises, in particular enterprises whose corporate purpose extends, in whole or in part, to the business areas specified in para. 1. In addition, it is entitled to acquire interests in enterprises of any kind with the primary purpose of a financial investment of its own funds. It may change the structure of enterprises in which it holds an interest, may unite them under a unified management or confine itself to managing them and dispose of the interests it holds.

## **Registered Share capital and shares**

### **§ 3**

- (1) The registered share capital amounts to €622,132,000 and is divided into 365,960,000 no-par-value shares (shares without nominal amount). The shares are registered shares. Provided that no resolution to the contrary is passed, this provision shall also apply in the case of capital increases.
- (2) The registered share capital of the Company in an amount of €290,224,578 was provided by way of conversion of Uniper AG into a European Company.
- (3) In the case of a capital increase, participation in profits of the new shares may be determined in derogation of section 60 para. 2 of the German Stock Corporation Act (*Aktiengesetz – AktG*).
- (4) The registered share capital is conditionally increased by up to €145,112,289 through the issue of up to 85,360,170 registered no-par-value shares (**2016 Conditional Capital**). The conditional capital increase serves the granting of shares upon the exercise of conversion rights, conversion obligations, option rights and/or option obligations that are is-

sued on the basis of the authorisation of the Board of Management in accordance with the resolution of the General Meeting dated 30 August 2016 by the Company or by companies affiliated with the Company pursuant to sections 15 et seq. of the German Stock Corporation Act, and/or upon the exercise of an option of the Company to grant shares of the Company in whole or in part instead of the payment of the amount of money due. The conditional capital increase is to be carried out only to the extent that the holders of conversion rights, conversion obligations, option rights or option obligations issued on the basis of the aforementioned authorisation make use of their conversion or option right, or fulfil their conversion or option obligation, or to the extent that the Company makes use of a substitution right and unless other forms of fulfilment are used for servicing. The issue of new shares is effected at the conversion or option price to be determined, in each case, in accordance with the authorisation resolution. The new shares are entitled to profit participation starting from the beginning of the financial year in which they are issued; to the extent legally permissible, the Board of Management may determine, with the consent of the Supervisory Board, that in derogation thereof and of section 60 para. 2 of the German Stock Corporation Act, the new shares are entitled to a profit participation also for a past financial year.

The Board of Management, with the consent of the Supervisory Board, is authorised to determine the further details of the implementation of the conditional capital increase.

- (5) The Board of Management, with the approval of the Supervisory Board, is authorised to increase until 30 June 2021, the registered share capital of the Company by up to €145,112,289 by the issuance, one or several times, of up to 85,360,170 new registered no-par-value shares against cash and/or non-cash contributions (authorised capital pursuant to sections 202 et seq. of the German Stock Corporation Act, **2016 Authorised Capital**).
- (6) The shareholders are to be granted a subscription right as a matter of principle. The new shares may also be taken over by credit institutions determined by the Board of Management or by companies operating in accordance with section 53 para. 1 sentence 1 or sec-

tion 53b para. 1 sentence 1 or para. 7 of the German Banking Act (Gesetz über das Kreditwesen – KWG) which undertake to offer them to the shareholders (indirect subscription right).

However, the Board of Management, with the approval of the Supervisory Board, is authorised to exclude the shareholders' subscription right if shares are issued against cash contributions in an amount of up to 10 percent of the registered share capital at the time this authorisation takes effect or, should this value be lower, at the time of the utilisation of this authorisation. If the subscription right is excluded, the issue price of the new shares must not fall significantly below the stock market price (section 186 para. 3 sentence 4 of the German Stock Corporation Act). If other authorisations to issue or dispose of shares of the Company or to issue rights, which enable or oblige to subscribe to shares of the Company, are exercised during the term of this authorisation up to its utilization under exclusion of the subscription right pursuant to or in accordance with section 186 para. 3 sentence 4 of the German Stock Corporation Act at the same time, this must be set off against the aforementioned 10 percent limit.

Furthermore, the Board of Management, with the approval of the Supervisory Board, is authorised to exclude the shareholders' subscription right in the case of shares issued against non-cash contributions, however, only to the extent that the aggregate amount of shares issued under this authorisation against non-cash contributions with an exclusion of the shareholders' subscription right does not exceed 20 percent of the registered share capital at the time this authorisation takes effect or, should this value be lower, at the time of the utilisation of this authorisation.

