
TUI AG

**DECLARATION OF UNDERTAKINGS BY THE MEMBERS OF THE MANAGEMENT BOARD
IN ACCORDANCE WITH SEC. 25 (3) SENTENCE 1 NO. 9 STABILISATION FUND ACT
[STABILISIERUNGSFONDSGESETZ]**

towards

**the Economic Stabilisation Fund (*Wirtschaftsstabilisierungsfonds*)
represented by the Federal Republic of Germany - Finanzagentur GmbH**

Preamble

- (1) TUI AG is a stock corporation (AG) under German law, registered with the Commercial Register of the Local Court (*Amtsgericht*) of Berlin (Charlottenburg) under registration number HRB 321 B and the Local Court (*Amtsgericht*) of Hanover under HRB 6580 and has its business address at Karl-Wiechert-Allee 4, 30625 Hanover (**Company**). The purpose of the Company is commercial activity in tourism (including all related services and project developments), participation in travel service companies, commercial air transport, passenger shipping, the hotel industry, the leisure sector as well as in travel agencies and through other services, whether in proprietary operations or operations of subsidiaries as well as the combination of subsidiaries under common management.
- (2) The Company intends to take advantage of stabilisation measures in the form of a recapitalisation of the Company in accordance with Sec. 22 of the Stabilisation Fund Act.
- (3) The Economic Stabilisation Fund (WSF) (**Fund**), represented by the Federal Republic of Germany – Finanzagentur GmbH (**Finance Agency**), intends to recapitalise the Company in an amount of up to EUR 1,091,000,000 (in words: one-billion-ninety-one-million euros) in the aggregate, as agreed in the Framework Agreement for the granting of stabilisation measures (**Framework Agreement**), by granting the following stabilisation measures:

- (i) **Silent Participation I:** The Fund intends to provide the Company with a silent participation without loss sharing in the amount of EUR 420,000,000 (in words: four-hundred-and-twenty-million euros) (**Silent Participation I**) in accordance with Sec. 230 German Commercial Code (HGB) (*Handelsgesetzbuch*) and Sec. 10 Economic Stabilisation Acceleration Act (WStBG) (*Wirtschaftsstabilisierungsbeschleunigungsgesetz*) in accordance with Annex Sec. 2(1)(i) to the Framework Agreement (**Silent Partnership Agreement I**).

As described in more detail in the Silent Partnership Agreement I, the Silent Participation I is convertible at a subscription price of EUR 1.00 per share in order to, potentially alongside other instruments held by the Fund (including the Options and the use of Silent Participation II or, if applicable, a part of the Bonds (each as defined below) as a contribution in cash or in kind as part of capital measures according to the more detailed provisions of the Framework Agreement) to achieve a shareholding of the Fund in the Company of up to 25% plus one share (**Maximum Participation Amount**). Shares in the Company which the Fund has sold or transferred to third parties after it has acquired these shares pursuant to the provisions of the Framework Agreement must be taken into account when determining the shares held by the Fund for the purpose of calculating the Maximum Participation Amount.

- (ii) **Silent Participation II:** The Fund intends to provide the Company with a further silent participation with loss sharing in an amount of up to EUR 671,000,000 (in words: six-hundred-and-seventy-one-million euros) (**Silent Participation II**) in accordance with Sec. 230 HGB and Sec. 10 WStBG in accordance with Annex Sec. 2(1)(iii) to the Framework Agreement (**Silent Partnership Agreement II**).

((i) and (ii) the **Stabilisation Measures**, and together with the one-thousand-five-hundred (1,500) subordinated bonds (**Bonds**) issued with the Option Bonds (as defined below) as restated in accordance with the Framework Agreement as well as any shares to be acquired by the Fund in accordance with the Framework Agreement, the **Overall Stabilisation Measures**.)

