

**NON-BINDING ENGLISH TRANSLATION**

**CONTRACT REPORT**

Joint Report

of the management board of  
Vantage Towers AG, Düsseldorf,

and

the management of

Vantage Towers Erste Verwaltungsgesellschaft mbH, Düsseldorf,

pursuant to section 293a German Stock Corporation Act

concerning the Profit and Loss Transfer Agreement

between Vantage Towers AG

and Vantage Towers Erste Verwaltungsgesellschaft mbH

13 June 2023

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## ENGLISH CONVENIENCE TRANSLATION

The management board of Vantage Towers AG (“**Vantage Towers**”) and the management of Vantage Towers Erste Verwaltungsgesellschaft mbH (“**Vantage Towers Erste Verwaltungsgesellschaft**”) are jointly issuing the following report (the “**Contract Report**”) pursuant to section 293a German Stock Corporation Act (*Aktiengesetz* – “**AktG**”) concerning the profit and loss transfer agreement (the “**Profit and Loss Transfer Agreement**” or the “**Agreement**”) to be entered into between Vantage Towers as the profit receiving company and Vantage Towers Erste Verwaltungsgesellschaft as the profit transferring company (together also the “**Parties**”).

### A Introduction

On 13 June 2023, the Parties agreed on a final draft version of the Agreement (the “**Draft Agreement**”), which is attached to this Contract Report as **Annex 1**. Where reference is made in the Contract Report to parts and contents of the Agreement, the reference is always to the Draft Agreement and does not imply that the Agreement has already been concluded.

The supervisory board of Vantage Towers has approved the conclusion of the Agreement in its meeting on 13 June 2023. When adopting the resolution, the supervisory board of Vantage Towers had available to it:

- (i) the Draft Agreement,
- (ii) a final draft of this Contract Report.

Through the Agreement, Vantage Towers Erste Verwaltungsgesellschaft undertakes to transfer all of its profits to Vantage Towers. Vantage Towers undertakes to assume any annual net loss of Vantage Towers Erste Verwaltungsgesellschaft.

The Agreement requires the approval of the general meeting of Vantage Towers as well as the approval of the shareholders’ meeting of Vantage Towers Erste Verwaltungsgesellschaft. The approving resolution of the general meeting of Vantage Towers shall be adopted at the ordinary general meeting of Vantage Towers on 27 July 2023. The approving resolution of the shareholders’ meeting of Vantage Towers Erste Verwaltungsgesellschaft shall be adopted in the short term after the resolution of the general meeting of Vantage Towers. The Agreement will become effective upon registration in the commercial register (*Handelsregister*) at the registered seat of Vantage Towers Erste Verwaltungsgesellschaft.

### B The Parties

#### 1 Vantage Towers

##### 1.1 Legal form, registered seat, business and financial year

Vantage Towers is a stock corporation (*Aktiengesellschaft*) incorporated under the laws of the Federal Republic of Germany with its registered seat in Düsseldorf. Vantage Towers is registered in the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Düsseldorf under HRB 92244. Vantage Towers is the parent company of the Vantage Towers Group.

As of the date of signing this Contract Report, the share capital of Vantage Towers amounts to EUR 505,782,265.00 and is divided into a total of 505,782,265 no-par value registered shares with a pro rata amount of EUR 1.00 per share in the share capital.

The principal business of Vantage Towers Group is building and operating telecommunications sites in order to provide space, energy management and related services to customers that in turn provide mobile, voice, data and other services to end-users.

The Vantage Towers Group employed 533 employees as of 31 March 2022, and generated revenues of EUR 1,023.3 million and operating profit of EUR 536.7 million in fiscal year 2021/2022. The financial year of Vantage Towers commences on 1 April of a calendar year and ends on 31 March of the following calendar year.

