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## **Conversion Report**

**of the Executive Board of Nemetschek Aktiengesellschaft**

**regarding the Conversion of  
Nemetschek Aktiengesellschaft, Munich, Germany,**

**into an**

**European Company (Societas Europaea, SE)  
with the name of Nemetschek SE, with its registered office in Munich,  
Germany**

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## 1. Preliminary Remark

Nemetschek Aktiengesellschaft (hereinafter also "**Nemetschek AG**"), with its registered office in Munich, shall be converted from a stock corporation under German law into a European stock corporation (European Company – *Societas Europaea*, hereinafter also "**SE**"). The Executive Board of Nemetschek AG has therefore prepared a conversion plan, which was notarised on 27 March 2015, in addition to the articles of association of Nemetschek SE, attached as an appendix (Deed No. 1985/2015 of the Public Notary Dr. Bernhard Schaub with his office in Munich).

"**Nemetschek SE**" shall hereinafter refer to Nemetschek AG after its conversion into the legal form of the SE. Nemetschek AG and – after its conversion – Nemetschek SE will also be referred to in this conversion report as "**Company**".

The conversion of a German stock corporation into a SE takes place pursuant to Section 37 (4) in conjunction with Art. 2 (4) of Regulation (EC) No. 2157/2001 on the Statute for a European Company (the "**SE Regulation**"). In addition to this, the German implementing act for Regulation No. 2015/2001 of the Council dated 8 October 2001 for the Statute of the European Community dated 22 December 2004 (the "**SEAG**") and individual provisions of the German Stock Corporation Act (the "**AktG**") and the German Transformation Act (the "**UmwG**") apply.

Nemetschek SE shall have an Executive Board (management body in accordance with Art. 38 SE Regulation), a Supervisory Board (supervisory body in accordance with Art. 38 SE Regulation) and a shareholders' meeting. The participation of the employees in Nemetschek SE shall be regulated by the Act on the Participation of Employees in a European Company dated 22 December 2004 (the "**SEBG**"), which is implemented by Directive 2001/86/EC of the Council dated 8 October 2001 to amend the Statute of the European Community regarding the Participation of Employees (the "**SE Participation Directive**"). In this context, "participation by the employees" means every process, including notification, hearing and co-determination, by means of which the employees can have an influence on the resolution in the Company. In addition to this, the national implementation provisions of the SE Participation Directive apply, which are valid in the other Member States of the European Union and the other contract states of the Agreement on the European Economic Area (hereinafter jointly also referred to as the "**Member States**"), in which the Nemetschek Group employs staff.

Pursuant to Art. 37 (7) SE Regulation, it is a precondition of the conversion that the shareholders' meeting of Nemetschek AG consents to the conversion plan and approves the articles of association. Therefore, the Executive Board and Supervisory Board of Nemetschek AG passed a resolution to present the conversion plan and the articles of association of Nemetschek SE to the ordinary shareholders' meeting of Nemetschek AG on 20 May 2015 ("**SM 2015**") for resolution. The Supervisory Board of Nemetschek AG consented to the conversion project and passed a resolution on a relevant resolution proposal for the shareholders' meeting in its meeting on 26 March 2015. The precise content of the

resolution proposal of the Executive Board and Supervisory Board can be seen in the convocation of the shareholders' meeting, which is planned to be disclosed in the Federal Gazette for April 2015.

The conversion is taking place while retaining the identity of the legal entity, which means that the conversion neither results in the liquidation of Nemetschek AG nor the foundation of a new legal entity. Therefore, the participation of the shareholders in the Company will remain unchanged. The Company intends to maintain its registered office and headquarters in Munich, Germany.

The Executive Board of Nemetschek AG has prepared this conversion report in accordance with Art. 37 (4) SE Regulation. The report explains and substantiates the legal and economic aspects of the conversion and the ramifications of the conversion of the Company into the legal form of a SE for the shareholders and the employees of the Company. Unless stated otherwise, all details in this report relate to the time of signing this report.

The conversion plan, the articles of association of Nemetschek SE, the certification of the legally independent expert appointed by court order pursuant to Art. 37 (6) SE Regulation and this conversion report will be made accessible from the date of convocation of the shareholders' meeting 2015 via the Company's Internet address at [www.nemetschek.com/investor-relations](http://www.nemetschek.com/investor-relations) under the "Shareholders' Meeting" link and will be available for inspection during the SM 2015. The same applies to the annual financial statements and consolidated financial statements of Nemetschek AG for the financial years 2012, 2013 and 2014, as well as the management reports and consolidated management reports of Nemetschek AG for the financial years 2012, 2013 and 2014.

## 2. **Nemetschek AG**

### 2.1 Registered Office, Financial Year, Company Purpose

Nemetschek AG is a stock corporation under German law with its registered office and headquarters in Munich, Germany. It is entered in the commercial register of the Local Court of Munich under HRB 117720. The business address of Nemetschek AG is Konrad-Zuse-Platz 1, 81829 Munich, Germany. The financial year of Nemetschek AG is the calendar year.

Nemetschek AG is the parent company of the Nemetschek Group and holds direct or indirect shareholdings in numerous companies domestically and abroad (Nemetschek AG and its shareholdings hereinafter also referred to as "**Nemetschek Group**").

According to Section 2 (1) of its articles of association, the purpose of the business of Nemetschek AG is the management of a group of companies, the activity of which particularly involves consulting, research, development, production, purchasing and sales of products and solutions for information and communication technology in the field of planning, construction and use. Furthermore, the purpose of the Company is the foundation, acquisition and management of

shareholdings, the provision of services including financing and financial management for companies in which the Company participates; exceptions from this are services that are subject to permission from the German Banking Act. Ultimately the purpose of the Company is the management and licensing of trademarks in the aforementioned business fields.

Pursuant to Section 2 (2) of its articles of association, Nemetschek AG is authorised to perform all transactions that relate to the purpose of the Company or are suitable for directly or indirectly serving its purpose. It may also engage itself in the business fields specified in Section 2 (1) of its articles of association. Besides, it may also fully or partly combine companies in which it holds a majority shareholding under common management and fully or partly outsource its business operations to affiliated companies or leave these to affiliated companies.

## 2.2 Business Activity

The following description of the business activity of Nemetschek AG/the Nemetschek Group is limited to a summary. For further information about the Company's business activity, reference is made to the 2014 annual report (retrievable on the Internet at [www.nemetschek.com/investor-relations](http://www.nemetschek.com/investor-relations) under the "Shareholders' meeting" link).

### 2.2.1 Core Businesses and Segments

The thirteen brands under the umbrella of Nemetschek AG offer solutions for architects, structural engineers, civil and specialist engineers right up to software for cost planning and scheduling, tenders, awarding and invoicing, as well as for construction. In addition, there are services for technical facility management and commercial property management, as well as visualisation software for architecture, film, animation and advertising.

The Nemetschek Group classifies its activities in four segments, planning, construction, use and multimedia.

#### a) Planning

In the largest business field of planning, the Nemetschek Group is present worldwide and offers software solutions, inter alia, for architects, civil engineers, structural engineers and specialist and landscape planners. The portfolio is particularly comprised of BIM-oriented solutions for computer-aided design (CAD) and computer-aided engineering (CAE), which set standards worldwide in the 2D and 3D planning of buildings and infrastructure.

#### b) Construction

In the construction segment, product solutions are offered for the technical cost and performance accounting, cost planning and scheduling, as well as for tender, award and invoicing (TAI) of construction services. The solutions cover the actual construction process, from the project cost

planning to technical building site management, right up to commercial construction invoicing.

c) Use

In the use segment, the product portfolio of the Nemetschek Group is aimed at the property and housing industry, for the management and invoicing of their properties and real estate and can also be customised to individual requirements. Furthermore, the Nemetschek Group offers software for the management of housing companies and large property management companies.

d) Multimedia

In the multimedia segment, the Nemetschek Group is a leading developer of solutions for professional 3D modelling, painting, animation and rendering.

## 2.2.2 Business Development

The business development of the Nemetschek Group in both of the past financial years 2013 and 2014 appears as follows:

Key performance indicator	2013	2014
Sales revenue (in EUR million)	185.9	218.5
EBIT (in EUR million)	35.7	46.5
Earnings before income taxes (in EUR million)	36.2	46.6
Net profit for the year (in EUR million)	24.0	31.5
Earnings per share (in EUR)	2.49	3.27
Total assets (in EUR million)	178.5	291.7
Equity capital (in EUR million)	118.2	136.6
Equity ratio (equity capital to total assets)	66.2 %	46.8 %
Net liquidity/Net indebtedness (in EUR million)	48.6	3.0
Fixed assets (in EUR million)	96.6	191.7

## 2.3 Capital and Shareholders

### 2.3.1 Share Capital

The share capital of Nemetschek AG pursuant to Section 5 (1) of the articles of association of Nemetschek AG (as of: 2 April 2015) amounts to

EUR 9,625,000.00 (in words: Euro nine million sixhundredandtwentyfive-thousand). It is divided into 9,625,000 no-par-value bearer shares.

### 2.3.2 Stock Exchange Trading and Shareholder Structure

The shares of Nemetschek AG have been admitted for trading on the Frankfurt Stock Exchange in the regulated market since March 1999 with additional post-admission obligations (Prime Standard). The shares of Nemetschek AG are also traded in XETRA trading and on the Berlin, Düsseldorf, Hamburg, Hanover, Munich and Stuttgart stock exchanges. Furthermore, the shares of Nemetschek AG are traded in Switzerland on the SIX Swiss Exchange stock exchange. The share of Nemetschek AG is, among others, listed in the following indices: TecDAX, CDAX, HDAX, DAX International Mid, DAXPLUS Family 30 EU, DAXPLUS Family, German Prime All Share Index, German Technology All Share Index.

Nemetschek Vermögensverwaltungs GmbH & Co. KG still is (as of 2 April 2015) the major shareholder with a share of 48.4 % (4,655,732 shares). Prof. Georg Nemetschek directly holds a share of 5.2 % (500,000 shares). In order to ensure a permanently stable shareholder structure, a pool agreement was made between the KG and Prof. Georg Nemetschek about the shares held by Nemetschek Vermögensverwaltungs GmbH & Co. KG and the shares directly held by Prof. Georg Nemetschek.

The total free float amounted to 46.4 % on 2 April 2015. It is distributed among a wide investor structure consisting of private and institutional investors from Germany and abroad. The major institutional investor with a share of about 6.6% is Allianz-Group with investment since October 2013.

## 2.4 Constitution of the Company

### 2.4.1 Bodies

The bodies of Nemetschek AG are the Executive Board, the Supervisory Board and the shareholders' meeting. The responsibilities, rights and duties of these bodies arise from the law, particularly the German Stock Corporation Act, the articles of association of Nemetschek AG and the by-laws for the Executive Board and Supervisory Board.

#### a) Executive Board

The Executive Board conducts the business of Nemetschek AG. It is comprised of three Members, who are appointed by the Supervisory Board.

Members of the Executive Board of Nemetschek AG are:

Name	Year of birth	Year of first-time appointment
Patrik Heider (CFOO and Chairman of the Executive Board)	1973	2014
Sean Flaherty (Member of the Executive Board)	1969	2013
Viktor Várkonyi (Member of the Executive Board)	1967	2013

The Members of the Executive Board of Nemetschek AG are active in various Supervisory Boards or other controlling bodies of companies in the Nemetschek Group. Sean Flaherty is at the same time CEO of Vectorworks Inc. Viktor Várkonyi is at the same time CEO of Graphisoft SE. Both are companies of Nemetschek Group.

The Members of the Executive Board of Nemetschek AG can be reached at the business address of Nemetschek AG, Konrad-Zuse-Platz 1, 81829 Munich, Germany.

b) **Supervisory Board**

The Supervisory Board monitors the activity of the Executive Board and appoints its Members. Pursuant to Section 9 (1) Sentence 1 of the articles of association of Nemetschek AG, the Supervisory Board of Nemetschek AG is comprised of three Members, who are all elected by the shareholders in the shareholders' meeting.

