



**Sustainable Energy for All Verein
für nachhaltige Energie,
Vienna, Austria**

Report on the
Audit of the Financial Statements
for the financial year ended
31 December 2017

10 April 2018

KPMG Austria GmbH
Wirtschaftsprüfungs- und Steuerberatungsgesellschaft
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Note

The use of automated calculation systems may give rise to rounding differences.

To the Members of Management and the Administrative Board of
Sustainable Energy for All Verein für nachhaltige Energie,
Vienna, Austria

We have audited the financial statements for the financial year ended 31 December 2017 of

Sustainable Energy for All Verein für nachhaltige Energie,
Vienna, Austria
(referred to as "the Organisation"),

and **report** on the result of our audit as follows:

1. Audit Contract and Scope of the Engagement

The Organisation, represented by the management, concluded with us a contract to audit the financial statements of the Organisation as of 31 December 2017. Our audit also comprised the accounting system in accordance with Section 269 et seq UGB (Austrian Commercial Code).

As the Organisation is exempt of applying the Austrian Association Act based on its status as a Quasi-International Organisation (QIO), the financial statements were prepared voluntarily in accordance with the rules of the Austrian Associations Act and the rules of the Austrian Commercial Code. The Organisation is a **large association** in accordance with the Austrian Association Act (Vereinsgesetz – VerG) for which the rules of Section 21 paragraph 1 of the act apply. As the Organisation exceeded the thresholds as stipulated in Section 22 VerG in 2017, the legal consequences of Section 22 Para 2 VerG shall apply, at the earliest, from 2019.

The audit is a **voluntary** audit.

The **audit includes** assessing whether the legal requirements applied on a voluntary basis and the Organisation's statutes were adhered to.

Our audit was performed in accordance with the **legal requirements and generally accepted standards on auditing** as applied in Austria. These standards require that we comply with *International Standards on Auditing* – ISA. An auditor conducting an audit obtains reasonable assurance that the financial statements are free from material misstatement. An absolute assurance is not attainable due to the test nature and other inherent limitations of an audit, together with the inherent limitations of any accounting and internal control system. There is an unavoidable risk that even material misstatements may remain undetected. Areas which are generally covered in special engagements were not included in our scope of work.

We performed the audit at the Organisation's registered office and our premises in March and April 2018. The audit was substantially completed at the date of this report.

Engagement partner of the engagement is Mrs Heidi Schachinger, Wirtschaftsprüfer (Austrian Chartered Accountant).

Our audit is based on the audit contract concluded with the Organisation. The "General **Conditions of Contract**" issued by the Chamber of Austrian Chartered Accountants (see Annex II) form an integral part of the audit contract. The conditions of contract do not only apply to the Organisation and the auditor, but also to third parties. Our liability as auditors is guided under Section 275 UGB.

2. Breakdown and Description of Significant Financial Statement Items

The breakdown and description of all significant financial statement items are included in the notes to the financial statements. We refer to the respective disclosures made by management in the notes.

3. Summary of Audit Findings

3.1. Compliance of the accounting system and financial statements

During our audit, we obtained evidence that the legal requirements applied on a voluntary basis as well as the Organisation's statutes and accounting principles generally accepted in Austria have been complied with.

In line with our risk and controls based audit approach and to the extent we considered necessary for the purpose of expressing an opinion, we considered internal controls related to sub processes of the financial reporting process as part of our audit.

With regard to the compliance of the **financial statements** with all legal requirements applied on a voluntary basis we refer to the auditor's report.

3.2. Explanations and evidence

The Organisation's legal representative has sufficiently provided all evidence and explanations requested by us as well as their signed management representation letter.

3.3. Reporting in accordance with Section 273 Paragraph 2 UGB

During our audit we did not note any facts which indicate that there could be substantial doubt about the Organisation's ability to continue as a going concern, nor indicate a material deterioration of the Organisation's performance. Neither did we note any indications of non-compliance with Austrian law or the Organisation's statutes. We did not note any material weaknesses in the internal controls over the financial reporting process.

4. Auditor's report

Report on the Financial Statements

Audit Opinion

We have audited the financial statements of

**Sustainable Energy for All Verein für nachhaltige Energie,
Vienna, Austria,**

that comprise the balance sheet as of 31 December 2017, the income statement for the year then ended, and the notes.

In our opinion, the financial statements present fairly, in all material respects, the financial position of the Organisation as of 31 December 2017, and its financial performance for the year then ended in accordance with the voluntarily applied Austrian Generally Accepted Accounting Principles (see section "1. General Principles" of the Notes to the Financial Statements).

Basis for our Opinion

We conducted our audit in accordance with Austrian Standards on Auditing. These standards require the audit to be conducted in accordance with International Standards on Auditing (ISA). Our responsibilities under those standards are further described in the "Auditor's Responsibilities" section of our report. We are independent of the Organisation in accordance with Austrian Generally Accepted Accounting Principles and professional regulations, and we have fulfilled our other responsibilities under those relevant ethical requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion. Our liability as auditors is guided under Section 275 UGB.

Responsibilities of Management and the Administrative Board for the Financial Statements

The Organisation's management is responsible for the preparation and fair presentation of these financial statements in accordance with the voluntarily applied Austrian Generally Accepted Accounting Principles and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Management is also responsible for assessing the Organisation's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting, unless management either intends to liquidate the Organisation or to cease operations or has no realistic alternative but to do so.

The Administrative Board is responsible for overseeing the Organisation's financial reporting process.

Auditor's Responsibilities

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole, are free from material misstatements – whether due to fraud or error – and to issue an auditor's report that includes our audit opinion. Reasonable assurance represents a high level of assurance, but provides no guarantee that an audit conducted in accordance with Austrian Standards on Auditing (and therefore ISAs), will always detect a material misstatement, if any. Misstatements may result from fraud or error and are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with Austrian Standards on Auditing, we exercise professional judgment and maintain professional skepticism throughout the audit.

Moreover:

- We identify and assess the risks of material misstatements in the financial statements, whether due to fraud or error, we design and perform audit procedures responsive to those risks and obtain sufficient and appropriate audit evidence to serve as a basis for our audit opinion. The risk of not detecting material misstatements resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the override of internal control.
- We obtain an understanding of internal controls relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control.
- We evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- We conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Organisation's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our audit report to the respective note in the financial statements. If such disclosures are not appropriate, we will modify our audit opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Organisation to cease to continue as a going concern.
- We evaluate the overall presentation, structure and content of the financial statements, including the notes, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

— We communicate with the administrative board regarding, amongst other matters the planned scope and timing of our audit as well as significant findings, including any significant deficiencies in internal control that we identify during our audit.

