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# ***Independent Practitioner's Reasonable Assurance Report***

Heraeus Deutschland GmbH & Co. KG  
Hanau

Reasonable assurance engagement on the LBMA Refiner's Compliance Report for Heraeus Deutschland GmbH & Co. KG for the period 1 January to 31 December 2019

Auftrag: 0.0926474.001





## **Independent Practitioner's Reasonable Assurance Report**

To Heraeus Deutschland GmbH & Co. KG

We have been engaged by Heraeus Deutschland GmbH & Co. KG, Hanau, (the "Refiner") to perform a reasonable assurance engagement on the Refiner's Compliance Report prepared by the Refiner for the business group "Heraeus Deutschland GmbH & Co. KG " (HDE) as defined in Table 5 of the Compliance Report for the period 1 January to 31 December 2019 (the "Refiner's Compliance Report").

### **Management's Responsibility**

The Management of the Refiner is responsible for the preparation and presentation of the Refiner's Compliance Report in accordance with the LBMA Responsible Gold Guidance (version 8) as of 11 December 2018, the LBMA Responsible Silver Guidance (version 1) as of 1 September 2017, as well as the Supplement on Tin, Tantalum and Tungsten of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas as of April 2016 (hereafter the "Guidances").

This responsibility includes establishing appropriate risk management and internal controls from which the reported information is derived. The criteria identified by management as relevant for demonstrating compliance with the Guidance are the activities described in the Refiner's Compliance Report. Furthermore, the responsibility includes designing, implementing and maintaining systems and processes relevant for the preparation of the Refiner's Compliance Report, which is free of material misstatements due to intentional or unintentional errors.

### **Audit Firm's Independence and Quality Control**

We have complied with the German professional provisions regarding independence as well as other ethical requirements.

Our audit firm applies the national legal requirements and professional standards – in particular the Professional Code for German Public Auditors and German Chartered Auditors ("Berufssatzung für Wirtschaftsprüfer und vereidigte Buchprüfer": "BS WP/vBP") as well as the Standard on Quality Control 1 published by the Institut der Wirtschaftsprüfer (Institute of Public Auditors in Germany; IDW): Requirements to quality control for audit firms (IDW Qualitätssicherungsstandard 1: Anforderungen an die Qualitätssicherung in der Wirtschaftsprüferpraxis - IDW QS 1) – and accordingly maintains a comprehensive system of quality control including documented policies and procedures regarding compliance with ethical requirements, professional standards and applicable legal and regulatory requirements.

### **Practitioner's Responsibility**

Our responsibility is to express an opinion on the Refiner's Compliance Report based on our work performed. Within the scope of our engagement we did not perform an audit on external sources of information or expert opinions, referred to in the Refiner's Compliance Report.

We conducted our work in accordance with the International Standard on Assurance Engagements (ISAE) 3000 (Revised): "Assurance Engagements other than Audits or Reviews of Historical Financial Information" published by IAASB and the supplementary guidance set out in the LBMA Responsible Sourcing Programme – Third Party Audit Guidance (version 1) as of 11 December 2018 (the "LBMA Audit Guidance"). This Audit Guidance requires that we plan and perform the assurance engagement to obtain reasonable assurance that the Refiner's Compliance Report, prepared by the Refiner for the business group Heraeus Deutschland GmbH & Co. KG (HDE) for the period 1 January to 31 December 2019, in all material aspects, describes fairly the activities undertaken during the

year to demonstrate compliance, and management's overall conclusion contained therein is in accordance with the requirements of the LBMA Responsible Gold Guidance (version 8) as of 11 December 2018, the LBMA Responsible Silver Guidance (version 1) as of 1 September 2017, as well as the Supplement on Tin, Tantalum and Tungsten of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas as of April 2016.

The procedures selected depend on the practitioner's judgement. This includes the assessment of the risks of material misstatements of the Refiner's Compliance Report with regard to the Guidances. Within the scope of our work we performed amongst others the following procedures:

- Interviews with the compliance officers in charge of the preparation of the Refiner's Compliance Report;
- Interviews with management and employees of departments in charge of recycling, purchasing, material management and trading;
- Inspection of relevant corporate guidelines and documents describing the management systems, due diligence and risk management approach towards a responsible supply chain;
- Review of documentation of requirements on the group-wide processes for collecting, analyzing and aggregating data on the supply chain of gold, silver, tin, tantalum and tungsten;
- Performance of site visits at the Refiner's locations in Hanau (Germany) and Hong Kong (China) as part of the inspection of relevant systems, processes and controls; including process walkthroughs from supplier selection to materials receipt and lot processing;
- Evaluation of the consistency of the statements provided in the Refiner's Compliance Report with the findings obtained during our engagement.

### **Inherent limitations**

Non-financial information, such as that included in the Refiner's Compliance Report, is subject to more inherent limitations than financial information, given the more qualitative characteristics of the subject matter and the methods used for determining such information. The methods used by the Refiner to comply with the Guidances may differ. It is important to read the Refiner's conflict minerals supply chain policy available in the download section on Refiner's website:

<http://herae.us/conflictminerals>

### **Conclusion**

In our opinion and based on our reasonable assurance procedures performed, as described above, the Refiner's Compliance Report, prepared by Heraeus Deutschland GmbH & Co. KG, Hanau, for the business group Heraeus Deutschland GmbH & Co. KG (HDE) for the period 1 January to 31 December 2019, in all material aspects, describes fairly the activities undertaken during the year to demonstrate compliance, and management's overall conclusion contained therein is in accordance with the LBMA Responsible Gold Guidance (version 8) as of December 2018, the LBMA Responsible Silver Guidance (version 1) as of 1 September 2017 as well as the Supplement on Tin, Tantalum and Tungsten of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas as of April 2016.

**Restriction on Use and Distribution**

We issue this report on the basis of the engagement agreed with the Refiner. The audit has been performed for purposes of the Refiner and is solely intended to inform the Refiner about the results of the audit. The report is not intended for any third parties to base any (financial) decision thereon. We do not assume any responsibility towards third parties.

We refer to the fact that the Refiner's Compliance Report subject to our assurance engagement comprises the Annex "List of countries of origin of mined gold and silver" and the treatment of the Refiner. According to the LBMA Responsible Gold Guidance (version 8) as of 11 December 2018 and the LBMA Responsible Silver Guidance (version 1) as of 1 September 2017, this Annex detailing the countries of origin of mined gold and silver has to be submitted to the LBMA Executive only and does not need to be disclosed publicly.

