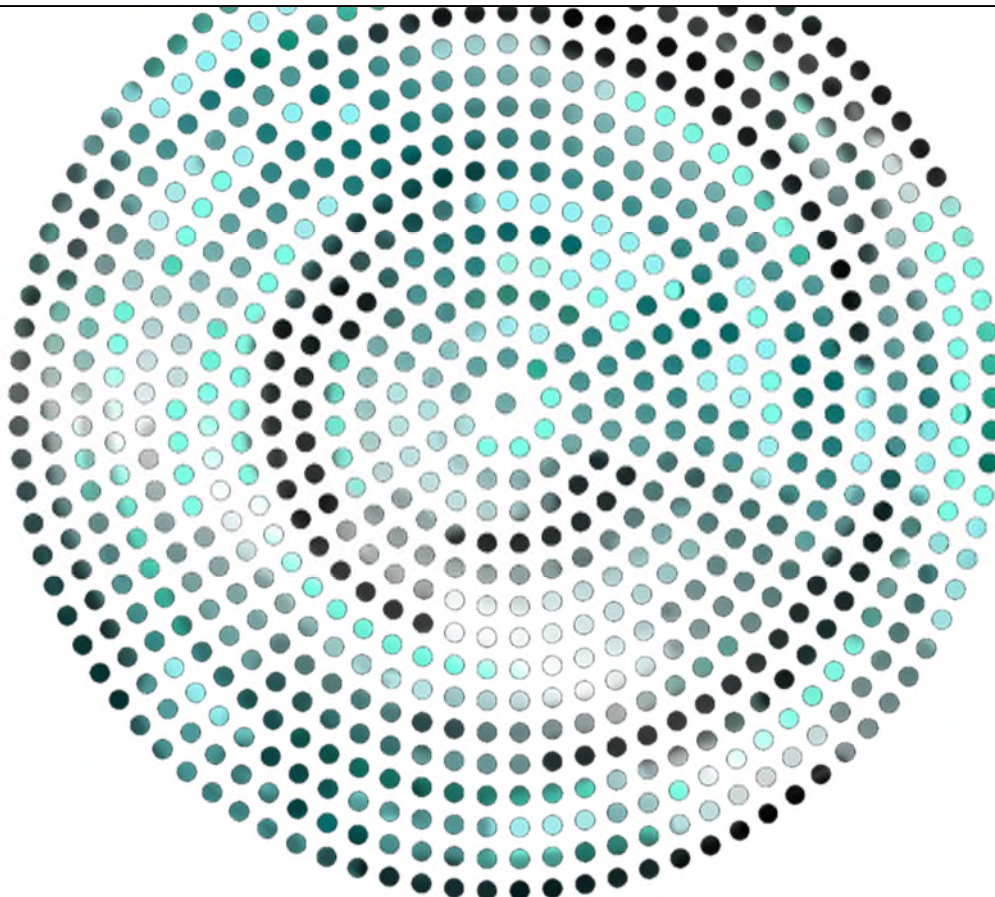


## TRANSLATION

This English language audit report is a translation provided for information purposes only. The original German text shall prevail in the event of any discrepancies between the English translation and the German original. We do not accept any liability for the use of, or reliance on, the English translation or for any errors or misunderstandings that may derive from the translation.



## REPORT

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

**IMMOFINANZ AG, Vienna**

as the target company of the voluntary partial public takeover  
offer pursuant to Sections 4 et seq. Austrian Takeover Act by  
CEE Immobilien GmbH

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## Abbreviations

		Translation of relevant abbreviations
AG	Aktiengesellschaft	Stock corporation
ATA	Austrian Takeover Act	
e.g.	for example	
EPRA	European Public Real Estate	
EUR	EURO	
FH	Fachhochschule	College of higher education
GmbH	Gesellschaft mit beschränkter Haftung	Limited liability company
NAV	Net Asset Value	
NTA	Net Tangible Assets	
Sec	Section	

## 1. Appointment and Engagement

We were appointed based on a letter dated 22 December 2021 by the Executive Board of

**IMMOFINANZ AG, Vienna,**

(“IMMOFINANZ“ or the “target company “)

to serve as the independent expert pursuant to Sec 13 f ATA and, in this function, to advise the target company during the entire takeover process and to examine the statement by the administrative bodies of IMMOFINANZ. The consent of the Supervisory Board for this appointment, which is required by Sec 13 last sentence ATA, was received.

Our company is independent of the target company in the sense of the relevant provisions of the ATA and professional regulations. Our company maintains the professional liability insurance required by Sec 13 in connection with Sec 9 para 2 letter a. ATA.

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

Marieluise Krimmel, Austrian Chartered Accountant, is responsible for the proper execution of this engagement.

Pursuant to Sec 14 para 2 ATA, the independent expert appointed by the target company is responsible for preparing a written evaluation of

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

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

Our work has been performed during the period from 22 December 2021 to 9 January 2022.

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

The following documents were made available for our work:

- The voluntary partial public takeover offer in accordance to Sec 4 et seq. ATA to the shareholders of IMMOFINANZ AG by CEE Immobilien GmbH, Vienna, dated 23 December 2021 (the “offer”; see Appendix 3)
- The valuation considerations prepared by Citigroup Global Markets Europe AG, Frankfurt/Main, („Citi“) on behalf of the Executive Board of the target company regarding the appropriateness of the offer price and the resulting opinion (“Inadequacy Opinion“, dated 9 January 2022)
- The valuation estimates as basis of the Fairness Opinion prepared by Ithuba Capital AG, Vienna, („Ithuba“) on behalf of the Supervisory Board of the target company regarding the appropriateness of the offer price by S IMMO AG and the resulting opinion (“Inadequacy Opinion“, dated 8 January 2022)
- Annual Report 2020 and Consolidated Interim Financial Report Q1-3 2021
- Estimates and price targets of equity research analysts for IMMOFINANZ
- Publications by the target company on its website (shareholdings and share prices, ad-hoc reports, etc.)
- Database inquiries (e.g. Capital IQ, Refinitiv, Bloomberg, data of the Vienna Stock Exchange)

## 2. Evaluation of the offer

### 2.1. General information

The share capital of IMMOFINANZ represents EUR 123,293,795 at the date the offer was announced (23 December 2021) and at the date of the report. This share capital is divided to 123,293,795 bearer shares.

The stock of treasury shares of IMMOFINANZ as of 23 December 2021 and at the date of the report amounts to 1,028 shares, representing a portion of 0.00% of the share capital.

On 24 January 2017, IMMOFINANZ issued 2.0% convertible bonds due 2024 (ISIN XS1551932046) with a total nominal value of EUR 297,200,000, denominated in EUR 100,000 each and a term until 24 January 2024 ("Convertible Bonds"). The interest rate is currently 1.5% p.a. The Executive Board has included in his Statement in section 1.3 explanations with regard to the exercise of the conversion rights, specifically with regard to the event of a change of control and the temporary adjustment of the conversion price due to the occurrence of the change of control. Upon full conversion of the outstanding Convertible Bonds (nominal value EUR 294,500,000) at the adjusted conversion price, up to 15,583,082 new shares, corresponding to approximately 12.64% of the current share capital, are to be issued.

The bidder **CEE Immobilien GmbH** is an indirect 100% subsidiary of S IMMO AG ("S IMMO"). S IMMO is a stock corporation under Austrian law with its registered office in Vienna (FN 58358x), which holds via its' 100% subsidiary CEE PROPERTY-INVEST Immobilien GmbH (FN 205014t) all shares of the bidder CEE Immobilien GmbH.

The legal entities acting in concert with the Bidder within the meaning of Sec 1 no 6 ATA are, among others, the following companies:

- S IMMO AG (commercial registry number FN 58358x) with its registered office in Vienna. This is the parent company of the S IMMO AG Group.
- CEE PROPERTY-INVEST Immobilien GmbH (commercial registry number FN 205014t) with its registered office in Vienna. This company is the direct shareholder of the Bidder.

According to the offer the bidder holds 17,543,937 IMMOFINANZ shares in the Target Company as of 23 December 2021. This represents 14.23% of IMMOFINANZ's share capital.

The subject of the offer as of 23 December 2021 of CEE Immobilien GmbH are the currently issued ordinary shares of the Target Company with the international securities identification number (ISIN) AT0000A21KS2 as well as any new shares of the Target Company issued after 30 November 2021. This applies in particular to any new shares of the Target Company issued to service the Convertible Bonds 2017 (cf. section 2.3), irrespective of whether they have the same securities identification number as the existing shares. The offer is directed the acquisition of up to 12,663,043 bearer shares (approximately 10.27% of the total share capital).

The period for acceptance of the offer is four weeks and four trading days. The offer may be accepted from (and including) 23 December 2021 until (and including) 26 January 2022. In the event that a competing offer is published during the Acceptance Period, the Acceptance Period may automatically be extended by law. Pursuant to Sec 19 para 1c ATA, the acceptance period for this offer is extended by law by the submission of a competing offer until the end of the acceptance period for the competing offer, unless the bidder has declared its withdrawal from this offer. Pursuant to Sec 19 para 1c ATA, the maximum acceptance period should generally not exceed 10 weeks. However, the Austrian Takeover Commission may allow the prolongation of the Acceptance Period beyond 10 weeks, if and insofar the target company's business activities are not unduly impeded.

According to the information provided on the website of the Austrian Takeover Commission, CPI PROPERTY GROUP S.A. ("CPIPG") has notified the Austrian Takeover Commission on 22 December 2021 of an anticipatory mandatory offer (Sec 10 ATA). In the event that the CPIPG offer is published during the Acceptance Period of this Offer, it is to be assumed that the Acceptance Period of this offer will be extended ex lege until the end of the acceptance period for the CPIPG Offer, unless the bidder has declared the withdrawal from this offer.

Pursuant to Sec 19 para 1c ATA, the bidder expressly reserves the right to withdraw from this offer if another bidder publishes a public offer for shares in the target company.

## 2.2. Verification of the minimum information required by Sec 7 ATA

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

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

Legal regulation	Content of the regulation	Reference in the Offer
§ 7 no.1	Information on the content of the offer	4.1. Object of the Offer
§ 7 no.2	Information on the bidder, in particular, if the bidder is a company, the legal form, name and registered office; moreover, information on direct and indirect investments of the bidder as defined in §§ 91f of the Austrian Stock Exchange Act and its affiliation to a group of companies	3.1. About the Bidder 3.3. Entities acting in concert with the Bidder
§ 7 no.3	The equities which are the object of the offer	4.1. Object of the Offer
§ 7 no.4	The consideration offered for each security, the valuation method used to determine this consideration and, in the cases mentioned in § 26, the basis for the calculation; moreover, information on the conduct of the offer, in particular on the agents authorised to receive acceptances and pay out the consideration;	4.2. Offer Price 4.3. Determination of the Offer Price
§ 7 no.5	Where applicable, the maximum and minimum percentages or the maximum or minimum quantities of securities that the bidder commits to acquire as well as a description of the rules of allocation as specified in § 20;	4.1. Object of the Offer (partial offer, no offer for convertible bonds) 6.6. Allocation of Offer Shares in case of oversubscription of the Offer
§ 7 no.6	The shares in the target company already held by the bidder and parties acting in concert or the shares they are entitled or obliged to acquire in the future	2.2. Share capital and shareholder structure (of the Bidder)
§ 7 no.7	The conditions and rights of withdrawal to which the offer is subject	5. Conditions precedent
§ 7 no.8	The bidder's intentions regarding the future business activities of the target company and, if affected by the offer, the future business activities of the bidder, also with regard to the safeguarding of employees' and management's jobs, including any material changes to the conditions of employment; in particular, this involves the bidder's strategic planning for the two companies and the likely effects on jobs and business locations;	7. Future Investment and corporate policy



Legal regulation	Content of the regulation	Reference in the Offer
§ 7 no.9	The period for acceptance of the offer and delivery of the consideration	6.1. Acceptance Period 6.7. Payment of the purchase price and transfer of ownership ("Settlement")
§ 7 no.10	If consideration is offered in the form of equities, information on these equities pursuant to § 7 of the Austrian Capital Market Act and §§ 74 ff of the Austrian Stock Exchange Act	Not applicable due to planned cash settlement
§ 7 no.11	The conditions under which the bidder plans to finance the offer	8.1. Financing of the Offer
§ 7 no.12	Information on the parties acting in concert with the bidder or, if known to the bidder, the parties acting in concert with the target company and, in the case of companies, their legal form, name and registered office as well as their relationship to the bidder or target company; information on the legal entities controlled by the bidder (§1 no. 6 second sentence) may be omitted if the controlling entity is not significant for decisions by the recipients of the offer;	3.3. Entities acting in concert with the Bidder
§ 7 no.13	Information on the consideration offered for rights that may be removed as a result of the breakthrough rule pursuant to § 27a as well as details on the form of payment for the compensation and the method used to determine this compensation;	Not applicable
§ 7 no.14	Information on the national law that will govern contracts concluded between the bidder and the holders of the equities of the target company as a result of the acceptance of the offer as well as the designation of the competent courts.	9.3. Applicable law and place of jurisdiction

## 2.3. The offer price

The offer price stated in the voluntary partial public offer amounts to EUR 23.00 per share cum dividend 2021 and any other (extraordinary) dividends. "Cum dividend 2021" means the shareholders who accept the offer will not receive a dividend additionally to the offer price for the financial year from 1 January 2021 to 31 December 2021.

The offer represents a voluntary offer pursuant to Sec 4 et seq. ATA. Consequently, Sec 26 ATA does not apply. The bidder is not bound to a minimum price rule with respect to the determination of the offer price and is entitled to determine the offer price at his discretion.

The shares of IMMOFINANZ (ISIN) AT0000A21KS2 are listed on the Vienna Stock Exchange (Prime Market segment) and also on the Main Market (rynek podstawowy) of the Warsaw Stock Exchange. On 3 December 2021, the last trading day prior to the announcement of the intention to launch the Offer, the IMMOFINANZ share traded at EUR 21.36 on the Vienna Stock Exchange. The offer price is therefore 7.68% higher than this closing price.

The average stock market price for the share, weighted by the respective trading volume, during the six months prior to 3 December 2021 (the date on which the intention to launch the offer was announced) equals EUR 20.36 per share. The offer price of EUR 23.00 exceeds this average price by EUR 2.64 per share or 12.94%.

In the voluntary offer no information is provided in reference to the applied valuation methods by the bidder to determine the offer price.

The bidder has in section 4.4. – 4.8. of the offer document disclosed analyses

- of historical reference transactions of the bidder,
- of the volume weighted average prices ("VWAP") in EUR on the Vienna Stock Exchange for the last one (1), three (3), six (6), twelve (12) and twenty-four (24) months,
- of the discount of the closing share price as of 30 September 2021 to the latest published EPRA Net Asset Value per Share (undiluted) as of 30 September 2021,
- of key financial figures (IFRS) of the Annual Reports 2020 and 2019 as well as the Consolidated Interim Financial Report Q1-3 2021 (including Previous Year) of the target company and thereof derived book values per share,
- of available analysts' target prices of the shares and opinions and
- of the offer price in relation to the announced CPI-Offer.

For results of these analyses, we refer to Appendix 3. We reviewed these figures based on the available information and were able to reproduce the data.

In the section of the key financial figures of the target company a EPRA NAV per share (undiluted) of EUR 31.05 is disclosed for 2019, however this is the EPRA NAV per share (diluted). The EPRA NAV per share (undiluted) as of 31 December 2019 amounts to EUR 32.49.

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

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

This offer represents a voluntary offer as defined in Sec 4 et seq. ATA. Therefore, Sec 26 ATA does not apply. The bidder is not subject to any legal requirements regarding a minimum offer price and is therefore entitled to determine the offer price at his discretion.

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

#### **3.1. General information**

In accordance with Sec 14 para 1 ATA, the statements by the Supervisory Board and Executive Board of the target company need to contain, in particular, the following:

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

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

The Executive Board of the target company is composed of the following persons:

- Mag. Stefan Schönauer, BA
- Mag. Dietmar Reindl

The Supervisory Board of the target company is composed of the following persons:

- Mag. Bettina Breiteneder (Chairwoman)
- Prof. Dr. Sven Bienert (Vice-Chairman)
- Dkfm. Michael Mendel Michael (Vice-Chairman)
- Dorothee Deuring, Msc. MBA
- Gayatri Narayan
- Stefan Guetter
- Werner Ertelthalner (delegated from the worker's council)
- Mag. Rita Macskasi-Temesvary (delegated from the worker's council)
- Mag. (FH) Philipp Amadeus Obermair (delegated from the worker's council)

### 3.2. Statement by the Executive Board

The Executive Board issued a statement concerning the voluntary partial public offer by the bidder on 9 January 2022 in accordance with Sec 14 para 1 ATA (the “statement by the Executive Board”). This statement by the Executive Board is included in this report as Appendix 1. The statement by the Executive Board addresses, in particular, the assessments required by Sec 14 para 1 ATA.

The Executive Board has issued a summary recommendation against the acceptance of the offer. Pointing out the necessity to consider the individual situation of individual shareholders the Executive Board presents in section 9 the arguments in favour of accepting the offer or against an acceptance of the offer:

- The following reasons speak in favour of accepting the offer by shareholders:
  - Premium over historical stock exchange prices
  - Exit option for shareholders with larger numbers of shares
  - Future share price development uncertain
  - Uncertainties in the development of business activities
  - Potential selling pressure immediately after settlement of the offer
  - Decline in free float – future realisation possibly more difficult
  - Possible blockade by shareholder blocks
  - Strengthening of the cross-shareholding
- The following reasons speak against an acceptance of the Offer by shareholders:
  - Offer price is significantly below EPRA NAV, EPRA NTA and IFRS book value per share
  - Offer price significantly below the price level before the outbreak of the COVID-19 pandemic
  - Offer price is below the average target price of analysts
  - Counterbalancing the acquisition and/or exercise of control by CPIPG
  - Risks associated with the allotment restriction of the partial takeover offer
  - Premium of the offer price significantly lower than premiums of other public company transactions
  - Sustained trend for positive development and business outlook

In order to assess the financial adequacy of the offer price for the addressees of the offer (shareholders of IMMOFINANZ other than the bidder and parties acting in concert with the bidder), the Executive Board of IMMOFINANZ has engaged Citigroup Global Markets Europe AG ("Citi") as financial advisor to advise the Executive Board of IMMOFINANZ with respect to the analysis of the offer and to assist in the preparation of this statement of the Executive Board. This engagement also includes the issuance of an opinion on the financial adequacy of the offer price for the addressees of the offer (shareholders of IMMOFINANZ other than the bidder and legal entities acting in concert with the bidder).

On this basis, Citi has prepared an opinion on the financial adequacy of the offer price based on internationally accepted procedures commonly used by financial advisors to assess comparable transactions in the real estate sector. The procedures applied in consideration of the financial terms of the bidder's offer include, inter alia, multiples of comparable companies derived from stock exchange prices, premium analyses of public company transactions, estimates of equity research analysts, discounted cash flow procedures and other factors deemed appropriate by Citi.

In this opinion, Citi concludes that, based on and subject to the considerations and assumptions set forth in the opinion, the offer price of EUR 23.00 per IMMOFINANZ-share is inadequate, from a financial point of view, to the shareholders of IMMOFINANZ ("Inadequacy Opinion").

The Executive Board points out in his statement that his statement cannot be a substitute for each holder of equity securities of IMMOFINANZ examining the offer himself and on his own responsibility, using all sources of information, in order to make a decision on the basis of this information as to whether or not to accept the Offer.

Finally, the Executive Board points out that the content of this statement only reflects the knowledge of the members of the Executive Board as of today's date and refers to the Offer Document published by the Bidder on 23 December 2021. Furthermore, this statement also contains information provided by the Bidder in the Offer, which the Executive Board cannot comprehensively verify for accuracy and has not done so.

We discussed with the Executive Board and its financial advisor the arguments presented for the recommendation not to accept the offer in light of the most important viewpoints and obtained the related evidence and explanations. In connection with our activities as the independent expert pursuant to Sec 13 f ATA, we analyzed the statements issued by the Executive Board of the target company and the basis on which this statement is based.

We have not performed an own valuation of the target company. Based on the (unaudited) Consolidated Interim Financial Report Q1-3 2021 (30 September 2021) the undiluted book value per share amounts to EUR 27.79, the undiluted EPRA NAV per share amounts to EUR 30.43 and the undiluted EPRA NTA per share amounts to EUR 30.77. The undiluted book value per share, the undiluted EPRA NAV per share and the undiluted EPRA NTA per share as of 30 September 2021 therefore exceed the offer price by 17.3%, 24.4% and 25.2%.

### **3.3. Statement by the Supervisory Board**

The Supervisory Board issued a statement concerning the voluntary partial public offer by the bidder on 9 January 2022 in accordance with Sec 14 para 1 ATA (the “statement by the Supervisory Board”). This statement by the Supervisory Board is included in this report as Appendix 2. After an intensive analysis of the offer and detailed review, discussion and financial assessment, the Supervisory Board basically agrees with the explanations in the statement by the Executive Board and concurs with the concluding assessment and recommendation of the Executive Board.

The Supervisory Board has as described in section 1.2.4 of the statement of the Supervisory Board taken supplementary steps for a review and financial evaluation of the offer and has issued a summary recommendation against the acceptance of the offer. The Supervisory Board discloses in its statement in section 5.2 as reasons for recommending not to accept the offer financial reasons (assessment of the offer price of EUR 23.00 (cum dividend) per IMMOFINANZ-share in cash based on the information set out in section 2 as inappropriate) and the bidder’s publicly disclosed non-stringent intentions regarding IMMOFINANZ.

For the evaluation of the financial adequacy of the offer price by the IMMOFINANZ-shareholders, the Supervisory Board has appointed Ithuba as independent financial advisor for the analysis of the offer and to support the Supervisory Board with the preparation of this statement; this appointment also comprises the issuance of a written opinion on the financial adequacy of the offer price – i.e. a fairness or inadequacy opinion - for the IMMOFINANZ-shareholders.

On this basis, Ithuba has prepared such an opinion on the financial adequacy of the offer price by means of internationally customary methods commonly used by financial advisors to evaluate comparable transactions in the real estate sector. Considering the offer's financial terms the applied methods comprise amongst others (i) market-known valuation multiples of comparable companies derived from stock market prices, (ii) analyses of premia paid in comparable transactions to acquire minority interests in comparable companies, (iii) a Discounted Cash Flow-valuation and (iv) other factors which Ithuba deemed relevant, including the historical trading performance of the IMMOFINANZ share, the offer price in relation to historical trading levels, net asset values and EPRA net asset values, financial performance indicators and current business developments at IMMOFINANZ, valuations and published target prices in research reports by equity analysts, the relationship of the offer price to financial performance indicators of IMMOFINANZ when compared to comparable transactions and the historical development of IMMOFINANZ' Funds from Operations (FFO).

In its opinion on the financial adequacy of the offer price dated 8 January 2022, Ithuba concludes that, subject to the assumptions and restrictions contained therein and at the time of the issuance of its statement, the offer price to be paid to the IMMOFINANZ-shareholders accepting the offer according to the offer document is not fair from a financial perspective ("inadequacy opinion").

We discussed with the Supervisory Board and its financial advisor the arguments presented for the recommendation not to accept the offer in light of the most important viewpoints and obtained the related evidence and explanations. In connection with our activities as the independent expert pursuant to Sec 13 f ATA, we analyzed the statements issued by the Supervisory Board of the target company and the basis on which this statement is based.



### **3.4. Summarising assessment of the statements by the Executive Board and by the Supervisory Board**

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

The statements by the Executive Board and the Supervisory Boards contain the elements required by Sec 14 ATA. The arguments presented enable the shareholders of the target company to form an independent opinion of the facts regarding the acceptance or rejection of the offer.

## 4. Summarising assessment

As the independent expert appointed by the target company pursuant to Sec 13 f ATA, we hereby issue the following summarizing assessment on the voluntary partial public offer issued in accordance with Sec 4 et seq. ATA by CEE Immobilien GmbH dated 23 December 2021 and on the related statements issued by the Executive Board and by the Supervisory Board dated 9 January 2022.

We can confirm the formal completeness of the offer. The offer contains the minimum information required by Sec 7 ATA.

This offer represents a voluntary offer as defined in Sec 4 et seq. ATA. Therefore, Sec 26 ATA does not apply. The bidder is not subject to any legal requirements regarding a minimum offer price and are therefore entitled to determine the offer price at his discretion.

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

The Supervisory Board of the target company fully supports the assessment and recommendation by the Executive Board and has issued a concluding recommendation to reject the offer, disclosing the most important arguments for rejecting the offer in its statement.

The statements by the Executive Board and by the Supervisory Board include the elements required by Sec 14 ATA.

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

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

Vienna

January 9, 2022

**Deloitte Audit Wirtschaftsprüfungs GmbH**

(signed by):  
Marieluise Krimmel  
Certified Public Accountant

## Appendices

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

**IMMOFINANZ**

**Statement by the Executive Board**

**of**

**IMMOFINANZ AG**

**on the**

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

**by**

**CEE Immobilien GmbH**

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## Introduction

### *Bidder, Offer and Target Company*

The bidder is CEE Immobilien GmbH ("**CEE Immobilien**" or the "**Bidder**"), which, according to the offer document, is an indirect 100% subsidiary of S IMMO AG ("**S IMMO**").

On 23 December 2021 the Bidder issued a voluntary partial public takeover offer in accordance with Sections 4 et seq. of the Austrian Takeover Act ("*Übernahmegesetz*") ("**ATA**") to the shareholders of IMMOFINANZ AG ("**IMMOFINANZ**" or "**Target Company**") for the acquisition of up to 12,663,043 bearer shares of IMMOFINANZ, corresponding to approximately 10.27% of the total number of shares currently issued by IMMOFINANZ ("**Offer**"). For this purpose, the Bidder published an offer document on 23 December 2021 ("**Offer Document**"). The subject of the Offer are the currently issued ordinary shares of the Target Company (ISIN AT0000A21KS2) as well as any new shares of the Target Company issued after 30 November 2021. The offer price per share is EUR 23.00 (*cum dividend*).

### *Reciprocal participations*

According to the Offer Document, CEE Immobilien currently holds 17,543,937 IMMOFINANZ shares, corresponding to approximately 14.23% of the current share capital.

IMMOFINANZ in turn holds 19,499,437 S IMMO shares, corresponding to approximately 26.49% of the current share capital of S IMMO.