Vienna, 10 April 2018

KPMG Austria GmbH
Wirtschaftsprüfungs- und Steuerberatungsgesellschaft



Heidi Schachinger
Wirtschaftsprüfer
(Austrian Chartered Accountant)

SEforALL Financial Statements

31 December 2017

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1 BALANCE SHEET AS AT 31 DECEMBER 2017

All US Dollars	31 December 2017	31 December 2016
Assets		
Fixed Assets		
Property Plant and Equipment	58,959.85	0.00
Accumulated Depreciation	14,595.83	0.00
Total Fixed Assets	44,364.02	0.00
Current Assets		
Receivables		
Cash at managers	3,035,395.60	255,865.45
Debtors	1,923,787.67	0.00
Prepayments	60,000.00	0.00
Total Receivables	5,019,183.27	255,865.45
Cash		
Cash in Bank	303,077.86	0.00
Cash On Hand	684.45	0.00
Total Cash	303,762.31	0.00
Total Current Assets	5,322,945.58	255,865.45
Total Assets	5,367,309.60	255,865.45
Equity and Liabilities		
Equity		
Earnings Reserve	0.00	0.00
Accruals		
Annual leave accrual	90,036.00	0.00
Liabilities Due Within One Year		
Bank overdraft	0.00	119.25
Accounts payable	200,912.38	126,195.45
Other liabilities	5,076,361.22	129,550.8
Total Liabilities Due Within One Year	5,277,273.60	255,865.45
Total Equity and Liabilities	5,367,309.60	255,865.45

2 INCOME STATEMENT FOR THE PERIOD 1 JANUARY 2017 TO 31 DECEMBER 2017

All US Dollars	1 January to 31 December 2017	4 January to 31 December 2016
<u>Revenue</u>		
Non-earmarked and earmarked contributions	8,493,812.99	170,449.29
<u>Total Revenue</u>	8,493,812.99	170,449.29
<u>Expenses</u>		
Personnel Expenses		
Salaries and Wages	3,723,817.86	3,871.80
Contributions to Staff Provision Funds	6,531.85	232.31
Expenses for statutory social security, payroll-related taxes, etc.	8,434.26	294.06
Other social benefits	17,954.28	736.38
Total Personnel Expenses	3,756,738.25	5,134.55
Other Operating Expenses		
Bank Charges	2,960.30	119.25
Legal and Professional Fees	1,825,593.06	124,974.20
Rental Expenses	274,160.40	0.00
Travel	1,314,122.71	0.00
Support Cost/Engagement Service Expense	371,964.76	0.00
Communication Expenses	238,203.78	0.00
Other Operating Expenses	723,986.75	40,221.29
Total Other Operating Expenses	4,750,991.76	165,314.74
<u>Total Expenses</u>	8,507,730.01	170,449.29
<u>Other income</u>		
Interest Income	20,677.28	0.00
Currency Exchange Gains/Losses	(6,760.26)	0.00
<u>Total Other Income</u>	13,917.02	0.00
<u>Net Operating Income</u>	0.00	0.00

3 NOTES TO THE FINANCIAL STATEMENTS AS AT 31 DECEMBER 2017

1. GENERAL PRINCIPLES

1.1 Basis of Preparation

As the Sustainable Energy for All Verein für nachhaltige Energie (“SEforALL”) qualifies as an International Non-Governmental Organisation, the provisions of the Austrian Association Act (Vereinsgesetz) are not binding for the preparation of these financial statements. However, these financial statements have been prepared in accordance of section 22 para 2 of the Austrian Association Act (Vereinsgesetz), on a voluntary basis, and in accordance with Austrian generally accepted accounting principles, including accounting and valuation methods of the Austrian Commercial Code (Unternehmensgesetzbuch – UGB), with the exception of the use of German language and Euros as the unit of currency.

SEforALL qualifies as a large organisation according to section 22 of the Austrian Association Act (Vereinsgesetz).

Assets and liabilities are individually valued under the assumption that SEforALL will continue its activities.

The financial statements have been prepared in English language and US Dollars are used as the presentation currency.

The financial statements include only the activities directly attributable to SEforALL, and exclude those attributable to the former United Nations Initiative.

The principle of prudence has been observed through consideration of risks and potential losses. Only profits and gains realized at the balance sheet date were recognized.

The income statement was prepared using the total expenditure format. The prior year income statement covers the period from the registration of SEforALL under the Austrian Association Act (Vereinsgesetz) on 4 January 2016 to 31 December 2016.

1.2 Income recognition

Income is recognized as a receivable once a contract has been signed. When a contract relates to a future accounting period the income is deferred.

1.3 Contributions in kind

The financial statements include \$0.9 million (2016 - \$0.0 million) as an estimated value of contributions in-kind that relate to staff seconded to SEforALL by other entities. During 2017 there were six such staff members (2016 - none). SEforALL is not responsible for the payment of secondees’ salaries and benefits. The estimated value is based on the SEforALL salary scale in place for the level of each position.

1.4 Fixed Assets

Fixed assets are recorded at cost. Depreciation is provided on a straight-line basis over the estimated lives of the asset or term of the lease, whichever is shorter, with a full year charged in the year of acquisition and no depreciation charged in the year of disposal. The estimated life of office equipment is ten years and the estimated life of computer equipment is four years.

1.5 Currency exchange

The financial statements are prepared in US Dollars to be consistent with reporting to senior management and external stakeholders.

Transactions that are conducted in a currency other than US Dollars are converted at the prevailing exchange rate as provided by United Nations Office for Project Services (UNOPS).

The prior year balances were converted to US Dollars from Euros, as shown in the table below, using the prevailing exchange rate, for the date of the transaction, as provided by UNOPS.

