



## **REPORT**

by the independent expert  
pursuant to §§ 13f Austrian Takeover Act  
appointed by

### **IMMOFINANZ AG, Vienna**

as the target company of the voluntary partial public takeover offer  
pursuant to §§ 4ff Austrian Takeover Act by SOF-11 Starlight  
10 EUR S.à.r.l.

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## Abbreviations

		Translation of relevant abbreviations
Abs	Absatz	paragraph
AktG	Aktiengesetz	Austrian stock corporation Act
AG	Aktiengesellschaft	Stock corporation
CEO	Chief Executive Officer	
CFO	Chief Financial Officer	
COO	Chief Operation Officer	
EUR	EURO	
ff	fortfolgende	and the following
gem.	gemäß	according to
GmbH	Gesellschaft mit beschränkter Haftung	Limited liability company
iSd	im Sinne des	In terms of
iVm	in Verbindung mit	In connection with
ÜbG	Übernahmegesetz	Austrian Takeover Act
z.B.	zum Beispiel	e.g., for example

## 1. Appointment and Engagement

We were appointed by the Executive Board of IMMOFINANZ AG

**IMMOFINANZ AG, Vienna,**

("IMMOFINANZ" or the "target company ")

based on a letter dated 17. April 2018 to serve as the independent expert pursuant to §§ 13f Austrian Takeover Act ("Übernahmegesetz") and, in this function, to advise the target company during the entire takeover process and to examine the statement by the administrative bodies of IMMOFINANZ. The consent of the Supervisory Board for this appointment, which is required by § 13 last sentence Austrian Takeover Act, was received.

Our company is independent of the target company in the sense of the relevant provisions of the Austrian Takeover Act and professional regulations. Our company maintains the professional liability insurance required by § 13 in connection with § 9 (2) letter a. Austrian Takeover Act.

It was agreed that the performance of this engagement would be based on the General Conditions of Contract for the Public Accounting Professions ("*Allgemeine Auftragsbedingungen für Wirtschaftstreuhandberufe*", AAB, see Attachment 4).

Nikolaus Schaffer, Austrian Chartered Accountant, is responsible for the proper execution of this engagement.

Pursuant to § 14 (2) Austrian Takeover Act, the independent expert appointed by the target company is responsible for preparing a written evaluation of

- the offer,
- the statement by the Executive Board of the target company and
- the statement by the Supervisory Board of the target company,

whereby the completeness and legality of the offer document must also be evaluated. The Executive Board of IMMOFINANZ has signed a letter of representation, which confirms that we were provided with all available documentation and information that is necessary to evaluate the completeness and legality of the offer, the statement by the Executive Board and the statement by the Supervisory Board.

## **Deloitte.**

Our work has been performed during the period from 17. April 2018 to 27. April 2018 in our Vienna office and in the offices of IMMOFINANZ at Wienerbergstraße 11, 1100 Vienna.

In connection with our engagement, we conducted discussions with the target company and with the legal experts engaged by the company.

The following documents were made available for our work:

- The voluntary public takeover offer in accordance to §§ 4ff Austrian Takeover Act to the shareholders of IMMOFINANZ AG by SOF-11 Starlight 10 EUR S.à.r.l. ("Starwood" or "bidder") dated 30. March 2018, published on 18. April 2018 (the "offer"; see Attachment 3)
- The analysis prepared by VICTORIAPARTNERS GmbH, Frankfurt/Main, on behalf of the Executive Board of the target company regarding the appropriateness of the offer price and the resulting opinion ("Fairness Opinion", dated 23 April 2018)
- Publications by the target company on its website (shareholdings and share prices, annual and quarterly financial statements, ad-hoc reports, etc.)
- Proposed resolutions for the general assembly of IMMOFINANZ AG on 11. May 2018
- Database inquiries (e.g. CapitalIQ).

## 2. Evaluation of the offer

### 2.1. General information

The share capital of IMMOFINANZ represents EUR 1,120,852,699 at the date the offer was announced (18. April 2018). This share capital is fractionized to 1,120,852,699 bearer shares.

The stock of own shares of IMMOFINANZ as of 20. April 2018 amounts to 5,200,000 shares, representing a portion of 0.46% of the share capital.

For agenda item number 10 of the general assembly of IMMOFINANZ on 11. Mai 2018 the following proposed resolutions exist:

- a) Reclassification of the share capital based on a reverse share split in the proportion 10 : 1
- b) Resolution on a capital increase from the company's own funds in an amount of EUR 750,000,000 and
- c) Decrease of the newly established share capital by EUR 1,758,767,430 based on the regulations for the capital reduction pursuant to § 175ff AktG for the purpose of contribution the capital reduction to free reserves and for the re-allocation of the proportional share capital of EUR 1.00 per share.

In case of an acceptance of these proposed resolutions in the general assembly mentioned above, the number of shares would be changed to 112,085,269. In this case the amount of shares covered by the offer would be 5,604,264.

The bidder is a limited company set up under the law of Luxembourg. The company have been set up as a special purpose vehicle and discloses a share capital of EUR 12,000. Following the information provided in the offer, Starwood XI Management GP, LLC, Delaware, is the "global ultimate parent".

In the voluntary offer no further information is provided in relation to the parties' acting in concert with the bidder, because this information is deemed by the bidder – in reference to § 7/12 Austrian Takeover Act - not to be relevant for the decision of the addressees of the offer. The correctness of this proposition could neither be verified nor checked for plausibility by us.

## **Deloitte.**

Following the information provided in the voluntary offer, neither the bidder nor parties acting in concert with the bidder have an interest in the target entity as of 18. April 2018.

The voluntary public offer is effectively directed to the purchase of 56,042,635 shares in the target company (ISIN AT0000809058) which are admitted for trading on the Vienna Stock Exchange. The shares are also admitted for trading on the Main Market of the Warsaw Stock Exchange. The offer covers up to 5% of the share capital of IMMOFINANZ.

The acceptance period for the offer covers a period of six weeks. Therefore, the offer can be accepted from 18. April 2018 up to and including 30. Mai 2018. The bidders reserve the right to extend the acceptance period.

### **2.2. Verification of the minimum information required by § 7 Austrian Takeover Act**

Our function as the independent expert appointed by the target company requires us to ascertain whether the offer contains the minimum information required by § 7 Austrian Takeover Act. Consequently, we did not evaluate the correctness, completeness or possibilities for realization of the statements made, but only verified whether the offer contained the information required by law.

The analysis can be structured as follows, whereby the following table indicates the section of the offer that relates to the respective legal provision.

Legal regulation	Content of the regulation	Reference in the Offer
§ 7 no.1	Information on the content of the offer	4.1. Subject of the Offer
§ 7 no.2	Information on the bidder, in particular, if the bidder is a company, the legal form, name and registered office; moreover, information on direct and indirect investments of the bidder as defined in §§ 91f of the Austrian Stock Exchange Act and its affiliation to a group of companies	3.1. Information on the bidder 3.2. Parties acting in concert with the bidder
§ 7 no.3	The equities which are the object of the offer	4.1. Subject of the Offer
§ 7 no.4	The consideration offered for each security, the valuation method used to determine this consideration and, in the cases mentioned in § 26, the basis for the calculation; moreover, information on the conduct of the offer, in particular on the agents authorised to receive acceptances and pay out the consideration;	4.2. Offer Price 4.3. Calculation of the Offer price
§ 7 no.5	Where applicable, the maximum and minimum percentages or the maximum or minimum quantities of securities that the bidder commits to acquire as well as a description of the rules of allocation as specified in § 20;	4.1. Subject of the Offer (partial offer, no offer for convertible bonds) 6.12. Oversubscription of the Offer
§ 7 no.6	The shares in the target company already held by the bidder and parties acting in concert or the shares they are entitled or obliged to acquire in the future	3.3. Shares hold by the bidder
§ 7 no.7	The conditions and rights of withdrawal to which the offer is subject	5.1.1. Merger Control 5.1.2. MAC-Clause
§ 7 no.8	The bidder's intentions regarding the future business activities of the target company and, if affected by the offer, the future business activities of the bidder, also with regard to the safeguarding of employees' and management's jobs, including any material changes to the conditions of employment; in particular, this involves the bidder's strategic planning for the two companies and the likely effects on jobs and business locations;	7.Future Business Strategy for the target
§ 7 no.9	The period for acceptance of the offer and delivery of the consideration	6.1. Acceptance Period 6.6. Payment of the Offer Price and Transfer of Ownership ("Settlement")
§ 7 no.10	If consideration is offered in the form of equities, information on these equities pursuant to § 7 of the Austrian Capital Market Act and §§ 74 ff of the Austrian Stock Exchange Act	Not applicable due to planned cash settlement
§ 7 no.11	The conditions under which the bidder plans to finance the offer	8.1. Financing of the Offer
§ 7 no.12	Information on the parties acting in concert with the bidder or, if known to the bidder, the parties acting in concert with the target company and, in the case of companies, their legal form, name and registered office as well as their relationship to the bidder or target company; information on the legal entities controlled by the bidder (§1 no. 6 second sentence) may be omitted if the controlling entity is not significant for decisions by the recipients of the offer;	3.2. Parties acting in concert with the bidder
§ 7 no.13	Information on the consideration offered for rights that may be removed as a result of the breakthrough rule pursuant to § 27a as well as details on the form of payment for the compensation and the method used to determine this compensation;	Not applicable
§ 7 no.14	Information on the national law that will govern contracts concluded between the bidder and the holders of the equities of the target company as a result of the acceptance of the offer as well as the designation of the competent courts.	8.2. Applicable Law and Venue

## 2.3. The offer price

The offer price stated in the voluntary public offer amounts to EUR 2.10 per share cum dividend 2017. "Cum dividend 2017" means the shareholders who accept the offer will not receive a dividend additionally to the offer price for the financial year from 1. January 2017 to 31. December 2017. The proposed resolution for the profit distribution in the general assembly on 11. Mai 2018 refers to the distribution of a dividend amounting to EUR 0.07 per share. Since it can be deemed that the dividend due date will be prior to the settlement day of the offer, the offer price to be paid out will be reduced to EUR 2.03.

The offer represents a voluntary offer pursuant to §§ 4ff Austrian Takeover Act. Consequently, § 26 Austrian Takeover Act does not apply. The bidder is not bound to a minimum price rule with respect to the determination of the offer price and is entitled to determine the offer price at his discretion.

The shares of IMMOFINANZ are admitted for trading on the Vienna Stock Exchange and are listed in the Prime Market segment (ISIN AT0000809058) and on the "Main Market" on the Warsaw Stock Exchange. On 21. March 2018, the day before the day the intent to launch the offer was announced, the IMMOFINANZ share traded at EUR 2.008 on the Vienna Stock Exchange. The offer price is therefore 4.58% higher than the closing price for the target company's share on 21. March 2018.

The average stock market price for the share, weighted by the respective trading volume, during the six months prior to 22. March 2018 (the date on which the intention to launch the offer was announced) equals EUR 2.05 per share. The offer price of EUR 2.10 exceeds this average price by EUR 0.05 per share or 2.44%.

The bidder did evaluate the value of the target company based on his professional experience and the information available to him. As a result, the bidder did not arrange for the preparation of an independent valuation of the target company as the basis for determining the offer price, but analyzed published information on the target company and valued the target company based on their experience in the real estate sector. In the voluntary offer no information is provided in reference to the applied valuation methods to determine the offer price.

In section 4.4. of the offer document, the offer price is disclosed in relation to the historical share prices, in section 4.5. key financial figures which are deemed by the bidder to be important and the business development of the target company are disclosed.

## **Deloitte.**

We have reconciled the disclosed numbers to information available to us and could reproduce the figures.

### **2.4. Summary evaluation of the offer**

As the independent expert appointed by IMMOFINANZ pursuant to §§ 13f Austrian Takeover Act, we can confirm the formal completeness of the offer. The offer contains the minimum information required by § 7 Austrian Takeover Act.

This offer represents a voluntary offer as defined in §§ 4ff Austrian Takeover Act. Therefore, § 26 Austrian Takeover Act does not apply. The bidder is not subject to any legal requirements regarding a minimum offer price and is therefore entitled to determine the offer price at his discretion.

### 3. Evaluation of the statements by the Executive Board and Supervisory Board

In accordance with § 14 (1) Austrian Takeover Act, the statements by the Supervisory Board and Executive Board of the target company need to contain, in particular, the following:

- an assessment of whether the consideration offered and the other terms of the offer take adequate account of the interests of all shareholders, and
- an assessment of the probable effects of the offer on the target company, especially with respect to employees, creditors and the public interest based on the bidders' strategic plans for the target company.

If the Executive Board and Supervisory Board are unable to reach a final conclusion, they must at least present the arguments for accepting or rejecting the offer together with an indication of the most important positions.

The Executive Board of the target company comprises the following persons:

- Dr. Oliver Schumy (CEO, Chairman of the Executive Board)
- Mag. Stefan Schönauer Bakk. (CFO, Member of the Executive Board)
- Mag. Dietmar Reindl (COO, Member of the Executive Board)

The Supervisory Board of the target company comprises the following persons:

- Dr. Michael Knap (Chairman)
- Dr. Rudolf Fries (Vice-Chairman)
- Mag. Christian Böhm
- Nick J.M. van Ommen, MBA
- Mag. Horst Popolorum
- KR Wolfgang Schischek
- Mag. (FH) Philipp Amadeus Obermair (delegated from the worker's council)
- Werner Ertelthalner (delegated from the worker's council)
- Larissa Lielacher (delegated from the worker's council)

## **Deloitte.**

The Executive Board issued a statement concerning the voluntary public offer by the bidder on 26. April 2018 in accordance with § 14 (1) Austrian Takeover Act (the "statement"), which was fully supported in a statement issued by the Supervisory Board on 27. April 2018. These statements are included with this report as Attachment 1 and 2. The statement by the Executive Board addresses, in particular, the assessments required by § 14 (1) Austrian Takeover Act.