### *Announced anticipatory mandatory offer of CPI PROPERTY GROUP S.A.*

On 03 December 2021, CPI PROPERTY GROUP S.A. ("**CPIPG**") published its intention to make an anticipatory mandatory offer in accordance with Sections 22 et seq. ATA to the holders of equity securities of IMMOFINANZ to acquire IMMOFINANZ shares and the convertible bonds due 2024 ("**CPIPG Offer**"). CPIPG has announced an offer price of EUR 21.20 per share (*cum dividend*).

According to announcements, CPIPG holds (directly and indirectly) 26,387,094 IMMOFINANZ shares, corresponding to approximately 21.4% of the current share capital.

CPIPG also announced that CPIPG and RPPK Immo GmbH entered into a (conditional) share purchase agreement on 03 December 2021 for the acquisition of further 13,029,155 IMMOFINANZ shares by CPIPG, corresponding to approximately 10.57% of the current share capital. This corresponds to a (combined) shareholding of 39,416,249 IMMOFINANZ shares, corresponding to approximately 31.97% of the current share capital.

CPIPG also holds an interest in S IMMO. According to announcements and as shown in the Offer Document of CEE Immobilien, CPIPG holds 8,543,690 S IMMO shares, corresponding to approximately 11.61% of the current share capital of S IMMO.

CPIPG notified the anticipatory mandatory offer on 22 December 2021 to the Austrian Takeover Commission pursuant to Section 10 ATA (notification as indicated on the website of the Austrian Takeover Commission). CPIPG shall publish the Offer Document pursuant to Section 11 ATA no earlier than on the twelfth trading day (11 January 2022) and no later than on the fifteenth trading day



(14 January 2022) after receipt by the Austrian Takeover Commission, unless the Austrian Takeover Commission (provisionally) prohibits the publication of the CIPIG Offer.

The Executive Board will publish a separate statement on the anticipatory mandatory offer of CIPIG in accordance with the provisions of takeover law. As the offer document is not yet published at the time of this statement, the Executive Board cannot take into account the offer document of the CIPIG Offer for this statement. The Executive Board notes that depending on the date of publication of an offer document for the CIPIG Offer, the Executive Board's statement thereon shall also be considered in connection with this offer. The right is also reserved for the Executive Board to make any supplementary statements in the further course.

#### *Basic principles of takeover law and framework conditions for the submission of comments*

This statement of the Executive Board is made pursuant to Section 14 para 1 ATA regarding the Bidder's Offer.

The statement shall, in particular, contain an assessment as to whether the consideration offered and the other contents of the Offer adequately take into account the interests of all shareholders and other holders of equity securities and what effects the Offer is likely to have on IMMOFINANZ, in particular on the employees (regarding jobs, employment conditions, location issues), the creditors and the public interest due to the Bidder's strategic planning for IMMOFINANZ. If no conclusive recommendation can be made, the Executive Board shall present the arguments for the acceptance and for the rejection of the Offer together with an indication of the most important aspects.

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

Finally, the Executive Board points out that the content of this statement only reflects the knowledge of the members of the Executive Board as of today's date and refers to the Offer Document published by the Bidder on 23 December 2021. Furthermore, this statement also contains information provided by the Bidder in the Offer, which the Executive Board cannot comprehensively verify for accuracy and has not done so.

Consequently, this statement cannot be a substitute for each holder of equity securities of IMMOFINANZ examining the Offer himself and on his own responsibility, using all sources of information, in order to make a decision on the basis of this information as to whether or not to accept the Offer.

#### *Statement of the Supervisory Board*

The Supervisory Board of IMMOFINANZ will also make a statement on the Offer pursuant to Section 14 ATA.

### *Assessment by the expert*

IMMOFINANZ has appointed Deloitte Audit Wirtschaftsprüfungs GmbH as expert pursuant to Section 13 ATA. The expert will provide an assessment of the Offer, the present statement of the Executive Board of the Target Company as well as the statement of the Supervisory Board.

### *Statement of the Works Council*

The Works Council has informed the Executive Board that a statement on the Offer will be made.

The present statement of the Executive Board, the statement of the Supervisory Board and the assessment by the expert as well as the statement by the Works Council are published, inter alia, on the website of the Target Company ([www.immofinanz.com](http://www.immofinanz.com)) and the website of the Takeover Commission ([www.takeover.at](http://www.takeover.at)).

## **1. Current situation**

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

IMMOFINANZ is a stock corporation under Austria law whose registered office is located in Vienna and whose business address is Wienerbergstrasse 9, 1100 Vienna. The company is listed in the commercial register under FN 114425 y (Vienna Commercial Court). The shares of IMMOFINANZ are admitted to official trading on the Vienna Stock Exchange (Prime Market) and the Warsaw Stock Exchange (Main Market – rynek podstawowy).

IMMOFINANZ is a commercial real estate group whose activities are focused on the office and retail segments in eight core markets in Europe (Austria, Germany, Poland, the Czech Republic, Slovakia, Hungary, Romania and the Adriatic region). The core business covers the management and development of properties. IMMOFINANZ pursues a brand strategy with the highly standardized brands STOP SHOP (retail), VIVO! (retail) and myhive (office). Furthermore, in August 2021 IMMOFINANZ announced its entry into the asset class of affordable sustainable housing in the overbuilding of the owned specialist stores (STOP SHOP) (TOP on STOP).

As of 30 September 2021, the IMMOFINANZ real estate portfolio included 207 properties (excluding properties held for sale and properties that fall under IFRS 5) with a portfolio value of EUR 5,046.4 m. Of this amount, the majority (EUR 4,506.2 m or 89.3% of the book value) is attributable to existing properties with a rentable area of 2.0 m<sup>sqm</sup>. Project developments account for EUR 377.5 m or 7.5% of the book value. A book value of EUR 162.7 m or 3.2% is attributable to pipeline projects, which include future planned project developments, undeveloped land, real estate inventories and properties intended for sale.

### **1.2 Capital and shareholder structure of IMMOFINANZ**

#### **1.2.1 Share capital of the Target Company**

The share capital of IMMOFINANZ, at the date of this statement, amounts to EUR 123,293,795 and is divided into 123,293,795 bearer shares. For information on the increase of the share capital upon

the issuance of shares to holders of convertible bonds, please refer to the following section 1.3.2. The pro rata amount of the share capital per share is EUR 1.00.

## 1.2.2 Shareholder structure of the Target Company

According to the Offer Document, the Bidder holds 17,543,937 IMMOFINANZ shares, corresponding to a shareholding of approximately 14.23% in the share capital of IMMOFINANZ.

RPPK Immo GmbH holds 13,029,155 IMMOFINANZ shares (according to the major holdings notifications as of 06 December 2021), corresponding to a shareholding of approximately 10.57% in the Target Company. RPPK Immo GmbH is controlled by EUROVEA Services s.r.o., which is attributable to Mr Peter Korbačka.

CPIPG holds – according to the major holdings notification dated 03 December 2021 – 26,387,094 IMMOFINANZ shares, corresponding to a shareholding of approximately 21.40% in IMMOFINANZ.

Pursuant to an ad hoc announcement dated 03 December 2021 and a major holdings notification (Sections 130 et seq. Austrian Stock Exchange Act 2018) dated 03 December 2021, CPIPG entered into a conditional share purchase agreement with RPPK Immo GmbH on the acquisition of the 10.57% shareholding in IMMOFINANZ held by RPPK Immo GmbH. The share purchase agreement between CPIPG and RPPK Immo GmbH is conditional upon merger control clearance in several jurisdictions. In view of the closing of this share purchase agreement, CPIPG announced on 03 December 2021 its intention to make an anticipatory mandatory offer (see below section 1.5).

Petrus Advisers Ltd holds – according to a major holdings notification – 2,070,089 IMMOFINANZ shares, corresponding to approximately 1.68% in the share capital, as well as 4,125,000 voting rights from call options (expiry date: January 2022 – March 2022, exercise period: any time), which, if exercised, correspond to an interest of approximately 3.35% in the share capital. Petrus Advisers Ltd is controlled by Mr Klaus Umek.

Shareholder <sup>1</sup>	Number of shares	Stake in share capital in %
CPI PROPERTY GROUP S.A.	26,387,094	21.40
RPPK Immo GmbH <sup>2</sup>	13,029,155	10.57
<b>Subtotal</b>	<b>39,416,249</b>	<b>31.97</b>
CEE Immobilien GmbH (Bidder)	17,543,937	14.23
Petrus Advisers Ltd <sup>3</sup>	2,070,089	1.68
Treasury shares	1,028	0.00
Free float	64,262,492	52.12
<b>Total</b>	<b>123,293,795</b>	<b>100.00</b>

<sup>1</sup> Information according to recently published major holdings notifications and announcements to the intention to make an offer, in relation to the current share capital of the Target Company.

<sup>2</sup> According to the major holdings notification of 06 December 2021, RPPK Immo GmbH is controlled by EUROVEA Services s.r.o. and the latter is controlled by Mr Peter Korbačka.

<sup>3</sup> In addition, 4,125,000 voting rights, corresponding to approximately 3.35% of the share capital, from call options.

### **1.3 Other equity instruments: convertible bonds**

On 24 January 2017, IMMOFINANZ issued 2.0% convertible bonds due 2024 (ISIN XS1551932046) with a total nominal value of EUR 297,200,000, denominated in EUR 100,000 each and a term until 24 January 2024 ("**Convertible Bonds**").

The Convertible Bonds are included for trading in the Vienna MTF (multilateral trading facility; no regulated market). The interest rate is currently 1.5% p.a. The current outstanding volume is EUR 294,500,000. The Convertible Bonds entitle the holders to convert them into bearer shares of IMMOFINANZ.

The Convertible Bonds are equity securities pursuant to Section 1 no. 4 ATA. The present Offer is a partial offer pursuant to Sections 4 et seq ATA and as such – unlike a mandatory offer or a voluntary offer to acquire control – does not have to relate to the acquisition of all equity securities. The Offer also does not relate to the Convertible Bonds.

However, IMMOFINANZ shares issued to holders of the Convertible Bonds upon exercise of the conversion right ("**Delivery Shares**") shall be subject to the Offer, provided that the relevant Delivery Shares are issued in due time prior to the end of the Acceptance Period.

The holders of the Convertible Bonds are advised that due to the settlement periods for the issue of shares and acceptance of the Offer, early conversion is required in order to be able to accept the Offer for Delivery Shares, but no commitment is made by the Target Company as to the possibility of acceptance with Delivery Shares (see the notes below).

#### **1.3.1 Change of control pursuant to the terms and conditions of the Convertible Bonds through the acquisition of a shareholding by CPIPG**

The Convertible Bonds entitle the holders to exchange them for Delivery Shares at the conversion price. The terms and conditions provide for (i) a termination right of the holders in the event of a change of control (as defined in the terms and conditions) and (ii) the temporary adjustment of the conversion price applicable upon exercise of conversion rights on or before the control record date to be determined in accordance with the terms and conditions.

After receipt of the major holdings notification from CPIPG on 03 December 2021 regarding the acquisition of a direct and indirect shareholding of approximately 21.4% in the share capital of IMMOFINANZ, IMMOFINANZ published announcements<sup>1</sup> regarding the change of control on 07 December 2021:

- On 03 December 2021, a change of control of the Convertible Bonds occurred as a result of CPIPG acquiring a controlling interest in IMMOFINANZ pursuant to Section 22 ATA in connection with Section 27 ATA.
- The control record date is set at 19 January 2022.

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<sup>1</sup> See the IMMOFINANZ announcement dated 07 December 2021, available at <https://immofinanz.com/en/news/immofinanz-ag-adjustment-of-the-conversion-price-of-convertible-bonds-due-2024-due-to-a-change-of-control-event>.

- The occurrence of the change of control leads to a temporary adjustment of the conversion price when conversion rights are exercised on or before the control record date.
- The conversion price applicable immediately prior to the occurrence of the change of control was EUR 20.6333 and the conversion price adjusted due to the change of control upon exercise of conversion rights on or before the control record date is EUR 18.8987.

The change of control pursuant to the terms and conditions of the Convertible Bonds applies as a result of CPIPG acquiring a formal controlling interest pursuant to Section 22 ATA in conjunction with Section 27 ATA in conjunction with Section 28 of the articles of association of IMMOFINANZ (i.e. a voting interest of more than 15%).

The conversion price upon exercise of conversion rights after the control record date shall generally correspond again to the conversion price applicable immediately prior to the occurrence of the change of control, i.e. EUR 20.6333 (i.e. subject to any future adjustments of the conversion price in accordance with the terms and conditions of the Convertible Bonds, such as the occurrence of another change of control event in accordance with the terms and conditions of the Convertible Bonds – see section 1.3.4).

If the conversion right is exercised at the adjusted conversion price, a higher number of Delivery Shares must be issued for Convertible Bonds submitted for conversion: For a Convertible Bond with a nominal value of EUR 100,000, approximately 5,291 Delivery Shares are to be issued; at the conversion price after the control record date, approximately 4,846 Delivery Shares are to be issued (in each case without taking into account a cash settlement of fractions of Delivery Shares).

### **1.3.2 Increase of share capital upon issuance of Delivery Shares**

Upon full conversion of the outstanding Convertible Bonds (nominal value EUR 294,500,000) at the adjusted conversion price, up to 15,583,082 new shares, corresponding to approximately 12.64% of the current share capital, are to be issued.

Upon conversion, Delivery Shares shall be issued and transferred in accordance with the terms and conditions of the Convertible Bonds. Conditional capital exists for the issuance of Delivery Shares (Section 159 para 2 no. 1 of the Austrian Stock Corporation Act). The Executive Board intends to issue Delivery Shares from conditional capital.

### **1.3.3 Issue of Delivery Shares and possible acceptance of the Offer**

A maximum period applies to the issue and transfer of Delivery Shares after the exercise of the conversion right. Delivery Shares shall be transferred to the securities account of the holder of the Convertible Bonds specified in the conversion notice no later than on the fifteenth business day after the conversion date. IMMOFINANZ aims to issue the Delivery Shares earlier in view of the expiry of the Acceptance Period of the Offer in order to provide an opportunity to accept the Offer. For explanations regarding the acceptance of the Offer, see section 2.5 of the statement and section 6 of the Offer Document.

In this context, the Executive Board points out that, depending on the respective custodian bank, different disposition periods may exist, so that shares to be tendered into the Bidder's Offer must already be booked on the custodian bank's securities account several trading days prior to the end of

the Acceptance Period. It is therefore recommended to contact the respective custodian bank in due time.

Due to the settlement deadlines for the issuance and transfer of the Delivery Shares and the acceptance for the Offer, IMMOFINANZ does not assume any obligation or guarantee that the transfer of Delivery Shares to the securities account of the holders of Convertible Bonds will take place in such a timely manner that the acceptance of the Offer with respect to the Delivery Shares can actually take place by the end of the Acceptance Period (26 January 2022, 4:00 p.m. (Vienna time)). See also the explanations in section 2.5. to an *ex lege* extension of the Acceptance Period for the Offer if a competing offer is published during the Acceptance Period, unless the Bidder has declared its withdrawal from the Offer.

#### **1.3.4 Potential further change of control pursuant to the terms and conditions upon Settlement of the Offer**

CEE Immobilien currently holds 17,543,937 IMMOFINANZ shares, corresponding to approximately 14.23% of the current share capital. Upon Settlement of the present Offer, the Bidder may also acquire a (formal) controlling interest (Section 22 in connection with Section 27 ATA) pursuant to the terms and conditions of the Convertible Bonds, provided that the Bidder holds an interest in IMMOFINANZ of more than 15% (voting interest pursuant to Section 22 ATA) after Settlement. In this case, a (further) change of control event will occur in accordance with the terms and conditions of the Convertible Bonds.

In this case, IMMOFINANZ will announce the change of control, an adjusted conversion price and a control record date in accordance with the terms and conditions of the Convertible Bonds. No statutory additional acceptance period pursuant to Section 19 para 3 ATA applies to the Offer as a partial offer, so that this Offer may no longer be accepted for Delivery Shares issued upon conversion after this possible further change of control event.

It is noted that the occurrence of this (further) change of control depends on the outcome of the Offer, whether CEE Immobilien thereby acquires a (formal) controlling interest (Section 22 in connection with Section 27 ATA), i.e. an interest of more than 15% (voting interest pursuant to Section 22 ATA). With regard to the time of Settlement of the Offer and any associated change of control event, it should also be noted that the Acceptance Period for the Offer is extended *ex lege* if a competing Offer is published during the Acceptance Period, unless the Bidder has declared its withdrawal from the Offer (see section 2.5).

In this context, it is also noted that IMMOFINANZ is entitled under the terms and conditions of the Convertible Bonds to redeem the remaining Convertible Bonds at the principal amount plus accrued interest if at any time the aggregate principal amount of the Convertible Bonds outstanding is equal to (or less than) 20% of the aggregate principal amount of the Convertible Bonds originally issued; i.e. the aggregate principal amount is EUR 59,400,000 (or less) (clean-up call). The notice period must be not less than 30 nor more than 90 days. In such notice, IMMOFINANZ shall announce the date on which the redemption will take place and the last day on which conversion rights may be exercised in accordance with the terms and conditions of the Convertible Bonds. It is not excluded that this date is prior to any further change of control event pursuant to the terms and conditions of the Convertible Bonds.

#### **1.4 Material legal relationships with the Bidder**

No personal ties exist between the Target Company and the Bidder or S IMMO, in particular no ties between corporate bodies.

Furthermore, there are no material legal relationships between the Bidder and the Target Company.

The Target Company holds 19,499,437 S IMMO shares, corresponding to a shareholdingshareholding of approximately 26.49% of the current share capital. The Bidder holds an interest in IMMOFINANZ of approximately 14.23% of the current share capital.

#### **1.5 Current developments regarding the shareholder structure of IMMOFINANZ – announced offer by CPI PROPERTY GROUP S.A.**

On 03 December 2021, CPIPG published its intention to make an anticipatory mandatory offer pursuant to Sections 22 et seq. ATA to the holders of equity securities of IMMOFINANZ for the acquisition of all bearer shares of IMMOFINANZ as well as the Convertible Bonds. CPIPG has announced an offer price of EUR 21.20 per IMMOFINANZ share (*cum dividend*).

CPI PROPERTY GROUP S.A. is a corporation (*société anonyme*) incorporated under the laws of Luxembourg with its registered office in Luxembourg and its business address at 40, rue de la Vallée, L2661 Luxembourg, registered with the Luxembourg Trade and Companies Register (*Registre de commerce et des sociétés de Luxembourg*) under registration number B 102 254.

According to the announcements, CPIPG holds (directly and indirectly) a 21.4% shareholding in IMMOFINANZ and has announced that CPIPG and RPPK Immo GmbH have entered into a (conditional) share purchase agreement regarding the acquisition of the 10.57% shareholding by CPIPG on 03 December 2021. This corresponds to a (combined) shareholding of approximately 31.97% in the share capital of IMMOFINANZ.

CPIPG notified the anticipatory mandatory offer on 22 December 2021 to the Austrian Takeover Commission pursuant to Section 10 ATA (notification as indicated on the website of the Austrian Takeover Commission). CPIPG shall publish the offer document pursuant to Section 11 ATA no earlier than on the twelfth trading day (11 January 2022) and no later than on the fifteenth trading day (14 January 2022) after receipt by the Austrian Takeover Commission (information according to the website of the Austrian Takeover Commission), unless the Austrian Takeover Commission (provisionally) prohibits the publication of the CPIPG Offer.

The Executive Board will issue a separate statement on the CPIPG Offer in accordance with the provisions of takeover law. This statement of the Executive Board shall be published within ten trading days from the publication of the offer document of CPIPG (Section 14 para 3 ATA).

As the offer document is not yet published at the time of this statement, the Executive Board cannot take into account the offer document of the CPIPG Offer for this statement. The Executive Board notes that depending on the date of publication of an offer document for the CPIPG Offer, the Executive Board's separate statement thereon in relation to this Offer shall also be taken into account. The right is also reserved for the Executive Board to make any supplementary statements in the further course.

It is also noted that in the event of the publication of a competing offer, the Acceptance Period for the Bidder's Offer will be extended *ex lege* until the end of the Acceptance Period for the competing offer, unless the Bidder declares the withdrawal from the Offer. The maximum period for the Offer is in principle 10 weeks (Section 19 para 1d ATA). However, the Austrian Takeover Commission may grant a reasonable extension of the Acceptance Period to more than 10 weeks, provided that the business activities of the Target Company are not unduly impeded thereby.

**Note: The Executive Board points out that the Bidder has reserved the right to withdraw from this Offer in the event of a competing offer (see section 2.8).**

## 1.6 The Bidder and legal entities acting in concert

### 1.6.1 CEE Immobilien

CEE Immobilien GmbH (Bidder) is a limited liability company under Austrian law with its registered office in Vienna and its business address at Friedrichstraße 10, 1010 Vienna, FN 217290 w.

According to the Offer Document, the Bidder is an indirect 100% subsidiary of S IMMO AG, a stock corporation under Austrian law with its registered office in Vienna and its business address at Friedrichstraße 10, 1010 Vienna, FN 58358 x.

S IMMO is a real estate investment company based in Vienna. The shares of S IMMO are listed on the Vienna Stock Exchange (ISIN AT0000652250). According to the Offer Document, approximately 69% of S IMMO's portfolio consists of commercial properties (offices, shopping centres and hotels) and approximately 31% of residential properties. According to the Offer Document, S IMMO's entire portfolio is located in the EU, with a strong focus on capital cities in Austria, Germany and the CEE region.

### 1.6.2 Capital and shareholder structure of the Bidder and S IMMO

The share capital of the Bidder amounts to EUR 35,000 and is held in full by CEE PROPERTY-INVEST Immobilien GmbH (FN 205014 t). The sole shareholder of CEE PROPERTY-INVEST Immobilien GmbH is S IMMO.

The share capital of S IMMO amounts to EUR 267,457,923.62 and is divided into 73,608,896 no-par value shares.

According to the Offer Document, the shareholder structure of S IMMO is as follows:

Shareholder	Number of shares	Shareholding in share capital in %
IMMOFINANZ AG	19.499.437	26,49%
CPI PROPERTY GROUP S.A.	8.543.690	11,61%
EUROVEA Services s.r.o. <sup>1</sup>	3.836.988	5,21%
Free float <sup>2</sup>	41.728.781	56,69%
<b>Total</b>	<b>73.608.896</b>	<b>100,00%</b>

1 According to the major shareholdings notification as of 12 November 2020, the S IMMO shares are held by EVAX Holding GmbH, which is controlled by EUROVEA Services s.r.o. and which is controlled by Mr Peter Korbačka.

2 In addition, it is pointed out that S IMMO holds 3,084,797 treasury shares (as at 26 December 2021) (see <https://www.simmoag.at/en/investor-relations/s-immo-share/share-repurchase.html>, retrieved on 07 January 2022).



### **1.6.3 Legal entities acting in concert with the Bidder**

The Bidder states in the Offer Document that it has not entered into any agreements within the meaning of Section 1 no. 6 ATA with any other shareholder of the Target Company.

According to the Offer Document, the following companies are legal entities acting in concert with the Bidder pursuant to Section 1 no. 6 ATA: S IMMO and CEE PROPERTY-INVEST Immobilien GmbH (direct shareholder of the Bidder). The Offer Document does not contain a description of the legal entities controlled by the Bidder (i.e. S IMMO) (Section 1 no. 6 sentence 2 ATA) because the controlled legal entities are not relevant for the decision of the addressees of the Offer.

## **2. Offer of CEE Immobilien (Bidder)**

### **2.1 Object of purchase**

The Bidder's Offer is directed to the acquisition of up to approximately 10.27% of the total number of currently issued shares in IMMOFINANZ. These are 12,663,043 bearer shares which are not owned by the Bidder, any party acting in concert with the Bidder or the Target Company ("**Offer Shares**").

According to the Offer Document, the Target Company's currently issued bearer shares with the securities identification number (ISIN) AT0000A21KS2 as well as any new shares in the Target Company issued after 30 November 2021 are subject of the Offer. According to the Offer Document, this also includes any new shares in the Target Company issued upon conversion of Convertible Bonds.

In the Offer Document, the Bidder expressly reserved the right to expand the offer volume, in particular for the purpose of responding to a dilution through the issuance of new shares as a result of a possible conversion of Convertible Bonds (see section 7.1.3 last paragraph of the Offer Document). See above section 1.3 on the possible issue of Delivery Shares to holders of the Convertible Bonds and a related increase of the share capital.

Consequently, the Offer does not comprise all IMMOFINANZ shares. It is a partial offer (Sections 4 et seq ATA).

If the number of shares covered by the declarations of acceptance is larger than the number of Offer Shares, the declarations of acceptance will be taken into account on a pro rata basis as defined in Section 20 ATA. In this event, the acceptance of the Offer will be subject to an allocation ratio that is derived from the total number of offer shares divided by the total number of shares tendered in connection with the Offer. The declaration of acceptance by individual shareholders will be reduced in accordance with this allocation ratio.

Consequently, the acceptance of the Offer does not guarantee complete fulfilment of the declaration of acceptance.

## 2.2 Offer Price

The Bidder offers to the holders of Offer Shares, subject to the terms and conditions of the Offer, to acquire the shares at a price of EUR 23.00 per share *cum* dividends for the financial year 2021 and any other (special) dividends ("**Offer Price**").

*cum* dividend means that the Offer Price per share will be reduced by the amount of any dividend determined by IMMOFINANZ after the announcement of the Offer and the Settlement, provided that the Settlement of the Offer takes place after the relevant record date for such dividend.

As the Settlement of the Offer is currently announced for February 2022 and the ordinary shareholders' meeting of IMMOFINANZ is currently scheduled to take place on 12 July 2022 (with a record date for a dividend on 15 July 2022), shareholders who accept the Offer are not expected to be affected by such an adjustment of the Offer Price. This is also expected to apply if the Bidder extends the Acceptance Period or if the Acceptance Period for offers already made is extended *ex lege* upon publication of a competing offer during the Acceptance Period until the end of the acceptance period for the competing offer (Section 19 para 1c ATA). See on an extension of the Acceptance Period section 2.5.

The Bidder does not expressly exclude an increase of the Offer Price in the Offer. The Bidder may therefore improve the Offer Price during the term of the Offer and otherwise amend the Offer in favour of the security holders (Section 15 para 1 ATA).

For equal treatment and statutory additional payment obligations, see section 2.7.

## 2.3 Settlement fees and taxes

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

According to the Offer Document, the Bidder will only bear the reasonable and customary costs and fees of the custodian banks directly related to the Settlement of the Offer, up to a maximum amount of EUR 8 (Euro eight) per deposit.

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

## 2.4 Conditions precedent for the Offer

The Bidder's Offer is subject to the following conditions precedent:

### 2.4.1 No material adverse change

None of the following events has occurred by the end of the Acceptance Period:

- (a) The Target Company has resolved on or distributed a dividend in kind (*Sachdividende*).