Munich, 18 March 2020

PricewaterhouseCoopers GmbH  
Wirtschaftsprüfungsgesellschaft



Hendrik Fink  
Wirtschaftsprüfer  
(German Public Auditor)



ppa. Axel Faupel



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# *Appendix*





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## General Terms of Engagement:

Allgemeine Auftragsbedingungen für Wirtschaftsprüfer und Wirtschaftsprüfungsgesellschaften  
vom 1. Januar 2017

General Engagement Terms for Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften

[German Public Auditors and Public Audit Firms] as of January 1, 2017



# LBMA Compliance Report 2019 for Heraeus Ltd. - HK

Table 1: Refiner's details	
Refiner's name	<b>Heraeus Ltd. Hong Kong - HDE</b>
Entity and location	Please refer to addendum Table 5 – HDE is creating this Compliance Report also on behalf of the entities and locations listed in this addendum
Reporting year-end	31.12.2019
Date of Report	18-03-2020
Senior Management at HDE responsible for this report:	Andre Kobelt, CEO of HDE: <a href="mailto:andre.kobelt@heraeus.com">andre.kobelt@heraeus.com</a>
<p>A globally leading technology group, Heraeus is headquartered in Hanau, Germany. Founded in 1851, it is a family-owned portfolio company which traces its roots back to a pharmacy opened by the family in 1660. Today, Heraeus combines businesses in the environmental, energy, electronics, health, mobility and industrial applications sectors.</p> <p>In the 2018 financial year, Heraeus generated revenues of €20.3 billion with approximately 15.000 employees in 40 countries. Heraeus is one of the top 10 family-owned companies in Germany and holds a leading position in its global markets. More at: <a href="http://www.heraeus.com">www.heraeus.com</a></p> <p>Heraeus Deutschland GmbH &amp; Co. KG - HDE and it's world-wide subsidies is one of the largest Gold refiners globally. Its Hong Kong based Gold refinery Heraeus Ltd. alone is refining more than 150 tons of Gold annually. Further Heraeus Gold and Silver refiners are in Hanau, Newark and Santa Fee Springs. Argor-Heraeus in Mendrisio, Switzerland is also 100% owned by Heraeus, but publishes its own dedicated LBMA compliance report, which you can find at: <a href="https://www.argor.com/en/responsibility/policy-regulations">https://www.argor.com/en/responsibility/policy-regulations</a></p> <p>This Heraeus Compliance Report covers the selected refining and downstream companies mentioned in the addendum Table 5, that belong to the global business unit "Heraeus Deutschland" (HDE).</p>	

## Heraeus evaluation

Table 2: Summary of activities undertaken to demonstrate compliance	
<b>Step 1: Establish strong company management systems</b>	
<b>Compliance Statement with Requirement:</b> We have fully complied with Step 1: Establish strong management systems.	
<b>1. Has the refiner adopted a company policy regarding due diligence for supply chains of Gold, Silver Tin, Tantalum, and Tungsten?</b>	
<p>The Heraeus group has adopted a company-wide policy binding for all entities (including HDE's refinery and downstream entities) regarding due diligence for the supply chain of conflict minerals including Gold, Tin, Tungsten and Tantalum as well as the other precious metals Silver, Platinum, Palladium, Rhodium, Iridium, Ruthenium and Osmium.</p> <p><b>Comments and Demonstration of Compliance:</b> Already in 2007 we started formalizing our supply chain policy for Precious Metals, which is based on our Code of Conduct and an integral part of our responsibility-conscious management structure.</p> <p>HDE operates strictly in accordance with LBMA's "Responsible Gold Guidance" V8, December 2018 and LBMA'S "Responsible Silver Guidance" V1 September 2017 and the "OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas" – Third edition 2016.</p> <p>We updated our Supply-Chain policy in 2018 to reflect the fact, that besides the traditional conflict minerals Gold, Tin, Tungsten and Tantalum, we also adopted the same company-wide binding procedures for Silver, Platinum, Palladium, Rhodium, Iridium, Ruthenium and Osmium. It can be found on our website in the downloads section: <a href="http://www.herae.us/conflictminerals">www.herae.us/conflictminerals</a>.</p> <p>Besides our Supply-Chain Policy we also updated our Anti-Money laundering guideline as of 1.1.2019 to further strengthens and fine-tune our efforts in that area.</p>	

# LBMA Compliance Report 2019 for Heraeus Ltd. - HK

In addition, we introduced our new “Human Rights policy”, based on the International Labor Organization (ILO) Declaration on Fundamental Principles and Rights at Work and the corresponding fundamental Conventions and the UN Guiding Principles on Business and Human Rights as well as on the above mentioned OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High Risk Areas.

With that policy, Heraeus emphasizes to reasonably ensure that the precious metals in its supply chain originate from legal and ethical sources, that the precious metals are not associated with crimes, armed conflicts or human rights abuses and that they will not be used for money laundering, financing terrorism, tax evasion, fraud or any other crime

## 2. Has the refiner set up an internal management structure to support supply chain due diligence?

Heraeus Precious Metals has set up an internal management structure to support supply chain due diligence.

### Comments and Demonstration of Compliance:

An internal management system has been set up to define the governance, roles and responsibilities, internal audit, communication and senior management review as per the adopted policy. The assigned compliance officer on group level designs, supervises and reviews the overall process and is supported by local compliance officers of all entities included in this report. The compliance officer has a direct reporting line to the executive committee.

## 3. Has the refiner established a strong internal system of due diligence, controls and transparency over the supply chains of Gold, Silver, Tin, Tantalum and Tungsten, including traceability and identification of other supply chain actors?

### Comments and Demonstration of Compliance:

#### Refiner units:

We have a robust ‘lot’ receipts process, and specific documents must be received, and transactional details entered before we process any precious metal-bearing (Gold, Silver, Platinum and Palladium) and other conflict materials, like Tin, Tantalum and Tungsten. Each lot received is accurately registered in our transactional system and ensures complete traceability within our production streams. We carry out specific controls regarding received materials before processing incoming material as outlined in our internal guidelines.

#### Downstream units:

We have a robust ‘lot’ receipts process, and specific documents must be received, and transactional details entered before we process any gold- and silver-bearing and other conflict materials, including Tin, Tantalum and Tungsten, to ensure, that all raw material used for our products are conflict free.

Specific controls regarding received materials are carried out before processing incoming material as outlined in our internal guidelines.

Through regular training of our employees we ensure that our guidelines are followed through; any form of non-conformance is unacceptable and reported to the compliance officer and senior management.

No such escalation was necessary during the reporting period.

## 4. Has the refiner strengthened company engagement with Gold, Silver, Tin, Tantalum and Tungsten supplying counterparties, and where possible, assist Gold, Silver, Tin, Tantalum and Tungsten supplying counterparties in building due diligence capabilities?

### Comments and Demonstration of Compliance:

All new suppliers have to sign the regularly updated version of our “CODE OF CONDUCT MATERIAL QUESTIONNAIRE FOR PM SUPPLIERS OF HERAEUS” before we are entering into a new business relationship. For corporations having made available to us their own responsibility guidelines covering and ensuring comparable compliance, acceptance is based on our risk assessment. However, we encountered that we did not have enough documentation for some customers to justify our rating decisions. So we further sharpened-up our documentation and have addressed that already for the rating of new or existing customers since beginning of 2020.

We are renewing our due diligence checks for all our suppliers every one, two or three years based on the risk assessment we conducted in our Know Your Customer (KYC) workflow and the results are archived in a database.

We conducted several successful on-site audits of new mining partners as well as existing mining partners, which were up for re-audit based on our risk assessment. This is to verify they are in line with the requirements set forth in our supply chain guideline, with special focus on Child labor, Human rights and environmental issues.

