

Convenience Translation

This document is a translation of the report "Bericht über die Prüfung des Beherrschungs- und Gewinnabführungsvertrags zwischen der va-Q-tec AG, Würzburg, und der Fahrenheit AcquiCo GmbH, Frankfurt am Main which was written in German. Ebner Stolz GmbH & Co. KG does not assume any responsibility for the correctness of the translation. The German version is authoritative for decision-making purposes.

Report
about the audit
of the domination and profit and loss transfer
agreement
between the

va-Q-tec AG, Würzburg,

and the

**Fahrenheit AcquiCo GmbH, Frankfurt am
Main**

List of abbreviations

Abbreviation	Designation
A&F	Household appliances and food
Para.	Paragraph
Sect.	Section
AfA	Depreciation
AG	Public limited company
AktG	German Stock Corporation Act
APAC region	Includes the regions in Asia, Australia and Oceania that are located in or near the Western Pacific Ocean
ed.	Edition
ADSB	Art Department Studio Babelsberg GmbH
BaFin	Federal Financial Supervisory Authority
BayObLG	Bavarian higher regional Court
BewP	Assessment Practitioner
BGAV	Domination and profit and loss transfer agreement
BGB	Civil Code
BGH	Federal Court of Justice
GDP	Gross Domestic Product
Bloomberg	Bloomberg Finance L.P., New York/USA
BVerfG	Federal Constitutional Court

Abbreviation	Designation
CAGR	Compound Annual Growth Rate
CAPEX	Capital Expenses
CAPM	Capital Asset Pricing Model
CDAX	Composite DAX
CEO	Chief Executive Officer
CFO	Chief Financial Officer
EBIT	Earnings before interest and tax
EBITDA	Earnings before interest, tax and depreciation & amortization
Ebner Pride	Ebner Stolz GmbH & Co. KG, Wirtschaftsprüfungsgesellschaft Steuerberatungsgesellschaft, Cologne
EQT	EQT Partners AB
ERP	Enterprise Resource Planning
ESt	Income tax
et al	and others
ECJ	European Court of Justice
EUR	Euro
e.V.	Registered association
EY	Ernst & Young GmbH Auditing Company
ECB	European Central Bank
f.	The following

Abbreviation	Designation
ff.	Continued
Fahrenheit AcquiCo	Fahrenheit AcquiCo GmbH, Frankfurt am Main
FAUB	Expert Committee for Company Valuation and Business Administration of the IDW
FB	Finanz Betrieb (magazine)
FC	Forecast
Fn.	Footnote
FTE	Full-Time Equivalent
FY	Business year
GmbH	Limited liability company
GmbH & Co KG	Limited Liability Company & Compagnie Limited Partnership
HGB	Commercial Code
HRB	Commercial Register Department B
H&L	Healthcare and logistics
i.d.F.	As a result
IDW	Institute of Public Auditors in Germany e. V., Düsseldorf
IDW-FN	IDW News
IDW-LIFE	IDW Magazine
IFRS	International Financial Reporting Standards

Abbreviation	Designation
IMK	Macroeconomic and Business Cycle Institute, Düsseldorf Research, Düsseldorf
Inc.	Incorporated
i.S.d.	In the sense of the
ISIN	International securities identification number
i.V.m.	In conjunction with
IMF	International Monetary Fund
KSt	Corporate income tax
KStG	Corporate Income Tax Act
LG	District Court
LLC	Limited Liability Company
LP	Limited Partnership
LTDA	Limited liability companies in Latin America
MEUR	Million euro
m.w.N.	with further proofs
N.V.	Naamloze vennootschap (Dutch legal form of a stock corporation)
OLG	Higher Regional Court
p. a.	per annum (per year)
PCM	Phase Change Materials

Abbreviation	Designation
Pte Ltd	Private Company Limited by Shares (legal form in Singapore)
PowTec	Power Technology
R ²	Coefficient of determination
RFID technology	Technology for transmitter-receiver systems for automatic and contactless identification and localization of objects and living beings with radio waves
RHB	Raw materials and supplies
VQT AG	va-Q-tec AG, Würzburg
VQT	va-Q-tec Group
SA	Société anonyme (legal form in Luxembourg)
SARL	Société à responsabilité limitée
SE	Societas Europaea (European Company)
SolZ	Solidarity surcharge
SpruchG	Spruchverfahrensgesetz
TempChain	Temperature Controlled Supply Chain
TEnEff	Thermal Energy Efficiency
TEUR	Thousand euro
T&I	Technology and industry
a. o.	Among other things
u. E.	In our opinion

Abbreviation	Designation
USA	United States of America
USD	United States Dollar
Cf.	Comparative
VIP	Vacuum Insulation Panel
WKN	Securities identification number
WPg	Die Wirtschaftsprüfung (Journal)
WPH	WP Manual
WpÜG - AngebV	Ordinance on the Content of the Offer Document, the Consideration in Takeover Offers and Mandatory Offers and the Exemption from the Obligation to Publish and Submit an Offer
z. B.	For example
Plus.	Plus

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Annex directory

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Order of the Nuremberg-Fürth Regional Court dated February 23, 2023	Annex 2
General Engagement Terms	Annex 3

Convenience Translation

For computational reasons, rounding differences of
 \pm one unit (EUR, %, etc.) may
occur in the tables.

1. Order and order execution

The

Fahrenheit AcquiCo GmbH, Frankfurt am Main
(hereinafter also "Fahrenheit AcquiCo"),

and the

va-Q-tec AG, Würzburg, Germany
(hereinafter also "VQT AG" or "Company"),

intend to conclude a domination and profit and loss transfer agreement. Pursuant to Sec. 293b AktG, the agreement is to be audited by one or more expert auditors. The District Court of Nürnberg-Fürth selected us at the joint request of the two parties to the agreement and appointed us as expert contract auditors in accordance with section 293c AktG by resolution dated February 17, 2023 (Annex 1) and the amendment resolution dated February 23, 2023 (Annex 2).

We confirm that in our audit we have complied with the applicable provisions on independence pursuant to Section 321 (4a) of the German Commercial Code (HGB) by analogy.

In our audit, we have observed the standard "Principles for the Performance of Business Valuations" in the version of April 2, 2008 of the Institute of Public Auditors in Germany e.V. (IDW S 1 in the 2008 version). Furthermore, we have observed IDW Practice Note 2/2017 "Assessment of Corporate Planning in Valuation, Restructuring, Due Diligence and Fairness Opinion".

In determining the enterprise value and deriving the fair settlement payment and compensation payment, the management of Fahrenheit AcquiCo and the Executive Board of VQT AG jointly used the expert assistance of Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft (hereinafter referred to as "EY" or "Valuation Expert"), which issued an expert opinion in this regard. As part of our audit procedures, we inspected the valuation documents.

All information and evidence requested by us were willingly provided by the Management Board of VQT AG or the persons appointed by it to provide us with information. The completeness of the clarifications and evidence provided was confirmed to us by the management of Fahrenheit AcquiCo and the Management Board of VQT AG in a written statement in each case.

We conducted our audit in the period from March 1, 2023 to July 14, 2023 at the offices of VQT AG in Würzburg and at our office in Cologne. Although we conducted our audit activities in parallel with the work of the valuation expert, we subsequently reviewed the interim results for the valuation and for the preparation of the joint report and issued our audit opinion independently and on our own responsibility.

In particular, the following meetings took place with the valuation expert and representatives of VQT AG:

Date	Participants	Content	Location
1-Mar-2023	EY, Ebner Stolz	Kick-Off	VidCo
2-Mar-2023	VQT AG, Ebner Stolz	Site visit at VQT AG	Würzburg
14-Mar-2023	EY, Ebner Stolz	Derivation Peer Group	VidCo
20-Mar-2023	VQT AG, EY, Ebner Stolz	Planning meeting Group level	VidCo
8-May-2023	VQT AG, EY, Ebner Stolz	Planning meeting TempChain	VidCo
10-May-2023	VQT AG, EY, Ebner Stolz	Planning meeting TenEff	VidCo
6-Jun-2023	VQT AG, EY, Ebner Stolz	Planning meeting TenEff	VidCo
7-Jun-2023	VQT AG, EY, Ebner Stolz	Planning meeting OPEX and CAPEX	VidCo
12-Jun-2023	VQT AG, EY, Ebner Stolz	Planning meeting TempChain	VidCo
28-Jun-2023	VQT AG, EY, Ebner Stolz	Planning meeting regarding queries on the business plan	VidCo

In addition, further meetings and telephone calls at working level took place throughout the period of our audit work on various issues relevant to the assessment.

The contract review was mainly led and carried out by the two signing german certified public auditors. They were supported by a senior manager experienced in planning and valuation issues and two senior consultants.

If, in the period between the conclusion of our audit and the expected resolution of the Annual General Meeting of VQT AG on the domination and profit and loss transfer agreement on August 29, 2023, significant changes in the net assets, financial position and results of operations or other bases for determining the enterprise value of VQT AG should occur, these are to be taken into account in the assessment of the compensation payment and fair settlement payment, financial and earnings situation or other bases for the determination of the enterprise value of VQT AG, these must still be taken into account in the assessment of the compensation payment and fair settlement payment.

We expressly point out that our audit work did not relate to the accounting records, the annual financial statements, the management reports, the consolidated financial statements, the consolidated management reports or to the management of VQT AG. Such a review is not the subject of the audit pursuant to Section 293b AktG. The compliance of the annual financial statements (according to HGB) and the consolidated financial statements (according to IFRS) of VQT AG with the relevant legal regulations has been confirmed by the appointed auditor Rödl & Partner GmbH Wirtschaftsprüfungsgesellschaft Steuerberatungsgesellschaft ("Rödl & Partner").

The performance of the engagement and our responsibility are governed by the General Engagement Terms for German Public Auditors and Public Audit Firms as amended on January 1, 2017, which are attached to this report as Annex 3. These General Engagement Terms and Conditions regulate, in addition to the statutory limitation of liability under Section 293d (2) AktG in conjunction with Section 323 HGB, our responsibility also in relation to third parties.

This audit report serves exclusively as information and decision-making basis for the companies involved in the conclusion of the domination and profit and loss transfer agreement and their advisors and lawyers as well as for the court appointing us. In addition, copies of the report may be made available to outside shareholders of VQT AG and may also be published on the website of VQT AG for this purpose. The restriction on use does not apply to publications and measures in connection with the preparation and implementation of the Annual General Meeting that decides on the domination and profit and loss transfer agreement or court proceedings that could be conducted in connection with the conclusion of the domination and profit and loss transfer agreement. In addition, disclosure to third parties requires our consent in text form.

We point out that any further disclosure of or reference to our audit report - subject to our express written consent - may only be made to third parties in full text including a written statement on the purpose of the underlying engagement as well as the disclosure restrictions and liability conditions associated with the engagement and only if the respective third party has previously agreed in writing to the General Engagement Terms and Conditions as well as to a binding confidentiality obligation on its part vis-à-vis us.

For the purposes of our audit, the following documents in particular were available to us:

- Joint report of the management of Fahrenheit AcquiCo GmbH, Frankfurt am Main, and the management board of va-Q-tec AG, Würzburg, pursuant to section 293a of the German Stock Corporation Act (AktG) on the domination and profit and loss transfer agreement between Fahrenheit AcquiCo GmbH, Frankfurt am Main, and va-Q-tec AG, Würzburg, (hereinafter "contract report ") dated July 7, 2023,
- Draft of the domination and profit and loss transfer agreement between Fahrenheit AcquiCo GmbH and va-Q-tec AG dated June 30, 2023,
- Resolutions of the Nuremberg District Court appointing Ebner Stolz GmbH & Co. KG as contract auditor with regard to the appropriateness of the fair settlement payment and compensation payment dated February 17, 2023 (Annex 1) and February 23, 2023 (Annex 2),
- Expert opinion on the determination of the enterprise value of va-Q-tec AG, Würzburg, in connection with the planned domination and profit and loss transfer agreement as of July 13, 2023 by EY (including previous drafts in German), as Annex 3 to the Joint Contract Report,
- Commercial register excerpts of va-q-tec AG (HRB 7368) of the local court of Würzburg and selected subsidiaries,
- Articles of Association of va-q-tec AG dated July 10, 2023,
- Minutes of the Annual General Meetings of va-Q-tec AG for the year 2022,
- Supervisory Board minutes of va-Q-tec AG from March 26, 2021 to April 27, 2023 ,

- Management presentations of va-Q-tec AG regarding company profile and product portfolio,
- Fairness Opinion Letter of va-Q-tec AG from ParkView Partners GmbH dated January 23, 2023,
- Information on tax results, tax loss carryforwards and other aspects of the tax situation of va-Q-tec AG,
- Audit reports on the consolidated financial statements of va-q-tec AG, prepared by Rödl & Partner GmbH Wirtschaftsprüfungsgesellschaft, as of December 31, 2020, 2021 and 2022,
- Financial Fact Book, Business Plan Addendum and Tax Fact Book of va-Q-tec AG by PricewaterhouseCoopers GmbH Wirtschaftsprüfungsgesellschaft dated October 17, 2022,
- Actual data of the individual companies of va-Q-tec AG for the years 2021 and 2022,
- Actual data on the income statements and balance sheets of va-q-tec AG including its subsidiaries for the first quarter of 2023,
- Planning statement for the financial years 2023 to 2026 of va-Q-tec AG, approved at the Executive Board meeting on February 2, 2023 and the Supervisory Board meeting on February 5, 2023,
- Bond agreement of va-Q-tec AG dated November 17, 2020 and addendum to the bond agreement dated November 17, 2020,
- Documentation on valuation by EY,
- Publicly available information, in particular capital market data.

2. Subject matter, nature and scope of the audit pursuant to Section 293b AktG

2.1. Subject of the Audit

Pursuant to Sec. 293b AktG, the subject of the audit is the domination and profit and loss transfer agreement or its draft. This agreement (or its draft) is to be examined for completeness and correctness of the information contained therein and, in particular, whether the proposed guaranteed dividend or compensation payment (together "**Compensation**") and the proposed cash compensation are appropriate. For linguistic simplification, the terms compensation payment and compensation are used synonymously.

2.2. Joint report on the enterprise agreement

Pursuant to Section 293a of the German Stock Corporation Act, the legal representatives of each of the companies involved in the domination and profit and loss transfer agreement shall submit a detailed written report, in which the conclusion of the agreement, the agreement in detail and, in particular, the type and amount of the compensation pursuant to Section 304 of the German Stock Corporation Act and the fair settlement payment pursuant to Section 305 of the German Stock Corporation Act are legally and economically explained and justified. The Executive Board of VQT AG, together with the management of Fahrenheit AcquiCo, has therefore prepared a report on the domination and profit and loss transfer agreement between VQT AG and Fahrenheit AcquiCo. Special difficulties in the valuation of the contracting companies as well as the consequences for the participation of the shareholders are to be pointed out.

Within the scope of our work, we have audited the information contained in the joint contract report, including the valuation report included as an annex, and - prior to this - in the draft reports and expert opinions, regarding the subject matter of the audit, the methodical and mathematical explanation and substantiation of the enterprise value of VQT AG, and the derivation of the compensation payment and the fair settlement payment based on this. The audit of the completeness and correctness of the joint report and the appropriateness of the conclusion of the domination and profit and loss transfer agreement were not the subject of our audit assignment.

2.3. Audit report

As auditors, we report in writing on the results of our audit, which we conducted in accordance with professional standards, in accordance with Section 293e of the German Stock Corporation Act (AktG).

The focus of the contract audit is the assessment of the proposed compensation and the proposed fair settlement payment. The contract auditor must examine whether the methods used by the legal representatives to determine the compensation and fair settlement payment are appropriate. If the valuation is based on a forward-looking analytical company valuation, it must be examined in particular whether the company valuation carried out to determine the compensation or fair settlement payment complies with the generally accepted principles for carrying out company valuations, the data used as a basis are derived in a professional manner and the future estimates appear plausible. If market prices are used for the compensation, the derivation of the market price must be assessed.

§ Section 293e (1) sentence 3 AktG makes it clear that a contract auditor is not obliged to carry out the company valuation again independently, but may limit himself to checking the plausibility of the valuation of the company on which the proposal for the type and amount of compensation is based, including the valuation report (Koch, Aktiengesetz, 17th ed, 2023, § 293b, para. 6; Servatius, in: Grigoleit, Aktiengesetz, 2nd ed. 2020, § 293b para. 6; OLG Stuttgart, October 17, 2011, 20 W 7/11; LG München I, August 28, 2008, 5 HKO 2522/08).

Pursuant to § 293e (1) sentence 2 AktG, the audit report shall conclude with a statement as to whether the proposed settlement and the proposed cash compensation are appropriate. The following must be stated

1. according to which methods the compensation and settlement have been determined,
2. for what reasons the use of these methods is appropriate and
3. what compensation and what cash settlement would result from the application of different methods, if several have been applied. At the same time, it shall be explained what weight has been attached to the various methods in determining the proposed compensation or the proposed cash compensation and the values on which they are based and what particular difficulties have arisen in the valuation.

3. Audit the completeness of the content of the contract

The minimum content of a Domination and Profit and Loss Transfer Agreement required under corporate law (hereinafter also referred to as the "Agreement") is derived from Sections 291 et seq. AktG. The examination of the completeness and correctness of the Domination and Profit and Loss Transfer Agreement therefore relates to the general information on the contracting parties, the determination of the subject matter of the Agreement, the commencement and duration of the Agreement and the agreements on compensation payment and fair settlement payment.

3.1. Company name and registered office of the companies involved

The name and registered office of the companies involved are stated in the domination and profit and loss transfer agreement and correspond in each case to the entries in the commercial registers.

3.2. Management

Pursuant to Section 1 (1) of the Agreement, VQT AG shall place the management of its company under the control of Fahrenheit AcquiCo. as of the date on which the Agreement becomes effective pursuant to Section 7 (2) of the Agreement.

Fahrenheit AcquiCo is entitled, within the statutory limits, to issue general instructions to the Management Board of VQT AG regarding the management of the Company as well as instructions relating to individual cases. In particular, Fahrenheit AcquiCo is also entitled to issue instructions relating to the preparation of the annual financial statements of VQT AG. At the same time, the Management Board of VQT AG is obliged to follow the instructions of Fahrenheit AcquiCo pursuant to Section 1 (1) of the agreement in accordance with Section 308 of the German Stock Corporation Act (AktG), as amended (Section 1 (2) of the agreement). Fahrenheit AcquiCo may not instruct the Management Board of VQT AG to amend, maintain or terminate the agreement. These provisions comply with the requirements of §§ 291 para. 1 sentence 1, 299 AktG (§ 1 para. 3 of the agreement).

3.3. Profit transfer

Pursuant to Section 2 (1) of the agreement, VQT AG undertakes to transfer its entire profit to Fahrenheit AcquiCo. Accordingly, pursuant to § 2 para. 1 of the agreement and in accordance with the statutory provision of § 301 AktG, as amended from time to time, the profit to be transferred shall be the annual net profit arising without the profit transfer, subject to the creation and release of reserves pursuant to § 2 para. 2 of the agreement, the maximum amount permissible under § 301 AktG, as amended from time to time. VQT AG may, with the consent of Fahrenheit AcquiCo, transfer amounts from the net income for the year to other revenue reserves, provided this is permissible under commercial law and economically justified on the basis of a reasonable commercial assessment. Other revenue reserves formed during the term of the agreement must be released at the request of Fahrenheit AcquiCo and used to offset a net loss for the year or transferred as profit. Other reserves or any profit carried forward from the period prior to the commencement of the obligation to transfer profits under the contract may not be transferred as profit or used to offset a net loss for the year. The consent or request of Fahrenheit AcquiCo must be in text form.

The profit transfer obligation exists for the first time for the entire profit of the financial year of VQT AG beginning on January 1, 2025 or - if the Agreement only becomes effective in a later financial year - of that later financial year in which the Agreement becomes effective pursuant to Section 7 para. 2 of the Agreement (Section 2 para. 2 of the Agreement). Pursuant to Section 7 (4) of the Agreement, the obligation to transfer profits shall become due in each case upon adoption of the annual financial statements for the relevant financial year by VQT AG.

With these provisions, the legal requirements within the meaning of Sections 291 (1) Sentence 1 and 301 i. V. m. 300 No. 1 AktG are fulfilled.

With regard to the different dates of accrual of the profit transfer claim and the compensation claim, the Federal Court of Justice held that equal treatment of outside shareholders, whose compensation claim is due here under § 4 of the agreement, with the controlling company is neither possible nor necessary (Federal Court of Justice, April 19, 2011, II ZR 237/09).

3.4. Loss absorption (Sec. 302 AktG)

Pursuant to Art. 3 par. 1 of the agreement, Fahrenheit AcquiCo undertakes to compensate for any net loss for the year in accordance with the provisions of Art. 302 par. 1 AktG as amended. The provisions of section 302 AktG shall apply in their entirety and as amended from time to time.

This provision, with its dynamic reference, therefore fully complies with the requirements of the entire Section 302 AktG.

Pursuant to Section 3 (2) of the Agreement, the obligation to compensate losses exists for the first time for the financial year of VQT AG in which the Agreement becomes effective pursuant to Section 7 (2) of the Agreement. In terms of content, this corresponds to the legal requirements and case law.

Pursuant to Section 3 (3) of the agreement, the obligation to compensate for losses is due at the end of the respective financial year of VQT AG. If the Agreement ends during a financial year of VQT AG, the obligation to compensate losses for this financial year shall fall due upon termination of the Agreement. Any surplus or deficit shall be determined by means of an interim balance sheet (Koch, AktG, 17th ed., 2023, Section 302, para. 11).

3.5. Guaranteed dividend and compensation payment (Sec. 304 AktG)

Fahrenheit AcquiCo guarantees to the outside shareholders of VQT AG for the fiscal year of VQT AG beginning on January 1, 2024, the payment of a certain share of profits pursuant to Section 4 (3) of the Agreement ("Guaranteed Dividend"). To the extent that the dividend paid by VQT AG for the financial year 2024 (including any interim payments, but before deduction of any withholding taxes) per registered no-par value share of VQT AG falls short of this Guaranteed Dividend, Fahrenheit AcquiCo will pay each outside shareholder of VQT AG the corresponding difference per VQT AG share.

Pursuant to Section 4 para. 2 of the Agreement, Fahrenheit AcquiCo further undertakes to pay the outside shareholders of VQT AG a recurring cash benefit (compensation payment) for the duration of the Agreement as of the financial year in which the claim for profit transfer becomes effective, i.e. in all likelihood as of the financial year 2025 (Section 2 para. 3 of the Agreement).

The Guaranteed Dividend and the Compensation Payment (together the "Compensation") amount to EUR 1.18 gross per VQT AG share for each full fiscal year of VQT AG, less any amount for corporate income tax and solidarity surcharge according to the respective tax rate applicable for these taxes for the respective fiscal year. At the time of the conclusion of the Agreement, this results in a net compensation payment in the amount of EUR 1.16 per VQT AG share for a full financial year of VQT AG. For clarification purposes, it is pointed out in § 4 para. 4 of the Agreement that, to the extent required by law, withholding taxes incurred will be withheld from the guarantee payment or the compensation payment.

Pursuant to Section 4 (5) of the agreement, the guarantee payment or the compensation payment is due on the third business day after the Annual General Meeting of VQT AG for the respective past financial year. However, the compensatory payment is due no later than eight months after the end of the respective financial year.

In its leading sentence decision of April 19, 2011 (II ZR 237/09), the Federal Court of Justice (BGH) expressly stated that the compensation claim arises anew each year at the end of the Annual General Meeting of the dependent company following a fiscal year if, as here, no deviating provision is provided for in the agreement (see also OLG Stuttgart, April 3, 2012, 20 W 6/09).

The granting of the fixed compensation is in line with the statutory provision in section 304 (1) sentences 1 and 2 AktG.

With regard to the determination of the amount of compensation, reference is made to section 7.2 of this audit report.

The compensation payment will be granted for the first time for the entire financial year for which the claim to profit transfer becomes effective. Assuming that the agreement becomes effective by entry in the commercial register in the calendar year 2023, this will be the case from the financial year 2025 of VQT AG. The payment will be made for the first time after the Annual General Meeting of VQT AG in the following financial year.

If the Agreement ends during a financial year of VQT AG or if VQT AG forms a short financial year during the period for which the obligation to transfer profits exists, the compensation payment for the financial year concerned shall be reduced pro rata temporis (Section 4 (6) of the Agreement).

The agreement does not contain any provision regarding a possible pro rata compensation if, for example, a squeeze-out of minority shareholders becomes effective during a fiscal year. With regard to the squeeze-out procedure under stock corporation law, the Federal Court of Justice (BGH) has clarified that there is no pro rata claim to payment of compensation (BGH, April 19, 2011, II ZR 237/09). Nor does the transfer of shares terminate the domination and profit and loss transfer agreement (OLG Stuttgart, April 3, 2012, 20 W 6/09). In the absence of contractual or statutory provisions, therefore, no pro rata compensation is payable in the event of the squeeze-out of minority shareholders.

§ Section 4 (7) of the agreement stipulates that in the event of an increase in the share capital of VQT AG from company funds through the issue of new shares, the compensation per share shall be reduced to the extent that the total amount of the compensation remains unchanged. According to the prevailing view, this reduction already occurs on a statutory basis even without an express contractual provision. In the event of a capital increase by means of cash and/or non-cash contributions by shareholders, the rights under § 4 of the agreement also apply to the shares acquired by outside shareholders from this capital increase. The beginning of the entitlement from the new shares according to § 4 of the Agreement, results from the profit share entitlement determined by VQT AG upon issuance of the new shares.

§ Sec. 4 (8) of the agreement corresponds to the statutory provision in Sec. 13 Spruchverfahrensgesetz (German Appraisal Proceedings Act), according to which the decision of the appraisal proceedings is effective for and against all, including those shareholders who have already withdrawn from the legal entity concerned in return for the original compensation under the domination and profit and loss transfer agreement or other compensation. Beyond the statutory provision of Sec. 13 Spruchverfahrensgesetz, all other outside shareholders will likewise be treated equally if Fahrenheit AcquiCo undertakes to make a higher settlement payment in a settlement recorded by a court or determined by a court in accordance with Sec. 11 (4) SpruchG to terminate a legal dispute.

3.6. Fair settlement payment (Section 305 AktG)

Pursuant to Section 5 (1) of the Agreement, Fahrenheit AcquiCo undertakes, at the request of any outside shareholder of VQT AG, to acquire the latter's shares against payment of a fair settlement settlement in the amount of EUR 21,80 per VQT AG share.

The choice of the type of compensation is made on the basis of Section 305 (2) no. 3 of the German Stock Corporation Act (AktG) and is therefore in line with the statutory provision of Section 305 AktG.

Pursuant to Section 5 (2) of the Agreement, the obligation to acquire the shares is limited in time; the period ends two months after the date on which the entry of the existence of this Agreement in the Commercial Register of VQT AG has been published in accordance with Section 10 of the German Commercial Code. An extension of the period pursuant to Section 305 para. 4 sentence 3 German Stock Corporation Act due to an application for determination of the appropriate compensation or the appropriate settlement by the court determined in Section 2 SpruchG shall remain unaffected. This provision complies with the requirements of Section 305 (4) sentence 2 AktG. By virtue of statutory and corresponding contractual provisions, the publication of the court decision in the Federal Gazette shall take the place of this announcement if the determination of the compensation and/or the settlement has been applied for in the appraisal proceedings (section 305 (4) sentence 3 AktG).

In the event that the share capital of VQT AG is increased from company funds against the issue of new shares by the expiry of the period specified in § 5 para. 2 of the Agreement, the compensation per share shall be reduced from this point in time to the extent that the total amount of the compensation remains unchanged. In the event that the share capital of VQT AG is increased by means of a capital increase against contributions in cash and/or in kind, the rights under Section 5 of the Agreement shall also apply to the shares subscribed by outside shareholders from the capital increase (Section 5 (3) of the Agreement).

The agreement does not provide for interest to be paid. Accordingly, the statutory provision applies, according to which the fair settlement payment is subject to interest at an annual rate of five percentage points above the respective prime rate pursuant to section 247 of the German Civil Code (Bürgerliches Gesetzbuch - BGB) after the date on which the domination and profit and loss transfer agreement became effective, and the assertion of further damages is not excluded (section 305 (3) sentence 3 AktG).

§ Section 5 (4) of the agreement regulates the modalities for the transfer of VQT AG shares in return for compensation. There are no statutory requirements in this respect.

In the event of appraisal proceedings in which a higher compensation is legally determined by a court, the outside shareholders who have already been compensated may also demand a corresponding supplement to their compensation in accordance with Art. 5 par. 5 of the agreement. Likewise, all other outside shareholders shall be treated equally, including the outside shareholders already compensated in accordance with § 5 of the Agreement, if Fahrenheit AcquiCo undertakes to pay a higher compensation in a settlement recorded by a court or determined by a court in accordance with § 11 para. 4 SpruchG to end an arbitration proceeding (§ 5 para. 5 of the Agreement).

Section 5 (6) of the agreement stipulates that, in the event of termination of the agreement at a point in time after the expiry of the periods specified in Section 5 (1) or (2) of the agreement, any outside shareholder of VQT AG at that time has the right to offer its VQT AG shares held at that time to Fahrenheit AcquiCo in return for compensation in accordance with Section 5 (1) of the agreement. Fahrenheit AcquiCo shall then be obliged to acquire the VQT AG shares offered by the outside shareholder in return for compensation pursuant to § 5 para. 1 of the Agreement. If the compensation referred to in § 5 para. 1 of the agreement is increased by a final decision in appraisal proceedings or by a settlement recorded by a court or determined by a court pursuant to § 11 para. 4 SpruchG, Fahrenheit AcquiCo shall acquire the VQT AG shares for the increased compensation. Furthermore, § 5 para. 6 of the agreement regulates the tender period, as the previously outlined right is limited in time. The period ends two months after the day on which the entry of the termination of the Agreement in the Commercial Register has been announced in accordance with Section 10 HGB. In addition, Section 5 (6) of the agreement regulates the modalities for delivery and transfer, as well as details on interest.

3.7. Duration and termination of the contract

Section 7 (1) of the Agreement stipulates that the Agreement requires the approval of the General Meeting of VQT AG and the approval of the Shareholders' Meeting of Fahrenheit AcquiCo in order to become effective. The Agreement shall become effective upon entry in the Commercial Register of VQT AG, but no earlier than at the beginning of the fiscal year of VQT AG commencing on January 1, 2024 (Section 7 para. 2 of the Agreement). The Agreement shall apply with regard to the obligation to transfer profits pursuant to Section 2 of the Agreement from the beginning of the financial year of VQT AG beginning on January 1, 2025 or retroactively from the beginning of a later financial year in which this Agreement becomes effective. With regard to the obligation to transfer losses, the Agreement shall apply from the beginning of the financial year in which this Agreement becomes effective pursuant to Section 7 (2) of the Agreement.

Pursuant to Section 7 (5) of the agreement, Fahrenheit AcquiCo may terminate the agreement at any time by giving six months' notice to the end of a fiscal year of VQT AG, but no earlier than the end of a minimum term (Fixed Minimum Term). This Fixed Minimum Term shall end upon the expiry of the fiscal year of VQT AG after the expiry of which the minimum tax term of a profit and loss transfer agreement prescribed in Section 14 (1) sentence 1 no. 3 KStG in the version applicable to the relevant period for the recognition of a consolidated tax group for corporate income tax and trade tax purposes has been fulfilled, however, no earlier than five full time years for which the profit and loss transfer obligation pursuant to Section 2 of the Agreement first applies. The ordinary right of termination of VQT AG is excluded.

§ Section 8 of the contract contains various final provisions.

3.8. Conclusion

As a result of our audit, we conclude that the Domination and Profit and Loss Transfer Agreement contains the components required by §§ 291 et seq. AktG in full and correctly and therefore complies with the legal requirements.

4. Review of the appropriateness of the valuation method

4.1. General

The basis for determining the compensation and fair settlement payment shall be the results of a company valuation, unless the higher market price is decisive for the compensation and fair settlement payment, taking into account supreme court rulings. Section 10 of the contract report contains information on the determination and justification of the appropriate settlement and compensation.

In the Expert Opinion, which is attached as Annex 5 to the Contract Report, it is stated that the valuation principles have been applied which are today considered to be reliable in the theory and practice of business valuation and which are reflected in the pronouncements of the Institut der Wirtschaftsprüfer e. V. ("IDW"), in particular in the IDW Standard "Principles for the Performance of Business Valuations" in the version of April 2, 2008 (IDW S 1 as amended in 2008). In order to derive the arithmetical cash compensation, the company valuation was carried out using the capitalized earnings value method. In order to assess the company value of VQT AG, the valuation expert determined the company value on the basis of the capitalized earnings value method, which is predominantly recognized in the practice of company valuation and by case law. Accordingly, the valuation expert derived the objectified company value in accordance with IDW S 1 in the 2008 version in the function of a neutral expert.

