Schulgasse, 3943 Schrems, Österreich







Property no. 3533 - Key facts

Usable area: approx. 92.5 sqm

Architecture: new building
Elevator: passenger elevator
Rooms: 3

Total rent*: on request

* Rent + ancillary expenses

Commission: 3 months gross rent plus 20% VAT

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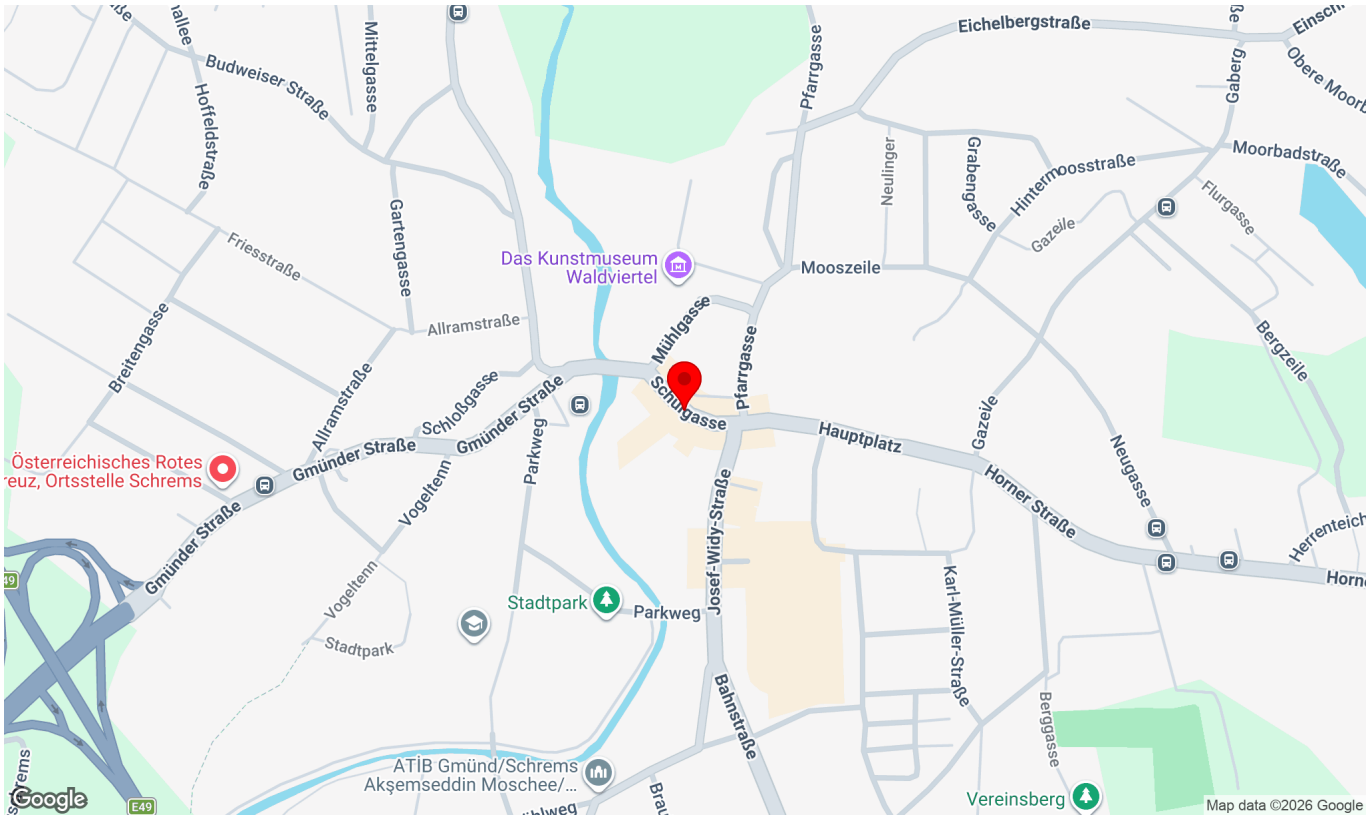
Description

Amenities

fitted kitchen, passenger elevator, air conditioning, district heating, separate toilets

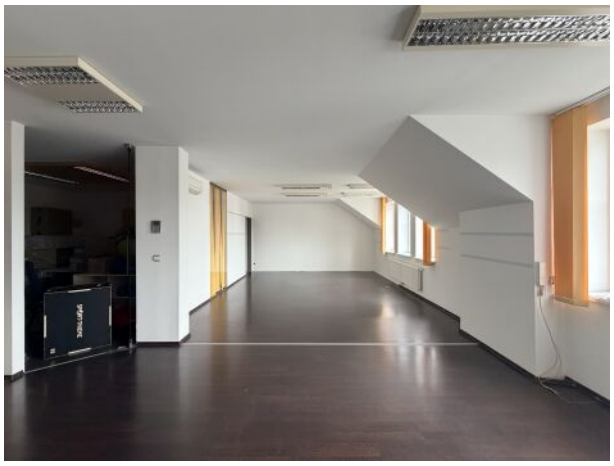
Location

Schulgasse, 3943 Schrems















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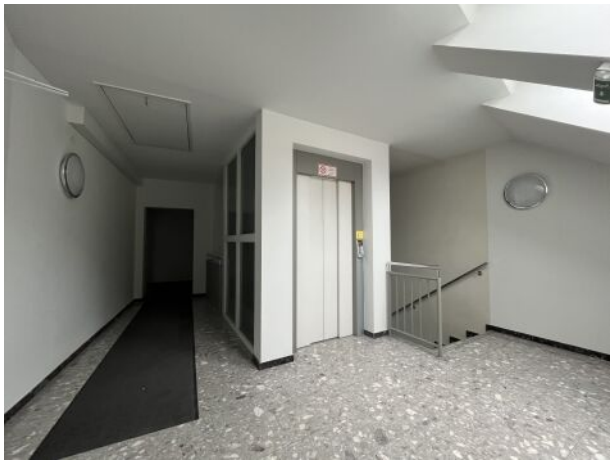


