



*Convenience translation of the original German audit report. Solely the original text in German is authoritative.*

Spark Networks SE  
Munich

Report of the independent auditor  
on the audit of the remuneration report  
pursuant of § 162 (3) AktG  
for the financial year from January 1, 2022  
to December 31, 2022



Spark Networks SE  
Munich

Report of the independent auditor  
on the audit of the remuneration report  
pursuant of § 162 (3) AktG  
for the financial year from January 1, 2022  
to December 31, 2022



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pursuant of § 162 AktG

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# REPORT OF THE INDEPENDENT AUDITOR ON THE AUDIT OF THE REMUNERATION REPORT PURSUANT TO § 162 (3) AKTG

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**Note:** This is a convenience translation of the German original. Solely the original text in the German language is authoritative.

To Spark Networks SE, Munich

## Audit Opinion

We have formally audited the remuneration report of Spark Networks SE for the financial year from January 1, 2022 to December 31, 2022, to determine whether the disclosures pursuant to § 162 (1) and (2) AktG (Aktengesetz: German Stock Corporation Act) have been made in the remuneration report. In accordance with § 162 (3) AktG, we have not audited the content of the remuneration report.

In our opinion, the accompanying remuneration report complies, in all material respects, with the disclosure requirements pursuant to § 162 (1) and (2) AktG. Our audit opinion does not cover the content of the remuneration report.

## Basis for the Audit Opinion

We conducted our audit of the remuneration report in accordance with § 162 (3) AktG and in compliance with the IDW Auditing Standard: The Audit of the Remuneration Report pursuant to § 162 (3) AktG (IDW PS 870 (08 2021)). Our responsibilities under this regulation and this standard are further described in the “Auditor’s Responsibilities” section of our auditor’s report. Our audit firm has applied the requirements of the IDW Quality Management Standards. We have complied with our professional duties pursuant to the German Public Auditors Act (WPO) and the Professional Charter for Auditors/Chartered Accountants (BS WP/vBP), including the independence requirements.

## Responsibilities of the Executive Directors and the Administrative Board

The Executive Directors and the Administrative Board of Spark Networks SE are responsible for the preparation of the remuneration report, including the related disclosures, in compliance with the requirements of § 162 AktG. They are also responsible for internal controls they consider to be necessary to enable the preparation of a remuneration report, including the related disclosures, that is free from material misstatement, whether due to fraud or error.

## Auditor’s Responsibilities

Our responsibility is to obtain reasonable assurance about whether the remuneration report complies, in all material respects, with the disclosure requirements pursuant to § 162 (1) and (2) AktG, and to issue an auditor’s report that includes our opinion.

We planned and performed our audit to obtain evidence about the formal completeness of the remuneration report by comparing the disclosures made in the remuneration report with the disclosures required by § 162 (1) and (2) AktG. In accordance with § 162 (3) AktG, we have not audited whether the disclosures are correct or individual disclosures are complete or whether the remuneration report is fairly presented.

### Consideration of Misleading Representations

In connection with our audit, our responsibility is to read the remuneration report considering the knowledge obtained in the audit of the financial statements and to remain alert for indications as to whether the remuneration report contains misleading representations in relation to the correctness of the content of the disclosures, the completeness of the individual disclosures or the fair presentation of the remuneration report.

If, based on the work we have performed, we conclude that such a misleading representation exists, we are required to report that fact. We have nothing to report in this regard.

Berlin, June 21, 2023

BDO AG  
Wirtschaftsprüfungsgesellschaft

signed Sartori  
Wirtschaftsprüferin  
(German Public Auditor)

signed Wirth  
Wirtschaftsprüfer  
(German Public Auditor)



## APPENDICES

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## I. COMPENSATION REPORT FOR THE FISCAL YEAR 2022

This compensation report describes the remuneration to the acting and former Managing Directors and the members of the Administrative Board of Spark Networks SE ("Spark", "Company") during the fiscal year in the period from January 1, 2022 to December 31, 2022. The report explains in detail and individualized the structure and amount of the individual compensation components of the Managing Directors and the remuneration of the Administrative Board members. This compensation report was prepared by the Administrative Board and is based on the requirements of the German Stock Corporation Act and complies with the applicable recommendations of the German Corporate Governance Code (DCGK 2020), unless a deviation has been declared. Clear, comprehensible and transparent reporting is important to both the Executive Board and the Administrative Board.

This compensation report will be submitted to the 2023 Annual General Meeting of Spark Networks SE for approval (advisory vote).

The audited remuneration report 2021 was presented to and approved by the Annual General Meeting on August 31, 2022.

## II. COMPENSATION OF MANAGING DIRECTORS

### 1. New compensation system approved by the Annual General Meeting

Pursuant to the newly introduced Section 120a (1) of the German Stock Corporation Act (AktG), the Annual General Meeting of a listed company shall resolve on the approval of the compensation system for the Managing Directors presented by the Administrative Board whenever there is a significant change to the system, but at least every four years. The first resolution had to be passed by the end of the first Annual General Meeting following December 31, 2020.

Against this background, the Administrative Board has adopted a compensation system for the Managing Directors which complies with the requirements of German Stock Corporation Law and which - to the extent that no deviation has been declared pursuant to Section 161 German Stock Corporation Act - is based on the recommendations of the German Corporate Governance Code 2020.

The compensation system for the members of the Management Board was approved by the Annual General Meeting August 11, 2021.

In accordance with statutory requirements, the Administrative Board will apply this compensation system to service contracts with members of the Company's Executive Board which are newly concluded, amended or extended only after the first-time approval of the compensation system by the Annual General Meeting on August 11, 2021 (section 87a (2) of the AktG).

Detailed information on this agm approved new compensation system is available on the Company's website at <https://www.spark.net/investors/corporate-governance/board-remuneration>.

### 2. Managing Directors in office during fiscal year 2022

During fiscal year 2022 the Managing Directors in office consisted of:

- Eric Eichmann (CEO until November 2022)
- Chelsea Grayson (CEO since December 2022)
- David Clark (CFO)
- Gitte Bendzulla (CLO and COO until April 2022)

Eric Eichmann ceased serving as Executive Officer in November 2022. Chelsea Grayson was appointed Interim Chief Executive Officer in December 2022. David Clark joined Spark Networks SE in August 2021 as Chief Financial Officer. Gitte Bendzulla ceased serving as Legal and Operations Officer in April 2022.

### 3. Compensation system for the members of the Executive Board in office in fiscal year 2022; reference to corporate strategy

The service contracts with the members of the Executive Board in office in fiscal year 2022 were amended and extended. The compensation system for Managing Directors submitted for approval to the Annual General Meeting on August 11, 2021 is applicable to the Management Board service agreements in place in fiscal year 2022.

Where the compensation report refers to the applicable and relevant compensation system for Managing Directors in accordance with section 162 of the German Stock Corporation Act (AktG), this refers to the compensation system in place when the Management Board Service agreements with the Managing Directors Mr. Eric Eichmann, Ms. Chelsea Grayson, Mr. David Clark, and Ms. Gitte Bendzulla were concluded (hereinafter referred to as the "**Applicable Compensation System**").

