

**ARTICLES OF ASSOCIATION**  
**OF**  
**WARIMPEX FINANZ- UND BETEILIGUNGS AKTIENGESELLSCHAFT<sup>x)</sup>**

In the proposed version as regards the resolutions of the 27<sup>th</sup> annual general meeting of 19  
June 2013

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<sup>x)</sup> The references in the footnotes indicate the rules of the Austrian Corporate Governance Codex ("CGC") in the version of July 2012, underlying the provision in question (while specifying whether it is a Legal Requirement (L), a "Comply or Explain" rule (C) or a recommendation (R)).

## **I. General Provisions**

### **1. Business Name**

The business name of the stock corporation is Warimpex Finanz- und Beteiligungs Aktiengesellschaft.

### **2. Registered Office**

The company's registered office is in Vienna.

### **3. Object of Business**

**3.1** The object of business of the entity is

- a) to purchase and develop as well as to sell, administer and dispose of real property of all kinds
- b) to lease and rent real property of all kinds as well as the operation of hotels on its own or by third parties
- c) to broker foreign and domestic self-financing and leasing transactions to the extent permitted by law
- d) investment in foreign and domestic enterprises, especially in those whose business purpose is the commercial exploitation as well as administration of land and buildings
- e) carrying out foreign and domestic general contracting and property development activities
- f) assuming functions of representation and representative offices
- g) carrying out any other auxiliary transactions adequate for the support of the abovedesignated object of business
- h) trading in goods of all kinds

**3.2** The company is entitled to perform any transactions or take any measures necessary or useful to achieve its object of business, in particular the acquisition of property, the establishment of foreign or domestic branch offices and subsidiaries, as well as shareholding in other companies, except in the form of banking transactions. The

company is entitled to realise its business purpose by means of subsidiaries and affiliated companies.

#### **4. Public Notices**

Public notices of the company, to the extent that and in cases where required by the Austrian Stock Corporation Act, shall be made in the Official Gazette of the "Wiener Zeitung". All other announcements by the company shall comply with the relevant legal regulations. All announcements shall also be made available on the company's website.

## **II. Share Capital and Shares**

### **5. Share Capital**

**5.1** The company's share capital amounts to EUR 54,000,000.00.

**5.2 a)** Pursuant to section 159 para 2 item 1 Austrian Stock Corporation Act the share capital shall be conditionally increased by up to EUR 5,179,828.00 through the issue of up to 5,179,828 new, ordinary bearer shares. The conditional share capital increase shall only be implemented where the holders of the convertible bonds, issued on the basis of the resolution passed on 31 May 2007, exercise the conversion right for shares of the Company attached to the convertible bonds. The management board is authorised, upon the approval of the supervisory board, to determine the details of the execution of the conditional share capital increase (in particular the issue price, the rights attached to the shares and the time from which on such shares carry dividend rights). The supervisory board is authorised to amend the articles of association as required due to the issue of shares on the basis of the conditional increase in the share capital ("conditional capital 1").

**5.2 b)** Pursuant to section 159 para 2 item 1 Austrian Stock Corporation Act the share capital shall be conditionally increased by up to EUR 9,000,000.00 through the issue of up to 9,000,000 new, ordinary bearer shares. The conditional share capital increase shall only be implemented where the holders of the convertible and/or option bonds, issued on the basis of the resolution passed on 11 June 2012, exercise the conversion right for shares of the Company attached to the convertible bonds. The management board is authorised, upon the approval of the supervisory board, to determine the details of the execution of the conditional share capital increase (in particular the issue price, the rights attached to the shares and the time from which on such shares carry dividend rights). The supervisory board is authorised to amend the articles of association as required due to the issue of shares on the basis of the conditional increase in the share capital ("conditional capital 2").

