

Report of the Independent Auditor on the Audit of the Remuneration Report Pursuant to Section 162 (3) of the German Stock Corporation Act (AktG)

To NFON AG, Munich

Audit opinion

We have formally audited the Remuneration Report of NFON AG, Munich, for the financial year from January 1 to December 31, 2022, to determine whether the disclosures pursuant to Section 162 (1) and (2) of the German Stock Corporation Act (AktG) have been made in the Remuneration Report. In accordance with Section 162 (3) AktG, we have not audited the content of the Remuneration Report.

In our opinion, the accompanying Remuneration Report complies, in all material respects, with the provisions of Section 162 (1) and (2) of the German Stock Corporation Act (AktG). Our audit opinion does not extend to the actual content of the Remuneration Report.

Basis for the audit opinion

We conducted our audit of the Remuneration Report in accordance with Section 162 (3) of the German Stock Corporation Act (AktG) and IDW Auditing Standards: The Audit of the Remuneration Report in Accordance with Section 162 (3) of the German Stock Corporation Act (AktG) (IDW PS 870 (08.2021)). Our responsibility under this provision and this standard is further described in the Auditor's Responsibility section of our report. As an auditing practice, we have complied with the requirements of the IDW Quality Assurance Standard: Requirements for Quality Assurance in the Practice of Public Accountants (IDW QS 1). We have complied with the professional duties pursuant to the Wirtschaftsprüferordnung (German Regulation on Auditors) and the Berufssatzung für Wirtschaftsprüfer/vereidigte Buchprüfer (Professional Statutes for Auditors/Sworn Auditors), including the independence requirements.

Responsibility of the Management Board and Supervisory Board

The Management Board and Supervisory Board are responsible for the preparation of the Remuneration Report, including the related disclosures, which complies with the requirements of Section 162 of the German Stock Corporation Act (AktG). They are also responsible for such internal control as they deem necessary to enable the preparation of the Remuneration Report, including the related disclosures, that is free from material misstatement, whether due to fraud or error (i.e. manipulation of the accounting system or misappropriation of assets).

Responsibility of the auditor

Our objective is to obtain reasonable assurance as to whether the disclosures pursuant to Section 162 (1) and (2) of the German Stock Corporation Act (AktG) have been made in all material respects in the Remuneration Report and to express an opinion thereon in an auditor's report.

We planned and performed our audit to obtain evidence supporting the formal completeness of the Remuneration Report based on a comparison of the disclosures made in the Remuneration Report with the disclosures required by Section 162 (1) and (2) of the German Stock Corporation Act (AktG). In accordance with Section 162 (3) of the German Stock Corporation Act (AktG), we have not audited the accuracy of the disclosures, the completeness of the individual disclosures or the fair presentation of the Remuneration Report.

Dealing with any misleading representations

In connection with our audit, we have a responsibility to read the Remuneration Report in the light of knowledge obtained in the audit of the financial statements, and to remain alert for indications as to whether the Remuneration Report contains misleading representations as to the accuracy of the content of the disclosures, the completeness of the content of the individual disclosures, or the fair presentation of the Remuneration Report.

If, based on our work, we conclude that such a misleading representation exists, we are required to report that fact. We have nothing to report in this regard.

Munich, May 5, 2023 KPMG AG
Wirtschaftsprüfungsgesellschaft



Rainer Rupprecht
05/05/2023

Rupprecht
Certified Public
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Annexes

Annex 1
Remuneration Report 2022 of
NFON AG, Munich, pursuant to Section 162 of the
German Stock Corporation Act (AktG)

Remuneration Report 2022 of NFON AG, Munich, pursuant to Section 162 of the German Stock Corporation Act (AktG)

In light of the statutory requirements, particularly in Sections 87, 87a and 120a of the German Stock Corporation Act (AktG) and the German Corporate Governance Code (DCGK), the Management Board and Supervisory Board report on the remuneration of the members of the Management Board and Supervisory Board of NFON AG for financial year 2022 in accordance with the requirements of Section 162 of the German Stock Corporation Act (AktG). The remuneration granted and owed, as well as the benefits promised, are disclosed individually for the members of the executive bodies.