The Supervisory Board of Nemetschek AG is comprised of the following Members:

Name	Position	Member since	Additional mandates
Kurt Dobitsch (Supervisory Board Member)	Chairman	August 1997	United Internet AG (Chairman); United Internet Ventures AG (Chairman); Graphisoft SE; Vectorworks, Inc.; United Internet Mail & Media SE; United Internet Service SE; 1 & 1 Tele-communication AG; 1 & 1 Telecommunication Holding SE; 1 & 1 Internet AG; GMX & WEB.de Mail & Media SE; Bechtle AG; Singhammer IT Consulting AG
Prof. Georg Nemetschek (Chairman of the Foundation Board of the Nemetschek Foundation)	Deputy Chairman	May 2001	none
Rüdiger Herzog (Lawyer)	Member	July 2003	DF Deutsche Finance Holding AG (Chairman); Kaufhaus Ahrens AG (Chairman)

The Members of the Supervisory Board of Nemetschek AG can be reached at the business address of Nemetschek AG, Konrad-Zuse-Platz 1, 81829 Munich, Germany.

#### 2.4.2 Corporate Governance

The German Corporate Governance Code applies to Nemetschek AG as a listed German stock corporation. Pursuant to Section 161 AktG, Nemetschek AG is required to issue an annual declaration, in which it discloses which recommendations of the German Corporate Governance Code it complies with and to what extent it deviates from recommendations (Declaration of Compliance).

Apart from a few exceptions, Nemetschek AG mainly follows the recommendations of the German Corporate Governance Code (please refer to the relevant declaration dated 20 March 2015, retrievable in the Internet at [www.nemetschek.com/investor-relations/corporate-governance](http://www.nemetschek.com/investor-relations/corporate-governance)).

#### 2.4.3 Employees and Participation of the Employees in the Nemetschek Group

The Nemetschek Group presently employs (as of 27 March 2015) 1,625 permanent staff worldwide, of which, 573 in Germany and 587 in the other Member States.

The Supervisory Board of Nemetschek AG is not subject to any co-determination at the Company level. Therefore, the employees of Nemetschek AG have no rights to elect or appoint a part of the Members of the Supervisory Board.

At the works constitution level at Nemetschek AG in Germany, a works council is formed in the operation in Munich, as well as an Economic Committee. An Executives' Committee does not exist. At the European level, the employees of the Nemetschek Group are presently not organised, there is specifically no European works council in accordance with the stipulations of the European Works Council Act.

### **3. Principle Aspects of the Conversion**

#### **3.1 Main Reasons for the Conversion**

By means of the change of legal form from a German stock corporation into a European Company (SE), the international self-evidence of the Nemetschek Group is particularly intended to be expressed. Nemetschek AG regards itself as a globally active Company with European roots, which is underlined by taking on the supranational European legal form of the SE. Nemetschek AG owes the majority of its success over the past years to its business activity and its growth in the European and international environment. Out of its total sales revenue for the 2014 financial year, the Nemetschek Group generated 60.2% on the European and global market. Taking on a supranational legal form with Nemetschek AG as the Group's top management is therefore only a further logical step in the consistent and advancing international orientation of the entire Group.

The Executive Board of Nemetschek AG dealt in detail with the alternative options to a change of form and reached the conclusion that particularly with regard to the selection of a supranational legal form, which enables the continuation of the Company's listing, there are no appropriate alternatives to a conversion of Nemetschek AG into the legal form of the SE. As the SE, with its registered office in Germany, essentially approximates a German stock corporation, in respect of its structure and its mode of operation, only marginal changes result from the form change into a SE, from the shareholders' point of view.

#### **3.2 Costs of the Conversion**

According to the present estimation of the Executive Board of Nemetschek AG, the costs of the conversion of Nemetschek AG into Nemetschek SE will amount to up to a total maximum of EUR 1 million.

The estimate specifically includes costs for preparatory measures, the costs of auditing and preparing the valuation certificate by the court-appointed expert pursuant to Art. 37 (6) SE Regulation, the costs of the notarisation of the conversion plan, the costs of the register entries, the costs of external advisors, the costs of required disclosures, the costs for performing the process for regulating employee participation and the costs for the stock exchange changeover of the list-

ing of shares of Nemetschek AG to shares of Nemetschek SE. The estimate does not include the costs for holding the 2015 ordinary shareholders' meeting of Nemetschek AG, as it must be held anyway.

#### **4. Comparison of the Legal Form of the German Stock Corporation and the SE with its Registered Office in Germany, including the Legal Position of the Shareholders**

In the following the principle legal and statutory regulations which Nemetschek AG is presently subject to are compared to those regulations that will apply to the future Nemetschek SE. The emphasis of this comparison is on the shareholders' rights and the corporate governance.

##### **4.1 Introduction**

As the German stock corporation, the European Company (SE) is also a public limited-liability company with share capital that is divided into shares and a legal personality. However, the SE is not a German, but rather, a European stock corporation under European Community law (Art. 1 (1) SE Regulation).

The primary legal basis for the SE is the SE Regulation, which applies directly in all Member States as a regulation under European law and takes priority over national law. The SE Regulation makes it possible to establish a company in the legal form of the SE in all Member States. A properly founded SE must be recognised in all Member States under European law.

However, not all matters relating to the SE are regulated in the SE Regulation, which is why the national law of the country in which the SE is registered applies supplementally. Pursuant to Art. 9 (1) SE Regulation, which specifies the norms that are applicable to the SE, the following hierarchy of norms applies to the SE:

- The provisions of the SE Regulation apply as a priority to the SE, as well as the provisions of the SE articles of association, insofar as the SE Regulation expressly permits this (Art. 9 (1) letter a) and letter b) SE Regulation).
- If and to the extent that an area is only partly or not regulated at all by the SE Regulation, with regard to the SE pursuant to Art. 9 (1) letter c) SE Regulation,
  - i) the legal provisions that the Member States enact in application of the Community interest that specifically relate to the SE,
  - ii) the legal provisions of the Member States that would apply to a stock corporation that has been founded under national law of the Member State of the SE, and

- iii) the provisions of the articles of association of the SE under the same conditions as for the case of a SE founded under national law of the Member State of the SE

shall apply.

Under the aforementioned principles, Nemetschek SE is therefore primarily subject to the provisions of the SE Regulation and the provisions of its articles of association, insofar as this is permitted on the basis of a relevant authorisation in the SE Regulation. If and to the extent that a specific legal area or aspect is not regulated there, the provisions of the SEAG and the SEBG, which contain regulations regarding the participation of employees in the SE, shall apply, as Nemetschek SE will have its registered office in Munich and therefore in Germany. If the relevant legal area or aspect is also not, or not conclusively, regulated here, the German provisions regarding the stock corporation will apply on a subsidiary basis, i.e. specifically the German Stock Corporation Act, but furthermore, also the relevant commercial, tax and capital market law regulations. Insofar as no regulation can be found in German stock corporation laws either, but such laws permit the regulation of a matter in the articles of association, the relevant enacted provisions in the articles of association of Nemetschek SE shall apply.

The participation of the employees of a SE with its registered office in Germany will either be based on an agreement between the company management and the so-called specific negotiation body (hereinafter also referred to as the "bVG"), or, if such an agreement has not been made, in accordance with the provisions of Sections 22 et seq. SEBG. Pursuant to Section 21 (6) SEBG, an agreement in the aforementioned sense must at least ensure the same extent of participation by the employees, as existed in the Company prior to the conversion into the legal form of the SE. If the statutory provisions apply in the absence of an agreement, a SE works council shall be formed (Sections 22 to 33 SEBG) and the co-determination in the Supervisory Board shall be maintained to the extent that it existed prior to the conversion (Sections 34 et seq. SEBG). A resolution from bVG about not entering or breaking off negotiations terminates the procedure for the conclusion of an agreement about the participation of the employees. The fall-back regulations in Sections 22 et seq. SEBG and in Sections 34 et seq. SEBG are not applicable in this case.

Regarding the details of the participation by the employees in Nemetschek SE, please refer to Clauses 5.5 and 6.1.10 below.

## 4.2 General Provisions

### 4.2.1 Share Capital, Shares

Pursuant to Art. 4 (1) SE Regulation, the share capital of a SE is denominated in euro. In this respect, there is no difference to the German stock corporation. In contrast, the amount of the minimum capital is regulated differently for both forms of company, which must amount to at least EUR 50,000.00 (Section 7 AktG) for a German stock corporation and at least EUR 120,000.00 (Art. 4 (2) SE Regulation) for a SE.

The present (as of 2 April 2015) share capital of Nemetschek AG amounts to EUR 9,625,000.00. The amount of the share capital can change between the day of signing this conversion report and the day of entry of the conversion in the commercial register of Nemetschek AG, for example, due to, for example, registration of the Share Split submitted to the shareholders' meeting 2015 for resolution. The required minimum share capital of EUR 120,000.00 for the legal form of the SE will, in any case, be significantly exceeded with the conversion of Nemetschek AG into Nemetschek SE.

Furthermore, according to Art. 5 SE Regulation the same provisions apply to the capital of a SE with its registered office in Germany as for the German stock corporation. Accordingly, the shares of a SE can also be par-value shares or no-par-value shares and they can be issued as bearer or registered shares. A transfer restriction of shares and the issuing of different share classes (ordinary and preferred shares) are also possible.

The present share capital of Nemetschek AG (as of 2 April 2015) is divided into 9,625,000 no-par-value bearer shares. The share capital of Nemetschek SE will be divided into the same number of no-par-value bearer shares upon entry into the commercial register as the share capital of Nemetschek AG at the time of entry of the conversion into the commercial register.

#### 4.2.2 Registered Office of the Company, Possibility of Cross-Border Relocation of the Registered Office

Pursuant to Section 5 AktG, the registered office of a German stock corporation is determined by its articles of association. The statutory registered office of a German stock corporation must be situated in Germany, while the headquarters of the company can also be situated abroad.

The registered office of a SE is also determined by the articles of association (Art. 9 (1) letter c) ii) SE Regulation in conjunction with Section 5 AktG). In contrast to German stock corporation law, the registered office of a SE pursuant to Art. 7 Sentence 1 SE Regulation must be situated in a Member State, the same Member State in which the headquarters of the SE are situated. A discrepancy between the statutory registered office and the domicile of the headquarters of a SE can lead to liquidation of the SE. The registered office of Nemetschek SE will be in Munich, Germany, the same as the present registered office of Nemetschek AG (cf. Section 1 (2) of the articles of association of Nemetschek SE).

To relocate a statutory registered office within Germany, as also with a German stock corporation, a resolution of the shareholders' meeting to amend the articles of association is required (Art. 9 (1) letter c) ii) SE Regulation in conjunction with Section 179 et seq., 45 AktG). To relocate the statutory registered office of a SE to another Member State, the procedure described in Art. 8 SE Regulation is required. Such a relocation of the registered office therefore also requires a resolution of the shareholders' meeting to amend the articles of association. In contrast to a relocation of a registered office within Germany, with a relocation of a registered office to another Member State pursuant to Section 12 (1) SEAG, the shareholders' who declare their objection to the resolution to relocate the reg-

istered office must be offered the purchase of their shares in return for an adequate cash settlement. As the relevant law for stock corporations founded in its Member State applies to a SE, the cross-border relocation of the registered office leads to a change of the national stock corporation law that applies to the SE, which could also affect the legal position of the shareholders.

#### 4.2.3 Company Name

Pursuant to Section 4 AktG, the name of a German stock corporation must contain the designation "Aktiengesellschaft" or another generally understandable abbreviation of this designation (e.g. "AG").

In contrast to this, the SE must place the supplement "SE" before or after its company name (Art. 11 (1) SE Regulation).

