



# Special Terms and Conditions

## 1. Provision of services

(1) Within the scope of V&V Steuerberatung GmbH, V&V, will, in accordance with this Service Agreement, solely recommend potential courses of action with respect to management decisions, indicating possible consequences and alternatives, and will advise the Client accordingly. In this regard, decision making powers lie exclusively with the Client. Unless there is a legal requirement which demands otherwise, V&V will only deal with the authorities on behalf of and upon instruction of the Client, and will do so only in a supportive and advisory capacity. This applies in particular when it comes to V&V exercising its power of attorney in tax related matters, meaning that V&V will only exercise this power of attorney upon instruction and subject to the approval of the Client. The Client will be responsible for any tax returns, in particular with regard to their correctness and filing. Under no circumstances will V&V use its own bank account to make payments (for example to settle any tax liabilities) in the name of the Client. All documents, information and data which are sent from the client we expect to be correct, accurate and complete. They will not be checked separately by V&V and therefore V&V accepts no liability.

(2) V&V advises or reports on the basis of our understanding of the relevant tax laws, provisions and decisions that are applicable on the effective date. The effective date is the date specified as such in the report or statement; if no effective date is specified, the date on which the report or statement is signed by V&V is considered the effective date. Changes in the legal situation occurring after the effective date will not lead to any obligations on the part of V&V or other affiliated firms to make any corrections or to provide any information. If, in exceptional cases based on a separate Agreement, any binding information should be provided orally, this will consequently mean that the date on which the information was given is to be regarded as the effective date, as specified above.

(3) V&V will assign suitably qualified staff to provide the services. Decisions on which V&V staff members are to be used to provide the services will be a matter for the sole discretion of V&V. In particular, V&V also retains the right to replace staff or persons who are assigned to provide the services or who are named in the Service Agreement with other (also suitably qualified) staff at any stage.

## 2. Copyright

(1) V&V and affiliated firms are the owners of all intellectual goods (as well as their written or graphic representation) acquired by V&V or affiliated firms in connection with the fulfilment of the Engagement. As a consequence, these may be used for other clients by V&V or affiliated firms, in compliance with their professional duties, in amended as well as unamended form. Please see Point 5 AAB 2018 for further details.

## 3. Subcontracting of affiliated firms

(1) The Service Agreement will be concluded exclusively between the Client and V&V. Other affiliated firms may support V&V with respect to the provision of the services agreed upon.

(2) V&V remains solely responsible for the services agreed upon. Point 7 para. (5) AAB 2018 therefore does not apply with respect to any subcontracts commissioned by V&V to other affiliated firms. The Client hereby agrees not to bring any claims (whether in contract, tort or otherwise) against V&V or any other affiliated firms or any partners or employees of other affiliated firms (including partners or employees of V&V) in connection with this Agreement. The above provisions of this paragraph do not, however, apply to any damage caused by a wilful violation of duties or to such instances of violation of duties for which direct claims cannot lawfully be limited or excluded. The Client shall also ensure that no entity which is directly or indirectly affiliated under company law with the Client ("group members"), both during and after the time in which the entity is or was a group member, brings any such claim against any affiliated firm (including V&V) or its partners or employees.

(3) The provisions of the previous two paragraphs are agreed upon between V&V and the Client expressly for the benefit of other affiliated firms, their partners and employees as well as the partners and employees of V&V ("beneficiaries"). The Client hereby agrees that each of the beneficiaries has the right to rely on this Service Agreement as if he/she were a party to this Service Agreement.

## 4. Due dates and schedules/fee estimates

(1) The due dates and schedules indicated by V&V for the completion of products or parts thereof are estimates which are made to the best of our knowledge and – unless otherwise agreed in writing – are not binding. The same applies to any fee estimates, which are given to the best of our knowledge; however, such estimates are not binding.

## 5. Electronic communication

(1) With regard to Point 4 AAB 2018 the following is specified:

(a) The Client hereby agrees that, within the framework of the provisions of the AAB 2018 (in particular Point 4 AAB 2018), V&V is permitted to transmit data and information to the Client or to third parties in electronic form. Damage caused by transmission to a recipient other than the intended person as well as damage caused by unauthorised access by third parties is also regarded as damage within the meaning of Point 4 para. (3) AAB 2018.

