

**Convenience translation**  
**(only the original German version is binding)**

Financial Statements as of March 31, 2017  
and Management Report  
for the Financial Year 2016/17  
of

**Bavaria Electrodes GmbH**  
**Röthenbach a.d. Pegnitz**

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## LIST OF ABBREVIATIONS

|         |   |
|---------|---|
| AuS     | German Audit Standard<br>(Prüfungsstandard des IDW)   |
| BCH     | Bavaria Carbon Holdings GmbH, Röthenbach a.d. Pegnitz   |
| BCS     | Bavaria Carbon Specialities GmbH, Röthenbach a.d. Pegnitz   |
| GC      | Graphite Cova GmbH, Röthenbach a.d. Pegnitz   |
| GmbHG   | Gesetz betreffend die Gesellschaften mit beschränkter Haftung   |
| GIBV    | Graphite International B.V., Rotterdam, Netherlands   |
| GIL     | Graphite India Ltd., Kolkata, India   |
| HGB     | German Commercial Code<br>(Handelsgesetzbuch)   |
| IDW     | Institut der Wirtschaftsprüfer in Deutschland e.V., Düsseldorf  |
| IDW-AAB | General engagement terms for Wirtschaftsprüfer und Wirtschaftsprüfungsgesellschaften (German Public Auditors and German Public Audit Firms) |
| KEUR    | Thousand Euro   |

## A. AUDIT ENGAGEMENT

The Management of

Bavaria Electrodes GmbH,

Röthenbach a.d. Pegnitz

(referred to as "Bavaria Electrodes" or simply "the Company")

engaged us to perform an audit of the annual financial statements as of 31 March 2017 including the underlying books and records, and the management report for the financial year 2016/2017 using generally accepted auditing standards, as well as to provide a written report of our findings.

The audit engagement letter as of 5 December 2016, was approved on the shareholder's meeting as of 15 March 2017 at which we have been appointed as auditors (Sec. 318 para. 1 sentence 1 of the German Commercial Code).

The Company ranks as a mid-sized corporation as defined by the terms of Sec. 267 para. 2 of the German Commercial Code and is therefore subject to mandatory auditing in accordance with Sec. 316 et seq. of the German Commercial Code.

We confirm that, during the course of our audit, we have observed the independence rules according to Sec. 321 para. 4a HGB.

Our reporting complies with the German Audit Standards for the Issuance of long-form Audit Reports for the Audits of Financial Statements (IDW AuS 450) issued by the Institute of Public Auditors in Germany (IDW).

Our long-form audit report includes our comments on management's assessment of the company's situation in section B. The audit methodology and audit results are individually reported in sections C and D accordingly. The unqualified opinion is reprinted in section E.

We have attached the audited financial statements, including Balance Sheet (exhibit 1), Income Statement (exhibit 2) and Notes (exhibit 3) as well as the audited management report (exhibit 4) to this audit report.

We have analyzed the legal, economic and tax background of the company in a table format in exhibits 5 to 7.

The performance of our engagement and our liability - also in relation to third parties - are subject to the general engagement terms for auditors and accountancy firms in the version dated 1. January 2002.

## **B. GENERAL FINDINGS**

### **I. Comments on Management's Assessment of the Company's Situation**

Management has commented on the Company's economic situation in the management report (exhibit 4), based on the financial statements as of 31 March 2017 (exhibit 1 to 3) and other documents, especially the budget for financial year 2016/17.

According to Sec. 321 para. 1 sentence 2 HGB, we as the auditors comment on management's discussion and analysis in the annual financial statements and in the management report. We especially comment on the assessment of going concern and anticipated development in view of the management report. Our comments are based on our own assessment on the company's situation, which we have reached during the course of our audit of the financial statements and the management report.

#### **1. Situation of the Company**

In our opinion, the management report contains the following corestatements:

- The Company produces Graphite Electrodes, Speciality Products and other Miscellaneous Carbon and Graphite Products, which are solely distributed by the sister companies GC. GC will reimburse BE the expenses incurred plus a margin.
- The 2016/17 financial year remains unchanged due to low utilization of the world's steel production capacities. This results in overcapacities in graphite electrodes and declining production volumes of graphite electrodes. Production of graphite electrodes at BE decreased from 9,422 metric tons in 2015/2016 to 8,949 metric tons in 2016/17. This corresponds to a utilization rate of 51%.
- However, as commodity prices have risen compared to previous year and revenues of reimbursements from wages, electricity and gas consumption to affiliated companies have been reclassified from other operating income, the company has an increase in revenues compared to previous year of kEUR 13,095 (py.: kEUR 12,330). At the same time, the company is facing higher raw material prices, higher operating expenses compared to the previous year to kEUR 12,868 (py.: kEUR 12,765). Finally, high tax reimbursements arose during the current financial year from prior years.
- Overall, the company generated a profit of kEUR 249 in comparison to kEUR 138 in the previous year.
- The balance sheet total as at 31 March 2017 increased by approximately 17% compared to 31 March 2016. This is mainly due to the increase in receivables from GC as well as liabilities from deliveries and services through a strong first quarter of 2017.

## **2. Future development with its key opportunities and risks**

In our opinion, the management report contains the following corstatements:

- BE is integrated into the risk management system of the parent company. A total of decisive factors are the development of the steel industry, but also the development of the commodity and energy markets as well as the price policy of market leaders.
- The consolidation of the market for graphite electrodes and the related reduction of production capacity has an enormous impact on the price level of the the consolidation of the market for graphite electrodes and the related reduction of production capacity has an enormous impact on the price level of the Electrodes.
- The sales volume of the production is exclusively via GC, so a sales risk is present. In turn, GC counteracts this market risk by opening up markets outside Europe to reduce dependency on the European market.
- Usually, supply contracts for raw materials and supply contracts for gas and electricity are renewed at the same time. However, the cost of the main raw materials as well as their derivative materials could represent a risk for the company due to by a price increase.
- Due to the revival of the global industry and the opening up of new markets the company expects in the long term an increase in demand and an improvement of the results. For the coming financial year, the company expects a slightly positive development of sales and profit before tax.

## **3. Concluding Assessment**

According to the result of our audit and the knowledge gained, the assessment of the company's situation including the risks and opportunities of future development is plausible and derived logically. Management's assessment of the company's situation is adequate and correct. Our audit has no identified any evidence, that the company's continued existence would be jeopardized.

## **II. Findings in accordance with Sec. 321 para 1 sentence 3 of the German Commercial Code**

The shareholder did not resolve about the approval of the financial statement as of 31 March 2016 and the management report for the financial year 2015/2016 (Sec. 42a para 2 German Limited Liability Company Code) within the first 8 months in 2016. We have indicated the management to the deadlines.

### **C. PURPOSE, NATURE AND SCOPE OF THE AUDIT**

During our audit, we examined whether the books and records, the annual financial statements as of 31 March 2017 (exhibits 1 to 3) including the management report (exhibit 4) comply with the relevant regulations concerning financial accounting.

Our audit procedures pertaining to the management report were aimed at determining whether it is consistent with the annual financial statements, gives a true and fair view of the Company's situation, and whether it suitably presents the opportunities and risks relating to its future development.

An evaluation of the appropriateness of the insurance coverage, in particular whether all the risks were considered and adequately insured, was not part of our audit engagement.

The maintenance of the books and records and the preparation of the annual financial statements and management report are the responsibility of the Company's management. Our task is to provide an opinion on the documents and information within the official framework of our audit.

We carried out the audit for the annual financial statements from 17 April 2017 to 10 May 2017 on the company's premises in Röthenbach a.d. Pegnitz and in our office in Munich. Subsequently, this audit report was prepared.

To prepare our audit, we have performed an interim audit in March 2017 on the company's premises in Röthenbach a.d. Pegnitz, during which we have mainly assessed the company internal control over financial reporting.