During the course of the conversion, Nemetschek AG will therefore change its name from "Nemetschek Aktiengesellschaft" to "Nemetschek SE" (Clause 2.2 of the conversion plan and Section 1 (1) of the articles of association of Nemetschek SE).

#### 4.2.4 Notification Requirements

As long as the company has its statutory registered office in Germany, the German Securities Trading Act (the "**WpHG**") will continue to apply to Nemetschek SE after the conversion. Accordingly the provisions relating to insider monitoring and the notification requirements regarding voting rights will remain fully applicable. The provisions of the WpHG regarding the loss of shareholder rights due to the infringements of notification requirements shall also continue to apply to Nemetschek SE.

Nemetschek SE is therefore subject to the same capital market law notification requirements that already applied to Nemetschek AG prior to the conversion.

#### 4.3 Foundation

The foundation of a German stock corporation takes place on the basis of the provisions of Sections 23 et seq. AktG and, provided that the stock corporation is created through a conversion of another legal form, the provisions of the German Transformation Act (UmwG) shall additionally apply.

The foundation of a SE takes place pursuant to Art. 15 (1) SE Regulation, subject to the provisions of the SE Regulation, according to the law of the country in which the SE establishes its registered office. Therefore, foundation provisions of the German Stock Corporation Act (regarding the details of the foundation, please refer to Clause 5 of this conversion report) apply to the formation of Nemetschek SE by way of a change of form in addition to the provisions of the SE Regulation.

#### 4.4 Capital Increase, Equal Treatment of Shareholders

The German Stock Corporation Act is applicable to a SE with its registered office in Germany, also in relation to capital retention and the change of capital pursuant to Art. 5 SE Regulation. Nemetschek SE is therefore subject to the same capital retention regulations as Nemetschek AG. This relates, inter alia, to the preconditions for acquiring treasury shares (Sections 71 et seq. AktG), the prohibition of repayment of contributions (Section 57 AktG), the prohibition of subscribing to treasury shares (Section 56 AktG), the provisions regarding the appropriation of annual surplus, the formation of provisions and the appropriation of net profit (Section 58 et seq. AktG) and the admissibility of advance payments on balance sheet profit (Section 59 AktG).

Pursuant to Art. 9 (1) letter c) ii) SE Regulation in conjunction with Section 53a AktG, for the SE domiciled in Germany, the principle of equal treatment of the shareholders also applies, so that no changes will take place in this regard due to the conversion of Nemetschek AG into Nemetschek SE.

#### 4.5 Constitution of the Company (Two-Tier System, One-Tier System)

The German Stock Corporation Act does not recognise the existing option for the SE to choose between a two-tier or one-tier system regarding its constitution.

The company bodies of a German stock corporation are the Executive Board, the Supervisory Board and the shareholders' meeting (Sections 76 et seq., 95 et seq. and 118 et seq. AktG). Therefore, the Executive Board manages the Company under its own responsibility and the Supervisory Board monitors the management. A German stock corporation is subject to a mandatory two-tier system, with no option available.

In contrast, the SE has the option to choose a one-tier system, instead of the aforementioned two-tier system. While the two-tier system of the SE envisages a "management body" (corresponds to the Executive Board of the German joint stock corporation) and a "supervisory body" (corresponds to the Supervisory Board of the German stock corporation) alongside the shareholders' meeting, in a one-tier system, only a "management body" exists alongside the shareholders' meeting (for a SE with its registered office in Germany pursuant to Section 20 SEAG, described as an "Board of Directors"). The management body of a SE manages the company, defines the guidelines of its activity and monitors their implementation (cf. Art. 43 (1) SE Regulation and for a one-tier SE with its registered office in Germany, Section 22 (1) SEAG).

The articles of association of Nemetschek SE envisage the retention of a two-tier system in Section 7 of the articles of association. Accordingly, even after the conversion of Nemetschek AG into Nemetschek SE, the Company will have the Executive Board as the management body and the Supervisory Board as the supervisory body. Due to the contrasting legal foundations of the SE in comparison to the German stock corporation, there are nevertheless several changes that will be dealt with below.

#### 4.5.1 Management Body (Executive Board)

##### a) Management of the Company

Pursuant to Art. 39 (1) SE Regulation, the management body (i.e. the Executive Board) of Nemetschek SE conducts the business of the Company under its own responsibility. This corresponds to the content of the German provision in Section 76 (1) AktG, so that no changes will result from the conversion in relation to the management of the Company.

##### b) Management

As with the German stock corporation, in a SE with its registered office in Germany, the principle of joint business management also applies. The articles of association can deviate from this with the AG and with the SE, however, it cannot be specified that individual or several Members of the Executive Board can assert themselves against the majority of its members in the event of differences of opinion in the Executive Board (cf. Section 77 (1) AktG, which applies to a SE with its registered office in Germany through the reference in Art. 9 (1) letter c) ii) SE Regulation). The introduction of a veto right in favour of an Executive Board Member is, however, possible, but is neither envisaged in the previous articles of association of Nemetschek AG nor in the articles of association of Nemetschek SE.

Insofar as it is not specified otherwise in the articles of association of the SE, the Executive Board is quorate if at least half of the Executive Board Members are present or represented (Section 50 (1) letter a) SE Regulation). A resolution in the Executive Board of the SE basically requires the majority of the Members present or represented (Art. 50 (1) letter b) SE Regulation), whereas, unless specified otherwise in the articles of association, the Chairman of the Executive Board has the casting vote in the case of a tie (Art. 50 (2) Sentence 1 SE Regulation). The regulation according to which the Chairman has the casting vote in the case of a tie in the Executive Board, is already contained in Section 7 (4) of the articles of association of Nemetschek AG and is also expressly envisaged in Section 8 (4) of the articles of association of Nemetschek SE. The change of form will not cause any change in this respect.

##### c) Representation of the Company

Pursuant to Section 78 (1) and (2) AktG, the Executive Board of a German company acts as its representative both in and out of court. The Company is only represented by the Supervisory Board towards the Members of the Executive Board, pursuant to Section 112 AktG. The representation of the stock corporation by the Executive Board basically takes place jointly by all Executive Board Members, unless specified otherwise in the articles of association (Section 78 (2) AktG). The articles of association of the stock corporation can specify that individual Executive Board Members alone or together with an authorised officer,

are authorised to represent the Company (Section 78 (3) Sentence 1 AktG). For a SE with its registered office in Germany, these provisions apply accordingly through the reference in Art. 9 (1) letter c) ii) or iii) SE Regulation.

In Section 9 (1), the articles of association of Nemetschek SE envisage that the Company will be represented jointly by two Executive Board Members or by one Executive Board Member jointly with an authorised officer. Furthermore, the Supervisory Board can grant individual Members of the Executive Board single representation authority and exemptions from the restrictions of Section 181 Alt. 2 BGB. These provisions in the articles of association of Nemetschek SE correspond to the previous provisions in Section 8 of the articles of association of Nemetschek AG.

d) Size and Composition of the Executive Board

Pursuant to Section 76 (2) Sentence 2 AktG, the Executive Board of a German stock corporation with share capital of more than EUR 3,000,000.00 is generally comprised of at least two persons, unless the articles of association specify that it can also be comprised of one person. The same provision is envisaged in Art. 39 (4) Sentence 2 SE Regulation in conjunction with Section 16 SEAG for the SE. If Section 28 (2) Sentence 2 SEBG applies, it is not possible to specify otherwise in the articles of association. This provision envisages that the Executive Board must be comprised of at least two Members, of which one is responsible for labour and social affairs. However, Section 28 (2) Sentence 2 SEBG is only applicable if the SE emerges from a stock corporation, in which employee co-determination existed in the Supervisory Board or if the agreement regarding the participation of the employees in the SE envisages an employee co-determination. The Executive Board of Nemetschek AG does not anticipate that the provision will apply in Nemetschek SE.

Pursuant to Section 8 (1) of the articles of association of Nemetschek SE, the Executive Board of Nemetschek SE will be comprised of one or several persons. This corresponds to the provision contained in Section 7 (1) of the articles of association of Nemetschek AG. Subject to an agreement to the contrary regarding the participation of the employees in the SE, no changes therefore result from the conversion of Nemetschek AG into Nemetschek SE with respect to the size and composition of the Executive Board.

e) Appointment and Recall of the Executive Board, Term of Office

With a German stock corporation, the Supervisory Board appoints the Executive Board Members for a maximum of five years, pursuant to Section 84 (1) AktG. A repeated appointment or extension of the term of office is admissible for a maximum of up to another five years. Pursuant to

Section 84 (3) AktG, the appointment as an Executive Board Member can be revoked by the Supervisory Board if an important reason exists.

The Members of the Executive Board of a SE are also appointed and recalled by the Supervisory Board (Art. 39 (2) SE Regulation). In contrast to the applicable provisions for the German stock corporation, Art. 46 (1) SE Regulation stipulates for the SE that members of bodies of the SE, i.e. Members of the Executive Board, are appointed for a time period specified in the articles of association, which must not exceed six years. Reappointments are admissible pursuant to Art. 46 (2) SE Regulation, subject to the restrictions specified in the articles of association. An Executive Board Member of a SE can also only be recalled for an important reason (Art. 9 (1) letter c) ii) SE Regulation in conjunction with Section 84 (3) AktG). Furthermore, for a SE with its registered office in Germany, the German Stock Corporation Act applies through the reference in Art. 9 (1) letter c) ii) SE Regulation.

Pursuant to Section 8 (2), the Members of the Executive Board of Nemetschek SE can be appointed for a maximum period of five years. The appointment of the Members of the Executive Board of Nemetschek AG was also only able to take place for a maximum period of five years. Therefore, no change occurs as a result of the conversion of Nemetschek AG into Nemetschek SE.

f) Principles for the Remuneration of Executive Board Members, Prohibition of Competition, Granting of Loans to Executive Board Members

With regard to the remuneration, granting of loans and the competition prohibition, the principles apply in the same way for the Executive Board of Nemetschek SE as for the Executive Board of Nemetschek AG. Through the reference in Art. 9 (1) letter c) ii) SE Regulation, the national provisions of Sections 87 et seq. AktG also apply to a SE with its registered office in Germany.

g) Reports to the Supervisory Board

Pursuant to Section 90 (1) Sentence 1 AktG, the Executive Board of a German stock corporation must report to the Supervisory Board on the following:

- The intended business policy and other fundamental issues of business planning (in particular, financial, investment and personnel planning), with the proviso that deviations of the actual development from objectives reported earlier have to be explained and the reasons specified;
- the profitability of the company, in particular the profitability of the equity capital;

- the course of business, particularly sales revenue and the situation of the company;
- transactions which may be of significant importance for the profitability or the liquidity of the company.

If the company is a parent company within the meaning of Section 290 (1), (2) of the German Commercial Code (the "**HGB**"), the report must also include subsidiaries and joint ventures within the meaning of Section 310 (1) HGB (Section 90 (1) Sentence 1 AktG). The reports must be issued on a regular basis (Section 90 (2) AktG). Furthermore, the Chairman must be reported to in the case of other important matters, whereby it is also to be regarded as an important matter if a business matter relating to an affiliated company becomes known to the Executive Board, which could have a significant impact on the situation of the company (Section 90 (1) Sentence 3 AktG).

In addition to this, the Supervisory Board may, at any time, request a report about matters relating to the company, about its business relationships with affiliated companies as well as business matters relating to such companies which could have a significant effect on the situation of the company, pursuant to Section 90 (3) Sentence 1 AktG. Any individual Supervisory Board Member can request such a report, but only to the Supervisory Board as a body. All of the Executive Board's reports must be prepared in accordance with the principles of conscientious and faithful accounting and generally in text form (Section 90 (4) AktG). Every Supervisory Board Member is entitled to take note of the content of all of the reports submitted to the Supervisory Board (Section 90 (5) sentence 1 AktG).

