

THIS DOCUMENT IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION

The distribution of this document may be subject to legal restrictions in certain jurisdictions. Persons into whose possession this document comes are required to inform themselves about and to observe any such restrictions. The following solicitation of votes outside a meeting is being made only outside the United States of America and only to persons who are not "U.S. persons" (as such term is defined in Regulation S under the United States Securities Act of 1933, as amended). This document does not constitute an offer or solicitation of an offer to purchase or subscribe for any securities in the United States or any other jurisdiction.



ERWE Immobilien AG

**Frankfurt am Main
Federal Republic of Germany**

VOTE WITHOUT MEETING

Important Notice

Holders of the EUR 40,000,000 bearer notes 2019/2023 ("Notes") of ERWE Immobilien AG ("Issuer") domiciled inside or outside the Federal Republic of Germany ("Germany") should take note of the instructions set out below.

*The publication of this invitation to a vote without meeting ("**Invitation**") constitutes neither a public offer to sell nor an offer or a request to acquire, purchase or subscribe for any shares, notes or other securities. Such offer will be made only later and exclusively by means and on the basis of a securities prospectus to be approved by the Federal Financial Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht – "**BaFin**") and published by the Company, if and when the resolutions are passed and enter into force. Only the approved securities prospectus will contain the information for investors required under statutory regulations. The following outline of background information (see para. 1. of the Invitation) have been drawn up by the Issuer to outline the background to the resolutions to be passed at the meeting without vote ("**Noteholders' Meeting**") and the specific proposals for decision for the holders of the Notes ("**Noteholders**"). The relevant explanations are by no means to be understood as a final basis for the Noteholders' voting behavior. The Issuer shall not warrant that the preliminary remarks to this Invitation contain all the information necessary or appropriate for resolving on the resolutions. The Noteholders should not vote on the resolutions at the Noteholders' Meeting solely on the basis of this Invitation but upon consulting their own attorneys, tax and financial advisors and considering all the information available on the Issuer.*

United Kingdom

*The communication of the Invitation by the Issuer and any other documents or materials relating to the restructuring of the Notes is not being made, and such documents and/or materials have not been approved, by an authorised person for the purposes of section 21 of the Financial Services and Markets Act 2000 (the "**FSMA**"). Accordingly, such documents and/or materials are not being distributed to, and must not be passed on to, the general public in the United Kingdom. The communication of such documents and/or materials is exempt from the restriction on financial promotions under section 21 of the FSMA on the basis*

that it is only directed at and may be communicated to (i) those persons who are existing members or creditors of the Issuer or other persons within Article 43 of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, and (ii) to any other persons to whom these documents and/or materials may lawfully be communicated.

INVITATION TO VOTE

**to the holders of the
EUR 40,000,000.00 7.50 % bearer notes 2019/2023
of
ERWE Immobilien AG
(ISIN: DE000A255D05 / WKN: A255D0)**

ERWE Immobilien AG, having its registered office in Frankfurt am Main, registered with the Commercial Register of the Local Court of Frankfurt am Main under the registration number HRB 113320 and with its business address at Herriotstraße 1, 60528 Frankfurt am Main, Federal Republic of Germany (hereinafter also the "**Company**" or the "**Issuer**" and together with its consolidated companies "**ERWE**" or the "**ERWE Group**"), hereby calls upon the holders (each a "**Noteholder**" and together the "**Noteholders**") of the

**EUR 40,000,000.00 7.50% bearer bond
of
ERWE Immobilien AG
due on 10 December 2023**

ISIN: DE000A255D05 / WKN: A255D0

divided into 40,000 bearer bonds with a nominal value of EUR 1,000.00 each, now still outstanding in the amount of EUR 40,000,000.00 and divided into 40,000 bearer bonds with a nominal value of EUR 1,000.00 each, (each a "**Note**" and together the "**Notes**"), for voting in a poll without a meeting

**within the period commencing on 29. June 2023, at 0:00 a.m. and
ending on 2. July 2023, at 24:00 ("Voting Period")**

vis-à-vis the notary Dr Dirk Otto, DENK Rechtsanwälte Partnerschaftsgesellschaft mbB, with official residence in Frankfurt am Main and business premises at Lindenstraße 15, 60325 Frankfurt am Main (the "**Voting Chairman**") ("**Voting without a Meeting**"; the invitation to vote in the Voting without a Meeting, the "**Invitation to Vote**").

1. Background and reasons for voting without an assembly

Note on the following section

The section "Background and reasons for voting without a meeting" has been prepared voluntarily by the Issuer in order to explain to the Noteholders the background for the resolution items and the specific resolution proposals. The relevant explanations are in no way to be understood as a conclusive basis for the Noteholders' voting decision. In addition, the Issuer does not warrant that the section "Background and Reasons for Voting Without a Meeting" contains all information necessary or appropriate for the resolution, and neither the Issuer nor its legal representatives, employees or advisors and agents or their respective legal representatives, employees and advisors, nor any other person warrant the accuracy and completeness of the information contained in this section and do not accept any liability for the information contained therein, in particular for any damages arising from investment decisions made on the basis of the information contained in the section "Background and Reasons for Voting Without a Meeting". Accordingly, this invitation to vote in a poll without a meeting is not a substitute for an independent examination and evaluation of the

resolution items and a further examination of the legal, economic, financial and other circumstances of the Issuer by each individual Noteholder. Noteholders should not make their decision on whether to vote on the Resolutions in a poll solely on the basis of this Invitation to Vote, but should make their decision using all available information about the Issuer after consultation with their own lawyers, tax advisers and/or financial advisers.

This Invitation to Vote without a Meeting was published on 14 June 2023 in the German Federal Gazette (Bundesanzeiger) and on the Issuer's website at www.erwe-ag.com under the heading "Investor Relations/Bonds/Gläubigerversammlung". The information contained herein is current unless otherwise stated. However, the information contained herein may become inaccurate after the date of publication of this Invitation. Neither the Issuer nor any of its legal representatives, employees or advisors and agents or their respective legal representatives, employees and advisors assumes any obligation in connection with this Solicitation to update the information contained in this Solicitation or to advise of any circumstances after the date of this Solicitation.

The section "Background and Reasons for Voting Without a Meeting" contains certain forward-looking statements. Forward-looking statements are all statements that do not relate to historical facts or events. This applies in particular to statements about the Issuer's intentions, plans or current expectations with respect to its future financial condition, results of operations, liquidity, prospects, growth, strategy and profitability and the economic conditions to which the Issuer is exposed. The forward-looking statements are based on current estimates and assumptions made by the Issuer to the best of its knowledge. However, such forward-looking statements are subject to risks and uncertainties because they relate to future events and are based on assumptions that may not occur in the future.

1.1 ERWE Group at a glance

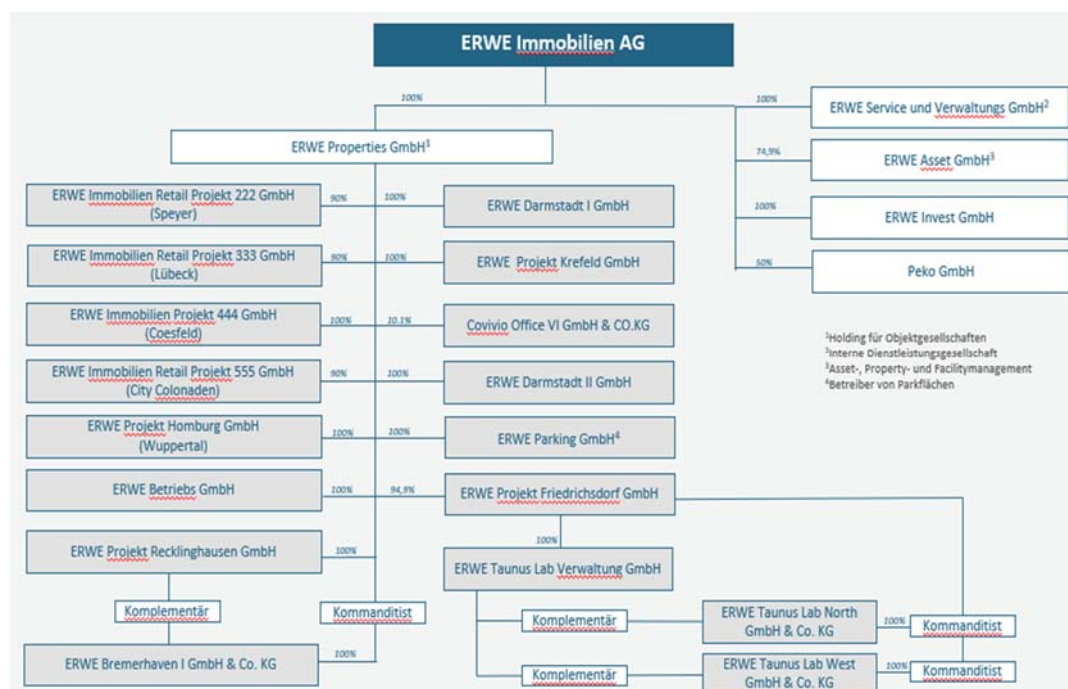
ERWE focuses on building a sustainable portfolio of mixed-use properties in the office, service, retail, hotel and residential sectors. Preferred locations are promising inner-city locations in major German cities and "A" locations in smaller towns and municipalities. ERWE acquires properties for this purpose, which are revitalised and repositioned in the long term by means of new technical and economic utilisation concepts and targeted investments. ERWE usually takes the properties acquired for this purpose into its own portfolio. The revitalisation of properties goes beyond pure refurbishment measures and may also include redesign measures as well as new concepts for the use of the property for a modern use of the respective existing property.

