

MOORE STEPHENS

*Parent Company: Accounts of
7679713 - Marmot Mountain
UK Ltd.*

**Consolidated financial statement
for the year ended December 31, 2012**

of the company

**Marmot Mountain Europe GmbH
Gottfried-Stammeler-Straße 12
Schnaittach**

HRB 22276 (Amtsgericht Nürnberg)

SATURDAY



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05/10/2013

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COMPANIES HOUSE

**MOORE STEPHENS Nürnberg GmbH
Wirtschaftsprüfungsgesellschaft
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Unqualified Auditor's Report on Statutory Audits of Annual Financial Statements Independent Auditor's Report

We have audited the consolidated financial statements, comprising the balance sheet, the income statement, cash flow statement and the notes to the consolidated financial statements, together with the bookkeeping system, and the group management report of the Marmot Mountain Europe GmbH for the business year from 1 January 2012 to 31 December 2012. The preparation of the consolidated financial statements and group management report in accordance with German commercial law are the responsibility of the parent Company's management.

Our responsibility is to express an opinion on the consolidated financial statements, together with the bookkeeping system and on the group management report based on our audit.

We conducted our audit of the consolidated financial statements in accordance with § [Article] 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 consolidated financial statements in accordance with German principles of proper accounting and in the group management report are detected with reasonable assurance. Knowledge of the business activities and the economic and legal environment of the Group 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 consolidated financial statements and the group management report are examined primarily on a test basis within the framework of the audit. The audit includes assessing the annual financial statements of those entities included in consolidation, the determination of entities to be included in consolidation, the accounting and consolidation principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements and the group 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 consolidated 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 group in accordance with German

principles of proper accounting The group management report is consistent with the consolidated financial statements and as a whole provides a suitable view of the group's position and suitably presents the opportunities and risks of future development

30th September 2013

A handwritten signature in black ink, appearing to read 'Frank Blacha', written over the printed name.

signed Frank Blacha
Wirtschaftsprüfer
[German Public Auditor]

Consolidated balance sheet for the

Marmot Mountain

Schna

ASSETS

	€	December 31, 2012 €
A. <u>Fixed assets</u>		
I <u>Intangible assets</u>		
1 Concessions, licenses, software etc	52,670 11	
2 Goodwill	<u>91,585 00</u>	
		144,255 11
II <u>Tangible assets</u>		
1 Lands, similar rights and buildings incl buildings on leasehold land	566,075 77	
2 Other equipment, factory and office equipment	<u>794,549 16</u>	
		<u>1,360,624 93</u>
		<u>1,504,880 04</u>
B <u>Current assets</u>		
I <u>Inventory</u>		
1 Trade goods	7,249,066 78	
2 Prepayments	<u>56,262 06</u>	
		7,305,328 84
II <u>Receivables and other assets</u>		
1 Trade receivables	4,982,765 96	
2 Receivables from affiliated companies	2,963,316 01	
3 Other assets	<u>431,146 42</u>	
		8,377,288 39
III <u>Cash in hand and bank balances</u>		<u>677,147 71</u>
		<u>16,359,704 94</u>
C. <u>Prepaid expenses</u>		<u>90,485 06</u>
		<u>17,955,070 04</u>

the year ended December 31, 2012

Europe GmbH,

Wittach

EQUITY AND LIABILITIES

December 31,
2012
€

A Shareholders' equity

I Subscribed capital	25,00 00
II Cumulative losses brought forward	-524,843 51
III Net profit for the year	<u>55,121 74</u>
	<u>55,278 23</u>

B Accruals

1 Tax accruals	93,928 00
2 Other accruals	<u>1,336,586 98</u>
	<u>1,430,514 98</u>

C Accounts payable

1 Trade payables	1,006,494 77
2 Payables to affiliated companys	15,144,970 38
3 Other liabilities	317,811 68
of wich taxes € 181,972 03	
of wich social security payables € 117,786 09	
	<u>16,469,276 83</u>

