

# **Deloitte.**

## **LONG-FORM AUDIT REPORT**

Audit of the Financial Statements  
as of December 31, 2017

**BA-CA Finance (Cayman) (2) Limited**  
**Cayman Islands**

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Financial Statements as of December 31, 2017

General Conditions of Contract

# **Deloitte.**

To the directors of  
BA-CA Finance (Cayman) (2) Limited  
Cayman Islands

We have completed the audit of the financial statements as of December 31, 2017 of

## **BA-CA Finance (Cayman) (2) Limited, Cayman Islands,**

(hereinafter referred to as "the Company")

and provide the results of our audit in the following report:

### **1. Audit contract and execution of the engagement**

We were elected by Company Directors as auditor for the fiscal year from January 1, 2017 to December 31, 2017 of the BA-CA Finance (Cayman) (2) Limited, Cayman Islands. The Company, represented by the board of directors, concluded an audit contract with us to audit the financial statements as of December 31, 2017, including the accounting system pursuant to sections 269ff of the Austrian Commercial Code (UGB).

The audit is a statutory audit.

The objective of the audit was to examine compliance with legal requirements with respect to the preparation of the financial statements and accounting.

In performing the audit, we adhered to the legal provisions and the relevant professional standards on performing an audit applicable in Austria. These principles require the application of International Standards on Auditing. We draw attention to the fact that the audit provides reasonable assurance as to whether the financial statements are free from material misstatement. Absolute assurance cannot be achieved, since the possibility of errors is inherent in each accounting and internal control system and since the audit is based on samples, there is an unavoidable risk that material misstatements in the financial statements are not detected. Areas that are generally covered in special engagements were not included in our scope of work.

We performed the audit, from February 2017 to April 2017. The audit was concluded by the date of this report.

Responsible for the proper performance of the engagement is Dr. Peter Bitzyk, Austrian Certified Public Accountant.

## **Deloitte.**

Our audit is based on the audit contract concluded with the Company, an integral part of which are the General Conditions of Contract for the Public Accounting Professions issued by the Austrian Chamber of Tax Advisors and Public Accountants at 8.3.2000, as amended at 21.2.2011 (refer to appendix). These General Conditions of Contract do not only apply between the Company and the auditor but also towards third parties. With regard to our responsibility and liability as auditor towards the Company and towards third parties section 275 UGB applies.

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## **2. Analysis of, and explanatory notes to, significant items in the financial statements**

The notes to the financial statements were prepared in accordance with the IFRS. Therefore, to avoid repetitions, we refer to the related disclosures in the notes to the financial statements.

### **3. Summary of the results of the audit**

#### **3.1. Conclusion on the compliance of the financial statements and the annual report of Company Directors as well as on the responsibility statement**

In performing our audit procedures, we determined the compliance with legal requirements and generally accepted accounting principles. As part of our risk and control oriented audit approach, we included in the audit – where we considered it necessary for our audit report – the internal controls in parts of the accounting process.

With regard to the legal compliance of the financial statements, we refer to our comments in the auditor's report.

The Company has prepared an annual report of the Company Directors and a responsibility statement. The content of those reports were not subject to the audit.

#### **3.2. Information provided**

All information required was provided by the legal representatives of the Company. A letter of representation signed by the legal representatives has been included in our working papers.

#### **3.3. Statement on matters pursuant to section 273(2) UGB (execution of reporting obligation)**

In performing our duties as auditor, we have neither determined any facts that might endanger the Company's position as a going concern or adversely affect its future development, nor any facts that would constitute a serious breach of the law or of the Company's articles of association by the legal representatives or employees. Material weaknesses in the internal control of the accounting process have not come to our attention.

## **4. Auditor's report**

### **Report on the Audit of the Financial Statements**

#### *Opinion*

We have audited the financial statements of BA-CA Finance (Cayman) (2) Limited, Cayman Islands (the Company), which comprise the statement of financial position as at December 31, 2017, and the statement of comprehensive income, the statement of changes in equity and the statement of cash flows for the financial year then ended, and notes to the financial statements.

In our opinion, the accompanying financial statements comply with legal requirements and give a true and fair view of the financial position of the Company as at December 31, 2017, and its financial performance and its cash flows for the year then ended in accordance with International Financial Reporting Standards (IFRS) as issued by the IASB.