According to prevailing case law and valuation practice, which is also followed by the present valuation, compensation and settlement are to be derived from objectified enterprise values. The objectified company value represents an intersubjectively verifiable future success value from the point of view of the shareholders, which results from the continuation of the company on the basis of the existing company concept. In the case of valuation occasions under company law and contractual agreements, the valuation is carried out from the perspective of a domestic natural person with unlimited tax liability as a shareholder (IDW S 1 in the 2008 version, para. 31). Based on this valuation perspective, the objectified enterprise value is determined in the context of structural measures under stock corporation law according to personal income tax.

As will be explained in detail below, we consider the explanations and comments contained in the joint report on the valuation method applied and the decision on the amount of compensation and settlement to be accurate.

4.2. Capitalized Earnings Value

The value of a company is determined on the assumption of exclusively financial targets by the present value of the net cashflows to the company owners associated with ownership of the company. This future earnings value is basically derived from the freely available financial surpluses that can be generated if the company continues to operate. The liquidation value of non-operating (neutral) assets may also be added. To derive the present value of these surpluses, a discount rate is used which represents the return on an alternative investment that is adequate for the investment in the company to be valued.

The present value of future surpluses thus forms the theoretically correct value of a company. According to IDW S 1 in the 2008 version, para. 7, the enterprise value can be determined as the future earnings value using the capitalized earnings value method or the discounted cash flow methods. In the present case, the enterprise value of VQT AG was determined by the valuation expert EY according to the capitalized earnings value method, which is the most widely used method in the context of structural measures under stock corporation law in Germany and is recognized by the courts. Given the same valuation assumptions, in particular with regard to financing and the risk content of the tax shields, as well as the use of suitable formulas for adjusting the beta factor to the capital structure, both methods lead to comparable company values (IDW S 1 in the 2008 version, para. 101).

Despite the general prevalence of the capitalized earnings method, it should be noted that this method is associated with uncertainties. Therefore, even the present business valuation by the valuation expert cannot determine a mathematically exact or true business value as of the reporting date (BGH, February 23, 2023, II ZB 12/21; BVerfG, May 24, 2012, I BvR 3221/10; BGH, September 29, 2015, II ZB 23/14/14; OLG Munich, July 14, 2009, 31 Wx 121/06). The numerous prognostic estimates and methodological individual decisions are in each case not amenable to a judgment of correctness, but only to a judgment of defensibility (OLG Munich, September 2, 2019, 31 Wx 358/16; OLG Stuttgart, October 17, 2011, 20 W 7/11).

The valuation of VQT AG was carried out by the valuation expert in accordance with the prevailing opinion in case law and valuation practice on a "**stand-alone basis**" (OLG Munich, September 2, 2019, 31 Wx 358/16; OLG Frankfurt, March 28, 2014, 21 W 15/11; OLG Stuttgart, June 5, 2013, 20 W 6/10; Popp, AG 2010, pp. 1, 2; van Rossum, in: Münchener Komm. zum AktG, 5th ed, 2020, § 305 para. 171; Koch, AktG, 17th ed., 2023, § 305 para. 33; crit.: Krieger, in: Münch. Hdb. AG, 5th ed., 2020, § 71, para. 135; Koch, Aktiengesetz, 16th ed., 2022, § 305, para. 33). Accordingly, no effects are to be taken into account in the valuation which only arise as a result of the implementation of the structural measure itself. The entitlement to appropriate cash compensation does not grant a right to participate in benefits that would not have arisen at all without the measure (LG Stuttgart, September 17, 2018, 31 O 1/15).

With regard to the consideration of possible synergy effects, a distinction is made in case law and in IDW S 1 in the 2008 version between genuine and non-genuine synergy effects (in detail Popp/Ruthardt, § 12 Bewertungsmethoden im Spiegel der Rechtsprechung, in: Fleischer/Hüttemann, Rechtshandbuch Unternehmensbewertung, 2nd ed. 2019, para. 12.25 ff.). The overriding objective of enabling minority shareholders to leave the company without economic disadvantages means that such synergy effects that occur at the company to be valued as a result of the grouping measure must be disregarded (BGH, March 4, 1998, II ZB 5/97). The inclusion of genuine synergies, for which structural measures are usually carried out, is not required by law and is not indicated in the context of the objectified valuation according to the prevailing opinion in case law (OLG Munich, January 19, 2022, 31 Wx 366/17; OLG Düsseldorf, July 8, 2021, 26 W 10/20; OLG Stuttgart, March 30, 2021, 20 W 8/19; OLG Frankfurt, January 26, 2017, 21 W 75/15).

Genuine synergy effects only arise upon implementation of the measure underlying the reason for the valuation (here: domination and profit and loss transfer agreement). In other words, genuine synergy effects cannot be realized without the implementation of the structural measure - i.e. the reason for the valuation.

So-called **pseudo synergy effects** are characterized by the fact that they can be realized without carrying out the measure underlying the reason for the valuation (WPH Edition, Bewertung und Transaktionsberatung, 2018, chap. C, para. 120). In this context, the OLG Munich rightly emphasizes that only hypothetically possible, fictitious developments are not a sufficient basis for a forecast of the future earnings of the company to be valued (March 31, 2008, 31 Wx 88/06). In the context of determining the objectified enterprise value, the surpluses from non-genuine synergy effects are to be taken into account (IDW S 1 in the 2008 version, para. 34). However, this only applies to the extent that the synergy-creating measures have already been initiated or

documented in the corporate concept (OLG Frankfurt, January 26, 2017, 21 W 75/15; OLG Düsseldorf, March 10, 2016, 26 W 14/13).

In the context of inter-company agreements, it is useful to distinguish between pre-contractual and contractual synergies. **Pre-contractual synergies** are those that can already be achieved in the de facto group relationship (Sec. 311 et seq. AktG) even without an inter-company agreement (i.e. non-genuine synergies or synergies that are independent of the structural measure in question: LG Stuttgart, September 17, 2018, 31 O 1/15). In contrast, **contractual synergies** require further intervention measures that can only be presented on the basis of a domination agreement (Popp/Ruthardt, § 12 Bewertungsmethoden im Spiegel der Rechtsprechung, in: Fleischer/Hüttemann (ed.), Rechtshandbuch Unternehmensbewertung, 2nd ed. 2019, para. 12.28).

As part of our audit procedures, we discussed the synergy issue with the Management Board of VQT AG. According to the information provided to us and the findings obtained during the audit, the current structure of VQT AG and the planning calculation reflect all (non-genuine) synergy effects that are sufficiently concrete from the perspective of the valuation date and that are to be expected without the implementation of the measure on which the valuation is based here (control and profit and loss transfer agreement). Synergies that can only be realized through the conclusion of the domination and profit and loss transfer agreement are not included in the planning calculation.

Integrated business planning comprises the planned investment, distribution, retention and financing policies. If the integrated planning model results in a temporary need for capital after the planned debt financing has been utilized, this can be financed by not distributing profits. This form of internal financing in the detailed planning phase (so-called **actual retention of earnings**) can be used to repay liabilities or for operationally necessary investments. According to IDW S 1 in the 2008 version, para. 35, the determination of objectified enterprise values is to be based on the distribution of those financial surpluses which are available for distribution after taking into account the documented business concept and legal restrictions. The distribution volume is shown in the so-called **value added from distributions**. In the context of the perpetuity phase (so-called perpetual annuity), it must be assumed that the distribution behavior of the company to be valued is equivalent to the distribution behavior of the alternative investment.

In the pension phase, the company is regularly assumed to grow in line with inflation. Even in the case of a sustained full distribution (sometimes also referred to as a notional full distribution) of the financial surpluses, the capital tied up in the company is subject to inflation-related growth influences, as a result of which the assets and liabilities reported in the budgeted balance sheet at the end of the last year of the detailed planning phase continue to develop in the perpetuity phase as a result of inflation (WPH Edition: Bewertung und Transaktionsberatung, 2018, chap. A para. 455). To finance the balance sheet growth in perpetuity, parts of the sustainable result must be definitely retained, as otherwise no **steady-state** debt level can be realized - so-called **growth-related retention of earnings** (OLG München, 9. April 2021, 31 Wx 2/19; OLG Frankfurt, September 8, 2020, 21 W 121/15; Popp, Der Konzern 2019, p. 105, 108 f.; Popp /Ruthardt, § 12 Bewertungsmethoden im Spiegel der Rechtsprechung, in: Fleischer/Hüttemann (ed.), Rechtshandbuch Unternehmensbewertung, 2nd ed. 2019 , Rz. 12.56).

If (pro rata) amounts are retained from the net income for the year, but no specific use is planned for them, the economically reasonable assumption of reinvestment without affecting the net present value (IDW S. 1 in the 2008 version, para. 37) is usually made for the retained amounts as part of the income capitalization approach. This means that these formally undistributed funds can be represented in terms of value by a fictitious direct allocation of the retained amounts to the shareholders and form the so-called **value-added from retained earnings**. The fictitious investment of the amounts at company level leads to additional income in the years following the initial reinvestment, which increases the value of the company. From the point of view of the typified shareholders, the fictitious direct attribution assumes a capital gain from a tax point of view, which is subject to a lower effective burden of personal income taxes from a valuation point of view. Furthermore, so-called **inflation-induced gains on sale** are to be taken into account when deriving the net income (Popp, Berücksichtigung von Steuern, in: Peemöller (ed.), Praxishandbuch der Unternehmensbewertung, 7th ed., 2019, p. 1425, 1437 et seq.; Popp, Der Konzern 2019, p. 149 et seq.).

Since the determination of the enterprise value is made from the perspective of the owners of the enterprise, the tax charges of the shareholders on the dividends as well as the capital gains have to be taken into account.

The future earnings value is determined by discounting the surpluses using the cost of capital. The tax effects at shareholder level must also be taken into account. According to the professional valuation principles and our opinion, the yield of a share portfolio is to be used as an alternative investment and the average tax burden attributable to such yields is to be determined (IDW S 1 in the 2008 version, para. 93).

Non-operating assets that can be disposed of individually without affecting the actual business discontinuation (criteria of a functional distinction) are taken into account at the liquidation value less the costs of liquidation as well as the tax consequences at the company level. To what extent taxes need to be considered at the level of the owners depends on the intended use of the profits generated (IDW S 1 in the 2008 version, para. 61). Neither the previously discussed option of a one-time tax-free share buyback nor the reinvestment of the liquidation proceeds to the shareholders without affecting the capital value (Wagner et al., WPg 2006, pp. 1005, 1022) are possible without income tax under the current flat rate tax system relevant for VQT AG. If a distribution of the proceeds generated or liquidity not required for operations is assumed, this generally requires the consideration of (typified) personal income taxes of the shareholders (OLG Munich, 9. April 2021, 31 Wx 2/19; Popp/Ruthardt, Section 12 Valuation Methods in the Mirror of Case Law, in: Fleischer/Hüttemann, Rechtshandbuch Unternehmensbewertung, 2nd ed. 2019, para. 12.156; Popp, Der Konzern 2020, p. 177, 179 with further references), although the utilization of a possibly existing tax contribution account pursuant to Section 27 (1) sentence 3 KStG must also be examined.

4.3. Liquidation value

According to the principles for the Performance of Business Valuations, the liquidation value is to be determined as an alternative to the capitalized earnings value if the net present value of the financial surpluses from the liquidation exceeds the capitalized earnings value assuming the company is a going concern (IDW S 1 as amended in 2008, para. 5).

According to the court rulings, the liquidation value should be applied only if there is an intention to actually liquidate the company and the earnings forecasts of the company are negative for a sustained period (BGH, September 18, 2006, II ZR 225/04; OLG Munich, July 30, 2018, 31 Wx 122/16; OLG Munich, July 17, 2014, 31 Wx 407/13; OLG Düsseldorf, June 10, 2009, 26 W 1/07; OLG Düsseldorf, July 29, 2009, 26 W 1/08). June 2009, 26 W 1/07; OLG Düsseldorf, July 29, 2009, 26 W 1/08) or there is a financial necessity to dissolve the business in whole or in part or the continuation of the business does not appear economically justifiable (OLG Zweibrücken, November 23, 2020, 9 W 1/18; OLG Munich, December 15, 2020, 31 Wx 299/16). The consideration specifically of the award decisions under stock corporation law, according to which the liquidation value is not always to be regarded as the lower limit, results not least from the fact that the minority shareholders to be compensated cannot realize it (cf. OLG Frankfurt, September 13, 2021, 21 W 38/15).

However, more recent case law not only differentiates according to whether there is an intention to liquidate the company, but also differentiates according to the reasons for and circumstances of the continuation of possibly unprofitable companies. If there is a legal or factual obligation to continue the business (OLG Düsseldorf, January 28, 2009, 26 W 7/07), a business valuation based on the liquidation value is not possible. Neither is evident in the present case.

In the case that the liquidation value exceeds the going concern value, the IDW is of the opinion that the liquidation value is generally the lower limit for the enterprise value (IDW S 1 as amended in 2008, para. 140). This case constellation can occur in particular in the event of a poor earnings situation. The WPH Edition states: "If an optimal corporate policy is assumed, a company would always have to be liquidated if the going concern value is lower than the liquidation value, i.e. if a higher financial surplus could be achieved through liquidation (and subsequent investment elsewhere) than with a going concern with the actually planned corporate policy. If, nevertheless, in reality companies are continued with a liquidation value above the going concern value, this can be explained by the fact that subjective, possibly also non-financial value concepts of the company owners come to the fore or the management of the company does not pursue an optimal company policy for the shareholders." (WPH Edition, Valuation and Transaction Advisory, 2018, ch. A, para. 155).

Since such non-financial value concepts are to be abstracted from in the context of an objectified business valuation, "the (lower) going concern value may only be used in the business valuation if there is a legal or actual constraint (e.g. as a result of a testamentary obligation, public-law obligations, public pressure). In all other cases, however, the liquidation value forms the lower limit of the business valuation" (WPH Edition: Bewertung und Transaktionsberatung, 2018, Chap. A, para. 156).

Since in the present case the Company is to be continued as a going concern for an indefinite period and it can also be assumed that the capitalized earnings value would be higher than the corresponding liquidation value in the event of liquidation due to the costs incurred in the event of liquidation (e.g. social plans, compensation, costs of winding up), the valuation expert has made an approximate derivation of the liquidation value. We have examined the rough liquidation value calculation prepared by the valuation expert.

Within the framework of the rough liquidation value determination, the valuation expert has refrained from taking into account expenses incurred in a fictitious liquidation (e.g. social plan and liquidation costs). As a result, the valuation expert arrives at a value below the capitalized earnings value in the rough liquidation value determination.

We have analyzed the rough calculation of the liquidation value prepared by the valuation expert and consider it to be appropriate.

4.4. Substance value

In contrast to the liquidation value, the net asset value as defined by IDW S 1 is without any informative value when determining the overall value of a going concern, even if there are plans to liquidate the business (IDW S 1 as amended in 2008, para. 6; OLG Stuttgart, 14. September 2011, 20 W 6/08; OLG Düsseldorf, January 28, 2009, 26 W 7/07; Popp/Ruthardt, § 12 Bewertungsmethoden im Spiegel der Rechtsprechung, in: Fleischer/Hüttemann (ed.), Rechtshandbuch Unternehmensbewertung, 2nd ed. 2019, para. 12.162; Großfeld/Egger/Tönnies, Recht der Unternehmensbewertung, 9th ed, 2020, p. 29; LG München, February 14, 2014, 5 HK O 16505/08). Even in the case of an assumed liquidation, it is not the net asset value but the liquidation value that is to be applied. It was therefore not necessary to determine the net asset value.

4.5. Market Prices

Since September 30, 2016, the shares of VQT AG have been listed on the regulated market of the Frankfurt Stock Exchange (Xetra) under the International Securities Identification Number ("ISIN") DE0006636681 and the Securities Identification Number ("WKN") 663668. Therefore, the use of the stock exchange price as a basis for the determination or as a lower limit of the settlement or compensation payment is generally possible.

In its DAT/ALTANA decision of April 27, 1999 (1 BvR 1613/94), the Federal Constitutional Court emphasized the relevance of the market price as a lower limit for the assessment of compensation in the event of the conclusion of a profit and loss transfer agreement and integration. These principles are to be applied to a domination and profit and loss transfer agreement under stock corporation law (BGH, July 19, 2010, II ZR 18/09).

In economic terms, the market price can be justified as the lower limit of compensation. This "lower limit" is determined by the possible divestment value or, more precisely, the divestment price. The divestment price is the price at which an individual share (not a bundle of shares or even the company as a whole) could have been sold on the market - actually and voluntarily - abstracting from the structural measure (cf. in detail on the significance of the stock exchange price Ruthardt/Popp, AG 2020, p. 240, 244 et seq.; FAUB, WPg 2021, p. 958 et seq.). The criteria of Section 5 (4) WpÜG Offer Ordinance can be used as an indication for the examination of voluntary saleability (OLG Karlsruhe, September 12, 2017, 12 W 1/17; OLG Frankfurt a.M., March 28, 2014, 21 W 15/11; LG Stuttgart, May 8, 2019, 31 O 25/13).

However, the requirement to take the market price into account when determining the appropriate compensation does not apply without restriction. Undercutting the market price may be considered if, in exceptional cases, the market price does not reflect the fair value of the shares. This is the case in particular if there has been virtually no trading in the company's shares over a longer period of time, if the individual shareholder is unable to sell his shares at the stock exchange price due to a tight market or if the stock exchange price has been manipulated (Adolff/Häller, Börsenkurs und Unternehmensbewertung, in: Fleischer/Hüttemann (ed.), Rechtshandbuch Unternehmensbewertung, 2nd ed. 2019, para. 18.82 ff.).

According to the decision of the Federal Court of Justice (BGH) of July 19, 2010 (II ZR 18/09, "Stollwerck"), the stock market value of the share on which the appropriate compensation is to be based in connection with the squeeze-out of minority shareholders is generally to be calculated on the basis of a weighted average price within a three-month period prior to the announcement of the structural measure. With this decision, the BGH abandoned its previous case law on the end of the reference period immediately prior to the Annual General Meeting and followed the predominant view in the literature (for all: Adolff, Unternehmensbewertung im Recht der börsennotierten Aktiengesellschaft, 2007, p. 335 f.) and valuation practice.

In its decision of February 21, 2023 (II ZB 12/21), the Federal Court of Justice confirmed that recourse to the market price of a company can be a suitable method of determining the compensation payment under Section 304 AktG and the fair settlement payment under Section 305 AktG.

The Management Board of VQT AG informed the shareholders via an ad hoc announcement dated December 9, 2022 about the anticipated domination and profit and loss transfer agreement respectively the merger agreement with Fahrenheit AcquiCo GmbH. At the time VQT AG started negotiations with Fahrenheit AcquiCo about a domination and profit and loss transfer agreement, the shares of VQT AG were thus still traded on a regulated stock exchange.

4.6. Comparative valuation

In addition to discounted cash flow-based valuation methods, valuation practice also uses so-called multiples of various indicators to estimate provisional enterprise values, value ranges or for plausibility purposes. Like the capitalized earnings method, this valuation concept follows the principle of an earnings-oriented valuation, but the enterprise value is determined on the basis of a multiple of a performance indicator. The multiples method is based on a comparative valuation in the sense that suitable multiples are derived from capital market data of listed comparable companies or transactions and transferred to the company to be valued.

Such multiples-based valuations only represent simplified value determinations, but can provide indications for a plausibility check in individual cases (IDW S 1 in the 2008 version, para. 143; OLG Düsseldorf, 29. October 2018, 26 W 13/17; critical of the informative value: OLG Frankfurt, January 17, 2017, 21 W 37/12; OLG Frankfurt May 2, 2011, 21 W 3/11; OLG Frankfurt, February 15, 2010, 5 W 52/09; LG München I, December 2, 2016, 5 HK 5781/15). In the opinion of the Higher Regional Court Stuttgart, a multiplier analysis can at most confirm the result of a fundamental valuation, but not refute it (OLG Stuttgart, January 11, 20 W 10/19). In addition to the analytical valuation carried out according to the capitalized earnings value method, the valuation expert carried out a comparative valuation using analysts' estimates (stock market multiples) and transactions that had actually taken place (transaction multiples) to check plausibility.

We have followed the calculations of the valuation expert. As a result of these plausibility checks, it can be stated that the fundamental, objectified company value for VQT derived in accordance with IDW S 1 in the 2008 version is above the market valuations of comparable companies or historical transactions.

4.7. Prior acquisitions by Fahrenheit AcquiCo

In its decision of April 27, 1999, the Federal Constitutional Court stated that the prices actually paid by a majority shareholder for shares in a dependent company can be disregarded in the valuation of share ownership for the purpose of calculating compensation pursuant to Section 305 of the German Stock Corporation Act (AktG) because they regularly bear no relation either to the "true" value of share ownership in the hands of the outside shareholders or to the market value of the shares (BVerfG, April 27, 1999, 1 BvR 1613/94, AG 1999, p. 566, 568). The considerations of a majority shareholder who may be prepared to accept excessive prices in the run-up to and in preparation for a measure under company law - such as in the context of a takeover bid -

are only determinative for the majority shareholder, whereas they have no significance for third parties. From the point of view of a minority shareholder, the (increased) price paid by the majority shareholder for individual shares can only be achieved if he succeeds in selling precisely his shares to the majority shareholder. However, there is no constitutional entitlement to this. This decision is in line with the prevailing opinion in the literature and the case law of the highest courts (for all: van Rossum, in: Münchener Kommentar zum AktG, 5th ed., 2020, Section 305, para. 91; BGH, July 19, 2010, II ZB 18/09).

A comparable decision was made by the ECJ on October 15, 2009 (Case C 101/08, AG 2009, p. 821 et seq.). In the opinion of the ECJ, Community law does not contain any legal principle that protects minority shareholders to the extent that the majority shareholder is obliged to buy their shares on the same terms as those agreed when acquiring a shareholding that gives the majority shareholder control or strengthens its control. The irrelevance of prices paid by the principal shareholder has been expressly reiterated by the BGH (July 19, 2010, II ZR 18/09), the OLG Munich (June 26, 2018, 31 Wx 382/15), the OLG Düsseldorf (March 22, 2018, 26 W 20/14), the OLG Stuttgart (May 4, 2011, 20 W 11/08), the OLG Frankfurt (November 24, 2011, 21 W 7/11) and the OLG Hamburg (October 8, 2018, 13 W 20/16); March 27, 2012, 13 W 20/09).

The Higher Regional Court (OLG) of Frankfurt recently clarified that, as a rule, prior acquisition prices are of no significance for the assessment of compensation. However, this rule does not prevent the consideration of pre-acquisition prices as market prices within the scope of the estimate pursuant to Sec. 287 ZPO in individual cases. This applies in particular if an "elevated" price (meaning an included package premium) cannot be determined (OLG Frankfurt, September 13, 2021, 21 W 38/15).

In summary, it should be noted that prior acquisition prices from previous share purchases are not relevant to the valuation.

4.8. Method for determining the fair settlement payment

Pursuant to Art. 305 AktG, the domination and profit and loss transfer agreement must contain an obligation on the part of the other party to the agreement to acquire the shares of an outside shareholder at the latter's request in return for appropriate compensation as specified in the agreement.

Pursuant to Sec. 305 (3) Sentence 2 AktG, the appropriate compensation must take into account the circumstances of the Company at the time of the resolution by its Annual General Meeting on the transfer of the shares. Appropriate compensation is compensation at the full, actual value of the shareholding in the Company. The person leaving the company should receive what his share in the company is worth in terms of the intrinsic value of the working company as a whole (BVerfG of August 7, 1962, 1 BvL 16/60 and BVerfG of April 27, 1999, 1 BvR 1613/94).

In the present case, the compensation determined is based on the enterprise value derived from the capitalized earnings value, taking into account the non-operating assets. The settlement was derived exclusively on the basis of the capitalized earnings value method in the concept of the objectified enterprise value according to IDW S 1 in the 2008 version.

4.9. Method for determining the compensation payment

With regard to the amount of the compensation, Sec. 304 (2) Sentence 1 AktG stipulates that the annual amount to be paid as compensation shall be at least the amount which, based on the Company's earnings situation to date and its future earnings prospects, taking into account appropriate depreciation, amortization and write-downs, but excluding the formation of other revenue reserves, could probably be distributed as an average share of profits among the individual shares. Accordingly, the outside shareholders shall in principle be entitled to the amount as future average profit share which they could expect if the profit and loss transfer agreement had not been concluded. The decisive factor is therefore what the Company could sustainably distribute as a dividend.

According to prevailing opinion, the average amount provided for by law is derived by annuitizing the enterprise value. Due to the generally unlimited term of the business contracts, this mathematical relationship can be represented as a perpetual annuity by transforming the general calculation formula for the enterprise value.

$$UW = \frac{E}{i} \quad \text{bzw.} \quad E = UW * i$$

To determine the settlement amount (E), the enterprise value (UW) determined for the settlement was correctly converted into an annuity by multiplying it by an annuity interest rate (i).

4.10. Result

In summary, we consider the capitalized earnings value method used here to value the Company and derive the compensation and settlement offered to be appropriate within the meaning of Sec. 293e (1) Sentence 3 No. 2 AktG.

According to our audit findings, other methods were not applicable and were not used. The determination of the enterprise value of VQT AG for the determination of compensation and settlement was exclusively based on the capitalized earnings value method in the concept of objectified enterprise value according to IDW S 1 in the version 2008.

The exclusive use of the capitalized earnings value (including non-operating assets) to determine the cash settlement and the compensation means that there is no need to report on the weighting of different methods in accordance with Sec. 293e (1) Sentence 3 No. 3 AktG.

Based on the results of our audit, we believe that the disclosures and explanations in the contract report regarding the valuation method used and the decision on the amount of compensation and settlement are appropriate.

5. Procedure for reviewing the appropriateness of compensation and fair settlement payment

The appropriate cash compensation and settlement must take into account the circumstances of the Company at the time of the resolution of its Annual General Meeting deciding on the domination and profit and loss transfer agreement.

The company valuation is based on the corporate planning of VQT AG for the years 2023 to 2026, which also includes the consolidated subsidiaries and associated companies and thus corresponds to the scope of consolidation of VQT AG. As part of our audit, we examined the planning for consistency and plausibility of the assumptions (IDW Practice Note 2/2017, para. 5). We based our audit procedures on historical analyses, explanations of the planning by the management, working documents of the valuation expert and published market and competition-related information. For the internal plausibility check, the Executive Board of VQT AG explained to us in detail the business activities as well as the bases and assumptions of the planning calculation. For the external plausibility check of the planning, we have also determined various key figures and carried out comparisons with market and competitive information. For details, please refer to our comments below.

For the historical analyses, we mainly had at our disposal the reports on the audit of the consolidated financial statements of VQT AG for the financial years 2020, 2021 and 2022, the separate financial statements of VQT AG for the financial years 2020, 2021 and 2022 as well as account statements and evaluations of the internal controlling regarding the earnings situation for the first quarter of the financial year 2023. Significant influencing factors of the historical development were additionally explained to us by the named respondents in discussions.

As VQT AG prepares consolidated financial statements which are audited by Rödl & Partner, the valuation expert derived the enterprise value as an overall value based on consolidated results.

For the examination of the company valuation, we used the valuation model provided by the valuation expert in electronic form as well as the expert opinion. In assessing the methodological approach, we examined whether the principles of IDW S 1 in the 2008 version had been observed. We examined the discount rate on the basis of the working documents of the valuation expert and publicly available capital market data. On the basis of the audit reports on the annual financial

statements and interviews with the respondents named to us, we examined whether non-operating assets should be recognized separately.

In reviewing the determination of the capitalized earnings value and the calculation of the compensation payment and the cash settlement, we have defined the following key audit areas:

1. Completeness of the mapping of the valuation object,
2. Analysis of adjustments in the context of the historical analysis,
3. Plausibility of the approved planning, taking into account current and reflecting historical business developments,
4. Applicable application of IDW S 1 as amended in 2008,
5. Derive convergence phase and sustainable outcome,
6. Compilation of the peer group and derivation of the beta factor,
7. Derivation and valuation of non-operating assets and other assets included in the valuation method as special values, taking into account tax effects,
8. Determination of the compensation payment.

The differing opinions that existed on specific points were discussed during the course of the audit between Ebner Stolz and the valuation expert, EY. Regarding the final status of the valuation work, there were no differences of opinion between Ebner Stolz and EY that would impact our judgment of appropriateness. Accordingly, our audit report is not limited in any aspect and fully confirms the adequacy of the determined compensation and fair settlement payment.

6. Audit findings in detail

The general valuation principles explained in section 4. form a framework that must be substantiated in individual cases. As explained below, we have satisfied ourselves of the appropriateness of the implementation of the general valuation principles in the concrete methodical approach to the valuation of VQT AG.

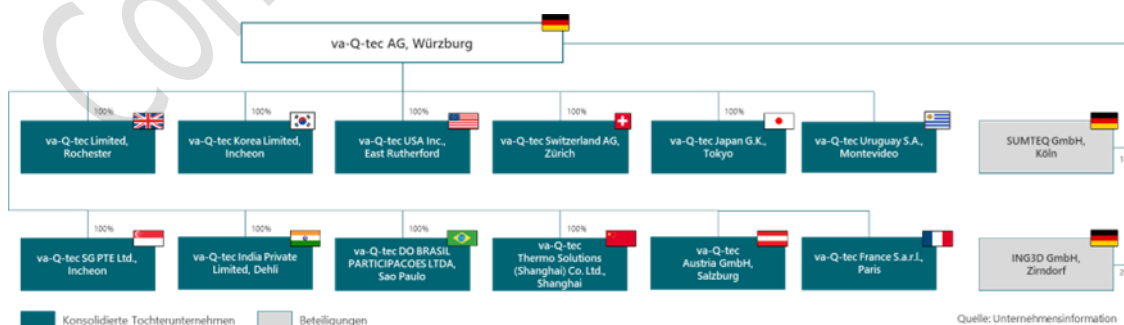
The company value of VQT AG was derived by the valuation expert from the capitalized earnings value of the current business plus special values. In our opinion, this specific approach is appropriate and adequately reflects the value of VQT AG in the valuation model. VQT AG appropriately in the valuation model.

We have followed all significant steps in performing the valuation, in particular with regard to deriving the financial surpluses available for distribution, determining the discount rate and discounting the surpluses to the valuation date.

6.1. Valuation object

a) Legal and tax relations

The valuation object is va-Q-tec AG, with its registered office at Alfred-Nobel-Str. 33, 97080 Würzburg, Germany, including its consolidated subsidiaries. VQT AG is entered in the Commercial Register of the Local Court of Würzburg under the number HRB 7368. The structure under company law is shown in the following organizational chart:



According to § 2 of the Articles of Association, the object of the company is the development, production and distribution of innovative insulation components and systems, in particular vacuum insulation systems, heat and cold storage components and system solutions with these components. Furthermore, the object of the company is the development, production and distribution of software as well as electronic measuring devices for the measurement of physical quantities as well as the rental of thermal packaging and thermal consulting and development.

The current version of the Articles of Association of VQT AG is dated July 10, 2023.

VQT AG is entitled to establish branches and to acquire interests in similar companies in Germany and abroad. Furthermore, VQT AG may acquire or establish such companies and take over their management and conclude inter-company agreements.

The Company is authorized, either itself or through its subsidiaries, to conduct all transactions and take all measures that are directly useful and/or conducive or indirectly suitable to serve the aforementioned business purpose.

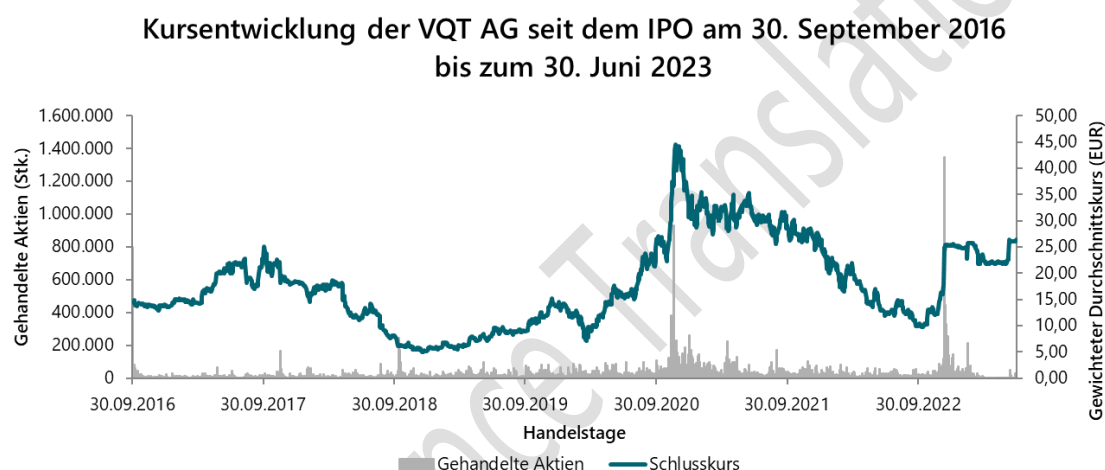
Pursuant to Section 4 of the Articles of Association, the Company is established for an indefinite period. The financial year of VQT AG begins on January 1 and ends on December 31 of each year.