- (b) Until the expiry of the Acceptance Period, the Target Company is insolvent or over-indebted or in the process of liquidation or insolvency or restructuring proceedings (*Konkurs-, Sanierungs- oder Restrukturierungsverfahren*) or proceedings pursuant to the Corporate Reorganisation Act (*Unternehmensreorganisationsgesetz*) have been initiated or the initiation of insolvency proceedings have been rejected by court due to the lack of assets (*mangels Masse abgewiesen*).
- (c) The shareholders' meeting of the Target Company has resolved to dissolve, liquidate, merge, demerge, transform, change the legal form of or transfer the assets of the Target Company as a whole.
- (d) The Target Company publishes an announcement – irrespective whether this is an adhoc announcement or any other official announcement of the Target Company – indicating a material adverse change of the Target Company's financial or profit situation (*Vermögens-, Finanz- oder Ertragslage*), whereas a material adverse change is deemed to exist if such event in itself and without considering undisclosed offsetting effects reduces the *net asset value* of the Target Company by at least EUR 250 million.

#### **2.4.2 No capital increase**

Save for new shares issued by the Target Company to service the claims of holders of convertible bonds (in particular the Convertible Bonds due 2024), the registered share capital of the Target Company has not been increased nor the shareholders' meeting nor Executive Board or Supervisory Board of the Target Company have adopted any resolution by the end of the Acceptance Period that, if implemented, would result in an increase in the registered share capital of the Target Company. This shall, however, not apply, in the event of (i) a capital increase from own funds (conversion of profits, retained earnings or reserves into share capital [*Kapitalberichtigungen*]) or (ii) authorization resolutions by the shareholder's meeting pursuant to Section 159 et seq. and Section 169 et seq. Austrian Stock Corporation Act.

#### **2.4.3 No amendment of the articles of association of the Target Company**

By the end of the Acceptance Period, the shareholders' meeting of the Target Company has not resolved to amend the articles of association of the Target Company in a way that would (i) increase the majority requirement for all or particular resolutions of the shareholders' meeting or of other corporate bodies of the Target Company, or (ii) effect a change in the rights attaching to or in the nature of the shares of the Target Company.

#### **2.4.4 No significant compliance breach**

- (a) By the end of the Acceptance Period, the Target Company has not published an adhoc announcement according to which a conviction or indictment for a criminal act under any applicable law of any member of a governing body or officer of the Target Company or its subsidiaries while any of those persons were operating in their official capacity at the Target Company or its subsidiaries has occurred. Criminal acts within the meaning of this condition precedent specifically include bribery offences, corruption, breach of trust, antitrust violations, money laundering or violations of the Austrian Stock Exchange Act (*Börsegesetz*) or the Market Abuse Regulation; or

- (b) By the end of the Acceptance Period, the Target Company has not published an adhoc announcement according to which a criminal act or administrative offence under any applicable law was committed by any member of a governing body or officer of the Target Company or its subsidiaries operating in their official capacity at the Target Company or its subsidiaries. Criminal acts and administrative offences within the meaning of this condition precedent specifically include bribery offences, corruption, breach of trust, antitrust violations, money laundering or violations of the Austrian Stock Exchange Act (*Börsegesetz*) or the Market Abuse Regulation.

#### **2.4.5 No market disruption**

Between the publication of this Offer and the end of the Acceptance Period, the closing price of any of the two following indices is not in excess of 15% lower than its respective closing price on 15 December 2021 (as displayed on the relevant Bloomberg screen) on two consecutive trading days:

- Austrian Traded Index (ATX; ISIN AT0000999982);
- FTSE EPRA Nareit Developed Europe Index (Bloomberg abbreviation: BBG000R8H9J4).

#### **2.4.6 Waiver, occurrence or non-occurrence of conditions precedent**

The Bidder has reserved the right to unilaterally waive the occurrence of any or all of the aforementioned conditions precedent until the publication of the result pursuant to Section 19 para 2 ATA, in which case they shall be deemed to have been fulfilled.

The Offer will become invalid in the event that the aforementioned conditions have not been fulfilled by the end of the Acceptance Period or, if a condition specifies a later point in time, by this specified point in time, unless the Bidder has waived the occurrence of the conditions precedent.

#### **2.5 Acceptance Period, acceptance and Settlement of the Offer ("Settlement")**

The Acceptance Period of the Offer is 4 (four) weeks and 4 (four) trading days. The Offer may be accepted from 23 December 2021 (inclusive) until 26 January 2022, 4:00 p.m. Vienna time (inclusive) (the "**Acceptance Period**").

The acceptance of the Offer shall be declared in writing to the respective custodian bank. Upon acceptance of the Offer, a purchase agreement subject to a condition precedent shall be concluded with the Bidder, which shall only become effective upon fulfilment of the conditions precedent of the Offer (see section 2.4).

In respect of shareholders who accept the Offer during the Acceptance Period, the Bidder is obliged to pay the purchase price in accordance with the Offer Document no later than on the tenth trading day after the end of the Acceptance Period and after the Offer becomes unconditionally binding against simultaneous transfer of the shares.

Provided that all conditions precedent are fulfilled in due time, the Settlement is expected to take place until 09 February 2022 according to the Offer Document.

If a competing offer is received, the Acceptance Period of the original Offer shall be extended *ex lege* until the expiry of the acceptance period of the competing offer pursuant to Section 19 para 1c ATA, unless the Bidder has declared the withdrawal from this Offer.

According to the information provided on the website of the Austrian Takeover Commission, CPIPG has notified the Austrian Takeover Commission on 22 December 2021 of an anticipatory mandatory offer (Section 10 ATA) (regarding the offer announced by CPIPG, see above section 1.5). In the event that the CPIPG Offer is published during the Acceptance Period of this Offer, it is to be assumed that the Acceptance Period of this Offer will be extended *ex lege* until the end of the acceptance period for the CPIPG Offer, unless the Bidder has declared the withdrawal from this Offer. In principle, a maximum period of 10 weeks applies (Section 19 para 1d ATA). However, the Austrian Takeover Commission may grant a reasonable extension of the Acceptance Period to more than 10 weeks, provided that the business activities of the Target Company are not unduly impeded thereby.

**Note: The Executive Board points out that the Bidder has reserved the right to withdraw from this Offer in the event of a competing offer (see section 2.8).**

For further details, please refer to section 6 of the Offer Document.

## **2.6 Announcement and publication of the result**

The Bidder is obliged to publish the result of the Offer as a notice in the official gazette of the Wiener Zeitung without undue delay after the expiry of the Acceptance Period. The result will also be published on the website of the Austrian Takeover Commission ([www.takeover.at](http://www.takeover.at)).

## **2.7 Equal treatment and statutory obligation for additional payments**

The Bidder confirms in its Offer that the Offer Price is equal for all shareholders and that the provisions of takeover law regarding the equal treatment of all shareholders during the Offer will be complied with.

The Bidder declares in the Offer Document that the Bidder will not make any legal declarations aimed at the acquisition of shares of the Target Company on better terms than those contained in the Offer, unless the Bidder improves this Offer or the Austrian Takeover Commission grants an exception for good cause pursuant to Section 16 para 1 ATA. If the Bidder nevertheless makes a declaration of acquisition on better terms, these better terms shall also apply to all other shareholders of the Target Company, even if they have already accepted the Offer, unless they object thereto.

In the Offer Document, the Bidder refers to statutory obligations to make subsequent payments pursuant to Section 16 para 7 ATA: If the Bidder acquires shares in the Target Company within a period of nine months after the expiry of the Acceptance Period and if, in return, a higher consideration is granted or agreed than in the Offer, the Bidder is obliged pursuant to Section 16 para 7 ATA to make an additional payment in the amount of the difference to those shareholders who have accepted the Offer. This does not apply if the Bidder acquires shares in the Target Company in the course of a capital increase by exercising a statutory subscription right or if a higher consideration is paid in the course of a procedure pursuant to the Austrian Squeeze-out Act.

The Executive Board points out that these statutory orders pursuant to Section 16 ATA also apply with respect to legal entities acting in concert with the Bidder.

According to the Offer Document, the Bidder will publish the occurrence of a subsequent payment event immediately and arrange the settlement of the additional payment at its own expense within ten trading days after publication via the paying agent.

In the Offer Document, the Bidder does not refer to a possible obligation to make a subsequent payment pursuant to Section 16 para 7 last sentence ATA: Accordingly, if a controlling interest in the Target Company is resold within a period of nine months after the expiry of the Acceptance Period, a Bidder is obliged to make a cash payment in the amount of the pro rata capital gain to the shareholders who have accepted the Offer.

Through the Settlement of the Offer, the Bidder may acquire a controlling interest in the Target Company pursuant to Section 22 in connection with Section 27 ATA; i.e. an interest of more than 15% of the voting rights. It is not expressly provided by law that the obligation to make subsequent payments pursuant to Section 16 para 7 last sentence ATA only applies to the sale of controlling interests which also give the Bidder a controlling influence within the meaning of Section 24 ATA.

## **2.8 Right of withdrawal in case of competing offers**

If a competing offer is made during the term of the Offer, shareholders are entitled pursuant to Section 17 ATA to withdraw from their declarations of acceptance made up to that point no later than 4 (four) trading days prior to the expiry of the original Acceptance Period (Section 19 para 1 ATA).

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

**Note: In the Offer Document, the Bidder has also reserved for itself the right to withdraw from the Offer pursuant to Section 19 para 1c ATA in the event that another bidder publishes a public offer for shares in the Target Company (regarding the announced offer by CIPPG see section 1.5.)**

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

The Offer Price is EUR 23.00 per Offer Share (see section 2.2).

The Offer is a voluntary partial takeover offer (Sections 4 et seq. ATA). The provisions regarding the statutory minimum price pursuant to Section 26 ATA, i.e. 6-month VWAP of the share prior to the announcement of the Offer and pre-acquisition prices within 12 months prior to the announcement of the Offer, do not apply. The Bidder is therefore free to determine the Offer Price.

The shares of IMMOFINANZ are listed on the Vienna Stock Exchange and also on the Main Market (*rynek podstawowy*) of the Warsaw Stock Exchange. Each of the following quoted stock prices refers to Vienna Stock Exchange market prices.

On 06 December 2021, the Bidder announced its intention to make the Offer and the Offer Price. The closing price of the IMMOFINANZ-share on the last trading day prior to the announcement of the intention to launch the Offer (03 December 2021) was EUR 21.36. The Offer Price is approximately 7.68% higher than this closing price.

### 3.1 Offer price in relation to average stock exchange prices

The volume weighted average prices ("VWAP") per IMMOFINANZ-share for the last one, three, six and twelve calendar months before it became known that an offer was under consideration, as well as the absolute and percentage amounts by which the Offer Price respectively exceeds these prices, amount up to and including the closing price as of 03 December 2021 (last trading day prior to the announcement of the intention to launch the Offer):

Period	1 Month	3 Months	6 Months	12 Months
VWAP value, in EUR	20.91	20.81	20.36	18.64
Difference between Offer Price and VWAP, in EUR	2.09	2.19	2.64	4.36
Premium (offer price at VWAP), in %.	10.00	10.53	12.94	23.38

Source: Vienna Stock Exchange AG (<https://www.wienerborse.at/>); own calculations of the Target Company.

Calculation periods (inclusive): 04 November 2021 to 03 December 2021 (1-month VWAP), 04 September 2021 to 03 December 2021 (3-month VWAP), 04 June 2021 to 03 December 2021 (6-month VWAP) and 04 December 2020 to 03 December 2021 (12-month VWAP).

It should be noted that share price developments and average prices may also be strongly influenced by the effects of the COVID-19 pandemic. Therefore, the following table shows both the daily closing price of the IMMOFINANZ-share as of 21 February 2020, which is defined for the purposes of this document as the last day before the collapse of the European capital markets caused by uncertainties in the context of the COVID-19 pandemic, and the volume weighted average prices (VWAP) of the IMMOFINANZ share for the last one, three and six months up to that date. The Offer Price of the Bidder shows a discount of approximately 12.88% compared to the closing price of EUR 26.40 on 21 February 2020 immediately prior to the outbreak of the COVID-19 pandemic in Europe and corresponding share price declines due to the pandemic on the European stock markets.

Reference date/Period	21 February 2020	1 Month	3 Months	6 Months
Closing price/VWAP value, in EUR	26.40	25.68	24.70	24.96
Difference to Offer Price in EUR	3.40	2.68	1.70	1.96
Discount (Offer Price to closing price/VWAP), in %	- 12.88	- 10.44	- 6.87	- 7.85

Source: Vienna Stock Exchange AG (<https://www.wienerborse.at/>); own calculations of the Target Company.

Calculation periods (inclusive): Daily closing price on 21 February 2020, 22 January 2020 to 21 February 2020 (1-month VWAP), 22 November 2019 to 21 February 2020 (3-month VWAP) and 22 August 2019 to 21 February 2020 (6-month VWAP).

The price level of the IMMOFINANZ-share before the outbreak of the COVID 19 pandemic was significantly higher than the Offer Price. In the view of the Executive Board, this price level also represents a significant reference point for the assessment of the Offer Price based on the current general economic development and the prospects of IMMOFINANZ.

The highest and lowest closing prices of the share in the calendar years 2019, 2020 and 2021 were (in EUR):

	2019	2020	2021
<b>High</b>	26.30	26.95	22.78
<b>Low</b>	21.08	11.50	16.17

Source: Vienna Stock Exchange AG (<https://www.wienerbourse.at/>); own calculations of the Target Company.  
Basis: daily closing prices.

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

	IFRS book value (undiluted)	IFRS book value (diluted)	EPRA NAV (undiluted)	EPRA NAV (diluted)	EPRA NTA (undiluted)	EPRA NTA (diluted)
<b>Value per share, in EUR</b>	27.79	26.69	30.43	29.04	30.77	29.44
<b>Offer Price in EUR</b>	23.00	23.00	23.00	23.00	23.00	23.00
<b>Discount in EUR</b>	- 4.79	- 3.69	- 7.43	- 6.04	- 7.77	- 6.44
<b>Discount in %</b>	- 17.25	- 13.84	- 24.42	- 20.79	- 25.24	- 21.87

Source: Book value per share, EPRA NAV per share and EPRA NTA per share according to IMMOFINANZ interim group statements as of 30 September 2021.

For the dilution, a full conversion of the convertible bond and issuance of 15,583,082 new IMMOFINANZ shares is assumed.

EPRA NAV is the net asset value of IMMOFINANZ calculated in accordance with the principles of the European Public Real Estate Association (EPRA), as reported in the consolidated interim financial statements as of 30 September 2021.

In accordance with EPRA recommendations, IMMOFINANZ has published an expanded version of the net asset value (NAV) indicators, since the 2020 consolidated annual financial statements. The two familiar key figures Net Asset Value (NAV) and Triple Net Asset Value (NNAV) were replaced by the three new key figures Net Reinstatement Value (NRV), Net Tangible Assets (NTA) and Net Disposal Value (NDV).

The EPRA NTA is considered the most relevant indicator for the asset value of IMMOFINANZ and therefore serves as the new primary indicator for the net value of the assets of IMMOFINANZ.

EPRA NAV is still regularly identified as the most appropriate metric for value estimates in connection with transactions of shares in listed real estate companies and is commonly used in the real estate industry for such transactions.

From the perspective of the Executive Board of IMMOFINANZ, the Offer Price should be put in relation to both key figures – EPRA NAV and EPRA NTA per share.

#### The Offer Price

- is EUR 7.43 below the EPRA NAV per share (undiluted) and EUR 7.77 below the EPRA NTA per share (undiluted) (both as of 30 September 2021); and



- shows a discount of 24.42% to EPRA NAV per share (undiluted) and 25.24% to EPRA NTA per share (undiluted) (both as of 30 September 2021).

Taking into account a dilution through the issue of 15,583,082 new IMMOFINANZ shares upon full conversion of the convertible bond, the Offer Price:

- is EUR 6.04 below the EPRA NAV per share and EUR 6.44 below the EPRA NTA per share (both as of 30 September 2021 (diluted)); and
- shows a discount of 20.79% to EPRA NAV per share and 21.87% to EPRA NTA per share (both as of 30 September 2021 (diluted)).

The Offer Price of EUR 23.00 is thus significantly below the EPRA NAV and EPRA NTA of IMMOFINANZ (undiluted and diluted).

For the future development of the EPRA NAV and EPRA NTA, the Executive Board believes that the positive potential from an expanded use of specialist retail properties (STOP SHOP) through IMMOFINANZ's entry into the asset class of affordable sustainable housing (TOP on STOP), which was announced in August 2021, should also be taken into account.

### **3.3 Key figures and business outlook for 2022**

In assessing the Offer Price, the sustained improvement in key figures and the positive business outlook of IMMOFINANZ must be taken into account.

The Executive Board refers to the publication of IMMOFINANZ on 29 November 2021 on the consolidated results for the first three quarters of 2021 and the guidance (business outlook) published for the 2022 financial year. For the 2022 financial year, the Executive Board assumes the following key points for the business development in the 2022 financial year, based on a moderate impact of COVID-19 influences:

- Growth of the portfolio from EUR 5 billion to approximately EUR 6 billion through completion of project developments and acquisitions in the sectors retail (STOP SHOP) and office (myhive).
- Target for FFO 1 before tax of more than EUR 135 million.
- Dividend payment (proposal for the appropriation of the balance sheet profit to the shareholders' meeting) of approximately 70% of generated FFO 1 before tax.
- Unchanged financial policy with a debt ratio measured by net LTV at a conservative level of 36.6% as of 30 September 2021, of still below 45% in the medium term, and maintenance of the investment grade rating from S&P Global Ratings (currently BBB-/Stable (BBB-/Stable outlook) (see also section 4.5 of this statement).

### 3.4 Analyst ratings of the IMMOFINANZ-share

The table below shows the price targets published by equity research analysts prior to and after the announcement of the Bidder's intention to launch the Offer and the current price targets:

Financial institution	Date	Price targets prior to announcement of intention to launch the Offer, in EUR	Date	Price targets after announcement of intention to launch the Offer, in EUR	Current price targets
Deutsche Bank	20 Oct 2021	23.00	06 Dec 2021	23.00	23.00
Erste Group	13 Oct 2021	26.00	20 Dec 2021	26.00	26.00
Kepler Cheuvreux	31 Aug 2021	21.00	06 Dec 2021	21.00	21.00
PKO BP	03 Dec 2021	19.00	06 Dec 2021	19.00	19.00
Raiffeisen Bank International	29 Nov 2021	22.50	13 Dec 2021	26.00	26.00
Wiener Privatbank	02 Dec 2021	27.60			27.60
<b>Average</b>		<b>23.18</b>		<b>23.00</b>	<b>23.77</b>
<b>Median</b>		<b>22.75</b>		<b>23.00</b>	<b>24.50</b>

Source: Broker reports, Bloomberg.

From the Executive Board's point of view, the following price targets stated in the Offer Document are not appropriate for the assessment: Wood&Co with EUR 14.40, as this has not been updated since 10 September 2020 and, according to information from Wood&Co's analyst, an update is required. Société Générale with EUR 23.00, as Société Générale has discontinued its analyses and investment recommendations (equity research) regarding the IMMOFINANZ-share.

The Offer Price of EUR 23.00 is therefore below the average (EUR 23.77) and median (EUR 24.50) of the current price targets of the listed equity research analysts. Three of the listed equity research analysts indicate a target price significantly above the Offer Price of EUR 23.00.

### 3.5 Offer Price in relation to the announced CPIPG Offer

On 03 December 2021, CPIPG published its intention to make an anticipatory mandatory offer pursuant to Sections 22 et seq. ATA and notified the offer to the Austrian Takeover Commission on 22 December 2021 pursuant to Section 10 ATA (regarding the announced CPIPG Offer see section 1.5.). CPIPG has announced an offer price of EUR 21.20 per share of the Target Company (*cum* dividend).

The CPIPG Offer is not yet published at the time of this statement. The Offer Price of the Offer of CEE Properties is EUR 1.80 per share or 8.4906% higher than the price per share announced by CPIPG for the CPIPG Offer.

As the offer document is not yet published at the time of this statement, the Executive Board cannot take the offer document of the CPIPG Offer into account for this statement. The Executive Board will publish a separate statement on the anticipatory mandatory offer of CPIPG in accordance with the provisions of takeover law. The Executive Board points out that, depending on the timing of the

publication of an offer document for the CPIPG Offer, the Executive Board's statement on the CPIPG Offer shall also be taken into account in connection with this Offer.

In any event, shareholders of the Target Company should also inform themselves of any developments in relation to the CPIPG Offer.

### 3.6 Offer Price in relation to selected european corporate transactions

Premiums of successful public corporate transactions for minority shareholdings in the european real estate sector (since 2018) have also been taken into account to assess the Offer Price. When assessing the Offer Price on the basis of these premiums, it must be taken into account that the Bidder, in the event of an increase of the shareholding in the Target Company, is likely to have the secured possibility of blocking resolutions requiring a 3/4 majority, such as capital measures with the exclusion of subscription rights or resolutions on reorganisations (blocking minority, or "negative control"), which must be taken into account as a structural premium.

Buyer	Target company	Date	Premium / discount at		
			Closing price	3-month VWAP	EPRA NAV
Gazit-Globe Ltd	Atrium European Real Estate	18 Oct 2021	23.9%	21.8%	- 11.5%
Aware Super	Vivenio Residencial Socimi S.A.	30 June 2021	24.7%	NA	10.0%
Inmobiliaria Colonial	Societe Fonciere Lyonnaise SA	03 June 2021	56.3%	58.9%	- 11.7%
Balder	Entra ASA	11 Feb 2021	29.2%	42.1%	16.0%
Castellum	Entra ASA	25 Nov 2020	17.6%	29.4%	5.6%
Starwood	RDI REIT Plc	29 June 2020	28.4%	54.0%	- 44.8%
Capital & Counties	Shaftesbury	30 May 2020	- 13.9%	- 11.9%	- 45.0%
TLG Immobilien GmbH	Aroundtown SA	01 Sept 2019	9.7%	11.7%	0.0%
Invel Real Estate Partners	PRODEA Investments	31 March 2019	- 4.0%	- 3.0%	- 3.2%
Inmobiliaria Colonial	Societe Fonciere Lyonnaise SA	15 Oct 2018	17.9%	17.9%	- 18.8%
Immofinanz	S Immo	18 April 2018	24.1%	29.5%	12.4%
Starwood	CA Immobilien Anlagen	22 March 2018	3.6%	10.4%	- 8.0%
<b>Average</b>			<b>18.1%</b>	<b>23.7%</b>	<b>- 8.2%</b>
<b>Median</b>			<b>20.9%</b>	<b>21.8%</b>	<b>- 5.6%</b>
<b>Bidder's Offer Price (EUR 23.00)</b>			<b>7.7%</b>	<b>10.5%</b>	<b>- 24.4%</b>
<b>Difference to average, in percentage points</b>			<b>- 10.4</b>	<b>- 13.2</b>	<b>- 16.2</b>
<b>Difference to median, in percentage points</b>			<b>- 13.2</b>	<b>- 11.2</b>	<b>- 18.8</b>

Source: Major holdings notifications, annual reports, FactSet and Merger Market, own analyses (as of 05 January 2022).

The Offer Price of the Bidder implies a premium of approximately 7.7% to the closing price of the IMMOFINANZ- share on 03 December 2021 and of approximately 10.5% in relation to the 3-month VWAP.

These implied premiums of the Offer Price are thus significantly below the average and the median of the premiums offered in comparison to the (unaffected) closing price and the 3-month VWAP in the context of other public corporate transactions for minority shareholdings in the european real estate sector (comparable transactions).

The Offer Price of the Bidder shows a discount to the EPRA NAV of IMMOFINANZ as of 30 September 2021 (undiluted) of approximately 24.42% (and diluted of approximately 20.79%).

In contrast, the average discount to the EPRA NAV in the comparable transactions was approximately 8.2%; the median is approximately 5.6%.

The discount of the Offer Price of the Bidder to the EPRA NAV of IMMOFINANZ as of 30 September 2021 (undiluted and diluted) is thus significantly above the average and the median of the discounts to the EPRA NAVs offered in comparable transactions.

### **3.7 Opinion of Citi**

In order to assess the financial adequacy of the Offer Price for the addressees of the Offer (shareholders of IMMOFINANZ other than the Bidder and parties acting in concert with the Bidder), the Executive Board of IMMOFINANZ has engaged Citigroup Global Markets Europe AG ("**Citi**") as financial advisor to advise the Executive Board of IMMOFINANZ with respect to the analysis of the Offer and to assist in the preparation of this statement of the Executive Board. This engagement also includes the issuance of an opinion on the financial adequacy of the Offer Price for the addressees of the Offer (shareholders of IMMOFINANZ other than the Bidder and parties acting in concert with the Bidder).

On this basis, Citi has prepared an opinion on the financial adequacy of the Offer Price based on internationally accepted procedures commonly used by financial advisors to assess comparable transactions in the real estate sector. The procedures applied in consideration of the financial terms of the Bidder's Offer include, inter alia, multiples of comparable companies derived from stock exchange prices, premium analyses of public company transactions, estimates of equity research analysts, discounted cash flow procedures and other factors deemed appropriate by Citi.

In this opinion, Citi concludes that, based on and subject to the considerations and assumptions set forth in the opinion, the Offer Price of EUR 23.00 per IMMOFINANZ-share is inadequate, from a financial point of view, to the shareholders of IMMOFINANZ ("**Inadequacy Opinion**").

## **4. Presentation of the interests of IMMOFINANZ and its shareholders**

### **4.1 Reasons of the Bidder for the Offer**

The Bidder and S IMMO have expressed the following reasons for the Offer:

IMMOFINANZ holds a 26.49% shareholding in S IMMO and S IMMO holds – indirectly through CEE Immobilien (Bidder) – a 14.23% shareholding in IMMOFINANZ. According to the Offer Document, the Offer aims at increasing the Bidder's shareholding in the Target Company by approximately 10.27% to up to 24.50%.

On 03 December 2021, CPIPG announced that it had acquired an approximately 21.40% shareholding in IMMOFINANZ and had also concluded a conditional share purchase agreement with RPPK Immo GmbH for the acquisition of an approximately 10.57% shareholding in the Target Company. Upon closing of this conditional share purchase agreement, CPIPG's shareholding in IMMOFINANZ is approximately 31.97%.