Our audit was based on the annual financial statements as of 31 March 2016 audited by us which had been rendered an unqualified audit opinion on 12 May 2016 and were approved unchanged by the shareholders' resolution of 15 March 2017.

The documents provided for the purpose of the audit included accounting documents, receipts and confirmation documents from banks as well as the Company's files and records.

The management and other responsible staff members readily provided us with all requested explanations and proofs.

Furthermore, the management has provided written confirmation using the standard general representation letter that all declarable assets, liabilities, risks, and deferrals as well as all expenses and revenues, required statements, and contingent liabilities were included in the accounting and in the financial statements under review.

Our audit was carried out in accordance with Sec. 316 et seq. of the German Commercial Code and in compliance with the generally accepted German standards for the audit of financial Statements established by the IDW. Accordingly, we performed our audit with a risk-oriented strategy - however without any specific focus on risk for embezzlement in such a manner that inaccuracies or infringements materially affecting the presentation of the Company's true and fair view of the net assets, financial position, and results of operation are detected with reasonable assurance, if such inaccuracies or infringements had existed.



The audit plan for the key auditing areas was based on our initial estimates of the Company's situation and the efficiency of the internal control system over accounting (risk-oriented audit approach). Our estimates were particularly based on an appreciation of the basic legal and economic conditions. Through meetings with the managing directors and Company employees we were made aware of market risks, the Company's strategy and the particular risks resulting.

As part of our risk oriented auditing approach our audit focused on the following areas:

- Analysis of the going concern assumption
- Audit of the internal control over financial statement closing, purchase, sales and payroll
- Existence and valuation of inventories
- Existence and cut-off of revenues and trade receivables
- Completeness and valuation of accruals

Basis for our audit procedures was a preliminary assessment of the internal control system. Considering the materiality and efficiency, this implies that timing and extent of analytical procedures, as well as test of details, were limited to selective spot checks depending on the particular auditing areas and organization of the accounting information system. The spot checks were selected in a way that the economic significance of the individual entries in the financial statements were taken into account and gave the opportunity to sufficiently determine whether the statutory regulations had been adhered to.

The audit regarding the existence of assets and liabilities was carried out by attending the physical inventory count and requesting confirmations of banks, lawyers as well as debtors and creditors on random sample basis.

## **D. FINDINGS ON ACCOUNTING RECORDS AND FINANCIAL STATEMENTS**

### **I. Compliance of Accounting Records and Financial Statements**

#### **1. Accounting Records and Other Audited Documentation**

The Company's accounting is carried out by their own IT system using the standard-software SAP ECC 6.0 of the supplier SAP SE, Walldorf. Payroll accounting is also done in-house within this program.

The internal control system over financial accounting, as set up by the Company, provides an adequate instrument of regulation for the organization and the control of operational processes for business purposes and can sufficiently handle current business volumes. There were no significant organizational changes in the accounting procedures during the reporting period.

The organization of the accounting department and the internal control over financial reporting is sufficient and appropriate to assure a complete, correct, timely, and proper recording of the business transactions. The chart of accounts is sufficiently structured and the records are clear and well ordered. The accounts were correctly carried forward from the previous year's financial statement and were determined as having been kept in order throughout the entire financial year.

The information gathered from other audited documents also presents an orderly picture concerning the books and records and the annual financial statements.

Overall we can determine that the accounting practices in place and the other audited documents (including receipts, internal control and budgeting) all adhere to the applicable, statutory regulations including the Generally Accepted Accounting Principles. The audit has not led to any reservations.

#### **2. Annual Financial Statements**

As of the balance sheet date, the Company was classified as being a mid-sized company as defined by Sec. 267 para. 2 of the German Commercial Code. The annual financial statements as of 31 March 2017 were prepared in accordance with the requirements of German Commercial Code regarding mid-sized companies. The Company partly exercised options for mid-sized companies as laid out in Sec. 274a, 276 and 288 of German Commercial Code.

The balance sheet and the income statement were compiled coherently from the accounting documents and other documents included in the audit. The structure of the balance sheet (exhibit 1) adheres to the scheme provided by Sec. 266 paragraphs 2 and 3 of the German Commercial Code. The income statement (exhibit 2) was compiled applying the cost-summary method according to Sec. 275 paragraph 2 of the German Commercial Code.

In the notes compiled by the Company (exhibit 3), the accounting and valuation methods used for the balance sheet and income statements are sufficiently explained. All legally required data as well as the optional entries for the balance sheet and income statements contained in the notes are fully complete and accurately represented.

The annual financial statements therefore conform to statutory requirements including the German Accepted Accounting Principles. The audit has not led to any reservations.

### **3. Management Report**

The management report is consistent with the financial statements and our audit findings and as a whole gives a true and fair view of the Company's situation. Our audit, based on Sec. 317 para 2 sentence 2 of the German Commercial Code, leads us to conclude that the significant opportunities and risks relating to the Company's future development are suitably presented in the management report. The disclosures pursuant to Sec. 289 para 2 and 3 of the German Commercial Code are complete and accurate.

## **II. Overall Picture of the Annual Financial Statements**

### **1. Conclusion on the Annual Financial Statements**

Our audit has concluded that the annual financial statements as a whole - comprising the balance sheet, income statement and notes - give a true and fair view of the net assets, financial position and results of operations in accordance with Generally Accepted Accounting Principles (Sec. 264 paragraph 2 of the German Commercial Code).

### **2. Accounting and Valuation Methods and Constitutive Measures as well as Associated Changes**

The following accounting and valuation methods appear material to us:

- The financial statements were set up on the assessment of the company as a going concern (Sec. 252 para. 1 Nr. 2 German Commercial Code).
- The valuation of raw materials, supplies and operating materials is done according to the moving average of purchasing prices, taking into account the strict principle of the lower of cost or market.
- The pension accrual is accounted for using the settlement value. Valuation was done under observation of actuarial principle under application of the projected unit credit method. The average interest rate for a duration of 15 years according to Sec. 253 sec. 2 sentence 2 German Commercial Code amounts to 3,94%. When calculating the settlement value, the tables by Klaus G Heubeck and a fluctuation of 1,5% was used. As of balance sheet date, the provision amounts to kEUR 50 (PY kEUR 46). Due to bankruptcy of the predecessor company, the pension safety net (Pensionssicherungsverein) has taken over part of the pension liability.

The accounting and valuation methods are unchanged compared to prior year.

In addition, please see the comments made in the Notes (exhibit 3).

## **E. AUDIT OPINION AND CONCLUDING STATEMENTS**

Based on the results of our audit of the annual financial statements as of 31 March 2017 (exhibits 1 to 3) and the management report for the financial year 2015/16 (exhibit 4) of Bavaria Electrodes GmbH, Röthenbach a.d. Pegnitz, we have rendered the following unqualified audit opinion, dated 10 May 2017:

The translation of this audit opinion states as follows:

"We have audited the annual financial statements – comprising the balance sheet, the income statement, and the notes to the financial statements – together with the bookkeeping system, and the management report of Bavaria Electrodes GmbH, Röthenbach a.d. Pegnitz, for the financial year from 1 April 2016 to 31 March 2017. The maintenance of the books and records and the preparation of the annual financial statements and the management report in accordance with German Commercial Law are the responsibility of the Company's management. Our responsibility is to express an opinion on the annual financial statements, together with the bookkeeping system, and the management report based on our audit.

We conducted our audit of the annual financial statements in accordance with Sec. 317 HGB ('Handelsgesetzbuch': German Commercial Code) and German Generally Accepted Standards for the audit of financial statements promulgated by the Institut der Wirtschaftsprüfer (Institute of Public Auditors in Germany) (IDW). Those standards require that we plan and perform the audit such that misstatements materially affecting the presentation of the net assets, financial position and results of operations in the annual financial statements in accordance with German Principles of proper accounting and in the management report are detected with reasonable assurance. Knowledge of the business activities and the economic and legal environment of the Company and expectations as to possible misstatements are taken into account in the determination of audit procedures. The effectiveness of the accounting-related internal control system and the evidence supporting the disclosures in the books and records, the annual financial statements, and the management report are examined primarily on a test basis within the framework of the audit. The audit includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the annual financial statements and management report. We believe that our audit provides a reasonable basis for our opinion.

