Fabasoft AG, Linz

FN 98699x

Merger audit report of the merger of FB Beteiligungen GmbH, as the transferring company, with Fabasoft AG, as the acquiring company, in accordance with § 96 para. 2 GmbHG in conjunction with § 220 b AktG

Regional Court Linz, 13 Fr 3725/21 g – 4

Building a better working world

TABLE OF CONTENTS

INDEX OF APPENDICES

For submission to the Regional Court Linz

To the members of the management board of
FB Beteiligungen GmbH, Eferding (transferring company)
and the Management Board of
Fabasoft AG, Linz (acquiring company)

We conducted the merger audit in accordance with § 96 para. 2 GmbHG in conjunction with § 220b AktG of

FB Beteiligungen GmbH, Eferding
FN 323228k

as the transferring company to

Fabasoft AG, Linz
FN 98699x

as of the reporting date 31 December 2020 and submit the following report thereon:

1. AUDIT CONTRACT AND PERFORMANCE OF THE ENGAGEMENT

1.1. Audit Contract

We were appointed through joint request of the managing directors and the management boards of the transferor and transferee companies by resolution of the Regional Court Linz dated July 26th, 2021, 13 Fr 3725/21 g - 4 pursuant to sec. 100 para. 2 GmbHG in conjunction with sec. 220b AktG as joint merger auditors of the agreed merger of

FB Beteiligungen GmbH, Eferding
(hereinafter referred to as the "transferring company"),

to

Fabasoft AG, Linz
(hereinafter referred to as the "acquiring company"),

The companies, represented by the managing directors and the management boards, therefore entered into an audit agreement with us on July 27th, 2021.

Regarding our responsibility and liability as auditors towards the Company and towards third parties, Section 275 of the Austrian Commercial Code (UGB) applies analogously.

1.2. Performance of the engagement

We conducted our audit in accordance with Austrian Standards on Auditing (KFS/PG 13). Those standards require that we comply with ethical requirements, including independence, and plan and perform the engagement, considering the principle of materiality, to provide reasonable assurance about our opinion.

The procedures selected depend on the auditor's judgement and include, but are not limited to, the following:

1. Audit whether the merger agreement complies with the legal requirements and is correct in terms of content.
2. Audit the appropriateness of the share exchange ratio and the amount of the additional cash payments.

We conducted the audit in July 2021 at our premises in Linz.

Erich Lehner, certified public Auditor, is responsible for the proper performance of the engagement.

The required information and evidence were provided to us by the managing directors and the management boards of the companies and the personnel named to us.

The management board and the managing directors of the transferring and the acquiring company have each provided us with a letter of representation and confirmed that all assets and liabilities have been correctly and completely recorded in the closing balance sheet as at 31 December 2020 and that all liability relationships have been disclosed to us.

The documents available to us for our audit were:

1. Merger agreement dated July 28th, 2021 (Annex [1.1]);

2. Closing balance sheet of the transferor company as of December 31st, 2020 and interim balance sheet of the transferor company as of June 30th, 2021 (Annex [1.2]);

3. Joint merger report pursuant to § 220a Stock Corporation Act (merger report) of the managing directors of FB Beteiligungen GmbH and the management board of Fabasoft AG (Annex [1.3]);

4. Merger audit report pursuant to § 220c AktG (merger audit report) of the Supervisory Board of Fabasoft AG (Annex [1.4]);

5. Annual financial statements of the acquiring company as of March 31st, 2021

1.3. Responsibilities of the legal representatives

The legal representatives of the Company are responsible for the proper preparation of the documents referred to in section 1.2. on which the merger audit is based, in particular the merger agreement, the merger reports and the closing balance sheet.

The legal representatives are responsible for the preparation of the closing balance sheet in accordance with the accounting regulations of the Austrian Commercial Code.

This responsibility includes: Design, implementation and maintaining of internal controls relevant to the preparation and fair presentation of financial statements in accordance with the requirements of the Code, in order to ensure that they are free from material misstatement, whether due to fraud or error; the selection and application of appropriate accounting policies; the reasonableness of accounting estimates.

1.4. Auditor's responsibilities

Our responsibility is to express an opinion, based on our audit procedures and in accordance with the provisions of § 96 Abs 2 GmbHG in conjunction with § 220b AktG, as to whether

(1) the merger agreement is complete and appropriate, and

(2) whether the share exchange ratio and the amount of the additional cash payments provided for in the merger agreement are appropriate.

Subject of our engagement is neither an audit of financial statements nor an review of financial statements. Likewise, neither the detection and clarification of criminal offences, such as embezzlement or other acts of breach of trust and irregularities, nor the assessment of the effectiveness and efficiency of the management is the object of our engagement.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

2. AUDIT OF THE MERGER AGREEMENT

We have audited the merger agreement in accordance with the conditions of § 220b AktG and state that it contains all the conditions set out in § 96GmbHG in conjunction with § 220 AktG and that this information is correct. In detail, the merger agreement contains the following conditions listed in § 220 AktG:

1. the name and registered office of the companies involved in the merger;
2. the agreement on the transfer of the assets of each transferring company by way of universal succession;
3. the exchange ratio of the shares, if applicable the amount of the additional cash payments as well as the details for the granting of shares in the acquiring company; if no shares are granted (§ 224), the reasons for this shall be stated;
4. the date from which these shares confer an entitlement to a share in the balance sheet profit, as well as any special features relating to this entitlement;
5. the effective date from which the acts of the transferring companies shall be deemed to have been performed for the account of the acquiring company (merger effective date);
6. the rights granted by the acquiring company to individual shareholders and to holders of preference shares, debentures and profit-sharing rights, or the measures provided for such persons;
7. any special benefits granted to a member of the management board or the supervisory board, an auditor of the companies involved in the merger or an auditor of the merger.

3. AUDIT OF THE APPROPRIATENESS OF THE SHARE EXCHANGE RATIO AND THE ADDITIONAL CASH PAYMENTS

This merger process concerns a downstream merger of the parent company (FB Beteiligungen GmbH) with the subsidiary (Fabasoft AG). In this merger process the shares in the subsidiary in addition to its assets are therefore transferred to the subsidiary as a result of the merger and become its own shares. The shares are used as compensation for the shareholders for the loss of their shares in the Transferring parent company ("passing-through of shares by the subsidiary" / "Durchgangserwerb durch die Untergesellschaft")

In order to ensure that no capital increase is affected in the course of this merger process

i) no separate determination of an exchange ratio pursuant to §§ 224 AktG is undertaken and
ii) as a consequence of this there is no granting of new shares in the Acquiring company pursuant to §§ 224 AktG in conjunction with 225a (3) AktG and therefore
iii) also, no determination of the time as of which new shares have an entitlement to profit.

No additional cash payments were agreed in the merger agreement.

4. SUMMARY AND RESULTS OF THE AUDIT*)

During our audit of the merger between the

FB Beteiligungen GmbH, *Eferding*

as the transferring company and the

Fabasoft AG, *Linz*

as the acquiring company

we have satisfied ourselves of the completeness and appropriateness of the merger agreement and the appropriateness of the exchange ratio and the additional cash payments set out therein, and in summary we state the following:

According with the final result of our dutiful audit pursuant to § 96 section 2 GmbHG in connection with § 220b AktG, the enclosed merger agreement is complete and appropriate. The omission of a separate determination of the share exchange ratio is appropriate. Additional cash payments were not agreed.

This report serves exclusively the information needs of the managing directors and the management boards of the transferring and acquiring company as principal and for submission to the Linz Regional Court and may not be passed on to other third parties, either in whole or in part, without our express consent. The inclusion in the public collection of documents remains unaffected thereby.

Linz, July 28th 2021

Ernst & Young
Wirtschaftsprüfungsgesellschaft m.b.H.

Mag. Erich Lehner mp
Certified Public Accountant

ppa DI (FH) Hans Eduard Seidel mp
Certified Public Accountant

*) This report is a translation of the original report in German, which is solely valid.

ADDITIONAL INFORMATION AND EXPLANATIONS

HOCHLEITNER

Rechtsanwälte GmbH

MERGER AGREEMENT

pursuant to Art. I UmgrStG (Austrian Reorganisation Tax Act)

concluded between

Acquiring company:	Fabasoft AG, FN 98699x Honauerstraße 4, A-4020 Linz
Transferring company:	FB Beteiligungen GmbH, FN 323228k Kirchenplatz 8, 4070 Eferding
With the accession of:	Fallmann & Bauernfeind Privatstiftung, FN 181039i Honauerstraße 2-4, A-4020 Linz

(also referred to jointly in the following as the "Parties to the contract")

as follows:

Preliminary Remarks

R1 The company Fabasoft AG with its registered offices in the political municipality Linz is registered in the company register of regional court Linz as commercial court under the company number FN 98699x (also referred to in the following as the "Acquiring company"). The share capital of the Acquiring company amounts to € 11,000,000.00 and comprises 11,000,000 no-par value shares. Fabasoft AG has been listed on the Frankfurt Stock Exchange since 1999.

R2 The company FB Beteiligungen GmbH with its registered offices in the political municipality Eferding is registered in the company register of the regional court Wels as commercial court under the company number FN 323228k (also referred to in the following as the "Transferring company"). The share capital of the Transferring

company amounts to € 35,000.00 and is settled in full. The sole shareholder of the Transferring company is Fallmann & Bauernfeind Privatstiftung, FN 181039i, with an assumed and fully paid capital contribution amounting to € 35,000.00, which corresponds to a participation of 100%.

R3 The Transferring company is a shareholder of the Acquiring company and holds 490,286 no-par value shares in the Acquiring company, which corresponds to a participation of 4.46%. These shares are deposited with the Raiffeisenlandesbank OÖ AG.

R4 The sole shareholder of the Transferring company, i.e. Fallmann & Bauernfeind Privatstiftung (FN 181039i), is also a direct shareholder of the Acquiring company and holds 4,228,228 no-par value shares, which corresponds to a participation of 38.44%.

R5 Fallmann & Bauernfeind Privatstiftung therefore holds a 42.90% participation in the Acquiring company - a 4.46% participation held indirectly via the Transferring company and a 38.44% direct participation.

R6 The Transferring and the Acquiring company have both existed for more than 2 years. Both the Acquiring and the Transferring company have a positive market value on the effective date of the merger as well as on the present day and both have a positive equity book value. In addition a positive market value of the assets to be transferred is given even when the value of the participation of the Transferring company in the Acquiring company and the distribution of profits on 15 July 2021 amounting to € 100,000.00 are not taken into account.