The currently valid remuneration system, which was approved by the Annual General Meeting on June 24, 2021, with an approval rate of 99.99%, can be found under "Annual General Meeting" on the website www.corporate.nfon.com. For better readability of this Remuneration Report and to avoid repetition, reference is made to the remuneration system. The Remuneration Report was approved by the Annual General Meeting of the company on August 24, 2022, with an approval rate of 82.26%.

The remuneration system applies for the first time to remuneration components that are resolved by the Supervisory Board or agreed with the members of the Management Board as of the date of the resolution by the Annual General Meeting of NFON AG on June 24, 2021.

I. Management Board

As part of its company strategy, NFON AG is pursuing the goal of consolidating and further expanding its position as one of the leading providers of integrated business communications solutions with ambitious growth targets in the long term. The company's strategic focus is thus predominantly on growth. The NFON Group's actions are geared towards long-term and sustainable company success and takes a holistic approach to its corporate responsibility.

In line with these objectives, the remuneration system for the Management Board is based on three main guidelines: Firstly, a pronounced performance orientation and a high degree of performance differentiation through ambitious internal and external targets place the focus on the above-average growth of the company. Second, long-term components avoid incentives to take disproportionate risks. Thirdly, the remuneration system is aimed at creating a strong shareholding culture, thus helping to align the interests of shareholders, management and other stakeholders. In particular, the design of individual targets also provides special incentives to act sustainably in line with ESG criteria.

Procedure for reviewing remuneration

It is important that both the remuneration structure and its level are customary in the market and competitive. This is ensured by conducting comparisons with peer groups that are relevant to NFON AG on a regular basis. In addition, an appropriate relationship is ensured between the remuneration of the Management Board and the remuneration of executives as well as employees. External as well as internal appropriateness is reviewed at regular intervals.

Remuneration structure

The remuneration of NFON's Management Board members consists of fixed and variable components. The total remuneration of the members of the Management Board is performance-related and is made up of various components. In detail, these are a fixed annual compensation (fixed salary), performance-related variable compensation consisting of a Short-Term Incentive (STI) program and a Long-Term Incentive (LTI) program, and fringe benefits.

According to the remuneration system, the maximum annual remuneration is EUR 1.5 million for the Chairman of the Management Board and EUR 0.75 million for a full member of the Management Board. In deviation from the remuneration system, the provision on maximum remuneration was not included in the Management Board service contracts.

The target corridors for total annual remuneration are defined as: Fixed salary 30 – 50%, the STI 10 – 25% and the LTI 40 – 50%.

1. Annual fixed remuneration

The fixed salary is paid in twelve equal monthly installments.

2. Variable remuneration components

The performance-related variable remuneration comprises two components:

the STI and the LTI.

The performance-related variable remuneration amounts granted to the Management Board member, but in particular the LTI, are to be invested by him predominantly in shares of the company or granted accordingly on a share-based basis.

a. STI

For each member of the Management Board, the Supervisory Board has defined individual STI and their weighting for the upcoming financial year. The STIs contribute – in addition to operational objectives – to the implementation of the company's strategy and to the long-term, sustainable development of the NFON Group. The STIs are demanding and ambitious. They are sufficiently specific to allow for the measurability of target achievement. To this end, specific key figures or expectations for target achievement have been specified in each case. The performance criteria to be used by the Supervisory Board as part of the annual target agreement were both financial and non-financial in nature and included a performance criterion from the area of ESG (economic, social and governance). ESG criteria can be for example:

- Customer satisfaction
- Employee satisfaction
- Diversity
- Risk management
- Compliance
- Corporate Governance
- Corporate Social Responsibility
- Limitation of CO₂ emissions/conservative use of resources
- Reporting and communication
- Succession planning

As a criterion for setting the financial performance criteria of the STI in a company at the maturity and development stage of the NFON Group, relevant benchmarks are currently applied for all stakeholders, such as consolidated earnings before interest, taxes, depreciation and amortization (EBITDA) or consolidated revenue.

The target value for the STI is based on the planning for the respective financial year. After the end of the respective remuneration year, the Supervisory Board assessed the target achievement for each Management Board member. 150% of the target amount is paid out if the target value is exceeded by 50% or more. In the case of intermediate values in target achievement, a corresponding value within the range is paid out.

