



**Energy Community,  
Vienna, Austria**

Report on the Audit  
of the Financial Statements  
for the year ended 31 December 2016

30 March 2017

KPMG Austria GmbH  
Wirtschaftsprüfungs- und Steuerberatungsgesellschaft  
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To the Director of  
Energy Community,  
Vienna, Austria

We have audited the financial statements for the year ended 31 December 2016 of

**Energy Community,**  
**Vienna, Austria**  
(referred to as "the Organization"),

and **report** on the result of our audit as follows:

## **1. Audit Contract and Scope of the Engagement**

The Organization, represented by the Director, concluded with us a contract to audit the financial statements of the Organization as of 31 December 2016 für two years. Our audit also comprised the accounting system in accordance with Section 269 et seq UGB (Austrian Commercial Code).

The audit is a **voluntary** audit.

According to Article 80 of the Energy Community Procedures for the Establishment and Implementation of Budget, Auditing and Inspection, the Director shall, subject to approval by the Budget Committee, designate an independent External Auditor.

The **audit includes** assessing whether the statutory requirements and additional regulations as stipulated in the articles of association were adhered to.

Our audit was performed in accordance with the **legal requirements and generally accepted standards on auditing** as applied in Austria. These standards require that we comply with *International Standards on Auditing – ISA*. An auditor conducting an audit obtains reasonable assurance that the financial statements are free from material misstatement. An absolute assurance is not attainable due to the test nature and other inherent limitations of an audit, together with the inherent limitations of any accounting and internal control system. There is an unavoidable risk that even material misstatements may remain undetected. Areas which are generally covered in special engagements were not included in our scope of work.

We performed the audit at the Organization's registered office in Vienna in November 2016 (interim audit) and between February and March 2017 (final audit). The audit was substantially completed at the date of this report.

**Engagement partner** of the engagement is Mr Mag. Dr. Johannes Bauer, Wirtschaftsprüfer (Austrian Chartered Accountant).

Our audit is based on the audit contract concluded with the Organization. The "General **Conditions of Contract**" issued by the Chamber of Austrian Chartered Accountants (see Annex II) form an integral part of the audit contract. The conditions of contract do not only apply to the Organization and the auditor, but also to third parties. Our liability as auditors is guided under Section 275 UGB.

## **2. Breakdown and Description of Significant Financial Statement Items**

The breakdown and description of all significant financial statement items are included in the notes to the financial statements. We refer to the respective disclosures made by management in the notes.

### **3. Summary of Audit Findings**

#### **3.1. Compliance of the accounting system and financial statements**

During our audit, we obtained evidence that the statutory requirements as well as the Organization's articles of association and International Public Sector Accounting Standards (IPSAS) have been complied with.

In line with our risk and controls based audit approach and to the extent we considered necessary for the purpose of expressing an opinion, we considered internal controls related to sub processes of the financial reporting process as part of our audit.

With regard to the compliance of the **financial statements** with all applicable requirements we refer to the auditor's report.

#### **3.2. Explanations and evidence**

The Organization's legal representative has sufficiently provided all evidence and explanations requested by us. We obtained Management's representation letter confirming the completeness of the financial statements.

#### **3.3. Reporting in accordance with Section 273 Paragraph 2 UGB**

During our audit we did not note any facts which indicate there could be substantial doubt about the Organization's ability to continue as a going concern, or which might indicate a material offence of the Organization's legal representative or its employees against Austrian law or the Organization's Articles of Association. We did not note any material weaknesses in the internal controls over the financial reporting process.

## 4. Bestätigungsvermerk / Auditor's report

### Bericht zum Jahresabschluss

#### Prüfungsurteil

Wir haben den Jahresabschluss der

Energy Community,  
Vienna, Austria,

bestehend aus der Bilanz zum 31. Dezember 2016, der Erfolgsrechnung, der Geldflussrechnung nach der indirekten Methode sowie dem "Vergleich zwischen budgetierten und tatsächlichen Beträgen" für das an diesem Stichtag endende Geschäftsjahr und dem Anhang, geprüft.

Nach unserer Beurteilung entspricht der Jahresabschluss den gesetzlichen Vorschriften und vermittelt ein möglichst getreues Bild der Vermögens- und Finanzlage zum 31. Dezember 2016 sowie der Ertragslage der Organisation für das an diesem Stichtag endende Geschäftsjahr in Übereinstimmung mit den International Public Sector Accounting Standards (IPSAS).

#### Grundlage für das Prüfungsurteil

Wir haben unsere Abschlussprüfung in Übereinstimmung mit den österreichischen Grundsätzen ordnungsgemäßer Abschlussprüfung durchgeführt. Diese Grundsätze erfordern die Anwendung der International Standards on Auditing (ISA). Unsere Verantwortlichkeiten nach diesen Vorschriften und Standards sind im Abschnitt "Verantwortlichkeiten des Abschlussprüfers für die Prüfung des Jahresabschlusses" unseres Bestätigungsvermerks weitergehend beschrieben. Wir sind von der Organisation unabhängig in Übereinstimmung mit den österreichischen unternehmensrechtlichen und berufsrechtlichen Vorschriften und wir haben unsere sonstigen beruflichen Pflichten in Übereinstimmung mit diesen Anforderungen erfüllt. Wir sind der Auffassung, dass die von uns erlangten Prüfungsnachweise ausreichend und geeignet sind, um als Grundlage für unser Prüfungsurteil zu dienen. Bezüglich unserer Verantwortlichkeit und Haftung als Abschlussprüfer gegenüber der Organisation und gegenüber Dritten kommt § 275 UGB zur Anwendung.

#### Verantwortlichkeiten des gesetzlichen Vertreters für den Jahresabschluss

Der gesetzliche Vertreter ist verantwortlich für die Aufstellung des Jahresabschlusses und dafür, dass dieser in Übereinstimmung mit den International Public Sector Accounting Standards (IPSAS) ein möglichst getreues Bild der Vermögens-, Finanz- und Ertragslage der Organisation vermittelt. Ferner ist der gesetzliche Vertreter verantwortlich für die internen Kontrollen, die er als notwendig erachtet, um die Aufstellung eines Jahresabschlusses zu ermöglichen, der frei von wesentlichen – beabsichtigten oder unbeabsichtigten – falschen Darstellungen ist.



Bei der Aufstellung des Jahresabschlusses ist der gesetzliche Vertreter dafür verantwortlich, die Fähigkeit der Organisation zur Fortführung der Unternehmenstätigkeit zu beurteilen, Sachverhalte im Zusammenhang mit der Fortführung der Unternehmenstätigkeit – sofern einschlägig – anzugeben sowie dafür, den Rechnungslegungsgrundsatz der Fortführung der Unternehmenstätigkeit anzuwenden, es sei denn, der gesetzliche Vertreter beabsichtigt, entweder die Organisation zu liquidieren oder die Unternehmenstätigkeit einzustellen, oder hat keine realistische Alternative dazu.

### **Verantwortlichkeiten des Abschlussprüfers für die Prüfung des Jahresabschlusses**

Unsere Ziele sind, hinreichende Sicherheit darüber zu erlangen, ob der Jahresabschluss als Ganzes frei von wesentlichen – beabsichtigten oder unbeabsichtigten – falschen Darstellungen ist und einen Bestätigungsvermerk zu erteilen, der unser Prüfungsurteil beinhaltet. Hinreichende Sicherheit ist ein hohes Maß an Sicherheit, aber keine Garantie dafür, dass eine in Übereinstimmung mit den österreichischen Grundsätzen ordnungsgemäßer Abschlussprüfung, die die Anwendung der ISA erfordern, durchgeführte Abschlussprüfung eine wesentliche falsche Darstellung, falls eine solche vorliegt, stets aufdeckt. Falsche Darstellungen können aus dolosen Handlungen oder Irrtümern resultieren und werden als wesentlich angesehen, wenn von ihnen einzeln oder insgesamt vernünftigerweise erwartet werden könnte, dass sie die auf der Grundlage dieses Jahresabschlusses getroffenen wirtschaftlichen Entscheidungen von Nutzern beeinflussen.

Als Teil einer Abschlussprüfung in Übereinstimmung mit den österreichischen Grundsätzen ordnungsgemäßer Abschlussprüfung, die die Anwendung der ISA erfordern, üben wir während der gesamten Abschlussprüfung pflichtgemäßes Ermessen aus und bewahren eine kritische Grundhaltung.

Darüber hinaus gilt:

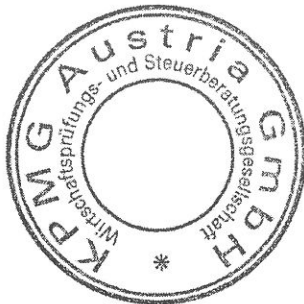
- Wir identifizieren und beurteilen die Risiken wesentlicher – beabsichtigter oder unbeabsichtigter – falscher Darstellungen im Abschluss, planen Prüfungshandlungen als Reaktion auf diese Risiken, führen sie durch und erlangen Prüfungsnachweise, die ausreichend und geeignet sind, um als Grundlage für unser Prüfungsurteil zu dienen. Das Risiko, dass aus dolosen Handlungen resultierende wesentliche falsche Darstellungen nicht aufgedeckt werden, ist höher als ein aus Irrtümern resultierendes, da dolose Handlungen betrügerisches Zusammenwirken, Fälschungen, beabsichtigte Unvollständigkeiten, irreführende Darstellungen oder das Außerkraftsetzen interner Kontrollen beinhalten können.
- Wir gewinnen ein Verständnis von dem für die Abschlussprüfung relevanten internen Kontrollsystem, um Prüfungshandlungen zu planen, die unter den gegebenen Umständen angemessen sind, jedoch nicht mit dem Ziel, ein Prüfungsurteil zur Wirksamkeit des internen Kontrollsystems der Organisation abzugeben.
- Wir beurteilen die Angemessenheit der vom gesetzlichen Vertreter angewandten Rechnungslegungsmethoden sowie die Vertretbarkeit der vom gesetzlichen Vertreter dargestellten geschätzten Werte in der Rechnungslegung und damit zusammenhängende Angaben.