R7 It is now intended to merge FB Beteiligungen GmbH, FN 323228k, as the Transferring company as at the effective merger date of 31.12.2020, by way of universal succession pursuant to § 231 in conjunction with § 224 (3) AktG on passing on of the shares of the Transferring company to the Acquiring company, as a result of the transfer of its assets in their entirety with all rights and obligations and without recourse to liquidation, downstream with Fabasoft AG, FN 98699x, as the Acquiring company, taking full advantage of the tax benefits provided for in particular under Article I of the Austrian Reorganisation Tax Act (UmgrStG) and to establish a (purely) direct participation of Fallmann & Bauernfeind Privatstiftung in the Acquiring company amounting to 42.90%.

R8 A dividend of EUR 0.85 per dividend-bearing no-par value share for the fiscal year 2020/2021 was resolved by the Annual General Meeting of Fabasoft AG held on 05 July 2021. Payment of the dividend was effected on 14 July 2021, less (any) 27.5% withholding tax on capital in compliance with statutory provisions, by means of a credit by the custodian bank. The dividends for the fiscal year from 01 April 2020 to 31 March 2021 have already been received by the Transferring company and the Parties to the contract intend to transfer the dividends for the fiscal year 2020/2021 to the sole shareholder of the Transferring company in the course of the passing on of the shares. For the purpose of transparency, the dividends already included in the assets of the Transferring company are therefore accounted for clearly.

The Parties to the contract now agree as follow:

1. Merger agreement

1.1 The Transferring company is to be merged with the Acquiring company by way of universal succession as a result of the transfer of its assets in their entirety with all rights and obligations and without recourse to liquidation based on the closing balance sheet as at 31 December 2020 drawn up pursuant to corporate law (**Annex/1**) as well as the interim balance sheet as at 30 June 2021 (**Annex/2**), whereby full advantage of the tax benefits provided for in particular under Article I of the UmgrStG shall be taken for this transaction.

2. Merger process

2.1 This merger process concerns a downstream-merger of the parent company (FB Beteiligungen GmbH) with the subsidiary (Fabasoft AG). In this merger process the shares in the subsidiary in addition to its assets are therefore transferred to the subsidiary as a result of the merger and become its own shares. This is permissible pursuant to § 224 (3) AktG as the shares are used as compensation for the shareholders for the loss of their shares in the Transferring parent company (“passing-through of shares by the subsidiary” / “Durchgangserwerb such die Untergesellschaft”).

A merger-related capital increase in the subsidiary (Acquiring company) shall therefore not take place (§ 224 (3) AktG).

In the course of the passing on of the shares Fallmann & Bauernfeind Privatstiftung shall therefore acquire the participation of the Transferring company in the Acquiring company (490,286 no-par value shares, hence 4.46%) as the sole shareholder of the Transferring company ipso iure and no additional legal act is required. As a consequence Fallmann & Bauernfeind Privatstiftung, FN 181039i, holds a direct participation of 42.90% in the Acquiring company.

The Acquiring company therefore acquires by way of universal successor the shares transferred to itself permissibly as its own shares and must pass ("auskehren") these on directly to the sole shareholder of the Transferring company.

2.2 In order to ensure that no capital increase is effected in the course of this merger process

(i) no separate determination of an exchange ratio pursuant to §§ 224 AktG in conjunction with 225a (3) AktG is undertaken and
(ii) as a consequence of this there is no granting of new shares in the Acquiring company pursuant to §§ 224 AktG in conjunction with 225a (3) AktG and therefore
(iii) also no determination of the time as of which new shares have an entitlement to profit.

In the absence of the need to grant new shares and any additional cash payment, the appointment of an escrow agent pursuant to § 225a AktG is not necessary.

2.3 No special benefits shall be granted to the members of the managing board or supervisory board, the annual auditor or merger auditor. Neither are any special rights granted to individual shareholders, holders of preferential shares, bonds and profit participation rights.

2.4 This merger process is a simplified merger pursuant to § 231 AktG, as the participation of the Transferring company in the Acquiring company is on the one hand less than 10% of the share capital of the Acquiring company while on the other hand in the case of a downstream merger the shares to be passed on are not counted, as these are acquired directly from the Transferring company (see in this context *Szep* in *Artmann/Karollus*, AktG III[6] § 231 (10)). As the conditions for a simplified merger pursuant to § 231 AktG are objectively satisfied, the managing

board has waived the necessity of the passing of a resolution of the general meeting of the Acquiring company.

2.5 In the notification pursuant to § 221a (1) AktG the shareholders are explicitly informed of their right pursuant to § 231 (3) AktG , whereby shareholders that hold over 5% of the shares of the Acquiring company either alone or jointly may, until expiry of one month after the passing of the resolution of the shareholders of the Transferring company, demand the convocation of a general meeting in which a resolution on the approval of the merger is passed. The Articles of Association can link the right to demand the convocation of the annual general meeting to a lower holding of shares in the share capital (this is currently not the case).

2.6 With regard to the publication of the documents pursuant to § 221a (1) (2) AktG, that day is decisive for this merger pursuant to § 231 AktG on which the general meeting of the Transferring company is convened. In the absence of a waiver, the publication or provision of the documents (§ 232 (2) AktG) is effected at the Acquiring company. The merger agreement shall also be filed in the company register of the Acquiring company and notification of such must be published in the bulletins of the company (or in compliance with § 221a (1a) AktG). In the event of a significant change in the net assets and earning performance between conclusion of the merger agreement (drawing up of the draft) and the passing of the resolution in favour of the merger in the Transferring company, additional information for the shareholders by means of notification pursuant to § 221a (5) AktG and where appropriate communication pursuant to § 108 Abs. 5 AktG is required. Proof of the publication pursuant to § 221a (1) (or 1a) AktG and of the declaration pursuant to § 221a (1) (or 1a) AktG and with regard to the declaration pursuant to § 231 (3) AktG is to be furnished by the managing board pursuant to § 225 (2) (3) AktG in the course of registration in the company register.

2.7 Fallmann & Bauernfeind Privatstiftung hereby undertakes to completely indemnify and hold the Acquiring company harmless for liabilities of the Transferring company not reported in the closing balance sheet of the Transferring company as at 31 December 2020 or that occur at a later date.

3.

3.1 This merger process is based on the closing balance sheet of the Transferring company as at 31 December 2020 and the interim balance sheet as at 30 June 2021. The continuance of book values is applied to the merger process pursuant to fiscal and corporate law. It is hereby noted that due to a lack of any fiscal balance deviation the tax merger balance as at 31 December 2020 (**Annex/3**) complies with the closing balance sheet and the distribution of profits effected in the retrospective period in compliance with § 2 (4) UmgrStG is disclosed as a liability item.

3.2 It is noted that the annual financial statements including notes of the transferring company as at 31 December 2020 have already been submitted to the competent company register.

3.3 31 December 2020 has been agreed as the effective date of the merger of the Transferring company in the Acquiring company.

3.4 The Acquiring company hereby confirms it has audited adequately and closely the closing balance sheet of the Transferring company as at 31 December 2020 drawn up pursuant to corporate law as well as the interim balance sheet upon which the merger is based. The Acquiring company has informed itself in detail of the operation and company of the Transferring company and gained clarity and knowledge of the assets that constitute the subject of agreement.

3.5 In compliance with § 108 (3-5) AktG the following documents are provided by each company involved at the latest during one month before the day for which the general meeting of the Transferring company is convoked:

(i) the merger agreement or a draft thereof (§ 220 § (1)(2) AktG)
(ii) the annual financial statements and the management reports and where applicable the corporate governance reports of the companies involved in the merger for the previous 3 fiscal years as well as the closing balance sheet;
(iii) the interim balance sheet;
(iv) the merger reports of the managing boards of the companies involved in the merger (§ 220a AktG);
(v) the audit reports (§ 220b AktG) and
(vi) the supervisory board report (§ 220c AktG)).

4.

4.1 The Transferring company shall cease to exist with the expiry of the effective date of the merger 31 December 2020 and its assets in their entirety and without recourse to liquidation transferred to the Acquiring company by way of universal succession.

5.

5.1 The Acquiring company grants no special rights pursuant to § 220 (2) (6) AktG and no such measures are planned.

6.

6.1 Full advantage will be taken for this merger process of the tax benefits provided for in particular under Article I UmgrStG. The Acquiring company hereby declares that the taxation of hidden reserves in the company for the assets transferred to it is not and will in no way be restricted.

6.2 It is hereby noted that the assets of the Transferring company do not include any real property and rights equivalent to real property pursuant to the Real Estate Transfer Tax Act.

6.3 Pursuant to the retroactive function in compliance with § 5 UmgrStG the Transferring company is entitled to the net dividends paid out to the Transferring company in compliance with the resolution of the annual general meeting of the Acquiring company held on 05 July 2021 and the Acquiring company hereby undertakes to transfer (forward) the net dividends distributed for the 490,286 no-par value shares to Fallmann & Bauernfeind Privatstiftung within 7 days after the merger becoming legally effective to the bank account to be indicated separately by Fallmann & Bauerfeind Privatstiftung and to transfer the associated legally based recovery claim for withholding tax in due form to Fallmann & Bauernfeind Privatstiftung.

6.4 It is hereby noted that the Transferring company has paid a minimum corporate income tax, which passes to the Acquiring company. An asset amounting to [€ 43,577.69] is therefore incurred in the Transferring company, which passes to the Acquiring company in the course of the merger where it is retained as a compensation of expenses.

Fallmann & Bauernfeind Privatstiftung hereby forgoes any compensationary measure in this connection as well as any capital increase.

6.5 This merger agreement is subject to the conditions precedent of (i) timely filing with the company register and (ii) submission of the declaration of the managing board of the Acquiring company that the shareholders of the Acquiring company have waived the exercise of their right pursuant to § 231 (3) AktG or have forgone this right in writing.

7.

7.1 In compliance with the hereby agreed obligation of completion of all Parties to the contract, these undertake to submit the declarations needed for completing and implementing this agreement in the prescribed form, that are required, necessary and otherwise useful in this respect. As a precautionary measure and based on their desired and intended universal successor all Parties to the contract grant in particular their explicit consent and agreement

(i) to the transfer of the existing bank contracts to the Acquiring company in compliance with banking law;
(ii) to the necessary conveyance of the existing business licences to the Acquiring company stipulated by trade regulations/administrative law;
(iii) to the transfer of the share portfolio.

7.2 Furthermore, the Parties to the contract are obliged to determine and agree those supplements and amendments to this agreement necessary for the complete and unrestricted achievement of the reorganisation tax objective. The intent of the Parties to the contract is aimed without restriction at achievement of this objective.

7.3 This merger is effected within the Group and this process is not subject to notification under antitrust law.

7.4 The Acquiring company bears sole liability for all costs, taxes, duties and expenses associated with the preparation, fees and implementation of this agreement as well as those incurred as a result of this merger, whereby the above-mentioned compensation of expenses is intended to offset such costs.

