# DECLARATION

**with regard to the conditions stipulated in Art. 39 Abs. 5
in conjunction with Art. 5 para. 1 nos. 6 and 7 BWG**

## I, **[Name]**, born on **[Date of Birth]**, hereby declare under oath, that no reasons for exclusion exist as defined in Article 13 paras. 1 to 3 and 5 to 6 of the Trade Code 1994 (GewO 1994; Gewerbeordnung), as published in the Federal Law Gazette No 194/1994 (as amended), either against my assets or the assets of another legal entity other than a natural person, upon whose business I have or have had a decisive influence, or bankruptcy proceedings initiated, or that any restructuring plan concluded during the restructuring proceedings has not been met, and that no other offences comparable with the aforementioned reasons have been committed abroad.

The current version of Article 13 paras. 1 to 3, 5 and 6 GewO 1994, as amended, read:

Article 13. (1) Natural persons shall be excluded from exercising a trade, if they:

1. *have been convicted by a court*
	1. *for fraudulent withholding of social insurance contributions and additional contributions in accordance with the Act on Construction Workers' Annual Leave and Severance Pay (BUAG; Bauarbeiter-Urlaubs- und Abfertigungsgesetz) (Article 153d of the Austrian Criminal Code (Strafgesetzbuch - StGB)), organised undeclared work (Article 153e StGB), fraudulent bankruptcy, harming of third-party creditors, preferential treatment of a creditor or grossly negligent interference in the interests of creditors (Articles 156 to 159 StGB), or*
	2. *of any other criminal offence resulting in a prison sentence of in excess of three months or a fine of more than 180 times the daily rate and*
2. *the conviction has not been expunged.*

Natural persons are excluded from exercising a trade in the hospitality industry, if they have legal convictions that have not been expunged for violations of Articles 28 to 31a of the Addictive Drug Act (SMG; Suchtmittelgesetz), as published in Federal Law Gazette I No. 112/1997 as amended. In the case of fines that are not calculated based on daily rates, the alternative custodial penalty shall apply. In the event of both imprisonment and a fine having been imposed, the term of imprisonment and the term of imprisonment for failure to pay a fine shall be added together. In this instance, a month shall be deemed to consist of thirty days. The provisions of this paragraph shall also apply if a criminal offence comparable with the aforementioned reasons for exclusion has been committed abroad.

1. *Anyone who has been punished by a financial criminal authority, for a financial crime related to smuggling, for evasion of import or export duties, for tax evasion pursuant to Article 37 para. 1 point a of the Financial Crime Act (FSG; Finanzstrafgesetz) as published in the Federal Law Gazette No. 129/1958 as amended, for evasion on earnings from monopoly activities, of intentional interference in a state monopoly or for concealment of a monopoly pursuant to Article 46 para. 1 point a FSG, shall be excluded from exercising a trade, if they have been fined in excess of EUR 726 for such a financial crime, or if they have been sentenced to imprisonment in addition to being fined and if five years have not elapsed since the punishment. This shall also apply if criminal offences comparable with the aforementioned reasons for exclusion have been committed abroad.*
2. *Legal entities shall be excluded from exercising a trade as traders (pursuant to Article 38 para. 2), if*
	1. *insolvency proceedings have not been legally initiated or have been dismissed due to there being insufficient assets to cover costs, and*
	2. *the period of time for which the cited insolvency proceedings shall remain accessible in the database for insolvency proceedings has not expired.*

This shall also apply if an offence comparable with the aforementioned reasons for exclusion has been committed abroad.

1. *A natural person shall be excluded from exercising the trade as a trader as a natural person, if they have been deemed to, or are deemed to hold a considerable influence upon the business operations of another legal entity, which has been excluded or is to be excluded from exercising a trade pursuant to paragraph 3 above. In the event that there is a reason for exclusion on the legal entity pursuant to paragraph 4 of this article, then the natural person shall only be excluded from exercising a trade that includes insurance mediation activities. The last sentence of paragraph 1 shall apply accordingly.*
2. *A natural person, whose licence to trade has been revoked due to the verdict passed by a court, or whose licence to trade has been withdrawn in accordance with Article 87 para. 1 no. 3 or 4, shall be excluded from exercising a trade, if by exercising this trade the reason for revoking or withdrawing the licence to trade could be deemed to have been impeded in accordance with Article 87 para. 1 no. 3 or 4. This shall also apply for a natural person, against whom official measures have been necessary in accordance with Article 91 para. 1 or 2 as a consequence of the reasons for exclusion listed in Article 87 para. 1 no. 3 or 4 being applicable.*

## Furthermore, I hereby declare under oath, that:

* + my personal finances are in order and that no circumstances exist, from which doubts arise about my necessary personal reputation, honesty and independence of mind required for the performance of the function of the Head of the Risk Management Department. (Art. 39 Abs. 5 in conjunction with Art. 5 para. 1 no. 7 BWG);
	+ neither financial (e.g. loans or share holdings) nor non-financial interests or relationships (e.g. close relationships as defined in Article 72 of the Austrian Criminal Code (StGB; Strafgesetzbuch) to members of the management body, the supervisory body or to key function holders) exist that compromise the prudent and orderly performance as Head of the Risk Management Department, and which may place the necessary financial soundness, economic independence and personal repute in doubt.

In the event that the declaration above cannot be submitted, specific details are required to be provided about the existing interests of a financial (e.g. loans or share holdings) and of a non-financial nature or relations (e.g. to which person, their function within the entity, and what relationship exists).

I hereby ensure the correctness of the information I have provided, and am aware that providing incomplete or incorrect information in this self-declaration might adversely affect my personal reputation.

**28.09.2020**

|  |  |  |
| --- | --- | --- |
| D A T E |  | SIGNATURE OF THE HEAD OF THE RISK MANAGEMENT DEPARTMENT |