The following is a brief description of the Applicable Compensation System in fiscal year 2022.

#### 3.1 Base Salary

The base salary is contractually agreed with each Managing Director and is paid in twelve equal monthly installments at the end of each month.

Together with the other compensation components, the fixed compensation forms the basis for attracting and retaining the highly qualified members of the Executive Board required for the development and implementation of the corporate strategy. The Executive Board's compensation system is an important element of Spark Group's orientation and makes a significant contribution to promoting the business strategy and enhancing the operating performance, and thus to the long-term success of the Spark Group, by ensuring that fixed compensation supports sustainable corporate governance. In this context, the fixed compensation is to be commensurate with the skills, experience and tasks of the individual member of the Executive Board.

### 3.2 Annual Cash Incentives (Short Term Incentive)

The annual cash incentive plan is designed to drive near-term business objectives and strategic priorities, and reward for progress and performance delivered during the current year. The goal with bonuses to the Managing Directors is to reward executives in a manner that is commensurate with the level of achievement of certain financial and operational goals that, if attained, result in greater long-term stockholder value.

Awards consist of an annual target with performance measures based on a combination of quantitative financial performance goals and a combination of quantitative and qualitative individual objectives. The maximum payout opportunity was increased in 2022 from 150% to 200% of target. As interim CEO, Ms. Grayson was not eligible to receive an award in 2022.



### 3.3 Equity Incentives (Long Term Incentive Program, LTIP)

Long-term incentive awards represent the largest percentage of a Managing Director's compensation package and they are awarded periodically. Awards are designed to incentivize and reward long-term value creation and stock price appreciation, recognize performance, align interests with those of our shareholders and retain top talent. The Managing Directors of Spark Networks SE shall be encouraged to make a long-term commitment to the Company and to promote sustainable growth and value creation. For this reason, a significant part of their total compensation is linked to the long-term development of the Company's share price.

The design of the equity-based compensation program is influenced by Spark Networks SE being a German incorporation, although it operates in a manner consistent with other German and U.S. companies of a similar size to Spark Networks SE. Awards take the form of virtual options which are structured to operate in a manner consistent with either stock options or restricted stock.

Vehicle	Operates like	Purpose	Exercise price definition
Market-priced virtual stock options	Stock option	Align with shareholder interests by reward long-term sustainable stock price appreciation	Granted with an exercise price equal to the average closing price of the underlying shares over the five trading days preceding the date of grant
Zero-priced virtual stock options	Restricted stock unit	Align with shareholder interests and support executive retention	In order to operate like a restricted stock unit, awards are granted to operate like whole-value shares and so have no associated exercise price (hence the term 'zero-priced')

The LTIP provides for the grant of (virtual) stock options. Each option represents the right to receive, upon exercise, a certain amount in cash determined on the relevant ADS Stock Price of the option minus the strike price of such option; provided, however, that the Company may elect to settle options in ADSs or ordinary shares of Spark Networks SE instead of cash at its sole discretion. As the (virtual) stock options are not necessarily settled in cash only, the grant of such options qualifies as an inflow of assets and compensation granted. However, even though the company can settle awards in cash under the LTIP rules, this feature is not currently used, nor is planned to be used Managing Directors.

The LTIP provides that the strike price can be set at any amount determined by the Administrative Board, including zero. Under the LTIP, the "ADS Stock Price" is, as of the grant date, the average closing price of one ADS of Spark trading on a US stock exchange for the period of five trading days prior to such date.

Options granted under the LTIP vest, subject to the Managing Director's continued service to Spark, as follows: (i) 25% of the total number of options granted to a participant vest 12 months after the grant date of such option, and (ii) an additional 6.25% of such options shall vest at the end of each additional three-month period thereafter until the end of the 48th month after the relevant grant date.

### 3.4 Benefits and Perquisites; D&O-Insurance

Named executive officers are eligible to participate in all of our employee benefit plans on terms consistent with employees in the applicable geography.

Benefit	Eligibility	Key Features
Health & Welfare Insurance Benefits	All full-time US-based employees, including our NEOs	✓ Medical, dental, vision, group life, disability and accidental death and dismemberment insurance, voluntary life and accidental death and dismemberment
	All German-based employees, including our NEOs	✓ State or private health and care insurance, state unemployment insurance, state accident insurance
Retirement Benefits	All regular US-based employees, including our NEOs	✓ Employer sponsored 401(k) traditional and Roth retirement Safe Harbor plan Company match is 100% up to 4% of employee contribution with maximum employee contributions and employer match subject to annual federal limits
	All German-based employees, including our NEOs	✓ State pension insurance

The Company includes the Managing Directors in its financial loss liability insurance (D&O insurance) so that the Managing Director is insured in the event of a claim by a third party or by the Company for breaches of duty committed during the performance of his duties to the Company, and any other Associated Companies.

The goal is to create an attractive working environment for the members of the Executive Board so that a success-oriented corporate management can be ensured.

## 4. Implementation of the Applicable Compensation System

The Applicable Compensation System was fully implemented and applied in the context of the compensation of the Managing Directors during fiscal year 2022.

## 5. Individual compensation of the Managing Directors in the fiscal year 2022 in accordance with Section 162 AktG and application of performance criteria

### 5.1 Individual Compensation

The following table shows the total compensation (including fringe benefits) for services rendered in all capacities to current and former members of the Executive Board in the past fiscal year 2022 as well as variable compensation components, including the respective relative share in accordance with section 162 of the German Stock Corporation Act (AktG).

In the interest of enhanced understanding and a voluntary disclosure, the following table also shows the total compensation that was earned by the Managing Directors during the fiscal year 2021 ended December 31, 2021; all amounts are reported in EUR (and in US dollars).

Name Position	Fiscal Year	Salary (fixed)	Bonus (variable)	Option Awards <sup>(1)</sup> (variable)	Non-equity Incentive Plan Compensation (variable)	All Other Compensation <sup>(2)</sup> (fixed)	Total	Ratio of variable components
<b>Chelsea Grayson<sup>(3)</sup></b> Chief Executive Officer	2022	€95,269 (\$100,318)	—	—	€— (\$—)	€183 (\$193)	€95,452 (\$100,511)	—%
	2021	€— (\$—)	—	€— (\$—)	€— (\$—)	€— (\$—)	€— (\$—)	—%
<b>David Clark<sup>(4)</sup></b> Chief Financial Officer	2022	€379,867 (\$400,000)	—	—	€— (\$—)	€46,400 (\$48,859)	€426,267 (\$448,859)	—%
	2021	€132,791 (\$157,052)	—	€486,598 (\$575,500)	€66,715 (\$78,904)	€13,835 (\$16,363)	€699,939 (\$827,819)	79.05%
<b>Gitte Bendzulla<sup>(5)</sup></b> Chief Operating Officer & Chief Legal Officer	2022	€80,000 (\$84,240)	—	€—	€24,000 (\$25,272)	€5,268 (\$5,547)	€109,269 (\$115,059)	21.96%
	2021	€240,000 (\$283,848)	—	—	€18,144 (\$21,459)	€16,226 (\$19,191)	€274,371 (\$324,498)	6.61%
<b>Eric Eichmann<sup>(6)</sup></b> (Former) Chief Executive Officer	2022	€593,542 (\$625,000)	€—	—	€— (\$—)	€1,027,199 (\$1,081,641)	€1,620,741 (\$1,706,641)	—%
	2021	€528,452 (\$625,000)	—	€— (\$—)	€63,414 (\$75,000)	€41,767 (\$49,398)	€633,633 (\$749,398)	10.01%

<sup>(1)</sup> The amounts reported in the Option Awards column represent the grant date fair value of the stock options granted to the named executive officers during the years ended December 31, 2022 and 2021. Note that the amounts reported in this column reflect the accounting cost for these stock options, and do not correspond to the actual economic value that may be received by the named executive officers from the options.