According to the publications of S IMMO (ad hoc announcement and corporate news, both dated 06 December 2021) and the Offer Document, the Offer is being made in connection with the CPIPG-Offer announced on 03 December 2021 with an offer price of EUR 21.20 per IMMOFINANZ-share (see above section 1.5 on the announced CPIPG Offer).

With ad hoc announcement dated 06 December 2021, S IMMO announced that CEE Immobilien does not intend to accept the offer of CPIPG. According to the Bidder's assessment in the Offer Document, the price of EUR 21.20 per share offered by CPIPG is not very attractive for IMMOFINANZ shareholders, especially as it neither offers a premium but rather a discount to the closing price of the Target Company on the day prior to the announcement of CPIPG's intention to launch an offer.

From the Bidder's point of view, the price offered by CPIPG is also not appropriate in view of CPIPG's intended acquisition of a controlling shareholding, especially since, according to the Bidder, it does not include any premium for the acquisition of a controlling shareholding, which has been the usual practice in the past for block trades in shares of the Target Company.

The CPIPG Offer therefore does not provide any opportunities for the Bidder to exit the Target Company at a fair price.

According to the Offer Document, the Bidder sees the opportunity to protect the interests of the shareholders of S IMMO and IMMOFINANZ through the partial offer pursuant to Sections 4 et seq. ATA to the shareholders of the Target Company. In particular, according to the Offer Document, the Offer shall ensure a governance of the Target Company in the interest of all shareholders, for as long as a shareholder aiming at control does not offer an adequate exit opportunity to the remaining shareholders. The Offer aims at increasing the Bidder's shareholding in the Target Company by approximately 10.27% to up to 24.50% and represents, according to the Offer Document, an attractive exit opportunity for the shareholders of the Target Company with a premium.

In the Offer Document, the Bidder has reserved the right to extend the offer volume. According to the Offer Document, an extension of the offer volume may be made in particular for the purpose of responding to a dilution of the participation in the Target Company as a result of a possible conversion of the Convertible Bonds into shares in the Target Company.

However, the Bidder does not exclude the possibility of expanding its overall acquisition volume (i.e. also outside the Offer). According to the ad hoc announcement of 06 December 2021, S IMMO has reserved the right *“to expand the volume of the Partial Offer and to further increase its shareholding in IMMOFINANZ to up to 30% of the outstanding shares, also through further acquisitions on or off*

the stock exchange"<sup>2</sup>. The fact that the Bidder notified the German Federal Cartel Office ("Bundeskartellamt") of the acquisition of a shareholding of at least 25% in IMMOFINANZ on 22 December 2021, i.e. one day before the publication of the Offer Document, could speak in favour of a possible planned expansion of the shareholding, also in the future. This fact was not disclosed in the Offer Document. On 30 December 2021, S IMMO also notified the Austrian Federal Competition Authority ("Bundeswettbewerbsbehörde") of the intended acquisition of a qualifying shareholding of more than 25%, but not more than 50%, of the share capital of the Target Company through CEE Immobilien (Bidder) by way of acquisitions over the stock exchange as well as over the counter.

## **4.2 Business policy objectives and intentions of the Bidder regarding IMMOFINANZ**

According to the Offer Document, the Bidder neither plans to acquire control of the Target Company nor to exert any influence on the Target Company to the effect that it fundamentally changes its current corporate policy; the Bidder only plans to increase its shareholding in IMMOFINANZ.

According to the Offer Document, it (meaning: the increase in shareholding) was intended to enable to continue pursuing an independent corporate policy in the interest of the Target Company and the Bidder in the interest of all their respective shareholders and to maximise their value.

In connection with the publication of the intention to launch the Offer on 06 December 2021, S IMMO continued to communicate the dissolution of the cross-shareholdings between IMMOFINANZ and the Bidder as a strategic objective of S IMMO with respect to its (indirect) shareholding in IMMOFINANZ. The increase of the shareholding in IMMOFINANZ planned through the Offer is necessary in order to continue to be able to achieve this strategic goal, as the anticipatory mandatory offer by CPIPG does not represent a possibility for S IMMO to achieve this strategic goal on terms acceptable to S IMMO shareholders (see S IMMO Corporate News of 06 December 2021).

In the Offer Document, however, the Bidder states that the Offer is not connected with any specific plans to dissolve the reciprocal shareholdings between the Bidder and the Target Company (cross-shareholding), for example by way of demerger or merger. According to the Offer Document, however, the Offer is intended to contribute to a solution in the interest of both companies and all shareholders and thereby create value.

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

### **4.3.1 No stringent objectives and intentions of the Bidder regarding IMMOFINANZ**

In the view of the Executive Board, the reasons expressed by the Bidder and S IMMO for the Offer and the business policy objectives and intentions of the Bidder and S IMMO are not stringent.

On the one hand, the strategy communicated is the dissolution of the cross-shareholdings between IMMOFINANZ and the Bidder/S IMMO. The cross-shareholding will be strengthened upon Settlement of the Offer. In the Bidder's view, the increase in the shareholding in IMMOFINANZ is necessary in order to be able to continue to achieve the strategic objective (dissolution of the cross-shareholdings). However, the Offer Document again states that the Offer is not related to any concrete plans to

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<sup>2</sup> See ad hoc announcement of S IMMO as of 06 December 2021, available at <https://www.simmoag.at/en/investor-relations/ad-hoc-and-other-notifications/ad-hoc-meldungen/detail/notification/s-immo-intends-to-launch-partial-offer-for-shares-in-immofinanz.html>.

dissolve the reciprocal shareholdings between the Bidder and the Target Company (cross-shareholding), for example by way of deconcentration or merger.

#### **4.3.2 Blocking minority of the Bidder**

In case of a respective acceptance of the Offer, the Bidder would hold an interest in IMMOFINANZ of approximately 24.50% of the current share capital.

After the closing of the (conditional) share purchase agreement on the acquisition of the 10.57% shareholding in IMMOFINANZ by CPIPG, the Bidder – after CPIPG with a shareholding of 31.97% (subject to further increase through the CPIPG Offer) – would thus continue to be the second largest shareholder of the Target Company.

If the Offer is accepted, it can be assumed that the Bidder will obtain a blocking minority for decisions requiring a qualified majority (3/4 majority) due to the presence at the shareholders' meetings of IMMOFINANZ. With this blocking minority, resolutions requiring a 3/4 majority, such as capital measures under exclusion of subscription rights or resolutions on reorganisations, would be dependent on the consent of the Bidder.

#### **4.3.3 Shareholder blocks**

The increase of the shareholding by CEE Immobilien (S IMMO) may, however, also be in the interest of the Target Company and its shareholders as a corresponding counterbalance to the acquisition of control and/or exercise of control by CPIPG.

If the Offer is successful, CPIPG and CEE Immobilien (S IMMO) would presumably be two shareholders with significant shareholdings in the Target Company. Different strategic interests of S IMMO and CPIPG may complicate the decision-making process at the IMMOFINANZ shareholders' meeting. With regard to the strategic interests of the shareholders and their impact on the decision-making process, it must also be taken into account that CPIPG holds a shareholding of approximately 11.61% in S IMMO.

#### **4.3.4 Possible effects under stock corporation law for IMMOFINANZ's shareholding in S IMMO**

S IMMO holds – indirectly through CEE Immobilien (Bidder) – a 14.23% shareholding in IMMOFINANZ. The Bidder now intends to increase its shareholding in IMMOFINANZ to up to 24.50% of the share capital by way of the Offer.

IMMOFINANZ holds 19,499,437 shares in S IMMO, corresponding to a shareholding of approximately 26.49% in the current share capital of S IMMO ("**Re-Participation**").

The increase of S IMMO's (indirect) shareholding in IMMOFINANZ may have an impact in connection with the Re-Participation. It cannot be excluded that, depending on the extent of S IMMO's (indirect) shareholding in IMMOFINANZ, there may be restrictions under stock corporation law on the possibility of IMMOFINANZ increasing its re-participation. It should also be noted that in the event of IMMOFINANZ gaining control over S IMMO within the meaning of Section 189a para 7 in conjunction with Section 244 of the Austrian Commercial Code, the IMMOFINANZ-shares held by S IMMO (as well as its indirect and direct subsidiaries) would become shares in the parent company (Section 66

of the Austrian Stock Corporation Act), and in this case statutory shareholding limits and obligations to sell or redeem shares would apply.

#### **4.3.5 Strengthening of the cross-shareholding and capital allocation**

The increase of the shareholding in IMMOFINANZ intended by the Offer strengthens the existing cross-shareholding and thus also for IMMOFINANZ – by way of IMMOFINANZ's 26.49% shareholding in S IMMO – the economic allocation of capital in relation to IMMOFINANZ's business activities.

#### **4.4 Effects on the employment situation, location issues**

In the Offer Document, the Bidder and S IMMO are in favour of preserving the existing structure of the Target Company in Austria. According to the Offer Document, one of the Bidder's objectives is to maintain the Target Company's location in Austria.

Also based on the corporate policy objectives and intentions of the Bidder and S IMMO as stated in the Offer Document, it is not expected that the Offer will have an impact on the employment and location situation of IMMOFINANZ.

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

For IMMOFINANZ creditors, the Offer does not appear to worsen their current position in the view of the Executive Board.

IMMOFINANZ has a long-term issuer rating of BBB-/Stable (BBB-/Stable outlook) from S&P Global Ratings. Following the announcement of CPIPG's acquisition of a shareholding of approximately 21.4% in IMMOFINANZ and the announcement of the CPIPG Offer on 03 December 2021 as well as the announcement of the CEE Immobilien Offer on 06 December 2021, S&P Global Ratings announced on 07 December 2021 that the outlook on the rating remains unchanged for the time being. S&P Global Ratings will evaluate the outcome of the transactions and their impact on the final shareholder and governance structure of IMMOFINANZ, as well as any impact on future credit quality, over the next few months and update the rating analysis accordingly. From today's perspective, the Executive Board does not expect a deterioration of the issuer rating in connection with the Offer of CEE Immobilien.

According to the Offer Document, the Offer is aimed at increasing the Bidder's shareholding in the Target Company to approximately 25% and, according to information in the Offer Document, is not aimed at gaining material control. On this basis, the Settlement of the Offer will not trigger any termination rights of the bondholders due to a change of control event in accordance with the change of control provisions in the terms and conditions of the corporate bonds 2019-2023 and 2020-2027 issued by IMMOFINANZ. This applies accordingly to material real estate financing transactions concluded by IMMOFINANZ and its subsidiaries as well as the currently unused EUR 100 million corporate credit line of IMMOFINANZ. For the Convertible Bonds, a (further) change of control event occurs if the Bidder acquires a (formal) controlling interest in IMMOFINANZ of more than 15% (voting rights pursuant to Section 22 ATA in connection with Section 27 ATA) (see section 1.3.4).

Based on the Offer Document of the Bidder, no changes affecting the public interest are apparent.



#### **4.6 Financing of the Bidder**

According to the Offer Document and the confirmation of the Bidder's expert (Section 9 ATA), the Bidder has the funds to finance the Offer.

#### **5. Experts pursuant to Section 13 ATA**

IMMOFINANZ has appointed Deloitte Audit Wirtschaftsprüfungs GmbH, Renngasse1/Freyung, 1010 Vienna as expert pursuant to Section 13 ATA for the advice during the proceedings and to review the statements of the managing bodies as an independent expert.

#### **6. Advisor to IMMOFINANZ**

In connection with the Offer, the Executive Board has engaged Citigroup Global Markets Europe AG as financial advisor to IMMOFINANZ and bpv Hügel Rechtsanwälte GmbH as legal advisor. The Supervisory Board is advised by Ithuba Capital AG as financial advisor to IMMOFINANZ and Schönherr Rechtsanwälte GmbH as legal advisor.

#### **7. Further information**

For information on this statement by the Executive Board of IMMOFINANZ, please contact Bettina Schragl, Head of Corporate Communications & Investor Relations at +43 (0)1 88 090 2290 or investor@immofinanz.com.

Further information on IMMOFINANZ is available on its website [www.immofinanz.com](http://www.immofinanz.com).

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

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

IMMOFINANZ shares are currently held by members of the Executive Board as follows:

<b>Executive Board member</b>	<b>Number of shares</b>
Stefan Schönauer, BA	15,000
Dietmar Reindl, M.D.	7,515

The members of the Executive Board do not intend to accept the Offer with the shares held.

The members of the Executive Board declare that they have not been offered or granted any pecuniary advantages by the Bidder or any legal entities acting in concert with the Bidder in the event of the successful Settlement of the Offer. No member of the Executive Board was offered or granted any pecuniary advantage in the event of the failure of the Offer.

The members of the Executive Board of IMMOFINANZ have each been appointed until 30 April 2026. In order to achieve a balanced interest position of the members of the Executive Board in the context of takeover offers in the interest of all shareholders and the company as well as the employees, the Executive Board contracts provide for termination rights of the Executive Board members in case of change of control events. Appropriate lead times apply to any termination. In the event of termination due to a change of control event, the Executive Board members are entitled to receive compensation for future remuneration claims for the remaining term of the Executive Board contract for a maximum of two years. The members of the Executive Board do not intend to exercise any termination rights under the Executive Board contracts in connection with this voluntary public partial takeover offer.

## **9. IMMOFINANZ Executive Board's position to the Offer**

### **9.1 Basic considerations**

The statement of the Executive Board on the Offer shall, in particular, contain an assessment of whether the consideration offered and the other contents of the Offer adequately take into account the interest of all shareholders and the Executive Board shall, pursuant to Section 14 ATA, in principle make a recommendation for the acceptance or rejection of the Offer by the shareholders.

The decision to accept or reject the offer is incumbent on the individual shareholders, who must decide on this on the basis of their individual starting base and interests.

Therefore, prior to its recommendation on the Offer, the Executive Board also presents the reasons that may speak in favour of or against the acceptance of the Offer by shareholders.

The following statements are intended to provide IMMOFINANZ shareholders with information and aspects that speak for or against an acceptance of the Offer. However, such presentation cannot be conclusive; in particular, individual circumstances cannot be taken into account. The decision as to whether or not the Offer is advantageous for an IMMOFINANZ shareholder in detail must therefore be made by each shareholder based on his or her individual situation (among other things depending on: acquisition price, long-term or short-term investment, investment strategy, tax situation, etc.) on the basis of an independent assessment and taking into account uncertainties in the aspects listed below. In addition, this decision also depends to a large extent on the future development of the capital market or the real estate sector expected by the respective shareholder as well as the assessment of how the enterprise value of the Target Company and thus ultimately also the price of the IMMOFINANZ share will develop in the future.

In order to also be able to take into account developments that occur after the preparation of this statement, it could be advantageous for the individual IMMOFINANZ shareholder to make the decision on the acceptance or rejection of the Offer (in a timely manner) towards the end of the Acceptance Period, taking into account the relevant deadlines.

Tax considerations may also be decisive for the decision to accept or reject the Offer, which is why the Executive Board expressly requests the shareholders to obtain information on the tax consequences from a qualified advisor (such as a tax consultant).

## **9.2 The following reasons speak in favour of accepting the Offer by shareholders**

In the view of the Executive Board, the following considerations may speak in favour of accepting the Offer (the order does not necessarily reflect the weight of the individual arguments):

### **9.2.1 Premium over historical stock exchange prices**

The closing price of the IMMOFINANZ share on 03 December 2021, the last trading day prior to the announcement of the Bidder's intention to launch a takeover offer, is EUR 21.36, which is approximately 7.68% below the Offer Price. Also in comparison to the weighted average prices (VWAP) of the last 1, 3, 6 and 12 months prior to the announcement of the Bidder's intention to launch a takeover offer, the premium amounts to approximately 10.00%, 10.53%, 12.94% and 23.38%.

### **9.2.2 Exit option for shareholders with larger numbers of shares**

By accepting the Offer within the Acceptance Period (due to the structuring of the Offer, there will be no statutory additional acceptance period), higher numbers of IMMOFINANZ shares can also be sold without negatively affecting the pricing. Whether the Offer is attractive for shareholders with larger numbers of shares depends on their entry prices. A consideration equal to or higher than the Offer could be more difficult to obtain in the future for larger volumes of shares after the Offer (and thus the share price supporting effect) ceases to exist

It should be noted, however, that in the event of an over-subscription of the Offer, only a pro rata allotment can be made (see section 9.3.5).

### **9.2.3 Future share price development uncertain**

The IMMOFINANZ share price developed very positively until the start of the COVID-19 pandemic in spring 2020. Since the COVID 19 pandemic-related price collapse (after 21 February 2020) (lowest daily closing price of the IMMOFINANZ share on 30 October 2020: EUR 11.5), the price has risen continuously again. It is not certain whether this trend will continue and thus a pre-crisis price level will be reached again.

The price targets of equity research analysts for the IMMOFINANZ share are in part significantly higher than the Offer Price (see section 3.4). However, it is uncertain whether these price expectations will actually materialise.

It is also uncertain whether in the future the stock exchange price will fully reflect the good business development of IMMOFINANZ (see results for Q3 2021) and the EPRA NAV/share and EPRA NTA/share, which are significantly above the Offer Price.

### **9.2.4 Uncertainties in the development of business activities**

IMMOFINANZ shareholders who do not accept the Offer will directly bear the risk of the future development of IMMOFINANZ's business activities and other risks relating to IMMOFINANZ.

The profitability of IMMOFINANZ's business activities and thus also its future growth potential depend on a large number of factors whose future development is uncertain, such as demand for office and retail space, costs for the operation and maintenance of the properties managed by IMMOFINANZ,

personnel and administrative costs, costs for debt financing (interest rate development), tax burden, regulatory framework conditions as well as other factors and risks.

### **9.2.5 Potential selling pressure immediately after Settlement of the Offer**

Due to the pro rata acceptance in case of over-subscription of the Offer (see also section 9.3.5), a significant realisation of unallocated shares immediately after the end of the offer process could create selling pressure in the market, which could have a negative impact on the share price. Such selling pressure may also arise from a realisation of Delivery Shares issued to holders of the Convertible Bonds (see also section 1.3). From the perspective of investors with a short-term investment strategy, this could be a reason for accepting the Offer.

### **9.2.6 Decline in free float – future realisation possibly more difficult**

Until the beginning of December 2021, the free float at IMMOFINANZ was approximately 65% of the share capital; no shareholder held more than 15% of the Target Company's share capital. Since then, the composition of the shareholder base has changed. In an ad hoc announcement dated 03 December 2021, CIPG announced that CIPG holds a shareholding of approximately 21.40% in IMMOFINANZ. The free float currently amounts to approximately 48.78%. If the Offer is successful, the Bidder's shareholding in IMMOFINANZ would increase from current 14.23% to 24.50%. In this case, the free float would further decrease to significantly below 40% of the share capital.

This would likely lead to decreasing average daily trading volumes of the IMMOFINANZ share, i.e. lower liquidity after Settlement of the Offer. Lack of liquidity could impair the attractiveness of the IMMOFINANZ share and make future deinvestments more difficult. In any case, it might be more difficult for shareholders in the future to achieve the Offer Price or a higher price when selling their shares on the stock exchange.

IMMOFINANZ shares are currently listed in the ATX and WIG-Real Estate. A reduction in the free float can also lead to IMMOFINANZ shares being included with a low weighting according to the criteria defined by the respective index providers, which can have a negative impact on investments in the IMMOFINANZ share by institutional investors who invest in an index-dependent or index-oriented manner and thus also lead to negative effects on the share price.

### **9.2.7 Possible blockade by shareholder blocks**

If the Offer is successful, CIPG and CEE Immobilien (S IMMO) are likely to be two dominant shareholders. Different strategic interests of S IMMO and CIPG could complicate decision-making at the IMMOFINANZ shareholders' meeting and possibly also have a negative impact on the IMMOFINANZ share price in the medium to long term.

### **9.2.8 Strengthening of the cross-shareholding**

The cross-shareholdings existing between IMMOFINANZ and S IMMO are viewed critically on the capital market. If the Offer is successful, S IMMO's shareholding – indirectly via the Bidder – in IMMOFINANZ will be further expanded, which will strengthen the cross-shareholding. This may have a negative impact on the capital market attractiveness of the IMMOFINANZ share.

### **9.3 The following reasons speak against an acceptance of the Offer by shareholders**

In the view of the Executive Board, the following considerations may speak against the acceptance of the Offer (the order does not necessarily reflect the weight of the individual arguments):

#### **9.3.1 Offer price is significantly below EPRA NAV, EPRA NTA and IFRS book value per share**

The Offer Price is significantly below the EPRA NAV per share as at 30 September 2021 of EUR 30.43 (and EUR 29.04 (diluted)) and below the EPRA NTA per share as at 30 September 2021 of EUR 30.77 (and EUR 29.44 (diluted)). The discount to the EPRA NAV is around 24.42% (and 20.79% diluted), the discount to the EPRA NTA is around 25.24% (and 21.87% diluted).

The Offer Price is also significantly below the IFRS book value of the IMMOFINANZ shares as of 30 September 2021 of EUR 27.79 (and EUR 26.69 (diluted)), which represents a discount of approximately 17.25% (and 13.84% to the diluted value).

#### **9.3.2 Offer Price significantly below the price level before the outbreak of the COVID-19 pandemic**

The IMMOFINANZ share price has risen continuously since the lows during the peak of the COVID-19 pandemic. Nevertheless, the IMMOFINANZ share continues to trade below its 52-week high of EUR 26.95 (as of 17 February 2020) prior to the COVID-19 pandemic-related share price collapse (after 21 February 2020), with the Offer Price showing a discount of approximately 14.66% to this price.

On 21 February 2020, the last day prior to the COVID-19 pandemic-related price collapse, the closing price of the IMMOFINANZ share was EUR 26.40 and thus EUR 3.40 above the Offer Price. This corresponds to a discount of 12.88% compared to this value. In addition, the Offer Price is approximately 10.44% below the 1-month VWAP, approximately 6.87% below the 3-month VWAP and approximately 7.85% below the 6-month VWAP, in each case prior the COVID-19 pandemic-related share price collapse.

Shareholders who want to rely on the upside potential of the IMMOFINANZ share should therefore not accept the offer. Naturally, future share price developments are associated with uncertainties.

#### **9.3.3 Offer Price is below the average target price of analysts**

The Offer Price is below the current expectations of analysts who forecast a target price of EUR 23.77 (average) and EUR 24.50 (median). Three of the securities analysts quoted give price targets of EUR 26.00 to EUR 27.60, significantly above the Offer Price (see section 3.4).

#### **9.3.4 Counterbalancing the acquisition and/or exercise of control by CPIPG**

The increase of the shareholding by CEE Immobilien (S IMMO) may, in the interest of the Target Company and its shareholders, constitute an appropriate counterbalance to the acquisition and/or exercise of control by CPIPG.

### **9.3.5 Risks associated with the allotment restriction of the partial takeover offer**

The Offer comprises the acquisition of up to 12,663,043 shares, corresponding to approximately 10.27% of the current share capital of IMMOFINANZ. In the event that the Offer is accepted for a higher number of shares, the Offer will only be accepted on a pro rata basis in accordance with the allotment ratio.

A shareholder who accepts the Offer therefore bears the risk that not all shares will be sold at the Offer Price. Furthermore, until the expiry of the Acceptance Period, all shares for which the Offer has been accepted remain blocked. This means that the shareholder, due to the blocking of his shares, cannot dispose of them during the Acceptance Period, in particular cannot sell them over the stock exchange.

### **9.3.6 Premium of the Offer Price significantly lower than premiums of other public company transactions**

In order to assess the Offer Price, premiums of successful public corporate transactions for minority interests in the European real estate sector have also been taken into account (comparable transactions) (see section 3.6).

The Offer Price of the Bidder implies a premium of approximately 7.7% to the unaffected closing price of the IMMOFINANZ share on 03 December 2021 and of approximately 10.5% in relation to the 3-month VWAP. These implied premiums are thus significantly below the average of 18.1% (unaffected closing price) and 23.7% (3-month VWAP) of the premiums in the comparable transactions.

The average discount to the EPRA NAV in the comparable transactions is approximately 8.2%, the median is approximately 5.6%.

In contrast, the Offer Price of the Bidder shows a significantly higher discount to the EPRA NAV of IMMOFINANZ as of 30 September 2021 (undiluted) of approximately 24.42% (diluted of approximately 20.79%).

### **9.3.7 Sustained trend for positive development and business outlook**

IMMOFINANZ is on an upward trend, which is reflected in the sustained improvement in key figures and the positive business outlook in IMMOFINANZ's publication of 29 November 2021 on the consolidated results for the first three quarters of 2021.

For the 2022 financial year, the Executive Board assumes for the business development in the 2022 financial year, according to published capital market guidance and based on a moderate impact of COVID-19 influences,

- a growth of the portfolio from EUR 5 billion to approximately EUR 6 billion through completion of project developments and acquisitions in the sectors retail (STOP SHOP) and office (myhive),
- a target for FFO 1 before tax of more than EUR 135 million, of which 70% shall be distributed as dividend payment (proposal for the appropriation of the balance sheet profit to the shareholders' meeting),

- an unchanged financial policy with a debt ratio measured by net LTV at a conservative level of 36.6% as of 30 September 2021, of still below 45% in the medium term, and maintenance of the investment grade rating from S&P Global Ratings (currently BBB-/Stable (BBB-/Stable outlook) (see also section 4.5 of this statement).

IMMOFINANZ's entry into the asset class of affordable sustainable housing (TOP on STOP), which was announced in August 2021, also offers additional positive potential for the expanded use of the specialist store properties (STOP SHOP).

A potential continuation of the current positive economic developments in IMMOFINANZ's core markets with continuous economic growth could provide a good prerequisite for further stable business development, which could be reflected in an increasing company value and share price.

In addition, a continued positive fundamental development of the real estate markets with high occupancy rates, rising rents and declining purchase yields can also represent a positive effect for both the operational earning power (FFO) and the equity growth (NAV, NTA) of the company in the future. Shareholders who do not accept the Offer have the opportunity to continue to participate in this positive development.

#### **9.4 Summary assessment and recommendation of the Executive Board**

The Executive Board generally welcomes takeover offers that invest in IMMOFINANZ in a transparent process and at the same price per share for all shareholders. In the Offer Document, the Bidder states as an objective of the Offer that in the interest of IMMOFINANZ and the Bidder, the continuation of an independent corporate policy of IMMOFINANZ is to be secured in the interest of all its shareholders and to maximise their value. In the view of the Executive Board, this underlines the successful development of IMMOFINANZ and the positive outlook for the future business development of IMMOFINANZ.

However, the Bidder's Offer Price of EUR 23.00 per IMMOFINANZ share does not reflect this successful development accordingly.