## 1.2 Corporate Bodies of Vantage Towers

### 1.2.1 Management Board

Pursuant to section 7.1 sentence 1 of the Articles of Association of Vantage Towers (the “**Vantage Towers Articles of Association**”), the management board (*Vorstand*) of Vantage Towers is composed of two or more members. The supervisory board (*Aufsichtsrat*) appoints the members of the management board and determines their number according to section 7.1 sentence 2 of the Vantage Towers Articles of Association. At the time of signing of this Contract Report, the management board of Vantage Towers is composed of the following individuals:

- Thomas Reisten (*Interims Chief Executive Officer*);
- Christian Sommer (*Chief Legal Officer*);
- Vivek Badrinath.<sup>1</sup>

Pursuant to section 8.3 of the Vantage Towers Articles of Association, Vantage Towers is jointly represented by two management board members or is represented by one management board member together with a holder of a statutory power of attorney (*Prokurist*).

### 1.2.2 Supervisory board

Pursuant to section 9.1 of the Vantage Towers Articles of Association, the supervisory board (*Aufsichtsrat*) of Vantage Towers is composed of nine members. All members of the supervisory board are elected by the general meeting of Vantage Towers. At the time of signing this Contract Report, the supervisory board of Vantage Towers is composed of the following members:

- Prof. Dr. Rüdiger Grube (chairperson of the supervisory board);
- Michael Bird;
- Katja van Doren;
- Charles C. Green III;

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<sup>1</sup> Vivek Badrinath will retire from management board of Vantage Towers at the end of 30 June 2023.

- Amanda Jane Nelson;
- Terence Rhodes;
- Pinar Yemez;
- Alberto Ripepi;
- Pierre Klotz.

### **1.3 Tax status of Vantage Towers**

Vantage Towers is subject to unlimited corporate and trade tax liability in Germany.

## **2 Vantage Towers Erste Verwaltungsgesellschaft**

### **2.1 Legal form, registered seat, business and financial year**

Vantage Towers Erste Verwaltungsgesellschaft is a limited liability company incorporated under the laws of the Federal Republic of Germany with its registered seat in Düsseldorf, entered in the Commercial Register of the local court of Düsseldorf under HRB 95828.

The registered share capital of Vantage Towers Erste Verwaltungsgesellschaft amounts to EUR 25,000.00 and is divided into 25,000 shares.

The corporate object of Vantage Towers Erste Verwaltungsgesellschaft is the management of its own assets. Vantage Towers Erste Verwaltungsgesellschaft is also authorized to acquire interests in other companies and to establish branches. It was incorporated by notarial deed dated 29 September 2021 by Vantage Towers as sole shareholder and entered in the Commercial Register on 15 December 2021. Vantage Towers assumed all shares in Vantage Towers Erste Verwaltungsgesellschaft and has held them since then.

To date, Vantage Towers Erste Verwaltungsgesellschaft has not commenced any operating activities and accordingly does not employ any staff. Furthermore, it does not hold any shares in other companies.

The financial year of Vantage Towers Erste Verwaltungsgesellschaft lasts from 1 April of each year to 31 March of the following year.

### **2.2 Corporate bodies of Vantage Towers Erste Verwaltungsgesellschaft**

Pursuant to section 4 para. 1 of the Articles of Association of Vantage Towers Erste Verwaltungsgesellschaft, the company has one or several managing directors who are appointed and dismissed by the shareholders' meeting.

As of the date of signing of this Contract Report, the management of Vantage Towers Erste Verwaltungsgesellschaft consists of the following members:

- Juliane Thon; and
- Marc Lentwojt.

Pursuant to section 4 para. 2 of the Articles of Association of Vantage Towers Erste Verwaltungsgesellschaft, the company is represented, if it has several managing directors, by two managing directors acting jointly or by one managing director acting jointly with a holder of a statutory power of attorney (*Prokurist*) and, if only one managing director has been appointed, by such managing director alone. According to section 4 para. 3 of the Articles of Association of Vantage Towers Erste Verwaltungsgesellschaft, one or more managing directors may be granted sole power of representation and/or exemption from section 181 German Civil Code (*Bürgerliches Gesetzbuch* – “**BGB**”). The managing director Juliane Thon and the managing director Marc Lentwojt are each appointed with the authority to conclude legal transactions on behalf of the company with themselves or as representatives of a third party.

Vantage Towers Erste Verwaltungsgesellschaft has neither a supervisory board nor any equivalent body.