Balance Sheet as at 31 December 2016, restatement to USD

	EUR	Restated in USD
Current Assets		
Cash at managers (United Nations Foundation)	244,607.37	255,865.45
Total Assets	244,607.37	255,865.45
Current Liabilities		
Accounts Payable	120,642.85	126,195.45
Other Liabilities	123,850.52	129,550.75
Bank Overdraft	114.00	119.25
Total Current Liabilities	244,607.37	255,865.45
Net Assets	0.00	0.00
Equity		
Earnings Reserves	0.00	0.00
Total Equity	0.00	0.00

Income statement for 2016, restatement to USD

	EUR	Restated in USD
Revenue		
Non-earmarked contributions	162,949.48	170,449.29
Total Revenue	162,949.48	170,449.29
Personnel Expenses		
Salaries	3,701.44	3,871.80
Contributions to Staff Provision Funds	222.09	232.31
Expenses for statutory social security, payroll-related taxes, etc	281.12	294.06
Other social benefits	703.98	736.38
Total Personnel Expenses	4,908.63	5,134.55
Other Operating Expenses		
Bank Charges	114.00	119.25
Legal and Professional Fees	119,475.29	124,974.20
Support Costs/Engagement Services expenses	38,451.56	40,221.29
Total Other Operating Expenses	158,040.85	165,314.74
Total Expenses	162,949.48	170,449.29
Net Operating Income	-	-

2. STRUCTURE OF INCOME STATEMENTS

2.1 Non-earmarked and earmarked contributions

Non-earmarked and earmarked contributions of \$8.5 million, as shown in the table below, are entered as revenues as there are related expenses that can be directly attributed to these revenues. The balance of unused contributions received and commitments not yet expensed of \$5.1 million is recognized as a liability.

All US Dollars	1 January to 31 December 2017	4 January to 31 December 2016
Revenue from Donor Income	12,712,794.21	300,000.00
In kind contributions	857,380.00	0.00
Total Income	13,570,174.21	300,000.00
Deferred Revenue	(5,076,361.22)	(129,550.71)
	<u>8,493,812.99</u>	<u>170,449.29</u>

2.2 Engagement services and support costs

SEforALL is supported by organisations such as UNOPS and the United Nations Foundation (UNF), and these organisations charge a support fee. These support fees include centrally managed direct costs, locally managed direct costs, and other fees that support the management of the SEforALL funds. These fees are based on service agreements between SEforALL and the respective organisations.

2.3 Bank charges

In April 2016, SEforALL opened a bank account with the Bank of Austria which started being used operationally in 2017. In January 2018, a second Bank of Austria account was opened to provide a dedicated account for a significant project.

2.4 Legal and professional fees

Legal and professional fees include the 2017 audit fee.

3. STRUCTURE OF BALANCE SHEET STATEMENT

3.1 Fixed Assets

	Office Equipment	Computer Equipment	Total
Cost			
Brought forward	-	-	-
Acquisition	960.88	57,998.97	58,959.85
Disposal	-	-	-
Carried forward	<u>960.88</u>	<u>57,998.97</u>	<u>58,959.85</u>
Accumulated Depreciation			
Brought forward	-	-	-
Charged in the year	96.09	14,499.74	14,595.83
Disposal	-	-	-
Carried forward	<u>96.09</u>	<u>14,499.74</u>	<u>14,595.83</u>
Net book value			
Brought Forward	<u>-</u>	<u>-</u>	
Carried Forward	<u>864.79</u>	<u>43,499.23</u>	<u>44,364.02</u>

In addition to the assets shown above, assets with a net book value as at 31 December 2017 of USD 91,803.61 were in use by SEforALL and in the process of being transferred to the SEforALL Association.

3.2 Receivables

The receivables balance presented as "Cash at managers" as at 31 December 2017 represents the balance of contributions received. The cash balances are held and managed by UNF, UNOPS, in accordance with the terms of the relevant management agreement, or held and managed directly by SEforALL.

Furthermore the receivable balance presented as "Debtors" amounting to USD 1.923.787,67 refers to contracted commitments not yet received.

3.3 Post balance sheet events

On 6 March 2018 a donor agreement was signed for a total of 25 million Swedish Kronor, or USD 3,034,717 using the prevailing UNOPS exchange rate.

SEforALL is looking for new premises in Vienna to allow for the growth of the organisation. The lease for the current premises of SEforALL in Vienna was extended from 1 March 2018 to 30 June 2018 on 28 February 2018. The Landlord has provided assurance that the lease can be extended beyond 30 June 2018, while SEforALL continues the search for new premises.

4. GOVERNANCE

4.1 Legal structure.

SEforALL is registered as a Quasi-International Organisation in Austria. Key legal milestones include:

- The SEforALL Association was established (ZVR: 431532989) (January 2016).
- The Law on Non-Governmental International Organisations was enacted by the Austrian Government (April 2016).
- An Ordinance of the Ministry of Foreign Affairs was issued, granting SEforALL status as an International Non-Governmental Organisation (April 2016).
- An Ordinance of the Ministry of Finance was issued, granting SEforALL status of a social impact organisation/"Gemeinnuetzigkeit" (May 2016).
- A Governmental Ordinance on the recognition of SEforALL as a Quasi-International Organisation under Austrian Law was issued, to be applied retroactively for all of 2016 (June 2016)
- An Ordinance of the Ministry of Labor granting SEforALL the ability to hire non-EU Foreigners (July 2016).
- The Ministry of Foreign Affairs re-certified SEforALL as a Quasi-International Organisation for 2017 (December 2016).
- The Ministry of Foreign Affairs re-certified SEforALL as a Quasi-International Organisation for 2018 (January 2018).

4.2 SEforALL governance structure.

In 2017 the governance arrangements for SEforALL included:

- (a) an Administrative Board;
- (b) a Chief Executive Officer (CEO);
- (c) an independent Audit function; and
- (d) Members (dissolved in February 2017 to simplify the governance structure. See paragraph 4.5).

The governance structure is aligned with the Austrian legal requirements for Quasi-International Organisations. The Administrative Board operates in accordance with SEforALL's statutes that were revised in October 2016, February 2017, and in July 2017, and in accordance with SEforALL's Administrative Board's rules of procedure (bylaws) that were approved in October 2016.

In the meeting on 17 September 2017, the Administrative Board agreed to seek the establishment of a Funders' Council to enhance its cooperation and coordination with SEforALL's funding partners. It is intended that this Funders' Council will be made up of entities that provide funding to SEforALL and its Chair will sit on the Administrative Board. The Terms of Reference for the Funders Council were agreed by the Administrative Board at its meeting on 14 March 2018 and by the funding partners on 28 March 2018. The Funding Council will be formally established in May 2018.

4.3 The SEforALL Administrative Board.

The Administrative Board is SEforALL's main governance body. The Administrative Board members since 1 January 2017 are shown in the table below.