LEGENDE
GH ca. 111m² Leistungsgr. Dachboden
GG ca. 114m² Leistungsgruppe Büro
Restfläche
111,00 m²
Rohbetondecke
GH
Besprechung
16,00 m²
Parkett
Archiv + Technik
10,80 m²
Linol
Sanitär
5,30 m²
Fliesen
80
200
Gang
7,7 m²
Parkett
GG
Küche
10,40 m²
Linol
Büro 1
ca. 16,3 m²
Parkett
Büro 2
ca.26,2 m²
Parkett
DG– Ausbau, Schulgasse 1, 3943 Schrems
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Ancillary Expenses Agency agreement / Lease

Brokerage commission for residential rental agreements and rental agreements for business premises

ÖVI-Form Nr. 13M / 07 / 2023

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Annex:
Model Withdrawal Form for distance and off-premises transactions pursuant to annex 1 to Federal Law Gazette I 2014/33.

General terms and conditions pursuant to Section 10 ImmMV [Real Estate Broker Regulation] 1996 BGBI. [Federal Law Gazette] No. 297/1996 recommended by the Federal Chamber of Commerce Austria, Section for Real Estate Experts and Escrow Agents
GZ 2023 / 05 / 05 – FVO Go / Pe – Form 13M / ÖVI

Media holder: Österreichischer Verband der Immobilienwirtschaft
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who are acting as broker and are represented by

Rana Wintersteiner

The broker acts as a dual agent in accordance with customary business practice except in the cases specified below.

☐ Unilateral assignment: contrary to customary business practice, the broker does NOT act as a dual agent but only unilaterally

☐ for the landlord ☐ for the prospective tenent

The broker does ☐ /does not ☐ have a close familial or business relationship to the third party.

I. The Principle of First Instruction for Residential Property Rental Contracts

With the introduction of the so-called »Principle of First Instruction« when brokering residential rental properties, the legislator assumes that from 1July 2023, the broker can usually only agree on a commission with the client who first instructed him. If the broker is initially commissioned by the landlord or by someone authorized by him to do so, he can only agree on a commission with that person. At the same time, the broker will generally refrain from acting as a dual agent in accordance with Section 5 of the Broker Act, but rather expressly declare pursuant to Section 17 of the Broker Act (MaklerG) that he will only act unilaterally on behalf of the landlord not the tenant.

II. Commissionable search request for residential rental properties

A commission agreement with the prospective tenant can therefore only be agreed if they are the first to instruct the broker. However, the commission agreement for a search request does not take effect if

- the landlord or the manager has a direct or indirect interest in the company of the real estate agent or in an affiliated company (§ 189 a Z 8 UGB) or can exert influence on this company themselves, through executive officers or through other relevant persons,
- if the broker has a direct or indirect interest in the company of the landlord or manager or in a company affiliated with this company or can exert influence on this company himself, through executive officers or through other relevant persons;
- the broker advertises a rental property with the consent of the landlord or advertises it in another way to a limited group of interested parties.
- the landlord or a person named in Paragraph 1, first sentence, has refrained from concluding a brokerage contract so that the prospective tenant becomes liable to commission as the first client.

If the broker contract is concluded with the prospective tenant first, the broker can continue to work as a dual agent in accordance with § 5 of the Broker Act (MaklerG) i.e. also conclude a commission agreement with the landlord. However, the prospective tenant may stipulate that the broker may only act on their behalf.

Selected texts on Brokerage Law:

Section 6 paras. 1, 3 and 4; Sec. 7 para. 1; Sections 10, 15 and 17 a Brokerage Act

§ 6 (1) The client is obliged to pay a commission in cases where the transaction is concluded with a third party due to the broker's activity pursuant to the contract.

(3) The broker is entitled to the commission even if, due to his activities, the transaction to be brought about pursuant to the contract is not entered into, but another transaction is entered into, the economic purpose of which is equivalent to the original transaction.

(4) The broker shall not be entitled to a commission if he himself becomes a contracting party to the transaction. This shall also apply if the transaction entered into with a third party is the economic equivalent to a conclusion of the transaction by the broker himself. In the event of any other close familial or economic relationship between the broker and the third party which might impair the safeguarding of the interests of the client, the broker shall only be entitled to a commission if he immediately notifies the client of such close relationship.

§ 7 (1) The entitlement to a commission shall come into existence when the transaction becomes legally effective. The broker shall not be entitled to any advance.

§ 10 The entitlement to a commission and the claim for reimbursement of additional expenses shall arise when they have been incurred.