Furthermore, the Board of Management, with the approval of the Supervisory Board, is authorised to exclude fractional amounts from the shareholders' subscription right and also to exclude the subscription right to such extent as is necessary in order to grant to the holders of previously issued bonds carrying conversion or option rights or, respectively, conversion obligations, a subscription right to new shares to such extent as they would be

entitled to upon exercising their conversion or option right, respectively, in the case of a conversion obligation.

Finally, the Board of Management, with the approval of the Supervisory Board, is authorised to exclude the shareholders' subscription right for the issue of shares to persons in an employment relationship with the Company or one of its affiliated companies.

These authorisations to exclude the subscription right only apply to the extent that the new shares issued under this authorisation that must be issued together with shares – which have been issued or disposed of by the Company during the term of this authorisation up to its utilisation under another existing authorisation under exclusion of the subscription right of the shareholders, or which are to be issued due to rights that are issued during the term of this authorisation up to its utilisation on the basis of another existing authorisation with an exclusion of the subscription right, and which enable or oblige to subscribe for shares of the Company – are not calculated to exceed 20 percent of the registered share capital at the time this authorisation takes effect or, should this value be lower, at the time of the utilisation of this authorisation.

The Board of Management, with the approval of the Supervisory Board, is authorised to determine the further contents of the rights attached to the shares as well as the further details and terms and conditions of the capital increase and its implementation. The Supervisory Board is authorised to make adjustments to the wording of the Articles of Association after the increase of the registered share capital has been implemented, in whole or in part, in accordance with the respective utilisation, in each case, of the 2016 Authorised Capital and, if the 2016 Authorised Capital has not or not been completely utilised until 30 June 2021, after the expiry of the term of the authorisation period.

#### **§ 4**

- (1) The form and content of the share certificates, dividend coupons and talons are determined by the Board of Management.

- (2) The shareholders' right to have their shares and dividend coupons securitized is excluded, unless securitization is required under the rules applicable at a stock exchange where the shares are admitted. Global share certificates may be issued.

## **Corporate Bodies of the Company**

### **§ 5**

The Company's corporate bodies are:

- (a) the Board of Management,
- (b) the Supervisory Board,
- (c) the General Meeting of Shareholders.

## **Board of Management**

### **§ 6**

- (1) The Board of Management consists of at least two members. The determination of the number of members, their appointment and dismissal is made by the Supervisory Board.
- (2) The members of the Board of Management are appointed by the Supervisory Board for a maximum term of five years. Reappointments are permissible.
- (3) The Board of Management constitutes a quorum if all members of the Board of Management have been invited and at least half its members participate in a meeting in person or

by means of electronic media. Members of the Board of Management who are not present at the passing of a resolution may cast their vote in text form, verbally, by telephone, by video conference, or by means of other electronic media.

- (4) The resolutions of the Board of Management are to be passed by simple majority of the votes cast by the members of the Board of Management participating in the passing of the resolution, unless a larger majority is stipulated by mandatory statutory law. In cases where resolutions are to be passed by a simple majority, the Chairman shall have the casting vote in the event of an equality of votes.

## **§ 7**

The Company is legally represented by two members of the Board of Management or by one member of the Board of Management and a Prokurist (an executive holding a general power of attorney).

## **Supervisory board**

## **§ 8**

- (1) The Supervisory Board comprises of twelve members.
- (2) Six members are being elected by the General Meeting which is not bound by election proposals. Another six members are to be elected as employee representatives by the SE-Works Council according to the respective current version of the agreement on arrangements for employee involvement in Uniper SE (*Beteiligungsvereinbarung*) concluded in accordance with the Act on the involvement of employees in a European Company (*SE-Beteiligungsgesetz – SEBG*).
- (3) The members of the Supervisory Board are elected for a term until the close of the General Meeting resolving on the discharge (Entlastung) in respect of the fourth financial year after their election, with the financial year in which the election takes place not being taken into account, in any case, for a maximum period of six years. In deviation

therefrom, the term of office of the first Supervisory Board expires upon the end of the General Meeting resolving on the discharge for the first financial year of Uniper SE, in any case, for a maximum period of three years. Reappointments are permissible. Substitute members are elected for the remaining term of the withdrawing member.