# LBMA Compliance Report 2019 for Heraeus Ltd. - HK

In the reporting year, we continued to be actively engaged in various business organizations like EPMF (European Precious Metals Federation, FVEM (Fachvereinigung Edelmetalle) and in addition we organized events for Heraeus' customers to promote awareness and due diligence measurements regarding Gold, Silver, Platin and Palladium as well as Tin, Tantalum, and Tungsten and what Heraeus is doing in this regard. We did also engage in encouraging a binding new EU regulation on conflict minerals through engagement in above mentioned business organizations and strongly opposed the "de-minimis" limit of 100Kg for Gold.

## 5. Has the refiner established a company-wide communication mechanism to promote broad based employee participation and risk identification to management?

### Comments and Demonstration of Compliance:

Besides the possibility to raise compliance violations through internal channels, Heraeus is also offering an external compliance hotline giving employees the opportunity to voice concerns over any compliance violations anonymously and especially with regards to our Precious Metals (Gold, Silver, Platinum and Palladium) and also Tin, Tantalum and Tungsten supply chain or other identified risks regarding conflict minerals. Our external Compliance Hotline can be contacted by e-mail in any language or by telephone in German and English; that information was widely published throughout our organization and is readily available on our company intranet.

However, no concerns were raised by employees in the reporting year 2019 with regards to conflict minerals.

## Step 2: Identify and assess risks in the supply chain

### Compliance Statement with Requirement:

We have fully complied with Step 2: Identify and assess risks in the supply chain.

## 1. Does the refiner have a process to identify risks in the supply chain?

Heraeus has processes in place to identify the risks in the supply chain

### Comments and Demonstration of Compliance:

We identify and assess risks in the supply chain. For every supplier we have established a client database and allocated a risk profile according to our risk profile criteria. This process is a formal requirement before entering any business relationship with any Precious Metals counterparty, including but not limited to Gold, Silver, Platinum and Palladium as well as Tin, Tungsten and Tantalum supplying counterparties. Our due diligence process is carried out on a risk-based approach and follows our requirements as outlined in our "Code of Conduct for Precious Metal Suppliers of Heraeus".

We do model our KYC process by using flow charts – separated for Precious Metals (Gold, Silver, Platinum and Palladium) and 3T. We review and refine these models on a regular base and as deemed necessary. These process models help us to clearly structure and identify possible risks in our supply chain and are also ideal training tools for our customer service teams.

Besides monitoring government regulations and reports from United Nations, we further formalized this step and use a list of web links from NGO's and other international organizations we are regularly monitoring and if necessary, expanding – at least quarterly.

We use indices like "Conflict Barometer 2018" from Heidelberg Institute for International Conflict Research, "Basel AML Index 2019" from Basel Institute of Governance, "FREEDOM IN THE WORLD 2019" from Freedom House and the "Corruption Perception Index 2018" from Transparency International to develop our own extensive list of high-risk countries. Any business partners from those countries would need to undergo enhanced due diligence measures and require 4-eye approval.

The results of that screening are evaluated and help us further strengthening our risk identifying steps and are included in our general Risk Management System and therefore regularly reviewed.

## 2. Does the refiner assess risks in light of the standards of their due diligence system?

Heraeus assesses the risk in light of the standards of our due diligence system

### Comments and Demonstration of Compliance:

#### Refiner units:

Supply chain due diligence comprising all measures required by the LBMA is performed before entering into a business relationship with any Gold and Silver supplying counterparts and by the OECD Guideline for Tin, Tantalum and Tungsten supplying counterparts. We performed enhanced due diligence for higher risk categories, which includes all precious metal-bearing mining material and where Gold, Silver, Palladium and Platinum potentially originates from or transits via conflict affected areas and areas with human rights abuse, child labor or other high-

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risk factors. In addition, we conduct appropriate scrutiny and monitoring of transactions undertaken through the course of the relationship following a risk-based approach.

**Downstream units:**

For supply of Gold, Silver, Tin, Tungsten and Tantalum, we restrict our supply to those listed by LBMA and RMI (“Responsible Minerals Initiative” – RMI - formerly known as EICC; <http://www.responsiblemineralsinitiative.org/>) as being conflict free smelters.

Our global procurement team requests all our 3T suppliers to use only certified “conflict-free” smelters in the terms of RMI.

In case our due diligence assessment leaves any doubts, we request additional documentations from our partners by using the “pushback” functionality of our KYC system. We might suspend our business relationship with existing partners or refuse to open a relationship with new partners. To enforce our supply chain policy in the reporting year, we refused to enter into new business relationships with a notable number of potential partners, especially in the case of precious metals supply for various reasons.

In addition, a few 3T smelters & suppliers were blocked as well and we stopped sourcing material from them.

**3. Does the refiner report risk assessment to the designated manager?**

**Comments and Demonstration of Compliance:**

The compliance officers and their teams assess the potential risks in-line with Heraeus internal guidelines as well as the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas as set out in the Annex II. If high risks are identified with new or existing business partners, the Compliance Officer will deny acceptance of new business partner or cancel business with existing partners.

Only if the business disagrees with the assessment of the compliance officer, the issue will be escalated to the CEO or CFO for final decision; no such escalation was necessary during the reporting period.

Our company policy introduced in November 2018 strengthened and clarified the mandate of the compliance officer with a clearly defined “RAPID” model, also with regards to the responsibility for the supply chain of Gold, Silver, Platinum, Palladium, Tin, Tungsten and Tantalum.

(In the RAPID-model „R“ stands for „Recommend“, „A“ for „Agree“, „P“ for „Perform“, „I“ for „Input and „D“ for „Decide“).

**Step 3: Design and implement a management system to respond to identified risks**

**Compliance Statement with Requirement:**

We have fully complied with Step 3: Design and implement a management system to respond to identified risks.

**1. Has the refiner devised a strategy for risk management of an identified risk by either (i) mitigation of the risk while continuing to trade; (ii) mitigation of the risk while suspending trade or (iii) disengagement from the risk**

Heraeus has devised a strategy for risk management of an identified risk by either (i) mitigation of the risk while continuing to trade; (ii) mitigation of the risk while suspending trade or (iii) disengagement from the risk.

**Comments and Demonstration of Compliance:**

Heraeus has set-up an automated and ongoing screening of all business partners for identifying risks in the supply chain. In addition and based on the risk assessment a regular re-assessment of all business partners and transactions is established. In addition, the compliance officer will carefully assess any ad-hoc identified risk brought up by any stakeholder and will decide on necessary actions.

For technical reasons we had to move our KYC screening software to a new platform. During that transformation in late 2019 we discovered a few shortcomings in the old as well as in the new platform. Due to rigorous testing we were able to quickly address these issues.

Based on our risk management we had to reject again a notable number of potential partners and to stop dealing with existing ones, especially in the case of our Gold, Silver, Platinum and Palladium supply chain.