As of December 31, 2022, the share capital of VQT AG amounts to EUR 13,415,000 and is divided into 13,415,000 no-par value registered shares. The arithmetical pro rata amount of the share capital corresponds to EUR 1.00 per share. As of December 31, 2022, 72.7 % of the shares are in free float, 26.7 % of the shares are held by the CEO and founding families and 0.4 % by the CFO and Supervisory Board. VQT AG holds the remaining 0.1 % (13,566 shares) as treasury shares. Pursuant to Section 6 of the Articles of Association, the Executive Board is authorized, with the approval of the Supervisory Board, to increase the Company's share capital up to and including June 1, 2027 by issuing a total of up to 5,366,000 new no-par value registered shares (ordinary shares) on one or more occasions (Authorized Capital 2022/1).

On December 13, 2022, the Executive Board, with the approval of the Supervisory Board, resolved a capital increase against cash contributions in the amount of 10 % of the Company's share capital from authorized capital. This capital increase became effective on July 11, 2023 by registration of the implementation of the capital increase in the commercial register of VQT AG. As a result, 1,341,500 new no-par value registered shares were issued. The issued shares were issued at a price of EUR 26.00. Fahrenheit AcquiCo was entitled to subscribe to the capital increase under exclusion of subscription rights.

At the end of our audit work, the share capital of VQT AG amounts to EUR 14,756,500 and is divided into 14,756,500 no-par value shares. The arithmetical pro rata amount of the share capital corresponds to EUR 1.00 per share. The Company holds 13,566 treasury shares, so that the outstanding share capital comprises 14,742,934 shares.

The shares of VQT AG have been listed on the regulated market of the Frankfurt Stock Exchange (Xetra) under the International Securities Identification Number ("ISIN") DE0006636681 or the Securities Identification Number ("WKN") 663668 since September 30, 2016. The following chart shows the share price development for the period of the regulated listing.



Source: Bloomberg L.P.

In accordance with § 6 of the Articles of Association, the Management Board of VQT AG consists of one or more members. The members of the Management Board are appointed by the Supervisory Board. As of December 31, 2022, the members of the Executive Board are Dr. Joachim Kuhn (Chairman) and Stefan Döhmen (Chief Financial Officer).

VQT AG is subject to unlimited tax liability in the Federal Republic of Germany. Therefore, VQT AG is subject to a corporate income tax rate of 15.0% and the solidarity surcharge of 5.5%. For trade tax purposes, the assessment rates of the municipalities of Würzburg and Kollida of 420% and 400%, respectively, are applicable for VQT AG. The ratio of the wage totals of the two locations based on the tax regulations applies for the trade tax allocation. There are no fiscal unities within the Group for VQT AG.

VQT AG has income tax loss carryforwards, the last determination of which was made by the tax authorities as of December 31, 2020. According to the information provided, the projected corporate income tax and trade tax loss carryforwards as of December 31, 2022 amount to EUR 28,644 thousand and EUR 28,030 thousand, respectively.

In addition, VQT AG has a tax contribution account in accordance with Section 27 KStG. According to the last available assessment notice as of December 31, 2020, this account has a balance of EUR 50,431 thousand. The valuation expert has updated this account on the basis of the underlying tax information and the appropriation of earnings for the financial years 2021 and 2022. As of December 31, 2022, a balance of the tax contribution account of EUR 58,601 thousand was determined. Taking into account the capital increase planned for July 2023, the valuation expert has estimated the tax contribution account at EUR 92,139 thousand for valuation purposes.

b) History of the company

VQT AG was pre-founded as a GmbH (limited liability company) by Dr. Joachim Kuhn and Dr. Roland Caps in August 2000 and converted into a stock corporation with the help of venture capital financing in April 2001. The functionality of the vacuum insulation panels (hereinafter "VIP") was developed and researched in the 1990s at the Bavarian Center for Applied Energy Research (hereinafter "ZAE") by Dr. Joachim Kuhn and Dr. Roland Caps, among others.

In October 2001, VQT AG started its own production of vacuum insulation panels with a total of five employees on the premises of ZAE Bayern. The first in-house developed thermobox was introduced in 2003, followed by the first thermocontainer in 2004. Two years later followed the start of in-house production of phase change materials. The first serial delivery of thermoboxes to a pharmaceutical company took place this year.

In 2006, VQT AG started the production of Phase Change Materials (hereafter "PCM"). Driven by the boom of the biotech industry and its increasing demand for high performance thermal containers since 2005, the first thermal boxes were produced in large quantities for one of the leading pharmaceutical companies in 2007. In 2008, the first VIP with PowTec technology was delivered by VQT AG to the household appliance industry.

The production facility in Kölleda/Thuringia was made possible by further venture capital financing in 2009 and expanded by the construction of another production hall the following year. In 2011, VQT UK in Rochester and VQT Korea were founded, which at the same time marked the start of the Services segment. In 2012, further venture capital financing enabled the company to expand further.

In 2014 and in line with the further expansion of the business, VQT AG opened a new location in the USA by establishing VQT USA.

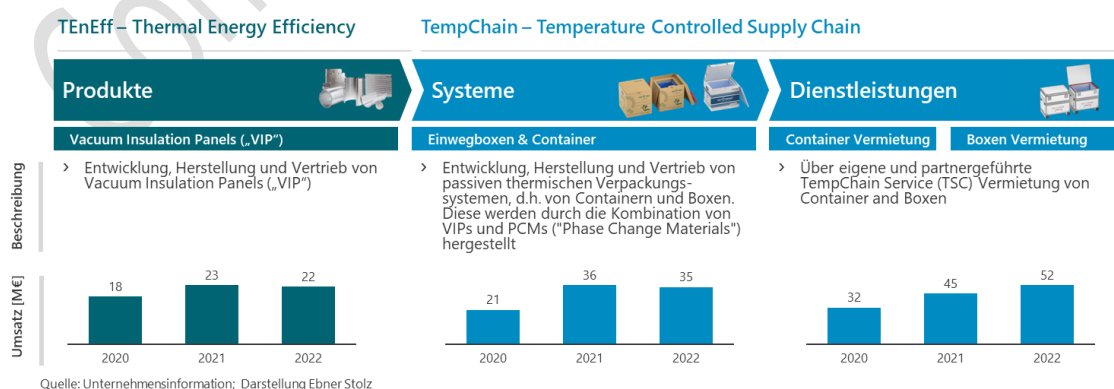
In 2015, the preparations for the IPO of VQT AG started. The IPO of VQT AG took place on September 30, 2016 with an issue price of EUR 12.30 per share. A total of 6,738,656 shares were placed, generating an issue volume of MEUR 82.9. Significant parts of the proceeds were used for the expansion of the Services segment.

Between 2017 and 2022, this was followed by the opening of further sites in the USA, Japan, Switzerland, Uruguay, Brazil, India, China, France and Austria.

c) Business model

The business activity includes the development and production of VIPs and PCMs which are used, among others, for the own production of thermal packaging systems. In addition, VQT AG offers a rental service for the use of the produced thermal packaging systems.

The products of VQT AG are organized in the two main areas (business units) Thermal Energy Efficiency ("TEEff") and Temperature Controlled Supply Chain ("TempChain"). This includes the three business units "Products", "Systems" and "Services" as illustrated in the following diagram:



Business Unit Products

In the Products business unit, VQT AG offers vacuum insulation panels ("VIP") and phase change materials (PCM), which are manufactured independently at the production sites in Würzburg and Kölleda and are used as the basis for the production of thermal packaging systems. In doing so, VQT AG covers the entire value chain from development to sales.

VIPs are high-performance insulation materials, which, unlike conventional insulation materials, are characterized by their thinner walls. VIPs consist of microporous powder, which is packaged and vacuumed gas-tight and wrapped in a special film to protect the material from air and water vapor. To ensure quality assurance, VQT AG installs a sensor in each VIP so that its functionality and efficiency can later be checked with an external measuring device.

VIPs can achieve a service life of up to 50 years and can be manufactured in any desired shape to suit customer needs. VIPs are used, for example, in buildings, refrigerators and freezers, industrial products and within thermal packaging solutions.

PCMs are used in thermal packaging systems manufactured by VQT AG and perform the task of temperature regulation in them. PCMs are characterized by a special composition of kerosenes and salts, which can ensure temperature regulation during a wide variety of transports. For example, PCMs absorb heat during the melting process and release it again when they freeze. Heat or cold that enters the transport container during transport can be regulated by PCM technology, thereby ensuring temperature stability. Due to the different composition of PCMs, temperature ranges from -50 degrees Celsius to +37 degrees Celsius can be offered as possible transport temperatures.

PCMs account for only a very small proportion of the sales volumes of the Products Business Unit. However, PCMs are an essential component of the boxes and containers produced by the Systems Business Unit (see below).

Systems Business Unit

In the Systems business unit, VQT AG uses the VIP and PCM products developed in-house to produce thermal packaging systems. These packaging systems use the technologies of these products to ensure reliable temperature control for transport without relying on an external energy supply. The thermal packaging systems are capable of ensuring a continuous cold chain of up to 200 hours. Any interruptions to the cold chain caused by opening the systems are regulated by the installed PCMs and therefore do not represent an impairment.

VQT AG produces the packaging systems in different sizes, from small transport boxes to large transport containers. In addition, individual customer solutions are also possible if necessary.

The thermal packaging systems are used in particular in the pharmaceutical and biotechnology sectors, industrial products and foodstuffs. The packaging systems can be delivered by plane, ship, truck or other means of transport.

Services business unit

The business unit Services offers customers of VQT AG the possibility to rent thermal packaging systems and use them for transport purposes. To provide this service, VQT AG has about 40 global Temperature Controlled Supply Chain (TempChain) centers, which can use a contingent of about 3,000 transport containers and about 30,000 transport boxes. Customers can commission VQT AG via TempChain Services, a web-based software solution.

This business model offers VQT AG's customers increased flexibility, as the rental offer combined with the approximately 100 airlines and logistics partners provides an attractive ad-hoc model for logistics. The added value for the customer consists of a secured temperature-stable transport of temperature-sensitive products.

d) Result

According to our findings during the audit, the valuation object is fully reflected in the valuation performed by EY.

6.2. Valuation date

The valuation date for the appropriate compensation is August 29, 2023. This is correct pursuant to Section 305 (3) sentence 2 AktG, as this is the date on which the Annual General Meeting of VQT AG is to resolve on the domination and profit and loss transfer agreement.

The calculation of the compensation payment is to be derived arithmetically from the determined capitalized earnings value at the beginning of the financial year for which the domination and profit and loss transfer agreement takes effect or is to take effect (WPH Edition: Bewertung und Transaktionsberatung, 2018 Ch. C, para. 82; Popp, WPg 2008, p. 29; OLG Munich, March 11, 2020, 31 Wx 341/17 in conjunction with. LG Munich I, April 28, 2017, 5 HJ IO 4736/11; OLG Düsseldorf, October 29, 2018, 26 W 13/17; OLG Frankfurt, January 26, 2015, 21 W 26/13). The valuation expert has appropriately carried out the calculation of the compensation payment on the basis of the capitalized earnings value as of January 1, 2024.

The valuation expert has set January 1, 2023 as the technical valuation date and has geometrically discounted the financial surpluses available for distribution in the future to this date. The capitalized earnings value as of January 1, 2023 was then discounted to August 29, 2023.

Taking into account an discount rate of 8.21% for VQT AG and 241 days until the Annual General Meeting, the following compounding factor results for VQT AG:

$$\text{Geometric compounding: } 1.0535 = (1 + 8.21 \%)^{241/365}$$

We consider this approach to be appropriate. We have satisfied ourselves as to the arithmetical correctness of the compounding to the valuation date and the preceding discounting.

It should be noted in passing that linear compounding, in which the compounding factor is multiplied by the capitalization interest rate of the first plan year is multiplied by the quotient of the number of days up to the valuation date and the number of days of the entire year (365 days) is not appropriate because it does not reflect compound interest effects during the year. Furthermore, the determination of a technical cut-off date including compounding to the valuation date must lead to the same result as a direct discounting of net income to the valuation date (Popp, Berücksichtigung von Steuern, in Peemöller (ed.), Praxishandbuch der Unternehmensbewertung, 8th ed., 2023, pp. 1567, 1586).

6.3. Capitalized Earnings Value

a) Analysis of past results

In order to assess the existing earning power and to evaluate the plausibility of the planning calculation, the valuation expert analyzed past results based on the financial data of the valuation object for the fiscal years 2020 to 2022 and broke down, adjusted and explained expenses and income in order to identify the income and expense items that were causative for the business performance in the past.

For the audit of the historical analysis, we had at our disposal the consolidated and annual financial statements prepared in accordance with International Financial Reporting Standards (IFRS) for the financial years 2020 to 2022. The financial statements were audited in accordance with Section 315e (1) HGB in conjunction with Sections 316 et seq. HGB. In addition, we were provided with various internal accounting evaluations for this period. In addition, we were provided with details of the adjustments to earnings presented in the expert opinion of the valuation expert. On this basis, we subjected the analyses of the valuation expert to a plausibility check.

In the course of presenting the historical results of operations, a breakdown of sales by geographical segment is made at the consolidated level within the consolidated financial statements.

A detailed explanation of the development of the financial position, net assets and results of operations in the financial years 2020 to 2022 can be found in the expert opinion of EY (section 3). We have reviewed these explanations on the basis of the documents made available to us and consider the findings of the valuation expert to be appropriate, in particular with regard to the causes of the revenue and earnings development.

VQT AG adjustments - fiscal year 2020 to 2022

In the following, we present and explain the adjustments of certain exceptional income and expense items of the past results. These are specific business transactions of a one-time, non-recurring or non-operating nature that are to be normalized in order to derive a sustainable level of earnings. The presentation shows unadjusted historical EBITDA as well as adjustments made by management and the valuation expert for the financial years 2020 to 2022.

Adjustments as of 31 December	#	Act FY 20	Act FY 21	Act FY 22
		kEUR	kEUR	kEUR
EBITDA (unadjusted)		11.399	17.794	7.736
Adjustments				
Transaction costs	[1]			6.657
Normalisations from taxes and customs	[2]	-922	763	1.299
Variable remuneration of employees	[3]	-63		
Vested rights under IAS 17	[4]	-2.397	-1.651	-979
Compensation	[5]		1.756	-612
Implementation of ERP and rental software	[6]		32	255
Normalisations due to damaged goods	[7]		100	-75
Advice on product manufacture	[8]		612	36
Extraordinary special payments to employees	[9]		703	
Recruitment of Managing Directors	[10]		122	
20th company anniversary	[11]		321	
Overpayment to Irish tax authorities	[12]	-131		
Normalisation of marketing and sales activities due to COVID-19	[13]	-718	-798	
Employment dispute	[14]		30	55
Asset disposals	[15]	-56	-46	-166
Adjustments		-4.286	1.943	6.470
EBITDA (adjusted)		7.113	19.737	14.206
<i>EBITDA-margin (unadjusted)</i>		<i>14,3%</i>	<i>15,0%</i>	<i>6,6%</i>
<i>EBITDA-margin (adjusted)</i>		<i>9,0%</i>	<i>16,7%</i>	<i>12,1%</i>
<i>* in % of total output</i>				

[1] In connection with the takeover offer of VQT AG with Fahrenheit Aquico GmbH, incurred consulting and transaction costs have been adjusted.

[2] Based on an audit of tax and customs transactions, it was found that the tax treatment of leased containers in some countries did not fully comply with legal requirements. Management assumed that global air cargo transportation services would be tax exempt. A contracted tax consulting firm concluded that this management assumption was not factual. Furthermore, the tax consulting firm was mandated to quantify these tax and customs risks and to limit and, if necessary, correct any misconduct through subsequent reporting. Therefore, management adjusted the tax arrears incurred and allocated the tax payments to the corresponding assessment years based on causation.

[3] In fiscal year 2022, the management of VQT recognized that no provision had been recognized for agreed variable compensation of employees for fiscal year 2021. Accordingly, personnel expenses for fiscal year 2021 were at a lower level. Furthermore, the variable compensation for the 2020 financial year was recognized in the 2021 financial year. The accrual was offset in the adjusted data in the 2022 annual report. However, an understatement of personnel expenses remains for fiscal 2020. Therefore, the valuation expert has increased the personnel expenses to a business-usual level.

[4] Prior to fiscal year 2019, VQT AG entered into a sale and leaseback transaction for some containers. For the accounting of this transaction, the company applied IAS 17 and used this accounting standard also after the transition to IFRS 16. According to IAS 17, this transaction was classified as a finance lease and accrued profits from the sale of the containers were deferred over the term of the lease. This resulted in a special item recognized as a liability, which will be reversed over five years until December 31, 2023. With the adoption of IFRS 16, the Company discontinued the sale and leaseback model and entered exclusively into contracts where the assets are acquired through installment payments. Management considers the resulting other operating income to be unusual for the business and adjusted the release of the special item. A corresponding adjustment was made to depreciation and amortization, which means that this adjustment has no impact on EBIT.

[5] Due to contractual agreements with a customer, the VQT receives compensation if a minimum quantity of containers is not purchased. At the end of the COVID-19 vaccination campaign, this customer's vaccine was in lower demand, which is why the compensation event occurred. Management adjusted the compensation payment and assumed in their normalizations that revenue would have occurred in line with the customer's projected sales. According to the information provided, the contract was terminated and all compensation payments were incurred in fiscal year 2022. There is no impact on fiscal 2023.

In addition, VQT built and opened a TempChain Service Center in South Africa in fiscal year 2021 at the request of a major customer. It was agreed that the related costs would be borne by the customer. The costs were assumed in June 2022. EUR 368 thousand of the costs assumed are attributable to the financial year 2021 and were allocated to the financial year 2021 in the course of the adjustment of results.

[6] On January 1, 2022, VQT implemented a new ERP system. In addition, the company implemented a network optimization project for the container and box rental software, which was rolled out from November 2022. The objective includes an improved tracking system and increased process digitalization. Management considers the costs incurred to be unusual for the business and has adjusted the amounts accordingly.

[7] Due to damage to containers during an internal transport from India to Brazil in fiscal year 2021, the Company wrote off the containers. The related insurance reimbursement was not in the full amount of the damage incurred. However, management expected a higher reimbursement from the insurance company in fiscal 2021. Due to the non-recurring nature of this incident, the scrapping costs and insurance reimbursement were adjusted. According to information, the matter has not yet been conclusively resolved in fiscal year 2023.

[8] VQT was advised on the potential for optimization in production management during the pandemic. Due to the one-off nature of the pandemic, management does not consider these costs to be normal for the business and has adjusted the costs in fiscal year 2021. In fiscal year 2022, the costs incurred in fiscal year 2022 were offset against the provision recognized.

[9] During the COVID 19 pandemic, the Company granted tax-free bonuses to its employees based on temporary legal regulations. In the opinion of management, these were one-time and not performance-related bonuses, and the Company has therefore adjusted these payments.

[10] In the financial year 2021, the Company incurred above-average recruitment costs for the recruitment of new managing directors in the United Kingdom and Singapore. These costs were deemed to be unusual for the business.

[11] The costs for the 20th anniversary of the company in fiscal 2021 were adjusted due to their non-recurring nature.

[12] In the financial year 2016, the Company received an excess tax refund from the Irish tax authorities. As the overpayment was not reclaimed even after a request by VQT AG, the corresponding provision has been reversed.

[13] Due to the pandemic-related contact restrictions, travel activities for VQT AG employees were on a reduced level in the financial years 2020 and 2021. These effects cannot be considered sustainable due to the one-time nature of the imposed contact restrictions during the pandemic. Therefore, for the purpose of deriving a normalized EBITDA, the reduced travel activities were adjusted to a normal business level. For reasons of consistency, revenue generated as a result of the pandemic and cost variances also caused by the pandemic would have to be adjusted accordingly. However, as VQT benefited from the increased demand for vaccines during the pandemic and vaccine deliveries are part of VQT's regular business operations irrespective of the pandemic, no corresponding adjustments were made at revenue level.

[14] In addition, the costs of labor disputes were adjusted due to their unusual nature for business.

[15] All gains and losses in connection with asset disposals have been deemed non-operational and eliminated accordingly.

As part of our audit, we reconciled the past results with the corresponding consolidated financial statements. Furthermore, we performed our own analyses of possible matters to be adjusted and discussed these with the valuation expert. In addition, we understood the adjustments presented by the valuation expert. We consider the adjustments, restatements and comments on the results of operations made by the valuation expert to be complete and appropriate.

b) Market and competitive conditions

In addition to the analysis of the historical business development, the knowledge of the market and competitive environment relevant for the valuation object serves as a basic understanding for the plausibility check of a corporate planning. The expert opinion of EY contains an explanation of the market and competitive environment relevant for VQT AG. On the basis of the documents made available to us and our own research, we have reviewed the statements of EY and supplemented them with our own analyses.

Overall economic development

Global economic development in 2020 and 2021 was significantly influenced by the COVID-19 pandemic. It is undisputed that the progress of national vaccination campaigns and the containment of the pandemic had a significant impact on economic development. However, the COVID-19 pandemic also had a positive impact in certain industries, such as the "cold chain logistics" market relevant to VQT, as the crisis led to a significant increase in demand for these services and transportation products to deliver vaccines worldwide.

The war of aggression launched by Russia against Ukraine on February 24, 2022 also had a significant impact on global economic development. Overall, however, it was already apparent in 2022 that the war and the sanctions imposed on Russia had a significant impact on the global economy.

A significant slowdown in global economic momentum was reported from the second half of 2022. The war in Ukraine not only caused a humanitarian crisis, but also resulted in rising inflation due to rising energy prices in Europe. Rising energy prices combined with supply chain disruptions have slowed activity in key or critical production locations.

According to the IMF, there were initial signs at the beginning of 2023 that the global economy was recovering slightly. However, the outlook for the following years is still moderate, which can be seen in the restrictive political measures. The increase in central bank interest rates to combat this has flattened the rapidly rising inflation, but price pressures are proving stubborn due to the ongoing war and the fragmentation of labor markets. Another cause is the financial sector, which has come under pressure due to interest rate developments. Countries that have recently suffered greatly under COVID-19, such as China in particular, are showing a trend toward economic recovery. The IMF anticipates a decline in interest rates as soon as target inflation is reached again. However, the IMF still expects a significant slowdown in economic growth in the advanced economies.¹

¹ Cf. IMF (World Economic Outlook April 2023).

According to the IMF's January 2023 projections, expected global real GDP is expected to grow at 2.9% in 2023 and 3.1% in 2024. In April 2023, the IMF again updated its projections, slightly lowering expected global real GDP growth to 2.8% in 2023 and from 3.0% in 2024. The IMF's projection implies a further expected slowdown in economic growth compared to the 2022 growth of 3.4%. According to the IMF, inflation has declined due to interest rate policies, but price pressures have proved persistent. In addition, rising borrowing costs and fluctuating financial conditions are causing uncertainty, which would lead to a slowdown in economic growth.²

Inflation rates were significantly elevated within the euro zone in 2022. According to the IMF, higher inflation expectations result in most cases from pandemic-related imbalances between supply and demand and higher commodity prices. According to the IMF, eurozone inflation has risen from 4.7% in 2021 to 8.0% in 2022. For 2023 and 2024, inflation is expected to fall to 5.3% and 2.9% respectively. This is still above the pre-pandemic (2019) level of 1.2%.³

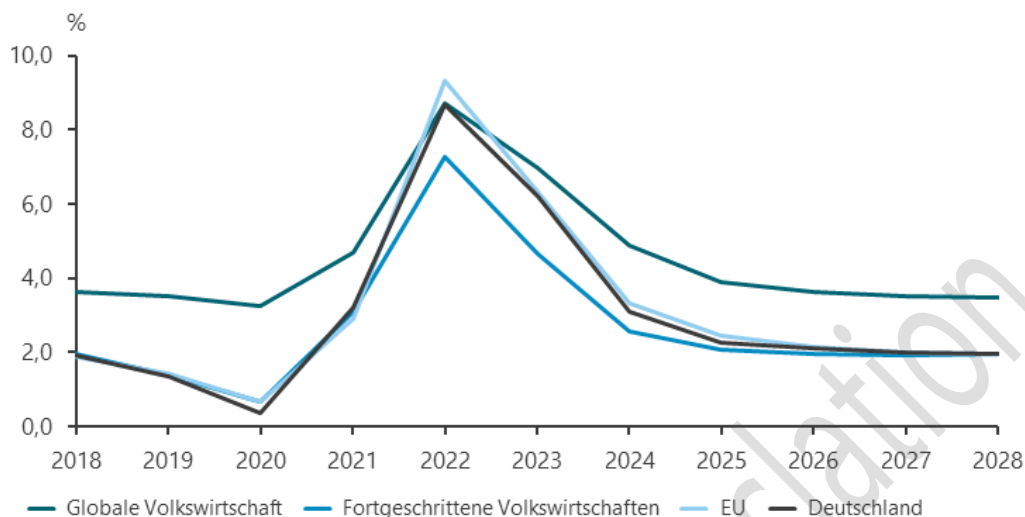
According to the IMF, the decline in inflation momentum reflects, on the one hand, the interest rate policy of central banks and, on the other, declining price developments in the food and energy sectors. It also reflects the cooling effects of monetary tightening on underlying inflation. Nevertheless, the decline in inflation will take time. Only from 2025 onward is projected average annual inflation expected to be close to the central banks' 2% target. In the long term, the IMF expects inflation to be in line with the central banks' anticipated target inflation of around 2% from 2026 for the advanced economies including the EU and Germany.⁴

² Cf. IMF (World Economic Outlook April 2023).

³ Cf. IMF (World Economic Outlook April 2023).

⁴ Cf. IMF (World Economic Outlook April 2023).

Prognostizierte Inflation ausgewählter Volkswirtschaften in %



Quelle: IWF – World Economic Outlook April 2023 und IWF Datenbank vom 5. Juli 2023

According to the EU Commission, the EU economy grew by 5.3% in 2021. Growth of 3.5% is anticipated for 2022 and 1.0% for 2023. Despite a 0.1% decline in GDP in the fourth quarter of 2022, the EU Commission notes that the EU economy performed better than expected over the past winter, which is why the projected overall GDP growth in the EU in 2023 of 3.5% is higher than the 3.3% expected in the European Commission's fall forecast. As a result of the better than expected economic development in the winter months, the EU Commission slightly reduced its annual forecast for 2023 with an inflation rate of 9.2% in the EU and 8.4% in the euro area. For 2024, real GDP growth of 1.0% is expected in the EU⁵, which is below the IMF's expectations of 1.4%.⁶

Price-adjusted GDP in Germany was 1.8% higher in 2022 than in the previous year.⁷ Germany's economic performance is currently suffering from high price increases and the resulting decline in consumer spending. Government consumer spending was also down.⁸ The IMF predicts growth rates of 0.1%, 1.4%, and 2.2% for the years 2023 to 2025.

⁵ Cf. European Commission (Spring 2023 Economic Forecast).

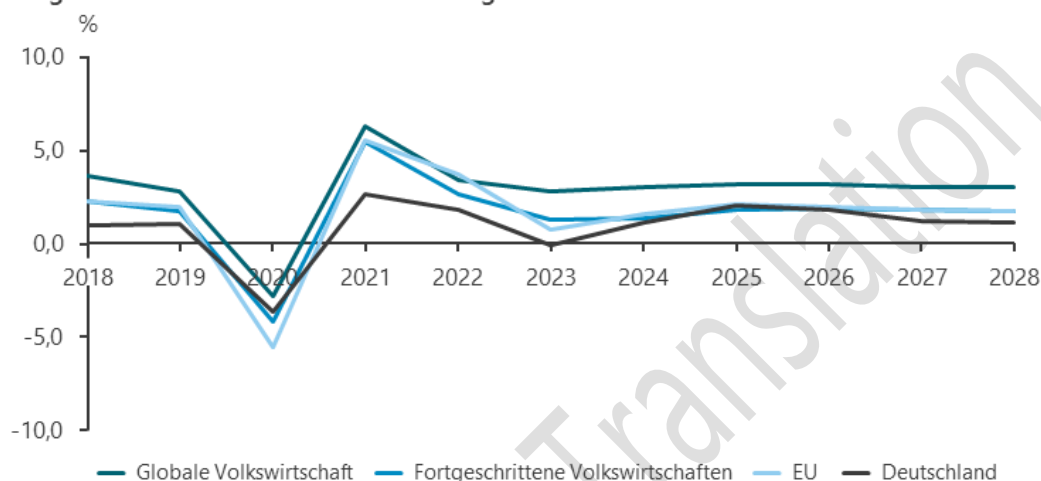
⁶ Cf. IMF (World Economic Outlook April 2023).

⁷ Cf. Destatis (national accounts as of May 2023).

⁸ Cf. Destatis (press release No. 203, May 25, 2023).

Inflation in Germany has had a strong impact on the development of the economy. According to the German Federal Statistical Office, the inflation rate rose by 6.4% year-on-year in June 2023. For food in particular, the inflation rate was well above average at 13.7%. By contrast, the inflation rate for energy prices at 3.0% and for services at 5.3% proved to be below average.⁹

Prognostiziertes Wachstum des BIP ausgewählter Volkswirtschaften in %



Quelle: IWF – World Economic Outlook April 2023 und IWF Datenbank vom 5. Juli 2023

According to the Macroeconomic Policy Institute ("IMK"), the economic outlook in Germany has deteriorated significantly in recent weeks. The current three-month outlook from June to August 2023 indicates a recession probability of 49.3%, the highest level since November 2022. In May 2023, the probability was still 37.6%.¹⁰

⁹ Cf. Destatis (press release No. 255 of June 29, 2023).

¹⁰ Cf. IMK (press release, June 15, 2023).

Market analysis

VQT AG acts as a producer and supplier of innovative insulation solutions such as vacuum insulation panels, thermal energy storage components as well as thermoboxes and containers for the transport of temperature-sensitive goods. The company's products and services are used in the transport of pharmaceutical products, in buildings, in technology and industry and the automotive sector. VQT AG divides its activities into two main business areas: "Thermal Energy Efficiency" (hereinafter "TEnEff") and "Temperature Controlled Supply Chain" (hereinafter "TempChain"). The first business unit focuses on the sale of thermally efficient products such as VIPs, while the second focuses on the sale or rental of special boxes and containers to customers with temperature-sensitive logistics needs. Historically, the TempChain business unit has generated the majority of the businesses sales.

The company offers services and products for various end markets worldwide, primarily for the healthcare and logistics ("H&L"), household appliances and food ("A&F"), and technology and industry ("T&I") sectors. Other smaller end markets include the construction and mobility sectors.

a.) Vacuum insulation panels

Vacuum insulation panels ("VIP") are high performance insulation materials used as an alternative to conventional insulation materials. VIPs consist of microporous powder that is packed and evacuated gas-tight and wrapped in a special film. The aim is to protect the material from air and water vapor. To ensure quality assurance, internal sensors are installed to check the functionality and durability of the VIPs during use of the product. VIPs are used primarily in the construction, refrigeration, mobility and industrial sectors. In addition, they form the basis for the transport solutions also marketed by VQT AG.¹¹

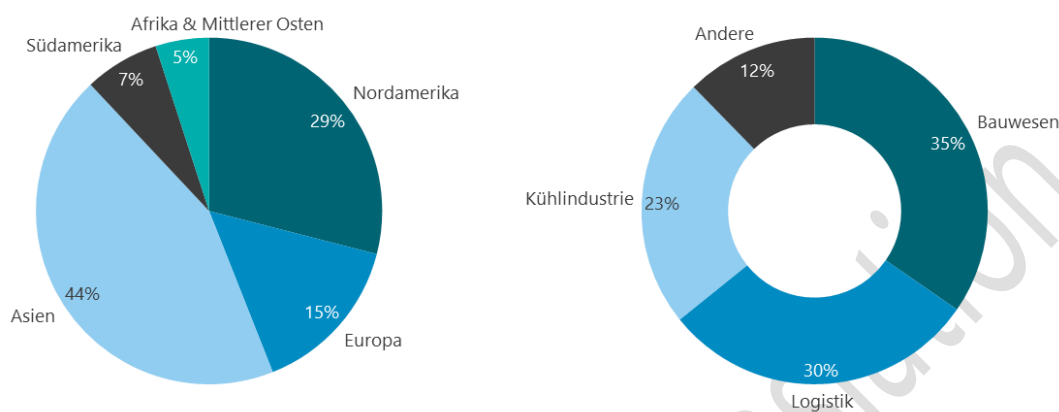
The market for VIPs is expected to grow to approximately USD 7.7 billion in 2023, compared to a market volume of approximately USD 7.33 billion in 2022.¹² The dominant market globally in fiscal 2021 was Asia with approximately 44% market share, followed by North America with 29% and Europe with 15%.¹³ In the long term, the market for VIPs is projected to grow at around USD 9.29 billion in FY2027, registering a CAGR of around 4.8%.

¹¹ Company details, company presentation, company website.

¹² Cf. Business Research Company (Market Report Vacuum Insulation Panels, January 2023).

¹³ Cf. Maximize Market Research (Vacuum Insulation Panels Market Report, November 2022).

Vacuum insulation panels - market share per region and sector in %.