Place/date

[signed by]

Fabasoft AG, FN 98699x

FB Beteiligungen GmbH, FN 323228k

With accession of:

Fallmann & Bauernfeind Privatstiftung
FN 181039i

Disclaimer:

This is a working translation from the German version. In case of discrepancies, the German version shall prevail.

JAHRESABSCHLUSS
UNTERSCHRIFTENEXEMPLAR
31.12.2020

FB Beteiligungen GmbH

Eferding

zobl.bauer.
SALZBURG

Mildenburggasse 4a
5020 Salzburg | Austria
T +43 662 63 9 71-0
F +43 662 62 45 45
salzburg@zobl-bauer.at

www.zobl-bauer.at

FB Beteiligungen GmbH
Kirchenplatz 8
4070 Eferding

An
zobl.bauer. Salzburg Steuerberatung und
Wirtschaftsprüfung GmbH
Mildenburggasse 4a
5020 Salzburg

Vollständigkeitserklärung

Diese Vollständigkeitserklärung wird in Verbindung mit dem von Ihnen erstellten Jahresabschluss für das Geschäftsjahr 2020 abgegeben. Durch die Erklärung bestätigen wir Ihnen, dass Sie aufgrund der Ihnen übergebenen Unterlagen und der Ihnen gegebenen Informationen in die Lage versetzt worden sind, einen Jahresabschluss zu erstellen, der ein möglichst getreues Bild der Vermögens- und Finanzlage des Unternehmens zum 31.12.2020 und der Ertragslage des Unternehmens im Geschäftsjahr vom 01.01.2020 bis zum 31.12.2020 in Übereinstimmung mit UGB oder IFRS vermittelt.

Ihnen als mit der Erstellung des oben angeführten Jahresabschlusses beauftragtem Wirtschaftstreuhänder erkläre ich / erklären wir als zur Aufstellung des Jahresabschlusses verpflichtete(s/r) Vorstandsmitglied(er) / Geschäftsführer / geschäftsführende(r) Gesellschafter / Einzelunternehmer Folgendes:

Die Belege, Bücher und Bestandsnachweise sowie die Auskünfte, die von uns für die Erstellung des Abschlusses an Sie übermittelt wurden, wurden Ihnen vollständig und nach bestem Wissen und Gewissen gegeben.

In den vorgelegten Büchern und Aufzeichnungen sind sämtliche Geschäftsvorfälle lückenlos und vollständig aufgezeichnet, die für das oben genannte Geschäftsjahr buchungspflichtig geworden sind.

Ich habe / Wir haben sichergestellt, dass im Rahmen der gesetzlichen Aufbewahrungspflichten und -fristen auch die nicht ausgedruckten Daten jederzeit verfügbar sind und innerhalb angemessener Frist lesbar gemacht werden können.

Die Verantwortung für die Aufstellung des Jahresabschlusses sowie für die Erstellung des Lageberichts in Übereinstimmung mit den anzuwendenden Rechnungslegungsvorschriften liegt bei mir / uns. Diese Verantwortung beinhaltet insbesondere grundsätzliche Entscheidungen über die Abbildung von Geschäftsvorfällen bzw Vermögensgegenständen und Schulden im Jahresabschluss, die Auswahl und Anwendung angemessener Bilanzierungs- und Bewertungsmethoden und die Vornahme von Schätzungen, die unter Berücksichtigung der gegebenen Rahmenbedingungen angemessen erscheinen.

In dem von Ihnen erstellten Jahresabschluss sind alle bilanzierungspflichtigen Vermögensgegenstände, Verpflichtungen, Wagnisse und Abgrenzungen berücksichtigt, sämtliche Aufwendungen und Erträge enthalten sowie alle erforderlichen Angaben gemacht.

Ich bin / Wir sind verantwortlich für die Verhinderung und Aufdeckung von Verstößen durch Mitarbeiter und für die Einrichtung und Aufrechterhaltung eines geeigneten internen Kontrollsystems.

Ich bin / Wir sind verantwortlich für die Einrichtung eines angemessenen Rechnungslegungs- und internen Kontrollsystems, um sicherzustellen, dass Geschäfte mit und zwischen nahestehenden Unternehmen und Personen in den Buchführungsunterlagen als solche festgehalten und entsprechend den anzuwendenden Rechnungslegungsvorschriften offengelegt werden.

Alle für die Erstellung des Jahresabschlusses notwendigen Aufzeichnungen, Dokumentationen und Informationen, insbesondere zu den Risiken, für die Rückstellungen gebildet werden müssen, zu drohenden

Verlusten aus schwebenden Geschäften, zu bestehenden und drohenden Rechtsstreitigkeiten und sonstigen Auseinandersetzungen und zur Werthaltigkeit von Forderungen, wurden Ihnen mitgeteilt. Derartige Informationen bzw Sachverhalte können beispielsweise sein:

a) Ereignisse nach dem Abschlussstichtag, die für die Bewertung am Abschlussstichtag von Bedeutung sind,

b) besondere Umstände, die der Fortführung des Unternehmens oder der Vermittlung eines möglichst getreuen Bildes der Vermögens-, Finanz- und Ertragslage des Unternehmens entgegenstehen oder die Aussagefähigkeit des Jahresabschlusses wesentlich beeinflussen,

c) eine Übersicht über die Unternehmen, mit denen das Unternehmen im Geschäftsjahr oder am Abschlussstichtag verbunden war bzw mit denen im Geschäftsjahr oder am Abschlussstichtag ein Beteiligungsverhältnis bestand,

d) Verbindlichkeiten aus der Begebung und Übertragung von Wechseln, aus Bürgschaften, aus Garantien und aus sonstigen gesetzlichen und vertraglichen Haftungsverhältnissen,

e) Patronatserklärungen,

f) gesetzliche und vertragliche Sicherheiten für Verbindlichkeiten (einschließlich Eventualverbindlichkeiten), z.B. Pfandrechte, Sicherungseigentum und Eigentumsvorbehalte an bilanzierten Vermögensgegenständen,

g) Rückgabeverpflichtungen für in der Bilanz ausgewiesene Vermögensgegenstände und Rücknahmeverpflichtungen für nicht in der Bilanz ausgewiesene Vermögensgegenstände,

h) derivative Finanzinstrumente (zB fremdwährungs-, zins-, wertpapier- und indexbezogene Optionsgeschäfte und Terminkontrakte, Zins- und Währungsswaps),

i) Verträge oder sonstige rechtliche Sachverhalte, die wegen ihres Gegenstands, ihrer Dauer, möglicher Vertragsstrafen oder aus anderen Gründen für die Beurteilung der wirtschaftlichen Lage des Unternehmens von Bedeutung sind oder werden können (zB Verträge mit Lieferanten, Abnehmern, Gesellschaftern oder verbundenen Unternehmen sowie Arbeitsgemeinschafts-, Versorgungs, Options, Leasing- und Treuhandverträge sowie Verträge über Verpflichtungen, die aus dem Gewinn zu erfüllen sind), und

j) die finanziellen Verpflichtungen aus diesen Verträgen sowie sonstige wesentliche finanzielle Verpflichtungen (z.B. aus in naher Zukunft erforderlichen Großreparaturen).

Bestätigt im Namen der
FB Beteiligungen GmbH

Unterschriften des gesetzlichen Vertreters/der gesetzlichen Vertreter
mit Angabe des Datums der Unterfertigung

Aktiva	31.12.2020 EUR	31.12.2019 EUR
A. Anlagevermögen		
I. Finanzanlagen		
1. Wertpapiere (Wertrechte) des Anlagevermögens	**320.460,39**	**320.460,39**
B. Umlaufvermögen		
I. Forderungen und sonstige Vermögensgegenstände		
1. sonstige Forderungen und Vermögensgegenstände	106.605,62	108.971,01
II. Guthaben bei Kreditinstituten	40.386,07	74.725,99
	146.991,69	**183.697,00**
Summe Aktiva	**467.452,08**	**504.157,39**

Passiva	31.12.2020 EUR	31.12.2019 EUR
A. Eigenkapital		
I. eingefordertes Stammkapital	35.000,00	35.000,00
übernommenes Stammkapital	*35.000,00*	*35.000,00*
einbezahltes Stammkapital	*35.000,00*	*35.000,00*
II. Bilanzgewinn	429.038,08	467.038,19
davon Gewinnvortrag	*127.038,19*	*230.089,09*
	464.038,08	**502.038,19**
B. Rückstellungen		
1. sonstige Rückstellungen	**3.300,00**	**1.800,00**
C. Verbindlichkeiten		
1. Verbindlichkeiten aus Lieferungen und Leistungen	**114,00**	**319,20**
davon mit einer Restlaufzeit von bis zu einem Jahr	*114,00*	*319,20*
davon mit einer Restlaufzeit von bis zu einem Jahr	*114,00*	*319,20*
Summe Passiva	**467.452,08**	**504.157,39**

GEWINN- UND VERLUSTRECHNUNG

01.01.2020 bis 31.12.2020

		2020 EUR	2019 EUR
1.	**sonstige betriebliche Aufwendungen** Verwaltungsaufwand	**16.686,01**	**8.264,91**
2.	**Zwischensumme aus Z 1 bis 1 (Betriebsergebnis)**	**-16.686,01**	**-8.264,91**
3.	**Erträge aus anderen Wertpapieren**	**318.685,90**	**245.143,00**
4.	**sonstige Zinsen und ähnliche Erträge**	**0,00**	**71,01**
5.	**Zwischensumme aus Z 3 bis 4 (Finanzergebnis)**	**318.685,90**	**245.214,01**
6.	**Ergebnis vor Steuern (Summe aus Z 2 und Z 5)**	**301.999,89**	**236.949,10**
7.	**Ergebnis nach Steuern**	**301.999,89**	**236.949,10**
8.	**Jahresüberschuss**	**301.999,89**	**236.949,10**
9.	**Gewinnvortrag aus dem Vorjahr**	**127.038,19**	**230.089,09**
10.	**Bilanzgewinn**	**429.038,08**	**467.038,19**

Verbindlichkeiten

Verbindlichkeiten wurden mit ihrem Erfüllungsbetrag angesetzt.

Erläuterungen der Bilanz und der Gewinn- und Verlustrechnung

Erläuterungen zur Bilanz

Anlagevermögen

Die Entwicklung der einzelnen Posten des Anlagevermögens und die Aufgliederung der Jahresabschreibung nach einzelnen Posten sind in beiliegendem Anlagenspiegel dargestellt.

Verbindlichkeiten

Es gibt keine Verbindlichkeiten mit einer Restlaufzeit von mehr als fünf Jahren und keine Verbindlichkeiten, für die dingliche Sicherheiten bestellt wurden.