The Executive Board of a SE with its registered office in Germany has similar reporting obligations. Pursuant to Art. 41 SE Regulation, the Executive Board of the SE must report to the Supervisory Board at least every three months on the course of the SE's business and its foreseeable development. In addition to the regular reports, the Executive Board must pass to the Supervisory Board on time any information on events likely to have an appreciable effect on the situation of the SE (Art. 41 (2) SE Regulation). The Supervisory Board of the SE may require from the Executive Board, any information that is required for exercising its supervision (Art. 41 (3) Sentence 1 SE Regulation). Pursuant to Section 18 SEAG, in a SE with its registered office in Germany, in amendment to Art. 41 (3) SE Regulation, any Supervisory Board Member may request information from the Executive Board, however only to the Supervisory Board as a body. The Supervisory Board may undertake or arrange for any investigations necessary for the performance of its duties (Art. 41 (4) SE Regulation). Every Supervisory Board Member is entitled to examine all information submitted to the Supervisory Board (Section 41 (5) SE Regulation).

The reporting obligations of the Executive Board of a SE correspond to the reporting obligations of the Executive Board of an AG, in any case, a comparison of both regulations did not show any significant deviations. Therefore, no significant changes will occur within the context of the conversion of Nemetschek AG into Nemetschek SE.

h) Obligations of the Executive Board in the Case of Loss, Overindebtedness or Insolvency

All of the Executive Board obligations regulated in Section 92 AktG in the case of loss, overindebtedness and insolvency of a stock corporation also apply to the Executive Board of a SE with its registered office in Germany on the basis of the reference in Art. 9 (1) letter c) ii) SE Regulation. Therefore, no differences arise in this respect due to the conversion of Nemetschek AG into Nemetschek SE.

i) Duty of Care and Responsibility

Pursuant to Art. 93 (2) Sentence 1 AktG, the Members of the Executive Board of a German stock corporation who breach their duties are obligated to compensate the resulting damages to the company as joint and several debtors. Pursuant to Section 93 (1) Sentence 1 AktG, the Executive Board Members must apply the duty of care of a prudent and conscientious manager to their management duties. However, a breach of duty does not exist if the Executive Board Member could reasonably assume that he acted on the basis of adequate information for the benefit of the company (Section 93 (1) Sentence 2 AktG - "*Business Judgement Rule*"). Pursuant to Section 93 (1) Sentence 3 AktG, Executive Board Members are also subject to a duty of non-disclosure.

The same applies to Executive Board Members of a SE with its registered office in Germany through the reference in Art. 51 SE Regulation. Pursuant to Art. 51 SE Regulation, members of a SE's management, supervisory and administrative organs shall be liable, in accordance with the provisions applicable to stock corporations in the domicile county in which the SE's registered office is situated, for damages sustained by the SE following any breach on their part of the legal, statutory or other obligations inherent in their duties. The described duties of Section 93 AktG therefore essentially also apply to a SE with its registered office in Germany. The non-disclosure duty of the Executive Board Members of a SE is specifically regulated in Art. 49 SE Regulation. According to this, the members of SE organs shall be under a duty, even after they have ceased to hold office, not to divulge any information which they have concerning the SE the disclosure of which might be prejudicial to the company's interests, except where such disclosure is required or permitted under national law provisions applicable to stock corporations or is in the public interest.

Therefore, the specifications for the responsibility of the Executive Board of Nemetschek SE essentially apply to the specifications for the responsibility of the Executive Board of Nemetschek AG.

j) Liability due to Utilisation of Influence on the Company

Pursuant to Section 117 AktG, it is prohibited for a Member of the Executive Board or the Supervisory Board or an authorised officer or general manager of a German stock corporation to use his influence on the company to make decisions that detriment the Company or its shareholders. This prohibition applies equally to a SE with its registered office in Germany through the reference in Art. 9 (1) letter c) ii) SE Regulation, so that no changes result from this either due to the conversion of Nemetschek AG into Nemetschek SE.

#### 4.5.2 Supervisory Body (Supervisory Board)

a) Functions and Authorities of the Supervisory Board

The main function of a Supervisory Board of a German stock corporation is to monitor the management activity of the Executive Board (Section 111 (1) AktG). The management activity is not permitted to be assigned to the Supervisory Board itself (Section 111 (4) Sentence 1 AktG). This corresponds to the provision in Art. 40 (1) SE Regulation, according to which the supervisory board of the two-tier SE, which supervises the work of the Executive Board is not permitted to manage the company itself. Therefore, the Supervisory Board of Nemetschek SE, in the same way as the Supervisory Board of Nemetschek AG, will be responsible for monitoring the management activity, but will not manage the Company's business itself.

However, specific transactions should only be permitted to be concluded by the Executive Board of a German stock corporation and the Executive Board of a SE with the consent of the Supervisory Board. Pursuant to Section 111 (4) Sentence 2 AktG, in a German stock corporation, the articles of association or the Supervisory Board must determine that specific types of transactions may only be concluded with the consent of the Supervisory Board. It is therefore possible, but not mandatory, to define transactions requiring consent in the articles of association of the stock corporation. In contrast, the articles of association of a SE must list the types of transactions for which the Supervisory Board must provide its consent to the Executive Board, pursuant to Art. 48 (1) SE Regulation. With a SE that is domiciled in Germany, the Supervisory Board can specify additional transactions that require its consent pursuant to Art. 48 (1) Sentence 2 SE Regulation in conjunction with Section 19 SEAG.

Accordingly, in Section 7 (3) Sentence 3, the articles of association of Nemetschek AG envisage that the Supervisory Board must specify specific types of transactions, which can only be conducted with its consent. However, the articles of association themselves do not specify any trans-

actions requiring consent. In contrast, the articles of association of Nemetschek SE contain a list of transactions in Section 8 (4), which the Executive Board may only conduct with the consent of the Supervisory Board. Furthermore, the Supervisory Board of Nemetschek SE can define further transactions that require its consent.

If the Supervisory Board of a German stock corporation refuses to grant its consent to transactions, for which a reservation of consent has been defined, the Executive Board can request that the shareholders' meeting decides on the consent (Section 111 (3) Sentence 3 to 5 AktG). The prevailing opinion in legal literature is that this provision also applies to a SE with its registered office in Germany through the reference of Art. 52 Sub-section 2 SE Regulation. However, in Section 7 (5) Sentence 3, the articles of association of Nemetschek AG envisage that in the case of Section 111 (4) Sentence 3 AktG (refusal of consent by the Supervisory Board), the Executive Board is obligated to bring about the decision of the shareholders' meeting. The articles of association of Nemetschek SE no longer envisage such an obligation, so that the described legal principles apply in this regard. Therefore, as a result of the conversion of Nemetschek AG into Nemetschek SE, the Executive Board would be authorised but no longer obligated to bring about the decision of the shareholders' meeting in the case of refusal of consent by the Supervisory Board within the meaning of Section 111 (4) Sentence 3 AktG. Furthermore, no changes would result in this regard.

In a German stock corporation, as well as in a SE, the Supervisory Board has inspection rights in order to make it possible to perform its supervisory function. For the Supervisory Board of a German stock corporation, the law envisages inspection and auditing rights in relation to accounts and documents of the company, as well as assets (Section 111 (2) Sentence 1 AktG). The Supervisory Board of the stock corporation can also assign its individual Members to exercise these rights or also appoint experts for individual tasks (Section 111 (2) Sentence 2 AktG). Art. 41 (4) SE Regulation also stipulates that the Supervisory Board of a SE may undertake or arrange for any investigations necessary for the performance of its duties, so that in terms of content, there are no significant differences between the inspection rights of the Supervisory Board of Nemetschek AG and the inspection rights of the Supervisory Board of Nemetschek SE.

b) Representation of the Company towards Executive Board Members

The provisions of the German Stock Corporation Act regarding the representation of the stock corporation in and out of court towards the Members of the Executive Board of the company by the Supervisory Board (Section 112 AktG) also apply to the SE through the reference norm of Art. 9 (1) letter c) ii) SE Regulation. Therefore, no changes result from the conversion in this regard.

c) Size and Composition

The size of the Supervisory Board of a German stock corporation is regulated in Section 95 AktG. According to this, the Supervisory Board is comprised of three members, provided that the articles of association do not specify a higher number. The number of Members of the Supervisory Board must be divisible by three. Over and above this, no further legal requirements apply to the size of the Supervisory Board of a stock corporation which, like Nemetschek AG, is not subject to any form of co-determination. Depending on the share capital of the stock corporation, Section 95 Sentence 4 AktG regulates specific maximum limits for the number of Supervisory Board Members: the maximum number of Supervisory Board Members for companies with share capital of up to EUR 1,500,000.00 is nine, of more than EUR 1,500,000.00, fifteen and of more than EUR 10,000,000.00, it is twentyone. Section 96 (1) AktG stipulates that with German stock corporations that are not subject to any form of co-determination, the Supervisory Board is only comprised of Supervisory Board Members of the shareholders.

Art. 40 (3) SE Regulation envisages for the SE that the number of Members of the Supervisory Board of the SE is either defined by the articles of association or that the articles of association define the rules for specifying the number of Members. Pursuant to Art. 40 (3) Sentence 2 SE Regulation in conjunction with Section 17 (1) SEAG, the Supervisory Board of a SE with its registered office in Germany must be comprised of at least three Members. However, the articles of association can specify a higher number, which is divisible by three. The maximum number of Supervisory Board Members of a SE with its registered office in Germany, pursuant to Section 17 (1) SEAG is nine for a company with share capital of up to EUR 1,500,000.00, fifteen for a company with share capital of more than EUR 1,500,000.00 and twentyone for a company with share capital of more than EUR 10,000,000.00.

Other specifications regarding the size and composition of the Supervisory Board of the SE can arise from the agreement regarding the participation of employees or from the statutory fallback provisions of Sections 34 et seq. SEBG. As Nemetschek AG does not presently have a co-determined Supervisory Board, the Executive Board assumes, subject to any negotiation result to the contrary, that the Supervisory Board of Nemetschek SE will also only be comprised of representatives of the shareholders, who will all be elected by the shareholders' meeting. Accordingly, it is envisaged that the Supervisory Board of Nemetschek SE, in the same way as the Supervisory Board of Nemetschek AG, will be comprised of three Members. Therefore, no difference will exist between the composition of the Supervisory Board of Nemetschek AG and the Supervisory Board of Nemetschek SE, subject to a negotiation result to the contrary.

d) Status Proceedings regarding the Composition of the Supervisory Board

If the Executive Board of a German stock corporation is of the opinion that the Supervisory Board is not composed in accordance with the rele-

vant legal provisions, it must immediately perform status proceedings pursuant to Sections 97 et seq. AktG. The status proceedings can also be initiated by specified authorised applicants under the German Stock Corporation Act, if it is disputed or uncertain according to which regulations the Supervisory Board must be composed (Section 98 AktG). Through the reference norm in Art. 9 (1) letter c) ii) SE Regulation, these provisions apply to Nemetschek SE. In addition to the authorised applicants specified under the German Stock Corporation Act, pursuant to Section 17 (3) Sentence 1 SEAG, the SE works council with the SE is also authorised to file an application for the initiation of status proceedings. Apart from the application authorisation of the SE works council, the conversion of Nemetschek AG into Nemetschek SE does not result in any changes in relation to the status proceedings.

e) Personal Requirements for the Supervisory Board Members

Only natural persons of full legal capacity are eligible to be Members of the Supervisory Board of a German stock corporation (Section 100 (1) Sentence 1 AktG). Through Art. 9 (1) letter c) ii) SE Regulation, this provision also applies to the SE. Art. 47 (1) SE Regulation, which allows the membership of legal entities in the Supervisory Board of the SE subject to national provisions to the contrary, is displaced for SEs with a registered office in Germany by Section 100 (1) AktG.