Quelle: Maximize Market Research (Vacuum Insulation Panels Market Report, November 2022)

The high demand from the Asia-Pacific region results primarily from the construction, logistics and refrigeration industries. In particular, VIPs are increasingly in demand in the packaging industry in Asia.¹⁴ In the construction sector, major investments in various Asian countries caused increased demand for VIPs, mainly due to their increased thermal efficiency compared to conventional insulation technologies. In addition, smaller size volumes are an advantage over original insulation solutions. Another reason for the increasing demand for VIPs can be seen in the increased requirements to cope with climate change, which puts an additional focus on thermal efficiency, especially in the building sector.¹⁵ Consequently, the building sector accounts for the largest market share in FY 2021 at 35.0%, followed by the logistics and refrigeration sectors at 30.0% and 23.0%, respectively.¹⁶ For these reasons, it is anticipated that the aforementioned benefits will lead to increased use of VIPs for insulation purposes in the future. In addition, high investments and correspondingly increased demand for VIPs are expected, especially in the Asian region. In addition, stricter building regulations and guidelines on more energy-efficient solutions in the construction sector are expected to create an increased demand for improved insulation materials, whereby vacuum insulation panels in particular could be used as an insulation solution.¹⁷

¹⁴ Cf. Maximize Market Research (Vacuum Insulation Panels Market Report, November 2022).

¹⁵ Cf. Mordor Intelligence (Market Report Vacuum Insulation Panel).

¹⁶ Cf. Maximize Market Research (Vacuum Insulation Panels Market Report, November 2022).

¹⁷ Cf. Mordor Intelligence (Market Report Vacuum Insulation Panel).

b.) Phase change materials

Phase change materials ("PCMs") are products for temperature regulation. PCMs are characterized by a special composition of kerosenes and salts that can provide temperature regulation during a wide variety of transports. PCMs absorb heat during the melting process and release the heat during the straightening process. As a result, heat or cold can be regulated during transportation based on PCM technology and ensure temperature stability. Different compositions of PCMs can enable temperature ranges from -50 degrees Celsius to +37 degrees Celsius as possible temperature ranges. PCMs are used in the construction, refrigeration, mobility and industrial sectors.¹⁸

In 2021, the phase change materials market in the U.S. was worth approximately \$1,681 billion in the and was mainly divided into inorganic, organic, and bio-based PCMs. In recent years, the PCM market has been negatively impacted by the Corona pandemic. Due to the pandemic-related contact restrictions and the resulting disrupted supply chains, especially in the construction sector, a downward trend in the transportation industry led to lower demand for PCMs.

The market for PCMs is expected to grow significantly by an average of around 18.0% per year in the coming years up to 2029.¹⁹ The increase in demand will be driven mainly by the construction and packaging industries. In the construction sector, PCMs find their application in heating, ventilation and air-conditioning systems based on new technologies, which are expected to see greater demand in the wake of climate change. In Europe, growth expectations are positive due to stricter guidelines in the construction industry for more energy-efficient buildings. In addition, greater environmental awareness and associated energy savings are anticipated, which in turn are expected to boost demand for PCMs.²⁰

c.) Thermologistics

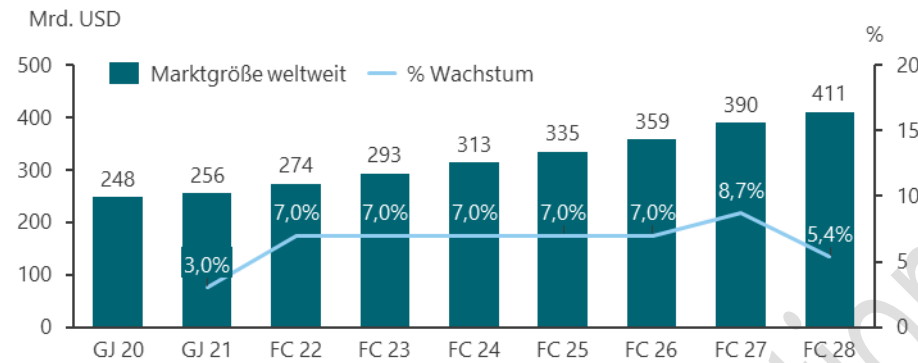
The thermologistics market covers the transport of temperature-sensitive products along a supply chain through thermal and refrigerated packaging, as well as logistics planning. The means of transport used are refrigerated trucks, refrigerated wagons, refrigerated freight and air freight.

¹⁸ Cf. company information, company presentation, company website.

¹⁹ Cf. Mordor Intelligence (Market Report Phase Change Material).

²⁰ Cf. Exactitude Consultancy (Phase Change Material Market).

Cold Chain Logistics –Marktgröße weltweit in Mrd. USD



Quelle: Statista "Cold chain logistics worldwide" 2021

The global cold chain logistics market was estimated at USD 256 billion in 2021.²¹ According to Fortune Business Insights, the market has been growing particularly dynamically since 2020 due to various factors. These factors include:²²

- 1) Increasing demand in the supply of vaccines as a result of the COVID-19 pandemic.
- 2) Increasing demand from the pharmaceutical industry to transport temperature-sensitive complex proteins, hormone treatments, and more complex biologics-based drugs, driven by the industry's stringent product quality and safety regulations.
- 3) Development and expansion of retail chains, convenience stores, hypermarkets and supermarkets abroad (especially emerging markets).
- 4) Reduce food waste in the transportation of perishable goods.

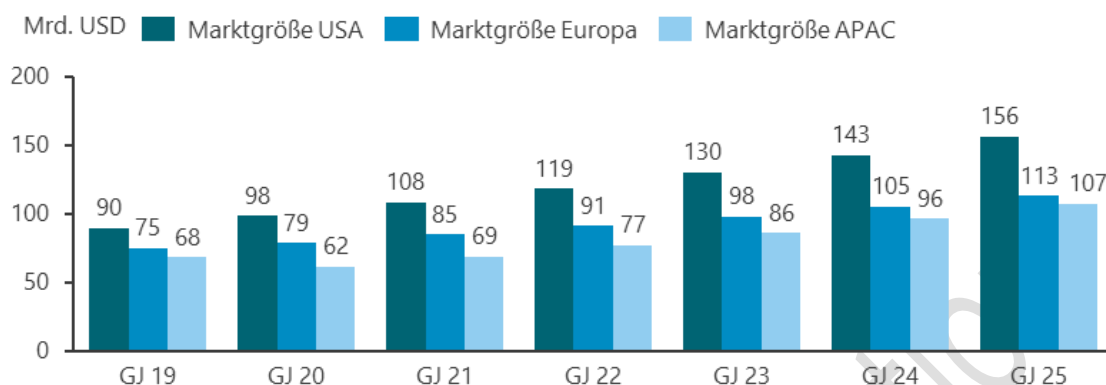
The market was forecast to grow to USD 274 billion in 2022. The market is expected by analysts to reach a level between USD 400 billion and USD 450 billion in 2028, corresponding to an average annual growth of around 6.5% to 8.6%.²³ The highest market growth with an average annual growth rate between 2022 and 2025 of 11.7% is expected for the APAC region, followed by the U.S. with a growth rate of 9.7% and Europe with a growth rate of 7.4%. According to Statista, the U.S. remains the largest market for cold chain logistics in terms of volume, followed by Europe, and in third place is the fast-growing APAC region. Due to the COVID-19 pandemic, an increase in demand for cold chain logistics has been observed in almost all major regions between 2020 and 2022.

²¹ Cf. Statista (Cold chain logistics worldwide, 2021).

²² Cf. Fortune Business Insights (Cold Chain Logistics Market, 2022).

²³ Cf. Vantage Market Research (Cold Chain Logistics Market, 2022).

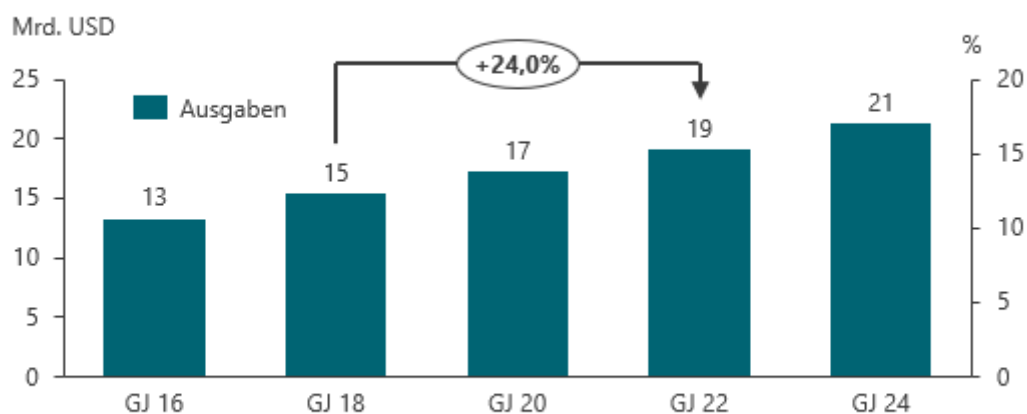
Cold Chain Logistics – Marktgröße pro Region



Quelle: Statista "Cold chain logistics worldwide" 2021

The COVID-19 pandemic was one of the key growth drivers for the industry. According to Statista, biopharma industry spending on services related to cold chain logistics in the COVID-19 pandemic increased by a total of 24% between 2018 and 2022.

Weltweite Ausgaben für die Cold Chain Logistics in der Biopharma Branche



Quelle: Statista "Cold chain logistics worldwide" (2021)

According to analysts at Mordor Intelligence, the U.S. cold chain logistics market is expected to grow at a CAGR of over 4% annually during the forecast period from 2023 to 2028²⁴. Moreover, the COVID-19 pandemic has significantly boosted the domestic e-retail sector and consumption of processed food and beverages, which has increased the demand for cold storage space and logistics. Cold storage rooms and trucks that can store goods in multiple segments at different temperatures have been developed and are gaining popularity in the United States in recent years. These trucks are used primarily in the retail sector, where temperature-controlled goods are delivered in relatively small quantities from regional distribution centers. In addition, demand has been driven primarily by increasing imports and exports of perishable foods, pharmaceuticals, dairy products, etc. The U.S. market is expected to continue to grow as demand from Asian countries for U.S.-produced meat and increasing consumption of organic foods in the U.S. will further increase the need for cold chain logistics.

According to Vanatage Market Research, the last decade has seen a significant increase in industrialization and investment in the APAC region, particularly in China and India, which has contributed to the rapid economic expansion of the region. In order to offer a wide portfolio of products in the cold chain, several key market players in the region, including AmericaCold Logistics (U.S.), Lineage Logistics (U.S.), Nichirei Corporation (Japan), and Agro Merchants Group (U.S.), have invested in further developments. In addition, the APAC region has a robust agricultural manufacturing base, which is critical to the expansion of the cold chain industry. Countries such as South Korea, Japan, China, and India have high demand for meat, dairy, and processed food products, which together drive the cold chain market in the region. In addition, the pharmaceutical industry is driving the market growth of the sector in the APAC region²⁵. According to Statista, the cold chain logistics market in APAC region was valued at USD 68 billion in 2019 and is expected to reach USD 107 billion by 2025.

Cold chain logistics in Europe encompasses the transportation and storage of refrigerated and frozen goods, including production, warehousing, distribution, and logistics, all of which take place in a low-temperature environment. According to Statista, the European cold chain logistics market was estimated at USD 75 billion in 2019 and is expected to reach USD 113 billion by 2025.

²⁴ See Mordor Intelligence (United States Cold Chain Logistics Market size & Share Analysis - Growth Trends & Forecasts (2023-2028)).

²⁵ Cf. Fortune Business Insights (Cold Chain Logistics Market, 2022).

According to Allied Market Insights, the Europe cold chain logistics market is driven by factors such as increasing penetration of e-commerce in the logistics industry, rising number of cold storage facilities, and growing pharmaceutical sector. In addition, poor infrastructure, standardization, higher logistics costs, and lack of control over logistics services by manufacturers and retailers are hindering the growth of the European cold chain logistics market.

However, increasing adoption of IT solutions and automated software for cold chain logistics, cost reductions, and shortening of lead times due to adoption of multimodal systems and RFID technologies for cold chain applications are expected to provide lucrative opportunities for the growth of the European cold chain logistics market.

Outlook

As a producer and service provider in thermal logistics, VQT is active in a market that has fundamentally grown in the past. In particular, the innovations driven by the COVID 19 pandemic, especially in the biotech sector, have changed the market and further boosted growth. The long-term outlook for the development of thermo logistics is therefore fundamentally positive.

In the past, VQT benefited strongly from pandemic-related exogenous effects due to the vaccine campaign. In fiscal year 2022, the sales revenues resulting from the vaccine deliveries collapsed. However, the management of VQT AG anticipates positive future expectations. According to management information, the background is the general growth opportunities due to an increasing globalization of supply chains, especially in the pharmaceutical industry. The growing trend towards biologically based medication solutions is increasing the demand for refrigerated transport solutions. Management sees another growth driver in increasing government regulations. This relates in particular to the regulatory requirements for biotech-based medications.

Furthermore, growth potential is seen in the area of building refurbishment due to increasing regulation in the energy sector. In addition to current political conflicts, the climate protection agenda should be mentioned, which is likely to lead to higher energy price levels in the long term. Management expectations are aimed at long-term cost savings, as consumers would be more likely to find it profitable to renovate buildings better if energy price levels were higher. In addition, management anticipates growth opportunities through further fleet expansion into a broader portfolio of offerings in the existing customer base. The management would like to realize further growth opportunities through market entries into new sectors, such as electric mobility, among others, in the product area (TEneff). Strategically, VQT sees further potential for success through the realization of long-term corporate partnerships.

c) Operational planning calculation

Planning process

The regular planning process begins in September of each year and ends with a Supervisory Board meeting in early December at which the planning is adopted. The present planning covers the years 2023 (budget) and 2024 to 2026. In connection with the process on the intended domination and profit and loss transfer agreement and the public takeover offer, the adoption of the present planning has been delayed until January 2023.

VQT AG's planning process is based on the countercurrent method and combines top-down targets with bottom-up planning. The management communicates top-down targets and plans of the respective business units to the individual sales units, which include sales targets and growth expectations derived on the basis of market analyses and the orientation of the corporate strategy. On the cost side, cost of materials, personnel expenses, other operating income and expenses are communicated to the respective national companies as top-down expectations. The aim is to implement a holistic corporate strategy, ensure cost control and optimize costs as efficiently as possible.

The respective sales unit then plans its sales revenue in a bottom-up approach, taking into account the business-specific market conditions, customer requirements and the competitive environment for each national company. The cost of materials, personnel expenses, other operating income and expenses incurred directly by the sales units are planned locally in the national companies in order to take adequate account of the geographically specific market circumstances.

After taking into account the top-down expectations and the respective bottom-up planning, both planning approaches are harmonized to form a coordinated corporate planning, which forms the basis for the Group planning. The consolidation of corporate plannings takes place subsequently. With this approach, the Company aims to achieve a balance between the growth targets at Group level and the performance targets at the level of the respective business areas.

Due to the international business of the valuation object, the Company is exposed to exchange rate risks. In order to analyze the effects of currency fluctuations, the individual sales units plan in local currency, while top-down planning is done in euros. Exchange rate conversions are carried out on the basis of centrally specified exchange rates from Group Controlling.

The corporate planning available to us is dated February 2, 2023. In accordance with the Management Board resolution of February 2, 2023 made available to us, this corporate planning was approved by the Company's Management Board and the Supervisory Board on February 5, 2023.

Insofar as the persons responsible for planning have described the planning process to us in factual and temporal sequence, we consider the present procedure of planning preparation to be a suitable starting point for the purpose of a company valuation against the background of the business model presented.

Planned/actual comparison

In order to assess the accuracy of the planning, the valuation expert compared the planned earnings situation of the valuation object in the respective previous year on the basis of the budget planning with the corresponding actual earnings situation for the financial years 2020 to 2022 (comparison of planned/actual data). The basis of the comparison of planned/actual data is the unadjusted earnings situation of VQT AG.

In the following overview, we compare the actual figures with the planned figures for the 2020 to 2022 financial years. The analysis is carried out for the items revenue, selected expense items, EBITDA and EBIT.

	Plan FY 20	Act FY 20	%	Plan FY 21	Act FY 21	%	Plan FY 22	Act FY 22	%
	kEUR	kEUR		kEUR	kEUR		kEUR	kEUR	
Revenues	76.535	72.106	-5,8%	93.948	104.063	10,8%	120.925	111.833	-7,5%
Changes in inventories	0	978	n/a	0	2.846	n/a	0	-421	n/a
Own work capitalised	5.884	6.379	8,4%	10.565	11.328	7,2%	7.156	5.725	-20,0%
Total output	82.419	79.463	-3,6%	104.513	118.237	13,1%	128.081	117.137	-8,5%
Cost of materials	-35.258	-32.751	-7,1%	-44.255	-50.482	14,1%	-52.487	-46.701	-11,0%
Gross profit	47.161	46.712	-1,0%	60.258	67.755	12,4%	75.594	70.436	-6,8%
Other operating income	3.382	4.669	38,1%	2.844	4.294	51,0%	2.841	5.666	99,4%
Personnel expenses	-25.457	-26.111	2,6%	-31.596	-33.191	5,0%	-38.525	-37.587	-2,4%
Other operating expenses	-12.101	-13.871	14,6%	-14.506	-21.064	45,2%	-19.474	-30.779	58,1%
EBITDA	12.985	11.399	-12,2%	17.000	17.794	4,7%	20.436	7.736	-62,1%
Depreciation & amortisation	-12.044	-12.299	2,1%	-12.831	-13.655	6,4%	-15.039	-15.000	-0,3%
EBIT	941	-900	n/a	4.169	4.139	-0,7%	5.397	-7.264	n/a

Source: Management informationen, Ebner Stolz analysis

In fiscal 2020, **revenue** fell short of **expectations** by 5.8%. This was due to pandemic-related sales declines. In contrast, the sales shortfalls were only partially offset by new business due to COVID 19 test kit shipments. Own work capitalized was higher due to the production of new rental boxes. Only own work capitalized for containers was below plan. The lower **cost of materials** due to reduced business volumes resulted in a realized gross profit that was almost at the budgeted level. The planned gross profit margin of 57.2% was exceeded by 1.6 percentage points.

Income from foreign currency differences, income not relating to the period under review, asset sales and subleases for the Mainfranken Theater caused **other operating income** to exceed the budget by 38.1%. **Other operating expenses** exceeded the budgeted level by 14.6% due to expenses for foreign currency differences and freight costs. This was due to a sharp increase in freight prices in this financial year. Due to the increased costs, EBITDA was 12.2 % or EUR 1,586 thousand below plan. According to the information provided, foreign currency differences are taken into account in a highly simplified manner in corporate planning; for planning purposes, the Company assumes that expenses and income from foreign currency differences neutralize each other.

Fiscal year 2021 was a successful year for VQT AG due to the pandemic. Exogenous effects, in particular due to the pandemic and the associated vaccine campaign, resulted in **revenues** that were around 10.8% above plan expectations. In addition to temperature-controlled vaccine shipments in the TempChain business, the vacuum insulation panels business also performed well. Own work capitalized exceeded the budgeted figure by 7.2%. This development resulted from increased production of boxes and containers. This was offset by own work capitalized for IT and production.

Due to the higher volume of business and the increase in own work capitalized, the **cost of materials** in fiscal year 2021 was 14.1% higher than planned. Expenses for external services as a component of the cost of materials were above the budgeted level in this financial year due to an increased proportion of temporary workers to cope with peaks in capacity utilization.

Other operating income was 51.0% higher than planned due to foreign currency differences, income not relating to the period under review, and asset disposals. The EUR 1,595k increase in **personnel expenses** resulted from an increase in the number of full-time equivalents by 14 due to the positive business development. Furthermore, one-off effects in the form of bonus payments and premiums in production amounting to EUR 400k were not planned. Compared with the planned personnel expense ratio of 30.2%, the actual personnel expense ratio was 28.1%. **Other operating expenses** exceeded the budgeted level by 45.2%. The main drivers of this development include volume effects in freight costs due to the increase in sales, consulting costs in the course of the capital increase and in connection with measures to improve production, and patent and license fees.

Overall, **EBITDA** was 4.7 percent higher than planned. At 15.0%, the EBITDA margin was around 1.2 percentage points lower than planned. The exogenous effects of the COVID-19 pandemic caused the deviations in **depreciation** from the budget. Due to the increased demand, investments had to be realized earlier than planned, which led to an increase in depreciation and amortization of EUR 580 thousand at VQT AG and EUR 200 thousand at VQT UK. Due to the increased depreciation and amortization, the anticipated planned value was almost reached at the **EBIT** level.

In fiscal year 2022, realized **revenues** were significantly -7.5% below the originally planned level of EUR 120,925 thousand. This was due to reduced revenues from temperature-controlled vaccine shipments caused by the pandemic. Planned vaccine shipments were partially cancelled in full. Own work capitalized was 20% lower than planned. This was due to lower container production volumes of around EUR 660 thousand below the budgeted level. In addition, own work capitalized from IT and production was below plan.

The **cost of materials** was 11.0% below the budgeted figure. This was due to the opposite effect of the 2021 financial year, with less material being required as a result of the lower volume of business and reduced internal services for containers. In addition, inventories were reduced.

Foreign currency differences of approximately EUR 2,100 thousand and asset disposals of EUR 200 thousand were the main reasons why **other operating income** exceeded the budget. **Other operating expenses** were 58.1% higher than planned. This was due to increased transaction, legal and consulting costs in connection with the takeover bid of approximately EUR 6,657 thousand, expenses from foreign currency differences of approximately EUR 1,100 thousand, patent and license fees, maintenance expenses, and travel and entertainment expenses. In addition, expenses in connection with UK tax payments in the amount of approximately EUR 1,300 thousand were responsible for the variance. In summary, these factors result in an **EBITDA** deviation of -62.1% compared with the 2022 plan. For **EBIT**, there is a significant overall deviation of EUR 12,208 thousand from the plan figure of EUR 5,397 thousand.

In her analysis, the valuation expert comes to the conclusion that in the financial years 2020 to 2022, there were mainly deviations from planning due to exogenous effects, predominantly caused by the COVID-19 pandemic and the war in Ukraine and the associated uncertainties. For example, the valuation expert states that the decline in sales to existing customers was caused by the COVID-19 pandemic. Conversely, there were significant volumes of new customer business as a result of the pandemic. In addition, the valuation expert cites the development of energy prices as an unforeseeable input factor for the cost increases. Overall, the valuation expert considers the deviations from the plan to be acceptable, taking into account the uncertainties caused by exogenous factors.

With regard to the corporate planning of February 2, 2023, and February 5, 2023, on which the business valuation is based, the valuation expert comes to the conclusion that, on the basis of the analyses carried out of the fidelity of the planning, the planning calculation represents in principle a suitable starting point for a business valuation. In the opinion of the valuation expert, the corporate strategy of the valuation object and the objectives and expectations of the company derived from the strategy are appropriately reflected in the corporate planning.

As a result, we consider the assessments of the valuation expert to be correct, that from the analysis of the planning fidelity carried out, no findings can be made that the planning calculation of VQT AG does not represent a suitable basis for the derivation of the company value. On the basis of our own analyses of the fidelity of planning, it should be noted that we were also unable to identify any indications that would call into question the suitability of the planning calculation for the purposes of the company valuation.

General planning plausibility check

In interviews with the persons responsible for planning at VQT AG, the business model, the development in the past and the planning premises underlying the corporate planning were explained to us, also beyond the level of detail presented below. We questioned the premises of the corporate planning in detail during these interviews and discussed them with the persons responsible for planning. For the forecast development, we limit ourselves to explaining the main effects. For the rest, we refer to the presentation in the expert opinion of EY in section 4.

The following overview presents the consolidated revenue and earnings planning of VQT AG including its subsidiaries up to EBIT for the detailed planning phase for the financial years 2023 to 2026.

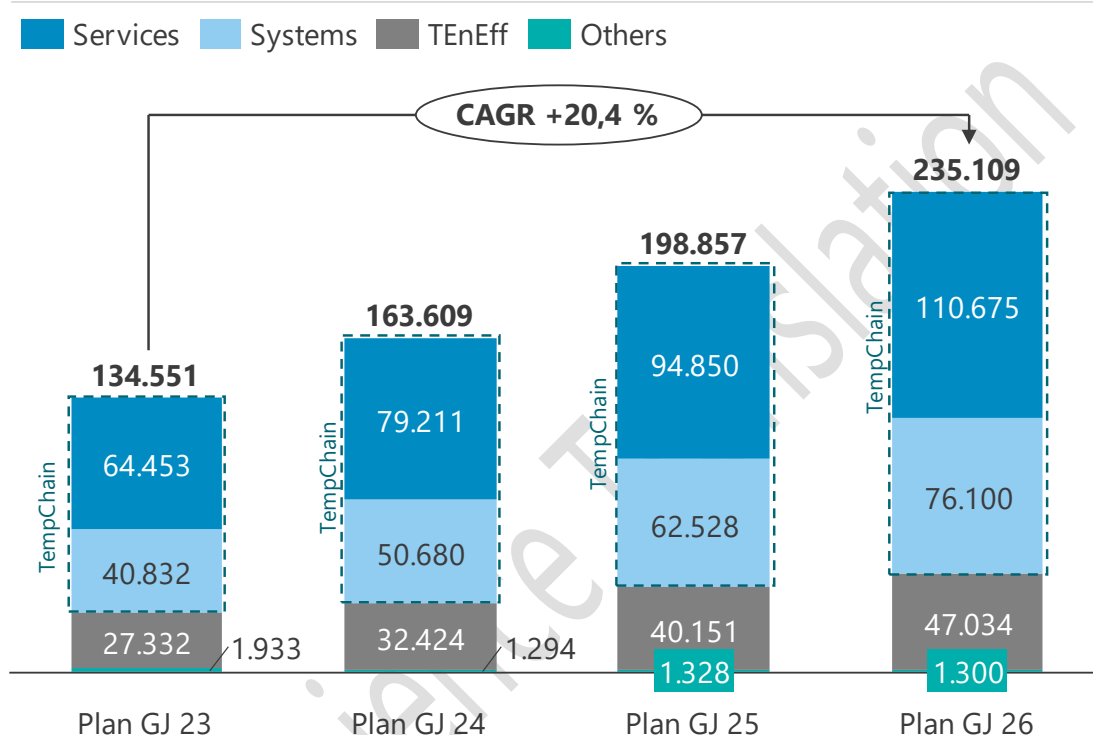
P&L	Plan FY 23		Plan FY 24		Plan FY 25		Plan FY 26		CAGR 23-26
	kEUR	%	kEUR	%	kEUR	%	kEUR	%	
Revenues	134,551	94.6%	163,609	92.2%	198,857	92.9%	235,109	94.1%	20.4%
Changes in inventories	0	0.0%	0	0.0%	0	0.0%	0	0.0%	n/a
Own work capitalised	7,749	5.4%	13,882	7.8%	15,225	7.1%	14,807	5.9%	24.1%
Total output	142,300	100.0%	177,491	100.0%	214,082	100.0%	249,916	100.0%	20.7%
Cost of materials	-56,341	-39.6%	-72,194	-40.7%	-86,417	-40.4%	-99,678	-39.9%	20.9%
Gross profit	85,959	60.4%	105,297	59.3%	127,665	59.6%	150,238	60.1%	20.5%
Other operating income	2,594	1.8%	2,265	1.3%	2,264	1.1%	2,097	0.8%	-6.8%
Personnel expenses	-42,797	-30.1%	-49,181	-27.7%	-55,913	-26.1%	-64,535	-25.8%	14.7%
Other operating expenses	-23,975	-16.8%	-25,832	-14.6%	-27,824	-13.0%	-29,759	-11.9%	7.5%
EBITDA	21,781	15.3%	32,549	18.3%	46,192	21.6%	58,041	23.2%	38.6%
Depreciation & amortisation	-15,999	-11.2%	-18,488	-10.4%	-22,284	-10.4%	-23,572	-9.4%	13.8%
EBIT	5,782	4.1%	14,061	7.9%	23,908	11.2%	34,469	13.8%	81.3%

Quelle: Business Plan VAT, Analysen Ebner Stolz

An average annual increase of 20.4% is expected for **revenues** in the detailed planning phase. Accordingly, revenues are expected to increase from EUR 134,551 thousand to around EUR 235,109 thousand in fiscal year 2026. The starting point is the expected development of sales in fiscal year 2023, which is planned in detail on the basis of customers and products. For the financial years 2024 to 2026, assumptions are made on this basis for the development of prices and sales volumes. The planning managers have also pointed out that, in addition to existing customers, new business will also be taken into account in the later planning years by means of corresponding placeholders. Such placeholders are not yet backed by negotiations or existing customer relationships.

Revenue planning for the detailed planning phase was carried out at the level of the TempChain (Systems and Services), Products and Other business units. The main factors influencing the revenue planning for each division are presented below.

Umsatzerlöse [TEUR]



Quelle: VQT Planungsrechnung GJ 23 bis GJ 26

In the TEnEff business area, the company plans to further increase sales of vacuum insulation panels. In the detailed planning period, average annual growth of 19.8% (CAGR) is expected. A high proportion of sales will come from existing customers, who will contribute to the overall growth of the business unit with both price and volume growth. Further growth momentum will come from expected increases in demand in connection with energy efficiency. This topic offers potential for VQT AG due to increasing regulation and growing public interest. This is particularly reflected in the growth expected by the company for the target market construction industry. For an explanation of the planned revenues in the TEnEff business area according to the target markets considered by the company, we refer to the corresponding explanations in section 4 of the expert opinion of EY.

The TempChain division can be divided into the Systems and Services business units. TempChain revenues are expected to increase from EUR 105,285 thousand in fiscal year 2023 to EUR 186,775 thousand in fiscal year 2026. This corresponds to an average growth of 21.1%. In this context, it should be emphasized that the Company expects to be able to compensate for the recently declining share of revenues generated in the context of vaccine transports.

The TempChain - Systems business unit represents the sale of thermal packaging and transport solutions. For the detailed planning phase, the company expects sales to grow to EUR 76,100 thousand in fiscal year 2026. The share of revenues from box sales, on the other hand, is expected to decline steadily during the detailed planning phase. From initially 92.6 % in fiscal year 2023, this is expected to decline to 77.4 % . The key factor here is the strong growth in other revenues like QOOL-coolers and regarding the food industry, which are expected to increase from EUR 3,034 thousand to EUR 17,178 thousand in the financial year 2026.

For the TempChain - Services business unit, the Company's management expects revenues of EUR 64,453 thousand in fiscal year 2023. Following the decline in revenues related to COVID-19 vaccine transport already observed in fiscal year 2022, these will cease in fiscal year 2024. However, the Company sees further growth potential, which can be attributed to the increasing importance of biopharmaceuticals. In summary, it is expected that, as in the past, sales in the target market of pharmaceuticals and healthcare will account for the major share of the planned revenues and will contribute significantly to the revenue growth of 19.7% p.a. on average to EUR 110,675 thousand in fiscal year 2026. In addition, growth is also to be achieved in other target markets.

In addition to the breakdown of sales by business area, the following table shows the breakdown of sales expected for the detailed planning phase by reporting segment:

Planungsrechnung Umsatzerlöse	Plan GJ 23	Plan GJ 24	Plan GJ 25	Plan GJ 26	CAGR 23-26
	TEUR	TEUR	TEUR	TEUR	
Berichtssegment Deutschland	79.811	105.338	124.950	142.517	21,3%
Berichtssegment Großbritannien	49.941	60.946	74.281	88.390	21,0%
Berichtssegment Sonstige	35.094	41.638	51.424	61.668	20,7%
Konzern (Summe)	164.846	207.922	250.655	292.575	21,1%
Konsolidierung	-30.295	-44.313	-51.798	-57.466	23,8%
Konzern	134.551	163.609	198.857	235.109	20,4%

For further details on the development of sales, please refer to the corresponding comments by the valuation expert in section 4.