**5.2 c)** Pursuant to section 159 para 2 item 1 Austrian Stock Corporation Act the share capital shall be conditionally increased by up to EUR 9,000,000.00 through the issue of up to 9,000,000 new, ordinary bearer shares. The conditional share capital increase shall only

be implemented where the holders of the convertible and/or option bonds, issued on the basis of the resolution passed on 19 June 2013, exercise the conversion right for shares of the Company attached to the convertible bonds. The management board is authorised, upon the approval of the supervisory board, to determine the details of the execution of the conditional share capital increase (in particular the issue price, the rights attached to the shares and the time from which on such shares carry dividend rights). The supervisory board is authorised to amend the articles of association as required due to the issue of shares on the basis of the conditional increase in the share capital ("conditional capital 3").

**5.3** Pursuant to section 169 Austrian Stock Corporation Act the management board is authorised within five years of the entry of the respective amendment to the articles of association in the companies register to increase the share capital by up to EUR 5,400,000.00 by issuing up to 5,400,000 new, no-par value, ordinary bearer shares against cash payment and/or contribution in kind, also in one or several tranches, also with the partial or total exclusion of subscription rights, and to determine the issue price as well as the conditions for the issue in accordance with the supervisory board. Further the supervisory board is authorised to adopt amendments to the articles of association due to the issue of shares with regard to the exercise of the authorised capital.

## **6. Shares**

**6.1** The share capital is divided into 54,000,000 no-par value shares.

**6.2** The shares are made out to the bearer.

**6.3** If, in the event of a capital increase, the resolution to increase the capital does not specify whether the shares shall be made out to the bearer or be registered, then they shall be made out to the bearer.

**6.4** Claims of shareholders regarding securitisation of their shares are hereby excluded. Materialisation of a plurality of individual shares through a collective document (global share certificate) is permissible.

**6.5** The form and content of the share certificates as well as profit-sharing certificates and certificates of renewal coupons shall be established by the management board. The same applies to collective certificates and bonds, interest coupons, and option certificates.

## **III. Management Board**

### **7. Composition and Representation**

**7.1** The management board consists of two to four people.

**7.2** The supervisory board appoints the management board members and removes them.<sup>1</sup>

**7.3** The supervisory board may appoint a chairperson and a deputy chairperson from the members of the management board.

**7.4** The company is represented by two management board members jointly or by a single management board member together with a "Prokurist".

## **8. Duties and Internal Order**

**8.1** The management board shall have sole responsibility for managing the company, thereby serving the benefit of the entity, under consideration of the interests of the shareholders, the employees and the public interest.<sup>2</sup>

**8.2** The supervisory board shall issue rules of procedure for the management board and specify therein the following provisions in particular:

- a) the allocation of transactions within the management board;
- b) the designation of transactions that, in addition to the cases stipulated by law, require its approval; to the extent stipulated by law, the supervisory board shall also set quantitative limits up to which the supervisory board's approval is not necessary.

**8.3** The management board shall report to the supervisory board as follows:<sup>3</sup>

- a) The management board shall inform the supervisory board regularly, promptly and completely of all issues relevant to the course of business, including the risk situation and risk management in the company and in the most relevant group companies.
- b) The management board shall report to the supervisory board at least once annually in writing on the fundamental issues of the future business policy of the company, as well as the future trend in the financial, assets and profits position, based on a forecast (annual report).
- c) The management board shall, moreover, report to the supervisory board regularly, at least quarter-annually, in writing, on the course of business and the position of the company in comparison to the forecast, taking into account future developments (quarterly report).

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<sup>1</sup> Rule No. 33 CGC (L).

<sup>2</sup> Rule No. 13 CGC (L).

<sup>3</sup> Rule No. 9 CGC (L).

- d) If case of an event of major significance, the chairperson of the supervisory board shall be informed immediately orally or in writing; furthermore, the supervisory board shall be immediately informed orally or in writing of any circumstances that may have a material impact on the profitability or liquidity of the company, in particular, significant deviations from the target figures, (special report).
- e) In addition, the management board shall report to the supervisory board on the companies of the group.