<sup>(2)</sup> The amounts reported in the All Other Compensation column include health and welfare insurance benefits, and retirement benefits.

<sup>(3)</sup> Ms. Grayson was appointed Interim Chief Executive Officer on December 1, 2022.

<sup>(4)</sup> Mr. Clark was appointed as Chief Financial Officer on August 10, 2021.

<sup>(5)</sup> Ms. Bendzulla was appointed Chief Operating Officer and Chief Legal Officer on December 1, 2020 and resigned on April 30, 2022.

<sup>(6)</sup> Mr. Eichmann ceased serving as an executive officer on November 30, 2022 and terminated employment on January 1, 2023. Severance of \$1,034,540 earned by Mr. Eichmann is reflected in the All Other Compensation column.

## 5.2 Base Salaries and other compensation arrangements

Base salaries for our named executive officers are established based on the scope of their responsibilities and are reviewed on an annual basis and increase, if any are similar in scope to the overall corporate salary increase. The base salary was paid in twelve equal monthly installments and salaries did not increase in 2022.

Name	2022 Base Salary	2021 Base Salary	Increase
Chelsea A. Grayson <sup>(1)</sup>	€1,143,225 (\$1,203,816)	n/a	n/a
Eric Eichmann <sup>(2)</sup>	€593,542 (\$625,000)	€528,452 (\$625,000)	0%
David Clark <sup>(3)</sup>	€379,867 (\$400,000)	€338,209 (\$400,000)	0%
Gitte Bendzulla <sup>(4)</sup>	€80,000 (\$84,240)	€240,000 (\$283,848)	0%

<sup>(1)</sup> Ms. Grayson's salary has been established in the Grayson Inc Service Agreement and Grayson SE Service Agreement (each as defined below) on a monthly basis. The monthly salary under the Grayson Inc Service Agreement is \$94,000, and the monthly salary amount under the Grayson SE Agreement is €6,000 per month. Amounts in EUR have been converted into US Dollars based on the average exchange rate of 1.0530 and the combined value is referred to as base salary.

<sup>(2)</sup> Mr. Eichmann's salary comprises \$525,000 under his employment agreement with Spark Networks, Inc. and \$100,000 under his employment agreement with Spark Networks SE. For the purpose of this Compensation Report, the combined value is referred to as base salary.

<sup>(3)</sup> Mr. Clark's salary comprises \$340,000 under the employment agreement with Spark SocialNet, Inc., a wholly owned subsidiary of the Company, and \$60,000 with Spark Networks SE. For the purpose of this CD&A the combined value is referred to as base salary.

<sup>(4)</sup> Ms. Bendzulla's salary comprises €240,000 under the employment agreement with Spark Networks SE. The 2022 Base Salary of €80,000 reflects her resignation at the end of April 2022.

### **5.2.1 Chelsea Grayson**

On December 21, 2022, our wholly-owned subsidiary Spark Networks, Inc. entered into an employment agreement with Ms. Grayson (the "Grayson Inc Service Agreement") with respect to her employment as Interim Chief Executive Officer. The Grayson Inc Service Agreement provides for a monthly base salary of \$94,000 (\$1,128,000 on an annual basis) and further provides that the Board will consider appropriate additional incentive compensation opportunities in-line with market compensation for publicly traded companies of similar size to the Company, pending development and progression of the Company's strategic initiatives during her employment period.

Also on December 21, 2022, Spark Networks SE entered into an executive director service agreement with Ms. Grayson (the "Grayson SE Service Agreement") pursuant to which Ms. Grayson has a monthly base salary of €6,000 (€72,000 on an annual basis) (in addition to her salary under her employment agreement with Spark Networks, Inc.). The term of the Grayson SE Service Agreement is through August 31, 2023, after which time it may be extended by agreement of the parties.

The Board did not adjust Ms. Grayson's compensation in connection with her appointment to Chief Executive Officer on March 29, 2023.

### **5.2.2 Eric Eichmann**

On November 19, 2019, Spark Networks SE's wholly-owned subsidiary Spark Networks, Inc. entered into an employment agreement with Mr. Eichmann (the "Eichmann Employment Agreement") with respect to his employment as Chief Executive Officer of Spark Networks, Inc. The Eichmann Employment Agreement provides for an annual base salary of \$525,000 and an annual target bonus amount of not less than \$300,000. Pursuant to the Eichmann Employment Agreement, if Mr. Eichmann's employment is terminated by Spark Networks, Inc. without cause or by Mr. Eichmann with good reason, then (i) if such termination occurs within 18 months of his employment agreement, Mr. Eichmann will be eligible to receive severance in an amount equal to 18 months of his annual base salary and his annual bonus amount for such period (plus an amount equal to the then current annual base salary and annual bonus payable to Mr. Eichmann pursuant to the executive director service agreement with Spark Networks SE, as described further below), paid in the form of salary continuation, as well as reimbursement of Consolidated Omnibus Budget Reconciliation Act ("COBRA") continuation coverage premium payments for 18 months; and (ii) if such termination occurs more than 18 months following the date of his employment agreement, Mr. Eichmann will be eligible to receive severance in an amount equal to 12 months of his annual base salary and his annual bonus amount for such period (plus an amount equal to the then current annual base salary and annual bonus payable to Mr. Eichmann pursuant to the executive director service agreement with the Company), as well as reimbursement of COBRA continuation coverage premium payments for 12 months. Mr. Eichmann's eligibility for the foregoing severance is conditioned on Mr. Eichmann having first signed a release agreement in a form reasonably acceptable to the Administrative Board. Spark Networks, Inc. will reimburse Mr. Eichmann for ordinary course expenses incurred in connection with travel between the Berlin, Germany and New York, New York, and for income tax liabilities to the extent that such liabilities exceed by \$25,000 the amount he would have otherwise been obligated to paid had he been subject only to income taxes in the United States.

Also on November 19, 2019, Spark Networks SE entered into an executive director service agreement with Mr. Eichmann (the "Eichmann Executive Director Service Agreement") pursuant to which Mr. Eichmann has an annual base salary of \$100,000 (in addition to his salary under his employment agreement with Spark Networks, Inc.). The term of the Eichmann Executive Director Service Agreement is four years and six months.