Special commission agreements

§ 15 (1) An agreement according to which the client, is required to pay an amount, for instance as compensation for or reimbursement of expenses incurred and professional services rendered, even if there is no successful conclusion of a deal attributable to the broker, shall only be permissible up to the amount of the agreed or locally customary commission and only in the event that

1. the transaction described in the broker agreement is not entered into contrary to good faith because the client - contrary to the course of the negotiations up to that point - fails to take any action that would be required for the conclusion of the deal without notable reason;

2. a transaction is entered into with the third party solicited by the broker the purpose of which is not equivalent to the original transaction if conclusion of the transaction is the result of the broker's activities;

3. the transaction described in the broker agreement is not entered into with the client but with a different person because the client informed such person of the business opportunity made known to him by the broker or if the transaction is not entered into with the third party but with a different person because the third party notified the latter of such business opportunity or

4. the transaction is not entered into with the third party because a statutory or contractual right of first refusal, resale or a right to succeed is exercised.

(2) Such a payment may, in the case of sole broker agreements, be agreed upon if

1. the sole broker agreement is terminated early by the client in violation of the contract and without important reason;

2. the transaction was entered into during the term of the sole broker agreement in violation of the contract through the activities of a different broker instructed by the client; or

3. the transaction was entered into during the term of the sole broker agreement in a way other than by the activities of a different broker instructed by the client.

(3) Payments pursuant to para 1 and para 2 shall be considered remuneration (Vergütungsbetrag) within the meaning of Section 1336 ABGB [Austrian General Civil Code].

NOTE: An agreement pursuant to Section 15 Maklergesetz [Broker Act] must be made in writing in the case of broker agreements involving consumers.

Brokering of rental residential property contracts

§ 17 a. (1) If a landlord or a person authorized by him commissions a broker to broker an apartment rental contract in his own name as the first client, the broker can only agree on a commission with the landlord or the person authorized by him.

(2) A broker can only agree on a commission with a client looking for an apartment if the latter has commissioned him as the first client to arrange an apartment rental agreement.

(3) Even with the prospective tenant as the first client, the broker cannot agree on a commission if
1. the landlord or the manager has a direct or indirect interest in the company of the real estate agent or in an affiliated company (§ 189 a Z 8 UGB) or can exert influence on this company themselves, through executive officers or through other relevant persons, or if the broker has a direct or indirect interest in the company of the Landlord or manager or in a company affiliated with this company or can exert influence on this company himself, through executive officers or through other relevant persons, or
2. the landlord or a person named in Paragraph 1, first sentence, has refrained from concluding a brokerage contract so that the prospective tenant becomes liable to commission as the first client, or
3. the broker advertises a rental property with the consent of the landlord or advertises it in another way to a limited group of interested parties.

(4) The broker must date and record every contract for the brokerage of residential property, in writing or on another durable medium. When asserting a claim for commission, he must explain to the client looking for an apartment that there is no case under Paragraphs 1 or 3.

(5) An agreement is invalid if it
1. obliges the prospective tenant to pay a commission or other service in connection with the brokering or the conclusion of an apartment rental agreement to the broker who is not entitled to a commission or to the landlord, or
2. obliges the prospective client to provide another service in connection with the brokering or the conclusion of an apartment rental agreement without equivalent consideration to the previous tenant or to another third party.
§ 27 Tenancy Law (MRG) remains unaffected.

(6) Paras. 1 to 5 and 7 do not apply to the brokering of residential property contracts that are concluded by employers as tenants in order to provide employees with a service, non-cash or company apartment (Art. 1 para. 2 no. 2 MRG).

(7) If the violation is not already covered by Section 27 (5) MRG, an administrative offence is committed when
1. a broker, or a representative acting on the broker's behalf, agrees, demands or accepts a commission or other service contrary to Paras. 1, 3 or 5,
2. anyone who, contrary to Paragraph 5, agrees, demands or accepts services as a landlord or representative acting on his behalf, as a previous tenant or other third party, or
3. anyone who, acting as a broker, fails to record a brokerage contract in writing or on another durable medium contrary to Paragraph 4,
will be fined up to 3600 euros in the case of Article 1 and Article 2, and with a fine of up to 1500 euros in the case of 3.

III. Ancillary expenses in the case of tenancy agreements (Mietverträge)

1. Stamp duty on tenancy agreements (sec. 33 TP 5 GebG – Austrian Fees Act):

Lease agreements of residential areas which were concluded after November 10, 2017 are generally exempted from stamp duty (pursuant to sec. 33 TP 5 GebG).

A 'residential' area is defined as a building or parts of a building predominantly used for residential purposes. Included are other (independent) rooms or other parts of a property, such as cellar and attic areas, parking spaces and gardens which are typically allocated to residential units. Buildings or facilities within a building are deemed to serve a residential purpose if they are self-contained and designated to enable 'privacy', in

particular also overnight stays. Therefore, the exemption also covers ancillary rooms, such as cellar and attic areas, in addition to the living areas. Also, a parking space or garden serves a residential purpose if it is included in the same agreement, unless a different use is predominant. The use of a facility is deemed as 'predominantly residential 'if the residential area exceeds that of the area used for other purposes.
The stamp duty on lease agreements for purposes other than residential (e.g, retail areas, neutral properties) is 1% of the gross rent (incl. VAT) for the entire rental period, however, not more than 18 times the annual amount. If the tenancy agreement is concluded for an indefinite period, the 1% stamp duty is to be based on the gross rent for three years.
The lessor (or the lessor's representative, such as broker, building manager, lawyer or notary public) is obliged to calculate the duty and transfer it to the tax authority.