In addition, ERWE also acquires properties with greater development needs and project developments outside city centres on an opportunistic basis.

ERWE currently owns a total of six portfolio properties from revitalisation in Speyer, Luebeck, Krefeld, Coesfeld, Bremerhaven and Wuppertal with a total rental area of 89,059m² (incl. parking spaces). ERWE's portfolio also includes four project developments and revitalisation projects: (i) a new building in Krefeld with a lettable area of around 9,000m² and planned completion at the end of this year or the beginning of 2024, (ii) a refurbishment and renovation project in Darmstadt with around 1,000m² of lettable area (iii) as well as another project development in Darmstadt with a projected lettable area of around 9,200m² and (iv) a project development in Friedrichsdorf on a site area of approximately 44,000m².

In October 2018, a minority interest (10.1%) was also acquired in a property company (Covivio) with hereditary building rights (*Erbbaurecht*) for Frankfurt Airport Center 1 (FAC 1).

The structure of the ERWE Group at the date of this publication is as follows:



1.2 Business development in the 2022 business year

Note on historical financial information relating to the financial year 2022:

The following information for the financial year ending 31 December 2022 is consolidated unaudited financial information in accordance with International Financial Reporting Standards ("IFRS") derived from the Company's accounting records. Due to the ongoing audit work, ERWE currently assumes that the consolidated financial statements for the financial year ending 31 December 2022 will probably be published at the end of June 2023.

Accordingly, where reference is made in this section to financial information as at 31 December 2022, it should be noted that such information has not been audited or reviewed by the Company's auditors and the information presented herein may differ materially from the information still to be published in the audited consolidated financial statements for the year ended 31 December 2022.

In the financial year ending 31 December 2022, ERWE generated income from property management of EUR 9.9 million (financial year ending 31 December 2021: EUR 7.9 million). Expenses from real estate management amounted to EUR 3.5 million in the financial year ended 31 December 2022 (financial year ended 31 December 2021: EUR 3.5 million).

(a) Financial performance indicators

ERWE uses financial performance indicators such as (i) "**Adjusted EBIT**" as an indicator of operating profit, (ii) European Public Real Estate Association ("**EPRA**") Net Reinstatement Value ("**EPRA NRV**") as well as NRV per share each as an indicator of net asset value and (iii) the debt ratio (Loan to Value; "**LTV**") as an indicator of financial stability to evaluate its business success.

In the financial year ended 31 December 2022, ERWE achieved an Adjusted EBIT of EUR 0.448 million (financial year ended 31 December 2021: EUR -4.559 million). EPRA NRV was EUR 83.0 million in the financial year ended 31 December 2022 (31 December 2021: EUR 77.1 million) and NRV per share was EUR 3.38 per share in the financial year ended 31 December 2022 (31 December 2021: EUR 4.23 per share). The LTV (in %) was 72.4% as at 31 December 2022 (31 December 2021: 67.8%).

In the financial year ended 31 December 2022, ERWE employed a total of 36 employees on average (full-time equivalents; excluding members of the Executive Board (*Vorstand*)) (financial year ended 31 December 2021: 44 employees).

(b) Development of balance sheet and profit and loss account

The following overview contains selected individual financial information from the balance sheet and the income statement of the ERWE Group for the periods and dates indicated herein, whereby the financial information for the financial year ending on 31 December 2022 is based on the assumption that the Company will continue as a going concern, which the Company believes is possible from the resolution requested herewith, inter alia, on the balance sheet restructuring of the liabilities side (see section 1.4):

(i) Group balance sheet data

(in EUR) (IFRS)	As at	
	31 December	
	2022	2021
	<i>(unaudited)</i>	<i>(audited)</i>
Property, plant and equipment and intangible assets	1.181.289	1.431.366
Investment property	228.648.000	195.495.000
Shares in associated companies	933.255	1.410.755
Participations	8.398.000	8.750.877
		1.256.000
Advance payments made on investment property	0	
Advance payments on property, plant and equipment and intangible assets	1.716.523	52.094
Advance payments made on investments in associates	0	0
Non-current assets	240.877.068	208.396.092
Trade receivables and other receivables	2.306.365	611.257
Receivables from associated companies	0	0
Receivables from companies in which participations are held	413.011	883.806
Other assets	4.003.506	1.600.979
Income tax receivables	16.833	36.298
Cash and cash equivalents	5.010.272	8.573.056
Current assets	11.749.988	11.705.395
<u>Assets Total</u>	252.627.055	220.101.487
Subscribed capital	24.562.922	18.219.214
Capital reserve	17.410.142	14.687.361
Retained earnings	14.357.111	14.357.366

Balance sheet profit	-2.590.932	3.802.797
Equity attributable to shareholders of the parent company	53.739.243	51.066.738
Non-controlling interests	2.047.958	2.482.949
Equity	55.787.200	53.549.687
Financial debt	65.743.068	113.076.405
Provisions	89.952	975.456
Leasing liability	1.331.224	1.804.018
Deferred tax liabilities	11.284.076	11.133.137
Non-current liabilities	78.448.319	126.989.016
Income tax liabilities	250.780	0
Financial debt	111.183.953	34.757.455
Liabilities from deliveries and services	761.846	227.011
Liabilities towards associated companies	641.038	1.221.142
Liabilities to companies in which participations are held	0	139.200
Leasing liability	490.950	503.300
Other liabilities	5.062.969	2.714.676
Current liabilities	118.391.537	39.562.784
<u>Liabilities Total</u>	252.627.055	220.101.487

(ii) *Consolidated profit and loss account*

(in EUR) (IFRS)	Financial year ended	
	31 December	
	2022	2021
	(unaudited)	(audited)
Income from real estate management	9.861.521	7.890.836
Expenses from real estate management	-3.476.322	-3.468.499
Result from real estate management	6.385.199	4.422.337
Other operating income	1.458.673	1.247.256
Personnel costs	-4.415.051	-4.322.853
Other operating expenses	-3.342.563	-4.116.125
Result from the valuation of investment property		
Real estate held	1.325.860	-2.011.576
Result from associates accounted for using the equity method	-477.500	-19.490
Earnings before interest and taxes	934.618	-4.800.451
Financial income	32.812	16.295
Financial expenses	-7.291.534	-6.764.116
<u>Result before taxes</u>	<u>-6.676.981</u>	<u>-11.548.272</u>
Taxes on income and earnings	-151.995	1.387.465
<u>Group result / total comprehensive income</u>	<u>-6.828.976</u>	<u>-10.160.807</u>

(c) *Current financial position of the Company and the ERWE Group*

The ERWE Group has raised a considerable amount of debt capital in the form of loans and a bond. As at 31 December 2022, the ERWE Group's non-current and current financial liabilities totalled around EUR 176.9 million (31 December 2021: EUR 147.9 million).

(i) *Financing of the Issuer*

The Issuer, as the ultimate parent company of the Group, finances itself almost exclusively through the EUR 40 million bond issued by it in 2019, which matures on 10 December 2023 and provides for an annual interest rate of 7.5% (payable semi-annually in arrears on 10 December and 10 June of each year).

(ii) *Other financing of the ERWE Group*

The real estate financing of the subsidiaries consists primarily of bank financing, often with local banks, for the individual real estate project or property companies. In addition, the Issuer finances its subsidiaries through intra-group loans. As of 31 December 2022, loans to and receivables from subsidiaries of the Issuer amounted to EUR 72.1 million (31 December 2021: EUR 57.6 million). In total, the debt financing of the subsidiaries amounted to approximately EUR 143.9 million as at 31 December 2022.

The financing agreements of the companies within the ERWE Group provide for numerous obligations and, in particular, also require the respective borrower to comply with certain reporting obligations and defined financial ratios (so-called financial covenants). A breach of these covenants, if not cured, may lead to the respective lender terminating the loan without notice and may also lead to ERWE having to pay certain amounts based on rental income into specified blocked accounts pledged in favour of the respective lender. A lender's right of termination could subsequently lead to other, non-terminated loan agreements or the bond also becoming prematurely redeemable and a domino effect being triggered due to the third-party default clauses contained in loan agreements and in the bond terms and conditions (so-called "cross default" provisions).

Extensive collateral has been provided to secure the loan liabilities of the companies in the ERWE Group, consisting, among other things, of real estate liens together with the personal assumption of liability with enforcement subjection to the total assets of the respective ERWE Group company in favour of the respective lenders, guarantees of the issuer as well as the pledging of claims from rental and lease agreements, purchase agreements and agreements on the sale of real estate to the respective lenders. As at 31 December 2022, financial loans of the ERWE Group in the amount of EUR 150.96 million (31 December 2021: EUR 136.85 million) were secured, mainly with mortgages.

If the respective companies of the ERWE Group do not meet the obligations resulting from the financing agreements, the respective creditors can realise the collateral granted, including real collateral, even without ERWE's involvement and possibly at a significant discount. If one or more loans were to be called in due to premature termination, ERWE might not be able to refinance the maturing loans at all, not in time or only on significantly worse terms and conditions and, in the worst case, this could lead to the insolvency of the Company.

1.3 Current liquidity situation

The Company's liquidity situation is currently extremely tense due to the insufficient cash flow from letting activities and the short-term maturity of several loans.

The Company does not generate sufficient funds from the rental business of the properties to cover the personnel and administrative costs, the necessary equity for planned investments and the ongoing debt service of the outstanding financing. In addition, additional costs for external consultants/advisors will be incurred in the course of the restructuring.