#### *Basis for Opinion*

We conducted our audit in accordance with the Austrian Generally Accepted Auditing Standards. Those standards require the application of the International Standards on Auditing (ISAs). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are independent of the Company in accordance with laws and regulations applicable in Austria, and we have fulfilled our other professional responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

#### *Key Audit Matters*

Key audit matters are those matters that, in our professional judgement, were of most significance in our audit of the financial statements of the current period. We have nothing to report in this regard.

## *Other Information*

Company Directors are responsible for the other information. The other information contain all information in the annual report apart from the financial statements and the audit opinion.

Our opinion on the financial statements does not cover the other information and we do not express any form of assurance conclusion thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit, or otherwise appears to be materially misstated.

If, based on the work we have performed on the other information obtained prior to the date of this auditor's report, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

## *Responsibilities of Company Directors for the Financial Statements*

Company Directors are responsible for the preparation of the financial statements that give a true and fair view in accordance with International Financial Reporting Standards (IFRS) as issued by the IASB, and for such internal control as Company Directors determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, Company Directors are responsible for assessing the Company'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 Company Directors either intend to liquidate the Company or to cease operations, or have no realistic alternative but to do so.

## *Auditor's Responsibilities for the Audit of the Financial Statements*

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Austrian Generally Accepted Auditing Standards, which require the application of the ISAs, will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they



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could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

The scope of the audit does not include assurance on the future viability of the Company or on the efficiency or effectiveness with which the Company Directors have conducted or will conduct the affairs of the Company.

As part of an audit in accordance with Austrian Generally Accepted Auditing Standards, which require the application of the ISAs, we exercise professional judgement and maintain professional skepticism throughout the audit.

We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement 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.
- Obtain an understanding of internal control 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 Company's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by Company Directors.
- Conclude on the appropriateness of the Company Directors' 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 Company's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditors' report. However, future events or conditions may cause the Company to cease to continue as a going concern.

## **Deloitte.**

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that give a true and fair view.

Vienna, April 27, 2018

**Deloitte Audit Wirtschaftsprüfungs GmbH**



Peter Bitzyk  
Certified Public Accountant

# Financial Statements

**BA-CA Finance (Cayman) (2) Limited**

**Financial Statements**

for the year ended December 31, 2017

**Annual Report of the Company Directors**

The directors of BA-CA Finance (Cayman) (2) Limited (the "Company") are pleased to present the Company's financial statements for the year ended December 31, 2017.

The Company is a wholly owned subsidiary of Alpine Cayman Islands Ltd. (the "Parent") and an indirect wholly-owned subsidiary of UniCredit Bank Austria AG ("UniCredit BA").

The year 2017 results were essentially flat, as expected. The Company was established for the sole purpose of issuing hybrid subordinated securities. The proceeds of these securities are used for general corporate purposes of UniCredit BA, its subsidiaries and affiliates. The Company is designed to take in interest revenue from a subordinated deposit with the Parent and pay dividends on the subordinated securities, in the process generating net interest income.

However, the Parent suspended the 2017 payment of interest due to the Company on the subordinated deposit, as allowed under certain circumstances. As a result, the Company was supported by UniCredit BA to make sufficient funds available to satisfy the Company's 2017 dividend obligation.

The outlook for 2018 is expected to be roughly the same, if not slightly favorable compared to 2017. This is because accruing interest revenue on the subordinated deposit has resumed since end of March 2017.

Sincerely,

  
MARKUS SCHWIMANN

Mr. Markus Schwimann, Director  
April 26, 2018

  
NICOLA CORSETTI

Mr. Nicola Corsetti, Director  
April 26, 2018

**Responsibility Statement**

The directors of BA-CA Finance (Cayman) (2) Limited (the "Company") submit herewith the audited 2017 financial statements for the Company.

**Company overview**

The Company is an indirect wholly-owned subsidiary of UniCredit Bank Austria AG ("UniCredit BA"). The Company was incorporated in the Cayman Islands on January 27, 2005. The Company is economically dependent on UniCredit BA.

The Company was established to issue hybrid subordinated securities. The proceeds of these securities are used for general corporate purposes of UniCredit BA, its subsidiaries and affiliates.