	Name	Organisation	Position	Date of change
1.	António Mexia	CEO, EDP Energias de Portugal	Chair	Joined on 14 March 2017. Appointed as Chair on 3 April 2017.
2.	Elizabeth M. Cousens	Deputy CEO, UN Foundation	Vice Chair	Joined on 14 March 2017. Appointed as vice-chair on 17 September 2017.
3.	Harish Hande	Co-Founder and CEO, Selco India	Member	Joined on 14 March 2017.
4.	Steve Howard	Entrepreneur, and former Chief Sustainability Officer, IKEA	Member	Joined on 14 March 2017.
5.	Leonardo Beltran Rodriguez	Deputy Secretary for Planning and Energy Transition, Ministry of Energy of Mexico	Member	Joined on 7 September 2017.
6.	Zouera Youssoufou	Managing Director and CEO, Dangote Foundation	Member	Joined on 14 March 2017.
7.	Daniel Klier	Group Head of Strategy and Global Head of Sustainable Finance, HSBC Holdings plc	Member	Joined 14 March 2018.
8.	Gerard Penning	Executive Vice President, Human Resources Downstream, Royal Dutch Shell plc	Member	Joined 14 March 2018.
9.	Charles Holliday	Chair, Royal Dutch Shell plc	Former Chair	Resigned on 3 April 2017.
10.	Hans Olav Ibrekk	Policy Director, Norwegian Ministry of Foreign Affairs	Vice-Chair	Resigned 1 September 2017.
11.	Brian Dames	CEO, African Rainbow Energy and Power	Member	Resigned 1 September 2017.

	Name	Organisation	Position	Date of change
12.	Leena Srivastava	Vice Chancellor, The Energy and Resources Institute (TERI), India	Member	Resigned 1 September 2017.
13.	Rachel Kyte	CEO of SEforALL and SRSG	Ex officio member	

The members of the Administrative Board do not receive remuneration from SEforALL. No loans were granted to members of the Administrative Board.

4.4 Chief Executive Officer

In January 2016, Rachel Kyte was appointed Chief Executive Officer of SEforALL for a term of five years, renewable upon agreement with the Board.

4.5 Membership of SEforALL

At an Extraordinary Meeting of SEforALL Members on the 21 February 2017, the Members of SEforALL dissolved membership of the organisation and approved a revised set of statutes to simplify the governance structure, while remaining compliant with the legal requirements of a Quasi-International Organisation. The members were:

1. Austria (represented by Astrid Harz)
2. Kandeh Yumkella, former CEO
3. Rachel Kyte

5. STAFFING

In 2017 SEforALL had an average of 26.4 occupied staff positions.

Vienna 10 April 2018

Rachel Kyte
Chief Executive Officer



General Conditions of Contract for the Public Accounting Professions (AAB 2011)

Laid down by the Working Group for Fees and Conditions of Contract of the Chamber of Public Accountants and Tax Advisors, recommended for use by the Board of the Chamber of Public Accountants and Tax Advisors in its decision of March 8, 2000, and revised by the Working Group for Fees and Conditions of Contract on May 23, 2002, on October 21, 2004, on December 18, 2006, on August 31, 2007, on February 26, 2008, on June 30, 2009, on March 22, 2010, as well as on February 21, 2011

Preamble and General Points

(1) The General Conditions of Contract for the professions in the field of public accounting are divided into four sections: Section I deals with contracts for services, excluding contracts concerning bookkeeping, payroll accounting and administration and assessment of payroll-related taxes and contributions; Section II deals with contracts for rendering services in the field of bookkeeping, payroll accounting and administration and assessment of taxes and contributions; Section III covers contracts not regarded as contracts for the rendering of services, while Section IV is devoted to consumer business covered by the Austrian Consumer Act.

(2) In the event that individual provisions of these General Conditions of Contract are void, this shall not affect the validity of the remaining provisions. The invalid provision shall be replaced by a valid provision that is as close as possible to the desired objective.

(3) The person entitled to exercise profession in the field of public accounting shall be obliged to render the services negotiated in accordance with the principles of due professional care and conduct. He/she shall have the right to engage suitable staff for the execution of the contract. This shall apply to all sections of The General Conditions of Contract.

(4) Finally, foreign law shall only be taken into account by the person entitled to exercise the profession, if this has been explicitly agreed upon in writing. This shall apply to all sections of the General Conditions of Contract.

(5) The work prepared in the offices of the person entitled to exercise the profession may, at the discretion of the person entitled to exercise the profession, be carried out with or without using electronic data processing. In case electronic data processing is used, the client – not the person entitled to exercise the profession – is obliged to effect the registrations or notifications required under the relevant provisions of the Data Protection Act.

(6) The client undertakes not to employ staff of the person entitled to exercise the profession 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 person entitled to exercise the profession the amount of the annual salary of the employee taken over.

SECTION I

1. Scope

(1) The General Conditions of Contract in Section I shall apply to contracts concerning (statutory and voluntary) audits with or without auditor's certificate, expert opinions, court expert opinions, preparation of annual financial statements and other financial statements, tax consultancy and other services to be rendered within the framework of a contract for the rendering of services, excluding bookkeeping, payroll accounting and the administration and assessment of payroll-related taxes and contributions.

(2) The General Conditions of Contract shall apply, if their use has been explicitly or tacitly agreed upon. Furthermore, in the absence of another agreement, they shall be used for reference to facilitate interpretation.

(3) Point 8 shall also apply to third parties whose services, in certain cases, may be enlisted by the contractor for the execution of the contract.

2. Scope and Execution of Contract

(1) Reference shall be made to Items 3 and 4 of the Preamble.

(2) Should the legal situation change subsequent to delivering a final professional statement passed on by the client orally or in writing, the person entitled to exercise the profession 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.

(3) An application submitted by the person entitled to exercise the profession to an authority (e.g. tax office, social security institution) by electronic means, shall be regarded as neither signed by the person entitled to exercise the profession nor by the person authorized to submit such an application.

3. 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 in good time and without special request at the disposal of the person entitled to exercise the profession 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 person entitled to exercise the profession has commenced his/her work.

(2) 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. This statement may be made on the forms specifically designed for this purpose.

(3) If the client fails to disclose considerable risks in connection with the preparation of annual financial statements and other statements, the contractor shall not be obliged to render any compensation in this respect.