### **2.3** Financial funding of Vantage Towers Erste Verwaltungsgesellschaft

Vantage Towers Erste Verwaltungsgesellschaft was entered in the commercial register of the local court of Düsseldorf on 15 December 2021. As Vantage Towers Erste Verwaltungsgesellschaft has not conducted any business activities to date, Vantage Towers Erste Verwaltungsgesellschaft has not generated any revenues.

At the time of signing of this Contract Report, the share capital of Vantage Towers Erste Verwaltungsgesellschaft has been fully paid in.

### **2.4** Tax status of Vantage Towers Erste Verwaltungsgesellschaft

Vantage Towers Erste Verwaltungsgesellschaft is subject to unlimited corporate and trade tax liability in Germany.

## **C Reasons for the conclusion of the Profit and Loss Transfer Agreement**

The objective of the Agreement is to establish a consolidated tax group for purposes of corporate income tax and trade tax (in the following: “**consolidated tax group for purposes of income tax**”) between Vantage Towers and Vantage Towers Erste Verwaltungsgesellschaft.

The conclusion of a profit and loss transfer agreement within the meaning of section 291 para. 1 sentence 1 alt. 2 AktG is one of the prerequisites for establishing a consolidated tax group for purposes of income tax between Vantage Towers (as the parent company) and Vantage Towers Erste Verwaltungsgesellschaft (as the subordinate company) as of the current financial year of Vantage Towers Erste Verwaltungsgesellschaft.

The consolidated tax group for purposes of income tax *inter alia* also requires that the parent company holds a participation in the subordinate company from the beginning of the subordinate company’s financial year without interruption to such an extent that it has the majority of the voting rights arising out of the shares in the subordinate company (section 14 para. 1 sentence 1 no. 1 sentence 1 German Corporate Income Tax Act (*Körperschaftsteuergesetz* – “**KStG**”) and that the participation is attributable to a domestic permanent establishment of the parent company in the group without interruption for the entire existence of the consolidated tax group (section 14 para. 1 sentence 1 no. 2 sentence 4 KStG).

The validity of the consolidated tax group for purposes of income tax also requires that the profit and loss transfer agreement is concluded for a period of at least five years (60 months) (section 14 para. 1 sentence 1 no. 3 sentence 1 KStG) and is actually performed during the entire term of its validity. As a consequence of the existence of the consolidated tax group for purposes of income tax, however, the entire taxable income of Vantage Towers Erste Verwaltungsgesellschaft – taking into account certain statutory restrictions – will be attributed to Vantage Towers starting from the financial year as from which the conditions for the existence of the consolidated tax group are met for the first time.

If the Agreement was not concluded and the net income of Vantage Towers Erste Verwaltungsgesellschaft were distributed to Vantage Towers by way of profit distribution, the profit distribution would be subject to corporate income tax and trade tax at Vantage Towers due to the currently applicable operating expense deduction prohibition of section 8b para. 5 KStG in the amount of 5% of the profit distribution (the 100% shareholding of Vantage Towers has existed without interruption since 29 September 2021).

In addition, as a result of the establishment of a consolidated tax group for income tax purposes, Vantage Towers will be able to offset its tax result against the tax result of Vantage Towers Erste Verwaltungsgesellschaft, meaning that expenditure (in particular financing expenditure) of Vantage Towers will be offset against operative earnings of Vantage Towers Erste Verwaltungsgesellschaft, which due to the lower tax payments on balance results in a corresponding liquidity benefit. Due to the resulting 95% tax exemption, such offset would in the event of dividend distributions by Vantage Towers Erste Verwaltungsgesellschaft to Vantage Towers only be available to a very limited extent.

The above mentioned tax effects do not apply for excess or short transfers which have their basis in the time prior to the consolidated tax group (section 14 para. 3 KStG).

The conclusion of the Agreement does not entail any changes in the shareholdings in the contracting companies. Apart from the loss assumption obligation of Vantage Towers, there are no particular consequences from the point of view of the shareholders of Vantage Towers, in particular because no compensation and recurring compensation (*Abfindung und/oder Ausgleich*) is owed to outside shareholders.

