



**STRABAG SE,  
Villach**

FN 88983 h

Report on the independent assurance engagement of the report of the Management Board of STRABAG SE, FN 88983 h, as to whether the proposal for the capital increase from company funds complies with the statutory provisions pursuant to § 2 (5) of the Austrian Capital Adjustment Act (KapBG)



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25 May 2023

KPMG Austria GmbH  
Wirtschaftsprüfungs- und Steuerberatungsgesellschaft  
10236287



**STRABAG SE, Villach**

*Report on the independent assurance engagement of the report of the Management Board of STRABAG SE, FN 88983 h, as to whether the proposal for the capital increase from company funds complies with the statutory provisions pursuant to § 2 (5) of the Austrian Capital Adjustment Act (KapBG)*

25 May 2023

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*25 May 2023*

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**STRABAG SE, Villach**

*Report on the independent assurance engagement of the report of the Management Board of STRABAG SE, FN 88983 h, as to whether the proposal for the capital increase from company funds complies with the statutory provisions pursuant to § 2 (5) of the Austrian Capital Adjustment Act (KapBG)*

*25 May 2023*

To the members of the Management Board of  
STRABAG SE,  
Villach

We have performed an independent assurance engagement in connection with the report of the Management Board as to whether the proposal for the capital increase from company funds of

STRABAG SE,  
Villach,  
commercial register no. FN 88983 h  
(hereinafter referred to as the “company”),

complies with the statutory provisions pursuant to § 2 (5) of the Austrian Capital Adjustment Act (KapBG) and hereby issue the following **report** on the results of this assurance engagement:

## **1. Engagement and performance**

### **1.1. Engagement**

We were engaged to perform an independent assurance engagement on the report of the Management Board of STRABAG SE, commercial register no. FN 88983 h, as to whether the proposal for the capital increase from company funds complies with the statutory provisions pursuant to § 2 (5) of the Austrian Capital Adjustment Act (KapBG). The company, represented by the Management Board, therefore entered into a **contract for an independent assurance engagement** with us on 28 April 2023.

Section 7 of the General Conditions of Contract for the Public Accounting Professions applies to our responsibility and liability as auditors with respect to the company and in respect of third parties.

### **1.2. Performance**

We performed our independent assurance engagement in compliance with the Austrian standards for independent assurance engagements (KFS/PG 13). Those standards require that we comply with our professional obligations, including the provisions on independence, and plan and perform our engagement, in order to express our opinion with reasonable assurance taking into account materiality.

The procedures selected depend on the auditor’s judgement.

We conducted the assurance engagement in May 2023 at our premises.



**STRABAG SE, Villach**

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*25 May 2023*

Mag. Gerold Stelzmüller, Certified Public Accountant, is **responsible** for the proper performance of the engagement.

The company's Management Board and the representatives named to us provided us with the **information and evidence** we requested.

The Management Board of STRABAG SE signed a letter of representation confirming that all of the documents and data required for our assurance engagement had been provided.

### **1.3 Responsibility of the legal representatives**

The company's legal representatives are responsible for the proper preparation of the report of the Management Board of STRABAG SE, FN 88983 h, on the proposed capital increase from company funds pursuant to § 2 (5) KapBG.

### **1.4 Auditor's responsibility**

Our responsibility is to express an opinion, based on our procedures and the evidence obtained by us, as to whether the proposal for the capital increase from company funds set forth in the report of the Management Board complies with the statutory provisions pursuant to § 2 (5) KapBG.

We have conducted our engagement in compliance with the Austrian standards for independent assurance engagements (KFS/PG 13) and the International Standard on Assurance Engagements (ISAE 3000) applicable to such engagements. Those standards require that we comply with our professional obligations, including independence requirements, and plan and perform our engagement, in order to express our opinion with reasonable assurance, taking into account materiality.

Our engagement is neither an audit nor a review of financial statements. Likewise, it is not the object of our engagement to detect and investigate criminal acts such as embezzlement or other fraudulent activities and administrative offences, nor to assess the effectiveness and efficiency of the company's management.

We believe that the evidence obtained by us is sufficient and appropriate to provide a basis for our opinion.

## 2. Independent assurance engagement on the report of the Management Board of STRABAG SE, FN 88983 h, as to whether the proposal for the capital increase from company funds complies with the statutory provisions pursuant to § 2 (5) of the Austrian Capital Adjustment Act (KapBG)

The company's management has prepared a report (Annex I) which presents the proposal for the capital increase from company funds in accordance with, *mutatis mutandis*, the provisions applicable to the preparation of management reports (§ 243 of the Austrian Commercial Code (UGB)) and which sets out the relevant material circumstances, therefore. The reasons for the capital adjustment are stated in accordance with the requirements of the Austrian Capital Adjustment Act (KapBG).

The Management Board proposes to take the following amounts from reserves and convert them to share capital with retroactive effect as of the beginning of the financial year:

— EUR 1,900,000,000.00 from committed capital reserves in the amount of EUR 2,159,447,129.96.

As a result, the share capital is increased by EUR 1,900,000,000.00 to EUR 2,002,600,000.00. Of this amount, the calculated value of treasury shares is deducted pursuant to § 229 (1a) of the Austrian Commercial Code (UGB). The committed capital reserves are reduced by EUR 1,900,000,000.00 to EUR 259,447,129.96. The reserves are not offset by losses or loss carry forwards.

As no dedicated reserves will be included in the conversion, it is not necessary to verify that the conversion is compatible with the intended purpose of such reserves.

The committed reserves will only be converted to the extent that they continue to exceed one-tenth of the share capital after conversion. The Articles of Association do not specify a higher percentage.

The annual financial statements as of 31 December 2022, on which the capital increase from company funds is based, have been provided with our unqualified audit opinion on 6 April 2023. They were adopted by the Supervisory Board on 26 April 2023 and will be presented to the Annual General Meeting on 16 June 2023, together with the report of the Management Board on the capital increase from company funds.

31 December 2022 – the reporting date for the annual financial statements on which the proposed capital increase is based – is no more than nine months prior to the date intended for filing the resolution on the capital increase from company funds for entry in the commercial register, which, according to the draft resolution, must be effected immediately after the Annual General Meeting scheduled for 16 June 2023 and in any event, according to the Management Board's report, before 30 September 2023.

The increase of share capital from company funds in the context of the capital adjustment does not result in any changes to the rights associated with the shares (§ 5 (1) KapBG), as this increase of share capital is implemented without issuing new no-par value shares pursuant to § 4 (1) KapBG. Because no new no-par value shares are issued, the capital adjustment likewise does not affect the economic content of contractual relationships of the company with third parties or the ancillary obligations of company's shareholders (§ 5 (2) KapBG). Disclosures pursuant to § 4 of the Austrian Minimum Content, Publication and Language Regulation (MVSV) are not required in connection with the capital adjustment, because no new no-par value shares are issued.

In the period from 31 December 2022 until the completion of our independent assurance engagement, no asset value reductions have occurred that would constitute an obstacle to the capital increase from company funds.