The target parameters set by the Supervisory Board for the STI for the upcoming financial year cannot be changed retrospectively.

The STI are paid out in the following year after completion of the Annual Financial Statements and adoption of the same by the Supervisory Board.

These target parameters, supplemented by individual targets, were also applied to the majority of senior executives in order to ensure the uniformity and consistency of the target system throughout the Group.

As the STI are linked to the development of sales and earnings, they provide significant support for the short- and medium-term growth strategy in terms of both the targeted growth in size and earnings. The STI thus make a significant contribution to the implementation of the company's strategy because they ensure that the interests of the Management Board members are aligned with the company's short- and medium-term strategy.

Under the remuneration system, 55% of the STI of the Management Board members Dr. Klaus von Rottkay and Jan-Peter Koopmann depends on the revenue of the NFON Group, 35% on the EBITDA of the NFON Group and 10% on the achievement of the sustainability target. The STI is capped at a target achievement of 150% for each member of the Management Board. No STI was granted in financial year 2022 if the target was achieved by less than 80%. The short-term variable salary component amounts to between 20.2% and 38.1% of the fixed base salary, depending on the Management Board member. Furthermore, according to the Management Board service agreement, the Supervisory Board may grant a discretionary bonus of a maximum of one fixed annual base salary in deviation from the remuneration system, but this was not done in financial year 2022.

In detail, the following STI was granted to the members of the Management Board active in financial year 2022 for the financial year:

Weighting	Description	Target	Target achievement	Target achievement in %	STI amount von Rottkay	STI amount Koopmann
55%	Revenue of the NFON Group in 2022	EUR 85.4 million	EUR 80.79 million	51.0	EUR 77,105	EUR 21,029
35%	EBITDA of the NFON Group in 2022	EUR -2.8 million	EUR -1.0 million	132	EUR 127,153	EUR 34,678
10%	Successful implementation of a project to increase the sustainability (ESG) of the NFON Group: ¹		met	100%	EUR 27,500	EUR 7,500
100%					EUR 231,758	EUR 63,207

¹ In 2022: Implementation of sustainability management for the NFON Group. The "Rafiki" project with SOS Children's Villages is part of the sustainability management in the area of "social." This project will be presented in the NFON Group's voluntary non-financial statement for 2022. There you will find all the details on the other sustainability topics.

b. LTI

In order to focus the Management Board remuneration structure more strongly on the long-term and sustainable development of the company, an LTI is also a component of the Management Board remuneration. The LTI consists of stock options from the company's 2018 and 2021 Stock Option Programs (SOP 2018, SOP 2021).

The LTI also makes a significant contribution to promoting the company's strategy, as both the 2018 SOP and the 2021 SOP stipulate the achievement of a certain level of revenue growth as a success hurdle. Furthermore, the increase of the share price and the stock market value of the company is incentivized, which is in the interest of all stakeholders related to the company.

NFON AG has granted the Management Board member Dr. Klaus von Rottkay long-term variable remuneration in the form of 180,000 stock options from the 2021 Stock Option Plan for Management Board members and the following key parameters:

- Exercise price: EUR 15,58
- Waiting period: 4 years
- Personal exercise requirements:
 - The achievement of the performance targets is assessed separately for each quarter of the stock options granted to a beneficiary. For the first quarter of the stock options granted to a beneficiary, the performance target is achieved if the relevant sales in the year in which the stock options are granted have increased by at least the relevant rate of increase for the year in which the stock options are granted ("relevant rate of increase") compared to the previous year. If stock options are granted in 2021, the relevant growth rate for the year of grant is 15%. If stock options are granted in 2022 or later, the relevant increase rate for the year of grant is 20%. For the second quarter of the stock options granted to a beneficiary, the performance target is achieved if the relevant sales in the first year after the year in which the stock options are granted have increased by at least 20% compared to the previous year. For the third quarter of the stock options granted to a beneficiary, the performance target is achieved if the relevant revenue in the second year after the year in which the stock options are granted has increased by at least 20% compared to the previous year. For the fourth quarter of the stock options granted to a beneficiary, the performance target is achieved if the relevant revenue in the third year after the year in which the stock options are granted has increased by at least 20% compared to the previous year. Relevant revenue is the recurring revenue in a financial year included in the Consolidated Financial Statements of the company, whereby revenue based on inorganic growth, i.e. the acquisition of a company, part of a company or an interest in a company, is not taken into account when calculating the increase in relevant revenue in the year of the acquisition in rem (closing).
 - Capping limit for payout values: Total of basic Management Board salaries (fixed salary) paid by the company until the options are exercised, multiplied by a factor of 1.5.

