

# INTERACT Point Vienna

**Audit of the electronic Monitoring System (eMS)**

**Description of Technical and Organizational Measures in**

**Place for eMS**

Independent Service Auditor's Assurance Report on the  
Description of Controls and the suitability of their Design

ISAE 3000 Report

November 2015



**Building a better  
working world**

Ernst & Young  
Wirtschaftsprüfungsgesellschaft m.b.H

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# 1 Independent Assurance Report

## To the Management of INTERACT Point Vienna, Austria

We have been engaged by City of Vienna, Municipal Department 27 for the operation called INTERACT Point Vienna ("INTERACT") to report on the accompanying Section 2 "Description of Technical and Organizational Measures in Place for eMS" (the "System Description"). Our contact point for our control work was personnel of INTERACT Point Vienna, which have been assigned and delegated to run the eMS project, on behalf of our contracting party.

Our examination was limited to the Control Objectives and the Controls provided by INTERACT, which include Control Objectives and Controls addressing the relevant criteria set forth in the EU Regulations 821/2014 Article 7, 8, 9, 10 and 11<sup>1</sup>; 1011/2014 article 9 and 10<sup>2</sup> and 480/2014<sup>3</sup>. We did not extend our examination with respect to additional criteria that could be derived from any other legal requirements that might be applicable to eMS.

Because of inherent limitations of controls, error or fraud may occur and not be detected. Furthermore, the projection of any conclusions, based on our findings, to the future is subject to the risk that the validity of such conclusions may be altered because of changes made to eMS or controls, the failure to make needed changes to eMS or controls, or deterioration in the degree of effectiveness of the controls.

## Criteria

The Control Objectives in the System Description have been derived from relevant parts of the EU Regulations 821/2014 Article 7, 8, 9, 10 and 11; 1011/2014 article 9 and 10 and 480/2014, mentioned under each control objective. The criteria over which the Controls described in the column "Controls Specified by INTERACT" set forth in Section 3 "Description of Control Objectives, Controls, Tests and Results of Tests" were evaluated are defined by INTERACT.

## Responsibilities of the management

INTERACT is responsible for (1) preparing the System Description including the completeness, accuracy and method of presentation of the System Description and Control Objectives; (2) providing services covered by the System Description; (3) specifying the control objectives and describing in the System Description how the criteria are addressed; (4) designing the Controls appropriate to achieve the control objectives defined; and (5) implementing and effectively operating these Controls.

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1 Whenever this report refers to this regulation, this means the version promulgated on 28 July 2014

2 Whenever this report refers to this regulation, this means the version promulgated on 22 September 2014

3 Whenever this report refers to this regulation, this means the version promulgated on 3 March 2014

## Our responsibility

Our responsibility is to express a conclusion on the fairness of the presentation of the System Description to address the criteria and the suitability of design of the controls to provide reasonable assurance for the achievement of the related control objectives stated in the System Description based on our examination. We conducted our reasonable assurance engagement in accordance with the International Standard for Assurance Engagements (ISAE) 3000, Assurance Engagements Other than Audits or Reviews of Historical Financial Information, issued by the International Auditing and Assurance Standards Board. This standard requires that we plan and perform our procedures to obtain reasonable assurance about whether, in all material respects, the System Description is fairly presented and the Controls as defined in the column "Controls Specified by INTERACT" set forth in Section 3 "Description of Control Objectives, Controls, Tests and Results of Tests" were suitably designed to provide reasonable assurance for the achievement of the related control objectives stated in the System Description and were effective on 30 October 2015. A reasonable assurance engagement to report on a description of a system and the suitability of the design of the controls involves performing procedures to obtain evidence about the fairness of the presentation of the description and the suitability of the design of those controls to provide reasonable assurance for the achievement of the related control objectives stated in the System Description. Our procedures included assessing the risks that the System Description is not fairly presented and that the controls were not suitably designed to provide reasonable assurance for the achievement of the related control objectives stated in the System Description. A reasonable assurance engagement of this type also includes evaluating the overall presentation of the System Description, the suitability of the control objectives stated therein and the suitability of the criteria specified. Relating to the Controls, the specific tests and procedures performed and the nature, timing, and results of those tests are listed in Section 3 "Description of Control Objectives, Controls, Tests and Results of Tests".

We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our conclusion.

## Conclusion

Our conclusion has been formed on the basis of the matters outlined in this report. The criteria we used in forming our opinion are those described in the Criteria paragraph. We conclude that, based on the criteria, in all material respects:

- ▶ the System Description defined by INTERACT, listed in the accompanying Section 2 "Description of Technical and Organizational Measures in Place for eMS" fairly presents the system that was designed and implemented as of 30 October 2015 to address the criteria set forth in the EU Regulations 821/2014 Article 7, 8, 9, 10 and 11<sup>4</sup>; 1011/2014 article 9 and 10<sup>5</sup> and 480/2014<sup>6</sup>;

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4 Whenever this report refers to this regulation, this means the version promulgated on 28 July 2014

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- ▶ the Controls, as defined by INTERACT, described in the column "Controls Specified by INTERACT" set forth in Section 3 "Description of Control Objectives, Controls, Tests and Results of Tests", applicable for users of eMS to the extent as described in the System Description, are those necessary to provide reasonable assurance for the achievement of the Control Objectives defined in the System Description, and
- ▶ the defined Controls were implemented as of 30 October 2015.

The controls tested and the nature, timing and results of those tests are listed in the accompanying Section 3 "Description of Control Objectives, Controls, Tests and Results of Tests".

### Engagement terms, liability and conditions of use

This report is intended solely for information and use of our client, INTERACT, user entities of INTERACT's eMS system and the independent auditors of such user entities, who have a sufficient understanding to consider it, along with other information including information about controls to be implemented by user entities themselves. This report is subject to the terms as described here and in our engagement agreement dated 27 July 2015.

Our responsibility and liability towards INTERACT Point Vienna and towards third parties is limited in accordance to section 8 of our General Conditions of Contract for the Public Accounting Professions (AAB 2011). Our liability is limited to EUR 726,728.34. We are only liable for intentional violation or gross negligence and not for slight and ordinary negligence in accordance with the General Conditions of Contract for the Public Accounting Professions.

We further make third parties aware that reciprocal claims arising from this engagement shall be subject to Austrian law and that the place of performance and court of competent jurisdiction for all disputes shall be Vienna, Austria.

Vienna, 20. November 2015

**ERNST & YOUNG**

WIRTSCHAFTSPRÜFUNGSGESELLSCHAFT M.B.H.

  
Mag. Gunther Reimoser

  
I.V. DI Drazen Lukac

## **2 Description of Technical and Organizational Measures in Place for eMS (System Description)**

### **2.1 Description of eMS**

#### **2.1.1 Overview**

Every ETC programme is obliged to set up a computerised monitoring system in order to collect all information on project and programme progress (art. 125(d) of the Regulation 1303/2013).

Additionally, as outlined in the Article 122(3) of the Regulation 1303/2013, programmes should provide their beneficiaries with a system to allow submission of information in electronic form. All exchanges of information between beneficiaries and managing authorities, certifying authorities, audit authorities and intermediate bodies should be carried out via an electronic data exchange system.

In the past, most programmes invested time and money in developing similar but slightly different electronic monitoring systems. There are hundreds of monitoring systems in Europe and each one of these needs to be designed, developed, maintained and improved over time.

Interreg programmes decided that it was time to kick-start a change. With the help of INTERACT, they joined forces to co-develop a monitoring system that is based on the expertise of many and covers everything a programme needs to run smoothly in different regions in Europe.

eMS is a monitoring system with communication portal to support submission, approval, management and administration of projects in the context of ETC programmes. The system supports collection of all information on submitted and approved projects, their implementation and achievements, modifications and closure. Additionally aggregated data on the progress of projects and a programme are recorded in the system. All programme bodies are able to communicate with beneficiaries via the system and re-use the data already collected. eMS is built to support programme authorities in day-to-day programme management and should fulfil all legal requirements.

For Interreg programmes and INTERACT, co-developing eMS meant putting the best approaches and ideas on the table and finding a common vision for a simplified, harmonised and inclusive tool for all stakeholders. eMS was designed together with four ETC programmes and can be used free of charge by any ETC programme. The system is delivered in milestones and first modules can be used by programmes before the full system is built. eMS is currently used in a productive environment by 5 programmes and is being tested and prepared for calls for proposals by another 18 programmes. Additionally more than 10 programmes declared their intention to use eMS.

## 2.1.2 eMS

eMS is a web application build by the INTERACT Programme for the benefit of all ETC Programmes. It uses only open source or free to use technologies and components and can run on licence free operating systems.

Here are some of the innovative solutions of eMS:

- ▶ Handling many different funds simultaneously, so the software can be used also by programmes that draw from different funds such as ERDF, IPA II, or ENI;
- ▶ Multi-lingual project applications, contracts and monitoring interfaces with an unlimited number of languages;
- ▶ Online audit trail that collects, stores and provides all required information;
- ▶ Online content trail from project application to project reports to online publications of outputs and results;
- ▶ Customisable user interfaces and functionalities for all Interreg stakeholders, including project applicants, first level controllers, joint secretariats, managing authorities, certifying authorities, audit authorities, monitoring committees, evaluation experts and contact points.

All the programmes need is some IT expertise and a server to host the system. INTERACT provides the installation files for the software, user and installation manuals and services like trainings for ETC Programmes. ETC Programmes have to ensure the server, the installation and the configuration of the system. INTERACT proposes the optimal server configuration for the system but programmes are free to use different compatible solutions.

The system is highly configurable and Programmes can use a range of options to define their own configuration. Some of the configuration needs to be done at the installation phase and requires IT expertise and other options can be selected directly in the system by any privileged user. The system also allows for further configuration by plugins and templates.

## 2.1.3 The development

eMS Software was programmed by the company PL.O.T EDV Planungs und Handels GmbH (hereinafter PL.O.T) on behalf of City of Vienna, Municipal Department 27 for INTERACT . The service provider was selected in an EU-wide public procurement procedure. All the specifications of the system were prepared by INTERACT in cooperation with a group of four ETC programmes (so called the core group) and given to the service provider. INTERACT and PL.O.T met regularly to discuss the developments and recommendations. The system was built in phases. Some of the modules were used in productive environment before the system was finalised. Therefore every next version of the system needed to be compatible with the previous deliveries and could not lead to any data loss. INTERACT and PL.O.T agreed on several milestones and each time a milestone was reached the system was partially accepted and paid. Each milestone was delivered with the source code which is being made available also to programmes.

The system is being developed and initially tested by PL.O.T and then delivered to INTERACT. INTERACT is further testing the system before making it available to programmes. All discovered bugs are reported via a ticket system established by PL.O.T and solved according to their urgency. The service provider has no access to the test installation of INTERACT and doesn't perform any changes on the running system. All the changes are delivered as a new version of the software.

## **2.1.4 The workflow**

The data in eMS is structured in several layers of information and follows a strict workflow. Some steps in the workflow are mandatory; others can be switched on and off via configuration. The access to the corresponding forms in the system can only be accessed with corresponding user rights and privileges. INTERACT provides a default configuration for the main stakeholders of the system. These configurations can be changed by ETC Programmes and allows them to configure user rights according to their organisation.

### **1. Enter programme data (information from Cooperation Programme)**

This section contains the basic information of the ETC programme using the software. It is the information from the document called "Cooperation Programme", which is approved by the European Commission.

This section needs to be filled out once and contains the most basic layer of information in the application. Basic information on programme area (eligible NUTS regions that a programme covers), priority axis, co-financing rates, programme financial allocations, etc. are stored here. This data is a basis for future steps in the workflow. This task is usually done by an administrator of the system.

### **2. Management of calls**

ETC programmes finance projects based on application forms submitted within a defined timeslot and conditions. These timeslots are Calls for proposals. Each Call has a start and end date and detailed definition of the projects expected (e.g. which of the programme priorities is open, who can submit applications, which information is necessary to submit the application, if the application should be done in 1 step or in 2 steps). In eMS each call can contain different configurations, which affect the application forms visible to the applicant. One programme can announce multiple calls throughout the programme lifecycle.

The conditions applying to each call for proposals are usually approved by the Monitoring Committee and configured in the system by system administrator or Managing Authority/Joint Secretariat.



### **3. Application Form**

Any institution willing to submit an application form within an open call for proposals can register a user and fill out the form directly in eMS. It is possible to submit application only within the timeslot and conditions set in the call for proposals. A user who first created an application form is treated by the system as a lead applicant user and can allow other users read or read/write access to the application form. The lead applicant is the only user who can submit the application.

### **4. Assessment**

All submitted applications need to go through a two-step assessment. eMS contains a sequence of two checklists: "Admin-& eligibility check" and "Quality Assessment". Assessment of Applications is usually managed by the Joint Secretariat (JS or JTS) in co-operation with national contact points or external experts. The system supports 4-eye principle for the assessment.

### **5. Recommendation**

A recommendation is an outcome of the assessment by the assessors to the Monitoring Committee. The project can be recommended for funding, not recommended or recommended under conditions. Recommendation is usually managed by the JS.

### **6. Funding decision (Monitoring Committee)**

Monitoring Committee decides on which projects should receive programme co-financing. The decision of the MC and its date need to be inserted into the system, it is usually a task of the JS.