## **D Alternatives**

The management board of Vantage Towers and the management of Vantage Towers Erste Verwaltungsgesellschaft have thoroughly examined alternatives to concluding the Agreement. They have concluded that none of the examined alternatives is suitable to achieve the described objectives in a similar or even more beneficial manner. In particular, the following other options have been examined:

A merger of Vantage Towers Erste Verwaltungsgesellschaft into Vantage Towers (so-called "**Upstream Merger**") is not an alternative, nor is a merger of Vantage Towers into Vantage Towers Erste Verwaltungsgesellschaft (so-called "**Downstream Merger**"). The Downstream Merger of Vantage Towers into Vantage Towers Erste Verwaltungsgesellschaft is unsuitable as an alternative, as it would cause Vantage Towers to cease to exist as a separate legal entity. The Upstream Merger is also not a suitable alternative, as it would cause Vantage Towers Erste Verwaltungsgesellschaft to cease to exist



as a separate legal entity. It is intended that both Vantage Towers and Vantage Towers Erste Verwaltungsgesellschaft will continue to exist as separate legal entities.

A change of the legal form of Vantage Towers Erste Verwaltungsgesellschaft into another corporate form or a partnership is also not suitable to achieve the objectives intended by the Agreement. The intended tax group for purposes of income tax could not be achieved by a change of legal form into a partnership.

The conclusion of a domination agreement within the meaning of section 291 para. 1 sentence 1 alt. 1 AktG is also not suitable for achieving the objectives intended by the Agreement. Without the obligation of Vantage Towers Erste Verwaltungsgesellschaft to transfer profits, a consolidated tax group for purposes of corporate income tax and trade tax cannot be established.

With regard to the objective of the timely utilization of the advantages described under section C of this Contract Report, it is ultimately not an economically reasonable alternative not to conclude the profit and loss transfer agreement now, but only after any commencement of an operating business by Vantage Towers Erste Verwaltungsgesellschaft.

## **E The Profit and Loss Transfer Agreement**

### **1 Explanation of the Agreements' content**

The individual provisions of the Agreement are explained below.

#### **1.1 Transfer of Profit (clause 1 of the Agreement)**

Clause 1 of the Agreement contains the constitutive provision for a profit and loss transfer agreement under which Vantage Towers Erste Verwaltungsgesellschaft is required to transfer its entire annual profit (*Gewinnabführung*) to Vantage Towers during the term of the Agreement (clause 1.1 of the Agreement). With regard to the scope of the profit to be transferred under clause 1.1 of the Agreement and subject to an establishment or a dissolution of reserves in accordance with clause 1.2 and clause 1.3 of the Agreement, reference is made to the statutory provision in section 301 AktG in its respectively applicable version.

Based on the current version of section 301 AktG, that profit must be transferred which would arise as annual profit if no profit transfer arrangements were in place, as reduced by any loss carry forward from the previous year and by the amount which must be allocated to the statutory reserve pursuant to section 300 AktG and the amount which is blocked from distribution under section 268 para. 8 HGB.

Pursuant to clause 1.2 of the Agreement, contributions from the annual profit may, with the written consent of Vantage Towers, be allocated to other profit reserves pursuant to section 272 para. 3 HGB, if and to the extent permissible under commercial law and as economically justified by reasonable commercial judgement.

Pursuant to clause 1.3 of the Agreement, subject to the provisions of Section 301 AktG in its respective applicable version, Vantage Towers Erste Verwaltungsgesellschaft shall, upon the written request of Vantage Towers, dissolve other profit reserves pursuant to section 272 para. 3 HGB established during the course of this Agreement and transfer the proceeds as profit. Other reserves or profits carried

forward from the period prior to the effectiveness of this Agreement may neither be transferred as profit nor be used to compensate for any annual loss. The transfer of amounts from the dissolution of capital reserves in accordance with section 272 para. 2 HGB is generally excluded.

Vantage Towers may require Vantage Towers Erste Verwaltungsgesellschaft to transfer profits in advance during the year if and to the extent permitted by law (clause 1.4 of the Agreement).

The Agreement becomes effective upon registration in the commercial register at the registered seat of Vantage Towers Erste Verwaltungsgesellschaft after approval by the general meeting of Vantage Towers and the shareholders' meeting of Vantage Towers Erste Verwaltungsgesellschaft (section 294 para. 2 AktG, clauses 3.1 and 3.2 of the Agreement).

