

**Lupin Europe GmbH  
Frankfurt am Main, Germany**

**Long - form Audit Report**

Long-form Report on the Audit of the  
Financial Statements for the Financial Year  
from 1 April 2022 to 31 March 2023

**TRANSLATION**

– German version prevails –

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## Appendices

### 1 Annual Financial Statements

Balance Sheet

Profit and Loss Account

**General Engagement Terms for Wirtschaftsprüfer (German Public Auditors) and Wirtschaftsprüfungsgesellschaften (German Public Audit Firms)**

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We would like to point out that there may be differences due to the use of rounded amounts and percentages because of commercial rounding.

## **1 Audit engagement**

The executive directors of

**Lupin Europe GmbH,  
Frankfurt am Main, Germany**

– hereinafter referred to as “Lupin Europe” or “Company”–

engaged us to conduct a voluntary audit of the annual financial statements for the financial year from 1 April 2022 to 31 March 2023 in accordance with Section 317 of the German Commercial Code *[HGB]*.

In accordance with Section 321 Paragraph 4a of the German Commercial Code *[HGB]* we confirm that our audit was conducted in compliance with the applicable regulations on independence.

Our long-form audit report has been prepared in accordance with the German Generally Accepted Standards for the Preparation of Long-form Audit Reports for the Audits of Financial Statements promulgated by the Institut der Wirtschaftsprüfer (IDW) – Auditing Standard IDW AuS 450 Revised (10.2021).

The scope of the engagement and our responsibilities thereunder, also towards third parties, are governed by our agreements dated 1/2 August 2022 and additionally by the attached “General Engagement Terms for Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften (German Public Auditors and German Public Audit Firms)” as of 1 January 2017.

This long-form audit report has been prepared solely for documenting the audit work performed to the Company and not for third party purposes, to whom we do not accept liability in accordance with the legal position pursuant to Section 323 of the German Commercial Code *[HGB]*.

## **2 Copy of the independent auditor’s report**

We have issued the following Independent Auditor’s Report, on the annual financial statements of Lupin Europe GmbH, Frankfurt am Main, Germany, for the 2022/2023 financial year as set out in Appendix 1:

### **“INDEPENDENT AUDITOR’S REPORT**

To Lupin Europe GmbH, Frankfurt am Main, Germany

#### **Audit opinion**

We have audited the annual financial statements of Lupin Europe GmbH, Frankfurt am Main, Germany, – comprising the balance sheet as at 31 March 2023 and the profit and loss account for the financial year from 1 April 2022 to 31 March 2023.

In our opinion, on the basis of the knowledge obtained in the audit, the accompanying annual financial statements comply, in all material respects, with the requirements of German commercial law applicable to business corporations and give a true and fair view of the Company's assets, liabilities and financial position as at 31 March 2023 and its financial performance for the financial year from 1 April 2022 to 31 March 2023 in compliance with the German Legally Required Accounting Principles and the use of the relief for small capital companies in accordance with Section 264 Paragraph 1 Clause 5 of the German Commercial Code [HGB].

Pursuant to Section 322 Paragraph 3 Sentence 1 of the German Commercial Code [HGB], we declare that our audit has not led to any reservations relating to the legal compliance of the annual financial statements.

**Basis for the audit opinion**

We conducted our audit of the annual financial statements in accordance with Section 317 of the German Commercial Code [HGB] and in compliance with German Generally Accepted Standards for Financial Statement Audits promulgated by the Institut der Wirtschaftsprüfer (IDW). Our responsibilities under those requirements and principles are further described in the "Auditor's responsibilities for the audit of the annual financial statements" section of our auditor's report. We are independent of the Company in accordance with the requirements of German commercial and professional law, and we have fulfilled our other German 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 audit opinion on the annual financial statements.