Despite the cash and cash equivalents of around EUR 5 million available as of 31 December 2022, the Company anticipates an additional medium-term capital requirement of up to EUR 12 million, excluding proceeds from property sales and taking into account the interest under the Notes being no longer payable in accordance with the restructuring concept (EUR 3 million), whereby this capital requirement is subject to possible fluctuations, including if assumptions do not materialise or materialise differently than forecast or if unforeseen events occur.

In addition, financing in the amount of approximately EUR 84 million (excluding accrued or accruing interest) will fall due in the coming months. This includes the EUR 40 million bond due for repayment in December 2023, a EUR 32 million senior secured loan due for repayment in August 2023, secured loans of EUR 10.7 million due for repayment on 30 June 2023 and 30 June 2024, and a vendor loan of EUR 1.0 million from the acquisition of a property. This does not include bank loans totalling approximately EUR 15 million that will fall due in the next 12 months.

Refinancing these financial liabilities in the current difficult market environment is not possible, in particular due to the significantly higher interest rates and the lack of debt service capability. A liquidity shortfall is therefore expected to occur at the latest when the bond matures in December 2023. Accordingly, without further measures, insolvency obligations will arise much earlier.

In order to continue and maintain the Company's business, new capital is therefore required and a reorganisation of the passive balance sheet appears indispensable. The proposal for the bond restructuring submitted to the Noteholders in this Invitation to Vote (see section 1.4 and 2 below) leads to a significant improvement in the position of the Noteholders compared to an insolvency scenario of the Company.

1.4 Restructuring measures initiated

The Issuer's restructuring concept provides, among other things, for a restructuring of the passive side of the Issuer's balance sheet. Furthermore, an adjustment of the Issuer's financing structure is required with sufficient equity capitalisation as well as the securing of sufficient liquidity in order to enable the Issuer to take operational and strategic courses of action, such as financing the construction activities for the completion of individual loan-financed properties.

The required liquidity is to be obtained through a series of restructuring measures:

(a) Operational measures

The Company has identified operational cost-saving measures and plans to implement them as soon as possible. These include the return of office space, the termination of selected service contracts and also selected personnel measures. However, these measures will not lead to a significant improvement in liquidity in the short term. In addition, the Company is examining possible property sales, which, however, in the current market environment is associated with considerable uncertainty with regard to the achievable sales proceeds and the timeframe for implementation.

(b) Negotiations with lenders

As part of the improvement of the financial position and to improve the current liquidity situation, the Company is currently in negotiations with individual lenders regarding the extension or restructuring of loans.

(c) Restructuring of the Notes

The core of the restructuring measures is the intended restructuring of the Notes. The details are presented below:

(i) Capital reduction

The Issuer's share capital currently amounts to EUR 24,562,922.00 and is divided into 24,562,922 bearer shares (*Inhaberaktien*) with a nominal value (*Nennbetrag*) of EUR 1.00 per share. It is initially planned to reduce the share capital of the Company by way of a simplified capital reduction (*vereinfachte Kapitalherabsetzung*) pursuant to §§ 229 et seq. AktG from EUR 24,562,922.00 by EUR 23,334,776.00 to EUR 1,228,146.00 (taking into account the acquisition free of charge and the cancellation of two shares by the Company), i.e. by approximately 95% (the "**Capital Reduction**").

The Capital Reduction is to be used in full to compensate for impairments and to cover other losses and is to be effected by combining shares at a ratio of 20 : 1, i.e. 20 shares currently held by a shareholder are to be combined (*zusammengelegt*) to form one new share.

(ii) Capital increase in kind for the contribution of the Notes to the Company

Furthermore, it is planned to contribute all claims and rights arising from the Notes to the Company in the context of a capital increase against contributions in kind (*Sachkapitalerhöhung*) and to convert them into new shares of the Company.

In a next step, the reduced share capital of the Company shall be increased by EUR 6,000,000.00 to EUR 7,228,146.00 by issuing 6,000,000 new bearer shares with a nominal value of EUR 1.00 (the "**New Shares**") against contributions in kind (the "**Exchange Capital Increase**"). The statutory subscription right of the shareholders for the subscription of the New Shares shall be excluded and the New Shares shall be issued at an issue price of EUR 1.00 per share.

In the context of the Exchange Capital Increase, a settlement agent yet to be mandated by the Company (the "**Settlement Agent**") shall, after transfer of the Notes by the Noteholders to the Settlement Agent in accordance with the resolution of the Noteholders, contribute all claims and rights under the Notes (i.e. in particular the principal claim in the total nominal

amount of EUR 40 million including accrued interest) to the Issuer, i.e. in particular the principal claim in the total nominal amount of EUR 40 million including accrued interest) to the Issuer, which is expected to be effected by way of waiver pursuant to section 397 (1) of the German Civil Code ("**BGB**"). In return, the Company shall issue the New Shares to the Settlement Agent, which may then be subscribed via the Acquisition Rights (as defined below) granted to the Noteholders by the Settlement Agent.

After the implementation of the Exchange Capital Increase (and before the implementation of the Cash Capital Increase (as defined below)), the Noteholders would thus hold approximately 83 % of the shares/share capital of the Issuer and in this way participate appropriately in the restructured Issuer in order to be able to participate in a future economic recovery of the Company. The current shareholders would still hold approximately 17% of the Issuer's shares/share capital.

(iii) Cash capital increase

In addition, the Annual General Meeting (*Hauptversammlung*) of the Company shall resolve to further increase the share capital of the Company by issuing a yet to be determined number of New Shares against cash contribution with shareholders' subscription rights at the time of the resolution of the Annual General Meeting, which would cover the liquidity needs of the Company for the then coming 12 months (the "**Cash Capital Increase**").

The Executive Board (*Vorstand*) of the Company will determine the subscription price for the new shares from the Cash Capital Increase with the consent of the supervisory board (*Aufsichtsrat*), taking into account the current market situation, the stock exchange price of the shares of the Company prior to the publication of the subscription offer, an appropriate discount compared to the stock exchange price and the targeted volume of the Cash Capital Increase.

1.5 Commissioning of an expert opinion to analyse the future financial position of the Company (IBR)

The Company has commissioned Dr. Wieselhuber & Partner GmbH Unternehmensberatung, Nymphenburger Str. 21, 80335 Munich ("**Dr. Wieselhuber & Partner**") to conduct a so-called Independent Business Review ("**IBR**"). The IBR is an independent analysis to assess the past and future situation of the ERWE Group and is intended to enable the Noteholders and the shareholders to assess the business performance of the ERWE Group.

Dr. Wieselhuber & Partner was also commissioned to prepare an expert opinion on the simulation of a potential insolvency quota. Both the IBR and the result of the potential insolvency quota simulation should be available in draft form, if possible, before the vote without a meeting.

1.6 Proposals for decisions

Against this background, the Issuer proposes the following resolutions to the Noteholders of the Notes:

- (i) Deferral of the interest payment due on 10 June 2023 until the redemption date;
- (ii) Waiver with respect to the exercise of the termination rights under the Notes pursuant to § 7 (a) (i) of the terms and conditions of the Notes (failure to pay interest payable

on 10 June 2023) and on a modification of the termination right pursuant to § 7 (a) (v) of the terms and conditions;

- (iii) Waiver with regard to the exercise of the termination rights under the bonds pursuant to § 8 (h) of the terms and conditions of the bonds (late publication of the consolidated financial statements as at 31 December 2022 as well as the interim reports within the aforementioned periods) as well as any termination right pursuant to § 490 BGB;
- (iv) Exchange of the Notes for Acquisition Rights

The Issuer proposes to the Noteholders to resolve, by way of a vote without a meeting, to exchange the Notes consisting of the principal amount and the interest accrued until the transfer into Acquisition Rights ("**Exchange Resolution**").

It is intended that the Noteholders will transfer the Bonds held by them to the Settlement Agent. In consideration for the transfer of the Notes, the Noteholders will receive per Note non-securitised rights (*nicht verbrieft*e Ansprüche) against the Settlement Agent to acquire 150 New Shares in the Company (the "**Acquisition Right**").

The Acquisition Right entitles each Noteholder to acquire the New Shares in the Company for each Note transferred by it to the Settlement Agent within a specified period of time after the occurrence of certain consummation conditions.

The Acquisition Right can only be exercised by the Noteholders within a certain period of time, which begins at the earliest after (i) registration of the implementation of the Exchange Capital Increase in the commercial register of the Company and (ii) publication of a securities prospectus approved by the German Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht* - BaFin) for the public offering of the New Shares.

To the extent that individual Noteholders do not exercise their Acquisition Rights in due time, the Acquisition Rights will be realised on the market and the Noteholders who have not exercised their Acquisition Rights will each receive the proportionate realisation proceeds. In this case, it should be noted that neither a further placement nor any other realisation of these unsubscribed New Shares can guarantee the achievement of a certain sales proceeds. Therefore, there is a risk that Noteholders who do not exercise their Acquisition Right in due time will receive no or only a small Cash Settlement. Since the Noteholders only decide on an acquisition of New Shares during the period for exercising the acquisition right, this Vote without Meeting as well as any invitation to a second noteholders' meeting does not constitute an offer (subject to a securities prospectus) by the Issuer to acquire shares.

The Issuer hereby seeks the consent of the Noteholders by majority resolution to the proposed conversion of the Notes into the Acquisition Right pursuant to section 5(3) sentence 1 no. 5 of the German Bond Act ("**SchVG**") in conjunction with section 12(a) of the terms and conditions of the Notes.