Our audit has not led to any reservations.

In our opinion, based on the findings of our audit, the annual financial statements comply with the legal requirements and give a true and fair view of the net assets, financial position, and results of operations of the Company in accordance with German principles of proper accounting. The management report is consistent with the annual financial statements and as a whole provides a suitable view of the Company's position and suitably represents the opportunities and risks relating to future development."

We issue the above report on the audit in accordance with the legal provisions and the Generally Accepted Standards for the Issuance of Audit Reports for the Audits of Financial Statements (IDW AuS 450).

Use of the audit opinion presented outside of this audit report requires our prior consent. If the annual financial statements are made public or passed on to a third party in any form other than the official, authenticated form (including translation into any other language), then we will be required to provide a new audit opinion, so long as our audit opinion is to be quoted or the audit itself is referred to (see Sec. 328 of the German Commercial Code).

Munich, 10 May 2017

RSM Altavis GmbH  
Wirtschaftsprüfungsgesellschaft  
Steuerberatungsgesellschaft

Schirmer  
Wirtschaftsprüferin  
(Certified Public Auditor)

Roller  
Wirtschaftsprüfer  
(Certified Public Auditor)

**BAVARIA ELECTRODES GMBH  
RÖTHENBACH A.D. PEGNITZ  
BALANCE SHEET  
AS OF MARCH 31, 2017**

| <u>ASSETS</u>                                    | <u>31.03.2017</u><br>EUR | <u>31.03.2016</u><br>EUR | <u>EQUITY AND LIABILITIES</u>                            | <u>31.03.2017</u><br>EUR | <u>31.03.2016</u><br>EUR |
|--|--------------------------|--------------------------|--|--------------------------|--------------------------|
| <b>A. FIXED ASSETS</b>                           |                          |                          | <b>A. EQUITY</b>   |                          |                          |
| I. Tangible Assets                               |                          |                          | I. Subscribed capital                                    | 100.000,00               | 100.000,00               |
| 1. Technical equipment and machines              | 8.805,00                 | 9.402,00                 | II. Retained profits                                     | 2.548.529,84             | 2.410.470,56             |
| 2. Other equipment, factory and office equipment | 29.431,00                | 33.301,00                | III. Net profit  | 248.603,41               | 138.059,28               |
|  | 38.236,00                | 42.703,00                |  | 2.897.133,25             | 2.648.529,84             |
| <b>B. CURRENT ASSETS</b>                         |                          |                          | <b>B. ACCRUALS</b>                                       |                          |                          |
| I. Inventories                                   |                          |                          | 1. Accruals for pensions and similar obligations         | 50.322,00                | 46.340,00                |
| 1. Raw materials and supplies                    | 454.235,91               | 520.478,38               | 2. Tax Accrual   | 9.746,12                 | 0,00                     |
| II. Receivables and other assets                 |                          |                          | 2. Other accruals  | 355.310,10               | 303.230,37               |
| 1. Trade receivables                             | 1.133,70                 | 1.974,64                 |  | 415.378,22               | 349.570,37               |
| 2. Receivables from affiliated companies         | 5.161.795,91             | 4.018.321,68             | <b>C. LIABILITIES</b>                                    |                          |                          |
| 3. Other assets                                  | 147.805,41               | 119.593,79               | 1. Trade payables  | 915.392,36               | 788.684,52               |
|  | 5.310.735,02             | 4.139.890,11             | 2. Payables to affiliated companies                      | 1.588.777,82             | 1.201.928,33             |
| III. Cash  | 30.733,79                | 300.697,59               | 3. Other Liabilities                                     | 32.863,04                | 28.173,26                |
| <b>C. PREPAID EXPENSES</b>                       |                          |                          | - thereof for taxes: EUR 32.917,90 (p.y.: EUR 28.119,34) | 2.537.033,22             | 2.018.766,11             |
|  | 15.603,97                | 13.097,24                |  | 5.849.544,69             | 5.016.866,32             |
|  | 5.849.544,69             | 5.016.866,32             |  |                          |                          |

**BAVARIA ELECTRODES GMBH  
RÖTHENBACH A.D. PEGNITZ  
INCOME STATEMENT  
FOR THE PERIOD FROM 1 APRIL 2015 TO 31 MARCH 2017**

|   | <u>2016/17</u><br>EUR    | <u>2015/16</u><br>EUR    |
|---|--------------------------|--------------------------|
| 1. Revenues   | 13.094.754,44            | 12.329.704,92            |
| 2. Other income   | 79.926,78                | 719.938,69               |
| 3. Cost of sales  | -4.922.081,39            | -5.521.483,78            |
| 4. Personnel expenses   |                          |                          |
| a) Wages and salaries   | -3.615.671,65            | -3.393.941,67            |
| b) Expenses for social security, pension and other benefits   | -736.575,63              | -732.205,86              |
|   | <u>-4.352.247,28</u>     | <u>-4.126.147,53</u>     |
| 5. Amortisation and depreciation                              |                          |                          |
| a) on intangible fixed assets                                 | -19.722,49               | -35.970,66               |
| 6. Other operating expenses                                   | -3.594.099,89            | -3.117.209,87            |
| <b>7. Operating result</b>                                    | <u>286.530,17</u>        | <u>248.831,77</u>        |
| 8. Other interest and similar income                          | 0,00                     | 0,00                     |
| 9. Interest and similar expenses                              | -1.969,02                | -2.215,00                |
| - thereof from compounding: EUR 1.969,00 (p.y.: EUR 2.215,00) |                          |                          |
| <b>10. Financial result</b>                                   | <u>-1.969,02</u>         | <u>-2.215,00</u>         |
| <b>11. Result from ordinary activities</b>                    | 284.561,15               | 246.616,77               |
| 12. Income taxes  | -35.957,74               | -108.557,49              |
| <b>13. Net income for the year</b>                            | <u><u>248.603,41</u></u> | <u><u>138.059,28</u></u> |

**Bavaria Electrodes GmbH, Roethenbach a. d. Pegnitz**

**Notes to the Annual Financial Statements for the Financial Year from 01 April 2016  
to 31 March 2017**

**A. General Information**

Bavaria Electrodes GmbH ("the Company") is domiciled in Röthenbach a. d. Pegnitz and incorporated in the Register of Companies HRB 21198 maintained by the local civil Court Nuremberg.

The annual financial statements of Bavaria Electrodes GmbH were prepared in accordance with the regulations of the German Commercial Code (HGB) and the Limited Liability Company Act (GmbHG).

For the income statement the total cost method according to § 275 para. 2 HGB has been chosen. The company is a medium-sized company according to § 267 para. 2 HGB.

Because of the first-time application of Bilanzrichtlinie-Umsetzungsgesetz (BilRUG), revenues are only comparable with the previous year to a limited extent. Revenues now include IC allocations in the amount of kEUR 685 (prior year: kEUR 530 which were previously included in other income). Figures for previous year were not reclassified.

**B. Accounting policies**

The accounting and valuation policies applied in the previous year were retained, insofar as there were no diverging valuations necessary or rather there were no adjustments relating to new requirements of Bilanzrichtlinien-Umsetzungsgesetz (BilRUG). The accounting and valuation of items in the balance sheet and income statement are based on the going concern assumption according to § 252 sec. 1 Nr. 2 HGB.

The **fixed assets** acquired from the insolvency administrator of the Conradt Group, Dr. Pöhlmann, in August 2004 are valued at the acquisition costs, reduced by the regular straight-line depreciation assuming a remaining life of assets to be seven years for plant and machinery and ten years for building.