All projects which are approved under conditions need to go through a condition fulfilment procedure, which is in practice a modification of the application form based on some clear recommendations of the MC. Changes are verified and a project can change a status into approved or not approved. Changes applied to the application form can be tracked in the system. All versions of application forms stay available and are unchanged.

All projects which are not approved are archived in the system.

## **7. Handover and supplementary information**

After the project is approved and before it can be contracted the lead applicant needs to appoint an eMS user who will be a lead partner for the project. The JS checks the proposed user and approves or rejects the lead partner. In case of rejection, the lead applicant needs to propose another user.

Additionally, some important information on project management structure and e.g. bank account are ready to be filled out at this stage. This section is available from the approval moment but not necessary step in the workflow, i.e. if not filled one may still continue the contracting process.

## **8. Subsidy contract**

The system supports generation of the Subsidy Contract. It is template-based and uses data from approved application form. The Subsidy Contract gets generated, can be updated and then downloaded as pdf document. Once the Subsidy Contract (SC) is marked as approved the system changes the status of a project into contracted and allows for partner and project reporting. Basic data on the SC and its amendments as well as the document itself are stored.

## **9. Partner reporting**

Once the project is contracted it enters the reporting phase, which will last until the project is finalised. Each project partner needs to report its activities and expenditure in a partner report. In order to do so, the Lead Partner needs to allocate at least one user per project partner. Afterwards partners can fill out their reports and submit them to their national controllers (FLC).

## **10. First Level Control (FLC)**

The First level controllers are national controllers who need to check every partner's report and expenditure. They have access to the system and see the relevant information. They have their working documents available in the system and can do the validation work online. As a result of the FLC check a FLC certificate is generated and approved by the controller. The report is forwarded to the Lead Partner.

## **11. Project reporting**

Lead Partner collects all validated partner reports (including its own) and creates a project report. Lead Partner decides which FLC certificates to include in the project re-port. LP has right to reject some of the expenditure approved by the FLC. When project re-port is ready, it is submitted to the JS.

## **12. Joint Secretariat (JS) verification**

JS receives a project report and verifies it accordingly, JS has a possibility to reject some expenditure if they are not eligible. Once approved, it is submitted to the MA.

## **13. Managing Authority (MA) verification**

MA receives a project report and verifies it accordingly, MA has a possibility to reject some expenditure if they are not eligible. Once approved, it is submitted to the CA.

## **14. Certifying Authority (CA) verification**

CA verifies the report (can deduct some expenditure or exclude temporarily for further verification) and includes the report in the CA certificate. Once included in the certificate, the report may be paid.

## **15. Payment**

CA performs the payment to the Lead Partner outside of the system and records date and amount paid. The payment might be done in full or in instalments.

## **16. CA reporting**

CA is responsible for several reports to the European Commission. The system allows for inclusion of the CA certificates into the payment application to European Commission as well as annual accounts.

It is also possible to generate programme annual reports and financial statistics, which are required by the regulatory framework.

### **2.1.5 Horizontal functionalities (not part of the standard workflow)**

#### **► Modifications**

It is possible to manage project modifications throughout the project lifecycle. The system allows the JS and the Lead Partner to initiate the modifications. The JS is allowed to initiate it at all time and the LP only after the project is in the status “contracted”. Once the modification is initiated and allowed by the JS, the LP can change the application form. The changes are verified and approved by the JS. After the modification is approved, the new version of the application form is created and it is the new valid application form. All the previous versions are stored and are accessible at all times through the project history.

### ► Financial corrections

Different authorities may verify the project at any time of the project lifecycle and even after project closure. Audit results are included in the system as financial corrections and are taken into account for CA work (CA certificate, payment applications to European Commission and annual accounts).

### ► Messaging portal

eMS supports the exchange of information between registered users (in-application e-mail system). It is possible to contact single users as well as send bulk messages to groups of users. It is possible to sort messages and assign them to projects or phases.

eMS gives also a possibility to send automatic messages triggered by events.

## 2.1.6 Legal requirements applicable to eMS

eMS needs to comply with a number of European Union Regulations applicable to ETC programmes. In particular the requirements set out in Regulations 1303/2013, 821/2014, 1011/2014 and 480/2014 contain rules applicable to the monitoring system of ETC programmes.

In summary these regulations describe 13 subject areas related to technical and organizational measures to be taken to ensure that the monitoring systems of ETC programmes comply with regulatory requirements. This section describes the criteria and measures taken by INTERACT to comply with them.

Though following legal requirements apply to the monitoring systems of ETC programmes, they could not be verified in the course of the general audit of eMS as they apply to local installation of eMS by the various cooperation programmes and can only be audited meaningfully looking at each of the local installations separately:

- Article 7(4) of the EU Regulation 821/2014. eMS allows for automatic back-ups but the implementation itself needs to be ensured by every user and configured at the local installation of the system.
- Article 7(5) of the EU Regulation 821/2014 refers to the physical security of the servers on which eMS is installed and the data is stored.
- Second paragraph of art. 11 of the EU Regulation 821/2014. eMS is able to interact with other modules or systems. In case such links are implemented by eMS users, security of the networks and transmission facilities need to be ensured by the programmes themselves.
- Second paragraph of art. 9(1) of the EU Regulation 1011/2014. The availability of the web service is decided by the programmes themselves. eMS does not limit in any way the possible availability of web services, nevertheless eMS does not contain any technical web-services.

Following legal requirements apply to the monitoring systems of ETC programmes and were in scope of eMS audit:

### **2.1.6.1 Access Management / Roles and privileges (art. 7(1) of the EU Regulation 821/2014)**

Only registered users can access eMS. It is possible to register as a user or create a user in the user management section of eMS. Only a user with specific privilege can manage the user section. It is possible to give/change roles and privileges of existing users. Not needed users can be de-activated and their access is restricted. Access to eMS is based on user name (or e-mail address) and password which are configured by the user. Passwords are stored in the technical database as encoded text. The system administrator can change the user password but cannot see it. There is a system of changing the password by a user in case it is forgotten, it is not possible to recover forgotten password. In case of too many incorrect attempts to login into the system, the user is blocked for certain time. The number of attempts and time of blocking the user are configurable in the system.

eMS contains a sophisticated user management based on roles and privileges. A user can register himself to the system and receives automatically a role of applicant. For other functionalities than submitting an application form and managing a project, the user has to be promoted to another role. Roles can be created, modified and deleted by privileged user. Each role contains a set of privileges which give read or write access to different sections and/or functionalities of the system.

eMS contains a set of privileges, which make certain functionalities or section visible/invisible. It is possible to create user roles and assign selected privileges. The user roles again can be assigned to users. This allows a very flexible user access and privilege configuration. If needed ETC Programmes can add their own set of user roles and therefore a flexible user privilege management even for stakeholders, which have not been foreseen by INTERACT are possible.

*Control Objective #1: INTERACT has established and maintained controls and functionalities within eMS to provide reasonable assurance that an access system including possibility to predefine access rights for different users and revoke access to the system for those users which are no longer needed is in place in order to comply with EU Regulation 821/2014 art. 7(1).*

### **2.1.6.2 Logging (art. 7(2) of the EU Regulation 821/2014)**

eMS includes a logging functionality to provide logs of any recording, modification and deletion of documents and data as required. This includes data to be stored and recorded for each operation in the monitoring systems set up in accordance with the EU Regulation 480/2014, Art. 24(1). These data are recorded and stored for each operation, including data on individual participants as required by the EU Regulation 480/2014, Art. 24(2).

INTERACT has implemented following procedures/functionalities with regards to logging within eMS:

eMS is logging various events and has two separate functionalities for logging

- ▶ “Auditlog” implementing an audit trail through the whole application process
- ▶ Error and Systemlogging

The Auditlog is implemented in the application by writing log statements to the database. Through this log it is possible to trace each operation done by users of the system. In particular following events are logged:

- ▶ Adding information
- ▶ Altering information
- ▶ Deleting information
- ▶ Upload of attachments
- ▶ Removal of attachments
- ▶ Change of project status

For each action a timestamp and information on the user is logged. Audit log is accessible via the technical database.

*Control Objective #2: INTERACT has established and maintained controls and functionalities within eMS to provide reasonable assurance that logs of any recording, modification and deletion of documents and data are available within the system in order to comply with EU Regulation 821/2014 art. 7 (2).*

#### **2.1.6.3 Modification of documents bearing electronic signature (art. 7(3) of the EU Regulation 821/2014)**

The system doesn't allow for modification of any documents and files uploaded into the system and therefore also the documents bearing an electronic signature cannot be modified. Deletion and upload of documents are tracked in the audit log. Uploads of documents always create new documents. This approach relates to two requirements: Firstly, all uploads are reflected in the audit log and secondly, the uploaded documents cannot be modified within the system.

*Control Objective #3: INTERACT has established and maintained functionalities within eMS to provide reasonable assurance that the system doesn't allow for modification of any documents and files uploaded into the system on application level and that Deletion and upload of documents are traceable through the timestamp in the audit log in order to comply with EU Regulation 821/2014 art. 7 (3).*

#### **2.1.6.4 Migration of data (art. 7(6) of the EU Regulation 821/2014)**

eMS stores the data in a relational database management system (RDMS). This database is fully compliant to the SQL 92 standard and can be accessed by any tool compliant to this standard. Next to the database, the software stores documents on the file system of the server. Both technologies allow backup and recovery of data and they allow migration of data to other servers. Due to these standardized technologies it is even possible to access the data of eMS without using the software eMS. Therefore it would even be possible to build new applications using only the data layer of eMS.

*Control Objective #4: INTERACT has established and maintained functionalities within eMS to provide reasonable assurance that migration of data, format and computer environment is guaranteeing legibility and accessibility of documents and data within a period of time in order to comply with EU Regulation 821/2014 art. 7 (6).*

#### **2.1.6.5 Interoperability (art. 8 of the EU Regulation 821/2014)**

eMS is fulfilling all requirements of the art. 122(3) of the Regulation 1303/2013 and therefore no additional interoperability measures with another electronic data exchange system is necessary.

The software contains two technically different possibilities for verification of the completeness of the data entered by users. 1) Verifications that can be configured by administrators of the software without using a plugin, namely configuration for mandatory/optional fields and for the maximum length of input is possible. 2) Data entry forms in eMS allow for a validation plugin, which can contain different validations to minimize the risk of errors. Those plugins need software development knowledge to implement any validation rule.

eMS is compliant with the European Interoperability Framework (EIF). Due to the technologies used and the architecture of the software, eMS is able to interoperate with any other ICT system, especially ICT systems from public sectors.

An example of interoperability of the eMS already implemented is a link to the KEEP database of INTERACT ([www.keep.eu](http://www.keep.eu)). In this case eMS pushes the required data to the import server of KEEP. Another already implemented interoperability feature is the import of monthly currency exchange rates from the website of the European commission.

At this point in time, no other links to external ICT systems are implemented, but they could be added in the future.

*Control Objective #5: INTERACT has established and maintained functionalities within eMS to provide reasonable assurance that the system is capable for interoperability with beneficiaries systems and that the system facilitate verification of the veracity and completeness of the beneficiaries' data where appropriate in order to comply with EU Regulation 821/2014 art. 8*

#### **2.1.6.6 Search functions (art. 9(a) of the EU Regulation 821/2014)**

eMS includes several browsers for application forms and projects in different stages as well as for reports. All browsers allow for key word search within the database and the given range of data and for sorting. Those browsers allow combining searches for different criteria based on conjunction in Boolean algebra.

Attachments are stored on the file system of a server. Depending on the operating system chosen, it is possible to search within those files. eMS does not allow to search the content of attachments.

*Control Objective #6a: INTERACT has established and maintained functionalities within eMS to provide reasonable assurance that the system is interoperable with other systems and that the system includes appropriate search tools in order to comply with EU Regulation 821/2014 art. 9*

#### **2.1.6.7 Reporting functions (art. 9(b-c) of the EU Regulation 821/2014)**

eMS allows for different reports to be generated. It is possible to extract desired data from different sections.

- ▶ Financial data is exportable to Microsoft Excel data format
- ▶ Overview tables - like list of application forms waiting for the monitoring committee decision, including the ranking - can be exported to Microsoft Excel data format.
- ▶ Overview tables on financial data are exportable on various levels (e.g. partner report, FLC certificate, project report, programme)
- ▶ Custom reports needed by specific ETC Programmes based on application form or project report information can be added in a special section; export of custom reports to PDF is possible
- ▶ An integrated OLAP cube reporting tool allows for generation of statistics/calculations based on selected information. Results can be exported to Microsoft Excel, PDF. Generated charts can be saved as image (PNG).
- ▶ Programme annual implementation reports as specified in Regulation 1303/2013, Art. 50(2) are pre-defined in the system and exportable to PDF.

All the reports can be exported / downloaded, saved and printed.

