



TERMS OF BUSINESS

1. Introduction, Scope and Purpose

- 1.1. For the purpose of these Terms of Business, “720°” means 720° Restructuring & Advisory GmbH, having its seat in Sommerergasse 5/1, 1130 Vienna, Austria.
- 1.2. These Terms of Business will apply to all transactions between 720° and its client (the “**Client**”) with regard to the provision of services by 720°.
- 1.3. These Terms of Business will also apply to any future contractual relations between 720° and the Client with regard to the provision of services by 720° even if these Terms of Business are not expressly referred to in collateral contracts.
- 1.4. Any conflicting Terms of Business and/or General Terms and Conditions on the part of the Client will be invalid unless they have been explicitly accepted in writing by 720°.
- 1.5. If any provision of these Terms of Business is or becomes invalid, the other provisions and any contracts concluded pursuant to these provisions shall not be affected thereby. The invalid provision shall be replaced by a provision which best corresponds to the intention and economic purpose of the invalid provision.
- 1.6. These Terms of Business and the engagement letter will form the consultancy agreement between 720° and the Client (the “**Consultancy Agreement**”). The scope of each particular consulting assignment shall be individually agreed in the Consultancy Agreement.

2. Services

- 2.1. Engagement letters in which 720° offers services to the Client are valid for three months following the date of issue, unless explicitly stated therein to the contrary (the “**Engagement Letter**”).
- 2.2. 720° shall perform the services described in the Engagement Letter (the “**Services**”). The Services will be provided to assist the Client in the project described in the Engagement Letter (the “**Project**”).
- 2.3. Changes and adjustments made to the scope of Services are to be agreed upon in writing on a separate basis, leading to corresponding changes to the fee as well as any timeframe. All additional work carried out by 720° in connection with the Services (regardless as to whether in writing or not) is to be subject to the conditions set out in the Consultancy Agreement, unless otherwise specifically agreed upon in writing.
- 2.4. 720° will assign suitably qualified staff to provide the Services. The decisions regarding which staff members are to be assigned to provide the Services lie within the sole discretion of 720°. In particular, 720° retains the right to replace staff or persons named in the Engagement Letter who are assigned to provide the Services with other (similarly suitably qualified) staff at any stage.
- 2.5. 720° is entitled to call upon the Services, whether in part or in full, of other 720° Restructuring & Advisory companies and/or other (third party) subcontractors (the “**Subcontractors**”); in such instances payment of the Subcontractor(s) is to be effected by 720°. No contractual relationship between the Client and the Subcontractor(s) will arise by virtue of such arrangements.
- 2.6. 720° shall not be bound by directives while performing the agreed Services and shall be free to act at 720°’s discretion and under its own responsibility.
- 2.7. The Services will cover the areas set out in the Engagement Letter. 720° undertakes no responsibility for ensuring that the Services cover all matters of importance for the Client. The Client shall be responsible for



determining whether the areas to be covered by 720° and the scope of Services will be appropriate to its needs.