The Executive Board has issued a summary recommendation against the acceptance of the offer; this recommendation supported by the Supervisory Board. The arguments for rejecting the offer are presented in point 9 of the statement issued by the Executive Board.

In order to evaluate the appropriateness of the offer price, the Executive Board of IMMOFINANZ has engaged an external consulting firm (VICTORIAPARTNERS GmbH, Frankfurt/Main) to prepare an opinion on the financial appropriateness of the offer price. For this purpose, VICTORIAPARTNERS GmbH carried out a stand-alone valuation of the target company based on the international valuation methods generally used by financial consultants. The conclusion reached by VICTORIAPARTNERS GmbH indicates that the offer price of EUR 2.10 per IMMOFINANZ share is not appropriate ("Fairness Opinion").

We discussed with the target company the arguments presented for the recommendation to reject the offer in light of the most important viewpoints and obtained the related evidence and explanations. In connection with our activities as the independent expert pursuant to §§ 13f Austrian Takeover Act, we analyzed the statements issued by the Executive Board and Supervisory Board of the target company and the basics on which these statements are based.

We have not performed an own valuation of the target company. Based on the group financial statements as of 31. December 2017 the book value per share amounts to EUR 2.53, the EPRA NAV amounts to EUR 2.86. The book value per share therefore exceeds the offer price by 20.5%, the EPRA NAV by 36.2%.

In connection with our activities as the independent expert pursuant to §§ 13f Austrian Takeover Act we analyzed the available statements of the Executive Board and Supervisory Board of the target company. Hereby we did not identify any facts, which cause any doubts on the correctness of these statements. The provided arguments and the recommendation for a rejection of the offer derived thereon are conclusive and comprehensible for us.

## **Deloitte.**

The statement by the Executive Board contains the elements required by § 14 Austrian Takeover Act. The arguments presented enable the shareholders of the target company to form an independent opinion of the facts regarding the acceptance or rejection of the offer.

The Executive Board points out in his statement that his statement is not a surrogate that each bearer of equity instruments of IMMOFINANZ should for himself and for his own risk, based on all available information, challenge the offer in order to derive a basis for conclusion for an acceptance or rejection.

## 4. Summarising assessment

As the independent expert appointed by the target company pursuant to §§ 13f Austrian Takeover Act, we hereby issue the following summarizing assessment on the voluntary public offer issued in accordance with §§ 4ff Austrian Takeover Act by SOF-11 Starlight 10 EUR S.à.r.l., dated 30. March 2018, published 18. April 2018 and on the related statements issued by the Executive Board, dated 26. April 2018, and of the Supervisory Board of IMMOFINANZ, dated 27. April 2018:

We can confirm the formal completeness of the offer. The offer contains the minimum information required by § 7 Austrian Takeover Act.

This offer represents a voluntary offer as defined in §§ 4ff Austrian Takeover Act. Therefore, § 26 Austrian Takeover Act does not apply. The bidders are not subject to any legal requirements regarding a minimum offer price and are therefore entitled to determine the offer price at their discretion.

The Executive Board of the target company has issued a concluding recommendation to reject the offer and states the most important arguments for rejecting the offer in its statement.

The statement by the Executive Board includes the elements required by § 14 Austrian Takeover Act.

In its statement, the Supervisory Board fully supports the assessment by the Executive Board.

In connection with our activities as the independent expert pursuant to § 13f Austrian Takeover Act we analyzed the available statements of the Executive Board and Supervisory Board of the target company. Hereby we did not identify any facts, which cause any doubts on the correctness of these statements. The provided arguments and the recommendation for a rejection of the offer derived thereon are conclusive and comprehensible for us.

## **Deloitte.**

The arguments presented enable the shareholders of the target company to form an independent opinion on the facts regarding the acceptance or rejection of the offer.

Vienna, 27. April 2018

### **Deloitte Audit Wirtschaftsprüfungs GmbH**

Mag. Nikolaus Schaffer m.p.  
Certified Public Accountant

Mag. Friedrich Wiesmüllner m.p.  
Certified Public Accountant

## Appendices

*English translation of the German original version for convenience only.*

*The German original version shall prevail.*

**Statement of the Supervisory Board**

**of**

**IMMOFINANZ AG**

**on the**

**voluntary partial public takeover offer**  
(sections 4 et seq. of the Austrian Takeover Act)

by SOF-11 Starlight 10 EUR S.à r.l.

SOF-11 Starlight 10 EUR S.à r.l. (hereafter also referred to as “**SOF-11**” or “**Bidder**”) is a limited liability company (*société à responsabilité limitée*) under the laws of the Grand Duchy of Luxembourg with its business address at Rue Eugène Ruppert 2-4, L-2453 Luxembourg, Grand Duchy of Luxembourg, registered with the Luxembourg trade and companies register (*Registre de commerce et des sociétés de Luxembourg*) under number B 220972. According to the Offer Document, the Bidder is an indirect, wholly owned subsidiary of SOF-11 International, SCSp, which is part of a collection of entities known as Starwood Global Opportunity Fund XI (“**SOF-XI**”) SOF-XI is controlled by affiliates of Starwood Capital Group, a privately held global alternative investment firm.

On 18 April 2018, the Bidder issued a voluntary partial public offer in accordance with sections 4 et seq. of the Austrian Takeover Act (*Österreichisches Übernahmegesetz*) (“**ATA**”) to the shareholders of IMMOFINANZ AG, established in Vienna with its business address at Wienerbergstraße 11, 1100 Vienna and the commercial register number of FN 114425 y (hereafter also referred to as “**IMMOFINANZ**” or the “**Target Company**”) for the acquisition of up to 56,042,635 bearer shares of IMMOFINANZ (ISIN AT0000809058) (the “**Offer**”). The Bidder published a corresponding offer document on 18 April 2018 (the “**Offer Document**”).

The Offer is aimed for the acquisition of up to approx. 5% of the total number of shares issued by IMMOFINANZ. These are currently 56,042,635 bearer shares (partial offer in accordance with sections 4 et seq. ATA).

The Executive Board and the Supervisory Board of the Target Company proposed the resolution on a share split (reverse stock split) in a ratio of 10: 1 to the ordinary Shareholders’ Meeting on 11 May 2018. In case the Shareholders’ Meeting resolves upon the share split (reverse stock split) and the share split (reverse stock split) is effective prior to the Settlement as defined in the Offer Document, the number offer shares will amount to 5,604,264 shares, representing 5% of the new total number of shares of IMMOFINANZ after the share split (reverse stock split).

Pursuant to section 14 para 1 ATA, the Executive Board and the Supervisory Board of the Target Company are required to issue reasoned statements on the Offer within ten trading days of publication of the Offer Document, but at latest five trading days before expiration of the Offer period. The statement must contain in particular an evaluation of whether the proposed consideration and other content of the Offer is in the interest of all shareholders and that other holders of securities are adequately taken into account, which effects the Offer is expected to have on the Target Company, in particular on its employees (with respect to positions, employment conditions and the future of company locations), on creditors and on the public interest, based on the strategic plans of the Bidders for the Target Company. In the event that the Executive Board or the Supervisory Board is not in a position to issue a final recommendation, they must at least present arguments for the acceptance and for the rejection of the Offer, with emphasis on the major considerations.

At the time of this statement, shares in IMMOFINANZ were held by or attributed to members of the Supervisory Board as follows:

- Mr. Michael Knap 1,294 shares
- Mr. Rudolf Fries\* 69,781,813 shares
- Mr. Nick J.M. van Ommen, MBA 125,000 shares
- Mr. Horst Populorum 62,480 shares
- Mr. Wolfgang Schischek 201,500 shares
- Mr. Christian Böhm 10,000 shares
- Mr. Philipp Amadeus Obermair 500 shares  
*(Delegated by the Works Council)*

\* Holdings of the "Fries-Gruppe", under which the FRIES Familien-Privatstiftung, Dr. Rudolf FRIES Familien-Privatstiftung and members of the Fries family are to be understood.

The Offer will not be accepted with regard to shares held by or attributed to members of the Supervisory Board.

The Executive Board of IMMOFINANZ has issued a written statement in accordance with section 14 para 1 ATA. This statement of the Executive Board of IMMOFINANZ has been brought to the notice of the Supervisory Board. The Supervisory Board of IMMOFINANZ agrees and concurs with the statement submitted by the Executive Board.

The members of the Supervisory Board declare that they have not been offered or granted any economic benefit by the Bidder should the Offer be successfully executed. No member of the Supervisory Board has been offered or granted any economic benefit should the outcome of the Offer be unsuccessful.

Vienna, 27 April 2018

on behalf of the Supervisory Board of IMMOFINANZ AG

*Mr. Michael Knap*  
Chairman of the Supervisory Board

**Statement by the Executive Board**

of

**IMMOFINANZ AG**

on the

**voluntary partial public takeover offer**  
(sections 4 et seq. of the Austrian Takeover Act)

by SOF-11 Starlight 10 EUR S.à r.l.

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## Introduction

SOF-11 Starlight 10 EUR S.à r.l. (hereafter also referred to as “**SOF-11**” or the “**Bidder**”) is a limited liability corporation (*société à responsabilité limitée*) incorporated under the laws of the Grand Duchy of Luxembourg, whose registered office is located in Luxembourg having its business address at Eugène Ruppert 2-4, L-2453 Luxembourg, registered with the Luxembourg trade and companies register (*Registre de commerce et des sociétés de Luxembourg*) under registry number B 220972. According to the information provided in the Offer Document SOF-11 is an indirect, wholly owned subsidiary of SOF-11 International, SCSp, which is part of a collection of entities known as Starwood Global Opportunity Fund XI (“**SOF-XI**”). SOF-XI is controlled by affiliates of Starwood Capital Group (“**Starwood**”), a privately held global alternative investment company.

On 18 April 2018 the Bidder issued a voluntary partial public takeover offer in accordance with sections 4 et seq. of the ATA (“*Übernahmegesetz*”) (“**ATA**”) to the shareholders of IMMOFINANZ AG, whose registered office is located in Vienna and whose business address is Wienerbergstrasse 11, 1100 Vienna, FN 114425 y (hereafter also referred to as “**IMMOFINANZ**” or the “**Target Company**”) for the purchase of up to 56,042,635 bearer shares of IMMOFINANZ (ISIN AT0000809058) (the “**Offer**”). For this purpose, the Bidder published the Offer Document on 18 April 2018 (the “**Offer Document**”).

The Bidder’s Offer aims at the purchase of up to 5% of the total number of shares issued by IMMOFINANZ. These are currently 56,042,635 bearer shares (partial offer in accordance with sections 4 et seq. ATA). In relation to the share capital calculated in accordance with sec 22 (6) ATA, i.e. excluding the (suspended) voting rights attributable to treasury shares (as of 20 April 2018), the shares covered by the Offer represent approx. 5.02%. This fraction could increase following the repurchase of IMMOFINANZ shares (treasury shares) as part of the 01/2018 share buyback programme that is currently in progress (see point 1.3).

The Executive Board and the Supervisory Board of the Target Company proposed the resolution upon a share split (reverse stock split) in a ratio of 10:1 to the ordinary Shareholders’ Meeting on 11 May 2018. In case the Shareholders’ Meeting resolves upon the share split (reverse stock split) and the share split (reverse stock split) is effective prior to the Settlement as defined in the Offer Document, the number of Offer Shares will be 5,604,264 shares, representing 5% of the new total number of shares of IMMOFINANZ after the share split (reverse stock split).

IMMOFINANZ indirectly holds a participation of approx. 26% in CA Immobilien Anlagen AG (“**CAI**”) together with four registered shares issued by CAI, each carrying the right to appoint one member to the supervisory board of CAI (for the announcement of IMMOFINANZ on 19 April 2018 regarding the launch of a bidding process for the possible package sale of the investment in CAI see point 1.1). In parallel to this Offer the Bidder launched a public takeover offer for ordinary bearer shares in CAI for up to 26% of the issued share capital. According to the Offer Document, this Offer and the offer for shares in CAI are independent from each other.

This statement is made in accordance with sec 14 (1) of the ATA. This provision states that the Executive Board of the target is required to publish a statement on the Offer immediately after publication of the Offer Document, in any case within ten exchange trading days after publication of the Offer and five exchange trading days before the expiration of the acceptance period. This statement must include, in particular, an assessment of whether the consideration offered and the other terms of the Offer take

sufficient account of the interests of all shareholders and other holders of equity instruments and what effects the Offer would presumably have on IMMOFINANZ, above all on its employees (with regard to jobs, employment conditions, location issues), its creditors and the public interest based on the Bidder's strategic planning for IMMOFINANZ. If the Executive Board is unable to reach a final conclusion, it must at least present the arguments for accepting or rejecting the Offer together with an indication of the most important positions. The Executive Board of the Target Company has decided to issue a recommendation pursuant to 9.3.

The assessments of the Executive Board in this statement on the Offer Price or the development of IMMOFINANZ also refer to future developments and forecasts and are based on assumptions made at the time of this statement's submission, which are naturally connected with estimation uncertainty. No liability will be accepted for the occurrence of these future developments and forecasts. The development of IMMOFINANZ as well as its group companies can be influenced by diverse factors, such as developments in the financial market, the economic situation in general or industry-specific economic conditions, or changes in the competitive environment, etc. In connection with legal issues, it should be noted that the Austrian Takeover Commission and other decision-making bodies could reach different conclusions.