Pursuant to Section 100 (2) AktG, which also applies to SEs with a registered office in Germany through Art. 47 (2) letter a) SE Regulation, someone can neither be a Member of the Supervisory Board of a German stock corporation nor of a SE with its registered office in Germany, who

- (1) is already a Supervisory Board Member in ten trading companies, which are legally required to form a Supervisory Board,
- (2) is the legal representative of a company that is dependent on the company,
- (3) is the legal representative of another corporation whose Supervisory Board includes a Member of the Executive Board of the company, or
- (4) was an Executive Board Member of the same listed company during the past two years, unless he was elected upon nomination by shareholders holding more than 25% of the voting rights in the company.

In determining the maximum number for purpose of Sentence 1, No. 1, no account shall be taken of up to five Supervisory Board seats which a legal representative (or, in the case of a sole proprietorship, the owner) of the controlling enterprise of a group holds in Supervisory Boards of commercial enterprises which are members of such group and which are required by law to form a supervisory board. Supervisory Board seats

within the meaning of Sentence 1, No. 1, for which the Member was elected Chairperson shall be taken into account twice.

In the case of capital-market-oriented German stock corporations, pursuant to Section 100 (5) AktG, at least one independent member of the Supervisory Board has to have expertise in the fields of accounting or annual auditing. Through Art. 9 (1) letter c) ii) SE Regulation, this provision also applies to the SE with its registered office in Germany.

The personal requirements for the membership in the Supervisory Board of Nemetschek SE therefore correspond to the personal requirements for the membership in the Supervisory Board of Nemetschek AG.

f) **Incompatibility of Simultaneous Executive Board and Supervisory Board Membership**

With a German stock corporation, a Supervisory Board Member may not also be a Member of the Executive Board, Deputy Member of Executive Board Members, an authorised officer or general manager of the company (Section 105 (1) AktG). Only for a predetermined period of time, which may not exceed one year, the Supervisory Board may appoint certain of its Members as deputies for absent or incapacitated Executive Board Members; during this time, these Supervisory Board Members may not exercise their function as a Member of the Supervisory Board of the Company (Section 105 (2) AktG).

Pursuant to Art. 39 (3) Sentence 1 SE Regulation, no person may at the same time be a Member of both the Executive Board and the Supervisory Board. However, the Supervisory Board may nominate one of its Members to exercise the functions of a Member of the Executive Board, if the relevant position is vacant, whereas during this period, the office of the relevant person as a Member of the Supervisory Board shall be suspended (Art. 39 (3) Sentence 2 SE Regulation). The Member States can envisage a time limit for this, of which the Federal Republic of Germany has made use with Section 15 SEAG for the SE with its registered office in Germany. According to this, the time period must be limited in advance and may amount to a maximum of one year; a repeated appointment or extension of the term of office is permitted, provided that the term of office of one year is not thereby exceeded.

Therefore, no content differences arise regarding the incompatibility of simultaneous membership in the Executive Board and Supervisory Board between Nemetschek AG and Nemetschek SE.

g) **Appointment**

The Members of the Supervisory Board of a German stock corporation are elected by the shareholders' meeting, unless envisaged otherwise by co-determination legal provisions (Section 101 (1) AktG). As Ne-

Nemetschek AG is not subject to any form of co-determination, all three Supervisory Board Members are elected by the shareholders' meeting.

With the SE, pursuant to Art. 40 (2) Sentence 1 SE Regulation, the Members of the Supervisory Board are appointed by the shareholders' meeting. This basically applies to all Members of the Supervisory Board, including possible employee representatives (cf. also Section 36 (4) SEBG). According to Art. 40 (2) Sentence 3 SE Regulation, an agreement regarding the participation of employees can basically stipulate otherwise. However, as no employee representatives belong to the Supervisory Board of Nemetschek AG, the Executive Board assumes that no employee representatives will need to be appointed to the Supervisory Board of Nemetschek SE, subject to a deviating negotiation result with the bVG.

With regard to the appointment of Supervisory Board Members, there is therefore no difference resulting from the conversion of Nemetschek AG into Nemetschek SE. However, the Members of the first Supervisory Board of Nemetschek SE pursuant to Art. 40 (2) Sentence 2 SE Regulation are appointed by means of the articles of association of Nemetschek SE, which is approved by the shareholders' meeting of Nemetschek AG within the context of the resolution regarding the conversion (please also refer to Clauses 6.1.8 and 6.2.10 of this conversion report).

#### h) Term of Office

The Members of the Supervisory Board of a German stock corporation can be appointed for a maximum term ending with the conclusion of the shareholders' meeting resolving on the formal discharge for the fourth financial year after the term of office commenced (Section 102 (1) AktG). The financial year in which the term of office commences is not taken into account.

In contrast, the Members of the Supervisory Board of a SE are appointed for a term stipulated in the articles of association, which may not exceed six years (Art. 46 (1) SE Regulation). Reappointments are possible for the same time period, unless the articles of association envisage restrictions (Art. 46 (2) SE Regulation). Therefore, longer terms of office can be specified for Supervisory Board Members of a SE than for the Supervisory Board Members of a stock corporation. Furthermore, the term of office of Supervisory Board Members of a SE ends by time expiry and regardless of the conclusion of an ordinary shareholders' meeting.

According to Section 10 (2) of the articles of association of Nemetschek SE, the Members of the Supervisory Board of Nemetschek SE are appointed for the time ending with the conclusion of the shareholders' meeting resolving the discharge for the fourth financial year after the start of the term of office, whereas the financial year in which the term of office commences is not taken into account, which may not exceed six years. Therefore, a change occurs through the conversion of Nemetschek

AG into Nemetschek SE, to the extent that the term of office ends after six years, regardless of the conclusion of the shareholders' meeting that resolves the discharge for the fourth financial year after the term of office commenced. In contrast to this, pursuant to Section 10 (3) of the articles of association of Nemetschek SE, the Members of the first Supervisory Board are appointed until the conclusion of the shareholders' meeting that resolves the discharge for the first full or short financial year of Nemetschek SE, which may not exceed three years.

i) Judicial Appointment

In the event that the Supervisory Board of a German stock corporation has insufficient Members, Section 104 AktG envisages the appointment of missing Supervisory Board Members by the responsible court. If the Supervisory Board does not have the requisite number of Members to constitute a quorum, the court shall restore it to the requisite number upon motion by the Executive Board, a Supervisory Board Member or a shareholder. The Executive Board shall be obligated to make such a motion promptly, unless the restoration to the requisite number of the Supervisory Board may be expected to occur prior to the next Supervisory Board meeting. If the Supervisory Board has had fewer than the required number specified by law or the articles of association for longer than three months, the court shall restore it to the correct number upon motion. In urgent cases, the court shall, upon motion, restore the Supervisory Board to the requisite number prior to the expiration of the three-month time limit (Section 104 (2) AktG).

The described regulations also apply analogously to the Supervisory Board of a SE with its registered office in Germany. In addition to the authorised applicants specified in Section 104 (1) Sentence 1 AktG, the SE works council is also authorised to file the motion for judicial appointment of a Supervisory Board Member (Section 17 (3) SEAG).

Therefore, the conversion of Nemetschek AG into Nemetschek SE will not cause any changes, other than expanding the group of authorised applicants to the SE works council.

j) Recall

The provisions of the German Stock Corporation Act regarding the recall of Supervisory Board Members (Section 103 AktG) also apply to the SE through the reference norm of Art. 9 (1) letter c) ii) SE Regulation. Therefore, no changes result from the conversion.

Pursuant to Section 103 (1) AktG, Supervisory Board Members of a stock corporation, who have been elected by the shareholders' meeting without being bound by nominations may be recalled by the shareholders' meeting prior to the term of office expiring. Such resolution shall require a majority of three-quarters of the votes cast. The articles of association may provide for another majority and additional requirements. Further-

more, the responsible court may recall a Supervisory Board Member upon motion by the Supervisory Board, for causes relating to the person of such Member. The Supervisory Board shall pass a resolution about the motion with a simple majority (Section 103 (3) AktG).

k) Internal Organisation

The Supervisory Board of a stock corporation must elect a Chairman and a Deputy Chairman from among its Members (Section 107 (1) Sentence 1 AktG). Subject to stipulations to the contrary in the articles of association, a quorum shall be present if not less than one-half of its Members participate in the passing of the resolution (Section 108 (2) Sentence 2 AktG). The Supervisory Board of a SE elects a Chairman from among its Members (Art. 42 Sentence 1 SE Regulation). Pursuant to Section 12 (1) Sentence 2 of the articles of association of Nemetschek SE, the Supervisory Board of Nemetschek SE shall also elect a Deputy Chairman from among its Members.

Subject to stipulations to the contrary in the articles of association, the Supervisory Board of a SE is quorate if not less than one-half of its Members are present (Art. 50 (1) letter a) SE Regulation. Again, subject to stipulations to the contrary in the articles of association, the majority of votes cast is sufficient for passing a resolution. Pursuant to Art. 50 (2) SE Regulation, the Chairman of the Supervisory Board shall have the casting vote in the event of a tie. A stipulation to the contrary in the articles of association is possible, provided that the Supervisory Board is not comprised half each of representatives of the shareholders and the employees.

The articles of association of Nemetschek AG and the articles of association of Nemetschek SE both envisage the election of a Chairman and a Deputy Chairman, a simple resolution majority and a casting vote by the Chairman, or in his absence, the Deputy, for the Supervisory Board. Therefore, no differences arise due to the conversion of Nemetschek AG into Nemetschek SE.

l) Convening and Frequency of Meetings

Pursuant to Section 110 (1) AktG, any Member of the Supervisory Board or the Executive Board of a German stock corporation may request that the Chairman of the Supervisory Board calls a meeting of the Supervisory Board immediately, upon stating the purpose and grounds. The meeting must be held within two weeks from the date of being called. If the request is not complied with, the Supervisory Board Member or the Executive Board may call the meeting himself, specifying the facts and the agenda (Section 110 (2) AktG). Pursuant to Section 110 (3) Sentence 1 AktG, the Supervisory Board of listed companies, which includes Nemetschek AG, is required to hold at least two meetings per calendar half-year.

The aforementioned provisions of Section 110 AktG apply to a SE with its registered office in Germany through the reference in Art. 9 (1) letter c) ii) SE Regulation, so that no changes result from this due to the conversion of Nemetschek AG into Nemetschek SE.

m) Remuneration of the Supervisory Board Members, Contracts with Supervisory Board Members, Granting Loans to Supervisory Board Members

The provisions of the German Stock Corporation Act regarding the remuneration of Supervisory Board Members, contracts with Supervisory Board Members and granting loans to Supervisory Board Members (Sections 113-115 AktG) also apply to the SE with its registered office in Germany through the reference norm of Art. 9 (1) letter c) ii) SE Regulation. Therefore, no changes occur as a result of the conversion of Nemetschek AG into Nemetschek SE.

Pursuant to Section 113 (2) AktG, the remuneration for the activity of the first Supervisory Board of Nemetschek SE can only be approved by the shareholders' meeting; the resolution can only be passed in the shareholders' meeting resolving the discharge of the Members of the first Supervisory Board.

n) Duties of Care and Non-Disclosure

The Members of the Supervisory Board of a German stock corporation are required to apply a duty of care of a prudent and conscientious Supervisory Board Member in exercising their functions (Section 116 Sentence 1 AktG in conjunction with Section 93 (1) Sentence 1 AktG). They are specifically also required to maintain confidentiality regarding confidential reports received or confidential consultations (Section 116 Sentence 2 AktG). They are liable to the Company for damages, if it determines unreasonable remuneration of the Supervisory Board Members (Section 116 Sentence 3 AktG).

The aforementioned principles apply analogously to the SE with its registered office in Germany. Art. 51 SE Regulation refers to the applicable

regulations for the stock corporation in the domicile country of the SE for the liability of the Supervisory Board Members. In addition to this, Art. 49 SE Regulation expressly stipulates that members of a SE's organ, i.e. Supervisory Board Members of the SE also, shall be under a duty, even after they have ceased to hold office, not to divulge any information which they have concerning the SE the disclosure of which might be prejudicial to the company's interests, except where such disclosure is required or permitted under national law provisions applicable to public limited-liability companies or is in the public interest. However, similar changes do not arise from this express specification of the non-disclosure duty after leaving office, as the continuation of the non-disclosure duty is also generally recognised after leaving under the German Stock Corporation Act. Therefore, no differences arise in this regard due to the conversion of Nemetschek AG into Nemetschek SE.