The claim of Vantage Towers for a transfer of profit is due upon expiration of the last day of a financial year of Vantage Towers Erste Verwaltungsgesellschaft for which the respective claim exists. Interest in the respective statutory amount is owed for the period of time between the due date and actually fulfilling the claim for transfer of profit (clause 1.5 sentence 2 of the Agreement), *i.e.* in the amount of the statutory rate of interest that applies between commercial parties (sections 352, 353 HGB).

## **1.2** Assumption of Losses (clause 2 of the Agreement)

Clause 2.1 of the Agreement provides for the obligation of Vantage Towers to assume the losses of Vantage Towers Erste Verwaltungsgesellschaft pursuant to section 302 AktG in its respectively valid version. Pursuant to section 302 AktG in its current version, this means that Vantage Towers must compensate for any annual loss that would "otherwise" arise during the term of the Agreement, *i.e.* that would arise if no obligation to cover the loss was in existence.

Pursuant to clause 2.2 of the Agreement, the obligation to assume losses applies for the first time for the entire financial year in which the Agreement has become effective according to clause 3.2 of the Agreement. The provision on interest under clause 1.5 sentence 2 of the Agreement applies accordingly to the obligation to assume any losses.

## **1.3** Effectiveness and term (clause 3 of the Agreement)

### **1.3.1** Effectiveness

In accordance with the statutory requirements for approval under section 293 AktG, clause 3.1 of the Agreement stipulates that the Agreement requires for its effectiveness the consent of the shareholders' meeting of Vantage Towers Erste Verwaltungsgesellschaft as well as of the general meeting of Vantage Towers. The general meeting of Vantage Towers shall pass a resolution on the consent to the Agreement on 27 July 2023. The shareholders' meeting of Vantage Towers Erste Verwaltungsgesellschaft is supposed to give its consent to the Agreement shortly after the resolution of the general meeting of Vantage Towers.

According to section 294 para. 2 AktG, the Agreement only becomes effective upon its registration in the commercial register at the registered seat of Vantage Towers Erste Verwaltungsgesellschaft. Clause 3.2 sentence 2 of the Agreement reflects this provision.

### 1.3.2 Commencement of the term of the Agreement

The obligation to transfer profit under clause 1 of the Agreement applies for the first time for the entire profit of the financial year of Vantage Towers Erste Verwaltungsgesellschaft in which the Agreement becomes effective according to clause 3.2 of the Agreement. Hence, if the Agreement is registered in the commercial register during the current financial year of Vantage Towers Erste Verwaltungsgesellschaft that commenced on 1 April 2023, the profit transfer obligation applies to the entire profit generated in the financial year that began on 1 April 2023.

Pursuant to clause 2.2 of the Agreement, the obligation to assume losses applies for the first time for the entire financial year of Vantage Towers Erste Verwaltungsgesellschaft in which the Agreement becomes effective. If the Agreement, as is generally the case, is not registered in the commercial register at the registered seat of Vantage Towers Erste Verwaltungsgesellschaft on the date the financial year begins, the Agreement thus also claims retroactive effect with regard to the obligation to compensate losses for the part of the financial year that has already lapsed at the time of registration in the commercial register.

### 1.3.3 Term of the Agreement/minimum term

The Agreement is concluded for an indefinite period of time (clause 3.3 sentence 1 of the Agreement). Clause 3.3 sentence 3 of the Agreement provides that the Agreement can be terminated for the first time as of the end of the financial year that ends at least five years (*Zeitjahre*) (60 months) after the beginning of the financial year of Vantage Towers from the beginning of which the financial integration (*finanzielle Eingliederung*) within the meaning of section 14 para. 1 sentence 1 KStG and all other requirements for the legal consequences of this provision exist for the first time. This fixed minimum term is required under section 14 para. 1 sentence 1 no. 3 KStG in order to be able to establish the consolidation group for purposes of corporate income tax and trade tax between Vantage Towers and Vantage Towers Erste Verwaltungsgesellschaft intended with the conclusion of the Agreement.