The Executive Board expressly notes that this statement also includes information provided by the Bidder in the Offer. The Executive Board was unable to and did not comprehensively verify this information for correctness.

Each holder of equity instruments of IMMOFINANZ should deal with the Offer him-/herself, using all sources of information at own risk to make a decision based on the grounds derived from this reasoning regarding the acceptance or dismissal of the Offer. This statement cannot provide a replacement.

The Supervisory Board of IMMOFINANZ will also issue a statement on the Offer in accordance with sec 14 ATA. IMMOFINANZ has appointed Deloitte Audit Wirtschaftsprüfungs GmbH as an expert in accordance with sec 13 ATA. The expert will evaluate the Offer, the present statement of the Executive Board of the Target Company and the statement of the Supervisory Board.

The present statement of the Executive Board, the statement of the Supervisory Board and the valuation by the expert, have been published on the website of the Target Company ([www.immofinanz.com](http://www.immofinanz.com)).

## **1. Current situation**

### **1.1 Information on IMMOFINANZ AG**

IMMOFINANZ is a stock corporation under Austrian law whose registered office is located in Vienna and whose business address is Wienerbergstrasse 11, 1100 Vienna. The company is listed in the commercial register under FN 114425 y.

IMMOFINANZ is a leading commercial real estate investor and developer in Central and Eastern Europe. The real estate portfolio currently comprises more than 239 properties with a carrying amount of approx. EUR 4.2 billion (as of 31 December 2017).

The core business of IMMOFINANZ covers sustainable management and development of office and retail properties in particular countries in Central and Eastern Europe. The seven core countries are Austria, Germany, Czech Republic, Slovakia, Hungary, Romania and Poland. In the office segment, IMMOFINANZ is concentrated solely on the capitals of the core countries and the major office locations in Germany by using the trademark myhive. The office portfolio represents 62.6% of the portfolio value or 52.8% of the rental income from the standing investments at the end of the 2017 financial year. In respect of its retail portfolio, IMMOFINANZ relies on its trademarks STOP SHOP and VIVO!, which have been designed for secondary and tertiary cities. The retail properties portfolio represents 33.6% of the total portfolio value and 47.0% of the rental income from the standing investments. The aim is to establish a high-quality and profitable commercial real estate portfolio.

IMMOFINANZ indirectly holds 25,690,163 bearer shares and four registered shares of CAI, each carrying the right to appoint one member to the supervisory board of CAI. The participation in CAI amounts to approx. 26% of the share capital issued by CAI. CAI holds an indirect 4.89% participation in IMMOFINANZ (see point 1.2)

On 19 April 2018 IMMOFINANZ announced that as part of the evaluation of strategic options in connection with the investment in CAI a possible package sale of this investment together with the four registered shares carrying the right to appoint members to the supervisory board is evaluated. For this purpose IMMOFINANZ invited investors to indicate their interest in participating in a structured bidding process for a package acquisition until 30 April 2018. Further information on the time schedule cannot be provided for now.

On 18 April 2018 IMMOFINANZ announced that IMMOFINANZ acquired a total of 19,499,437 bearer shares of S IMMO AG with share purchase agreements dated 18 April 2018 (corresponding to approx. 29.14%). The transaction is subject to various conditions precedent, in particular the approval of the antitrust authorities in Austria, Germany and other jurisdictions. S IMMO AG holds an indirect participation in IMMOFINANZ (see point 1.2).

## **1.2 Share capital, shares and shareholder structure of IMMOFINANZ**

The share capital of IMMOFINANZ, at the date of the publication of this statement, amounts to EUR 1,120,852,699.00 and is divided into 1,120,852,699 bearer shares, each of which represents a proportional share of EUR 1.00 in share capital.

IMMOFINANZ shares (ISIN AT0000809058) are admitted for trading on the Vienna Stock Exchange and are listed in the Prime Market segment. In addition, IMMOFINANZ shares are admitted for trading in the Main Market (“rynek podstawowy”) segment of the Warsaw Stock Exchange. The market capitalisation equals approx. EUR 2.38 billion (closing price of EUR 2.124 on the Vienna Stock Exchange on 26 April 2018).

The following table shows the shareholder structure of IMMOFINANZ based on the Offer Document, notifications of shareholdings pursuant to the Austrian Stock Exchange Act (“Börsegesetz”) as well as Directors’ dealings notifications at the date of publication of this statement:

Shareholder(s)	Number of shares	Stake in share capital in %
CEE Immobilien GmbH <sup>**)</sup>	118,938,695 <sup>**)</sup>	10.61 <sup>**)</sup>
Erste Asset Management GmbH	55,406,117	4.94
Fries Group <sup>*)</sup>	69,781,813	6.23
PHI Finanzbeteiligungs und Investment GmbH <sup>***)</sup>	54,805,566	4.89
Treasury shares (as of 20.04.2018)	5,200,000	0.46
Free float	816,720,508	72.87
Total	1,120,852,699	100.00

<sup>\*)</sup> FRIES Familien-Privatstiftung, Dr. Rudolf FRIES Familien-Privatstiftung and members of the Fries family (together the “Fries Group”).

<sup>\*\*)</sup> According to the voting rights notification dated 27 March 2018 CEE Immobilien GmbH, an indirect wholly subsidiary of S IMMO AG, holds 118,938,695 voting rights from ordinary shares (approx. 10.61%). CEE Immobilien GmbH holds in addition 14,944,894 financial and other instruments according to sec 131 para 1 item 1 Austrian Stock Exchange Act 2018 (approx. 1.33%). The percentage of allocable voting rights therefore amounts to approx. 11.94%.

<sup>\*\*\*)</sup> PHI Finanzbeteiligungs und Investment GmbH is an indirect wholly owned subsidiary of CAI (according to the voting rights notification dated 2 November 2017).

## 1.3 Treasury shares, share buyback programme 2018

### 1.3.1 Treasury shares

IMMOFINANZ held 5,200,000 treasury shares as of 20 April 2018. These 5,200,000 shares are held by IMBEA IMMOEAST Beteiligungsverwaltung GmbH, a wholly owned subsidiary of IMMOFINANZ, and represent approx. 0.46% of IMMOFINANZ’s share capital.

### 1.3.2 Share buyback programme 1/2018

On 8 March 2018, the Executive Board and the Supervisory Board of IMMOFINANZ decided to launch a share buyback programme (“**Share buyback programme 1/2018**”) based on the authorisation of the ordinary Shareholders’ Meeting on 01 June 2017 pursuant to section 65 (1) no. 8 of the Austrian Stock Corporation Act (“Aktiengesetz”). The share buyback started on 14 March 2018.

The share buyback programme 1/2018 has a volume of up to 15,000,000 shares, which represent approx. 1.34% of the company’s current share capital.

The maximum price per share (highest price) equals (cumulatively) (i) 15% over the average closing price for the share weighted by the respective trading volume on the previous ten trading days on the Vienna Stock Exchange, and (ii) EUR 2.81.

A credit institution was commissioned to carry out this share buyback programme and, within the context of the terms of the share buyback programme, is independently responsible for all decisions related to the timing of the purchase of IMMOFINANZ shares (Article 3 Commission Delegated Regulation (EU) 2016/1052 of 8 March 2016).

This share buyback programme of IMMOFINANZ shares is executed solely over the Vienna Stock Exchange in compliance with the commercial terms defined by Article 3 Commission Delegated Regulation (EU) 2016/1052 of 8 March 2016, according to which the price may neither exceed the price of the last independent trade, nor (if higher) exceed the highest current independent bid on the trading venues where the purchase is carried out.

A total of 5,200,000 shares were repurchased up to and including 20 April 2018. Announcements and details on the share buyback programme 1/2018, in particular executed transactions, will be published on the IMMOFINANZ website (<http://www.immofinanz.com/en/investor-relations/our-share/share-buyback-programme/>).

## 1.4 Other equity instruments: convertible bonds

IMMOFINANZ currently has the following convertible bond outstanding, which carries the right to the exchange for IMMOFINANZ bearer shares:

	ISIN	Maturity	Interest rate in %	Nominal value as of 30 September 2017 in EUR
Convertible bond 2017-2024	XS1551932046	24.01.2024	2.00%	297,200,000

<sup>1</sup> Put option for bondholders (put-date: 24.01.2022)

In accordance with sec 1 no. 4 ATA, convertible bonds are classified as equity instruments. The Offer is a partial offer as defined in sections 4 et seq. ATA. As a partial offer – in contrast to a mandatory offer or a voluntary offer to obtain control – the Offer is not required to apply to all equity instruments.

The Offer is not related to the IMMOFINANZ convertible bonds. However settlement shares (therefore shares the bondholders are entitled to receive upon the exercise of their conversion right) are subject to the Offer, provided that the settlement shares are issued in a timely manner before the expiry of the Acceptance Period.

## 1.5 The Bidder and legal entities acting in concert

### 1.5.1 SOF-11 Starlight 10 EUR S.à r.l.

The Bidder is a limited liability corporation (*société à responsabilité limitée*) incorporated under the laws of the Grand Duchy of Luxembourg and was established as a Special Purpose Vehicle. The Bidder's share capital amounts to EUR 12,000.

The shareholder structure of the Bidder is enclosed in the Offer Document (on page 9). It includes several corporations in Luxembourg and USA (Delaware). Reference is made to the overview display in the Offer Document.

According to the Offer Document the Bidder's business purpose includes the holding of participations, in particular the acquisition, establishment and management of companies, participations and financial instruments.

### 1.5.2 Legal entities acting in concert with the Bidder

In accordance with sec 1 no. 6 ATA, natural persons or legal entities who cooperate with a bidder on the basis of an agreement to gain or exercise control over a target company, above all through the coordination of voting rights, are considered to be parties acting in concert. If a legal entity holds a direct or indirect controlling interest in one or more other legal entities as defined in sec 22 (2) and (3) ATA, the (refutable) assumption is that all of these parties are acting in a concerted manner.

According to the Offer Document the legal entities acting in concert in this meaning are all companies controlled by the Bidder, as well as the companies controlling the Bidder (see above point 1.5.1 on the company structure and the overview display in the Offer Document (page 9)). In this context the Bidder referred to sec 7 no. 12 ATA in the Offer Document, according to which specifications regarding the legal entities acting in concert could be omitted, if not relevant for the decision of the recipients of the Offer.

### 1.6 Shareholding of the Bidder and the legal entities acting in concert with the Bidder; possible further share purchases by the Bidder

According to the Offer Document the Bidder does not hold participations in IMMOFINANZ at the date of publication of the Offer Document. According to the Offer Document, neither the Bidder's management, nor the legal entities acting in concert with the Bidder, own equity instruments in the Target Company.

According to the Offer Document the Bidder has reserved the right to purchase IMMOFINANZ shares parallel to this Offer. The purchase price for additional acquisitions of shares shall be equal or lower than the Offer Price. The number of Offer Shares shall not be reduced by parallel acquisitions. These transactions must be reported to the Austrian Takeover Commission in accordance with sec 16 ATA.

## 2. Offer by SOF-11

### 2.1 Subject of the Offer

The Offer by the Bidder is directed to the purchase of about 5% of the total amount of shares issued by IMMOFINANZ. These are 56,042,635 bearer shares ("**Offer Shares**") that are neither owned by the Bidder nor by a party acting in concert with the Bidder or are allocable to these entities (partial offer according to sec 4 et seq. ATA).

The Executive Board and the Supervisory Board of the Target Company proposed the resolution upon a share split (reverse stock split) in a ratio of 10:1 to the ordinary Shareholders' Meeting on 11 May 2018. In case the Shareholders' Meeting resolves the share split (reverse stock split) and the share split (reverse stock split) is completed prior the Settlement as defined in the Offer Document, the number of Offer Shares will be 5,604,264 shares, representing 5% of the new total number of shares of IMMOFINANZ after the share split (reverse stock split).

The maximum number of Offer Shares represents 5.00% of the current share capital of IMMOFINANZ (excluding the (suspended) voting rights attributable to treasury shares as of 20 April 2018: approx. 5.02%).

Accordingly, the Offer does not cover all shares. It is a partial offer (sections 4 et seq. ATA).

If the number of shares covered by the declarations of acceptance is larger than the number of Offer Shares, the declarations of acceptance will be taken into account on a pro rata basis as defined in section 20 ATA. In this event, the acceptance of the Offer will be subject to an allocation ratio that is derived from the total number of Offer Shares divided by the total number of shares tendered in connection with the Offer. The declaration of acceptance by individual shareholders will be reduced in accordance with this allocation ratio. Consequently, the acceptance of the Offer does not guarantee complete fulfilment of the declaration of acceptance.

## **2.2 Offer price**

The Bidder is offering to acquire the Offer Shares from their holders for a price of EUR 2.10 (two comma ten Euros) per Offer Share ("**Offer Price**") based on the terms of this Offer.

The ordinary Shareholders' Meeting of the Target Company shall resolve upon a share split (reverse stock split). In case the share split (reverse stock split) becomes effective (registration in the Commercial Register) prior to the Settlement as defined in the Offer Document, the Offer Price amounts to EUR 21 (twenty one Euros) per Offer Share.

The Offer Price is considered to include the 2017 dividend (according to the Offer Document the Offer Price shall be reduced by the amount of any dividend declared by IMMOFINANZ between the announcement of the Offer and Settlement according to the Offer Document), provided that Settlement of the Offer occurs after the relevant record date for such dividend. The Offer Price covers any claim to a dividend for the 2017 financial year (1 January 2017 to 31 December 2017) of IMMOFINANZ.