(b) Both parties hereby commit themselves to undertaking measures that will protect the integrity of information and data. In particular, the recipient is responsible for ensuring that all file attachments are checked with appropriate anti-virus software prior to being opened. The parties are not obliged to use encryption systems, electronic signatures or password protection features.

## 6. Data protection

(1) The Client hereby agrees to the (particularly electronic) use of client data (name, address, any available identification numbers [such as company register number, DUNS, UID (VAT identification) number, tax number], contact details of the Client, contact partner with the Client and his/her contact details, type and scope of services, fees, duration of services) within the V&V group pursuant to article 6 (1) lit. a GDPR and in accordance with the following provisions:

(2) V&V is entitled to process these data and to transmit them (also outside Austria) for processing purposes to other affiliated firms and to make these data available for the internal purposes of V&V as well as other affiliated firms. These internal purposes include checking whether any conflicts of interest exist and whether professional independence provisions are adhered to (in particular for the purpose of determining the existence of grounds of bias or grounds for exclusion of auditors); they also include ensuring adherence to supervisory regulations and statutory compliance provisions as well as the provisions related to risk management and quality assurance, client information and Client Relationship Management ("CRM"), the coordination of engagements within the Client's group, financial reporting as well as the storage of data abroad. In non-EU Member States, a lower level of data protection may prevail than in EU Member States; as a matter of course, however, all affiliated firms observe certain guidelines that ensure an appropriate level of data protection. These data will neither be transmitted nor made available to third parties outside the above mentioned group of recipients. The Client may revoke this consent at any time by writing to V&V.

## 7. Confidentiality

(1) Pursuant to professional legal regulations (§ 80 Auditing, Tax Advising and Related Professions Act (WTBG 2017)), V&V is obligated to maintain strict secrecy unless the Client releases V&V from its obligation to maintain secrecy or V&V is bound by law to deliver a statement.

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(2) Unless previous written consent has been obtained from V&V, the Client shall not disclose to any third parties any confidential information or documents (in particular the provisions of this Service Agreement and the fees agreed upon as described in it) received by the Client from V&V within the context of the provision of services, unless (and only to the extent necessary) bound to do so by law. Before doing so, the Client is particularly to ensure that any references to V&V or affiliated firms are removed.

(3) In accordance with § 80 para. 4 no. 2 WTBG 2017, the Client expressly releases V&V from the obligation to maintain secrecy in the following instances: (i) Use of data for those purposes set out under Point 5; (ii) Disclosure of confidential information and documents to advisors as well as other third parties assigned by the Client, any subcontractors of V&V commissioned for the completion of the Engagement as well as any legal advisors, insurance companies or insurance brokers of V&V; (iii) Disclosure of confidential information and documents if V&V is required to disclose such information due to Austrian or foreign legal provisions, other regulations (such as rules of professional conduct) or decrees made by the authorities; (iv) V&V is further entitled to use the name of the Client and the products and services provided in accordance with the Service Agreement as a reference for other clients or potential clients.

(4) With respect to the use and disclosure of products and any professional statements made by V&V, reference is made to Point 5 AAB 2018 as well as to Point 1 (Provision of services) of this document. This provision of AAB 2018 further applies to the disclosure of any information or documents related to the Engagement (in particular to the terms and conditions of the Service Agreement and the fees agreed as described in it) which the Client has received from V&V.

(5) The consultancy services are, however, provided by V&V exclusively for the benefit of the Client and for those purposes of the Client as set out in writing to V&V; they are not appropriate for the purposes of third parties and third parties may not rely upon them. The Client agrees to indemnify and hold harmless V&V as well as any other affiliated firms and their respective partners and employees against any claims made by any third party which has not signed a general Hold Harmless Agreement and Release Agreement (submitted by V&V) entered into with V&V, any other affiliated firms and their staff. This Point 7 para. (5) remains unaffected by the provisions of the following paragraphs.

(6.1.) If the Client is an audit client of V&V or of an affiliated firm and if the Client is registered with the U.S. Securities and Exchange Commission (SEC), or if the Client is an affiliate (within the meaning of the SEC regulations on auditor independence) of a company registered with the SEC and audited by V&V or by another affiliated firm (i.e. if the SEC rules on auditor independence are applicable to our services), paras 6.2.-6.4. below apply.