- (4) Elections of substitute members are made for the remainder of the term of office of the member who has left the board.
- (5) Any member of the Supervisory Board may resign from office with two weeks' notice by a written declaration addressed to the Chairman of the Supervisory Board. The resignation can be declared with immediate effect for good cause.

## **§ 9**

- (1) Following the General Meeting at the close of which the term of the Supervisory Board begins, the latter elects a Chairman and one or more Deputy Chairmen. A separate convening notice for the meeting is not required. For the election of the Chairman, the oldest member in terms of age among the shareholder representatives has the chair; section 12 para. 4 sentence 1 applies accordingly. Only a shareholder representative elected as a member by the General Meeting may be elected as Chairman of the Supervisory Board.
- (2) In case the membership of the Chairman should cease before the expiry of his term of office, the Supervisory Board has to conduct a new election without undue delay. In case the membership of a Deputy Chairman should cease, the new election takes place no later than in the regular Supervisory Board meeting following the cessation of membership.

## **§ 10**

- (1) The Supervisory Board is responsible, as stipulated by law, for monitoring the management of the Company by the Board of Management.
- (2) All matters which the Board of Management wishes the General Meeting to address first have to be presented to the Supervisory Board.



- (3) The following transactions and measures require previous approval of the Supervisory Board:
- (a) determining the investment, finance and staff planning of the group for the following financial year (budget),
  - (b) acquiring and disposing of companies and partnerships, shareholdings and business divisions (except for financial investments) as well as capital expenditure for fixed assets, to the extent that in the individual case, the market value or, if no market value is available, the book value exceeds €300,000,000; this does not apply to acquisitions and disposals within the group,
  - (c) financing measures that are not covered by any resolution of the Supervisory Board on financial budgeting pursuant to lit. (a) and have a value that exceeds €1,000,000,000 in the individual case; this does not apply to financing measures within the group, and
  - (d) concluding, amending, and revoking any enterprise agreements (*Unternehmensverträge*).
- (4) The Supervisory Board may form one or more committees from among its members, especially an audit and risk committee. So far as permitted by law, the taking of decisions may be delegated to such committees, in particular also the granting of consent to transactions and measures requiring such consent.
- (5) In addition to the transactions and measures stipulated in para. 3, the Supervisory Board may subject other types of transactions and measures to a requirement of its consent.
- (6) Furthermore, the Board of Management requires the consent of the Supervisory Board in cases where it participates in transactions or measures at affiliated enterprises by way of instructions, consent or the casting of votes in corporate bodies.
- (7) The Supervisory Board is authorised to resolve on amendments to the Articles of Association which only concern their wording.

**§ 11**

- (1) The Supervisory Board is convened by invitation in text form from the Chairman or his Deputy, including the agenda, venue and time of the meeting. In urgent cases, meetings may be convened verbally, by telephone, e-mail or by means of other electronic media.
- (2) The Chairman is obliged to convene the Supervisory Board if this is requested by a member of the Supervisory Board or by the Board of Management.

**§ 12**

- (1) The Supervisory Board constitutes a quorum if all members have been invited and at least one half of the total number of members which it is required to comprise participates in the adoption of a resolution.
- (2) Absent Supervisory Board members may participate in the adoption of resolutions by arranging for their written votes or signed votes in form of a telefax or electronic copy to be submitted by other Supervisory Board members.
- (3) Resolutions are adopted by a simple majority of votes cast, unless otherwise stipulated by law.
- (4) In the event that a Supervisory Board vote results in a tie, the vote of the Chairman or, if he does not participate in the adoption of the resolution, the vote of the Deputy Chairman, provided that the latter is a shareholder representative, shall be the casting vote. The proceedings at the meeting and the form of voting are determined by the Chairman.
- (5) Minutes are to be prepared of the deliberations and resolutions adopted by the Supervisory Board, which are to be signed by the Chairman or his Deputy.

**§ 13**

- (1) Resolutions of the Supervisory Board may also be adopted by obtaining votes cast in text form, by telephone, video conference or by means of other electronic media. The result is to be put on record by the Chairman.
- (2) The provisions as regards votes being cast verbally apply accordingly.

**§ 14**

Declarations of intent of the Supervisory Board are to be issued on its behalf by the Chairman of the Supervisory Board or his Deputy.