These stock options were granted to the Management Board member Dr. Klaus von Rottkay in financial year 2021 and entitle the member of the Management Board to purchase 180,000 shares in the company, subject to achievement of the exercise requirements. The performance target for the first and second quarters were not achieved in financial year 2021 and 2022, respectively.

c. Fringe benefits and other remuneration components

In addition to their fixed salaries, Management Board members receive fringe benefits in the form of non-cash remuneration; these can consist mainly of contributions to statutory or private pension or

health insurance and the use of company cars for business and private purposes.

In addition to the remuneration, there is a D&O liability insurance policy and a D&O legal expenses insurance policy, whereby a deductible of 10% of the loss or one and a half times the fixed annual remuneration is agreed under the D&O insurance policy.

The following table shows the remuneration granted and owed on an individual basis for the Management Board members and former members active in financial year 2022. As remuneration granted and owed is not always accompanied by a payment in the respective financial year, the following table shows the amount of remuneration granted to the Management Board members for financial year 2022. In the following, the non-performance-related remuneration components were granted as well as received in financial year 2022. The STI 2022 is shown because the underlying activity was performed in full in 2022.

Remuneration	Dr. von Rottkay, Klaus, CEO			
	2022		2021	
	in EUR thousand	in %	in EUR thousand	in %
Basic remuneration	375	61.8	375	29.9
+ fringe benefits	0	0	0	0
= Total fixed remuneration	375	61.8	375	29.9
+ Short-term variable remuneration	232	38.2	318	25.4
+ Long-term variable remuneration	0	0	561	44.7
= Total remuneration	607	100.0	1,254	100.0
Remuneration	Koopmann, Jan-Peter, CTO			
	2022		2021	
	in EUR thousand	in %	in EUR thousand	in %
Basic remuneration	280	74.7	270	72.0
+ Fringe benefits	32	8.5	16	4.3
= Total fixed remuneration	312	83.2	286	76.3
+ Short-term variable remuneration	63	16.8	89	23.7
+ Long-term variable remuneration	0	0	0	0
= Total remuneration	375	100	375	100.0

The remuneration granted and owed as described above is in line with the remuneration system for the Management Board resolved by the Annual General Meeting 2021. It was not necessary to adjust the Management Board service agreements to the resolved remuneration system, as the main features of the resolved remuneration system were already known at the time the Management Board service agreements were concluded. The remuneration system promotes the long-term development of the company, as stock options have been granted to a large extent which can only be exercised after the statutory waiting period of four years and also have a performance hurdle which is linked to recurring revenue. The STI is measured – in addition to a performance criterion from the ESG area – against the benchmarks of revenue and EBITDA. Both benchmarks are common and appropriate for companies of NFON's size and stage of development. They primarily incentivize the growth of the company and thus promote its long-term development.

Comparative presentation of the annual change in the remuneration granted and owed to active and former members of the Board of Management and Supervisory Board and in the remuneration of employees with the company's earnings performance:

	Change 2021 to 2020	2021	2022	Change to previous year
Development of earnings (Net loss according to HGB)		EUR 17.4 million	EUR 20.15 million	+16%
Average employee remuneration	-1.8%			+7.5%
Remuneration Dr. Klaus von Rottkay		EUR 1,254 thousand	EUR 607 thousand	-52%
Remuneration Jan-Peter Koopmann		EUR 375 thousand	EUR 375 thousand	0%
Remuneration Rainer Koppitz		EUR 64 thousand	EUR 82 thousand	+28%
Remuneration Günter Müller		EUR 49 thousand	EUR 67 thousand	+37%
Remuneration Florian Schuhbauer		EUR 39 thousand	EUR 47 thousand	+21%
Remuneration Dr. Rupert Doehner		EUR 39 thousand	EUR 47 thousand	+21%

Average employee remuneration refers to gross personnel costs (i.e., costs excluding the AG share in social security) less Management Board salaries and employee bonuses, divided by average full-time equivalents (FTE) per year, multiplied by average head counts (HC) per year (to reach FTE). All employees of NFON AG in permanent positions were included.