- (4) The Federal Republic of Germany, acting through the Fund, represented by the Finance Agency, already decided in September 2020 to take stabilisation measures in the form of a recapitalisation of the Company in accordance with Sec. 22 Stabilisation Fund Act by subscribing for the Bonds with the legally independent right to acquire up to 58,674,899 ordinary shares in the Company (**Options** and comprehensively **Option Bonds 2020/2026**) (**Existing Stabilisation Measures**). To this end, a Framework Agreement was concluded between the Company and the Fund on 29 September 2020 (**First Framework Agreement**).
- (5) Against this background, the Framework Agreement regulates not only the Stabilisation Measures, but also the modification of the Existing Stabilisation Measures, in particular the conditions of the Option Bonds 2020/2026, while cancelling the First Framework Agreement, so that the Framework Agreement comprehensively records and consolidates the agreements on the Stabilisation Measures as well as the Existing Stabilisation Measures.

§ 1

Terms and Conditions

- (1) **General**
- (i) In the Framework Agreement, the Fund agreed a number of conditions and obligations with the Company. These terms and conditions apply - unless otherwise stated below or in the Framework Agreement - from the date of first receipt of funds under the Silent Participation I until the Overall Stabilisation Measures have been completely terminated.
- (ii) For these purposes, the Overall Stabilisation Measures are deemed to have terminated completely if;
- (a) all of the Company's payment obligations arising from and in connection with the Silent Participation I (including all coupons and any additional remuneration), the Silent Participation II (including all coupons and any additional remuneration) and the Bonds;
- 1) have been completely fulfilled, repaid or redeemed or completely terminated by contribution or in any other manner; or
 - 2) have been sold in full in accordance with the Framework Agreement, the Silent Partnership Agreement I, the Silent Partnership Agreement II or the subscription agreement to third parties (with the exception of (x) the federal government (*Bund*), a state

(*Land*) or several states (*Länder*), (y) another regional authority (*Gebietskörperschaft*) and (z) a federal or state-direct corporation (*bundes- oder landesunmittelbare Körperschaft*) or institution under public law (*Anstalt des öffentlichen Rechts*)); and

- (b) the Fund has completely sold the shares held by it after conversion of the Silent Participation I (including any additional shares which the Fund has acquired in exercising the Options and/or in the context of future capital increases) to third parties (with the exception of (x) the federal government (*Bund*), a state (*Land*) or several states (*Länder*), (y) another regional authority (*Gebietskörperschaft*) and (z) a federal or state-direct corporation (*bundes- oder landesunmittelbare Körperschaft*) or institution under public law (*Anstalt des öffentlichen Rechts*)).
- (iii) The complete termination of all Overall Stabilisation Measures granted under the Framework Agreement (including Existing Stabilisation Measures), including any other measures of the Fund that take their place or supplement them, is collectively referred to as the **Stabilisation Termination**. On this basis, the Company undertakes to comply in particular with the terms and conditions set out below towards the Fund in accordance with the Framework Agreement.
- (iv) Insofar as the terms and conditions set forth below result in obligations of the Company or of companies located within and outside of the European Economic Area (EEA) which are under the sole control of the Company pursuant to the provisions of IFRS 10 and are therefore fully consolidated with the exception of RIUSA II S.A. (in each case a **Group Company** and, together with the Company, the **Group**, provided that, if the EU Commission makes a different determination of the Group or Group Companies in its state aid approval pursuant to Article 107 (3) lit (b) TFEU (the **Approval Decision**), this takes precedence), these obligations are subject to legal permissibility. Insofar as the Company is required that the Group Companies undertake or refrain from certain actions, these obligations are limited to the factual and legally permissible possibility of ensuring that the Group Companies act accordingly.

(2) Use of the borrowed funds

- (i) **Use of funds:** The following applies to the use of funds utilised by the Company under the Overall Stabilisation Measures (including the Existing Stabilisation Measures) on the basis of the Framework Agreement:
 - (a) Funds utilised as part of the Overall Stabilisation Measures (including the Existing Stabilisation Measures) may only be used to overcome liquidity shortfalls and to provide the basis for a strengthening of the capital base of the Company and the Group Companies. Pursuant to Sec. 16 of the Stabilisation Fund Act, the Stabilisation Measures serve the interest of the federal government in overcoming liquidity shortfalls and providing the basis for a strengthening of the Company's cap-

ital base and avoiding insolvency proceedings over the Company's assets. In addition, the purpose of use of the Stabilisation Measures is general corporate financing and the Company undertakes not to use cash contributions made available as part of the Stabilisation Measures:

- (aa) to refinance the mandatory prepayment due on 1 April 2021 under the current terms of the originally EUR 1,800,000,000 and now EUR 2,850,000,000 revolving credit facility (**Facility C**), which was granted under the special program "Direktbeteiligung für Konsortialfinanzierung" (855) of KfW under the Company's Revolving Credit Facilities Agreement originally concluded on 15 September 2014 and last amended on 13 August 2020, which mandatory prepayment is extended by KfW in accordance with the provisions of the Framework Agreement, unless the Fund has previously approved any such refinancing in writing; or
- (bb) for the early redemption of the Senior Notes issued by the Company in October 2016 with a volume of EUR 300,000,000 with a maturity in October 2021, securities identification number A2BPFK, ISIN XS1504103984 (**Bonds 2016**) and the promissory notes (*Schuldscheindarlehen*) issued by the Company in July 2018 with a volume of a total of EUR 425,000,000 with maturities from July 2023 to July 2028 (**Promissory Notes 2018**).

(b) The funds from the Stabilisation Measures (including the Existing Stabilisation Measures) must be used sparingly and economically overall. The funds must be used with commercial due care and without taking excessive risks.

- (ii) **Tax havens:** The Company undertakes and confirms that the funds granted from the Silent Participation I and the Silent Participation II as well as the Bonds will not flow to non-cooperative jurisdictions within the meaning of the EU list of non-cooperative jurisdictions for tax purposes, Annex I, as amended. The Company further undertakes, commencing with the financial year beginning on 1 October 2020, to disclose its country-specific reports (insofar as these are to be prepared by it in accordance with Sec. 138a German Tax Code (*Abgabenordnung*)) as well as the actual ownership structure (legal and economic within the meaning of Sec. 39 German Tax Code) of all parts of the Company to the Fund within fourteen days of the preparation of the relevant reports.

(3) **Group business policy:**

- (i) **Solid and prudent business policy:** The Company undertakes to review its business policy and the economic sustainability thereof in order to ensure a solid and prudent business policy. With regard to the principle of sustainability, the

Company will undertake all reasonable and, according to cautious commercial standards, meaningful efforts to ensure that;

- (a) the business model of the Group is stabilised permanently;
- (b) the long-term continuation of the Group's business operations is not jeopardised, taking into account all risks that can reasonably be taken into account; and
- (c) the individual sustainable core business areas, if necessary after a re-alignment has taken place, make a positive contribution to the Company's consolidated annual result over the long term.

(ii) **Emission reduction:** The Company complies with its environmental and ecological responsibility and will reduce its greenhouse gas emissions. The Company will make every effort to use the stabilisation funds to promote its activities in accordance with the EU requirements and national obligations in connection with the green and digital transformation, including the EU target of climate neutrality by 2050, and undertakes to report on this annually.

(iii) **Securing jobs:** The Company is aware of its responsibility for the direct and indirect safeguarding of employment in Germany and Europe and reports every six months during the period of the Stabilisation Measures by the Fund on the contribution it makes to the long-term safeguarding of jobs in Germany.

(4) **Measures to avoid distortions of competition**

(i) **Prohibition on the acquisition of other companies:** As long as not at least 75% of the sum of the Overall Stabilisation Measures have been discharged, repaid or redeemed, sold or completely terminated through contribution or in any other manner, the Company undertakes not to acquire a stake of more than 10% in competitors or other companies in the same business field, including upstream and downstream business activities. In exceptional circumstances and without prejudice to merger control, the Company may, after prior approval by the EU Commission, acquire a stake of more than 10% in upstream or downstream companies in its business field if such acquisition is necessary to maintain the profitability of the Company and if no other buyer is available. As long as not at least 75% of the Overall Stabilisation Measures have been discharged, repaid or redeemed, sold or completely terminated through contribution or in any other manner, the Company undertakes to ensure, within the scope of what is legally permissible, that the obligations of this § 1(4)(i) are also observed by the other Group Companies.