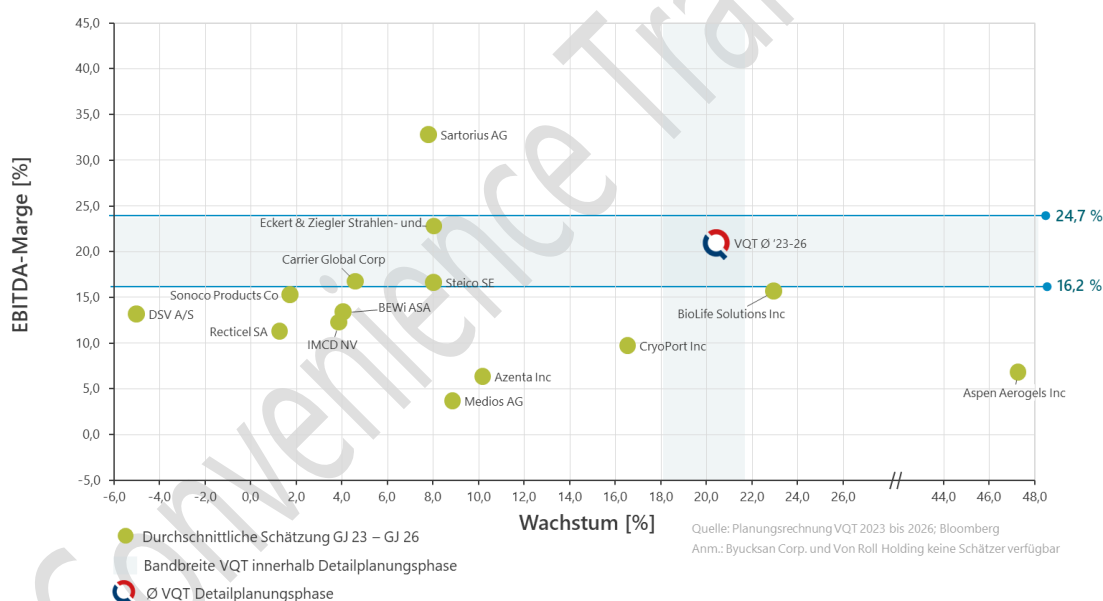
In the detailed planning phase, the **cost of materials** is expected to increase by an average of 20.9% per year. The cost of materials mainly comprises expenses for raw materials, consumables and supplies and purchased merchandise, as well as expenses for purchased services. These are mainly incurred in connection with the production of vacuum panels, boxes and containers at VQT AG (Germany reporting segment). These costs are developed further taking into account expected inflation and the development of sales revenues. In addition, the slightly changing cost of materials ratios in the detailed planning phase are attributable in particular to the planned change in the composition of sales revenues (product mix).

Personnel expenses amount to EUR 42,797 thousand in fiscal year 2023 and will increase by an average of 14.7% p.a. to EUR 64,535 thousand in fiscal year 2026. Personnel expenses are planned on the basis of the existing workforce and planned new hires, taking inflation into account. In the detailed planning phase, both fixed and variable personnel expenses are taken into account on the basis of the respective contractual provisions. For VQT AG, an increase of approximately 32 FTE is planned for the fiscal year 2023. For the fiscal years 2024 to 2026, 20, 40 and 60 FTE respectively will be built up to underpin the growth. In addition to the increase in FTEs, an annual salary increase of 6.0% per year has been budgeted for FY 2024 through 2026. In relation to the revenue increases expected in the detailed planning period, the personnel expense ratio can be reduced from 31.8% in fiscal year 2023 to 27.4% in fiscal year 2026, thus contributing to an increase in overall profitability (EBITDA margin).

With regard to the development of **other operating expenses**, the Company assumes that these will develop at a lower rate than revenue growth. At the beginning of the detailed planning phase in fiscal year 2023, other operating expenses are planned to amount to EUR 23,975 thousand. This corresponds to an expense ratio of 16.8% in relation to total output. By the end of the detailed planning phase, this is expected to decrease to 11.9%. The main component of other operating expenses is freight costs, which relate in particular to the supply of products manufactured in Germany to Group companies. According to information, expenses for the re-allocation of containers are necessary in this area if they cannot be rerented directly from their destination, but are requested elsewhere by a customer. Here, the company weighs up between sea and air freight on the basis of the available fleet, speed of the different transport solutions and the level of the associated costs.

EBITDA is expected to increase to EUR 58,041 thousand by the end of the detailed planning phase. The EBITDA margin of VQT is expected to increase to 24.7 % in the financial year 2026 and thus to increase in every year in the detailed planning period starting from the financial year 2023 (EBITDA margin: 15.3 %). Within the detailed planning phase, the average EBITDA margin of 19.6% is above the average EBITDA margin of 12.6% (adjusted) in the historical period from fiscal years 2020 to 2022. According to the information provided to us by the Executive Board of VQT AG, it must be taken into account that the financial year 2021 was an exceptionally successful year with the positive effect from the growth in demand in connection with the COVID 19 pandemic.

The following illustration shows that the margin expectation of VQT AG in the detailed planning is above average compared to the peer group both in the financial year 2023 with an EBITDA margin of 16.2% and in the financial year 2026 with an EBITDA margin of 24.7%. The analyses also indicate that VQT AG stands out from the peer group in the detailed planning phase with regard to the growth of revenues:



Depreciation of existing fixed assets will be continued in the planning period in accordance with the current depreciation schedule. Insofar as investments are to be made, these will be depreciated on average over a period of around five years. In this context, it should be noted that the Management Board of VQT AG has confirmed to us that revenue effects from expansion investments were fully taken into account at the end of the detailed planning period.

Classification and assessment of the plausibility of the planning calculation

In view of the uncertainty inherent in corporate planning, it is necessary to assess whether the assumptions on which corporate planning is based are plausible, i.e. comprehensible, consistent and free of contradictions (IDW Practice Note 2/20217, para. 5).

A planning calculation is to be considered plausible overall if it is both mathematically correct and prepared on the basis of a suitable planning process, as well as consistently linked to the past and situation analysis of the valuation object, existing deviations from the past development can be explained conclusively and the expected development of the valuation object is reflected in a comprehensible manner.

As part of our audit procedures, we obtained the assumptions underlying the planning and verified them mathematically and with regard to the comprehensibility and consistency of the assumptions made. According to our findings, the mathematical and formal plausibility of the planning calculation within the meaning of IDW Practice Note 2/2017, para. 15 ff. is given.

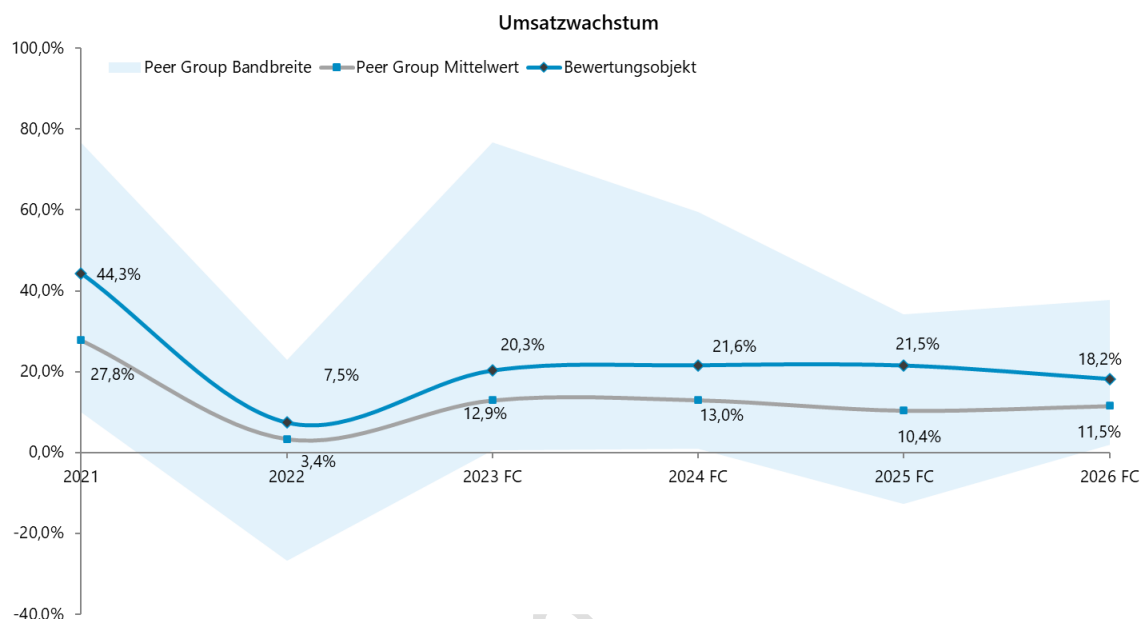
We conducted our audit of the material internal plausibility of the planning calculation on the basis of our knowledge of the business model, the adjusted historical figures and comprehensive and supplementary explanations as well as documents provided by the Management Board of VQT AG on the assumptions made. We conducted our review of the material external plausibility on the basis of our findings on the market and competitive environment.

According to our findings during the audit, both the material internal plausibility and the material external plausibility of the planning statement within the meaning of the German Auditing Standards (IDW) are given. IDW Practice Note 2/2017 para. 16 et seq. is given, taking into account the following classification.

The valuation expert has performed the plausibility check of the expected sales development as well as of profitability key figures (EBITDA (margin), EBIT (margin)) of VQT AG and its subsidiaries within the detailed planning phase.

As part of our audit work, we performed our own external planning plausibility check based on analysts' estimates for revenue growth and the EBITDA and EBIT margins of the peer group companies.

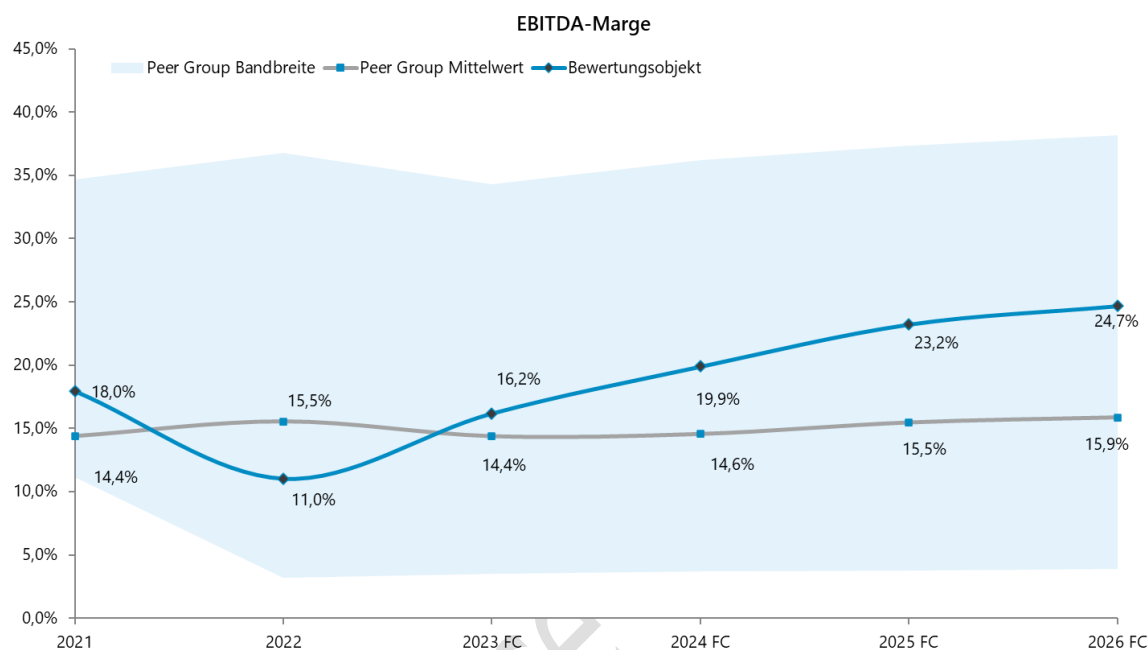
The following overview shows the expected **revenue development** for the period 2021 to 2026 of the peer companies. In addition, the historical development of VQT AG as well as the development shown in the planning calculation is presented.



Based on the growth rates estimated by the analysts, the average revenue growth of the peer group companies in the forecast period from fiscal year 2023 is between 13.0% and 10.4%. Thus, the forecast growth of the valuation object with a range of 18.2% to 21.6% is significantly above the mean value of the peer group.

Furthermore, we also performed a plausibility check of the EBITDA margin of VQT AG and its subsidiaries on the basis of a benchmarking with the peer group. Based on our own analyses, we have examined the analyst estimates for the period 2021 to 2026 for the EBITDA margin, using financial information provider Bloomberg L.P. In the assessment, the same restrictions have to be taken into account as we have presented for the plausibility check of the revenues.

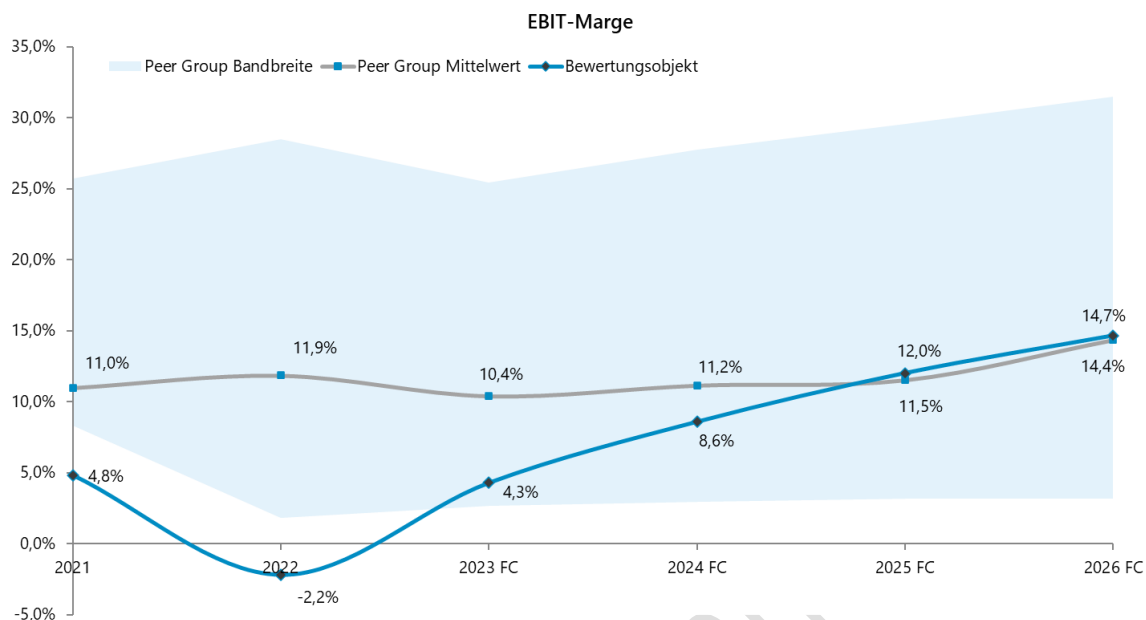
The following overview shows the expected development of the **EBITDA** margins of the peer companies for the period 2021 to 2026²⁶. In addition, the historical as well as the development of VQT AG shown in the planning calculation is presented.



Over the detailed planning period from 2023 to 2026, the peer group average EBITDA margin develops from 14.4% to 15.9%. The EBITDA margin of VQT AG is expected to increase significantly to 25.7% in the planning year 2026. This illustrates that the expectations of the Executive Board of VQT AG in the detailed planning are above the mean value of the peer group both in the financial year 2023 with an EBITDA margin of 16.2% and in the following planning years.

In the course of our audit procedures, we benchmarked the planned EBIT margin of the valuation object against the peer group. The following overview shows the expected development of **EBIT margins** for the period 2021 to 2026:

²⁶ The benchmark analysis was performed on the basis of the peer group companies, which was also taken into account in the derivation of the beta factors. In doing so, we restricted ourselves to those companies for which sufficiently valid analyst estimates were available.



Based on an EBIT margin of -2.2% in fiscal year 2022, the company plans an EBIT margin of 14.7% at the end of the detailed planning phase in fiscal year 2026. Compared to the peer group average, VQT AG is expected to approach the peer group average by fiscal year 2025 and finally slightly exceed it in fiscal year 2026. In this context, we would like to point out the particularities of the rental business of VQT AG and the resulting capital commitment in containers and boxes as well as the corresponding depreciation. According to the information provided to us by the management, the EBIT margin planned for the financial year 2026 cannot be considered sustainable. In this regard, we refer to the section on the convergence phase.

Due to cost increases in the current fiscal year 2023, the Company has increased list prices for products and services in individual areas more than initially planned. According to the information provided to us by management, these price increases only apply to some of the customers (especially new customers) and are only intended to compensate for the previously explained cost increases. In this context, management has refrained from adjusting the detailed planning phase. At the conclusion of our audit, we did not obtain any indications that the price increases announced from May 2023 onwards would result in an overrun of the plan for fiscal year 2023. In assessing the matter, we have compared the financial figures presented by the Company for the 1st quarter of 2023 with the revenue and EBITDA planned for this period in the following table:

Plan-Ist Vergleich Q1-2023	Ist Q1 2023		Plan Q1 2023		Δ
	TEUR	%	TEUR	%	TEUR
Umsatzerlöse	23.177	100,0%	31.507	100,0%	-8.330
Rohertrag	17.912	77,3%	20.584	65,3%	-2.672
EBITDA	652	2,8%	4.716	15,0%	-4.064

The management of VQT AG continues to assume that the sales level planned for the fiscal year 2023 can be achieved and that no adjustment of business plan for the fiscal year 2023 or the following planning years is necessary.

d) Other planning components

Financial result

The financial result was determined by the valuation expert on the basis of the interest and redemption planning assumed by the VQT planning managers and taking into account valuation adjustments. The starting point for the financial planning used to determine the financial result was interest-bearing liabilities. The interest expenses result in particular from liabilities to banks for loans taken up and the bonds issued by VQT AG. The interest expenses are subject to an average effective interest rate of approximately 2.8 % to 3.3 % over the financial years 2023 to 2026. Based on an integrated balance sheet and financial planning, the valuation expert has determined the financing requirements in the respective planning years and mapped the corresponding repayments of the interest-bearing liabilities in an appropriate manner.

Income from investments was not taken into account in the detailed planning phase and in the subsequent convergence phase due to the inclusion of the two investments SUMTEC and ING3D as special values.

As part of our audit, we understood the financial result considered by the valuation expert based on the existing financing structure and conditions, the expected future capital requirements or surplus, and the distribution assumptions. In accordance with our audit procedures, the financial result was determined appropriately.

Corporate taxes

The taxation of VQT AG and its subsidiaries is based on the current status of corporate tax law. The tax rate of VQT AG was derived on the basis of income taxes at the individual company level (corporations). Accordingly, these consist of trade tax, corporate income tax (15.0%) and the solidarity surcharge (5.5%), which are incurred on domestic income, as well as foreign corporate taxes. As of December 31, 2022, VQT AG and its subsidiaries have tax loss carryforwards, which were taken into account by the valuation expert as a special value.

In the detailed planning phase, it is assumed that some of the Group companies will generate negative earnings before taxes by the 2024 financial year. The tax loss carryforwards resulting from this in the detailed planning phase have been taken into account by the valuation expert in the planning of corporate taxes. This results in a tax rate of between 89.4% (fiscal year 2023) and 19.9% (fiscal year 2026).

Overall, we consider the tax expense of VQT AG reported by the valuation expert in the individual plan years, the convergence phase and the perpetuity to be appropriately derived.

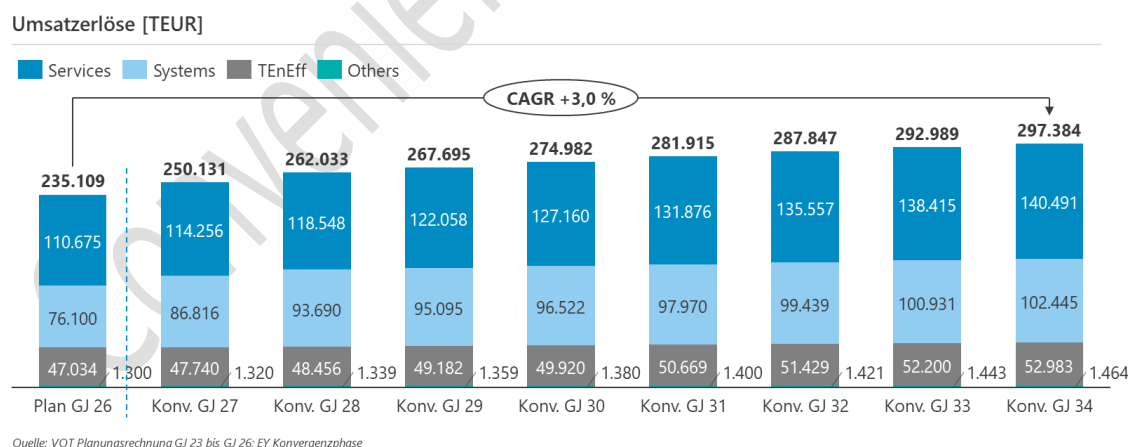
e) Convergence phase, sustainable earnings and sustainable retention

Financial surpluses can naturally be assessed more plausibly and forecast more reliably for a period closer to the valuation date than for the more distant future. In addition, detailed corporate planning is regularly available (only) for a period of three to five years (detailed planning phase). After this period, (inevitably simplifying) assumptions have to be made about the surpluses to be expected in the long term or in infinity (perpetuity). The earnings level to be determined for the first year of the perpetuity can either be reached at the end of the detailed planning period or be higher (or lower). The sustainable result can also be lower than that of the last plan year or individual years of the detailed planning period. The definition of the sustainable result is linked to the assumption of an "ideal" state of equilibrium with regard to the earnings, financial and asset situation.

IDW Practice Note 2/2017, para. 54, emphasizes that the perpetual annuity is to be derived independently by the valuation expert, taking into account separate analyses. In this respect, the last plan year of the detailed planning phase may not be adopted without reflection for the perpetuity phase. In the case of the perpetual annuity, long-term achievable return expectations must be taken into account. Indications of the sustainably achievable returns can be derived from the normalized results of the past and the detailed planning phase as well as from key industry figures (IDW Practice Note 2/2017, para. 57).

At the end of the detailed planning phase, VQT AG is not in a steady state. This constellation finds its expression in a further volume growth to be expected after the financial year 2026, which is to result from the TempChain business unit. In the financial year 2026, a sales growth of 18.2% is planned, which is composed of volumes and price effects. According to the expectations of the Management Board of VQT AG, the price and volume-induced revenue growth of the company will continue after the end of the detailed planning phase. The valuation expert has taken this expectation into account in the context of a convergence phase, which covers the financial years 2027 to 2034.

The extrapolation of sales revenues after the 2026 financial year was based on the assumption of an annual price increase rate of 1.5%. With regard to sales volumes, the valuation expert has made differentiated considerations for the various business areas on the basis of the findings obtained in discussions with management.



For the TEnEff business area, exclusively price-driven sales growth of 1.5% p.a. is assumed for the convergence phase. According to the information provided, an increase in volume in the TEnEff area would only be possible with extensive investments for the purpose of expanding production capacities.

For the TempChain business area, the valuation expert made assumptions for each of the following sub-areas:

In the container rental business, the number of annual rentals is the main driver of revenue, in addition to planned price increases. Within the convergence phase, an average increase (CAGR) in rentals of 1.6% is assumed. The growth in rentals and the price increase taken into account result in revenue growth averaging 3.2% (CAGR). It should be emphasized in this context that the growth in the number of rentals does not result from an increase in the container fleet. The reason for the increase is the conversion of the fleet to a new generation of containers, which is in the detailed planning phase and is scheduled to be completed in fiscal year 2033. According to the explanations provided by the Company's Executive Board, this generation will enable a factor of 1.36 higher utilization or reduction in empty runs compared with the first container generation.

For the box rental sub-segment, growth in the number of rentals is expected to be 8.0% at the end of the detailed planning phase in fiscal year 2026. In consultation with the VQT AG Board of Directors, EY has blended this growth over three convergence years (fiscal year 2027 5.4%; fiscal year 2028 2.7%, fiscal year 2029 0.0%) and has assumed a constant number of uses in the following. Price growth per lease was assumed by the appraiser to be 1.5% per year or the amount of the growth factor. Overall, based on the 2026 financial year, revenue from the rental of the boxes will grow by an average of 2.50% (CAGR) during the convergence phase.

For the sub-segment of box sales, the Valuation Guarantor also assumes that there will be further growth potential in the number of boxes sold within one year at the end of the detailed planning phase. The volume growth in the final detailed planning year 2026 of approximately 13.2% will be trimmed over the following two fiscal years to initially 8.8%, in fiscal year 2028, and 4.4% in fiscal year 2029, until a sales volume that is considered sustainable is achieved. In addition, EY considers the overriding assumption of 1.5% annual increase in sales prices as part of the modeling of the convergence phase. The combination of volume and price growth results in a CAGR of 3.1% for revenues (Box Systems) for the period of fiscal years 2026 to 2034.

For the revenues of the Other business area, the valuation expert takes into account a price growth of 1.5% p.a. from the financial year 2027 onwards.

In summary, the revenues of VQT AG are expected to increase from EUR 235,109 thousand in fiscal year 2026 to EUR 297,384 thousand at the end of the convergence phase (CAGR 3.0%). We have analyzed the assumptions made by the valuation expert. In doing so, we have taken into account findings from market studies and, in particular, the explanations provided by management. As a result, we consider the growth assumptions made with regard to revenue in the convergence phase to be appropriate.

P&L	Plan FY 26	Conv. FY 27	Conv. FY 28	Conv. FY 29	Conv. FY 30	Conv. FY 31	Conv. FY 32	Conv. FY 33	Conv. FY 34
	kEUR	kEUR	kEUR	kEUR	kEUR	kEUR	kEUR	kEUR	kEUR
Revenues	235,109	250,131	262,033	267,695	274,982	281,915	287,847	292,989	297,384
Changes in inventories	0	0	0	0	0	0	0	0	0
Own work capitalised	14,807	0	0	0	0	0	0	0	0
Total output	249,916	250,131	262,033	267,695	274,982	281,915	287,847	292,989	297,384
Cost of materials	-99,678	-89,849	-93,862	-95,836	-98,343	-100,736	-102,804	-104,616	-106,185
Gross profit	150,238	160,281	168,171	171,859	176,639	181,179	185,043	188,373	191,199
Other operating income	2,097	1,161	1,179	1,196	1,214	1,233	1,251	1,270	1,289
Personnel expenses	-64,535	-67,520	-69,846	-70,939	-72,337	-73,657	-74,779	-75,747	-76,569
Other operating expenses	-29,759	-30,205	-30,658	-31,118	-31,585	-32,059	-32,540	-33,028	-33,523
EBITDA	58,041	63,717	68,845	70,998	73,931	76,695	78,975	80,869	82,395
Depreciation & amortisation	-23,572	-23,369	-22,938	-22,530	-22,844	-22,965	-24,344	-25,327	-25,790
EBIT	34,469	40,348	45,907	48,468	51,087	53,730	54,631	55,541	56,605
<i>in % of total output</i>									
Gross profit	60.1%	64.1%	64.2%	64.2%	64.2%	64.3%	64.3%	64.3%	64.3%
Personnel expenses	-25.8%	-27.0%	-26.7%	-26.5%	-26.3%	-26.1%	-26.0%	-25.9%	-25.7%
EBITDA	23.2%	25.5%	26.3%	26.5%	26.9%	27.2%	27.4%	27.6%	27.7%
EBIT	13.8%	16.1%	17.5%	18.1%	18.6%	19.1%	19.0%	19.0%	19.0%

Quelle: Business Plan VAT, Convergence phase EY, Ebner Stolz analysis

Depending on the proportionate composition of revenues for TempChain and TEnEff, which changes during the convergence phase, the valuation expert has determined the level of the gross profit margin on a period-specific basis. Due to the disproportionate growth of TempChain revenues, the Group gross profit margin improves slightly from 63.9% in fiscal year 2026 to 64.3% on a sustainable basis.

The personnel expenses were developed taking into account the growth in sales. In this context, the valuation experts discussed with management the dependency of personnel expense growth on rising revenues and, on the basis of the assumptions made for the detailed planning phase, simplified them for the convergence phase. We consider the improvement in the cost/income ratio assumed in the convergence phase to be appropriate. With regard to the explanation of the other items of the convergence phase we refer to the comments in the expert opinion of the valuation expert.

Due to the effects described above, the EBITDA margin of VQT AG is initially expected to increase to 25.9 % in the financial year 2027 within the convergence phase and then successively increase in the course of the convergence phase to 28.1 % for the transition to the perpetuity phase. As a result, we consider the development of the EBITDA margin assumed by the valuation expert in the convergence phase to be plausible against the background of the assumptions made and on the basis of the EBITDA margins to be observed or expected within the peer group. The EBITDA margin derived on the basis of the considerations for the convergence phase is ambitious in the opinion of management, but achievable on a sustainable basis.

We have analyzed the assumptions for the Convergence phase and consider them to be appropriate and appropriately derived. The EBITDA margin of 27.7% (EBIT margin: 18.6%) derived in the convergence phase and expected to be sustainable in perpetuity is within the range derived from the peer group. As part of our audit procedures, we verified the calculations and explanations of the valuation expert with regard to the determination of the sustainable earnings and the derivation of the sustainable investments. As a result, we consider the sustainable EBITDA margins assumed by the valuation expert to be plausible against the background of the historical development and the development and assumptions in the planning period.

In the pension phase, the company is regularly assumed to grow in line with inflation. Even in the case of a sustained full distribution (sometimes also referred to as a notional full distribution) of the financial surpluses, the capital tied up in the company is subject to inflation-related growth influences, as a result of which the assets and liabilities reported in the budgeted balance sheet at the end of the last year of the detailed planning phase continue to develop in the perpetuity phase as a result of inflation (WPH Edition: Bewertung und Transaktionsberatung,, 2018, chap. A para. 455). To finance balance sheet growth in perpetuity, parts of the sustainable earnings must definitely be retained, as otherwise no **steady-state** debt level can be realized - so-called **growth-related retention of earnings** (Popp, Der Konzern 2019, pp. 105, 108 f.). This already follows from the fact that purchasing- and sales-dependent items (e.g., working capital) will follow price increases and the replacement of fixed assets is also subject to inflation. In other words, all profit and loss items as well as balance sheet items grow annually at the sustainable growth rate. Exceptions are those balance sheet items whose change is either non-cash, such as deferred tax assets or liabilities, or for which no growth is to be assumed in perpetuity, such as for historically acquired balance sheet goodwill. The amount of the growth retention results - from a balance sheet perspective - from the product of the growth rate and the economic equity at the end of the detailed planning phase (Popp/Ruthardt, § 12 Bewertungsmethoden im Spiegel der Rechtsprechung, in: Fleischer/Hüttemann (ed.), Rechtshandbuch Unternehmensbewertung, 2nd ed., 2019, para. 12.56).

In order to finance sustainable growth, the perpetual annuity must generally take into account an accumulation in the amount of the growth rate, based on the economic equity as of December 31, 2027 (OLG Frankfurt a. M., January 17, 2017, 21 W 37/12; OLG Düsseldorf, November 12, 2015, 26 W 9/14; OLG Stuttgart, June 5, 2013, 20 W 6/10). When deriving the so-called economic equity, those balance sheet items that are not subject to cash growth due to inflation must be adjusted.

The sustainably assumed investment amounts are regularly higher than the sustainably planned depreciation (Popp, Der Konzern 2019, pp. 105, 108). The growth-related retained earnings remain in the company on a permanent basis and serve to generate growth and thus to increase the value of the company after the final planning year.

Result of our audit procedures

As part of our audit procedures, we examined the corporate planning of VQT AG for consistency and plausibility of the assumptions based on the normalized historical figures (IDW Practice Note, 2/2017, para. 5). In various interviews with the Executive Board of VQT AG, we discussed in detail the key planning assumptions in the detailed planning phase and the respective market and competitive environment. We have understood the statements made by the valuation expert regarding the development of the relevant markets as well as the development of the competitors.

Against the background of our audit procedures, we consider the assumptions of the detailed planning phase and the sustainable result for VQT AG derived by the valuation expert to be plausible and, on the basis of the existing business concept as well as the market environment, in particular with regard to the expected decline in sales revenues generated in connection with the COVID-19 pandemic in the past, to be ambitious but comprehensibly derived. According to our assessment, the information provided to us and on the basis of the market studies available to us, the present planning adequately reflects the opportunities and risks of the business activities of VQT AG from today's perspective (IDW Practice Note 2/2017, para. 16).

The expected development of sales and earnings is largely dependent on the volume growth anticipated in the detailed planning phase. With regard to the expected development of earnings, the risk of a lower than expected number of rentals resulting from the rental business must be mentioned. Only a sufficient number of rentals leads to an appropriate return on the capital tied up in containers and boxes and thus ensures that the pro rata fixed costs are covered. For VQT AG, growth is also limited by the existing production capacities. On the other hand, growth opportunities may arise from the increasing importance of biotech-based medicines and the further increase in regulation in the area of energy-related renovation of existing properties and in the insulation of new buildings.

We would like to point out that according to the information provided to us and our knowledge gained during the audit, the planning calculation reflects the current structure of VQT AG as well as all effects sufficiently specified from the perspective of the valuation date, which are to be expected without implementation of the measure underlying the valuation (here: domination and profit and loss transfer agreement) under the assumption of (independent) going concern.

In summary, we consider the planning calculation, the convergence phase derived by the valuation expert and the perpetual annuity, on the basis of our analyses as a suitable basis for the determination of the capitalized earnings value. Especially against the background of the historical development of VQT AG, the analysis of the planning fidelity for the fiscal years 2020 to 2022, the findings from the market and competition analysis and taking into account the information provided by the Management Board of VQT AG, we consider the use of the planning calculation of VQT AG to be appropriate.

f) Discount rate

The capitalized earnings value is determined by discounting the future distributable earnings to the valuation date. The discount rate represents the return from an alternative investment that is adequate for the investment in the company to be valued and is equivalent to the cash flow to be capitalized in terms of maturity, risk and taxation (IDW S 1 as amended in 2008, para. 114).