### 1.3.4 Termination of the Agreement

During the fixed minimum term of five consecutive years after the beginning of the financial year of Vantage Towers from the beginning of which the financial integration (*finanzielle Eingliederung*) within the meaning of section 14 para. 1 sentence 1 KStG and all other requirements for the legal consequences of this provision exist for the first time as established in clause 3.3 sentence 3 of the Agreement, the right to give regular notice of termination is excluded. Therefore, the Agreement can be terminated for the first time by giving six months' notice as of the end of the financial year that ends at least five full time years (*Zeitjahre*) (60 months) after the beginning of the financial year of Vantage Towers Erste Verwaltungsgesellschaft from the beginning of which the financial integration (*finanzielle Eingliederung*) within the meaning of section 14 para. 1 sentence 1 KStG and all other requirements for the legal consequences of this provision exist for the first time (clause 3.3 sentence 3 of the Agreement). The notice of termination must be given in writing (clause 3.5 of the Agreement).

In accordance with clause 3.4 of the Agreement, the provisions on the minimum term do not affect the right of the contracting parties to terminate the Agreement for good cause (*aus wichtigem Grund*) without complying with a notice period. The right of termination for good cause exists by virtue of law and cannot be excluded by contract. For civil law purposes, good cause for termination generally exists if, considering all circumstances a continuation of the contractual relationship can no longer be expected of the party giving notice of termination. For example, a deterioration in the financial or earning position of Vantage Towers Erste Verwaltungsgesellschaft as the profit transferring company can entitle Vantage Towers as the profit receiving company to give notice of termination if the risks for the profit receiving company are no longer acceptable and it is not responsible for this situation. Vantage Towers Erste Verwaltungsgesellschaft as the profit transferring company can, in turn, give notice of termination, for example, if Vantage Towers as the profit receiving company will most likely not be able to fulfil its obligations existing under the Agreement (assumption of losses).

Clause 3.4 sentence 2 of the Agreement provides that good cause also exists in particular if good cause for purposes of German tax law for the termination of the Agreement exists including those pursuant to R 14.5 (6) Corporation Tax Guidelines (*Körperschaftsteuer-Richtlinien – KStR*) (or a corresponding successor provision). Clause 3.4 sentence 2 of the Agreement ensures that the Parties, in the case of a termination for good cause that does not impair the tax treatment, are also entitled to terminate the Agreement for good cause from a corporate law perspective.

The provision contained in clause 3.4 sentence 2 of the Agreement must be seen in light of applicable tax law. The conclusion of a profit transfer agreement is necessary in order to be able to establish the indented status of a consolidated tax group for purposes of income tax between Vantage Towers Erste Verwaltungsgesellschaft and Vantage Towers. The prerequisite for this status of a consolidated tax group for purposes of income tax is, among others, that Vantage Towers Erste Verwaltungsgesellschaft, as the profit transferring company, is financially integrated into Vantage Towers as the profit receiving company in such a manner that the profit receiving company has the majority of the voting rights in the profit transferring company. Furthermore, the profit and loss transfer agreement must be entered into for a minimum term of five years (*Zeitjahren*) and must actually be performed during its term. A termination of the profit and loss transfer agreement prior to the expiration of the minimum term pursuant to section 14 para. 1 sentence 1 no. 3 KStG generally leads to the non-recognition of the status of a consolidated tax group for tax purposes from the very beginning. Only a termination for good cause, in principle, does not affect the status of a consolidated tax group for financial years that have already been completed, even if the termination occurs within the minimum term of the profit and loss transfer agreement established under tax law.

The disposal or the contribution of the shareholding by the parent company can generally constitute good cause within the meaning of section 14 para. 1 no. 3 KStG sentence 2 for early termination of a profit and loss transfer agreement by the profit receiving company which does not affect the recognition of the status of a consolidated tax group for the past. This applies accordingly in case of a merger, spin-off or liquidation of one of the two contracting parties.

#### **1.4** Miscellaneous (clause 4 of the Agreement)

Clause 4.1 of the Agreement provides that changes and amendments to the Agreement shall be valid only if made in writing. Clause 4.2 (severability clause) ensures that the material content of the Agreement will continue to apply if, contrary to expectations, any provision of the Agreement proves to be invalid or impracticable in full or in part or the Agreement does not contain a necessary provision. This is a common provision included in profit and loss transfer agreements.