- (v) Appointment of a common representative of the Noteholders (*Gemeinsamer Vertreter der Anleihegläubiger*) and authorisations in favour of the common representative

Noteholders should take into account that a resolution on the proposed agenda items by the Noteholders is only possible if Noteholders holding at least fifty per cent. of the outstanding Notes at the time of the resolution participate in the Vote without Meeting. In the event that a second noteholders' meeting is required, the quorum shall be twenty-five per cent. of the Notes outstanding at the time of the meeting. Noteholders are therefore urged to participate in the Invitation to Vote.

1.7 What happens if the resolutions are not passed?

If the Noteholders do not approve the proposed resolution items, the Issuer will remain obliged (i) to pay interest and (ii) to redeem the Notes and, as things stand at present, it must be assumed that the Issuer is not viable and would therefore have to file for insolvency.

1.8 Concluding remark

The Issuer reiterates that the focus of the Executive Board the coming weeks will remain on preventing negative developments that would materially affect all stakeholders of the ERWE Group, including the Noteholders.

The Issuer appeals to the Noteholders to support the ERWE Group in this endeavour in their own interest.

2. Items to be voted on without a meeting and proposed resolutions of the Issuer

Item 1 - Resolution on the deferral of payment of interest

The Issuer proposes that the Noteholders resolve as follows:

- (a) The claims for payment of interest under the Notes due on 10 June 2023 are deferred until the maturity date pursuant to § 4 (a) of the terms and conditions of the Notes, i.e. until 10 December 2023.
- (b) § 3 (a) of the terms and conditions of the Notes shall be replaced as follows:

§ 3 Verzinsung

- (a) Die Schuldverschreibungen werden ab dem 10. Dezember 2019 (einschließlich) (der „**Begebungstag**“) bezogen auf ihren Nennbetrag mit 7,5 % jährlich verzinst. Die Zinsen sind halbjährlich nachträglich jeweils am 10. Dezember und 10. Juni eines jeden Jahres (jeweils ein „**Zinszahlungstag**“) und der Zeitraum ab dem Begebungstag (einschließlich) bis zum ersten Zinszahlungstag (ausschließlich) und danach von jedem Zinszahlungstag (einschließlich) bis zum nächstfolgenden Zinszahlungstag (ausschließlich) jeweils eine „**Zinsperiode**“) zahlbar. Die Fälligkeit, der am 10. Juni 2023 entstehenden Zinsansprüche wird bis zum 10. Dezember 2023 hinausgeschoben und die Ansprüche

§ 3 Interest

- (a) The Notes will bear interest on their Principal Amount at a rate of 7.5% per annum as from 10 December 2019 (the „**Issue Date**“). Interest is payable annually in arrears on 10 December and 10 June of each year (each an „**Interest Payment Date**“) and the period from the Issue Date (inclusive) up to the first Interest Payment Date (exclusive) and thereafter as from any Interest Payment Date (inclusive) up to the next following Interest Payment Date (exclusive) being an „**Interest Period**“). The due date of the interest due on 10 June 2023 is postponed until 10. December 2023 and the interest payment claims are deferred (*gestundet*) until then. The first interest

werden bis zu diesem Zeitpunkt gestundet.
Die erste Zinszahlung ist am 10. Juni 2020
fällig.

payment will be due on 10 June 2020.

Agenda Item 2 - Conversion of Notes into Acquisition Rights

The Issuer proposes that the Noteholders resolve as follows:

The Noteholders shall transfer all Notes together with all claims and rights in connection therewith (in particular accrued and unpaid as well as future interest) to a credit institution to be determined and mandated by the Issuer ("**Settlement Agent**") and shall receive in return, in accordance with the more detailed provisions of the resolution on this agenda item 2, per transferred Note an acquisition right to 150 New Shares (as defined below) (the "**Acquisition Right**" or "**Acquisition Rights**") (as defined below).

The obligations of the Noteholders to the Issuer to exchange the Notes for the Acquisition Right will be satisfied by transfer of the Notes to the Settlement Agent free and clear of any third-party rights. The Noteholders are not obliged to make any further payments to and/or contributions to the Issuer beyond the exchange of the Notes for the Acquisition Right as described in this Agenda Item 2.

In order to service the acquisition rights by the Winding-up Board, the share capital of the Company shall be reduced by EUR 23,334,776.00 - corresponding to 95% of the current share capital - to EUR 1,228,146.00 (i.e. in a ratio of 20:1) by way of a simplified capital reduction pursuant to §§ 229 et seq. of the German Stock Corporation Act (AktG) to compensate for impairments and to cover losses (in total, the Capital Reduction) by EUR 6,000,000.00 through the issue of 6,000,000 new bearer shares with a nominal value of EUR 1.00 each (the "**New Shares**") against contributions in kind (the "**Exchange Capital Increase**"). The issue price for the New Shares shall be EUR 1.00 per New Share. In the context of the Exchange Capital Increase, the Settlement Agent will contribute all claims and rights under the Notes transferred to it by the Noteholders (i.e. in particular the principal claims with a total nominal value of EUR 40,000,000.00 (in words: Euro forty million) as well as the accrued and future interest) to the Issuer presumably by way of a waiver pursuant to § 397 (1) BGB as a contribution in kind. The contribution in kind will be subject to the condition precedent of the registration of the resolution on the Capital Reduction and the registration of the implementation of the Exchange Capital Increase in the commercial register of the Issuer.

The New Shares shall be listed on the Open Market (Scale segment) of the Frankfurt Stock Exchange after their issue.

The Acquisition Right grants each Noteholder a non-securitised (*unverbrieft*) claim against the Settlement Agent to acquire for one (1) Note with a nominal value of EUR 1,000.00 transferred to the Settlement Agent at its option either

- (i) to acquire 150 New Shares if the Noteholder exercises the right of acquisition, or
- (ii) receive the Cash Settlement (as defined below).

The "**Cash Settlement**" is the portion of the total amount received by the Settlement Agent from the Realisation (as defined below) of the New Shares in respect of which the Noteholders have not exercised their Acquisition Rights within the Acquisition Period (as defined below) attributable to a Note. The amount is based - as described in more detail below - on the pro rata

average net sales proceeds generated by the Realisation of the New Shares in respect of which the Acquisition Rights are not exercised, after deduction of the usual sales charges by the Settlement Agent.

(a) Exercise of the Acquisition Rights

The Noteholders may only exercise the Acquisition Rights in each case in the context of an offer to acquire the New Shares (the "**Acquisition Offer**") to be published by the Issuer during the period specified in the Acquisition Offer (the "**Acquisition Period**"). The Acquisition Period shall commence at the earliest and the exercise of the Acquisition Rights shall only be possible once (i) the implementation of the Exchange Capital Increase has been registered in the commercial register of the Issuer and (ii) a securities prospectus approved by the German Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht - BaFin*) has been published for the public offer of the New Shares.

The beginning and the end of the Acquisition Period as well as the further details regarding the exercise of the Acquisition Rights will be announced by the Issuer pursuant to § 13 (a) of the terms and conditions of the Notes, i.e. in the German Federal Gazette (*Bundesanzeiger*) and on the Issuer's website. Each Noteholder may only exercise its acquisition rights provided that the exercise is permissible under the legal provisions applicable to it. If and to the extent that Noteholders do not exercise their Acquisition Rights within the purchase period, the Settlement Agent will realise the New Shares available for purchase by these Noteholders immediately after (i) expiry of the respective Acquisition Period, (ii) registration of the implementation of the Capital Reduction and the Exchange Capital Increase in the commercial register and (iii) inclusion of the New Shares for trading on the open market of a stock exchange by sale. The Realisation will take place in each case on or off the stock exchange in accordance with a procedure agreed between the common representative and the Company (which will provide for a realisation period of presumably 15 consecutive days on which the banks in Frankfurt am Main are open (in each case one banking day)), unless the period is extended. Prior to a sale on the market, the Settlement Agent will endeavour, in consultation with the Company and the common representative, to give the Noteholders the opportunity to acquire these New Shares within a period of presumably 15 banking days prior to the start of the liquidation period (the aforementioned liquidation of the New Shares in respect of which the Noteholders have not exercised their acquisition right within the Acquisition Period, collectively the "**Realisation**"). A market-protecting Realisation of the New Shares cannot be guaranteed in this respect, in particular in the event of a lack of market liquidity of the shares of the Issuer. It is pointed out that it cannot be guaranteed whether and to what extent the relevant New Shares can be realised according to the procedure described above. If not all New Shares in respect of which the Noteholders have not exercised their Acquisition Rights in due time can be realised within the respective period, the common representative will decide at its own discretion how the remaining New Shares are to be realised on and/or off the stock exchange.

The sum of the proceeds generated by the Realisation of the New Shares shall be available to the relevant Noteholders who have not exercised their Acquisition Rights in due time on a pro rata basis (rounded down to full euro cents) after deduction of the realisation costs and shall be credited to their respective securities account upon completion of the realisation. The Issuer will announce the result of the Realisation of the New Shares and the amount of the Cash Settlement without undue delay after the expiry of the realisation period pursuant to § 13 (a) of the terms and conditions, i.e. in the German Federal Gazette (*Bundesanzeiger*) and on the Issuer's website.

(b) Authorisation of the Settlement Agent

The Noteholders hereby authorise and empower the Settlement Agent, which shall act as third party trustee for the Noteholders, to take all measures and to make and receive all declarations necessary for the execution and settlement of the resolution pursuant to this agenda item 2, in particular with regard to the exchange of the Notes into Acquisition Rights, the contribution of the claims and rights under the Notes to the Issuer as a contribution in kind (*Sacheinlage*), the granting of the Acquisition Rights in favour of the Noteholders, the fulfilment of the Acquisition Rights, the delivery of the New Shares and the payment of the Cash Settlement to the Noteholders, without, however, changing the economic conditions set out in the resolution under this Agenda Item 2 to the detriment of the Noteholders.