(6.2.) Both the Client and any party authorised by the Client may, as an exception, disclose to third parties all information and documents in connection with tax consultancy services provided by V&V with regard to the tax treatment and structuring of transactions within the meaning of Rule 3522 of the United States Public Company Accounting Oversight Board ("PCAOB"). This is referred to as "disclosure permissible pursuant to PCAOB Rule 3522", with such services being referred to as "3522 tax consultancy services". This provision applies in deviation from Point 5 (1) AAB 2018 or from any other applicable provisions of this Agreement.

(6.3.) In the event that, within the framework of a disclosure pursuant to PCAOB Rule 3522, the Client should make available to third parties the 3522 tax consultancy services provided by V&V – in particular any statements, expert opinions, tax returns or other associated documents and information ("Engagement results") – the Client shall do as follows: (a) Provide V&V with the name and the address of the third party as well as a list of the information and documents disclosed; (b) Inform the third party recipient of the above mentioned information and documents in writing that under no circumstances may he/she or any other third parties rely upon the consultancy services provided for the Client, that such services are exclusively intended for the purposes of the Client and that, in relation thereto, V&V accepts no liability or responsibility towards him/her or any other third parties; and (c) Undertake all efforts to obtain from the recipient of the aforementioned information and documents written consent to a general Hold Harmless Agreement and Release Agreement (submitted by V&V) entered into with V&V, any other affiliated firm and their partners and staff for any liability obligations, damage, claims, costs, expenditure or court claims resulting from instances in which the third party in question may

have relied upon or acted on the basis of any information or documents made available by the Client.

(6.4.) In signing the Service Agreement, the Client hereby confirms to V&V that it has not entered into any confidentiality terms (as stipulated in PCAOB Rule 3522) with any other consultant who provides or has provided tax consultancy services in connection with our activities pursuant to this Service Agreement. Furthermore, the Client hereby agrees to inform V&V if, once V&V has commenced the provision of services, another consultant demands confidentiality terms (as stipulated in PCAOB Rule 3522) with regard to our activities pursuant to this Service Agreement; the purpose of this provision is to allow V&V to discontinue its services in order to prevent any violation of the independence of V&V or of any other affiliated firm pursuant to PCAOB Rule 3522.

#### 8. Maintenance of independence

(1) The Client hereby acknowledges that it is possible, in the event that the Client is or becomes an audit client of a company affiliated with an audit client of a V&V firm within the meaning of the applicable independence regulations for auditors, that V&V will no longer be allowed to perform certain services or that certain formalities may have to be adhered to before providing the services (e.g. obtaining prior permission) as well as during or after the termination of the Engagement (e.g. disclosure of non-audit fees).

(2) In order to ensure the auditor independence of V&V and other affiliated firms, V&V will not provide any services that are associated with or bear the risk of jeopardising the independence of V&V or any other affiliated firms as auditors or of violating any professional regulations as well as internal or external standards.

(3) The Client shall provide V&V with any information required for determining the independence status of V&V (especially regarding the issue as to whether the Client or a company affiliated with the Client is an audit client of any firm connected with V&V within the meaning of the applicable independence regulations) and shall, if necessary, immediately inform V&V of any changes to such information.

#### 9. Conflicts of interest

(1) V&V performs its services for the Client on a purely non-exclusive basis.

(2) V&V provides a wide range of services to a large number of clients, and thus might provide services to companies or organisations which the Client might deem to be affected by a conflict of interest. V&V may also provide services to companies or organisations which might – pursuant to professional guidelines – be deemed to be affected by a conflict of interest. The Client shall therefore inform V&V of any (potential) conflicts of interest with respect to our services which the Client is aware of or becomes aware of.

(3) The Client hereby agrees that, in the event of any (potential) conflict of interest, V&V is entitled to continue providing the services to the Client as well as to other clients, including those which the Client considers to be affected by a conflict of interest or which may be considered to be affected by a conflict of interest. In such instances, V&V shall take appropriate measures in order to settle the (potential) conflict of interest and to maintain secrecy for the duration of the Engagement.