2. Commission
The calculation of the commission is based on the gross rent, which consists of:

- basic rent or subrent;
- pro-rata service charges and regular public charges;
- share in special expenses (e.g. lift), if any; and
- any remuneration for furniture or equipment rented together with the premises or other additional services of the landlord.

In order to calculate the basis of calculation of the commission the value added tax must not be included in the gross rent. The heating costs are also not to be included if the transaction concerns a tenancy relationship pertaining to a flat, in case of which pursuant to the tenancy law regulations the amount of the rent may not be agreed upon freely (reasonable rent, reference value rent).

In addition, a commission for special compensation in an amount of up to 5% can be agreed with the previous tenant.

Main tenancy agreements (Hauptmietverträge) or sub-tenancy agreements (Untermietverträge) on apartments and single family houses	Maximum commission plus 20% VAT	
	Landlord *	Tenant (only if first client)
indefinite period/period of more than three years	3 monthly gross rents	2 monthly gross rents
period up to 3 years	3 monthly gross rents	1 monthly gross rent
Agreement on a supplementary commission in the event that a lease agreement is extended or converted into an indefinite lease.	Taking into account the entire term of contract, the commission may be raised to the maximum amount, however not to exceed 1/2 monthly rent	Taking into account the entire term of contract, the commission may be raised to the maximum amount, however not to exceed 1/2 monthly rent
Services of real estate brokers who are at the same time managers of the property where the premises are located**	Maximum commission plus 20% VAT	
	Landlord *	Tenant
indefinite period/period of more than three years	2 monthly gross rents	–
period of at least 2 years but not more than 3 years	2 monthly gross rents	–
period shorter than 2 years	1 monthly gross rent	–
Agreement on a supplementary commission in the event that a lease agreement is extended or converted into an indefinite lease.	Taking into account the entire term of contract, the commission may be raised to the maximum amount, however not to exceed 1/2 monthly rent	–

Main tenancy agreements (Hauptmietverträge) or sub-tenancy agreements (Untermietverträge) on business premises of all kinds	Maximum commission plus 20% VAT	
	Landlord*	Tenant
indefinite period/period of more than three years	3 monthly gross rents	3 monthly gross rents
period of at least 2 years but not more than 3 years	3 monthly gross rents	2 monthly gross rents
period shorter than 2 years	3 monthly gross rents	1 monthly gross rent
Agreement on a supplementary commission in the event that a lease agreement is extended or converted into an indefinite lease.		Taking into account the entire term of contract, the commission may be raised to the maximum amount
It is possible to agree on charging the lessor's commission (not to exceed 3 gross monthly rents) to the lessee of the premises (Section 12 ImmMV).		

** The commission or other remuneration agreed with the lessor may exceed the maximum permissible amount by up to 100%, provided that no commission or other remuneration is agreed with the other party.*

*** This is not applicable if ownership has been established for the brokered apartment and the client is not the majority owner.*

IV. Ancillary expenses in the case of lease agreements (Pachtverträge)

1. Fees payable on lease agreements (Section 33 item 5 Gebührengesetz ("GebG") [Austrian Fees Act]) 1% of the gross rent payable during the term of contract; in the case of an indefinite term of contract 1% of three times the annual value.

2. Costs of drafting the agreement according to the fee regulations of the person who prepared the contract.

3. Commission

a) Leases, in particular in agriculture and forestry

In the case of leasing of properties or parts of properties a commission may be agreed with both clients which is fixed at a percentage of the rent payable during the term of the lease.

In the case of an indefinite term of lease…….5% of the rent payable for 5 years.

In case of a fxed term of

- up to 6 years 5 %
- up to 12 years 4 %
- up to 24 years 3 %
- more than 24 years 2 %

in each case plus 20% VAT.

In the case of appurtenances an additional commission of 3% of the value plus 20% VAT may be agreed upon.

b) Lease of businesses

In the case of an indefinite term of lease 3 times the monthly rent.

In the case of a fixed term of lease of

- Up to 5 years 5 %
- Up to 10 years 4 %
- More than 10 years 3 %

In each case plus 20% VAT.

In case of compensation for investments or furniture/equipment a commission of 5% of the amount paid by the lessee therefore may be agreed with the lessor or the previous lessee.

V. Ancillary Costs for Option Contracts

Brokering commission
If the broker brokers an option contract that grants the prospective tenant a time-limited right to bring about the transaction in question by means of a unilateral declaration, a maximum of 50% of the commission specified for the brokerage of the main transaction may initially be agreed with the option owner when the option contract is concluded. The remaining 50% may only be charged if the option right is exercised. Any option fee paid is not taken into account when determining the commission. The agreed landlord's commission can only be charged to the option obligated party when the option is exercised.