Given the assumption that the conditions precedent of the Offer (see point 2.4) will be fulfilled until the expiration of the original Acceptance Period, the Settlement shall be accomplished by 14 June 2018 (point 2.5). The distribution of a dividend in the amount of EUR 0.07 per IMMOFINANZ share from the balance sheet profit for the financial year 2017 was proposed to the upcoming ordinary Shareholders' Meeting of the Target Company on 11 May 2018. The relevant date for the securities account balance to receive a dividend (Record Date) is 16 May 2018. If the Shareholders' Meeting resolves the dividend distribution, the Offer Price would be reduced by EUR 0.07 to EUR 2.03 per Offer Share.

The Offer represents a voluntary partial offer (sections 4 et seq. ATA). Therefore, the legal requirements regarding a minimum price, which are defined by § 26 of the ATA, do not apply. The Bidder is entitled to determine the Offer Price at its discretion.

The Offer by the Bidder does not expressly exclude any subsequent increase in the Offer Price. The Bidder is therefore entitled to improve the Offer Price and to adjust the Offer in favour of holders of equity instruments during the term of the Offer (sec 15 (1) ATA).

In the Offer Document the Bidder refers to the statutory obligation to additional payments pursuant to section 16 (7) ATA: If the Bidder or a party acting in concert with the Bidder acquire IMMOFINANZ shares within a period of 9 (nine) months after the expiry of the Acceptance Period, and a higher consideration is paid or negotiated for such acquisition, the Bidder is obliged to pay the difference.

## 2.3 Settlement fees and taxes

The Offer Price is understood before the deduction of any income taxes or other applicable taxes and duties.

According to the Offer Document the Bidder shall bear all fees and costs levied by the custodian banks that are directly connected with the Settlement of the Offer, but in a maximum amount of EUR 8.00 (eight Euros) per deposit.

The Bidder recommends in the Offer Document that shareholders of the Target Company willing to accept the Offer obtain an independent tax advice that considers individual tax circumstances with regard to possible tax impacts of an acceptance. This is in accordance with the recommendation of Executive Board of IMMOFINANZ.

## 2.4 Conditions precedent for the Offer

The Offer is issued subject to the following conditions precedent:

### 2.4.1 Merger control clearance

The Bidder's Offer is subject to the condition precedent of the clearance by the responsible competition authorities in Germany no later than 28 August 2018 (referred to as Long Stop Date in the Offer Document), or expiration of the statutory waiting period in Germany no later than by 28 August 2018, in which case the explicit approval of the competition authority responsible is no longer needed in order to conduct the transaction, or the competition authorities have declared that they are not responsible for the transaction.

### 2.4.2 No Material adverse change

None of the following events has occurred until the expiry of the Acceptance Period:

- a) IMMOFINANZ resolved on or distributed a dividend in kind;
- b) With the exception of shares issued by IMMOFINANZ to service the claims of holders of the convertible bonds, the registered share capital of IMMOFINANZ has been increased or the general meeting of IMMOFINANZ or the IMMOFINANZ management board or the IMMOFINANZ Supervisory Board has adopted any resolution that, if implemented, would result in an increase in the registered share capital of the Target Company excluding (i) a capital increase from own funds (conversion of profits, retained earnings or reserves into share capital (*sic*)) or (ii) authorization resolutions by the shareholders' meeting pursuant to sec 159 et seq. and 169 et seq. Stock Corporation Act (*Aktiengesetz*);
- c) The general meeting of IMMOFINANZ resolved on an amendment to the articles of association that would affect the rights attaching to the IMMOFINANZ shares or the nature (class) of the shares;
- d) The general meeting of IMMOFINANZ resolved on a liquidation, merger, split or spin-off.

For the sake of completeness the Executive Board states that the condition announced by the Bidder in the publication according to sec 5 ATA to be required for the fulfilment, that IMMOFINANZ must not dispose over the participation in CAI and/ or the four registered shares, which IMMOFINANZ holds in CAI, is no longer included in the Offer Document.

### **2.4.3 Waiver, fulfilment and/or non-fulfilment of conditions precedent**

The Bidder reserves the right to waive the fulfilment of any or all of the above-mentioned conditions precedent, in which case the condition(s) precedent is (are) considered to be fulfilled. The condition precedent mentioned under point 2.4.1 regarding merger control clearance cannot be waived.

The Bidder must immediately publish the waiver, fulfilment or conclusive non-fulfilment of each condition precedent in the publication medium referred to under point 6.10 of the Offer Document.

The Offer will become invalid if the above-mentioned conditions precedents are not fulfilled within the period specified for the respective condition precedent, unless the Bidder has waived the fulfilment of the conditions according to point 2.4.2 (No Material adverse change) and the condition precedent according to point 2.4.1 (merger control clearance) has been fulfilled.

### **2.5 Acceptance Period, acceptance and settlement of the Offer (“Settlement”)**

The acceptance period for the Offer covers a period of 6 (six) weeks. The Offer can be accepted from (and including) 18 April 2018 until (and including) 30 May 2018, 5.00 p.m. local time in Vienna (“**Acceptance Period**”). The Bidder has reserved the right to extent the Acceptance Period.

The Offer can only be accepted by means of a written declaration of acceptance submitted to the respective depository bank. Upon acceptance of the Offer a conditional sale and purchase agreement shall come into existence, which shall become effective upon fulfilment of the conditions precedent (point 2.4).

Shareholders who accept the Offer during the Acceptance Period will receive payment of the purchase price in accordance with the terms of the Offer Document no later than on the 10th (tenth) exchange trading day after the expiration of the (possibly extended) Acceptance Period and after the Offer becomes unconditionally binding against simultaneous transfer of the shares.

Assuming the fulfilment of the conditions precedent by the end of the original Acceptance Period, Settlement is expected to take place until 14 June 2018. Should the conditions precedent (point 2.4) not be fulfilled at the end of the Acceptance Period, the date of Settlement will shift accordingly and Settlement will take place no later than ten trading days after the last condition precedent will be fulfilled.

If a competing offer is received, the Acceptance Period will automatically be extended in accordance with sec 19 (1c) ATA up to the end of the acceptance period for the competing offer, unless the Bidder has declared the withdrawal from the respective Offer. The Executive Board points out that the Bidder has reserved the right to withdraw from the Offer in case of a competing offer (see point 2.7).

Further details can be found in Point 6 of the Offer Document.

## **2.6 Announcements and Publication of the Result**

The Bidder is obliged to publish the result of this Offer without undue delay after expiry of the Acceptance Period by way of an announcement in the newspaper Wiener Zeitung. The result will be published on the websites of the Target Company ([www.immofinanz.com](http://www.immofinanz.com)) and the Austrian Takeover Commission (*Übernahmekommission*) ([www.takeover.at](http://www.takeover.at)).

## **2.7 Right of withdrawal based on competing offer**

If a competing bid is announced during the term of the Offer, the shareholders are entitled under sec 17 ATA to withdraw from any previous declarations of acceptance until, at the latest, 4 (four) exchange trading days before the expiration of the original Acceptance Period (sec 19 (1) ATA).

The withdrawal must be made in writing to either the respective depositary bank or to the receiving and payment agent designated in the Offer.

In the Offer Document the Bidder explicitly reserves the right to withdraw from the Offer in accordance with sec 19 (1c) ATA, in case a competing offer has been issued by another bidder.

## **3. Evaluation of the Offer Price by the Executive Board**

The Offer Price amounts to EUR 2.10 per share (see point 2.2). The Offer constitutes a voluntary partial offer (sections 4 et seq. ATA). The Bidder may therefore determine the Offer Price at its discretion.

Shares in IMMOFINANZ are listed on the Vienna Stock Exchange and also on the main market (*rynek podstawowy*) of the Warsaw Stock Exchange. Each of the following quoted stock prices refers to Vienna Stock Exchange market prices.

On 22 March 2018 the Bidder announced the intention to make a voluntary partial public offer to the shareholders for the purchase of up to 55,831,570<sup>1</sup> shares of IMMOFINANZ at the price of EUR 2.10 (two comma ten Euros) per share. The day's closing price for IMMOFINANZ shares on 21 March 2018 was EUR 2.008 (trading day prior to the announcement of the intention to make an offer). The Offer Price of EUR 2.10 per share is approximately 4.6% above the closing price of the shares on 21 March 2018.

On 26 April 2018 the closing price was EUR 2.124. The Offer Price of EUR 2.10 per share is approximately 1.14% below the closing price on 26 April 2018.

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<sup>1</sup> According to the Offer Document dated 18 April 2018 the Offer aims at up to 56,042,635 bearer shares of IMMOFINANZ, which corresponds to approx. 5% of the total number of shares currently issued by the Target Company. The intention to make an offer according to the announcement dated 22 March 2018 (sec 5 ATA) (only) referred to 55,831,570 shares, which corresponded to approx. 5% of the total number of shares issued at that time (1,116,173,778 shares).

### 3.1 Offer Price in relation to average market prices

The Volume Weighted Average Price (“**VWAP**”) per IMMOFINANZ share in the three, six and twelve calendar months before it became known that an offer was under consideration, as well as the absolute and percentage amounts by which the Offer Price respectively exceeds these prices, amount up to and including the closing price as of 21 March 2018:

VWAP Period	3 Months	6 Months	12 Months
VWAP Value, in EUR	1.99	2.05	2.03
Difference between Offer Price and Average Price, in EUR	+0.11	+0.05	+0.07
Premium, in %	5.5%	2.4%	3.4%

Source: ThomsonReuters

### 3.2 Offer Price in relation to book value and EPRA NAV

	IMMOFINANZ equity book value as of 31.12.2017 according to IFRS consolidated financial statements	EPRA NAV as of 31.12.2017 according to IFRS consolidated financial statements
Value per IMMOFINANZ share, in EUR	2.53	2.86
Offer Price per IMMOFINANZ share, in EUR	2.10	2.10
Difference, in EUR	- 0.43	- 0.76
Premium/Discount	- 17.0%	- 26.6%

Note: Book value per share and EPRA NAV per share as of 31 December 2017.

### 3.3 Analyst views on IMMOFINANZ shares

The following table shows the price targets published by equity research analysts prior to the announcement by the Bidder of the intention to launch an offer, along with the most recently published price targets:

Financial Institution	Date	Price targets after announcement of the intention to make an offer, in EUR	Date	Price targets before announcement of the intention to make an offer, in EUR
Erste Group	20.04.2018	2.40	15.03.2018	2.40
Wood & Company	20.04.2018	2.15	02.03.2018	2.15
Société Generale	19.04.2018	2.30	08.03.2018	1.85
Kepler Cheuvreux	19.04.2018	2.60	28.02.2018	2.45
Baader Bank	05.04.2018	1.80	13.12.2017	1.80

Financial Institution	Date	Price targets after announcement of the intention to make an offer, in EUR	Date	Price targets before announcement of the intention to make an offer, in EUR
Raiffeisen Centrobank	05.04.2018	2.00	20.03.2018	2.00
Wiener Privatbank	n.a.	n.a.	12.02.2018	2.68
<b>Average</b>		<b>2.21</b>		<b>2.19</b>

Note: The overview contains price targets derived from security analyses, which have already been updated in 2018.

The Offer Price of EUR 2.10 is below the average of the respective target prices from the given equity research analysts at the time before as well as after the announcement of the intention to make an offer.

### 3.4 Offer Price in relation to selected European corporate transactions

When evaluating the Offer Price the Executive Board of the Target Company analysed premiums of public takeover transactions in the listed European real estate sector. These transactions are in general aimed at obtaining control and include a control premium. According to the assessment of the Executive Board, the Offer is not aimed at obtaining control, neither pursuant to the scope of the Offer nor to the announcement of the Bidder. For this reason, these transactions cannot, or only very partially, be used for a valuation of premiums for the Offer Price. Upon acquisition of a 5% shareholding in the Target Company, the Bidder nonetheless is able to influence resolutions in the Shareholders' Meetings of the Target Company depending on the quorum in the Shareholders' Meeting, which in turn would have to be considered as a structural premium for the Offer Price.

### 3.5 Valuation of IMMOFINANZ

In order to assess the financial appropriateness of the Offer Price, the IMMOFINANZ Executive Board has commissioned VICTORIAPARTNERS GmbH, Frankfurt ("VICTORIAPARTNERS"), a financial advisor specialising in the real estate sector and not affiliated to any bank, to advise IMMOFINANZ with respect to the analysis of the Offer and to support in the preparation of the statement of the Executive Board. This assignment also includes the issuance of an opinion on the financial appropriateness of the Offer Price.

Based on this VICTORIAPARTNERS has issued an opinion with respect to the valuation of IMMOFINANZ, based on conventional international valuation methodology commonly used by financial advisors in the valuation of comparable real estate companies. Taking into account the conditions of the Offer, the applied valuation methods consist of multiples derived from the trading share prices of comparable companies, analysis of premiums paid in public takeover transactions, estimates from equity research analysts as well as discounted cash flow analysis. In this opinion, VICTORIAPARTNERS concludes that, on the basis of and subject to the aspects mentioned and the assumptions made, the Offer Price of EUR 2.10 per IMMOFINANZ share is inappropriate from a financial point of view ("**Fairness Opinion**").

VICTORIAPARTNERS provided its services and issued the Fairness Opinion solely in order to provide information and support the Executive Board and the Supervisory Board of IMMOFINANZ in connection with the valuation of the Offer and the appropriateness of the Offer Price. The Fairness Opinion does not

provide a recommendation concerning the fact, whether a shareholder of IMMOFINANZ should submit shares in connection with the Offer or in other respects. The Fairness Opinion does in particular not resemble a value assessment, as it is typically issued by particular qualified auditors and credit and financial institutes according to the ATA or other applicable laws and is not to be considered as such.