Effective on November 28, 2022, the Board of Directors and Mr. Eichmann determined that Mr. Eichmann would resign as Managing Director and Chief Executive Officer of the Company and Spark Networks, Inc. effective November 30, 2022, and has terminated his service and employment with the Company and Spark Networks, Inc. effective December 31, 2022. This termination is a mutual separation without cause, and Mr. Eichmann will receive severance compensation pursuant to the terms of his existing employment agreement, subject to Mr. Eichmann signing a customary release.

### **5.2.3 David Clark**

Mr. Clark's employment agreement with Spark SocialNet, Inc., a wholly-owned subsidiary of Spark Networks, Inc., provides for a base salary at an annual rate of \$400,000 (of which \$60,000 is paid by Spark Networks SE) and an annual bonus with a target amount of not less than 50% of his annual base salary based on the achievement of individual and Company performance goals to be determined by the Board. In the event that Spark Networks, Inc. terminates Mr. Clark's employment (other than for cause, or on account of death or by disability), Mr. Clark is eligible

to receive an amount equal to one year of his then-current annual base salary, payable in the form of salary continuation, and he vests in the number of options that would have vested on the vesting date immediately following his termination of employment if Mr. Clark had remained employed by the Company such vesting date. Mr. Clark's eligibility for severance is conditioned on him having first signed a release agreement in the form reasonably acceptable to the Board. In addition, in the event that his employment is terminated by Spark Networks without cause, or Mr. Clark terminates his employment with good reason, Mr. Clark is entitled to receive any annual bonus earned but not yet paid and a pro-rated annual bonus for the year in which his employment terminates.

Mr. Clark would be entitled to additional payments in the event of certain terminations of employment under the Clark Executive Director Service Agreement, which may be terminated by either party with notice of six months (if termination occurs within 12 months after commencement of employment) or 75 days (if termination occurs more than 12 months after commencement of employment), unless the termination is for "important reason". Mr. Clark is entitled to continue receiving his salary under the Clark Executive Director Service Agreement during the applicable notice period in addition to severance under the Clark Employment Agreement. In the event of Mr. Clark's death, the Company will provide Mr. Clark's surviving dependents with an insured sum pursuant to an accident insurance policy equal to €600,000, and Mr. Clark's surviving dependents will be also entitled to receive the Mr. Clark's salary for the remainder of the month of death and two subsequent months. In the event of Mr. Clark's disability, the Company will provide Mr. Clark with an insured sum equal to €1,200,000, and Mr. Clark will be entitled to receive continued payment of his salary for six months, or the remainder of the term of the Clark Executive Director Service Agreement, if shorter. Mr. Clark will also be entitled to receive payment equal to 50% of his salary under the Clark Executive Director Service Agreement for the duration of the one-year non-competition covenant set forth in the Clark Executive Director Service Agreement, except that this amount will not be payable to the extent he receives severance under the Clark Employment Agreement.

Effective on April 14, 2023, Mr. Clark's employment terminated as a mutual separation without cause, and Mr. Clark will receive severance compensation and other termination benefits pursuant to the terms of his employment agreement.

#### **5.2.4 Gitte Bendzulla**

Ms. Bendzulla has entered into an employment agreement with Spark Networks which provides for an annual fixed compensation (base salary) and an annual performance award (annual bonus) with a target amount of 30% of her then current fixed gross annual salary. The relevant goals shall be established annually by the Administrative Board after consultation with Ms. Bendzulla. The final amount of the bonus shall be determined annually by the Administrative Board based on achievement of the established goals at the same time as the annual financial statements of Spark Networks are approved by Spark Networks' auditors. The annual bonus, if any, shall be due and payable at the end of the month following such approval of the annual financial statements. Upon termination of employment, the agreement provides that Ms. Bendzulla may not compete with Spark Networks for one year provided that Spark Network pays Ms. Bendzulla during such period an amount equal to 50% of her total remuneration most recently received by her. Spark Networks shall be entitled to waive this non-compete covenant by written declaration at any time, including after the service relationship, with the effect that Ms. Bendzulla is released of the obligations immediately, and Spark Networks shall be free of the obligation to pay compensation with immediate effect starting from the date of declaration. Ms. Bendzulla is further entitled to receive a severance payment in the amount equal to six months of her base salary, plus the pro rata portion of her annual bonus for such year assuming achievement at the 100% level. The severance payment shall be due and payable together with the last regular salary payment. Any vesting of VSOP or stock option granted to Ms. Bendzulla due to occur within the next 3 months after the effective date of the termination shall continue to vest. In addition to the fixed and variable remuneration components, under the terms of the agreement, Ms. Bendzulla is entitled to additional benefits and reimbursement of necessary and reasonable expenses. Ms. Bendzulla's current base salary is €240,000 and her annual bonus target amount is €72,000.

Effective on March 2, 2022, Ms. Bendzulla notified the Company that she would be leaving the company to pursue other opportunities, with an official departure date of April 30, 2022. Ms. Bendzulla will not receive any compensation pay out pursuant to her resignation.



### 5.3 Variable compensation, target achievement and application of performance criteria

#### 5.3.1 Annual Cash Incentives (Short Term Incentive)

Awards consist of an annual target with performance measures based on a combination of quantitative financial performance goals and a combination of quantitative and qualitative individual objectives. The maximum payout opportunity was increased in 2022 from 150% to 200% of target. Ms. Grayson was not eligible to receive an award in 2022.

$$\text{Target Annual Cash Incentive Award} \times \left[ \text{Financial Performance (70\%)} + \text{Individual Performance (30\%)} \right] = \text{Actual Annual Cash Incentive Award}^{(1)}$$

##### (a) Financial Performance

The metrics approved for 2022 were revenue and marketing contribution, reflecting the Company's priorities of driving shareholder value while ensuring continuing to meet the Company's debt covenants. Spark Networks SE seeks to establish goals that are rigorous, and appropriately align pay with performance, while not incentivizing excessive risk taking. Each metric has a threshold, target and maximum performance goal associated with it, and a corresponding level of payout.

Metric	Weight	Threshold (50% Payout)	Target (100% Payout)	Maximum (200% payout)	Actual	Achieved Payout (% of target)
Revenue (M)	100 %	€206 (\$217)	€214 (\$225)	€217 (\$229)	€179 (\$188)	0 %
Marketing Contribution	Cap	(Payout cap applies if budget not achieved)				n/a
<b>Total</b>						<b>0 %</b>

As a result of financial performance failing to reach the threshold performance goals, no payment was earned by the Managing Directors in respect of this component for fiscal year 2022.

##### (b) Individual Performance

Spark Networks SE believes that it is also important to incentivize and reward for performance in areas of strategic importance specific to each executive's role. Objectives are established and approved by the Nomination, Governance and Compensation Committee (NGCC) in the first quarter and are intended to reflect drivers of future financial performance. Performance goals are both quantitative and qualitative and reflect areas such as product development, customer satisfaction and human capital management. Nevertheless, as a result of the Company's failure to meet the financial goals under its annual cash incentive plan, it was decided that no bonuses would be paid to NEOs.

Therefore the NGC Committee approved the following annual incentive payouts for 2022.