Erläuterungen zur Gewinn- und Verlustrechnung

Die Gewinn- und Verlustrechnung wurde nach dem Gesamtkostenverfahren erstellt. Die Aufgliederung der Ertrags- und Aufwandspositionen ist den beiliegenden Erläuterungen zur Bilanz und Gewinn- und Verlustrechnung zu entnehmen.

Sonstige Angaben

Im Geschäftsjahr waren folgende Personen als Geschäftsführer tätig:
Dr. Hochleitner Johannes
Mag. Kieberger Christian

Im Geschäftsjahr waren im Durchschnitt 0 Arbeitnehmer (Vorjahr: 0 Arbeitnehmer) beschäftigt.

ANLAGENSPIEGEL

zum 31.12.2020

	Anschaffungs-/Herstellungskosten					kumulierte Abschreibungen					Buchwerte	
	Stand 01.01.2020 EUR	Zugänge EUR	Abgänge EUR	Umbuchungen EUR	Stand 31.12.2020 EUR	Stand 01.01.2020 EUR	Abschreibungen EUR	Zuschreibungen EUR	Abgänge EUR	Stand 31.12.2020 EUR	Stand 01.01.2020 EUR	Stand 31.12.2020 EUR
A. Anlagevermögen												
I. Finanzanlagen												
1. Wertpapiere (Wertrechte) des Anlagevermögens	**320.460,39**	**0,00**	**0,00**	**0,00**	**320.460,39**	**0,00**	**0,00**	**0,00**	**0,00**	**0,00**	**320.460,39**	**320.460,39**

Jahresabschluss 31.12.2020 FN 323228k

FIRMA

FB Beteiligungen GmbH

Für die Zuordnung im Firmenbuch ist nicht der Firmenwortlaut, sondern ausschließlich die übermittelte Firmenbuchnummer maßgeblich.

GESCHÄFTSJAHR

vom 01.01.2020 bis 31.12.2020

Gesellschaft mit beschränkter Haftung

Einordnung klein

VORANGEGANGENES GESCHÄFTSJAHR

vom 01.01.2019 bis 31.12.2019

Gesellschaft mit beschränkter Haftung

PDF GENERIERT AM

01.06.2021

UNTERZEICHNET VON

PRÜFWERT: 93f40edf1b5c2aea6384d9aef00adaf8

Dr. Johannes Hochleitner, geb 24.11.1958

am 15.06.2021

.....

Mag. Christian Kieberger, geb 25.11.1971

am 15.06.2021

.....

Antrag auf Gebührenbefreiung

Der Antrag auf Gebührenbefreiung gemäß Anmerkung 15a zu TP 10 GGG für elektronische Einreichung bei Umsatzerlösen bis zu EUR 70.000,-- in den zwölf Monaten vor dem Abschlussstichtag des einzureichenden Jahresabschlusses wurde gestellt. (Dieser Hinweis wird nicht veröffentlicht.)

Die Umsatzerlöse betragen 0,00. (Dieser Hinweis wird nicht veröffentlicht.)

Auszug aus der Bilanz

	in EUR	Vorjahr in TEUR
AKTIVA	**467.452,08**	**504**
Anlagevermögen	**320.460,39**	**320**
Immaterielle Vermögensgegenstände	**0,00**	**0**
Sachanlagen	**0,00**	**0**
Finanzanlagen	**320.460,39**	**320**
Umlaufvermögen	**146.991,69**	**184**
Vorräte	**0,00**	**0**
Forderungen und sonstige Vermögensgegenstände	**106.605,62**	**109**
Wertpapiere und Anteile	**0,00**	**0**
Kassenbestand, Schecks, Guthaben bei Kreditinstituten	**40.386,07**	**75**
Rechnungsabgrenzungsposten	**0,00**	**0**
Aktive latente Steuern	**0,00**	**0**
PASSIVA	**467.452,08**	**504**
Eigenkapital	**464.038,08**	**502**
eingefordertes Stammkapital	**35.000,00**	**35**
Stammkapital	**35.000,00**	**35**
davon eingezahlt	**35.000,00**	**35**
Kapitalrücklagen	**0,00**	**0**
Gewinnrücklagen	**0,00**	**0**
Bilanzgewinn	**429.038,08**	**467**
davon Gewinnvortrag	**127.038,19**	**230**
Rückstellungen	**3.300,00**	**2**
Verbindlichkeiten	**114,00**	**0**
Rechnungsabgrenzungsposten	**0,00**	**0**

Anlagenspiegel

Teil 1 — Anschaffungs- und Herstellungskosten — in EUR

	Stand 01.01.2020	Zugänge	davon aktivierte Zinsen für Fremdkapital	Umbuchungen	Abgänge	Stand 31.12.2020
Anlagevermögen	**320.460,39**	**0,00**	**0,00**	**0,00**	**0,00**	**320.460,39**
Immaterielle Vermögensgegenstände	**0,00**	**0,00**	**0,00**	**0,00**	**0,00**	**0,00**
Sachanlagen	**0,00**	**0,00**	**0,00**	**0,00**	**0,00**	**0,00**
Finanzanlagen	**320.460,39**	**0,00**	**0,00**	**0,00**	**0,00**	**320.460,39**

Anlagenspiegel

Teil 2 — Kumulierte Wertberichtigungen (Abschreibungen) — in EUR

	Kumulierte Wertberichtigungen 01.01.2020	laufende Abschreibungen	laufende Zuschreibungen	Wertberichtigungen auf Zugänge
Anlagevermögen	**0,00**	**0,00**	**0,00**	**0,00**
Immaterielle Vermögensgegenstände	**0,00**	**0,00**	**0,00**	**0,00**
Sachanlagen	**0,00**	**0,00**	**0,00**	**0,00**
Finanzanlagen	**0,00**	**0,00**	**0,00**	**0,00**

Anlagenspiegel

Teil 3 — Kumulierte Wertberichtigungen (Abschreibungen) — in EUR

	Wertberichtigungen auf Umbuchungen	Wertberichtigungen auf Abgänge	Kumulierte Wertberichtigungen 31.12.2020
Anlagevermögen	**0,00**	**0,00**	**0,00**
Immaterielle Vermögensgegenstände	**0,00**	**0,00**	**0,00**
Sachanlagen	**0,00**	**0,00**	**0,00**
Finanzanlagen	**0,00**	**0,00**	**0,00**

Anlagenspiegel

Teil 4 Nettobuchwerte in EUR

	Buchwert 01.01.2020	Buchwert 31.12.2020
Anlagevermögen	**320.460,39**	**320.460,39**
Immaterielle Vermögensgegenstände	**0,00**	**0,00**
Sachanlagen	**0,00**	**0,00**
Finanzanlagen	**320.460,39**	**320.460,39**

FB Beteiligungen GmbH

Zwischenabschluss zum 30.6.2021

Aktiva	30.06.2021 EUR	31.12.2020 EUR
A. Anlagevermögen		
I. Finanzanlagen		
1. Wertpapiere (Wertrechte) des Anlagevermögens Festverz. Wertpapiere des AV	**320.460,39**	**320.460,39**
B. Umlaufvermögen		
I. Forderungen und sonstige Vermögensgegenstände		
1. sonstige Forderungen und Vermögensgegenstände Sonstige Forderungen	107.479,62	106.605,62
II. Guthaben bei Kreditinstituten Raika OÖ 2.698.215	36.159,95	40.386,07
	143.639,57	**146.991,69**
Summe Aktiva	**464.099,96**	**467.452,08**

Passiva	30.06.2021 EUR	31.12.2020 EUR
A. Eigenkapital		
I. eingefordertes Stammkapital		
Stammkapital	35.000,00	35.000,00
einbezahltes Stammkapital	*35.000,00*	*35.000,00*
II. Bilanzgewinn		
Jahresverlust	-1.538,12	0,00
Jahresgewinn	0,00	301.999,89
Gewinnausschüttung	0,00	-340.000,00
Gewinnvortrag	429.038,08	467.038,19
	427.499,96	429.038,08
	462.499,96	**464.038,08**
B. Rückstellungen		
1. sonstige Rückstellungen		
Rückst. f. Rechts- u. Ber. Ko.	**1.600,00**	**3.300,00**
C. Verbindlichkeiten		
1. Verbindlichkeiten aus Lieferungen und Leistungen		
Verbindlichkeiten LuL Sammelk.	**0,00**	**114,00**
Summe Passiva	**464.099,96**	**467.452,08**

GEWINN- UND VERLUSTRECHNUNG

01.01.2021 bis 30.06.2021

	2021 EUR	2020 EUR
1. sonstige betriebliche Aufwendungen		
Verwaltungsaufwand		
Gebühren 0%	0,00	48,00
Rechtsberatung 0%	0,00	14.400,00
Steuerberatung 0%	1.470,90	1.614,00
Spesen des Geldverkehrs 0%	67,22	624,01
	1.538,12	**16.686,01**
2. Zwischensumme aus Z 1 bis 1 (Betriebsergebnis)	**-1.538,12**	**-16.686,01**
3. Erträge aus anderen Wertpapieren		
Wertpapiererträge	**0,00**	**318.685,90**
4. Zwischensumme aus Z 3 bis 3 (Finanzergebnis)	**0,00**	**318.685,90**
5. Ergebnis vor Steuern (Summe aus Z 2 und Z 4)	**-1.538,12**	**301.999,89**
6. Ergebnis nach Steuern	**-1.538,12**	**301.999,89**
7. Jahresfehlbetrag/-überschuss	**-1.538,12**	**301.999,89**
8. Gewinnvortrag aus dem Vorjahr		
Gewinnausschüttung	0,00	-340.000,00
Gewinnvortrag	429.038,08	467.038,19
	429.038,08	**127.038,19**
9. Bilanzgewinn	**427.499,96**	**429.038,08**

HOCHLEITNER

Rechtsanwälte GmbH

Joint merger report

of the managing board of Fabasoft AG, FN 98699x,
Honauerstraße 4, A-4020 Linz
and
and the management of FB Beteiligungen GmbH, FN 323228k,
Kirchenplatz 8, 4070 Eferding

concerning the merger of FB Beteiligungen GmbH as the Transferring company with Fabasoft AG as the Acquiring company

as follows:

1. Companies involved

1.1 The company Fabasoft AG registered in the company register of the regional court Linz as commercial court under the company number FN 98699x with its registered offices in the political municipality Linz (Acquiring company). The share capital of Fabasoft AG amounts to € 11,000,000.00 and comprises 11,000,000 no-par value shares. Fabasoft AG has been listed on the Frankfurt Stock Exchange since 1999.