## **4. Representation of the interests of IMMOFINANZ and its stakeholders**

### **4.1 Bidder's rationale for the Offer**

According to the Offer Document, the Bidder views the Offer as a possibility to be invested in the Austrian and CEE retail and office markets sector by means of a partial offer pursuant to sections 4 et seq. ATA.

The Bidder refers in the Offer Document to the global real estate focus of Starwood. Starwood is a private alternative investment firm that has consistently invested in Europe with approx. USD 3.8 billion of its equity capital since its foundation in 1991. According to the Offer Document, Starwood's portfolio of investments in Europe consists of investments across a range of sectors including office, retail, industrial, asset deals, operating businesses and debt and has reached a total capitalization of approx. USD 8 billion.

### **4.2 Business policy objectives and intentions of the Bidder with respect to IMMOFINANZ**

According to the Offer Document, the Bidder intends to acquire a minority stake in IMMOFINANZ within the scope of the Offer. Depending on the results of the Offer, Starwood does not exclude a further buy-in.

According to specifications of the Bidder Starwood considers itself as long-term investor of the Target Company that has both the financial capacity and the industry expertise to support the Target Company through the Bidder in realizing its long-term objectives and working together for the benefit of all stakeholders involved. According to the Offer Document Starwood offers its investment expertise in the industry sector and is committed to supporting the current management team through the next phase of growth of the Target Company.

The Offer Document does not contain a statement whether or not the Bidder intends to be represented in the Supervisory Board of IMMOFINANZ.

### **4.3 Effects on IMMOFINANZ and the shareholder structure**

In the event of a corresponding acceptance of the Offer, the Bidder would become a further package shareholder of IMMOFINANZ, holding approximately 5.00% of share capital.

### **4.4 Effects on employment and location considerations**

Also on the basis of the corporate policy objectives and the intentions of the Bidder declared in the Offer Document, there will not be effects of the Offer on the employment situation and the location of IMMOFINANZ.

## **4.5 Effect on creditors and on the public interest**

In the case of creditors, no worsening of the current position as a result of the Offer is evident.

On the basis of the existing Offer Document, there are also no identifiable changes that could affect the public interest.

## **4.6 Financing**

Pursuant to the Offer Document and the confirmation of the Bidder's expert (sec 9 ATA) the Bidder has the necessary financial means to completely fulfil the terms and obligations under the Offer.

## **5. Expert in accordance with sec 13 ATA**

IMMOFINANZ has appointed Deloitte Audit Wirtschaftsprüfungs GmbH, Rengasse1/Freyung, 1010 Vienna, Austria, as expert in accordance with sec 13 ATA, to act in an advisory capacity during the process and to review the statements of the managing bodies as independent expert.

## **6. Advisors to IMMOFINANZ**

IMMOFINANZ as Target Company is advised by VICTORIAPARTNERS GmbH, Frankfurt, in connection with the Offer.

The Austrian legal advisory services to IMMOFINANZ as Target Company are being provided by bpv Hügel Rechtsanwälte GmbH.

## **7. Additional Information**

Information about this Statement from the IMMOFINANZ Executive Board can be provided by Mrs. Bettina Schragl, Head of Corporate Communications and Investor Relations, telephone number +43 (0) 1 880 90 2290; email [investor@immofinanz.com](mailto:investor@immofinanz.com).

Further information about IMMOFINANZ can be found on the website [www.immofinanz.com](http://www.immofinanz.com).

## **8. Interests of the members of the IMMOFINANZ Executive Board**

No cross directorships exist between the members of the IMMOFINANZ Executive Board and the members of the management bodies of the Bidder (or with members of management bodies of parties acting in concert with the Bidder) at the present time.

No material commercial relationships exist between IMMOFINANZ and the Bidder.

For the purpose of providing detailed information to the shareholders of IMMOFINANZ the Executive Board discloses the current shareholdings of Executive Board members in IMMOFINANZ as follows:

Executive Board member	Number of shares	% of share capital
Mr. Oliver Schumy	362,000	0.032
Mr. Stefan Schönauer	50,000	0.004
Mr. Dietmar Reindl	25,150	0.002

The members of the Executive Board will not accept the Offer for their shares made by the Bidder.

The members of the Executive Board declare that they have not been offered or granted any economic benefit by the Bidder should the Offer be successfully executed. No member of the Executive Board has been offered or granted any economic benefit should the outcome of the Offer be unsuccessful.

## 9. Position of the Executive Board of IMMOFINANZ on the Offer

### 9.1 Evaluation of the Offer Price

As of 26 April 2018, the Offer Price of EUR 2.10 was slightly below the price of the IMMOFINANZ share (closing price of the share on the Vienna Stock Exchange on 26 April 2018: EUR 2.124).

The Offer Price is approx. 26.6% below the EPRA NAV per share (EUR 2.86 as of 31 December 2017). EPRA NAV is calculated in accordance with the principles defined by the European Public Real Estate Association (EPRA) and represents the net asset value of IMMOFINANZ as reported in the IMMOFINANZ company report as of 31 December 2017.

The long term restructuring phase of IMMOFINANZ has been successfully completed with the sale of the retail portfolio in Russia shortly before the end of the year 2017. When evaluating the Offer Price, the sustainably improving figures and the positive business outlook of IMMOFINANZ are to be considered. In this context, the Executive Board refers to the publication of IMMOFINANZ as of 4 April 2018 with regard to the group result for the financial year 2017.

In the opinion (Fairness Opinion) by VICTORIAPARTNERS (point 3.5), the Offer Price of EUR 2.10 per Offer Share is considered inappropriate from a financial point of view.

Based on this information, the Executive Board of IMMOFINANZ believes the Offer Price of EUR 2.10 (*cum dividend*) per Offer Share is inappropriate.

### 9.2 Risks related to the allotment limitation in the partial Offer

The Offer Price of EUR 2.10 is slightly lower than the average daily closing prices of EUR 2.11 for the IMMOFINANZ share on the Vienna Stock Exchange during the past week (19 April 2018 to 26 April 2018). The average daily turnover (single-count) of the share on the Vienna Stock Exchange during this period equalled 2,062,591 no-par shares.

The Offer is limited to a maximum of 56,042,635 shares, representing approx. 5.00% of IMMOFINANZ's current share capital. If the number of shares covered by the declarations of acceptance exceeds this limit, the declarations of acceptance will only be fulfilled on the basis of the allocation ratio.

A shareholder who accepts the Offer therefore carries the risk of being unable to sell all his/her shares at the Offer Price. In addition, all shares tendered in connection with the Offer will remain blocked up to the end of the Acceptance Period. That means the shareholder is not able to dispose over these shares during the Acceptance Period and, in particular, cannot sell these shares over the stock exchange during that time. In the opinion of the Executive Board, particular attention should be given to this fact since the share price is currently near the Offer Price.

### 9.3 Summarising assessment and recommendation by the Executive Board

It should be noted that each IMMOFINANZ shareholder must separately evaluate the merits of this Offer solely based on his/her individual situation (among others, depending on the purchase price, long- or short-term investment, investment strategy, tax situation etc.). This decision also depends to a significant degree on the individual shareholder's expectations for the future development of the capital markets and the real estate sector. The shareholders must therefore decide on their own whether to accept the Offer or not. It is essential for this decision in particular to assess the future development of the company value and also the price of the IMMOFINANZ shares. In order to consider developments that could occur after the issuance of this statement, it could be of advantage for each shareholder to make the decision concerning acceptance or dismissal of the Offer towards the expiry of the Acceptance period (in a timely manner) taking the applicable time-limits into account.

The statement required by the Executive Board in response to the Offer, must contain, in particular, an assessment of whether the consideration offered and the other terms of the Offer take adequate account of the interests of all shareholders. The statement must also include a conclusive recommendation by the Executive Board (sec 14 (1) ATA).

VICTORIAPARTNERS has issued a valuation of IMMOFINANZ on the basis of several financial analyses conducted in a manner considered to be adequate by VICTORIAPARTNERS due to previous practice and experience and performed on similar transactions on the capital market. On that basis VICTORIAPARTNERS has issued a Fairness Opinion on 23 April 2018. In this opinion, VICTORIAPARTNERS concludes that, on the basis of and subject to the aspects mentioned and the assumptions made, the Offer Price of EUR 2.10 (*cum dividend*) per IMMOFINANZ share payed in cash, which the IMMOFINANZ shareholders should receive in the course of the Offer, is inappropriate from a financial point of view at that time.

For the reasons indicated in this statement the Executive Board concludes that the Offer does not take adequate account of the interests of all IMMOFINANZ shareholders. In consideration of the current business activities and prospects for IMMOFINANZ as well as the Fairness Opinion issued by VICTORIAPARTNERS, the Executive Board of IMMOFINANZ has reached the conclusion that the Offer Price of EUR 2.10 (*cum dividend*) per Offer Share is inappropriate. Therefore, the Executive Board recommends that IMMOFINANZ shareholders do not accept the Offer.

Vienna, 26 April 2018

## **The Executive Board of IMMOFINANZ AG**

*Oliver Schumy*

*Stefan Schönauer*

*Dietmar Reindl*

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**NOTE:**

**SHAREHOLDERS OF IMMOFINANZ AG WHOSE CORPORATE SEAT, PLACE OF RESIDENCE, REGISTERED OFFICE OR HABITUAL PLACE OF ABODE IS OUTSIDE THE REPUBLIC OF AUSTRIA SHOULD NOTE THE INFORMATION SET FORTH IN SECTION 8.3 OF THIS OFFER DOCUMENT.**



**VOLUNTARY PUBLIC OFFER (Sections 4 et seq of the Austrian Takeover Act)**

**("Offer")**

By

**SOF-11 Starlight 10 EUR S.à r.l.**

2-4 rue Eugène Ruppert

L-2453, Luxembourg

**("Bidder")**

to the shareholders of

**IMMOFINANZ AG**

Wienerbergstraße 11, 1100 Vienna, Austria

ISIN AT0000809058

**("Target Company")**

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### Summary of the Offer

The following summary contains selected information on this Offer and therefore shall be read only together with the entire offer document.

Bidder	SOF-11 Starlight 10 EUR S.à r.l., a <i>Société à responsabilité limitée</i> incorporated under the laws of the Grand Duchy of Luxembourg, registered with the Luxembourg trade and companies register ( <i>Registre de commerce et des sociétés de Luxembourg</i> ) under number B 220972, and having its registered office at 2-4, rue Eugène Ruppert, L-2453, Luxembourg, Grand Duchy of Luxembourg.	Section 3.1
Target Company	IMMOFINANZ AG (" <b>IMMOFINANZ</b> "), a stock corporation incorporated under Austrian law, with its corporate seat in Vienna and its business address at Wienerbergstraße 11, 1100 Vienna, Austria, and registered with the company register of the Commercial Court ( <i>Handelsgericht</i> ) in Vienna under FN 114425y. The registered share capital ( <i>Grundkapital</i> ) of the Target Company amounts to EUR 1,120,852,699 and is divided into 1,120,852,699 ordinary bearer shares (the " <b>Shares</b> ").	Section 2.2
Offer	Purchase of up to 56,042,635 (fifty-six million forty-two thousand six-hundred and thirty-five) <sup>1</sup> Shares of IMMOFINANZ with a notional interest in the share capital ( <i>Grundkapital</i> ) of EUR 1.00 each (ISIN AT0000809058), which in total corresponds to up to 5% of the Target Company's entire registered capital.	Section 4.1
Offer Price	EUR 2.10 (two euros and ten cents) <sup>2</sup> for each Share in IMMOFINANZ (ISIN AT0000809058) <i>cum</i> dividend for the fiscal year 2017 (and, for the avoidance of doubt, any other dividend declared by the Target Company after the	Section 4.2

<sup>1</sup> Note: On April 13, 2018, IMMOFINANZ AG has published the agenda for its 25<sup>th</sup> annual general meeting on 11 May 2018. The agenda provides for a reverse stock split of 10:1 (the "**RSS**"). In case the shareholders' meeting resolves the RSS and the RSS is completed prior the Settlement (as defined in this Offer), the number of Offer Shares (as defined in this Offer) will be 5,604,264 Shares representing 5% of the new total number of Shares of IMMOFINANZ after the RSS.

<sup>2</sup> Note: In case the RSS is completed prior the Settlement (as defined in this Offer), the Offer Price per Offer Share will be EUR 21 (twenty-one Euro).

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announcement of this Offer). The Offer Price per Share will therefore be reduced by the amount of any dividend declared per Share between the announcement of this Offer and Settlement, provided that Settlement of the Offer occurs after the relevant record date for such dividend.

Top-up	If the Bidder or a Party Acting in Concert with it acquire (on- or off-market) Shares within a period of 9 (nine) months after the expiry of the Acceptance Period, and a higher consideration is paid or negotiated for such acquisition, the Bidder will top-up the Offer Price and pay the difference to all Accepting Shareholder.	
Acceptance Period	18 April 2018 until and including 30 May 2018, 17:00 Central European Time (CET), i.e. 6 (six) weeks. The Bidder reserves the right to extend the Acceptance Period.	Section 6.1
Conditions Precedent	<p>The Offer is subject to the following conditions precedent (for more details see section 5):</p> <p>(i) Merger control non-prohibition or clearance of the transaction by the competent antitrust authority in Germany by the 90th calendar day after the end of the Acceptance Period (i.e. no later than by 28 August (see section 5.1.1).</p> <p>(ii) No material adverse change at IMMOFINANZ has occurred including but not limited to a merger, spin-off or split of IMMOFINANZ (see section 5.1.2).</p>	Section 5
Acceptance of the Offer	The acceptance of the Offer must be declared in writing and addressed to the depository bank of the respective shareholders of the Target Company. The declaration of acceptance will be deemed to have been made in due time if such acceptance is received by the relevant depository bank within the Acceptance Period and both (i) the transfer (i.e. from ISIN AT0000809058 to	Section 6.3

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ISIN AT0000A20E86) has been completed, and (ii) the depository bank has transferred such declaration of acceptance together with the number of acceptances received from its clients and the total number of shares to the Tender and Payment Agent by no later than 17:00 CET on the 2<sup>nd</sup> (second) Trading Day after the expiry of the Acceptance Period.