**§ 15 Compensation for members of the Supervisory Board**

- (1) The members of the Supervisory Board shall receive on an annual basis a compensation in the amount of 70,000 €. The Chairmen and members of the committees shall receive additionally on an annual basis as compensation:
  - (a) function in the audit and risk committee: Chairman: 70,000 €; member: 35,000€;
  - (b) function in other committees: Chairman: 35,000 €; member 15,000 €;
  - (c) acting as a member of the nomination committee or of any committee established for a particular individual case does not entitle the member of the Supervisory Board to an additional compensation. In case a member has functions in more than one committee, only the function in such committee with the highest compensation entitles to an additional compensation.
- (2) The Chairman of the Supervisory Board shall receive on an annual basis a compensation in the amount of 210,000 €, each of his Deputy Chairmen 140,000 €. Such compensations cover also functions as Chairman or member of a committee.
- (3) An amount equal to 80 per cent of the compensation according to paragraph 1 and 2 are paid in cash pro-rata after each quarter (“fixed compensation”).

- (4) The remainder of 20 per cent of the compensation according to paragraph 1 and 2 are paid in the form of virtual shares of the Company (“variable compensation”). This right of compensation is a future right of a cash payment. To assess the number of virtual shares the cash payment relating to the variable compensation of the past expired financial year is divided through the volume-weighted averaged share price of the Company's shares in XETRA trading (opening price) of the Frankfurt Stock Exchange (or any successor system) (“averaged share price”) of the last 60 stock market trading days of the past expired financial year. The reference share price for the variable compensation attributed to the financial year 2016 is the share price of the opening auction at listing date. After the expiry of four further financial years the Company's averaged share price for the period of the last 60 stock market trading days of the fourth financial year is increased by the amount of all dividends paid out during the last four financial years to the shareholders of the Company for each share. The amount resulting therefrom is multiplied for each member of the Supervisory Board by the number of virtual shares and equals then the future right of the amount to be paid out for the variable compensation. If the amount of shares issued by the Company is amended by way of a capital increase from temporary resources (*Kapitalerhöhung aus Gesellschaftsmitteln*), a share split or a reverse share split, the amount of virtual shares has to be adapted accordingly to the effect that the capital increase from temporary resources (*Kapitalerhöhung aus Gesellschaftsmitteln*), the share split or the reverse share split has no economic impact on the future right to the variable compensation to be paid out. A virtual share is a mere item for the calculation which does not entitle its owner to any claims or shareholder's rights; in particular it bears no voting rights and no rights to dividends. A virtual share is not at the Supervisory Board member's disposal.
- (5) The variable compensation is paid out in the first month after the end of the four financial year period and is capped at an amount equal to 200 per cent of such amount which is originally converted from the compensation to the virtual shares (“CAP”).
- (6) In case of changes in the Supervisory Board during a year, the payment of the compensation for the running financial year is made pro-rata temporis. Deviating from paragraph 3

and 4 the compensation for the year in which an appointment ends is made 100 per cent as fixed compensation; it is not awarded as virtual shares. When an appointment ends (and such member is not re-elected) the amount to be paid out as variable compensation for previous years not yet paid out is assessed based on the system stated in paragraph 4 sentence 3 to 6 and taking into account the CAP. The relevant averaged share price is not the averaged share price of the last 60 stock market trading days after the expiry of four financial years but the averaged share price of the last 60 stock market trading days before the expiry of the month in which the appointment of the member of the Supervisory Board ends.

In case a function of a member of the Supervisory Board being higher compensated comes to an end, the provisions according to sentence 1 and 2 of this paragraph shall apply mutatis mutandis to the part of the higher compensation.

- (7) The members of the Supervisory Board are not entitled to an attendance fee for attending the meetings of the Supervisory Board or its committees.
- (8) The Company reimburses the members of the Supervisory Board for their expenses incurred through their mandate as members of the Supervisory Board which includes also applicable VAT on their compensation and reimbursement payments.
- (9) The Company may take out liability insurance covering the statutory liability arising from the actions as a Supervisory Board member for the benefit of the Supervisory Board members.

## **General Meeting of Shareholders**

### **§ 16**

The General Meeting of Shareholders is to be convened by the Board of Management or the persons authorized to do so under statutory law or the Articles of Association.

**§ 17**

The General Meeting is held at the registered office of the Company or in another German city with at least 100,000 inhabitants.