17,955,070.04

Consolidated profit and loss account
for the year from January 1, 2012 to December 31, 2012
Marmot Mountain Europe GmbH
Schnaittach

	€	2012 €
1 Sales		<u>29,304,887 73</u>
2 Gross profit		29,304,887 73
3 Other operating income of wich currency translation € 2,268,504 20		2,349,049 74
4 Cost of materials		
Cost of merchandise	<u>-17,583,357 67</u>	-17,583,357 67
5 Personal expenses		
a) Wages and salaries	-1,807,405 76	
b) Social security, pension and other benefits of wich relating to pensions € -12,422 00	<u>-287,684 38</u>	-2,095,090 14
6 Amortization and depreciation of fixed intangible and tangible assets		-439,136 78
7 Other operating expenses of wich currency translation € -1,425,169 07		-10,483,994 62
8 Other interest and similar income of wich to affiliated companies € 2,397 00		3,578 69
9 Interest and similar expenses of wich to affiliated companies € -81,519 00		<u>-91,679 91</u>
10 Net operating loss		964,257 04
11 Taxes on income		-404,172 30
12 Other taxes		<u>-4,963 00</u>
13 Consolidated net profit of the year		555,121 74
14 Consolidated net income		<u>555,121 74</u>

Marmot Mountain Europe GmbH

Schnaittach

Group notes to the financial year 2012

I. General information on the consolidated group accounts and closing date

The consolidated group accounts and the group management report as of 31 December 2012 were created in accordance with the regulations of the German commercial law. The accounting regulations which apply to midsize corporations are relevant here.

The classification of the consolidated balance sheet and the profit and loss account corresponds to Sections 266 and 275 HGB, as far as no deviations apply to the consolidated group accounts or other provisions are set out in Sections 300 et seq. HGB.

In 2012, the consolidated group accounts were created on a voluntary basis in honour of own occasion for the first time. These, the figures from the previous year were not included.

The financial year of the group and of the consolidated companies is the calendar year.

II. Information on the consolidation scope

✓ Besides Marmot Mountain Europe GmbH with its registered office in Schnaittach, Germany, i.e. the parent company, the following companies are included in the consolidated group accounts as of 31 December 2012:

Name	Registered office	%	Amount of capital share in the company €
✓ Marmot Mountain UK Ltd	Bristol	100	1,20

✓ The Marmot Mountain UK Limited, company number 7679713, is exempt from the Companies House requirements relating to the audit of accounts under section 479A of the Companies Act 2006.

III. Information on the consolidation methods

The financial statements of the companies included in the consolidated group accounts were all created as of the accounting date of the consolidated group accounts.

The funds with regards to the subsidiaries included in the consolidated group accounts are consolidated according to the revaluation method. No fair value was calculated regarding the time of the first inclusion. The funds were consolidated at the time the company became a subsidiary. The foundation of the subsidiary was effected via formation by cash subscription.

Receivables and liabilities were offset as part of debt consolidation

Turnover and other proceeds and expenses between the included companies were offset and eliminated as well

Unrealised profits were eliminated in accordance with Section 304 Para 1 HGB

Assets and liabilities in the balance sheets indicated in foreign currencies were converted into euros using the mean spot exchange rate on the closing date. Equity items were included using historical rates. Profit and loss account items were converted into euros using the average rate.

IV. Information on the accounting and valuation principles

The financial statements of the companies included in the consolidated group accounts were generally created in accordance with consistent accounting and valuation principles

Fixed assets

The intangible assets and the tangible fixed assets were valued at their acquisition or manufacturing costs less planned depreciations. The depreciations were determined taking into account the expected economic life and the regulations of commercial law. The depreciations were made using the straight-line method.

For low-value assets with acquisition or manufacturing costs higher than € 150.00 and up to € 1,000.00, a compound item was formed for the financial years 2008 and 2009 in accordance with Section 6 Para 2 a EStG (German Income Tax Act) as amended by the 'Unternehmenssteuerreformgesetz' (German Corporate Tax Reform Act) 2008 to which the straight-line method of depreciation will be applied for the duration of five years. The respective assets are recorded as disposals in the analysis of fixed assets at the end of the financial year in which the compound item was fully depreciated. As of 2010, low-value assets with acquisition or manufacturing costs higher than € 150.00 and up to € 410.00 have been fully depreciated in the respective year of acquisition.