VI. Energy performance certificate

The Act on the Presentation of the Energy Performance Certificate (EAVG 2012) provides that in the event a building or an object of usage is rented/leased, the landlord/lessor has to present to the tenant/lease-holder an **Energy Performance Certificate** in due time before the contract is concluded. At the time of presentation, the Energy Performance Certificate may not be older than 10 years. It must also be handed over to the tenant/lease-holder no later than 14 days after the signing of the agreement.
In the event the landlord/lessor fails to provide the certificate, the tenant/lease-holder is entitled to procure the Energy Performance Certificate directly, provided he / she has requested the certificate from the landlord/lessor in vain. The tenant/lease-holder can then opt to either claim reasonable expenses for the certificate at court within a period of three years, or file a court request for the hand-over of the certificate.

Advertisements in print and electronic media must specify the thermal heat requirements (Heizwärmebedarf or HWB) and the overall energy efficiency factor (Gesamtenergieeffizienzfaktor or fGEE), with both landlord/lessor and broker being subject to this obligation.
The landlord/lessor may choose to hand-over either an Energy Performance Certificate on the overall energy efficiency of the object or of a comparable object within the same building, or on the entire building. With regard to one-family homes, the requirement to present and hand-over an energy certificate will be satisfied by means of an energy certificate for a comparable building. The author of the Energy Performance Certificate must, however, confirm such comparability.
The Energy Performance Certificate must be compliant with the respective provincial regulations and is designed to create comparable information on the standard energy consumption of an object. The calculation of energy indicators is based on pre-defined conditions and standard parameters which are not user-dependent, resulting in the fact that there may be considerable deviations when the property / object is actually used.

If no Energy Performance Certificate is presented, Section 7 EAVG provides that an overall energy performance corresponding to the age and type of the building has been agreed.

The Act on the Presentation of the Energy Performance Certificate (EAVG 2012) includes administrative penalty provisions. Both the landlord/lessor and the broker who fail to state the HWB and fGEE values in an advertisement are subject to a fine of up to EUR 1,450. Brokers will only be excused if they have informed the landlord/lessor of the subject obligation, requesting both indicators and the procurement of an Energy Efficiency Certificate, which the landlord/lessor refused to supply. Moreover, the landlord/lessor faces an administrative penalty of up to EUR 1,450 if he/she fails to present and / or hand-over the Energy Performance Certificate.

VII. Safety of electrical installations in rental apartments

Electrical installation regulation 2020, BGBl. II No. 308 / 2020 (ETV 2020)
Section 7
When renting an apartment in accordance with § 2 (Paragraph 1) of the Federal Act of 12 November 1981 on Tenancy Law, Federal Law Gazette No. 520 / 1981, in the version of Federal Law Gazette I No. 58 / 2018, it must be ensured that the electrical system of the apartment corresponds to the provisions of ETG 1992; In systems that do not have any additional protection in socket circuits in accordance with § 2, Paragraph 2, the protection of people in the electrical system must be ensured by installing at least one residual current circuit breaker with a rated fault current of no more than 30 mA immediately before the line protection devices in the apartment. If there is no suitable documentation on this, the tenant cannot assume that the electrical system meets these requirements.

VIII. Obligation to provide information to consumers if being principals

The real-estate agent's information requirements

Section 30 b KSchG (consumer Protection Act)
(1) Prior to concluding an agency agreement with the client (in the case of a "Consumer"), the agent has to hand over to the client – with the diligence of a proper real estate professional – a written statement indicating that it will act as an agent, and a list of all expected costs arising from the conclusion of the requested business transaction, including the agent's commission. The amount of the commission must be stated separately; the agent must also inform that client of any economic or private relationship for the purpose of Section 6(4) third sentence of MaklerG (Real Estate Agency Act). When the agent – according to common business practice – can act as dual agent, the statement must bear explicit reference to this fact. In the event of any substantial change in circumstances, the agent must rectify the above documents accordingly. If the agent fails to fulfill this obligation before the client agrees to the brokered transaction, Section 3(4) MaklerG shall apply.
(2) The real estate agent has to provide the client with the required information (pursuant to Section 3 MaklerG) in writing. The information must in any case include all circumstances which are essential to assess the business transaction to be brokered.

Maximum duration of Sole Broker Contracts according to § 30 c of the Consumer Protection Act (KSchG)

§ 30 c KSchG
(1) The duration of Sole Broker Contracts (§ 14 Section 2 of the Broker Act) from consumers may be agreed for a maximum of
1. three months for the brokering of rental contracts for apartments or other contracts relating to the use of apartments;
2. six months for arranging contracts for the sale or purchase of ownership of apartments, single-family houses and individual plots of land that are suitable for the construction of a single-family house.
(2) In the case of circumstances that significantly complicate or delay the process, a longer duration period from the one stipulated in Section 1 may be agreed.

Information requirements in the event of distance and off-premises sales Scope of the obligation; legal consequences

to be applied on

- **Off-premises contracts** (AGV) between trader and consumer,
  - which are concluded when a consumer and trader are simultaneously present at a place other than the trader's premises,
  - for which the consumer has made an offer under the circumstances above, or
  - which have been concluded in the trader's premises or by distance sale communication media, directly after the consumer has been addressed personally and individually at a location other than the trader's or its representative's premises, respectively the consumer's premises, or

- **Distance sales transactions** (FAG) – these are contracts concluded between a trader and a consumer, without the simultaneous presence of both parties, through a distribution or service system organized

to handle distance sales where telecommunications media (mail, internet, e-mail, telephone and fax) were exclusively used until the respective agreement was concluded.