- 2.8. The Services will be based on information provided to 720° by the Client or information which is publicly available. Except to the extent otherwise stated in the final report (the “**Report**”), if applicable, 720° shall provide the Services on the assumption that such information is accurate, complete and not misleading. 720° shall not verify it or check the information in any other way. Unless otherwise agreed upon in the Engagement Letter, the Services are not designed to reveal fraud or false, misleading or incomplete information.
- 2.9. Where a timetable is agreed upon, each Party shall use all reasonable efforts to carry out its respective obligations in accordance with the timetable. However, unless specifically agreed upon otherwise in writing, dates and deadlines contained in the timetable are intended for planning and project management purposes only, and are not binding.
- 2.10. Within the context of the provision of Services, 720° shall only provide recommendations for courses of action regarding possible outcomes and alternatives. In particular, the Services do not contain investment or financing decisions. Decisions relating to courses of action to be taken and omissions are the sole responsibility of the Client.
- 2.11. Because events and circumstances frequently do not occur as expected, there will usually be differences between predicted and actual results. Such differences may be material. Thus, 720° accepts no responsibility for predicted results.
- 2.12. Where the Services include considerations or suggestions relating to (financial) developments about the future (prospective financial information [“**PFI**”]) the following will apply: The Client acknowledges that when considering PFI such as future profitability and cash flows (either of its borrowers or the Client itself), it is the Client’s responsibility to carefully consider 720°’s comments and make its own decisions based on the information made available. This provision also includes any considerations on financials or prospective financials of the Client’s borrowers (eg in the course of credit analysis etc.). The Client acknowledges that it has to carefully consider 720°’s comments and opinions and make its own decisions on eg suggested restructuring or workout strategies towards borrowers based on assumed cash flows, profits or losses, etc. out of various options the Client may be able to take (also including but not limited to ‘investment decisions’ like providing fresh money, buying out other creditors, prolonging credit lines etc.).
- 2.13. Where the Services include operational services, 720°’s observations will be provided in the light of 720°’s business experience of operational matters, but will not necessarily be based on direct experience of operations in the Client’s or the Clients’ customers (eg. borrowers) specific industry or business sector. Such observations may not represent the optimal operational solution and there may be other, equally valid, views. The achievable results will depend upon the detailed circumstances at the time and on the way in which planned operational improvements are implemented. 720° therefore takes no responsibility nor undertakes any guarantees with respect to the achievement of potential operational improvements or forecasted results.
- 2.14. The Services do not include the provision of legal and/or tax advice or legal, and/or tax and/or commercial due diligence services. Furthermore the Services do not include insurance topics (including but not limited to BBB, D&O insurance, eg their validity in case of suggested organisational changes).
- 2.15. The Services will not include an audit conducted in accordance with Generally Accepted Auditing Standards.
- 2.16. Unless there is a legal requirement, 720° shall only be obliged to deal with the authorities if this has been explicitly agreed upon. 720° shall only act in this capacity on behalf of and upon assignment of the Client itself, and on a supportive and advisory basis.
- 2.17. The Client accepts that 720° may provide services to other clients, some of which may be in competition with the Client or whose interests may conflict with the Client’s own. Unless otherwise agreed upon, 720° will not be prevented or restricted by virtue of 720°’s relationship with the Client under the Consultancy Agreement



from providing services to other clients.

3. Client's Duties

- 3.1. Where 720° provides Services at the Client's premises, the Client shall, at its own expense, promptly ensure that staff and all other resources that are reasonably necessary for the proper performance of the Engagement are available at its premises for the duration of the Engagement. In particular, the Client shall provide 720° with all material resources – including telephone, fax and internet connection facilities – that are necessary for the proper provision of the Services in accordance with the Consultancy Agreement.
- 3.2. The Client shall duly provide 720° with all information which is required by 720° to perform the Services in accordance with the Consultancy Agreement. The Client shall inform 720° without delay of any events, circumstances or changes which could potentially influence the provision of the Services.
- 3.3. Upon request by 720°, the Client shall provide confirmation in writing of the accuracy and completeness of the documents it has supplied.
- 3.4. The Client shall also inform 720° in detail about previously conducted and/or currently ongoing consulting projects, which can be of relevance for the project as agreed in the Engagement Letter.
- 3.5. The Client agrees that it remains solely responsible for managing all aspects of its business, for taking decisions and operating all accounting, internal control or management information systems. This includes applying independent business judgement to evaluate any advice or recommendations that 720° gives to the Client. The Client will be responsible for deciding whether it wishes to rely on, implement or act on them, including the actions necessary to realise any expected benefits.