*Control Objective #6b: INTERACT has established and maintained functionalities within eMS to provide reasonable assurance that the system is interoperable with other systems and that the system includes appropriate reporting functionality in order to comply with EU Regulation 821/2014 art. 9.*



#### **2.1.6.8 Documentation (art. 10 of the EU Regulation 821/2014)**

There is a detailed documentation of eMS system containing of following documents:

- ▶ Workflow charts and descriptions
- ▶ Technical description of the system
  - Documentation of the relational Database, Software architecture documentation
- ▶ Description of the content
  - HIT documents (Harmonized implementation tools)
  - eMS specification documentation
- ▶ Security measures document
- ▶ User manual
  - User guide for Programmes (from manufacturer)
  - eMS manual
  - Screencast

*Control Objective #7: INTERACT has established and maintained documentation to provide reasonable assurance that detailed and updated functional and technical documentation on the operation and characteristics of the system is provided in order to comply with EU Regulation 821/2014 art. 10*

#### **2.1.6.9 Security of information exchange (art. 11 of the EU Regulation 821/2014 and art.9 (1) of the EU Regulation 1011/2014)**

In accordance with EU Regulation 45/2001 Art 5 c, eMS collects data which is “necessary for the performance of a contract to which the data subject is party”. The software contains information on persons involved in or responsible for applications or projects. Therefore the software contains / collects information on the legal representative and contact person of a project.

In accordance with EU Regulation 45/2001 Art. 14 it is possible to see and modify provided data. The system allows tracing modifications of any data in the system by using implemented logging mechanisms.

As required by EU Regulation 45/2001 Art. 22 & Art. 35 the software includes many state of the art security measures. This includes sophisticated user role and rights management system and access to modules for privileged users only.

The system ensures:

- ▶ data security - The software supports the use of encrypted channels like HTTPS and contains a sophisticated application security (Spring security). Other security measures (concerning environment and procedures) must be taken by the ETC Programmes using eMS for their local installations.
- ▶ data integrity - The software allows the generation of a hash value during submission of documents like the application form. This hash value is stored in the technical database. Modifications of values in the application form lead to an invalid hash value. This feature is implemented as a plugin; Programmes can therefore decide, which values are taken into account for the hash calculation.
- ▶ data confidentiality - the system is accessible only by a closed group of users. Data access is based on roles and privileges. It is possible to allow or limit access to different sections of the system.
- ▶ authentication of the sender - only registered and privileged users are allowed to access the system and insert information. Access to the system is only possible after verification of the provided email address.
- ▶ The audit log allows for identification of a user who introduced, modified or deleted any data or document in the system.

*Control Objective #8: INTERACT has established and maintained functionalities to provide reasonable assurance that the system is protected by adequate security measures concerning data protection in order to comply with EU Regulation 821/2014 art.11 and EU Regulation 1011/2014 art 9(1).*

#### **2.1.6.10 Electronic data exchange system scope (art. 8 of the EU Regulation 1011/2014)**

It is possible to provide all necessary data via web service without any parallel paper exchange. The entire project workflow is included in eMS, namely:

- ▶ Application form
- ▶ Assessment
- ▶ Contracting
- ▶ Partner progress and financial reporting
- ▶ Management verifications (art. 8(2) of the Regulation 1011/2014)
- ▶ Project progress and financial reporting
- ▶ JS and MA verification
- ▶ CA certification and payment
- ▶ Financial corrections
- ▶ Project modifications

Additionally, eMS has a built-in messaging portal which allows for direct contact between applicants, beneficiaries and programme authorities.

#### **2.1.6.11 Electronic data exchange functionalities (art. 9(3) of the EU Regulation 1011/2014)**

The system ensures the following functionalities:

- ▶ interactive forms and/or forms prefilled by the system on the basis of the data which are stored at consecutive steps of the procedures - all the input forms of eMS re-use the already existing data. The users are not requested to give the same information multiple times.
- ▶ automatic calculations where applicable - all the possible calculations are done automatically in eMS.
- ▶ automatic embedded controls which reduce repeated exchanges of documents or information as far as possible - eMS provides a possibility to define programme validation rules (as a plugin). The plugin is called at the submission phase of different forms and can either block the submission or just give a warning message in case of incorrect data.
- ▶ system-generated alerts to inform the beneficiary that certain actions can be performed - the system can generate automatically different alerts to support the users. Programmes using eMS can select the necessary alerts from a predefined list and can define their content. The alerts are sent via the integrated message portal to users. Notifications about incoming messages can be sent to the users email address.
- ▶ online status tracking allowing the beneficiary to monitor the current status of the project - each applicant and beneficiary have access to his projects and can see in which state the application, project or report is currently.
- ▶ availability of all previous data and documents processed by the electronic data exchange system - the data and documents introduced in eMS are available for the relevant users.

*Control Objective #9: INTERACT has established and maintained functionalities to provide reasonable assurance that the system is equipped with various functionalities regarding interactive forms, calculations, data exchange, system alerts, status tracking and data availability in order to comply EU Regulation 1011/2014 art 9(2) and 9(3).*

#### **2.1.6.12 Accessibility (art. 9(2) of the EU Regulation 1011/2014)**

The system is built based on standard solutions and is a web-based application accessible through any web browser. Any user having internet connection and browser can access the system and use its functionalities.

All current browsers and operating systems available support the following technologies used to build the user interface:

- ▶ HTML
- ▶ CSS
- ▶ Java Script

When designing the system, the WAI-ARIA requirements have been taken into account.

*Control Objective #11: INTERACT has established and maintained functionalities to provide reasonable assurance that eMS is accessible through an interactive user interface in order to comply with EU Regulation 1011/2014 art. 9*

#### **2.1.6.13 Transmission of documents (art. 10 of the EU Regulation 1011/2014)**

- ▶ The system allows for upload of documents for various programme authorities and beneficiaries.
- ▶ Information on the date of submission of relevant documents and data as well as on the user providing it is stored in the system. Beneficiaries are not requested to provide the same information multiple times, all data and documents are re-used in the system. Various authorities have access to the relevant information.
- ▶ eMS is a web application and is accessible through all standard web browsers.
- ▶ The information stored in eMS is accessible only to the limited number of users and limited based on user privileges. No eMS data are publicly available. There are security measures to protect the data stored in the system.

#### **2.1.6.14 “eSignature” (art. 10(2) of the EU Regulation 1011/2014)**

In order to address the requirements of the EU Regulation 1011/2014 INTERACT has implemented the following solutions within eMS:

- ▶ Authentication of the user using basic signature mechanisms (username, password).
- ▶ Validation of the provided user information (especially email address verification) via a validation email.
- ▶ All sections in eMS are only visible to registered and authenticated users, no section (besides the login page) is publicly available.
- ▶ Existence of detailed user roles and rights management system, which allows only specific users in specific roles to see or modify data.
- ▶ Explicit submission of all data provided in eMS by the user (especially in application form and reporting module).
- ▶ Validation and verification of data provided by the user
  - Mandatory/optional fields can be defined by configuration in the system
  - Validation plugin can be provided by the ETC Programme, containing Programme specific validation rules.

- ▶ Checksum plugin to calculate a hash value of the provided data in the application form.
  - This plugin is triggered at the submission of an application form. The plugin calculates a hash value out of the provided data. This mathematical function creates a checksum of the data provided in the application form. This checksum is stored in the technical database. In case of doubts, it is possible to calculate it again at any point in time. Provided the same data, it always delivers the same checksum. If data is modified, the checksum is different and thus (unauthorized) change of data can be detected.
  - The composition of the basic data for the checksum can be chosen by the individual programmes. INTERACT only provides a sample implementation.
- ▶ According to Regulation 1011/2014 Chapter II Art.8 (1) eMS allows to upload various documents. eMS allows to configure which file types are allowed.
- ▶ According to Regulation 821/2014 Chapter III Art.7 (3) the system does not allow to modify any provided document - consequently it does not allow to alter documents bearing an electronic signature. Documents are stored binary identically on the file system of the server - as provided by the user and can be downloaded only by users having access to the relevant section of the eMS. No modification of documents whatsoever happens automatically or is possible in the application.

According to the same paragraph, eMS stores a time stamp and the username of the person uploading a document.

- ▶ According to Regulation 821/2014 Chapter II Art. 7 (2) the system traces any saving, uploading, deletion, modification or submission that happens in the system.
- ▶ The data layer of eMS is stored in a relational database management system (preferably MariaDB). eMS authenticates itself via username and password, without providing these credentials it is not possible to access the data.
- ▶ Technical administrators can access the data in this RDBMS directly only after authentication on the RDBMS.
- ▶ Uploaded files are stored on the hard drive of the server. Dependent on the environment, this could be an encrypted storage.

Thus some principles of an “electronic signature” such as attaching electronic data (timestamp) to the documents, in general not allowing any changes of the data uploaded within the system (eMS) and authenticating every user upon their login, have been implemented within eMS environment.

However the electronic signature used within eMS is not based on cryptographic methods and non-repudiation is not achieved.

*Control Objective #10: INTERACT has established and maintained functionality to apply certain principles of an “electronic signature” (timestamp, no changes of the data within eMS and user authentication) to comply with EU Regulation 1011/2014 art. 10 to a reasonable but not full extent (without implementing an electronic signature based on cryptographic methods).*

#### **2.1.6.15 Data to be recorded and stored in computerized form(Annex III of the EU Regulation 480/2014)**

All the data listed in the Annex III except for those not applying to ETC (field numbers 15, 22, 28, 38, 40, 89, 90, 106, 107, 108 and 109) is recorded and stored in eMS.

*Control Objective #12: INTERACT has established and maintained functionality to provide reasonable assurance that relevant information on data to be recorded and stored for each operation in the monitoring system are in accordance with for the application process needed requirements in order to comply with EU Regulation 480/2014 ANNEX III*

#### **2.1.6.16 Change Management**

The software eMS will be in use for many years (end of this structural funds period in 2020 and beyond). During this time the need for changes of the system will most probably be there. There could be several reasons for changes of the source code:

- ▶ bug fixing
- ▶ changes due to legal obligations
- ▶ additional functionalities

The contract between the hosting institution of INTERACT Point Vienna (MA27, City of Vienna) with the service provider (PL.O.T. Ges.m.b.H.) can be prolonged over the whole period until 2023. This contract contains a clause about bug fixing and about additional services. The maintenance of the software (including bug fixing) is covered in a flat rate. A ticket system to report and to trace issues or bugs is in place.

INTERACT can order additional services as well. The procedures for such a modification request foresees a written letter of request from INTERACT. PL.O.T has to estimate a price. Afterwards INTERACT can accept the offer.

### 3 Description of Control Objectives, Controls, Tests and Results of Tests

The control environment represents the collective effect of various factors on establishing or enhancing the effectiveness of the controls specified by INTERACT based on the requirements from European Commission and linked departments. In planning the nature, timing and extent of our testing of the control specified by INTERACT, we considered the following aspects of INTERACT's control environment:

- ▶ Relevant personnel of INTERACT. These personnel included management personnel and staff responsible for defining product requirements, developing policies and procedures and implementing technical solutions and controls related to the protection of personal information;
- ▶ Product functionality and technical operations (e.g. software code, system configuration and physical environments)
- ▶ Documentation provided by INTERACT of the systems and processes for information management, internal control and processing of the information; and
- ▶ Overall presentation of the information within our scope.

The tests were performed as of 30 of October 2015.

On the pages that follow, the description of control objectives and the criteria (Controls) to achieve the control objectives have been specified by, and are the responsibility of INTERACT. The columns "Test Performed by EY" and "Result of Tests" are the responsibility of the independent auditor.