4. Maintenance of Independence

(1) The client shall be obliged to take all measures to make sure that the independence of the employees of the person entitled to exercise the profession be maintained and shall 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 consents that their personal details, meaning their name and the type and scope of the services, including the performance period, agreed between the professional practitioner and the client (both audit and non-audit services), shall be handled within the information network (network), to which the professional practitioner belongs, and for this purpose transferred to the other members of the information network (network) including abroad (a list of all recipients of communications shall be sent to the client at their request by the commissioned professional practitioner) for the purpose of examination of the existence of grounds of bias or grounds for exclusion within the meaning of Sections 271 et seq. of the Company Code (UGB). For this purpose the client expressly releases the professional practitioner in accordance with the Data Protection Act and in accordance with Section 91 Subsection 4 Clause 2 of the Auditing, Tax Advising and Related Professions Act (WTBG) from their obligation to maintain secrecy. Moreover, the client acknowledges in this regard that in states which are not EU members a lower level of data protection than in the EU may prevail. The client can revoke this consent at any time in writing to the professional practitioner.

5. Reporting Requirements

- (1) 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) All information and opinions of the person entitled to exercise the profession and his employees shall only be binding provided they are set down or confirmed in writing. Written opinions shall only be those on which there is a company signature. Written opinions shall in no circumstances be information sent electronically, specifically not via e-mail.
- (3) Transmission errors cannot be excluded when information and data is transmitted electronically. The person entitled to exercise the profession and his employees shall not be liable for losses which arise as a result of electronic transmission. Electronic transmission shall be exclusively at the client's risk. The client is aware that confidentiality is not guaranteed when the Internet is used. Furthermore, amendments or supplements to documents transmitted shall only be permissible subject to explicit approval.
- (4) Receipt and forwarding of information to the person entitled to exercise the profession and his employees are not always guaranteed when the telephone is used, in particular in conjunction with automatic telephone answering systems, fax, e-mail and other electronic means of communication. As a result, instructions and important information shall only be deemed to have been received by the person entitled to exercise the profession provided they are also received in writing, unless explicit confirmation of receipt is provided in individual instances. Automatic confirmation that items have been transmitted and read shall not as such constitute 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 person entitled to exercise the profession by post or courier. Delivery of documents to employees outside the firm's offices shall not count as delivery.
- (5) The client agrees to being sent recurrent general tax law and general commercial law information by the person entitled to exercise the profession via electronic means. This shall not apply to unsolicited information in accordance with § 107 of the Austrian Telecommunications Act (TKG).

6. Protection of Intellectual Property of the Person Entitled to Exercise the Profession

- (1) The client shall be obliged to ensure that reports, expert opinions, organizational plans, drafts, drawings, calculations and the like, issued by the person entitled to exercise the profession, be used only for the purpose specified in the contract (e.g. pursuant to Section 44 Para. 3 Austrian Income Tax Act 1988). Furthermore, professional statements passed on by the client orally or in writing made by the person entitled to exercise the profession may be passed on to a third party for use only with the written consent of the person entitled to exercise the profession.
- (2) The use of professional statements passed on by the client orally or in writing made by the person entitled to exercise the profession for promotional purposes shall not be permitted; a violation of this provision shall give the person entitled to exercise the profession the right to terminate without notice to the client all contracts not yet executed.
- (3) The person entitled to exercise the profession shall retain the copyright on his/her work. Permission to use the work shall be subject to the written consent by the person entitled to exercise the profession.

7. Correction of Errors

- (1) The person entitled to exercise the profession shall have the right and shall be obliged to correct all errors and inaccuracies in his/her professional statement passed on by the client 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 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 person entitled to exercise the profession and/or – in cases where a written statement has not been delivered – six months after the person entitled to exercise the profession 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 Point 8.

8. Liability

- (1) The person entitled to exercise the profession shall only be liable for violating intentionally or by gross negligence the contractual duties and obligations entered into.
- (2) In cases of gross negligence, the maximum liability for damages due from the appointed person entitled to exercise the profession is tenfold the minimum insurance sum of the professional liability insurance according to Section 11 of the Act on Professions in the Field of Public Accounting (WTBG) in the currently valid version.
- (3) 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 not 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.
- (4) Should Section 275 of the Austrian Business Enterprise Code (Commercial Code, UGB) be mandatorily applicable, the liability provisions pursuant to Section 275 shall apply where these represent mandatory law, even in cases where several persons have participated in the execution of the contract or where several activities requiring compensation have taken place, irrespective of whether other participants have acted with intent.
- (5) In cases where a formal audit certificate is issued, the applicable limitation period shall commence at the latest at the time of issue of said audit certificate.
- (6) If activities are carried out by enlisting the services of a third party, e.g. a data-processing company, and the client is informed thereof, any warranty claims and claims for damages which arise against the third party according to law and in accordance with the conditions of the third party, shall be deemed as having been passed on to the client. The person entitled to exercise the profession shall only be liable for fault in choosing the third party.

- (7) The person entitled to exercise the profession shall not be liable to a third party, if his/her professional statements are passed on by the client orally or in writing without the approval or knowledge of the person entitled to exercise the profession.

- (8) The above provisions shall apply not only vis-à-vis the client but also vis-à-vis third parties, if the person entitled to exercise the profession, in exceptional cases, should be liable for his/her work. 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 been wronged; the claims of the aggrieved parties shall be satisfied in the order in which the claims have been raised.

9. Secrecy, Data Protection

- (1) According to Section 91 WTBG the person entitled to exercise the profession shall be obliged to maintain secrecy in all matters that become known to him/her in connection with his 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) The person entitled to exercise the profession 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.
- (3) The person entitled to exercise the profession is authorized to process personal data entrusted to him/her within the framework of the purpose of the contract or to have them processed by a third party according to Point 8 Item 5. The person entitled to exercise the profession shall guarantee that according to Section 15 of the Data Protection Act secrecy be maintained. According to Section 11 of the Data Protection Act the material made available to the person entitled to exercise the profession (data carrier, data, control numbers, analyses and programs) as well as all results obtained as a result of the work provided shall be returned to the client, unless the client has requested in writing that the material and/or results be transferred to a third party. The person entitled to exercise the profession shall be obliged to take measures to ensure that the client can meet his/her obligation to provide information according to Section 26 of the Data Protection Act. The client's instructions required for this purpose shall be given in writing to the person entitled to exercise the profession. Unless a fee has been negotiated for providing such information, the client shall be charged only the actual efforts undertaken. The client shall meet his/her obligation to provide information to those concerned and/or to register in the data processing register, unless the contrary has been explicitly agreed in writing.