- Wir ziehen Schlussfolgerungen über die Angemessenheit der Anwendung des Rechnungslegungsgrundsatzes der Fortführung der Unternehmenstätigkeit durch den gesetzlichen Vertreter sowie, auf der Grundlage der erlangten Prüfungsnachweise, ob eine wesentliche Unsicherheit im Zusammenhang mit Ereignissen oder Gegebenheiten besteht, die bedeutende Zweifel an der Fähigkeit der Organisation zur Fortführung der Unternehmenstätigkeit aufwerfen kann. Falls wir die Schlussfolgerung ziehen, dass eine wesentliche Unsicherheit besteht, sind wir verpflichtet, in unserem Bestätigungsvermerk auf die dazugehörigen Angaben im Jahresabschluss aufmerksam zu machen oder, falls diese Angaben unangemessen sind, unser Prüfungsurteil zu modifizieren. Wir ziehen unsere Schlussfolgerungen auf der Grundlage der bis zum Datum unseres Bestätigungsvermerks erlangten Prüfungsnachweise. Zukünftige Ereignisse oder Gegebenheiten können jedoch die Abkehr der Organisation von der Fortführung der Unternehmenstätigkeit zur Folge haben.
- Wir beurteilen die Gesamtdarstellung, den Aufbau und den Inhalt des Jahresabschlusses einschließlich der Angaben sowie ob der Jahresabschluss die zugrunde liegenden Geschäftsvorfälle und Ereignisse in einer Weise wiedergibt, dass ein möglichst getreues Bild erreicht wird.

Wien, am 30. März 2017

KPMG Austria GmbH  
Wirtschaftsprüfungs- und Steuerberatungsgesellschaft



Mag. Dr. Johannes Bauer  
Wirtschaftsprüfer

## **5. Auditor's report (Translation)**

### **Report on the Financial Statements**

#### **Audit Opinion**

We have audited the financial statements of

Energy Community,  
Vienna, Austria,

that comprise the statement of financial position as of 31 December 2016, the statement of financial performance, the "comparison of Budget and actual amounts" and the indirect method cash flow statement for the year then ended, and the notes.

In our opinion, the financial statements present fairly, in all material respects, the financial position of the Organization as of 31 December 2016, and its financial performance for the year then ended in accordance with International Public Sector Accounting Standards (IPSAS).

#### **Basis for our Opinion**

We conducted our audit in accordance with Austrian Standards on Auditing. These standards require the audit to be conducted in accordance with International Standards on Auditing (ISA). Our responsibilities pursuant to these rules and standards are described in the "Auditors' Responsibility" section of our report. We are independent of the Organization within the meaning of Austrian commercial law and professional regulations, and have fulfilled our other responsibilities under those relevant ethical requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion. Our liability as auditors is guided under Section 275 UGB.

#### **Management's Responsibility and Responsibility of the Supervisory Board / Audit Committee for the Financial Statements**

The Organization's management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (IPSAS) and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Management is also responsible for assessing the Organization's ability to continue as a going concern, and, where appropriate, to disclose matters that are relevant to the Organization's ability to continue as a going concern and to apply the going concern assumption in its financial reporting, except in circumstances in which liquidation of the Organization or closure of operations is planned or cases in which such measures appear unavoidable.

## **Auditors' Responsibility**

Our aim is to obtain reasonable assurance about whether the financial statements taken as a whole, are free of material – intentional or unintentional– misstatements and to issue an audit report containing our audit opinion. Reasonable assurance represents a high degree of assurance, but provides no guarantee that an audit conducted in accordance with Austrian Standards on Auditing, which require the audit to be performed in accordance with ISA, will detect a material misstatement, if any. Misstatements may result from fraud or error and are considered material if they could, individually or as a whole, be expected to influence the economic decisions of users based on the financial statements.

As part of an audit in accordance with Austrian Standards on Auditing, which require the audit to be performed in accordance with ISA, we exercise professional judgment and retain professional skepticism throughout the audit.

Moreover:

- We identify and assess the risks of material misstatements – intentional or unintentional – in the financial statements, we plan and perform procedures to address such risks and obtain sufficient and appropriate audit evidence to serve as a basis for our audit opinion. The risk that material misstatements due to fraud remain undetected is higher than that of material misstatements due to error, since fraud may include collusion, forgery, intentional omissions, misleading representation or override of internal control.
- We consider internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control.
- We evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates as well as related disclosures made by management.
- We conclude on the appropriateness of management's use of the going concern assumption and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the entity's ability to continue as a going concern. In case we conclude that there is a material uncertainty about the entity's ability to continue as a going concern, we are required to draw attention to the respective note in the financial statements in our audit report or, in case such disclosures are not appropriate, to modify our audit opinion. We conclude based on the audit evidence obtained until the date of our audit report. Future events or conditions however may result in the Organization departing from the going concern assumption.



*Energy Community, Vienna, Austria*  
*Report on the Audit of the Financial Statements for the year ended 31 December 2016*

— We assess the overall presentation, structure and content of the financial statements including the notes as well as whether the financial statements give a true and fair view of the underlying business transactions and events.

Vienna, 30 March 2017

KPMG Austria GmbH  
Wirtschaftsprüfungs- und Steuerberatungsgesellschaft

signed by:  
Mag. Dr. Johannes Bauer  
Wirtschaftsprüfer  
(Austrian Chartered Accountant)

**Financial statements  
as of 31 December 2016**

## Statement of Financial Position as of 31 December 2016

ASSETS		Notes	31 December 2016	31 December 2015
			in EUR	in EUR
<b>A. Current assets</b>				
I.	Cash and cash equivalents	1	2,241,333.43	420,355.83
II.	Receivables	2		
	1. VAT (Federal Ministry of Finance)		112,437.14	44,602.88
	2. Budget contributions receivables		12,285.48	0.00
	3. Other receivables		4,441.62	214,935.37
	<b>Total receivables</b>		<b>129,164.24</b>	<b>259,538.25</b>
III.	Prepayments	3	244,905.49	89,226.10
	<b>Total current assets</b>		<b>2,615,403.16</b>	<b>769,120.18</b>
<b>B. Non-current assets</b>				
I.	Intangible assets			
	Software and licences	4	19,385.16	31,636.04
II.	Tangible assets			
	Infrastructure, plant and equipment	5	91,845.50	53,712.69
	<b>Total non-current assets</b>		<b>111,230.66</b>	<b>85,348.73</b>
	<b>TOTAL ASSETS</b>		<b>2,726,633.82</b>	<b>854,468.91</b>
<b>LIABILITIES</b>				
<b>A. Current liabilities</b>				
I.	Accounts payables	7		
	1. Trade payables		81,029.08	115,657.45
	2. Other liabilities		264,179.18	69,231.46
	3. Legal commitments		800,143.00	539,945.98
	4. Unused appropriations		22,579.85	36,508.29
	5. Unused donations		1,447,472.05	0.00
	<b>Total current liabilities</b>		<b>2,615,403.16</b>	<b>761,343.18</b>
	<b>Deferred income</b>	8	<b>0.00</b>	<b>7,777.00</b>
	<b>Investments</b>	9	<b>111,230.66</b>	<b>85,348.73</b>
	<b>TOTAL LIABILITIES AND NET ASSETS</b>		<b>2,726,633.82</b>	<b>854,468.91</b>

## Statement of Financial Performance for the year ending 31 December 2016

	Notes	31 December 2016 in EUR	31 December 2015 in EUR
<b>REVENUE</b>	10		
1. Donations			
a) Budget Contribution Parties		4,574,500.00	3,517,786.00
b) Other donations		1,796,173.54	394,482.30
c) Allocation to investments		-109,946.01	-64,301.12
d) Legal commitments, prior year <sup>1)</sup>		539,675.30	544,797.00
e) Legal commitments, current year		-800,143.00	-539,945.98
f) Unused appropriations		-12,395.62	-41,235.51
g) Unused donations		-1,447,472.05	0.00
<b>Total donations</b>		<b>4,540,392.16</b>	<b>3,811,582.69</b>
2. Finance revenue		1,679.09	1,453.93
3. Other revenue		0.00	3,349.29
<b>TOTAL REVENUE</b>		<b>4,542,071.25</b>	<b>3,816,385.91</b>
<b>EXPENSES</b>	11		
1. Salaries		-2,335,638.16	-1,992,091.22
2. Depreciation and amortization and disposal			
a) of fixed intangible and tangible assets		-84,064.08	-63,068.62
b) usage of obligations dedicated for assets		84,064.08	63,068.62
Total depreciation and amortization and disposal			
3. Operating expenses		-2,206,433.09	-1,824,294.69
<b>TOTAL EXPENSES</b>		<b>-4,542,071.25</b>	<b>-3,816,385.91</b>
<b>NET SURPLUS FOR THE PERIOD</b>		<b>0.00</b>	<b>0.00</b>