Exempted are contracts on

- the creation, acquisition or transfer of ownership or other rights related to immovable things (Section 1 Abs. 2 Z 6 FAGG),
- the erection of new buildings, major conversion work of existing buildings and the lease of residential space (Section 1 Abs. 2 Z 7 FAGG).

Section 4 FAGG

(1) The contract or offer shall not be binding upon the consumer before it has been informed by the trader of the following facts and in a clear and comprehensible matter:

1. *the essential characteristics of the goods or services, as appropriate to the medium and the goods or services,*
2. *the name or company name of the trader as well as the address of its office. In addition the telephone and the e-mail address which the consumer may use to contact the trader easily and promptly and without major effort,*
3. *where applicable*

a) where the trader provides other means of online communication which guarantee that the consumer can keep any written correspondence, including the date and time of such correspondence, with the trader on a durable medium, the information shall also include details of those other means; all those means of communication provided by the trader shall enable the consumer to contact the trader quickly and communicate with him efficiently

b) any address different from the trader's company base which the consumer may use in any case of complaint, and

c) the name of the person or the company and the address of the person on behalf of which the trader is acting, as well as any business address of that person that may differ from the foregoing, where the consumer can address any complaints,

4. the total price of the good or service, including all taxes and levies. If the nature of the goods or services is such that the price cannot reasonably be calculated in advance, the method of calculating the price and any additional costs for freight, delivery, shipment or other costs must be stated. If such costs cannot reasonably be calculated in advance, the fact that such additional costs may be payable must be noted as well,

4a. where applicable, that the price was personalised on the basis of automated decision-making;

5. in the event of a contract for an indefinite period or a subscription: the total costs per billing period; when such contracts are charged at a fixed rate, the total costs shall mean the total monthly costs; if the total costs cannot reasonably be calculated in advance, the method of calculating the price shall be provided,

6. the costs of using any means of distance communication for the conclusion of the agreement, unless such costs are calculated at the base rate,

7. the terms of payment, delivery and service; the period following the trader's commitment during which the goods or services will be delivered, and, where applicable the trader's complaint handling process,

8. where a right of withdrawal exists, the conditions, time limit and procedures for exercising that right in accordance with Article 11(1), as well as the model withdrawal form set out in Annex I(B),

9. that (where applicable) the consumer – in the event it withdraws from the contract – is obliged to pay the costs for returning the goods pursuant to Section 15; in case of distance contracts for goods that, due to their nature cannot normally be returned by post, the cost of returning these goods,

10. that (where applicable) the consumer – in the event it withdraws from the contract – is obliged to pay the pro-rated share of the work already performed pursuant to Section 16,

11. inform the consumer where applicable, on the absence of the right to withdraw from the contract pursuant to Section 18, respectively on the circumstances that would lead to the consumer losing its right to withdraw,

12. in addition to referring to the legal warrantee right, the consumer is to be informed also on the existence of after-sales customer services and the respective terms, as well as of any trade-specific guarantees,

13. where applicable on existing codes of conduct in accordance with Section 1(4) Z4 UWG Act on Unfair Competition, and on how the consumer can obtain a copy thereof,
14. where applicable, on the duration of the contract, respectively the conditions for terminating contracts with indefinite duration or contracts with automatic renewal,
15. where applicable, on the minimum duration of the consumer's obligations under the agreement,
16. where applicable, on the traders right to request a safety deposit or other financial security from the consumer, including the pertinent conditions,
17. where applicable, on the functionality of digital contents including technical protection measures for such contents,
18. where applicable — to the extent it is essential — on the interoperability of digital contents with hardware and software that the trader is aware of or can reasonably be expected to have been aware of, and
19. where applicable, the possibility of having recourse to out-of-court complaint and redress procedures the trader is subject to, and the conditions for such approach.

(2) In the event of a public auction, the information referred to in subsection 1 (2) and (3) might be substituted by information on the auctioneer.
(3) The information pursuant to subsection 1(8), (9), (10) may be provided by means of a model form stating the rights of withdrawal. The form satisfies the trader's obligation, provided it has been completed appropriately by the trader prior to being given to the client.
(4) The information provided to the client in accordance with subsection 1 is part of the contract. Any modifications are only effective when they have been explicitly agreed upon by both parties to the contract.
(5) If the trader has failed to provide to the client information on additional and other costs in accordance with subsection 1 Z 4, or on the costs for returning the goods in accordance with subsection 1 Z 9, the client does not have to bear these costs.
(6) The obligation to provide information in accordance with subsection 1 applies regardless of other obligations to provide information pursuant to statutory regulations based on the Directive on Services in the Internal Market (2006/123/EC – Federal Law Gazette No. L 376 dated Dec. 27, 2006, page 36) or on certain legal aspects regarding information services in the E-Commerce Directive (2000/31/EC – Federal Law Gazette L 178 of July 17, 2000, page 1) in particular those referring to electronic business transactions.

Information requirement for off-premises contracts

Section 5 FAGG
(1) In the event of contracts concluded off-premises, the information referred to in Section 4 (1) shall be provided to the consumer on paper, or if the consumer agrees, on another durable data medium. The information must be legible, clear and comprehensible.
(2) The trader shall hand over to the consumer a paper copy of the signed contract, or a confirmation of the concluded contract, or upon the consumer's approval, a copy stored on another durable data medium. Where applicable, the copy of the contract or the confirmation of the contract shall include an acknowledgement of the consumer's approval and knowledge pursuant to Section 18 (1) Z11.