10. Termination

- (1) 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 Point 12.
- (2) However, a continuing agreement (even with a flat fee) – always to be presumed in case of doubt – may, without good reason (cf. Section 88 Item 4 WTBG), only be terminated at the end of the calendar month by observing a period of notice of three months, unless otherwise agreed in writing.
- (3) Except for cases listed in Item 5, in case of termination of a continuing agreement only those tasks shall be part of the list of jobs to be completed and finished that can be completed fully or to the largest part within the period of notice, with financial statements and annual income tax returns being deemed to be subject to successful completion within two months calculated from the balance sheet date. In this case the above-mentioned jobs actually have to be completed within a reasonable period of time, if all documents and records required are provided without delay and if no good reason within the meaning of Section 88 Paragraph 4 WTBG is cited.
- (4) In case of a termination according to Item 2 the client shall be informed in writing within one month which assignments at the time of termination are considered to be part of the work to be completed.
- (5) If the client is not informed within this period about the assignments still to be carried out, the continuing agreement shall be deemed terminated upon completion of the tasks under way at the date when the notice of termination is served.
- (6) Should it happen that in case of a continuing agreement as defined under Items 2 and 3 – for whatever reason – more than two similar jobs which are usually completed only once a year (e.g. financial statements or annual tax returns etc.) are to be completed, any such jobs 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 4.

11. Default in Acceptance and Failure to Cooperate on the part of the Client

If the client defaults on acceptance of the services rendered by the person entitled to exercise the profession or fails to carry out a task incumbent on him/her either according to Point 3 or imposed on him/her in another way, the person entitled to exercise the profession shall have the right to terminate the contract without prior notice. His/her fees shall be calculated according to Point 12. Default in acceptance or failure to cooperate on the part of the client shall also justify a claim for compensation made by the person entitled to exercise the profession for the extra time and labor hereby expended as well as for the damage caused, if the person entitled to exercise the profession does not invoke his/her right to terminate the contract.

12. Entitlement to Fee

- (1) If the contract fails to be executed (e.g. due to termination), the person entitled to exercise the profession shall be entitled to the negotiated fee, provided he/she was prepared to render the services and was prevented from so doing by circumstances caused by the client (Section 1168 of the Civil Code (ABGB)); in this case the person entitled to exercise the profession need not deduct the amount he/she obtained or could have obtained through alternative use of his/her own professional services or those of his/her employees.
- (2) If the client fails to cooperate and the assignment cannot be carried out because of lack of cooperation, person entitled to exercise the profession 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 cancelled and the consequences indicated in Item 1) shall apply.
- (3) If the person entitled to exercise the profession terminates the contract without good reason and at an inopportune moment, he/she shall compensate the client for the damage caused according to Point 8.
- (4) If the client – having been made aware of the legal situation – agrees that the person entitled to exercise the profession duly completes the task, the work shall be completed accordingly.

13. Fee

- (1) Unless the parties agreed that the services would be rendered free of charge or unless explicitly stipulated otherwise, an appropriate remuneration in accordance with Sections 1004 and 1152 of the Austrian Civil Code (ABGB) is due. Unless a different agreement has demonstrably been reached, payments by the client shall in all cases be

credited against the oldest debt. The claim for remuneration by the person entitled to exercise the profession is based upon an agreement concluded between him/her and the principal involved.

- (2) Proper understanding between the person entitled to exercise the profession and their principals is most effectively achieved by clearly expressed remuneration agreements.
- (3) The smallest service unit which may be charged is a quarter of an hour.
- (4) Travel time to the extent required is also charged in most cases.
- (5) Study of documents which, in terms of their nature and extent, may prove necessary for preparation of the person entitled to exercise the profession in his/her own office may also be charged as a special item
- (6) Should a remuneration already agreed upon prove inadequate as a result of the subsequent occurrence of special circumstances or special requirements of the principal, additional negotiations for the agreement of a more suitable remuneration are usual. This also usually applies where inadequate fixed sum remunerations are concerned.
- (7) Persons entitled to exercise the profession also include charges for supplementary costs and value-added (turnover) tax in addition to the above.
- (8) Supplementary costs also include documented or flatrate cash expenses, travelling expenses (first class for train journeys, sleeping car (wagon lits) if necessary, dietary requirements, mileage allowance, photocopy costs and similar supplementary costs.
- (9) Should particular third party liabilities be involved, the necessary insurance premiums also count as supplementary costs.
- (10) Personnel and material expenses for the preparation of reports, expertises and similar documents are also viewed as supplementary costs.
- (11) For the execution of a commission wherein mutual conclusion involves several persons entitled to exercise the profession, each of the latter will charge his/her own remuneration.
- (12) Remunerations and advance payments required are due immediately after receipt of their written claim should no other agreements exist. Where payments of remuneration 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 of 8% above the base rate is agreed upon (Cf. Section 352 of the Austrian Business Enterprise Code (Commercial Code, UGB)).
- (13) Time limitation is in accordance with Section 1486 of the Austrian Civil Code (ABGB), starting at the time of conclusion of the service involved or a later rendering of accounts after an appropriate time-limit.
- (14) An objection may be raised in writing against bills presented by the appointed trustee up to 4 weeks after the date of presentation. Otherwise the bill is considered as accepted. Filing of a bill in the accounting system of the recipient is also considered as acceptance.
- (15) Application of § 934 ABGB (Austrian Civil Code) within the meaning of § 351 Austrian Business Enterprise Code (Commercial Code, UGB), i.e. rescission for *laesio enormis* (lesion beyond moiety) among entrepreneurs, is hereby renounced.

14. Other Provisions

- (1) In addition to the reasonable rate or fee charged, the person entitled to exercise the profession shall have the right to claim reimbursement of expenses. He/she can ask for advance payments and can make delivery of the results of his/her (continued) work dependent on satisfactory fulfillment of his/her demands. In this context reference shall be made to the legal right of retention (Section 471 of the Civil Code (ABGB), Section 369 of the Austrian Business Enterprise Code (Commercial Code, UGB)). If the right of retention is wrongfully exercised, the person entitled to exercise the profession shall be liable only in case of gross negligence up to the outstanding amount of his/her fee. As regards standing orders, the provision of further services may be denied until payment of previous services has been effected. This shall analogously apply if services are rendered in installments and fee installments are outstanding.
- (2) After all the data to be archived, which has been prepared by the public accountant and tax advisor, has been delivered to the client or to the succeeding public accountant and tax advisor, the person entitled to exercise the profession shall be entitled to delete the data in question.

(3) With the exception of obvious essential errors, a complaint concerning the work of the person entitled to exercise the profession shall not justify the retention of remuneration owed in accordance with Item 1.