Oversubscription	In case the total amount of Tendered Shares exceeds the amount of Offer Shares, all duly submitted Declarations of Acceptances will only be considered <i>pro rata</i> to the amount of Offer Shares in accordance with Section 20 of the ATA. If this rule required the Bidder to acquire a fractional number of Shares, the amount is, at the discretion of the Tender and Payment Agent, rounded down to the next integral number.	Section 6.12
Tender and Payment Agent	Raiffeisen Centrobank AG, Tegetthoffstrasse 1, 1010 Vienna, FN 117507f.	Section 6.2

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## **1. Definitions**

Acceptance Period	Has the meaning given to such term in section 6.1.
Accepting Shareholder	Has the meaning given to such term in section 6.3.
ATA	Austrian Takeover Act.
ATC	Austrian Takeover Commission.
Bidder or Starwood BidCo	SOF-11 Starlight 10 EUR S.à r.l., a <i>Société à responsabilité limitée</i> incorporated under the laws of the Grand Duchy of Luxembourg, registered with the Luxembourg trade and companies register ( <i>Registre de commerce et des sociétés de Luxembourg</i> ) under number B 220972, and having its registered office at 2-4, rue Eugène Ruppert, L-2453, Luxembourg, Grand Duchy of Luxembourg.
CA IMMO	CA Immobilien Anlagen Aktiengesellschaft, a stock corporation incorporated under Austrian law, with its corporate seat in Vienna and its business address at Mechelgasse 1, 1030 Vienna, Austria, and registered with the company register of the Commercial Court ( <i>Handelsgericht</i> ) in Vienna under FN 75895k.
CA IMMO Offer	Has the meaning given to such term in section 3.1
IMMOFINANZ or Target Company	IMMOFINANZ AG, a stock corporation incorporated under Austrian law, with its corporate seat in Vienna and its business address at Wienerbergstraße 11, 1100 Vienna, Austria, and registered with the company register of the Commercial Court ( <i>Handelsgericht</i> ) in Vienna under FN 114425y.
Conditions Precedent and Condition Precedent	Has the meaning given to such term in section 5.1.
Convertible Bonds	Has the meaning given to such term in section 2.3.
Declaration of Acceptance	A written declaration of the acceptance of this Offer by shareholders of the Target Company addressed to the financial service provider or financial institution (Depository Bank) with which shareholders of IMMOFINANZ maintain their securities account and with which they have

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deposited their share(s).

Depository Bank	Financial service provider or financial institution with which shareholders of IMMOFINANZ maintain their securities account and with which they have deposited their shares.
Long Stop Date	Has the meaning given to such term in section 5.
Offer Price	Has the meaning given to such term in section 4.2.
Offer Shares	Has the meaning given to such term in section 4.1.
Parties Acting in Concert	Has the meaning given to such term in section 3.2.
Registered Share or Registered Shares	The 4 (four) registered shares issued by CA IMMO that are held by IMMOFINANZ.
RSS	The reverse stock split for IMMOFINANZ Shares of 10:1 to be resolved in the 25 <sup>th</sup> annual general meeting of IMMOFINANZ on May 11, 2018.
Settlement	Has the meaning given to such term in section 6.6.
Shares or Share	The ordinary bearer shares of IMMOFINANZ listed on the Vienna Stock Exchange ( <i>Wiener Börse</i> ) (ISIN AT0000809058) in the "ATX" segment of the Official Market ( <i>amtlicher Handel</i> ) and the Warsaw Stock Exchange, segment "WIG".
SOF-XI	Has the meaning given to such term in section 2.1.
Starwood	Has the meaning given to such term in section 2.1.
Tender and Payment Agent	Raiffeisen Centrobank AG, Tegetthoffstrasse 1, 1010 Vienna, FN 117507f.
Tendered Shares	Has the meaning given to such term in section 6.3.
Trading Day	Any day the Vienna Stock Exchange ( <i>Wiener Börse</i> ) is open for the trading of shares.

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## **2. Background**

### **2.1 Current Situation**

The Bidder is SOF-11 Starlight 10 EUR S.à r.l., a *société à responsabilité limitée* incorporated under the laws of the Grand Duchy of Luxembourg, registered with the Luxembourg trade and companies register (*Registre de commerce et des sociétés de Luxembourg*) under number B 220972, and having its registered office at 2-4, rue Eugène Ruppert, L-2453, Luxembourg, Grand Duchy of Luxembourg.

The Bidder is an indirect, wholly owned subsidiary of SOF-11 International, SCSp. SOF-11 International, SCSp is part of a collection of entities known as Starwood Global Opportunity Fund XI ("**SOF-XI**"), a discretionary fund with total committed capital of approximately USD 7.56 billion. SOF-XI is controlled by affiliates (see 3.1) of Starwood Capital Group ("**Starwood**"), a privately held global alternative investment firm with more than 80 partners. Since Starwood's inception in 1991, it has raised over USD 44 billion in equity capital and managed assets comprising of 7.2 million square meters of office, 5.0 million square meters of retail, 3.7 million square meters of industrial, 50,000 residential lots/homes, 170,000 apartments/condos and 2,900 hotels. Currently Starwood manages approximately USD 56 billion in assets (assets under management).

### **2.2 Target Company**

IMMOFINANZ AG is a stock corporation incorporated under Austrian law, with its corporate seat in Vienna and its business address at Wienerbergstraße 11, 1100 Vienna, Austria, and registered with the company register of the Commercial Court (*Handelsgericht*) in Vienna under FN 114425y. As of 30 March 2018, the registered share capital (*Grundkapital*) of IMMOFINANZ amounts to EUR 1,120,852,699 and is divided into 1,120,852,699 ordinary bearer shares. The Shares are admitted to trading on the official market (*amtlicher Handel*), a regulated market of the Vienna Stock Exchange (*Wiener Börse*) in the ATX segment and on the Warsaw Stock Exchange, segment "WIG" under ISIN AT0000809058.

IMMOFINANZ is a commercial real estate company with its headquarters in Vienna whose activities are focused on the retail and office segments of seven core markets in Europe: Austria, Germany, Czech Republic, Slovakia, Hungary, Romania and Poland. The core business covers the management and development of properties.

### **2.3 Convertible Bond**

To the knowledge of the Bidder, IMMOFINANZ issued convertible bonds (ISIN XS1551932046) convertible into Shares of the Target Company (the "**Convertible Bonds**"). The Convertible Bonds are not subject to this Offer. However, in accordance with the issue terms and conditions of the Convertible Bonds, any conversion shares (i.e. the Shares that are to be delivered to the holders of the Convertible Bonds upon the exercise of conversion rights) are subject to the Offer

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and can therefore be tendered during the Acceptance Period if they are issued sufficiently in advance before the end of the Acceptance Period.

## **2.4 Current Shareholder Structure of the Target Company**

As at the Trading Day immediately preceding the filing of this offer document with the Austrian Takeover Commission, the shareholder structure of the Target Company according to publicly available data and disclosures made pursuant to Section 135 of the Austrian Stock Exchange Act (*Börsegesetz*) is as follows:

<b>Shareholder</b>	<b>Number of Shares</b>	<b>Share Capital in %</b>
S IMMO AG*	133,883,589 Shares (thereof 14,944,894 as financial instrument)	11.94%
Fries-Gruppe**	69,781,813 Shares	6.23%
CA IMMO	54,805,566 Shares	4.89%
Erste Asset Management GmbH***	55,406,117 Shares	4.94%
Free Float	806,975,614 Shares	72.00%
Total	1,120,852,699 Shares	100.00%

\* Announcement dated 27 March 2018

\*\* Pursuant to website of IMMOFINANZ

\*\*\* Announcement dated 21 March 2018

## **3. Description of the Bidder and Parties Acting in Concert**

### **3.1 Description of the Bidder**

The Bidder is *société à responsabilité limitée* incorporated under the laws of the Grand Duchy of Luxembourg, registered with the Luxembourg trade and companies register (*Registre de commerce et des sociétés de Luxembourg*) under number B 220972, and having its registered office at 2-4, rue Eugène Ruppert, L-2453, Luxembourg, Grand Duchy of Luxembourg. The Bidder was established as a special purpose vehicle and is represented by its managers (*gérants*) Julien Petitfrère and François-Pierre Sagbo. The registered share capital of Starwood BidCo amounts to EUR 12,000.00.

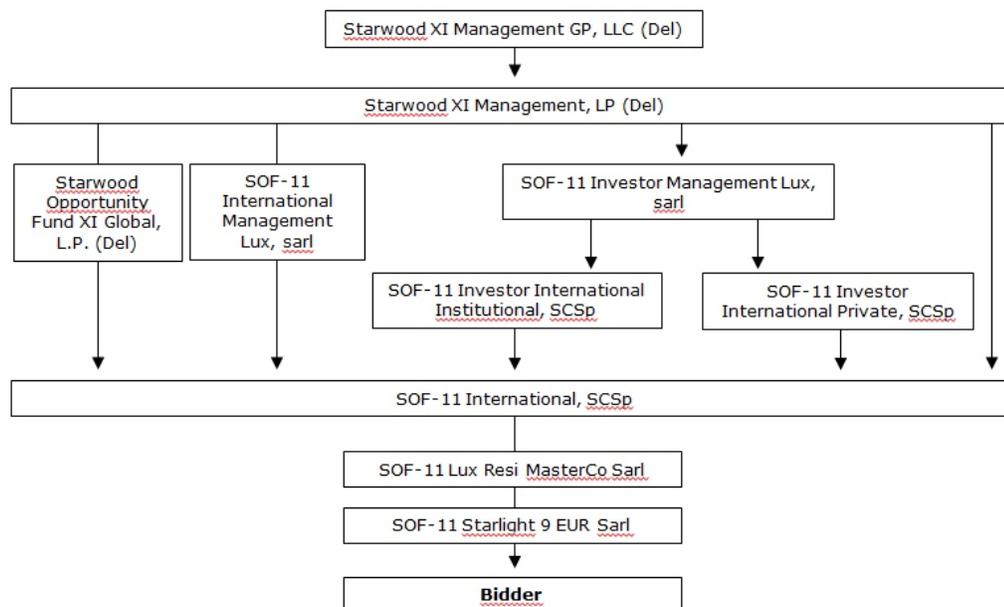
The business purpose of the Bidder includes the holding of participations, in particular the acquisition, establishment, holding and managing of undertakings, shareholdings and financial instruments.

The Bidder currently holds no participation in the Target Company or in any other company. In parallel to this Offer, Starwood BidCo launched a public tender offer for ordinary bearer shares in CA IMMO for up to 26% of the issued share capital ("**CA IMMO Offer**"). This Offer and the CA IMMO Offer are independent from each other.

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For the avoidance of doubt: IMMOFINANZ may tender the ordinary bearer shares it currently holds in CA IMMO into the CA IMMO Offer (see section 5.1.2 (v)).

Structure of the Bidder entity:



### 3.2 Parties Acting in Concert with the Bidder

Pursuant to Section 1 paragraph 6 ATA, Parties Acting in Concert are natural or legal persons who cooperate with the Bidder based on an agreement aimed at acquiring or exercising control over the Target Company, especially by voting in concert. If a party holds a direct or indirect controlling interest (Section 22 paragraph 2 and 3 ATA) in one or more other parties, it is rebuttably presumed that all of these parties are acting in a concerted manner ("**Parties Acting in Concert**"). The Bidder has not entered into any arrangements pursuant to Section 1 no. 6 ATA with any parties.

According to this definition, all entities controlled by the Bidder as well as entities that control the Bidder (see 3.1 above) are deemed to be Parties Acting in Concert with the Bidder. In this context, the Bidder refers to Sec 7 para 12 ATA, pursuant to which information on further Parties Acting in Concert can be omitted, if such entities are not of relevance for the decision to be made by the shareholders.

### 3.3 Shareholding and Voting Rights of the Bidder and the Parties Acting in Concert of the Target Company at the Time of the Publication of this Offer Document

At the time of publication of this offer document, the Bidder does not hold any Shares in the Target Company. Neither the Bidder's management nor any Parties

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Acting in Concert with the Bidder do hold securities in the Target Company.

The Bidder reserves the right to purchase additional Shares in parallel to the Offer whereby the purchase price shall be equal to or lower than the Offer Price. In this context, the Bidder refers to Sec 16 ATA. The Bidder will disclose any purchases of Shares during the Acceptance Period to the Austrian Takeover Commission ("**ATC**"). The number of Offer Shares (as defined below) will not be reduced by possible parallel transaction.

### **3.4 Material Legal Relationships with the Target Company**

At the time of publication of this Offer no personal ties or other material legal relationships exist between the Bidder and the Parties Acting in Concert with the Bidder on the one side and the Target Company and the management of the Target Company on the other side.