In particular, based on the key figures for the IMMOFINANZ share (IFRS book value, EPRA NAV and EPRA NTA per IMMOFINANZ share), the price level of the share prior to the outbreak of the COVID-19 pandemic and in view of premiums of other public corporate transactions in the European real estate sector, as well as the sustainably improved key figures in the current business activities of IMMOFINANZ and the positive business outlook, as well as taking into account the opinion (Inadequacy Opinion) prepared by Citi, the Executive Board assesses the Offer Price of the Bidder of EUR 23.00 per IMMOFINANZ share as inappropriate.

The Executive Board therefore recommends that the shareholders of IMMOFINANZ do not accept the Offer.

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

Vienna, on 09 January 2022

**The Executive Board of IMMOFINANZ AG**

*Mag. Dietmar Reindl*

*Stefan Schönauer BA*



*This is a working translation of the German language version and for convenience purposes only. Only the German version is legally binding.*

**IMMOFINANZ**

## **Statement by the Supervisory Board**

on the voluntary partial takeover offer pursuant to sections 4 et seqq. of the Austrian  
Takeover Act (*Übernahmegesetz*)

by

CEE Immobilien GmbH, a 100% subsidiary of S IMMO AG

IMMOFINANZ AG  
Wienerbergstraße 9  
1100 Vienna  
Austria  
FN 114425y CC Vienna (*HG Wien*)  
ISIN (shares): AT0000A21KS2  
ISIN (convertible bonds): XS1551932046

## **1 Structure of the partial takeover offer and relation to the statement of the EXECUTIVE BOARD**

### **1.1 The BIDDER and the OFFER**

1.1.1 CEE Immobilien GmbH is a limited liability company under Austrian law with its registered office in Vienna and its business address at Friedrichstraße 10, 1010 Vienna, FN 217290 w ("**BIDDER**"), which is an indirect 100% subsidiary of S IMMO AG, a stock cooperation under Austrian law with its registered office in Vienna and its business address at Friedrichstraße 10, 1010 Vienna, FN 58358 x ("**S IMMO**"). According to the BIDDER, it holds 17,543,937 bearer shares in IMMOFINANZ AG, a stock cooperation under Austrian law with its registered office in Vienna and its business address at Wienerbergstraße 9, 1100 Vienna, FN 114425 y ("**IMMOFINANZ**" or "**TARGET COMPANY**"), corresponding to a participation in the current capital stock of IMMOFINANZ of approximately 14.23%.

1.1.2 On 6 December 2021, the BIDDER announced its intention to increase its current participation by means of a voluntary partial takeover offer pursuant to sections 4 et seqq. of the Austrian Takeover Act ("**ATA**") addressed to the stakeholders of IMMOFINANZ for the acquisition of up to 12,663,043 bearer shares in IMMOFINANZ, corresponding to 10.27% of the currently issued shares. On 23 December 2021, the BIDDER published the offer document ("**OFFER DOCUMENT**"), thereby making an offer to acquire a participation in IMMOFINANZ of in total approximately 24.50% of the currently issued capital stock and voting rights, whereby the offer price per IMMOFINANZ-share amounts to EUR 23.00 (*cum* dividend) (the "**OFFER PRICE**") (collectively the "**OFFER**").

1.1.3 The OFFER is addressed to the currently issued shares in the TARGET COMPANY with the securities identification number (ISIN AT0000A21KS2) as well as to any newly issued shares in the TARGET COMPANY issued after 30 November 2021, thus also to shares, which are issued to service the convertible bonds 2017-2024 (ISIN XS1551932046) of the TARGET COMPANY ("**CB**") by means of capital measures, irrespective of whether they bear the same securities identification number as the existing shares. The CB are not subject of the OFFER.

These addressees of the OFFER (not addressed are the BIDDER and parties potentially acting in concert with the BIDDER as well as the TARGET COMPANY insofar it holds own shares) are hereinafter referred to as the "**IMMOFINANZ-SHAREHOLDERS**"<sup>1</sup>.

1.1.4 According to the OFFER DOCUMENT **the BIDDER does not exclude the possibility of increasing its overall acquisition volume in IMMOFINANZ** (i.e. also outside the OFFER and apart from acquisitions to compensate the dilution effect due to

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<sup>1</sup> The choice of the masculine form in the definition "IMMOFINANZ-SHAREHOLDERS" in the German version is not intended to be gender-specific, but was made solely for reasons of better readability.

the CB conversion). The OFFER is, however, not subject to antitrust clearances by the competent antitrust authorities.

Note: On 22 December 2021, the BIDDER filed a merger control application with the German Federal Cartel Office under B1-255/21 regarding the acquisition of a minimum of **25%** in IMMOFINANZ. The German Federal Cartel Office approved such an acquisition on 4 January 2022. In addition, on 30 December 2021, the BIDDER filed a merger notification for the acquisition of a qualifying participation in IMMOFINANZ **of more than 25% but not more than 50%** with the Austrian Federal Competition Authority under BWB/Z-5833.

- 1.1.5 From today's perspective, the OFFER may be accepted from 23 December 2021 up to and including 26 January 2022, 4:00 p.m. (Vienna local time), ("**ACCEPTANCE PERIOD**"). The OFFER does not provide for a grace period (*sell-out phase*) within the meaning of section 19 para. 3 of the ATA.

Note: In the event of publication of a competing offer, the ACCEPTANCE PERIOD shall be extended *ex lege* until the end of the acceptance period for the competing offer, unless the BIDDER declares its withdrawal from the OFFER. The BIDDER has reserved the right to withdraw from the OFFER in the event of a competing offer in the OFFER DOCUMENT. The maximum period for all offers for the TARGET COMPANY is generally 10 weeks beginning from 23 December 2021 (section 19 para. 1d of the ATA). If there are competing offers, the Takeover Commission may, however, grant an appropriate prolongation of the acceptance period to more than 10 weeks, provided that the business activities of IMMOFINANZ are not unduly hindered in the operation of business.

## 1.2 Statement of the supervisory board; relation to statement of EXECUTIVE BOARD

- 1.2.1 The executive board of IMMOFINANZ ("**EXECUTIVE BOARD**") and the supervisory board of IMMOFINANZ ("**SUPERVISORY BOARD**") shall under takeover law, without undue delay after the publication of the OFFER DOCUMENT, provide reasoned statements on the OFFER. These statements shall, in particular, contain an assessment on whether the offered consideration by the BIDDER and the other contents of the OFFER adequately take into account the interest of all shareholders of IMMOFINANZ and other holders of equity instruments of IMMOFINANZ and what effects the OFFER is likely to have on the TARGET COMPANY, in particular the employees (regarding jobs, employment conditions and the fate of business locations), the creditors and the public interest based on the strategic planning of the BIDDER for the TARGET COMPANY. If the EXECUTIVE BOARD or the SUPERVISORY BOARD does not see itself in a position to make conclusive recommendations, they shall in any case present the arguments for accepting and for rejecting the OFFER, setting out the key considerations for each alternative.
- 1.2.2 The EXECUTIVE BOARD has issued a detailed and reasoned statement pursuant to section 14 of the ATA. It has dealt therein with the formal contents of the OFFER, analysed the **OFFER PRICE** in detail and qualified it as **inappropriate**. It has

further presented the arguments for and against the **acceptance of the OFFER** and has in its summarizing statement **not recommended** the acceptance of the OFFER as of today. This statement of the EXECUTIVE BOARD will be published on the websites of IMMOFINANZ and the Austrian Takeover Commission on 10 January 2022 ("**EB-STATEMENT**"). The works council of IMMOFINANZ has issued a separate statement on the OFFER.

- 1.2.3 Although a joint statement of the EXECUTIVE BOARD and the SUPERVISORY BOARD would not be inadmissible and in practice often only the executive board issues a detailed statement, with the supervisory board regularly reaffirming this position, the supervisory board is nevertheless supposed to submit its own statement for balancing purposes, also with the possibility of taking a position that may differ from the position of the executive board.
- 1.2.4 With the announcement of the CPI-OFFER (as defined in section 1.2.5) on 3 December 2021 and the OFFER on 6 December 2021, the SUPERVISORY BOARD, has taken the following steps for a review and financial evaluation of the OFFER:
  - (a) Schönherr Rechtsanwälte GmbH has been appointed as the SUPERVISORY BOARD's own legal advisor to advise it from a legal perspective, *inter alia*, in the analysis of the OFFER and to support the SUPERVISORY BOARD in the preparation of this statement.
  - (b) Ithuba Capital AG ("**ITHUBA**") has been appointed as the SUPERVISORY BOARD's financial advisor to advise it from a financial perspective, *inter alia*, in the analysis of the OFFER and to support the SUPERVISORY BOARD in the preparation of this statement; this appointment comprises in particular the issuance of a written opinion on the financial adequacy of the OFFER PRICE.
  - (c) In addition, the SUPERVISORY BOARD has comprehensively reviewed the OFFER and financially assessed the OFFER PRICE (based on the financial evaluations by the EXECUTIVE BOARD and the financial opinions of ITHUBA and the EXECUTIVE BOARD's financial advisor) and has comprehensively discussed and analysed the relevant reasons for and against an acceptance of the OFFER.
  - (d) Finally, an ongoing assessment of short- and medium-term strategic alternatives has taken place in exchange with the EXECUTIVE BOARD and the financial advisors. This process will be continued over the coming weeks, which can also result in an update of this statement (see section 1.4).
- 1.2.5 After an intensive analysis of the OFFER and detailed review, discussion and (financial) assessment (see section 1.2.4), the **SUPERVISORY BOARD** generally agrees with the explanations in the EB-STATEMENT and **concurs with the concluding assessment and recommendation of the EXECUTIVE BOARD**.

In light of CPI PROPERTY GROUP S.A.'s mandatory takeover offer regarding IMMOFINANZ announced on 3 December 2021 ("**CPI-OFFER**") and the existing crossholdings between IMMOFINANZ and S IMMO, the SUPERVISORY BOARD

considers it useful to issue a **supplemental statement pursuant to section 14 of the ATA.**

1.3 Independent review by IMMOFINANZ-SHAREHOLDERS

- 1.3.1 The SUPERVISORY BOARD points out that the description of the OFFER contained in the EB-STATEMENT and in this statement (together the "**STATEMENTS**") is not exhaustive or complete and that only the provisions of the OFFER DOCUMENT are relevant for the content and the execution of the OFFER. The assessments and recommendations contained in the STATEMENTS shall in no way bind the IMMOFINANZ-SHAREHOLDERS. Insofar as this statement refers to, quotes, summarises or reproduces the OFFER or the OFFER DOCUMENT, this shall be mere references by which the SUPERVISORY BOARD neither appropriates the OFFER or the OFFER DOCUMENT nor assumes any warranty for the correctness and completeness of the OFFER and the OFFER DOCUMENT.
- 1.3.2 It is the responsibility of each IMMOFINANZ-SHAREHOLDER to take note of the OFFER DOCUMENT, to form an opinion on the OFFER and, if necessary, to take the required measures. Each IMMOFINANZ-SHAREHOLDER must take its own independent decision, if and to what extent he/she accepts the OFFER, considering the overall situation, the individual circumstances and the personal assessment of the future development of the value of IMMOFINANZ and the stock price of the IMMOFINANZ-shares.
- 1.3.3 This statement does not take into account individual circumstances, situations or interests which individual IMMOFINANZ-SHAREHOLDERS may have due to contractual agreements, their individual tax situation, the size of their participation or other circumstances of any kind whatsoever which may be relevant for the assessment of the OFFER in its entirety or the adequacy of the OFFER PRICE or other aspects of the OFFER for such IMMOFINANZ-SHAREHOLDERS.
- 1.3.4 In deciding whether to accept or reject the OFFER, IMMOFINANZ-SHAREHOLDERS should make use of all sources of information and of consultation available to them and sufficiently consider their individual situations. The SUPERVISORY BOARD assumes no responsibility for this decision of the IMMOFINANZ-SHAREHOLDERS. If IMMOFINANZ-SHAREHOLDERS accept the OFFER, they are responsible for fulfilling the requirements and complying with the obligations set out in the OFFER DOCUMENT.
- 1.3.5 The SUPERVISORY BOARD points out that IMMOFINANZ-SHAREHOLDERS who intend to accept the OFFER should assess whether such acceptance is compatible with any legal obligations arising from their personal circumstances. Such individual obligations of the IMMOFINANZ-SHAREHOLDERS cannot be examined by the SUPERVISORY BOARD and / or taken into account in its recommendation.
- 1.3.6 The SUPERVISORY BOARD recommends that, in particular, any IMMOFINANZ-SHAREHOLDER who receives the OFFER DOCUMENT outside of the Republic of

Austria or who intends to accept the OFFER and underlies capital market laws of a jurisdiction other than the one of the Republic of Austria, shall inform himself about and act in accordance with the relevant local legal situation. Furthermore, the SUPERVISORY BOARD recommends that IMMOFINANZ-SHAREHOLDERS seek individual tax and legal advice, if necessary.

#### 1.4 Final note on the update of this statement

- 1.4.1 The SUPERVISORY BOARD does generally not intend to update this statement after its publication and does not undertake any obligation to update this statement, unless such updates are required by Austrian law.
- 1.4.2 However, the SUPERVISORY BOARD reserves the right to update this statement and its position on the OFFER after its publication in its sole discretion, for example, if (i) the BIDDER changes the OFFER or (ii) the announced competing CPI-OFFER will be published or changed later, in each case resulting in new relevant facts or information becoming available.
- 1.4.3 Relating to the announced competing CPI-OFFER, the SUPERVISORY BOARD also points out that, depending on the time of publication of an offer document in relation to the CPI-OFFER, also the statements of the EXECUTIVE BOARD and the SUPERVISORY BOARD on the CPI-OFFER shall be taken into consideration in the course of assessing the OFFER.

## **2 Statement on the OFFER's consideration**

- 2.1 For the evaluation of the financial adequacy of the OFFER PRICE by the IMMOFINANZ-SHAREHOLDERS, the SUPERVISORY BOARD has - as mentioned in section 1.2.4 (b) - appointed ITHUBA as independent financial advisor for the analysis of the OFFER and to support the SUPERVISORY BOARD with the preparation of this statement; this appointment also comprises the issuance of a written opinion on the financial adequacy of the OFFER PRICE - i.e. a fairness or inadequacy opinion - for the IMMOFINANZ-SHAREHOLDERS.
- 2.2 On this basis, ITHUBA has prepared such an opinion on the financial adequacy of the OFFER PRICE by means of internationally customary methods commonly used by financial advisors to evaluate comparable transactions in the real estate sector. Considering the OFFER's financial terms the applied methods comprise amongst others (i) market-known valuation multiples of comparable companies derived from stock market prices, (ii) analyses of premia paid in comparable transactions to acquire minority interests in comparable companies, (iii) a *Discounted Cash Flow*-valuation and (iv) other factors which ITHUBA deemed relevant, including the historical trading performance of the IMMOFINANZ share, the OFFER PRICE in relation to historical trading levels, net asset values and EPRA net asset values, financial performance indicators and current business developments of IMMOFINANZ, valuations and published target prices in research reports by equity analysts, the relationship of the OFFER PRICE to financial performance indicators of IMMOFINANZ when

compared to comparable transactions and the historical development of IMMOFINANZ' *Funds from Operations* (FFO).

In its opinion on the financial adequacy of the OFFER PRICE dated 8 January 2022, ITHUBA concludes that, subject to the assumptions and restrictions contained therein and at the time of the issuance of its statement, the OFFER PRICE to be paid to the IMMOFINANZ-SHAREHOLDERS accepting the OFFER according to the OFFER DOCUMENT is not fair from a financial perspective ("**INADEQUACY OPINION**").

- 2.3 The SUPERVISORY BOARD has dealt comprehensively with the INADEQUACY OPINION of its financial advisor, discussed it in detail with ITHUBA and conducted an independent critical assessment thereof.

The SUPERVISORY BOARD has further comprehensively analyzed the assessments and conducted analyses of the OFFER PRICE by the EXECUTIVE BOARD as set out in sections 3.1 to 3.6 of the EB-STATEMENT and the *Inadequacy Opinion* of its financial advisor, Citigroup Global Markets Europe AG ("**CITI**"), as set out in point 3.7 of the EB-STATEMENT and discussed them in detail with the EXECUTIVE BOARD and CITI in meetings of the SUPERVISORY BOARD.

- 2.4 Based on the information set out in sections 2.1 through 2.3, the **SUPERVISORY BOARD concludes that the OFFER PRICE** - in the amount of EUR 23.00 (*cum* dividend) per IMMOFINANZ-share in cash - **is inappropriate**.

### **3 Supplementary statement on the strategy of the BIDDER**

- 3.1 In general, the SUPERVISORY BOARD welcomes takeover offers that invest in IMMOFINANZ at an attractive price per share for all shareholders of IMMOFINANZ. With respect to the BIDDER, however, the **increase of the existing cross-holdings between IMMOFINANZ and S IMMO** triggered by the acceptance of the OFFER - due to IMMOFINANZ's 26.49% stake in S IMMO - has to be considered in addition to the OFFER PRICE's lack of appropriateness.

- 3.2 In connection with the announcement of the intention to make an offer on 6 December 2021, S IMMO simultaneously communicated the unwinding of the cross-holdings as its strategic goal<sup>2</sup>. In the OFFER DOCUMENT the BIDDER states that the OFFER'S intention is to provide a - not further determined - "contribution" to unwind the cross-holdings in the interest of both companies (ie IMMOFINANZ and S IMMO)<sup>3</sup>.

At the same time, the BIDDER states in the OFFER DOCUMENT that the OFFER shall not be considered as part of specific plans to unbundle the crossholdings, for example by means of disentanglement or merger<sup>4</sup>.

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<sup>2</sup> See S IMMO's corporate news from 6 December 2021.

<sup>3</sup> See section 7.2, para 2, sentence 2, of the OFFER DOCUMENT.

<sup>4</sup> See section 7.2, para 2, sentence 1, of the OFFER DOCUMENT.

- 3.3 The BIDDER and S IMMO remain unclear as to their intentions. This ambiguity in the communication has increased in light of the fact that the BIDDER has initiated merger control procedures (see section 1.1.4) in order to further increase its stake in IMMOFINANZ.

#### **4 Interests of the members of the EXECUTIVE BOARD and of the SUPERVISORY BOARD**

##### 4.1 Interests of the members of the EXECUTIVE BOARD

In addition to section 8 of the EB-STATEMENT, the SUPERVISORY BOARD states as follows:

- 4.1.1 The EXECUTIVE BOARD currently consists of two members: Mag. Dietmar Reindl (COO) and Mag. Stefan Schönauer, BA (CFO). The executive board mandates of Mr. Reindl and Mr. Schönauer will each expire on 30 April 2026.
- 4.1.2 In order to achieve a balanced interest position of the members of the EXECUTIVE BOARD in the context of public takeover offers, the executive board employment contracts provide for termination rights of the members of the EXECUTIVE BOARD in case of change of control events. Appropriate lead times apply to any such termination by a member of the EXECUTIVE BOARD. In the event of termination due to a change of control event, each member of the EXECUTIVE BOARD is entitled to receive compensation for future remuneration claims for the remaining term of its executive board employment contract subject to a maximum period of two years. Both members of the EXECUTIVE BOARD have informed the SUPERVISORY BOARD that they do not intend to exercise any termination rights granted in their executive board employment contracts in connection with the OFFER.
- 4.1.3 Each member of the EXECUTIVE BOARD has confirmed to the SUPERVISORY BOARD that (i) the member of the EXECUTIVE BOARD has no special interests with respect to the execution and the outcome of the OFFER which would interfere with an independent evaluation of the OFFER, (ii) no commitments of a financial or non-financial nature have been made or promised to the member of the EXECUTIVE BOARD or persons living in the same household by the BIDDER or any legal entity acting in concert with the BIDDER in connection with the OFFER, and (iii) no pecuniary advantage has been granted or offered to the member of the MANAGEMENT BOARD or persons living in the same household for a specific outcome of the OFFER.

##### 4.2 Interests of the members of the SUPERVISORY BOARD

- 4.2.1 Neither the BIDDER nor any legal entity acting in concert with the BIDDER have entered into any agreements with members of the SUPERVISORY BOARD or persons living in the same household in connection with the OFFER. The members of the SUPERVISORY BOARD or persons living in the same household have not been granted or promised any pecuniary or other advantages by the BIDDER or any legal entity acting in concert with the BIDDER in connection with the OFFER (including



with respect to a specific outcome of the OFFER).

4.2.2 The following members of the SUPERVISORY BOARD hold directly or indirectly equity securities as defined by the ATA in IMMOFINANZ:

Mag. Bettina Breiteneder: 50,400 shares

Mag. (FH) Philipp Obermair: 150 shares

4.2.3 As of today, no member of the SUPERVISORY BOARD holding shares in IMMOFINANZ intends to accept the OFFER in whole or in part with the shares in IMMOFINANZ held by each of them.

4.2.4 All members of the SUPERVISORY BOARD took part in the discussion and participated in the voting on this statement of the SUPERVISORY BOARD. The resolution of the SUPERVISORY BOARD on this statement was passed unanimously in the extraordinary general meeting on 9 January 2022 (in the evening).

## **5 Summary assessment and recommendation of the SUPERVISORY BOARD**

5.1 On the basis of the information set out in section 2, the **SUPERVISORY BOARD assesses the OFFER PRICE** - in the amount of EUR 23.00 (*cum* dividend) per IMMOFINANZ-share in cash - **as inappropriate**.

5.2 For these financial reasons and the BIDDER's publicly disclosed non-stringent intentions regarding IMMOFINANZ, the SUPERVISORY BOARD recommends IMMOFINANZ-SHAREHOLDERS not to accept the (current) OFFER. Nevertheless, the SUPERVISORY BOARD remains open to a constructive dialogue with the BIDDER.

Final note: The decision to accept or reject the OFFER should be made by each IMMOFINANZ-SHAREHOLDER individually, considering the overall circumstances, his/her individual circumstances and his/her personal assessment. Subject to mandatory legal provisions, the SUPERVISORY BOARD is not be responsible if the acceptance or rejection of the OFFER subsequently leads to adverse economic consequences for an IMMOFINANZ-SHAREHOLDER.

*The legally binding German version of this statement was signed on 9/1/2022 by the Presidium of the Supervisory Board of IMMOFINANZ AG.*

non-binding English translation

**WICHTIGER HINWEIS:**

**AKTIONÄRE DER IMMOFINANZ AG, DEREN SITZ, WOHNSTZ ODER GEWÖHNLICHER AUFENTHALT AUSSERHALB DER REPUBLIK ÖSTERREICH LIEGT, WERDEN AUSDRÜCKLICH AUF PUNKT 10.1. DIESER ANGEBOTUNTERLAGE HINGEWIESEN.**

**IMPORTANT NOTE:**

**SHAREHOLDERS OF IMMOFINANZ AG WHOSE SEAT, PLACE OF RESIDENCE OR HABITUAL ABODE IS OUTSIDE THE REPUBLIC OF AUSTRIA SHOULD NOTE THE INFORMATION SET FORTH IN SECTION 10.2. OF THIS OFFER DOCUMENT.**

## **VOLUNTARY PARTIAL TENDER OFFER**

pursuant to Sections 4 et seqq of the Austrian Takeover Act ("**ÜbG**")  
 ("**Offer**")

made by

**CEE Immobilien GmbH**

Friedrichstraße 10, 1010 Vienna  
(commercial registry number FN 217290w)  
 ("**Bidder**")

to the shareholders of

**IMMOFINANZ AG**

Wienerbergstraße 9, 1100 Vienna  
(commercial registry number FN 114425y)  
 ("**Target Company**")

on the **purchase of up to 12,663,043**  
no-par value bearer shares of the Target Company  
(*inter alia* ISIN AT0000A21KS2)

Acceptance Period: 23 December 2021 until 26 January 2022

## Executive Summary of the Offer

The following summary of the Offer contains only selected information relating to the Offer and should therefore only be read in conjunction with the entire offer document (the "**Offer Document**").