In particular, capital market returns on equity investments (in the form of stock portfolios) can be considered as a starting point for determining alternative returns. In principle, these returns can be broken down into a basic interest rate and a risk premium demanded by the shareholders due to the assumption of entrepreneurial risk.

Risk-Free Rate

The valuation expert EY derived the risk-free base interest rate from the yield curve for German government bonds in accordance with the recommendations of the FAUB. The period from April 1, 2023 to June 30, 2023 was used for this purpose. The valuation expert arrived at a rounded base interest rate of 2.50% (before personal taxes) and 1.84% (after personal taxes).

The published interest rate structure data of the Deutsche Bundesbank were selected as the data basis for determining the prime rate. The corresponding parameters of the Svensson method can be found on the Deutsche Bundesbank's homepage.

These parameters can be used to derive interest rates for hypothetical zero bonds (spot rates) and thus to estimate daily yield curves based on German government bonds traded on the market with residual terms of up to 30 years. From the observable development of the parameters of the estimator, its limited usability for extrapolation for interest rate forecasts further in the future can be seen. Against this background, in the opinion of the FAUB (IDW-FN 2008, p. 491), due to the lack of available market data from traded bonds for the estimation of zero bond interest rates beyond 30 years and due to general forecast uncertainties, the zero bond interest rates of the longest available remaining maturities can be extrapolated as a constant sustainable forecast value.

In order to smooth short-term market fluctuations and to avoid estimation errors, not only the interest rate structure data as of the valuation date but also average values for the three months preceding the valuation date are used (OLG Hamburg, 31. March 2022, 13 W 20/21; OLG Munich, May 12, 2020, 31 Wx 361/18; OLG Frankfurt, November 3, 2020, 21 W 76/19; Popp/Ruthardt, § 12 Bewertungsmethoden im Spiegel der Rechtsprechung, in: Fleischer/Hüttemann, Rechtshandbuch Unternehmensbewertung, 2nd ed. 2019, para. 12.70). A three-month period is used as a basis in order to smooth out short-term fluctuations that would lead to distortions if the period were shorter. A longer period than three months, on the other hand, would neglect current developments. The calculation of the three-month period is based on the WpÜG Offer Regulation pursuant to Sections 187, 188 (2) of the German Civil Code (Fragen und Antworten zu IDW S 1 i.d.F. 2008 (as of October 14, 2020), Section 4.2 i. V. m. Section 3.1, IDW Life 2020, p. 955).

If the yield curve is used directly, the financial surplus planned for each year must be discounted using the respective term-equivalent interest rate. For reasons of practicability, a present-value-equivalent uniform base interest rate can also be used if the payment series do not fluctuate greatly, which leads to the same result (FAUB, WPg 2023, p. 134 et seq.; OLG Düsseldorf, December 14, 2017, 26 W 8/15; OLG Stuttgart, July 27, 2015, 20 W 5/14).

In accordance with the recommendation of the FAUB (IDW-FN 2005, p. 555 et seq.; IDW-LIFE 2016, p. 731 et seq.), the uniform prime rate is to be rounded to 1/4 percentage point in accordance with commercial practice. This has also found approval in case law (OLG Munich, May 12, 2020, 31 Wx 361/18; OLG Munich, August 6, 2019, 31 Wx 340/17). It should be noted that the current professional recommendation on rounding is neither one-sided to the detriment of a party nor arbitrary, i.e. without objective reason.

We have followed the calculations of the valuation expert and have arrived at a rounded pre-tax prime rate of 2.50% for a three-month period up to the end of our audit work. The prime rate was appropriately reduced by typical income taxes (25.0% plus 5.5% solidarity surcharge). The after-tax figure is approximately 1.84%.

With regard to the review of the amount of the prime rate, we would like to point out as a precaution that this is a figure based on a reference date and not a figure charged only for a single reference date (Hamburg Regional Court, December 16, 2021, 404a HKO 103/06). Furthermore, the three-month period ends on the day before the Annual General Meeting (OLG Munich, May 12, 2020, 31 Wx 361/18; OLG Frankfurt, January 26, 2015, 21 W 26/13). It follows from the nature of an Annual General Meeting beginning in the morning that parameters such as market prices or interest rate structure figures that are not determined until after the end of the trading day are not to be included in the determination of value.

Risk Premium

When determining objectified company values, the risk premium is not derived from the subjective risk appetite of individual company owners, but from the general patterns of the market. In this context, it must be assumed that investors perceive a particular risk when investing in companies (investor risk). The risk premium can be derived using capital market pricing models (CAPM, Tax-CAPM) from the stock returns empirically determined on the capital market. Despite partial reservations, it should be noted that this capital market model enjoys outstanding acceptance in national and international valuation practice and is therefore rightly regarded as state of the art (cf. for all: van Rossum, Münchener Kommentar zum Aktiengesetz, 5th ed., 2020, Section 305 para. 147).

The use of the CAPM or the Tax-CAPM is considered appropriate by the vast majority of courts and literature and is the predominant method for deriving an objectified risk premium (WPH Edition, Bewertung und Transaktionsberatung, 2018, Chapter C, para. 123; Dörschell et al., Der Kapitalisierungszinssatz in der Unternehmensbewertung, 2nd ed., 2012, p. 27 f.). The use of the CAPM or the Tax-CAPM is also in line with established case law of the higher regional courts (OLG Munich, July 30, 2018, 31 Wx 122/161; OLG Munich, July 30, 2018, 31 Wx 136/16; OLG Frankfurt, January 17, 2017, 21 W 37/12; Ruthardt/Popp, AG 2019, pp. 196, 200).

Where criticism is occasionally levelled at the applicability of the CAPM, it is generally based on the fact that a number of parameters also have to be filled in by the valuation expert in the case of the CAPM. However, this applies equally to all other capital market models, regardless of their complexity. The advantage of the CAPM, however, lies precisely in the fact that the relevant parameters have meanwhile been clearly worked out and discussed in detail in scientific research as well as in practical and legal discussions (FAUB, WPg 2023, p. 134 et seq.). This alone makes the application of the CAPM superior to a mere ad hoc estimate without a theoretical foundation. It can also be stated that at present there is no other capital market model that is superior to the CAPM (critical of the Arbitrage Pricing Theory and the multi-factor model of Fama/French: LG München I, March 28, 2014, 5 HK O 18925/08; LG München I, February 14, 2014, 5 HKO 16505/08; and on the Dividend Discount Model: OLG Frankfurt, August 30, 2008, 21 W 14/11).

Since stock returns and risk premiums are fundamentally influenced by income taxes, a more realistic explanation of empirically observable stock returns is provided by the Tax-CAPM, which extends the CAPM by explicitly taking into account the effects of personal income taxes. In particular, this allows the different taxation of interest income, dividends and capital gains to be mapped.

According to the Tax-CAPM, the discount rate is composed of a risk free rate that has been reduced by the typified income tax and the risk premium after income taxes determined on the basis of the Tax-CAPM. The complex parameter of the company-specific risk premium is broken down into two empirically observable or derivable factors, the market risk premium and the beta factor.

Market risk premium

Case law regularly refers to the statement of the Federal Court of Justice (BGH) according to which, with regard to the relevant valuation method, it is decisive "that the respective method is recognized in economic science and is customary in practice" (e.g. OLG Stuttgart, August 20, 2018, 20 W 2/13; BGH, September 29, 2015, II ZB 23/14; BGH, January 12, 2016, II ZB 25/14). The same must also apply to the parameters to be applied when implementing the valuation method; i.e., also to the market risk premium. Accordingly, the methodology used for the derivation of the parameters or the specification of individual parameters must be generally accepted in economics and customary in practice. However, an empirically precise determination of the market risk premium - as a point estimate - that is unambiguous under all capital market conditions is not possible based on the current state of economic science (OLG Stuttgart, March 31, 20 W 8/20; OLG Jena, March 3, 2021, 2 W 407/08; OLG Düsseldorf, December 14, 2017, 26 W 8/15).

At the very least, it cannot be the task of the judiciary to develop a solution for valuation methodological approaches for which different views are sometimes held in business economics. For the market risk premium in particular, there are a large number of studies and publications with different motivations, derivation methods, data bases and quality. Recognized in practice as expert opinion (OLG Düsseldorf, April 10, 2019, 26 W 6/17) are the bandwidth recommendations of the FAUB, which are accordingly regularly used by case law as an appropriate basis for estimating the market risk premium (pursuant to Sec. 287 para. 2 ZPO) (OLG Bremen, March 29, 2019, 2 W 68/18; OLG Stuttgart, June 26, 2019, 20 W 27/18; OLG Düsseldorf, September 5, 2019, 26 W 8/17; OLG Frankfurt, September 27, 2019, 21 W 64/14; OLG Frankfurt, January 26, 2017, 21 W 75/15).

With the publication of October 2012, the FAUB considered it appropriate to be guided by an increased range of 5.0% to 6.0% for the after-tax market risk premium compared to previous recommendations (4.0% to 5.0% after-tax market risk premium). In the more recent decisions of the various higher regional courts known to us, which were issued on reporting dates under this range recommendation, **5.5%, the mean value of the range**, is regularly deemed appropriate (Ruthardt/Popp, AG 2020, 322, 326 et seq.; Popp, Der Konzern 2020, p. 444 et seq.; OLG Stuttgart, 4. May 2020, 20 W 3/19; OLG Stuttgart, April 3, 2020, 20 W 2/17; OLG Bremen, May 15, 2020, 2 W 47/19; OLG Schleswig, March 9, 2020, 9 W 169/15 (6.0%); OLG Düsseldorf, April 30, 2018, 26 W 4/16; OLG Dresden, August 16, 2017, 8 W 244/17; OLG Frankfurt, January 26, 2017, 21 W 75/15; OLG Celle, June 17, 2016, 9 W 42/16).

The FAUB continuously monitors developments on the capital markets to check whether its range recommendations need to be adjusted. For this purpose, historically measured stock yields or market risk premiums, long-term real stock yields as well as ex ante analyses of implied market risk premiums are considered according to a **pluralistic approach** (for a detailed justification of the pluralistic approach Castedello et al., WPg 2018, p. 806 ff.). Accordingly, the bandwidth recommendation is not based solely on a total return expectation of capital market participants that is determined independently of capital market realities.

At its meeting on October 22, 2019, the FAUB decided to extend the bandwidth recommendation slightly upward to a range of **5.0% to 6.5% for the after-tax market risk premium** (IDW Life 2019, p. 818 f.).

At its meeting on September 19, 2022, the FAUB noted that although prime rates had risen significantly since February 2022, this had been accompanied by equally significant increases in implied total returns and market risk premiums based on the ex ante method (implied cost of capital). However, this had been accompanied by equally significant increases in implied total returns and market risk premiums based on the ex ante method (implied cost of capital) up to that point. Taking these developments into account and at the same time maintaining the plurality of methods, the FAUB (still) sees no need for action to adjust the recommendations on the market risk premium. The FAUB thus continues to consider it appropriate to base the measurement of the market risk premium on a range of 6.0% to 8.0% before personal taxes or 5.0% to 6.5% after personal taxes (reporting on the 159th meeting of the FAUB on September 19, 2022). This view was confirmed by the FAUB at its meeting on April 26, 2023.

For valuation purposes, the bandwidth recommendation of the FAUB is to be condensed to a point estimate. In our experience, this condensation - confirmed by case law - is generally carried out to the mean value of the after-tax recommendation. Reasons for the assumption of a market risk premium at the upper end of the range may lie above all in an increased uncertainty on the capital market observable in the recent past and the increased risk aversion expressed thereby, as was the basis for the recommendations of the FAUB on the effects of the current capital market situation on the determination of the discount rate of January 10, 2012 (IDW Fachnachrichten 2/2012, p. 122; OLG Schleswig-Holstein, March 9, 2020, 9 W 169/15). Indications for the assumption of a market risk premium at the lower end of the bandwidth may be given in a mirror image of this, among other things, in the event of lower uncertainty on the capital market and reduced risk aversion (Großfeld/Egger/Tönnies, *Recht der Unternehmensbewertung*, 9th ed. 2020, p. 180).

The valuation expert has set the **market risk premium after personal taxes** at 5.75%. Thus, the determination is made at the level of the average value of the FAUB's bandwidth recommendation for the market risk premium after personal tax. This value has also been considered appropriate in court decisions (LG München, 5 HK O 4509/21). Based on our supplementary analyses, we consider the **after-tax market risk premium of 5.75%** determined by the valuation expert to be appropriate. The market risk premium used is within the range recommended by the IDW and corresponds to a recognized expert opinion.

Beta factor

Within the framework of (tax-)CAPM, the beta measures the idiosyncratic risk inherent to a particular share which cannot be avoided by diversification and is seen as a measure of the entity's specific risk profile (OLG Frankfurt, June 17, 2010, 5 W 39/98). Deviations of the actual future cash flow from the expected value of the future cash flow represent risks for the shareholders (Franken/Schulte, *BewP* 2012, pp. 92, 93). The beta factor is not an empirically determinable past value, but a future value to be determined by estimation (OLG Stuttgart, March 17, 2011, 20 W 9/08; OLG Frankfurt, May 2, 2011, 21 W 3/11).

According to the CAPM, it is assumed that investors are able to reduce their risk position ("diversification") by acquiring investments in different companies. Therefore, a distinction is made between so-called "**systematic risk**," which cannot be reduced by diversification, and diversifiable so-called "**non-systematic risk**." Risk premiums derived according to the CAPM therefore only include compensation for the systematic risk that cannot be further diversified and is captured in the beta factor.

The systematic risk of a company relevant to valuation can be further subdivided into **operational risk**, i.e. the risk inherent to operating activities, and **capital structure risk**. The latter is based on the fact that the volatility of the cash flows paid to shareholders increases as leverage rises.

In valuation practice and case law, the starting point for estimating the future beta factor is regularly based on historical stock yields. Accordingly, the beta factor is determined on the basis of a linear regression of the company-specific stock price return (as the dependent variable to be explained) on the return of a stock index (as the independent variable to be explained). In the past, the meaningfulness of the beta factor was regularly tested using statistical criteria (coefficient of determination, t-test). The prerequisite for a meaningful beta factor is that stock yields, and thus the underlying stock prices, adjust to changes in economic conditions in a factually and temporally unbiased manner. For this reason, the liquidity of the stock is now (also) increasingly used to assess the fundamental forecasting suitability of the beta factors calculated. Liquidity measures include, for example, the bid-ask spread or trading turnover, although no superior measurement concept has yet emerged for measuring liquidity, either in theory or in practice. In addition, there are (currently) no generally accepted thresholds for "liquid shares" for the individual measurement concepts (Ruthardt/Popp, AG 2020, pp. 322, 328 f.).

In addition, it should be noted that the forecast suitability of the historical prices or the beta factor cannot be concluded from the mere "fulfillment" of individual or several or all measured variables without further considerations. The derivation of the future systematic risk on the basis of the (original) beta factor presupposes that this factor can be reliably determined and that its stability over time can be expected. Thus, an analysis of the share price development with regard to structural breaks or other distorting events, such as takeover rumors/proceedings, must also be carried out. In the case of (de facto) controlled companies, the (original) beta factor will regularly not be suitable for forecasting the company valuation (Ruthardt/Popp, AG 2020, p. 322, 329; OLG Zweibrücken, November 23, 2020, 9 W 1/18).

A consideration of timeliness and statistical significance is necessary for determining the period of beta calculation. From a statistical point of view, an increased sample size increases the accuracy of the results. In practice, observation periods of five years with monthly and two years with weekly return intervals are predominantly used (OLG Frankfurt, August 30, 2012, 21 W 14/11; OLG Frankfurt, December 20, 2010, 5 W 51/09).

There is a tendency for topicality to speak in favor of a shorter period of e.g. two years (OLG Stuttgart, June 5, 2013, 20 W 6/10; OLG Frankfurt, August 30, 2012, 21 W 14/11; LG Frankfurt, September 2, 2010, 3-5 O 279/08). Long periods in which abnormal price fluctuations have occurred due to structural breaks caused, among other things, by an IPO or a squeeze-out procedure are unsuitable for calculating the beta factor (OLG Stuttgart, May 4, 2011, 20 W 11/08). On the one hand, beta factors measured in the short term may currently (still) be influenced by the COVID 19 pandemic or the effects of the war in Ukraine, as high price fluctuations are or were observed on the stock exchanges. On the other hand, especially in the current environment, it is also necessary to take into account crisis-related changes in the beta factor, insofar as these result from a sustainable change in the business model (Castedello/Tschöpel, WPg 2020, p. 914).

The beta derived directly from the (price) returns by means of regression is often also referred to as "raw beta". If this is related to an overall market beta of one by means of a weighting formula, it is referred to as an "adjusted beta". Adjusted beta according to the so-called "Blume adjustment" represents the most frequently observed beta adjustment in the financial sector (see Scheld, Fundamental Beta, 2013, p. 77). In this procedure, the raw beta is multiplied by 0.667 ($=2/3$) and 0.333 is added. In the "Vasicek" adjustment, the larger the standard error of the beta estimate, the more heavily indebted raw betas are weighted in the direction of a known reference value (e.g. the market average).

In valuation practice, both adjusted and raw beta factors are used (WPH Edition: Bewertung und Transaktionsberatung,, 2018, Chapter A, para. 410). It cannot be inferred from case law that adjusted or non-adjusted beta factors would be given general precedence and that a uniform position is taken in this respect (OLG München, December 3, 2020, 31 Wx 330/16, para. 101 (BeckRS); OLG Frankfurt, August 27, 2020, 21 W 59/19, para. 50 (BeckRS); LG Hamburg, 26. September 2019, 412 HKO 156/16, decision text p. 35; LG Stuttgart, September 24, 2018, 42 O 49/16, decision text p. 28; LG München I, April 28, 2017, 5 HK O 26513/11, p. 21 (BeckRS); OLG Düsseldorf, August 15, 2016, 26 W 17/13, para. 58 (BeckRS); OLG Karlsruhe, July 23, 2015, 12a W 4/15, para. 66 (juris); OLG Frankfurt, January 26, 2015, 21 W 26/13, para. 51 (juris)). For the purposes of network regulation, the BGH has come out in favor of the Vasicek adjustment (BGH, January 27, 2015, ENVR 37/13, para. 10 (www.bundesgerichtshof.juris)). In the opinion of the OLG Munich, an adjustment is not to be rejected across the board (OLG Munich, July 30, 2018, 31 Wx 122/16, decision text p. 23 in conjunction with. LG Munich I, November 20, 2015, 5 HK O 5593/14, resolution text, p. 84). In the result of the same view with regard to the disputed question, the LG München I did not object to the adjustment after the Blume adjustment (LG München I, August 29, 2018, 5 HK 16585/15, resolution text, p. 112 et seq.; see also OLG Düsseldorf, July 8, 2021, 26 W 10/20, resolution text, p. 7; OLG Stuttgart, March 30, 20 W 8/19, resolution text, p. 60).

Original beta factor of VQT AG

For listed companies such as VQT AG, a - historical - beta factor can in principle be determined directly from capital market data. Corresponding to the temporal delimitation of the market price, according to the opinion of the OLG Stuttgart (order for reference, December 18, 2009, 20 W 2/08; BGH, July 19, 2010), a company-specific beta factor based on historically observed prices in the period after the announcement of the structural measure is generally unsuitable. Instead, it is required that the measurement period for determining the **company's own beta factor** must end on the **day of the announcement of the measure** (Popp/Ruthardt, § 12 Bewertungsmethoden im Spiegel der Rechtsprechung, in: Fleischer/Hüttemann (ed.), Rechtshandbuch der Unternehmensbewertung, 2nd ed., 2019, para. 12.98; OLG Karlsruhe, May 13, 2013, 12 W 77/07; LG Hannover, March 2, 2016, 13 O 191/09; LG Düsseldorf, September 3, 2014, 33 O 55/07).

The shares of VQT AG have been admitted to trading on the regulated market of the Frankfurt Stock Exchange since September 30, 2016.

The announcement of the intention to conclude a domination and profit and loss transfer agreement with EQT was made by VQT AG on December 9, 2022 at 5:34 pm. The following overview shows the original beta factor of VQT AG over a two-year period with weekly return intervals as well as a five-year observation period with monthly return intervals related to the time of the announcement of the intended conclusion of a domination and profit and loss transfer agreement with EQT by VQT AG. We have based our analysis on a broad local benchmark index (CDAX Index). In addition, we have calculated beta factors for both period-interval combinations using a broad global index (MSCI World Index). We have based the end date of the included stock prices on one day before the announcement of the structural measure, December 8, 2022.

Originärer Betafaktor der VQT AG zum 8. Dezember 2022

Name	Renditebeobachtung	Index	R ²	Levered Raw Beta	Unlevered Beta
VQT AG	2-Jahre wöchentlich	CDAX	0,22	1,45	1,24
		MSCI	0,19	1,34	1,18
	5-Jahre monatlich	CDAX	0,38	2,17	1,87
		MSCI	0,32	2,13	1,90

Quelle: Bloomberg L.P., eigene Berechnungen

We first tested the **informative value** of the Company's betas using statistical significance criteria (t-test). According to these tests, all the betas are statistically significant. The average bid-ask

spread over the period of the last five years is 1.1% and thus below the values classified as critical in case law. In addition, the VQT AG share has been traded regularly over the last five years. Thus, the original beta factor of VQT AG can basically be considered suitable for the valuation.

The valuation expert has determined and analyzed the beta factor of VQT AG based on the data of the database service provider S&P Global Market Intelligence LLC (formerly S&P Capital IQ), a company of S&P Global Inc., New York City/USA ("S&P Global Market Intelligence"). The valuation expert determines a (raw or unlevered) beta factor of 1.23 for a period of two years based on weekly returns when regressed against the CDAX and a (raw or unlevered) beta factor of 1.81 for a period of five years based on monthly returns when regressed against the CDAX. Since the valuation expert applied a beta factor based on a peer group of 1.08, which is below the determined original beta factors of VQT AG, we consider the approach of the valuation expert to be appropriate. It can therefore also be left open whether the original beta factor would be suitable in principle and could be used or not.

Beta factor of the peer group

In line with common practice, the valuation expert used a peer group of listed companies to derive the operating business risk of the company to be valued. Recourse to the beta factors of a peer group is also recognized by case law (OLG Munich, December 3, 2020, 31 Wx 330/16; OLG Düsseldorf, August 15, 2016, 26 W 17/13; OLG Frankfurt, January 26, 2015, 21 W 26/13; OLG Karlsruhe, June 22, 2015, 12a W 5/15). This also applies with regard to the inclusion of foreign entities (OLG Jena, March 3, 2021, 2 W 407/18; OLG Frankfurt, September 8, 2020, 21 W 121/15; OLG Stuttgart, April 3, 2020, 20 W 2/17).

In order to derive a beta factor from a peer group of listed companies, the valuation expert carried out a multi-stage analysis. It should be noted that there is no listed company that is directly comparable with the valuation object in its entirety or is only represented on the same regional market. Differences of the peer group companies result from the singular position of the valuation object and are unavoidable (OLG Frankfurt, November 3, 2020, 21 W 76/19). Therefore, the valuation expert researched for comparable companies with regard to the business model, specific product segments and product type, regional coverage and size (OLG Munich, April 9, 2021, 31 Wx 2/19; OLG Düsseldorf, May 11, 2020, 26 W 14/17).

In order to identify peer group companies, a screening was carried out on the basis of qualitative and quantitative criteria in order to verify comparability with VQT AG. With the help of the financial information database S&P Global Market Intelligence LLC, listed companies were identified in a first step by examining companies in the "Building Products" and "Industrial Machinery" sectors whose market capitalization is greater than EUR 5,000 thousand. When selecting the peer companies, care was taken to ensure that the relevant companies met at least one of the following criteria:

- Vacuum insulation panels
- Phase change materials
- Thermal insulation
- Thermal packaging solutions
- Insulation

Qualitative criteria such as operational comparability in terms of product portfolio and business model, size or geographical comparability were used to further condense the peer group. With regard to geographical comparability, no geographical segmentation of the companies was carried out, as the valuation object operates globally.

Quantitative comparability was essentially established by the proportion of comparable sales to VQT based on comparable sales of the peer group companies. In addition to the analysis of the business model, the valuation expert's assessment was based on sales revenue (size) and an analysis of the geographical segmentation with regard to the differentiation between industrialized and emerging countries.

In addition, the valuation expert included information from discussions with management to determine the peer group. We consider this approach to be appropriate.

In total, the valuation expert derived a peer group of 16 companies on the basis of the analyses performed. For a description of the peer group companies, please refer to the comments of the valuation expert in section 5 of the expert opinion.

For the selected peer group companies, the valuation expert determined raw beta factors using weekly return intervals over an observation period of two years and for monthly return intervals over an observation period of five years. Only local indices were used as benchmarks. The valuation expert examined the robustness of the beta factors on the basis of the statistical significance of the regression results using the t-test and the coefficient of determination, the R^2 . A confidence level of 1.0% was selected for the t-test for both regression periods.

Taking into account an observation period of two years with weekly return intervals and an observation period of five years with monthly return intervals, it was not possible to determine a reliable beta factor for the five-year observation period for the peer companies BEWi ASA and Carrier Global Corporation. The background in each case was an insufficient number of return pairs due to the IPOs of both companies only after the start of the five-year observation period. We have verified the non-inclusion of individual peer group companies over the various observation periods and consider the approach of the valuation expert to be appropriate.

To eliminate the effects from the financing structure from the specific beta factors of each company, it is customary professional practice and recognized by the courts to convert the historical beta factors into beta factors for unlevered companies (a process known as “**unlevering**”) in order to be able to establish comparability with the operational risk profile of the valuation object (OLG Frankfurt, 26. January 2015, 21 W 26/13; OLG Düsseldorf, July 4, 2012, 26 W 8/10; OLG Stuttgart, January 19, 2011, 20 W 3/09; OLG Frankfurt, December 20, 2010, 5 W 51/09; OLG Stuttgart, December 18, 2009, 20 W 2/08).

The valuation expert converted the leveraged beta factors into unleveraged beta factors by resorting to an adjustment formula assuming secure tax shields as well as secure debt holdings (so-called “Hamada” adjustment).

In the context of so-called unlevering, an assumption must be made as to whether the value contribution from debt financing (tax benefits, so-called “tax shield”) is risk-free if the debt financing is largely fixed on the basis of contractual agreements (autonomous financing policy). However, this usually only applies to part of the debt capital, as certain debt capital components can often develop synchronously with company values (value-dependent or breathing financing policy). For this reason, the assumption of uncertain tax benefits (“tax shield”) is frequently seen in practice. The two valuation assumptions differ mainly within the discounting of the tax benefits, as different risk premiums are included in the discount rates due to the different risk assumptions of the tax benefits.

For an adequate assessment of the risk attributable to the equity provider, it is necessary to estimate the risk assumed by the debt providers. In practice, the concept of "debt beta" is often used for this purpose. The debt beta is a measure of the risk assumed by a company's providers of debt capital. It takes into account the fact that debt capital is also fundamentally at risk of default and that the providers of debt capital therefore also bear part of the entrepreneurial, operational risk of the company. The providers of debt capital therefore receive a risk premium above the risk-free interest rate for assuming part of the operating risk.

The valuation expert uses the so-called "Hamada" adjustment in her approach. This methodology is based on the assumption of risk-free debt capital. Accordingly, the valuation expert has dispensed with the use of debt beta in her calculations.

Based on the facts described above, we performed the unconscionable beta factors as part of our audit work under the assumptions of uncertain tax benefits and taking into account risky debt capital (so-called "Harris-Pringle" adjustment). The valuation expert assumed secure tax benefits and risk-free debt capital. In the following, it was examined to what extent the calculation results of the two valuation approaches differ from each other and whether the calculation results of the valuation expert appear to be justifiable from a reasonableness point of view. Furthermore, it was examined whether the methodology applied by the valuation expert was carried out adequately.

Based on the investigations of the valuation expert, an unlevered beta factor of 1.22 (two-year observation period) and of 1.12 (five-year observation period) results on the basis of the median value of the peer group companies. Based on the median of the peer group beta factors, the unlevered beta factor is 1.13 (two-year observation period) and 1.08 (five-year observation period).

In connection with the derivation of the peer group for VQT AG, the valuation expert points out that the valuation object generates a significant part of its revenues with products and services in the thermal packaging industry and temperature-controlled logistics, as well as from the sale of VIPs in various industries. In addition, the valuation expert considered companies whose business activities are mainly located in the most important sales markets of VQT AG as comparable. These mainly include the pharmaceutical industry and the construction industry. The valuation expert argues that the valuation object bears a comparable operational business risk as companies from the mentioned industries and is dependent on the business development of these industries. This comparable risk profile is expressed in the amount of the beta factor. We consider the conclusions of the valuation expert to be comprehensible.

The valuation expert sets the unlevered beta factor on the basis of the derived peer group in an expert opinion at a value of 1.08, which corresponds to the median of the five-year observation period on the basis of monthly returns.

In the course of our audit of the determination of the beta factor, we verified the selection of the peer group companies as well as the methodological approach applied by the valuation expert.

We selected the companies included in the peer group taking into account the main operating activities and influencing factors of VQT AG on the basis of the documents and information provided to us in the course of our audit and verified them by our own research and analyses. We checked the beta factors for their statistical validity. We checked the plausibility of the beta factors determined by the valuation expert using data from the financial information service provider Bloomberg L.P..

In addition, we have followed the supplementary analyses of the beta factor based on the broadest regional indices. Based on our analyses, we determined that the beta factor of 1.08 determined by the valuation analyst and expert opinion using local indices is within the unlevered beta factors we determined over a two-year as well as five-year period. The following table presents our determination of the peer group beta factor using only performance indices:

Peer Group Betafaktoren		Levered Beta		R ²		Verschuldungsgrad		Unlevered Beta	
Unternehmen	Vergleichs-index	2 Jahre wöchentl.	5 Jahre monatl.	2 Jahre wöchentl.	5 Jahre monatl.	2 Jahre wöchentl.	5 Jahre monatl.	2 Jahre wöchentl.	5 Jahre monatl.
Aspen Aerogels, Inc.	SPXT Index	2,21	2,11	0,29	0,27	0,17	0,10	1,95	1,96
Azenta, Inc.	SPXT Index	1,62	1,55	0,38	0,32	0,02	0,06	1,60	1,49
BEWi ASA	OBX Index	1,02	n/a*	0,12	n/a*	0,54	n/a*	0,71	n/a*
BioLife Solutions, Inc.	SPXT Index	2,35	1,74	0,31	0,20	0,04	0,02	2,28	1,71
Byucksan Corporation	TCKRGV Index	1,15	1,63	0,36	0,49	1,01	0,85	0,66	1,01
Carrier Global Corporation	SPXT Index	1,21	n/a*	0,47	n/a*	0,27	n/a*	1,00	n/a*
CryoPort, Inc.	SPXT Index	2,49	1,22	0,40	0,12	0,32	0,15	1,99	1,09
DSV A/S	KAXGI Index	1,21	1,37	0,50	0,48	0,15	0,13	1,09	1,24
Eckert & Ziegler AG	CDAX Index	1,23	1,12	0,21	0,16	0,05	0,04	1,19	1,08
IMCD N.V.	RAEX Index	1,40	1,24	0,55	0,45	0,13	0,14	1,28	1,13
Medios AG	CDAX Index	0,84	1,15	0,15	0,26	0,06	0,04	0,80	1,12
Recticel SA/NV	TCBEG Index	1,06	1,33	0,14	0,33	0,39	0,46	0,82	0,99
Sartorius Aktiengesellschaft	CDAX Index	1,04	0,64	0,18	0,12	0,10	0,11	0,97	0,60
Sonoco Products Company	SPXT Index	0,83	0,69	0,37	0,45	0,53	0,45	0,59	0,51
STEICO SE	CDAX Index	1,48	1,11	0,26	0,25	0,17	0,23	1,32	0,96
Von Roll Holding AG	SPI Index	1,36	0,95	0,23	0,13	0,05	0,08	1,30	0,89
Minimum		0,83	0,64					0,59	0,51
Median		1,22	1,23					1,14	1,09
Mittelwert		1,40	1,28					1,22	1,13
Maximum		2,49	2,11					2,28	1,96

* Die Peer Group Unternehmen BEWi ASA und Carrier Global Corporation blieben für den fünfjährigen Regressionszeitraum unberücksichtigt, da die genannten Unternehmen während des Regressionszeitraums nicht vollumfänglich börsennotiert waren.

Bewertungssichttag: 30. Juni 2023

Quelle: Bloomberg L.P., Ebner Stolz Analysen

Our supplementary analyses do not provide any indication that the beta factor derived by the valuation expert could be excessive. We consider the beta factor of 1.08 used to determine the risk premium to be appropriate.

Within the framework of calculation of the capitalized earnings value, the unlevered beta factor must be adjusted again on a period-specific basis using the debt ratio (so-called "relevering").

g) Growth factor

As part of the determination of the capitalized earnings value, a growth factor is to be determined for the terminal value. The valuation expert has applied a growth factor of 1.50 %.

We would like to point out the following facts in advance:

If growth is measured in terms of the increase in nominal earning indicators, general experience suggests that companies that retain part of the net income generated and use it for internal financing have a higher net income in the following year, *ceteris paribus*, than those companies that distribute the entire net income generated to their shareholders.