## **4. Tender Offer**

### **4.1 Subject of the Offer: Shares of IMMOFINANZ**

This Offer relates to the acquisition of up to 56,042,635 (fifty-six million forty-two thousand six-hundred and thirty-five)<sup>3</sup> Shares of IMMOFINANZ admitted to trading on the Official Market (*amtlicher Handel*) of the Vienna Stock Exchange (*Wiener Börse*) with a secondary listing on the Warsaw Stock Exchange (ISIN AT0000809058; the "**Offer Shares**"), representing up to 5% of the Target Company's entire registered capital at the time at which this offer document was submitted to the ATC (*Übernahmekommission*) for the first time and that are not held by the Bidder, or Parties Acting in Concert with the Bidder. Each Share represents a notional *pro rata* amount of EUR 1.00 of the registered share capital of IMMOFINANZ.

This Offer does not extend to the Convertible Bonds. However, in accordance with the issue terms and conditions of the Convertible Bonds, any conversion shares (i.e. the Shares that are to be delivered to the holders of the Convertible Bonds upon the exercise of conversion rights) are subject of the Offer and can therefore be tendered during the Acceptance Period if they are issued sufficiently in advance before the end of the Acceptance Period.

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<sup>3</sup> Note: On April 13, 2018, IMMOFINANZ AG has published the agenda for its 25<sup>th</sup> annual general meeting on 11 May 2018. The agenda provides for a reverse stock split of 10:1 (the "**RSS**"). In case the shareholders' meeting resolves the RSS and the RSS is completed prior the Settlement (as defined in this Offer), the number of Offer Shares (as defined in this Offer) will be 5,604,264 Shares representing 5% of the new total number of Shares of IMMOFINANZ after the RSS.

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## **4.2 Offer Price**

Under the terms of this Offer, the Bidder offers the holders of Offer Shares to acquire the Offer Shares at a price of EUR 2.10 (two euros and ten cents) per Share ("**Offer Price**").<sup>4</sup>

The Offer Price for the Offer Shares relates to Shares with dividend rights for IMMOFINANZ's fiscal year 2017 (and, for the avoidance of doubt, any other dividend declared by the Target Company after the announcement of this Offer). Accordingly, the Offer Price per Offer Share will be reduced by the amount of any dividend declared per Share between the announcement of this Offer and Settlement, provided that Settlement of the Offer occurs after the relevant record date for such dividend. For example, if the Target Company's shareholder's meeting resolves upon a dividend of EUR 0.07 per Share to be paid to IMMOFINANZ shareholders with the relevant record date being prior to the Settlement, each shareholder that delivers Offer Shares would receive an Offer Price reduced by EUR 0.07, i.e., EUR 2.03 per Offer Share.

## **4.3 Calculation of the Offer Price**

This Offer is a voluntary offer pursuant to Sections 4 et seq of the ATA. Thus, the Bidder may determine the Offer Price at its discretion. The minimum price rules pursuant to section 26 ATA do not apply. Still, the Bidder has analysed the available information on the Target Company and made an assessment based on the Bidders expertise in the sector.

**Top-up:** If the Bidder or a Party Acting in Concert with it acquire (on- or off-market) Shares within a period of 9 (nine) months after the expiry of the Acceptance Period, and a higher consideration is paid or negotiated for such acquisition or offer, the Bidder will top-up the Offer Price and pay the difference to all Accepting Shareholders.

The Bidder states that it has not made any reference transaction prior announcing this Offer. Further, the 6 (six) months volume weighted average price is below the Offer Price. Thus, the ATA minimum price rules, if applicable, would be met by the Bidder.

## **4.4 Offer Price for Offer Shares in Relation to Historic Prices**

On the last Trading Day prior to the announcement of the intention to launch this Offer (21.03.2018), the Shares were listed at a closing price of EUR 2.008 at the Vienna Stock Exchange. The Offer Price thus exceeds this closing price by EUR 0.092, corresponding to a premium of 4.58%.

The following table sets forth the volume weighted average price (VWAP) per

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<sup>4</sup> Note: In case the RSS is completed prior the Settlement (as defined in this Offer), the Offer Price per Offer Share will be EUR 21 (twenty-one Euro).

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Share in EUR for the last 3 (three), 6 (six), 12 (twelve) and 24 (twenty-four) calendar months before the initial announcement date:

	<b>3 months<sup>1)</sup></b>	<b>6 months<sup>2)</sup></b>	<b>12 months<sup>3)</sup></b>	<b>24 months<sup>4)</sup></b>
VWAP	EUR 1.99	EUR 2.05	EUR 2.03	EUR 1.96
Premium (Offer Price minus VWAP)	EUR 0.11/ 5.53%	EUR 0.05/ 2.44%	EUR 0.07/ 3.45 %	EUR 0.14 / 7.14 %

Source: Bloomberg, FactSet, Vienna Stock Exchange as of 22.03.2018.

1) Covered period: 22.12.2017 until 21.03.2018 (incl.)

2) Covered period: 22.09.2017 until 21.03.2018 (incl.)

3) Covered period: 22.03.2017 until 21.03.2018 (incl.)

4) Covered period: 22.03.2016 until 21.03.2018 (incl.)

#### **4.5 Key Financial Indicators and Current Business Development of the Target Company**

Selected financial indicators for the Target Company for the past 3 (three) fiscal years, derived from the consolidated annual financial statements prepared in accordance with IFRS, are presented in EUR below:

<b>Indicator</b>	<b>2014/2015</b>	<b>2015/2016</b>	<b>2016*</b>	<b>2017</b>
IFRS NAV per Share	3.73	2.99	2.75	2.53
EPRA NNAV per Share	3.94	3.32	2.97	2.84
EPRA NAV per Share	4.19	3.39	3.12	2.86
FFO I per Share	0.12	0.04	0.04	0.07
Dividend per Share	0.00	0.06	0.06	0.07*
EBIT in EURm	216	-51.6	37.7	111.6
EPS	-0.35	-0.4	-0.19	-0.51

Source: Bloomberg, Factset as of 22.03.2018.

\* 8 months abbreviated financial year

\*\* IMMOFINANZ announcement dated 29.03.2018

The following table shows the annual highs and annual lows as well as the all-time high and -low of the IMMOFINANZ share price in EUR:

	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
<b>Highest Price</b>	2.88	3.03	2.84	2.17	2.29	2.15
<b>Lowest Price</b>	2.33	2.02	1.99	1.62	1,70	1.88

Source: Bloomberg, Factset as of 22.03.2018.

Further information about IMMOFINANZ is available on the website of the Target

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Company (www.immofinanz.com). Any information on this website is not part of this offer document.

## **5. Conditions Precedent**

### **5.1** This Offer is subject to the following conditions precedent (the "**Conditions Precedent**" and each a "**Condition Precedent**"):

#### 5.1.1 Merger Control Clearance

The transaction has received clearance from the competition authorities in Germany no later than 90 (ninety) calendar days following the end of the Acceptance Period, i.e. no later than by 28 August 2018 (the "**Long Stop Date**"), or the statutory waiting period in Germany has expired by the Long Stop Date, with the result that the transaction may be consummated without the explicit approval of the responsible competition authorities, or the competition authorities in Germany have declared that they are not competent for conducting a review of the transaction.

#### 5.1.2 No Material Adverse Change

None of the following events has occurred until the expiry of the Acceptance Period:

- (i) IMMOFINANZ resolved on or distributed an in-kind dividend;
- (ii) With the exception of Shares issued by IMMOFINANZ to service the claims of holders of the Convertible Bond, the registered share capital of IMMOFINANZ has been increased or the general meeting of IMMOFINANZ nor the IMMOFINANZ management board or the IMMOFINANZ supervisory board has adopted any resolution that, if implemented, would result in an increase in the registered share capital of the Target Company excluding (i) a capital increase from own funds (conversion of profits, retained earnings or reserves into share capital) or (ii) authorization resolutions by the shareholders' meeting pursuant to Sec 159 et seq and 169 et seq Stock Corporation Act (*AktG*);
- (iii) The general meeting of IMMOFINANZ resolved on an amendment to the articles of association that would affect the rights attaching to the IMMOFINANZ Shares or the nature (class) of the Shares;
- (iv) The general meeting of IMMOFINANZ resolved on a liquidation, merger, split or spin-off.

### **5.2** The Bidder will provide notice of the fulfillment or non-fulfillment of the Conditions Precedent without delay in the media to be used for the publication of notices referred to in this Offer Document (see Sec 6.10).

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**5.3** The Bidder reserves the right to waive the fulfilment of any one of more of the Conditions Precedent so that they are deemed to have been fulfilled. The fulfilment of the statutory Condition Precedent set forth in section 5.1.1 concerning merger control clearance cannot be waived. The Offer will become invalid if the Conditions Precedent set forth in 5.1.1 to 5.1.2 have not been fulfilled within the periods specified for the respective conditions precedent, unless the Bidder has waived the fulfilment of the conditions precedent set forth in sections 5.1.2 and the conditions precedent set forth in sections 5.1.1 have been fulfilled.

## **6. Acceptance and Settlement of the Offer**

### **6.1 Acceptance Period**

The period for the acceptance of this Offer is 6 (six) weeks. Thus, the Offer can be accepted between 18 April 2018 until and including 30 May 2018. The Bidder explicitly reserves the right to extend the Acceptance Period. The period specified in this paragraph is referred to as the "**Acceptance Period.**"

### **6.2 Tender and Payment Agent**

The Bidder has appointed Raiffeisen Centrobank AG, with its corporate seat in Vienna, registered under FN 117507f and business address at Tegetthoffstrasse 1, 1010 Vienna to act as tender and payment agent for this Offer.

### **6.3 Acceptance of the Offer**

The Bidder recommends that shareholders of the Target Company willing to accept the Offer make contact with their Depository Bank at least 3 (three) Trading Days prior to the end of the Acceptance Period in order to ensure a timely settlement.

IMMOFINANZ shareholders can only accept this Offer by means of a written declaration of acceptance (the "**Declaration of Acceptance**") submitted to their respective Depository Bank. The Declaration of Acceptance shall specify the number of Shares tendered (the "**Tendered Shares**") by the respective shareholder (the "**Accepting Shareholder**") against this Offer. The Depository Bank will transmit such Declarations of Acceptance of this Offer to the Tender and Payment Agent by specifying the number of client orders placed as well as the overall number of Offer Shares of these Declarations of Acceptance that the Depository Bank has received during the Acceptance Period, and will keep the tendered Offer Shares with ISIN AT0000809058 blocked from the time of receipt of the Declaration of Acceptance of the Offer and registered as "*IMMOFINANZ AG - Zum Verkauf eingereichte Aktien*" with ISIN AT0000A20E86.

The ISIN AT0000A20E86 has been requested from *Oesterreichische Kontrollbank Aktiengesellschaft* for the Offer Shares tendered for sale and registered as *IMMOFINANZ AG - Zum Verkauf eingereichte Aktien.*" Until transfer of ownership of the Tendered Shares, the Tendered Shares specified in the Declaration of

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Acceptance remain (albeit with a different ISIN) blocked in the securities account of the Accepting Shareholder and are not tradable; however, they will be re-booked as *IMMOFINANZ AG - Zum Verkauf eingereichte Aktien.*"

The Declaration of Acceptance for the Offer Shares is deemed to be made in due time if it has been received by the Depository Bank within the Acceptance Period, and if, by 17:00 CET on the 2<sup>nd</sup> (second) Trading Day after the expiry of the Acceptance Period at the latest, (i) the re-booking (i.e. the booking of the tendered Shares into ISIN AT0000A20E86 and the blocking of ISIN AT0000809058) has been effected, and (ii) the Depository Bank has transferred the Declarations of Acceptance to the Tender and Payment Agent by specifying the number of placed client orders as well as the overall number of shares of these Declarations of Acceptance that the Depository Bank has received during the Acceptance Period.

By issuing the Declaration of Acceptance, the Accepting Shareholder authorizes and instructs the Depository Bank and any intermediary depository banks, to continuously inform the Payment and Tender Agent and the Bidder regarding the number of Tendered Shares.

#### **6.4 Legal Consequences of Acceptance**

Upon acceptance of this Offer, a conditional agreement for the sale and purchase of the Tendered Shares shall come into existence between the Accepting Shareholders and the Bidder on the terms and conditions set out in this Offer. This share purchase agreement shall become effective upon fulfillment of the Condition Precedent. If the Conditions Precedent were not fulfilled within the time period set out herein, the conditional agreement for the purchase of the Tendered Shares concluded due to acceptance of the Offer shall not become effective.

#### **6.5 No Sell-out Period**

The Acceptance Period is not extended by the 3 (three) months Sell-out Period (*Nachfrist*) as none of the cases pursuant Section 19 para 3 ATA applies.

#### **6.6 Payment of the Offer Price and Transfer of Ownership ("Settlement")**

The Offer Price will be paid to the Accepting Shareholders no later than ten Trading Days after the Offer becomes unconditionally binding against simultaneous transfer of the Tendered Shares. Assuming the fulfilment of the Conditions Precedent by the end of the original Acceptance Period, Settlement is expected to take place until 14 June 2018. Should the Conditions Precedent pursuant to Section 5 not be fulfilled at the end of the Acceptance Period, the date of Settlement will shift accordingly and Settlement will take place no later than ten trading days after the last Condition Precedent will be fulfilled.

#### **6.7 Settlement Fees / Taxes**

The Bidder shall bear all fees and costs levied by the custodian banks that are

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directly connected with the Settlement of the Offer, but in a maximum amount of EUR 8.00 (eight euro) per deposit. The custodian banks shall thus receive a one-off lump-sum payment in the amount of EUR 8.00 (eight) per deposit to cover all costs, if any, including but not limited to commission and expenses, and are requested to contact the Tender and Payment Agent.

Neither the Bidder nor any Party Acting in Concert with the Bidder assumes any liability towards a shareholder of the Target Company or a third party for any expenses, costs, taxes, stamp duties or other similar levies and taxes in connection with the acceptance and settlement of this Offer in Austria or abroad; these shall be borne by each Shareholder of the Target Company.