**2. Where a management strategy of risk mitigation is undertaken, it should include measurable steps to be taken and achieved, monitoring of performance, periodic reassessment of risk, and regular reporting to designated senior management.**

**Comments and Demonstration of Compliance:**

# LBMA Compliance Report 2019 for Heraeus Ltd. - HK

<p>Corresponding procedures are in place and are applied accordingly. In case our risk assessment identifies medium or high risks, we actively approach our suppliers to receive further information like proof of origin. If we cannot mitigate our risk assessment to at least medium risk level, we will terminate our supply agreement.</p>
<p><b>Step 4: Arrange for an independent third-party audit of the supply chain due diligence</b></p>
<p><b>Compliance Statement with Requirement:</b> We have fully complied with Step 4: Arrange for an independent third-party audit of the supply chain due diligence.</p>
<p><b>Comments and Demonstration of Compliance:</b> In 2018 Heraeus passed successfully the LBMA “reasonable assurance” audit without findings of non-compliance for Gold and Silver. For the reporting period 2019 and the fact that the LPPM started its “Responsible Platinum/Palladium Guidance”, we did engage PwC as our assurance provider again for a “reasonable assurance” audit not only for Palladium and Platinum, but also for Gold and Silver again to stay with all 4 metals in sync for future LBMA and LPPM audits. Our reports can be viewed in the download section here: <a href="http://www.herae.us/conflictminerals">www.herae.us/conflictminerals</a></p>
<p><b>Step 5: Report on supply chain due diligence</b></p>
<p><b>Compliance Statement with Requirement:</b> We have fully complied with Step 5: Report on supply chain due diligence.</p>
<p><b>Comments</b> Further information and details of how Heraeus’ systems, procedures, processes and controls have been implemented to align to the specific requirements in LBMA’s “Responsible Gold Guidance” V8, December 2018 and LBMA’S “Responsible Silver Guidance” V1 September 2017 as well as the “OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High Risk Areas” – Third edition November 2016 has been set out in our updated supply chain policy which is available on our company website’s download sections: <a href="http://www.herae.us/conflictminerals">www.herae.us/conflictminerals</a></p>

## Heraeus overall conclusion

Table 3: Management conclusion	
<p><b>Is the refiner in compliance with the requirements of the LBMA Responsible Gold and Silver Guidance, and the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas for the reporting period? ben</b></p>	
<p><b>YES</b></p>	<p>In conclusion, Heraeus implemented effective management systems, procedures, processes and practices to conform to the requirements of the LBMA Responsible Gold and Silver Guidance as well as the “OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High Risk Areas” – Third edition 2016 - as explained above in Table 2, for the reporting year ending 31<sup>st</sup> of December 2019.</p> <p>Within the reporting period, we had to re-program our KYC software tool in order to move it onto another IT platform. During extensive testing we encountered that the reminder function for re-rating existing customers behaved erratically and some customers were re-rated later than planned. However new customer KYC checks and their rating was not affected.</p> <p>These findings identified during the audit have been timely addressed through corrective action plans and have been reviewed and approved by the auditors.</p> <p>Heraeus is committed to continuous improvement and that is monitored internally on a regular basis.</p>

# LBMA Compliance Report 2019 for Heraeus Ltd. - HK

## Other details

**Table 4: Other report comments**

If readers of this report wish to provide any feedback to Heraeus please contact the HDE compliance officer at: [juergen.mueller@heraeus.com](mailto:juergen.mueller@heraeus.com).

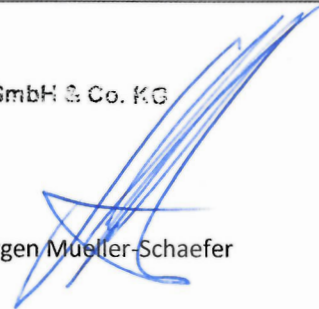
## Addendum

**Table 5: Relevant for the audit are the following Heraeus companies:**

Business Group:	Value Chain Step	Locations:
<b>Heraeus Deutschland - HDE</b>		
<b>Heraeus Ltd.</b>	<b>Refiner</b> (LBMA GD Status)	Hong Kong; People's Republic of China

**Heraeus**

Heraeus Deutschland GmbH & Co. KG  
 Global Business Unit  
 Heraeus Precious Metals  
 Heraeusstr. 12-14  
 63450 Hanau, Germany



Hanau, March 18. 2020

i.V. Dr. Juergen Mueller-Schaefer

**Note:**

Annex on Page 7 is listing the countries of origin of gold and silver (both mined and recycled), and amount received from each country, for the assessment period as requested by the LBMA Responsible Gold Guidance V8, updated Dec 2018 and the LBMA Responsible Silver Guidance V1, from Sept 2017.

This information is only communicated to LBMA and will not be disclosed to the public.



# Allgemeine Auftragsbedingungen

## für Wirtschaftsprüfer und Wirtschaftsprüfungsgesellschaften vom 1. Januar 2017

### 1. Geltungsbereich

(1) Die Auftragsbedingungen gelten für Verträge zwischen Wirtschaftsprüfern oder Wirtschaftsprüfungsgesellschaften (im Nachstehenden zusammenfassend „Wirtschaftsprüfer“ genannt) und ihren Auftraggebern über Prüfungen, Steuerberatung, Beratungen in wirtschaftlichen Angelegenheiten und sonstige Aufträge, soweit nicht etwas anderes ausdrücklich schriftlich vereinbart oder gesetzlich zwingend vorgeschrieben ist.

(2) Dritte können nur dann Ansprüche aus dem Vertrag zwischen Wirtschaftsprüfer und Auftraggeber herleiten, wenn dies ausdrücklich vereinbart ist oder sich aus zwingenden gesetzlichen Regelungen ergibt. Im Hinblick auf solche Ansprüche gelten diese Auftragsbedingungen auch diesen Dritten gegenüber.

### 2. Umfang und Ausführung des Auftrags

(1) Gegenstand des Auftrags ist die vereinbarte Leistung, nicht ein bestimmter wirtschaftlicher Erfolg. Der Auftrag wird nach den Grundsätzen ordnungsmäßiger Berufsausübung ausgeführt. Der Wirtschaftsprüfer übernimmt im Zusammenhang mit seinen Leistungen keine Aufgaben der Geschäftsführung. Der Wirtschaftsprüfer ist für die Nutzung oder Umsetzung der Ergebnisse seiner Leistungen nicht verantwortlich. Der Wirtschaftsprüfer ist berechtigt, sich zur Durchführung des Auftrags sachverständiger Personen zu bedienen.

(2) Die Berücksichtigung ausländischen Rechts bedarf – außer bei betriebswirtschaftlichen Prüfungen – der ausdrücklichen schriftlichen Vereinbarung.

(3) Ändert sich die Sach- oder Rechtslage nach Abgabe der abschließenden beruflichen Äußerung, so ist der Wirtschaftsprüfer nicht verpflichtet, den Auftraggeber auf Änderungen oder sich daraus ergebende Folgerungen hinzuweisen.