<sup>1)</sup> refund 2016 UK-Grant EUR 270.68

## Comparison of Budget and Actual amounts for the year 2016

(in EUR)	Original Budget 2016	Changes due to other Sources of Revenue	Budget Transfers 2016	Final Budget 2016	Actual amounts 2016 on a comparable basis	Legal Commitments 2016	Actual amounts 2016 on a comparable basis incl. Legal Commitments	Actual amounts on a comparable basis incl. Legal Commitments [in %]	Unused Donations	Unused Appropriations
Notes		13			15					17
<b>ORDINARY BUDGET</b>										
<b>1. HUMAN RESOURCES</b>										
Subtotal Human Resources	2,408,900.00		-240,000.00	2,168,900.00	2,142,272.20		2,142,272.20	98.77%		26,627.80
<b>2. TRAVEL EXPENSES</b>										
Daily Subsistence Allowance (DSA)	120,000.00		-27,560.00	92,440.00	92,438.64		92,438.64	100.00%		1.36
Travel Expenses (flights and incidentals)	240,600.00		-63,710.00	176,890.00	176,881.01		176,881.01	99.99%		8.99
Subtotal Travel Expenses	360,600.00		-91,270.00	269,330.00	269,319.65		269,319.65	100.00%		10.35
<b>3. OFFICE EXPENSES</b>										
Office rent	25,000.00		-3,280.00	21,720.00	21,717.36		21,717.36	99.99%		2.64
Office equipment	122,000.00		257,390.00	379,390.00	99,745.84	279,640.00	379,385.84	100.00%		4.16
Consumables	144,200.00	1,679.09	-56,000.00	89,879.09	88,153.90		88,153.90	98.08%		1,725.19
Other Services	47,000.00		-4,610.00	42,390.00	42,383.64		42,383.64	99.98%		6.36
Subtotal Office Expenses	338,200.00	1,679.09	193,500.00	533,379.09	252,000.74	279,640.00	531,640.74	99.67%		1,738.35
<b>4. OTHER COSTS AND SERVICES</b>										
Advertising, communication and representation	55,200.00		-20,380.00	34,820.00	34,724.33		34,724.33	99.73%		95.67
Studies, research and consulting	459,000.00		-152,900.00	306,100.00	3,540.00	302,550.00	306,090.00	100.00%		10.00
Costs of outsourced services (IT, payroll, etc.)	130,000.00		202,470.00	332,470.00	159,975.62	172,493.00	332,468.62	100.00%		1.38
Costs of Audit, Legal and Financial Advice	104,000.00		277,690.00	381,690.00	368,787.10	12,900.00	381,687.10	100.00%		2.90
Financial services	15,000.00		-1,450.00	13,550.00	13,547.80		13,547.80	99.98%		2.20
Conference costs	210,000.00		-73,780.00	136,220.00	126,217.68		126,217.68	92.66%		10,002.32
Refunding	324,000.00		-73,780.00	250,220.00	250,216.78		250,216.78	100.00%		3.22
Training	169,600.00		-20,100.00	149,500.00	116,927.00	32,560.00	149,487.00	99.99%		13.00
Subtotal Other Costs and Services	1,466,800.00		137,770.00	1,604,570.00	1,073,936.31	520,503.00	1,594,439.31	99.37%		10,130.69
Subtotal Operating Expenses	2,165,600.00	1,679.09	240,000.00	2,407,279.09	1,595,256.70	800,143.00	2,395,399.70	99.51%		11,879.39
TOTAL EXPENSES - ORDINARY BUDGET	4,574,500.00	1,679.09	0.00	4,576,179.09	3,737,528.90	800,143.00	4,537,671.90	99.16%		38,507.19
<b>EXTRAORDINARY BUDGET</b>										
Donation Austria		171,952.92		171,952.92	171,952.92		171,952.92	100.00%	0.00	
Sponsor's Donation		10,000.00		10,000.00	10,000.00		10,000.00	100.00%	0.00	
Donation Poland		30,000.00		30,000.00	84.11		84.11	0.28%	29,915.89	
Donation UK					16,936.18		16,936.18			-16,936.18
IVF Vyshegrad Fund		14,641.62		14,641.62	14,641.62		14,641.62	100.00%	0.00	
Grant Contract CONNECTA		516,650.00		516,650.00	19,134.92		19,134.92	3.70%	497,515.08	
Grant Contract EU4Energy		1,052,929.00		1,052,929.00	132,887.92		132,887.92	12.62%	920,041.08	
TOTAL EXPENSES - EXTRAORDINARY BUDGET		1,796,173.54		1,796,173.54	365,637.67		365,637.67	20.36%	1,447,472.05	-16,936.18
ORDINARY & EXTRAORDINARY BUDGET	4,574,500.00	1,797,852.63	0.00	6,372,352.63	4,103,166.57	800,143.00	4,903,309.57	76.95%	1,447,472.05	21,571.01



## Indirect Method Cash Flow Statement for Year ended 31 December 2016

	2016	2015
	in EUR	in EUR
<b>CASH FLOW FROM OPERATING ACTIVITIES</b>		
Surplus (Deficit) from ordinary activities	0.00	0.00
<b>Non-cash movements</b>		
+ Depreciation and disposal of non-current assets	84,064.08	63,068.62
- Usage of obligations dedicated for assets	-84,064.08	-63,068.62
+ Decrease in receivables	130,374.01	-212,185.05
- Increase in prepayments	-155,679.39	-19,788.90
+ Increase in trade payables and other liabilities	160,319.35	8,521.73
- Decrease in deferred income	-7,777.00	7,777.00
+ Increase in unused commitments	260,197.02	-4,851.02
- Decrease in unused appropriations	-13,928.44	16,010.61
+ Increase in unused donations	1,447,472.05	0.00
<b>Net cash flows from operating activities (1)</b>	<b>1,820,977.60</b>	<b>-204,515.63</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Additions of non-current assets	-109,946.01	-64,301.12
<b>Net cash flows from investing activities</b>	<b>-109,946.01</b>	<b>-64,301.12</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>		
Grant contribution for assets	109,946.01	64,301.12
<b>Net cash flows from financing activities</b>	<b>109,946.01</b>	<b>64,301.12</b>
<b>Net increase/ (decrease) in cash and cash equivalents</b>	<b>1,820,977.60</b>	<b>-204,515.63</b>
<b>Cash and cash equivalents at the beginning of January 1, 2016</b>	<b>420,355.83</b>	<b>624,871.46</b>
<b>Cash and cash equivalents at the end of December 31, 2016</b>	<b>2,241,333.43</b>	<b>420,355.83</b>

(1) Cash Flows from operating activities include  
interest received in amount to EUR

1,679.09                      1,453.93

## NOTES TO THE FINANCIAL STATEMENTS OF THE ENERGY COMMUNITY

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## 1. OBJECTIVES AND BUDGET OF THE ORGANISATION

The Energy Community (“EnC”, “Organisation”) has been established under the Treaty signed in Athens on 25 October 2005 and entered into force on 1 July 2006 for the duration of 10 years. Its duration was extended by the decision of the Ministerial Council on 24 October 2013 until 2026.

The Energy Community stands for a process that aims to extend the EU internal energy market to the South East Europe region, Georgia, Moldova and Ukraine. The task of the Energy Community is to organise the relations between the Parties to the Treaty and create a legal and economic framework in relation to gas and electricity sectors falling within the scope of the energy *acquis*. The main goals are to create a stable and regulatory market framework capable of attracting investment; to create a single regulatory space for trade; to enhance security of supply; to improve the environmental situation and to develop electricity and gas market competition on a broader geographical scale.

The Institutions established under the Treaty are the Ministerial Council, the Permanent High Level Group, the Regulatory Board, the Fora, and the Secretariat. Further bodies established in the course of Treaty implementation through Ministerial Council decisions, are Task Forces/Coordination Groups/ Committees etc.

The Secretariat is the only permanent institution of the Energy Community established by the Treaty and has its seat in Vienna, Austria.

By the *Agreement between the Energy Community and the Republic of Austria regarding the seat of the Secretariat of the Energy Community* (“Agreement”, “Headquarters Agreement”) of 1 July 2007, Austria recognizes the legal personality of the Energy Community as an international organization. Energy Community is registered in the Republic of Austria by the Federal Ministry of European and International Affairs with the assigned organization number (1010180000).

Energy Community is funded from contributions derived from the Parties to the Treaty that are European Union, on one side, and the Contracting Parties<sup>1</sup> on the other side and voluntary contribution from Republic of Austria (host country) and other donors. The Organization operates within the framework of a biennial program and budget which provides the appropriations to constitute the budgetary expenditures authorization approved by the Ministerial Council every second year<sup>2</sup>. Energy Community *Procedures for Establishment and Implementation of Budget, Auditing and Inspection* (“Budgetary Procedures”) in its version of 2014 provide financial framework for the management of resources / budget assigned.

The responsibility for the implementation of the Energy Community budget lies with the Director of the Secretariat. Pursuant to the Article 79 of the *Budgetary Procedures*<sup>3</sup> the accounts of the previous year are established not later than 31 March.

These accounts are validated by the Director as an authorising officer under the Budgetary Procedures.

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<sup>1</sup> As of January 2017: Albania, Bosnia & Herzegovina, former Yugoslav Republic of Macedonia, Georgia, Montenegro, Kosovo, Serbia, Ukraine

<sup>2</sup> See Article 74 of the Treaty

<sup>3</sup> Procedural Act of the Ministerial Council of the Energy Community No 2014/01/MC-EnC amending Procedural Act No 2006/03/MC-EnC laying down the Energy Community Procedures for the Establishment and Implementation of Budget, Auditing and Inspection

Pursuant to the Article 37 of the above mentioned Budgetary Procedures, the Director of the Secretariat, introduces rules, which specify obligations of staff members of the Secretariat's that are involved in financial operations of the Energy Community.

## 2. SIGNIFICANT ACCOUNTING POLICIES

### Legal Basis of Preparation

The accounts of the Energy Community "EnC" are kept in accordance with Procedural Act No. 2014/01 of 23 September 2014<sup>4</sup> on the *Energy Community Procedures for Establishment and Implementation of Budget, Auditing and Inspection (Budgetary Rules)*.

The financial statements have been prepared on an accrual and going concern basis<sup>5</sup> and the policies have been applied consistently throughout the period. The statements comply with the requirements of International Public Sector Accounting Standards (IPSAS).