Providing information for distance contracts

Section 7 FAGG
(1) In the event of distance sales, the information referred to in Section 4 (1) must be provided to the consumer in a way which is appropriate to the communication channel used, and it must be clear and comprehensible. If the information is provided on a durable data medium, it must be legible.
(2) If the contract is concluded through a telecommunications channel where the time for presenting the information is limited in terms of space or time, the trader shall provide to the consumer at least the information provided in Section 4 (1) Z 1, 2, 4, 5, 8 and 14 on the essential characteristics of the goods or services, the name of the trader, the total price, the withdrawal right, the term of the contract and the conditions for terminating contracts with indefinite terms. This information must be provided through the same telecommunications channel prior to concluding the contract. The remaining information in Section 4(1) shall be provided to the consumer in an appropriate manner and in accordance with subsection 1.
(3) The trader shall provide the consumer with the confirmation of the contract concluded, on a durable medium within a reasonable time after the conclusion of the distance contract, and at the latest at the time

of the delivery of the goods or before the performance of the service begins. That confirmation shall include all the information referred to in Sec 4 (1) unless the trader has already provided that information to the consumer on a durable medium prior to the conclusion of the distance contract; and where applicable, the confirmation of the consumer's prior express consent and acknowledgment in accordance with point 11 of Section 18 (1).

Special requirements in the event of e-contracts

Section 8 FAGG

(1) In the event that an electronic distance contract –not exclusively concluded by e-mail or a comparable individual electronic communications channel – obliges the consumer to make a payment, the trader has to notify the consumer in a clear and accentuated manner of the information set forth in Section 4 (1) Z 1, 4, 5, 14, and 15, prior to the latter's declaration of agreement.
(2) The trader shall ensure that the consumer, when placing his order, explicitly acknowledges that the order implies an obligation to pay. If placing an order entails activating a button or a similar function, the button or similar function shall be labelled in an easily legible manner only with the words 'order with obligation to pay' or a corresponding unambiguous formulation indicating that placing the order entails an obligation to pay the trader. If the trader has not complied with this subparagraph, the consumer shall not be bound by the contract or order.
(3) Trading websites shall indicate in a clear and comprehensible way and no later than at the beginning of the ordering process whether there are delivery restrictions and which means of payment are accepted.
(4) Subsections. 1 to 3 also apply on the contracts mentioned in Section 1 (2) Z 8. The provisions in subsection 2 (second and third sentence) are also applicable on the contracts mentioned in Section 1 (2) Z 2 and 3, provided that they have been concluded in the way described in subsection 1.

Definition of "durable data medium":
Paper, USB sticks, CD-ROMs, DVDs, memory cards, hard-disks, storable and reproducible e-mails.
Special requirements in the event of telephone sales

Special requirements in the event of telephone sales

Section 9 FAGG

(1) In the event of telephone calls with consumers with a view to concluding a distance sales contract, the trader must inform the consumer at the beginning of the conversation of its name, its company name, or where applicable of the name of the person upon whose order it is acting, as well as the commercial purpose of the conversation.
(2) In the event of a distance sales contract for services negotiated during a call initiated by the trader, the consumer shall be under no obligation before the trader makes available to the consumer a confirmation of the offer on a durable data medium and the consumer subsequently submits to the trader a written acceptance of the offer on a durable data medium as well.

IX. Rights to withdraw

1. Withdrawal from a brokerage agreement (Sole agency agreement, brokerage agreement, brokerage agreement with a prospective client) if it is a distance or off premises contract (Sec 11 FAGG).

Right to withdraw and withdrawal period

Section 11 FAGG

(1) The consumer may withdraw from a distance or off-premises contract within a period of 14 days, without giving the reason for its withdrawal. The withdrawal periods commences on the date the agreement is entered into.

Omission of information on the right of withdrawal

Section 12 FAGG

(1) If the trader has failed to comply with its obligation to inform the consumer pursuant to Sec. 4 (1) Z 8, the withdrawal period specified in Sec. 11 shall be extended by twelve months.

(2) If the trader provides the information to the consumer within twelve months from the date relevant for the commencement of the period, the withdrawal period ends 14 days after the consumer has received the information.

Exercising the right of withdrawal

Section 13 FAGG

(1) The withdrawal does not require any specific format. The consumer may use the model form for withdrawals. The withdrawal period is complied with if the declaration is posted within the period.
(2) The trader may offer the consumer the option to complete the model withdrawal form or fill in and submit a declaration of withdrawal through its website. If the consumer uses this channel, the trader has to acknowledge receipt immediately, by means of a durable data medium.

Beginning of the execution of the contract before expiration of the withdrawal period

Section 10 FAGG

If a distance or off-premises service contract is about the provision of an indefinite volume or quantity of water, gas, electricity or district heat and the consumer requested provision before the end of the withdrawal period pursuant to Sec. 11, the trader must request the consumer to explicitly solicit early execution of the agreement on a durable data medium, provided that the contract was concluded off-premises.