**Newly acquired intangible assets and fixed assets** are valued at the acquisition or production costs reduced by the straight-line depreciation. Assets manufactured in-house are valued according to the production costs considering adequate parts of the required general and administrative costs. Depreciation is done according to the current official tax depreciation tables.

**Low-value assets** with product related acquisition costs of up to EUR 150.00 are depreciated completely in the year of acquisition and shown in the asset table as disposal. Fixed assets with acquisition costs between EUR 150.00 to EUR 1,000.00 are accumulated in a pool item. Depreciation is done in the year of purchase and the following four years. It is depreciated in the year it was recorded and the following four years and hence reducing profits.

**Raw materials, supplies and operating materials** are valued at their acquisition costs including the incidental acquisition expenses taking into account the lower of cost or market.

**Accounts receivable and other assets** are valued at their nominal value.



**Cash on hand and bank balances** are measured at nominal value.

The **prepaid expenses** relate to payments made before the reporting date, which represent expenses for a certain period after that date.

The **accruals for pensions and similar rights** are valued according to the projected-unit-credit method applying the tables 2005 G of Klaus Heubeck. An actuarial interest rate of 3,94 % and a pensions dynamic of 1,50 % are assumed. § 253 Sec. 2 sentence 1 and sec. 6 HGB were applied, using the average discount rate of the past 10 years. Consequently, the dividend payout restriction and active difference amount to kEUR 7.

**Tax accruals and other accruals** to cover any risk and expected/uncertain obligations are accounted in an amount required for the settlement on the basis of a reasonable commercial assessment and are recognized in consideration of the anticipated cost and price increase in the future. Accruals with a remaining term of more than one year are discounted using the average market interest rate of the past seven years, according to their remaining maturities as published by Deutsche Bundesbank.

**Liabilities** are accounted for in the balance sheet according to their settlement amount. All liabilities are short-term.

#### **Deferred taxes**

For discrepancies between the commercial valuation on the one hand and the tax base of assets, debts and accrued and deferred items which can be expected to be settled in later financial years, according to § 274 HGB [German Commercial Code], an overall tax burden resulting from these differences shall be shown in the balance sheet as deferred tax liabilities. An overall tax relief resulting from these differences can be shown in the balance sheet as deferred tax assets. Deferred taxes are valued with a combined tax rate of 27.025 %. This tax rate comprises corporation tax, business tax and solidarity tax. By exercising the option to capitalize deferred taxes no deferred tax assets are shown in the balance sheet.

### **C. Comments on the balance sheet**

#### **Fixed assets**

The development of the individual items of the fixed assets is stated in asset table attached to these notes.

#### **Receivables and other assets**

The receivables and other assets have a residual maturity of up to one year in fiscal year as well as in the previous year. The receivables against affiliated companies relate to receivables from supplies and services.

#### **Deferred taxes**

Deferred taxes on pension accruals are not capitalized, in accordance with § 274 sec. 1 Sentence 2 of the HGB [German Commercial Code]. Deferred taxes are valued with a tax rate of 27.025 %.

#### **Other reserves and accrued liabilities**

The accrued liabilities mainly include accruals for personnel accruals in the amount of kEUR 278 (p.y.: kEUR 244), as well as outstanding invoices in the amount of kEUR 47 (p.y.: kEUR 30).

**Payables due to affiliated companies**

All liabilities have residual maturity of up to one year. Payables to affiliated companies are payables from supplies and services.

**D. Comments on the income statement****Taxes on income**

Taxes on income are related to trade tax (kEUR 37) and corporation tax and solidarity surcharge in the amount of kEUR 49. In addition, tax repayments for previous years in the amount of kEUR 50 are included.

**E. Other disclosures****Contingencies, Guarantees**

As at March 31, 2016 no contingencies or guarantees exist. Financial obligations for rent and leasing of equipment amount to KEUR 748. This is all due to affiliated companies.

**Number of employees:**

|                      |           |
|----------------------|-----------|
| Blue-collar workers  | 88        |
| White-collar workers | <u>16</u> |
| Total                | 104       |

**Comments on the consolidated accounts**

The annual financial statements of the company will be included in the consolidated accounts of Graphite International B. V., Rotterdam, Netherlands, which is a subsidiary of Graphite India Ltd., Kolkata, India. The consolidated accounts of Graphite India Ltd., Kolkata, India, the ultimate parent company, are published in India at National Stock Exchange and Bombay Stock Exchange in Bombay.

**Management**

In the financial year 2016/2017, management was carried out by:

Makarand Bhalchandra Gadgil, Nasik, India, Bachelor of Technology / Master of Business Administration

Adrian Nikolov Bojilov, Röthenbach / Pegnitz, Graduate Economist

Nitin Shridharrao Deshpande, Nasik, India, Graduate Mechanical Engineer

The company did not pay any remuneration to the managing directors.

**Proposed appropriation of results**

The net profit of the financial year and the retained profit shall be carried forward onto new account.

Röthenbach a. d. Pegnitz, 10 May 2017

M.B. Gadgil

A.N. Bojilov

N.S. Deshpande

DEVELOPMENT OF FIXED ASSETS DURING THE FINANCIAL YEAR 2016/17

|   | AQUISITION COSTS    |                  |                  | ACCUMULATED DEPRECIATION |                     |                  | NET BOOK VALUE   |                    |                    |
|---|---------------------|------------------|------------------|--------------------------|---------------------|------------------|------------------|--------------------|--------------------|
|   | 1. Apr. 2016<br>EUR | Additions<br>EUR | Disposals<br>EUR | 31. Mar. 17<br>EUR       | 1. Apr. 2016<br>EUR | Additions<br>EUR | Disposals<br>EUR | 31. Mar. 17<br>EUR | 31. Mar. 16<br>EUR |
| <b>PROPERTY, PLANT AND EQUIPMENT</b>          |                     |                  |                  |                          |                     |                  |                  |                    |                    |
| Technical equipment and machines              | 214.416,73          | 1.526,57         | 0,00             | 215.943,30               | 205.014,73          | 2.123,57         | 0,00             | 207.138,30         | 8.805,00           |
| Other equipment, factory and office equipment | 313.663,86          | 13.729,92        | 0,00             | 327.393,78               | 280.362,86          | 17.598,92        | 0,00             | 297.861,78         | 29.432,00          |
|   | <u>528.080,59</u>   | <u>15.256,49</u> | <u>0,00</u>      | <u>543.337,08</u>        | <u>485.377,59</u>   | <u>19.722,49</u> | <u>0,00</u>      | <u>505.100,08</u>  | <u>38.237,00</u>   |
|   | <u>528.080,59</u>   | <u>15.256,49</u> | <u>0,00</u>      | <u>543.337,08</u>        | <u>485.377,59</u>   | <u>19.722,49</u> | <u>0,00</u>      | <u>505.100,08</u>  | <u>42.703,00</u>   |

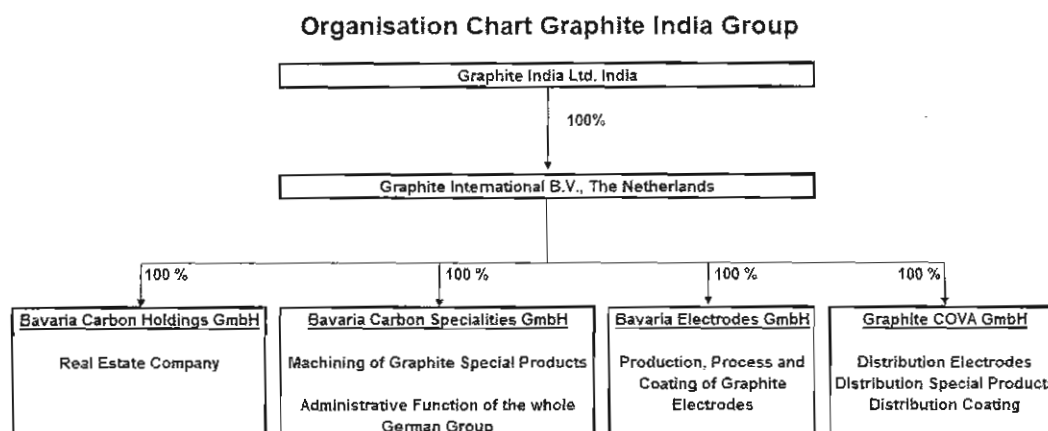
**Bavaria Electrodes GmbH  
Röthenbach an der Pegnitz  
Management Report for the business year  
from 1. April 2016 until 31. March 2017**

**Business Model of the Company –**

The main business of the Company is to manufacture Graphite Electrodes, Speciality Products, Electrode Coating Services and other Miscellaneous Carbon and Graphite Products.