Name	Target Cash Incentive	Actual Cash Incentive	Actual (% of Target)
Eric Eichmann	€284,900 (\$300,000)	€0 (\$0)	—%
David Clark	€189,934 (\$200,000)	€0 (\$0)	—%
Gitte Bendzulla	€72,000 (\$75,816)	€0 (\$0)	—%

#### 5.3.2 Equity Incentives (Long Term Incentive Program, LTIP)

The LTIP provides for the grant of (virtual) stock options which operate like stock options (or restricted stock units). Each option represents the right to receive, upon exercise, a certain amount in cash determined on the relevant ADS Stock Price of the option minus the strike price of such option; provided, however, that the Company may elect to settle options in ADSs or ordinary shares of Spark instead of cash at its sole discretion.

The LTIP provides that the strike price can be set at any amount determined by the Administrative Board, including zero. Under the LTIP, the "ADS Stock Price" is, as of the grant date, the average closing price of one ADS of Spark trading on the stock exchange for the period of five trading days prior to such date.

Ms. Grayson did not receive any equity grants following her appointment as Interim Chief Executive Officer in December 2022.

	Market-priced virtual stock options <i>Operating like stock options</i>		Zero-priced virtual stock options <i>Operating like RSUs</i>		Total value of awards in 2022 <sup>(1)</sup>
	Number	Value <sup>(1)</sup>	Number	Value <sup>(1)</sup>	
Chelsea A. Grayson	0	\$0	0	\$0	\$0
David Clark	0	\$0	0	\$0	\$0
Gitte Bendzulla	0	\$0	0	\$0	\$0
Eric Eichmann	0	\$0	0	\$0	\$0

<sup>(1)</sup> This value represents the grant date fair value of the stock options granted as computed in accordance with ASC 718 and captured in the Summary Compensation Table.

The average equity mix for the four Managing Directors as of December 31, 2022, was 47% in the form of market-priced virtual stock options, with the remaining 53% in the form of zero-priced virtual stock options, which operate like RSUs.

### 5.3.3 Outstanding Equity Awards at 2022 Fiscal Year-End Table

The table below sets forth certain information regarding the outstanding equity awards held by our named executive officers as of December 31, 2022.

Name	Grant Date	Vesting Commencement Date	Option Awards					Zero Option Awards		Option Expiration Date
			Option Awards		Option Exercise Price (\$)	Zero Option Awards				
			Number of Securities Underlying Unexercised Options Exercisable (#)	Number of Securities Underlying Unexercised Options Unexercisable (#)		Number of Securities Underlying Unexercised Options Exercisable (#)	Number of Securities Underlying Unexercised Options Unexercisable (#)			
Chelsea Grayson Chief Executive Officer			—	—	0	—	—			
David Clark Chief Financial Officer	8/31/21	8/31/21	62,500	137,500	3.77	31,250	68,750	9/30/28		
Gitte Bendzulla Former Chief Operating Officer & Chief Legal Officer	1/21/20 11/30/20	1/31/20 11/30/20	50,625 13,125	—	4.88 4.33	—	—	2/28/27 12/31/27		
Eric Eichmann Former Chief Executive Officer	1/21/20	1/31/20	572,691	—	4.88	56,126	—	2/28/27		

### Options Exercises and Stock Vested

In the interest of enhanced understanding and a voluntary disclosure, the table below summarizes the number of shares acquired by the Managing Directors as a result of the (virtual) stock option exercise in fiscal year 2022.

Name	Option Awards		Stock Awards	
	Number of Shares Acquired on Exercise <sup>(1)</sup>	Value Realized on Exercise <sup>(2)</sup>	Number of Shares Acquired on Vesting (#)	Value Realized on Vesting (\$)
Chelsea Grayson	—	—	—	—
David Clark	—	—	—	—
Gitte Bendzulla	5,225	€10,619 (11,182)	—	—
Eric Eichmann	49,671	€100,946 (\$106,296)	—	—

<sup>(1)</sup> Represents the net shares acquired

<sup>(2)</sup> Value realized on exercise is based on the difference between the closing price of Spark Networks SE common shares on the date of share transfer and the exercise price.

## **6. Disclosures pursuant to Section 162 (2) AktG: Benefits in the event of premature termination activity**

### **6.1 Chelsea Grayson**

Upon a termination of employment for any reason, Ms. Grayson is not entitled to receive any severance or other termination payments under the Grayson Inc. Service Agreement or the Grayson SE Service Agreement and will have the right to receive only accrued base salary and benefits.

### **6.2 David Clark**

In the event that Spark Networks, Inc. terminates Mr. Clark's employment (other than for cause, or on account of death or by disability), Mr. Clark is eligible to receive an amount equal to one year of his then-current annual base salary, payable in the form of salary continuation, and he vests in the number of options that would have vested on the vesting date immediately following his termination of employment if Mr. Clark had remained employed by the Company such vesting date. Mr. Clark's eligibility for severance is conditioned on him having first signed a release agreement in the form reasonably acceptable to the Board. In addition, in the event that his employment is terminated by Spark Networks without cause, or Mr. Clark terminates his employment with good reason, Mr. Clark is entitled to receive any annual bonus earned but not yet paid and a pro-rated annual bonus for the year in which his employment terminates.

Mr. Clark would be entitled to additional payments in the event of certain terminations of employment under the Clark Executive Director Service Agreement, which may be terminated by either party with notice of six months (if termination occurs within 12 months after commencement of employment) or 75 days (if termination occurs more than 12 months after commencement of employment), unless the termination is for "important reason". Mr. Clark is entitled to continue receiving his salary under the Clark Executive Director Service Agreement during the applicable notice period in addition to severance under the Clark Employment Agreement. In the event of Mr. Clark's death, the Company will provide Mr. Clark's surviving dependents with an insured sum pursuant to an accident insurance policy equal to €600,000, and Mr. Clark's surviving dependents will be also entitled to receive the Mr. Clark's salary for the remainder of the month of death and two subsequent months. In the event of Mr. Clark's disability, the Company will provide Mr. Clark with an insured sum equal to €1,200,000, and Mr. Clark will be entitled to receive continued payment of his salary for six months, or the remainder of the term of the Clark Executive Director Service Agreement, if shorter. Mr. Clark will also be entitled to receive payment equal to 50% of his salary under the Clark Executive Director Service Agreement for the duration of the one-year non-competition covenant set forth in the Clark Executive Director Service Agreement, except that this amount will not be payable to the extent he receives severance under the Clark Employment Agreement. Effective on April 14, 2023, Mr. Clark's employment terminated as a mutual separation without cause, and Mr. Clark will receive severance compensation and other termination benefits pursuant to the terms of his employment agreement.

## **7. Other mandatory disclosures pursuant to Section 162 (1) and (2) AktG**

None of the service agreements of the Managing Directors who were in office during the fiscal year 2022 provide for malus- and clawback provisions that would allow to reclaim or reduce variable components of the Executive Board compensation.

None of the Executive Board members were promised any benefits by a third party in respect of their activities as Executive Board members or granted any such benefits in fiscal year 2022.