#### 4.5.3 Shareholders' Meeting

In a German stock corporation, the shareholders exercise their rights on the matters of the Company in the shareholders' meeting, unless specified otherwise by law (Section 118 (1) Sentence 1 AktG). The Members of the Executive Board and Supervisory Board shall attend the shareholders' meeting (Section 118 (3) Sentence 1). This also applies to a SE with its registered office in Germany, so that no differences occur in this regard due to the conversion of Nemetschek AG into Nemetschek SE.

##### a) Responsibilities of the Shareholders' Meeting

Pursuant to Section 119 (1) AktG, the shareholders' meeting of a German stock corporation resolves in the cases expressly stated by law and in the articles of association, namely with respect to:

- The appointment of Members of the Supervisory Board, to the extent they are not to be appointed to the Supervisory Board or be elected as representatives of employees pursuant to the Co-determination Act, the Supplemental Co-determination Act, the One-Third Co-determination Act or the Act on Employee Co-determination within Cross-border Merger;
- the appropriation of the distributable profits;
- granting discharge to the Members of the Executive Board and Supervisory Board;
- the appointment of the auditor;
- amendments to the articles of association;
- measures to increase or reduce share capital;

- the appointment of auditors for the examination of matters in connection with the formation or the management of the company;
- the dissolution of the company.

The responsibility of the shareholders' meeting of a German stock corporation is furthermore substantiated with additional provisions. This includes, for example, the responsibility for passing resolutions about measures pursuant to the German Transformation Act (e.g. mergers, demergers and changes of form), for intercompany agreements (Sections 291 et seq. AktG), for the exclusion of minority shareholders (Sections 327a et seq. AktG), for the issuance of convertible debentures, profit debentures and profit participation rights (Section 221 AktG) and for the waiver of or settlement of compensation claims (Sections 50, 93 (4) 116 AktG).

In contrast, the shareholders' meeting can only decide on measures of the management if this is requested by the Executive Board (Section 119 (2) AktG). However, this principle is not followed due to the so-called "Holzmüller and "Gelatine" case law of the Federal Court of Justice, according to which the shareholders' meeting of a stock corporation has a limited special responsibility, if, in respect of a measure, the Executive Board "cannot reasonably assume, that it should (...) make this decision (...) exclusively under its own responsibility, without involving the shareholders' meeting". Whether so-called further development of law by judicial decisions is also covered by the reference in Art. 52 Sub-section 2 SE Regulation and thus apply to a SE with its registered office in Germany, is not yet conclusively clarified in the literature and case law. However, it can be assumed that further development of law by judicial decisions is also covered. Accordingly, the shareholders' meeting of a SE with its registered office in Germany is responsible for the resolution regarding the management measures according to the aforementioned principles of the Federal Court of Justice to the same extent as the shareholders' meeting of a German stock corporation.

The SE Regulation furthermore assigns further responsibilities, such as the cross-border relocation of the SE (Art. 8 SE Regulation) and the conversion of the SE back into a stock corporation (Art. 66 SE Regulation). In addition to this, the SE Regulation expressly also regulates the responsibilities envisaged under the German Stock Corporation Act for the resolution regarding amendments to articles of association (Art. 59 SE Regulation) and the appointment of the Supervisory Board Members (Art. 40 (2) SE Regulation).

With the exception of the newly added responsibilities, the responsibilities of the shareholders' meeting of Nemetschek SE therefore essentially cover those of the shareholders' meeting of Nemetschek AG.

- b) Convening, Organisation and Procedure of the Shareholders' Meeting

A shareholders' meeting of a German stock corporation shall be called in all cases provided for by law or the articles of association or whenever required by the interests of the company (Section 121 (1) AktG). Through the reference in Art. 54 (2) SE Regulation, the same applies to a SE with its registered office in Germany.

In contrast to the German stock corporation, the shareholders' meeting of which convenes during the first eight months of the financial year (Article 175 (1) Sentence 2 AktG), the shareholders' meeting of a SE convenes at least once per calendar year within six months after the end of the financial year (Art. 54 (1) SE Regulation). The articles of association of Nemetschek SE reflect this specification and deviates from the articles of association of Nemetschek AG to the extent that it envisages a convocation within the first eight months of a financial year.

With regard to the convocation of the shareholders' meeting and the amendment of the agenda at the request of a minority, the SE Regulation partly contains dedicated regulations for the SE, which precede the provisions of the German Stock Corporation Act, but as a result, does not lead to significant deviations to the provisions applicable to German stock corporations for a SE with its registered office in Germany (please refer to Clause 4.5.3 letter c) below). Furthermore, the provisions of the German Stock Corporation Act (Sections 121 et seq. AktG) apply analogously to the convocation of the shareholders' meeting and the notification of the shareholders in advance and in the shareholders' meeting. Therefore, the German provisions regarding the notice period for convocation, the registration for the shareholders' meeting and the shareholders' forum also apply to the SE with its registered office in Germany. For the organisation and procedure of the shareholders' meeting of a SE with its registered office in Germany, as well as for the voting procedures, the German Stock Corporation Act regulations also basically apply (Art. 53 SE Regulation).

c) Convening the Shareholders' Meeting at the Request of a Minority, Amendment of the Agenda at the Request of a Minority

Pursuant to Section 142 AktG, the shareholders' meeting of a German stock corporation must be convened if shareholders whose shares together amount to one-twentieth (i.e. 5%) of the share capital request the convocation in writing, specifying the purpose and reasons. The request must be addressed to the Executive Board. The articles of association can link the right to request convocation to a different form and on the holding of a lower proportion of the share capital (Section 122 (1) Sentence 2 AktG). The shareholders must prove that they have been the owners of the shares for at least three months and that they will hold the shares until the convocation by the Executive Board or until the decision by the court regarding the motion (Section 122 (1) Sentence 3 in conjunction with Section 122 (2) Sentence 2 AktG).

In addition, pursuant to Section 122 (2) AktG, shareholders whose shares amount in aggregate to not less than one-twentieth of the share capital or represent an amount of the share capital corresponding to EUR 500,000.00, may demand that items are put on the agenda and published. If any such demand is not complied with, the court may authorise the shareholders, who have made the demand, to call a shareholders' meeting or publish such items (Section 142 (3) Sentence 1 AktG).

For a SE with its registered office in Germany, the convening of the shareholders' meeting and the drawing-up of its agenda by one or several shareholders can be applied for, provided that its or their shares represent a minimum amount of 5% of the share capital (Art. 55 (1) SE Regulation in conjunction with Section 50 (1) SEAG). The motion to convene must at least contain the items for the agenda (Art. 55 (2) SE Regulation). Upon application, the court may authorise the shareholders to call a shareholders' meeting, if the shareholders' meeting has not been convened by no later than two months after the motion to convene has been made (Art. 55 (3) SE Regulation). In contrast to the German provisions of Sections 122 (1) (1) Sentence 3 in conjunction with 143 (2) Sentence 2 AktG, a minimum ownership period of three months is not a precondition for filing a motion with a SE.

The amendment of the agenda for the shareholders' meeting of a SE with its registered office in Germany by one or several items can be requested by one or several shareholders, provided that its or their proportional shareholding reaches 5% of the share capital or EUR 500,000.00 (Art. 56 SE Regulation in conjunction with Section 50 (2) SEAG). The minimum ownership period under the German Stock Corporation Act also does not apply to such an amendment request by shareholders of a SE.

After the conversion of Nemetschek AG into Nemetschek SE, the same regulations – with the described variations – essentially apply to the motion for convening and amendment by shareholders, as for Nemetschek AG.

d) By-laws of the Shareholders' Meeting

Pursuant to Section 129 (1) Sentence 1 AktG, the shareholders' meeting of a German stock corporation can provide itself with rules for the preparation and conducting of the shareholders' meeting. In addition to the simple majority of votes cast pursuant to Section 133 (1) AktG, the resolution requires a majority of at least three-quarters of the share capital represented for the resolution.

The shareholders' meeting of the SE with its registered office in Germany also has the authority to issue by-laws. However, the resolution for the SE must be passed with the majority of three-quarters of the votes cast and not, as with the German stock corporation, with the majority of three-quarters of the represented share capital. According to prevailing opinion in the literature, the resolution majority of the SE is exclusively based on the majority of votes cast (cf. Art. 57, 58, 59 SE Regulation); according to prevailing opinion in the literature, this regulation is also regarded as being conclusive (no loophole). To the extent that regulations in the German Stock Corporation Act applicable to a SE with its registered office in Germany envisage the passing of resolutions with a majority of capital, according to the prevailing opinion in the literature, these provisions presumably harmonise with the SE Regulation, to be interpreted such that a relevant majority of votes is necessary, instead of the majority of capital. In contrast, some of the literature assumes that the envisaged capital majorities under the German Stock Corporation Act also apply to a SE with its registered office in Germany.

However, this does not lead to changes in this case, as no majority voting rights exists with Nemetschek AG or Nemetschek SE and therefore the capital majority always corresponds to the majority of votes and vice versa.

e) Right of Shareholders to Information, Speaking and Asking Questions in the Shareholders' Meeting

Each shareholder shall upon request be provided with information at the shareholders' meeting by the Executive Board regarding the company's affairs, to the extent that such information is necessary to permit a proper evaluation of the relevant item on the agenda (Section 131 (1) AktG). A specific minimum proportion of the share capital is not necessary for this. The articles of association can authorise the chairperson to limit the number of questions and speaking times of the shareholders as appropriate and to issue relevant rules (Section 131 (2) AktG). Further details regarding the right of the shareholder to information in the shareholders' meeting and its limitation is described in Section 131 AktG.

SE Regulation and SEAG do not envisage any specific provisions for the SE with regard to the right of shareholders to information, speaking and asking questions. Therefore, the same regulations apply to a SE with its

registered office in Germany as for a German stock corporation, through the reference in Art. 9 (1) letter c) ii) SE Regulation.

With regard to the limitation of the shareholders' right to ask questions and to speak in the shareholders' meeting, Section 18 (2) of the articles of association of Nemetschek SE envisage the same provisions as already in Section 17 (2) of the articles of association of Nemetschek AG. Therefore, no changes will take place in this area as a result of the conversion.

f) Resolutions of the Shareholders' Meeting

Resolutions of the shareholders' meeting of a German stock corporation require a majority of the votes cast (simple majority) unless the law or the articles of association provide for a larger majority or additional requirements (Section 133 (1) AktG). The resolutions of the shareholders' meeting of a SE are also passed with a majority of the votes validly cast, provided that the SE Regulation or the stock corporation law does not prescribe a larger majority (Art. 57 SE Regulation). Therefore, nothing changes regarding the principle of the basic majority of votes cast for resolutions of the shareholders' meeting as a result of the conversion of Nemetschek AG into Nemetschek SE.

Resolutions of the shareholders' meeting of a German stock corporation to amend the articles of association require a majority of the votes cast (simple majority), as well as the majority of at least three-quarters of the represented share capital (Section 179 (2) Sentence 1 AktG). The articles of association may provide for a different capital majority, for the amendment of the company purpose, however, only a larger capital majority (Section 179 (2) Sentence 2 AktG). Section 18 (1) Sentence 2 of the articles of association of Nemetschek AG envisage that resolutions of the shareholders' meeting are passed with a simple majority of the votes cast and, unless the law prescribes a majority of the represented share capital for the resolution apart from the majority of votes cast, a simple majority of the share capital represented in the resolution, insofar as this is legally admissible. Therefore, the necessary resolution majority for Nemetschek AG is reduced to the simple majority of votes cast and capital majority, for resolutions to amend the articles of association, as well as for other resolutions, where this is permitted by law.