### 3. Mitwirkungspflichten des Auftraggebers

(1) Der Auftraggeber hat dafür zu sorgen, dass dem Wirtschaftsprüfer alle für die Ausführung des Auftrags notwendigen Unterlagen und weiteren Informationen rechtzeitig übermittelt werden und ihm von allen Vorgängen und Umständen Kenntnis gegeben wird, die für die Ausführung des Auftrags von Bedeutung sein können. Dies gilt auch für die Unterlagen und weiteren Informationen, Vorgänge und Umstände, die erst während der Tätigkeit des Wirtschaftsprüfers bekannt werden. Der Auftraggeber wird dem Wirtschaftsprüfer geeignete Auskunftspersonen benennen.

(2) Auf Verlangen des Wirtschaftsprüfers hat der Auftraggeber die Vollständigkeit der vorgelegten Unterlagen und der weiteren Informationen sowie der gegebenen Auskünfte und Erklärungen in einer vom Wirtschaftsprüfer formulierten schriftlichen Erklärung zu bestätigen.

### 4. Sicherung der Unabhängigkeit

(1) Der Auftraggeber hat alles zu unterlassen, was die Unabhängigkeit der Mitarbeiter des Wirtschaftsprüfers gefährdet. Dies gilt für die Dauer des Auftragsverhältnisses insbesondere für Angebote auf Anstellung oder Übernahme von Organfunktionen und für Angebote, Aufträge auf eigene Rechnung zu übernehmen.

(2) Sollte die Durchführung des Auftrags die Unabhängigkeit des Wirtschaftsprüfers, die der mit ihm verbundenen Unternehmen, seiner Netzwerkunternehmen oder solcher mit ihm assoziierten Unternehmen, auf die die Unabhängigkeitsvorschriften in gleicher Weise Anwendung finden wie auf den Wirtschaftsprüfer, in anderen Auftragsverhältnissen beeinträchtigen, ist der Wirtschaftsprüfer zur außerordentlichen Kündigung des Auftrags berechtigt.

### 5. Berichterstattung und mündliche Auskünfte

Soweit der Wirtschaftsprüfer Ergebnisse im Rahmen der Bearbeitung des Auftrags schriftlich darzustellen hat, ist alleine diese schriftliche Darstellung maßgebend. Entwürfe schriftlicher Darstellungen sind unverbindlich. Sofern nicht anders vereinbart, sind mündliche Erklärungen und Auskünfte des Wirtschaftsprüfers nur dann verbindlich, wenn sie schriftlich bestätigt werden. Erklärungen und Auskünfte des Wirtschaftsprüfers außerhalb des erteilten Auftrags sind stets unverbindlich.

### 6. Weitergabe einer beruflichen Äußerung des Wirtschaftsprüfers

(1) Die Weitergabe beruflicher Äußerungen des Wirtschaftsprüfers (Arbeitsergebnisse oder Auszüge von Arbeitsergebnissen – sei es im Entwurf oder in der Endfassung) oder die Information über das Tätigwerden des Wirtschaftsprüfers für den Auftraggeber an einen Dritten bedarf der schriftlichen Zustimmung des Wirtschaftsprüfers, es sei denn, der Auftraggeber ist zur Weitergabe oder Information aufgrund eines Gesetzes oder einer behördlichen Anordnung verpflichtet.

(2) Die Verwendung beruflicher Äußerungen des Wirtschaftsprüfers und die Information über das Tätigwerden des Wirtschaftsprüfers für den Auftraggeber zu Werbezwecken durch den Auftraggeber sind unzulässig.

### 7. Mängelbeseitigung

(1) Bei etwaigen Mängeln hat der Auftraggeber Anspruch auf Nacherfüllung durch den Wirtschaftsprüfer. Nur bei Fehlschlagen, Unterlassen bzw. unrechtmäßiger Verweigerung, Unzumutbarkeit oder Unmöglichkeit der Nacherfüllung kann er die Vergütung mindern oder vom Vertrag zurücktreten; ist der Auftrag nicht von einem Verbraucher erteilt worden, so kann der Auftraggeber wegen eines Mangels nur dann vom Vertrag zurücktreten, wenn die erbrachte Leistung wegen Fehlschlagens, Unterlassung, Unzumutbarkeit oder Unmöglichkeit der Nacherfüllung für ihn ohne Interesse ist. Soweit darüber hinaus Schadensersatzansprüche bestehen, gilt Nr. 9.

(2) Der Anspruch auf Beseitigung von Mängeln muss vom Auftraggeber unverzüglich in Textform geltend gemacht werden. Ansprüche nach Abs. 1, die nicht auf einer vorsätzlichen Handlung beruhen, verjähren nach Ablauf eines Jahres ab dem gesetzlichen Verjährungsbeginn.

(3) Offenbare Unrichtigkeiten, wie z.B. Schreibfehler, Rechenfehler und formelle Mängel, die in einer beruflichen Äußerung (Bericht, Gutachten und dgl.) des Wirtschaftsprüfers enthalten sind, können jederzeit vom Wirtschaftsprüfer auch Dritten gegenüber berichtet werden. Unrichtigkeiten, die geeignet sind, in der beruflichen Äußerung des Wirtschaftsprüfers enthaltene Ergebnisse infrage zu stellen, berechtigen diesen, die Äußerung auch Dritten gegenüber zurückzunehmen. In den vorgenannten Fällen ist der Auftraggeber vom Wirtschaftsprüfer tunlichst vorher zu hören.

### 8. Schweigepflicht gegenüber Dritten, Datenschutz

(1) Der Wirtschaftsprüfer ist nach Maßgabe der Gesetze (§ 323 Abs. 1 HGB, § 43 WPO, § 203 StGB) verpflichtet, über Tatsachen und Umstände, die ihm bei seiner Berufstätigkeit anvertraut oder bekannt werden, Stillschweigen zu bewahren, es sei denn, dass der Auftraggeber ihn von dieser Schweigepflicht entbindet.

(2) Der Wirtschaftsprüfer wird bei der Verarbeitung von personenbezogenen Daten die nationalen und europarechtlichen Regelungen zum Datenschutz beachten.

### 9. Haftung

(1) Für gesetzlich vorgeschriebene Leistungen des Wirtschaftsprüfers, insbesondere Prüfungen, gelten die jeweils anzuwendenden gesetzlichen Haftungsbeschränkungen, insbesondere die Haftungsbeschränkung des § 323 Abs. 2 HGB.

(2) Sofern weder eine gesetzliche Haftungsbeschränkung Anwendung findet noch eine einzelvertragliche Haftungsbeschränkung besteht, ist die Haftung des Wirtschaftsprüfers für Schadensersatzansprüche jeder Art, mit Ausnahme von Schäden aus der Verletzung von Leben, Körper und Gesundheit, sowie von Schäden, die eine Ersatzpflicht des Herstellers nach § 1 ProdHaftG begründen, bei einem fahrlässig verursachten einzelnen Schadensfall gemäß § 54a Abs. 1 Nr. 2 WPO auf 4 Mio. € beschränkt.

(3) Einreden und Einwendungen aus dem Vertragsverhältnis mit dem Auftraggeber stehen dem Wirtschaftsprüfer auch gegenüber Dritten zu.