**Responsibilities of the executive directors for the annual financial statements**

The executive directors are responsible for the preparation of the annual financial statements that comply, in all material respects, with the requirements of German commercial law applicable to business corporations, and that the annual financial statements give a true and fair view of the assets, liabilities, financial position and financial performance of the Company in compliance with German Legally Required Accounting Principles as well as the use of the relief for small capital companies in accordance with Section 264 Paragraph 1 Clause 5 of the German Commercial Code [HGB]. In addition, the executive directors are responsible for such internal control as they, in accordance with German Legally Required Accounting Principles, have determined necessary to enable the preparation of annual financial statements that are free from material misstatement, whether due to fraud or error (i.e., manipulation of the accounting system or misstatement of assets).

In preparing the annual financial statements, the executive directors are responsible for assessing the Company's ability to continue as a going concern. They also have the responsibility for disclosing, as applicable, matters related to going concern. In addition, they are responsible for financial reporting based on the going concern basis of accounting, provided no actual or legal circumstances conflict therewith.

**Auditor's responsibilities for the audit of the annual financial statements**

Our objectives are to obtain reasonable assurance about whether the annual financial statements as a whole are free from material misstatement, whether due to fraud or error, as well as to issue an auditor's report that includes our audit opinions on the annual financial statements.

Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Section 317 of the German Commercial Code [HGB] and in compliance with German Generally Accepted Standards for Financial Statement Audits promulgated by the Institut der Wirtschaftsprüfer (IDW) will always detect a material misstatement. Misstatements can arise from fraudulent acts or errors and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these annual financial statements.

We exercise professional judgment and maintain professional scepticism throughout the audit. We also

- identify and assess the risks of material misstatement of the annual financial, 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 audit opinions. 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 controls.
- obtain an understanding of internal control relevant to the audit of the annual financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an audit opinion on the effectiveness of these systems of the Company.
- evaluate the appropriateness of accounting policies used by the executive directors and the reasonableness of estimates made by the executive directors and related disclosures.
- conclude on the appropriateness of the executive 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 the auditor's report to the related disclosures in the annual financial statements or, if such disclosures are inadequate, to modify our respective audit opinions. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Company to cease to be able to continue as a going concern.

- evaluate the overall presentation, structure and content of the annual financial statements, including the disclosures, and whether the annual financial statements present the underlying transactions and events in a manner that the annual financial statements give a true and fair view of the assets, liabilities, financial position and financial performance of the Company in accordance with German Legally Required Accounting Principles and the use of the relief for small capital companies in accordance with Section 264 Paragraph 1 Clause 5 of the German Commercial Code [HGB].

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

Frankfurt am Main, Germany, 28 April 2023

**Deloitte GmbH**  
Wirtschaftsprüfungsgesellschaft

sig. Thomas Ludwig  
Wirtschaftsprüfer  
[Certified Public Auditor]

sig. Rainer Wiesner  
Wirtschaftsprüfer  
[Certified Public Auditor] ”

### **3 Subject, nature and scope of the audit**

#### **Subject of the audit**

Subject of our audit was

- the accounting records
- the annual financial statements (comprising balance sheet and profit and loss account)

of the Company.

Since the Company has taken advantage of the exemptions for small capital companies within the meaning of Section 267a Paragraph 1 of the German Commercial Code [HGB], it is not obliged to prepare Notes to the financial statements or a management report.

The Company's executive directors are responsible for the accounting records and the preparation of the annual financial statements in accordance with German commercial law taking advantage of the relief in accordance with Section 264, Paragraph 1, Clause 5 of the German Commercial Code [*HGB*]; this also applies to the information which was provided to us concerning these documents. Further information is provided in the section "Responsibilities of the executive directors for the annual financial statements" in the above copy of our auditor's report .

Our responsibility is to express an opinion on these documents and this information based on our audit conducted in accordance with professional auditing standards. Our responsibilities in this context are described in the sections "Basis for the audit opinion" and "Auditor's responsibilities for the audit of the annual financial statements" of our auditor's report.

**Nature and scope of the audit**

The starting point for our audit was the previous year's financial statements, which were audited by us and were issued with an unqualified audit opinion on 29 April 2022; they were adopted on 4 October 2022.