Stock value

The stocks were valued in accordance with the regulations of the German commercial law at acquisition and manufacturing costs or at a lower value calculated for the items on the closing date.

The goods stated in the inventories were valued at acquisition costs basically using weighted average prices.

For seasonal goods, the following instalments were made as in the previous year:

for the autumn season 2012	0 %
for the spring season 2012	30 %
for the autumn season 2011	60 %
for the spring season 2011	75 %
for all older goods	90 %

For promotion and office materials, a fixed value (€ 21,500 00) was set

Receivables, other assets, liquid assets

were valued with their nominal values

Receivables and other assets were valued considering all foreseeable risks. For the provision against the general credit risk, an appropriate general allowance for the existing trade accounts receivable was made. There were irrecoverable debts which were taken out of the books. Specific allowance for bad debts was made by deduction from assets.

Accruals and deferrals

Shown as prepaid expenses and deferred charges are expenditures in the year under review which are expenses of the subsequent years. They are assessed at their nominal values.

Reserves

The reserves take into account all foreseeable risks and uncertain obligations and were recognised as the settlement amount required pursuant to reasonable commercial assessment.

Liabilities

were valued with their settlement amount

V. Information on the consolidated balance sheet and profit and loss account

a) Information on the consolidated balance sheet

Fixed assets

The composition and development of fixed assets is shown in the group's fixed asset schedule

Amortisation period of goodwill/company value

In connection with the acquisition of the business unit of Marmot Mountain Germany on 30 June 2002, the company value/goodwill on 01 January 2012 is € 111,938 00. It will be further depreciated for the remaining economic life of 4 years. The business unit mainly produces outdoor products with an expected useful life of 15 years.

Information on financial instruments

Marmot Mountain Europe GmbH reports on the derivative financial instruments as follows:

Category	Type	Volume	Fair value	Valuation principle	Book value	Balance sheet item
Currency derivatives	Various forward purchases of USD	USD 9.5 m	k€ / 91	market price-driven	-,-	-,-
Currency derivatives	Various forward purchases of USD	USD 9.2 m	k€ 211	market price-driven	-,-	-,-

Receivables and other assets

Receivables and other assets with a remaining maturity of more than one year do not exist.

The values of the "Receivables from affiliated companies" balance sheet item in the amount of € 2,963,316 01 are also trade accounts receivable in the amount of € 13,110 34 and other assets in the amount of € 2,950,205 67.

The receivables from affiliated companies include receivables from the shareholder in the amount of € 0 00.

Liabilities

Statement of liabilities

Type of liabilities as of 31 December 2012	Amount	thereof with a re- maining maturity of more than 5 years	thereof secured by lien or similar rights
	k€	k€	k€
from trade accounts	1,006 5	0 0	0 0
to affiliated companies	15,145 0	6,738 6	0 0
other liabilities	317 8	0 0	0 0
Totals	16,469.3	6,738.6	0.0

The trade accounts payable are partially secured by the reservation of title customary in this line of business from the delivery of raw materials and supplies and of goods

Payables to affiliated companies

The relevance to other balance sheet items is indicated in the following

	EUR
a) Trade accounts payable	8,387,666 17
b) Other liabilities	6,757,304 22
	<u>15,144,970 39</u>

Payables to affiliated companies are in an amount of 14,406,416 17 EUR payables to shareholders For a partial amount of € 3,000,000 00, subordination was declared

b) Information on the consolidated profit and loss account

Sales

Sales are broken down geographically as follows

	k€
Germany	12,637
England	4,840
Other Europe	10,314
Third Countries	1,514

Expenses not relating to the period under review

The following items of the profit and loss account contain the material expenses which are to be allocated to previous financial years

		k€		k€
other operating expenses	total	10.484	thereof relating to other periods	68

VI. Other information

Kinds and purposes, risks and opportunities of off-balance-sheet operations

Consignment warehouses

On accounting date, merchandise in the amount of k€ 590 are stored in three customer consignment warehouses. The advantage is that no monthly deliveries are necessary. There are no specific individual risks beyond the usual business risk.