4. Reports

- 4.1. If agreed upon in the Consultancy Agreement, 720° shall compile a Report setting out the findings of the Services and make this available to the Client.
- 4.2. In the course of providing the Services, 720° may provide oral comments or drafts of reports, correspondence, schedules, calculations or other data. As these represent work in progress and do not form 720°'s definitive findings, 720° does not assume any liability in respect of them. The final results established in connection with the Services will only be contained in the final Report, if applicable.
- 4.3. The Client agrees to treat all oral and written comments as well as draft or final documents (whether in hard copy or electronic form) provided to the Client in connection with the Services (together the "**Reports**") as confidential, and not to use the Reports for any reason other than the purposes mentioned in the Consultancy Agreement.
- 4.4. The Reports are exclusively prepared for the Client in accordance with the Consultancy Agreement and the therein determined purposes for reporting. Using the Reports for other purposes, publishing or disclosing the Reports to third parties requires the explicit written approval of 720°. Such approval will not be prohibited due to inequitable discretion. Duties of care and liabilities on the part of 720° towards third parties are excluded, even upon approval by 720° of the disclosure to third parties or of the amendment of the purpose; disclaimers to this effect may be included in the Reports. The Client shall inform 720° without delay in instances where there is a statutory obligation or a decree from the authorities to release the Report or part of the Reports to a third party. The Client will only release the parts of the Report which are absolutely required, removing beforehand (insofar as is permissible by law) any references to 720°.
- 4.5. The Client agrees to indemnify and hold harmless 720°, any other 720° Restructuring & Advisory companies and their respective partners, employees and Subcontractors against any liabilities, losses, expenses and other costs which may be incurred in connection with any third party claims (whether in contract, tort [including



negligence] or otherwise) arising out of or in connection with the Services.

4.6. The Client may make copies of its Reports available to its managing directors, those employees directly involved in the management of the Project, professional advisors, provided that in each case the Client takes reasonable steps to ensure that they accept that:

(a) the Reports are confidential and may not be disclosed to any other person without 720°'s explicit written consent;

(b) they may use the Reports only for the purposes of advising the Client in relation to the Project;

(c) 720° accepts no liability or duty of care to them in respect of any use they may make of the Reports;

(d) with respect to personal data they are required to comply with the Austrian Data Protection Act.

4.7. The Client will bear liability for any infringement in relation to this obligation of secrecy, regardless of whether it is caused by itself or the persons mentioned above.

5. Confidentiality and Data Protection

5.1. The Parties shall treat confidential information (“**Confidential Information**”) as confidential. Confidential Information means information or documents which 720° receives or produces for the purpose of providing the Services. However this does not include any information which:

(a) is or becomes generally available to the public other than as a result of a breach of an obligation under this Clause; or

(b) is known to 720° prior to when it started providing the Services; or

(c) is received from a third party who owes no obligation of confidence in respect of the Confidential Information.

5.2. 720° shall especially refrain from using Confidential Information for the advantage of other clients. Similarly 720° shall not use to the Client's advantage information received in confidence in connection with other engagements.

5.3. 720° will be entitled to disclose Confidential Information to Subcontractors as well as other 720° Restructuring & Advisory companies (especially in connection with quality review activities), its underwriters and legal advisors as well as other advisors assigned by the Client. Furthermore, 720° may disclose Confidential Information if required to do so by law due to capital market regulations, rules of professional conduct or decrees made by the authorities.

5.4. Subject to Clause 5.1 above, and once the Project is no longer confidential, 720° may cite the name of the Target and/or the Client and the main group company as well as the performance of the Services as a reference of its experience.

5.5. Both Parties hereby undertake to observe obligations under the Austrian Data Protection Act and to keep personal data confidential and secure. In respect of any personal data that the Client provides 720° with in connection with the Services, the Client confirms that the processing of such data will be in accordance with the Consultancy Agreement and will not be in breach of the Austrian Data Protection Act. The Client agrees to hold 720° and other 720° Restructuring & Advisory companies harmless in relation to such issues.