## **9. Adoption of Resolutions**

**9.1** The management board adopts resolutions with a simple majority. Abstentions shall be considered as non-votes.

**9.2** If the management board resolutions are not adopted unanimously, then, if a management board member has been appointed chairperson, the management board chairperson shall have the casting vote.

**9.3** The management board shall adopt its resolutions free from self-interest and the interests of controlling shareholders, in a competent manner and as prescribed by law, the articles of association and the rules of procedure for the management board.<sup>4</sup>

## **IV. Supervisory Board**

### **10. Composition**

**10.1** The supervisory board consists of three to eight members elected by the general meeting of shareholders and the members delegated pursuant to § 110 Labour Constitutional Act.

**10.2** As far as the general meeting of shareholders does not pass a resolution stipulating the contrary, the supervisory board members are elected for the maximum legal duration. A re-election is permitted.

**10.3** If an elected supervisory board member retires prematurely, elections for a replacement for the remainder of the departing member's term of office shall, if possible, be held no later than the following general meeting. The election of a replacement shall be held without delay if the departure of an elected member reduces the number of elected members to less than four.

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<sup>4</sup> Rule No. 22 CGC (L).

**10.4** Each supervisory board member may resign from office upon four weeks' notice, also without demonstrating good cause, by sending a registered letter to the supervisory board chairperson or, in case of absence, to the deputy chairperson.

**10.5** The supervisory board shall elect a chairperson and a deputy chairperson from among its members. Insofar as the supervisory board does not pass a resolution to the contrary, the appointment shall be made for their entire terms of office as members of the supervisory board. In the event that either of the appointments expires, elections for replacement shall be held without delay. A re-election is permitted.

## **11. Duties and Internal Order**

**11.1** The supervisory board shall oversee the activities of the management board. The supervisory board shall fulfil those duties as prescribed by law and by the articles of association. It is the duty of the supervisory board not only to supervise the management board but also to support it in governing the entity and, in particular, in making decisions of fundamental significance.<sup>5</sup>

**11.2** The supervisory board shall adopt rules of procedure, which shall stipulate disclosure and reporting obligations of the management board, also with regard to subsidiaries, unless these obligations are defined in these articles of association or in the rules of procedure for the management board.<sup>6</sup>

**11.3** The supervisory board may establish committees from among its members. Its duties and powers shall be specified in the rules of procedure; the committees may be appointed on a permanent basis or for individual duties. Decision making and consent powers may also be transferred to the committees. In any case, an audit committee shall be established.<sup>7</sup>

**11.4** The committees, represented by their chairpersons, shall report periodically to the supervisory board on the work of the committee. The supervisory board's report to the general meeting of shareholders shall address the activities of the committees.<sup>8</sup>

**11.5** The supervisory board shall be entitled to adopt amendments to the articles of association involving only changes in the wording.

## **12. Meetings and Voting on Resolutions**

**12.1** The supervisory board shall meet as often as necessary, at least once per quarter calendar year.

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<sup>5</sup> Rule No. 32 CGC (L).

<sup>6</sup> Rule No. 34 CGC (C).

<sup>7</sup> Rule No. 34 CGC (C).

<sup>8</sup> Rule No. 39 CGC (C).

**12.2** The supervisory board meetings shall be called by the chairperson or, in the event of prevention, by the deputy chairperson, by letter or equivalent means of communication such as fax or electronic means of communication (e-mail), specifying the place, time and agenda of the meeting. The letters of invitation shall be sent out at least seven days prior to the time of the meeting. In urgent cases, the meeting may be called at least two days in advance by telephone or telegraph.

**12.3** Each member of the supervisory board or the management board may, upon specifying the purpose and reasons in writing, demand that the supervisory board chairperson calls a supervisory board meeting without delay. In the event of failure to comply with a request made by at least two supervisory board members or by the management board, the applicants themselves shall be entitled to call a supervisory board meeting upon making known the matter at hand. The meeting shall be held within two weeks after it has been called.

