

*This is the recommendation for a resolution with regard to item 8 of the agenda of the 24<sup>th</sup> annual general meeting "Resolution on the amendment of the Articles of Association" based on the new version of the Articles of Association after the registration of the capital increase on 12 May 2010 in the volume of EUR 14,400,001.00 thereby resulting in an increase of share capital from EUR 39,599,999.00 to EUR 54,000,000.00. In this version you may find that the former item 5.2 regarding "authorised capital" has been deleted, that item 5.1 refers to a share capital of EUR 54,000,000.00 instead of EUR 39,599,999.00 and that item 6.1 states the number of no-par value bearer shares to be 54,000,000 instead of 39,599,999.*

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

As amended by shareholders' resolution of ~~16 October 2009~~ 2 June 2010

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<sup>x)</sup> The references in the footnotes indicate the rule of the Austrian Corporate Governance Codex ("CGC") as amended on ~~01 Jan. 2006~~ 1 January 2010 underlying the provision in question (while specifying whether it is a Legal Requirement (L), a "Comply or Explain" rule (C) or a recommendation (R)) ~~and of the Polish "Best Practices in Public Companies 2005" in the current version published on 29 Oct. 2004 ("PBP").~~

## I. General Provisions

### 1. Business Name

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

### 2. Registered Office

The Company's registered office is in Vienna.

### 3. Business Purpose of the Company

3.1 The business purpose of the Company 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 by the Company or by third parties
- c) to broker ~~and implement~~ 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 real estate development activities
- f) assuming functions of representation and representative offices
- g) carrying out any other auxiliary transactions for the support of the abovedesignated business purposes
- 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 business purpose, 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 these announcements are required by the Austrian Stock Corporation Act, shall be made ~~through insertions~~ in the Official Gazette of the ~~"Wiener Zeitung"~~ "Wiener Zeitung". All other announcements by the Company shall comply with the relevant legal regulations. All announcements shall also be published on the Company's Internet website.

## II. Share Capital and Shares

### 5. Share Capital

5.1 The Company's share capital amounts to EUR ~~39,599,999.00 (thirty nine million, five hundred ninety nine thousand, nine hundred ninety nine~~ 54,000,000.00 (fifty-four million Euros).

~~5.2 By virtue of § 169 (paragraph one hundred and sixty nine) of the Stock Corporation Act (Aktengesetz, AktG), the Management Board is authorised for a period of five years from registration of the corresponding amendment to the Articles of Association into the Companies Register, to increase share capital in one or several tranches by up to EUR 18,000,000 (eighteen million Euros) by issuing up to 18,000,000 (eighteen million) new bearer shares in return for cash or contribution in kind. Shareholder subscription rights may be precluded in any such increase, and the issue price and the conditions of every issue are subject to the approval of the Supervisory Board. The Supervisory Board is also authorised to pass amendments to the Articles of Association required by the utilization of the capital raised by any such increases.~~ 5.3 Pursuant to § 159 (one hundred fifty-nine) para 2 (two) No 1 (one) of the Austrian Stock Corporation Act (Aktengesetz), the share capital shall be conditionally increased by up to EUR 9,000,000 (nine million Euros) through the issue of up to 9,000,000 (nine million) new 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 (thirty one) May 2007 (two thousand seven), 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 in the course of the conditional increase in the share capital.

## 6. Shares

6.1 The share capital is divided into ~~39,599,999 (thirty-nine million, five hundred ninety-nine thousand, nine hundred ninety-nine)~~ 54,000,000 (fifty-four million) no-par 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 are to be bearer shares or registered shares, then they shall be bearer shares.

6.4 Claims ~~to individual share certificates~~ 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 and profit-sharing certificates and certificates of renewal coupons shall be established by the Management Board. The same applies to intermediate share 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* [holder of a general power of attorney].

### 8. Duties and Internal Order

8.1 The Management Board shall have sole responsibility for managing the enterprise and shall endeavour to take into account the interests of the shareholders, of the employees and the public good.<sup>2</sup>

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

**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 duties 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 a year 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 quarterly, in writing, on the course of business and the position of the Company in comparison to the forecast, taking future development into account (quarterly report).
- d) If an event of major significance occurs, the Management Board shall immediately inform the chairperson of the Supervisory Board 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.

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<sup>2</sup> Rule No. 13 CGC (C); ~~Rule No. 33 PBPL~~.  
<sup>3</sup> Rule No. 9 CGC (L).

**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 of the Labour Constitutional Act (Arbeitsverfassungsgesetz).

**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 be held no later than the following general meeting of shareholders, if possible. The election of a replacement shall be held without delay if the departure of an elected member reduces the number of elected members to fewer than four.