*Control Objective #1: INTERACT has established and maintained controls and functionalities within eMS to provide reasonable assurance that an access system including possibility to predefine access rights for different users and revoke access to the system for those users which are no longer needed is in place in order to comply with EU Regulation 821/2014 art. 7(1).*

Ref	Controls specified by INTERACT	Tests Performed by EY	Results of Test
A1-1	eMS only allows access by registered users  In order to manage users and their access within eMS a combination of different roles and privileges can be used and can be configured.	<ol style="list-style-type: none"> <li>1. Observed an unregistered user attempt to access eMS and noted the user was denied access.</li> <li>2. Inquired the responsible Manager and determined eMS had a configurable extensive role and permission system with different predefined rights for different types of users.</li> <li>3. Inspected the system's user management complexity and determined sufficient functionality to provide restricted access.</li> </ol>	No deviations noted
A1-2	Obsolete users can be de-activated within eMS and their access therefore restricted.	<ol style="list-style-type: none"> <li>1. Observed deactivation of a user within eMS.</li> <li>2. Observed a de-activated user attempt to access to eMS and noted the user was denied access.</li> </ol>	No deviations noted



*Control Objective #2: INTERACT has established and maintained controls and functionalities within eMS to provide reasonable assurance that logs of any recording, modification and deletion of documents and data are available within the system in order to comply with EU Regulation 821/2014 art. 7 (2).*

Ref	Controls specified by INTERACT	Tests Performed by EY	Results of Test
A2-1	eMS includes a logging functionality to provide logs of any recording, modification and deletion of documents and data.	<ol style="list-style-type: none"> <li>1. Inquired the responsible Manager Team and determined eMS provided possibilities to configure which events were to be logged.</li> <li>2. Inspected the logging configuration and determined eMS was preconfigured to log recording, modification and deletion of documents and data according to this criteria.</li> </ol>	No deviations noted
A2-2	<p>Within eMS logging of various events is configured:</p> <p>On the one site System- and Errorlogging, on the other site an Auditlog can be configured.</p> <p>Within Auditlog follow events are logged:</p> <ul style="list-style-type: none"> <li>▶ Adding information</li> <li>▶ Altering information</li> <li>▶ Deleting information</li> <li>▶ Upload of attachments</li> <li>▶ Removal of attachments</li> <li>▶ Change of project status</li> </ul> <p>For each action a timestamp and information on the user is logged.</p>	<ol style="list-style-type: none"> <li>1. Observed different user accounts creating, changing and deleting documents and data within eMS and determined that all selected events have been logged and a timestamp has been created accordingly.</li> </ol>	No deviations noted

*Control Objective #3: INTERACT has established and maintained functionalities within eMS to provide reasonable assurance that the system doesn't allow for modification of any documents and files uploaded into the system on application level and that Deletion and upload of documents are traceable through the timestamp in the audit log in order to comply with EU Regulation 821/2014 art. 7 (3).*

Ref	Controls specified by INTERACT	Tests Performed by EY	Results of Test
A3-1	eMS does not allow for modification of any documents and files uploaded into the system on the application layer.	1. Inspected user interface and source code in order to locate possibilities to modify once uploaded documents and determined that the application layer of the system did not provide any functionality to modify content of documents. Once a file is uploaded it remains in the system and cannot be changed through the application (application layer of eMS).	No deviations noted
A3-2	Deletion and upload of documents are tracked in the audit log. Uploads of documents always create new documents. All uploads are reflected in the audit log and uploaded documents cannot be modified within the system.	1. Observed upload of documents and determined that all documents were deployed with corresponding log entries, certifying their deposit 2. Observed deletion of documents within the application and determined that documents were marked as inactive and not removed from the system completely and that this action is logged accordingly in the Audit log.	No deviations noted

*Control Objective #4: INTERACT has established and maintained functionalities within eMS to provide reasonable assurance that migration of data, format and computer environment is guaranteeing legibility and accessibility of documents and data within a period of time in order to comply with EU Regulation 821/2014 art. 7 (6).*

Ref	Controls specified by INTERACT	Tests Performed by EY	Results of Test
A4-1	eMS stores the data in a SQL 92 standard compliant relational database management system (RDMS) and stores documents on the file system of the server. Due to these standardized technologies access to the data of eMS is possible without using eMS itself.	<ol style="list-style-type: none"> <li>1. Inquired the responsible manager how eMS provides preservability of data and determined eMS used only standardized technology suitable for easy export and import of data and that data could be stored in a well-documented format suitable for long-term storage.</li> <li>2. Monitored data export of data from eMS and import into new environment and determined that data could easily be restored within a new environment within a reasonable period of time.</li> </ol>	No deviations noted

*Control Objective #5: INTERACT has established and maintained functionalities within eMS to provide reasonable assurance that the system is capable for interoperability with beneficiaries systems and that the system facilitate verification of the veracity and completeness of the beneficiaries' data where appropriate in order to comply with EU Regulation 821/2014 art. 8*

Ref	Controls specified by INTERACT	Tests Performed by EY	Results of Test
A5-1	Verifications at data entry that can be configured by administrators of the software without using a plugin, namely configuration for mandatory/optional fields and for the maximum length of input are implemented into the system. Additionally data entry forms in eMS allow for a validation plugin, which can contain different validations to minimize the risk of entering data in wrong format.	<ol style="list-style-type: none"> <li>1. Inquired the responsible manager and determined that eMS provided two different types of data verification and validation, both capable to achieve verification of the veracity and completeness of entered data.</li> <li>2. Inspected system's configuration capabilities and recommended configuration to verify both different types of verification and validation and determined both types were implemented.</li> <li>3. Observed incorrect input to for validation configured data fields and noted that the system refused wrong data formats.</li> </ol>	No deviations noted
A5-2	eMS is compliant with the European Interoperability Framework (EIF), due to the technologies used and the architecture of the software. eMS are based on the general principles of technological neutrality and adaptability, openness, reusability, privacy and security and may therefore be easily integrated into other ICT systems.	<ol style="list-style-type: none"> <li>1. Inspected used technologies and recommended configuration and determined that eMS was compliant with the EIF and other ICT systems by complying with the general principles of technological neutrality, openness, reusability, privacy and security.</li> </ol>	No deviations noted

*Control Objective #6a: INTERACT has established and maintained functionalities within eMS to provide reasonable assurance that the system is interoperable with other systems and that the system includes appropriate search tools in order to comply with EU Regulation 821/2014 art. 9*

Ref	Controls specified by INTERACT	Tests Performed by EY	Results of Test
A6-1	eMS is compliant with the European Interoperability Framework (EIF), due to the technologies used and the architecture of the software.	1. Inspected used technologies and recommended configuration and determined that eMS was compliant with the EIF and other ICT systems by complying with the general principles of technological neutrality, openness, reusability, privacy and security.	No deviations noted
A6-2	eMS includes several search fields for application forms in different stages of the application process. All browsers allow for key word search within the given range of data. Those fields allow combining searches for different criteria based on conjunction in Boolean algebra.	1. Inspected the application and determined the system provided a wide variety of suitable search fields within the application. 2. Observed user attempts to search for different information and data within the application and noted that the required information could be found according to the control description.	No deviations noted

*Control Objective #6b: INTERACT has established and maintained functionalities within eMS to provide reasonable assurance that the system is interoperable with other systems and that the system includes appropriate reporting functionality in order to comply with EU Regulation 821/2014 art. 9*

Ref	Controls specified by INTERACT	Tests Performed by EY	Results of Test
A6-3	<p>eMS allows different reports to be generated.</p> <ul style="list-style-type: none"> <li>▶ Financial data is exportable to Microsoft Excel data format</li> <li>▶ Overview tables - like list of application forms waiting for the monitoring committee decision, including the ranking - can be exported to Microsoft Excel data format.</li> <li>▶ Overview tables on financial data are exportable on various levels (e.g. partner report, FLC certificate, project report, programme)</li> <li>▶ Custom reports needed by specific ETC Programmes based on application form or project report information can be added in a special section; export of custom reports to PDF is possible</li> <li>▶ An integrated OLAP cube reporting tool allows for generation of statistics/calculations based on selected information. Results can be exported to Microsoft Excel or PDF. Generated charts can be saved as image (PNG).</li> </ul>	<p>1. Inspected the application and noted that eMS provides reporting functionalities within the system as described within the control.</p>	<p>No deviations noted</p>

*Control Objective #7: INTERACT has established and maintained documentation to provide reasonable assurance that detailed and updated functional and technical documentation on the operation and characteristics of the system is provided in order to comply with EU Regulation 821/2014 art. 10*

Ref	Controls specified by INTERACT	Tests Performed by EY	Results of Test
A7-1	<p>There is a detailed documentation of eMS system containing of following documents:</p> <ul style="list-style-type: none"> <li>▶ Workflow charts and descriptions</li> <li>▶ Technical description of the system <ul style="list-style-type: none"> <li>• Documentation of the Database</li> <li>• Software architecture</li> </ul> </li> <li>▶ Description of the content <ul style="list-style-type: none"> <li>• HIT documents (Harmonized implementation tools)</li> <li>• specification documentation</li> </ul> </li> <li>▶ Security measures document</li> <li>▶ User manual <ul style="list-style-type: none"> <li>• User guide for Programmes</li> <li>• eMS manual</li> </ul> </li> </ul>	<p>1. Inspected available documentation and determined the application, environment and monitoring process regarding eMS and programmes were documented accordingly.</p>	No deviations noted

*Control Objective #8: INTERACT has established and maintained functionalities to provide reasonable assurance that the system is protected by adequate security measures concerning data protection in order to comply with EU Regulation 821/2014 art.11 and EU Regulation 1011/2014 art 9(1).*

Ref	Controls specified by INTERACT	Tests Performed by EY	Results of Test
A8-1	The software supports the use of encrypted channels like HTTPS and contains a sophisticated application security (Spring security).	<ol style="list-style-type: none"> <li>1. Inquired of the responsible system manager and developer and determined eMS development process applied to internationally accepted best practice standards.</li> <li>2. Inspected the application and determined eMS provided encrypted channels, secured authentication and access-control frameworks as deployed security features on application level according to international accepted best practice standards.</li> </ol>	No deviations noted
A8-2	The software allows the generation of a hash value during submission of documents like the application form. This hash value is stored in the technical database. Modifications of values in the application form lead to an invalid hash value. This feature is implemented as a plugin; Programmes can therefore decide, which values are taken into account for the hash calculation.	<ol style="list-style-type: none"> <li>1. Inspected the system and determined that eMS was capable to generate correct hash values to be stored within the database through a plugin.</li> </ol>	No deviations noted
A8-3	The system is accessible only by a closed group of users. Data access is based on roles and privileges. It is possible to allow or limit access to different sections of the system. Only registered and privileged users are allowed to access the system and insert information. Access to the system is only possible after verification of the provided email address.	<ol style="list-style-type: none"> <li>1. Observed an unregistered user attempt to access eMS and noted the user was denied access.</li> <li>2. Inquired the responsible Manager and determined eMS had a configurable extensive role and permission system with different predefined rights for different types of users.</li> <li>3. Inspected the system's user management complexity and determined sufficient functionality to provide restricted access.</li> </ol>	No deviations noted



*Control Objective #9: INTERACT has established and maintained functionalities to provide reasonable assurance that the system is equipped with various functionalities regarding interactive forms, calculations, data exchange, system alerts, status tracking and data availability in order to comply EU Regulation 1011/2014 art 9(2) and 9(3).*

Ref	Controls specified by INTERACT	Tests Performed by EY	Results of Test
A9-1	It is possible to provide all necessary data via web service without any parallel paper exchange. The entire project workflow is included in eMS as interactive forms.	1. Inspected the system and determined that eMS was capable to run through the whole application process by interactive forms only.	No deviations noted
A9-2	eMS implements automatic calculations where applicable - all the possible calculations are done automatically in eMS	1. Inspected the system and noted that eMS provided automatic calculations for the whole application process. 2. Inspected a sample of calculations and noted that the calculations were calculated correctly.	No deviations noted
A9-3	eMS implements automatic embedded controls which reduce repeated exchanges of documents or information as far as possible. Further eMS provides a possibility to define programme validation rules (as a plugin). The plugin is called at the submission phase of different forms and can either block the submission or just give a warning message in case of incorrect data.	1. Inspected the system and noted that within eMS security measures were deployed preventing inapplicable multiple data submissions.	No deviations noted

<b>A9-4</b>	eMS implements system-generated alerts to inform the beneficiary that certain actions can be performed - the system can generate automatically different alerts to support the users. Programmes using eMS can select the necessary alerts from a predefined list and can define their content. The alerts are sent via the integrated message portal to users. Notifications about incoming messages can be sent to the users email address.	<ol style="list-style-type: none"> <li>1. Inspected the system and determined eMS provided a messaging system capable to inform and alert users about notable events.</li> <li>2. Inspected the system and noted that all critical events at the application layer were configurable to be triggered as notification within the messaging system.</li> </ol>	No deviations noted
<b>A9-5</b>	eMS implements online status tracking, allowing the beneficiary to monitor the current status of the project - each applicant and beneficiary have access to his projects and can see in which state the application, project or report is currently.	<ol style="list-style-type: none"> <li>1. Inspected the system and determined that eMS provided a status tracking system.</li> </ol>	No deviations noted
<b>A9-6</b>	eMS ensures availability of all previous data and documents processed by the electronic data exchange system - the data and documents introduced in eMS are available for the relevant users	<ol style="list-style-type: none"> <li>1. Inspected the system and determined eMS stored and never deleted documents or data on application level. Documents may only be marked inactive but remain within eMS system.</li> </ol>	No deviations noted

*Control Objective #10: INTERACT has established and maintained functionality to apply certain principles of an “electronic signature” (timestamp, no changes of the data within eMS and user authentication) to comply with EU Regulation 1011/2014 art. 10 to a reasonable but not full extent (without implementing an electronic signature based on cryptographic methods).*

Ref	Controls specified by INTERACT	Tests Performed by EY	Results of Test
A10-1	INTERACT has implemented an authentication system of user using basic signature mechanisms (username, password).	<ol style="list-style-type: none"> <li>1. Observed an unregistered user attempt to access eMS and noted the user was denied access.</li> <li>2. Inquired the responsible Manager and determined eMS had a configurable extensive role and permission system with different predefined rights for different types of users.</li> <li>3. Inspected the system’s user management complexity and determined sufficient functionality to provide restricted access.</li> </ol>	No deviations noted
A10-2	INTERACT has implemented an authentication validation of the provided user information via a validation email.	<ol style="list-style-type: none"> <li>1. Inspected the system and determined that validation of user information took place by email.</li> </ol>	No deviations noted
A10-3	All sections in eMS are only visible to registered and verified user; no section is publicly available.	<ol style="list-style-type: none"> <li>1. Monitored the attempt to gain access to a non-public section of eMS with an unregistered access and noted that no non-public section of eMS was available.</li> </ol>	No deviations noted
A10-4	INTERACT has implemented a detailed user roles and rights management system, which allows only specific users in specific roles to see or modify data.	<ol style="list-style-type: none"> <li>1. Observed deactivation of a user within eMS.</li> <li>2. Observed a de-activated user attempt to access to eMS and noted the user was denied access.</li> </ol>	No deviations noted
A10-5	eMS provides validation and verification of data provided by the user through mandatory/optional fields which can be defined via configuration in the system and an optional validation plugin which could contain specific validation rules.	<ol style="list-style-type: none"> <li>1. Inspected the application and determined eMS provided configurable data validation and verification of data input through mandatory fields.</li> </ol>	No deviations noted