**12.4** The supervisory board is competent to pass resolutions if the meeting has been called in due form, as defined by paragraph 2 or 3 above, and at least half of the members elected by the general meeting of shareholders, including the chairperson or the deputy chairperson, are attending.

**12.5** Resolutions are adopted by a simple majority of the votes cast. In the event of a tie – including in the case of elections – the person presiding the meeting shall have the casting vote. An abstention shall be deemed to be a non-vote.

**12.6** The supervisory board members are not entitled to have their duties exercised by other persons. A supervisory board member may, however, delegate another supervisory board member in writing to represent him for a single meeting; the represented supervisory board member shall not be counted towards the quorum necessary to adopt resolutions in the meeting. The right to preside the meeting is non-assignable. Votes may also be submitted in writing.

**12.7** In urgent cases, resolutions may also be voted upon in writing, including votes by fax or electronic means of communication (e-mail), if no supervisory board member expressly objects thereto without delay. In particularly urgent cases, votes may also be held by telephone, subject to the approval of all the supervisory board members. A resolution has been validly passed if all members of the supervisory board have been invited to cast their votes and at least half of the members, including the chairperson or the deputy chairperson have cast their votes. A report thereon shall be given in the following meeting.

**12.8** For resolutions voted upon in writing or by telephone, representation within the meaning of item 12.6 above is not permissible.

**12.9** A protocol shall be kept on the meetings of the supervisory board.



### **13. Remuneration of the Supervisory Board Members**

The supervisory board members shall receive the remuneration for their term of office and per-meeting compensation as proposed by the management board and approved by the general meeting of shareholders as well as reimbursement of expenses.

## **V. General Meeting**

### **14. Calling and Public Notice of the Meeting<sup>9</sup>**

**14.1** The general meeting shall be called by the management board or – in cases defined by law – by the supervisory board in accordance with the provisions of § 106 Austrian Stock Corporation Act.

**14.2** The general meeting shall be held at the company's registered office or in one of its domestic branch offices or in the capital city of an Austrian federal state.

**14.3** The fact that an annual general meeting of shareholders has been called must be announced on the 28<sup>th</sup> day before the general meeting at the latest, whereby the extraordinary general meeting is to be called on the 21<sup>st</sup> day before the general meeting at the latest.

**14.4** The announcement of the calling shall be published in accordance with item 4 of the articles of association.

### **15. Participation**

**15.1** Entitlement to participate in the general meeting of shareholders and to exercise shareholder's rights shall be determined by the shares owned at the end of the tenth day before the date of the general meeting of shareholders (substantiation date). Shareholders wishing to participate in and to exercise their voting rights at the general meeting must submit to the company proof of their ownership of shares as of the substantiation date.

**15.2** For bearer shares held in custody, proof of ownership as of the substantiation date for the purposes of substantiating entitlement to participate in the general meeting of shareholders and to exercise other shareholder rights shall be submitted to the company in the form of a confirmation issued by a custodian bank with its registered office in a member country of the European Economic Area or in a full member state of the OECD (depository confirmation). This depository confirmation must be received by the company or another agent specified in the invitation to the general meeting by no later than the third business day before the general meeting.

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<sup>9</sup> Rule No. 4 CGC (L).

**15.3** The depositary confirmation must be submitted in text form. The company will accept depositary confirmations by means of an internationally used, specially secured bank communication network provided that the users of the network can be uniquely identified.

**15.4** Depositary confirmations shall be accepted in German and English. The invitation may declare that depositary confirmations will be accepted in further languages.

**15.5** Statements submitted to the company by shareholders or banks must be submitted in writing in German or English in order to be legally effective.

**15.6** The proceedings of the general meeting shall be conducted in German.

## **16. Voting Rights**

**16.1** Each share conveys one vote.<sup>10</sup> The voting rights shall be exercised by number of shares. A shareholder can vote differently for different shares.

**16.2** The voting right becomes exercisable upon complete payment of the minimum subscribed share by law in the company's capital.