This includes, in particular, instructions to Clearstream Banking AG in connection with the technical settlement of the resolution pursuant to this agenda item 2. In particular, the Noteholders authorise and empower the Settlement Agent to collect all Notes via the clearing system and to demand the surrender of the certificates issued in respect of the Notes. The Settlement Agent is released from the restrictions set forth in § 181 German Civil Code (BGB) with respect to the power of attorney granted to it by the Noteholders with this resolution and is entitled to grant sub-power of attorney to third parties within the scope of this power of attorney to the same extent and also under release from the restrictions set forth in § 181 BGB. The Settlement Agent will not effect the debiting of the Notes until the Issuer has notified the Settlement Agent that all conditions of settlement (with the exception of the condition of settlement set out in subparagraph (c) below) have been satisfied.

For the purpose of settlement of the Acquisition Rights, the Settlement Agent shall be entitled to treat as entitled to receive the New Shares or the Cash Settlement, as the case may be, those persons in whose securities account on the Settlement Date (as defined below) the Acquisition Rights are booked. Payment of the pro rata cash settlement shall be made immediately after the expiry of the Realisation Period. The Issuer will instruct the Settlement Agent to provide Clearstream Banking AG with all necessary information to enable the custodian banks connected to the clearing systems to enable their custody account customers to exercise their Acquisition Rights and to credit them with the New Shares in accordance with the Exchange Ratio or to transfer the Cash Settlement amounts.

(c) Authorisation of the common representative in connection with the exchange of the Notes

For the purpose of enabling or facilitating the implementation and execution of the Exchange Resolution pursuant to agenda item 2 (in particular the exchange of the Bonds into Acquisition Rights and the fulfilment of such Acquisition Rights), the common representative appointed under agenda item 5 shall be granted the following further duties and powers:

The common representative is authorised and empowered to represent the Noteholders in all measures, actions, declarations and resolutions which are necessary or expedient for the implementation and execution of the resolution of the Noteholders pursuant to agenda item 2 (in particular for the exchange of the Notes into Acquisition Rights and the fulfilment of these Acquisition Rights in accordance with this agenda item 2), including the Exchange Capital Increase. The common representative is also authorised and empowered to declare the consents to the amendments to the terms and conditions of the Notes related to the exercise of the aforementioned authorisations and powers of attorney. These authorisations and powers of the common representative shall, in case of doubt, be interpreted broadly.

(d) Transfer of the Notes; Fulfilment of the Acquisition Rights; Execution Conditions

The debiting of the Notes to be exchanged for the Acquisition Rights and the booking of the corresponding number of Acquisition Rights will only take place once the conditions set out in (i) to (iv) below (collectively, the Execution Conditions) have occurred:

- (i) the Company has notified the Settlement Agent that (x) the resolution of the Noteholders pursuant to this agenda item 2 has not been challenged - not even in part - pursuant to § 20 para. 3 sentences 1 to 3 SchVG or (y) any actions for avoidance brought against the resolution of the Noteholders pursuant to this agenda item 2 have been terminated by settlement, withdrawal of the action or settlement of the main matter or (z) the resolution of the Noteholders pursuant to this agenda item 2 has been enforced by a final court order pursuant to section 20 para. 3 sentence 4 SchVG in conjunction with section 246a AktG. § Section 246a AktG has become enforceable;
- (ii) the resolution of the Noteholders pursuant to this agenda item 2 was executed in accordance with § 21 (1) SchVG;
- (iii) the Company has notified the Settlement Agent that the resolutions of the Issuer's Annual General Meeting on the Capital Reduction and the Exchange Capital Increase have been adopted and (x) these resolutions have not been challenged or (y) any actions for avoidance brought against the resolutions of the Issuer's general meeting on the Capital Reduction and the Exchange Capital Increase have been terminated by settlement, (z) the resolutions of the Annual General Meeting of the Issuer on the Capital Reduction and the Exchange Capital Increase have become enforceable by virtue of a final court order pursuant to § 246a of the German Stock Corporation Act (AktG); and
- (iv) the Company has notified the Settlement Agent that the Company waives the issuance of positive binding information as a condition of execution.

The transfer of the New Shares to the Noteholders who have exercised their Acquisition Rights accordingly or the payment of any Cash Settlement from the Realisation of the non-exchanged Notes to the Noteholders who have not exercised their Acquisition Rights in due time is expected to take place within ten (10) banking days after the expiry of the respective Acquisition or realisation period (the Delivery Date). Upon the crediting of the New Shares or the Cash Settlement to the account of the respective custodian bank with the Clearing System, the Settlement Agent has fulfilled its obligation to deliver the New Shares ("**Settlement Date**"). The same applies to the obligation to pay the Cash Settlement. The Issuer will announce the Settlement Date as well as the expected Delivery Date without undue delay after the occurrence of the Execution Conditions pursuant to § 13 (a) of the Terms and Conditions, i.e. in the German Federal Gazette (*Bundesanzeiger*) and on the Issuer's website.

(e) Failure of the measures

If the Capital Reduction and the Exchange Capital Increase are not implemented within six (6) months after the date of the Annual General Meeting of the Issuer resolving on the Capital Reduction and the Exchange Capital Increase or, if actions for avoidance and/or nullity are brought (i) against the Annual General Meeting resolution on the Capital Reduction and/or the Exchange Capital Increase or (ii) against the resolution of the noteholders' meeting on this agenda item, not within six (6) months after the relevant litigation or court proceedings have been finally terminated or - if a release resolution (*Freigabebeschluss*) pursuant to § 246a AktG (if applicable in connection with § 20 para. 3 SchVG) is passed - not within six (6) months after the resolution of the Annual General Meeting resolving on the Capital Reduction and/or

the Exchange Capital Increase. (i) if the relevant legal disputes or court proceedings have been finally and conclusively terminated or - insofar as a release resolution pursuant to § 246a AktG (if applicable in connection with § 20 para. 3 SchVG) is passed - within six (6) months after such release resolution has been filed for registration in the commercial register of the Issuer, the exchange of the Notes into Acquisition Rights pursuant to the resolution shall have finally failed and the resolution shall finally no longer be executed.

In this case, the Notes will be transferred back to the Noteholders and any Acquisition Rights already booked will be derecognised. Upon the effective retransfer of the Notes to the holders of the Acquisition Rights, the Acquisition Rights and any claim to the granting of new Acquisition Rights shall expire. The Noteholders are then entitled to all rights from the Notes.

However, from today's perspective, the Issuer will not be able to make further payments on the Notes, so that an insolvency of the Issuer would be the consequence.

(f) Taxes and duties

Each Noteholder is obliged to pay or reimburse any taxes or other duties affecting it which arise in connection with the transfer of the Notes to the Settlement Agent in exchange for the grant of Acquisition Rights, the contribution of the claims and rights under the Notes to the Issuer as a contribution in kind, the exercise of Acquisition Rights, the delivery of the New Shares and the payment of the Cash Settlement, if any.

Noteholders are therefore advised to consult their tax advisors regarding any tax consequences arising from the transfer of the Notes to the Settlement Agent against the granting of Acquisition Rights, the contribution of the claims and rights under the Notes to the Issuer as a contribution in kind (*Sacheinlage*), the exercise of Acquisition Rights, the delivery of the New Shares and the payment of the Cash Settlement.

(g) Execution of resolutions

The resolution adopted pursuant to this agenda item shall only be executed pursuant to § 21 SchVG if the Issuer has indicated to the Settlement Agent or the common representative that all conditions for execution (with the exception of the condition for execution set out in lit. b) above) have been met.

(h) Unity of decision-making

All of the above sub-items (a) to (h) of this agenda item 2 constitute a uniform resolution proposal, as they are interconnected in terms of content. The proposed resolution under this agenda item will therefore only be voted on uniformly.

Item 3 - Resolution on a waiver of any right of termination pursuant to § 7 (a) (i) of the terms and conditions of the Notes (interest payment) as well as on a modification of the right of termination pursuant to § 7 (a) (v) of the terms and conditions of the Notes

The Issuer further proposes that the Noteholders resolve the following:

The Noteholders resolve to insert a further paragraph (d) following § 7 (c) of the Bond Conditions:

- | | |
|--|---|
| <p>(d) Die Anleihegläubiger verzichten bis einschließlich zum 10. Dezember 2023 auf etwaige Rechte, nach § 7 (a) (i) der Anleihebedingungen („die Emittentin Kapital oder Zinsen nicht innerhalb von fünf (5) Geschäftstagen nach dem betreffenden Fälligkeitstag zahlt“) ihre Schuldverschreibungen zur Rückzahlung fällig zu stellen und deren sofortige Tilgung zu verlangen.</p> | <p>(d) During the period up to and including 10 December 2023, the Noteholders waive (<i>verzichten auf</i>) any rights under § 7 (a) (i) of the Terms and Conditions of the Notes („the Issuer fails to provide principal or interest within five (5) Business Days from the relevant due date“) to declare their Notes due and to demand immediate redemption of their Notes.</p> |
|--|---|

The Issuer further proposes that the Noteholders resolve the following:

§ 7 (a) (v) of the terms and conditions of the Notes is amended and restated as follows:

- | | |
|---|--|
| <p>(v) (A) die Emittentin oder eine Konzerngesellschaft schriftlich erklärt, dass sie ihre Schulden bei Fälligkeit nicht zahlen kann oder (B) ein Insolvenzverfahren über das Vermögen der Emittentin oder einer Tochtergesellschaft eröffnet wird, oder (C) ein Dritter ein Insolvenzverfahren gegen die Emittentin oder eine Tochtergesellschaft beantragt und ein solches Verfahren nicht innerhalb einer Frist von 60 Tagen aufgehoben oder ausgesetzt worden ist, es sei denn es wird mangels Masse abgewiesen oder eingestellt.</p> | <p>(v) (A) the Issuer or a Group Company states in writing that it is unable to pay its debts as they become due, or (B) the Issuer's or a Subsidiary's assets have been subjected to an insolvency proceeding, or (C) a third party applies for insolvency proceedings against the Issuer or a Subsidiary and such proceedings are not discharged or stayed within 60 days, unless such proceeding is dismissed due to insufficient assets.</p> |
|---|--|

Item 4 - Resolution on a waiver of a possible right of termination pursuant to § 7 (a) (iii) of the terms and conditions of the Notes with regard to the non-publication of financial statements pursuant to § 8 (h) (i) and (ii) of the terms and conditions of the Notes (consolidated financial statements and interim financial statements within the aforementioned periods) as well as a possible right of termination pursuant to § 490 of the German Civil Code (BGB)

The Issuer further proposes that the Noteholders resolve:

The Noteholders further resolve to insert an additional paragraph (d) following § 7 (c) of the terms and conditions:

- | | |
|---|---|
| <p>(d) Die Anleihegläubiger verzichten bis einschließlich zum 10. Dezember 2023 auch auf etwaige Rechte wegen eines Verstoßes der Emittentin gegen Ihre Verpflichtung gemäß § 8 (h) der Anleihebedingungen zur Veröffentlichung eines geprüften Konzernabschlusses für das am 31. Dezember endende Geschäftsjahr 2022 sowie des Zwischenabschlusses für das erste Quartal 2023 einschließlich</p> | <p>(d) During the period up to and including 10 December 2023, the Noteholders also waive (<i>verzichten auf</i>) any rights including to declare their Notes due and to demand immediate redemption of their Notes due to Issuer's non-compliance with its obligation set out in § 8 (h) of the Terms and Conditions to publish its audited consolidated financial statements for the financial year</p> |
|---|---|

des Rechts ihre Schuldverschreibungen zur Rückzahlung fällig zu stellen und deren sofortige Tilgung zu verlangen.

ended 31. December 2022 and the interim financial statements for the first quarter 2023.

The Issuer further proposes that the Noteholders resolve as follows:

The Noteholders further resolve to insert an additional paragraph (e) following § 7 (d) of the Terms and Conditions:

- | | |
|--|--|
| (e) Die Anleihegläubiger verzichten bis einschließlich zum 10. Dezember 2023 auch auf etwaige Rechte, nach § 490 BGB wegen einer wesentlichen Verschlechterung der Vermögensverhältnisse der Emittentin ihre Schuldverschreibungen zur Rückzahlung fällig zu stellen und deren sofortige Tilgung zu verlangen. | (e) During the period up to and including 10 December 2023, the Noteholders also waive (<i>verzichten auf</i>) any rights under § 490 of the German Civil Code (BGB) to declare their Notes due based on a substantial deterioration of the financial circumstances of the Issuer and to demand immediate redemption of their Notes. |
|--|--|

TOP 5 - Election of a common representative of the Noteholders and authorisations and obligations of the common representative

The Issuer proposes that the Noteholders resolve as follows:

(a) Election of a common representative

Mr. Sascha Borowski, attorney-at-law, Buchalik Brömmekamp Rechtsanwalts-gesellschaft mbH, Prinzenallee 15, 40549 Düsseldorf, is appointed as common representative of all Noteholders (the "**Common Representative**"). The Common Representative shall have the duties and powers granted to him by law or by the Noteholders by majority resolution. He shall follow the instructions of the Noteholders. Insofar as he is authorised to assert the rights of the Noteholders, the individual Noteholders are not authorised to assert these rights independently unless the majority resolution expressly provides for this. The Common Representative shall report to the Noteholders on its activities.

The Common Representative shall receive an appropriate remuneration as well as reimbursement of the costs and expenses incurred pursuant to § 7 para. 6 SchVG from the Issuer. The costs and expenses shall also include the costs for any engagement of external advisors, in particular financial advisors, lawyers, auditors, tax advisors, appraisers or other professional advisors or experts, which the Common Representative deems advisable in order to exercise his rights. The Common Representative may rely on the advice or services of the professional advisors or experts.

The amounts due under this resolution (in particular costs and expenses and the remuneration of the Common Representative) shall be payable upon due invoicing. The Common Representative shall be entitled to invoice the Issuer for advance payments.

The Common Representative is furthermore entitled to take out a pecuniary loss liability insurance coverage (*Vermögensschadenshaftpflicht*) with an appropriate sum insured for his activities as common representative. The costs for this pecuniary damage liability insurance

coverage shall be reimbursed by the Company after the Common Representative has submitted an auditable invoice and confirmation of payment.

In the event of the opening of insolvency proceedings, the Common Representative shall be authorised and entitled to retain costs and expenses as well as the remuneration of the Common Representative itself from amounts paid to the Common Representative by any insolvency administrator or other third parties for the purpose of payment to the Noteholders. The costs, expenses as well as the remuneration of the Common Representative shall be set off in the insolvency proceedings, if no (effective) remuneration agreement can be concluded with the insolvency administrator at the expense of the estate, against any quota in such a way that the costs, expenses as well as the remuneration of the Common Representative are first deducted from the insolvency quota and the remaining amount is then paid to the creditors. The Common Representative shall be instructed to carry out this set-off.

The Common Representative is exempted from the restriction set forth in § 181 BGB (and comparable regulations under foreign law).

The Common Representative shall be liable to the Noteholders as joint and several creditor for the proper performance of his duties; in his activities he shall exercise the due care of a prudent and conscientious businessman. In particular, a breach of duty shall not be deemed to have occurred if, in making a business decision, the Common Representative could reasonably assume that he was acting for the benefit of the Company on the basis of appropriate information.

The Common Representative is not subject to a reversal of the burden of proof analogous to section 92 (2) sentence 2 of the German Stock Corporation Act (AktG) (and comparable regulations under foreign law).

The liability of the Common Representative is limited to ten times his annual remuneration, unless he has acted wilfully (*vorsätzlich*) or with gross negligence (*grob fahrlässig*). The Noteholders shall decide by majority vote on the assertion of any claims for damages against the Common Representative.

For more information on the Common Representative, please see the portrait attached to this Invitation as **Annex 1**.

(b) Authorisation of the Common Representative

The Common Representative is authorised and empowered to assert the rights of the Noteholders. In particular, he is authorised and empowered to perform the following legal acts with effect for and against all Noteholders:

- a) the exclusive exercise of termination rights of the Noteholders at their own discretion.
- b) the waiver of termination rights of the Noteholders under the terms and conditions of the Notes and/or for good cause, in particular due to any deterioration in the financial condition of the Issuer and due to the non-publication of the consolidated financial statements for the financial year 2022 ending on 31 December, in each case by 10 December 2023, at its discretion, to the extent legally permissible.

The Common Representative is further authorised and empowered in connection with the aforementioned authorisations and powers of attorney to represent the Noteholders in all

measures, acts and declarations which are necessary or expedient for the implementation and execution of the aforementioned legal acts.

The Common Representative shall also be authorised and empowered to declare the consents to the amendments to the terms and conditions of the Notes in connection with the exercise of the aforementioned authorisations and empowerments. From the time of the adoption of the resolution on the aforementioned authorisations and empowerments until the end of the period of the authorisation and empowerment of the Common Representative, only the Common Representative shall be authorised to demand interest payments and/or the redemption of the Notes and/or to assert other rights of the Noteholders in connection with and/or arising from the Notes. The Noteholders are not authorised to independently assert their rights in connection with the aforementioned authorisations and powers of attorney of the Common Representative; in particular, they are not authorised to demand interest payments and/or repayment of the Notes and/or to exercise any termination rights during the period of the authorisation and power of attorney of the Common Representative. All aforementioned authorisations and powers of attorney of the Common Representative shall, in case of doubt, be interpreted broadly.

3. Legal basis for voting without an assembly, quorum and majority requirement

- 3.1 Pursuant to § 12 (a) of the terms and conditions, the terms and conditions may be amended by the Issuer with the consent of the Noteholders on the basis of a majority resolution in accordance with §§ 5 et seq. of the German Bond Act (SchVG) as amended.
- 3.2 Resolutions of the Noteholders shall be passed either in a creditors' meeting pursuant to § 12(c)(i) of the terms and conditions or by way of a vote without a meeting pursuant to § 12(c)(ii) of the terms and conditions in accordance with § 18 SchVG. The decision is incumbent on the Issuer.
- 3.3 In the case of voting without a meeting, a quorum is present in accordance with § 18 (1) SchVG in conjunction with § 15 (3) sentence 1 SchVG if at least half of the Notes outstanding at the time the resolution is adopted participate in the Voting without a Meeting.
- 3.4 The resolutions pursuant to agenda item 1 to 5 of this Invitation to Vote shall require a majority of at least 75 per cent. of the voting rights participating in the Vote without a Meeting pursuant to § 12 (b) sentence 2 of the terms and conditions of the Notes in order to become effective.