The Supervisory Board did not claw back any variable remuneration components in financial year 2022.

No benefits were promised by a third party to any member of the Management Board with regard to his activity as a member of the Management Board or were granted in the financial year.

Benefits after termination of employment

In the event of premature revocation of the appointment as Management Board member without good cause pursuant to Section 626 of the German Civil Code (BGB) and for termination of the service contract without notice, the Management Board member shall in this case receive a severance payment amounting to one year's fixed salary, limited to the total remuneration owed for the remaining term. In the event of a change of control, the company and the Management Board member each have a one-time right to terminate the service contract by giving two months' notice to the end of the month and to dismiss the Management Board member on the same date.

This special right of termination exists only within one month of the date on which the change of control that has actually taken place becomes known. The company's special right of termination

depends on the knowledge of the Chairman of the Supervisory Board, while the Management Board member's special right of termination depends on his knowledge. From the occurrence of a change of control, the right of termination pursuant to Art. 2 par. 2 sentence 3 (termination with severance pay of one year's fixed salary) is suspended for a period of 12 months.

A change of control is deemed to have occurred if at least 50.1% of the share capital is combined under the control of one shareholder.

In this case, the Management Board member receives a severance payment amounting to two years' fixed salary, limited to the total remuneration owed for the remaining term including fringe benefits.

The entitlement to a severance payment lapses or the severance payment already received must be repaid if the company effectively terminates the service agreement for good cause in accordance with

Section 626 of the German Civil Code (Bürgerliches Gesetzbuch – BGB) or it becomes apparent within the six months following the end of this service agreement that good cause for extraordinary termination existed and the company demands repayment in writing.

A severance payment under this Art. 2 par. 2 shall only be credited against any waiting allowance under Art. 10 of this agreement if the Management Board member has exercised his right to terminate the agreement within the meaning of this paragraph.

A post-contractual non-competition clause has been agreed with the Management Board members in their service contracts, as a result of which the respective Management Board member would be entitled to receive remuneration amounting to 50% of the last contractually agreed remuneration for a period of one year on leaving the company.

II. Supervisory Board

In accordance with the resolution of the Annual General Meeting of June 21, 2021, the members of the Supervisory Board of NFON AG will receive the following cash remuneration in financial year 2022, in addition to the reimbursement of expenses in accordance with the Articles of Association of NFON AG:

a) basic remuneration payable after the end of the financial year of EUR 75,000.00 for the Chairman of the Supervisory Board, EUR 60,000.00 for the Deputy Chairman of the Supervisory Board and EUR 40,000.00 for the other members of the Supervisory Board, in each case in addition to any value-added tax incurred;

b) for each meeting of the Supervisory Board (plenary session) in which they participated in full, an additional attendance fee of EUR 1,000.00 payable after the end of the financial year in addition to any value-added tax that may have been incurred.

The following table shows the remuneration granted and owed to the members of the Supervisory Board in financial year 2022, including their relative share in accordance with Section 162 of the German Stock Corporation Act (AktG). As remuneration granted and owed is not always accompanied by a payment in the respective financial year, the following table shows the amount of remuneration granted to the members of the Supervisory Board for financial year 2022, in which the underlying activity was performed in full.