The sources of growth in financial surpluses can be defined as purely real economic (positive and negative) developments in performance factors in the sense of **operative growth** (capacity optimization and capacity expansion) as well as purely nominal developments, i.e. those caused by price changes (**inflation-induced growth**). In addition, tax-related effects, e.g. from the differentiated taxation of retained earnings and distributions, must be taken into account separately (WPH Edition: Bewertung und Transaktionsberatung,, 2018, ch. A, para. 441 et seq.).

Two mutually exclusive calculation models are available for the purpose of measuring sustainable earnings. In the case of the **dividend discount model**, the numerator is the distributions or dividends discounted by the cost of capital. In contrast to the capitalized earnings value model, the portion of net income not distributed to the shareholders is not included in the capitalization figure. The remaining part is used in the company for internal financing and provides an additional growth effect.

If - which is not common in valuation practice - only part of the net income for the year, namely the dividend portion, were capitalized in the perpetual annuity, then the additional growth effects resulting from internal financing would have to be taken into account in the form of a comparatively high growth factor. By contrast, under the income capitalization approach, the net income generated is distributed in full in the perpetuity (this can also be referred to as value added from distribution plus value added from retained earnings).

A continuation of the above-average profit growth expected for the detailed planning phase is only possible in the perpetuity phase if capacity-expanding investments are also financed by means of reinvestments. Assuming the steady state of perpetuity, in which the valuation object earns the cost of capital reflecting its own risk and financing structure on a sustainable basis, the future purely operational growth in distributions corresponds directly to the **value contribution from the retained earnings** (sustainable increases in value). However, it must be taken into account here that in the income capitalization approach according to IDW S 1 in the 2008 version, the net income to be discounted sustainably consists not only of the value contribution from distributions, but also of the value contribution from retained earnings. Since the value contribution from retained earnings fully covers the future dividend growth from retained earnings, the growth rate of distributions shown in the growth factor primarily reflects inflation-related value effects attributable to the company-specific price-related growth rate of the company being valued.

According to the dividend discount model, the value-equivalent enterprise value at the beginning of the perpetuity is calculated according to the following relationship (Tschöpel/Wiese/Willershausen, WPg 2010, pp. 349, 357):

$$V_t = \frac{(ZdE_{t+1} - WbT_{t+1})}{r_{EK} - w}$$

with

V_t = Capitalized Earnings Value at the beginning of the perpetuity, ZdE_{t+1} = earnings to be discounted in the first pension year, WbT_{t+1} = value contribution from reinvestment in the first pension year, r_{EK} = sustainable cost of capital, w = total growth rate.

By switching the relationship, the overall growth rate can be represented as follows:

$$w = r_{EK} - \frac{(ZdE_{t+1} - WbT_{t+1})}{V_t}$$

The result to be discounted in the first pension year amounts to around EUR 29,881 thousand, the value contribution from retention in the first pension year amounts to around EUR 15,180 thousand, the capitalized earnings value at the beginning of the perpetual annuity is around EUR 413,921 thousand and the sustainable cost of capital (before growth factor) is 8.72 %.

In relation to VQT AG, this results in the following overall growth rate:

$$w = 8,72\% - \frac{(29.881 - 15.180)}{413.921} = 5,17\%$$

In this respect, a growth factor of 1.50 % assumed for the company valuation of VQT AG and its subsidiaries corresponds to a sustainable overall growth of around 5.17 %. The total growth rate determined in this way is thus significantly higher than the inflation rate expected in the long term (OLG Munich, May 12, 2020, 31 Wx 361/18).

In order to derive the long-term growth rate of 1.50 %, the valuation expert consulted various studies of inflation forecasts. As the VQT operates internationally, inflation rates for different currency areas must be used. However, different inflation expectations should be reflected in the exchange rates used in the planning, which is why different inflation levels were used in VQT's planning. Accordingly, we have focused on inflation expectations in the euro area in addition to the inflation forecasts for the geographical areas of Germany, the United Kingdom and the United States.

The European Central Bank is pursuing an inflation target of 2.0%, although in the past the actual average inflation rate in Germany has mostly (with the exception of 2021 and 2022) been below this level. Due to the Ukraine war and the associated price increases (particularly in the energy sector), the current inflation rate in Germany is above the long-term forecasts.

In addition, further factors were taken into account by the valuation expert to derive the sustainable growth rate or the growth factor. The forecast development of GDP, the future development of the industry (VIPs and cold chain logistics in an international context), the market presence as well as the business model of VQT and the possibilities of passing on inflation-related cost increases to customers by means of price increases on the sales side were included in the considerations.

We examined the growth factor applied by the valuation expert on the basis of forecasts by bank analysts and the International Monetary Fund. We also derived the inflation expectation from the interest rate on inflation-linked German government bonds and presented the ECB's current forecasts on inflation expectations in the euro zone.

Federal Statistical Office Consumer price index for Germany		Consumer price index		
May 2020		100,4		
May 2021		102,6		
May 2022		109,8		
May 2023		116,5		
Ø change		5,1%		
Bank analyst estimates Change in consumer price index		Germany Ø change	UK Ø change	USA Ø change
2023				
Lower limit of the estimate		5,4%	4,1%	2,8%
Upper limit of the estimate		7,5%	8,1%	5,8%
Weighted average		6,1%	7,0%	4,0%
2024				
Lower limit of the estimate		0,0%	1,6%	1,6%
Upper limit of the estimate		4,8%	5,1%	6,3%
Weighted average		2,7%	2,8%	2,6%
2025				
Lower limit of the estimate		0,7%	1,1%	1,3%
Upper limit of the estimate		2,7%	3,7%	4,9%
Weighted average		2,0%	2,0%	2,4%
European Central Bank estimates Change in consumer price index				Eurozone Ø change
2023				5,4%
2024				3,0%
2025				2,2%
International Monetary Fund estimates Change in consumer price index		Germany Ø change	UK Ø change	USA Ø change
2023		6,2%	6,8%	4,5%
2024		3,1%	3,0%	2,3%
2025		2,3%	1,8%	2,1%
2026		2,1%	2,0%	2,0%
2027		2,0%	2,0%	2,0%
2028		2,0%	2,0%	2,1%
Inflation expectation derived from the interest rate Inflation-protected German government bonds		Inflation expectation		
10-year government bonds		2,3%		
25-year government bonds		2,5%		

Source: German Federal Statistical Office, International Monetary Fund, Bloomberg L.P.; as of June 15, 2023.

Based on analysts' estimates and those of the International Monetary Fund, the overall average consumer price increase for 2025 is around 2.1% for Germany, 1.9% for the United Kingdom and 2.3% for the USA. By 2027, the IMF expects inflation to converge towards the central banks' inflation target of around 2.0%. The ECB forecasts an inflation rate of 2.2% for the euro zone in 2025, i.e. close to the inflation target again.

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The assessment of the growth factor must always be based on the circumstances of the respective company. In this respect, growth rates can and do naturally deviate from one another in the development of the future earnings surpluses of different companies. According to a study by Widmann/Schieszl/Jeromin (FB 2003, p. 800 ff.), average profit growth is 45% to 50% of the average general rate of price increase, irrespective of economic cycles.

The fact that earnings growth is only below average is confirmed by the study by Stellbrink (Der Restwert in der Unternehmensbewertung, 2005, p. 125 f.). The view that the growth factor must generally be lower than the inflation rate reflects the prevailing opinion (Großfeld/Egger/Tönnies, Recht der Unternehmensbewertung, 8th ed., 2016, p. 267; WPH Edition: Bewertung und Transaktionsberatung, 2018, chap. C, para. 127; rejecting other studies: OLG Frankfurt, January 26, 2015, 21 W 26/13; OLG Frankfurt, August 30, 2012, 21 W 14/11; OLG Stuttgart, July 8, 2011, 20 W 14/08). This is because even an investment in a company is not completely inflation-proof (OLG Munich, February 18, 2014, 31 Wx 211/13; OLG Düsseldorf, April 11, 1988, 19 W 32/86; OLG Düsseldorf, February 12, 1992, 19 W 3/91). The growth factor is also not intended to unconditionally compensate for inflation (OLG Karlsruhe, September 12, 2017, 12 W 1/17; OLG Stuttgart, March 19, 2008, 20 W 3/06).

As an initial indication of the sustainable growth rate, a growth rate of 1.0 % emerges against the backdrop of the expected medium-term inflation rates presented above.

In principle, for the growth prospects, in addition to the general development of the sales markets, the competitive position of VQT AG must also be taken into account. Since the growth factor indicates the average increase in surplus expected in the future, the growth rates of the operating result within the detailed planning period cannot be used without further ado as a growth factor in the discount rate (OLG Frankfurt, January 26, 2015, 21 W 26/13). Regarding VQT's business model, it can be noted that during the detailed planning and convergence phase, efficiency improvements are expected to address cost increases. Personnel costs are developing at a rate lower than that of revenue. This expectation suggests that VQT's nominal growth prospects are above 1.5%.

Against the background of the good pricing power and the fact that a higher growth factor has a ceteris paribus value-increasing effect in the sense of the departing shareholders, we consider the growth factor of 1.50 % applied by the valuation expert to be appropriate.

The growth factor applied by the valuation expert is higher than the average of around 1.0% frequently applied in valuation practice and regularly classified as appropriate in case law (Popp/Ruthardt, § 12 Bewertungsmethoden im Spiegel der Rechtsprechung, in: Fleischer/Hüttemann (ed.), Rechtshandbuch Unternehmensbewertung, 2nd edition, 2019, para. 12.130). In this assessment, however, it must be taken into account that the case law was issued at valuation dates with significantly lower inflation rates.

When determining the enterprise value, so-called inflation-related capital gains are generally taken into account when deriving net income (section 6.3.e)). Alternatively, a deduction is possible in the denominator for the inflation-related growth factor (Tschöpel/Wiese/Willershausen, WPg 2010, 349, 356; Jonas/Wieland-Blöse, Berücksichtigung von Steuern, in: Fleischer/Hüttemann, Rechtshandbuch Unternehmensbewertung, 2. Aufl. 2019, Fn. 1 zu Tz. 17.41; Raths, Residual Value Determination in Business Valuation, 2018, p. 89 f.; Dierkes/Sümpelmann, BewP 2019, p. 66, 68 f; Wollny, Der objektivierte Unternehmenswert, 3rd ed, 2018, fn. 708 at p. 141). The valuation expert takes into account the taxation of the inflation-related capital gains on the basis of the cash flow.

h) Derivation of the discount rate

The derivation of the discount rate for the detailed planning and continuation phase was carried out appropriately. We have satisfied ourselves of the accuracy of the actuarial calculation. We consider the discount rate of 5.75% calculated using the after-tax market risk premium to be appropriate.

As a purely precautionary measure, we would like to point out that the change in individual, individually justifiable values for the risk-free rate, the market risk premium, the beta factor or the growth factor can lead to an overall unrealistic discount rate and consequently to an unrealistic settlement (OLG Frankfurt, November 24, 2011, 21 W 7/11). Moreover, as the Higher Regional Court of Stuttgart (October 17, 2011, 20 W 7/11) points out, most favorable treatment for individual methodological issues within the determination of the capitalized earnings value is also not required under constitutional law. Otherwise, there would be an accumulation of favorable decisions that would certainly no longer reflect the "real" value (OLG Munich, March 20, 2019, 31 Wx 185/17).

i) Calculation of capitalized earnings value

If there is a concrete distribution plan, the distribution volume is shown in the so-called **value contribution from distributions**. If amounts are retained (pro rata) from the net profit for the year, but no specific use is planned for them, the economically reasonable assumption of reinvestment without affecting the net present value is usually made for these amounts as part of the capitalized earnings value method. The (fictitious) investment of the amounts at company level leads to additional income in the years following retention. Under the assumption of reinvestment without affecting the net present value (IDW S 1 in the 2008 version, para. 37), these formally undistributed funds can be represented by a fictitious direct allocation of the reinvested amounts to the shareholders and form the so-called **value contribution from reinvestments**.

Based on the planning calculation explained in the valuation report, the capitalized earnings value was derived as follows:

Payout ratio and dividend taxation

As a basis for the dividend taxation of the shareholders of VQT AG, it is necessary to derive a distribution ratio. The corporate planning of VQT AG does not contain any planning of distributions. In the past, VQT AG did not distribute any dividends to its shareholders.

According to IDW S 1 as amended in 2008, the determination of objectified enterprise values for the detailed planning period is to be based on the distribution of those financial surpluses that are available after taking into account the business concept documented at the valuation date and after legal restrictions.

The valuation expert correctly states that the company has not made any distributions in the past and that no distributions are planned in the corporate plan until the plan year 2025. Rather, the company has assumed that the funds will be retained. The retained amounts are used in full to finance investments in the detailed planning phase and to offset the balance sheet loss carryforwards and can therefore not be attributed as value added from retained earnings. For the convergence phase, the valuation expert has assumed that the distribution behavior of VQT will approximate the distribution behavior observable on the market. A payout ratio of 50.0% was applied from fiscal year 2027 onwards.

The distribution ratio of VQT AG of 50.0% derived by the valuation expert is also supported by the historically observable market-average distribution behavior (Wagner et al., WPG 2008, p. 733; WPH Edition: Bewertung und Transaktionsberatung, 2018, Chap. A., para. 280). This distribution ratio reflects a distribution behavior of the company to be valued that is equivalent to the distribution behavior of the alternative investment (Gorny/Rosenbaum, WPg 2004, p. 861; OLG Düsseldorf, May 11, 2015, 26 W 2/13). With the exception of necessary reinvestments for growth financing, the undistributed amounts are attributed as value added from reinvestment.

The payout ratio applied by the valuation expert is in the middle of the range of payout ratios customary in the market. Overall, the payout ratio applied by the valuation expert is appropriate in our opinion. The total dividend amount representing the value added from distributions was correctly reduced by the final withholding tax of 25.0% plus 5.5% solidarity surcharge.

With regard to the tax contribution account within the meaning of Sec. 27 KStG, it should be noted that the mere existence of a tax contribution account does not in itself represent any value. Only to the extent that a distribution exceeds the distributable profit determined at the end of the preceding fiscal year is such distribution made from the tax contribution account and can be received tax-free (OLG Jena, May 3, 2021, 2 W 407/18; OLG Frankfurt, November 3, 2020, 21 W 76/19; OLG Munich, November 13, 2018, 31 Wx 372/15).

In the course of our audit, we satisfied ourselves as to the extent to which the planned distributions will not lead to a drawdown of the tax contribution account and therefore do not represent a return of contributions in accordance with Sec. 27 (1) Sentence 3 KStG.

Capital gains taxation

Since 2009, the effects of the final withholding tax on capital gains have to be taken into account. The depiction of the amount of the effective final withholding tax on capital gains depends on both the holding period to be assumed, the retention-related performance of the valuation object and the alternative investment (Wiese, WPg 2007, pp. 368, 375). Typifications are to be made in order to determine the point in time of the capital gains taxation and the resulting market average capital gains tax rate (OLG Frankfurt, January 26, 2015, 21 W 26/13).

In valuation practice and case law, the typifying assumption of effective capital gains taxation of 12.5% plus SolZ (i.e. 13.1875% in total) is recognized (Popp, Berücksichtigung von Steuern, in: Peemöller (ed.); Praxishandbuch der Unternehmensbewertung, 8th ed, 2025, pp. 1567, 1581, with further references; OLG Düsseldorf, October 28, 2019, 26 W 3/17; OLG Munich, June 26, 2018, 312 Wx 382/15; OLG Frankfurt, February 5, 2016, 21 W 69/14). Accordingly, the valuation expert charged the reinvestments in perpetuity leading to increases in value with an effective tax of 13.1875% instead of the nominal tax burden of 25% plus solidarity surcharge.

Furthermore, so-called inflation-related capital gains must be taken into account when deriving net income (Popp, Der Konzern 2019, p. 149 et seq.; Ruthardt/Popp, AG 2019, p. 196, 200). The starting point for this is the tax liability on capital gains. For reasons of materiality, the consideration is generally limited to the perpetuity phase. From a purely financial mathematical point of view, the company value increases nominally in the perpetuity year by year in the amount of the company-specific inflation rate; this also applies under the assumption of a full distribution (fictitious full distribution) of the planned results. If a non-infinite holding period of the shareholders is assumed as a typical case, these inflation-related (fictitious) price gains are also realized after the typified holding period and are then subject to the effective flat rate withholding tax plus SolZ (with further evidence WPH Edition: Bewertung und Transaktionsberatung, 2018, Chap. A Tz. 453 f.). Alternatively, a deduction for inflation-related growth deduction in the denominator is possible (Tschöpel/Wiese/Willershausen, WPg 2010, 349, 356; Jonas/Wieland-Blöse, § 17 Berücksichtigung von Steuern, in: Fleischer/Hüttemann, Rechtshandbuch Unternehmensbewertung, 2. Aufl. 2019, Fn. 1 zu Rz. 17.41; Raths, Restwert-ermittlung in der Unternehmensbewertung, 2018, p. 89 f.; Dierkes/Sümpelmann, BewP 2019, p. 66, 68 f; Wollny, Der objektivierte Unternehmenswert, 3rd ed, 2018, fn. 708 at p. 141).

Under the Tax-CAPM, the market risk premium is derived from stock yields. These, in turn, are derived from the long-term nominal, i.e. inflation-influenced, increase of stock indices. The annual change in the index level is made up of dividend and price returns of the stocks included. When reconciling the pre-tax stock yield to a post-tax stock yield (WPH Edition: Bewertung und Transaktionsberatung,, 2018, chap. A para. 396), the portion attributable to the dividend yield is subject to the nominal withholding tax. The difference between the stock yield and the dividend yield corresponds to the price yield. Historically observable or expected share price developments, i.e. share price yields, are nominal values. In this respect, inflation-related price increases are "priced in" to this figure (for an analysis of inflation-adjusted real returns, see Castedello et al., WPg 2018, pp. 806, 812 et seq.)

If the price return is now reduced by the effective capital gains tax rate when determining the after-tax market risk premium under the Tax-CAPM, the inflation-related price changes or (fictitious) price gains are also implicitly recognized when determining the discount rate. Since the reconciliation of pre-tax and after-tax stock returns is performed in accordance with the Tax-CAPM, the specific derivation of the market risk premium (past-oriented or future-oriented) is not important, as each stock yield used in the Tax-CAPM is fully subject to taxation (Popp, Der Konzern 2019, pp. 149, 154; Ruthardt/Popp, AG 2019, pp. 196, 200 f.). In order to ensure tax or availability equivalence between the valuation object and the alternative investment, the effective capital gains tax on inflation-related increases in value must then also be recognized in the determination of the capitalized earnings value.

In our opinion, the consideration of the effective capital gains taxation on inflation-related increases in value is widespread in valuation practice and has been confirmed as appropriate or not objected to in appraisal proceedings (OLG Munich, 3. December 2020, 31 Wx 330/16; OLG Frankfurt, September 8, 2020, 21 W 121/15; OLG Stuttgart, June 26, 2019 20 W 27/18; OLG Munich, November 13, 2018, 31 Wx 372/15; OLG Hamburg, October 8, 2018, 13 W 20/16; LG Stuttgart, October 1, 2019, 31 O 36/16).

The appraiser properly accounted for the deduction of capital gains tax on increases in value due to inflation.

Capitalization of net inflows

We have reconciled the capitalization of expected net distributions on the one hand and the fictitious direct attribution of value contributions from retained earnings on the other.

For discounting the annual distributions, the valuation expert assumed that the distributions will be made at the end of the year. The distribution amounts were therefore initially discounted in the valuation model from the end of the respective fiscal year to the technical valuation date of December 31, 2022 and then compounded to the valuation date. The value contribution from reinvestment in the perpetual annuity was discounted in the same way.

In our opinion, the phase method was applied appropriately. We have satisfied ourselves of the actuarial correctness of the capitalized earnings value by means of control calculations.

6.4. Special values

The valuation expert has identified and taken into account special values at VQT AG. The special values relate to assets not required for operations and two non-consolidated investments, real estate held as financial assets, reserve space in Köllda and the value contribution from tax loss carryforwards of VQT AG as well as tax loss carryforwards at the foreign companies.

A share of 14.1% is held in the affiliated company **SUMTEQ GmbH**, taking into account the capital increase carried out in March 2023. According to the fair value approach, the value of the investment in SUMTEQ GmbH amounts to EUR 3,375 k. The inclusion in the consolidated financial statements of VQT AG is based on the fair value method. In addition, VQT AG holds a 20% share in **ING3D GmbH**. According to the fair value approach, the value of the investment in ING3D GmbH amounts to EUR 1,612 k. The valuation expert has recognized a special value of **EUR 4,987 k** for the investments in SUMTEQ GmbH and ING3D GmbH as non-consolidated investments.

As of December 31, 2020, VQT AG has a **taxable contribution account in the amount** of EUR 50,431 k. The company has updated this account to December 31, 2022 and taken into account the contribution of EUR 33,538 k from the capital increase scheduled for 2023. In total, the balance of the tax contribution account amounts to EUR 92,139 k. The valuation expert has analyzed the possibilities for a tax-free distribution from the tax contribution account on the basis of a further development based on the corporate planning of VQT AG. The valuation expert comes to the conclusion that there is no possibility to use the tax contribution account.

A plot of land in Würzburg, which was recognized at fair value at the end of the 2022 financial year, was also recognized as a special value in the amount of **EUR 1,179 thousand**. For the valuation, the valuation expert selected a higher value compared with the carrying amount on the basis of the purchase price achieved in November 2021 from a partial sale of the land.

VQT AG owns unused and undeveloped land at the Köllda production site. These have been reserved as potential **reserve areas** for a future expansion of production capacities. The detailed planning does not provide for a corresponding measure for the use of these areas. Therefore, the valuation expert has taken this into account as a special value in the amount of EUR 140 thousand. The valuation was carried out in a simplified manner with the aid of the standard land value.

As of December 31, 2022, VQT AG has a trade tax **loss carryforward** of EUR 28,030 k and a corporate income tax loss carryforward of EUR 28,644 k. The valuation expert has determined the tax benefit resulting from the use of the loss carryforwards, taking into account the planned earnings development for VQT AG, and discounted it to the valuation date. This results in a special value of EUR 5,272 thousand.

The foreign companies of VQT AG also have tax loss carryforwards totaling EUR 5,544 thousand, resulting in a special value of EUR 720 thousand.

Furthermore, according to information provided by the Management Board of VQT AG and in our opinion based on the findings of our audit, there are no indications of the existence of other non-operating assets.

6.5. Enterprise value according to IDW S 1 as amended in 2008

With reference to the presentation in the valuation report, the total enterprise value for VQT AG as of the valuation date August 29, 2023 an enterprise value derived from the capitalized earnings value and the special values in the amount of EUR 313,927 thousand. This corresponds to a pro rata value per share in the amount of EUR 21.29.

We have reconstructed the calculation of the value per share. It is derived correctly.

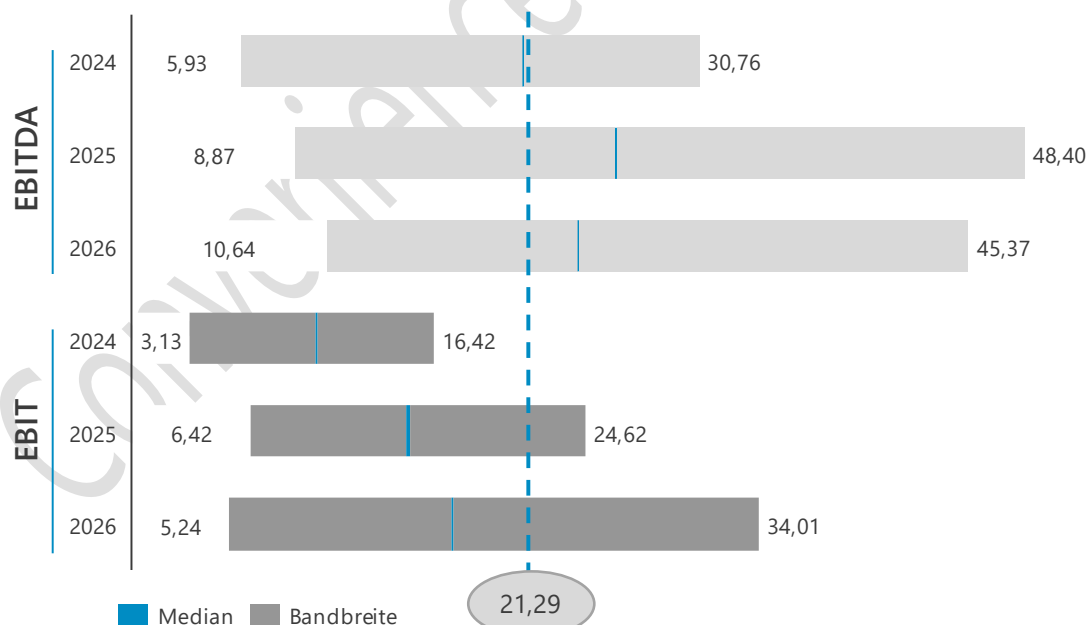
6.6. Comparative valuation

In addition to the net present value method, valuation practice also uses so-called comparative valuation methods to estimate provisional enterprise values, value ranges or for plausibility purposes. Like the capitalized earnings method, comparative valuation methods follow the principle of an earnings-oriented valuation, but the enterprise value is determined on the basis of a multiple of a performance or inventory variable. The comparative valuation method is based on a comparative business valuation in the sense that suitable multiples are derived from capital market data of listed comparable companies (trading multiples) or transactions (transaction multiples) and transferred to the company to be valued.

According to IDW S 1 as amended in 2008 (para. 143), such comparative valuation valuations only represent simplified value determinations, but may provide indications for a plausibility check in individual cases (critical of the informative value: OLG Frankfurt, January 17, 2017, 21 W 37/12; OLG Frankfurt May 2, 2011, 21 W 3/11; OLG Frankfurt, February 15, 2010, 5 W 52/09; LG München I, December 2, 2016, 5 HK 5781/15).

The valuation expert derived a value range based on trading multiples to illustrate the enterprise value and value per share determined using the capitalized earnings value method. The multiples were based on EBITDA and EBIT for the years 2022 to 2024. The multiples were derived on the basis of the same peer group companies that were also used to derive the beta factor. The median of the multiples was used. We have followed the approach of the valuation expert.

The valuation expert comes to the conclusion that the plausibility check based on multiples is only possible to a limited extent, as VQT AG develops significantly more dynamically in the detailed planning phase and plans higher growth rates than the peer group companies, which are already in a more mature phase of their life cycle. Therefore, the growth expectations implicit in the multiples of the peer group companies do not reflect the growth planned for VQT AG, which is why the multiples method tends to underestimate the enterprise value of VQT AG.



Quelle: Bloomberg L.P., Analyse Ebner Stolz

We have reconstructed the comparative valuation prepared by EY using trading multiples based on data from the financial information service provider Bloomberg L.P. and information provided to us by the valuation expert from the financial information database S&P Global Market Intelligence LLC and Mergermarket. Our analysis does not provide any indications that the fundamental enterprise value derived using the capitalized earnings value method is understated.

6.7. Market Prices

According to the decision of the Federal Court of Justice (BGH) of July 19, 2010 (II ZB 18/09, "Stollwerck"), the market price to be used as a basis for appropriate compensation is generally to be calculated on the basis of a weighted average stock price within a three-month period prior to the announcement of the structural measure.

Thus, the BGH states that if the stock exchange prices after the announcement of the structural measure "... are included in the reference period, the determined stock exchange price no longer reflects - as required - the price which the shareholder would have obtained without the intervention of the principal shareholder obligating him to pay compensation or the structural measure and which is formed from supply and demand from the point of view of the enterprise value expected by the market, but the price which can be obtained precisely because of the structural measure. [...] This demand, however, has nothing to do with the market value of the stock, with which the shareholder is to be compensated for the loss of the shareholder position as if the structural measure had not occurred (BVerfGE 100, 289, 305)." The choice of the reference period serves, among other things, to prevent the possibility of manipulation. Abuse is to be excluded thereby from both sides. In the opinion of the BGH, the minority shareholder is protected from manipulation by the majority shareholder through the selection of a particularly favorable point in time by the fact that the fair settlement payment can never be less than the minority shareholder's share of the enterprise value.

This view is also reflected in Section 5 (1) of the WpÜG Offer Ordinance, which stipulates that the consideration offered in the event of a takeover bid must be at least equal to the volume-weighted average market price of the shares of the target company during the last three months prior to publication of the decision to make a bid.

On Friday, December 9. December 2022, VQT AG announced by means of an ad hoc announcement that Fahrenheit AcquiCo GmbH, in view of the expected conclusion of a merger agreement in the near future, also intends to enter into a takeover agreement with VQT AG and a subsequent takeover offer to the shareholders of VQT, to submit to the Executive Board of va-Q-tec a request for the initiation of negotiations for the conclusion of a domination and profit and loss transfer agreement to be concluded after the completion of the takeover offer.

The description of the procedure on the BaFin website provides for the determination of the stock exchange price to be based on the three-month period up to the (trading) day prior to the publication of the intention to implement the relevant measure. Accordingly, the three-month period for the intention to conclude a domination and profit and loss transfer agreement under stock corporation law announced on December 9, 2022 would end on December 8, 2022 as the last preceding trading day.

Type of averaging

With regard to the determination of the volume-weighted average price, the price calculated by BaFin pursuant to section 5 para. 1 WpÜG Offer Ordinance shall generally be used. According to the letter of BaFin dated March 9, 2023, BaFin was able to determine a valid minimum price of the shares of VQT AG calculated pursuant to section 31 para. 1, 7 WpÜG in conjunction with section 5 WpÜG Offer Ordinance as of the record date December 8, 2022, as the shares are traded on the regulated market of the Frankfurt Stock Exchange. The calculated three-month average price as of December 8, 2022 amounts to

EUR 12,75

The valuation expert also determined the three-month average share price as of December 8, 2022 based on capital market data from the financial information service provider S&P Capital IQ. The resulting value is in line with BaFin's calculations.

For comparison purposes, we have also determined the market price using price data from the financial information service provider Bloomberg as of December 8, 2022. In doing so, we have considered the stock exchange trading place of the Frankfurt Stock Exchange. According to the Bloomberg data used, the three-month average price of VQT AG as of December 8, 2022 amounts to EUR 12.72 and is thus slightly below the average price determined by BaFin.

We have analyzed the trading figures and price development of the VQT AG share. It shows that trading took place on the Frankfurt Stock Exchange on 65 days out of a total of 65 possible trading days and that a total of 1,542,315 VQT AG shares were traded, which speaks against a tight market or lack of liquidity of the VQT AG share (cf. Section 5 (4) WpÜG AngebV).

Within the reference period under review, the largest observable change in the successive closing prices was an increase of 15.8% (on October 27, 2022). The largest negative price change between two days on which a trade in the share took place amounted to 7.0% (on September 23, 2022). An analysis of the share price jumps in the relevant observation period shows that there were only seven days on which the share price jumped by more than 5.0%. These jumps took place on the following days: September 23, October 25, October 27, November 7, November 25, November 28 and December 2, 2022.

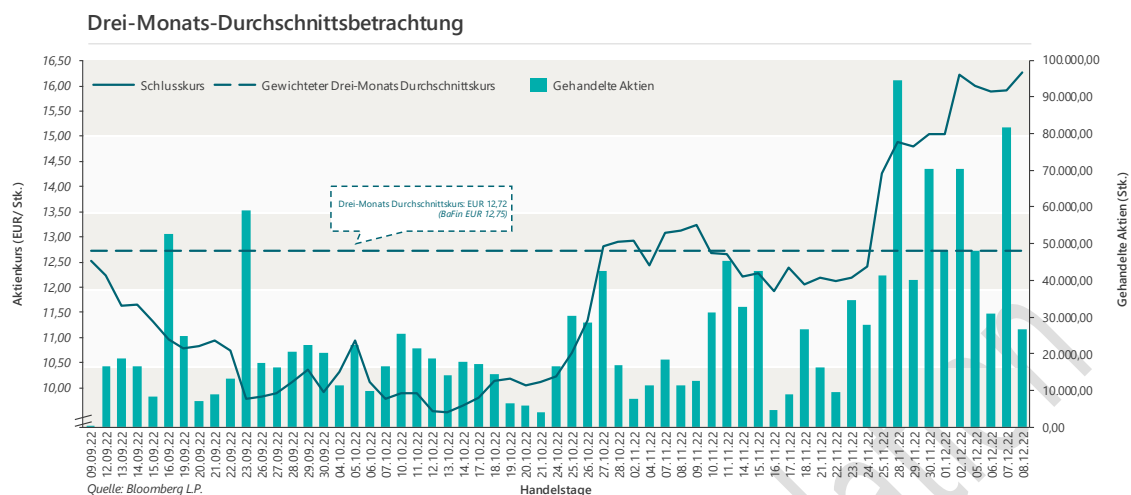
Of the total of 13,415,000 shares outstanding or issued, 9,752,705 shares were in free float in the reference period under review, corresponding to a free float ratio of approximately 72.7%.