**Statement as required by the Decree Implementing the Directive on Transparency for Issuers under the Wft:**

The accompanying financial statements for the Company, prepared in accordance with IFRS issued by the IASB, provide to the best of our knowledge a true and fair view of the Company's situation as at December 31, 2017 and results of its operations during the year then ended. Material risks, if any, are promptly disclosed.

The Annual Report of the Company Directors has been presented in such a way as to provide a true and fair view of the financial position and performance of the Company.

Approved on behalf of the Board on April 26, 2018:

  
MARKUS SCHWIMANN

Mr. Markus Schwimann, Director

  
NICOLA CORSETTI

Mr. Nicola Corsetti, Director


**BA-CA Finance (Cayman) (2) Limited**  
**Statement of Financial Position**  
**December 31, 2017 and 2016**  
*(stated in Euro)*

ASSETS	Note	<u>2017</u>	<u>2016</u>
Cash and cash equivalents	5	€ 1,908,820	€ 1,927,099
Interest receivable	3	1,248,343	-
Receivable from Support Agreement with related party	4	6,410	845,522
Other assets		3,966	2,971
Due from Parent	5	1,095,511	1,145,931
Subordinated deposit	3,6	<u>147,000,000</u>	<u>147,000,000</u>
		<u>€ 151,263,050</u>	<u>€ 150,921,523</u>
<b>LIABILITIES</b>			
Interest payable	5	€ 1,180,341	€ 839,161
Other liabilities		15,375	10,655
Hybrid subordinated securities	4,5,6	<u>150,000,000</u>	<u>150,000,000</u>
		<u>151,195,716</u>	<u>150,849,816</u>
<b>SHAREHOLDER'S EQUITY</b>			
Ordinary shares, €1 par value 15,000 shares authorised and outstanding	7	15,000	15,000
Retained earnings		<u>52,334</u>	<u>56,707</u>
		<u>67,334</u>	<u>71,707</u>
		<u>€ 151,263,050</u>	<u>€ 150,921,523</u>

*See accompanying notes to financial statements.*

Approved by the Board of Directors on April 26, 2018:

  
 MARKUS SCHWIMANN DIRECTOR

  
 NICOLA CORSETTI DIRECTOR

**BA-CA Finance (Cayman) (2) Limited**  
**Statement of Comprehensive Income (Loss)**  
**for the years ended December 31, 2017 and 2016**

*(stated in Euro)*

	Note	<u>2017</u>	<u>2016</u>
<b>INCOME</b>			
Interest income		€ 1,248,343	€ -
Income from Support Agreement with related party	4	<u>245,748</u>	<u>1,075,972</u>
		<u>1,494,091</u>	<u>1,075,972</u>
<b>EXPENSES</b>			
Interest expense	4,5	1,419,680	1,068,847
Administrative expenses	5	78,784	59,924
		<u>1,498,464</u>	<u>1,128,771</u>
<b>NET LOSS AND TOTAL COMPREHENSIVE LOSS FOR THE YEAR</b>		<u>€ (4,373)</u>	<u>€ (52,799)</u>

*See accompanying notes to financial statements.*



**BA-CA Finance (Cayman) (2) Limited**  
**Statement of Changes in Shareholder's Equity**  
**for the years ended December 31, 2017 and 2016**

*(stated in Euro)*

	Share Capital	Retained earnings	Total
<b>As at December 31, 2015</b>	€ 15,000	€ 109,506	€ 124,506
Comprehensive loss:			
Net loss for the year	-	(52,799)	(52,799)
<b>As at December 31, 2016</b>	€ 15,000	€ 56,707	€ 71,707
Comprehensive loss:			
Net loss for the year	-	(4,373)	(4,373)
<b>As at December 31, 2017</b>	€ 15,000	€ 52,334	€ 67,334

*See accompanying notes to financial statements.*

**BA-CA Finance (Cayman) (2) Limited**  
**Statement of Cash Flows**  
**for the years ended December 31, 2017 and 2016**  
*(stated in Euro)*