There were no deviations from the authoritative compensation system - beyond the differences between the respective Executive Board service contracts described. As a precaution, it is pointed out that the Executive Board service contracts in place in fiscal year 2022 do not yet correspond or have not yet corresponded to the compensation system for Managing Directors submitted to the Annual General Meeting for approval last year.

The relevant compensation system does not contain any provisions on maximum compensation, compliance with which would have to be reported.

### III. ADMINISTRATIVE BOARD COMPENSATION

#### 1. Compensation System for the Administrative Board

The compensation system and the specific compensation for the members of the Administrative Board are defined by the Annual Meeting which, in accordance with Section 38 para. (1) SEAG in conjunction with Section 113 para. (3) German Stock Corporation Act, adopts a resolution on the compensation of the members of the Administrative Board at least every four years.

The compensation system for the members of the Administrative Board of Spark Networks SE as determined in Section 16 of the Articles of Association of Spark Networks SE.

“(1) The members of the Administrative Board shall receive a fixed remuneration for each full fiscal year of Administrative Board membership. This remuneration amounts to EUR 80,000 for each Administrative Board member. The fixed remuneration shall be increased by the amounts set out below for serving on the following positions:

(i) EUR 40,000 for the Chairman of the Administrative Board, (ii) EUR 20,000 for the Vice Chairman, (iii) EUR 18,000 for the Chairman of the Presiding and Nominating Committee, (iv) EUR 10,000 for other members of the Presiding and Nominating Committee, (v) EUR 20,000 for the Chairman of the Audit Committee and (vi) EUR 12,500 for other members of the Audit Committee.

If a member of the Administrative Board serves on several of the above positions, the respective increase amounts shall apply cumulatively. Members of the Administrative Board who are also Managing Directors of the Company shall be compensated exclusively under their respective service agreements for their duties carried out in their capacity as Managing Director.”

Detailed information on the compensation system is available on the Company's website at <https://www.spark.net/investors/corporate-governance/board-remuneration>.

#### 2. Contribution of compensation to the promotion of the business strategy and long-term development

The compensation system for the members of the Administrative Board is based on the legal requirements and takes into account the recommendations and suggestions of the German Corporate Governance Code (as amended last on 16 December 2019).

Spark Networks SE pursues a long-term perspective in its entrepreneurial activities. In the course of continuous development, added value shall be created – for shareholders, employees, customers and for the company itself.

#### 3. Compensation components

Under the compensation system, the fixed compensation of Administrative Board members is increased depending on the office held on the Administrative Board and/or its committees.

The compensation system of the Administrative Board members can be summarized as follows:

Compensation Component		Description
Fixed compensation		<ul style="list-style-type: none"><li>Chairman: EUR 120,000</li><li>Vice Chairman: EUR 100,000</li><li>Ordinary member: EUR 80,000</li></ul>
Committee Compensation	Nominating, Governance and Compensation Committee	<ul style="list-style-type: none"><li>Chairman: EUR 18,000</li><li>Ordinary member: EUR 10,000</li></ul>
	Audit Committee	<ul style="list-style-type: none"><li>Chairman: EUR 20,000</li><li>Ordinary member: EUR 12,500</li></ul>
Other		<ul style="list-style-type: none"><li>Reimbursement for all out-of-pocket expenses and for the sales tax payable on out-of-pocket expenses and compensation</li><li>Financial loss liability insurance (D&amp;O insurance) coverage</li></ul>

##### 3.1 Fixed compensation

The yearly fixed compensation amounts to €80,000 for every ordinary member of the Administrative Board, increased by €40,000 for the Chairman of the Administrative Board and by €20,000 for the Vice Chairman. As of now, the yearly basic compensation amounts to €80,000 for ordinary members, €120,000 for the Chairman and €100,000 for the Vice Chairman.

### 3.2 Function surcharges (chairing and committee compensation)

Additional committee compensation for chairing and vice chairing the Administrative Board as well as chairing committees and membership in committees serve to reflect the work intensity and the time required for the respective activity.

The Administrative Board has currently established two committees, the Nominating, Governance and Compensation Committee (NGCC) and the Audit Committee.

Experience has shown that next to chairing or vice chairing the Administrative Board also membership in the NGCC as well as in the Audit Committee involves a significantly higher amount of preparation and work, both in terms of quality and quantity which leads to a higher work intensity. This is even more so if a person assumes the position of Chairman in a committee.

For this reason, the Administrative Board considers correspondingly staggered function surcharges as set out above to be appropriate.

### 3.3 No double compensation for Managing Directors being members of the Administrative Board

Members of the Administrative Board who are also Managing Directors of the Company shall be compensated exclusively under their respective service agreements for their duties carried out in their capacity as Managing Director. This applies to Mr. Eric Eichmann who is also a member of the Administrative Board.

### 3.4 Due date, pro rata payment

The compensation of the members of the Administrative Board is due for payment in four equal installments, each due after the expiration of a quarter.

Administrative Board members who are part of the body or a committee of the Administrative Board for only part of a fiscal year, or who hold the office of Chairman or Vice Chairman of the Administrative Board or Chairman of a committee for only part of a fiscal year, shall receive corresponding pro rata compensation.

### 3.5 Reimbursement of expenses

In addition to their fixed compensation, the Company reimburses the members of the Administrated Board for any reasonable expenses incurred in exercising their Administrative Board mandate as well as any sales tax payable on their compensation and expenses.

### 3.6 D&O insurance

The members of the Administrative Board are appropriately included in a financial loss liability insurance for board members in the interest and at the expense of the Company.

## 4. Administrative Board Compensation in fiscal year 2022

The following table sets forth the compensation earned by or paid to the non-executive members of the Administrative Board for services provided during the year ended December 31, 2022. Other than as described below, none of those members of the Administrative Board received any fees or reimbursement of any expenses (other than customary expenses in connection with the attendance of meetings of the Administrative Board) or any equity or non-equity awards in the year ended December 31, 2022. Amounts are converted from the policy values set out above into US Dollars based on the average 2022 exchange rate of 1.053.

Name	Fees Earned or Paid in Cash	Option Awards	Total
Axel Hefer <sup>(2)</sup>	€61,667 (\$64,935)	—	€61,667 (\$64,935)
Bangaly Kaba	€90,000 (\$94,770)	—	€90,000 (\$94,770)
Bradley J. Goldberg	€111,333 (\$117,234)	—	€111,333 (\$117,234)
Chelsea A. Grayson <sup>(6)</sup>	€89,792 (\$94,551)	—	€89,792 (\$94,551)
Colleen Birdnow Brown	€121,042 (\$127,457)	—	€121,042 (\$127,457)
David Khalil <sup>(3)</sup>	€60,000 (\$63,180)	—	€60,000 (\$63,180)
Joseph E. Whitters	€101,667 (\$107,055)	—	€101,667 (\$107,055)
Michael McConnell <sup>(4)</sup>	€30,833 (\$32,467)	—	€30,833 (\$32,467)
Ulrike Handel <sup>(5)</sup>	€30,000 (\$31,590)	—	€30,000 (\$31,590)

<sup>(2)</sup> Mr. Hefer was a Director of the Board until August 31, 2022.

<sup>(3)</sup> Mr. Khalil was a Director of the Board until August 31, 2022.