We conducted our audit in accordance with Section 317 of the German Commercial Code [*HGB*] and with German Generally Accepted Standards for the audit of financial statements promulgated by the Institute of Public Auditors in Germany [IDW].

Concerning the main features of our audit approach, we refer to the section "Auditor's responsibilities for the audit of the annual financial statements" in the above copy of our auditor's report in section 2. In order to meet these requirements, we apply our risk- and process-oriented audit approach; for this purpose, we use our audit software LEVVIA. It supports the planning, execution and documentation of the audit.

In accordance with Section 317 Paragraph 4a of the German Commercial Code [*HGB*], the scope of the audit does not include assurance on the future viability of the audited Company or on the effectiveness or efficiency with which the executive directors have conducted or will conduct the affairs of the Company.

We performed the audit in the months of December 2022 (interim audit) and March to April 2023 (main audit).

In accordance with our audit plan, we did not rely on internal controls. Therefore, in accordance with our risk assessment, we did not reduce the scope of our substantive analytical procedures and tests of details of selected transactions and account balances. Tests of details were performed on the basis of judgmental selections of specific items and/or by applying sampling methods.

The following areas were the focus of our audit:

- Valuation of inventories,
- Evidence of other operating expenses.



In order to assess the appropriateness of the Company's accounting function, as part of the interim audit we obtained an overview of the organisation of the accounting records and an understanding of the controls relevant to the audit, and performed appropriate tests of design and implementation, in particular with regard to the relevant internal controls implemented.

The Company has outsourced its bookkeeping to Hormosan Pharma GmbH, Frankfurt am Main, Germany. To assess the appropriateness of the outsourced accounting function, we tested the internal control procedures of the Company with regard to the activities of Hormosan Pharma GmbH and carried out a corresponding system audit at Hormosan Pharma GmbH.

The Company records its inventories by way of inventory counts carried out prior to the year-end. We participated in selected physical inventory counts in an observational capacity. Furthermore, we examined whether the inventory accounting meets the requirements of the respective inventory method.

In auditing account payables, bank balances and provisions, we requested external confirmations from selected suppliers, all banks, selected lawyers and the tax advisor of the Company concerning its debits, claims, rights, credits and obligations.

We did not request external confirmations of affiliated accounts receivable and accounts payable recorded in lists of account balances at the balance sheet date. In this context, we convinced ourselves that accounts receivable and accounts payable were recorded, maintained and processed in such a way that they could be substantiated reliably by other means.

The executive directors provided all information and evidence requested and on 28 April 2023 issued a written letter of representation in accordance with professional standards. In this letter of representation, the executive directors notably confirmed that all transactions which require recognition in the accounting records are recorded in the books presented and that in compliance with the applicable accounting principles the annual financial statements reflect all assets, liabilities (obligations, risks etc.), accruals and special items, all expenses and income as well as required disclosures.

## **4 Findings and explanations on the financial reporting**

### **4.1 Appropriateness of the financial reporting**

#### **4.1.1 Accounting records and other audited documents**

The accounting records comply with the legal requirements including the German Legally Required Accounting Principles. The information derived from the other audited documents is, in all material respects, appropriately presented within the accounting records and the annual financial statements.

**4.1.2 Annual Financial Statements**

The annual financial statements for the 2022/2023 financial year are attached as as part of Appendix 1 to this long form audit report.

The annual financial statements have been derived properly from the accounting records and the other audited documents. The Company complies, in all material respects, with the legal requirements on classification, recognition and valuation, making use of the relief for small capital companies in accordance with Section 264, Paragraph 1, Clause 5 of the German Commercial Code [HGB]. The balance sheet disclosures in accordance with Section 286 Paragraph 1 Clause 5 of the German Commercial Code [HGB] are not required.

**4.2 Explanations concerning the annual financial statements**

Fact shaping measures are presented below.