#### **2** No compensation, no recurring compensation and no contract audit

All shares in Vantage Towers Erste Verwaltungsgesellschaft are held directly by Vantage Towers as sole shareholder. There are therefore no outside shareholders. Compensation payments (*Ausgleichszahlungen*) or recurring compensation (*Abfindungen*) for outside shareholders pursuant to sections 304, 305 AktG are not to be granted. Furthermore, there is no need for a contract audit pursuant to section 293b para. 1 AktG, as all shares in the profit transferring company are held by the profit receiving company, nor is an audit report pursuant to section 293e AktG required. In the absence of a compensation to be determined pursuant to section 304 AktG and a recurring compensation pursuant to section 305 AktG, there is also no need for a valuation of the contracting companies to determine an appropriate compensation and a reasonable recurring compensation.

For the reasons set forth above, a summary assessment of the Agreement indicates that the Agreement is beneficial to both Vantage Towers Erste Verwaltungsgesellschaft and Vantage Towers.

**Vantage Towers AG**

The management board

Düsseldorf, 13 June 2023

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Thomas Reisten

Member of the management board

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Christian Sommer

Member of the management board

**Vantage Towers Erste Verwaltungsgesellschaft mbH**

The management

Düsseldorf, 13 June 2023

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Juliane Thon

Managing director

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Marc Lentwojt

Managing director

**Annex 1**

**(Final draft of the Profit and Loss Transfer Agreement between Vantage Towers AG and Vantage Towers Erste Verwaltungsgesellschaft mbH)**



# Profit and Loss Transfer Agreement

between

## VANTAGE TOWERS AG

Prinzenallee 11-13, 40549 Düsseldorf,

registered in the commercial register (*Handelsregister*) at the Local Court (*Amtsgericht*) Düsseldorf  
(HRB 92244)

and

## Vantage Towers Erste Verwaltungsgesellschaft mbH

Prinzenallee 11-13, 40549 Düsseldorf,

registered in the commercial register (*Handelsregister*) at the Local Court (*Amtsgericht*) Düsseldorf  
(HRB 95828)

## **Profit and Loss Transfer Agreement**

### **(“Agreement“)**

between

- (1) **Vantage Towers AG**, having its seat in Düsseldorf, Germany, with business address at Prinzenallee 11-13, 40549 Düsseldorf, registered in the commercial register (*Handelsregister*) at the Local Court (*Amtsgericht*) of Düsseldorf under HRB 92244,

- hereinafter referred to as “**Vantage Towers**“ -

and

- (2) **Vantage Towers Erste Verwaltungsgesellschaft mbH**, having its seat in Düsseldorf, Germany, with business address at Prinzenallee 11-13, 40549 Düsseldorf, registered in the commercial register (*Handelsregister*) at the Local Court (*Amtsgericht*) of Düsseldorf under HRB 95828,

- hereinafter referred to as “**Vantage Towers Erste Verwaltungsgesellschaft**“ -

## **2 Transfer of Profit**

- 2.1** Vantage Towers Erste Verwaltungsgesellschaft undertakes to transfer its entire annual profit (*Gewinnabführung*) to Vantage Towers. Subject to establishing or dissolving reserves in accordance with Clause 2.2 and Clause 2.3 of this Agreement below, the maximum amount of profit as established pursuant to the provisions of Section 301 AktG in its respective applicable version shall be transferred to Vantage Towers.
- 2.2** Vantage Towers Erste Verwaltungsgesellschaft may, with the written consent of Vantage Towers, allocate parts of its annual profit to other profit reserves (Section 272 para. 3 German Commercial Code, (*Handelsgesetzbuch* – “**HGB**”)) if and to the extent permissible under commercial law and as economically justified by reasonable commercial judgement.
- 2.3** Subject to the provisions of Section 301 AktG in its respective applicable version, Vantage Towers Erste Verwaltungsgesellschaft shall, upon the written request of Vantage Towers, dissolve other profit reserves pursuant to Section 272 para. 3 HGB established during the course of this Agreement and transfer the proceeds as profit. Other reserves or profits carried forward, if and to the extent such amounts arise from the period prior to the effectiveness of this Agreement, may neither be transferred as profit nor be used to compensate for any annual loss. The transfer of amounts from the release of capital reserves in accordance with Section 272 para. 2 HGB is generally excluded.
- 2.4** Vantage Towers may require Vantage Towers Erste Verwaltungsgesellschaft to transfer profits in advance during the year if and to the extent permitted by law.
- 2.5** The obligation to transfer the annual profit applies for the first time to the entire fiscal year of Vantage Towers Erste Verwaltungsgesellschaft in which this Agreement becomes effective according to Clause 4.2 of this Agreement. The obligation according to Clause 2.1 sentence 1 becomes due upon the end of the fiscal year of Vantage Towers Erste