<b>Bidder</b>	CEE Immobilien GmbH, a limited liability company under Austrian law with its registered office in Vienna and the business address Friedrichstraße 10, 1010 Vienna, commercial registry number FN 217290 w (" <b>Bidder</b> "). The Bidder is an indirect 100% subsidiary of S IMMO AG.	Section 3
<b>Target Company</b>	IMMOFINANZ AG, a stock corporation under Austrian law with its registered office in Vienna and the business address Wienerbergstraße 9, 1100 Vienna, commercial registry number FN 114425y (" <b>Target Company</b> ").	Section 2
<b>Offer and object of purchase</b>	<p>The Offer comprises the acquisition of up to 12,663,043 no-par value bearer shares in the Target Company which are not owned by the Bidder, any party acting in concert with the Bidder or the Target Company.</p> <p>The Offer comprises the currently issued Shares of the Target Company with the international securities identification number (ISIN) AT0000A21KS2 as well as any new shares of the Target Company issued after 30 November 2021. This applies in particular to any new shares issued to service the Convertible Bonds 2017 (cf. section 2.3), irrespective of whether they have the same securities identification number as the existing shares.</p> <p>To the knowledge of the Bidder, this corresponds to 10.27% of the share capital of the Target Company.</p> <p>For the Convertible Bonds 2017, see the sections 2.3 and 4.1 of this Offer.</p>	Section 4
<b>Offer Price</b>	EUR 23.00 per no-par value bearer share of the Target Company cum dividend 2021 and any other (extraordinary) dividends.	Section 4.2
<b>Acceptance Period</b>	<p>Period from (and including) 23 December 2021 to 26 January 2022, 16:00 local Vienna time, being four weeks and four trading days (the "<b>Acceptance Period</b>").</p> <p>There will be no statutory sell-out period pursuant to Sec 19 para 3 ÜbG.</p>	Sections 6.1 & 6.2
<b>Acceptance</b>	The acceptance of this Offer must be declared in writing and addressed to the Custodian Bank of the respective shareholder of the Target Company. The declaration of acceptance shall be deemed to have been made in due	Section 6.4

	<p>time if it is received by the Custodian Bank within the Acceptance Period and the following actions have been performed no later than on 28 January 2022, 16:00 Vienna local time (being the second [2<sup>nd</sup>] trading day following the expiry of the Acceptance Period):</p> <p>(i) the transfer (i.e. the entry of the ISIN AT0000A2UWQ4 „IMMOFINANZ AG – zum Verkauf in das Angebot der CEE Immobilien GmbH (S IMMO) eingereichte Stammaktien“ [“IMMOFINANZ AG - shares tendered for sale into the offer made by CEE Immobilien GmbH (S IMMO)"]) and the derecognition of the ISIN of the shares in respect of which the Offer has been accepted) has been made; <u>and</u></p> <p>(ii) the Custodian Bank has forwarded the acceptance of the Offer to the Paying Agent, stating the number of client orders placed and the total number of shares of those acceptance declarations received by the Custodian Bank during the Acceptance Period, and has transferred the corresponding total number of Tendered Shares to the Paying Agent.</p> <p>Shares tendered into the Offer will not be tradable via the stock exchange during the Acceptance Period.</p> <p>The Bidder recommends that shareholders who wish to accept the Offer contact their Custodian Bank no later than three (3) trading days prior to the end of the Acceptance Period in order to ensure timely settlement. The time by which the respective Custodian Bank of the Target Company's shareholders accepts declarations of acceptance may not be influenced by the Bidder.</p> <p>The Bidder will only pay the reasonable and customary fees and costs charged by Custodian Banks in connection with the settlement of the present Offer, up to a maximum of EUR 8 (Euro eight) per securities account. The Custodian Banks are requested to contact the Paying Agent in this regard.</p>	
<b>Paying Agent</b>	Erste Group Bank AG, Am Belvedere 1, 1100 Vienna, commercial registry number FN 33209m	Section 6.3
<b>Allocation in the event of oversubscription</b>	If declarations of acceptance are submitted for more shares than the Offer Shares, the declarations of acceptance shall be taken into account proportionately. In such a case, pursuant to Sec 20 ÜbG, the declaration of acceptance of each shareholder shall be taken into account in proportion to the number of Offer Shares to the total number of shares in respect of which declarations of acceptance have been received.	Section 6.6

	<p>If this allocation rule results in an obligation to accept fractions of shares, the number of shares will be rounded up or down to the nearest whole number at the discretion of the Paying Agent.</p>	
<p><b>Publication of the Offer</b></p>	<p>The present partial public tender offer will be published on 23 December 2021 on the website of the Bidder (<a href="http://www.simmoag.at">www.simmoag.at</a>), the Target Company (<a href="http://www.im-mofinanz.com">www.im-mofinanz.com</a>) as well as the Austrian Takeover Commission (<a href="http://www.takeover.at">www.takeover.at</a>). In addition, the Offer will be available in the form of a brochure at the registered office of the Target Company as well as at the Paying Agent. A notice pursuant to Sec 11 para 1a ÜbG will be published in the Official Gazette (<i>Amtsblatt</i>) of the Wiener Zeitung on 23 December 2021.</p> <p>All further publications and other announcements of the Bidder concerning the Offer will be made on the Bidders website: <a href="http://www.simmoag.at/en/investor-relations/takeover-offers/takeover-offers-of-the-company">www.simmoag.at/en/investor-relations/takeover-offers/takeover-offers-of-the-company</a>.</p>	<p>Section 6.12</p>
<p><b>Conditions Precedent</b></p>	<p>The Offer is subject to the following conditions precedent:</p> <ol style="list-style-type: none"> <li>1. No material adverse change: None of the following events has occurred by the end of the Acceptance Period: <ol style="list-style-type: none"> <li>a. The Target Company has resolved on or distributed a dividend in kind (<i>Sachdividende</i>).</li> <li>b. Until the expiry of the Acceptance Period, the Target Company is insolvent or over-indebted or in the process of liquidation or insolvency or restructuring proceedings (<i>Konkurs-, Sanierungs- oder Restrukturierungsverfahren</i>) or proceedings pursuant to the Corporate Reorganisation Act (<i>Unternehmensreorganisationsgesetz</i>) have been initiated or the initiation of insolvency proceedings have been rejected by court due to the lack of assets (<i>mangels Masse abgewiesen</i>).</li> <li>c. The general meeting of the Target Company has resolved to dissolve, liquidate, merge, demerge, transform, change the legal form of or transfer the assets of the Target Company as a whole.</li> <li>d. The Target Company publishes an announcement – irrespective whether this is an adhoc announcement or any other official announcement of the Target Company – indicating a material adverse change of the Target Company’s financial or profit situation (<i>Vermögens-, Finanz- oder Ertragslage</i>), whereas a material adverse change is</li> </ol> </li> </ol>	<p>Section 5</p>

deemed to exist if such event in itself and without considering undisclosed offsetting effects reduces the net asset value of the Target Company by at least EUR 250 million.

2. No capital increase: Save for new shares issued by the Target Company to service the claims of holders of convertible bonds (in particular the Convertible Bonds 2017), the registered share capital of the Target Company has not been increased nor the general meeting nor management board or supervisory board of the Target Company have adopted any resolution by the end of the Acceptance Period that, if implemented, would result in an increase in the registered share capital of the Target Company. This shall, however, not apply, in the event of (i) a capital increase from own funds (conversion of profits, retained earnings or reserves into share capital [*Kapitalberichtigungen*]) or (ii) authorization resolutions by the shareholders' meeting pursuant to sec 159 et seqq and sec 169 et seqq AktG.
3. No amendment of the articles of association of the Target Company: By the end of the Acceptance Period, the general meeting of the Target Company has not resolved to amend the articles of association of the Target Company in a way that would (i) increase the majority requirement for all or particular resolutions of the general meeting or of other corporate bodies of the Target Company, or (ii) effect a change in the rights attaching to or in the nature of the Shares of the Target Company.
4. No significant compliance breach:
  - By the end of the Acceptance Period, the Target Company has not published an adhoc announcement according to which a conviction or indictment for a criminal act under any applicable law of any member of a governing body or officer of the Target Company or its subsidiaries while any of those persons were operating in their official capacity at the Target Company or its subsidiaries has occurred. Criminal acts within the meaning of this condition precedent specifically include bribery offences, corruption, breach of trust, antitrust violations, money laundering or violations of the Austrian Stock Exchange Act (*Börsegesetz*) or the Market Abuse Regulation; or

	<ul style="list-style-type: none"> <li>• By the end of the Acceptance Period, the Target Company has not published an adhoc announcement according to which a criminal act or administrative offence under any applicable law was committed by any member of a governing body or officer of the Target Company or its subsidiaries operating in their official capacity at the Target Company or its subsidiaries. Criminal acts and administrative offences within the meaning of this condition precedent specifically include bribery offences, corruption, breach of trust, antitrust violations, money laundering or violations of the Austrian Stock Exchange Act (<i>Börsegesetz</i>) or the Market Abuse Regulation.</li> </ul> <p>5. No market disruption: Between the publication of this Offer and the end of the Acceptance Period, the closing price of any of the two following indices is not in excess of 15% lower than its respective closing price on 15 December 2021 (as displayed on the relevant Bloomberg screen) on two consecutive trading days:</p> <ul style="list-style-type: none"> <li>• Austrian Traded Index (ATX; ISIN AT0000999982)</li> <li>• FTSE EPRA Nareit Developed Europe Index (Bloomberg quote: BBG000R8H9J4)</li> </ul> <p>The Bidder reserves the right to waive any or all Conditions.</p>	
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## 1. DEFINITIONS

<b>Acceptance Period</b>	Is defined in section 6.1.
<b>AktG</b>	The Austrian Stock Corporation Act ( <i>Aktiengesetz</i> ), BGBl 98/1965 as amended
<b>Bidder</b>	CEE Immobilien GmbH, Friedrichstraße 10, 1010 Vienna, commercial registry number FN 217290 w.
<b>BörseG</b>	Austrian Stock Exchange Act ( <i>Börsegesetz</i> ), BGBl I 107/2017
<b>Condition(s)</b>	Is defined in section 5.
<b>Convertible Bond 2017</b>	Is defined in section 2.3.
<b>CPI</b>	Is defined in section 2.2.
<b>CPI-Offer</b>	Is defined in section 4.8.
<b>Declaration of Acceptance</b>	Is defined in section 6.4.
<b>Offer Price</b>	Is defined in section 4.2.
<b>Offer Shares</b>	Is defined in section 4.1.
<b>Paying Agent</b>	Is defined in section 6.3.
<b>S IMMO AG</b>	S IMMO AG, Friedrichstraße 10, 1010 Vienna, commercial registry number FN 58358x.
<b>Settlement</b>	Is defined in section 6.7.
<b>Settlement Shares</b>	Is defined in section 2.3.
<b>Share Capital</b>	The issued share capital ( <i>Grundkapital</i> ) of the Target Company according to the notifications pursuant to Sec 135 para 1 BörseG and the status of the commercial registry as of 30 November 2021.
<b>Share(s)</b>	One or more no-par value bearer share(s) in the Target Company.  This includes the currently issued ordinary shares of the Target Company with the international securities identification number (ISIN) AT0000A21KS2 as well as any new shares of the Target Company issued after 30 November 2021. This applies in particular to any new shares issued to service the Convertible Bond 2017 (cf. section 2.3), irrespective of whether they have the same securities identification number as the existing shares.
<b>Target Company</b>	IMMOFINANZ AG, Wienerbergstraße 9, 1100 Vienna, commercial registry number FN 114425 y.

<b>Tendered Shares</b>	Those shares in respect of which acceptance of the Offer has been declared in accordance with section 6.4.
<b>ÜbG</b>	Austrian Takeover Act, BGBl 1998/127 as amended.
<b>VWAP</b>	Is defined in section 4.5.

## 2. THE TARGET COMPANY

### 2.1. About the Target Company

IMMOFINANZ AG is a stock corporation under Austrian law with its registered office in Vienna and the business address Wienerbergstraße 9, 1100 Vienna. IMMOFINANZ AG is registered in the commercial register of the Commercial Court of Vienna (Handelsgericht Wien) at commercial registry number FN 114425 y (the "**Target Company**").

The **Management Board of the Target Company** is composed of

- Mag. Dietmar Reindl
- Mag. Stefan Schönauer

The **Supervisory Board of the Target Company** is composed of the following persons:

- Mag. Bettina Breiteneder (Chairperson)
- Prof. Dr. Sven Bienert (Deputy of the chairperson)
- Michael Mendel
- Dorothee Deuring
- Gayatri Narayan
- Stefan Guetter
- Mag. (FH) Philipp Amadeus Obermair
- Mag. Rita Macskasi-Temesvary
- Werner Ertelthalner

Source: Homepage of the Target Company.

### 2.2. Share capital and shareholder structure

The share capital of the Target Company amounts to EUR 123,293,795 and is divided into 123,293,795 no-par value shares.

According to a notification of major shareholdings pursuant to Sec 130 BörseG dated 3 December 2021, the largest shareholder is CPI Property Group ("**CPI**"), which is controlled by Mr. Radovan Vitek. According to this notification of shareholding, CPI holds approximately 21.40% of the shares in the Target Company.

In addition, CPI had entered into a conditional sale and purchase agreement with RPPK Immo GmbH on 3 December 2021 for shares which, to the Bidder's knowledge, currently represent a share of the Target Company's share capital of approximately 10.57%. The shareholding (shares and financial instruments) of CPI in the Target Company reported by CPI pursuant to Sec 130 et seqq BörseG amounts to 31.97%.

The Bidder holds 17,543,937 shares in the Target Company which represent 14.23% of the Target Company's entire share capital.

The following table shows the current shareholdings in the Target Company (to the knowledge of the Bidder):

Shareholder	Number of shares	share in %
CPI	26,387,094	21,40%
RPPK Immo GmbH	13,029,155	10.57%
<b>Subtotal</b>	<b>39,416,249</b>	<b>31.97%</b>
Bidder	17,543,937	14.23%
Free float <sup>1</sup>	66,333,609	53.80%
<b>Total</b>	<b>123,293,795</b>	<b>100.00%</b>

With regard to the possible future shareholding ratios following a potential dilution as a result of the issuance of new shares after conversion of the Convertible Bonds 2017, see below in section 2.3.

### 2.3. Potential changes in the shareholder structure following the conversion of convertible bonds of the Target Company

The Target Company has several bonds outstanding. Among them is the 2017-2024 convertible bond with a total outstanding nominal value of EUR 294.5 million (as of 3 December 2021) and the ISIN XS1551932046 ("**Convertible Bonds 2017**"). The nominal value of each Convertible Bond 2017 is EUR 100,000. The Convertible Bonds 2017 are listed in the non-regulated market (MTF) on the Vienna Stock Exchange in the market segment *corporates standard*.

The holders of the Convertible Bonds 2017 have the right to convert the Convertible Bonds 2017 into shares of the Target Company ("**Settlement Shares**"). According to the Target Company's public notice dated 21 October 2021, the conversion price per Settlement Share was EUR 20.6333. Upon conversion, holders of Convertible Bonds 2017 would receive approximately 4,846 Settlement Shares per Convertible Bond 2017 in the nominal amount of EUR 100,000.

To the knowledge of the Bidder, the terms and conditions of the Convertible Bonds 2017 provide in § 12 that in the event of a change of control, the conversion price will be adjusted for a certain period of time. According to the terms and conditions, the change of control is defined as follows:

"A 'Change of Control' occurs on the date on which

(i) the Company is being informed on the obtaining of a direct or indirect controlling holding pursuant to § 22 in conjunction with § 27 of the Austrian Takeover Act (*Übernahmegesetz*); or

(ii) a final and binding decision is taken by an Austrian court or Austrian administrative authority on the obtaining of a controlling holding in the Company pursuant to § 22 in conjunction with § 27 of the Austrian Takeover Act (*Übernahmegesetz*); or

(iii) the result of a voluntary tender offer pursuant to § 25a of the Austrian Take Over Act following expiry of the acceptance period pursuant to § 19/2 of the Austrian Take Over Act

<sup>1</sup> Pursuant to a major holdings notification as of 17 December 2021, Petrus Advisers Ltd. holds Shares in the Target Company representing 1.68% of the Share Capital and call options for Shares amounting to 3.35% of the Share Capital.

*Act is published, if based on the publication of the results (a) the acceptance period for the voluntary tender offer is prolonged pursuant to § 19/2 of the Austrian Take Over Act or (b) the bidder by settlement of the shares for which the offer was accepted obtains a controlling holding pursuant to § 22 in conjunction with § 27 of the Austrian Takeover Act (Übernahmegesetz) in the Company; or [...]."*

On 7 December 2021, the Target Company published a public notice titled "Anpassung des Wandlungspreises der Wandelschuldverschreibungen fällig 2024 infolge eines Kontrollwechselereignisses" (Adjustment of the conversion price of convertible bonds due 2024 due to a change of control event) in their Corporate News. According to the Target Company, a change of control as defined in § 12 (e) of the terms and conditions of the Convertible Bond 2017 had occurred on 3 December 2021, resulting in an adjusted conversion price of EUR 18.8987 per Delivery Share. This adjusted conversion price is valid until the control record date, which was set by the Target Company at 19 January 2022. This means that holders of each Convertible Bond 2017 in the nominal amount of EUR 100,000 will receive approximately 5,291 Settlement Shares in case they convert their Convertible Bonds 2017 until the control record date (19 January 2022). Holders of Convertible Bonds 2017 will therefore receive, upon exchange of their Convertible Bonds 2017, approximately 9,18% more shares than before acceptance of the Change of Control or (provided there is no further adjustment) after the Control Record Date.

Due to the advantageous conversion conditions applicable in the time until the control record date set out above, it can be assumed that (almost) all holders of Convertible Bonds 2017 will have converted them until the control record date on 19 January 2022.

Assuming that all currently outstanding Convertible Bonds 2017 will be converted and all Settlement Shares are serviced with new shares (regardless of rounding effects resulting from the conversion of Convertible Bonds 2017), the Target Company's share capital will increase from currently EUR 123,293,795 to EUR 138,876,877. This would result in a **dilution effect of** around 13% for the existing shareholders, which is shown in the following table:

Shareholder	Before conversion (undiluted)		After conversion (diluted)	
	Number of shares	Share of the Share capital in %	Number of shares	Share in %
CPI	26,387,094	21.40%	26,387,094	19.00%
RPPK Immo GmbH	13,029,155	10.57%	13,029,155	9.38%
<b>Subtotal</b>	<b>39,416,249</b>	<b>31.97%</b>	<b>39,416,249</b>	<b>28.38%</b>
S IMMO AG	17,543,937	14.23%	17,543,937	12.63%
Free float	66,333,609	53.80%	81,916,691	58.99%
<b>Total</b>	<b>123,293,795</b>	<b>100.00%</b>	<b>138,876,877</b>	<b>100.00%</b>

Source: Bidder's own calculations, assuming a share capital of EUR 123,293,795 (undiluted).

The Bidder points out that the Target Company states in its public notice dated 7 December 2021 that the occurrence of a change of control event is to be assessed independently of the question whether a takeover offer must be made. Whether the Target Company will also assume a change of control if the present Offer is settled and the

Bidder holds a participation of more than 15% of the Target Company's share capital is unknown to the Bidder.

The Convertible Bonds 2017 are not subject to the Offer (see 4.1). If holders of the Convertible Bonds 2017 wish to benefit from this Offer, they may convert the Convertible Bonds 2017 into Shares in accordance with the periods and rules set out in the terms and conditions of the Convertible Bonds 2017 and tender the Settlement Shares received into this Offer. Reference is made to the allotment provisions in the event that the Offer is oversubscribed in item 6.6. With respect to those shares which could not be allotted due to the oversubscription of the Offer, an acceptance of the CPI-Offer would be possible if CPI publishes its Offer announced on 3 December 2021, of which the Bidder is not aware at the time of the announcement of this Offer to the Austrian Takeover Commission (see also item 4.8).

### 3. THE BIDDER

#### 3.1. About the Bidder

CEE Immobilien GmbH is a limited liability company under Austrian law with its registered office in Vienna and the business address Friedrichstraße 10, 1010 Vienna, commercial registry number FN 217290 w ("**Bidder**"). The Bidder does not hold any significant assets other than its stake in the Target Company.

The Bidder is an indirect 100% subsidiary of S IMMO AG.

**S IMMO AG** is a Vienna-based real estate-investment company. S IMMO AG's shares are listed on the Vienna Stock Exchange in the segment *prime market*. The portfolio of S IMMO AG excluding plots of land may be broken down into 69% commercial real estate (offices, shopping centres and hotels) and 31% residential properties. S IMMO AG's entire portfolio is located within the EU, with a strong focus on capital cities in Austria, Germany and the CEE-region.

The **Management Board of S IMMO AG** consists of

- Dr. Bruno Ettenauer (CEO)
- Mag. Friedrich Wachernig (COO)
- DI Herwig Teufelsdorfer (CIO)

These persons are also **directors** (*Geschäftsführer*) **of the Bidder**.

The **Supervisory Board of S IMMO AG** is composed of the following persons:

- Dr. Karin Rest (Chairperson)
- Christian Hager (1<sup>st</sup> deputy of the chairperson)
- DI Manfred Rapf (2<sup>nd</sup> deputy of the chairperson)
- Univ.-Prof. Dr. Ewald Aschauer
- Mag. Hanna Bomba
- Dipl.-Volkswirt, Dipl.-Jurist Florian Beckermann, LL.M.
- Mag. Christian Böhm
- Andreas Feuerstein
- John Nacos
- MMag. Holger Schmidmayr
- Elisabeth Wagerer

### 3.2. Share capital and shareholder structure of the Bidder and S IMMO AG

The Bidder's share capital amounts to EUR 35,000 and is held in its entirety by CEE PROPERTY-INVEST Immobilien GmbH (commercial registry number FN 205014t), whose sole share is owned by S IMMO AG.

The share capital of S IMMO AG amounts to EUR 267,457,923.62, which is divided into a total of 73.608.896 no-par value shares. According to the Bidder's current knowledge, the current shareholder structure of S IMMO AG is as follows:

Shareholder	Number of Shares	share in Share capital in %
IMMOFINANZ AG	19,499,437	26.49%
CPI	8,543,690	11.61%
EUROVEA Services s.r.o.	3,836,988	5.21%
Free float	41,728,781	56.69%
<b>Total</b>	<b>73,608,896</b>	<b>100.00%</b>

### 3.3. Entities acting in concert with the Bidder

Parties acting in concert pursuant to Sec 1 no 6 ÜbG are natural persons or legal entities that cooperate with the bidder on the basis of an agreement in order to obtain or exercise control over the target company, in particular by coordinating voting rights, or that cooperate with the target company on the basis of an agreement in order to prevent the take-over bid from being successful. If an entity holds a direct or indirect controlling interest (section 22 para 2 and 3) in one or more other entities, it shall be presumed that all such entities act in concert; the same shall apply if several entities have entered into an agreement on the exercise of their voting rights in the election of the members of the supervisory board.

The Bidder has not entered into any agreements within the meaning of Sec 1 no 6 ÜbG with any other shareholder of the Target Company.

The legal entities acting in concert with the Bidder within the meaning of Sec 1 no 6 ÜbG are, among others, the following companies:

- S IMMO AG (commercial registry number FN 58358x) with its registered office in Vienna. This is the parent company of the S IMMO AG Group.
- CEE PROPERTY-INVEST Immobilien GmbH (commercial registry number FN 205014t) with its registered office in Vienna. This company is the direct shareholder of the Bidder.

A specification of the legal entities controlled by the Bidder (Sec 1 no 6 2<sup>nd</sup> sentence ÜbG) may be omitted because the controlled legal entities lack in relevance for the addressees' decision to accept or not to accept the Offer.



## 4. THE OFFER

### 4.1. Object of Purchase

The Offer aims at the acquisition of up to 12,663,043 shares in the Target Company which are not owned by the Bidder, any party acting in concert with it or the Target Company ("**Offer Shares**").

The subject of the Offer are the currently issued ordinary shares of the Target Company with the international securities identification number (ISIN) AT0000A21KS2 as well as any new shares of the Target Company issued after 30 November 2021. This applies in particular to any new shares of the Target Company issued to service the Convertible Bonds 2017 (cf. section 2.3), irrespective of whether they have the same securities identification number as the existing shares.

To the Bidder's knowledge, this corresponds to 10.27% of the Target Company's share capital.

The Convertible Bonds 2017 are not the subject of the Offer. However, holders of the Convertible Bonds 2017 have the option under the terms and conditions of the Convertible Bonds 2017 to convert their Convertible Bonds 2017 into Shares in the Target Company and – subject to the settlement of the Settlement Shares until the end of the Acceptance period – to tender such Shares into the Offer (see item 2.3). Reference is made to section 6.6 (Allocation of Offer Shares in case of oversubscription of the Offer).

### 4.2. Offer Price

The Bidder offers to the holders of Offer Shares, subject to the terms and conditions of this Offer, consideration in the amount of EUR 23.00 (twenty-three Euros) per Offer Share cum dividend 2021 and any other (extraordinary) dividends ("**Offer Price**").

### 4.3. Determination of the Offer Price

The present Offer is a voluntary tender offer pursuant to Sec 4 et seqq. of the Austrian Takeover Act. Therefore, the provisions regarding the statutory minimum price pursuant to Sec 26 ÜbG do not apply. Instead, the Offer Price may be determined by the Bidder in its free discretion.

### 4.4. Historical Reference Transactions

In the last twelve months prior to the announcement of the intention to launch the Offer, the Bidder acquired a total of 1,049,580 Shares in the Target Company. This acquisition was made in the context of a mandatory conversion of a mandatory convertible bond which had been issued in the summer of 2020 by the Target Company. The conversion price amounted to EUR 17.1497 per share. The Offer Price exceeds this reference acquisition by 34.11%.

No entity acting in concert with the Bidder has acquired any Shares in the twelve months preceding the announcement of the intention to make the Offer.

#### 4.5. Offer price in relation to historical prices

The Offer Price includes the following  **premia to historical prices**  of the Shares as at the last trading day prior to the announcement of the intention to make the Offer on 6 December 2021:

- approximately 10.00% to the VWAP in the last month until 3 December 2021;
- approximately 10.53% to the VWAP in the last three months until 3 December 2021;
- approximately 12.94% to the VWAP in the last six months until 3 December 2021;
- approximately 23.38% to the VWAP in the last twelve months until 3 December 2021;
- approximately 30.90% to the VWAP for the twenty-four months until 3 December 2021;
- approximately 7.68% to the closing price of the share on 3 December 2021;

The volume weighted average prices ("**VWAP**") in EUR on the Vienna Stock Exchange for the last one (1), three (3), six (6), twelve (12) and twenty-four (24) months prior to the announcement of the intention to launch the Offer as well as the amounts and the percentages by which the Offer Price exceeds or falls short of these prices in each case:

	<b>Months</b>				
	<b>1</b>	<b>3</b>	<b>6</b>	<b>12</b>	<b>24</b>
<b>VWAP (in EUR)</b>	20.9086	20.8094	20.3648	18.6416	17.5712
<b>Premium (in EUR)</b>	2.0914	2.1906	2.6352	4.3584	5.4288
<b>Premium (in %)</b>	10.0027%	10.5271%	12.9398%	23.3798%	30.8957%

Source of data: Vienna Stock Exchange ([www.wienerbourse.at](http://www.wienerbourse.at)); Bidder's own calculations.

**Premium:** Difference between Offer Price and the relevant VWAP.

**Calculation periods:** The relevant calculation periods of the VWAPs are: 4.11.2021 to 3.12.2021 (1-month VWAP), 4.9.2021 to 3.12.2021 (3-month VWAP), 4.6.2021 to 3.12.2021 (6-month VWAP), 4.12.2020 to 3.12.2021 (12-month VWAP) and 4.12.2019 to 3.12.2021 (24-month VWAP).

On 3 December 2021, the last trading day **prior to the announcement of the Bidder's intention** to launch the present Offer to acquire the Target Company's shares, the share closed at EUR 21.36 on the Vienna Stock Exchange (source: [www.wienerbourse.at](http://www.wienerbourse.at)). The Offer Price of EUR 23.00 per Offer Share thus exceeds the closing price on 3 December 2021 by 7.6779%.

On 16.12.2021, the last trading day **before the Offer Document was notified** to the Takeover Commission, the share closed at EUR 22.36 on the Vienna Stock Exchange. The Offer Price of EUR 23.00 per Offer Share is therefore approximately 2.86% higher than the closing price on that day.

In calendar years 2019, 2020 and 2021 (up to and including 16.12.2021), the Target Company reported the following high/low share prices:

	2019	2020	2021
<b>High</b>	EUR 26.30	EUR 26.95	EUR 22.78
<b>Low</b>	EUR 21.08	EUR 11.50	EUR 16.17

Source of data: Wiener Börse AG, www.wienerborse.at; own calculations by the Bidder on the basis of closing prices.