	<u>2017</u>	<u>2016</u>
<b>CASH PROVIDED BY (USED IN):</b>		
<b>OPERATING ACTIVITIES</b>		
Net loss	€ (4,373)	€ (52,799)
Changes in operating assets and liabilities:		
Interest receivable	(1,248,343)	-
Receivable from Support Agreement with related party	839,112	10,262
Due from Parent	50,420	1,310
Other assets	(995)	(11)
Interest payable	341,180	33,846
Other liabilities	4,720	7,192
Net cash used in operating activities	<u>(18,279)</u>	<u>(200)</u>
<b>CHANGE IN CASH AND CASH EQUIVALENTS</b>	<b>(18,279)</b>	<b>(200)</b>
<b>BEGINNING CASH AND CASH EQUIVALENTS</b>	<u><b>1,927,099</b></u>	<u><b>1,927,299</b></u>
<b>ENDING CASH AND CASH EQUIVALENTS</b>	<u><b>€ 1,908,820</b></u>	<u><b>€ 1,927,099</b></u>
<b>SUPPLEMENTARY INFORMATION</b>		
Interest received	€ -	€ -
Interest paid	€ (1,078,500)	€ (1,035,000)

*See accompanying notes to financial statements.*

# **BA-CA Finance (Cayman) (2) Limited**

## **Notes to Financial Statements**

### **for the years ended December 31, 2017 and 2016**

*(stated in Euro)*

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#### **1. The Company and its principal activity**

BA-CA Finance (Cayman) (2) Limited (the “Company”) is a wholly owned subsidiary of Alpine Cayman Islands Ltd. (the “Parent”) and an indirect wholly-owned subsidiary of UniCredit Bank Austria AG (“UniCredit BA”).

The Company was incorporated in the Cayman Islands on January 27, 2005 for an unlimited duration and with limited liability under the Companies Law of the Cayman Islands. The Company is economically dependent on the Parent.

The Company was established to issue hybrid subordinated securities. The proceeds of these securities were advanced to the Parent and are used for general corporate purposes of UniCredit BA, its subsidiaries and affiliates.

The Company has received an undertaking from the Cayman Islands Government exempting it from all local income, profits, and capital gains taxes until March 1, 2025. No such taxes are levied in the Cayman Islands at the present time.

The Company’s registered office is located at PO Box 309, Ugland House, Grand Cayman, KY1-1104, Cayman Islands.

#### **2. Significant accounting and reporting policies**

##### ***(a) Statement of compliance***

These financial statements have been prepared in accordance with International Financial Reporting Standards (“IFRS”) issued by IASB. The accounting policies have been applied consistently by the Company and are consistent with those used in previous years.

##### ***(b) Basis of preparation***

The financial statements are presented in Euro.

The financial statements have been prepared on the historical cost basis. Historical cost is generally based on the fair value of the consideration given in exchange for goods and services. Fair value as of December 31, 2017 has been disclosed in Note 6.

The preparation of financial statements in conformity with IFRS requires management to make judgments, estimates and assumptions that affect the application of policies and the reported amounts of assets and liabilities, income and expense. The key areas of estimate are the estimations of fair value. The estimates and associated assumptions are based on various factors that are believed to be reasonable under the circumstances, the results of which form the basis of making the judgments about carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates.

##### ***(c) Cash and cash equivalents***

Cash and cash equivalents consist of cash balances with a financial institution with an original maturity of three months or less.

**BA-CA Finance (Cayman) (2) Limited**  
**Notes to Financial Statements**  
**for the years ended December 31, 2017 and 2016**

*(stated in Euro)*

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**2. Significant accounting policies (continued)**

***(d) Subordinated deposit***

The subordinated deposit consists of an interest bearing balance held with the Parent. The Subordinated deposit is classified as loans and receivables.

***(e) Due from Parent***

Due from Parent consists of a receivable balance the Parent holds in cash on behalf of the Company. In turn, the Parent utilizes this balance to cover the day to day operational expenses of the Company. Due from Parent is classified as short-term receivables.

***(f) Hybrid subordinated securities***

Hybrid subordinated securities have been classified by the Company as a liability in accordance with International Accounting Standard 32, *Financial Instruments: Disclosure and Presentation* ("IAS 32"). In the event of the winding-up of the Company, holders at the time will be entitled to receive the nominal value of each security plus accrued and unpaid dividends, but will have no right or claim to any of the remaining assets of the Company.

The hybrid subordinated securities entitle holders to receive non-cumulative preferential cash dividends subject to certain limitations as identified in the offering circular (dated February 18, 2005). However, these limitations do not create the unconditional right for the Company to avoid delivering payment to holders of the securities. Dividend payments made to holders of the securities are classified as interest expense on the statement of comprehensive income (loss).