Ref	Controls specified by INTERACT	Tests Performed by EY	Results of Test
A10-6	<p>INTERACT has implemented a checksum plugin to calculate a hash value of the provided data in the application form.</p> <p>This plugin is triggered at the submission of an application form. The plugin calculates a hash value out of the provided data. This mathematical function creates a checksum of the data provided in the application form. This checksum is stored in the technical database.</p>	<ol style="list-style-type: none"> <li>1. Inquired of eMS administrator; monitored the utilization of the basic configuration of eMS Checksum Plugin and noted its correct functionality.</li> </ol>	No deviations noted
A10-7	<p>The system does not allow modifying any provided document - consequently it does not allow altering documents bearing an electronic signature. Documents are stored binary identically on the file system of the server - as provided by only this user. No modification of documents whatsoever happens automatically or is possible in the application. eMS stores a time stamp and the username of the actor of any upload of any document.</p>	<ol style="list-style-type: none"> <li>1. Inspected the assignment of uploaded documents to a user within the system and determined that each document was uniquely traceable to its originator within the system.</li> <li>2. Observed upload of documents and determined that all documents were deployed with corresponding log entries, certifying their deposit.</li> <li>3. Observed deletion of documents within the application and determined that documents are marked as inactive and not removed from the system completely and that this action is logged accordingly in the Audit log.</li> </ol>	<p>No deviations noted</p> <p>Modification of data forms may be detected using hash logic (through available checksum plugin). eMS has not implemented electronic signature using cryptographic methods.</p>
A10-8	<p>The system traces any saving, uploading, deletion, modification or submission of data processed within the system.</p>	<ol style="list-style-type: none"> <li>1. Observed upload of documents and determined that all documents were deployed with corresponding log entries, certifying their deposit</li> <li>2. Observed deletion of documents within the application and determined that documents are marked as inactive and not removed from the system completely and that this action was logged accordingly in the Audit log.</li> </ol>	No deviations noted
A10-9	<p>Uploaded files are stored on the hard drive of the server. Dependent on the environment,</p>	<ol style="list-style-type: none"> <li>1. Inspected the basic configuration of eMS and determined eMS was using standard file system routines and therefore capable to support file sys-</li> </ol>	No deviations noted

Ref	Controls specified by INTERACT	Tests Performed by EY	Results of Test
	this could be an encrypted storage.	tem encryption.	

*Control Objective #11: INTERACT has established and maintained functionalities to provide reasonable assurance that eMS is accessible through an interactive user interface in order to comply with EU Regulation 1011/2014 art. 9*

Ref	Controls specified by INTERACT	Tests Performed by EY	Results of Test
<b>A11-1</b>	<p>The system is built based on standard solutions and is a web-based application accessible through any web browser. Any user having internet connection and browser can access the system and use its functionalities.</p> <p>When designing the system, the WAI-ARIA requirements have been taken into account.</p>	<ol style="list-style-type: none"> <li>1. Inspected the system and determined that eMS was built with basic technologies to provide an interactive user interface.</li> <li>2. Monitored the attempt to access the system with currently most used browsers and noted eMS supported each of those browsers.</li> <li>3. Inspected eMS conformity to WAI standard and determined it complied to this standard.</li> </ol>	No deviations noted

*Control Objective #12: INTERACT has established and maintained functionality to provide reasonable assurance that relevant information on data to be recorded and stored for each operation in the monitoring system are in accordance with for the application process needed requirements in order to comply with EU Regulation 480/2014 ANNEX III*

Ref	Controls specified by INTERACT	Tests Performed by EY	Results of Test
A12-1	All the data listed in the Annex III except for those not applying to ETC (field numbers 15, 22, 28, 38, 40, 89, 90, 106, 107, 108 and 109) is recorded and stored in eMS.	1. Inspected the system and determined all applicable fields listed in the Annex III were supported by eMS according to the control description	No deviations noted

## 4 Appendix

List of datafields from EU Regulation 480/2014 Annex III which do not apply to the ETC programmes:

Data Fields	Reason
15. Information whether the operation includes funding under the Youth Employment Initiative (YEI)	Not applicable to the ERDF
22. Category of region concerned	Not applicable according to art. 90(2) of the EU Regulation 1303/2013
28. Code(s) for ESF secondary theme	Not applicable to the ERDF
38. Target value for the result indicator provided, where applicable broken down by gender	Not applicable to the ERDF
40. Achievement level of each result indicator provided for each calendar year, where applicable broken down by gender	Not applicable to the ERDF
89. Amount of eligible expenditure included in each payment application on the basis of Article 14(1) of Regulation (EU) No 1304/2013	Not applicable to the ERDF
90. Amount of public expenditure as defined in Article 2(15) of Regulation (EU) No 1303/2013 included in each payment application on the basis of Article 14(1) of Regulation (EU) No 1304/2013	Not applicable to the ERDF
106. Amount of incurred and paid ERDF-type expenditure co-financed by the ESF under Article 98(2) of Regulation (EU) No 1303/2013	Not applicable to the ERDF
107. Amount of incurred and paid ESF-type expenditure co-financed by the ERDF under Article 98(2) of Regulation (EU) No 1303/2013	Not applicable as the art. 98(2) of the EU Regulation 1303/2013 does not apply to ETC
108. Amount of incurred and paid expenditure outside the programme area but within the Union, under article 70(2) of Regulation (EU) No 1303/2013 and Article 13(2) of Regulation (EU) No 1304/2013	Not applicable as the art. 70(2) of the EU Regulation 1303/2013 and EU Regulation 1304/2013 do not apply to ETC
109. Amount of incurred and paid expenditure outside the Union under Article 13(3) of Regulation (EU) No 1304/2013	Not applicable to the ERDF

# GENERAL TERMS AND CONDITIONS

## Ernst & Young Wirtschaftsprüfungsgesellschaft m.b.H.

as of March 2013

### Our Relationship with You

1. We will perform the Services in accordance with the principles of due professional care and conduct and the General Conditions for Public Accounting Professions issued by the Chamber of Professional Accountants and Tax Advisers on March 8, 2000, and revised on May 23, 2002, on October 21, 2004, on December 18, 2006, on August 31, 2007, on February 26, 2008, on June 30, 2009 on March 22, 2010 and February 21, 2011 as attached in Annex./A and amended from time to time ("AAB").
2. We are a member of the global network of Ernst & Young firms ("EY Firms"), each of which is a separate legal entity.
3. We will provide the Services to you as an independent contractor and not as your employee, agent, partner or joint venturer. Neither you nor we have any right, power or authority to bind the other, unless it is agreed to the contrary or you have granted us an explicit written power of attorney to represent you.
4. We may subcontract portions of the Services to other EY Firms, who may deal with you directly. Nevertheless, we alone will be responsible to you for the Reports (as defined in Section 11), the performance of the Services, and our other obligations under this Agreement.
5. We will not assume any management responsibilities in connection with the Services. We will not be responsible for the use or implementation of the output of the Services.

### Your Responsibilities

6. You shall assign a qualified person to oversee the Services. You are responsible for all management decisions relating to the Services, the use or implementation of the output of the Services and for determining whether the Services are appropriate for your purposes.
7. You shall provide (or cause others to provide) to us, promptly, the information, resources and assistance (including access to records, systems, premises and people) that we reasonably require to perform the Services.
8. To the best of your knowledge, all information provided by you or on your behalf ("Client Information") will be accurate and complete in all material respects. The provision of Client Information to us will not infringe any copyright or other third-party rights.
9. We will rely on Client Information made available to us and, unless we expressly agree otherwise, will have no responsibility to evaluate or verify it.
10. You shall be responsible for your personnel's compliance with your obligations under this Agreement.

### Our Reports

11. Any information, advice, recommendations or other content of any reports, presentations or other communications we provide under this Agreement ("Reports"), other than Client Information, are for your internal use only (consistent with the purpose of the particular Services).

12. You may not disclose a Report (or any portion or summary of a Report) externally (including to your affiliates), or refer to us or to any other EY Firm in connection with the Services, except:

- (a) to your lawyers (subject to these disclosure restrictions), who may review it only in connection with advice relating to the Services,
- (b) to the extent, and for the purposes, required by law (and you will promptly notify us of such legal requirement to the extent you are permitted to do so),
- (c) to other persons (including your affiliates) with our prior written consent, who may use it only as we have specified in our consent, or
- (d) to the extent it contains Tax Advice, as set forth in Section 13.

If you are permitted to disclose a Report (or a portion thereof), you shall not alter, edit or modify it from the form we provided.

13. You may disclose to anyone a Report (or any portion thereof) solely to the extent that it relates to tax matters, including tax advice, tax opinions, tax returns, or the tax treatment or tax structure of any transaction to which the Services relate ("Tax Advice"). With the exception of tax authorities, you shall inform those to whom you disclose Tax Advice that they may not rely on it for any purpose without our prior written consent.
14. You may incorporate into documents that you intend to use our summaries, calculations or tables based on Client Information contained in a Report, but not our recommendations, conclusions or findings. You must assume sole responsibility for the contents of those documents and you must not externally refer to us or any other EY Firm in connection with them.
15. You may not rely on any draft Report. We shall not be required to update any final Report for circumstances of which we become aware, or events occurring, after its delivery.

### Limitations

16. Our liability is subject to Point 8 AAB (Annex ./A).
17. If we are liable to you (or to any others for whom Services are provided) under this Agreement or otherwise in connection with the Services, for loss or damage to which any other persons have also contributed, our liability to you shall be several, and not joint, with such others, and shall be limited to our fair share of that total loss or damage, based on our contribution to the loss and damage relative to the others' contributions. No exclusion or limitation on the liability of other responsible persons imposed or agreed at any time shall affect any assessment of our proportionate liability hereunder, nor shall settlement of or difficulty enforcing any claim, or the death, dissolution or insolvency of any such other responsible persons or their ceasing to be liable for the loss or damage or any portion thereof, affect any such assessment.



18. You may not make a claim or bring proceedings relating to the Services or otherwise under this Agreement against any other EY Firm or our or its subcontractors, members, shareholders, directors, officers, partners, principals or employees ("EY Persons"). You shall make any claim or bring proceedings only against us.

#### **Indemnity**

19. To the fullest extent permitted by applicable law and professional regulations, you shall indemnify us, the other EY Firms and the EY Persons against all claims by third parties (including your affiliates and lawyers) and resulting liabilities, losses, damages, costs and expenses (including reasonable external and internal legal costs) arising out of the third party's use of or reliance on any Report (including Tax Advice) disclosed to it by or through you or at your request. You shall have no obligation hereunder to the extent that we have specifically authorized, in writing, the third party's reliance on the Report.

#### **Intellectual Property Rights**

20. We may use data, software, designs, utilities, tools, models, systems and other methodologies and know-how ("Materials") that we own in performing the Services. Notwithstanding the delivery of any Reports, we retain all intellectual property rights in the Materials (including any improvements or knowledge developed while performing the Services), and in any working papers compiled in connection with the Services (but not Client Information reflected in them).
21. Upon payment for the Services, you may use any Materials included in the Reports, as well as the Reports themselves as permitted by this Agreement.

#### **Confidentiality**

22. Except as otherwise permitted by this Agreement, neither of us may disclose to third parties the contents of this Agreement or any information (other than Tax Advice) provided by or on behalf of the other that ought reasonably to be treated as confidential and/or proprietary. Either of us may, however, disclose such information to the extent that it:
- (a) is or becomes public other than through a breach of this Agreement,
  - (b) is subsequently received by the recipient from a third party who, to the recipient's knowledge, owes no obligation of confidentiality to the disclosing party with respect to that information,
  - (c) was known to the recipient at the time of disclosure or is thereafter created independently,
  - (d) is disclosed as necessary to enforce the recipient's rights under this Agreement, or
  - (e) must be disclosed under applicable law, legal process or professional regulations.
23. Either of us may use electronic media to correspond or transmit information and such use will not in itself constitute a breach of any confidentiality obligations under this Agreement. Information provided electronically shall not be considered binding unless electronically signed

or sent as duly signed document in the pdf-format via E-mail.

24. Unless prohibited by applicable law, we may disclose Client Information to other EY Firms, EY Persons and third parties providing services on our behalf who may collect, use, transfer, store or otherwise process it (collectively 'Process') in various jurisdictions in which they operate for purposes related to the provision of the Services, to comply with regulatory requirements, to check conflicts, for quality, risk management or financial accounting purposes and/or for the provision of other administrative - and IT - support services (collectively 'Process Purposes'). We shall be responsible to you for maintaining the confidentiality of Client Information.
25. With respect to any Services, if U.S. Securities and Exchange Commission auditor independence regulations apply to the relationship between you or any of your associated entities and any EY Firm, you represent, to the best of your knowledge, as of the date of this Agreement, that neither you nor any of your affiliates has agreed, either orally or in writing, with any other advisor to restrict your ability to disclose to anyone the tax treatment or tax structure of any transaction to which the Services relate. An agreement of this kind could impair an EY Firm's independence as to your audit or that of any of your affiliates, or require specific tax disclosures as to those restrictions. Accordingly, you agree that the impact of any such agreement is your responsibility.