6. Electronic Communication

- 6.1. The Client hereby agrees to the electronic transmission of text, information, data and documents via e-mail, be it in the form of text or as an attachment. The Client is aware of various inherent risks such as loss, interception or tampering with data submitted as well as viruses and other such shortfalls in data protection. The version originally sent to the Client by 720° will serve as the authoritative version. 720° is not obliged to use encryption systems or electronic signatures. The Client shall bear all risks and liability for damages related thereto as well as adverse effects inherent to communication via e-mail; 720° shall not be held liable for any risks, incidents of damage or other such drawbacks.
- 6.2. In the event that the Client sends information, messages or other files via e-mail to 720° which are of an urgent nature or which contain dates and deadlines, the Client shall notify 720° by telephone and may send all such information, messages and other data via fax or via another suitable means of communication so as to enable an appropriate response on the part of 720°.
- 6.3. Both Parties hereby commit themselves to undertaking measures that will protect the integrity of exchanged data. In particular, the recipient shall be responsible for ensuring that all data attachments are run through and checked with appropriate software prior to being opened, regardless as to whether the files are sent via a data medium, e-mail or any other means. 720° shall not be held liable in the event of the Client receiving a computer system virus (and any consequential adverse effects arising as a consequence) in connection with the transmission of data.

7. Intellectual Property Rights

- 7.1. 720° owns the intellectual property rights (including, without limitation, any copyright) in relation to the working papers, Reports, analyses, programs, calculations, correspondence, etc created by 720°, other 720° Restructuring & Advisory companies, its employees or Subcontractors. The Client may use these during and following the contractual relationship only for the purposes determined in the Consultancy Agreement. The Client is not entitled to duplicate or distribute any documentation created by 720°, other 720° Restructuring & Advisory companies, its employees or Subcontractors, whether in full or in part, without the explicit prior written consent of 720°.
- 7.2. Subject to Clause 5, any spreadsheet, database, system, technique, methodology, idea, concept, information or know-how developed in the course of the carrying out of obligations arising from the Consultancy Agreement by 720°, other 720° Restructuring & Advisory companies, its employees or Subcontractors may be used by 720° in any way it deems appropriate.
- 7.3. Upon termination or completion of the Consultancy Agreement, 720° may retain a copy of any documentation or software prepared or any other documentation upon which the Services are based in order to maintain a professional record of its Services. It is 720° practice to destroy such documents after a minimum period of seven years.

8. Fees

- 8.1. Unless otherwise agreed upon, fees are calculated according to a time-based billing system which takes into account the time required for the execution of the Consultancy Agreement and the hourly/daily rate of the respective employee(s) involved. The length of time required as well as the various hourly/daily rates depend on the nature and complexity of the work to be carried out and/or the necessary qualifications of the designated employee(s). The assessment of which qualification is needed will be subject to 720°'s sole discretion. Travel related times will be calculated subject to standard hourly/weekly rates. Hourly/daily rates will be adjusted at least once a year. Value Added Tax, where applicable, will be charged in addition to these rates.



- 8.2. Any fee estimate provided by 720° will be given in good faith but is not binding. 720° shall notify the Client if it becomes reasonably apparent that an estimate is likely to be materially exceeded.
- 8.3. 720° may issue (interim) invoices according to the progress of the work and request advance payments.
- 8.4. All invoices are to be paid within 14 days after receipt. The amount set out in the invoice will be due irrespective of whether the Project has been completed. Late Payments may be subject to interest for default. In such instances interest for default of 9.2% over the base interest rate applies (see Paragraph 456 of the Austrian Commercial Code).
- 8.5. Any objections to an invoice are to be made within 30 days of the date of invoice. Non-contested amounts will be payable on the originally stated due date.
- 8.6. Cash expenditures, charges, travelling expenses, etc (such as for example rail/bus tickets, flight expenses, taxi/vehicle rental costs, kilometre allowance, parking charges, daily allowances, hotel costs, fax and telephone charges, postal charges, messenger and courier services, photocopying and additional insurance costs incurred through individual assignments) will be invoiced separately.

9. Correction of Errors

- 9.1. 720° will have the right and shall be obliged to correct all material errors and defects in its final Reports and statements which subsequently come to light, and shall inform the Client thereof without delay. 720° will also have the right to inform a third party acquainted with the original statement of such changes.
- 9.2. The Client has the right to have all errors corrected free of charge, if 720° can be held responsible for them; this right will expire six months after completion of 720°'s work or submission of its final Report, if applicable.
- 9.3. 720° does not have any responsibility to update its final Reports and statements for events occurring after completion of the Consultancy Agreement, nor to monitor its continuing relevance or suitability for the Client's purposes.