**STRABAG SE, Villach**

*Report on the independent assurance engagement of the report of the Management Board of STRABAG SE, FN 88983 h, as to whether the proposal for the capital increase from company funds complies with the statutory provisions pursuant to § 2 (5) of the Austrian Capital Adjustment Act (KapBG)*

25 May 2023

### **3. Summary and result of the independent assurance engagement (independent assurance opinion)**

In our opinion, the report of the Management Board of

STRABAG SE,  
Villach,

comprises the contents required under § 2 (5) Austrian Capital Adjustment Act (KapBG), which are

- (i) a specific proposal for the capital increase,
- (ii) supplemented by the material circumstances of the planned capital increase.

In our opinion, the Management Board's proposal for the capital increase from company funds complies with the statutory requirements of the Austrian Capital Adjustment Act (KapBG). According to the information available to us, the supplementary representations contained in the report of the Management Board are in compliance with the statutory requirements of the KapBG.

Linz, 25 May 2023

KPMG Austria GmbH Wirtschaftsprüfungs- und Steuerberatungsgesellschaft

signed by:  
Mag. Gerold Stelzmüller  
Wirtschaftsprüfer (Certified Public Accountant)

signed by:  
Mag. Christoph Karer  
Wirtschaftsprüfer (Certified Public Accountant)

This document has been signed with a qualified electronic signature and is only valid in this version.

*English convenience translation. German original shall prevail.*



**19th Annual General Meeting**  
of  
**STRABAG SE**  
on 16 June 2023

**Report of the Management Board of STRABAG SE pursuant to Section 2 Para 5 of the Austrian Capital Adjustment Act on the planned increase of the share capital from company funds**

A capital increase from company funds pursuant to Section 1 et seq. of the Austrian Capital Adjustment Act (Kapitalberichtigungsgesetz, "**KapBG**") is to be proposed for resolution at the Annual General Meeting of STRABAG SE ("**Company**") with registered seat in Villach on 16 June 2023. In accordance with Section 2 Para 5 KapBG, the Management Board submits the following report to the General Meeting.

Pursuant to Section 2 Para 5 KapBG, the report shall contain the proposals for the capital increase from company funds (capital adjustment) and shall set out the material circumstances that are decisive for the proposals.

In addition to the capital adjustment, the following measures are proposed for resolution under this agenda item:

- (i) an ordinary reduction of the share capital of the Company for the purpose of allocation to non-committed reserves,
- (ii) an ordinary reduction of the share capital of the Company for the purpose of distribution to the shareholders in cash or, at the option of each shareholder, in new shares of the Company, and
- (iii) a non-cash increase of the share capital of the Company through the issue of new shares to those shareholders opting for a distribution in the form of new shares.

For this reason, the Management Board's report shall also refer to these measures – the reduction of the share capital for the purpose of allocation to non-committed reserves, the reduction of the share capital for the purpose of distribution to shareholders, and the non-cash increase of the share capital – proposed for resolution.

**A. Initial situation**

**1. Shareholder structure of the Company**

At the time of reporting, the share capital of the Company amounts to EUR 102,600,000.00 and is divided into 102,599,997 bearer shares and three registered shares (Nos 1, 2 and 3). The proportionate amount of share capital per share is EUR 1.00.

The holders of registered shares No 1 and No 2 are entitled under the Articles of Association to appoint one member each to the Supervisory Board in accordance with Section 88 Para 1 of the Austrian Stock Corporation Act (Aktiengesetz, or "AktG"). These two registered shares therefore have restricted transferability in accordance with the Company's Articles of Association. Registered share No 3 has no special rights.

The Company currently holds 2,779,006 shares as treasury shares, representing approximately 2.71% of the current share capital of the Company.

### **1.1 Core shareholder group**

According to the shareholding notification pursuant to Section 130 et seq. of the Austrian Stock Exchange Act (Börsegesetz, "BörseG") from 3 January 2023 issued by the members of the core shareholder group, the members of the core shareholder group hold a total of 59,281,132 shares in the Company, representing approximately 57.78% of the current share capital of the Company. Klemens Peter Haselsteiner is the holder of registered share No 1.

The core shareholder group consists of Haselsteiner Familien-Privatstiftung, Hans Peter Haselsteiner, Klemens Peter Haselsteiner, UNIQA Beteiligungs-Holding GmbH, UNIQA Österreich Versicherungen AG, UNIQA Erwerb von Beteiligungen Gesellschaft m.b.H., UNIQA Insurance Group AG, RAIFFEISEN-HOLDING NIEDERÖSTERREICH-WIEN registrierte Genossenschaft mit beschränkter Haftung and BLR-Baubeteiligungs GmbH.

### **1.2 MKAO Rasperia Trading Limited**

According to the shareholding notification pursuant to Section 130 et seq. BörseG from 23 December 2022 issued by Oleg Deripaska, 28,500,001 shares in the Company, representing approximately 27.78% of the current share capital of the Company, are held by MKAO Rasperia Trading Limited. MKAO Rasperia Trading Limited is the holder of registered share No 2.

These 28,500,001 shares (including registered share No 2) are frozen as a result of the inclusion of Oleg Deripaska, who controls MKAO Rasperia Trading Limited, in the list of natural or legal persons, entities or bodies in Annex I, No 929, of Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine in accordance with Art 2 (1) of Council Regulation (EU) No 269/2014 ("**EU Sanctions Regulation**").

As a legal consequence of Art 2 (1) EU Sanctions Regulation, no subscription rights will be entitled from these 28,500,001 shares held by MKAO Rasperia Trading Limited (including the registered share No 2) do not entitle the holder to any subscription rights and consequently do not allow the holder to exercise the option to receive a distribution in new shares cannot be exercised. The Company will not make a subscription offer for new shares in respect of the sanctioned 28,500,001 shares held by MKAO Rasperia Trading Limited. The distribution amount attributable to MKAO Rasperia Trading Limited will not be paid and will be retained by the Company in accordance with the sanctions restrictions.

## **2. Company interest**

MKAO Rasperia Trading Limited's shareholding in the Company will be reduced to the extent that shareholders of the Company elect to receive the distribution from the capital reduction in the form of new shares and a non-cash capital increase is made in connection therewith, as the number of frozen shares in the Company held by the sanction affected MKAO Rasperia Trading Limited will remain the same but the number of issued shares in the Company will increase.

The measures are being taken in the interest of the Company to reduce MKAO Rasperia Trading Limited's frozen shareholding in the Company's share capital from currently around 27.8% to below 25%. The aim is to reduce the risks and disadvantages for the Company's business activities resulting from the sanctions (US, Canada, Australia, EU) against Oleg Deripaska, who controls MKAO Rasperia Trading Limited.

The reduction of MKAO Rasperia Trading Limited's frozen shareholding in the share capital of the Company in the interest of the Company can be achieved as the Company has received assurances from the members of the core shareholder group, who together hold a total of 59,281,132 shares in the Company (approximately 57.78% of the current share capital), that they will elect to receive a distribution from the capital reduction in the form of new shares.

### **B. Resolutions by the General Meeting**

#### **1. Capital increase from company funds and ordinary reduction of the share capital of the Company for the purpose of allocation to non-committed reserves**

Based on the current share capital of the Company of EUR 102,600,000.00, the Annual General Meeting of the Company on 16 June 2023 shall resolve to increase the share capital from company funds by EUR 1,900,000,000.00 to EUR 2,002,600,000.00 through conversion of the corresponding portion of the committed capital reserves reported in the annual financial statements for the year ending 31 December 2022 pursuant to Section 1 et seq. KapBG in order to subsequently reduce the share capital thus increased in two steps, with the first step being an ordinary capital reduction of EUR 996,620,004.30 for the purpose of allocation to non-committed reserves.