#### **Data Protection**

26. For the Process Purposes referred to in Section 24 above, we and other EY Firms, EY Persons and third parties providing services on our behalf may Process Client Information that can be linked to specific individuals or legal entities ("Personal Data") in various jurisdictions in which we and any of them operate (EY office locations are listed at [www.ey.com](http://www.ey.com)). We will Process the Personal Data in accordance with applicable law and professional regulations including (without limitation) the Act concerning the Protection of Personal Data (*Datenschutzgesetz 2000*) in your interest and in order to fulfill our professional duties, to ensure the efficiency, independence and quality of our work and to introduce and use standardized performance recording and documentation systems. You agree to this Process of Personal Data by signing Annex/B, which is attached hereto. We will require any service provider that Processes Personal Data on our behalf to adhere to such requirements.
27. You warrant that you have the authority to provide the Personal Data to us in connection with the performance of the Services and that the Personal Data provided to us has been Processed in accordance with applicable law.

#### **Fees and Expenses Generally**

28. You shall pay our professional fees and specific expenses in connection with the Services as detailed in the applicable Statement of Work. You shall also reimburse us for other reasonable expenses incurred in performing the Services. Our fees are exclusive of taxes or similar charges, as well as customs, duties or tariffs imposed in respect of the Services, all of which you shall pay (other than taxes imposed on our income generally) Unless otherwise set forth in the applicable Statement of Work, payment is

due within 30 days following receipt of each of our invoices..

29. We may charge additional professional fees if events beyond our control (including your acts or omissions) affect our ability to perform the Services as originally planned or if you ask us to perform additional tasks.
30. If we are required by applicable law, legal process or government action to produce information or personnel as witnesses with respect to the Services or this Agreement, you shall reimburse us for any professional time and expenses (including reasonable external and internal legal costs) incurred to respond to the request, unless we are a party to the proceeding or the subject of the investigation.

#### **Force Majeure**

31. Neither you nor we shall be liable for breach of this Agreement (other than payment obligations) caused by circumstances beyond your or our reasonable control.

#### **Term and Termination**

32. This Agreement applies to the Services whenever performed (including before the date of this Agreement).
33. This Agreement shall terminate on the completion of the Services. Either of us may terminate it, or any particular Services, earlier upon one month's prior written notice to the other. In addition, we may terminate this Agreement, or any particular Services, immediately upon written notice to you if we reasonably determine that we can no longer provide the Services in accordance with applicable law or professional obligations.
34. You shall pay us for all work-in-progress, Services already performed, and expenses incurred by us up to and including the effective date of the termination of this Agreement.
35. Our respective confidentiality obligations under this Agreement shall continue indefinitely following the termination of this Agreement. The other provisions of this Agreement that give either of us rights or obligations beyond its termination shall continue indefinitely following the termination of this Agreement.

#### **Governing Law and Dispute Resolution**

36. This Agreement, and any non-contractual matters or obligations arising out of this Agreement or the Services, shall be governed by, and construed in accordance with, the laws of Austria.
37. Except as otherwise expressly provided in the Cover Letter or in the applicable Statement of Work, any dispute relating to this Agreement or the Services shall be subject to the exclusive jurisdiction of the court, which is competent at our corporate seat, to which each of us agrees to submit for these purposes. In case you have your corporate seat in a state outside the EU, with which Austria has not entered into a bilateral treaty on the recognition and enforcement of judgments in civil and commercial matters, we shall be entitled at our own option to have recourse either to the court competent according to the above or to arbitration. In the latter case any dispute shall be finally settled under the Rules of Arbitration and Conciliation of the International Arbitral Centre of

the Austrian Federal Economic Chamber in Vienna (Vienna Rules) by three arbitrators appointed in accordance with these rules. The language to be used in the arbitral proceedings shall be English.

#### **Miscellaneous**

38. This Agreement constitutes the entire agreement between us as to the Services and the other matters it covers, and supersedes all prior agreements, understandings and representations with respect thereto, including any confidentiality agreements previously delivered.
39. Both of us may execute this Agreement (including Statements of Work), as well as any modifications to it by electronic means and each of us may sign a different copy of the same document. Both of us must agree in writing to modify this Agreement or any Statement of Work hereunder.
40. Each of us represents that the person signing this Agreement and any Statement of Work hereunder on its behalf is expressly authorized to execute them and to bind each of us to their terms.  
  
You represent that your affiliates and any others for whom Services are performed shall be bound by the terms of this Agreement and the applicable Statement of Work.
41. You agree that we and the other EY Firms may, subject to professional obligations, act for other clients, including your competitors.
42. Neither of us may assign any of our rights, obligations or claims under this Agreement.
43. If any provision of this Agreement (in whole or part) is held to be illegal, invalid or otherwise unenforceable, the other provisions shall remain in full force and effect.
44. If there is any inconsistency between provisions in different parts of this Agreement, those parts shall have precedence as follows (unless expressly agreed otherwise): (a) the Cover Letter, (b) the applicable Statement of Work and any annexes thereto, (c) the client consent to transfer and central storage of data, (d) these General Terms and Conditions and (e) the AAB and other annexes to this Agreement.
45. Neither of us may use or reference the other's name, logos or trademarks without its prior written consent. Once we have obtained your prior consent by the attached Client Consent, we are allowed to use your name publicly to identify you as a client in connection with specific Services or otherwise. .
46. The limitations in Sections 16 to 18 and the provisions of Sections 19, 24, 26 and 41 are intended to benefit the other EY Firms and all EY Persons, who shall be entitled to enforce them.

# General Conditions of Contract for the Public Accounting Professions (AAB 2011)

Laid down by the Working Group for Fees and Conditions of Contract of the Chamber of Public Accountants and Tax Advisors, recommended for use by the Board of the Chamber of Public Accountants and Tax Advisors in its decision of March 8, 2000, and revised by the Working Group for Fees and Conditions of Contract on May 23, 2002, on October 21, 2004, on December 18, 2006, on August 31, 2007, on February 26, 2008, on June 30, 2009, on March 22, 2010, as well as on February 21, 2011

## Preamble and General Points

(1) The General Conditions of Contract for the professions in the field of public accounting are divided into four sections: Section I deals with contracts for services, excluding contracts concerning bookkeeping, payroll accounting and administration and assessment of payroll-related taxes and contributions; Section II deals with contracts for rendering services in the field of bookkeeping, payroll accounting and administration and assessment of taxes and contributions; Section III covers contracts not regarded as contracts for the rendering of services, while Section IV is devoted to consumer business covered by the Austrian Consumer Act.

(2) In the event that individual provisions of these General Conditions of Contract are void, this shall not affect the validity of the remaining provisions. The invalid provision shall be replaced by a valid provision that is as close as possible to the desired objective.

(3) The person entitled to exercise profession in the field of public accounting shall be obliged to render the services negotiated in accordance with the principles of due professional care and conduct. He/she shall have the right to engage suitable staff for the execution of the contract. This shall apply to all sections of The General Conditions of Contract.

(4) Finally, foreign law shall only be taken into account by the person entitled to exercise the profession, if this has been explicitly agreed upon in writing. This shall apply to all sections of the General Conditions of Contract.

(5) The work prepared in the offices of the person entitled to exercise the profession may, at the discretion of the person entitled to exercise the profession, be carried out with or without using electronic data processing. In case electronic data processing is used, the client – not the person entitled to exercise the profession – is obliged to effect the registrations or notifications required under the relevant provisions of the Data Protection Act.

(6) The client undertakes not to employ staff of the person entitled to exercise the profession during and within one year after termination of the contractual relationship, either in his/her company or in an associated company, failing which he/she shall be obliged to pay the person entitled to exercise the profession the amount of the annual salary of the employee taken over.

## SECTION I

### 1. Scope

(1) The General Conditions of Contract in Section I shall apply to contracts concerning (statutory and voluntary) audits with or without auditor's certificate, expert opinions, court expert opinions, preparation of annual financial statements and other financial statements, tax consultancy and other services to be rendered within the framework of a contract for the rendering of services, excluding bookkeeping, payroll accounting and the administration and assessment of payroll-related taxes and contributions.

(2) The General Conditions of Contract shall apply, if their use has been explicitly or tacitly agreed upon. Furthermore, in the absence of another agreement, they shall be used for reference to facilitate interpretation.

(3) Point 8 shall also apply to third parties whose services, in certain cases, may be enlisted by the contractor for the execution of the contract.

## 2. Scope and Execution of Contract

(1) Reference shall be made to Items 3 and 4 of the Preamble.

(2) Should the legal situation change subsequent to delivering a final professional statement passed on by the client orally or in writing, the person entitled to exercise the profession shall not be obliged to inform the client of changes or of the consequences thereof. This shall also apply to the completed parts of a contract.

(3) An application submitted by the person entitled to exercise the profession to an authority (e.g. tax office, social security institution) by electronic means, shall be regarded as neither signed by the person entitled to exercise the profession nor by the person authorized to submit such an application.

## 3. Client's Obligation to Provide Information and Submit Complete Set of Documents

(1) The client shall make sure that all documents required for the execution of the contract be placed in good time and without special request at the disposal of the person entitled to exercise the profession and that he/she be informed of all events and circumstances which may be of significance for the execution of the contract. This shall also apply to documents, events and circumstances which become known only after the person entitled to exercise the profession has commenced his/her work.

(2) The client shall confirm in writing that all documents submitted, all information provided and explanations given in the context of audits, expert opinions and expert services are complete. This statement may be made on the forms specifically designed for this purpose.

(3) If the client fails to disclose considerable risks in connection with the preparation of annual financial statements and other statements, the contractor shall not be obliged to render any compensation in this respect.

## 4. Maintenance of Independence

(1) The client shall be obliged to take all measures to make sure that the independence of the employees of the person entitled to exercise the profession be maintained and shall refrain from jeopardizing their independence in any way. In particular, this shall apply to offers of employment and to offers to accept contracts on their own account.

**(2) The client consents that their personal details, meaning their name and the type and scope of the services, including the performance period, agreed between the professional practitioner and the client (both audit and non-audit services), shall be handled within the information network (network), to which the professional practitioner belongs, and for this purpose transferred to the other members of the information network (network) including abroad (a list of all recipients of communications shall be sent to the client at their request by the commissioned professional practitioner) for the purpose of examination of the existence of grounds of bias or grounds for exclusion within the meaning of Sections 271 et seq. of the Company Code (UGB). For this purpose the client expressly releases the professional practitioner in accordance with the Data Protection Act and in accordance with Section 91 Subsection 4 Clause 2 of the Auditing, Tax Advising and Related Professions Act (WTBG) from their obligation to maintain secrecy. Moreover, the client acknowledges in this regard that in states which are not EU members a lower level of data protection than in the EU may prevail. The client can revoke this consent at any time in writing to the professional practitioner.**

## 5. Reporting Requirements

(1) In the absence of an agreement to the contrary, a written report shall be drawn up in the case of audits and expert opinions.

(2) All information and opinions of the person entitled to exercise the profession and his employees shall only be binding provided they are set down or confirmed in writing. Written opinions shall only be those on which there is a company signature. Written opinions shall in no circumstances be information sent electronically, specifically not via e-mail.

(3) Transmission errors cannot be excluded when information and data is transmitted electronically. The person entitled to exercise the profession and his employees shall not be liable for losses which arise as a result of electronic transmission. Electronic transmission shall be exclusively at the client's risk. The client is aware that confidentiality is not guaranteed when the Internet is used. Furthermore, amendments or supplements to documents transmitted shall only be permissible subject to explicit approval.

(4) Receipt and forwarding of information to the person entitled to exercise the profession and his employees are not always guaranteed when the telephone is used, in particular in conjunction with automatic telephone answering systems, fax, e-mail and other electronic means of communication. As a result, instructions and important information shall only be deemed to have been received by the person entitled to exercise the profession provided they are also received in writing, unless explicit confirmation of receipt is provided in individual instances. Automatic confirmation that items have been transmitted and read shall not as such constitute explicit confirmations of receipt. This shall apply in particular to the transmission of decisions and other information relating to deadlines. As a result, critical and important notifications must be sent to the person entitled to exercise the profession by post or courier. Delivery of documents to employees outside the firm's offices shall not count as delivery.

(5) The client agrees to being sent recurrent general tax law and general commercial law information by the person entitled to exercise the profession via electronic means. This shall not apply to unsolicited information in accordance with § 107 of the Austrian Telecommunications Act (TKG).

#### 6. Protection of Intellectual Property of the Person Entitled to Exercise the Profession

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

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

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

#### 7. Correction of Errors

(1) The person entitled to exercise the profession shall have the right and shall be obliged to correct all errors and inaccuracies in his/her professional statement passed on by the client orally or in writing which subsequently come to light and shall be obliged to inform the client thereof without delay. He/she shall also have the right to inform a third party acquainted with the original statement of the change.