(4) Offsetting the remuneration claims made by the person entitled to exercise the profession in accordance with Item 1 shall only be permitted, if the demands are uncontested and legally valid.

(5) At the request and expense of the client, the person entitled to exercise the profession 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 person entitled to exercise the profession and his/her client, to original documents in his/her possession or to documents which have to be kept in accordance with the directive on money laundering. The person entitled to exercise the profession may make or retain copies or duplicates of the documents to be returned to the client. The client shall be obliged to bear these expenses in so far as these copies or duplicates may be required as a proof of the orderly execution of all professional duties by the person entitled to exercise the profession.

(6) In the event of termination of the contract, the contractor shall be entitled to charge an appropriate fee for further queries after termination of the contract and for granting access to the relevant information about the audited company.

(7) The client shall fetch the documents handed over to the person entitled to exercise the profession within three months after the work has been completed. If the client fails to do so, the person entitled to exercise the profession shall have the right to return them to the client at the cost of the client or to charge safe custody charges, if the person entitled to exercise the profession can prove that he/she has asked the client twice to pick up the documents handed over.

(8) The person entitled to exercise the profession 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 resources at his/her disposal even if these funds are explicitly intended for safe keeping, if the client had to reckon with a counterclaim of the person entitled to exercise the profession.

(9) To safeguard an existing or future fee payable, the person entitled to exercise the profession 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 about the transfer. Subsequently, the amount secured may be collected either after agreement has been reached with the client or after enforceability by execution has been declared.

15. Applicable Law, Place of Performance, Jurisdiction

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

(2) The place of performance shall be the place of business of the person entitled to exercise the profession.

(3) In case of disputes, the court of the place of performance shall be the competent court.

16. Supplementary Provisions for Audits

(1) For statutory audits of financial statements which are carried out in order to issue a formal audit certificate (e.g. Section 268 and the following sections of the Company Code), the purpose of the contract, unless otherwise agreed to in writing, shall not be to investigate whether regulations concerning tax laws or specific regulations, e.g. price fixing, restriction of competition and foreign exchange regulations have been adhered to. Neither shall the purpose of the statutory audit of financial statements be to investigate whether the business is run in an economical, efficient and expedient manner. Within the framework of a statutory audit of a financial statement there shall be no obligation to detect the falsification of accounts or other irregularities.

(2) When a qualified or unqualified audit certificate is issued within the scope of a statutory audit of the annual financial statement, the audit certificate issued shall be appropriate for the respective type of business organization.

(3) If financial statements are published together with the audit certificate, they shall only be published in the form confirmed or explicitly permitted by the auditor.

(4) If the auditor revokes his/her audit certificate, the further use thereof shall no longer be permitted. If the financial statements have been published with the audit certificate, the revocation thereof shall also be published.

(5) For other statutory and voluntary audits of financial statements as well as for other audits, the above principles shall apply accordingly.

17. Supplementary Provisions concerning the Preparation of Annual Financial Statements and Other Financial Statements, Consultation and Other Services to be Provided within the Framework of a Contract for the Rendering of Services

(1) The person entitled to exercise the profession, when performing the aforementioned activities, shall be justified in accepting information provided by the client, in particular figures, as correct. However, he/she is obliged to inform the client of any errors identified by him/her. The client shall present the person entitled to exercise the profession with all important documents required for keeping deadlines, in particular tax assessment notices, in good time so as to ensure that the person entitled to exercise the profession has a reasonable amount of time, but not less than one week, to process the information.

(2) In the absence of written agreements to the contrary, 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 prepared by the contractor.
- 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 person entitled to exercise the profession 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) Particular matters pertaining to income tax, corporate tax and taxable value tax return as well as all matters relating to value-added tax, withholding tax on salaries and wages and other taxes and duties shall only be prepared on the basis of a specific contract. This shall also apply to

- a) processing non-recurring matters pertaining to tax, e.g. inheritance tax, capital transfer tax, land transfer tax,
- b) the defense and consultation in penal procedures relating to the taxes mentioned,
- c) providing consultation and expert opinions in matters pertaining to the foundation, restructuring, merger, capital increase and decrease, and reorganization of a company, entry and retirement of a shareholder or partner, sale of a business, winding up, management consultancy and other activities according to Sections 3 to 5 of the Act on Professions in the Field of Public Accounting (WTBG).
- d) the preparation of applications to the Register of Companies in connection with annual financial statements, including the keeping of records required.

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

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

SECTION II 18. Scope

The General Conditions of Contract in Section II shall apply to contracts for the rendering of services in the field of bookkeeping, payroll accounting and the administration and assessment of payroll-related taxes and contributions.

19. Scope and Execution of Contract

- (1) Reference shall be made to Items 3 and 4 of the Preamble.
- (2) The person entitled to exercise the profession shall be justified in regarding information and documents presented to him/her by the client, in particular figures, as correct and complete and in using them as a basis for accounting. The person entitled to exercise the profession shall not be obliged to identify errors, unless he/she has been specifically instructed to do so in writing. However, if errors are identified, he/she shall inform the client thereof.
- (3) If a flat fee has been negotiated for the activities mentioned in Point 18, 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.
- (4) Particular individual services in connection with the services mentioned in Point 18, 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 and shall be treated according to Section I or Section III of the General Conditions of Contract.
- (5) Any application submitted to authorities (e.g. tax office, social insurance institution) electronically, shall be regarded as neither signed by the person entitled to exercise the profession nor by the person authorized to transmit the application.

20. Client's Duty to Cooperate

The client shall make sure that all information and documents required for bookkeeping, payroll accounting and administration and assessment of payroll-related taxes and contributions be placed at the disposal of the person entitled to exercise the profession on an agreed date without his/her specific request.

21. Termination

- (1) Unless otherwise agreed to in writing, either contractual partner may terminate the contract at the end of each month with three months' notice without giving a particular reason.
- (2) If the client repeatedly fails to fulfill his/her duties according to Point 20, the person entitled to exercise the profession shall have the right to terminate the contract immediately without prior notice.
- (3) If the person entitled to exercise the profession delays in rendering services due to reasons for which he/she is solely responsible, the client shall have the right to terminate the contract immediately without prior notice.
- (4) In case of a termination of the contractual relationship only those assignments shall be considered part of the contract which the contractor is already working on or major parts of which can be completed within the period of notice and which are notified to the client within one month.