#### 4.6. Key financial figures and current business development of the Target Company

The selected financial figures of the Target Company are derived from the publicly available audited consolidated financial statements prepared in accordance with IFRS for the past two financial years and from the publicly available unaudited Q3 financial reports at 30 September 2020 and 30 September 2021 and are as follows:

	Q1-Q3 2021	Q1-Q3 2020	2020	2019
<b>EPRA Net Asset Value per share (undiluted)</b>	30.43	27.96	27.79	31.05
<b>IFRS book value per share (basic)</b>	27.79	25.61	25.20	29.34
<b>Closing price at Vienna Stock Exchange on last day of indicated period</b>	20.60	13.51	16.97	23.90
<b>Discount closing price to EPRA Net Asset Value (undiluted)</b>	32.3%	51.7%	38.9%	23.0%
<b>Operating profit (in EUR million)</b>	180,362	113,060	143,949	149,895
<b>Profit from operations (EBIT) (in EUR million)</b>	234,407	-31,722	-12,650	345,578
<b>EBT (in EUR million)</b>	326,188	-92,247	-160,424	350,051
<b>Net profit or loss (in EUR million)</b>	295,661	-98,263	-165,883	352,119
<b>Basic earnings per share (in EUR)</b>	2.40	-0.91	-1.50	3.37
<b>Diluted earnings per share * (in EUR)</b>	2.20	-0.91	-1.50	3.03
<b>FFO I before tax per share</b>	0.74	0.87**	1.13	1.18

Source: Annual financial reports and Q3 financial reports of the Target Company, own calculations of the Bidder.

\*... For the dilution due to the conversion of the Convertible Bonds 2017 into shares, cf. item 2.3.

\*\*... FFO I before tax as indicated in interim statement as of 30 September 2021.

On 30 September 2021, the closing share price of the Target Company was EUR 20.60 which implied a discount to the latest published EPRA Net Asset Value per Share (undiluted) as of 30 September 2021 (EUR 30.43) of 32.3%.

Further information on the Target Company is available on the Target Company's website (<https://immofinanz.com>). The information available on this homepage does not constitute any part of this Offer Document.

#### 4.7. Analysts' Coverage on the Target Company

Prior to the Bidder's announcement to launch this Offer, the Analysts' opinions on the target price of the Shares of the Target Company which reflect their expectation on the future performance of the analysed share are outlined as follows:

Analyst	Recommendation	Date	Target Price (EUR)
PKO BP	Hold	3 Dec 2021	19.00
Wiener Privatbank	Buy	2 Dec 2021	27.60
Wood & Co	Hold	1 Dec 2021	14.40
Raiffeisen Bank International	Buy	29 Nov 2021	22.50
Deutsche Bank	Hold	20 Oct 2021	23.00
Erste Group	Buy	13 Oct 2021	26.00
Société Générale	Buy	6 Sept 2021	23.00
Kepler Cheuvreux	Hold	31 Aug 2021	21.00

Source: Bloomberg, 3 Dec 2021.

The average of these target prices amounts to EUR 22.06. Hence, the Offer Price of EUR 23.00 exceeds the average of the target prices by 4.25%.

The median of these target prices amounts to EUR 22.75. Therefore, the Offer Price of EUR 23.00 contains a premium of 1.10%.

After the announcement to launch the Offer, the following opinions were published:

Analyst	Recommendation	Date	Target Price (EUR)
Raiffeisen Bank International	Buy	13 Dec 2021	26.00
Wood & Co	Hold	6 Dec 2021	14.40
PKO BP	Hold	6 Dec 2021	19.00

Source: Bloomberg, 21 December 2021.

#### **4.8. Offer price in relation to the announced CPI-Offer**

On 3 December 2021 CPI published its intention to launch an anticipatory mandatory offer to the shareholders of the Target Company ("**CPI-Offer**"). CPI announced on 3 December 2021 that it intended to offer a price of EUR 21.20 per share of the Target Company. The Offer Price in the present Bidder's Offer significantly exceeds the price indicated in the announcement of the CPI-Offer, namely by EUR 1.80 per share, or 8.4906%. The Bidder has no knowledge as to whether and when the CPI-Offer will be published, nor whether the CPI-Offer will actually be made at the aforementioned price. Shareholders of the Target Company are therefore advised to inform themselves about any new developments regarding the CPI-Offer.

### **5. CONDITIONS PRECEDENT**

This Offer will become only effective if the conditions precedent ("**Conditions**", each being a "**Condition**") set forth in this section occur by the end of the Acceptance Period or, if a Condition specifies a later date, by such specified date.

The Bidder reserves the right to waive any or all of the conditions until the publication of the result pursuant to Sec 19 para 2 ÜbG, so that the conditions waived are deemed to be fulfilled.

#### **5.1. No material adverse change**

None of the following events has occurred by the end of the Acceptance Period:

- a. The Target Company has resolved on or distributed a dividend in kind (*Sachdividende*).
- b. Until the expiry of the Acceptance Period, the Target Company is insolvent or over-indebted or in the process of liquidation or insolvency or restructuring proceedings (*Konkurs-, Sanierungs- oder Restrukturierungsverfahren*) or proceedings pursuant to the Corporate Reorganisation Act (*Unternehmensreorganisationsgesetz*) have been initiated or the initiation of insolvency proceedings have been rejected by court due to the lack of assets (*mangels Masse abgewiesen*).
- c. The general meeting of the Target Company has resolved to dissolve, liquidate, merge, demerge, transform, change the legal form of or transfer the assets of the Target Company as a whole.
- d. The Target Company publishes an announcement – irrespective whether this is an adhoc announcement or any other official announcement of the Target Company – indicating a material adverse change of the Target Company's financial or profit situation (*Vermögens-, Finanz- oder Ertragslage*), whereas a material adverse change is deemed to exist if such event in itself and without considering undisclosed offsetting effects reduces the net asset value of the Target Company by at least EUR 250 million.

#### **5.2. No capital increase**

Save for new shares issued by the Target Company to service the claims of holders of convertible bonds (in particular the Convertible Bonds 2017), the registered share capital of the Target Company has not been increased nor the general meeting nor management board or supervisory board of the Target Company have adopted any resolution by the end of the Acceptance Period that, if implemented, would result in an increase in

the registered share capital of the Target Company. This shall, however, not apply, in the event of (i) a capital increase from own funds (conversion of profits, retained earnings or reserves into share capital [*'Kapitalberichtigungen'*]) or (ii) authorization resolutions by the shareholders' meeting pursuant to sec 159 et seqq and sec 169 et seqq AktG.

### **5.3. No amendment of the articles of association of the Target Company**

By the end of the Acceptance Period, the general meeting of the Target Company has not resolved to amend the articles of association of the Target Company in a way that would (i) increase the majority requirement for all or particular resolutions of the general meeting or of other corporate bodies of the Target Company, or (ii) effect a change in the rights attaching to or in the nature of the Shares of the Target Company.

### **5.4. No significant compliance breach:**

- a. By the end of the Acceptance Period, the Target Company has not published an adhoc announcement according to which a conviction or indictment for a criminal act under any applicable law of any member of a governing body or officer of the Target Company or its subsidiaries while any of those persons were operating in their official capacity at the Target Company or its subsidiaries has occurred. Criminal acts within the meaning of this condition precedent specifically include bribery offences, corruption, breach of trust, antitrust violations, money laundering or violations of the Austrian Stock Exchange Act (*Börsegesetz*) or the Market Abuse Regulation; or
- b. By the end of the Acceptance Period, the Target Company has not published an adhoc announcement according to which a criminal act or administrative offence under any applicable law was committed by any member of a governing body or officer of the Target Company or its subsidiaries operating in their official capacity at the Target Company or its subsidiaries. Criminal acts and administrative offences within the meaning of this condition precedent specifically include bribery offences, corruption, breach of trust, antitrust violations, money laundering or violations of the Austrian Stock Exchange Act (*Börsegesetz*) or the Market Abuse Regulation.

### **5.5. No market disruption**

Between the publication of this Offer and the end of the Acceptance Period, the closing price of any of the two following indices is not in excess of 15% lower than its respective closing price on 15 December 2021 (as displayed on the relevant Bloomberg screen) on two consecutive trading days:

- Austrian Traded Index (ATX; ISIN AT0000999982)
- FTSE EPRA Nareit Developed Europe Index (Bloomberg quote: BBG000R8H9J4)

## **6. ACCEPTANCE PERIOD AND SETTLEMENT OF THE OFFER**

### **6.1. Acceptance Period**

The period for acceptance of the Offer is four weeks and four trading days. The Offer may be accepted from (and including) 23 December 2021 until (and including) 26 January 2022, 16:00 (Vienna local time) (the "**Acceptance Period**").

In the event that a competing offer is published during the Acceptance Period, the Acceptance Period may automatically be extended by law. Pursuant to Sec 19 para 1c ÜbG, the acceptance period for this Offer is extended by law by the submission of a competing offer until the end of the acceptance period for the competing offer, unless the Bidder has declared its withdrawal from this Offer. Pursuant to sec 19 para 1c ÜbG, the maximum acceptance period should generally not exceed 10 weeks. However, the Austrian Takeover Commission may allow the prolongation of the Acceptance Period beyond 10 weeks, if and insofar the Target Company's business activities are not unduly impeded.

## 6.2. No sell-out

There will be no statutory additional acceptance period (*sell-out* phase) within the meaning of sec 19 para 3 ÜbG. Therefore, the Offer can only be accepted within the Acceptance Period pursuant to section 6.1.

## 6.3. Paying Agent

The Bidder has appointed Erste Group Bank AG, Am Belvedere 1, 1100 Vienna, commercial registry number FN 33209m (the "**Paying Agent**") as the Paying Agent for the settlement of this Offer to receive the Declarations of Acceptance from the Custodian Banks on behalf of the Bidder and to pay the Offer Price.

## 6.4. Acceptance of the Offer

The Bidder recommends that shareholders who wish to accept the Offer contact their Custodian Bank no later than three (3) trading days prior to the end of the Acceptance Period in order to ensure timely settlement. The time by which the respective Custodian Bank of the Target Company's shareholders accepts declarations of acceptance cannot be influenced by the Bidder.

Shareholders of the Target Company who wish to accept this Offer shall declare their acceptance of the Offer (the "**Declaration of Acceptance**") in writing to their Custodian Bank. The Declaration of Acceptance shall be made for a certain number of shares; this number shall in any case be stated in the Declaration of Acceptance itself.

The Custodian Bank shall promptly forward the declaration of acceptance to the Paying Agent, stating the number of client orders placed as well as the total number of declarations of acceptance with respect to Offer Shares received by the Custodian Bank during the Acceptance Period. The Custodian Bank will hold the Tendered Shares blocked from the time of receipt of the declaration of acceptance.

The Paying Agent has applied to the Oesterreichische Kontrollbank AG (OeKB) for the Tendered Shares to have the ISIN AT0000A2UWQ4 „*IMMOFINANZ AG – zum Verkauf in das Angebot der CEE Immobilien GmbH (S IMMO) eingereichte Stammaktien*“ ("*IMMOFINANZ AG - shares tendered for sale into the offer made by CEE Immobilien GmbH (S IMMO)*"). Until the transfer of ownership (see section 6.7), the shares specified in the Declaration of Acceptance (albeit with a different ISIN) will remain in the securities account of the accepting shareholder; however, they will be re-booked with the ISIN AT0000A2UWQ4 and marked as „*IMMOFINANZ AG – zum Verkauf in das Angebot der CEE Immobilien GmbH (S IMMO) eingereichte Stammaktien*“ ("*IMMOFINANZ AG -*

*shares tendered for sale into the offer made by CEE Immobilien GmbH (S IMMO))" and will not be tradable via the stock exchange during this period.*

The shareholder's Declaration of Acceptance shall be deemed to have been made in due time if it is received by the Custodian Bank within the Acceptance Period and the following actions have been taken no later than 28 January 2022, 4:00 p.m. Vienna local time (being the second (2<sup>nd</sup>) trading day following the expiration of the Acceptance Period).

(i) the transfer (i.e. the entry of the ISIN AT0000A2UWQ4 „IMMOFINANZ AG – zum Verkauf in das Angebot der CEE Immobilien GmbH (S IMMO) eingereichte Stammaktien“ [“IMMOFINANZ AG - shares tendered for sale into the offer made by CEE Immobilien GmbH (S IMMO)"] and the derecognition of the ISIN of the shares in respect of which the Offer has been accepted) has been made

and

(ii) the Custodian Bank has forwarded to the Paying Agent the acceptance of the Offer stating the number of client orders placed and the total number of shares of those acceptances received by the Custodian Bank during the Acceptance Period and has transferred the corresponding total number of Tendered Shares to the Paying Agent.

#### **6.5. Legal consequences of acceptance**

Upon acceptance of this Offer, a conditional sale and purchase agreement for the Tendered Shares will be concluded between each accepting shareholder and the Bidder in accordance with the provisions contained in this Offer Document.

This Purchase Agreement is subject to the conditions precedent set forth in section 5.

However, in the event of an oversubscription of the Offer, the purchase agreement shall only be concluded in accordance with the allocation rules set forth in the following section 6.6.

#### **6.6. Allocation of Offer Shares in case of oversubscription of the Offer**

Pursuant to sec 20 ÜbG, Declarations of Acceptance shall be taken into account proportionately in the context of a partial offer if declarations of acceptance are submitted for more Shares than the Bidder intends to acquire (i.e. specifically, if shareholders submit declarations of acceptance for more shares than the total number of offer shares).

In such a case, the Declaration of Acceptance of each shareholder shall be taken into account in the ratio in which the partial offer stands to the total of the declarations of acceptance received. Shares that have been transferred to the Paying Agent and cannot be taken into account due to oversubscription will be transferred back to the respective Custodian Bank by the Paying Agent.

Example: The subject of this Offer is 12,663,043 Shares. If the Offer were accepted for a total of 25,326,086 Shares (i.e. twice as many as the Bidder intends to acquire), the allotment ratio is calculated from the quotient of the Offer Shares (i.e. 12,663,043) and the number of Tendered Shares (in this example 25,326,086). In this case, 50% of the



shares tendered by each shareholder will be taken into account (allotment ratio in this example of 50%). If a shareholder has accepted the offer for 100 shares, for example, his acceptance will only be taken into account for 50 shares. After termination of the Offer, 50 shares remain in the securities account of the respective accepting shareholder.

If this allocation rule results in an obligation to accept fractions of shares, the number of shares will be rounded up or down to the nearest whole number at the discretion of the Paying Agent.

#### **6.7. Payment of the purchase price and transfer of ownership (*Settlement*)**

The Offer Price will be paid to those holders of Shares in the Target Company who have accepted the Offer during the Acceptance Period no later than on the tenth (10<sup>th</sup>) trading day after the expiry of the Acceptance Period, i.e. 9 February 2022, concurrently with the transfer of the Shares ("**Settlement**").

#### **6.8. No assumption of costs, fees or taxes by the Bidder**

The costs and fees associated with the acceptance or settlement of this Offer, such as bank charges, other transaction costs, income taxes, legal transaction fees or other duties and taxes incurred in connection with the acceptance and settlement of the Offer in Austria or abroad are to be borne by the respective shareholder of the Target Company itself.

The Bidder will only pay the reasonable and customary fees and costs charged by Custodian Banks in connection with the settlement of this Offer, up to a maximum of EUR 8 (Euro eight) per securities account. Custodian Banks are requested to contact the Paying Agent in this regard.

Likewise, shareholders of the Target Company who wish to accept this Offer are strongly advised to seek advice from their tax advisors on the tax consequences of accepting the Offer. Only the respective tax advisor can take into account the particular circumstances of the individual case.

#### **6.9. Representations**

Shareholders who have accepted the Offer represent both at the time of acceptance of this Offer and at the time of transfer ("*Settlement*", see section 6.7) in respect of the shares tendered that,

- a. the accepting shareholder has the right to and is fully empowered to accept this Offer and the resulting obligations;
- b. the settlement or performance of all obligations under this Offer will not result in any breach or violation of any term, condition or provision to which the accepting shareholder is subject;
- c. the accepting shareholder is the sole owner of the shares tendered and these are not encumbered with third-party rights; and

- d. the Bidder acquires full ownership of the shares tendered and the related rights upon settlement of this Offer.

#### **6.10. Shareholders' right of withdrawal in the event of competing offers**

If a competing offer is published during the term of this Offer, shareholders shall be entitled pursuant to sec 17 ÜbG to revoke previous declarations of acceptance of the original offer no later than four (4) trading days prior to the expiry of its original acceptance period.

Revocation must be made in writing via the respective Custodian Bank, applying *mutatis mutandis* the provisions on acceptance (item 6.4).

#### **6.11. Bidder's right of withdrawal in the event of competing offers**

Pursuant to sec 19 para 1c ÜbG, the Bidder expressly reserves the right to withdraw from this Offer if another Bidder publishes a public offer for shares in the Target Company.

#### **6.12. Announcement and publication of the result**

The present partial public offer will be published on 23 December 2021 on the website of the Bidder ([www.simmoag.at](http://www.simmoag.at)), the website of the Target Company ([www.im-mofinanz.com](http://www.im-mofinanz.com)) and on the website of the Austrian Takeover Commission ([www.takeover.at](http://www.takeover.at)). In addition, the Offer will be available in the form of a brochure at the registered office of the Target Company as well as at the Paying Agent.

A notice pursuant to sec 11 para 1a of the Austrian Takeover Act will be published in the Official Gazette (*Amtsblatt*) of the Wiener Zeitung on 23 December 2021.

All further publications and other announcements of the Bidder concerning the Offer will be made on the Bidders website: [www.simmoag.at/en/investor-relations/takeover-offers/takeover-offers-of-the-company](http://www.simmoag.at/en/investor-relations/takeover-offers/takeover-offers-of-the-company).

After completion of the Offer, the Bidder will arrange for the publication of the result of the Offer pursuant to sec 19 para 2 ÜbG on the aforementioned websites as well as in the Official Gazette (*Amtsblatt*) of the Wiener Zeitung.

#### **6.13. Equal Treatment**

The Bidder confirms that the Offer Price is equal for all shareholders and that the provisions of takeover law regarding the equal treatment of all shareholders during the Offer will be complied with.

During the Offer Period, the Bidder will not make any legal declarations aimed at the acquisition of Shares of the Target Company on better terms than those contained in the Offer, unless the Bidder improves this Offer or the Austrian Takeover Commission grants an exception for good cause pursuant to sec 16 para 1 ÜbG. If the Bidder nevertheless makes a declaration of acquisition on better terms, these better terms shall also apply to all other shareholders of the Target Company, even if they have already accepted the Offer, unless they object thereto.

If the Bidder acquires shares in the Target Company within nine (9) months after the expiry of the Acceptance Period and if, in return, a higher consideration is granted or agreed than in the Offer, the Bidder shall be obliged to make an additional payment in the amount of the difference to those shareholders who have accepted the Offer pursuant to sec 16 para 7 ÜbG.

This does not apply if the Bidder acquires shares in the Target Company in the course of a capital increase by exercising a statutory subscription right or in the event that a higher consideration is paid in the course of a procedure pursuant to the Shareholder Squeeze-out Act (Gesellschafter-Ausschlussgesetz – *GesAusG*).

The occurrence of a subsequent payment event will be published immediately by the Bidder in accordance with section 6.12. The Bidder will arrange for the settlement of the additional payment at its own expense within ten (10) trading days after publication via the Paying Agent.

## **7. FUTURE INVESTMENT AND CORPORATE POLICY**

### **7.1. Reasons for the present Offer**

#### **7.1.1. Initial situation**

For historical reasons, there is a reciprocal shareholding (cross-shareholding) between the Bidder as a member of S IMMO AG Group and the Target Company: On the one hand, the Target Company holds a 26.49% interest in S IMMO AG and, on the other hand, S IMMO AG indirectly via the Bidder holds a 14.23% interest in the Target Company.

#### **7.1.2. The (announced) anticipatory mandatory offer of CPI to the shareholders of the Target Company**

On 3 December 2021 CPI announced that it had acquired a stake in the Target Company of 21.40% and had also concluded a conditional share purchase agreement with RPPK Immo GmbH for a further approximately 10.57% of the shares in the Target Company. In addition to this purchase agreement subject to a condition precedent, CPI's shareholding in the Target Company thus amounts to approximately 31.97%.

Furthermore, CPI has announced its intention to make the CPI-Offer (see item 4.8).

#### **7.1.3. The Offer in the context of the CPI-Offer**

The Bidder, which itself holds 14.23% of the shares in the Target Company, announced its intention not to accept the CPI-Offer in an ad hoc announcement by S IMMO AG dated 6 December 2021. From the Bidder's point of view, the price of the CPI-Offer of EUR 21.20 per Share is not very attractive, especially as it neither offers a premium but rather a discount to the closing price of the Target Company on the day of the announcement of the intention to launch a mandatory bid. Given CPI's intended acquisition of a controlling stake, the Bidder does not consider the announced price of the CPI-Offer appropriate and fair because it does not include any premium for the acquisition of a controlling stake, which has been the usual practice in the past for block trades in Shares of the Target Company. Therefore, the CPI-Offer does not provide any opportunities for the Bidder to exit the Target Company at a fair price.

By making the present Offer, the Bidder aims at protecting the interests of its own shareholders as well as the shareholders of the Target Company. In particular, the Offer shall ensure a governance of the Target Company in the interest of all shareholders, for as long as a shareholder aiming at control does not offer an adequate exit opportunity to the remaining shareholders. Further, the Offer aims at increasing the Bidder's shareholding in the Target Company by approximately 10.27% to up to 24.50% and represents an attractive exit opportunity for the shareholders of the Target Company with a premium.

The possible conversion of the Convertible Bonds 2017 into shares of the Target Company would result in a dilution effect of up to approximately 13% (see above section 2.3). The Bidder expressly reserves the right to expand the Offer Volume, in particular for the purpose of responding to this dilution.

## **7.2. Future corporate policy**

The Bidder does not plan to acquire control of the Target Company, but merely to increase its shareholding. The Bidder does not intend to exert any influence on the Target Company to the effect that it fundamentally changes its current corporate policy. In fact, the acquisition of the Offer Shares shall enable the Target Company to continue pursuing an independent and autonomous corporate policy which is in the interest of all shareholders. Further, the Bidder favours to maintain the location of the Target Company's business in Austria.

The Offer is not related to any specific plans to dissolve the cross-shareholding, for example by way of a deconcentration or a merger. However, the Offer is intended to contribute to a solution in the interest of both companies and all shareholders and thereby create value.

## **7.3. Effects on the employment and location situation**

From the Bidder's point of view, this partial public tender offer does not entail any change in the employment and location situation. The Bidder and S IMMO AG expressly declare themselves in favour of the preservation of the structure of the Target Company and its location in Austria.

The Bidder points out that the statement of the Management Board and the Supervisory Board of the Target Company pursuant to sec 14 ÜbG has to take into account possible effects of this Offer for the workforce (jobs, working conditions, future of the locations). In addition, the works council of the Target Company has the opportunity to submit a statement on this Offer.

## **8. FINANCING OF THE OFFER**

The Bidder has sufficient funds to finance the Offer and has ensured that these funds will be available in time to fulfil the obligations arising from the Offer. This was also confirmed by the expert pursuant to sec 9 of the Austrian Takeover Act (see section 11).

## **9. OTHER INFORMATION**

### **9.1. Transparency of any commitments made by the Bidder to bodies of the Target Company**

The Bidder has not granted or promised any financial benefits to the members of the Target Company's corporate bodies in connection with the successful completion of this Offer.

### **9.2. Tax implications**

The Bidder will only bear its own costs and fees in connection with the settlement of this Offer, in particular the costs of the Paying Agent. Income taxes or other duties and taxes incurred are not considered to be costs related to the settlement of this Offer and will not be borne by the Bidder. Shareholders of the Target Company who wish to accept this Offer are strongly advised to seek advice from their tax advisers as to the tax consequences of accepting the Offer.

### **9.3. Applicable law and place of jurisdiction**

The present Offer and its settlement, in particular the purchase and transfer of ownership contracts concluded upon acceptance of this Offer, as well as non-contractual claims arising from or in connection with this Offer shall be governed exclusively by Austrian law, excluding the conflict-of-law rules of private international law, insofar as this would result in the applicability of a law other than Austrian law, and the UN Convention on Contracts for the International Sale of Goods.

The exclusive place of jurisdiction shall be Vienna, first district, unless mandatory statutory provisions provide for a different place of jurisdiction.

### **9.4. German version of the Offer being binding**

This Offer Document is prepared in German language. Only the German version of the Offer Document is legally binding. The present English translation of the Offer Document is for information purposes only and is not legally binding.

### **9.5. Advisors**

Acting as advisors to the Bidder are:

- a. DSC Doralt Seist Csoklich Rechtsanwälte GmbH, Währinger Straße 2-4, 1090 Vienna, Austria, commercial registry number FN 469254 f, is the legal advisor of the Bidder;
- b. BDO Austria GmbH Wirtschaftsprüfungs- und Steuerberatungsgesellschaft, Am Belvedere 4, 1100 Vienna, Austria, commercial registry number FN 96046 w, is the expert pursuant to § 9 ÜbG;
- c. Erste Group Bank AG, Am Belvedere 1, 1100 Vienna, Austria, commercial registry number FN 33209 m, is the Paying Agent of the Bidder.
- d. J.P. Morgan AG, Taunustor 1 (TaunusTurm), D-60310, Frankfurt am Main, Germany, as financial advisor of the Bidder.

## 9.6. Further information

For further information in connection with the settlement of this Offer, please contact the Paying Agent during normal business hours via the following e-mail address: [CorpDept0551@erstegroup.com](mailto:CorpDept0551@erstegroup.com).

Further information is available on the websites of the Bidder ([www.simmoag.at](http://www.simmoag.at)), the Target Company ([www.immofinanz.com](http://www.immofinanz.com)) and the Austrian Takeover Commission ([www.takeover.at](http://www.takeover.at)). The information available on these websites does not constitute a part of this Offer Document.

## 9.7. Information on the expert pursuant to sec 9 ÜbG

The bidder appointed BDO Austria GmbH Wirtschaftsprüfungs- und Steuerberatungsgesellschaft, Am Belvedere 4, 1100 Vienna, commercial registry number FN 96046 w, as expert pursuant to § 9 ÜbG.