(2) The client has the right to have all errors corrected free of charge, if the contractor can be held responsible for them; this right will expire six months after completion of the services rendered by the person entitled to exercise the profession and/or – in cases where a written statement has not been delivered – six months after the person entitled to exercise the profession has completed the work that gives cause to complaint.

(3) If the contractor fails to correct errors which have come to light, the client shall have the right to demand a reduction in price. The extent to which additional claims for damages can be asserted is stipulated under Point 8.

#### 8. Liability

(1) The person entitled to exercise the profession shall only be liable for violating intentionally or by gross negligence the contractual duties and obligations entered into.

(2) In cases of gross negligence, the maximum liability for damages due from the appointed person entitled to exercise the profession is tenfold the minimum insurance sum of the professional liability insurance

according to Section 11 of the Act on Professions in the Field of Public Accounting (WTBG) in the currently valid version.

(3) Any action for damages may only be brought within six months after those entitled to assert a claim have gained knowledge of the damage, but not later than three years after the occurrence of the (primary) loss following the incident upon which the claim is based, unless other statutory limitation periods are laid down in other legal provisions.

(4) Should Section 275 of the Austrian Business Enterprise Code (Commercial Code, UGB) be mandatorily applicable, the liability provisions pursuant to Section 275 shall apply where these represent mandatory law, even in cases where several persons have participated in the execution of the contract or where several activities requiring compensation have taken place, irrespective of whether other participants have acted with intent.

(5) In cases where a formal audit certificate is issued, the applicable limitation period shall commence at the latest at the time of issue of said audit certificate.

(6) If activities are carried out by enlisting the services of a third party, e.g. a data-processing company, and the client is informed thereof, any warranty claims and claims for damages which arise against the third party according to law and in accordance with the conditions of the third party, shall be deemed as having been passed on to the client. The person entitled to exercise the profession shall only be liable for fault in choosing the third party.

(7) The person entitled to exercise the profession shall not be liable to a third party, if his/her professional statements are passed on by the client orally or in writing without the approval or knowledge of the person entitled to exercise the profession.

(8) The above provisions shall apply not only vis-à-vis the client but also vis-à-vis third parties, if the person entitled to exercise the profession, in exceptional cases, should be liable for his/her work. In any case, a third party cannot raise any claims that go beyond any claim raised by the client. The maximum sum of liability shall be valid only once for all parties injured, including the compensation claims of the client, even if several persons (the client and a third party or several third parties) have been wronged; the claims of the aggrieved parties shall be satisfied in the order in which the claims have been raised.

#### 9. Secrecy, Data Protection

(1) According to Section 91 WTBG the person entitled to exercise the profession shall be obliged to maintain secrecy in all matters that become known to him/her in connection with his work for the client, unless the client releases him/her from this duty or he/she is bound by law to deliver a statement.

(2) The person entitled to exercise the profession shall be permitted to hand on reports, expert opinions and other written statements pertaining to the results of his/her services to third parties only with the permission of the client, unless he/she is required to do so by law.

(3) The person entitled to exercise the profession is authorized to process personal data entrusted to him/her within the framework of the purpose of the contract or to have them processed by a third party according to Point 8 Item 5. The person entitled to exercise the profession shall guarantee that according to Section 15 of the Data Protection Act secrecy be maintained. According to Section 11 of the Data Protection Act the material made available to the person entitled to exercise the profession (data carrier, data, control numbers, analyses and programs) as well as all results obtained as a result of the work provided shall be returned to the client, unless the client has requested in writing that the material and/or results be transferred to a third party. The person entitled to exercise the profession shall be obliged to take measures to ensure that the client can meet his/her obligation to provide information according to Section 26 of the Data Protection Act. The client's instructions required for this purpose shall be given in writing to the person entitled to exercise the profession. Unless a fee has been negotiated for providing such information, the client shall be charged only the actual efforts undertaken. The client shall meet his/her obligation to provide information to those concerned and/or to register in the data processing register, unless the contrary has been explicitly agreed in writing.

#### 10. Termination

(1) Unless otherwise agreed in writing or stipulated by force of law, either contractual partner shall have the right to terminate the contract at any time with immediate effect. The fee shall be calculated according to Point 12.

(2) However, a continuing agreement (even with a flat fee) – always to be presumed in case of doubt – may, without good reason (cf. Section 88 Item 4 WTBG), only be terminated at the end of the calendar month by observing a period of notice of three months, unless otherwise agreed in writing.

(3) Except for cases listed in Item 5, in case of termination of a continuing agreement only those tasks shall be part of the list of jobs to be completed and finished that can be completed fully or to the largest part within the period of notice, with financial statements and annual income tax returns being deemed to be subject to successful completion within two months calculated from the balance sheet date. In this case the above-mentioned jobs actually have to be completed within a reasonable period of time, if all documents and records required are provided without delay and if no good reason within the meaning of Section 88 Paragraph 4 WTBG is cited.

(4) In case of a termination according to Item 2 the client shall be informed in writing within one month which assignments at the time of termination are considered to be part of the work to be completed.

(5) If the client is not informed within this period about the assignments still to be carried out, the continuing agreement shall be deemed terminated upon completion of the tasks under way at the date when the notice of termination is served.

(6) Should it happen that in case of a continuing agreement as defined under Items 2 and 3 – for whatever reason – more than two similar jobs which are usually completed only once a year (e.g. financial statements or annual tax returns etc.) are to be completed, any such jobs exceeding this number shall be regarded as assignments to be completed only with the client's explicit consent. If applicable, the client shall be informed of this explicitly in the statement pursuant to Item 4.

#### 11. Default in Acceptance and Failure to Cooperate on the part of the Client

If the client defaults on acceptance of the services rendered by the person entitled to exercise the profession or fails to carry out a task incumbent on him/her either according to Point 3 or imposed on him/her in another way, the person entitled to exercise the profession shall have the right to terminate the contract without prior notice. His/her fees shall be calculated according to Point 12. Default in acceptance or failure to cooperate on the part of the client shall also justify a claim for compensation made by the person entitled to exercise the profession for the extra time and labor hereby expended as well as for the damage caused, if the person entitled to exercise the profession does not invoke his/her right to terminate the contract.

#### 12. Entitlement to Fee

(1) If the contract fails to be executed (e.g. due to termination), the person entitled to exercise the profession shall be entitled to the negotiated fee, provided he/she was prepared to render the services and was prevented from so doing by circumstances caused by the client (Section 1168 of the Civil Code (ABGB)); in this case the person entitled to exercise the profession need not deduct the amount he/she obtained or could have obtained through alternative use of his/her own professional services or those of his/her employees.

(2) If the client fails to cooperate and the assignment cannot be carried out because of lack of cooperation, person entitled to exercise the profession shall also have the right to set a reasonable grace period on the understanding that, if this grace period expires without results, the contract shall be deemed cancelled and the consequences indicated in Item 1) shall apply.

(3) If the person entitled to exercise the profession terminates the contract without good reason and at an inopportune moment, he/she shall compensate the client for the damage caused according to Point 8.

(4) If the client – having been made aware of the legal situation – agrees that the person entitled to exercise the profession duly completes the task, the work shall be completed accordingly.

#### 13. Fee

(1) Unless the parties agreed that the services would be rendered free of charge or unless explicitly stipulated otherwise, an appropriate remuneration in accordance with Sections 1004 and 1152 of the Austrian Civil Code (ABGB) is due. Unless a different agreement has demonstrably been reached, payments by the client shall in all cases be credited against the oldest debt. The claim for remuneration by the person entitled to exercise the profession is based upon an agreement concluded between him/her and the principal involved.

(2) Proper understanding between the person entitled to exercise the profession and their principals is most effectively achieved by clearly expressed remuneration agreements.

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

(4) Travel time to the extent required is also charged in most cases.

(5) Study of documents which, in terms of their nature and extent, may prove necessary for preparation of the person entitled to exercise the profession in his/her own office may also be charged as a special item

(6) Should a remuneration already agreed upon prove inadequate as a result of the subsequent occurrence of special circumstances or special requirements of the principal, additional negotiations for the agreement of a more suitable remuneration are usual. This also usually applies where inadequate fixed sum remunerations are concerned.

(7) Persons entitled to exercise the profession also include charges for supplementary costs and value-added (turnover) tax in addition to the above.

(8) Supplementary costs also include documented or flatrate cash expenses, travelling expenses (first class for train journeys, sleeping car (wagon lits) if necessary, dietary requirements, mileage allowance, photocopy costs and similar supplementary costs.

(9) Should particular third party liabilities be involved, the necessary insurance premiums also count as supplementary costs.

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

(11) For the execution of a commission wherein mutual conclusion involves several persons entitled to exercise the profession, each of the latter will charge his/her own remuneration.

(12) Remunerations and advance payments required are due immediately after receipt of their written claim should no other agreements exist. Where payments of remuneration are made later than 14 days after the due date, default interest may be charged. Where mutual business transactions are concerned, a default interest rate of 8% above the base rate is agreed upon (Cf. Section 352 of the Austrian Business Enterprise Code (Commercial Code, UGB)).

(13) Time limitation is in accordance with Section 1486 of the Austrian Civil Code (ABGB), starting at the time of conclusion of the service involved or a later rendering of accounts after an appropriate time-limit.

(14) An objection may be raised in writing against bills presented by the appointed trustee up to 4 weeks after the date of presentation. Otherwise the bill is considered as accepted. Filing of a bill in the accounting system of the recipient is also considered as acceptance.

(15) Application of § 934 ABGB (Austrian Civil Code) within the meaning of § 351 Austrian Business Enterprise Code (Commercial Code, UGB), i.e. rescission for *laesio enormis* (lesion beyond moiety) among entrepreneurs, is hereby renounced.

#### 14. Other Provisions

(1) In addition to the reasonable rate or fee charged, the person entitled to exercise the profession shall have the right to claim reimbursement of expenses. He/she can ask for advance payments and can make delivery of the results of his/her (continued) work dependent on satisfactory fulfillment of his/her demands. In this context reference shall be made to the legal right of retention (Section 471 of the Civil Code (ABGB), Section 369 of the Austrian Business Enterprise Code (Commercial Code, UGB)). If the right of retention is wrongfully exercised, the person entitled to exercise the profession shall be liable only in case of gross negligence up to the outstanding amount of his/her fee. As regards standing orders, the provision of further services may be denied until payment of previous services has been effected. This shall analogously apply if services are rendered in installments and fee installments are outstanding.

(2) After all the data to be archived, which has been prepared by the public accountant and tax advisor, has been delivered to the client or to the succeeding public accountant and tax advisor, the person entitled to exercise the profession shall be entitled to delete the data in question.

(3) With the exception of obvious essential errors, a complaint concerning the work of the person entitled to exercise the profession shall not justify the retention of remuneration owed in accordance with Item 1.

(4) Offsetting the remuneration claims made by the person entitled to exercise the profession in accordance with Item 1 shall only be permitted, if the demands are uncontested and legally valid.

(5) At the request and expense of the client, the person entitled to exercise the profession shall hand over all documents received from the client within the scope of his/her activities. However, this shall not apply to correspondence between the person entitled to exercise the profession and his/her client, to original documents in his/her possession or to

documents which have to be kept in accordance with the directive on money laundering. The person entitled to exercise the profession may make or retain copies or duplicates of the documents to be returned to the client. The client shall be obliged to bear these expenses in so far as these copies or duplicates may be required as a proof of the orderly execution of all professional duties by the person entitled to exercise the profession.

(6) In the event of termination of the contract, the contractor shall be entitled to charge an appropriate fee for further queries after termination of the contract and for granting access to the relevant information about the audited company.

(7) The client shall fetch the documents handed over to the person entitled to exercise the profession within three months after the work has been completed. If the client fails to do so, the person entitled to exercise the profession shall have the right to return them to the client at the cost of the client or to charge safe custody charges, if the person entitled to exercise the profession can prove that he/she has asked the client twice to pick up the documents handed over.

(8) The person entitled to exercise the profession shall have the right to compensation of any fees that are due by use of any available deposited funds, clearing balances, trust funds or other liquid resources at his/her disposal even if these funds are explicitly intended for safe keeping, if the client had to reckon with a counterclaim of the person entitled to exercise the profession.

(9) To safeguard an existing or future fee payable, the person entitled to exercise the profession shall have the right to transfer a balance held by the client with the tax office or another balance held by the client in connection with charges and contributions, to a trust account. In this case the client shall be informed about the transfer. Subsequently, the amount secured may be collected either after agreement has been reached with the client or after enforceability by execution has been declared.

#### 15. Applicable Law, Place of Performance, Jurisdiction

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

(2) The place of performance shall be the place of business of the person entitled to exercise the profession.

(3) In case of disputes, the court of the place of performance shall be the competent court.

#### 16. Supplementary Provisions for Audits

(1) For statutory audits of financial statements which are carried out in order to issue a formal audit certificate (e.g. Section 268 and the following sections of the Company Code), the purpose of the contract, unless otherwise agreed to in writing, shall not be to investigate whether regulations concerning tax laws or specific regulations, e.g. price fixing, restriction of competition and foreign exchange regulations have been adhered to. Neither shall the purpose of the statutory audit of financial statements be to investigate whether the business is run in an economical, efficient and expedient manner. Within the framework of a statutory audit of a financial statement there shall be no obligation to detect the falsification of accounts or other irregularities.