Graphite Electrode is used in electric arc furnace (EAF) based steel mills for conducting current and is a consumable item for the steel industry.

**Group structure**



**Bavaria Electrodes GmbH** is a wholly owned subsidiary of the Graphite International BV, the Netherlands, which is a wholly owned subsidiary of Graphite India Ltd. India. Bavaria Electrodes GmbH deals with only production of Graphite Electrodes, Speciality products, Electrodes Coating services and misc. Carbon and Graphite Products. The selling of these goods is only done by fellow group company Graphite Cova GmbH.

The company is located in Grünthal 1 - 6, D-90552 Röthenbach an der Pegnitz, Germany.

**a) Business- and Market Conditions**

Lower utilization of Steel capacities continued in 2016/17 lead to over capacities of Electrodes. Lower demand of electrodes has led to fierce competition among electrodes manufacturers resulting in drastic reduction in price. The Electrodes manufacturers have started adjusting capacities by closing down high cost / inefficient manufacturing facilities which should result in stabilisation in electrode price.

**b) Research and Development**

Graphite India Ltd. pursues research and development activities on an on-going basis at its in-house research and development centre engaged in the innovation of improved products and processes in the field of Graphite and Carbon. R & D initiatives are in areas of raw materials, productivity, process development, reduction in carbon emissions etc. Many of the cost savings achieved were significant and in compliance with the "pollution control and clean environment norms".

**2. Overall Economic Report****a) Business Overview/Total Statement**

At Bavaria Electrodes GmbH, Graphite Electrode production at 8,949 MT was lower as compared to 9,422 MT in 2015-16.

The Company earned profit of TEUR 249 during the year as against TEUR 138 in the previous year.

**b) Economic Overall Situation and Trade Based Market Conditions****i. Economic Overall Situation Frame Conditions**

The economic overall situation in Germany was characterized by growth in gross domestic product of **1.9 % in 2016**. Contributed to the modest increase in the gross domestic product have a higher export growth of 2016 in comparison to 2015, the increase in domestic demand due to increased business investment and a **significant** upturn (**2%**) in private consumption. Another positive impact came from the continued favourable development in the employment market. The number of employees rose in 2016 for over ten years in a row and reached a new **historical** level.

**ii. Trade Based Frame Conditions**

World crude steel production reached 1,628.5 million tonnes (Mt) for the year 2016, up by 0.8% compare to 2015. Crude steel production decreased in Europe, the Americas and Africa. Crude steel production increased in the CIS, the Middle East, Asia and Oceania.

Annual production for Asia was 1,125.1 Mt of crude steel in 2016, an increase of 1.6% compared to 2015. China's crude steel production in 2016 reached 808.4 Mt, up by 1.2% on 2015. China's share of world crude steel production increased from 49.4% in 2015 to 49.6% in 2016. Japan produced 104.8 Mt in 2016, down by 0.3% compared to 2015. India's crude steel production for 2016 was 95.6 Mt, up by 7.4% on 2015. South Korea produced 68.6 Mt of crude steel in 2016, a decrease of 1.6% compared to 2015.

In 2016, the EU (28) produced 162.3 Mt of crude steel, a decrease of 2.3% compared to 2015. Germany produced 42.1 Mt of crude steel in 2016, down by 1.4% over 2015. Italy produced 23.3 Mt in 2016, an increase of 6.0% over 2015. Spain produced 13.7 Mt of crude steel in 2016, a decrease of 0.8% compared to 2015.

2016 crude steel production in North America was 111.0 Mt, the same amount as in 2015. The US produced 78.6 Mt of crude steel, down by 0.3% on 2015.

Crude steel production in the CIS was 102.4 Mt in 2016, 0.8% higher than in 2015. Russia produced 70.8 Mt of crude steel in 2016, down by 0.1% on 2015. Ukraine recorded an increase of 5.5% with a year-end figure of 24.2 Mt.

Annual crude steel production for South America was 39.2 Mt in 2016, a decrease of 10.6% on 2015. Brazil produced 30.2 Mt in 2016, down by 9.2% compared to 2015.

#### **In 2017:**

The World Steel Association released in Oct. 2016 its Short Range Outlook (SRO) for 2016 and 2017. World steel forecasts that global steel demand will increase by 0.2% in 2016, following a contraction of 3.0% in 2015. In 2017, it is forecast that global steel demand will grow by 0.5%.

Commenting on the outlook, the steel industry environment remains challenging, with escalated uncertainties driven by geopolitical situations in various parts of the world.

Weakness in investment globally continues to hold back a stronger steel demand recovery. However, a better than expected forecast for China, along with continued growth in emerging economies, will help the global steel industry to move back to a positive growth path..

Downside risks to this outlook come from the high corporate debt and real estate market situation in China, Brexit uncertainties and possible further escalation of instability in some regions. On a positive note, steel demand in the emerging and developing economies excluding China is expected to accelerate to show 4.0% growth in 2017 thanks to the resilient emerging Asian countries and stabilisation of commodity prices.

c) **Situation of the Company -**i. **i. Profitability Situation -**

|                       | <b>2016-17<br/>TEUR</b> | <b>% with sales</b> | <b>2015-16<br/>TEUR</b> | <b>% with sales</b> |
|-----------------------|-------------------------|---------------------|-------------------------|---------------------|
| Net Sales             | 13,095                  |                     | 12,330                  |                     |
| Other<br>Income       | 80                      |                     | 720                     |                     |
| Total Income          | 13,175                  |                     | 13,050                  |                     |
| Operating<br>Expenses | 12,868                  | <b>97.67</b>        | 12,765                  | <b>97,82</b>        |
| PBIDT                 | 307                     | <b>2.33</b>         | 285                     | <b>2,18</b>         |
| Interest              | 2                       |                     | 2                       |                     |
| PBDT                  | 305                     | <b>2.31</b>         | 283                     | <b>2,17</b>         |
| Depreciation          | 20                      | <b>0.15</b>         | 36                      | <b>0,28</b>         |
| PBT                   | 285                     | <b>2.16</b>         | 247                     | <b>1,89</b>         |
| Tax                   | 36                      | <b>0.27</b>         | 109                     | <b>0,84</b>         |
| PAT                   | 249                     | <b>1.89</b>         | 138                     | <b>1,06</b>         |

The company produced electrodes 8,949 mt. in the year 2016-17 as against 9,422 mt in previous year.

Revenues during the current period is increased by 6%- Effect is mainly impacted by the reclassification of other income (reimbursement of salary, power and gas consumption) in the amount of 586kEUR.

Operating expenses have slightly decreased in proportion to revenues in current period compare to 2015-16.

Tax expenses went down compared to prior year. In the previous period expenses from tax field audits for prior years were included. Hence profit after tax is higher compared to previous year.