For the SE, Art. 59 (1) SE Regulations envisages that amendment of a SE's articles of association shall require a decision by the shareholders' meeting taken by a majority which may not be less than two-thirds of the votes cast, unless the law applicable to stock corporations in the domicile state in which a SE's registered office is situated requires or permits a larger majority. Pursuant to Art. 59 (2) SE Regulation in conjunction with Section 51 SEAG, the articles of association of a SE with its registered office in Germany can provide that the simple majority of the votes cast are sufficient for resolutions to amend the articles of association, provided that at least half of the share capital is represented. However, pursuant to Section 51 Sentence 2 SEAG, this does not apply to changes

of the SE's company purpose, for resolutions regarding the cross-border relocation of the SE's registered office pursuant to Art. 8 (6) SE Regulation and for cases in which a higher capital majority is prescribed by mandatory law. Therefore, in cases where the law governing a German stock corporation requires a majority of three-quarters of the represented share capital, the three-quarters majority requirement also remains for the SE with its registered office in Germany, however – on the basis of prevailing opinion in the literature – as a reference value in harmony with the SE Regulation, which always relies on the majority of the votes cast and not capital majorities (cf. Art. 57, 58, 59 SE Regulation), the represented capital should no longer be used as a basis, but rather, the votes cast.

Accordingly, Section 19 (1) of the articles of association of Nemetschek SE envisage that, unless it is opposed by mandatory legal provisions, a majority of three-quarters of the votes cast are required for resolutions to amend the articles of association and provided that at least half of the share capital is represented, the simple majority of the votes cast is necessary.

For amendments to articles of association for which the German Stock Corporation Act requires a three-quarters capital majority – on the basis of the understanding that in the SE, the majority of shares and not the majority of capital is always used as a basis – a majority of three-quarters of the votes cast is accordingly necessary in Nemetschek SE. Therefore, a difference exists to the legal situation in Nemetschek AG, where the relevant reference value for the three-quarters majority is the share capital represented in the resolution. Furthermore, a difference exists to the legal situation in Nemetschek AG and Nemetschek SE, in that the simple majority of votes cast is only sufficient for resolutions to amend the articles of association of Nemetschek SE, if at least half of the share capital is represented for the resolution. If this is not the case, such resolutions require a majority of two-thirds of the votes cast, unless a higher majority is required by law.

g) Special Resolutions

The SE Regulation and the SEAG envisage no special regulations with regard to preference shares, so that for the preference shares in the SE with its registered office in Germany, the same provisions basically apply as for the German stock corporation.

However, Art. 60 SE Regulation contains independent provisions for the SE with various share classes: Where a SE has various classes of shares, every resolution by the shareholders' meeting shall be subject to a separate vote by each class of shareholders whose specific rights are affected in the resolution. Where a decision by the shareholders' meeting requires the majority of votes, this majority specified in Article 60 (2) SE Regulation shall also be required for the separate vote by each class of shareholders whose class rights are affected by the resolution.

As Nemetschek SE, as well as Nemetschek AG, has only one class of shares (ordinary shares), no changes result in this regard due to the conversion of Nemetschek AG into Nemetschek SE.

#### h) Special Audit

In the absence of a relevant special provision, the provisions regarding the special audit applicable to a German stock corporation (Sections 142 et seq. AktG) are also applicable to the SE with its registered office in Germany. Therefore, there is also no change in this respect due to the conversion of Nemetschek AG into Nemetschek SE.

#### i) Assertion of Damages Claims

The provisions of the German Stock Corporation Act regarding the assertion of damage claims and relevant shareholder legal actions (Sections 147 et seq. AktG) also apply to the SE with its registered office in Germany through the reference norm of Art. 9 (1) letter c) ii) SE Regulation. No changes occur in this regard, as a result of the conversion of Nemetschek AG into Nemetschek SE.

### 4.6 Annual Accounts, Consolidated Accounts

With regard to the preparation of the annual accounts and the consolidated accounts, including the relevant management reports and the auditing and disclosure of these documents, the SE with its registered office in Germany is subject to the same provisions as a German stock corporation, in accordance with Art. 61 SE Regulation.

Therefore, with regard to the annual accounts and the consolidated accounts, Nemetschek SE is subject to the same provisions as Nemetschek AG already is, so that no changes result in this regard from the conversion.

### 4.7 Amendments to Articles of Association, Measures to Increase and Decrease Share Capital

Pursuant to Art. 5 SE Regulation, the capital of a SE with its registered office in Germany, its maintenance and changes, as well as the shares, bonds and other comparable securities of the SE, are basically subject to the same provisions as a German stock corporation. No changes occur in this regard, as a result of the conversion of Nemetschek AG into Nemetschek SE.

### 4.8 Invalidity and Annulment of Shareholders' Meeting Resolutions and Approved Annual Financial Statements, Special Audit due to Inadmissible Undervaluation

#### 4.8.1 Invalidity and Annulment of Shareholders' Meeting Resolutions

In the absence of specific provisions of the SE Regulation and the SEAG in relation to the invalidity and annulment of shareholders' meeting resolutions, the same provisions apply to the SE with its registered office in Germany as for a German stock corporation through the reference in Art. 9 (1) letter c) ii) SE

Regulation, particularly Sections 241 et seq. AktG. Therefore, no changes result from the conversion.

#### 4.8.2 Invalidity and Annulment of the Election of Supervisory Board Members

Sections 250 et seq. AktG regarding the invalidity/annulment of the election of Supervisory Board Members apply analogously to the SE with its registered office in Germany.

#### 4.8.3 Invalidity of the Approved Annual Financial Statements

The provisions of the German Stock Corporation Act regarding the special audit due to invalidity of the approved annual financial statement (Sections 256, 257 et seq. AktG) apply analogously to a SE with its registered office in Germany through the reference in Art. 9 (1) letter c) ii) SE Regulation, so that no changes result from the conversion in this regard.

#### 4.8.4 Special Audit due to Inadmissible Undervaluation

The provisions of the German Stock Corporation Act regarding the special audit due to inadmissible undervaluation (Sections 258 to 261a AktG) also apply to the SE with its registered office in Germany through the reference norm of Art. 9 (1) letter c) ii) SE Regulation. Therefore, no changes occur as a result of the conversion of Nemetschek AG into Nemetschek SE.

#### 4.9 Winding up and Invalidation of the Company

Art. 63 SE Regulation stipulates that with regard to its winding up, liquidation, insolvency, cessation of payments and similar procedures, a SE shall be governed by the legal provisions which would apply to a stock corporation formed in accordance with the law of the Member State in which its registered office is situated, including provisions relating to passing resolutions by the shareholders' meeting. Therefore, the same provisions basically apply to a SE with its registered office in Germany as for a German stock corporation, including the provisions regarding the judicial dissolution (Sections 396 to 398 AktG).

However, in contrast to the German stock corporation, the resolution of the shareholders' meeting of a SE to relocate its registered office to another Member State is not deemed as a resolution for dissolution, as Art. 8 SE Regulation expressly permits the relocation of a SE into another Member State. However, if there is a discrepancy between registered office and headquarters of the SE, the SE is obligated to terminate this situation, by either relocating its headquarters back to the domicile state or relocating its domicile state pursuant to the envisaged procedure in Art. 8 SE Regulation, to the Member State of the headquarters (Art. 64 SE Regulation). If a SE with its registered office in Germany fails to meet the deadline set by the responsible register court, the register court shall determine a defect of the articles of association (Section 52 SEAG). Pursuant to Art. 63 SE Regulation in conjunction with Section 262 (1) No. 5 AktG, this leads to winding up of the company.

#### 4.10 Affiliated Companies, Corporate Group Law

According to the predominant prevailing opinion in the literature, the corporate group law applicable to the German stock corporation is also applicable to the SE with its registered office in Germany. This particularly applies to the dependent SE. Therefore, upon conclusion of a control and/or profit transfer agreement, the shareholders are entitled to those rights envisaged for the shareholders of a German stock corporation, particularly to compensation and severance payments. No changes occur in this regard, as a result of the conversion of Nemetschek AG into Nemetschek SE.

#### 4.11 Punishment and Fine Provisions

Pursuant to Section 53 SEAG, the same punishment and fine provisions apply to the SE with its registered office in Germany as to a German stock corporation (Sections 399 et seq. AktG). No change occurs in this regard, as a result of the conversion of Nemetschek AG into Nemetschek SE.

#### 4.12 German Corporate Governance Code

Pursuant to Section 161 AktG, the Executive Board and Supervisory Board of Nemetschek AG are required to issue the declaration of compliance to the German Corporate Governance Code. This obligation also applies after the conversion of Nemetschek AG into Nemetschek SE for the Executive Board and Supervisory Board of Nemetschek SE.

### **5. Implementation of the Form-Changing Conversion of Nemetschek Aktiengesellschaft into Nemetschek SE**

In the following, the key aspects in relation to the implementation of the conversion of Nemetschek AG into Nemetschek SE will be described in further detail. The precondition for the conversion is that the shareholders' meeting of Nemetschek AG approves the conversion on the basis of the conversion plan dated 27 March 2015, which has been prepared by the Executive Board of Nemetschek AG and approves the articles of association of Nemetschek SE. Furthermore, the process that is already under way for regulating the participation of the employees in Nemetschek SE shall be carried out and completed. The conversion shall come into effect with its entry into the commercial register of Nemetschek AG.

#### 5.1 Drawing-Up of the Conversion Plan

The Executive Board of Nemetschek AG is required to draw up a conversion plan in accordance with Art. 37 (4) SE Regulation. The content and form of the conversion plan are neither specified in the SE Regulation nor in the SEAG; the predetermined explanations pursuant to Art. 37 (4) SE Regulation regarding the legal and economic aspects of the conversion, exclusively relate to the conversion report, not the conversion plan.

Therefore, in drawing up the conversion plan, the Executive Board of Nemetschek AG has initially used the specifications in Art. 20 (1) Sentence 2 SE Regulation as a basis, where the minimum content of the merger plan for the foundation of a SE by way of a merger is regulated. The drawn up conversion plan therefore contains the details listed there, insofar as these are not specifically tailored to the merger and are also relevant for a conversion. In addition to this, the Executive Board has used the disclosures that are specified in Section 194 (1) UmwG for a conversion resolution (resolution on a change of form) under the German Transformation Act, as a guideline for the content of the conversion plan.

In accordance with Art. 20 (1) Sentence 2 SE Regulation, Section 194 (1) UmwG, the conversion plan of the Executive Board of Nemetschek AG dated 27 March 2015 therefore contains, inter alia, details about the legal form, company name and registered office of the company, ownership structures, shares and share capital of the Company, the articles of association of Nemetschek SE, the owners of special rights and owners of other securities, special advantages and the procedure for regulating employee participation in Nemetschek SE, as well as other ramifications of the conversion for the employees. Further explanations regarding the individual provisions of the conversion plan are contained below in Clause 6.1 of this conversion report.

The Executive Board of Nemetschek AG approved the final version of the conversion plan (including the attached appendix containing the articles of association of Nemetschek SE) on 25 March 2015. In its meeting on 26 March 2015, the Supervisory Board passed a resolution to present the conversion plan, in the version approved by the Executive Board, as well as the attached appendix containing the articles of association of Nemetschek SE to the shareholders' meeting 2015 for resolution. On 27 March 2015, the conversion plan, as well as the attached appendix containing the articles of association of Nemetschek SE, were notarised in the version approved by the Executive Board and the Supervisory Board (Deed No. 1985/2015 of the Public Notary Dr. Bernhard Schaub with his office in Munich).

The conversion plan, as well as the attached appendix containing the articles of association of Nemetschek SE, alongside this conversion report and the valuation certificate by the court-appointed expert (please refer to Clause 5.2 below of this conversion report) will be available for retrieval on the Company's website under [www.nemetschek.com/investor-relations](http://www.nemetschek.com/investor-relations) under the "Shareholders' meeting" link no later than from convening of the ordinary shareholders' meeting 2015 of Nemetschek AG.