**16.3** The exercise of the voting right by proxy is possible only through a written power of attorney, which must be submitted to the company in writing and which it has to retain. Such a written power of attorney can also be submitted by electronic means of communication (e-mail). The submission via SMS (short message service) is excluded. Details regarding the granting or withdrawal of such proxy shall be subject to the invitation to the general meeting.

## **17. Chair**

**17.1** The chair in the general meeting is held by the chairperson of the supervisory board or the deputy chairperson. If neither of them appears or is willing to conduct the meeting, then the notary called for certification shall chair the meeting until the election of a chairperson.

**17.2** The chairperson of the general meeting conducts the proceedings and determines the sequence of the items on the agenda as well as the manner of voting.

**17.3** The chairman of the general meeting ensures that the meeting is run efficiently and that the rights and interests of all the shareholders are observed. The chairman shall, in particular, counteract any abuse of rights by meeting participants and guarantee that the rights of minority shareholders are respected as well as that any short breaks taken in the

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<sup>10</sup> Rule No. 2 CGC (C).

general meeting of shareholders for a justified reason and which do not constitute an adjournment, are not intended to hinder the exercise of shareholder rights. The chairman shall not, without good reason, resign from his function or delay the signing of the meeting minutes.

**17.4** The members of the management board and supervisory board should attend the general meeting if at all possible. The auditor of the annual financial statements must be in attendance at the annual general meeting.

## **18. Adoption of Resolutions**

**18.1** Unless a different type of majority is mandatorily prescribed by law or by the articles of association, the general meeting adopts resolutions by a simple majority of the votes cast and, in the event that a capital majority is required, by a simple majority of the share capital represented in the vote.

**18.2** A resolution to remove or not to consider an item on the agenda may be adopted only if it is supported by sound reasons. Any motion in this respect shall include a detailed justification. A decision to remove or not to consider items put on the agenda at a shareholder's request requires the consent of all shareholders who put the issue on the agenda and a general meeting resolution supported by a majority of 75% of the capital represented.

**18.3** Any shareholder objecting to a resolution shall be given the opportunity to put forward concise reasons for those objections.

## **VI. Annual Financial Statements, Profit Distribution, and Audit of Annual Financial Statements**

### **19. Business Year**

The company's business year is the calendar year.

### **20. Annual Financial Statements and Profit Distribution**

**20.1** The management board shall, within the first five months of each business year, prepare the annual financial statements and the management report supplemented by the notes and as well as the consolidated financial statements and the consolidated management report and the corporate-governance-report for the previous financial year and present those, after having been audited by the company's auditor, to the supervisory board together with its proposal for distribution of net profit.

**20.2** The supervisory board shall, within two months of their presentation, review such documents, render its statement to the management board and deliver a report to the general meeting.

**20.3** The company shall prepare its consolidated financial statements in accordance with the International Financial Reporting Standards (IFRS) in such version as transformed by the EU.<sup>11</sup>

**20.4** The general meeting shall, within the first eight months of each business year, vote on the distribution of net profit for the year, the discharge the members of the management board and supervisory board, the election of the auditor and – if so required by law – the approval of the annual financial statements (annual general meeting). The general meeting may, contrary to the proposal for the distribution of net profit, exclude the distribution either in whole or in part. Any amendments to the annual financial statements which thus become necessary shall be made by the management board.

**20.5** The shareholders' shares in the profits shall be distributed in proportion to the amount contributed in share capital. Investments made during the business year shall be taken into account *pro rata temporis*, based on the time elapsed since payment. On the occasion of a new share issue, another entitlement to profit-sharing may be established.

**20.6** The shares in the profits are payable within ten days after the general meeting has been held, unless decided otherwise by the general meeting.

**20.7** Shares in the profits that are not collected by shareholders within three years after reaching maturity shall be returned to the company's free reserves.

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<sup>11</sup> Rule No. 65 CGC (L).