**10.4** Each Supervisory Board member may resign from office upon four weeks' notice, without demonstrating good cause, by sending a registered letter to the Supervisory Board chairperson or, in case the Supervisory Board chairperson is prevented, 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 the entire terms of office as members of the Supervisory Board. In the event that either the chairperson or the deputy chairperson retires prematurely, elections for a 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

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

Association. It is the duty of the Supervisory Board not only to supervise the Management Board but also to support it in governing the enterprise and, in particular, to assist in making decisions of fundamental significance.<sup>5</sup>

**11.2** The Supervisory Board shall adopt Rules of Procedure for its work, which shall contain stipulations regarding the disclosure and reporting obligations of the Management Board, including 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 calendar quarter.

**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 7-~~(seven)~~ days prior to the time of the meeting. In urgent cases, the meeting may be called at least 2-~~(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.

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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).

**12.4** The Supervisory Board is competent to pass resolutions if the meeting has been called in due form, as defined by paragraph 2 ~~(two)~~ or 3 ~~(three)~~ above, and at least half of the members elected by the general meeting of shareholders, including the chairperson or the deputy chairperson, are in attendance.

**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 of Shareholders**

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

**14.1** The general meeting of shareholders shall be called by the Management Board or ~~chairperson of~~ in cases defined by law – by the Supervisory Board ~~at least three weeks~~

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<sup>9</sup> [Rule No. 4 CGC \(L\)](#)



~~prior to the scheduled date.~~<sup>10</sup> in accordance with the provisions of § 106 of the Austrian Stock Corporation Act.

**14.2** The general meeting of shareholders 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 ~~a~~an annual general meeting of shareholders has been called must be announced by no later than the 28<sup>th</sup> day before ~~an ordinary~~the general meeting, or by no later than the 21<sup>st</sup> day before the extraordinary general meeting.

14.4 The announcement 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 the general meeting of shareholders and wishing to exercise their voting rights at this 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 country 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 of shareholders by no later than the third business day before the general meeting of shareholders. For bearer shares not held in custody, the invitation to the general meeting of shareholders shall specify under what conditions shareholders shall be entitled to participate in the general meeting of shareholders.

**15.3** The depository confirmation may be no more than five days old at the time that it is submitted to the Company. It must be submitted in text form. The Company will accept depository 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** Depository confirmations shall be accepted in German and English. The invitation to the general meeting of shareholders may declare that depository confirmations will be accepted in other languages.

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<sup>10</sup> ~~Rule No. 4 CGC (C).~~

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 general meeting of shareholders shall be conducted in German.

## 16. Voting Rights

16.1 Each share conveys one vote.<sup>11</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 subscribed share 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 is to be retained by the Company. 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 shareholders' meeting.

## 17. Chair

17.1 The chair in the general meeting of shareholders 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 in to certify the meeting shall chair the meeting until the election of a chairperson.

17.2 The chairman of the general meeting of shareholders 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 of shareholders 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 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.<sup>12</sup> The chairman shall not, without good reason, resign from his function or delay the signing of the meeting minutes.<sup>13</sup>

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<sup>11</sup> Rule No. 2 CGC (C).

~~<sup>12</sup> Rule No. 12 PBP~~

~~<sup>13</sup> Rule No. 8 PBP.~~

17.4 The members of the Management Board and Supervisory Board should attend the annual general meeting of shareholders if at all possible. The auditor of the annual financial statements must be in attendance at the annual general meeting of shareholders.

## 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 of shareholders 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 on the resolution.

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 be accompanied by a detailed justification. A decision to remove an item from the agenda or not to consider an issue put on the agenda at a shareholder's request requires that all the shareholders present who put the issue on the agenda have given their consent and a general meeting resolution supported by 75% of the votes present at the meeting.<sup>+4</sup>

18.3 Any shareholder objecting to a resolution shall be given the opportunity to put forward concise reasons for those objections.<sup>+5</sup>

## 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 supplemented by the notes to the accounts ~~or~~and the management report as well as the consolidated financial statements ~~as well as the~~ and the consolidated management report ~~or consolidated management 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.

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<sup>+4</sup> — Rule No. 14 PBP.

<sup>+5</sup> — Rule No. 15 PBP.

**20.2** The Supervisory Board shall, within two months of their presentation, audit ~~the annual financial statements and~~ 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>16</sup>

**20.4** The general meeting of shareholders shall, within the first eight months of each business year, vote on the distribution of net profit for the year, discharge of 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 of shareholders). The general meeting of shareholders 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 shares 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 10-~~(ten)~~ days after the general meeting of shareholders has been held, unless decided otherwise by the general meeting of shareholders.

**20.7** Shares in the profits that are not collected by shareholders within 3 ~~(three)~~ years after reaching maturity shall be returned to the Company's free reserves.

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<sup>16</sup> Rule No. ~~63~~65 CGC (L).