(4) Leiten mehrere Anspruchsteller aus dem mit dem Wirtschaftsprüfer bestehenden Vertragsverhältnis Ansprüche aus einer fahrlässigen Pflichtverletzung des Wirtschaftsprüfers her, gilt der in Abs. 2 genannte Höchstbetrag für die betreffenden Ansprüche aller Anspruchsteller insgesamt.

(5) Ein einzelner Schadensfall im Sinne von Abs. 2 ist auch bezüglich eines aus mehreren Pflichtverletzungen stammenden einheitlichen Schadens gegeben. Der einzelne Schadensfall umfasst sämtliche Folgen einer Pflichtverletzung ohne Rücksicht darauf, ob Schäden in einem oder in mehreren aufeinanderfolgenden Jahren entstanden sind. Dabei gilt mehrfaches auf gleicher oder gleichartiger Fehlerquelle beruhendes Tun oder Unterlassen als einheitliche Pflichtverletzung, wenn die betreffenden Angelegenheiten miteinander in rechtllichem oder wirtschaftlichem Zusammenhang stehen. In diesem Fall kann der Wirtschaftsprüfer nur bis zur Höhe von 5 Mio. € in Anspruch genommen werden. Die Begrenzung auf das Fünffache der Mindestversicherungssumme gilt nicht bei gesetzlich vorgeschriebenen Pflichtprüfungen.

(6) Ein Schadensersatzanspruch erlischt, wenn nicht innerhalb von sechs Monaten nach der schriftlichen Ablehnung der Ersatzleistung Klage erhoben wird und der Auftraggeber auf diese Folge hingewiesen wurde. Dies gilt nicht für Schadensersatzansprüche, die auf vorsätzliches Verhalten zurückzuführen sind, sowie bei einer schuldhaften Verletzung von Leben, Körper oder Gesundheit sowie bei Schäden, die eine Ersatzpflicht des Herstellers nach § 1 ProdHaftG begründen. Das Recht, die Einrede der Verjährung geltend zu machen, bleibt unberührt.

## 10. Ergänzende Bestimmungen für Prüfungsaufträge

(1) Ändert der Auftraggeber nachträglich den durch den Wirtschaftsprüfer geprüften und mit einem Bestätigungsvermerk versehenen Abschluss oder Lagebericht, darf er diesen Bestätigungsvermerk nicht weiterverwenden.

Hat der Wirtschaftsprüfer einen Bestätigungsvermerk nicht erteilt, so ist ein Hinweis auf die durch den Wirtschaftsprüfer durchgeführte Prüfung im Lagebericht oder an anderer für die Öffentlichkeit bestimmter Stelle nur mit schriftlicher Einwilligung des Wirtschaftsprüfers und mit dem von ihm genehmigten Wortlaut zulässig.

(2) Widerruft der Wirtschaftsprüfer den Bestätigungsvermerk, so darf der Bestätigungsvermerk nicht weiterverwendet werden. Hat der Auftraggeber den Bestätigungsvermerk bereits verwendet, so hat er auf Verlangen des Wirtschaftsprüfers den Widerruf bekanntzugeben.

(3) Der Auftraggeber hat Anspruch auf fünf Berichtsausfertigungen. Weitere Ausfertigungen werden besonders in Rechnung gestellt.

## 11. Ergänzende Bestimmungen für Hilfeleistung in Steuersachen

(1) Der Wirtschaftsprüfer ist berechtigt, sowohl bei der Beratung in steuerlichen Einzelfragen als auch im Falle der Dauerberatung die vom Auftraggeber genannten Tatsachen, insbesondere Zahlenangaben, als richtig und vollständig zugrunde zu legen; dies gilt auch für Buchführungsaufträge. Er hat jedoch den Auftraggeber auf von ihm festgestellte Unrichtigkeiten hinzuweisen.

(2) Der Steuerberatungsauftrag umfasst nicht die zur Wahrung von Fristen erforderlichen Handlungen, es sei denn, dass der Wirtschaftsprüfer hierzu ausdrücklich den Auftrag übernommen hat. In diesem Fall hat der Auftraggeber dem Wirtschaftsprüfer alle für die Wahrung von Fristen wesentlichen Unterlagen, insbesondere Steuerbescheide, so rechtzeitig vorzulegen, dass dem Wirtschaftsprüfer eine angemessene Bearbeitungszeit zur Verfügung steht.

(3) Mangels einer anderweitigen schriftlichen Vereinbarung umfasst die laufende Steuerberatung folgende, in die Vertragsdauer fallenden Tätigkeiten:

- a) Ausarbeitung der Jahressteuererklärungen für die Einkommensteuer, Körperschaftsteuer und Gewerbesteuer sowie der Vermögensteuererklärungen, und zwar auf Grund der vom Auftraggeber vorzulegenden Jahresabschlüsse und sonstiger für die Besteuerung erforderlicher Aufstellungen und Nachweise
- b) Nachprüfung von Steuerbescheiden zu den unter a) genannten Steuern
- c) Verhandlungen mit den Finanzbehörden im Zusammenhang mit den unter a) und b) genannten Erklärungen und Bescheiden
- d) Mitwirkung bei Betriebsprüfungen und Auswertung der Ergebnisse von Betriebsprüfungen hinsichtlich der unter a) genannten Steuern
- e) Mitwirkung in Einspruchs- und Beschwerdeverfahren hinsichtlich der unter a) genannten Steuern.

Der Wirtschaftsprüfer berücksichtigt bei den vorgenannten Aufgaben die wesentliche veröffentlichte Rechtsprechung und Verwaltungsauffassung.

(4) Erhält der Wirtschaftsprüfer für die laufende Steuerberatung ein Pauschalhonorar, so sind mangels anderweitiger schriftlicher Vereinbarungen die unter Abs. 3 Buchst. d) und e) genannten Tätigkeiten gesondert zu honorieren.

(5) Sofern der Wirtschaftsprüfer auch Steuerberater ist und die Steuerberatervergütungsverordnung für die Bemessung der Vergütung anzuwenden ist, kann eine höhere oder niedrigere als die gesetzliche Vergütung in Textform vereinbart werden.

(6) Die Bearbeitung besonderer Einzelfragen der Einkommensteuer, Körperschaftsteuer, Gewerbesteuer, Einheitsbewertung und Vermögensteuer sowie aller Fragen der Umsatzsteuer, Lohnsteuer, sonstigen Steuern und Abgaben erfolgt auf Grund eines besonderen Auftrags. Dies gilt auch für

- a) die Bearbeitung einmalig anfallender Steuerangelegenheiten, z.B. auf dem Gebiet der Erbschaftsteuer, Kapitalverkehrsteuer, Grunderwerbsteuer,
- b) die Mitwirkung und Vertretung in Verfahren vor den Gerichten der Finanz- und der Verwaltungsgerichtsbarkeit sowie in Steuerstrafsachen,
- c) die beratende und gutachtliche Tätigkeit im Zusammenhang mit Umwandlungen, Kapitalerhöhung und -herabsetzung, Sanierung, Eintritt und Ausscheiden eines Gesellschafters, Betriebsveräußerung, Liquidation und dergleichen und
- d) die Unterstützung bei der Erfüllung von Anzeige- und Dokumentationspflichten.