#### 10. Limitation of liability

(1) This limitation of liability as stated in Point 7 AAB 2018 refers to the individual case of damage. The individual case of damage encompasses all consequences arising from a breach of duty without taking into account whether the instances of damage occurred in the course of one year or in a number of successive years: multiple acts or omissions based on the same or similar source of error are deemed to constitute a uniform breach of duty if the matters in question are legally and economically connected to one another. Where a uniform case of damage occurs, such damage remains to be considered an individual case of damage even if such damage arises from a number of breaches of duty. Furthermore, with the exception of cases of wilful misconduct, V&V will not be liable for any lost profits or any collateral, consequential, incidental or similar damage. Liability with respect to third parties is – as far as is legally permissible and where not otherwise negotiated by the parties to the Agreement on an individual basis in relation to the subject of the Agreement – hereby excluded. On a secondary level, liability limitations of V&V in relation to the Client

also apply in relation to third parties. Point 7 AAB 2018 remains unaffected.

(1) The Service Agreement, its execution and any claims resulting from it will be wholly governed by Austrian law; international conflict-of-law provisions will not be applicable.

#### **11. Employment and assignment of V&V staff**

(1) The prohibition to employ V&V staff pursuant to para. (12) of the Scope and Execution of Contract Points of the AAB 2018 also extends to the staff of other affiliated firms. The term staff refers to employees and other personnel. Commissioning a staff member as a freelance public accountant, tax advisor or business consultant is regarded as employing this person. The penalty sum agreed upon will not be subject to the discretion of the court. Further claims related to damages remain unaffected.

#### **16. Place of jurisdiction**

(1) The place of jurisdiction for all legal disputes arising out of or in connection with the Service Agreement is the District Commercial Court of Vienna (Bezirksgericht für Handelssachen Wien) or the Commercial Court of Vienna (Handelsgericht Wien), depending on the amount in dispute.

#### **12. Amendments or additions to the Engagement and subsequent engagements**

(1) Any changes to the Engagement or the provision of any additional services are in principle to be subject to agreement in writing. Where there is no such agreement in writing, the terms and conditions of the last Service Agreement concluded in writing between V&V and the Client will apply accordingly. However, in such case, irrespective of any provisions to the contrary in this Service Agreement, time-based billing and current hourly rates will be deemed applicable.

#### **13. Duration and termination**

(1) This Service Agreement is in force for an unlimited period of time. It may be terminated on the basis of the provisions of AAB 2018. If V&V has started to provide services prior to the signing of the Service Agreement, the provisions of the Service Agreement will also be applicable in relation to these services.

(2) Both parties are hereby entitled to terminate this Service Agreement at any time in writing. The Service Agreement may be terminated in its entirety or in part with immediate effect if it is to be assumed that fulfilling the Service Agreement or any aspect of the Service Agreement results in or might result in an infringement of a legal or regulatory requirement of any applicable legal system by any party or any affiliated firm. Within the scope of this Service Agreement, this is in any case considered a significant reason within the meaning of § 77 para. 5 WTBG 2017 and Point 9 para. 3 AAB 2018. Nevertheless, each party may under such circumstances demand an amendment or an adaptation of the Service Agreement in order to avoid any such infringement of a legal or regulatory requirement.

(3) Furthermore, each party may terminate the Service Agreement in its entirety or in part with immediate effect if and when (i) insolvency proceedings have been opened for the other party, that is unless a termination is not admissible pursuant to § 25a Austrian Insolvency Code (Insolvenzordnung), or (ii) the opening of insolvency proceedings has been rejected due to lack of sufficient funds, or (iii) the issue of a party's insolvency has not been disclosed to the court.

(4) In the event that one of the parties terminates the contractual relationship, the Client is obligated to remunerate V&V for all services performed up to the termination of the contractual relationship as well as for all additional expenses, such as expenses for subcontracts. V&V will endeavour to keep such additional expenses at a reasonable level. The AAB 2018 provisions on remuneration claims remain unaffected.

(5) V&V's entitlement to receive payment for services already provided will remain valid even if the continuation or completion of the Engagement is not possible for reasons extending beyond the control of V&V. In instances where, despite termination of the Service Agreement, V&V remains legally bound to continue with the provision of the services, the Client shall be further obligated to pay the applicable fees.

#### **14. Severability clause**

(1) Should any provision of the Service Agreement prove to be invalid, this will not affect the validity of the other remaining provisions of the Service Agreement. The invalid provision is to be replaced with a provision that reflects as closely as possible the intentions and the purpose of the invalid provision.

#### **15. Applicable law**