The annual financial statements of the Company for the year ending 31 December 2022 were audited by the financial auditor, KPMG Austria GmbH Wirtschaftsprüfungs- und Steuerberatungsgesellschaft, Linz. An unqualified audit certificate was issued. The annual financial statements for the year ending 31 December 2022 have been adopted and will be presented to the Annual General Meeting. The annual financial statements of the Company for the year ending 31 December 2022 show committed capital reserves of EUR 2,159,447,129.96. Disclosed reserves within the meaning of Section 2 Para 3 KapBG are not shown in the annual financial statements for the year ending 31 December 2022; the profit carried forward amounts to EUR 502,740,000.00. The annual financial statements for the year ending 31 December 2022 are taken as the basis for the capital adjustment.

The Management Board of the Company therefore proposes to increase the share capital of the Company from currently EUR 102,600,000.00 by EUR 1,900,000,000.00 to EUR 2,002,600,000.00 through conversion of the corresponding portion of the committed capital reserves reported in the annual financial statements for the year ending 31 December 2022 without the issue of new shares (capital adjustment pursuant to Section 1 et seq. KapBG). The intended capital increase from

company funds shall, pursuant to Section 2 Para 1 KapBG, take effect retroactively to the beginning of the current financial year.

The Company has issued no-par value shares. In the course of the capital adjustment, the number of shares will not be changed. The increase of the share capital of the Company from company funds will be carried out without the issue of new shares in accordance with Section 4 Para 1 KapBG. Only the proportionate amount of the share capital per share will increase to approximately EUR 19.52 per share as a result of the capital adjustment.

The share capital shall not remain increased, but the Annual General Meeting of the Company shall resolve on the reduction of the share capital in two steps in accordance with the provisions on the ordinary capital reduction pursuant to Section 175 et seq. AktG.

The capital increase from company funds (capital adjustment) is required as a preliminary step to the “dissolution” of committed capital reserves, as company law does not provide for a resolution to dissolve or reduce committed capital reserves.

In a first step, an ordinary capital reduction of EUR 996,620,004.30 for the purpose of allocation to non-committed reserves shall be resolved, whereby the reduction of the share capital of the Company shall be effected by reducing the pro-rata amount of the share capital of the Company attributable to each no-par value share without reverse stock split.

The ordinary capital reduction is carried out for the purpose of allocating the funds from this capital reduction to non-committed reserves. The conversion of committed reserves into share capital (capital adjustment) and the subsequent capital reduction for allocation to non-committed reserves is intended to create the possibility of also being able to release these free reserves for distributions to the shareholders.

The proportionate amount of share capital per share was increased to approximately EUR 19.52 through the capital increase from company funds (capital adjustment). After registration of the capital reduction for allocation to non-committed reserves with the commercial register, the share capital of the Company will amount to EUR 1,005,979,995.70 and will be divided into 102,600,000 shares, with each no-par value share representing a pro-rata amount of the share capital of approximately EUR 9.80.

The capital adjustment must be filed for registration with the commercial register by the Management Board together with the Chairman of the Supervisory Board (or his deputy) no later than nine months after the reporting date of 31 December 2022 for the annual financial statements on which the capital adjustment is based, i.e. by 30 September 2023. The capital adjustment shall become effective upon registration with the commercial register. The capital reduction for allocation to non-committed reserves must also be filed for registration with the commercial register and shall become effective upon entry in the commercial register.

For this purpose, the General Meeting shall resolve that

- (i) the capital increase from company funds shall, as the first step of the resolutions on the agenda item, be registered without delay for entry in the commercial register by the Management Board and the Chairman of the Supervisory Board or his deputy pursuant to Section 3 Para 1 KapBG in connection with Section 151 Para 1 AktG but only subject to the resolution of the ordinary

reduction of the share capital of the Company for allocation to non-committed reserves of the Company (item (ii)).

- (ii) the ordinary capital reduction for allocation to non-committed reserves of the Company shall, as the second step of the resolutions on this agenda item, be filed without delay for registration with the commercial register by the Management Board and the Chairman of the Supervisory Board or his deputy pursuant to Section 176 AktG but only subject to the resolution concerning the capital increase from the Company's own funds (item (i)).

According to Section 2 Para 3 KapBG, committed reserves may only be converted into share capital to the extent that they exceed one tenth of the share capital after conversion. The committed capital reserves remaining after implementation of the planned capital increase from company funds amount to EUR 259,447,129.96 and the legal reserves amount to EUR 72,672.83.

These reserves fulfil the legal requirements under Section 2 Para 3 KapBG.

Moreover, no asset reductions have occurred since the reporting date of 31 December 2022 for the annual financial statements on which the capital adjustment is based and up to the date of the preparation of this report that would prevent the capital increase from company funds within the meaning of Section 3 Para 1 KapBG.

## **2. Ordinary reduction of the share capital of the Company for the purpose of conditional distribution to the shareholders including the option to receive the distribution in new shares**

In the next step, the Annual General Meeting shall resolve on an ordinary reduction of the share capital of the Company pursuant to Section 175 et seq. AktG by EUR 903,379,995.70 for the purpose of repaying the reduction amount to the shareholders of the Company.

The amount of the share capital after the (first) ordinary capital reduction for allocation to non-committed reserves (see Item 1) in the amount of EUR 1,005,979,995.70 shall be reduced by EUR 903,379,995.70 to EUR 102,600,000.00, also by reducing the pro-rata amount of the share capital of the Company attributable to each no-par value share without reverse stock split.

Following registration in the commercial register of the (second) ordinary capital reduction for the purpose of distribution to the shareholders, the share capital of the Company, based on the number of shares currently issued, will amount to EUR 102,600,000.00 and will be divided into 102,600,000 no-par value shares, with each no-par value share representing a pro-rata amount of the share capital of (in turn) EUR 1.00.

Once this ordinary capital reduction becomes effective, shareholders are entitled to the distribution in the amount of EUR 9.05 per no-par value share entitled to distribution in accordance with the conditions determined by the Annual General Meeting.

The number of shares entitled to distribution corresponds to the number of issued shares of the Company, i.e. 102,600,000 no-par value shares less the 2,779,006 treasury shares held by the Company, which are not entitled to distribution in accordance with Section 65 Para 5 AktG. Consequently, 99,820,994 no-par value shares of the Company are entitled to distribution.

The distribution shall be made in cash or, at the option of each shareholder, in the form of new shares in the Company in accordance with the terms and conditions to be set out in the resolution.

The sanction affected MKAO Rasperia Trading Limited will not be entitled to the option of receiving the distribution in the form of new shares in respect of the 28,500,001 shares held.

For the purpose of issuing new shares to those shareholders who have elected to receive the distribution in the form of shares, the Annual General Meeting shall resolve to increase the share capital of the Company through a non-cash capital increase (see Item 3).