(2) When a qualified or unqualified audit certificate is issued within the scope of a statutory audit of the annual financial statement, the audit certificate issued shall be appropriate for the respective type of business organization.

(3) If financial statements are published together with the audit certificate, they shall only be published in the form confirmed or explicitly permitted by the auditor.

(4) If the auditor revokes his/her audit certificate, the further use thereof shall no longer be permitted. If the financial statements have been published with the audit certificate, the revocation thereof shall also be published.

(5) For other statutory and voluntary audits of financial statements as well as for other audits, the above principles shall apply accordingly.

#### 17. Supplementary Provisions concerning the Preparation of Annual Financial Statements and Other Financial Statements, Consultation and Other Services to be Provided within the Framework of a Contract for the Rendering of Services

(1) The person entitled to exercise the profession, when performing the aforementioned activities, shall be justified in accepting information provided by the client, in particular figures, as correct. However, he/she is

obliged to inform the client of any errors identified by him/her. The client shall present the person entitled to exercise the profession with all important documents required for keeping deadlines, in particular tax assessment notices, in good time so as to ensure that the person entitled to exercise the profession has a reasonable amount of time, but not less than one week, to process the information.

(2) In the absence of written agreements to the contrary, consultation shall consist of the following activities:

- a) preparing annual tax returns for income tax and corporate tax as well as value-added tax (VAT) on the basis of the financial statements and other documents and papers required for taxation purposes and to be submitted by the client or prepared by the contractor.
- b) examining the tax assessment notices for the tax returns mentioned under a).
- c) negotiating with the fiscal authorities in connection with the tax returns and notices mentioned under a) and b).
- d) participating in external tax audits and assessing the results of external tax audits with regard to the taxes mentioned under a).
- e) participating in appeal procedures with regard to the taxes mentioned under a). If the person entitled to exercise the profession receives a flat fee for regular tax consultation, in the absence of written agreements to the contrary, the activities mentioned under d) and e) shall be invoiced separately.

(3) Particular matters pertaining to income tax, corporate tax and ratable value tax return as well as all matters relating to value-added tax, withholding tax on salaries and wages and other taxes and duties shall only be prepared on the basis of a specific contract. This shall also apply to

- a) processing non-recurring matters pertaining to tax, e.g. inheritance tax, capital transfer tax, land transfer tax,
- b) the defense and consultation in penal procedures relating to the taxes mentioned,
- c) providing consultation and expert opinions in matters pertaining to the foundation, restructuring, merger, capital increase and decrease, and reorganization of a company, entry and retirement of a shareholder or partner, sale of a business, winding up, management consultancy and other activities according to Sections 3 to 5 of the Act on Professions in the Field of Public Accounting (WTBG).
- d) the preparation of applications to the Register of Companies in connection with annual financial statements, including the keeping of records required.

(4) Provided the preparation of the annual value added tax return is part of the contract accepted, this shall not include the examination of any particular accounting conditions nor the examination of whether all relevant value added tax concessions have been utilized, unless the person entitled to exercise the profession can prove that he/she has been commissioned accordingly.

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

#### SECTION II 18. Scope

The General Conditions of Contract in Section II shall apply to contracts for the rendering of services in the field of bookkeeping, payroll accounting and the administration and assessment of payroll-related taxes and contributions.

#### 19. Scope and Execution of Contract

(1) Reference shall be made to Items 3 and 4 of the Preamble.

(2) The person entitled to exercise the profession shall be justified in regarding information and documents presented to him/her by the client, in particular figures, as correct and complete and in using them as a basis for accounting. The person entitled to exercise the profession shall not be obliged to identify errors, unless he/she has been specifically instructed to do so in writing. However, if errors are identified, he/she shall inform the client thereof.

(3) If a flat fee has been negotiated for the activities mentioned in Point 18, in the absence of written agreements to the contrary, representation in matters concerning all types of tax audits and audits of payroll-related taxes and social security contributions including settlements concerning tax assessments and the basis for contributions, preparation of reports, appeals and the like shall be invoiced separately.

(4) Particular individual services in connection with the services mentioned in Point 18, in particular ascertaining whether the requirements for statutory social security contributions are met, shall be dealt with only

on the basis of a specific contract and shall be treated according to Section I or Section III of the General Conditions of Contract.

(5) Any application submitted to authorities (e.g. tax office, social insurance institution) electronically, shall be regarded as neither signed by the person entitled to exercise the profession nor by the person authorized to transmit the application.

#### 20. Client's Duty to Cooperate

The client shall make sure that all information and documents required for bookkeeping, payroll accounting and administration and assessment of payroll-related taxes and contributions be placed at the disposal of the person entitled to exercise the profession on an agreed date without his/her specific request.

#### 21. Termination

(1) Unless otherwise agreed to in writing, either contractual partner may terminate the contract at the end of each month with three months' notice without giving a particular reason.

(2) If the client repeatedly fails to fulfill his/her duties according to Point 20, the person entitled to exercise the profession shall have the right to terminate the contract immediately without prior notice.

(3) If the person entitled to exercise the profession delays in rendering services due to reasons for which he/she is solely responsible, the client shall have the right to terminate the contract immediately without prior notice.

(4) In case of a termination of the contractual relationship only those assignments shall be considered part of the contract which the contractor is already working on or major parts of which can be completed within the period of notice and which are notified to the client within one month.

#### 22. Fee and Entitlement to Fee

(1) Unless otherwise agreed to in writing, the fee shall be considered agreed upon for one year at a time.

(2) If the contract is terminated pursuant to Point 21 Item 2 the person entitled to exercise the profession shall have the right to the full fee negotiated for three months. This shall also apply if the client fails to observe the period of notice.

(3) If the contract is terminated pursuant to Point 21 Item 3, the person entitled to exercise the profession shall only have the right to the fee corresponding to the services rendered up to this point, provided they are of value to the client.

(4) If a flat fee has not been negotiated, the fee shall be calculated pursuant to Item 2 according to the monthly average of the current year of contract until termination.

(5) Unless the parties agreed that the services would be rendered free of charge or unless explicitly stipulated otherwise, an appropriate remuneration in accordance with Sections 1004 and 1152 of the Austrian Civil Code (ABGB) is due. Unless a different agreement has demonstrably been reached, payments by the client shall in all cases be credited against the oldest debt. The claim for remuneration by the person entitled to exercise the profession is based upon an agreement concluded between him/her and the principal involved. Furthermore, the basics standardized under section 13 apply.

(6) Application of § 934 ABGB (Austrian Civil Code) within the meaning of § 351 Austrian Business Enterprise Code (Commercial Code, UGB), i.e. rescission for *laesio enormis* (lesion beyond moiety) among entrepreneurs, is hereby renounced.

#### 23. Other Provisions

In all other cases, the provisions of Section I of the General Conditions of Contract shall apply accordingly.

### SECTION III

#### 24. Scope

(1) The General Conditions of Contract in Section III shall apply to all contracts not mentioned in the previous sections, which are not to be regarded as contracts for rendering services and are not related to the contracts mentioned in the previous sections.

(2) In particular, Section III of the General Conditions of Contract shall apply to contracts concerning the non-recurring participation in negotiations, to services as an agent in matters pertaining to insolvency, to contracts concerning non-recurring interventions and the handling of the

individual matters mentioned in Point 17 Item 3 in the absence of a continuing agreement.

#### 25. Scope and Execution of Contract

(1) Reference shall be made to Items 3 and 4 of the Preamble.

(2) The person entitled to exercise the profession shall be justified in regarding and obliged to regard information and documents presented to him/her by the client, in particular figures, as correct and complete. In case of penal procedures he/she shall protect the rights of the client.

(3) The person entitled to exercise the profession shall not be obliged to identify errors, unless he/she has been specifically instructed to so in writing. However, if he/she identifies errors, the client shall be informed accordingly.

#### 26. Client's Duty to Cooperate

The client shall make sure that all the necessary information and documents be placed at the disposal of the person entitled to exercise the profession in good time and without his/her special request.

#### 27. Termination

Unless otherwise agreed to in writing or stipulated by force of law, either contractual party shall have the right to terminate the contract at any time with immediate effect (Section 1020 of the Civil Code (ABGB)).

#### 28. Fee and Entitlement to Fee

(1) Unless the parties agreed that the services would be rendered free of charge or unless explicitly stipulated otherwise, an appropriate remuneration in accordance with Sections 1004 and 1152 of the Austrian Civil Code (ABGB) is due. Unless a different agreement has demonstrably been reached, payments by the client shall in all cases be credited against the oldest debt. The claim for remuneration by the person entitled to exercise the profession is based upon an agreement concluded between him/her and the principal involved. Furthermore, the basics standardized under section 13 apply.

(2) In the event of termination the fee shall be calculated according to the services rendered up to this point, provided they are of value to the client.

(3) Application of § 934 ABGB (Austrian Civil Code) within the meaning of § 351 Austrian Business Enterprise Code (Commercial Code, UGB), i.e. rescission for *laesio enormis* (lesion beyond moiety) among entrepreneurs, is hereby renounced.

#### 29. Other Provisions

The reference in Point 23 to provisions in Section I shall apply accordingly.

### SECTION IV

#### 30. Scope

The Conditions of Contract of Section IV shall only apply to consumer business in accordance with the Consumer Act (Federal Law of March 8, 1979/Federal Law Gazette No. 140 as amended).

#### 31. Supplementary Provisions for Consumer Transactions

(1) Contracts between persons entitled to exercise the profession and consumers shall fall under the obligatory provisions of the Consumer Act.

(2) The person entitled to exercise the profession shall only be liable for the deliberate and gross negligent violation of the obligations assumed.

(3) Contrary to the limitation laid down in Point 8 Item 2 of the General Conditions of Contract, the duty to compensate on the part of the person entitled to exercise the profession shall not be limited in case of gross negligence.

(4) Point 8 Item 3 of the General Conditions of Contract (asserting claims for damages within a certain period) shall not apply.

(5) Right of Withdrawal according to Section 3 of the Consumer Protection Act

If the consumer has not made his/her contract statement in the office usually used by the person entitled to exercise his/her profession, he/she may withdraw from the contract application or the contract proper. This withdrawal may be declared until the contract has been concluded or within one week after its conclusion; the period commences as soon as a

document has been handed over to the consumer which contains at least the name and the address of the person entitled to exercise the profession as well as instructions on the right to revoke the contract, but no earlier than the conclusion of the contract.

The consumer shall not have the right to withdraw from the contract,

1. if the consumer himself/herself established the business relationship concerning the conclusion of this contract with the person entitled to exercise the profession or his/her agent,

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

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

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

If the consumer withdraws from the contract according to Section 3 of the Consumer Act,

1. the person entitled to exercise the profession shall return all benefits received, including all statutory interest, calculated from the day of receipt, and to compensate the consumer for all necessary and useful expenses incurred in this matter,

2. the consumer shall pay for the value of the services rendered by the person entitled to exercise the profession as far as they are of a clear and predominant benefit to him/her.

According to Section 4 Paragraph 3 of the Consumer Act claims for damages shall remain unaffected.

#### (6) Cost Estimates according to Section 5 of the Consumer Act

The consumer shall pay for the preparation of a cost estimate in accordance with Section 1170a of the Austrian Civil Code by the person entitled to exercise the profession only, if this payment obligation has been notified to the consumer beforehand.

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

#### (7) Correction of Errors: Supplement to Point 7

If the person entitled to exercise the profession is obliged according to Section 932 of the Austrian Civil Code to improve or complement his/her services, he/she shall execute this duty at the place where the matter was transferred to him/her. If it is in the interest of the consumer to have the work and the documents returned by the person entitled to exercise the profession, the consumer may carry out this transfer at his/her own risk and expense.

#### (8) Jurisdiction: Instead of Point 15 Item 3:

If the domicile or the usual residence of the consumer is within the country or if he/she is employed within the country, in case of an action against him/her according to Sections 88, 89, 93 Paragraph 2 and 104 Paragraph 1 JN the jurisdiction of a court shall depend on the district where the consumer has his domicile, usual residence or place of employment.

#### (9) Contracts on Recurring Services

(a) Contracts which oblige the person entitled to exercise the profession to render services and the consumer to effect repeated payments and which have been concluded for an indefinite period or a period exceeding one year, may be terminated by the consumer at the end of the first year, and after the first year at the end of every six months, by adhering to a two-month period of notice.

(b) If the total work is regarded as a service that cannot be divided on account of its character, the extent and price of which is determined already at the conclusion of the contract, the first date of termination may be postponed until the second year has expired. In case of such contracts the period of notice may be extended to a maximum of six months.

(c) If the execution of a certain contract indicated in lit.a) 1 requires considerable expenses on the part of the person entitled to exercise the profession and if he/she informed the consumer about this not later than when the contract was concluded, reasonable dates of termination and periods of notice which deviate from lit.a) and b) and which fit the respective circumstances may be agreed.

(d) If the consumer terminates the contract without complying with the period of notice, the termination shall become effective at the next termination date which follows the expiry of the period of notice.



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