Verwaltungsgesellschaft and shall bear interest from this point on at the interest rate stipulated by law (Sections 352, 353 HGB).

### **3 Assumption of Losses**

**3.1** According to the provisions of Section 302 AktG in its respective applicable version, Vantage Towers is obliged to compensate any annual loss of Vantage Towers Erste Verwaltungsgesellschaft occurring during the term of this Agreement.

**3.2** The obligation to assume any losses applies for the first time to the entire fiscal year of Vantage Towers Erste Verwaltungsgesellschaft in which this Agreement becomes effective according to Clause 4.2 of this Agreement. Clause 2.5 sentence 2 applies accordingly to the obligation to assume any losses.

### **4 Effectiveness, Term and Termination of this Agreement**

**4.1** This Agreement requires for its effectiveness each the consent of the shareholders' meeting of Vantage Towers as well as the consent of the shareholders' meeting of Vantage Towers Erste Verwaltungsgesellschaft.

**4.2** This Agreement becomes effective upon registration of its existence in the commercial register at the registered seat of Vantage Towers Erste Verwaltungsgesellschaft and applies retroactively since the beginning of the financial year of Vantage Towers Erste Verwaltungsgesellschaft in which this Agreement is registered in the commercial register of Vantage Towers Erste Verwaltungsgesellschaft.

**4.3** This Agreement is concluded for an indefinite period of time. It can be terminated with a notice period of six months to the end of the fiscal year of Vantage Towers Erste Verwaltungsgesellschaft. This Agreement can be terminated for the first time as of the end of the fiscal year that ends at least five years (*Zeitjahre*) (60 months) after the beginning of the fiscal year of Vantage Towers Erste Verwaltungsgesellschaft from the beginning of which the financial integration (*finanzielle Eingliederung*) within the meaning of Section 14 para 1 sentence 1 no. 1 Corporate Income Tax Act (*Körperschaftsteuergesetz*) and all other requirements for the legal consequences of this provision exist for the first time.

**4.4** Each party can terminate this Agreement for good cause (*wichtiger Grund*) without compliance with any notice period. Good cause exists in particular if good cause for purposes of German tax law for the termination of this Agreement exists including those pursuant to R 14.5 (6) Corporation Tax Guidelines (*Körperschaftsteuer-Richtlinien – KStR*) (or a corresponding successor provision).

**4.5** Any notice of termination must be in writing.

**4.6** In the event of a termination of the Agreement in the course of a financial year of Vantage Towers Erste Verwaltungsgesellschaft, Vantage Towers Erste Verwaltungsgesellschaft shall transfer its profit according to Clause 2 or Vantage Towers shall compensate any losses of Vantage Towers Erste Verwaltungsgesellschaft according to Clause 3 until the termination of the Agreement.

**5 Miscellaneous**

**5.1** Changes and amendments to this Agreement shall be valid only if made in writing. This shall also apply to amendments of this Clause 5.1.

**5.2** To the extent a provision of this Agreement is or becomes invalid or impracticable in full or in part, or if this Agreement does not contain a necessary provision, the validity of the remaining provisions of this Agreement shall not be affected. In place of the invalid or impracticable provision, or in order to remedy an omission in this Agreement, an appropriate provision shall apply which corresponds as far as legally permissible to what the parties of this Agreement intended or would have intended in accordance with the intent and purpose of this Agreement if they had been aware of the provision.

*(\*\*\* Signature page follows \*\*\*)*

Düsseldorf, [date]

**Vantage Towers AG**

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Member of the Management Board

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Member of the Management Board

Düsseldorf, [date]

**Vantage Towers Erste Verwaltungsgesellschaft mbH**

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Managing director

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Managing director