(7) Soweit auch die Ausarbeitung der Umsatzsteuerjahreserklärung als zusätzliche Tätigkeit übernommen wird, gehört dazu nicht die Überprüfung etwaiger besonderer buchmäßiger Voraussetzungen sowie die Frage, ob alle in Betracht kommenden umsatzsteuerrechtlichen Vergünstigungen wahrgenommen worden sind. Eine Gewähr für die vollständige Erfassung der Unterlagen zur Geltendmachung des Vorsteuerabzugs wird nicht übernommen.

## 12. Elektronische Kommunikation

Die Kommunikation zwischen dem Wirtschaftsprüfer und dem Auftraggeber kann auch per E-Mail erfolgen. Soweit der Auftraggeber eine Kommunikation per E-Mail nicht wünscht oder besondere Sicherheitsanforderungen stellt, wie etwa die Verschlüsselung von E-Mails, wird der Auftraggeber den Wirtschaftsprüfer entsprechend in Textform informieren.

## 13. Vergütung

(1) Der Wirtschaftsprüfer hat neben seiner Gebühren- oder Honorarforderung Anspruch auf Erstattung seiner Auslagen; die Umsatzsteuer wird zusätzlich berechnet. Er kann angemessene Vorschüsse auf Vergütung und Auslagenersatz verlangen und die Auslieferung seiner Leistung von der vollen Befriedigung seiner Ansprüche abhängig machen. Mehrere Auftraggeber haften als Gesamtschuldner.

(2) Ist der Auftraggeber kein Verbraucher, so ist eine Aufrechnung gegen Forderungen des Wirtschaftsprüfers auf Vergütung und Auslagenersatz nur mit unbestrittenen oder rechtskräftig festgestellten Forderungen zulässig.

## 14. Streitschlichtungen

Der Wirtschaftsprüfer ist nicht bereit, an Streitbeilegungsverfahren vor einer Verbraucherschlichtungsstelle im Sinne des § 2 des Verbraucherstreitbeilegungsgesetzes teilzunehmen.

## 15. Anzuwendendes Recht

Für den Auftrag, seine Durchführung und die sich hieraus ergebenden Ansprüche gilt nur deutsches Recht.

# General Engagement Terms

for

## Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften

[German Public Auditors and Public Audit Firms]  
as of January 1, 2017

### 1. Scope of application

(1) These engagement terms apply to contracts between German Public Auditors (*Wirtschaftsprüfer*) or German Public Audit Firms (*Wirtschaftsprüfungsgesellschaften*) – hereinafter collectively referred to as "German Public Auditors" – and their engaging parties for assurance services, tax advisory services, advice on business matters and other engagements except as otherwise agreed in writing or prescribed by a mandatory rule.

(2) Third parties may derive claims from contracts between German Public Auditors and engaging parties only when this is expressly agreed or results from mandatory rules prescribed by law. In relation to such claims, these engagement terms also apply to these third parties.

### 2. Scope and execution of the engagement

(1) Object of the engagement is the agreed service – not a particular economic result. The engagement will be performed in accordance with the German Principles of Proper Professional Conduct (*Grundsätze ordnungsmäßiger Berufsausübung*). The German Public Auditor does not assume any management functions in connection with his services. The German Public Auditor is not responsible for the use or implementation of the results of his services. The German Public Auditor is entitled to make use of competent persons to conduct the engagement.

(2) Except for assurance engagements (*betriebswirtschaftliche Prüfungen*), the consideration of foreign law requires an express written agreement.

(3) If circumstances or the legal situation change subsequent to the release of the final professional statement, the German Public Auditor is not obligated to refer the engaging party to changes or any consequences resulting therefrom.

### 3. The obligations of the engaging party to cooperate

(1) The engaging party shall ensure that all documents and further information necessary for the performance of the engagement are provided to the German Public Auditor on a timely basis, and that he is informed of all events and circumstances that may be of significance to the performance of the engagement. This also applies to those documents and further information, events and circumstances that first become known during the German Public Auditor's work. The engaging party will also designate suitable persons to provide information.

(2) Upon the request of the German Public Auditor, the engaging party shall confirm the completeness of the documents and further information provided as well as the explanations and statements, in a written statement drafted by the German Public Auditor.

### 4. Ensuring independence

(1) The engaging party shall refrain from anything that endangers the independence of the German Public Auditor's staff. This applies throughout the term of the engagement, and in particular to offers of employment or to assume an executive or non-executive role, and to offers to accept engagements on their own behalf.

(2) Were the performance of the engagement to impair the independence of the German Public Auditor, of related firms, firms within his network, or such firms associated with him, to which the independence requirements apply in the same way as to the German Public Auditor in other engagement relationships, the German Public Auditor is entitled to terminate the engagement for good cause.

### 5. Reporting and oral information

To the extent that the German Public Auditor is required to present results in writing as part of the work in executing the engagement, only that written work is authoritative. Drafts are non-binding. Except as otherwise agreed, oral statements and explanations by the German Public Auditor are binding only when they are confirmed in writing. Statements and information of the German Public Auditor outside of the engagement are always non-binding.

### 6. Distribution of a German Public Auditor's professional statement

(1) The distribution to a third party of professional statements of the German Public Auditor (results of work or extracts of the results of work whether in draft or in a final version) or information about the German Public Auditor acting for the engaging party requires the German Public Auditor's written consent, unless the engaging party is obligated to distribute or inform due to law or a regulatory requirement.

(2) The use by the engaging party for promotional purposes of the German Public Auditor's professional statements and of information about the German Public Auditor acting for the engaging party is prohibited.

### 7. Deficiency rectification

(1) In case there are any deficiencies, the engaging party is entitled to specific subsequent performance by the German Public Auditor. The engaging party may reduce the fees or cancel the contract for failure of such subsequent performance, for subsequent non-performance or unjustified refusal to perform subsequently, or for unconscionability or impossibility of subsequent performance. If the engagement was not commissioned by a consumer, the engaging party may only cancel the contract due to a deficiency if the service rendered is not relevant to him due to failure of subsequent performance, to subsequent non-performance, to unconscionability or impossibility of subsequent performance. No. 9 applies to the extent that further claims for damages exist.

(2) The engaging party must assert a claim for the rectification of deficiencies in writing (*Textform*) [Translator's Note: *The German term "Textform" means in written form, but without requiring a signature*] without delay. Claims pursuant to paragraph 1 not arising from an intentional act expire after one year subsequent to the commencement of the time limit under the statute of limitations.

(3) Apparent deficiencies, such as clerical errors, arithmetical errors and deficiencies associated with technicalities contained in a German Public Auditor's professional statement (long-form reports, expert opinions etc.) may be corrected – also versus third parties – by the German Public Auditor at any time. Misstatements which may call into question the results contained in a German Public Auditor's professional statement entitle the German Public Auditor to withdraw such statement – also versus third parties. In such cases the German Public Auditor should first hear the engaging party, if practicable.