The securities are valued at amortised cost.

***(g) Interest income and expense***

Interest income and expense are recorded on an accrual basis. Interest income comprises interest earned on subordinated deposit. Interest expense comprises dividend payments on hybrid subordinated securities.

***(h) Income from Support Agreement with related party***

Proceeds due from the Support Agreement are recorded on an accruals basis as and when the interest expense from the dividend payments on the hybrid subordinated securities is recognized. See Note 4 for further details.

***(i) Recent accounting pronouncements***

In 2017 the following standards, amendments or interpretations have become effective:

- Amendments to IAS 12, and
- Amendments to IAS 7 Statement of cash flows.

The application of the principles and amendments mentioned above did not have an impact on the Statement of Financial Position and Statement of Comprehensive Income (Loss).

# BA-CA Finance (Cayman) (2) Limited

## Notes to Financial Statements

### for the years ended December 31, 2017 and 2016

(stated in Euro)

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#### 2. Significant accounting policies (continued)

##### (i) Recent accounting pronouncements (continued)

In 2016 the European Commission endorsed the following accounting principles that will be applicable for reporting periods beginning on or after January 1, 2018:

- IFRS 9 Financial Instruments;
- IFRS 15 Revenue from Contracts with Customers

The significant changes required by IFRS 9 in the organization are split into two main areas:

- “Classification and Measurement”, with the goal of ensuring that financial instruments are classified under the new IFRS 9 criteria, and
- “Impairment”, with the goal of developing and implementing models and methods to calculate impairments.

The Classification and Measurement of financial assets will be based on

- a) The business model in which the assets are held and
- b) The contractual cash-flow characteristics of the respective instruments (the so-called “SPPI-criterion”, as instruments must result in payments that are “solely payments of principal and interest”, otherwise they must be measured mandatorily at fair value through the statement of comprehensive income (loss)).

For all financial assets held by the Company, the business model is “held-to-maturity”, which means the prime aim is to hold the instruments until maturity and collect the cash inflows of interest and principal.

As cash management is done by means of overnight and short-term fixed deposits, disposals before maturity are not part of the business model and only occur in rare circumstances. The business model would thus allow for all financial assets to be classified as amortised cost.

However, the Company has a particular purpose; it has issued the hybrid subordinated securities and has deposited the gathered funds with UniCredit BA (via the Parent). The corresponding deposit is of a subordinate character, as the interest received on this deposit is dependent on positive results in the financial statements of Unicredit BA. This means that under certain conditions, as discussed in Note 4, interest can be cancelled based on the terms of the subordinated deposit and such cancellations do not represent a default event.

In addition, the interest tenor incorporates a modification of the time value, as the annual interest payments are linked to the 10-year swap rate but are reset on an annual basis. This time-value modification would require a benchmark-test according to IFRS 9.4.1.9B, but it can be concluded already on a qualitative basis, that such a benchmark-test fails.

Based on this assessment, the financial assets related to the subordinated deposit must be measured at fair value through profit or loss, irrespective of the business model.

The Company will also elect the fair value option for its hybrid subordinated securities. The fair value of the hybrid subordinated securities has been calculated and presented at Note 6 as prescribed under IAS 39. The process will not be changed under IFRS 9.

**BA-CA Finance (Cayman) (2) Limited**  
**Notes to Financial Statements**  
**for the years ended December 31, 2017 and 2016**

*(stated in Euro)*

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**2. Significant accounting policies (continued)**

*(i) Recent accounting pronouncements (continued)*

The net effect of the fair value election will be a positive impact on the statement of comprehensive income (loss) caused by the fact that the nominal amounts of the hybrid subordinated securities are slightly higher than the subordinated deposits. When applied at December 31, 2017, the net impact would be a gain of approximately €290,000.

IFRS 9 also changes the way credit loss allowances for instruments measured at amortised cost are to be calculated. However, it is observed that the majority of financial assets is in relation to UniCredit BA (which will opt to be measured at fair value, discussed above), while all other receivables against third parties are negligible. Therefore, the impact of impairment will be immaterial.

The Company will avail itself of the exemption to not adjust comparative information for previous periods in the accounts for 2018.

There is no impact from IFRS 15, as the Company has no customers and therefore no revenue from contracts with customers.