The accounts of the Energy Community are kept in euro based on a calendar year.

### Prepayments for Research and Consultancy Contracts

Energy Community has in its annual budgets funds of EUR 400.000 to EUR 500.000 for consultancy work. The contracts for studies are concluded for the duration of up to 1 year (in regular case), whereas their execution may fall in the time beyond the financial year. The agreed upon deliveries are presented in accordance with agreed milestones reflected accordingly in the contracts. It is normally agreed with the service provider(s) that a first payment will be done after the receipt of the inception report and next instalments are paid after receiving interim and final reports.

All deliverables are subject to Director's approvals followed by notification and respective payments of agreed upon instalments.

Only the final report of a study is generating the benefit for the Energy Community with an added value for the progress to be made within the Treaty implementation. The preceding reports (inception, interim) of the reflecting purely the ongoing progress made in study execution without generating any added value for the Energy Community.

In accordance with the International Public Sector Accounting Standards framework, the accounting treatment for each transaction has to follow the following rules: Understandability, Relevance, Materiality, Reliability, Substance over Form, Prudence, Completeness. Due to the fact that the instalments based on the inception or interim report do not represent an added value for the EnC and - based on the economic content of the regularly requested services and following the general accounting rules in accordance with the IPSAS framework, all instalments are considered as prepayment in the statement of financial position at 31 December of the relevant financial year. The prepayments are booked into expense account upon receipt of final results of the consultancy service

<sup>4</sup> Procedural Act of the Ministerial Council of the Energy Community No 2014/01/MC-EnC amending Procedural Act No 2006/03/MC-EnC laying down the Energy Community Procedures for the Establishment and Implementation of Budget, Auditing and Inspection

<sup>5</sup> The overall accounting principles to be followed when preparing the financial statements are laid down in Article 70 of the Energy Community Procedures for Establishment and Implementation of Budget, Auditing and Inspection and are the same as described in IPSAS 1, which are: fair presentation, accrual basis, going concern, consistency of presentation, prudence, no netting, materiality and comparability of information.

### **Tax exemption**

Based on the *Agreement between the Energy Community the Republic of Austria regarding the seat of the Secretariat*, the Republic of Austria recognizes the Energy Community with its international juridical personality and its legal capacity in Austria. Based on this Agreement, – according to Article 10 of the Agreement – it is exempted from all forms of taxation. This freedom from taxation refers – among others - to indirect taxes included in the prices of goods and services (VAT) supplied to EnC.

The requirements of the claiming procedure, as established by the responsible Ministry of Finance in Austria, result in the fact that invoices with the gross amount less than EUR 73 are not eligible for tax refund, thus all invoices with gross amount below EUR 73 are charged to expenditure account.

### **Depreciation method**

Accounting treatment for property, plant and equipment is prescribed in IPSAS 17. The principal issue in accounting for property, plant and equipment are timing of recognition of assets, the determination of their carrying amounts and the depreciation charges to be recognized in relation to them. Depreciation is the systematic allocation of the depreciable amount of an asset over its useful life. The depreciation method used must reflect the pattern in which the asset's future economic benefit of service potential is expected to be consumed by the entity. The depreciation charge for each period should be recognized as an expense.

The Energy Community applies the straight-line method of depreciation. For specific classes of assets, the following useful lives are estimated:

- Computer software and other intangible assets – 3 years
- Computer hardware – 3 years
- Electronic devices – 3 years
- Technical equipment – 3 years
- Furniture – 5 years

The non-current assets are presented in the Statement of the Financial Position at its net book value in the Section "B. Non-current Assets". The depreciation of the non-current assets is presented in the Statement of Financial Performance in the Section "Expenses. 2. Depreciation and Amortization and Disposal, a) of fixed intangible and tangible assets".

## Foreign Currency Transactions

The functional currency of the Energy Community is euro and these financial statements are presented in euro. All transactions occurring in other currencies are translated in euro using a InforEur rate<sup>6</sup> as published under:

[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/inforeuro/index\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/index_en.cfm)

Both realised and not realised gains and losses resulting from the settlement of such transactions and from the translation at the reporting date of assets and liabilities denominated in currencies other than Energy Community's functional currency are recognised in the Statement of Financial Performance.

## Provisions

Provisions are recognised when the Organisation has a legal obligation as a result of a past event, whereby it is probable that an outflow of resources will be required to settle the obligations and where a reliable estimate of the amount of the obligation can be made.

## Unused appropriations

Unused appropriations are budget contributions from any sources of revenue (parties' contributions, finance/other income) which have not been used in the current year and which have to be paid back to the Parties in the following year; unused appropriations are calculated as a difference between total revenue (incl. interest and other income) and incurred actual expenditures (incl. unused commitments). For accounting purpose, as long as there is a restriction on the use of funds, unused appropriations and unused commitments may not be presented as equity but have to be shown as a liability.

## Unused commitments

Unused commitments are budget contributions which have not been used (paid or invoiced) at the balance sheet date but for which commitments (e.g. by the commissioning of studies) have been entered into in the current year or in prior years; they related to the future periods, following IPSAS1 may not be shown as expenses<sup>7</sup> therefore are accounted as deductions from revenue.

## Unused donations

Unused donations are in advance agreed<sup>8</sup> contributions received from third parties (governments) or other institutions/sources (EU grants) for an agreed upon amount and purpose in advance, which have not been used entirely at the balance sheet date.

<sup>6</sup> See [http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/inforeuro/index\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/index_en.cfm) ; the rates indicated are the market rates for the penultimate day of the previous month quoted by the European Central Bank or, depending on availability, provided by the delegations or other appropriate sources close to that date

<sup>7</sup> they do not meet the definition of expenses as defined by IPSAS 1: "*Expenses are decreases in economic benefits or service potential during the reporting period in the form of outflows or consumption of assets or incurrences of liabilities that result in decreases in net assets/equity, other than those relating to distributions to owners*".

<sup>8</sup> See Article 15 of the Budgetary Procedures

### **Unused budget appropriations**

Unused budget appropriations (not used and not committed at the end of the financial year) shall be paid back to the Parties on annual basis. The repayment methodology is based on the budget report and made in accordance with Annex IV ('Contribution to Budget') of the Treaty. The total calculated amount due shall equal/ be reconcilable with the amount of *unused appropriations* shown in the balance sheet as of 31 December. The table of repayments is subject to audit each year and shall be part of the Auditor's report.

### **Budget amendments**

Budget amendments are made on annual basis to reflect sources of revenue other than contributions from the Parties (i.e. other interest and income interest). The Commission proposed on 22 March 2011 to the Budget Committee to consider the amendment of 2011 budget in order to reflect interest and other income obtained by the Energy Community in the years 2007-2010. Following this proposal, the Budget Committee decided at the same meeting that the budget 2011 should be amended accordingly. As a consequence, on 6 October 2011 the amendment Decision was approved by the Ministerial Council upon Commission's proposal (see Procedural Act of the Ministerial Council of the Energy Community PA/2011/01/MC-EnC). Following this decision, revenues from other sources should be recorded at the beginning of each budget year as *pro memoria*. The exact amount shall be then reflected in the financial statement for a given year. It implies – based on the *principle of equilibrium* - that the expenditure in each year can increase up to sum of the contributions from the Parties and of the other revenue obtained by the Energy Community.

### **Change in accounting policy**

The Organisation recognises the effect of changes in accounting policy retrospectively. The effects in changes in accounting policy are applied prospectively if retrospective application is impractical.

#### *Presentation changes*

Certain prior year comparatives have been reclassified in order to confirm the current's year presentation. These reclassifications had no impact on the Energy Community's reported year-end result. These reclassifications include the following:

- Reclassification of received travel costs refunds from other income to the expense account,
- Disclosure of donation received from the Republic of Austria from the ordinary to extraordinary budget items in the statement of Comparison of Budget and Actual amounts for the year 2016.

### 3. NOTES TO THE FINANCIAL STATEMENTS

#### **Note 1: Cash and cash equivalents**

Cash and cash equivalents are financial instruments and defined as current assets. They include cash at hand and deposits held at bank.

Cash on hand is held in a single bank account in Austria. The average rate of interest earned on this bank account in 2016 was 0.05%.

Included in cash and cash equivalents at 31 December 2016 are EUR 2,239,674.69 at bank account (2016: EUR 417,094.77) and petty cash EUR 1,433.74 (2015: EUR 275.06)

#### **Note 2: Receivables**

	December 31, 2016 in EUR	December 31, 2015 in EUR
VAT (Federal Ministry of Finance, Austria)	112,437.14	44,602.88
Budget contributions	12,285.48	0.00
Other receivables	4,441.62	214,935.37
<b>Total receivables</b>	<b>129,164.24</b>	<b>259,538.25</b>

Receivables are carried at original amount less write-off. Receivables are written off, when there is objective evidence that Energy Community will not be able to collect all amounts due according to the original terms of receivables.

On 31 December 2016 the total amount of receivables resulted from VAT claims against Federal Ministry of Finance of the Republic of Austria for the value added tax refunds of EUR 112,437.14 (2015: EUR 44,602.88), deposit for office premises in the regional office in Kiev of EUR 1,800.00 (2015: EUR 2,154.97) and other receivables at the amount of EUR 2,641.62 (2015: EUR 212,780.40).

#### **Note 3: Prepayments**

	December 31, 2016 in EUR	December 31, 2015 in EUR
Prepaid expenses	10,484.40	2,573.76
Payments in advance (studies for research and consulting)	175,530.00	37,945.48
Prepayment (annual leave accrual)	58,891.09	48,706.86
<b>Total prepayments</b>	<b>244,905.49</b>	<b>89,226.10</b>



The prepaid expenses account represents amounts advanced to different suppliers for services extending beyond financial year 2016 (like subscription contacts concluded etc).