1.2 The company FB Beteiligungen GmbH registered in the company register of the regional court Wels as commercial court under the company number FN 323228k with its registered offices in the political municipality Eferding (Transferring company). The share capital of FB Beteiligungen GmbH amounts to € 35,000.00 and is settled in full. The sole shareholder of FB Beteiligungen GmbH is Fallmann & Bauernfeind Privatstiftung, FN 181039i, with an assumed and fully paid capital contribution amounting to € 35,000.00, which corresponds to a participation of 100%.

1.3 FB Beteiligungen GmbH is a shareholder of Fabasoft AG and holds 490,286 no-par value shares in Fabasoft AG, which corresponds to a participation of 4.46%.

1.4 The sole shareholder of FB Beteiligungen GmbH, i.e. Fallmann & Bauernfeind Privatstiftung, is also a direct shareholder of the Acquiring company and holds 4,228,228 no-par value shares, which corresponds to a participation of 38.44%.

1.5 Fallmann & Bauernfeind Privatstiftung therefore holds a 42.90% participation in Fabasoft AG - a 4.46% participation held indirectly via FB Beteiligungen GmbH and a 38.44% direct participation.

2. Merger

2.1 It is now intended to merge FB Beteiligungen GmbH, FN 323228k, as the Transferring company as at the effective merger date of 31.12.2020, by way of universal succession pursuant to § 231 in conjunction with § 224 (3) AktG on passing on of the shares of the Transferring company to the Acquiring company, as a result of the transfer of its assets in their entirety with all rights and obligations and without recourse to liquidation, downstream with Fabasoft AG, FN 98699x, as the Acquiring company, taking full advantage of the tax benefits provided for in particular under Article I of the Austrian Reorganisation Tax Act (UmgrStG).

2.2 This merger process concerns a downstream merger of the parent company (FB Beteiligungen GmbH) with the subsidiary (Fabasoft AG). In this merger process the shares in the subsidiary in addition to its assets are therefore transferred to the subsidiary as a result of the merger and become its own shares.

This is permissible pursuant to § 224 (3) AktG as the shares are used as compensation for the shareholders for the loss of their shares in the Transferring parent company (“passing-through of shares by the subsidiary” / “Durchgangserwerb durch die Untergesellschaft”).

A merger-related capital increase in the subsidiary as the Acquiring company shall therefore not take place (§ 224 (3) AktG).

In the course of the passing on of the shares Fallmann & Bauernfeind Privatstiftung shall therefore acquire the participation of the Transferring company in the Acquiring company (490,286 no-par value shares, hence 4.46%) as the sole shareholder of the Transferring company ipso iure and no additional legal act is required.

As a consequence Fallmann & Bauernfeind Privatstiftung holds a direct participation of 42.90% in Fabasoft AG.

The Acquiring company therefore acquires by way of universal successor the shares transferred to itself permissibly as its own shares and must pass ("auskehren") these on directly to the sole shareholder of the Transferring company.

2.3 In order to ensure that no capital increase is effected in the course of this merger process

(i) no separate determination of an exchange ratio pursuant to §§ 224 AktG in conjunction with 225a (3) AktG is undertaken and
(ii) as a consequence of this there is no granting of new shares in the Acquiring company pursuant to §§ 224 AktG in conjunction with 225a (3) AktG and therefore
(iii) also no determination of the time as of which new shares have an entitlement to profit.

In the absence of the need to grant new shares and any additional cash payment, the appointment of an escrow agent pursuant to § 225a AktG is not necessary.

2.4 No special benefits shall be granted to the members of the managing board or supervisory board, the annual auditor or merger auditor. Neither are any special rights granted to individual shareholders, holders of preferential shares, bonds and profit participation rights.

The Acquiring company grants no special rights pursuant to § 220 (2) (6) AktG and no such measures are planned.

2.5 This merger process is a simplified merger pursuant to § 231 AktG, as the participation of the Transferring company in the Acquiring company is on the one hand less than 10% of the share capital of the Acquiring company while on the other hand in the case of a downstream merger the shares to be passed on are not counted, as these are acquired directly from the Transferring company (see in this context *Szep* in *Artmann/Karollus*, AktG III[6] § 231 (10)). As the conditions for a simplified merger pursuant to § 231 AktG are objectively satisfied, the managing board has waived the ne-

cessity of the passing of a resolution of the general meeting of the Acquiring company.

2.6 **Pursuant to § 231 (3) AktG the shareholders are explicitly informed of their right, whereby shareholders that hold over 5% of the shares of Fabasoft AG either alone or jointly may, until expiry of one month after the passing of the resolution of the shareholders of FB Beteiligungen GmbH (Transferring company), demand the convocation of a general meeting in which a resolution on the approval of the merger is passed. The Articles of Association could link this right to demand the convocation of the general meeting with a lower holding of shares in the share capital, this is however currently not the case.**

2.7 This merger process is based on the closing balance sheet of FB Beteiligungen GmbH as at 31 December 2020 and the interim balance sheet as at 30 June 2021. The continuance of book values is applied to the merger process pursuant to fiscal and corporate law. It is hereby noted that due to a lack of any fiscal balance deviation the tax merger balance as at 31 December 2020 complies with the closing balance sheet and the distribution of profits effected in the retrospective period in compliance with § 2 (4) UmgrStG is disclosed as a liability item.

2.8 Both FB Beteiligungen GmbH and Fabasoft AG have a positive market value on the effective date of the merger as well as on the present day and both have a positive equity book value. In addition a positive market value of the assets to be transferred is given even when the value of the participation of FB Beteiligungen GmbH in Fabasoft AG and the distribution of profits of FB Beteiligungen GmbH on 15 July 2021 amounting to € 100,000.00 are not taken into account.

3. Consequences of the merger

3.1 FB Beteiligungen GmbH has meanwhile lost its company-relevant objective. As a consequence FB Beteiligungen GmbH now functions only as participation administrative company. FB Beteiligungen GmbH has neither any employees nor performs any other operative activity.

The corporate structure will be simplified by the merger. This simplification will lead to higher cost efficiency and a reduction in the burden of costs. In the final analysis of

the merger, the participation of Fallmann & Bauernfeind Privatstiftung in Fabasoft AG is focussed on a legal entity

The intended merger offers the benefits of simplification of the structure, higher cost efficiency and transparency through the establishment of a direct participation of Fallmann & Bauernfeind Privatstiftung in Fabasoft AG. There are explicitly no disadvantages, such as those connected with the dismissal of employees, for example.

3.2 In addition Fallmann & Bauernfeind Privatstiftung undertakes as a precautionary measure under accession to the merger agreement to completely indemnify and hold Fabasoft AG harmless for liabilities of FB Beteiligungen GmbH not reported in the closing balance sheet of FB Beteiligungen GmbH as at 31 December 2020 or that occur at a later date.

3.3 A dividend of EUR 0.85 per dividend-bearing no-par value share for the fiscal year 2020/2021 was resolved by the general meeting of Fabasoft AG held on 05 July 2021. Payment of the dividend was effected on 14 July 2021, less (any) 27.5% withholding tax on capital in compliance with statutory provisions. The dividends for the fiscal year from 01 April 2020 to 31 March 2021 have to date been received by FB Beteiligungen GmbH. The dividends for the fiscal year 2020/2021 shall be transferred to the sole shareholder of FB Beteiligungen GmbH, i.e. Fallmann & Bauernfeind Privatstiftung, in the course of the passing on of the shares. Pursuant to the retroactive function in compliance with § 5 UmgrStG this is appropriate as FB Beteiligungen GmbH, and therefore is sole shareholder, is entitled to the net dividends resolved and paid out on 05 July 2021. For this reason Fabasoft AG has undertaken to transfer the net dividends distributed for the 490,286 no-par value shares to Fallmann & Bauernfeind Privatstiftung and to transfer the associated legally based recovery claim for withholding tax in due form to Fallmann & Bauernfeind Privatstiftung.

3.4 FB Beteiligungen GmbH has paid a minimum corporate income tax in previous years, which passes to Fabasoft AG. An asset amounting to € 43,577.69 is therefore incurred in FB Beteiligungen GmbH, which passes to Fabasoft AG in the course of the merger where it is retained as a compensation of expenses.

Fallmann & Bauernfeind Privatstiftung hereby forgoes any compensationary measure in this connection as well as any capital increase.

3.5 The merger does not lead to a capital-reducing/-unblocking effect.

3.6 The intended merger falls under Art. I UmgrStG taking full advantage of the tax benefits provided for under reorganisation tax law, in particular continuance of book values. For this reason there is no liquidation taxation and the hidden reserves are assumed by the Acquiring company. In principle any loss deduction of the Transferring company is also transferred to the Acquiring company.

3.7 There are no loss carryforwards in the Acquiring company that would be jeopardised by the intended merger.

4. Exchange ratio

4.1 A passing-through of shares by the subsidiary arises due to the intended merger process under the passing of the shares of FB Beteiligungen GmbH to shares held by Fabasoft AG. For this reason there is no capital increase and therefore no granting of new shares. In the absence of the need to grant new shares there is no exchange ratio and therefore no information or explanations thereof. Furthermore, in the absence of the need to grant new shares and any additional cash payment, the appointment of an escrow agent pursuant to § 225a AktG is not necessary.

5. Procedure of the merger

5.1 The conditions for a simplified merger are satisfied for this merger pursuant to § 231 AktG. For this reason the managing board of Fabasoft AG has waived the necessity of the passing of a resolution by the general meeting. With regard to the publication of the documents pursuant to § 221a (1) (2) AktG, that day is decisive for this simplified merger on which the general meeting of the Transferring company, i.e. FB Beteiligungen GmbH, is convened.

The meeting for the resolution concerning this merger at FB Beteiligungen GmbH will take place on 28 August 2021. In compliance with § 108 (3 – 5) AktG the following documents must therefore be provided one month prior to the general meeting, i.e. as of 28 July 2021:

(i) The merger agreement or a draft thereof (§ 220 § (1)(2) AktG);

(ii) the annual financial statements and the management reports and where applicable the corporate governance reports of the companies involved in the merger for the previous 3 fiscal years as well as the closing balance sheet;

(iii) the interim balance sheet;

(iv) the merger reports of the managing boards of the companies involved in the merger (§ 220a AktG);

(v) the audit reports (§ 220b AktG) and

(vi) the supervisory board report (§ 220c AktG).

The effective date of the merger pursuant to § 220 (2) (5) AktG and § 2 (5) UmgrStG is the 31 December 2020. As of the beginning of 1 January 2021 00:00 hours all actions of FB Beteiligungen GmbH, in particular for the purposes of accounting, are deemed carried out by Fabasoft AG. The transfer of the assets of FB Beteiligungen GmbH to Fabasoft AG shall become effective at the time of registration of the merger in the company register.