Other financial obligations pursuant to Section 314 I No. 2a HGB

There are annual obligations in the amount of k€ 1,255 from rental and lease contracts concluded for an unlimited period of time. These include obligations towards affiliated companies in the amount of k€ 852.

From the license agreement concluded for an unlimited period of time with the affiliated company, there are annual obligations in the amount of k€ 900.

From leasing obligations with a remaining maturity between 1-4 years, there are annual obligations in the amount of k€ 131.

Employees

On average, there were 46 employees in the financial year 2012.

thereof company employees	29
thereof part-time workers	10
thereof temporary workers	7

Auditor's fee

The total fee for the auditor is k€ 15 in the financial year, thereof for audit services k€ 15.

Total earnings of the executive bodies

In accordance with Section 314 Para. 1 No. 6 a) in combination with Section 286 Para. 4 HGB, the total earnings of the members of the management body are not stated.

Schnaittach, this 20.09.2013


Marmot Mountain Europe GmbH

Development of consolidated fixed assets at December 31, 2012

of
Marmot Mountain Europe GmbH
Schnaittach

	historical cost €	additions to fixed assets €	disposal of fixed assets €	disposal of fixed assets €	depreciation for the year €	book value 31 12 2012 €
<u>I Intangible assets</u>						
1 Concessions, licenses, software etc	221,847 88	5,917 46	0 00	134,158 88	40,936 35	52,670 11
2 Goodwill	305,291 31	0 00	0 00	193,353 31	20,353 00	91,585 00
<i>Intangible assets total</i>	527,139 19	5,917 46	0 00	327,512 19	61,289 35	144,255 11
<u>II Tangible assets</u>						
1 Lands, similar rights and buildings incl buildings on leasehold land	229,292 96	534,330 82	0 00	63,386 96	134,161 05	566,075 77
2 Other equipment, factory and office equipment	1,104,435 23	288,006 54	0 00	354,206 23	243,686 38	794,549 16
<i>Tangible assets total</i>	1,333,728 19	822,337 36	0 00	417,593 19	377,847 43	1,360,624 93
<i>Fixed assets total</i>	1,860,867 38	828,254 82	0 00	745,105 38	439,136 78	1,504,880 04

Consolidated cash flow statement

	2012 T€
Consolidated net income	555
+ Extraordinary net income	0
= Net result before extraordinary items	555
+ Write-downs on non-current assets	439
+ Increase in reserves	781
- Profit on the disposal of fixed assets	0
+ Loss on the disposal of fixed assets	0
-/+ Increase/decrease of	
Inventories	781
Trade receivables	-443
Receivables from affiliated companies	-129
Other assets	10
Prepaid expenses and deferred charges	-84
deferred taxation	0
+/- Increase/decrease of	
Trade payables	848
Payables to affiliated companies	1 218
Other liabilities	248
= Cash flow from operating activities	4 224
- Purchase of property, plant and equipment	-822
- Purchase of intangible assets	-6
- Acquisition of non-current financial assets	0
= Cash flow from investing activities	-828
- Cash receipts from issue of capital	0
+ Cash proceeds from issuing bonds/loans and short or long-term borrowings	0
- Cash repayments of bond/loans or short or long-term borrowings	0
= Cash flow from financing activities	0
Change in cash funds from exchange rate movements, changes in group structure and in valuation procedures for cash funds	
Change in cash funds from cash relevant transactions	3.396
+ Cash funds at the beginning of period	231
= Cash funds at the end of period	3.627
of which from liquid funds	677
Cashpoolaccount	2950
	<u>3 627</u>