Prepayments in advance for consultancy contacts refer to advance payments to providers of the service where the finalisation of it has not been completed at the end of the year 2016. The amount of EUR 175,530.00 (2015: EUR 37,945.48) relate to the contracts concluded for research and consulting in the areas of work of the Energy Community.

Prepayment in the amount of EUR 58,891.09 (2015: EUR 48,706.86) relate to accrual for leave accumulated by staff members of the EnC by 31 December 2016. This position, build following accounting requirements, shall not be cash effective as it is underpin by the Energy Community framework. In this regard, Energy Community Staff Regulation 10.2 employees are entitled to annual leave at the rate of 2.5 working days per month. Leave accumulated in preceding years not used by 31 March of any year will be forfeited. Annual leave cannot be compensated with pay as consumption of it shall be made within the notice period (Staff Regulations, Consolidated version, 10.2. Annual leave). Therefore, the adaption of this accrual will not be considered in the repayments to the Parties and, as a consequence, results in a prepayment in the same amount as the accrual for annual leave as of 31 December.

**Note 4: Intangible assets**

Acquired software and licences are capitalised on the basis of the costs incurred to acquire and bring them to use. These costs are amortised over their estimated useful lives (3 years). Costs capitalisable include all directly attributable costs necessary to create, produce, and prepare the asset to be capable of operating in intended by manner. Costs associated with maintaining computer software and licenses are recognised as expenses as incurred.

<i>Computer software and licences</i>	<b>December 31, 2016 in EUR</b>	<b>December 31, 2015 in EUR</b>
Gross carrying amount at 31 December previous year	108,180.66	78,243.43
Additions	4,831.29	29,937.23
Disposals	- 1,945.00	0.00
<b>Gross carrying amount at 31 December current year</b>	<b>111,066.95</b>	<b>108,180.66</b>
Accumulated depreciation at 31 December previous year	76,544.62	59,110.01
Depreciation charge for current year	17,082.17	17,434.61
Disposals	- 1,945.00	0.00
<b>Accumulated depreciation at 31 December current year</b>	<b>91,681.79</b>	<b>76,544.62</b>
<b>Net carrying amount at 31 December current year</b>	<b>19,385.16</b>	<b>31,636.04</b>
<i>Net carrying amount at 31 December previous year</i>	<i>31,636.04</i>	<i>19,133.42</i>

### Note 5: Tangible assets

All items of property, plant and equipment are stated at historic cost less depreciation and impairment. Historic cost includes expenditure that is directly attributable to the acquisition of the items. Subsequent costs are capitalised only when it is probable that future economic benefits associated with the item will flow to the Energy Community and the cost of the item can be measured reliably. Repairs and maintenance are charged to the expenditure account during the financial period in which they incurred.

<i>Infrastructure, Plant and equipment</i>	<b>December 31, 2016</b> in EUR	<b>December 31, 2015</b> in EUR
Gross carrying amount at 31 December previous year	359,431.55	359,540.66
Additions	105,114.72	34,363.89
Disposals	- 7,284.62	- 34,473.00
<b>Gross carrying amount at 31 December current year</b>	<b>457,261.65</b>	<b>359,431.55</b>
Accumulated depreciation at 31 December previous year	305,718.86	294,557.85
Depreciation charge for current year	66,941.41	45,525.68
Disposals	- 7,244.12	- 34,364.67
<b>Accumulated depreciation at 31 December current year</b>	<b>365,416.15</b>	<b>305,718.86</b>
<b>Net carrying amount at 31 December current year</b>	<b>91,845.50</b>	<b>53,712.69</b>
<i>Net carrying amount at 31 December previous year</i>	<i>53,712.69</i>	<i>64,982.81</i>

Depreciation is calculated using the straight-line method to allocate the assets' cost to their estimated useful lives, as follows:

Type of asset	Straight-line depreciation rate
Intangible assets	33.33%
Tangible assets	20.00% to 33.33%

The assets' useful lives are reviewed, and adjusted if appropriate, at each balance sheet date. An asset's carrying amount is written down immediately to its recoverable amount if the asset's carrying amount is greater than its estimated recoverable amount.

Gains and losses on disposals are determined by comparing proceeds with carrying amount. These are included in the statement of financial performance. Assets whose purchase price is below EUR 400.00 are fully depreciated in the year of purchase.

**Note 6: Leases**

	<b>December 31, 2016 in EUR</b>	<b>December 31, 2015 in EUR</b>
Within one year	1,880.64	1,880.64
Between two and five years	156.72	7,522.56
<b>Total</b>	<b>2,037.36</b>	<b>9,403.20</b>

Leases of tangible assets where the lessee has substantially all the risks and rewards of ownership are classified as financial lease. Leases where the lessor retains a significant portion of the risks and rewards inherent to the ownership are classified as operating lease. Payments made under operating leases are charged to the statement of financial performance for the portion accrued during the financial year.

On 31 December 2016, Energy Community had outstanding commitments resulting from one operating lease contract. Future minimum lease payments fall due as follows:

**Note 7: Accounts payables**

	<b>December 31, 2016 in EUR</b>	<b>December 31, 2015 in EUR</b>
Trade payables	81,029.08	115,657.45
Other liabilities	264,179.18	69,231.46
Legal commitments	800,143.00	539,945.98
Unused appropriations	22,579.85	36,508.29
Unused donations	1,447,472.05	0.00
<b>Total accounts payable</b>	<b>2,615,403.16</b>	<b>761,343.18</b>

Accounts payable include under trade payable invoices received from suppliers not yet settled at the end of the year.

Other liabilities includes provision of EUR 200,000.00 made for the ongoing arbitration procedure initiated by the former employee of the Energy Community at the Permanent Court of Arbitration in the Hague in 2016. The rest of the position includes accruals for services related to 2016 but not invoiced by 31 December 2016 of EUR 5,288.09 (2015: EUR 20,524.60) and accrual for annual leave of EUR 58,891.09 (2015: EUR 48,706.86).

Legal commitments of the financial year 2016 refer contractual commitments entered by the Energy Community by 31 December 2016 without having received goods or services by the end of the year.

Unused appropriations shown as liability towards the Parties represent an amount to be paid back to the parties under the Treaty subject to further reconciliation with previous periods. As a general rule, the calculated repayment amounts are based on the statement of financial performance plus change in annual leave accruals as of 31 December.

The repayment amount for 2016 is EUR 22,579.85 (2015: EUR 36,508.29). As the accrual for annual leave is treated as a liability that will never be prohibitive, the annual alteration of this accrual is excluded from the calculation for the repayment amount for unused budget.

Unused donations of the financial year 2016 refer to payment appropriations received from other sources as the parties' contributions reduced by the actual amounts spent in 2016. These positions, presented under extraordinary budget in Statement of Comparison of Budget and Actual amounts, refer to two ongoing grant contracts conclude in 2016 with EU. This item includes EUR 497,515,08 for direct grant contract CONNECTA (2016/373-263) and EUR 920,041.08 for grant contact EU4Energy (2016/364-837). The overall amount of EUR 1,447,472.05 contains also a payment appropriation of EUR 29,915,89 from the donation received from the Republic of Poland in 2016.

#### **Note 8: Deferred Income**

According to the Energy Community accounting rules, transactions are recognised in the financial statements in the period to which they related. Similar as for the accrued expenses, also, revenue is accounted for in the period to which it relates. At year-end, if an invoice is issued for a service and/or delivery relating to future periods, the revenue will be deferred and recognised in the subsequent accounting period.

At 31 December 2016, there was no deferred income (in 2015: EUR 7,777.00).

#### **Note 9: Investment donations**

Since the investments of EUR 111,230.66 (in 2015: EUR 85,348.73) were made by using the contributions of the Parties to the Treaty, the same amount is also shown as "investment donations".

The book value as of 31 December 2016 of investments consists of the book value as of 1 January 2016 amounting to EUR 85,348.73 (as of 1 January 2015 EUR 84,116.23) and additions amounting to EUR 109,946.01 (in 2015: EUR 64,301.12) reduced by depreciation of EUR 84,064.08 (in 2015: EUR 63,068.62).

**Note 10: Revenue**

	2016 in EUR	2015 in EUR
<b>I. Donations</b>		
Budget contribution parties	4,574,500.00	3,517,786.00
Other donations	1,796,173.54	394,482.30
Allocation to investments	-109,946.01	-64,301.12
Unused commitments, prior year	539,675.30	544,797.00
Unused commitments, current year	-800,143.00	-539,945.98
Unused appropriations	-12,395.62	-41,235.51
Unused donations	-1,447,472.05	0.00
<b>Subtotal donations</b>	<b>4,540,392.16</b>	<b>3,811,582.69</b>
<b>II. Other sources of revenue</b>		
Finance revenue	1,679.09	1,453.93
Other revenue	-	3,349.29
<b>Subtotal other sources of revenue</b>	<b>1,679.09</b>	<b>4,803.22</b>
<b>Total revenue</b>	<b>4,542,071.25</b>	<b>3,816,385.91</b>

Amounts shown under budget contribution parties' represent actual revenue received related to the Organisation's budget as adopted by the Ministerial Council.

Other donations represent revenue received in connection with contributions made by donors for defined projects (purpose) under special accounts (extraordinary accounts) not included in the ordinary budget of the Energy Community. In 2016, the donation from the Federal Ministry of Science, Research and Economy of Austria amounted to EUR 171,952.92 (in 2015: EUR 169,482.30). Further donations were received in 2016 from the Governments of Poland EUR 30.000 (2015: EUR 15.000), different sponsors monies EUR 10.000<sup>9</sup>, from Vyshegrad Fund EUR 14.641,62<sup>10</sup> and the initial payment of EUR 516.650 for direct grant contract CONNECTA (2016/373-263) and initial payment of EUR 1.052.929 for grant contact EU4Energy (2016/364-837).