For the distribution entitlement and its payment, the resolution of the General Meeting shall provide for the conditions precedent that

- (i) the legal payout requirements for the capital reduction amount pursuant to Section 178 Para 2 AktG are met; and
- (ii) shareholders of the Company, in respect of shares entitled to distribution that together reach a proportion of the share capital of the Company of at least approximately 57.78%, have elected the payment of the distribution from the capital reduction in form of new shares of the Company (acceptance quota) and the contribution in kind for the ordinary non-cash capital increase for the issue of new shares is raised within the implementation period.

The members of the core shareholder group, who hold shares amounting to approximately 57.78% of the Company's share capital, have assured the Company that they will choose a distribution in the form of new shares, so that if the Austrian core shareholders fulfil their contractual obligations the acceptance quota will be met as one of the conditions precedent for the distribution entitlement.

The resolution of the General Meeting shall also provide for the resolutive condition of the distribution entitlement if

- (iii) implementation of the ordinary non-cash increase of the share capital has not been registered with the commercial register pursuant to Section 156 AktG by 31 March 2024 at the latest.

In the event that one of the conditions precedent ((i) and/or (ii)) does not occur, no distribution entitlement arises and no payment will be made in cash or in the form of new shares in the Company.

Similarly, if the resolutive condition ((iii)) occurs, the distribution entitlement lapses and therefore neither a distribution in cash nor a payment in the form of new shares is made.

In such cases, the alternative purpose of the capital reduction shall be to transfer the amount of the capital reduction to non-committed reserves of the Company.

The effectiveness of the resolution to reduce the ordinary share capital for the purpose of distribution to shareholders shall be conditional upon the resolution to increase the share capital of the Company against non-cash contributions (Item 3) and, accordingly, the continuance of the ordinary capital reduction shall be conditional upon the resolution on the increase of the share capital.

The Management Board and the Chairman of the Supervisory Board or his deputy are obliged to file the resolution on the (second) ordinary reduction of the share capital of the Company for registration with the commercial register without delay after the effectiveness of the resolution pursuant to Section 176 AktG. The reduction shall become effective upon registration with the commercial register.

### **3. Ordinary non-cash increase of the share capital of the Company**

In order to make a distribution from the (second) ordinary capital reduction (Item 2 above) at the option of each shareholder in the form of new shares, the Annual General Meeting of the Company to be held on 16 June 2023 shall resolve on an ordinary non-cash increase of the share capital of the Company. The resolution of the General Meeting shall provide for a waiver of the corresponding distribution entitlements from the ordinary capital reduction as a form of raising the non-cash contribution for the ordinary capital increase.

The effectiveness of the resolution to increase the share capital of the Company against non-cash contributions shall be conditional upon the resolution to reduce the ordinary share capital for the purpose of distribution to shareholders (Item 2) and, accordingly, the continuance of the capital increase shall be conditional upon the resolution to reduce the ordinary share capital.

According to the proposed resolution, the share capital of the Company shall be increased by up to EUR 24,955,248.00 through the issue of up to 24,955,248 new no-par value bearer shares (ordinary shares), each with a pro-rata amount of the share capital of EUR 1.00.

The extent of the capital increase is determined in such a way that it also includes those new shares that are proportionately attributable to the 28,500,001 shares of the Company held by MKAO Rasperia Trading Limited in accordance with the subscription ratio. However, these 28,500,001 shares held by MKAO Rasperia Trading Limited are frozen as a result of the sanctioning of Oleg Deripaska under the EU Sanctions Regulation. Consequently, MKAO Rasperia Trading Limited will not have the option to receive the capital reduction distribution in form of new shares for these shares. The Company will also not make an offer for new shares in respect of these sanctioned 28,500,001 shares.

Shareholders of the Company will be able to choose the payment of the distribution of the capital reduction (see Item 2 above) in new shares. The shareholders shall be granted the legal subscription rights in the form of an indirect subscription right (Section 153 Para 6 AktG). According to the proposed resolution, the subscription ratio shall be 1:4 (1 new share for 4 existing shares) ("**subscription ratio**") and the subscription price per new share shall be set at EUR 36.20 ("**subscription price**"). The contribution in kind to be made for the subscription of each new share will therefore comprise 4 distribution entitlements in the nominal amount of EUR 9.05 per share entitled to distribution.

The proposed subscription price and the subscription ratio are based on a business value of the Company with a valuation date of 16 June 2023 (date of the Annual General Meeting of the Company), from which a pro-rata business value per share of the Company of EUR 36.22 is derived as of 16 June 2023 ("**reference price**"), taking into account the distribution entitlement from the ordinary capital reduction for the purpose of the distribution of EUR 9.05. According to the proposed resolution, the subscription ratio is calculated as the ratio of the result of dividing the reference price by the nominal amount of a distribution entitlement (EUR 9.05) rounded down to two decimal places after the decimal point. The subscription price shall correspond to the subscription ratio multiplied by the nominal amount of a distribution entitlement (EUR 9.05).

The proposed subscription price has been determined on the basis of an appraisal of the Company's business value prepared by Deloitte Financial Advisory GmbH for the Company in accordance with the Professional Guidelines of the Expert Committee on Business Administration of the Institute for Business Economics, Tax Law and Organization of the Austrian Chamber of Public Accountants on the Valuation of Businesses (KFS/BW 1) from 26 March 2014.

A subscription offer by the Company to the shareholders to choose the distribution in the form of new shares shall be made following the Annual General Meeting and entry in the commercial register of the resolution of the Annual General Meeting concerning the capital increase (Section 151 AktG).

A six-month waiting period after registration of the capital reduction must be observed for a distribution from the capital reduction and thus also for an implementation of the capital increase for the issue of the new shares. According to the proposed resolution, an implementation of the share capital increase must be registered with the commercial register no later than 31 March 2024 (Section 156 AktG). If the capital increase fails or is delayed, there will be no distribution in cash to the shareholders from the capital reduction.

### **C. Further reports and additional documents**

This Management Board report will be audited in relation to the capital increase from company funds (capital adjustment) by the financial auditor of the Company, KPMG Austria GmbH Wirtschaftsprüfungs- und Steuerberatungsgesellschaft, Linz, in accordance with Section 2 Para 5 KapBG, and the audit report will be submitted to the General Meeting. A separate report will also be submitted by the Supervisory Board. These reports are published on the company's website and will be presented to the Annual General Meeting.

Together with the publication of a subscription offer to the shareholders, which is to take place after the Annual General Meeting and entry in the commercial register of the resolution on the non-cash capital increase (Section 151 AktG), the Company will publish a document (prospectus exemption document) on the Company's website pursuant to Article 1 (4) (h) and Article (5) (g) of the EU Prospectus Regulation (Regulation (EU) 2017/1129) in conjunction with Section 13 Para 6 of the Austrian Capital Market Act (Kapitalmarktgesetz, "KMG") and Section 4 of the Austrian Ordinance on Minimum Contents, Publication and Language (Mindestinhalts-, Veröffentlichungs- und Sprachenverordnung 2019, "MVSV 2019") regarding details of the distribution of the capital reduction amount in the form of shares.