22. Fee and Entitlement to Fee

- (1) Unless otherwise agreed to in writing, the fee shall be considered agreed upon for one year at a time.
- (2) If the contract is terminated pursuant to Point 21 Item 2 the person entitled to exercise the profession shall have the right to the full fee negotiated for three months. This shall also apply if the client fails to observe the period of notice.
- (3) If the contract is terminated pursuant to Point 21 Item 3, the person entitled to exercise the profession shall only have the right to the fee corresponding to the services rendered up to this point, provided they are of value to the client.
- (4) If a flat fee has not been negotiated, the fee shall be calculated pursuant to Item 2 according to the monthly average of the current year of contract until termination.
- (5) Unless the parties agreed that the services would be rendered free of charge or unless explicitly stipulated otherwise, an appropriate remuneration in accordance with Sections 1004 and 1152 of the Austrian Civil Code (ABGB) is due. Unless a different agreement has demonstrably been reached, payments by the client shall in all cases be credited against the oldest debt. The claim for remuneration by the person entitled to exercise the profession is based upon an agreement concluded between him/her and the principal involved. Furthermore, the basics standardized under section 13 apply.

- (6) Application of § 934 ABGB (Austrian Civil Code) within the meaning of § 351 Austrian Business Enterprise Code (Commercial Code, UGB), i.e. rescission for *laesio enormis* (lesion beyond moiety) among entrepreneurs, is hereby renounced.

23. Other Provisions

In all other cases, the provisions of Section I of the General Conditions of Contract shall apply accordingly.

SECTION III

24. Scope

- (1) The General Conditions of Contract in Section III shall apply to all contracts not mentioned in the previous sections, which are not to be regarded as contracts for rendering services and are not related to the contracts mentioned in the previous sections.
- (2) In particular, Section III of the General Conditions of Contract shall apply to contracts concerning the non-recurring participation in negotiations, to services as an agent in matters pertaining to insolvency, to contracts concerning non-recurring interventions and the handling of the individual matters mentioned in Point 17 Item 3 in the absence of a continuing agreement.

25. Scope and Execution of Contract

- (1) Reference shall be made to Items 3 and 4 of the Preamble.
- (2) The person entitled to exercise the profession shall be justified in regarding and obliged to regard information and documents presented to him/her by the client, in particular figures, as correct and complete. In case of penal procedures he/she shall protect the rights of the client.
- (3) The person entitled to exercise the profession shall not be obliged to identify errors, unless he/she has been specifically instructed to do so in writing. However, if he/she identifies errors, the client shall be informed accordingly.

26. Client's Duty to Cooperate

The client shall make sure that all the necessary information and documents be placed at the disposal of the person entitled to exercise the profession in good time and without his/her special request.

27. Termination

Unless otherwise agreed to in writing or stipulated by force of law, either contractual party shall have the right to terminate the contract at any time with immediate effect (Section 1020 of the Civil Code (ABGB)).

28. Fee and Entitlement to Fee

- (1) Unless the parties agreed that the services would be rendered free of charge or unless explicitly stipulated otherwise, an appropriate remuneration in accordance with Sections 1004 and 1152 of the Austrian Civil Code (ABGB) is due. Unless a different agreement has demonstrably been reached, payments by the client shall in all cases be credited against the oldest debt. The claim for remuneration by the person entitled to exercise the profession is based upon an agreement concluded between him/her and the principal involved. Furthermore, the basics standardized under section 13 apply.
- (2) In the event of termination the fee shall be calculated according to the services rendered up to this point, provided they are of value to the client.
- (3) Application of § 934 ABGB (Austrian Civil Code) within the meaning of § 351 Austrian Business Enterprise Code (Commercial Code, UGB), i.e. rescission for *laesio enormis* (lesion beyond moiety) among entrepreneurs, is hereby renounced.

29. Other Provisions

The reference in Point 23 to provisions in Section I shall apply accordingly.

SECTION IV

30. Scope

The Conditions of Contract of Section IV shall only apply to consumer business in accordance with the Consumer Act (Federal Law of March 8, 1979/Federal Law Gazette No. 140 as amended).

31. Supplementary Provisions for Consumer Transactions

- (1) Contracts between persons entitled to exercise the profession and consumers shall fall under the obligatory provisions of the Consumer Act.
- (2) The person entitled to exercise the profession shall only be liable for the deliberate and gross negligent violation of the obligations assumed.
- (3) Contrary to the limitation laid down in Point 8 Item 2 of the General Conditions of Contract, the duty to compensate on the part of the person entitled to exercise the profession shall not be limited in case of gross negligence.
- (4) Point 8 Item 3 of the General Conditions of Contract (asserting claims for damages within a certain period) shall not apply.
- (5) Right of Withdrawal according to Section 3 of the Consumer Protection Act

If the consumer has not made his/her contract statement in the office usually used by the person entitled to exercise his/her profession, 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 person entitled to exercise the profession as well as instructions on the right to revoke 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 person entitled to exercise the profession or his/her agent,
2. if the conclusion of the contract has not been preceded by any talks between the parties involved or their agents or
3. in case of contracts where the mutual services have to be provided immediately, if the contracts are usually concluded outside the offices of the persons entitled to exercise the profession, and the fee agreed upon does not exceed €15.

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

If the consumer withdraws from the contract according to Section 3 of the Consumer Act,

1. the person entitled to exercise the profession shall return all benefits received, including all statutory interest, calculated from the day of receipt, and to 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 person entitled to exercise the profession as far as they are of a clear and predominant benefit to him/her.

According to Section 4 Paragraph 3 of the Consumer Act claims for damages shall remain unaffected.

- (6) Cost Estimates according to Section 5 of the Consumer Act

The consumer shall pay for the preparation of a cost estimate in accordance with Section 1170a of the Austrian Civil Code by the person entitled to exercise the profession only, if this payment obligation has been notified to the consumer beforehand.

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

- (7) Correction of Errors: Supplement to Point 7

If the person entitled to exercise the profession is obliged according to Section 932 of the Austrian Civil Code to improve or complement his/her services, he/she shall execute this duty at the place where the matter was transferred to him/her. If it is in the interest of the consumer to have the work and the documents returned by the person entitled to exercise the profession, the consumer may carry out this transfer at his/her own risk and expense.

- (8) Jurisdiction: Instead of Point 15 Item 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 Paragraph 2 and 104 Paragraph 1 JN the jurisdiction of a court shall depend on the district where the consumer has his domicile, usual residence or place of employment.

- (9) Contracts on Recurring Services

(a) Contracts which oblige the person entitled to exercise the profession 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) 1 requires considerable expenses on the part of the person entitled to exercise the profession and if he/she informed the consumer about this not later than when 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.