In EU R	Fixed remun- eration 2022	Share of total remunera- tion	Fixed remun- eration 2021	Share of total remunera- tion	Meeting fee 2022	Share of total remunera- tion	Meet- ing fee 2021	Share of total remunera- tion	Total remuner- ation 2022	Total remuner- ation 2021
Koppitz, Rainer	75,000	91.5%	57,500	90.6%	7,000	8.5%	6,000	9.4%	82,000	63,500
Müller, Günter	60,000	89.6%	42,500	87.6%	7,000	10.4%	6,000	12.4%	67,000	48,500
Schuhbauer, Florian	40,000	85.1%	32,500	84.4%	7,000	14.9%	6,000	15.6%	47,000	38,500
Dr. Doehner, Rupert	40,000	85.1%	32,500	84.4%	7,000	14.9%	6,000	15.6%	47,000	38,500

Munich, May 2, 2023

The Management Board

The Supervisory Board

Annex 2

General terms and conditions

General Engagement Terms

for

Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften

[German Public Auditors and Public Audit Firms]
as of January 1, 2017

1. Scope of application

(1) These engagement terms apply to contracts between German Public Auditors (*Wirtschaftsprüfer*) or German Public Audit Firms (*Wirtschaftsprüfungsgesellschaften*) – hereinafter collectively referred to as "German Public Auditors" – and their engaging parties for assurance services, tax advisory services, advice on business matters and other engagements except as otherwise agreed in writing or prescribed by a mandatory rule.

(2) Third parties may derive claims from contracts between German Public Auditors and engaging parties only when this is expressly agreed or results from mandatory rules prescribed by law. In relation to such claims, these engagement terms also apply to these third parties.

2. Scope and execution of the engagement

(1) Object of the engagement is the agreed service – not a particular economic result. The engagement will be performed in accordance with the German Principles of Proper Professional Conduct (*Grundsätze ordnungsmäßiger Berufsausübung*). The German Public Auditor does not assume any management functions in connection with his services. The German Public Auditor is not responsible for the use or implementation of the results of his services. The German Public Auditor is entitled to make use of competent persons to conduct the engagement.

(2) Except for assurance engagements (*betriebswirtschaftliche Prüfungen*), the consideration of foreign law requires an express written agreement.

(3) If circumstances or the legal situation change subsequent to the release of the final professional statement, the German Public Auditor is not obligated to refer the engaging party to changes or any consequences resulting therefrom.

3. The obligations of the engaging party to cooperate

(1) The engaging party shall ensure that all documents and further information necessary for the performance of the engagement are provided to the German Public Auditor on a timely basis, and that he is informed of all events and circumstances that may be of significance to the performance of the engagement. This also applies to those documents and further information, events and circumstances that first become known during the German Public Auditor's work. The engaging party will also designate suitable persons to provide information.

(2) Upon the request of the German Public Auditor, the engaging party shall confirm the completeness of the documents and further information provided as well as the explanations and statements, in a written statement drafted by the German Public Auditor.

4. Ensuring independence

(1) The engaging party shall refrain from anything that endangers the independence of the German Public Auditor's staff. This applies throughout the term of the engagement, and in particular to offers of employment or to assume an executive or non-executive role, and to offers to accept engagements on their own behalf.

(2) Were the performance of the engagement to impair the independence of the German Public Auditor, of related firms, firms within his network, or such firms associated with him, to which the independence requirements apply in the same way as to the German Public Auditor in other engagement relationships, the German Public Auditor is entitled to terminate the engagement for good cause.

5. Reporting and oral information

To the extent that the German Public Auditor is required to present results in writing as part of the work in executing the engagement, only that written work is authoritative. Drafts are non-binding. Except as otherwise agreed, oral statements and explanations by the German Public Auditor are binding only when they are confirmed in writing. Statements and information of the German Public Auditor outside of the engagement are always non-binding.

6. Distribution of a German Public Auditor's professional statement

(1) The distribution to a third party of professional statements of the German Public Auditor (results of work or extracts of the results of work whether in draft or in a final version) or information about the German Public Auditor acting for the engaging party requires the German Public Auditor's written consent, unless the engaging party is obligated to distribute or inform due to law or a regulatory requirement.

(2) The use by the engaging party for promotional purposes of the German Public Auditor's professional statements and of information about the German Public Auditor acting for the engaging party is prohibited.

7. Deficiency rectification

(1) In case there are any deficiencies, the engaging party is entitled to specific subsequent performance by the German Public Auditor. The engaging party may reduce the fees or cancel the contract for failure of such subsequent performance, for subsequent non-performance or unjustified refusal to perform subsequently, or for unconscionability or impossibility of subsequent performance. If the engagement was not commissioned by a consumer, the engaging party may only cancel the contract due to a deficiency if the service rendered is not relevant to him due to failure of subsequent performance, to subsequent non-performance, to unconscionability or impossibility of subsequent performance. No. 9 applies to the extent that further claims for damages exist.