4. Legal consequences of the possible adoption of the resolutions

If the Noteholders pass a resolution with the required majority and effectively on the resolution items pursuant to agenda items 1 to 5, the resolution of the Noteholders shall be equally binding on all Noteholders.

5. Procedure for voting without a meeting and method of voting

- 5.1 The Voting without a Meeting shall be conducted by the notary Dr. Dirk Otto, Frankfurt am Main, as voting chairman pursuant to § 18 (2) SchVG.
- 5.2 Noteholders who wish to participate in the Voting without a Meeting must submit their vote in text form (§ 126 b BGB) to the Voting Chairman at the address listed below ("**Voting**") during the Voting Period (from 29 June 2023 at 0:00 hours to 2 July 2023 at 24:00 hours). A vote is deemed to have been cast when it is received by the Voting Chairman. Votes that are not

received by the Voting Chairman within the Voting Period, i.e. that are received too late but also too early, will not be taken into account.

5.3 Votes shall be cast by post, fax or e-mail to the following address:

Notary Dr. Dirk Otto
- Voting Chairman -
DENK Rechtsanwälte Partnerschaftsgesellschaft mbB
"Bond ERWE Immobilien AG: Voting without a meeting".

Postal address: Lindenstraße 15, 60325 Frankfurt am Main
Fax: +49 (0)69 975828-28
E-mail: abstimmung@denk-legal.de

The following documents shall be attached to the voting document if such evidence has not been previously provided:

- proof of eligibility in the form of a special certificate with a blocking notice from the custodian bank (as defined in section 6.3);
- proof of legal representative authority in accordance with Clause 6.5 if the Noteholder is represented by a legal representative (e.g. a child by its parents, a ward by its guardian) or by an official administrator (e.g. an insolvency debtor by the insolvency administrator appointed for it); and
- a proxy in accordance with Clause 7, provided that the Noteholder is represented by a third party at the vote without a meeting.

Furthermore, it is requested that Noteholders who are legal entities or partnerships under German law or under foreign law provide evidence of their power of representation by submitting a current extract from a relevant register or other equivalent confirmation in accordance with section 6.4. The presentation of this proof shall not be a prerequisite for participation in the voting without a meeting.

5.4 In order to facilitate and expedite the counting of votes, Noteholders are requested to use the form provided by the Company for casting votes, which is available for retrieval on the Issuer's website at www.erwe-ag.com under the heading "*Investor Relations/Bond/Gläubigerversammlung*" as of the date of publication of this invitation to vote. However, the effectiveness of a vote does not depend on the use of this form. The voting form will also include any counter-motions and/or requests for supplements that have been duly and timely submitted by that time. If any timely and properly submitted counterproposals are received by the Voting Chairman after the publication of this invitation to vote, the form will be updated.

5.5 The result of the Voting shall be determined by the addition method. In the addition procedure, (*Additionsverfahren*) only the votes in favour and the votes against shall be counted. All votes duly cast during the Voting Period and accompanied by the necessary supporting documents shall be taken into account.

6. Eligibility to participate, voting rights and evidence

- 6.1 Each Noteholder who proves its ownership of the Notes at the time of Voting in accordance with the provisions of Clause 6.3 no later than the end of the Voting Period shall be entitled to participate in the Voting without a Meeting.
- 6.2 In the Voting without a Meeting, each Noteholder shall participate in accordance with the nominal value (*Nennwert*) held by it or the arithmetical share (*rechnerische Anteil*) of its entitlement to the Issuer's Notes outstanding at the time the resolution is adopted. Each Note shall be entitled to one vote.
- 6.3 Noteholders must prove their entitlement to participate in the Voting without a Meeting by the end of the Voting Period at the latest. For this purpose, proof in text form (§ 126 b BGB) from the custodian bank of their ownership of the respective notes at the time of voting with a blocking notice in accordance with the following letters a) and b) must be submitted to the Voting Chairman ("**Special Proof with Blocking Notice**"):

a) *Special proof*

The special evidence required shall be a certificate from the custodian bank specifying (i) the full name and address of the Noteholder and (ii) the aggregate principal amount (*gesamter Nennwert*) of the Notes standing to the credit of such Noteholder's securities account with such custodian bank on the date of issue of such certificate.

b) *Blocking notice*

The required blocking notice of the custodian bank is a notice pursuant to which the Notes of the Issuer held by the Noteholder will be kept blocked at the custodian I bank throughout the Voting Period.

Noteholders should contact their respective custodian bank regarding the formalities of the Special Certificate with Blocking Notice.

Noteholders who (i) have not submitted the Special Certificate with Blocking Notice in text form (§ 126 b BGB) by the end of the Voting Period at the latest, and/or (ii) have not had their Bonds blocked or have not had them blocked in time, are not entitled to vote. Authorised representatives of such a Noteholder may also not exercise the voting right in these cases.

A sample form for the Special Certificate with Blocking Notice, which may be used by the custodian bank, is available on the Issuer's website at www.erwe-ag.com under the heading "*Investor Relations/Bonds/Glaeubigerversammlung*".

- 6.4 Representatives of Noteholders who are legal entities or partnerships under German law (e.g. *Aktiengesellschaft, GmbH, Kommanditgesellschaft, Offene Handelsgesellschaft, Unternehmergesellschaft, GbR*) or under foreign law (e.g. Limited under English law) are requested to provide evidence of their power of representation in addition to the Special Certificate with Blocking Notice by the end of the Voting Period at the latest. This can be done by sending a current extract from the relevant register (e.g. commercial register, register of associations) or another equivalent confirmation (e.g. certificate of incumbency, secretary certificate). Proof of the power of representation according to this clause 6.4 is not a prerequisite for the consideration of votes in the voting without a meeting.

- 6.5 If Noteholders are represented by a legal representative (e.g. a child by its parents, a ward by its guardian) or by an official administrator (e.g. an insolvency debtor by the insolvency administrator appointed for him) an insolvency debtor by the insolvency administrator appointed for him), the legal representative or official administrator must, in addition to the Special Certificate with Blocking Notice of the person represented by him, prove his legal power of representation in a suitable manner (e.g. by means of a copy of the civil status documents or the certificate of appointment) by the end of the Voting Period at the latest.

7. Representation by proxy

Each Noteholder may be represented by a proxy of his choice when casting votes (§ 14 SchVG in conjunction with § 18 (1) SchVG). The voting right may be exercised by the proxy. The power of attorney granted by the principal to the proxy must be in text form within the meaning of § 126 b BGB. A form that can be used for granting a proxy can be found on the Issuer's website at www.erwe-ag.com under the heading "*Investor-Relations/Anleihe/Glaebigerversammlung*". Proof of the granting of a proxy must be provided to the voting manager by the end of the Voting Period at the latest by submitting the proxy declaration in text form. In the case of voting by proxy, proof must also be provided to the voting manager by the end of the Voting Period at the latest of a special certificate with a blocking notice of the proxy grantor as well as (if relevant) the proxy grantor's power of representation (see section 6.5).

8. Countermotions and requests for amendments

- 8.1 Each Noteholder shall be entitled to submit its own proposals for resolutions ("**counterproposals**") (*Gegenantrag*) on the items on which resolutions are to be adopted after this invitation to vote.
- 8.2 Noteholders whose bonds together amount to 5% of the outstanding bonds may request that new items be announced for resolution ("**supplementary requests**") (*Ergänzungsantrag*).
- 8.3 Countermotions and supplementary requests shall be addressed to the Issuer or the Voting Chairman and may be sent by post, fax or e-mail to the Voting Chairman or to the Issuer at one of the following addresses prior to the commencement of the Voting Period:

ERWE Immobilien AG
- Investor Relations -
"ERWE Immobilien AG Bond: Voting without a meeting".
Herriotstraße 1
60528 Frankfurt am Main, Federal Republic of Germany
Fax: +49 (0)69 9637 6869 30
info@erwe-ag.com

or:

Notary Dr. Dirk Otto, Frankfurt am Main
- Voting Chairman -
DENK Rechtsanwälte Partnerschaftsgesellschaft mbB
"ERWE Immobilien AG Bond: Voting without a meeting".
Postal address: Lindenstraße 15, 60325 Frankfurt am Main
Fax: +49 (0)69 975828-28
E-mail: abstimmung@denk-legal.de

8.4 A Special Proof with Blocking Notice (see Clause 6.3) must also be attached with regard to a countermotion and/or a supplementary request. In the case of a supplementary request, the Noteholders requesting that an additional item be put to the vote must also prove that they together represent 5 per cent of the outstanding Notes.

9. Indication of the outstanding Notes

The current outstanding volume of the bond is EUR 40,000,000.00 divided into 40,000 notes with a nominal value of EUR 1,000.00 each.

If there is a reduction in the volume of the Notes in the period between the publication of this announcement and the commencement of the Voting Period, the lower amount shall prevail.

No Notes are currently due to the Issuer or its affiliates. Furthermore, no Notes are currently held for the account of the Issuer or any of its affiliates.

10. Further information

Noteholders can obtain further information on the progress of the proceedings and answers to frequently asked questions (so-called FAQs) on the Issuer's website at www.erwe-ag.com under the heading "*Investor-Relations/Anleihe/Gläubigerversammlung*".

11. Documents

From the day of the invitation to vote until the end of the Voting Period, the following documents will be made available to the Noteholders on the Issuer's website at www.erwe-ag.com under the heading "*Investor Relations/Bond/Gläubigerversammlung*":

- This invitation to vote at a Vote without a Meeting together with the conditions contained therein on which participation in the poll without a meeting and the exercise of voting rights depend;
- the terms and conditions of the Notes issued by ERWE Immobilien AG;
- the form for voting in the non-assembly ballot (if necessary, the already published form will be updated);
- the power of attorney form for granting powers of attorney to third parties; and
- the model form for the Special Proof with Blocking Notice.