Due to the effective date of the merger and the 9-month period applicable under reorganisation tax law, registration of the merger in the company register must be effected by 30 September 2021 at the latest.

The registration in the company register could be effected in a timely manner on expiry of the one-month period pursuant to § 231 (3) AktG on 29 September 2021, provided shareholders of Fabasoft AG whose share holding jointly amounts to 5% of the shares of Fabasoft AG do **not** demand the convocation of a general meeting in which a resolution on the approval of the merger is passed.

This merger agreement is subject to the conditions precedent of (i) timely filing with the company register and (ii) submission of the declaration of the managing board of the Acquiring company that the shareholders of the Acquiring company have waived the exercise of their right pursuant to § 231 (3) AktG or have forgone this right in writing.

5.2 In accordance with the decision of the regional court Linz on 27 July 2021 as the company register court Ernst & Young Wirtschaftsprüfungsgesellschaft m.b.H. was appointed at the joint request of the supervisory board of Fabasoft AG and the management of FB Beteiligungen GmbH as the joint merger auditor for FB Beteiligungen Fabasoft AG.

The joint merger auditor shall carry out a merger audit on the basis of the draft of the merger agreement and shall draw up a written report of the findings of the audit. The merger auditor is assigned the task of controlling the accuracy and correctness of the contents of the merger process and the exchange ratio.

5.3 The merger must also be audited by the supervisory board of Fabasoft AG (§ 220c AktG). Appropriate audit reports must be made and the audit of the supervisory boards carried out on the basis of the draft of the merger agreement drawn up by the managing board and the management, this merger report and the merger audit report of the merger auditor.

6. Summary of the report

In conclusion it shall be noted that, no disadvantages arise for Fabasoft AG through the intended merger, provision has been made by the indemnifying and harmless holding undertaken by Fallmann & Bauernfeind Privatstiftung and that more than adequate compensation of expenses is ensured by the assets amounting to over € 40,000.00 that are transferred to Fabasoft AG.

The advantages of structure simplification and establishment of a direct shareholder status for Fallmann & Bauernfeind Privatstiftung by far outweigh and the managing board of Fabasoft AG and the management of FB Beteiligungen GmbH come to the joint conclusion of a positive estimation of the intended merger process. The managing board of Fabasoft AG prepared and resolved the contents of this joint merger report in a work meeting with the management of FB Beteiligungen GmbH held on 26 July 2021.

Place/date

[signed by]

Fabasoft AG, FN 98699x

FB Beteiligungen GmbH, FN 323228k

59/32

Fabaso/1282 15 July 2021

Disclaimer:

This is a working translation from the German version. In case of discrepancies, the German version shall prevail.

HOCHLEITNER

Rechtsanwälte GmbH

Merger audit report
of the Supervisory Board of Fabasoft AG

concerning the merger of FB Beteiligungen GmbH as the Transferring company with Fabasoft AG as the Acquiring company

as follows:

1. Introduction

1.1 The managing boards of Fabasoft AG, FN 98699x and FB Beteiligungen GmbH, FN 323228k have drawn up the draft of a merger agreement. As the conditions for a simplified merger pursuant to § 231 AktG are satisfied, the members of the managing board of Fabasoft AG have waived the necessity of the passing of a resolution of the general meeting of Fabasoft AG. The merger agreement will be presented to the general meeting of FB Beteiligungen GmbH for approval.

1.2 In this audit report the members of the supervisory board of Fabasoft AG audit and assess the planned merger of FB Beteiligungen GmbH as the Transferring company with Fabasoft AG as the Acquiring company with regard to its legal correctness and feasibility on the basis of the draft of the merger agreement, the joint merger report of the members of the managing board of Fabasoft AG and the management of FB Beteiligungen GmbH and the merger audit report of the joint merger auditor of Fabasoft AG and the FB Beteiligungen GmbH Ernst & Young Wirtschaftsprüfungsgesellschaft m.b.H., FN 267030t, registered branch: Blumauerstraße 46, 4020 Linz.

2. Merger

2.1 It is intended to merge FB Beteiligungen GmbH, FN 323228k, as the Transferring company as at the effective merger date of 31.12.2020, by universal succession pursuant to § 231 in conjunction with § 224 (3) AktG on passing on of the shares of the Transferring company to the Acquiring company, as a result of the transfer of its assets in their entirety with all rights and obligations and without recourse to liquidation, downstream with Fabasoft AG, FN 98699x, as the Acquiring company, taking full advantage of the tax benefits provided for in particular under Article I of the Austrian Reorganisation Tax Act (UmgrStG) and to thus focus

the direct and indirect participation of Fallmann & Bauernfeind Privatstiftung in Fabasoft AG in a purely direct participation.

2.2 The supervisory board of Fabasoft AG is obliged pursuant to § 220c AktG to audit the intended merger on the basis of the joint merger report of the members of the managing board and the management, the merger audit report of the joint merger auditor and the draft of the merger agreement and to draw up a written report on the basis of this audit.

The subject of the audit is therefore the intended merger as described above on the basis of the documents indicated.

FB Beteiligungen GmbH has no supervisory board.

3. Reasons for the merger and their expediency

3.1 The members of the managing board of Fabasoft AG and the management of FB Beteiligungen GmbH have set out the economic expediency or rather the advantages and disadvantages of the intended merger as follows:

FB Beteiligungen GmbH has gradually lost its company-relevant objective and this will not see a revival. As a consequence FB Beteiligungen GmbH retains only participation administration tasks, for which a separate legal entity is not necessary. The intended merger will result in the shares held by FB Beteiligungen GmbH being passed on to its sole shareholder ipso iure, i.e. Fallmann & Bauernfeind Privatstiftung. This will simply remove the indirect participation of Fallmann & Bauernfeind Privatstiftung in Fabasoft AG via FB Beteiligungen GmbH and establish a purely direct participation of Fallmann & Bauernfeind Privatstiftung. As FB Beteiligungen GmbH has neither any employees nor any other (operative) corporate activity, no disadvantages are expected from the intended merger. On the contrary, the removal of a separate legal entity will generate a cost saving. The corporate structure will in addition be made more transparent.

The fact that Fallmann & Bauernfeind Privatstiftung undertakes to indemnify and hold Fabasoft AG harmless for liabilities not reported in the closing balance sheet of FB Beteiligungen GmbH as at 31 December 2020 or that occur at a later date, means that Fabasoft AG has no disadvantages in this context, either. A more than adequate compensation of expenses is ensured by the remaining assets amounting to over € 40,000.00 that are transferred to Fabasoft AG in the context of the merger.

The merger-related own shares passed on to Fabasoft AG will be used for the compensation of the sole shareholder of the Transferring company. Insofar Fabasoft AG will not have a merger-related capital increase and furthermore Fallmann & Bauernfeind Privatstiftung forgoes any compensationary measure in this connection with the transferred assets as well as any capital increase.

From a taxation point of view pursuant to Art. I UmgrStG the intended merger can be executed tax-neutral and no risk of loss carryforwards arises in this context in the Acquiring company.

For these reasons and their consideration the supervisory board of Fabasoft AG agrees with the arguments of the members of the managing board of Fabasoft AG and the management of FB Beteiligungen GmbH.

4. Exchange ratio

4.1 In the absence of the need to grant new shares and any additional cash payment there is no exchange ratio and the appointment of an escrow agent pursuant to § 225a AktG is also not necessary.

No special benefits are granted.

5. Audit result

The members of the managing board of Fabasoft AG set out the result of their audit as follows:

(i) the information included in the draft of the merger agreement is accurate and legally correct;

(ii) the information of the members of the managing board of Fabasoft AG and the management of FB Beteiligungen GmbH in the joint merger report concerning the economic and legal consequences of the merger are correct;

(iii) the actual conditions of the merger indicated in the report of the joint merger auditor concur with the audit result of the members of the supervisory board;

(iv) No rights pursuant to § 220 (2) (6) AktG are granted to the shareholders of Fabasoft AG or the partners of FB Beteiligungen GmbH or any other person; nor are any such special measures planned;

(v) no special benefits pursuant to § 220 (2) (7) AktG are granted to the managing board (the management) or the supervisory board of the companies involved in the merger nor to the annual or merger auditors;

(vi) in the opinion of the members of the supervisor board of Fabasoft AG the implementation of the merger is economically acceptable and expedient and appears advantageous for Fabasoft AG and FB Beteiligungen GmbH as well as their shareholders and partners;

(vii) in the absence of the need to grant new shares and any additional cash payment there is no exchange ratio and therefore no audit of such.

The audit undertaken by the supervisory board of Fabasoft AG indicates that the intended merger complies with the legal provisions. The members of the supervisory board of Fabasoft AG prepared and resolved this audit report in a joint work meeting with the managing board of Fabasoft AG held on 26 July 2021.

_____

Place / date

[signed by]

em. o. Univ.-Prof. Mag. Dr. Friedrich Roithmayr

Disclaimer:

This is a working translation from the German version. In case of discrepancies, the German version shall prevail.

KAMMER DER STEUERBERATER UND WIRTSCHAFTSPRÜFER

General Conditions of Contract for the Public Accounting Professions (AAB 2018)

Recommended for use by the Board of the Chamber of Tax Advisers and Auditors, last recommended in its decision of April 18, 2018

Preamble and General Items

(1) Contract within the meaning of these Conditions of Contract refers to each contract on services to be rendered by a person entitled to exercise profession in the field of public accounting exercising that profession (de facto activities as well as providing or performing legal transactions or acts, in each case pursuant to Sections 2 or 3 Austrian Public Accounting Professions Act (WTBG 2017). The parties to the contract shall hereinafter be referred to as the "contractor" on the one hand and the "client" on the other hand).

(2) The General Conditions of Contract for the professions in the field of public accounting are divided into two sections: The Conditions of Section I shall apply to contracts where the agreeing of contracts is part of the operations of the client's company (entrepreneur within the meaning of the Austrian Consumer Protection Act. They shall apply to consumer business under the Austrian Consumer Protection Act (Federal Act of March 8, 1979 / Federal Law Gazette No. 140 as amended) insofar as Section II does not provide otherwise for such business.

(3) In the event that an individual provision is void, the invalid provision shall be replaced by a valid provision that is as close as possible to the desired objective.

SECTION I

1. Scope and Execution of Contract

(1) The scope of the contract is generally determined in a written agreement drawn up between the client and the contractor. In the absence of such a detailed written agreement, (2)-(4) shall apply in case of doubt:

(2) When contracted to perform tax consultation services, 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 (if so agreed) prepared by the contractor. Unless explicitly agreed otherwise, documents and papers required for taxation purposes shall be produced by the client.
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 contractor 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) Provided the preparation of one or more annual tax return(s) is part of the contract accepted, this shall not include the examination of any particular accounting conditions nor the examination of whether all relevant concessions, particularly those with regard to value added tax, have been utilized, unless the person entitled to exercise the profession can prove that he/she has been commissioned accordingly.