(2) The engaging party must assert a claim for the rectification of deficiencies in writing (*Textform*) [Translator's Note: *The German term "Textform" means in written form, but without requiring a signature*] without delay. Claims pursuant to paragraph 1 not arising from an intentional act expire after one year subsequent to the commencement of the time limit under the statute of limitations.

(3) Apparent deficiencies, such as clerical errors, arithmetical errors and deficiencies associated with technicalities contained in a German Public Auditor's professional statement (long-form reports, expert opinions etc.) may be corrected – also versus third parties – by the German Public Auditor at any time. Misstatements which may call into question the results contained in a German Public Auditor's professional statement entitle the German Public Auditor to withdraw such statement – also versus third parties. In such cases the German Public Auditor should first hear the engaging party, if practicable.

8. Confidentiality towards third parties, and data protection

(1) Pursuant to the law (§ [Article] 323 Abs 1 [paragraph 1] HGB [German Commercial Code: *Handelsgesetzbuch*], § 43 WPO [German Law regulating the Profession of Wirtschaftsprüfer: *Wirtschaftsprüferordnung*], § 203 StGB [German Criminal Code: *Strafgesetzbuch*]) the German Public Auditor is obligated to maintain confidentiality regarding facts and circumstances confided to him or of which he becomes aware in the course of his professional work, unless the engaging party releases him from this confidentiality obligation.

(2) When processing personal data, the German Public Auditor will observe national and European legal provisions on data protection.

9. Liability

(1) For legally required services by German Public Auditors, in particular audits, the respective legal limitations of liability, in particular the limitation of liability pursuant to § 323 Abs. 2 HGB, apply.

(2) Insofar neither a statutory limitation of liability is applicable, nor an individual contractual limitation of liability exists, the liability of the German Public Auditor for claims for damages of any other kind, except for damages resulting from injury to life, body or health as well as for damages that constitute a duty of replacement by a producer pursuant to § 1 ProdHaftG [German Product Liability Act: *Produkthaftungsgesetz*], for an individual case of damages caused by negligence is limited to € 4 million pursuant to § 54 a Abs. 1 Nr. 2 WPO.

(3) The German Public Auditor is entitled to invoke demurs and defenses based on the contractual relationship with the engaging party also towards third parties.

(4) When multiple claimants assert a claim for damages arising from an existing contractual relationship with the German Public Auditor due to the German Public Auditor's negligent breach of duty, the maximum amount stipulated in paragraph 2 applies to the respective claims of all claimants collectively.

(5) An individual case of damages within the meaning of paragraph 2 also exists in relation to a uniform damage arising from a number of breaches of duty. The individual case of damages encompasses all consequences from a breach of duty regardless of whether the damages occurred in one year or in a number of successive years. In this case, multiple acts or omissions based on the same source of error or on a source of error of an equivalent nature are deemed to be a single breach of duty if the matters in question are legally or economically connected to one another. In this event the claim against the German Public Auditor is limited to € 5 million. The limitation to the fivefold of the minimum amount insured does not apply to compulsory audits required by law.

(6) A claim for damages expires if a suit is not filed within six months subsequent to the written refusal of acceptance of the indemnity and the engaging party has been informed of this consequence. This does not apply to claims for damages resulting from scienter, a culpable injury to life, body or health as well as for damages that constitute a liability for replacement by a producer pursuant to § 1 ProdHaftG. The right to invoke a plea of the statute of limitations remains unaffected.

10. Supplementary provisions for audit engagements

(1) If the engaging party subsequently amends the financial statements or management report audited by a German Public Auditor and accompanied by an auditor's report, he may no longer use this auditor's report.

If the German Public Auditor has not issued an auditor's report, a reference to the audit conducted by the German Public Auditor in the management report or any other public reference is permitted only with the German Public Auditor's written consent and with a wording authorized by him.

(2) If the German Public Auditor revokes the auditor's report, it may no longer be used. If the engaging party has already made use of the auditor's report, then upon the request of the German Public Auditor he must give notification of the revocation.