10. Liability

- 10.1. Except in cases of intent or blatantly gross negligence, 720° shall not be held liable for any damages inflicted upon the Client. Liability is hereby expressly excluded for damages arising due to slight or gross negligence as well as consequential losses, loss of profit, loss of production or any indirect or consequent damages or losses.
- 10.2. In cases of intent or blatantly gross negligence the liability for damages will be limited to a total amount not in excess of five times the fees (excluding expenses and any Value Added Tax applicable) paid or payable in accordance with the terms of the Consultancy Agreement. In any case 720° will not accept any liability exceeding EUR 500,000,-.
- 10.3. For the avoidance of doubt, in case of multiple Clients or addressees or recipients of the Services (the "Addressees"), the maximum amount, as set out in Clause 10.2 is to be allocated between the Addressees. Such allocation will be entirely a matter for the Addressee(s).
- 10.4. Legal action for damages may only be brought within six months after those entitled to assert a claim have gained knowledge of the damage and the liable party, though not later than three years after the incident upon which the claim is based.

11. Termination

- 11.1. The Consultancy Agreement terminates with the completion of the Project.



- 11.2. Only in case of material breaches the termination can become effective with immediate effect.
- 11.3. Where 720° terminates the Consultancy Agreement due to material breach of the Client, the Client shall be obliged to pay any additional costs that 720° should reasonably incur in connection with the premature termination of the Consultancy Agreement. In the event of the Client failing to fulfil tasks assigned, in instances where tasks are not carried out accordingly or promptly or where there is lack of cooperation, the Client will pay 720° any related additional costs.
- 11.4. The Client shall neither employ nor enter into any kind of business transaction with nor seek to approach for the purposes of employment any employee or other staff members of 720° or any other 720° Restructuring & Advisory firms involved directly or indirectly in the provision of the Services (including sub-contractors of 720°). This obligation will apply throughout the duration of the Consultancy Agreement as well as throughout the six month period following its termination. An infringement of this Clause will incur a penalty amounting to the equivalent of a six month salary of the respective employee. The penalty sum incurred will not be subject to the discretion of the court. Further claims related to damages remain unaffected.

12. Miscellaneous

- 12.1. If any term of the Consultancy Agreement is held to be invalid or unenforceable, in whole or in part, this will not be to the detriment of the validity or the enforcement of the remaining contractual provisions. In such instances the invalid or infeasible term is to be replaced by a valid and enforceable term which comes closest to reflecting the original intentions of both Parties.
- 12.2. The Consultancy Agreement contains all provisions relating to the Services to be provided as agreed upon between both Parties; there are no oral agreements. The validity of all former agreements, whether in oral, written or any other form entered into between the Parties with regard to the Services are superseded by virtue of the signing of the Consultancy Agreement.
- 12.3. In the event of any conflict between the Engagement Letter and these Terms of Business, the Engagement Letter will take precedence over the Terms of Business.
- 12.4. Neither Party shall be liable to the other for any failure to fulfil obligations brought about through circumstances outside the respective Party's reasonable control.
- 12.5. Neither Party may transfer or charge rights or obligations under the Consultancy Agreement without the prior written consent of the other Party.

13. Dispute Resolution / Applicable Law / Place of Jurisdiction

- 13.1. The Consultancy Agreement, its execution and any claims resulting from it will be wholly governed by and exclusively interpreted in accordance with Austrian law; international conflict-of-law provisions will not apply.
- 13.2. The place of jurisdiction for all legal disputes arising out of or in connection with the Consultancy Agreement is the District Commercial Court of Vienna (*Bezirksgericht für Handelssachen Wien*) or the Commercial Court of Vienna (*Handelsgericht Wien*), determined in accordance with the amount in dispute.