(4) In each case, the obligation to render other services pursuant to Sections 2 and 3 WTBG 2017 requires for the contractor to be separately and verifiably commissioned.

(5) The aforementioned paragraphs (2) to (4) shall not apply to services requiring particular expertise provided by an expert.

(6) The contractor is not obliged to render any services, issue any warnings or provide any information beyond the scope of the contract.

(7) The contractor shall have the right to engage suitable staff and other performing agents (subcontractors) for the execution of the contract as well as to have a person entitled to exercise the profession substitute for him/her in executing the contract. Staff within the meaning of these Conditions of Contract refers to all persons who support the contractor in his/her operating activities on a regular or permanent basis, irrespective of the type of underlying legal transaction.

(8) In rendering his/her services, the contractor shall exclusively take into account Austrian law; foreign law shall only be taken into account if this has been explicitly agreed upon in writing.

(9) Should the legal situation change subsequent to delivering a final professional statement passed on by the client orally or in writing, the contractor 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.

(10) The client shall be obliged to make sure that the data made available by him/her may be handled by the contractor in the course of rendering the services. In this context, the client shall particularly but not exclusively comply with the applicable provisions under data protection law and labor law.

(11) Unless explicitly agreed otherwise, if the contractor electronically submits an application to an authority, he/she acts only as a messenger and this does not constitute a declaration of intent or knowledge attributable to him/her or a person authorized to submit the application.

(12) The client undertakes not to employ persons that are or were staff of the contractor during the contractual relationship, 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 contractor the amount of the annual salary of the member of staff taken over.

2. 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 without special request at the disposal of the contractor at the agreed date, and in good time if no such date has been agreed, 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 contractor has commenced his/her work.

(2) The contractor shall be justified in regarding information and documents presented to him/her by the client, in particular figures, as correct and complete and to base the contract on them. The contractor shall not be obliged to identify any errors unless agreed separately in writing. This shall particularly apply to the correctness and completeness of bills. However, he/she is obliged to inform the client of any errors identified by him/her. In case of financial criminal proceedings he/she shall protect the rights of the client.

(3) 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.

(4) If the client fails to disclose considerable risks in connection with the preparation of financial statements and other statements, the contractor shall not be obliged to render any compensation insofar as these risks materialize.

(5) Dates and time schedules stated by the contractor for the completion of the contractor's products or parts thereof are best estimates and, unless otherwise agreed in writing, shall not be binding. The same applies to any estimates of fees: they are prepared to best of the contractor's knowledge; however, they shall always be non-binding.

(6) The client shall always provide the contractor with his/her current contact details (particularly the delivery address). The contractor may rely on the validity of the contact details most recently provided by the client, particularly have deliveries made to the most recently provided address, until such time as new contact details are provided.

3. Safeguarding of Independence

(1) The client shall be obliged to take all measures to prevent that the independence of the staff of the contractor be jeopardized and shall himself/herself 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 acknowledges that his/her personal details required in this respect, as well as the type and scope of the services, including the performance period agreed between the contractor and the client for the services (both audit and non-audit services), shall be handled within a network (if any) to which the contractor belongs, and for this purpose transferred to the other members of the network including abroad for the purpose of examination of the existence of grounds of bias or grounds for exclusion and conflicts of interest. For this purpose the client expressly releases the contractor in accordance with the Data Protection Act and in accordance with Section 80 (4) No. 2 WTBG 2017 from his/her obligation to maintain secrecy. The client can revoke the release from the obligation to maintain secrecy at any time.

4. Reporting Requirements

(1) (Reporting by the contractor) 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) (Communication to the client) All contract-related information and opinions, including reports, (all declarations of knowledge) of the contractor, his/her staff, other performing agents or substitutes ("professional statements") shall only be binding provided they are set down in writing. Professional statements in electronic file formats which are made, transferred or confirmed by fax or e-mail or using similar types of electronic communication (that can be stored and reproduced but is not oral, i.e. e.g. text messages but not telephone) shall be deemed as set down in writing; this shall only apply to professional statements. The client bears the risk that professional statements may be issued by persons not entitled to do so as well as the transfer risk of such professional statements.

(3) (Communication to the client) The client hereby consents to the contractor communicating with the client (e.g. by e-mail) in an unencrypted manner. The client declares that he/she has been informed of the risks arising from the use of electronic communication (particularly access to, maintaining secrecy of, changing of messages in the course of transfer). The contractor, his/her staff, other performing agents or substitutes are not liable for any losses that arise as a result of the use of electronic means of communication.

(4) (Communication to the contractor) Receipt and forwarding of information to the contractor and his/her staff are not always guaranteed when the telephone is used, in particular in conjunction with automatic telephone answering systems, fax, e-mail and other types of electronic communication. As a result, instructions and important information shall only be deemed to have been received by the contractor provided they are also received physically (not by telephone, orally or electronically), unless explicit confirmation of receipt is provided in individual instances. Automatic confirmation that items have been transmitted and read shall not constitute such 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 contractor by mail or courier. Delivery of documents to staff outside the firm's offices shall not count as delivery.

(5) (General) In writing shall mean, insofar as not otherwise laid down in Item 4. (2), written form within the meaning of Section 886 Austrian Civil Code (ABGB) (confirmed by signature). An advanced electronic signature (Art. 26 eIDAS Regulation (EU) No. 910/2014) fulfills the requirement of written form within the meaning of Section 886 ABGB (confirmed by signature) insofar as this is at the discretion of the parties to the contract.

(6) (Promotional information) The contractor will send recurrent general tax law and general commercial law information to the client electronically (e.g. by e-mail). The client acknowledges that he/she has the right to object to receiving direct advertising at any time.

5. Protection of Intellectual Property of the Contractor

(1) The client shall be obliged to ensure that reports, expert opinions, organizational plans, drafts, drawings, calculations and the like, issued by the contractor, be used only for the purpose specified in the contract (e.g. pursuant to Section 44 (3) Austrian Income Tax Act 1988). Furthermore, professional statements made orally or in writing by the contractor may be passed on to a third party for use only with the written consent of the contractor.

(2) The use of professional statements made orally or in writing by the contractor for promotional purposes shall not be permitted; a violation of this provision shall give the contractor the right to terminate without notice to the client all contracts not yet executed.

(3) The contractor shall retain the copyright on his/her work. Permission to use the work shall be subject to the written consent by the contractor.

6. Correction of Errors

(1) The contractor shall have the right and shall be obliged to correct all errors and inaccuracies in his/her professional statement made 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 professional 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 contractor and/or – in cases where a written professional statement has not been delivered – six months after the contractor 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 Item 7.

7. Liability

(1) All liability provisions shall apply to all disputes in connection with the contractual relationship, irrespective of the legal grounds. The contractor is liable for losses arising in connection with the contractual relationship (including its termination) only in case of willful intent and gross negligence. The applicability of Section 1298 2nd Sentence ABGB is excluded.

(2) In cases of gross negligence, the maximum liability for damages due from the contractor is tenfold the minimum insurance sum of the professional liability insurance according to Section 11 WTBG 2017 as amended.

(3) The limitation of liability pursuant to Item 7. (2) refers to the individual case of damages. The individual case of damages includes all consequences of a breach of duty regardless of whether damages arose in one or more consecutive years. In this context, multiple acts or failures to act that are based on the same or similar source of error as one consistent breach of duty if the matters concerned are legally and economically connected. Single damages remain individual cases of damage even if they are based on several breaches of duty. Furthermore, except in the case of wilful damage, the contractor shall not be liable for loss of profit or for collateral, consequential, incidental or similar damage.

(4) 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 no 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.

(5) Should Section 275 Austrian Commercial Code (UGB) be applicable (due to a criminal offense), the liability provisions contained therein shall apply even in cases where several persons have participated in the execution of the contract or where several activities requiring compensation have taken place and irrespective of whether other participants have acted with intent.

(6) In cases where a formal auditor's report is issued, the applicable limitation period shall commence no later than at the time the said auditor's report was issued.

(7) If activities are carried out by enlisting the services of a third party, e.g. a data-processing company, any warranty claims and claims for damages which arise against the third party according to law and contract shall be deemed as having been passed on to the client once the client has been informed of them. Item 4. (3) notwithstanding, in such a case the contractor shall only be liable for fault in choosing the third party.

(8) The contractor's liability to third parties is excluded in any case. If third parties come into contact with the contractor's work in any manner due to the client, the client shall expressly clarify this fact to them. Insofar as such exclusion of liability is not legally permissible or a liability to third parties has been assumed by the contractor in exceptional cases, these limitations of liability shall in any case also apply to third parties on a subsidiary basis. 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 sustained losses; the claims of the parties injured shall be satisfied in the order in which the claims have been raised. The client will indemnify and hold harmless the contractor and his/her staff against any claims by third parties in connection with professional statements made orally or in writing by the contractor and passed on to these third parties.

(9) Item 7. shall also apply to any of the client's liability claims to third parties (performing agents and vicarious agents of the contractor) and to substitutes of the contractor relating to the contractual relationship.

8. Secrecy, Data Protection

(1) According to Section 80 WTBG 2017 the contractor shall be obliged to maintain secrecy in all matters that become known to him/her in connection with his/her 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) Insofar as it is necessary to pursue the contractor's claims (particularly claims for fees) or to dispute claims against the contractor (particularly claims for damages raised by the client or third parties against the contractor), the contractor shall be released from his/her professional obligation to maintain secrecy.

(3) The contractor 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.

(4) The contractor is a data protection controller within the meaning of the General Data Protection Regulation ("GDPR") with regard to all personal data processed under the contract. The contractor is thus authorized to process personal data entrusted to him/her within the limits of the contract. The material made available to the contractor (paper and data carriers) shall generally be handed to the client or to third parties appointed by the client after the respective rendering of services has been completed, or be kept and destroyed by the contractor if so agreed. The contractor is authorized to keep copies thereof insofar as he/she needs them to appropriately document his/her services or insofar as it is required by law or customary in the profession.

(5) If the contractor supports the client in fulfilling his/her duties to the data subjects arising from the client's function as data protection controller, the contractor shall be entitled to charge the client for the actual efforts undertaken. The same shall apply to efforts undertaken for information with regard to the contractual relationship which is provided to third parties after having been released from the obligation to maintain secrecy to third parties by the client.

9. Withdrawal and Cancellation („Termination")

(1) The notice of termination of a contract shall be issued in writing (see also Item 4. (4) and (5)). The expiry of an existing power of attorney shall not result in a termination of the contract.