(3) The engaging party has a right to five official copies of the report. Additional official copies will be charged separately.

11. Supplementary provisions for assistance in tax matters

(1) When advising on an individual tax issue as well as when providing ongoing tax advice, the German Public Auditor is entitled to use as a correct and complete basis the facts provided by the engaging party – especially numerical disclosures; this also applies to bookkeeping engagements. Nevertheless, he is obligated to indicate to the engaging party any errors he has identified.

(2) The tax advisory engagement does not encompass procedures required to observe deadlines, unless the German Public Auditor has explicitly accepted a corresponding engagement. In this case the engaging party must provide the German Public Auditor with all documents required to observe deadlines – in particular tax assessments – on such a timely basis that the German Public Auditor has an appropriate lead time.

(3) Except as agreed otherwise in writing, ongoing tax advice encompasses the following work during the contract period:

- a) preparation of annual tax returns for income tax, corporate tax and business tax, as well as wealth tax returns, namely on the basis of the annual financial statements, and on other schedules and evidence documents required for the taxation, to be provided by the engaging party
- b) examination of tax assessments in relation to the taxes referred to in (a)
- c) negotiations with tax authorities in connection with the returns and assessments mentioned in (a) and (b)
- d) support in tax audits and evaluation of the results of tax audits with respect to the taxes referred to in (a)
- e) participation in petition or protest and appeal procedures with respect to the taxes mentioned in (a).

In the aforementioned tasks the German Public Auditor takes into account material published legal decisions and administrative interpretations.

(4) If the German Public auditor receives a fixed fee for ongoing tax advice, the work mentioned under paragraph 3 (d) and (e) is to be remunerated separately, except as agreed otherwise in writing.

(5) Insofar the German Public Auditor is also a German Tax Advisor and the German Tax Advice Remuneration Regulation (*Steuerberatungsvergütungsverordnung*) is to be applied to calculate the remuneration, a greater or lesser remuneration than the legal default remuneration can be agreed in writing (*Textform*).

(6) Work relating to special individual issues for income tax, corporate tax, business tax, valuation assessments for property units, wealth tax, as well as all issues in relation to sales tax, payroll tax, other taxes and dues requires a separate engagement. This also applies to:

- a) work on non-recurring tax matters, e.g. in the field of estate tax, capital transactions tax, and real estate sales tax;
- b) support and representation in proceedings before tax and administrative courts and in criminal tax matters;
- c) advisory work and work related to expert opinions in connection with changes in legal form and other re-organizations, capital increases and reductions, insolvency related business reorganizations, admission and retirement of owners, sale of a business, liquidations and the like, and
- d) support in complying with disclosure and documentation obligations.

(7) To the extent that the preparation of the annual sales tax return is undertaken as additional work, this includes neither the review of any special accounting prerequisites nor the issue as to whether all potential sales tax allowances have been identified. No guarantee is given for the complete compilation of documents to claim the input tax credit.

12. Electronic communication

Communication between the German Public Auditor and the engaging party may be via e-mail. In the event that the engaging party does not wish to communicate via e-mail or sets special security requirements, such as the encryption of e-mails, the engaging party will inform the German Public Auditor in writing (*Textform*) accordingly.

13. Remuneration

(1) In addition to his claims for fees, the German Public Auditor is entitled to claim reimbursement of his expenses; sales tax will be billed additionally. He may claim appropriate advances on remuneration and reimbursement of expenses and may make the delivery of his services dependent upon the complete satisfaction of his claims. Multiple engaging parties are jointly and severally liable.

(2) If the engaging party is not a consumer, then a set-off against the German Public Auditor's claims for remuneration and reimbursement of expenses is admissible only for undisputed claims or claims determined to be legally binding.

14. Dispute Settlement

The German Public Auditor is not prepared to participate in dispute settlement procedures before a consumer arbitration board (*Verbraucherschlichtungsstelle*) within the meaning of § 2 of the German Act on Consumer Dispute Settlements (*Verbraucherstreitbeilegungsgesetz*).

15. Applicable law

The contract, the performance of the services and all claims resulting therefrom are exclusively governed by German law.