Upon request of a Noteholder, copies of the aforementioned documents shall be sent to him without delay and free of charge. The request shall be made by post, fax or e-mail to be addressed to:

ERWE Immobilien AG
- Investor Relations -
"ERWE Immobilien AG Bond: Voting without a meeting".
Herriotstr. 1
60528 Frankfurt am Main, Federal Republic of Germany
Fax: +49 (0)69 9637 6869 30
info@erwe-ag.com

Frankfurt am Main, June 2023

ERWE Immobilien AG
Executive Board (Vorstand)

The notary public Dr. Dirk Otto, Frankfurt am Main, who has been appointed by ERWE Immobilien AG, will also, in his capacity as Voting Chairman, request the Noteholders of ERWE Immobilien AG to cast their votes in a vote without a meeting within the Voting Period from 29 June 2023 at 0:00 hours and ending on 2 July 2023 at 24:00 hours (incoming) on the proposed resolutions submitted by the Issuer under agenda items 1 to 5 of the Invitation to be voted on.

Frankfurt am Main, June 2023

Dr. Dirk Otto, Notary Public

Annex 1

Portrait of Mr. Sascha Borowski
regarding his election as Common Representative of the Noteholders of
ERWE Immobilien AG
(German language)

Sascha Borowski

Rechtsanwalt | Partner

Fachanwalt für Bank- und Kapitalmarktrecht

Geprüfter ESUG-Berater (Deutsches Institut für angewandtes Insolvenzrecht e.V. — DIAI)

Berufserfahrung

Über 15 Jahre anwaltliche, insbesondere forensische, Berufserfahrung

Schwerpunkte: Kapitalmarktrecht, Kapitalanlagerecht, gemeinsamer Vertreter, Prozessführung, Insolvenzrecht, Hauptversammlungssprecher der Deutschen Schutzvereinigung für Wertpapierbesitz e.V. (DSW)

Schriftleiter der Fachzeitschrift: Der SanierungsBerater (dfv)

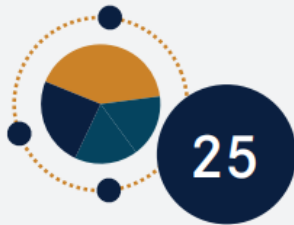
Staatlich anerkannte Gütestelle

Ausgewählte Tätigkeiten von Herrn Rechtsanwalt Borowski:

- Mitglied in zahlreichen Gläubigerausschüssen
- Bestellung zum gemeinsamen Vertreter nach dem Schuldverschreibungsgesetz
- Bestellung zum besonderen Vertreter nach dem Aktiengesetz
- Durchführung von aktienrechtlichen Sonderprüfungen
- Vertretung von Schuldnern, Gläubigern sowie Anleihegläubigern in Restrukturierungs- und Insolvenzverfahren
- Prozessführung in zivil-, bank- und kapitalmarktrechtlichen sowie insolvenzrechtlichen Verfahren

Die Kanzlei

Zahlen und Fakten



25 Rechtsanwältinnen und Rechtsanwälte bieten Ihnen hohe Expertise und eine spezialisierte und kompetente Rechtsberatung.



Mehr als 200 Unternehmen haben wir bereits in Eigenverwaltungs- und Schutzschirmverfahren beraten.

3 Kernkompetenzen setzen wir für Ihre umfassende Beratung ein.



Profitieren Sie von unserer breiten Praxis aus fast 2.000 geführten Prozessen.



Wir sind ausgezeichnet!



Handelsblatt Qualitätssiegel
Deutschlands BESTE Anwälte 2022
Bank- und Finanzrecht



Handelsblatt Qualitätssiegel
Deutschlands BESTE Anwälte 2022
Kapitalmarktrecht

Referententätigkeiten und Veröffentlichungen

Referententätigkeit zu Themen des Bank- und Kapitalmarkt- sowie Insolvenzrechts bei folgenden Veranstaltungen:

- 4. ZInsO-Praktikertagung 2022 „Zur Rechtsprechung des BGH über die Kosten des gemeinsamen Vertreters im Insolvenzverfahren“
- 17. Tag des Bank- und Kapitalmarktrechts 2020 „Die Kapitalanlage in der Krise und Insolvenz - ein Überblick über ausgewählte Probleme“
- 9. Frankfurter Bank- und Kapitalmarktrechtstage 2019 „Aktuelles zum Schuldverschreibungsrecht“
- 2. ZInsO-Praktikertagung 2019 „Die Anleihegläubiger in der Insolvenz: Wahrnehmung der Rechte der oft größten Gläubigergruppe und deren Durchsetzung“
- Bundesverband ESUG 2019 „Die Anleihe in der Krise und Insolvenz“
- Universität Kassel 2016 „Das Verbraucherstreitbeilegungsverfahren aus Sicht des Antragstellers“

Buchbeiträge (eine Auswahl):

- Schuldverschreibungsgesetz 2009, Das Deutsche Bundesrecht, Kommentierung zum Gesetz über Schuldverschreibungen aus Gesamtemissionen (Schuldverschreibungsgesetz SchVG), Baden-Baden 2019
- VSBG – Verbraucherstreitbeilegungsgesetz, Mitherausgeber des Kommentars Borowski/Röthemeyer/Steike; Kommentierung der §§ 10-17; 21; 41; Art. 6 VSBGEG, § 204 BGB; div. Muster, 2. Auflage Baden-Baden 2021, 1. Auflage Baden-Baden 2016

Veröffentlichungen

Aufsätze:

- „Die Haftungsrisiken des Insolvenzverwalters im Licht der BGH-Rechtsprechung zur Vergütung des gemeinsamen Vertreters – keine Bevorzugung einer Gläubigergruppe“ zusammen mit Dr. Stahlschmidt in: ZInsO 2018, 2445 ff.
- „Verjährungshemmung in Gütestellenverfahren“ zusammen mit Prof. Dr. Steike in: VuR – Verbraucher und Recht, 2017, 218 ff.
- „Das Verbraucherstreitbeilegungsverfahren aus Sicht des Antragstellers“ im Sonderheft zum Verbraucherstreitbeilegungsgesetz der VuR - Verbraucher und Recht 2016, S. 44 ff.
- „Der Widerruf des Verbraucherkredites - Gestaltungsmöglichkeiten des Verbrauchers im Kredit- und Kapitalanlagerecht“ in: BKR – Zeitschrift für Bank- und Kapitalmarktrecht 2014, 361 ff.

Urteilsanmerkungen (eine Auswahl):

- „Erstattung von Kosten, Aufwendungen sowie der Vergütung des gemeinsamen Vertreters im Insolvenzverfahren bestellten gemeinsamen Vertreters“ BGH, Urteil vom 10.03.2022, Az. IX ZR 178/20 in: SanB 2022, 88 ff.
- „Kein Rechtsmittel für nicht teilnehmende Anleihegläubiger an der vom Insolvenzgericht einberufenen Anleihegläubigerversammlung“ LG Rostock, Beschluss vom 25.01.2021, Az. 4 T 13/21 in: ZInsO 2021, 430 ff.
- „Die (fehlende) Überprüfbarkeit von Beschlüssen der nachrangigen Anleihegläubiger – ein weiterer Harmonisierungsbedarf zwischen SchVG und InsO“ LG Lübeck, Beschluss vom 14.09.2020, Az. 7 T 206/20 in: ZInsO 2020, 2457 ff.
- „Bundesrecht geht Verfahrensordnungen von Schlichtungsstellen vor“ BGH, Urteil vom 17.01.2017, Az. VI ZR 239/15 zusammen mit Victoria Seeliger in: VuR - Verbraucher und Recht 2017, 354 ff.

Das sagen Mandanten und Insolvenzverwalter

„Obwohl wir an uns glaubten und meinten Recht zu haben, waren wir uns nicht sicher, dass wir dieses Recht vor Gericht durchsetzen können. Durch Herrn Borowski haben wir die Sicherheit und den Kopf für unsere eigentliche Arbeit frei bekommen. Danke für die geräuschlose Abwicklung!“

„Die Bearbeitung war vom ersten Kontakt bis heute sehr gut. Es besteht eine hohe Fachkompetenz und es erfolgt eine verständliche Kommunikation.“

Das vorläufige Gläubigerausschussmitglied Sascha Borowski war in Anbetracht seiner besonderen Qualifikation, insbesondere als Mitglied in verschiedenen Gläubigerausschüssen bei ähnlich gelagerten Verfahren und als Autor eines Kommentars zum Schuldverschreibungsgesetz sowie seiner überdurchschnittlichen Kompetenz auf dem Gebiet des Bank- und Kapitalmarktrechts, insbesondere in der Anfangsphase dieses Insolvenzverfahrens, außerordentlich produktiv.“

Bekannt aus:

JUVE



Handelsblatt

Börsen-Zeitung

Sascha Borowski
Partner, Rechtsanwalt,
Fachanwalt für Bank- und Kapitalmarktrecht
borowski@bbr-law.de
T +49 (0) 211 – 82 89 77 215

Frankfurter Allgemeine
ZEITUNG FÜR DEUTSCHLAND

Prinzenallee 15
40549 Düsseldorf
T +49 (0) 211 – 82 89 77-0

Lietzenburger Straße 75
10719 Berlin
T +49 (0) 30 – 81 45 21 96-1

Westendstraße 16-22
60325 Frankfurt
T +49 (0) 69 – 24 75 215-0