Spittal/Drau, Vienna, May 2023

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Klemens Haselsteiner

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Mag. Christian Harder

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DI (FH) Jörg Rösler

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Dipl.-Ing. Siegfried Wanker

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Dipl.-Ing. (FH) Alfred Watzl



# General Conditions of Contract for the Public Accounting Professions (AAB 2018)

Recommended for use by the Board of the Chamber of Tax Advisers and Auditors, last recommended in its decision of April 18, 2018

## Preamble and General Items

(1) Contract within the meaning of these Conditions of Contract refers to each contract on services to be rendered by a person entitled to exercise profession in the field of public accounting exercising that profession (de facto activities as well as providing or performing legal transactions or acts, in each case pursuant to Sections 2 or 3 Austrian Public Accounting Professions Act (WTBG 2017). The parties to the contract shall hereinafter be referred to as the "contractor" on the one hand and the "client" on the other hand).

(2) The General Conditions of Contract for the professions in the field of public accounting are divided into two sections: The Conditions of Section I shall apply to contracts where the agreeing of contracts is part of the operations of the client's company (entrepreneur within the meaning of the Austrian Consumer Protection Act. They shall apply to consumer business under the Austrian Consumer Protection Act (Federal Act of March 8, 1979 / Federal Law Gazette No. 140 as amended) insofar as Section II does not provide otherwise for such business.

(3) In the event that an individual provision is void, the invalid provision shall be replaced by a valid provision that is as close as possible to the desired objective.

## SECTION I

### 1. Scope and Execution of Contract

(1) The scope of the contract is generally determined in a written agreement drawn up between the client and the contractor. In the absence of such a detailed written agreement, (2)-(4) shall apply in case of doubt:

(2) When contracted to perform tax consultation services, consultation shall consist of the following activities:

- a) preparing annual tax returns for income tax and corporate tax as well as value-added tax (VAT) on the basis of the financial statements and other documents and papers required for taxation purposes and to be submitted by the client or (if so agreed) prepared by the contractor. Unless explicitly agreed otherwise, documents and papers required for taxation purposes shall be produced by the client.
- b) examining the tax assessment notices for the tax returns mentioned under a).
- c) negotiating with the fiscal authorities in connection with the tax returns and notices mentioned under a) and b).
- d) participating in external tax audits and assessing the results of external tax audits with regard to the taxes mentioned under a).
- e) participating in appeal procedures with regard to the taxes mentioned under a).

If the contractor receives a flat fee for regular tax consultation, in the absence of written agreements to the contrary, the activities mentioned under d) and e) shall be invoiced separately.

(3) Provided the preparation of one or more annual tax return(s) is part of the contract accepted, this shall not include the examination of any particular accounting conditions nor the examination of whether all relevant concessions, particularly those with regard to value added tax, have been utilized, unless the person entitled to exercise the profession can prove that he/she has been commissioned accordingly.

(4) In each case, the obligation to render other services pursuant to Sections 2 and 3 WTBG 2017 requires for the contractor to be separately and verifiably commissioned.

(5) The aforementioned paragraphs (2) to (4) shall not apply to services requiring particular expertise provided by an expert.

(6) The contractor is not obliged to render any services, issue any warnings or provide any information beyond the scope of the contract.

(7) The contractor shall have the right to engage suitable staff and other performing agents (subcontractors) for the execution of the contract as well as to have a person entitled to exercise the profession substitute for him/her in executing the contract. Staff within the meaning of these Conditions of Contract refers to all persons who support the contractor in his/her operating activities on a regular or permanent basis, irrespective of the type of underlying legal transaction.

(8) In rendering his/her services, the contractor shall exclusively take into account Austrian law; foreign law shall only be taken into account if this has been explicitly agreed upon in writing.

(9) Should the legal situation change subsequent to delivering a final professional statement passed on by the client orally or in writing, the contractor shall not be obliged to inform the client of changes or of the consequences thereof. This shall also apply to the completed parts of a contract.

(10) The client shall be obliged to make sure that the data made available by him/her may be handled by the contractor in the course of rendering the services. In this context, the client shall particularly but not exclusively comply with the applicable provisions under data protection law and labor law.

(11) Unless explicitly agreed otherwise, if the contractor electronically submits an application to an authority, he/she acts only as a messenger and this does not constitute a declaration of intent or knowledge attributable to him/her or a person authorized to submit the application.

(12) The client undertakes not to employ persons that are or were staff of the contractor during the contractual relationship, during and within one year after termination of the contractual relationship, either in his/her company or in an associated company, failing which he/she shall be obliged to pay the contractor the amount of the annual salary of the member of staff taken over.

### 2. Client's Obligation to Provide Information and Submit Complete Set of Documents

(1) The client shall make sure that all documents required for the execution of the contract be placed without special request at the disposal of the contractor at the agreed date, and in good time if no such date has been agreed, and that he/she be informed of all events and circumstances which may be of significance for the execution of the contract. This shall also apply to documents, events and circumstances which become known only after the contractor has commenced his/her work.

(2) The contractor shall be justified in regarding information and documents presented to him/her by the client, in particular figures, as correct and complete and to base the contract on them. The contractor shall not be obliged to identify any errors unless agreed separately in writing. This shall particularly apply to the correctness and completeness of bills. However, he/she is obliged to inform the client of any errors identified by him/her. In case of financial criminal proceedings he/she shall protect the rights of the client.

(3) The client shall confirm in writing that all documents submitted, all information provided and explanations given in the context of audits, expert opinions and expert services are complete.

(4) If the client fails to disclose considerable risks in connection with the preparation of financial statements and other statements, the contractor shall not be obliged to render any compensation insofar as these risks materialize.

(5) Dates and time schedules stated by the contractor for the completion of the contractor's products or parts thereof are best estimates and, unless otherwise agreed in writing, shall not be binding. The same applies to any estimates of fees: they are prepared to best of the contractor's knowledge; however, they shall always be non-binding.

(6) The client shall always provide the contractor with his/her current contact details (particularly the delivery address). The contractor may rely on the validity of the contact details most recently provided by the client, particularly have deliveries made to the most recently provided address, until such time as new contact details are provided.

### 3. Safeguarding of Independence

(1) The client shall be obliged to take all measures to prevent that the independence of the staff of the contractor be jeopardized and shall himself/herself refrain from jeopardizing their independence in any way. In particular, this shall apply to offers of employment and to offers to accept contracts on their own account.

(2) The client acknowledges that his/her personal details required in this respect, as well as the type and scope of the services, including the performance period agreed between the contractor and the client for the services (both audit and non-audit services), shall be handled within a network (if any) to which the contractor belongs, and for this purpose transferred to the other members of the network including abroad for the purpose of examination of the existence of grounds of bias or grounds for exclusion and conflicts of interest. For this purpose the client expressly releases the contractor in accordance with the Data Protection Act and in accordance with Section 80 (4) No. 2 WTBG 2017 from his/her obligation to maintain secrecy. The client can revoke the release from the obligation to maintain secrecy at any time.

#### 4. Reporting Requirements

(1) (Reporting by the contractor) In the absence of an agreement to the contrary, a written report shall be drawn up in the case of audits and expert opinions.

(2) (Communication to the client) All contract-related information and opinions, including reports, (all declarations of knowledge) of the contractor, his/her staff, other performing agents or substitutes ("professional statements") shall only be binding provided they are set down in writing. Professional statements in electronic file formats which are made, transferred or confirmed by fax or e-mail or using similar types of electronic communication (that can be stored and reproduced but is not oral, i.e. e.g. text messages but not telephone) shall be deemed as set down in writing; this shall only apply to professional statements. The client bears the risk that professional statements may be issued by persons not entitled to do so as well as the transfer risk of such professional statements.