**§ 18**

- (1) Only those shareholders are entitled to participate in the General Meeting and to exercise their voting rights who have registered in due time and for whom the registered shares are registered in the share register.
- (2) The registration for participation in each General Meeting has to be drafted in the German or English language and has to be received by the Company at the address stated for this purpose in the invitation no later than six days prior to the meeting, unless a shorter period of time, which is to be stipulated in days, is provided for in the invitation. The date of the General Meeting and the date on which the registration is received are not to be included in the calculation of the period.

**§ 19**

- (1) The General Meeting is to be chaired by the Chairman of the Supervisory Board. In the event that the Chairman of the Supervisory Board is unavailable or is prevented, for other reasons, from taking the chair at the General Meeting, a member of the Supervisory Board determined by the Chairman or, in the event that no such determination is made or that the Supervisory Board member so determined is prevented from taking the chair at the General Meeting, the Deputy Chairman of the Supervisory Board shall take the chair at the General Meeting, provided that the latter is a shareholder representative. In the remaining cases, another member of the Supervisory Board determined by the Supervisory Board takes the chair.
- (2) The Chairman of the General Meeting chairs the deliberations and decides on the sequence of the items to be addressed. He determines the manner, form and sequence of the voting. If so announced in the invitation, the Chairman of the General Meeting may au-

thorize the transmission of the General Meeting in full or in part via visual and acoustic electronic media in a manner to be further determined by the Chairman.

- (3) The Chairman of the General Meeting may reasonably restrict, in terms of time, the right of shareholders to put questions and to speak. At the beginning or in the course of the General Meeting, he may, in particular, determine an appropriate framework, in terms of time, for both the course of the General Meeting and the discussion on individual items on the agenda as well as for individual questions and speaking contributions. In determining the time available for the individual questions and speaking contributions, the Chairman of the General Meeting may distinguish between first and repeated contributions and in accordance with further appropriate criteria.

## **§ 20**

- (1) The voting right may be exercised through proxies. The granting of the power of attorney, its revocation and the provision of evidence vis-à-vis the Company for the granting of the power of attorney have to be made in text form. The granting of the power of attorney, its revocation and the provision of evidence for the granting of the power of attorney may also be effected by other electronic means to be determined by the Company in more detail. The relevant details for the granting of a power of attorney by electronic means are to be published together with the invitation to the General Meeting in the publication media of the Company.
- (2) If the case of doubts regarding the validity of a power of attorney, the decision lies with the Chairman of the General Meeting.
- (3) The Board of Management is authorized to stipulate that shareholders are entitled to cast their vote also without attending the General Meeting, in writing or by means of electronic communication (absentee vote). The Board of Management shall be authorized to stipulate the details of the extent and procedure of the absentee vote. The utilization of the absentee vote procedure, if any, and the relevant provisions stipulated in this respect are to be published together with the calling of the General Meeting of Shareholders.

**§ 21**

- (1) The resolutions of the General Meeting of Shareholders are to be adopted with the majority of votes validly cast, unless otherwise stipulated by mandatory law or the Articles of Association. Unless another majority is stipulated by mandatory legal provisions, amendments of the Articles of Association require a majority of two thirds of the votes cast or, if at least half of the registered share capital is represented, the simple majority of votes cast. The dismissal of Supervisory Board members who have been elected without the binding effect of election proposals requires a majority of at least three quarters of the votes cast.
- (2) In the General Meeting, each share entitles the holder to one vote.

**Annual Financial Statements and Appropriation of Profits**

**§ 22**

- (1) The General Meeting held each year within the statutory period of six months for the purpose of accepting the approved annual financial statements and the consolidated financial statements approved by the Supervisory Board or, in the cases provided for by law, for the purpose of approving the annual financial statements as well as for the adoption of a resolution on the appropriation of profits also decides on the discharge of the Board of Management and of the Supervisory Board as well as on the appointment of the auditor (Annual General Meeting of Shareholders).
- (2) When deciding on the appropriation of balance sheet profits, the General Meeting may also adopt a resolution for a distribution in kind instead of or in addition to a cash distribution.



## **Notifications and Transmission of Information**

### **§ 23**

- (1) The notifications of the Company are to be published in the Federal Gazette (*Bundesanzeiger*).
- (2) The Company is entitled, within the legally permissible framework, to transmit information to its shareholders by way of remote data transfer.

## **Concluding Provisions**

### **§ 24**

The sole shareholder E.ON Beteiligungen GmbH will bear the costs incurred by the Company in relation to the conversion into a European Company.