## ii. Financial Situation

|  | 2016-17<br>TEUR | %             | 2015-16<br>TEUR | %             |
|--|-----------------|---------------|-----------------|---------------|
| Equity                                   | 2,897           |               | 2,649           |               |
| <b>Return on Equity</b>                  |                 | <b>8.60</b>   |                 | <b>5.21</b>   |
| Accruals                                 | 416             |               | 350             |               |
| Liabilities                              | 2,537           |               | 2,018           |               |
| Total Debts                              | 2,953           |               | 2,368           |               |
| <b>Debt Equity Ratio</b>                 |                 | <b>101.93</b> |                 | <b>89.39</b>  |
| <b>FIXED ASSETS</b>                      | 38              |               | 43              |               |
| Inventories                              | 454             |               | 520             |               |
| Trade Receivables                        | 1               |               | 2               |               |
| Receivables from<br>affiliated companies | 5,162           |               | 4,018           |               |
| Other Receivables                        | 148             |               | 120             |               |
| Liquid Assets                            | 30              |               | 301             |               |
| Prepaid Expenses                         | 16              |               | 13              |               |
| <b>SHORT TERM<br/>ASSETS</b>             | 5,811           |               | 4,974           |               |
| Accruals for Taxes                       | 10              |               | 0               |               |
| Other Accruals                           | 406             |               | 350             |               |
| Trade Payables                           | 915             |               | 789             |               |
| Payables due to<br>affiliated companies  | 1,589           |               | 1,202           |               |
| Other Payables                           | 33              |               | 28              |               |
| Short & Medium Term<br>Liabilities       | 2,953           |               | 2,368           |               |
| <b>Current Ratio</b>                     |                 | <b>196.78</b> |                 | <b>210.05</b> |

Due to increased electrode production in last quarter both receivable from and payable to affiliated company are increased.

Liquid assets are reduced in current period compare to 2015-16. Liquid asset were more in 2015-16 due to bank balance reserved for payment of Natural gas falling due on 1<sup>st</sup> April 2016.

Trade payables are increased in current period compared to 2015-2016. This increase is due to increase in year-end productivity.



Other accruals are increased in current period compared to 2015-16 due to increase in employee related provisions.

#### **d) Financial and Non-financial Performance Factors**

##### **i. Financial Performance Factors**

The company earned profit of TEUR 249 as against TEUR 138 in the previous year 2015-16.

The global market for graphite electrodes is dominated by a few producers. Lower Steel production through EAF route resulted in excess capacity of graphite electrodes. Hence, company could only produce to the extent of around 51% in the 2016-17.

##### **ii. Non-Financial Performance Factors**

Product quality has been further stabilised on a level allowing comparison to that of the leading graphite producers. Customer acceptance is encouraging. Confidence on the part of customers, suppliers and authorities keeps on growing. However, the capacity of the Company is restricted to graphite electrodes of 550 mm diameter. The technology of steel making has undergone significant advancements. Hence, in tune with the improved quality requirements of customers, it is imperative to scale up and modernize the production facility.

Modernization of production facility will start once the market is improved.

The company has already initiated rationalisation measures for controlling costs.

#### **e) Comparison to Previous Year**

In the management report for the previous year, the company expected a further positive development of economic growth in 2016/2017 and moderate growth of the entire steel industry, It is visible from current year's production. However in spite of difficult market situation, the company could produce on 51% of the capacity as against 54% in previous year 2015-16.

### **3. Supplementary Report**

The investment for modernisation of some tangible assets was kept on hold during FY 2016-17 until the recovery of the economy.

There were no other events with a material influence on the financial statements as of 31 March 2017.

#### **4. Forecast-, Chance- and Risk Report**

##### **a) Forecast Report**

The Company looks forward to improving its performance in the Financial Year 2017-18 slightly for Revenues and the net result following favourable business indications of global steel industry brightening and extension of the market in other continents. In 2017, the global steel industry is expected to grow, even though at a lower rate. A change in the steel production route - from BOF (Basic Oxygen Furnace) to EAF (Electric Arc Furnace) will have a further positive effect, even if the total steel quantity produced is not increased significantly.

With the revival of global industry and extension to new markets, the Company expects increase in demand and improvement in results. For the business year 2017-18, the company expects a further positive development of the global consolidation of the market for Graphite Electrodes.

It cannot be excluded that the actual business will diverge from expectations, because of some unforeseeable developments in the economic and commercial environment of the market.

##### **b) Risk Report**

###### **i. Risk Management System**

The company is integrated into the risk management system of the parent company. The implemented risk management system of the company uses appropriate management tools and indicators in the key areas sales and earnings development, raw material management, sales and production control as well as financing and securing of liquidity.

The integrated early detection system based on rolling budgeting is aimed at the early identification of business risks, to analyse and to classify them, to be able to handle issues which threaten the existence, in time. The management receives information on risk-relevant issues in regular reports. Depending on requirements, supplementary reports to individual circumstances can be created.

Based on the controlling reports and rolling expansions for the current business year all significant developments are presented and explained in detail by the department heads in regular meetings with the management, the current risk situation is discussed and appropriate measures to control the development of the company are defined.

The business development of the company is regularly discussed and coordinated with the parent company Graphite India.

**ii. General Risks**

It is undeniable that business projections have an inherent element of uncertainty of unknown elements like sudden reversal of positive trends leading to economic slowdown resulting in possible negative growth for steel, automotive and infrastructure industries slowing down which in turn may adversely impact the prospects for our industry.

It is not only the steel industry which plays a quite decisive role but also the development in raw material and energy prices as well as the market leaders' pricing policy, influence our performance.

**iii) Specials Risks**

**a) Market Risks**

The global market for graphite electrodes is in a consolidation phase. In business year 2014/2015 dominant competitors decided the reduction of production capacity in the amount of 120.000 tons. The reduction of this capacity to adapt to the reduced demand from the steel industry is essential for the consolidation of the industry. The timing and extent of the positive effects of these measures on the consolidation of the industry are fraught with uncertainties. In August 2015, one of the biggest electrode producers – GrafTech – was sold to Investment Group Brookfield. As a consequence, the electrode stocks which the new owner had taken over, were sold heavily, resulting in a strong decline in prices. The company expects a normalization of the markets in one to two years. In October 2016 other big electrode producer – SGL, was sold to Showa Denko. The takeover of SGL by Showa Denko had a positive effect on the electrode market.

With an estimated reduced total demand for electrodes of approx. 195,000 MT in Europe and an estimated import of Chinese electrodes of approx. 40,000 MT in this market, the company started extending the market outside Europe. The increased share of supplies to countries outside Europe confirms that this was the right decision. The Company markets Graphite Electrodes under the brand name of 'COVA', which has good acceptance in the market.

Summarising the risk factors the company expect that the steel and also electrodes market will improve in due course.

**b) Sales Risks**

The product Graphite Electrode involves various manufacturing processes and hence needs to be produced as per requirement of Cova. The production planning is based on expected market developments from the global steel industry and specific requirements of the major steel industry customers. Risks may happen when the actual demand for graphite electrodes deviate from the expectations of the production. The sale of goods is only done via the fellow group company Graphite Cova GmbH, there is therefore a sales risk.

**c) Risks from Energy- and Raw Material Prices**

Company has ensured the supply of electricity and gas, contracts for regular supply of them are renewable before the end of the existing contracts. For the amendment of the Renewable Energies Act (EEG), no significant changes in subsidization of electricity consumption for the company are expected.

**d) Risks resulting from the use of financial instruments**

The company is not using any external financing, therefore there is no material interest rate risk. Furthermore, the only customers are other group companies, therefore the default risk is considered low. Revenues and expenses are only generated in EUR, hence there is no currency risk.

**e) Opportunity Report**

During 2016-17 additional market opportunities outside Europe and Russia are availed. These opportunities are growing further in those markets. The company expects significant benefit in coming future.

**Acknowledgement**

The Management takes this opportunity to place on record its appreciation of the assistance and support extended by all government authorities, consultants, solicitors, customers, vendors and others. Special thanks to the banks for having shown their confidence in the company. The Management also expresses their appreciation for the dedicated and sincere services rendered by employees of the Company.