Lupin Europe sells the drug MigraPen in Germany as a principal on the basis of a commission agent agreement dated 9 September 2020 with an unlimited term. The sister company Hormosan Pharma GmbH sells MigraPen as commission agent in its own name but for the account of Lupin Europe. Lupin Europe reimburses the commission agent for the sales transactions achieved with a commission of 5.5% of the gross remuneration (“gross sales price of any sold product”) and reimburses the commission agent for the marketing and sales expenses incurred with an administrative fee of 6.0% .

This arrangement is based on sales plans that have not yet been achieved. While in the 2020/21 financial year, sales revenues of kEUR 3,659 were planned for 2022/23, in the 2021/22 financial year, sales revenues of only kEUR 1,100 were budgeted for 2022/23. However, in the 2022/23 financial year, sales revenues of only kEUR 585 were actually generated. If this plan is not achieved, the Company will not be able to generate a net profit or positive cash flow from operating activities and will therefore continue to be completely dependent on external financing.

## 4.3 Information on the assets, liabilities, financial position and financial performance

### Multi-year data overview

		<u>2022/23</u>	<u>2021/22</u>	<u>2020/21</u>	<u>2019/20</u>
Sales revenues	EUR '000	585	434	164	0
Cost of materials	EUR '000	643	352	124	0
Other operating income	EUR '000	566	710	1,097	781
Other operating expenditure	EUR '000	894	1,078	1,322	935
Employees (Sec. 267 Para. 5 HGB)	Number	0	0	0	0
Net loss for the year	EUR '000	-451	-339	-206	-155
Equity/Deficit not covered by equity (-) / Equity	EUR '000	874	-176	163	370
Equity ratio	%	55.8	negative	7.8	59.0
Balance sheet total / total assets	EUR '000	1,566	1,923	2,094	627

### Credit lines

The Company does not have its own credit lines with banks.

## 5 Concluding remark

The above long-form report on our audit of the annual financial statements of Lupin Europe GmbH, Frankfurt am Main, Germany, from 1 April 2022 to 31 March 2023 complies with the legal requirements and the German Generally Accepted Standards for the Preparation of Long-form Audit Reports for the Audits of Financial Statements promulgated by the Institut der Wirtschaftsprüfer (IDW) – Auditing Standard IDW AuS 450 Revised (10.2021).

Concerning the unqualified Independent auditor’s report issued by us we refer to Section 2 “Copy of the independent auditor’s report”.

Frankfurt am Main, Germany, 28 April 2023

**Deloitte GmbH**  
Wirtschaftsprüfungsgesellschaft

[signed]  
(Thomas Ludwig)  
Wirtschaftsprüfer  
[Certified Public Auditor]

[signed]  
(Rainer Wiesner)  
Wirtschaftsprüfer  
[Certified Public Auditor]

For publication or issuing to third parties of the annual financial statements with reference to our audit as well as in the case of issuing or reference is made to our audit of the annual financial statements in this context; our renewed statement is required in advance; we expressly refer to No. 6 of the attached IDW-AAB

**Lupin Europe GmbH**  
**Frankfurt am Main, Germany**

**Appendix 1**

Annual Financial Statements for the Financial  
Year from 1 April 2022 to 31 March 2023

Lupin Europe GmbH  
Hanauer Landstraße 139-143, 60314 Frankfurt am Main, Germany  
HRB 110978, District Court Frankfurt am Main, Germany