**3. Subordinated deposit**

Upon receipt of proceeds from issuance of the hybrid subordinated securities, the Company deposited an amount of €147,000,000 with the Parent. The deposit, together with any accrued interest and costs and expenses in connection therewith, are subordinated to the claims of all the creditors of the Parent, but are senior to the claims of the holders of the ordinary shares of the Parent.

The deposit bore interest at 7.95% per annum until March 22, 2006; thereafter such deposit bears interest at a variable rate as stipulated in the subordinated deposit agreement (the "Deposit Agreement") dated February 18, 2005. Interest is receivable annually in arrears. The deposit is repayable solely at the option of the Parent until the date the hybrid subordinated securities are redeemed.

On March 16, 2017 and March 15, 2016, the Company was informed by the Parent that the interest under the Deposit Agreement due on March 22, 2017 and 2016, respectively, would not be paid. Accordingly, the Company did not record any interest income relating to subordinated deposit during financial year 2016 through March 22, 2017. Since March 23, 2017, the Company resumed accruing interest income in accordance with the Deposit Agreement.

# **BA-CA Finance (Cayman) (2) Limited**

## **Notes to Financial Statements**

### **for the years ended December 31, 2017 and 2016**

*(stated in Euro)*

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#### **4. Hybrid subordinated securities**

On February 22, 2005 the Company issued 150,000 Perpetual Non-Cumulative Non-Voting Fixed/Floating Rate Preferred Securities at €1,000 each. These securities are listed on Euronext Amsterdam N.V. and other European exchanges.

These securities are redeemable at the option of the Company, subject to the prior consent of UniCredit Bank Austria AG.

The hybrid subordinated securities entitle holders to receive non-cumulative preferential cash dividends subject to certain limitations. These limitations are identified in the offering circular (dated February 18, 2005) as follows:

- a) Unavailability of distributable profit.
- b) UniCredit BA determines that in accordance with Austrian Banking regulations, UniCredit BA fails to meet capital ratios and would be limited in making payment to holders of hybrid subordinated securities.
- c) There is in effect, any law of relevant regulatory authority which prohibits UniCredit BA from making any payment to holders of hybrid subordinated securities.

For the period from (and including) February 22, 2005 to (but excluding) March 22, 2006, the preferential cash dividends were calculated at a rate of 7.5% per annum; after March 21, 2006, the preferential cash dividends were calculated at a variable rate as stipulated in the offering circular dated February 18, 2005. Dividends are payable annually in arrears and are reported as interest expense in the accompanying financial statements.

These securities were issued with the benefit of a support agreement entered into with UniCredit BA (the "Support Agreement") on February 22, 2005. Should the Company have insufficient funds to enable it to meet in full all of its obligations under or in respect of these securities, UniCredit BA will make available to the Company sufficient funds to enable it to meet its payment obligations.

Since the Company did not receive interest on the subordinated deposit during 2017 and 2016, as discussed in Note 3, the Company requested financial support from UniCredit BA under the Support Agreement. The requests were approved and funds were received for the purpose of meeting the March 22, 2017 and 2016 coupon obligations.

At December 31, 2017, €6,410 of financial support is receivable by the Company in relation to certain expenses. During the year ended December 31, 2017, the Company earned €245,748 (2016: €1,075,972) in income pursuant to proceeds due under the Support Agreement.

#### **5. Related party transactions**

Significant related party balances and transactions not disclosed elsewhere in these financial statements include the following:

At December 31, 2017, the Company held cash and cash equivalents with UniCredit BA, the ultimate parent of the Company, of €1,908,820 (2016: €1,907,534).

At December 31, 2017, the Company had a receivable due from the Parent in the amount of €1,095,511 (2016: €1,145,931), of which €989,854 (2016: €989,854\*) relates to the Support Agreement the Parent received from UniCredit BA on behalf of the Company.

**BA-CA Finance (Cayman) (2) Limited**  
**Notes to Financial Statements**  
**for the years ended December 31, 2017 and 2016**

*(stated in Euro)*

**5. Related party transactions (continued)**

The Company was charged administrative fees of €15,000 (2016: €15,000) by the Parent. These amounts are included in administrative expenses on the statement of comprehensive income (loss).

During 2017, the Company incurred accounting fees for services rendered by UniCredit BA totaling €3,573 (2016: €14,845). This amount is included in administrative expenses on the statement of comprehensive income (loss).