(3) (Communication to the client) The client hereby consents to the contractor communicating with the client (e.g. by e-mail) in an unencrypted manner. The client declares that he/she has been informed of the risks arising from the use of electronic communication (particularly access to, maintaining secrecy of, changing of messages in the course of transfer). The contractor, his/her staff, other performing agents or substitutes are not liable for any losses that arise as a result of the use of electronic means of communication.

(4) (Communication to the contractor) Receipt and forwarding of information to the contractor and his/her staff are not always guaranteed when the telephone is used, in particular in conjunction with automatic telephone answering systems, fax, e-mail and other types of electronic communication. As a result, instructions and important information shall only be deemed to have been received by the contractor provided they are also received physically (not by telephone, orally or electronically), unless explicit confirmation of receipt is provided in individual instances. Automatic confirmation that items have been transmitted and read shall not constitute such explicit confirmations of receipt. This shall apply in particular to the transmission of decisions and other information relating to deadlines. As a result, critical and important notifications must be sent to the contractor by mail or courier. Delivery of documents to staff outside the firm's offices shall not count as delivery.

(5) (General) In writing shall mean, insofar as not otherwise laid down in Item 4. (2), written form within the meaning of Section 886 Austrian Civil Code (ABGB) (confirmed by signature). An advanced electronic signature (Art. 26 eIDAS Regulation (EU) No. 910/2014) fulfills the requirement of written form within the meaning of Section 886 ABGB (confirmed by signature) insofar as this is at the discretion of the parties to the contract.

(6) (Promotional information) The contractor will send recurrent general tax law and general commercial law information to the client electronically (e.g. by e-mail). The client acknowledges that he/she has the right to object to receiving direct advertising at any time.

#### 5. Protection of Intellectual Property of the Contractor

(1) The client shall be obliged to ensure that reports, expert opinions, organizational plans, drafts, drawings, calculations and the like, issued by the contractor, be used only for the purpose specified in the contract (e.g. pursuant to Section 44 (3) Austrian Income Tax Act 1988). Furthermore, professional statements made orally or in writing by the contractor may be passed on to a third party for use only with the written consent of the contractor.

(2) The use of professional statements made orally or in writing by the contractor for promotional purposes shall not be permitted; a violation of this provision shall give the contractor the right to terminate without notice to the client all contracts not yet executed.

(3) The contractor shall retain the copyright on his/her work. Permission to use the work shall be subject to the written consent by the contractor.

#### 6. Correction of Errors

(1) The contractor shall have the right and shall be obliged to correct all errors and inaccuracies in his/her professional statement made orally or in writing which subsequently come to light and shall be obliged to inform the client thereof without delay. He/she shall also have the right to inform a third party acquainted with the original professional statement of the change.

(2) The client has the right to have all errors corrected free of charge if the contractor can be held responsible for them; this right will expire six months after completion of the services rendered by the contractor and/or – in cases where a written professional statement has not been delivered – six months after the contractor has completed the work that gives cause to complaint.

(3) If the contractor fails to correct errors which have come to light, the client shall have the right to demand a reduction in price. The extent to which additional claims for damages can be asserted is stipulated under Item 7.

#### 7. Liability

(1) All liability provisions shall apply to all disputes in connection with the contractual relationship, irrespective of the legal grounds. The contractor is liable for losses arising in connection with the contractual relationship (including its termination) only in case of willful intent and gross negligence. The applicability of Section 1298 2<sup>nd</sup> Sentence ABGB is excluded.

(2) In cases of gross negligence, the maximum liability for damages due from the contractor is tenfold the minimum insurance sum of the professional liability insurance according to Section 11 WTBG 2017 as amended.

(3) The limitation of liability pursuant to Item 7. (2) refers to the individual case of damages. The individual case of damages includes all consequences of a breach of duty regardless of whether damages arose in one or more consecutive years. In this context, multiple acts or failures to act that are based on the same or similar source of error as one consistent breach of duty if the matters concerned are legally and economically connected. Single damages remain individual cases of damage even if they are based on several breaches of duty. Furthermore, the contractor's liability for loss of profit as well as collateral, consequential, incidental or similar losses is excluded in case of willful damage.

(4) Any action for damages may only be brought within six months after those entitled to assert a claim have gained knowledge of the damage, but no later than three years after the occurrence of the (primary) loss following the incident upon which the claim is based, unless other statutory limitation periods are laid down in other legal provisions.

(5) Should Section 275 Austrian Commercial Code (UGB) be applicable (due to a criminal offense), the liability provisions contained therein shall apply even in cases where several persons have participated in the execution of the contract or where several activities requiring compensation have taken place and irrespective of whether other participants have acted with intent.

(6) In cases where a formal auditor's report is issued, the applicable limitation period shall commence no later than at the time the said auditor's report was issued.

(7) If activities are carried out by enlisting the services of a third party, e.g. a data-processing company, any warranty claims and claims for damages which arise against the third party according to law and contract shall be deemed as having been passed on to the client once the client has been informed of them. Item 4. (3) notwithstanding, in such a case the contractor shall only be liable for fault in choosing the third party.

(8) The contractor's liability to third parties is excluded in any case. If third parties come into contact with the contractor's work in any manner due to the client, the client shall expressly clarify this fact to them. Insofar as such exclusion of liability is not legally permissible or a liability to third parties has been assumed by the contractor in exceptional cases, these limitations of liability shall in any case also apply to third parties on a subsidiary basis. In any case, a third party cannot raise any claims that go beyond any claim raised by the client. The maximum sum of liability shall be valid only once for all parties injured, including the compensation claims of the client, even if several persons (the client and a third party or several third parties) have sustained losses; the claims of the parties injured shall be satisfied in the order in which the claims have been raised. The client will indemnify and hold harmless the contractor and his/her staff against any claims by third parties in connection with professional statements made orally or in writing by the contractor and passed on to these third parties.

(9) Item 7. shall also apply to any of the client's liability claims to third parties (performing agents and vicarious agents of the contractor) and to substitutes of the contractor relating to the contractual relationship.

#### 8. Secrecy, Data Protection

(1) According to Section 80 WTBG 2017 the contractor shall be obliged to maintain secrecy in all matters that become known to him/her in connection with his/her work for the client, unless the client releases him/her from this duty or he/she is bound by law to deliver a statement.

(2) Insofar as it is necessary to pursue the contractor's claims (particularly claims for fees) or to dispute claims against the contractor (particularly claims for damages raised by the client or third parties against the contractor), the contractor shall be released from his/her professional obligation to maintain secrecy.

(3) The contractor shall be permitted to hand on reports, expert opinions and other written statements pertaining to the results of his/her services to third parties only with the permission of the client, unless he/she is required to do so by law.

(4) The contractor is a data protection controller within the meaning of the General Data Protection Regulation ("GDPR") with regard to all personal data processed under the contract. The contractor is thus authorized to process personal data entrusted to him/her within the limits of the contract. The material made available to the contractor (paper and data carriers) shall generally be handed to the client or to third parties appointed by the client after the respective rendering of services has been completed, or be kept and destroyed by the contractor if so agreed. The contractor is authorized to keep copies thereof insofar as he/she needs them to appropriately document his/her services or insofar as it is required by law or customary in the profession.