(2) 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 Item 11.

(3) However, a continuing agreement (fixed-term or open-ended contract on – even if not exclusively – the rendering of repeated individual services, also with a flat fee) may, without good reason, only be terminated at the end of the calendar month by observing a period of notice of three months, unless otherwise agreed in writing.

(4) After notice of termination of a continuing agreement and unless otherwise stipulated in the following, only those individual tasks shall still be completed by the contractor (list of assignments to be completed) that can (generally) be completed fully within the period of notice insofar as the client is notified in writing within one month after commencement of the termination notice period within the meaning of Item 4. (2). The list of assignments to be completed shall be completed within the termination period if all documents required are provided without delay and if no good reason exists that impedes completion.

(5) Should it happen that in case of a continuing agreement more than two similar assignments which are usually completed only once a year (e.g. financial statements, annual tax returns, etc.) are to be completed, any such assignments 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 9. (4).

10. Termination in Case of Default in Acceptance and Failure to Cooperate on the Part of the Client and Legal Impediments to Execution

(1) If the client defaults on acceptance of the services rendered by the contractor or fails to carry out a task incumbent on him/her either according to Item 2. or imposed on him/her in another way, the contractor shall have the right to terminate the contract without prior notice. The same shall apply if the client requests a way to execute (also partially) the contract that the contractor reasonably believes is not in compliance with the legal situation or professional principles. His/her fees shall be calculated according to Item 11. Default in acceptance or failure to cooperate on the part of the client shall also justify a claim for compensation made by the contractor for the extra time and labor hereby expended as well as for the damage caused, if the contractor does not invoke his/her right to terminate the contract.

(2) For contracts concerning bookkeeping, payroll accounting and administration and assessment of payroll-related taxes and contributions, a termination without prior notice by the contractor is permissible under Item 10. (1) if the client verifiably fails to cooperate twice as laid down in Item 2. (1).

11. Entitlement to Fee

(1) If the contract fails to be executed (e.g. due to withdrawal or cancellation), the contractor shall be entitled to the negotiated compensation (fee), provided he/she was prepared to render the services and was prevented from so doing by circumstances caused by the client, whereby a merely contributory negligence by the contractor in this respect shall be excluded; in this case the contractor need not take into account the amount he/she obtained or failed to obtain through alternative use of his/her own professional services or those of his/her staff.

(2) If a continuing agreement is terminated, the negotiated compensation for the list of assignments to be completed shall be due upon completion or in case completion fails due to reasons attributable to the client (reference is made to Item 11. (1). Any flat fees negotiated shall be calculated according to the services rendered up to this point.

(3) If the client fails to cooperate and the assignment cannot be carried out as a result, the contractor 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 ineffective and the consequences indicated in Item 11. (1) shall apply.

(4) If the termination notice period under Item 9. (3) is not observed by the client as well as if the contract is terminated by the contractor in accordance with Item 10. (2), the contractor shall retain his/her right to receive the full fee for three months.

12. Fee

(1) Unless the parties explicitly agreed that the services would be rendered free of charge, an appropriate remuneration in accordance with Sections 1004 and 1152 ABGB is due in any case. Amount and type of the entitlement to the fee are laid down in the agreement negotiated between the contractor and his/her client. Unless a different agreement has verifiably been reached, payments made by the client shall in all cases be credited against the oldest debt.

(2) The smallest service unit which may be charged is a quarter of an hour.

(3) Travel time to the extent required is also charged.

(4) Study of documents which, in terms of their nature and extent, may prove necessary for preparation of the contractor in his/her own office may also be charged as a special item.

(5) Should a remuneration already agreed upon prove inadequate as a result of the subsequent occurrence of special circumstances or due to special requirements of the client, the contractor shall notify the client thereof and additional negotiations for the agreement of a more suitable remuneration shall take place (also in case of inadequate flat fees).

(6) The contractor includes charges for supplementary costs and VAT in addition to the above, including but not limited to the following (7) to (9):

(7) Chargeable supplementary costs also include documented or flat-rate cash expenses, traveling expenses (first class for train journeys), per diems, mileage allowance, copying costs and similar supplementary costs.

(8) Should particular third party liabilities be involved, the corresponding insurance premiums (including insurance tax) also count as supplementary costs.

(9) Personnel and material expenses for the preparation of reports, expert opinions and similar documents are also viewed as supplementary costs.

(10) For the execution of a contract wherein joint completion involves several contractors, each of them will charge his/her own compensation.

(11) In the absence of any other agreements, compensation and advance payments are due immediately after they have been requested in writing. Where payments of compensation 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 at the amount stipulated in Section 456 1st and 2nd Sentence UGB shall apply.

(12) Statutory limitation is in accordance with Section 1486 of ABGB, with the period beginning at the time the service has been completed or upon the issuing of the bill within an appropriate time limit at a later point.

(13) An objection may be raised in writing against bills presented by the contractor within 4 weeks after the date of the bill. Otherwise the bill is considered as accepted. Filing of a bill in the accounting system of the recipient is also considered as acceptance.

(14) Application of Section 934 ABGB within the meaning of Section 351 UGB, i.e. rescission for laesio enormis (lesion beyond moiety) among entrepreneurs, is hereby renounced.

(15) If a flat fee has been negotiated for contracts concerning bookkeeping, payroll accounting and administration and assessment of payroll-related taxes and contributions, 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. Unless otherwise agreed to in writing, the fee shall be considered agreed upon for one year at a time.

(16) Particular individual services in connection with the services mentioned in Item 12. (15), 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.

(17) The contractor shall have the right to ask for advance payments and can make delivery of the results of his/her (continued) work dependent on satisfactory fulfillment of his/her demands. As regards continuing agreements, the rendering of further services may be denied until payment of previous services (as well as any advance payments under Sentence 1) has been effected. This shall analogously apply if services are rendered in installments and fee installments are outstanding.

(18) With the exception of obvious essential errors, a complaint concerning the work of the contractor shall not justify even only the partial retention of fees, other compensation, reimbursements and advance payments (remuneration) owed to him/her in accordance with Item 12.

(19) Offsetting the remuneration claims made by the contractor in accordance with Item 12. shall only be permitted if the demands are uncontested and legally valid.

13. Other Provisions

(1) With regard to Item 12. (17), reference shall be made to the legal right of retention (Section 471 ABGB, Section 369 UGB); if the right of retention is wrongfully exercised, the contractor shall generally be liable pursuant to Item 7. or otherwise only up to the outstanding amount of his/her fee.

(2) The client shall not be entitled to receive any working papiers and similar documents prepared by the contractor in the course of fulfilling the contract. In the case of contract fulfillment using electronic accounting systems the contractor shall be entitled to delete the data after handing over all data based thereon – which were prepared by the contractor in relation to the contract and which the client is obliged to keep – to the client and/or the succeeding public accountant in a structured, common and machine-readable format. The contractor shall be entitled to an appropriate fee (Item 12. shall apply by analogy) for handing over such data in a structured, common and machine-readable format. If handing over such data in a structured, common and machine-readable format is impossible or unfeasible for special reasons, they may be handed over in the form of a full print-out instead. In such a case, the contractor shall not be entitled to receive a fee.

(3) At the request and expense of the client, the contractor 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 contractor and his/her client and to original documents in his/her possession and to documents which are required to be kept in accordance with the legal anti-money laundering provisions applicable to the contractor. The contractor may make copies or duplicates of the documents to be returned to the client. Once such documents have been transferred to the client, the contractor shall be entitled to an appropriate fee (Item 12. shall apply by analogy).

(4) The client shall fetch the documents handed over to the contractor within three months after the work has been completed. If the client fails to do so, the contractor shall have the right to return them to the client at the cost of the client or to charge an appropriate fee (Item 12. shall apply by analogy) if the contractor can prove that he/she has asked the client twice to pick up the documents handed over. The documents may also further be kept by third parties at the expense of the client. Furthermore, the contractor is not liable for any consequences arising from damage, loss or destruction of the documents.

(5) The contractor 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 funds at his/her disposal, even if these funds are explicitly intended for safekeeping, if the client had to have anticipated the counterclaim of the contractor.

(6) To secure an existing or future fee payable, the contractor 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 of the transfer. Subsequently, the amount secured may be collected either after agreement has been reached with the client or after enforceability of the fee by execution has been declared.

14. Applicable Law, Place of Performance, Jurisdiction

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

(2) The place of performance shall be the place of business of the contractor.

(3) In absence of a written agreement stipulating otherwise, the place of jurisdiction is the competent court of the place of performance.

SECTION II

15. Supplementary Provisions for Consumer Transactions

(1) Contracts between public accountants and consumers shall fall under the obligatory provisions of the Austrian Consumer Protection Act (KSchG).

(2) The contractor shall only be liable for the willful and grossly negligent violation of the obligations assumed.

(3) Contrary to the limitation laid down in Item 7. (2), the duty to compensate on the part of the contractor shall not be limited in case of gross negligence.

(4) Item 6. (2) (period for right to correction of errors) and Item 7. (4) (asserting claims for damages within a certain period) shall not apply.

(5) Right of Withdrawal pursuant to Section 3 KSchG:

If the consumer has not made his/her contract statement in the office usually used by the contractor, 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 contractor as well as instructions on the right to withdraw from 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 contractor or his/her representative,

2. if the conclusion of the contract has not been preceded by any talks between the parties involved or their representatives, or

3. in case of contracts where the mutual services have to be rendered immediately, if the contracts are usually concluded outside the offices of the contractors, and the fee agreed upon does not exceed €15.

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

If the consumer withdraws from the contract according to Section 3 KSchG,

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

According to Section 4 (3) KSchG, claims for damages shall remain unaffected.

(6) Cost Estimates according to Section 5 Austrian KSchG:

The consumer shall pay for the preparation of a cost estimate by the contractor in accordance with Section 1170a ABGB only if the consumer has been notified of this payment obligation beforehand.

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

(7) Correction of Errors: Supplement to Item 6.:

If the contractor is obliged under Section 932 ABGB to improve or complement his/her services, he/she shall execute this duty at the place where the matter was transferred. If it is in the interest of the consumer to have the work and the documents transferred by the contractor, the consumer may carry out this transfer at his/her own risk and expense.

(8) Jurisdiction: Shall apply instead of Item 14. (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 (2) and 104 (1) Austrian Court Jurisdiction Act (JN), the only competent courts shall be the courts of the districts where the consumer has his/her domicile, usual residence or place of employment.

(9) Contracts on Recurring Services:

(a) Contracts which oblige the contractor 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) requires considerable expenses on the part of the contractor and if he/she informed the consumer about this no later than at the time 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.