Revenue adjustments are related to the deferral of not used revenue and follows the accounting policies established at the Energy Community.

Other sources of revenue related to interest earned in 2016 of EUR 1,679.09 (in 2015: EUR 1,453.93).

<sup>9</sup> Contribution to the expenses of the Vienna Forum on European Energy Law

<sup>10</sup> Contribution to the expenses of the Energy Community Summer School

**Note 11: Expenses**

<b>ORDINARY BUDGET</b>		
<b>Types of expenses (in EUR)</b>	<b>2016</b>	<b>2015</b>
Human Resources expenses	2,152,456.43	1,892,971.22
Expenses for studies, research and consulting	443,831.16	521,870.36
Costs of audit, legal and financial advice	368,787.10	79,100.05
Travel expenses	269,319.65	262,980.54
Reimbursement of travel expenses to conference participants	250,216.78	244,851.78
Cost of outsourced services (IT, payroll)	159,975.62	152,471.85
Expenses of conferences and seminars	126,217.68	125,291.10
Trainings	116,927.00	29,923.65
Consumables (office cleaning, supplies, running costs, electricity)	88,153.90	85,832.83
Telephone, internet	41,371.42	43,333.37
Advertising, communications and representation	34,724.33	50,687.38
Office rent	21,717.36	14,589.44 (1)
Other costs	14,560.02	16,646.02
<b>Subtotal ordinary budget</b>	<b>4,088,258.45</b>	<b>3,520,549.59</b>
<b>EXTRAORDINARY BUDGET</b>		
<b>Types of expenses (in EUR)</b>	<b>2016</b>	<b>2015</b>
Human Resources expenses	183,181.73	99,120.00
Office rent	186,352.92	175,404.69 (1)
Other costs	38,351.58	2,489.35
Travel expenses	29,296.05	13,415.54
Expenses of conferences and seminars	16,630.52	3,348.60
Reimbursement of travel expenses to conference participants	-	1,636.01
Consumables (office cleaning, supplies, running costs, electricity)	-	422.13
<b>Subtotal extraordinary budget</b>	<b>453,812.80</b>	<b>295,836.32</b>
<b>TOTAL BUDGET</b>	<b>4,542,071.25</b>	<b>3,816,385.91</b>

Note (1):

In 2015 rental expenses from Donation Austria were included in ordinary budget.

For transparency and consistency purpose with other donations in 2016 the Donation Austria is shown in a separate column under extraordinary budget. In order to compare 2016 with 2015 figures the 2015 rental expenses from Donation Austria (EUR 169,482.30) were moved from ordinary to extraordinary budget.

Expenses arising from the purchase of goods and services are reported on a modified accrual basis, recognising expenses when goods are received and services rendered.

Expenses are presented for the ordinary budget of the Energy Community in separation of the extraordinary budget (see above).

Personnel expenditure includes short-term employees such as base salary, accident insurance contribution and inflationary adjustment of the base salary. Travel includes costs of airfare, daily subsistence allowances, terminal allowances and other travel costs of the staff. Costs of legal and financial advice include the provision of EUR 200.000,00 for the costs of arbitration estimated to occur in 2017<sup>11</sup>.

EXTRAORDINARY BUDGET		Donation Austria	Sponsor's Donation	Donation Poland	Direct Grant UK	IVF Vyshegrad Fund	Grant Contract CONNECTA	Grant Contract EU4Energy
Types of expenses (in EUR)	2016	2016	2016	2016	2016	2016	2016	2016
Human Resources expenses	183,181.73				92,190.00			90,991.73
Office rent	186,352.92	171,952.92			3,600.00			10,800.00
Other costs	38,351.58	-	-	84.11	18,746.78	7,692.16	5,488.68	6,339.85
Travel expenses	29,296.05				-	1,335.46	13,504.42	14,456.17
Expenses of conferences and seminars	16,630.52		10,000.00		774.70	5,614.00	141.82	100.00
Reimbursement of travel expenses to conference participants	-							
Consumables (office cleaning, supplies, running costs, electricity)	-							
<b>Subtotal extraordinary budget</b>	<b>453,812.80</b>	<b>171,952.92</b>	<b>10,000.00</b>	<b>84.11</b>	<b>115,311.48</b>	<b>14,641.62</b>	<b>19,134.92</b>	<b>122,687.75</b>

Expenses in the extra ordinary budget represent different types of expenditure financed from other sources of revenue than Parties contributions.

**Note 12: Exchange gain and losses**

Energy Community realises exchange gains and losses on accounts payable and accounts receivable transactions incurred in currencies other than euro based on exchange rate in effect on the date of the transaction. In 2016, the net effect of all exchanges gains and losses of EUR -16,936.18<sup>12</sup> is recognised within the expenses on the statement of Financial Performance within the position of 3. Operating expenses.

<sup>11</sup> For ongoing arbitration procedure with the former employee of the Energy Community in the Permanent Court of Arbitration in the Hague

<sup>12</sup> Resulting from Contract between Foreign and Commonwealth Office (UL) and the Energy Community dated 21 July 2015 for the amount of GBP 150,000.00; contact was finalized at the end of first quarter 2016.

**Note 13: Changes from Original to Final Budget**

	BUDGET 2016		
	Initial Budget	Other Sources of Revenue	Final Budget
<i>in EUR</i>			
<b>Contributions from the Parties</b>			
European Union	4,343,030.00		4,343,030.00
Republic of Albania	4,117.00		4,117.00
Bosnia and Herzegovina	9,149.00		9,149.00
Former Yugoslav Republic of Macedonia	4,575.00		4,575.00
Moldova	4,575.00		4,575.00
Montenegro	1,830.00		1,830.00
Republic of Serbia	24,702.00		24,702.00
Ukraine	179,320.00		179,320.00
United Nations Interim Administration in Kosovo	3,202.00		3,202.00
<b>Subtotal</b>	<b>4,574,500.00</b>		<b>4,574,500.00</b>
<b>Other sources of revenue</b>			
Contribution of the Republic of Austria	<i>pro memoria adjustment</i>	171,952.92	171,952.92
Sponsor's Donation		10,000.00	10,000.00
Donation Republic of Poland		30,000.00	30,000.00
IVF Vyshegrad Fund		14,641.62	14,641.62
Grant Contract CONNECTA		516,650.00	516,650.00
Grant Contract EU4Energy		1,052,929.00	1,052,929.00
Finance revenue	<i>pro memoria adjustment</i>	1,679.09	1,679.09
<b>Subtotal</b>		<b>1,797,852.63</b>	<b>1,797,852.63</b>
<b>Total Revenue</b>	<b>4,574,500.00</b>	<b>1,797,852.63</b>	<b>6,372,352.63</b>

The original budget represents the approved 2015-2016 biennial budget. Final budget represents the budget after transfers and 'pro memoria' adjustments (Contribution of the Republic of Austria and finance revenue).

Further changes due to other sources of revenue refer to the above listed donations, grants, sponsors' monies and finance revenue received.



**Note 14: Reconciliation of Statement of Budgetary Comparison and Statement of Financial Performance**

(in EUR)	Actual amounts Budget Report 2016	Legal Commitments 2015	Differences Budget Report vs. Financial Statements	Actual amounts Statement of Financial Performance
	(1)	(2)	(3)	(4)= (1)+(2)+(3)
<b>ORDINARY BUDGET</b>				
<b>1. HUMAN RESOURCES</b>				
<b>Subtotal Human Resources</b>	2,142,272.20	0.00	10,184.23	2,152,456.43
<b>2. TRAVEL EXPENSES</b>				
Daily Subsistence Allowance (DSA)	92,438.64			92,438.64
Travel Expenses (flights and incidentals)	176,881.01			176,881.01
<b>Subtotal Travel Expenses</b>	<b>269,319.65</b>			<b>269,319.65</b>
<b>3. OFFICE EXPENSES</b>				
Office rent	21,717.36			21,717.36
Office equipment	99,745.84		-99,745.84	0.00
Consumables	88,153.90			88,153.90
Other Services	42,383.64			42,383.64
<b>Subtotal Office Expenses</b>	<b>252,000.74</b>		<b>-99,745.84</b>	<b>152,254.90</b>
<b>4. OTHER COSTS AND SERVICES</b>				
Advertising, communication and representation	34,724.33			34,724.33
Studies, research and consulting	3,540.00	440,291.16		443,831.16
Costs of outsourced services (IT, payroll, etc.)	159,975.62			159,975.62
Costs of Audit, Legal and Financial Advice	368,787.10			368,787.10
Financial services	13,547.80			13,547.80
Conference costs	126,217.68			126,217.68
Refunding	250,216.78			250,216.78
Training	116,927.00			116,927.00
<b>Subtotal Other Costs and Services</b>	<b>1,073,936.31</b>	<b>440,291.16</b>		<b>1,514,227.47</b>
<b>Subtotal Operating Expenses</b>	<b>1,595,256.70</b>	<b>440,291.16</b>	<b>-99,745.84</b>	<b>1,935,802.02</b>
<b>TOTAL EXPENSES - ORDINARY BUDGET</b>	<b>3,737,528.90</b>	<b>440,291.16</b>	<b>-89,561.61</b>	<b>4,088,258.45</b>
<b>EXTRAORDINARY BUDGET</b>				
Donation Austria	171,952.92			171,952.92
Sponsor's Donation	10,000.00			10,000.00
Donation Poland	84.11			84.11
Donation UK	16,936.18	98,375.30		115,311.48
IVF Vyshegrad Fund	14,641.62			14,641.62
Grant Contract CONNECTA	19,134.92			19,134.92
Grant Contract EU4Energy	132,887.92		-10,200.17	122,687.75
<b>TOTAL EXPENSES - EXTRAORDINARY BUDGET</b>	<b>365,637.67</b>	<b>98,375.30</b>	<b>-10,200.17</b>	<b>453,812.80</b>
<b>ORDINARY &amp; EXTRAORDINARY BUDGET</b>	<b>4,103,166.57</b>	<b>538,666.46</b>	<b>-99,761.78</b>	<b>4,542,071.25</b>

Energy Community budget is established on a modified accrual basis in accordance with the Budgetary Procedures and Rules, and is approved by the Ministerial Council.