(5) If the contractor supports the client in fulfilling his/her duties to the data subjects arising from the client's function as data protection controller, the contractor shall be entitled to charge the client for the actual efforts undertaken. The same shall apply to efforts undertaken for information with regard to the contractual relationship which is provided to third parties after having been released from the obligation to maintain secrecy to third parties by the client.

#### 9. Withdrawal and Cancellation („Termination“)

(1) The notice of termination of a contract shall be issued in writing (see also Item 4. (4) and (5)). The expiry of an existing power of attorney shall not result in a termination of the contract.

(2) Unless otherwise agreed in writing or stipulated by force of law, either contractual partner shall have the right to terminate the contract at any time with immediate effect. The fee shall be calculated according to Item 11.

(3) However, a continuing agreement (fixed-term or open-ended contract on – even if not exclusively – the rendering of repeated individual services, also with a flat fee) may, without good reason, only be terminated at the end of the calendar month by observing a period of notice of three months, unless otherwise agreed in writing.

(4) After notice of termination of a continuing agreement and unless otherwise stipulated in the following, only those individual tasks shall still be completed by the contractor (list of assignments to be completed) that can (generally) be completed fully within the period of notice insofar as the client is notified in writing within one month after commencement of the termination notice period within the meaning of Item 4. (2). The list of assignments to be completed shall be completed within the termination period if all documents required are provided without delay and if no good reason exists that impedes completion.

(5) Should it happen that in case of a continuing agreement more than two similar assignments which are usually completed only once a year (e.g. financial statements, annual tax returns, etc.) are to be completed, any such assignments exceeding this number shall be regarded as assignments to be completed only with the client's explicit consent. If applicable, the client shall be informed of this explicitly in the statement pursuant to Item 9. (4).

#### 10. Termination in Case of Default in Acceptance and Failure to Cooperate on the Part of the Client and Legal Impediments to Execution

(1) If the client defaults on acceptance of the services rendered by the contractor or fails to carry out a task incumbent on him/her either according to Item 2. or imposed on him/her in another way, the contractor shall have the right to terminate the contract without prior notice. The same shall apply if the client requests a way to execute (also partially) the contract that the contractor reasonably believes is not in compliance with the legal situation or professional principles. His/her fees shall be calculated according to Item 11. Default in acceptance or failure to cooperate on the part of the client shall also justify a claim for compensation made by the contractor for the extra time and labor hereby expended as well as for the damage caused, if the contractor does not invoke his/her right to terminate the contract.

(2) For contracts concerning bookkeeping, payroll accounting and administration and assessment of payroll-related taxes and contributions, a termination without prior notice by the contractor is permissible under Item 10. (1) if the client verifiably fails to cooperate twice as laid down in Item 2. (1).

#### 11. Entitlement to Fee

(1) If the contract fails to be executed (e.g. due to withdrawal or cancellation), the contractor shall be entitled to the negotiated compensation (fee), provided he/she was prepared to render the services and was prevented from so doing by circumstances caused by the client, whereby a merely contributory negligence by the contractor in this respect shall be excluded; in this case the contractor need not take into account the amount he/she obtained or failed to obtain through alternative use of his/her own professional services or those of his/her staff.

(2) If a continuing agreement is terminated, the negotiated compensation for the list of assignments to be completed shall be due upon completion or in case completion fails due to reasons attributable to the client (reference is made to Item 11. (1)). Any flat fees negotiated shall be calculated according to the services rendered up to this point.

(3) If the client fails to cooperate and the assignment cannot be carried out as a result, the contractor shall also have the right to set a reasonable grace period on the understanding that, if this grace period expires without results, the contract shall be deemed ineffective and the consequences indicated in Item 11. (1) shall apply.

(4) If the termination notice period under Item 9. (3) is not observed by the client as well as if the contract is terminated by the contractor in accordance with Item 10. (2), the contractor shall retain his/her right to receive the full fee for three months.

#### 12. Fee

(1) Unless the parties explicitly agreed that the services would be rendered free of charge, an appropriate remuneration in accordance with Sections 1004 and 1152 ABGB is due in any case. Amount and type of the entitlement to the fee are laid down in the agreement negotiated between the contractor and his/her client. Unless a different agreement has verifiably been reached, payments made by the client shall in all cases be credited against the oldest debt.

(2) The smallest service unit which may be charged is a quarter of an hour.

(3) Travel time to the extent required is also charged.

(4) Study of documents which, in terms of their nature and extent, may prove necessary for preparation of the contractor in his/her own office may also be charged as a special item.

(5) Should a remuneration already agreed upon prove inadequate as a result of the subsequent occurrence of special circumstances or due to special requirements of the client, the contractor shall notify the client thereof and additional negotiations for the agreement of a more suitable remuneration shall take place (also in case of inadequate flat fees).

(6) The contractor includes charges for supplementary costs and VAT in addition to the above, including but not limited to the following (7) to (9):

(7) Chargeable supplementary costs also include documented or flat-rate cash expenses, traveling expenses (first class for train journeys), per diems, mileage allowance, copying costs and similar supplementary costs.

(8) Should particular third party liabilities be involved, the corresponding insurance premiums (including insurance tax) also count as supplementary costs.

(9) Personnel and material expenses for the preparation of reports, expert opinions and similar documents are also viewed as supplementary costs.

(10) For the execution of a contract wherein joint completion involves several contractors, each of them will charge his/her own compensation.

(11) In the absence of any other agreements, compensation and advance payments are due immediately after they have been requested in writing. Where payments of compensation are made later than 14 days after the due date, default interest may be charged. Where mutual business transactions are concerned, a default interest rate at the amount stipulated in Section 456 1<sup>st</sup> and 2<sup>nd</sup> Sentence UGB shall apply.

(12) Statutory limitation is in accordance with Section 1486 of ABGB, with the period beginning at the time the service has been completed or upon the issuing of the bill within an appropriate time limit at a later point.

(13) An objection may be raised in writing against bills presented by the contractor within 4 weeks after the date of the bill. Otherwise the bill is considered as accepted. Filing of a bill in the accounting system of the recipient is also considered as acceptance.

(14) Application of Section 934 ABGB within the meaning of Section 351 UGB, i.e. rescission for *laesio enormis* (lesion beyond moiety) among entrepreneurs, is hereby renounced.

(15) If a flat fee has been negotiated for contracts concerning bookkeeping, payroll accounting and administration and assessment of payroll-related taxes and contributions, in the absence of written agreements to the contrary, representation in matters concerning all types of tax audits and audits of payroll-related taxes and social security contributions including settlements concerning tax assessments and the basis for contributions, preparation of reports, appeals and the like shall be invoiced separately. Unless otherwise agreed to in writing, the fee shall be considered agreed upon for one year at a time.

(16) Particular individual services in connection with the services mentioned in Item 12. (15), in particular ascertaining whether the requirements for statutory social security contributions are met, shall be dealt with only on the basis of a specific contract.

(17) The contractor shall have the right to ask for advance payments and can make delivery of the results of his/her (continued) work dependent on satisfactory fulfillment of his/her demands. As regards continuing agreements, the rendering of further services may be denied until payment of previous services (as well as any advance payments under Sentence 1) has been effected. This shall analogously apply if services are rendered in installments and fee installments are outstanding.