Marmot Mountain Europe GmbH, Schnaittach

**consolidated statement of equity
31. December 2012**

	Subscribed capital €	Equity earned by the group €	total groupe quity €
Balance at 01 01 2012		-524 843 51	-499,843 51
Distribution of profits	25,000 00	0	0
Consolidated net profit of the year	0	555,121 74	555,121 74
Balance at 31 12 2012	25,000 00	30,278 23	55,278 23

Marmot Mountain Europe GmbH
Schnaittach
GROUP MANAGEMENT REPORT FOR THE FINANCIAL YEAR 2012

1 Presentation of business performance including company results

Marmot Mountain UK Ltd was consolidated with Marmot Mountain Europe GmbH to form a group. The subsidiary Marmot Mountain UK Ltd which was non-active in 2011 started its operations in the financial year 2012 with a store in London. The following information relates to the consolidated accounts of these two companies.

The purpose of the group is the introduction and marketing of the Marmot brand, which includes designing products for manufacturing at home and abroad as well as distributing Marmot products to European specialist retailers and conducting all related business or actions, as far as these seem to be beneficial or helpful to achieve the business objective.

Also in 2012, the economy in Germany showed an upwards trend which, however, weakened in the fourth quarter by 0.6 % (seasonally and calendar-adjusted) as compared to the previous quarter. Thus, the weaker demand which had begun more than a year ago and was caused by the slow-down of global growth, recessive tendencies in the euro area and substantial uncertainties related to overcoming the debt crisis led to a noticeable decrease in the German economy.

Also, the upwards trend of the industry for high-quality outdoor sports equipment which the company has its business in is increasingly affected by the slow-down and has thus to face stronger competition. However, it must be emphasised that the name recognition of the brand could be further increased in Europe despite this increasingly difficult environment.

The gross profit in the amount of EUR 11.7 m can substantially be attributed to the active public relations work.

In the financial year, the companies were funded solely by the parent company in the USA and other affiliated companies.

There were no environmental risks or restrictions with regards to environmental legislation in the financial year.

II Presentation of the position

As is usually the case in a sales company, the financial position of the companies is characterised by trade accounts receivable in the amount of EUR 5 m and a stock inventory in the amount of EUR 7.2 m which is sufficient for the orders. The liabilities towards the parent company are EUR 14.4 m. Marmot Mountain UK Ltd had to raise an additional credit in the amount of kEUR 739 with the affiliated companies for start-up expenses.

An annual surplus in the amount of kEUR 555 was obtained in the financial year. Therefore, the financial over-indebtedness of Marmot Mountain Europe GmbH could be eliminated. The declared subordination of the parent company with regards to its claims against Marmot Mountain Europe GmbH in the amount of EUR 3 m still remains in place.

III Expected development with indications of important opportunities and risks of future development

The companies are expected to develop as follows in the next financial year and the year after.

The plan for 2013 is to achieve a turnover in this increasingly difficult environment which is only little below the values from the previous year in order to be able to achieve a positive development again after this consolidation for 2014 with an increase in turnover of at least 10 % as compared to the previous year.

The companies still expect a slightly positive result for 2013.

The future development of the companies is subject to the following opportunities.

Due to increasing turnover and in combination with the lean structure of the company, improved marketing will be possible and thus the objective of market penetration for the Marmot brand in Europe will possibly be achieved. This is supported by the opening of new Marmot stores offering solely this brand.

The future development of the companies is subject to the following risks which may substantially affect the assets position, financial position or profit situation and may endanger the inventory of the companies.

Additionally, the parent company has opened up a very costly new sales channel and will try to further increase the brand awareness and turnover in the future by means of internally and externally managed monobrand stores. However, this might lead to inventory and turnover risks.

For the provision against currency risks which exist in the form of liabilities from the purchase of goods on a USD basis and shareholder liabilities in USD, the companies are integrated into the currency hedging system which the parent affiliate Jarden has maintained for the company.

IV Other information

Our development activities follow the findings from product acceptance with our customers. These findings are supposed to help with adapting the design and functionality of the products to the market requirements in Europe.

Schnaittach, 20 September 2013



Andy Schimeck
Managing Director

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 fulfilment [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.