Balance sheet as at 31 March 2023

Assets			Shareholder's equity and liabilities		
	31.03.2023 EUR	Prior year EUR		31.03.2023 EUR	Prior year EUR
<b>A. FIXED ASSETS</b>			<b>A. EQUITY</b>		
<b>INTANGIBLE ASSETS</b>			<b>I. Subscribed capital</b>	25,000.00	25,000.00
Acquired concessions, industrial property rights and similar rights and values as well as licenses to such rights and values	<u>311,973.00</u>	<u>353,569.40</u>	<b>II. Capital reserves</b>	2,000,000.00	500,000.00
			<b>III. Accumulated losses brought forward</b>	700,741.99	361,939.39
			<b>IV. Net loss for the year</b>	450,543.14	338,802.60
			<b>V. Deficit not covered by equity</b>	<u>0.00</u>	<u>175,741.99</u>
				<u>873,714.87</u>	<u>0.00</u>
<b>B. CURRENT ASSETS</b>			<b>B. PROVISIONS AND ACCRUALS</b>		
<b>I. INVENTORIES</b>			Other provisions and accruals	<u>32,343.32</u>	<u>40,622.92</u>
Goods held for sale	<u>308,421.50</u>	<u>691,960.70</u>			
			<b>C. LIABILITIES</b>		
<b>II. RECEIVABLES AND OTHER ASSETS</b>			1. Trade payables	41,898.43	54,093.24
1. Receivables from the shareholder	78,449.83	231,361.89	Thereof with a remaining term of up to one year EUR 41,898.43 (prior year: EUR 54,093.24)		
2. Receivables from affiliated companies	260,377.18	97,569.92	2. Liabilities due to affiliated companies	617,814.01	1,828,781.45
3. Other assets	<u>55,718.54</u>	<u>38,911.97</u>	Thereof with a remaining term of up to one year EUR 117,814.01 (prior year: EUR 1,828,781.45)		
	<u>394,545.55</u>	<u>367,843.78</u>	Thereof with a remaining term of more than one year EUR 500.000.00 (prior year: EUR 0.00)		
<b>III. BANK BALANCES</b>	<u>550,830.58</u>	<u>334,381.74</u>		<u>659,712.44</u>	<u>1,882,874.69</u>
<b>C. DEFICIT NOT COVERED BY EQUITY</b>	0.00	175,741.99		<u>1,565,770.63</u>	<u>1,923,497.61</u>
	<u>1,565,770.63</u>	<u>1,923,497.61</u>			

Frankfurt am Main, Germany, 28 April 2023

Sunil Makharia

Anjan Selz

Thierry Volle

**Lupin Europe GmbH, Frankfurt am Main, Germany**

**Profit and loss account for the period from 1 April 2022 to 31 March 2023**

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	<u>2022/23</u> EUR	<u>2021/22</u> EUR
1. Sales revenues	585,258.32	433,621.76
2. Other operating income Thereof income from currency translation EUR 1,621.98 (prior year: EUR 149.04)	566,146.52	710,343.08
3. Cost of materials Cost of purchased goods	-643,186.20	-351,954.94
4. Amortisation of intangible fixed assets	-41,596.40	-41,596.40
5. Other operating expenses Thereof expenses from currency translation EUR -295.41 (prior year: EUR -1,902.54)	-893,724.64	-1,077,725.67
6. Other interest and similar income Thereof to affiliated companies EUR -23,314.16 (prior year: EUR -11,166.67)	-23,440.74	-11,490.43
7. Earnings after taxes	<u>-450,543.14</u>	<u>-338,802.60</u>
8. Net loss for the year	<u><u>-450,543.14</u></u>	<u><u>-338,802.60</u></u>

# General Engagement Terms

for

## Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften

[German Public Auditors and Public Audit Firms]

as of January 1, 2017

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### 1. Scope of application

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

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

### 2. Scope and execution of the engagement

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

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

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

### 3. The obligations of the engaging party to cooperate

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

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

### 4. Ensuring independence

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

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

### 5. Reporting and oral information

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

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

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

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

### 7. Deficiency rectification

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

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

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

### 8. Confidentiality towards third parties, and data protection

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

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

### 9. Liability

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

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

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



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

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

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

## 10. Supplementary provisions for audit engagements

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

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

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

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

## 11. Supplementary provisions for assistance in tax matters

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

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

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

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

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

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

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

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

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

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

## 12. Electronic communication

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

## 13. Remuneration

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

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

## 14. Dispute Settlement

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

## 15. Applicable law

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