Obligations of the consumer in the event of withdrawal from a contract for services, energy or water supply, or digital contents

Section 16 FAGG

(1) If, pursuant to Sec. 11 (1) a consumer withdraws from an agreement on services or the provision of energy or water as specified in Sec. 10, after having made a request in accordance with Sec. 10 and the trader subsequently started to fulfill the agreement, the consumer has to reimburse the trader for the amount which corresponds to the pro-rated share of deliveries (made up to the date of withdrawal) in relation to the agreed total contract price. If the total price is excessive, the payable pro-rated share is to be based on the market value of the services actually rendered.
(2) The consumer is not obliged to pay a pro-rated share pursuant to subsection 1if the trader has not met its obligation to inform the consumer in accordance with Sec. 4 (1) Z 8 and 10.

Exemptions from the rights to withdraw

The consumer has no right to withdraw regarding distance and off premises contracts of services after the service has been fully performed but, if the contract places the consumer under an obligation to pay, only if the performance has begun with the consumer's prior express consent and acknowledgement that he will lose his right of withdrawal once the contract has been fully performed by the trader and if the consumer has provided prior express consent, that he loses the right of withdrawal after the service has been fully performed and in the case of service contracts which place the consumer under an obligation to pay where the consumer has specifically requested a visit from the trader for the purpose of carrying out repairs.

2. Rescission of contract pertaining to real estate pursuant to Section 30a Konsumentenschutzgesetz ("KSchG") [Austrian Consumer Protection Act]

A client who is a consumer (Section 1 KSchG) may declare within one week that he rescinds such contractual statement, if he

- has made a contractual statement on the day of the first visit to the premises,
- and if such statement refers to the acquisition of a tenancy right, any other right to use a property or to ownership, namely
- to a flat, a detached (one-family) house or a property suitable for construction of a detached (one-family) house and if
- the same is intended to be used for covering the consumer's own urgent need for accommodation or of that of a close relative.

The time period begins to run only when the consumer has received a duplicate of the contractual statement and information regarding the right to rescind the same, i.e. either on the day after he made the statement or, if the duplicate including the information on the right to rescind the contractual statement was delivered

later on, at such later point in time. In any case the right to rescind the contractual statement expires not later than one month after the date of the first visit.
Agreements on the payment of a down payment, forfeit money or the like prior to expiration of the period allowed for rescission pursuant to Section 30 a KSchG shall be ineffective.

The declaration of withdrawal is not bound to any particular form. The withdrawal period is met if the declaration of withdrawal is sent within the specified period (§ 3 Para. 4 of the Consumer Protection Act).

3. Withdrawal right in the event of door-step sales pursuant to Section 3 KSchG Consumer Protection Act

Only applicable on contracts which are explicitly exempted from the applicability of the FAGG (Act on Distance and Off-Premises Sales).
A customer who is consumer in the sense of Section 1 Consumer Protection Act has the right to withdraw up to the conclusion of the contract, or within 14 days following its conclusion, if

- its contractual declaration was made outside the trader's premises and
- it has not solicited business relations directly with the trader with a view of concluding a contract.

The term does not start before the consumer has been handed over a document containing the name and address of the trader, the data required to identify the contract, instructions on the withdrawal right, the withdrawal period and the process of exercising this right.

If the consumer is not informed of its right to withdraw, it shall be entitled to withdraw during a period of twelve months and 14 days following the conclusion of the agreement. In the event the trader hands over the document within twelve months following the beginning of the term, the extended withdrawal period shall end 14 days after the date the consumer receives the respective document.
The withdrawal notice does not require any specific format. The withdrawal period is complied with if the withdrawal notice is dispatched within the withdrawal period.

4. The right to rescind the contract in case of non-occurrence of essential facts or circumstances (Section 3a KSchG)

The consumer may rescind his application for a contract or the contract itself if

- with no initiative of his
- essential circumstances
- that were described by the entrepreneur as being likely
- have not occurred or have only occurred to a considerably smaller extent.

Essential circumstances are

- the necessary cooperation or consent of a third party,
- tax benefits, or
- public aid or a prospective loan.

The period for rescission of the contract is one week after the consumer is able to notice such non-occurrence if he was informed about such right to rescind the contract in writing. In any case, however, the right to rescind the contract will end one month after complete performance of the contract by both parties.

The consumer is not entitled to rescind the contract if

- in the course of the negotiations he knew or was required to have known about such non-occurrence;
- if the right to rescind the contract is negotiated in individual cases (not possible to include in a form); or
- if the contract was adjusted in an appropriate way.

The declaration of withdrawal is not bound to any particular form. The withdrawal period is met if the declaration of withdrawal is sent within the specified period (§ 3 Para. 4 of the Consumer Protection Act).

Withdrawal form

(complete and return this form only if you wish to withdraw from the contract)

- To [here the trader's name, geographical address and, where available, his fax number and e-mail address are to be inserted by the trader]:

Immobilien Wild GmbH
Rana Wintersteiner
Lainsitzstrasse 14
3950 Dietmanns-Gmünd
Austria
Fax: +43 1 616 32 77 216
Email: office@immobilienwild.at

- I/We (*) hereby give notice that I/We (*) withdraw from my/our (*) contract of sale of the following goods (*)/for the provision of the following service (*),

.....

.....

- Ordered on (*)/received on (*): .....

- Name of consumer(s): .....

.....

- Address of consumer(s): .....

.....

.....

.....

- Signature of consumer(s) (only if this form is notified on paper)

- Date .....

(*) Delete