A special acknowledgement to the technical team and management of Graphite India for extending support from time to time during the year.

Röthenbach an der Pegnitz, 10. May 2017

M. B. Gadgil

A. N. Bojilov

N. S. Deshpande

**LEGAL BACKGROUND**

- Company name Bavaria Electrodes GmbH
- Registered seat Röthenbach an der Pegnitz
- Commercial Register Amtsgericht Nürnberg  
HRB 21198
- Articles of Association Latest version dated 28 November 2006
- Financial year 1 April – 31 March
- Purpose of the company Production and manufacturing of graphite and carbon products, graphite and carbon electrodes, anodes, cathodes and carbon paste for the usage in electric arc furnaces for the electric steel industry and the non-metall-manufacturing industry.
- Share capital EUR 100,000.00 (fully paid in – single shareholder is GIBV)
- Management
  - Bojilov, Adrian Nikolov
  - Gadgil, Makarand Bhalchandra
  - Deshpande, Nitin Shridharrao

If only one director is appointed, he is the sole representant of that company. In the case of appointment of several directors, the company is represented by two directors or by one director together with one proxy
- Shareholder resolutions Shareholder resolutions on 15 March 2017
  - Approval of Financial statements as of 31 March 2016
  - Relief of management from their duties for financial year 2015/16
  - Carry on of profit 2015/16
  - Appointment of RSM Altavis GmbH as auditors for year end 31 March 2017

- Proxies
- Atawane, Ishwar Tukaram
- Renner, Helmut
- Sasle, Suryakant Laxman
- Shenoy, Vittaldas

No material change subsequent to balance sheet date.

## **ECONOMIC BACKGROUND**

### **1. Intercompany Contracts**

Lease agreement regarding immovables from BCH dated 9 September 2004 (start of lease period 13 August 2004). Automatic renewal when no termination is done. Maintenance and smaller repairs need to be covered by the lessee. Leasing costs amount to 137.5 kEUR per year.

Lease agreement for equipment (mainly production machines and tools) with GC dated 9 September 2004. Automatic renewal when no termination is done. Lessee has to pay for all repairs, auxiliary costs and insurance. Rent is 15% of acquisition costs per year.

Production agreement with GC dated 9 September 2004. Automatic renewal if no termination is done. Bavaria Electrodes is instructed to produce graphite electrodes. Fee is cost plus 4%.

General services agreement with BCS dated 9 September 2004. Automatic renewal in case no termination is done. BCS is performing services such as accounting, IT, HR and administration of property. Fee is cost plus 7%, excluding third party costs that are covered directly.

### **2. Public law contract**

Contract with State of Bavaria dated 14 July 2004 regarding contamination on the property now belonging to BCH.

## TAX BACKGROUND

- Tax authority Nürnberg
- Tax ID 241/122/12120
- Tax group Tax group for VAT purposes
- Head of tax group GC
- Applicable taxes Trade tax, corporate income tax.
- Tax returns and assessments Tax returns for 2016 are not yet filed.
- Tax field audits Tax field audits regarding 2009 – 2013 are taking place at the moment. No results were communicated until our audit was completed.



# General Engagement Terms

for  
**Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften**  
[German Public Auditors and Public Audit Firms]  
as of January 1, 2002

This is an English translation of the German text, which is the sole authoritative version

## 1. Scope

(1) These engagement terms are applicable to contracts between Wirtschaftsprüfer [German Public Auditors] or Wirtschaftsprüfungsgesellschaften [German Public Audit Firms] (hereinafter collectively referred to as the "Wirtschaftsprüfer") and their clients for audits, consulting and other engagements to the extent that something else has not been expressly agreed to in writing or is not compulsory due to legal requirements.

(2) If, in an individual case, as an exception contractual relations have also been established between the Wirtschaftsprüfer and persons other than the client, the provisions of No. 9 below also apply to such third parties.

## 2. Scope and performance of the engagement

(1) Subject of the Wirtschaftsprüfer's engagement is the performance of agreed services – not a particular economic result. The engagement is performed in accordance with the Grundsätze ordnungsmäßiger Berufsausübung [Standards of Proper Professional Conduct]. The Wirtschaftsprüfer is entitled to use qualified persons to conduct the engagement.

(2) The application of foreign law requires – except for financial attestation engagements – an express written agreement.

(3) The engagement does not extend – to the extent it is not directed thereto – to an examination of the issue of whether the requirements of tax law or special regulations, such as, for example, laws on price controls, laws limiting competition and Bewirtschaftungsrecht [laws controlling certain aspects of specific business operations] were observed; the same applies to the determination as to whether subsidies, allowances or other benefits may be claimed. The performance of an engagement encompasses auditing procedures aimed at the detection of the defalcation of books and records and other irregularities only if during the conduct of audits grounds therefor arise or if this has been expressly agreed to in writing.

(4) If the legal position changes subsequent to the issuance of the final professional statement, the Wirtschaftsprüfer is not obliged to inform the client of changes or any consequences resulting therefrom.

## 3. The client's duty to inform

(1) The client must ensure that the Wirtschaftsprüfer – even without his special request – is provided, on a timely basis, with all supporting documents and records required for and is informed of all events and circumstances which may be significant to the performance of the engagement. This also applies to those supporting documents and records, events and circumstances which first become known during the Wirtschaftsprüfer's work.

(2) Upon the Wirtschaftsprüfer's request, the client must confirm in a written statement drafted by the Wirtschaftsprüfer that the supporting documents and records and the information and explanations provided are complete.

## 4. Ensuring independence

The client guarantees to refrain from everything which may endanger the independence of the Wirtschaftsprüfer's staff. This particularly applies to offers of employment and offers to undertake engagements on one's own account.

## 5. Reporting and verbal information

If the Wirtschaftsprüfer is required to present the results of his work in writing, only that written presentation is authoritative. For audit engagements the long-form report should be submitted in writing to the extent that nothing else has been agreed to. Verbal statements and information provided by the Wirtschaftsprüfer's staff beyond the engagement agreed to are never binding.

## 6. Protection of the Wirtschaftsprüfer's intellectual property

The client guarantees that expert opinions, organizational charts, drafts, sketches, schedules and calculations – especially quantity and cost computations – prepared by the Wirtschaftsprüfer within the scope of the engagement will be used only for his own purposes.

## 7. Transmission of the Wirtschaftsprüfer's professional statement

(1) The transmission of a Wirtschaftsprüfer's professional statements (long-form reports, expert opinions and the like) to a third party requires the Wirtschaftsprüfer's written consent to the extent that the permission to transmit to a certain third party does not result from the engagement terms.

The Wirtschaftsprüfer is liable (within the limits of No. 9) towards third parties only if the prerequisites of the first sentence are given.

(2) The use of the Wirtschaftsprüfer's professional statements for promotional purposes is not permitted; an infringement entitles the Wirtschaftsprüfer to immediately cancel all engagements not yet conducted for the client.

## 8. Correction of deficiencies

(1) Where there are deficiencies, the client is entitled to subsequent fulfillment [of the contract]. The client may demand a reduction in fees or the cancellation of the contract only for the failure to subsequently fulfill [the contract]; if the engagement was awarded by a person carrying on a commercial business as part of that commercial business, a government-owned legal person under public law or a special government-owned fund under public law, the client may demand the cancellation of the contract only if the services rendered are of no interest to him due to the failure to subsequently fulfill [the contract]. No. 9 applies to the extent that claims for damages exist beyond this.

(2) The client must assert his claim for the correction of deficiencies in writing without delay. Claims pursuant to the first paragraph not arising from an intentional tort cease to be enforceable one year after the commencement of the statutory time limit for enforcement.