<sup>(4)</sup> Mr. McConnell was appointed to the Board of Directors on August 31, 2022.

<sup>(5)</sup> Ms. Handel was appointed to the Board of Directors on August 31, 2022.

<sup>(6)</sup> Ms. Grayson was an independent director prior to being appointed interim Chief Executive Officer in December 2022, so this figure reflects her compensation as an independent director.

#### IV. COMPARATIVE PRESENTATION OF THE ANNUAL CHANGE IN THE COMPENSATION OF THE MEMBERS OF THE EXECUTIVE BOARD AND THE ADMINISTRATIVE BOARD WITH THE DEVELOPMENT OF EARNINGS AND THE AVERAGE COMPENSATION OF EMPLOYEES PURSUANT TO SECTION 162 (1) NO. 2 AKTG

The following table shows the annual change in the compensation of the Managing Directors and members of the Administrative Board in comparison to the Company's earnings performance and the compensation of employees on a full-time equivalent basis pursuant to Section 162 AktG.

	Annual change 2022 vs. 2021	Annual change 2021 vs. 2020
	in %	in %
<b>Managing Directors</b>		
Chelsea Grayson	n/a	n/a
Gitte Bendzulla	-60%	-67%
David Clark	-39%	n/a
Eric Eichmann	+156%	-89%
<b>Members of the Administrative Board</b>		
Axel Hefer <sup>(1)</sup>	-43%	+64%
Bangaly Kaba	-3%	n/a
Bradley J. Goldberg	+103%	+68%
Chelsea A. Grayson <sup>(5)</sup>	-3%	+137%
Colleen Birdnow Brown	+12%	+71%
David Khalil <sup>(2)</sup>	-48%	+46%
Joseph E. Whitters <sup>(2)</sup>	+161%	n/a
Michael McConnell <sup>(3)</sup>	n/a	n/a
Ulrike Handel <sup>(4)</sup>	n/a	n/a
<b>Employees</b>		
Average employee compensation of the Group	-1%	-9%
<b>Earning Performance Spark Networks SE</b>	<b>(in thousands € (\$))</b>	<b>(in thousands € (\$))</b>
Net profits of the Group	-37%	-26%
Net profits of the Company	-100%	-33%

<sup>(1)</sup> Mr. Hefer was a Director of the Board until August 31, 2022.

<sup>(2)</sup> Mr. Khalil was a Director of the Board until August 31, 2022.

<sup>(3)</sup> Mr. McConnell was appointed to the Board of Directors on August 31, 2022.

<sup>(4)</sup> Ms. Handel was appointed to the Board of Directors on August 31, 2022.

<sup>(5)</sup> Ms. Grayson was an independent director prior to being appointed interim Chief Executive Officer in December 2022, so this figure reflects her compensation as an independent director.

The compensation of the Managing Directors and members of the Administrative Board as set forth in the table above shows the compensation earned for fiscal year 2022.

Where members of the Executive or Administrative Board were remunerated on a pro rata basis in individual fiscal years, for example because they joined the Company during the year, the compensation for this fiscal year was extrapolated to a full year in order to ensure comparability.

The comparison with the development of average employee compensation is based on the average compensation of the Spark-Group workforce. The remuneration of all employees excluding executive employees within the meaning of Section 5 (3) of the German Works Council Constitution Act (*BetrVG*) was taken into account for such comparisons. To ensure comparability, the compensation of part-time employees was extrapolated to full-time equivalents.

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# - Special Terms and Conditions -

## 1. General Provisions

(a) We render our services based on (i) the engagement letter and any possible attachments to the engagement letter (in particular any service descriptions, revocation notices for consumers and portal terms of use), (ii) these Special Terms and Conditions (hereinafter the "STC"), and (iii) the General Engagement Terms for Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften of the Institute of German Certified Accountants (hereinafter the "GET") (hereinafter collectively referred to as the "Client Agreement"). The same also applies to any part of our services that may be rendered by us before the Client Agreement is signed with legal effect. Different or conflicting terms and conditions will apply only if they have been expressly accepted by us in writing. The provisions of our engagement letter, the STC and GET will apply even if we do not expressly object to an order placed on the basis of different terms and conditions (e.g., terms and conditions of written orders).

(b) Unless otherwise agreed, these STC and GET also apply if we render services in addition to those agreed upon in the engagement letter or any attachments thereto.

## 2. Fees, Payment Due Date

(a) Our invoices, including any invoices for installment payments or prepayments, will be issued in Euro and will be due for payment immediately. We will invoice you at cost for any subcontractor services.

(b) Any demands for advance payments are subject to section 13 (1) sentence 2 of the GET. We have the right to invoice the client for reasonable installment payments on fees, charges and expenses, including incidental costs, at any time.

(c) All information we provide regarding the expected amount of fees generally is only a cost estimate, unless the Client Agreement expressly provides for a flat fee. A quoted flat fee may be exceeded, if unforeseeable events beyond our control will result in a considerable amount of additional work.

(d) If we should discontinue our services early, we shall have the right to invoice the client for the number of hours worked up to that point in time, unless termination of the contract is due to wrongful conduct on our part. However, in the latter case we may invoice you for the number of hours worked, if and to the extent that the services rendered are utilizable despite early termination.

(e) The German Regulations on Fees of Tax Advisors (*Steuerberatervergütungsverordnung - StBVV*) shall apply only to the extent expressly agreed in writing. If after the Client Agreement is signed you request from our firm services that are not included in the engagement letter, we will invoice you for those services either based on a separate agreement or, absent a separate agreement, based on our standard hourly rates applicable to those services, which are available upon request.

(f) If we are requested or required (whether before or after services are rendered) to make available information about our services to a competent court, a trustee or insolvency administrator, a public, regulatory or supervisory authority (*WPK, PCAOB, DPR*) or to any other third party (including the hearing of our personnel as witnesses), we shall have the right to invoice you for the time expended in this context based on hourly rates as agreed in the Client Agreement.

## 3. Limitations of our Liability

(a) Unless otherwise specified in this section 3 of the STC our liability is governed by section 9 of the GET. In derogation of section 9 (2) and (5) of the GET, each of the liability limits stated therein shall however be replaced throughout by the amount of € 5 million. Section 9 (1) of the GET shall in each case remain unaffected.

(b) If in your opinion the risk associated with our services substantially exceeds the amount of € 5 million, we are prepared to discuss the possibility and costs of increasing our liability limit with you and our liability carrier. You are responsible for any additional premiums incurred in connection therewith.

(c) Contrary to section 9 (2) of the GET and section 3 (a) of the STC our liability is unlimited only if (i) expressly agreed in writing, or (ii) as far as we have to perform our work without any limitations of liability to meet the requirements of the laws of the United States of America concerning the independence of auditors.

## 4. Our Work Results

Work results that must be delivered in writing and signed by us shall be binding only if the original is signed by two employees or, in case of e-mails, if two employees are named as signatories. Unless otherwise agreed or in violation of any applicable laws or professional standards, we may also deliver

our work results to you exclusively (i) as a PDF file and/or (ii) by e-mail and/or (iii) with a qualified electronic signature.