### 8. Confidentiality towards third parties, and data protection

(1) Pursuant to the law (§ [Article] 323 Abs 1 [paragraph 1] HGB [German Commercial Code: *Handelsgesetzbuch*], § 43 WPO [German Law regulating the Profession of Wirtschaftsprüfer: *Wirtschaftsprüferordnung*], § 203 StGB [German Criminal Code: *Strafgesetzbuch*]) the German Public Auditor is obligated to maintain confidentiality regarding facts and circumstances confided to him or of which he becomes aware in the course of his professional work, unless the engaging party releases him from this confidentiality obligation.

(2) When processing personal data, the German Public Auditor will observe national and European legal provisions on data protection.

### 9. Liability

(1) For legally required services by German Public Auditors, in particular audits, the respective legal limitations of liability, in particular the limitation of liability pursuant to § 323 Abs. 2 HGB, apply.

(2) Insofar neither a statutory limitation of liability is applicable, nor an individual contractual limitation of liability exists, the liability of the German Public Auditor for claims for damages of any other kind, except for damages resulting from injury to life, body or health as well as for damages that constitute a duty of replacement by a producer pursuant to § 1 ProdHaftG [German Product Liability Act: *Produkthaftungsgesetz*], for an individual case of damages caused by negligence is limited to € 4 million pursuant to § 54 a Abs. 1 Nr. 2 WPO.

(3) The German Public Auditor is entitled to invoke demurs and defenses based on the contractual relationship with the engaging party also towards third parties.

(4) When multiple claimants assert a claim for damages arising from an existing contractual relationship with the German Public Auditor due to the German Public Auditor's negligent breach of duty, the maximum amount stipulated in paragraph 2 applies to the respective claims of all claimants collectively.

(5) An individual case of damages within the meaning of paragraph 2 also exists in relation to a uniform damage arising from a number of breaches of duty. The individual case of damages encompasses all consequences from a breach of duty regardless of whether the damages occurred in one year or in a number of successive years. In this case, multiple acts or omissions based on the same source of error or on a source of error of an equivalent nature are deemed to be a single breach of duty if the matters in question are legally or economically connected to one another. In this event the claim against the German Public Auditor is limited to € 5 million. The limitation to the fivefold of the minimum amount insured does not apply to compulsory audits required by law.

(6) A claim for damages expires if a suit is not filed within six months subsequent to the written refusal of acceptance of the indemnity and the engaging party has been informed of this consequence. This does not apply to claims for damages resulting from scienter, a culpable injury to life, body or health as well as for damages that constitute a liability for replacement by a producer pursuant to § 1 ProdHaftG. The right to invoke a plea of the statute of limitations remains unaffected.

## 10. Supplementary provisions for audit engagements

(1) If the engaging party subsequently amends the financial statements or management report audited by a German Public Auditor and accompanied by an auditor's report, he may no longer use this auditor's report.

If the German Public Auditor has not issued an auditor's report, a reference to the audit conducted by the German Public Auditor in the management report or any other public reference is permitted only with the German Public Auditor's written consent and with a wording authorized by him.

(2) If the German Public Auditor revokes the auditor's report, it may no longer be used. If the engaging party has already made use of the auditor's report, then upon the request of the German Public Auditor he must give notification of the revocation.

(3) The engaging party has a right to five official copies of the report. Additional official copies will be charged separately.

## 11. Supplementary provisions for assistance in tax matters

(1) When advising on an individual tax issue as well as when providing ongoing tax advice, the German Public Auditor is entitled to use as a correct and complete basis the facts provided by the engaging party – especially numerical disclosures; this also applies to bookkeeping engagements. Nevertheless, he is obligated to indicate to the engaging party any errors he has identified.

(2) The tax advisory engagement does not encompass procedures required to observe deadlines, unless the German Public Auditor has explicitly accepted a corresponding engagement. In this case the engaging party must provide the German Public Auditor with all documents required to observe deadlines – in particular tax assessments – on such a timely basis that the German Public Auditor has an appropriate lead time.

(3) Except as agreed otherwise in writing, ongoing tax advice encompasses the following work during the contract period:

- a) preparation of annual tax returns for income tax, corporate tax and business tax, as well as wealth tax returns, namely on the basis of the annual financial statements, and on other schedules and evidence documents required for the taxation, to be provided by the engaging party
- b) examination of tax assessments in relation to the taxes referred to in (a)
- c) negotiations with tax authorities in connection with the returns and assessments mentioned in (a) and (b)
- d) support in tax audits and evaluation of the results of tax audits with respect to the taxes referred to in (a)
- e) participation in petition or protest and appeal procedures with respect to the taxes mentioned in (a).

In the aforementioned tasks the German Public Auditor takes into account material published legal decisions and administrative interpretations.

(4) If the German Public auditor receives a fixed fee for ongoing tax advice, the work mentioned under paragraph 3 (d) and (e) is to be remunerated separately, except as agreed otherwise in writing.

(5) Insofar the German Public Auditor is also a German Tax Advisor and the German Tax Advice Remuneration Regulation (*Steuerberatungsvergütungsverordnung*) is to be applied to calculate the remuneration, a greater or lesser remuneration than the legal default remuneration can be agreed in writing (*Textform*).

(6) Work relating to special individual issues for income tax, corporate tax, business tax, valuation assessments for property units, wealth tax, as well as all issues in relation to sales tax, payroll tax, other taxes and dues requires a separate engagement. This also applies to:

- a) work on non-recurring tax matters, e.g. in the field of estate tax, capital transactions tax, and real estate sales tax;
- b) support and representation in proceedings before tax and administrative courts and in criminal tax matters;
- c) advisory work and work related to expert opinions in connection with changes in legal form and other re-organizations, capital increases and reductions, insolvency related business reorganizations, admission and retirement of owners, sale of a business, liquidations and the like, and
- d) support in complying with disclosure and documentation obligations.

(7) To the extent that the preparation of the annual sales tax return is undertaken as additional work, this includes neither the review of any special accounting prerequisites nor the issue as to whether all potential sales tax allowances have been identified. No guarantee is given for the complete compilation of documents to claim the input tax credit.

## 12. Electronic communication

Communication between the German Public Auditor and the engaging party may be via e-mail. In the event that the engaging party does not wish to communicate via e-mail or sets special security requirements, such as the encryption of e-mails, the engaging party will inform the German Public Auditor in writing (*Textform*) accordingly.

## 13. Remuneration

(1) In addition to his claims for fees, the German Public Auditor is entitled to claim reimbursement of his expenses; sales tax will be billed additionally. He may claim appropriate advances on remuneration and reimbursement of expenses and may make the delivery of his services dependent upon the complete satisfaction of his claims. Multiple engaging parties are jointly and severally liable.

(2) If the engaging party is not a consumer, then a set-off against the German Public Auditor's claims for remuneration and reimbursement of expenses is admissible only for undisputed claims or claims determined to be legally binding.

## 14. Dispute Settlement

The German Public Auditor is not prepared to participate in dispute settlement procedures before a consumer arbitration board (*Verbraucherschlichtungsstelle*) within the meaning of § 2 of the German Act on Consumer Dispute Settlements (*Verbraucherstreitbeilegungsgesetz*).

## 15. Applicable law

The contract, the performance of the services and all claims resulting therefrom are exclusively governed by German law.