- (ii) **No cross-subsidisation:** The funds from the Overall Stabilisation Measures must not be used to cross-subsidise the economic activities of Group Companies that were already an undertaking in difficulty within the meaning of EU Regulation No. 651/2014 on 31 December 2019. An exception applies to those Group Companies in respect of which a healing of the economic difficulties, e.g. through the conversion of shareholder loans into equity, means that cross-subsidisation is permissible under state aid law. For such economic activities in the Company itself or in a Group Company, a clear segregation of accounts must be set up, such that the Company can show at any time that the Overall Stabilisation Measures do not benefit such economic activities.

(5) **Ban on advertising**

The Company will ensure that, until the Stabilisation Termination, the Group will not advertise for commercial purposes the fact that the Company or the Group has received Stabilisation Measures. The description of Stabilisation Measures in securities prospectuses or other capital market communications (including the publication of inside information in accordance with Art. 17 Market Abuse Regulation (MAR) and financial reporting) which the Company or another Group Company publishes, in particular in connection with statutory disclosure obligations or securities issuances, as well as non-advertising references to the Stabilisation Measures in the context of corporate communications, remain unaffected.

(6) **Remuneration of members of corporate bodies**

- (i) **Design of the remuneration for members of the Company's management:** From the date of the first receipt of funds, the Company will ensure within the scope of what is legally permissible and subject to conflicting mandatory statutory or contractual obligations of the Company that the following requirements are implemented for the individual members of the Company's management:
- (a) As long as the Company makes use of the Overall Stabilisation Measures of the Fund, the members of the Company's management (taking into account any Group remuneration in the event of double employment, including at any Group Company that is not a Material Group Company (as defined below)) may not be granted bonuses, other variable or comparable remuneration components and may thus not be constituted. Likewise, special payments in the form of share packages, gratifications or other special remuneration in addition to the base salary, other remuneration components at the discretion of the Company and severance payments that are not legally required may not be granted and thus not be constituted.

- (b) As long as not at least 75% of the sum of the Silent Participations I and II (including coupons and any additional remuneration), the Bonds and shares to be acquired by the Fund in accordance with the Framework Agreement have been repaid or sold, no member of the Company's management may receive basic remuneration (under inclusion of any Group remuneration in the case of double employment, including at any Group Company that is not a Material Group Company (as defined below)) and may thus not be constituted, which exceeds the basic remuneration of such member as of 31 December 2019. For persons who become members of the management at the time of the measure or afterwards, the upper limit is the basic remuneration of members of the management with the same level of responsibility as of 31 December 2019.

Members of the management are the members of the Company's board of management.

Remuneration within the meaning of this declaration of undertakings includes the monetary remuneration as well as all other commitments, benefits and fringe benefits of all kinds (salary, profit sharing, expense allowances, commissions, incentive-oriented remuneration commitments such as stock or share subscription rights and fringe benefits of all kinds, but not reimbursement of expenses, e.g. for travel expenses incurred) granted in respect of the activity for the Group .

- (ii) **Design of the remuneration for members of the supervisory board:** As long as at not least 75% of the sum of the Silent Participations I and II (including coupons and any additional remuneration), the Bonds and shares to be acquired by the Fund in accordance with the Framework Agreement have been repaid or sold, the Company will ensure within the scope of what is legally possible and subject to conflicting mandatory statutory or constitutional (*satzungsmäßiger*) obligations of the Company existing before the date of the first receipt of funds that the remuneration of the members of the supervisory board is not increased. As far as legally possible, the Company will ensure that no performance-related remuneration component is granted to the members of the supervisory board or constituted for the period from the date of the first receipt of funds until the Stabilisation Termination. If necessary, the Company's board of management and the supervisory board will at the next annual general meeting propose a corresponding resolution to amend the remuneration regulations for the supervisory board.
- (iii) **Adjustment of existing contractual relationships:** The Company is required to make serious efforts to adjust existing service or employment contracts of the members of the Company's management, if necessary. If this is not possible due to the unwillingness of a member of the management, and a unilateral adjustment is not legally possible, the Company is not required to terminate the existing service or employment contract merely due to the unwillingness to adjust.