## 5. Disclosure of Our Work Results, Rights to Work Results

(a) Our work results are intended solely for the agreed purpose, and they are therefore addressed exclusively to you and may not be used for any other purpose. Any disclosure of our work results to third parties or any use of our work results for advertising purposes is subject to section 6 of the GET.

(b) Unless otherwise agreed in writing, we generally will consent to a disclosure of our work results to third parties only under the condition that a standard disclosure agreement (hold harmless release letter) has been signed by the third party/parties. Any disclosure of our work results must be made in full text and include all appendices. § 334 of the German Civil Code (*Bürgerliches Gesetzbuch - BGB*) shall remain unaffected by any such disclosure.

(c) You agree to hold harmless and indemnify us from and against any and all losses and damages that may result from any non-compliance with the foregoing provisions in section 5 (a) and/or (b).

(d) We will grant you rights to use our work results only to the extent necessary given the purpose of the applicable Client Agreement.

## 6. Principles of Our Cooperation

(a) The amount of time needed to render our services and used to calculate our fees depends in substantial part on satisfaction of the requirements set forth in section 3 (1) of the GET.

(b) Unless otherwise provided by the engagement letter, binding laws to which we are subject or any other provisions or applicable standards, we shall have no obligation to review any information made available to us for accuracy or completeness.

## 7. Special Clause for Tax Advice

(a) You hereby instruct and authorize us to electronically submit in your name all statements prepared for you that are intended and have been approved for electronic transmission to the responsible office of the German tax authority directly through DATEV eG. The foregoing instruction and authorization shall be effective immediately and may be revoked at any time. Any notice of revocation must be at least in text form.

(b) If documents requiring action by a certain deadline are submitted to us, we shall have no obligation to take any steps to meet the deadline unless the documents are transmitted to us by regular mail or fax.

## 8. Electronic Communication and Antivirus Protection

Electronic communication is subject to section 12 of the GET. You hereby further acknowledge that data sent via the Internet cannot be reliably protected against access by third parties, might be subject to loss, delay or viruses. To the extent permitted by law, we therefore disclaim any responsibility and liability for the integrity of e-mails after they leave our control, and for any damages you or any third parties may suffer as a result. This also applies if despite antivirus programs used by us, viruses enter your system as a result of receiving e-mails from us.

## 9. BDO Network, Sole Recourse

(a) We are a member of BDO International Limited, a British company with limited capital contributions, and we are part of the international BDO network of legally independent member firms. BDO is the brand of the BDO network and the BDO member firms (hereinafter "BDO Firms"). To render services, we may involve other BDO Firms as subcontractors. For this purpose, you hereby release us from our duty of confidentiality in relation to such BDO Firms.

(b) You hereby acknowledge and agree that in such cases we will bear full responsibility for both our acts and/or omissions and also all acts and/or omissions of any BDO Firms assisting us as subcontractors. Accordingly, you agree that you shall bring no claims or proceedings of any kind whatsoever against any BDO subcontractors (including BDO International Limited or Brussels Worldwide Services BVBA). This shall not apply to any claim or proceeding founded on an allegation of fraud or willful misconduct or any other claims that cannot be excluded under the laws of the Federal Republic of Germany.

(c) The liability provisions of this Client Agreement, including, without limitation, the limitations of liability, shall also apply for the benefit of any BDO Firms assisting us as subcontractors. Such BDO subcontractors have the right to directly invoke the provisions of the foregoing section 9 (b) of these STC.

## 10. BDO Legal Rechtsanwaltsgesellschaft mbH (BDO Legal) and BDO Group

(a) If in connection with our services you are also engaging BDO Legal or other companies of the BDO group, you hereby release us from our duty of confidentiality with respect to all engagement-related information in relation to BDO Legal and/or other companies of the BDO group, so that services can be rendered as smoothly and efficiently as possible.

(b) We are legally independent from BDO Legal and from other companies of the BDO group, we neither assume responsibility for their actions or omissions, nor do we form partnership under civil law (*Gesellschaft bürgerlichen Rechts - GbR*) with BDO Legal or any company of the BDO group, nor are we subject to joint and several liability with BDO Legal or any company of the BDO group.

## 11. Money-Laundering Act, Sanctions

Under the provisions of the German Money-Laundering Act (*Geldwäschegesetz - GwG*) we are required to follow certain identification procedures with respect to our contract partners. You are obligated to provide us, fully and truthfully, with all information and documentation that must be provided under the German Money-Laundering Act, and you are obligated to update such information and documentation without demand in the further course of the business relationship. We hereby expressly advise you of our obligations to terminate business relationships in accordance with applicable provisions of the German Money-Laundering Act. We further note that we also review our business relationships, *inter alia*, for relevant national or international sanctions. We reserve the right to terminate a business relationship without notice if we determine in the course of any sanction reviews that you and/or any of your controlling shareholders/partners are subject to relevant sanctions.

## 12. Marketing

Unless we are instructed otherwise by you in writing or highly personal matters or mandates of consumers within the meaning of § 13 of the German Civil Code are involved, you hereby allow us to use the type and nature of our contract with you for marketing purposes. This authorization exclusively covers a factual description of the basic nature of the contract and the client (e.g., reference lists with firm and logo, as well as scorecards).

## 13. Statute of Limitations

(a) The limitation of warranty claims is subject to section 7 (2) of the GET. The limitation of all other claims is as provided in the following subsections.

(b) In cases of simple negligence not involving harm to life, body, freedom or health, all claims against us shall be subject to a general limitation period of one year.

(c) The limitation period shall begin to run at the end of the calendar year in which the claim occurred and in which you discovered or absent gross negligence would have discovered the circumstances giving rise to the claim as well as the identity of the liable party ("knowledge or grossly negligent lack of knowledge"). Irrespective of the above, claims shall be time-barred after a period of five years after they occurred, or, without regard to their occurrence and to your knowledge or grossly negligent lack of knowledge, ten years after the act, breach of duty or any other event triggering the damage. Whichever deadline expires first shall be relevant.

(d) Except as provided herein, the limitation of claims shall be governed by applicable law.

## 14. Jurisdiction, Form, Severability

(a) If you are a merchant (*Kaufmann*), a legal entity under public law or a special fund under public law, or if you do not have a general place of jurisdiction in Germany, the place of jurisdiction for any and all disputes arising from or in connection with the Client Agreement shall, at our option, be (i) Hamburg/Germany, (ii) the place at which the work in dispute was performed, or (iii) the place of your registered office or residence.

(b) Any amendment, supplement or cancellation of the Client Agreement shall be made at least in text form (§ 126b German Civil Code). This shall also apply to any amendment, supplement or cancellation of this clause 14 (b) STC.

(c) If any provision of this agreement - in whole or in part - is held to be invalid or otherwise impracticable, the other provisions shall remain in full force and effect. Any invalid or impracticable provision shall be deemed to be replaced by such valid and enforceable provision as comes as close as possible to the economic intent of the invalid or unenforceable provision. The foregoing shall apply, *mutatis mutandis*, if any provision has been inadvertently omitted from this agreement.



# 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*) [Translators 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.