(18) With the exception of obvious essential errors, a complaint concerning the work of the contractor shall not justify even only the partial retention of fees, other compensation, reimbursements and advance payments (remuneration) owed to him/her in accordance with Item 12.

(19) Offsetting the remuneration claims made by the contractor in accordance with Item 12. shall only be permitted if the demands are uncontested and legally valid.

### 13. Other Provisions

(1) With regard to Item 12. (17), reference shall be made to the legal right of retention (Section 471 ABGB, Section 369 UGB); if the right of retention is wrongfully exercised, the contractor shall generally be liable pursuant to Item 7. or otherwise only up to the outstanding amount of his/her fee.

(2) The client shall not be entitled to receive any working papers and similar documents prepared by the contractor in the course of fulfilling the contract. In the case of contract fulfillment using electronic accounting systems the contractor shall be entitled to delete the data after handing over all data based thereon – which were prepared by the contractor in relation to the contract and which the client is obliged to keep – to the client and/or the succeeding public accountant in a structured, common and machine-readable format. The contractor shall be entitled to an appropriate fee (Item 12. shall apply by analogy) for handing over such data in a structured, common and machine-readable format. If handing over such data in a structured, common and machine-readable format is impossible or unfeasible for special reasons, they may be handed over in the form of a full print-out instead. In such a case, the contractor shall not be entitled to receive a fee.

(3) At the request and expense of the client, the contractor shall hand over all documents received from the client within the scope of his/her activities. However, this shall not apply to correspondence between the contractor and his/her client and to original documents in his/her possession and to documents which are required to be kept in accordance with the legal anti-money laundering provisions applicable to the contractor. The contractor may make copies or duplicates of the documents to be returned to the client. Once such documents have been transferred to the client, the contractor shall be entitled to an appropriate fee (Item 12. shall apply by analogy).

(4) The client shall fetch the documents handed over to the contractor within three months after the work has been completed. If the client fails to do so, the contractor shall have the right to return them to the client at the cost of the client or to charge an appropriate fee (Item 12. shall apply by analogy) if the contractor can prove that he/she has asked the client twice to pick up the documents handed over. The documents may also further be kept by third parties at the expense of the client. Furthermore, the contractor is not liable for any consequences arising from damage, loss or destruction of the documents.

(5) The contractor shall have the right to compensation of any fees that are due by use of any available deposited funds, clearing balances, trust funds or other liquid funds at his/her disposal, even if these funds are explicitly intended for safekeeping, if the client had to have anticipated the counterclaim of the contractor.

(6) To secure an existing or future fee payable, the contractor shall have the right to transfer a balance held by the client with the tax office or another balance held by the client in connection with charges and contributions, to a trust account. In this case the client shall be informed of the transfer. Subsequently, the amount secured may be collected either after agreement has been reached with the client or after enforceability of the fee by execution has been declared.

### 14. Applicable Law, Place of Performance, Jurisdiction

(1) The contract, its execution and the claims resulting from it shall be exclusively governed by Austrian law, excluding national referral rules.

(2) The place of performance shall be the place of business of the contractor.

(3) In absence of a written agreement stipulating otherwise, the place of jurisdiction is the competent court of the place of performance.

## SECTION II

### 15. Supplementary Provisions for Consumer Transactions

(1) Contracts between public accountants and consumers shall fall under the obligatory provisions of the Austrian Consumer Protection Act (KSChG).

(2) The contractor shall only be liable for the willful and grossly negligent violation of the obligations assumed.

(3) Contrary to the limitation laid down in Item 7. (2), the duty to compensate on the part of the contractor shall not be limited in case of gross negligence.

(4) Item 6. (2) (period for right to correction of errors) and Item 7. (4) (asserting claims for damages within a certain period) shall not apply.

(5) Right of Withdrawal pursuant to Section 3 KSChG:

If the consumer has not made his/her contract statement in the office usually used by the contractor, he/she may withdraw from the contract application or the contract proper. This withdrawal may be declared until the contract has been concluded or within one week after its conclusion; the period commences as soon as a document has been handed over to the consumer which contains at least the name and the address of the contractor as well as instructions on the right to withdraw from the contract, but no earlier than the conclusion of the contract. The consumer shall not have the right to withdraw from the contract

1. if the consumer himself/herself established the business relationship concerning the conclusion of this contract with the contractor or his/her representative,

2. if the conclusion of the contract has not been preceded by any talks between the parties involved or their representatives, or

3. in case of contracts where the mutual services have to be rendered immediately, if the contracts are usually concluded outside the offices of the contractors, and the fee agreed upon does not exceed €15.

In order to become legally effective, the withdrawal shall be declared in writing. It is sufficient if the consumer returns a document that contains his/her contract declaration or that of the contractor to the contractor with a note which indicates that the consumer rejects the conclusion or the maintenance of the contract. It is sufficient if this declaration is dispatched within one week.

If the consumer withdraws from the contract according to Section 3 KSChG,

1. the contractor shall return all benefits received, including all statutory interest, calculated from the day of receipt, and compensate the consumer for all necessary and useful expenses incurred in this matter,

2. the consumer shall pay for the value of the services rendered by the contractor as far as they are of a clear and predominant benefit to him/her.

According to Section 4 (3) KSChG, claims for damages shall remain unaffected.

(6) Cost Estimates according to Section 5 Austrian KSChG:

The consumer shall pay for the preparation of a cost estimate by the contractor in accordance with Section 1170a ABGB only if the consumer has been notified of this payment obligation beforehand.

If the contract is based on a cost estimate prepared by the contractor, its correctness shall be deemed warranted as long as the opposite has not been explicitly declared.

(7) Correction of Errors: Supplement to Item 6.:

If the contractor is obliged under Section 932 ABGB to improve or complement his/her services, he/she shall execute this duty at the place where the matter was transferred. If it is in the interest of the consumer to have the work and the documents transferred by the contractor, the consumer may carry out this transfer at his/her own risk and expense.

(8) Jurisdiction: Shall apply instead of Item 14. (3)

If the domicile or the usual residence of the consumer is within the country or if he/she is employed within the country, in case of an action against him/her according to Sections 88, 89, 93 (2) and 104 (1) Austrian Court Jurisdiction Act (JN), the only competent courts shall be the courts of the districts where the consumer has his/her domicile, usual residence or place of employment.

(9) Contracts on Recurring Services:

(a) Contracts which oblige the contractor to render services and the consumer to effect repeated payments and which have been concluded for an indefinite period or a period exceeding one year may be terminated by the consumer at the end of the first year, and after the first year at the end of every six months, by adhering to a two-month period of notice.

(b) If the total work is regarded as a service that cannot be divided on account of its character, the extent and price of which is determined already at the conclusion of the contract, the first date of termination may be postponed until the second year has expired. In case of such contracts the period of notice may be extended to a maximum of six months.

(c) If the execution of a certain contract indicated in lit. a) requires considerable expenses on the part of the contractor and if he/she informed the consumer about this no later than at the time the contract was concluded, reasonable dates of termination and periods of notice which deviate from lit. a) and b) and which fit the respective circumstances may be agreed.

(d) If the consumer terminates the contract without complying with the period of notice, the termination shall become effective at the next termination date which follows the expiry of the period of notice.