The reconciliation provides an explanation of both the changes between the original and final budget after transfers, and the material differences between the budget and the actual amounts. Energy Community budget and financial accounts are prepared using two different bases: the Statement of Financial Position, Statement of Financial Performance, Statement of Changes in Net Assets and

Statement of Cash Flow are prepared on a full accrual basis, whereas the Statement of Comparison of Budget and Actual Amounts is prepared on a modified accrual basis.

As required by IPSAS 24, a reconciliation is provided between the actual amounts on a comparable basis as presented in Statement of Budgetary Comparison and the actual amounts in the Statement of the Financial Performance identifying separately any basis, timing and entity differences.

Basis differences occur when the approved budget is prepared on a basis other than the full accrual accounting basis. Basis differences include the depreciation of assets, full recognition of legal commitments.

#### Column 2: Legal Commitments

Through the approval of the Budget Committee the Energy Community is entitled to expend unused budget from previous years in future years as long as the funds are committed. The portion of expenditures incurred in the course of 2016 that is attributable to open commitments from 2015 is shown in this column.

#### Column 3: Differences between Actual Amounts in the Financial Statements and Actual Budget Amounts

Amount of EUR 10,184.23 represents the increase in the accruals for annual leave between 31 December 2015 and 31 December 2016. The accrued expenses are not covered by the approved budget and based on the applicable rules of the Energy Community are non-cash item.

Budget basis requires that the capital expenditures are recorded as current year expenses at acquisition costs. Accounting basis requires that these expenditures are capitalised and depreciated over the useful life of the assets. The acquisition costs of additions to the assets in 2016 amount to EUR 99,745.84 (in 2015: EUR 64,301.12) for ordinary budget and EUR 10,200.17 for extraordinary budget for grant contact EU4Energy (2016/ 364-837).

#### ***Note 15: Statement of Budgetary Comparison: Explanation of material differences between the budget and actual amounts***

Following the requirement of IPSAS 24 this section refers to major differences between the final budget, for which Energy Community is accountable, and actual amounts.

#### **Human Resources**

Budget Line Human Resources covers expenses for salaries of the Secretariat's staff which represent all-inclusive employee remuneration and expenses for accident insurance for staff.

In 2016 Energy Community employed 39<sup>13</sup> staff. Utilization of the human resources budget (incl. short – term appointments, i.e. internship and secondment) amounted to 98.77% (in 2015: 99.50%).

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<sup>13</sup> This number contains permanent and temporary personnel.

## **Travel Expenses**

This item covers travel expenses of the Energy Community staff related to technical assistance to the Contracting Parties and participation at meetings and conferences organized at different locations outside the Secretariat's headquarters. Level of utilization reached 100 % (in 2015: 99.31%) of the authorized final budget for this budget line EUR 269,319.65.

## **Office Expenses**

Budget Line Office includes expenses for acquisitions of fixed assets, office furniture, computer equipment and software, as well as, expenses for telephone, cleaning, maintenance and repair, and rental expenses.

The authorized final budget for this budget line of EUR 533,379.09 (2015: EUR 388,685.52), was almost fully implemented (2016: 99.67%; in 2015: 98.48%).

## **Other Costs, Services**

### *Advertising and Communications*

Advertising and Communications expenses relate to Energy Community publications aimed at distribution to the interested public in order to promote operations and the Institutions of the Energy Community throughout the region of its scope of activities. Similarly, all material related to public relations together with representation is covered by this budget line. Utilization of the final budget of EUR 34,820.00 (in 2014: EUR 25,200.00) remained at 99.73% (in 2015: 96.85%).

### *Studies, Research and Consulting*

In general this budget line allocates funds for activities related to consulting by third parties in the areas of work of the Energy Community. During 2016 the Energy Community initiated three contracts related to studies and research (total amount EUR 306,090.00), where all of them were not finalized in 2016.

Taking into account those unused commitments, budget utilization 2016 for Studies, Research and Consulting of EUR reached high level of 100.00% (in 2015: 100.00%).

### *Cost of outsourced services (IT)*

Outsourced services relate to consulting and maintenance work provided by external IT specialists (web server, computer equipment and software in use). Also included in this position are the costs for leased office equipment, as well as fees for web based travel administration software and yearly service fee for the accounting software.

Utilization of this budget position amounted to 100% (in 2015: 99.94%). The original budget of EUR 130,000.00 (in 2015: EUR 91,800.00) was adjusted to EUR 332,470.00 (in 2015: EUR 104,300.00).

### *Cost of Audit, Legal and Financial Advice*

Expenses under this budget relate mainly to the costs of the annual audit as well as financial and legal advice, when required.

Legal costs for the ongoing arbitration procedure initiated by the former employee of the Energy Community at the Permanent Court of Arbitration in the Hague of EUR 89,726 and an additional accrual for these legal costs of EUR 200.000 required amending this budget line at the end of 2016 for an amount of EUR 277,690.00 (in 2015: EUR 43,500.00). The final budget of EUR 381,690.00 (in 2015: EUR 79,200.00) was used in 100% (in 2015: 99.87%).

### *Financial Services*

This budget forecasts expenditures for bank charges and fees in relation to held bank account by the Energy Community. In the course of its regular business the Energy Community reimburses travel costs to participants at conferences and meetings organized by its Institutions. They mainly come from non EU countries, to which bank transfers are subject to relatively high fee rates, making those fees the main cost driver of this budget position.

The utilization of the final budget of EUR 13,547.00 (in 2015: EUR 12,392.00) in 2016 (99.98%, in 2015: 91.92%) was caused by numerous transaction outside the EU area relating to the reimbursement of travel expenditures.

### *Conference Costs*

Conference costs relate to expenses incurred for conference and meeting facilities, technical equipment and catering.

The budget of this position had been adjusted within the financial year from the initial level of EUR 210,000.00 (in 2015: 186,660.00) to EUR 136,220.00 (in 2015: 127,660.00). The utilization amounts to 92.66% (in 2015: 98.14%). Within this budget line substantial savings were made due to the location of the meetings, namely majority of those took place in Vienna at the premises of the Secretariat.

### *Refunding*

Refunding represents the reimbursement of travel expenses to the eligible participants at the meetings organized by the Institutions of the Energy Community. The budget of this position had been adjusted within the financial year from the original level of EUR 324,000.00 (in 2015: EUR 285,600.00) to EUR 250,220.00 (in 2015: EUR 245,300.00). The final budget was utilized in 100% (in 2015: 99.82%).

*Training and Seminars*

The budget of this position was adjusted by the means of budget transfers within the financial year from the original level of EUR 169,600.00 (in 2015: EUR 42,840.00) to EUR 149,500.00 (in 2015: EUR 30,340.00). Thus the final budget for training was utilized by 99.99% (in 2015: 98.63%).

**Note 16: Reconciliation Unused Appropriations of Statement of Budgetary Comparison and Statement of Financial Performance**

(in EUR)	Budget Report	Statement of Financial Performance	Variance
<b>Initial Budget</b>	<b>4,574,500.00</b>	<b>4,574,500.00</b>	-
Budget adjustment for other income and interest income	1,679.09	1,679.09	-
Donations of the Republic of Austria (rent expenses)	171,952.92	171,952.92	-
Sponsor's Donation	10,000.00	10,000.00	-
Donation Poland	30,000.00	30,000.00	-
IVF Vyshegrad Fund	14,641.62	14,641.62	-
Grant Contract CONNECTA	516,650.00	516,650.00	-
Grant Contract EU4Energy	1,052,929.00	1,052,929.00	-
<b>Final Budget</b>	<b>6,372,352.63</b>	<b>6,372,352.63</b>	-
Legal Commitments 2016	- 800,143.00	- 800,143.00	-
Unused Donations 2016	- 1,447,472.05	- 1,447,472.05	-
<b>Sub-total</b>	<b>4,124,737.58</b>	<b>4,124,737.58</b>	-
Personnel costs (ordinary + extraordinary budget)	- 2,325,453.93	- 2,335,638.16	10,184.23
Operating expenses (ordinary + extraordinary budget)	- 1,777,712.64	- 2,206,433.09	428,720.45
<b>Sub-total</b>	<b>- 4,103,166.57</b>	<b>- 4,542,071.25</b>	<b>438,904.68</b>
Additions non current assets	-	109,946.01	109,946.01
Legal commitment 2015	-	539,675.30	- 539,675.30
<b>Total = Unused budget appropriations</b>	<b>21,571.01</b>	<b>12,395.62</b>	<b>9,175.39</b>
Changes in accrual for leave	-	-	10,184.23
Unused legal commitments 2015	-	-	1,008.84
<b>Difference</b>	-	-	<b>0.00</b>

Unused appropriations in the budget report are calculated as a difference between the final budget and the actual expenditures (including legal commitments of the year) without consideration of accruals (unused annual leave entitlements).

**Note 17: Repayment Not Used Budget Appropriations**

Based on the decision of the Ministerial Council of 6 October 2011, starting 2012 the repayment amount to the Parties shall consider, in addition to the position of not used budget appropriations shown in the statement of financial position<sup>14</sup>, all other sources of revenue (incl. interest gained)<sup>15</sup>.