(3) Obvious deficiencies, such as typing and arithmetical errors and formelle Mängel [deficiencies associated with technicalities] contained in a Wirtschaftsprüfer's professional statements (long-form reports, expert opinions and the like) may be corrected – and also be applicable versus third parties – by the Wirtschaftsprüfer at any time. Errors which may call into question the conclusions contained in the Wirtschaftsprüfer's professional statements entitle the Wirtschaftsprüfer to withdraw – also versus third parties – such statements. In the cases noted the Wirtschaftsprüfer should first hear the client, if possible.

## 9. Liability

(1) The liability limitation of § ["Article"] 323 (2) ["paragraph 2"] HGB ["Handelsgesetzbuch": German Commercial Code] applies to statutory audits required by law.

(2) Liability for negligence; An individual case of damages

If neither No. 1 is applicable nor a regulation exists in an individual case, pursuant to § 54a (1) no. 2 WPO ["Wirtschaftsprüferordnung": Law regulating the Profession of Wirtschaftsprüfer] the liability of the Wirtschaftsprüfer for claims of compensatory damages of any kind – except for damages resulting from injury to life, body or health – for an individual case of damages resulting from negligence is limited to € 4 million; this also applies if liability to a person other than the client should be established. An individual case of damages also exists in relation to a uniform damage arising from a number of breaches of duty. The individual case of damages encompasses all consequences from a breach of duty without taking into account whether the damages occurred in one year or in a number of successive years. In this case multiple acts or omissions of acts based on a similar source of error or on a source of error of an equivalent nature are deemed to be a uniform breach of duty if the matters in question are legally or economically connected to one another. In this event the claim against the Wirtschaftsprüfer is limited to € 5 million. The limitation to the fivefold of the minimum amount insured does not apply to compulsory audits required by law.

(3) Preclusive deadlines

A compensatory damages claim may only be lodged within a preclusive deadline of one year of the rightful claimant having become aware of the damage and of the event giving rise to the claim – at the very latest, however, within 5 years subsequent to the event giving rise to the claim. The claim expires if legal action is not taken within a six month deadline subsequent to the written refusal of acceptance of the indemnity and the client was informed of this consequence.

The right to assert the bar of the preclusive deadline remains unaffected. Sentences 1 to 3 also apply to legally required audits with statutory liability limits.

## 10. Supplementary provisions for audit engagements

(1) A subsequent amendment or abridgement of the financial statements or management report audited by a Wirtschaftsprüfer and accompanied by an auditor's report requires the written consent of the Wirtschaftsprüfer even if these documents are not published. If the Wirtschaftsprüfer has not issued an auditor's report, a reference to the audit conducted by the Wirtschaftsprüfer in the management report or elsewhere specified for the general public is permitted only with the Wirtschaftsprüfer's written consent and using the wording authorized by him.

(2) If the Wirtschaftsprüfer revokes the auditor's report, it may no longer be used. If the client has already made use of the auditor's report, he must announce its revocation upon the Wirtschaftsprüfer's request.

(3) The client has a right to 5 copies of the long-form report. Additional copies will be charged for separately.

## 11. Supplementary provisions for assistance with tax matters

(1) When advising on an individual tax issue as well as when furnishing continuous tax advice, the Wirtschaftsprüfer is entitled to assume that the facts provided by the client – especially numerical disclosures – are correct and complete; this also applies to bookkeeping engagements. Nevertheless, he is obliged to inform the client of any errors he has discovered.

(2) The tax consulting engagement does not encompass procedures required to meet deadlines, unless the Wirtschaftsprüfer has explicitly accepted the engagement for this. In this event the client must provide the Wirtschaftsprüfer, on a timely basis, all supporting documents and records – especially tax assessments – material to meeting the deadlines, so that the Wirtschaftsprüfer has an appropriate time period available to work therewith.

(3) In the absence of other written agreements, continuous tax advice encompasses the following work during the contract period:

- a) preparation of annual tax returns for income tax, corporation tax and business tax, as well as net worth tax returns on the basis of the annual financial statements and other schedules and evidence required for tax purposes to be submitted by the client
- b) examination of tax assessments in relation to the taxes mentioned in (a)
- c) negotiations with tax authorities in connection with the returns and assessments mentioned in (a) and (b)
- d) participation in tax audits and evaluation of the results of tax audits with respect to the taxes mentioned in (a)
- e) participation in Einspruchs- und Beschwerdeverfahren [appeals and complaint procedures] with respect to the taxes mentioned in (a).

In the afore-mentioned work the Wirtschaftsprüfer takes material published legal decisions and administrative interpretations into account.

(4) If the Wirtschaftsprüfer receives a fixed fee for continuous tax advice, in the absence of other written agreements the work mentioned under paragraph 3 (d) and (e) will be charged separately.

(5) Services with respect to special individual issues for income tax, corporate tax, business tax, valuation procedures for property and net worth taxation, and net worth tax as well as all issues in relation to sales tax, wages tax, other taxes and dues require a special engagement. This also applies to:

- a) the treatment of nonrecurring tax matters, e. g. in the field of estate tax, capital transactions tax, real estate acquisition tax
- b) participation and representation in proceedings before tax and administrative courts and in criminal proceedings with respect to taxes, and
- c) the granting of advice and work with respect to expert opinions in connection with conversions of legal form, mergers, capital increases and reductions, financial reorganizations, admission and retirement of partners or shareholders, sale of a business, liquidations and the like.

(6) To the extent that the annual sales tax return is accepted as additional work, this does not include the review of any special accounting prerequisites nor of the issue as to whether all potential legal sales tax reductions have been claimed. No guarantee is assumed for the completeness of the supporting documents and records to validate the deduction of the input tax credit.

## 12. Confidentiality towards third parties and data security

(1) Pursuant to the law the Wirtschaftsprüfer is obliged to treat all facts that he comes to know in connection with his work as confidential, irrespective of whether these concern the client himself or his business associations, unless the client releases him from this obligation.

(2) The Wirtschaftsprüfer may only release long-form reports, expert opinions and other written statements on the results of his work to third parties with the consent of his client.

(3) The Wirtschaftsprüfer is entitled – within the purposes stipulated by the client – to process personal data entrusted to him or allow them to be processed by third parties.

## 13. Default of acceptance and lack of cooperation on the part of the client

If the client defaults in accepting the services offered by the Wirtschaftsprüfer or if the client does not provide the assistance incumbent on him pursuant to No. 3 or otherwise, the Wirtschaftsprüfer is entitled to cancel the contract immediately. The Wirtschaftsprüfer's right to compensation for additional expenses as well as for damages caused by the default or the lack of assistance is not affected, even if the Wirtschaftsprüfer does not exercise his right to cancel.

## 14. Remuneration

(1) In addition to his claims for fees or remuneration, the Wirtschaftsprüfer is entitled to reimbursement of his outlays: sales tax will be billed separately. He may claim appropriate advances for remuneration and reimbursement of outlays and make the rendering of his services dependent upon the complete satisfaction of his claims. Multiple clients awarding engagements are jointly and severally liable.

(2) Any set off against the Wirtschaftsprüfer's claims for remuneration and reimbursement of outlays is permitted only for undisputed claims or claims determined to be legally valid.

## 15. Retention and return of supporting documentation and records

(1) The Wirtschaftsprüfer retains, for ten years, the supporting documents and records in connection with the completion of the engagement – that had been provided to him and that he has prepared himself – as well as the correspondence with respect to the engagement.

(2) After the settlement of his claims arising from the engagement, the Wirtschaftsprüfer, upon the request of the client, must return all supporting documents and records obtained from him or for him by reason of his work on the engagement. This does not, however, apply to correspondence exchanged between the Wirtschaftsprüfer and his client and to any documents of which the client already has the original or a copy. The Wirtschaftsprüfer may prepare and retain copies or photocopies of supporting documents and records which he returns to the client.

## 16. Applicable law

Only German law applies to the engagement, its conduct and any claims arising therefrom.