At December 31, 2017, UniCredit BA owned 66.4% (2016: 66.4%) of the outstanding hybrid subordinated securities with a book value of €100,399,000 (2016: €100,172,000). As a result, the Company incurred €1,419,680 (2016: €709,821) of related interest expense during the year of which €1,180,341 (2016: €557,287) is payable at year end.

\*Prior year figure has been restated to conform with the current year's presentation.

**6. Fair value disclosure of financial instruments**

The following disclosures represent the Company's best estimate of the fair value of financial instruments. The fair value of hybrid subordinated securities is based on current market quotations as these are exchange-traded. As discussed in Note 3, proceeds from the initial issuance of the hybrid subordinated securities were placed in a subordinated deposit with the Parent. Concurrent with the initial deposit, the Company entered into the Support Agreement discussed in Note 4 to guarantee the Company's obligations under the hybrid subordinated securities.

Collectively, the sole purpose and use of the subordinated deposit and the Support Agreement is to fund the Company's obligations under the securities, whether for the funding of future dividend payments or possible redemption amounts. Accordingly, the collective fair value of the subordinated deposit and Support Agreement will approximate the fair value of the hybrid subordinated securities. Subordinated deposits are classified as loans and receivables.

The carrying and fair values of certain financial instruments as of December 31, 2017 are summarised as follows:

	<u>Carrying value</u>	<u>Fair value</u>
<u>Assets:</u>		
Subordinated deposit	€ 147,000,000	€ 132,729,240
<u>Liabilities:</u>		
Hybrid subordinated securities	150,000,000	135,438,000

The carrying and fair values of certain financial instruments as of December 31, 2016 are summarised as follows:

	<u>Carrying value</u>	<u>Fair value</u>
<u>Assets:</u>		
Subordinated deposit	€ 147,000,000	€ 92,236,620
<u>Liabilities:</u>		
Hybrid subordinated securities	150,000,000	94,119,000



**BA-CA Finance (Cayman) (2) Limited**  
**Notes to Financial Statements**  
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*(stated in Euro)*

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**6. Fair value disclosure of financial instruments (continued)**

The fair value of financial instruments that are short-term in nature or re-priced frequently and have a history of negligible credit losses is considered to approximate their carrying value. Those instruments include balances recorded in interest receivable, cash, interest payable and other liabilities.

*Credit risk*

Credit risk arises from the chance of counterparties defaulting on their contractual obligations. The risk of credit losses is mitigated as the Parent is a part of a large multinational bank with investment grade ratings.

*Market risk*

Market risk is the potential loss the Company may incur as a result from changes in the market prices of a particular instrument, whether these changes are caused by factors specific to the instrument or its issuer or factors affecting all securities traded in the market. The Company is not directly exposed to any market risk on its financial instruments, but may be indirectly exposed to market risk through interest risk.

*Interest rate risk*

Interest rate risk is the risk that the value of a financial instrument will fluctuate due to changes in market interest rates. As the interest rates on the subordinated deposit and hybrid subordinated securities are reset at the same time, and determined using the same reference rate, interest rate risk is hedged.

*Liquidity risk*

Liquidity risk is the risk that the Company will encounter difficulty in meeting obligations from its financial liabilities. The liquidity risk is mitigated by timing the payment obligations on its hybrid subordinated securities concurrently with the liquidity terms of the subordinated deposit and by the support received from UniCredit BA.

*Foreign currency risk*

Foreign currency risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in foreign exchange rates. The Company is not subject to foreign currency risk as all assets and liabilities are denominated in the functional currency of the Company.

**BA-CA Finance (Cayman) (2) Limited**  
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*(stated in Euro)*

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**7. Share capital**

		<b>2017</b>	<b>2016</b>
Authorised:			
15,000 ordinary shares of €1 each	€	15,000	15,000
Allotted, called up and fully paid:			
15,000 ordinary shares of €1 each	€	15,000	15,000

The common stock issued by the Company is held entirely by the Parent. Each share has a right to vote and a right to dividends.

**8. Capital risk management**

The Company manages its capital to ensure that the Company will be able to continue as a going concern while maximizing the return to the shareholder through the optimization of the debt and equity balances. The overall strategy remains unchanged from 2016.

## Other Appendices

# 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 ratable 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.