The requirements of section 5 (4) of the WpÜG Offer Ordinance are therefore met.

In addition, we examined liquidity ratios, in this case the bid-ask spread. This shows that the bid-ask spread, i.e. the difference between the price at which a shareholder willing to sell his shares would sell them and the price that an interested investor would be prepared to pay, is 1.1% on average for the three-month period on the Frankfurt Stock Exchange. There is evidence in the valuation literature that, on average, for 75% of the companies listed on the CDAX, a bid-ask spread of a maximum of 3.57% can be observed (Dörschell et. al., Der Kapitalisierungszins in der Unternehmensbewertung, 2nd ed., 2012, p. 174). Our analyses do not indicate that there is restricted liquidity of the VQT AG share.

The value resulting from the three-month average consideration of EUR 12.75 per share is below the fundamental enterprise value according to the capitalized earnings value method of VQT AG of EUR 21.29 per share.

The following overview shows the price development and the trading volume of the VQT AG share on the Frankfurt Stock Exchange in the three-month period until the day of the announcement of the intention to conclude a domination and profit and loss transfer agreement under stock corporation law (December 9, 2022). In addition, the three-month average share price as of December 9, 2022 of EUR 12.75 per share (according to BaFin) determined by BaFin is shown.



Longer period and extrapolation of the market price

According to the case law of the Federal Court of Justice (BGH), an "extrapolation" of the market price to the valuation date must be made if there is a "longer period" between the date of the announcement and the date of the Annual General Meeting and the "general or typical" stock market development makes an adjustment appear necessary (BGH, July 19, 2010, II ZB 18/09).

In the Stollwerck decision, the Federal Court of Justice assumed that a period of seven and a half months between the announcement of the structural measure and the Annual General Meeting adopting the resolution constituted a "longer period". In the specialist literature, a period of up to six months is not regarded as a "longer period". In some cases, periods of up to seven and a half months - i.e. the specific period in the Stollwerck decision of the BGH - are also not considered to be "longer" periods (for literature references, see Popp/Ruthardt, WPg 2017, pp. 1222, 1223).

In case law, the "longer period" is handled restrictively and extrapolation is limited to "unusual" exceptional cases. A period of up to six months between the announcement and the date of the Annual General Meeting is considered "normal" or "customary", as six months - even in normal times - are regularly required for the assessment, examination and preparation of the Annual General Meeting (OLG Stuttgart, July 24, 2013, 20 W 2/12). In this respect, there have only been isolated decisions to date in which a projection of the market price relevant to compensation has been made. A uniform case law on the existence of a "longer period" and on the extrapolation methodology is not yet apparent (cf. in detail on the "longer period" and on alternative extrapolation methods Popp/Rut-hardt, WPg 2017, p. 1222 et seq.). The OLG Frankfurt a. M. (August 27, 2020, 21 W 59/19) assumed an extrapolation in principle for a period of seven months and eight days. Nevertheless, the OLG Frankfurt a. M. rejected an extrapolation if a connection between the share price of the company and the share prices of comparable companies is to be denied because the share price of the company had already decoupled from the share prices of comparable companies before the announcement of the structural measure (Bungert/Becker, DB 2021, p. 940).

Between the above-mentioned publication of the intention of Fahrenheit AcquiCo GmbH to conclude a domination and profit and loss transfer agreement, in this case the ad hoc announcement of VQT AG dated December 9, 2022, and the date of the Annual General Meeting on August 29, 2023, which will adopt the resolution, there will be more than six months. As this is therefore a longer period within the meaning of case law, an extrapolation of the volume-weighted average stock exchange price is appropriate.

Against this background, the valuation expert, notwithstanding the limitations presented in section 8 of the valuation report of EY, has made an "extrapolation of the market price" of VQT AG at the end of the audit work. The valuation expert comes to the conclusion that the extrapolated market price is below the appropriate fair settlement payment on the basis of the capitalized earnings value method. As a result, the consideration of an extrapolated market price for the determination of an appropriate fair settlement payment is not relevant.

6.8. Particular difficulties in the evaluation

Based on our knowledge of the relevant parts of the joint report, the information provided to us, the discussions with the Management Board of VQT AG, the discussions with representatives of the appointed valuation expert EY, which assisted with the valuation, as well as the review of the planning calculation on which the derived result is based and the other documents, we conclude that no particular difficulties within the meaning of Section 293e (1) sentence 3 no. 3 AktG arose in the determination of the enterprise value of VQT.

7. Determination of the appropriate fair settlement payment and appropriate compensation

7.1. Determination of the appropriate fair settlement payment pursuant to Sec. 305 AktG

The baseline values for determining the proposed settlement are detailed in the Expert Opinion attached as an appendix to the Joint Report.

From the enterprise value of approximately EUR 313,927 thousand, a value per share of EUR 21.29 was derived by the valuation expert.

The volume-weighted average market price is EUR 12.75.

Against this background, the contracting parties have set the amount of the fair settlement payment at

EUR 21.80

per share was set.

In our view, the cash compensation determined is appropriate.

7.2. Determination of the appropriate compensation pursuant to Sec. 304 AktG

According to Art. 304 par. 2 sentence 1 Stock Corporation Act (AktG), the compensation payment must be at least the annual payment of the amount which, based on the Company's earnings situation to date and its future earnings prospects, taking into account appropriate depreciation, amortization and write-downs, but excluding the formation of other revenue reserves, could probably be distributed as an average share of profits to the individual share. This statutory provision ensures that the outside shareholder receives a compensation payment which corresponds in value to the dividend he would receive without the intercompany agreement (BGH, July 21, 2003, II ZB 17/01; OLG München, July 17, 2007, 31 Wx 60/06).

The compensation payment is regularly derived by annuitizing the capitalized earnings value (Popp/Ruthardt, § 12 Bewertungsmethoden im Spiegel der Rechtsprechung, in:

Fleischer/Hüttemann, Rechtshandbuch Unternehmensbewertung 2nd ed. 2020, para. 12.201; Koch, Aktiengesetz, 16th ed, 2022, § 304 AktG, para. 10; BGH, January 12, 2016, II ZB 25/14; OLG Bremen, May 15, 2020, 2 W 47/19; OLG Stuttgart, May 4, 2020, 20 W 3/19; OLG Munich, March 11, 2020, 31 Wx 341/17; OLG Düsseldorf, November 12, 2015, 26 W 9/14; OLG Frankfurt a.M., March 28, 2014, 21 W 15/11).

The calculation of the fixed compensation payment is to be derived arithmetically from the determined capitalized earnings value at the beginning of the financial year in which the domination and profit and loss transfer agreement becomes effective or is to become effective (WPH Edition Bewertung und Transaktionsberatung, 2018, ch. C, para. 82; OLG Frankfurt v. Jan. 26, 2015, 20 W 26/13; OLG Frankfurt v. March 28, 2014, 21 W 15/11; OLG Stuttgart v. Sept. 14, 2011, 20 W 6/08). Pursuant to Section 7 (2) of the Agreement, the Agreement shall become effective as soon as its existence has been entered in the commercial register of the registered office of VQT AG, but no earlier than the beginning of the financial year of VQT AG commencing on January 1, 2024. Thus, the compensation payment is to be determined as of January 1, 2024.

The valuation expert has determined the fixed compensation payment by annuitizing the earnings-based enterprise value of VQT AG as of January 1, 2024, i.e. including the special values. We consider this approach to be appropriate.

Interest rate (return) of the annuity

In economic terms, the rate of return on the annuity expresses the alternative investment equivalent to the compensation payment. In this respect, it is intended to reflect the risk structure of the compensation payment. In practice, two different approaches are used to derive the rate of return on the annuity: the mean value approach and the credit-rating approach. In the mean value approach, the risk-free rate is increased by half of the risk premium of the capitalized earnings value method (Popp/Ruthardt in Fleischer/Hüttemann, Rechtshandbuch Unternehmensbewertung, 2nd edition, para. 12.208 ff; WPH Edition Bewertung und Transaktionsberatung, 2018, chap. C, para. 88). In the credit-rating approach, the risk-free interest rate is increased by a credit-rating premium for the default risk of the parent company (Frank/Muxfeld/Galle, Corporate Finance, Themenheft Unternehmensbewertung, 12/2016, p. 455; WPH Edition Bewertung und Transaktionsberatung, 2018, ch. C, para. 88).

Both the mean value approach and the credit-rating approach are suitable for deriving the rate of return on the annuity for determining the compensation payment (BGH, February 21, 2023, II ZB 12/21).

If and to the extent that the inter-company agreement provides for a clause on the revival of the fair settlement payment offer, the credit rating approach is primarily used (BGH, February 21, 2023, II ZB 12/21; OLG Düsseldorf, May 25, 2016, 26 W 2/15).

Section 5 (6) of the agreement stipulates that, in the event of termination of the agreement at a point in time after the expiry of the periods specified in Section 5 (1) or (2) of the agreement, any outside shareholder of VQT AG at that time has the right to offer its VQT AG shares held at that time to Fahrenheit AcquiCo in return for compensation in accordance with Section 5 (1) of the agreement. Fahrenheit AcquiCo is then obliged to acquire the VQT AG shares offered by the outside shareholder in return for compensation pursuant to Section 5 para. 1 of the Agreement. The contract thus provides for a clause to revive the offer of compensation. The valuation expert derived the determination of the rate of return on the annuity using the credit rating approach.

We have verified the calculation methodology used by the valuation expert to derive the rate of return on the annuity. We checked the plausibility of the rate of return on the annuity derived by the valuation expert using the credit rating approach, i.e. we examined the derivation of the credit rating of VQT AG and the credit rating surcharge.

If the annual compensation payment is derived by applying interest to the enterprise value per share using the credit rating approach, this is a customary and appropriate procedure in the case of a contractual clause on the revival of the compensation claim of the outside shareholders, which also meets with approval in case law (WPH Edition Bewertung und Transaktionsberatung, 2018, Chap. C, para. 89; OLG Frankfurt, November 24, 2011, 21 W 7/11).

The after-tax annuity interest rate we have determined is 3.64 %. Converting this into a pre-tax annuity interest rate results in a value of 4.94 %.

On the basis of the plausibility check carried out by us, we consider the determination of the annuity interest rate made by the valuation expert for deriving the compensation payment to be justifiable.

The rate of return on the annuity is not to be reduced by a growth factor (OLG Düsseldorf, May 25, 2016, 26 W 2/15; OLG Karlsruhe, May 13, 2013, 12 W 77/08 (13); OLG Munich, July 17, 2007, 31 Wx 60/06).

Effects of the withholding tax

In determining the appropriate compensation the inflows from this equalization payment are treated as dividends and are therefore subject to the final withholding tax of 25.0 % plus solidarity surcharge. For this purpose, after annuitizing the after-tax value with an after-tax risk-free rate to determine the compensation amount to be determined, the typified tax burden is added, thus converting the after-tax value into an input tax value (OLG Frankfurt, July 20, 2016, 21 W 21/14; OLG Stuttgart, June 5, 2013, 20 W 6/10; LG Stuttgart, November 5, 2012, 31 O 55/08).

Contrary to the approach described above, the valuation expert calculated the appropriate compensation directly based on an annuity interest rate before personal income tax and directly derived the compensation before personal income tax. Since both methods are convertible and lead to the same result, we consider the appraiser's approach to be appropriate.

Derivation of the settlement amount

The starting point for deriving the settlement amount is the value per share of EUR 21.86 derived from the enterprise value as of January 1, 2024.

The calculation of the appropriate annual compensation payment is shown in the following table (annuity with interest rate before personal income tax):

		VQT AG		Aktienportfolio	
		EUR	Rendite	EUR	Rendite
Unternehmenswert je Aktie	01.01.2024	21,86		21,86	
Basiszinssatz vor Einkommensteuer	2,50%				
Verrentungszins (vor Est)	4,94%				
Typ. Einkommensteuer	-1,30%				
Verrentungszins (nach Est)	3,64%				
Verrentungszins (nach Est)				3,64%	
Rentenbetrag vor Est		1,08	4,94%		
Einkommensteuer (26,375 %)		-0,28			
Rentenbetrag nach Est		0,80	3,64%	0,80	3,64%
Ausgleichszahlung (vor Est)		1,08			

The first step is to determine the annual pension amount after personal income tax ("Est") resulting from the interest on the enterprise value per share (EUR 0.80). Subsequently, the value that is necessary before Est in order to receive an annuity inflow after Est in this amount must be determined. The necessary compensation payment before Est is therefore EUR 1.08.

Modification of fixed compensation according to BGH case law

In the Ytong decision, the Federal Court of Justice (BGH) came to the conclusion that the average gross profit share per share that is likely to be distributable less the (distribution) corporation tax payable by the Company on this amount should be guaranteed as the compensation payment in the amount of the applicable tax rate. Accordingly, adjustments to the corporate income tax could lead to adjustments to the compensation payment, since in the opinion of the BGH the "corporate income tax cannot be influenced by the company itself, but is merely an outflow of the profit generated by it" (BGH, July 21, 2003, II ZB 17/01; critically: WPH Edition: Bewertung und Transaktionsberatung, 2018, Chap C, para. 85; Popp, WPg 2008, pp. 23, 25).

To take account of possible changes in the corporate income tax burden on the amount of the compensation payments within the meaning of the BGH ruling of July 21, 2003, according to which under Art. 304 par. 1 sentence 1, par. 2 sentence 1 AktG, the (fixed) compensation to be paid is the average gross profit per share expected to be distributable less the (distribution) corporation tax payable by the Company thereon in the amount of the applicable tax rate, the basis of assessment for the corporation tax including the solidarity surcharge (OLG Frankfurt, 26. January 2015, 21 W 26/13; OLG Stuttgart, June 5, 2013, 20 W 6/10; BayObLG, October 28, 2005, 3Z BR 071/00, LG München I, July 31, 2015, 5 HKO 16371) is to be fixed. The compensation is determined by deducting the current corporate income tax including solidarity surcharge from the gross compensation derived from the capitalized earnings value.

	Bruttoausgleich ausgleich	./. KSt + SolZ	Ausgleichs- zahlung
	EUR	EUR	EUR
Anteiliger Ausgleich aus mit deutscher Körperschaftsteuer und Solidaritätszuschlag belasteten Gewinnen	0,13	0,02	0,11
Anteiliger Ausgleich aus nicht mit deutscher Körperschaftsteuer und Solidaritätszuschlag belasteten Gewinnen	0,97	0,00	0,97
Ausgleich gesamt	1,10	0,02	1,08

The appropriate compensation payment pursuant to Section 304 AktG thus amounts to EUR 1.10 per no-par value share (gross profit share per share) less an amount to be paid by VQT AG for corporate income tax. This amount is to be determined from the profit share of EUR 0.13 per no-par value share included in the gross profit share from profits of VQT AG subject to corporate income tax, taking into account the corporate income tax rate applicable for the respective financial year. The corporate income tax rate including solidarity surcharge applicable at the time of the conclusion of the agreement amounts to 15.825 %; this results in a corporate income tax deduction amount of EUR 0.02 from the profit share to be charged with corporate income tax.

Assuming an unchanged corporate income tax rate of 15.0 % and solidarity surcharge of 5.5 %, the compensation payment per no-par value share amounts to EUR 1.08.

The proposed compensation payment by the main shareholder amounts to EUR 1.16 per no-par value share. The resulting gross settlement before corporate income tax including solidarity surcharge amounts to EUR 1.18 per no-par value share. As the compensation offered and the gross compensation derived from it are above the amounts determined by the valuation expert, we consider the compensation offered in the amount of EUR 1.16 per no-par value share and the gross compensation in the amount of EUR 1.18 per no-par value share to be appropriate.

8. Final statement on the appropriateness of the fair settlement payment and compensation determined

The company's value of approximately EUR 313,927 thousand results in a appropriate value per share of EUR 21.29. In our opinion, for the reasons set out above, the fair settlement payment granted to the outside shareholders of VQT AG, Würzburg, as a result of the conclusion of the domination and profit and loss transfer agreement with Fahrenheit AcquiCo GmbH, Frankfurt, in accordance with Section 305 AktG is appropriate in the amount of EUR 21.80 per registered no-par value share.

The appropriate compensation pursuant to Section 304 AktG amounts to EUR 1.10 per share (pre-tax earnings per share) less an amount to be paid by VQT AG for corporate income tax and the solidarity surcharge. This amount is to be calculated from the share in the profit contained in the pre-tax earnings per share of EUR 0.13 arising from profits of VQT AG subject to corporate income tax, taking into account the corporate income tax rate applicable in each case for the relevant financial year. At the corporate income tax rate of 15.825 % (incl. solidarity surcharge) applicable at the time of the conclusion of the agreement, this results in a deduction amount of EUR 0.02 and thus a net settlement amount of EUR 1.08 per share. The gross compensation granted to the outside shareholders of VQT AG in the amount of EUR 1.18 per share and the resulting granted compensation before ESt in the amount of EUR 1.16 per share are therefore appropriate."

Cologne, 14th July 2023

Ebner Stolz GmbH & Co. KG

Jörg Neis

Florian Leis

Convenience Translation

This document is a translation of the report "Bericht über die Prüfung des Beherrschungs- und Gewinnabführungsvertrags zwischen der va-Q-tec AG, Würzburg, und der Fahrenheit AcquiCo GmbH, Frankfurt am Main which was written in German. Ebner Stolz GmbH & Co. KG does not assume any responsibility for the correctness of the translation. The German version is authoritative for decision-making purposes.

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Attachments

Landgericht Nürnberg-Fürth

Az.: 1 HK O 781/23



In dem Rechtsstreit

- 1) **va-Q-tec AG**, vertreten durch d. Vorstand, Alfred-Nobel-Straße 33, 97080 Würzburg
- Antragstellerin -

Prozessbevollmächtigte:

Rechtsanwälte **Hogan Lovells International LLP**, Große Gallusstraße 18, 60312 Frankfurt, Gz.: 146951, 000036

- 2) **Fahrenheit AcquiCo GmbH**, vertreten durch d. Geschäftsführer, c/o Milbank LLP, Maximilianstraße 15, 80539 München
- Antragstellerin -

Prozessbevollmächtigte:

Rechtsanwälte **Milbank LLP**, Maximilianstraße 15, 80539 München

wegen Prüferbestellung

erlässt das Landgericht Nürnberg-Fürth - 1. Kammer für Handelssachen - durch den Vorsitzenden Richter am Landgericht Walther am 17.02.2023 folgenden

Beschluss

1. Als Vertragsprüfer für den zwischen den Antragstellerinnen beabsichtigten Gewinnabführungsvertrag wird die

Ebner Stolz GmbH & Co. KG Wirtschaftsprüfungsgesellschaft Steuerberatungsgesellschaft,

Herr WP und StB Jörg Neis ,

Holzmarkt 1,

50676 Köln

ausgewählt und bestellt.

2. Die Antragstellerinnen tragen die Kosten des Verfahrens.
3. Der Gegenstandswert wird auf 10.000 € festgesetzt.

Gründe:

Die Antragstellerinnen beabsichtigen den Abschluss eines Gewinnabführungsvertrages. Gem. § 293b AktG ist dieser Vertrag von wenigstens einem Vertragsprüfer zu prüfen. Gem. § 293c AktG wählt und bestimmt diesen das zuständige Landgericht Nürnberg-Fürth.

Entsprechend der vergleichbaren Regelung in § 10 UmwG kann - wie hier geschehen - ein Vorschlag zur Person des Prüfers zur Bestellung unterbreitet werden (vgl. Lutter, Rdnr.7 f zu § 10 UmwG). Einem Vorschlag der Antragstellerinnen war zu folgen, da Hinderungsgründe nicht ersichtlich sind.

Die Kostenentscheidung ergibt sich aus § 81 FamFG i. V. m. § 293c AktG, 10 Abs. 3 UmwG.

Die Festsetzung des Gegenstandswert beruht auf § 36 GNotKG.

gez.

Walther
Vorsitzender Richter am Landgericht

Landgericht Nürnberg-Fürth

Az.: 1 HK O 781/23



In dem Rechtsstreit

- 1) **va-Q-tec AG**, vertreten durch d. Vorstand, Alfred-Nobel-Straße 33, 97080 Würzburg
- Antragstellerin -

Prozessbevollmächtigte:

Rechtsanwälte **Hogan Lovells International LLP**, Große Gallusstraße 18, 60312 Frankfurt, Gz.: 146951, 000036

- 2) **Fahrenheit AcquiCo GmbH**, vertreten durch d. Geschäftsführer, c/o Milbank LLP, Maximilianstraße 15, 80539 München
- Antragstellerin -

Prozessbevollmächtigte:

Rechtsanwälte **Milbank LLP**, Maximilianstraße 15, 80539 München

wegen Prüferbestellung

erlässt das Landgericht Nürnberg-Fürth - 1. Kammer für Handelssachen - durch den Vorsitzenden Richter am Landgericht Walther am 23.02.2023 folgenden

Beschluss

Der Beschluss des Landgerichts Nürnberg-Fürth - 1. Kammer für Handelssachen - vom 17.02.2023 wird

a) im Rubrum wie folgt berichtigt:

Das Wort „Gewinnabführungsvertrag“ wird ersetzt durch „Beherrschungs- und Gewinnabführungsvertrag“ und

b) in den Gründen wie folgt berichtigt:

Das Wort „Gewinnabführungsvertrages“ wird ersetzt durch „Beherrschungs- und Gewinnabführungsvertrages“.

Gründe:

Es liegt ein offensichtliches Schreibversehen vor, § 319 ZPO.

gez.

Walther

Vorsitzender Richter am Landgericht

General Engagement Terms

for

Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften

[German Public Auditors and Public Audit Firms]

as of January 1, 2017

1. Scope of application

(1) These engagement terms apply to contracts between German Public Auditors (*Wirtschaftsprüfer*) or German Public Audit Firms (*Wirtschaftsprüfungsgesellschaften*) – hereinafter collectively referred to as "German Public Auditors" – and their engaging parties for assurance services, tax advisory services, advice on business matters and other engagements except as otherwise agreed in writing or prescribed by a mandatory rule.

(2) Third parties may derive claims from contracts between German Public Auditors and engaging parties only when this is expressly agreed or results from mandatory rules prescribed by law. In relation to such claims, these engagement terms also apply to these third parties.

2. Scope and execution of the engagement

(1) Object of the engagement is the agreed service – not a particular economic result. The engagement will be performed in accordance with the German Principles of Proper Professional Conduct (*Grundsätze ordnungsmäßiger Berufsausübung*). The German Public Auditor does not assume any management functions in connection with his services. The German Public Auditor is not responsible for the use or implementation of the results of his services. The German Public Auditor is entitled to make use of competent persons to conduct the engagement.

(2) Except for assurance engagements (*betriebswirtschaftliche Prüfungen*), the consideration of foreign law requires an express written agreement.

(3) If circumstances or the legal situation change subsequent to the release of the final professional statement, the German Public Auditor is not obligated to refer the engaging party to changes or any consequences resulting therefrom.

3. The obligations of the engaging party to cooperate

(1) The engaging party shall ensure that all documents and further information necessary for the performance of the engagement are provided to the German Public Auditor on a timely basis, and that he is informed of all events and circumstances that may be of significance to the performance of the engagement. This also applies to those documents and further information, events and circumstances that first become known during the German Public Auditor's work. The engaging party will also designate suitable persons to provide information.

(2) Upon the request of the German Public Auditor, the engaging party shall confirm the completeness of the documents and further information provided as well as the explanations and statements, in a written statement drafted by the German Public Auditor.

4. Ensuring independence

(1) The engaging party shall refrain from anything that endangers the independence of the German Public Auditor's staff. This applies throughout the term of the engagement, and in particular to offers of employment or to assume an executive or non-executive role, and to offers to accept engagements on their own behalf.

(2) Were the performance of the engagement to impair the independence of the German Public Auditor, of related firms, firms within his network, or such firms associated with him, to which the independence requirements apply in the same way as to the German Public Auditor in other engagement relationships, the German Public Auditor is entitled to terminate the engagement for good cause.

5. Reporting and oral information

To the extent that the German Public Auditor is required to present results in writing as part of the work in executing the engagement, only that written work is authoritative. Drafts are non-binding. Except as otherwise agreed, oral statements and explanations by the German Public Auditor are binding only when they are confirmed in writing. Statements and information of the German Public Auditor outside of the engagement are always non-binding.

6. Distribution of a German Public Auditor's professional statement

(1) The distribution to a third party of professional statements of the German Public Auditor (results of work or extracts of the results of work whether in draft or in a final version) or information about the German Public Auditor acting for the engaging party requires the German Public Auditor's written consent, unless the engaging party is obligated to distribute or inform due to law or a regulatory requirement.

(2) The use by the engaging party for promotional purposes of the German Public Auditor's professional statements and of information about the German Public Auditor acting for the engaging party is prohibited.

7. Deficiency rectification

(1) In case there are any deficiencies, the engaging party is entitled to specific subsequent performance by the German Public Auditor. The engaging party may reduce the fees or cancel the contract for failure of such subsequent performance, for subsequent non-performance or unjustified refusal to perform subsequently, or for unconscionability or impossibility of subsequent performance. If the engagement was not commissioned by a consumer, the engaging party may only cancel the contract due to a deficiency if the service rendered is not relevant to him due to failure of subsequent performance, to subsequent non-performance, to unconscionability or impossibility of subsequent performance. No. 9 applies to the extent that further claims for damages exist.

(2) The engaging party must assert a claim for the rectification of deficiencies in writing (*Textform*) [Translators Note: The German term "*Textform*" means in written form, but without requiring a signature] without delay. Claims pursuant to paragraph 1 not arising from an intentional act expire after one year subsequent to the commencement of the time limit under the statute of limitations.

(3) Apparent deficiencies, such as clerical errors, arithmetical errors and deficiencies associated with technicalities contained in a German Public Auditor's professional statement (long-form reports, expert opinions etc.) may be corrected – also versus third parties – by the German Public Auditor at any time. Misstatements which may call into question the results contained in a German Public Auditor's professional statement entitle the German Public Auditor to withdraw such statement – also versus third parties. In such cases the German Public Auditor should first hear the engaging party, if practicable.

8. Confidentiality towards third parties, and data protection

(1) Pursuant to the law (§ [Article] 323 Abs 1 [paragraph 1] HGB [German Commercial Code: *Handelsgesetzbuch*], § 43 WPO [German Law regulating the Profession of Wirtschaftsprüfer: *Wirtschaftsprüferordnung*], § 203 StGB [German Criminal Code: *Strafgesetzbuch*]) the German Public Auditor is obligated to maintain confidentiality regarding facts and circumstances confided to him or of which he becomes aware in the course of his professional work, unless the engaging party releases him from this confidentiality obligation.

(2) When processing personal data, the German Public Auditor will observe national and European legal provisions on data protection.

9. Liability

(1) For legally required services by German Public Auditors, in particular audits, the respective legal limitations of liability, in particular the limitation of liability pursuant to § 323 Abs. 2 HGB, apply.

(2) Insofar neither a statutory limitation of liability is applicable, nor an individual contractual limitation of liability exists, the liability of the German Public Auditor for claims for damages of any other kind, except for damages resulting from injury to life, body or health as well as for damages that constitute a duty of replacement by a producer pursuant to § 1 ProdHaftG [German Product Liability Act: *Produkthaftungsgesetz*], for an individual case of damages caused by negligence is limited to € 4 million pursuant to § 54 a Abs. 1 Nr. 2 WPO.

(3) The German Public Auditor is entitled to invoke demurs and defenses based on the contractual relationship with the engaging party also towards third parties.

(4) When multiple claimants assert a claim for damages arising from an existing contractual relationship with the German Public Auditor due to the German Public Auditor's negligent breach of duty, the maximum amount stipulated in paragraph 2 applies to the respective claims of all claimants collectively.

(5) An individual case of damages within the meaning of paragraph 2 also exists in relation to a uniform damage arising from a number of breaches of duty. The individual case of damages encompasses all consequences from a breach of duty regardless of whether the damages occurred in one year or in a number of successive years. In this case, multiple acts or omissions based on the same source of error or on a source of error of an equivalent nature are deemed to be a single breach of duty if the matters in question are legally or economically connected to one another. In this event the claim against the German Public Auditor is limited to € 5 million. The limitation to the fivefold of the minimum amount insured does not apply to compulsory audits required by law.

(6) A claim for damages expires if a suit is not filed within six months subsequent to the written refusal of acceptance of the indemnity and the engaging party has been informed of this consequence. This does not apply to claims for damages resulting from scienter, a culpable injury to life, body or health as well as for damages that constitute a liability for replacement by a producer pursuant to § 1 ProdHaftG. The right to invoke a plea of the statute of limitations remains unaffected.

10. Supplementary provisions for audit engagements

(1) If the engaging party subsequently amends the financial statements or management report audited by a German Public Auditor and accompanied by an auditor's report, he may no longer use this auditor's report.

If the German Public Auditor has not issued an auditor's report, a reference to the audit conducted by the German Public Auditor in the management report or any other public reference is permitted only with the German Public Auditor's written consent and with a wording authorized by him.

(2) If the German Public Auditor revokes the auditor's report, it may no longer be used. If the engaging party has already made use of the auditor's report, then upon the request of the German Public Auditor he must give notification of the revocation.

(3) The engaging party has a right to five official copies of the report. Additional official copies will be charged separately.

11. Supplementary provisions for assistance in tax matters

(1) When advising on an individual tax issue as well as when providing ongoing tax advice, the German Public Auditor is entitled to use as a correct and complete basis the facts provided by the engaging party – especially numerical disclosures; this also applies to bookkeeping engagements. Nevertheless, he is obligated to indicate to the engaging party any errors he has identified.

(2) The tax advisory engagement does not encompass procedures required to observe deadlines, unless the German Public Auditor has explicitly accepted a corresponding engagement. In this case the engaging party must provide the German Public Auditor with all documents required to observe deadlines – in particular tax assessments – on such a timely basis that the German Public Auditor has an appropriate lead time.

(3) Except as agreed otherwise in writing, ongoing tax advice encompasses the following work during the contract period:

- a) preparation of annual tax returns for income tax, corporate tax and business tax, as well as wealth tax returns, namely on the basis of the annual financial statements, and on other schedules and evidence documents required for the taxation, to be provided by the engaging party
- b) examination of tax assessments in relation to the taxes referred to in (a)
- c) negotiations with tax authorities in connection with the returns and assessments mentioned in (a) and (b)
- d) support in tax audits and evaluation of the results of tax audits with respect to the taxes referred to in (a)
- e) participation in petition or protest and appeal procedures with respect to the taxes mentioned in (a).

In the aforementioned tasks the German Public Auditor takes into account material published legal decisions and administrative interpretations.

(4) If the German Public auditor receives a fixed fee for ongoing tax advice, the work mentioned under paragraph 3 (d) and (e) is to be remunerated separately, except as agreed otherwise in writing.

(5) Insofar the German Public Auditor is also a German Tax Advisor and the German Tax Advice Remuneration Regulation (*Steuerberatungsvergütungsverordnung*) is to be applied to calculate the remuneration, a greater or lesser remuneration than the legal default remuneration can be agreed in writing (*Textform*).

(6) Work relating to special individual issues for income tax, corporate tax, business tax, valuation assessments for property units, wealth tax, as well as all issues in relation to sales tax, payroll tax, other taxes and dues requires a separate engagement. This also applies to:

- a) work on non-recurring tax matters, e.g. in the field of estate tax, capital transactions tax, and real estate sales tax;
- b) support and representation in proceedings before tax and administrative courts and in criminal tax matters;
- c) advisory work and work related to expert opinions in connection with changes in legal form and other re-organizations, capital increases and reductions, insolvency related business reorganizations, admission and retirement of owners, sale of a business, liquidations and the like, and
- d) support in complying with disclosure and documentation obligations.

(7) To the extent that the preparation of the annual sales tax return is undertaken as additional work, this includes neither the review of any special accounting prerequisites nor the issue as to whether all potential sales tax allowances have been identified. No guarantee is given for the complete compilation of documents to claim the input tax credit.

12. Electronic communication

Communication between the German Public Auditor and the engaging party may be via e-mail. In the event that the engaging party does not wish to communicate via e-mail or sets special security requirements, such as the encryption of e-mails, the engaging party will inform the German Public Auditor in writing (*Textform*) accordingly.

13. Remuneration

(1) In addition to his claims for fees, the German Public Auditor is entitled to claim reimbursement of his expenses; sales tax will be billed additionally. He may claim appropriate advances on remuneration and reimbursement of expenses and may make the delivery of his services dependent upon the complete satisfaction of his claims. Multiple engaging parties are jointly and severally liable.

(2) If the engaging party is not a consumer, then a set-off against the German Public Auditor's claims for remuneration and reimbursement of expenses is admissible only for undisputed claims or claims determined to be legally binding.

14. Dispute Settlement

The German Public Auditor is not prepared to participate in dispute settlement procedures before a consumer arbitration board (*Verbraucherschlichtungsstelle*) within the meaning of § 2 of the German Act on Consumer Dispute Settlements (*Verbraucherstreitbeilegungsgesetz*).

15. Applicable law

The contract, the performance of the services and all claims resulting therefrom are exclusively governed by German law.