- (iv) **Design of the remuneration for members of the corporate bodies of Material Group Companies:** The Company will ensure, within the scope of what is legally permissible, that the provisions of this paragraph (6) apply accordingly to the members of the corporate bodies of all material Group Companies listed in the Framework Agreement (*Material Group Companies*, provided that if the Approval Decision makes a different determination of the Material Group Companies, this takes precedence) and are implemented.
 - (v) **Remuneration report; procedure in case of doubt:** The Company will ensure that the Company's board of management and supervisory board annually prepare a remuneration report on the remuneration system and the remuneration of the current and former members of the Company's board of management and supervisory board in connection with the preparation of the annual and consolidated financial statements (for the purposes of the Framework Agreement, for the first time in connection with the annual financial statements as of 30 September 2021) in accordance with Section 162 German Stock Corporation Act (*Aktiengesetz*) (**Remuneration Report**) and publish it in accordance with Sec. 162 of German Stock Corporation Act and also address compliance with the requirements of the Framework Agreement. If the Fund has doubts regarding compliance with the requirements for board remuneration under this paragraph (6), it will submit the Company's report on compliance with these requirements to the EU Commission for approval. The Company will submit the Remuneration Report to the Fund immediately after it has been reviewed by the Company's auditor.
 - (vi) **Maßgabebeschluss:** In addition, the Company will ensure that the specifications of the decision of the budget committee of the German federal parliament (*Bundestag*) dated 25 March 2020 (*Maßgabebeschluss*) on remuneration-related conditions are implemented.
- (7) **Distribution of dividends**
- (i) **Ban on dividends:** The Company's board of management and supervisory board will, within the scope of what is legally permissible, from the date of the first receipt of funds until the Stabilisation Termination, for the respective preceding financial year (x) when adopting the annual financial statements, transfer the largest possible portion pursuant to law and the articles of association of the annual net profit into other revenue reserves, unless a different use has been agreed under the terms of the Silent Partnership Agreement I and the Silent Partnership Agreement II, and (y) not propose a dividend distribution, including in the form of stock dividends, to the annual general meeting of the Company. This does not apply to the extent the Company is legally obligated to distribute a dividend.
 - (ii) **Share buybacks:** As more particularly provided in the Framework Agreement, the Company will not reduce its capital, buy back any shares or other components of the Company's equity either itself or through Group Companies, and

not provide any other not contractually or statutorily required benefits or hidden profit distributions to shareholders or companies affiliated with them in their capacity as such.

- (iii) **Non-mandatory coupon payments, no buybacks of other equity instruments:** The Company will not make any coupon payments or other profit distributions to any payee other than the Fund which it is not legally required to make, and will not buy back any other equity instruments.
- (iv) **Applicability to Group Companies:** The Company will ensure, within the scope of what is legally permissible, from the date of the first receipt of funds until the Stabilisation Termination, that the obligations of § 1(7)(i), § 1(7)(ii) and § 1(7)(iii) are complied with by the other Group Companies as well, with the exception of such Group Companies of which the Company is the direct or indirect sole shareholder.
- (v) **Repayment of shareholder loans:** The Company will not terminate any loans granted by the above related parties or their affiliated companies either in full or in part, and will make every effort not to repay or otherwise return them and also not to take any measures with comparable effect.

§ 2

Miscellaneous

- (1) **Publication:** The Company will publish this declaration immediately as of the date of the first receipt of funds on its homepage and in the electronic Federal Gazette (*elektronischer Bundesanzeiger*) and make this declaration permanently available to its shareholders in a suitable form.
- (2) **Severability clause:** Should a contractual provision be or become ineffective or incomplete in whole or in part, this shall not affect the validity of the remaining provisions. The ineffective or incomplete provision will be replaced by a provision that comes closest to the economic purpose of the ineffective provision in a legally permissible manner or supplements the provision as well as possible in accordance with the presumed will of the parties.

***** Signatures on the following page *****

This declaration of undertakings is made by all members of the board of management in the name and on behalf of TUI AG with the consent of the supervisory board.

Berlin and Hanover, on 7 January 2021

TUI AG

Friedrich Jousen

David Burling

Sebastian Ebel

Dr. Elke Eller

Frank Rosenberger

Peter Krüger