# 10. DISTRIBUTION RESTRICTIONS

## 10.1. Verbreitungsbeschränkungen

*Außer in Übereinstimmung mit den anwendbaren Rechtsvorschriften dürfen die vorliegende Angebotsunterlage oder sonst mit dem Angebot in Zusammenhang stehende Dokumente außerhalb der Republik Österreich weder veröffentlicht, versendet, vertrieben, verbreitet oder zugänglich gemacht werden. Die Bieterin übernimmt keine wie auch immer geartete Haftung für einen Verstoß gegen die vorstehende Bestimmung. Das Angebot wird insbesondere weder direkt noch indirekt in den Vereinigten Staaten von Amerika, deren Territorien oder anderen Gebieten unter deren Hoheitsgewalt abgegeben, noch darf es in oder von den Vereinigten Staaten von Amerika aus angenommen werden. Dieses Angebot wird weiters weder direkt noch indirekt in Australien oder Japan gestellt, noch darf es in oder von Australien oder Japan aus angenommen werden.*

*Diese Angebotsunterlage stellt weder ein Angebot von Aktien noch eine Einladung dar, Aktien an der Zielgesellschaft in einer Rechtsordnung oder von einer Rechtsordnung aus anzubieten, in der die Stellung eines solchen Angebots oder einer solchen Einladung zur Angebotsstellung oder in der das Stellen eines Angebots durch oder an bestimmte Personen untersagt ist. Das Angebot wird weder von einer Behörde außerhalb der Republik Österreich genehmigt noch wurde eine derartige Genehmigung beantragt.*

*Aktionäre der Zielgesellschaft, die außerhalb der Republik Österreich in den Besitz der Angebotsunterlage gelangen und/oder die das Angebot außerhalb der Republik Österreich annehmen wollen, sind angehalten, sich über die damit in Zusammenhang stehenden einschlägigen rechtlichen Vorschriften zu informieren und diese Vorschriften zu beachten. Die Bieterin übernimmt keine wie auch immer geartete Haftung im Zusammenhang mit einer Annahme des Angebots außerhalb der Republik Österreich.*

## 10.2. Restriction of Publication

Other than in compliance with applicable law, the publication, dispatch, distribution, dissemination or making available of (i) this Offer Document, (ii) a summary of or other description of the conditions contained in this Offer Document or (iii) other documents connected with the offer outside of the Republic of Austria is not permitted. The Bidder does not assume any responsibility for any violation of the above-mentioned provision. In particular, the offer is not being made, directly or indirectly, in the United States of

America, its territories or possessions or any other area subject to its jurisdiction, nor may it be accepted in or from the United States of America. Furthermore, this offer is not being made, directly or indirectly, in Australia or Japan, nor may it be accepted in or from Australia and Japan.

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

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

Vienna, on 21 December 2021

**CEE Immobilien GmbH**

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**Dr. Bruno Ettenauer**

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**Mag. Friedrich Wachernig**

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**DI Herwig Teufelsdorfer**



## 11. CONFIRMATION OF THE EXPERT

Based on our audit pursuant to sec 9 para 1 ÜbG, we confirm that the voluntary partial tender offer of CEE Immobilien GmbH to the shareholders of IMMOFINANZ AG is complete and in compliance with the law and, in particular, that the information on the offer price complies with the legal requirements.

The Bidder has the necessary financial resources to meet its obligations under this Offer in a timely manner.

Vienna, on 21 December 2021

**Mag. Kurt Schweighart**

**Matthias Schmitzer, MSc (WU)**

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**BDO Austria GmbH Wirtschaftsprüfungs-  
und Steuerberatungsgesellschaft**  
(commercial registry number FN 96046w)

# General Conditions of Contract for the Public Accounting Professions (AAB 2018)

Recommended for use by the Board of the Chamber of Tax Advisers and Auditors, last recommended in its decision of April 18, 2018

## Preamble and General Items

(1) Contract within the meaning of these Conditions of Contract refers to each contract on services to be rendered by a person entitled to exercise profession in the field of public accounting exercising that profession (de facto activities as well as providing or performing legal transactions or acts, in each case pursuant to Sections 2 or 3 Austrian Public Accounting Professions Act (WTBG 2017). The parties to the contract shall hereinafter be referred to as the "contractor" on the one hand and the "client" on the other hand).

(2) The General Conditions of Contract for the professions in the field of public accounting are divided into two sections: The Conditions of Section I shall apply to contracts where the agreeing of contracts is part of the operations of the client's company (entrepreneur within the meaning of the Austrian Consumer Protection Act. They shall apply to consumer business under the Austrian Consumer Protection Act (Federal Act of March 8, 1979 / Federal Law Gazette No. 140 as amended) insofar as Section II does not provide otherwise for such business.

(3) In the event that an individual provision is void, the invalid provision shall be replaced by a valid provision that is as close as possible to the desired objective.

## SECTION I

### 1. Scope and Execution of Contract

(1) The scope of the contract is generally determined in a written agreement drawn up between the client and the contractor. In the absence of such a detailed written agreement, (2)-(4) shall apply in case of doubt:

(2) When contracted to perform tax consultation services, consultation shall consist of the following activities:

- a) preparing annual tax returns for income tax and corporate tax as well as value-added tax (VAT) on the basis of the financial statements and other documents and papers required for taxation purposes and to be submitted by the client or (if so agreed) prepared by the contractor. Unless explicitly agreed otherwise, documents and papers required for taxation purposes shall be produced by the client.
- b) examining the tax assessment notices for the tax returns mentioned under a).
- c) negotiating with the fiscal authorities in connection with the tax returns and notices mentioned under a) and b).
- d) participating in external tax audits and assessing the results of external tax audits with regard to the taxes mentioned under a).
- e) participating in appeal procedures with regard to the taxes mentioned under a).

If the contractor receives a flat fee for regular tax consultation, in the absence of written agreements to the contrary, the activities mentioned under d) and e) shall be invoiced separately.

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

(4) In each case, the obligation to render other services pursuant to Sections 2 and 3 WTBG 2017 requires for the contractor to be separately and verifiably commissioned.

(5) The aforementioned paragraphs (2) to (4) shall not apply to services requiring particular expertise provided by an expert.

(6) The contractor is not obliged to render any services, issue any warnings or provide any information beyond the scope of the contract.

(7) The contractor shall have the right to engage suitable staff and other performing agents (subcontractors) for the execution of the contract as well as to have a person entitled to exercise the profession substitute for him/her in executing the contract. Staff within the meaning of these Conditions of Contract refers to all persons who support the contractor in his/her operating activities on a regular or permanent basis, irrespective of the type of underlying legal transaction.

(8) In rendering his/her services, the contractor shall exclusively take into account Austrian law; foreign law shall only be taken into account if this has been explicitly agreed upon in writing.

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

(10) The client shall be obliged to make sure that the data made available by him/her may be handled by the contractor in the course of rendering the services. In this context, the client shall particularly but not exclusively comply with the applicable provisions under data protection law and labor law.

(11) Unless explicitly agreed otherwise, if the contractor electronically submits an application to an authority, he/she acts only as a messenger and this does not constitute a declaration of intent or knowledge attributable to him/her or a person authorized to submit the application.

(12) The client undertakes not to employ persons that are or were staff of the contractor during the contractual relationship, during and within one year after termination of the contractual relationship, either in his/her company or in an associated company, failing which he/she shall be obliged to pay the contractor the amount of the annual salary of the member of staff taken over.

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

(1) The client shall make sure that all documents required for the execution of the contract be placed without special request at the disposal of the contractor at the agreed date, and in good time if no such date has been agreed, and that he/she be informed of all events and circumstances which may be of significance for the execution of the contract. This shall also apply to documents, events and circumstances which become known only after the contractor has commenced his/her work.

(2) The contractor shall be justified in regarding information and documents presented to him/her by the client, in particular figures, as correct and complete and to base the contract on them. The contractor shall not be obliged to identify any errors unless agreed separately in writing. This shall particularly apply to the correctness and completeness of bills. However, he/she is obliged to inform the client of any errors identified by him/her. In case of financial criminal proceedings he/she shall protect the rights of the client.

(3) The client shall confirm in writing that all documents submitted, all information provided and explanations given in the context of audits, expert opinions and expert services are complete.

(4) If the client fails to disclose considerable risks in connection with the preparation of financial statements and other statements, the contractor shall not be obliged to render any compensation insofar as these risks materialize.

(5) Dates and time schedules stated by the contractor for the completion of the contractor's products or parts thereof are best estimates and, unless otherwise agreed in writing, shall not be binding. The same applies to any estimates of fees: they are prepared to best of the contractor's knowledge; however, they shall always be non-binding.

(6) The client shall always provide the contractor with his/her current contact details (particularly the delivery address). The contractor may rely on the validity of the contact details most recently provided by the client, particularly have deliveries made to the most recently provided address, until such time as new contact details are provided.

### 3. Safeguarding of Independence

(1) The client shall be obliged to take all measures to prevent that the independence of the staff of the contractor be jeopardized and shall himself/herself refrain from jeopardizing their independence in any way. In particular, this shall apply to offers of employment and to offers to accept contracts on their own account.

(2) The client acknowledges that his/her personal details required in this respect, as well as the type and scope of the services, including the performance period agreed between the contractor and the client for the services (both audit and non-audit services), shall be handled within a network (if any) to which the contractor belongs, and for this purpose transferred to the other members of the network including abroad for the purpose of examination of the existence of grounds of bias or grounds for exclusion and conflicts of interest. For this purpose the client expressly releases the contractor in accordance with the Data Protection Act and in accordance with Section 80 (4) No. 2 WTBG 2017 from his/her obligation to maintain secrecy. The client can revoke the release from the obligation to maintain secrecy at any time.

#### 4. Reporting Requirements

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

(2) (Communication to the client) All contract-related information and opinions, including reports, (all declarations of knowledge) of the contractor, his/her staff, other performing agents or substitutes ("professional statements") shall only be binding provided they are set down in writing. Professional statements in electronic file formats which are made, transferred or confirmed by fax or e-mail or using similar types of electronic communication (that can be stored and reproduced but is not oral, i.e. e.g. text messages but not telephone) shall be deemed as set down in writing; this shall only apply to professional statements. The client bears the risk that professional statements may be issued by persons not entitled to do so as well as the transfer risk of such professional statements.

(3) (Communication to the client) The client hereby consents to the contractor communicating with the client (e.g. by e-mail) in an unencrypted manner. The client declares that he/she has been informed of the risks arising from the use of electronic communication (particularly access to, maintaining secrecy of, changing of messages in the course of transfer). The contractor, his/her staff, other performing agents or substitutes are not liable for any losses that arise as a result of the use of electronic means of communication.

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

(5) (General) In writing shall mean, insofar as not otherwise laid down in Item 4. (2), written form within the meaning of Section 886 Austrian Civil Code (ABGB) (confirmed by signature). An advanced electronic signature (Art. 26 eIDAS Regulation (EU) No. 910/2014) fulfills the requirement of written form within the meaning of Section 886 ABGB (confirmed by signature) insofar as this is at the discretion of the parties to the contract.

(6) (Promotional information) The contractor will send recurrent general tax law and general commercial law information to the client electronically (e.g. by e-mail). The client acknowledges that he/she has the right to object to receiving direct advertising at any time.

#### 5. Protection of Intellectual Property of the Contractor

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

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

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

#### 6. Correction of Errors

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

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

(3) If the contractor fails to correct errors which have come to light, the client shall have the right to demand a reduction in price. The extent to which additional claims for damages can be asserted is stipulated under Item 7.

#### 7. Liability

(1) All liability provisions shall apply to all disputes in connection with the contractual relationship, irrespective of the legal grounds. The contractor is liable for losses arising in connection with the contractual relationship (including its termination) only in case of willful intent and gross negligence. The applicability of Section 1298 2<sup>nd</sup> Sentence ABGB is excluded.

(2) In cases of gross negligence, the maximum liability for damages due from the contractor is tenfold the minimum insurance sum of the professional liability insurance according to Section 11 WTBG 2017 as amended.

(3) The limitation of liability pursuant to Item 7. (2) refers to the individual case of damages. The individual case of damages includes all consequences of a breach of duty regardless of whether damages arose in one or more consecutive years. In this context, multiple acts or failures to act that are based on the same or similar source of error as one consistent breach of duty if the matters concerned are legally and economically connected. Single damages remain individual cases of damage even if they are based on several breaches of duty. Furthermore, the contractor's liability for loss of profit as well as collateral, consequential, incidental or similar losses is excluded in case of willful damage.

(4) Any action for damages may only be brought within six months after those entitled to assert a claim have gained knowledge of the damage, but no later than three years after the occurrence of the (primary) loss following the incident upon which the claim is based, unless other statutory limitation periods are laid down in other legal provisions.

(5) Should Section 275 Austrian Commercial Code (UGB) be applicable (due to a criminal offense), the liability provisions contained therein shall apply even in cases where several persons have participated in the execution of the contract or where several activities requiring compensation have taken place and irrespective of whether other participants have acted with intent.

(6) In cases where a formal auditor's report is issued, the applicable limitation period shall commence no later than at the time the said auditor's report was issued.

(7) If activities are carried out by enlisting the services of a third party, e.g. a data-processing company, any warranty claims and claims for damages which arise against the third party according to law and contract shall be deemed as having been passed on to the client once the client has been informed of them. Item 4. (3) notwithstanding, in such a case the contractor shall only be liable for fault in choosing the third party.

(8) The contractor's liability to third parties is excluded in any case. If third parties come into contact with the contractor's work in any manner due to the client, the client shall expressly clarify this fact to them. Insofar as such exclusion of liability is not legally permissible or a liability to third parties has been assumed by the contractor in exceptional cases, these limitations of liability shall in any case also apply to third parties on a subsidiary basis. In any case, a third party cannot raise any claims that go beyond any claim raised by the client. The maximum sum of liability shall be valid only once for all parties injured, including the compensation claims of the client, even if several persons (the client and a third party or several third parties) have sustained losses; the claims of the parties injured shall be satisfied in the order in which the claims have been raised. The client will indemnify and hold harmless the contractor and his/her staff against any claims by third parties in connection with professional statements made orally or in writing by the contractor and passed on to these third parties.

(9) Item 7. shall also apply to any of the client's liability claims to third parties (performing agents and vicarious agents of the contractor) and to substitutes of the contractor relating to the contractual relationship.

#### 8. Secrecy, Data Protection

(1) According to Section 80 WTBG 2017 the contractor shall be obliged to maintain secrecy in all matters that become known to him/her in connection with his/her work for the client, unless the client releases him/her from this duty or he/she is bound by law to deliver a statement.

(2) Insofar as it is necessary to pursue the contractor's claims (particularly claims for fees) or to dispute claims against the contractor (particularly claims for damages raised by the client or third parties against the contractor), the contractor shall be released from his/her professional obligation to maintain secrecy.

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

(4) The contractor is a data protection controller within the meaning of the General Data Protection Regulation ("GDPR") with regard to all personal data processed under the contract. The contractor is thus authorized to process personal data entrusted to him/her within the limits of the contract. The material made available to the contractor (paper and data carriers) shall generally be handed to the client or to third parties appointed by the client after the respective rendering of services has been completed, or be kept and destroyed by the contractor if so agreed. The contractor is authorized to keep copies thereof insofar as he/she needs them to appropriately document his/her services or insofar as it is required by law or customary in the profession.

(5) If the contractor supports the client in fulfilling his/her duties to the data subjects arising from the client's function as data protection controller, the contractor shall be entitled to charge the client for the actual efforts undertaken. The same shall apply to efforts undertaken for information with regard to the contractual relationship which is provided to third parties after having been released from the obligation to maintain secrecy to third parties by the client.

#### 9. Withdrawal and Cancellation („Termination“)

(1) The notice of termination of a contract shall be issued in writing (see also Item 4. (4) and (5)). The expiry of an existing power of attorney shall not result in a termination of the contract.

(2) Unless otherwise agreed in writing or stipulated by force of law, either contractual partner shall have the right to terminate the contract at any time with immediate effect. The fee shall be calculated according to Item 11.

(3) However, a continuing agreement (fixed-term or open-ended contract on – even if not exclusively – the rendering of repeated individual services, also with a flat fee) may, without good reason, only be terminated at the end of the calendar month by observing a period of notice of three months, unless otherwise agreed in writing.

(4) After notice of termination of a continuing agreement and unless otherwise stipulated in the following, only those individual tasks shall still be completed by the contractor (list of assignments to be completed) that can (generally) be completed fully within the period of notice insofar as the client is notified in writing within one month after commencement of the termination notice period within the meaning of Item 4. (2). The list of assignments to be completed shall be completed within the termination period if all documents required are provided without delay and if no good reason exists that impedes completion.

(5) Should it happen that in case of a continuing agreement more than two similar assignments which are usually completed only once a year (e.g. financial statements, annual tax returns, etc.) are to be completed, any assignments exceeding this number shall be regarded as assignments to be completed only with the client's explicit consent. If applicable, the client shall be informed of this explicitly in the statement pursuant to Item 9. (4).

#### 10. Termination in Case of Default in Acceptance and Failure to Cooperate on the Part of the Client and Legal Impediments to Execution

(1) If the client defaults on acceptance of the services rendered by the contractor or fails to carry out a task incumbent on him/her either according to Item 2. or imposed on him/her in another way, the contractor shall have the right to terminate the contract without prior notice. The same shall apply if the client requests a way to execute (also partially) the contract that the contractor reasonably believes is not in compliance with the legal situation or professional principles. His/her fees shall be calculated according to Item 11. Default in acceptance or failure to cooperate on the part of the client shall also justify a claim for compensation made by the contractor for the extra time and labor hereby expended as well as for the damage caused, if the contractor does not invoke his/her right to terminate the contract.

(2) For contracts concerning bookkeeping, payroll accounting and administration and assessment of payroll-related taxes and contributions, a termination without prior notice by the contractor is permissible under Item 10. (1) if the client verifiably fails to cooperate twice as laid down in Item 2. (1).

#### 11. Entitlement to Fee

(1) If the contract fails to be executed (e.g. due to withdrawal or cancellation), the contractor shall be entitled to the negotiated compensation (fee), provided he/she was prepared to render the services and was prevented from so doing by circumstances caused by the client, whereby a merely contributory negligence by the contractor in this respect shall be excluded; in this case the contractor need not take into account the amount he/she obtained or failed to obtain through alternative use of his/her own professional services or those of his/her staff.

(2) If a continuing agreement is terminated, the negotiated compensation for the list of assignments to be completed shall be due upon completion or in case completion fails due to reasons attributable to the client (reference is made to Item 11. (1)). Any flat fees negotiated shall be calculated according to the services rendered up to this point.

(3) If the client fails to cooperate and the assignment cannot be carried out as a result, the contractor shall also have the right to set a reasonable grace period on the understanding that, if this grace period expires without results, the contract shall be deemed ineffective and the consequences indicated in Item 11. (1) shall apply.

(4) If the termination notice period under Item 9. (3) is not observed by the client as well as if the contract is terminated by the contractor in accordance with Item 10. (2), the contractor shall retain his/her right to receive the full fee for three months.

#### 12. Fee

(1) Unless the parties explicitly agreed that the services would be rendered free of charge, an appropriate remuneration in accordance with Sections 1004 and 1152 ABGB is due in any case. Amount and type of the entitlement to the fee are laid down in the agreement negotiated between the contractor and his/her client. Unless a different agreement has verifiably been reached, payments made by the client shall in all cases be credited against the oldest debt.

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

(3) Travel time to the extent required is also charged.

(4) Study of documents which, in terms of their nature and extent, may prove necessary for preparation of the contractor in his/her own office may also be charged as a special item.

(5) Should a remuneration already agreed upon prove inadequate as a result of the subsequent occurrence of special circumstances or due to special requirements of the client, the contractor shall notify the client thereof and additional negotiations for the agreement of a more suitable remuneration shall take place (also in case of inadequate flat fees).

(6) The contractor includes charges for supplementary costs and VAT in addition to the above, including but not limited to the following (7) to (9):

(7) Chargeable supplementary costs also include documented or flat-rate cash expenses, traveling expenses (first class for train journeys), per diems, mileage allowance, copying costs and similar supplementary costs.

(8) Should particular third party liabilities be involved, the corresponding insurance premiums (including insurance tax) also count as supplementary costs.

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

(10) For the execution of a contract wherein joint completion involves several contractors, each of them will charge his/her own compensation.

(11) In the absence of any other agreements, compensation and advance payments are due immediately after they have been requested in writing. Where payments of compensation are made later than 14 days after the due date, default interest may be charged. Where mutual business transactions are concerned, a default interest rate at the amount stipulated in Section 456 1<sup>st</sup> and 2<sup>nd</sup> Sentence UGB shall apply.

(12) Statutory limitation is in accordance with Section 1486 of ABGB, with the period beginning at the time the service has been completed or upon the issuing of the bill within an appropriate time limit at a later point.

(13) An objection may be raised in writing against bills presented by the contractor within 4 weeks after the date of the bill. Otherwise the bill is considered as accepted. Filing of a bill in the accounting system of the recipient is also considered as acceptance.

(14) Application of Section 934 ABGB within the meaning of Section 351 UGB, i.e. rescission for *laesio enormis* (lesion beyond moiety) among entrepreneurs, is hereby renounced.

(15) If a flat fee has been negotiated for contracts concerning bookkeeping, payroll accounting and administration and assessment of payroll-related taxes and contributions, in the absence of written agreements to the contrary, representation in matters concerning all types of tax audits and audits of payroll-related taxes and social security contributions including settlements concerning tax assessments and the basis for contributions, preparation of reports, appeals and the like shall be invoiced separately. Unless otherwise agreed to in writing, the fee shall be considered agreed upon for one year at a time.

(16) Particular individual services in connection with the services mentioned in Item 12. (15), in particular ascertaining whether the requirements for statutory social security contributions are met, shall be dealt with only on the basis of a specific contract.

(17) The contractor shall have the right to ask for advance payments and can make delivery of the results of his/her (continued) work dependent on satisfactory fulfillment of his/her demands. As regards continuing agreements, the rendering of further services may be denied until payment of previous services (as well as any advance payments under Sentence 1) has been effected. This shall analogously apply if services are rendered in installments and fee installments are outstanding.

(18) With the exception of obvious essential errors, a complaint concerning the work of the contractor shall not justify even only the partial retention of fees, other compensation, reimbursements and advance payments (remuneration) owed to him/her in accordance with Item 12.

(19) Offsetting the remuneration claims made by the contractor in accordance with Item 12. shall only be permitted if the demands are uncontested and legally valid.

### 13. Other Provisions

(1) With regard to Item 12. (17), reference shall be made to the legal right of retention (Section 471 ABGB, Section 369 UGB); if the right of retention is wrongfully exercised, the contractor shall generally be liable pursuant to Item 7. or otherwise only up to the outstanding amount of his/her fee.

(2) The client shall not be entitled to receive any working papers and similar documents prepared by the contractor in the course of fulfilling the contract. In the case of contract fulfillment using electronic accounting systems the contractor shall be entitled to delete the data after handing over all data based thereon – which were prepared by the contractor in relation to the contract and which the client is obliged to keep – to the client and/or the succeeding public accountant in a structured, common and machine-readable format. The contractor shall be entitled to an appropriate fee (Item 12. shall apply by analogy) for handing over such data in a structured, common and machine-readable format. If handing over such data in a structured, common and machine-readable format is impossible or unfeasible for special reasons, they may be handed over in the form of a full print-out instead. In such a case, the contractor shall not be entitled to receive a fee.

(3) At the request and expense of the client, the contractor shall hand over all documents received from the client within the scope of his/her activities. However, this shall not apply to correspondence between the contractor and his/her client and to original documents in his/her possession and to documents which are required to be kept in accordance with the legal anti-money laundering provisions applicable to the contractor. The contractor may make copies or duplicates of the documents to be returned to the client. Once such documents have been transferred to the client, the contractor shall be entitled to an appropriate fee (Item 12. shall apply by analogy).

(4) The client shall fetch the documents handed over to the contractor within three months after the work has been completed. If the client fails to do so, the contractor shall have the right to return them to the client at the cost of the client or to charge an appropriate fee (Item 12. shall apply by analogy) if the contractor can prove that he/she has asked the client twice to pick up the documents handed over. The documents may also further be kept by third parties at the expense of the client. Furthermore, the contractor is not liable for any consequences arising from damage, loss or destruction of the documents.

(5) The contractor shall have the right to compensation of any fees that are due by use of any available deposited funds, clearing balances, trust funds or other liquid funds at his/her disposal, even if these funds are explicitly intended for safekeeping, if the client had to have anticipated the counterclaim of the contractor.

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

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

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

(2) The place of performance shall be the place of business of the contractor.

(3) In absence of a written agreement stipulating otherwise, the place of jurisdiction is the competent court of the place of performance.

## SECTION II

### 15. Supplementary Provisions for Consumer Transactions

(1) Contracts between public accountants and consumers shall fall under the obligatory provisions of the Austrian Consumer Protection Act (KSChG).

(2) The contractor shall only be liable for the willful and grossly negligent violation of the obligations assumed.

(3) Contrary to the limitation laid down in Item 7. (2), the duty to compensate on the part of the contractor shall not be limited in case of gross negligence.

(4) Item 6. (2) (period for right to correction of errors) and Item 7. (4) (asserting claims for damages within a certain period) shall not apply.

(5) Right of Withdrawal pursuant to Section 3 KSChG:

If the consumer has not made his/her contract statement in the office usually used by the contractor, he/she may withdraw from the contract application or the contract proper. This withdrawal may be declared until the contract has been concluded or within one week after its conclusion; the period commences as soon as a document has been handed over to the consumer which contains at least the name and the address of the contractor as well as instructions on the right to withdraw from the contract, but no earlier than the conclusion of the contract. The consumer shall not have the right to withdraw from the contract

1. if the consumer himself/herself established the business relationship concerning the conclusion of this contract with the contractor or his/her representative,

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

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

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

If the consumer withdraws from the contract according to Section 3 KSChG,

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

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

According to Section 4 (3) KSChG, claims for damages shall remain unaffected.

(6) Cost Estimates according to Section 5 Austrian KSChG:

The consumer shall pay for the preparation of a cost estimate by the contractor in accordance with Section 1170a ABGB only if the consumer has been notified of this payment obligation beforehand.

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

(7) Correction of Errors: Supplement to Item 6.:

If the contractor is obliged under Section 932 ABGB to improve or complement his/her services, he/she shall execute this duty at the place where the matter was transferred. If it is in the interest of the consumer to have the work and the documents transferred by the contractor, the consumer may carry out this transfer at his/her own risk and expense.

(8) Jurisdiction: Shall apply instead of Item 14. (3)

If the domicile or the usual residence of the consumer is within the country or if he/she is employed within the country, in case of an action against him/her according to Sections 88, 89, 93 (2) and 104 (1) Austrian Court Jurisdiction Act (JN), the only competent courts shall be the courts of the districts where the consumer has his/her domicile, usual residence or place of employment.

(9) Contracts on Recurring Services:

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

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

(c) If the execution of a certain contract indicated in lit. a) requires considerable expenses on the part of the contractor and if he/she informed the consumer about this no later than at the time the contract was concluded, reasonable dates of termination and periods of notice which deviate from lit. a) and b) and which fit the respective circumstances may be agreed.

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