<sup>14</sup> Minutes of the Budget Committee meeting of April 11 2013 (item 5a)

<sup>15</sup> Minutes of the Budget Committee meeting of March 22 2012 (item 2)

Calculated repayment amounts to the Parties resulting from budget implementation in 2016 are presented below.

Parties	Contribution in EUR	Contribution in %	Unused Appropriations 2016	Corrections 2016	Total repayment amount
			(1)	(2)	(3) = (1) + (2)
European Union	4,343,030.00	94.94%	36,558.72	- 15,121.42	21,437.30
Republic of Albania	4,117.00	0.09%	34.66	- 14.33	20.33
Bosnia and Herzegovina	9,149.00	0.20%	77.01	- 31.85	45.16
former Yugoslav Republic of Macedonia	4,575.00	0.10%	38.51	- 15.93	22.58
Moldova	4,575.00	0.10%	38.51	- 15.93	22.58
Montenegro	1,830.00	0.04%	15.40	- 6.37	9.03
Republic of Serbia	24,702.00	0.54%	207.94	- 86.01	121.93
Ukraine	179,320.00	3.92%	1,509.48	- 624.35	885.13
Kosovo*	3,202.00	0.07%	26.96	- 11.15	15.81
<b>TOTAL</b>	<b>4,574,500.00</b>	<b>100.00%</b>	<b>38,507.19</b>	<b>- 15,927.34</b>	<b>22,579.85</b>

Total repayment amount for not used budget appropriations 2016 and other sources of revenue 2016, amounts to EUR 22,579.85. This amount includes not entirely used legal commitments of 2015 as well exchange rate losses out of foreign exchange contract concluded in 2015 and finalised in 2016.

**Note 18: Key management personnel**

The key management personnel (as defined by IPSAS 20) of the Energy Community Secretariat is the Director and the Deputy Director, who acts at the same time as a head of unit and is appointed by the Director. The aggregate remuneration (as defined by IPSAS 20) of members of the management and the number of managers determined on a full-time equivalent basis receiving remuneration within this category are:

	2016	2015
Aggregate remuneration	271,452.00	266,124.00
Number of persons	2 persons	2 persons

\*This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo declaration of independence.

**Note 19: Events after the balance sheet date**

At the date of signing of these accounts no major subsequent events occurred after balance sheet date that had come to the attention of the Director that have to be recognized in the financial statements.

**Signature of the Director of the Secretariat of the Energy Community**


Janez Kopac
30.03.2017



# 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 normis* (lesion beyond moiety) among entrepreneurs, is hereby renounced.

## 14. Other Provisions

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

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

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

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

(5) At the request and expense of the client, the person entitled to exercise the profession shall hand over all documents received from the client within the scope of his/her activities. However, this shall not apply to correspondence between the person entitled to exercise the profession and his/her client, to original documents in his/her possession or to documents which have to be kept in accordance with the directive on money laundering. The person entitled to exercise the profession may make or retain copies or duplicates of the documents to be returned to the client. The client shall be obliged to bear these expenses in so far as these copies or duplicates may be required as a proof of the orderly execution of all professional duties by the person entitled to exercise the profession.

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

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

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

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

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

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

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

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

#### 16. Supplementary Provisions for Audits

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

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

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

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

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

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

(1) The person entitled to exercise the profession, when performing the aforementioned activities, shall be justified in accepting information provided by the client, in particular figures, as correct. However, he/she is obliged to inform the client of any errors identified by him/her. The client shall present the person entitled to exercise the profession with all important documents required for keeping deadlines, in particular tax assessment notices, in good time so as to ensure that the person entitled to exercise the profession has a reasonable amount of time, but not less than one week, to process the information.

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

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

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

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

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

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

#### SECTION II 18. Scope

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

## 19. Scope and Execution of Contract

- (1) Reference shall be made to Items 3 and 4 of the Preamble.
- (2) The person entitled to exercise the profession shall be justified in regarding information and documents presented to him/her by the client, in particular figures, as correct and complete and in using them as a basis for accounting. The person entitled to exercise the profession shall not be obliged to identify errors, unless he/she has been specifically instructed to do so in writing. However, if errors are identified, he/she shall inform the client thereof.
- (3) If a flat fee has been negotiated for the activities mentioned in Point 18, in the absence of written agreements to the contrary, representation in matters concerning all types of tax audits and audits of payroll-related taxes and social security contributions including settlements concerning tax assessments and the basis for contributions, preparation of reports, appeals and the like shall be invoiced separately.
- (4) Particular individual services in connection with the services mentioned in Point 18, in particular ascertaining whether the requirements for statutory social security contributions are met, shall be dealt with only on the basis of a specific contract and shall be treated according to Section I or Section III of the General Conditions of Contract.
- (5) Any application submitted to authorities (e.g. tax office, social insurance institution) electronically, shall be regarded as neither signed by the person entitled to exercise the profession nor by the person authorized to transmit the application.

## 20. Client's Duty to Cooperate

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

## 21. Termination

- (1) Unless otherwise agreed to in writing, either contractual partner may terminate the contract at the end of each month with three months' notice without giving a particular reason.
- (2) If the client repeatedly fails to fulfill his/her duties according to Point 20, the person entitled to exercise the profession shall have the right to terminate the contract immediately without prior notice.
- (3) If the person entitled to exercise the profession delays in rendering services due to reasons for which he/she is solely responsible, the client shall have the right to terminate the contract immediately without prior notice.
- (4) In case of a termination of the contractual relationship only those assignments shall be considered part of the contract which the contractor is already working on or major parts of which can be completed within the period of notice and which are notified to the client within one month.

## 22. Fee and Entitlement to Fee

- (1) Unless otherwise agreed to in writing, the fee shall be considered agreed upon for one year at a time.
- (2) If the contract is terminated pursuant to Point 21 Item 2 the person entitled to exercise the profession shall have the right to the full fee negotiated for three months. This shall also apply if the client fails to observe the period of notice.
- (3) If the contract is terminated pursuant to Point 21 Item 3, the person entitled to exercise the profession shall only have the right to the fee corresponding to the services rendered up to this point, provided they are of value to the client.
- (4) If a flat fee has not been negotiated, the fee shall be calculated pursuant to Item 2 according to the monthly average of the current year of contract until termination.
- (5) Unless the parties agreed that the services would be rendered free of charge or unless explicitly stipulated otherwise, an appropriate remuneration in accordance with Sections 1004 and 1152 of the Austrian Civil Code (ABGB) is due. Unless a different agreement has demonstrably been reached, payments by the client shall in all cases be credited against the oldest debt. The claim for remuneration by the person entitled to exercise the profession is based upon an agreement concluded between him/her and the principal involved. Furthermore, the basics standardized under section 13 apply.

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

## 23. Other Provisions

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

## SECTION III

## 24. Scope

- (1) The General Conditions of Contract in Section III shall apply to all contracts not mentioned in the previous sections, which are not to be regarded as contracts for rendering services and are not related to the contracts mentioned in the previous sections.
- (2) In particular, Section III of the General Conditions of Contract shall apply to contracts concerning the non-recurring participation in negotiations, to services as an agent in matters pertaining to insolvency, to contracts concerning non-recurring interventions and the handling of the individual matters mentioned in Point 17 Item 3 in the absence of a continuing agreement.

## 25. Scope and Execution of Contract

- (1) Reference shall be made to Items 3 and 4 of the Preamble.
- (2) The person entitled to exercise the profession shall be justified in regarding and obliged to regard information and documents presented to him/her by the client, in particular figures, as correct and complete. In case of penal procedures he/she shall protect the rights of the client.
- (3) The person entitled to exercise the profession shall not be obliged to identify errors, unless he/she has been specifically instructed to do so in writing. However, if he/she identifies errors, the client shall be informed accordingly.

## 26. Client's Duty to Cooperate

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

## 27. Termination

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

## 28. Fee and Entitlement to Fee

- (1) Unless the parties agreed that the services would be rendered free of charge or unless explicitly stipulated otherwise, an appropriate remuneration in accordance with Sections 1004 and 1152 of the Austrian Civil Code (ABGB) is due. Unless a different agreement has demonstrably been reached, payments by the client shall in all cases be credited against the oldest debt. The claim for remuneration by the person entitled to exercise the profession is based upon an agreement concluded between him/her and the principal involved. Furthermore, the basics standardized under section 13 apply.
- (2) In the event of termination the fee shall be calculated according to the services rendered up to this point, provided they are of value to the client.
- (3) Application of § 934 ABGB (Austrian Civil Code) within the meaning of § 351 Austrian Business Enterprise Code (Commercial Code, UGB), i.e. rescission for *laesio enormis* (lesion beyond moiety) among entrepreneurs, is hereby renounced.

## 29. Other Provisions

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

## SECTION IV

## 30. Scope

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

## 31. Supplementary Provisions for Consumer Transactions

- (1) Contracts between persons entitled to exercise the profession and consumers shall fall under the obligatory provisions of the Consumer Act.
- (2) The person entitled to exercise the profession shall only be liable for the deliberate and gross negligent violation of the obligations assumed.
- (3) Contrary to the limitation laid down in Point 8 Item 2 of the General Conditions of Contract, the duty to compensate on the part of the person entitled to exercise the profession shall not be limited in case of gross negligence.
- (4) Point 8 Item 3 of the General Conditions of Contract (asserting claims for damages within a certain period) shall not apply.
- (5) Right of Withdrawal according to Section 3 of the Consumer Protection Act

If the consumer has not made his/her contract statement in the office usually used by the person entitled to exercise his/her profession, he/she may withdraw from the contract application or the contract proper. This withdrawal may be declared until the contract has been concluded or within one week after its conclusion; the period commences as soon as a document has been handed over to the consumer which contains at least the name and the address of the person entitled to exercise the profession as well as instructions on the right to revoke the contract, but no earlier than the conclusion of the contract.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## (9) Contracts on Recurring Services

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

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

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

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