Shareholders of the Target Company are advised to seek independent tax advice concerning possible effects due to their individual tax position prior to the acceptance of this Offer.

## **6.8 Representations and Warranties**

Each Accepting Shareholder represents and warrants with respect to its Tendered Shares that as of the time of acceptance of this Offer and on the date of Settlement:

- the Accepting Shareholder has full power and authority to accept this Offer and to perform its obligations hereunder;
- the Settlement of this Offer by the Accepting Shareholder does not and the performance by the Accepting Shareholder of its obligations under this Offer will not conflict with or result in any violation or breach of any of the terms, conditions or provisions the Accepting Shareholder is bound by;
- the Accepting Shareholder is the sole legal and beneficial owner of the Tendered Shares and has good and valid title thereto, free and clear of any encumbrances or other third-party rights; and
- upon Settlement of this Offer, the Bidder will acquire unencumbered title to the Tendered Shares and all rights in connection therewith, including the active and unrestrained voting right and dividend rights (including for a possible dividend for the Financial Year 2017, if the Settlement occurs prior to the relevant dividend record date for such dividend).

## **6.9 Withdrawal Rights in Case of Competing Offers**

If a competing offer were launched during the term of this Offer, pursuant to Section 17 ATA, the shareholders of the Target Company may withdraw their Declarations of Acceptance no later than 4 (four) Trading Days prior to the expiry of the original Acceptance Period (Section 19 para 1 ATA).

The declaration of withdrawal must be made in writing and should be sent to the Tender and Payment Agent.

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Pursuant to section 19 para 1c ATA, the Bidder expressly reserves the right to withdraw from the Offer in the event that another bidder presents a public offer for securities of the Target Company.

#### **6.10 Announcements and Publication of the Result**

The result of this Offer will be published without undue delay after expiry of the Acceptance Period by way of an announcement in the newspaper *Wiener Zeitung*, on the websites of the Target Company ([www.immofinanz.com](http://www.immofinanz.com)) and the ATC (*Übernahmekommission*) ([www.takeover.at](http://www.takeover.at)).

#### **6.11 Equal Treatment**

The Bidder confirms that the Offer Price is the same for all shareholders.

The Bidder and the Parties Acting in Concert with it must not make any legal declarations directed to the acquisition of Shares under conditions that are more favorable than those contained in this Offer until the end of the Acceptance Period, unless the Bidder improves this Offer or the ATC (*Übernahmekommission*) grants an exemption for good cause.

If the Bidder or any Party Acting in Concert with it nonetheless declares that it will acquire Shares at conditions that are more favorable than those contained in this Offer, then these more favorable conditions also apply for all other shareholders of the Target Company even if they have already accepted the Offer.

Any improvement in this Offer shall also apply to all those shareholders who have already accepted the Offer at the time of the improvement, unless they object to such improvement.

If the Bidder or a Party Acting in Concert with it acquire Shares within a period of 9 (nine) months after the expiry of the Acceptance Period, and a higher consideration is paid or negotiated for such acquisition, the Bidder is obliged to pay the difference to all the IMMOFINANZ shareholders who have accepted the Offer pursuant to Section 16 paragraph 7 ATA.

The above does not apply if the Bidder or a Party Acting in Concert with it provide a higher consideration for the Shares of the Target Company in the course of (i) a procedure pursuant to the Austrian Squeeze-Out Act (*Gesellschafter-Ausschlussgesetz*) or (ii) when exercising subscription rights in a capital increase (Sec 16 para 7 ATA).

The occurrence of an additional payment event, will be made public by the Bidder immediately. The Bidder shall settle the additional payment via the Tender and Payment Agent at its own costs within 10 Trading Days of the above publication. If no additional payment event occurs within the nine-months period, the Bidder will submit an appropriate declaration to the Austrian Takeover Commission. The Bidder's expert will review and confirm the declaration.

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## **6.12 Oversubscription of the Offer**

In case the total amount of Tendered Shares exceeds the amount of Offer Shares, all duly submitted Declarations of Acceptances will only be considered *pro rata* to the amount of Offer Shares in accordance with Section 20 of the Act. If this rule requires the Bidder to acquire a fractional number of Shares, the amount is, at the discretion of the Receiving and Payment Agent, rounded down to the next integral number.

For Example: The Offer aims at the acquisition of not more than 56,042,635 Shares. If the Bidder received Declarations of Acceptance for e.g. a total of 70,000,000 Shares, which would equal almost 25% more than the Bidder intends to acquire under this Offer, the sellers of the Shares exceeding 56,042,635 Shares shall not be excluded. Instead, all Declarations of Acceptance will be satisfied *pro rata* to the amount of Offer Shares and rounded down to next integral number. In other words, if one of the sellers had accepted this Offer for 1,100 Shares, only 880 (rounded) Shares, i.e.  $1,100/1.249 = 880.70$ , thus rounded down to 880, would be considered and would be sold and transferred under the Offer.

## **7. Future Participation and Business Policy**

### **7.1 Economic Reasons for the Offer**

Starwood is a private alternative investment firm with a focus on global real estate and has consistently invested in Europe over its history with circa USD 3.8 billion of its equity capital invested to date in the region. Starwood's portfolio of investments in Europe reached a total capitalization of circa USD 8 billion. These investments have been across a range of sectors including office, retail, industrial, leisure and hotels, in asset deals, portfolios, operating businesses and debt.

Starwood has a long track record in investing in and successfully growing public companies with examples including Starwood Property Trust (NYSE: STWD), Starwood Hotels & Resorts Worldwide, Inc. (NYSE: HOT), Equity Residential (NYSE: EQR), Starwood Waypoint Residential Trust (NYSE: SWAY), TRI Pointe Homes (NYSE: TPH), iStar Financial (NYSE: SFI) and Starwood European Real Estate Finance (LSE: SWEF). Further information can be found under <http://starwoodcapital.com/investments/#public-offerings>.

The Offer provides Starwood with an opportunity to invest into the Austrian and CEE retail and office markets by means of a partial tender offer pursuant to Sec 4 et seq ATA.

### **7.2 Future Business Policy / Effects on Employment and Headquarters**

Under the terms of this Offer, the Bidder aims to acquire a minority position in the Target Company. From the Bidder's perspective, a successful Offer will not have any effects on the Target Company's headquarters and workforce (jobs, employment conditions, future of sites).

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Highlighted below are key aspects with regards to our current intentions of the Bidder and Starwood in relation to an investment in and the support of the Target Company:

- Starwood considers becoming a long-term investor in the Target Company;
- Starwood has both the financial capacity and the industry expertise to support the Target Company through the Bidder in realizing its long-term objectives and working together for the benefit of all stakeholders involved;
- Starwood would offer its investment expertise in the industry sector to the Target Company to the extent this is viewed as being favorable by the management of the Target Company and is committed to supporting the current management team through the next phase of growth of the Target Company; and
- Depending on the Offer result, Starwood does not exclude to acquire additional Shares.

The Bidder points out that the statements to be published by the management board and the supervisory board of the Target pursuant to Section 14 ATA will also have to address the probable impact of the Offer on the workforce (jobs, employment conditions, future of sites). Moreover, the Target Company's works council will have the opportunity to issue a statement on the Offer.

### **7.3 Regulatory Framework and Listing**

The Shares of the Target Company are admitted to trading on the Official Market (*Amtlicher Handel*) of the Vienna Stock Exchange (*Wiener Börse*) in the segment "Prime Market" with a secondary listing on the Warsaw Stock Exchange. Legally, a delisting from the Official Market of the Vienna Stock Exchange would be required if the statutory listing requirements according to Section 40 paragraph 1 BörseG 2018 (in particular the minimum statutory free float) are no longer fulfilled. A successful Offer will provide the Bidder with a minority position in the Target Company. Thus, a full acceptance of the Offer shall not result in the Target Company missing its minimum listing requirements for the Vienna Stock Exchange's Official Market, segment Prime Market and the secondary listing on the Warsaw Stock Exchange.

### **7.4 Transparency of the Bidder's Commitments to the Target Company's Representatives**

Neither the Bidder nor any Party Acting in Concert with it have granted or promised financial benefits to the members of the management board or supervisory board of IMMOFINANZ in connection with the implementation of this Offer.

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## **8. Further Information**

### **8.1 Financing of the Offer**

Based on the Offer Price of EUR 2.10 (two euros and fifty cents) per Share, the Bidder's total financing volume for the Offer at full acceptance, without taking into account the expected transaction and settlement costs, amounts to approximately EUR 117.7 million.

The Bidder has the necessary financial means to completely fulfill all terms and obligations under the offer in due time.

### **8.2 Applicable Law and Jurisdiction**

This Offer and its settlement, in particular, the concluded purchase and transfer agreements for shares, as well as any non-contractual claims arising from or in connection with this Offer, are governed exclusively by Austrian law, under exclusion of the provisions governing the internationally applicable law. The courts located in the First District of Vienna (*Innere Stadt*) shall have exclusive jurisdiction, except in case of consumer transactions.

### **8.3 Restriction of Publication**

Other than in compliance with applicable law, the publication, dispatch, distribution, dissemination or making available of (i) this offer document, (ii) a summary of or other description of the conditions contained in this offer document or (iii) other documents connected with the offer outside of the Republic of Austria is not permitted. The bidder does not assume any responsibility for any violation of the above-mentioned provision. In particular, the offer is not being made, directly or indirectly, in the United States, its territories or possessions or any area subject to its jurisdiction, nor may it be accepted in or from the United States. Further, this offer is not being made, directly or indirectly, in Australia or Japan, nor may it be accepted in or from Australia or Japan.

This offer document does not constitute a solicitation or invitation to offer shares in the Target Company in or from any jurisdiction where it is prohibited to make such invitation or solicitation or where it is prohibited to launch an offer by or to certain individuals. The offer will neither be approved by an authority outside the Republic of Austria nor has an application for such an approval been filed.

Shareholders who come into possession of the offer document outside the Republic of Austria and/or who wish to accept the offer outside the Republic of Austria are advised to inform themselves of the relevant applicable legal provisions and to comply with them. The bidder does not assume any responsibility in connection with an acceptance of the Offer or its acceptance outside the Republic of Austria.

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#### **8.4 German Version to Govern**

This offer document was prepared in a German version. The only binding and authoritative document is the German offer document. The English convenience translation of the offer document is not-binding and for convenience only.

#### **8.5 Advisors to the Bidder**

Advisors to the Bidder include:

- UBS Limited, 5 Broadgate, London EC2M 2QS, United Kingdom, as financial advisor to Starwood.
- Schönherr Rechtsanwälte GmbH, Schottenring 19, 1010 Vienna, as the Bidder's Austrian legal advisor and representative and authorized recipient vis à vis the ATC (*Übernahmekommission*).

#### **8.6 Further Information**

For further information regarding the settlement of this Offer, please contact the Tender and Payment Agent, E-Mail [dividends@rcb.at](mailto:dividends@rcb.at), phone: +43 (1) 51520-426 or -423.

Further information can be obtained from the website of the Target Company ([www.immofinanz.com](http://www.immofinanz.com)) and the ATC (*Übernahmekommission*) ([www.takeover.at](http://www.takeover.at)). Any information on these websites is not part of this offer document.

#### **8.7 Information on the Bidder's Expert**

The Bidder has appointed PwC Wirtschaftsprüfung GmbH, Erdbergstrasse 200, 1030 Vienna, Austria, as its expert pursuant to Section 9 of the ATA.

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\_\_\_\_\_, 2018

**SOF-11 Starlight 10 EUR S.à r.l.**

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Julien Petitfrère

Manager and authorised signatory

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## **9. Confirmation by the Expert pursuant to Section 9 ATA**

According to our investigation pursuant to Section 9 ATA, we have come to the conclusion that the Bidder's voluntary public offer pursuant to Sections 4 et seq ATA to the shareholders of IMMOFINANZ AG is complete and complies with all applicable laws, in particular the statements made with respect to the offered consideration, which are in compliance with legal requirements.

The Bidder has the necessary financial means to completely fulfill all terms and obligations under the offer in due time.

Vienna, on \_\_\_\_\_

### **PwC Wirtschaftsprüfung GmbH**

Dr. Christine Catasta  
Auditor

Mag. Miklós Révay



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

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

## Preamble and General Points

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

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

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

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

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

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

## SECTION I

### 1. Scope

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

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

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

## 2. Scope and Execution of Contract

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

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

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

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

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

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

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

## 4. Maintenance of Independence

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

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

## 5. Reporting Requirements

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

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

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

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

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

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

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

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

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

#### 7. Correction of Errors

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

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

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

#### 8. Liability

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

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

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

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

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

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

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

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

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

#### 9. Secrecy, Data Protection

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

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

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

#### 10. Termination

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

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

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

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

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

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

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

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

#### 12. Entitlement to Fee

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

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

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

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

#### 13. Fee

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 14. Other Provisions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 16. Supplementary Provisions for Audits

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### SECTION II 18. Scope

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

#### 19. Scope and Execution of Contract

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

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

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

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

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

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

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

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

#### 21. Termination

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

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

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

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

#### 22. Fee and Entitlement to Fee

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

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

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

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

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

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

#### 23. Other Provisions

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

### SECTION III

#### 24. Scope

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

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

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

#### 25. Scope and Execution of Contract

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

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

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

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

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

#### 27. Termination

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

#### 28. Fee and Entitlement to Fee

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

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

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

#### 29. Other Provisions

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

### SECTION IV

#### 30. Scope

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

#### 31. Supplementary Provisions for Consumer Transactions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### (9) Contracts on Recurring Services

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

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

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

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