## 5.2 Preparation of the Valuation Certificate

Pursuant to Art. 37 (6) SE Regulation, prior to the shareholders' meeting that passes the resolution on the conversion, one or more court-appointed independent experts must certify that the company being converted has net assets at least equivalent to its capital plus those reserves which must not be distributed under the law or the articles of association.

Upon application by Nemetschek AG, the Munich I Regional Court, with a decision dated 17 February 2015 (File No.: 5 HK O 2683/15) appointed Warth & Klein Grant Thornton AG Wirtschaftsprüfungsgesellschaft, Munich Branch, as the expert (hereinafter also referred to as "**Expert**"). On 2 April 2015, the expert issued the certificate pursuant to Art. 37 (6) SE Regulation (hereinafter also referred to as the "**Valuation Certificate**"). The Valuation Certificate of the Expert reaches the following conclusion:

*"According to the final result of our dutiful audit pursuant to Article 37 (6) SE Regulation and on the basis of the documents, account books and papers presented to us as well as the information and confirmations given to us, we confirm that Nemetschek AG has net asset values at least in the amount of its capital plus those reserves which, pursuant to statutory law or the articles of association, may not be distributed."*

### 5.3 Disclosure, Forwarding to the Works Council

Pursuant to Art. 37 (5) SE Regulation, at least one month prior to the shareholders' meeting that passes a resolution on the approval of the conversion plan and the approval of the articles of association of Nemetschek SE, the conversion plan must be disclosed.

In addition to this, the conversion plan must be forwarded to the responsible works council in accordance with Section 194 (2) UmwG no later than one month prior to the shareholders' meeting that passes the resolution regarding the conversion.

The Executive Board of Nemetschek AG shall forward the conversion plan to the commercial register of the Local Court of Munich for the purpose of disclosure and will forward the conversion report to the responsible works council at the same time.

### 5.4 Shareholders' Meeting of Nemetschek Aktiengesellschaft

Pursuant to Art. 37 (7) SE Regulation, the conversion plan requires the approval of the shareholders' meeting of Nemetschek AG and the articles of association of Nemetschek SE require the consent of the shareholders' meeting of Nemetschek AG. The resolution requires a simple majority of the votes cast, as well as a majority of at least three-quarters of the share capital represented for the resolution (Art. 37 (7) Sentence 2 SE Regulation in conjunction with Section 64 UmwG in conjunction with Section 133 (1) AktG).

Within the context of the conversion plan, the first auditor of Nemetschek SE after the conversion comes into effect will also be appointed, Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft, München. Furthermore, within the context of the articles of association of Nemetschek SE, the Members of the first Supervisory Board of Nemetschek SE after the conversion comes into effect will be appointed.

#### 5.5 Performance of the Negotiation Procedure regarding the Regulation of Employee Participation in Nemetschek SE

The national laws regarding the co-determination of employees in the Supervisory Board on the entrepreneurial level do not apply to a SE (cf. Section 47 (1) No. 1 SEBG). The regulations of the European Works Councils Act pursuant to Section 47 (1) No. 2 SEBG are also basically not applicable to the SE. To safeguard the existing rights of the employees of Nemetschek AG regarding their participation in the Company's decisions, in relation to the conversion of Nemetschek AG into Nemetschek SE, a negotiation procedure shall be conducted to regulate the participation of the employees in the future Nemetschek SE. Pursuant to Art. 12 (2) SE Regulation, the conclusion of this negotiation procedure is a precondition for the entry of the conversion/Nemetschek SE into the commercial register.

The parties to the negotiations are the Executive Board of Nemetschek AG and the bVG, which is comprised of employee representatives from the various Member States of the EU and contract states of the EEA, in which staff of the Nemetschek Group are employed. The aim of the negotiation procedure is the conclusion of an agreement regarding the participation of the employees in Nemetschek SE. With regard to all components of employee participation, the same level of employee rights must be ensured as presently exists in Nemetschek AG (Section 21 (6) SEBG).

If an agreement is not concluded, the provisions regarding participation of the employees pursuant to statutory law shall apply (Sections 22 et seq. SEBG). In reference to the notification and hearing, these provisions envisage the formation of a SE works council. The establishment and legal situation of the SE works council are regulated in further detail in Sections §§ 22 et seq. SEBG (also please refer to Clause 6.1.10 of this conversion report).

#### 5.6 Constitution of the First Supervisory Board and Appointment of the First Executive Board of Nemetschek SE

Upon the effectiveness of the conversion, the offices of the present Members of the Executive Board and the Supervisory Board of Nemetschek AG terminate. Pursuant to Art. 39 (2) SE Regulation, the Members of the Executive Board of Nemetschek SE shall be appointed by the Supervisory Board of Nemetschek SE. This must already take place prior to the conversion coming into effect.

Pursuant to Section 10 (1) of the articles of association of Nemetschek SE, the Supervisory Board of Nemetschek SE has three Members. The three Members of the first Supervisory Board of Nemetschek SE shall be appointed by the articles of association of Nemetschek SE (Section 10 (3) of the articles of association of Nemetschek SE).

The first Supervisory Board of Nemetschek SE will only constitute itself prior to the filing of the conversion for entry in the commercial register, it will elect the Chairman and his Deputy and appoint the first Members of the Executive Board of Nemetschek SE. The Members of the Executive Board must be included in the filing of the conversion with the commercial register (Art. 15 (1) SE Regula-

tion in conjunction with Section 246 (2) UmwG). Notwithstanding the responsibilities of the Supervisory Board, it is intended to appoint the present Members of the Executive Board of Nemetschek AG, Messrs. Patrik Heider, Sean Flaherty and Viktor Várkonyi, as Members of the first Executive Board of Nemetschek SE.

#### 5.7 Registration and Effectiveness of the Conversion

The conversion of Nemetschek AG into Nemetschek SE becomes effective upon entry into the commercial register of the Munich Local Court.

Upon filing the conversion for entry into the commercial register, which is carried out by the Executive Board of Nemetschek AG pursuant to Art. 15 (1) SE Regulation, Section 246 (1) UmwG, the Executive Board of Nemetschek AG must declare that a legal action against the validity of the conversion resolution has not been filed, or has not been filed within the applicable time limit, or such legal action has been dismissed or retracted with legal effect (negative pledge). Without such pledge, the conversion must not be registered (blockade of the register).

The shareholders of Nemetschek AG can file legal action against the validity of the conversion resolution within one month after the resolution of the shareholders' meeting. Such a legal action basically prevents the entry of the conversion in the commercial register. However, in this case, Nemetschek AG can file for a court decision by way of a clearance procedure, which establishes that the filing of the legal action does not contravene the registration of the conversion (so-called "**Clearance Order**" (cf. Art. 15 (1) SE Regulation in conjunction with Sections 198 (3), 16 (3) UmwG). A clearance order will be issued if the legal action filed is inadmissible or evidently unfounded or if the claimant fails to have proven with documentation within one week after delivery of the motion, that it has held a proportional amount of at least EUR 1,000.00 in the share capital of Nemetschek AG since the announcement of the convocation for the shareholders' meeting, or if in the unbiased opinion of the court, an early effectiveness of the conversion is deemed to have priority in order to avert the material disadvantages for Nemetschek AG and its shareholders, which outweigh the disadvantages for the defendant, unless the legal violation is particularly serious (cf. Section 16 (3) Sentence 2 UmwG). The legal validity of such a clearance order ends the blockade of the register and thereby enables the entry of the conversion in the commercial register.

The entry of the conversion in the commercial register of Nemetschek AG may furthermore only take place once the procedure regarding the involvement of the employees in Nemetschek SE has been completed (Art. 12 (2) SE Regulation). In this case of the conversion of a German stock corporation into a SE, this is the case if either an agreement has been concluded regarding the participation of the employees in the SE or the negotiation period has expired, without an agreement having been concluded, or the bVG rejects the opening of the negotiations or has broken off the negotiations. The negotiation period begins on the day on which the Executive Board of the stock corporation being converted issues the invitation to the constitutional meeting of the bVG and amounts to a maximum of six

months, if the Executive Board and the bVG have not amicably agreed to an extension up to a total of one year (Section 20 SEBG). In this case, the invitation to the constitutional meeting of the bVG has not yet (as of 2 April 2015) been sent, so that the negotiation period has not yet started.

Another precondition for registration is that the articles of association of Nemetschek SE do not contradict a negotiated agreement regarding employee involvement in Nemetschek SE (Art. 12 (4) SE Regulation). In the case of such an objection, the articles of association shall be adapted through a resolution of the shareholders' meeting of Nemetschek AG.

Once all preconditions for registration have been met, the conversion shall be entered in the commercial register of Nemetschek AG, i.e. in the commercial register of the Local Court of Munich. Upon registration, the SE acquires legal personality (cf. Art. 16 (1) SE Regulation). However, the principle of identity of the legal entity applies, i.e. Nemetschek AG does not cease to exist as a company, but merely changes its legal form (cf. Art. 37 (2) SE Regulation).

## 6. Explanation of the Conversion Plan and the Articles of Association of Nemetschek SE and of the Ramifications for Shareholders and Employees

### 6.1 Explanation of the Conversion Plan

#### 6.1.1 Conversion of Nemetschek AG into Nemetschek SE (Clause 1 of the Conversion Plan)

Pursuant to Art. 1 (1) of the conversion plan, in accordance with Art. 2 (4) in conjunction with Art. 37 SE Regulation, Nemetschek AG shall be converted into a European Company (*Societas Europaea – SE*). Clause 1.1 of the conversion plan furthermore clarifies that the preconditions of Art. 2 (4) in conjunction with Art. 37 SE Regulation for a form-changing conversion are fulfilled, as Nemetschek AG, inter alia, with Nemetschek Austria Beteiligungen GmbH, with its registered office in Mondsee, Republic of Austria, entered in the Austrian company register under FN 263535b, Nemetschek AG has had a direct subsidiary for more than two years, which is governed by the law of another Member State of the European Union, namely, the Republic of Austria

Clause 1.2 of the conversion plan clarifies that the conversion preserves the identity and therefore neither leads to winding up of the company nor the foundation of a new legal entity, so that the participation of the shareholders in the company continues unchanged after the conversion comes into effect.

Clause 1.3 of the conversion plan specifies the time of the conversion coming into effect, namely the time of the entry of the conversion in the commercial register of the Company (the "**Time of Conversion**").

In Clause 1.4 of the conversion plan, the ramifications of the conversion for the shareholders are specified. Due to the identity of the legal entity, the principle of unchanged continuation of the participation by the shareholders in the Company

after the conversion applies. The shareholders who are shareholders of Nemetschek AG at the Time of Conversion will become shareholders of Nemetschek SE when the conversion comes into effect. They will participate in the share capital of Nemetschek SE with the same type and number of shares as in Nemetschek AG directly prior to the Time of Conversion. As with Nemetschek AG, all shares of Nemetschek SE are no-par-value bearer shares. The global certificates of Nemetschek AG will be replaced with global certificates of Nemetschek SE.

#### 6.1.2 Legal form, Company Name, Registered Office and Articles of Association (Clause 2 of the Conversion Plan)

In Clause 2 of the conversion plan, the legal form, company name, registered office and articles of association of the future Nemetschek SE are specified. After the conversion, the legal form of the Company will be a European Company (SE) and the Company's name will be "Nemetschek SE". The Company's registered office will remain unchanged in Munich. The headquarters are also situated there. Clause 2.4 of the conversion plan refers to the articles of association of the future Nemetschek SE, which are an integral part of the conversion plan and explained in further detail under Clause 6.2 of this conversion report.

#### 6.1.3 Share Capital (Clause 3 of the Conversion Plan)

Clause 3.1 of the conversion plan states the principle arising from the principle of identity of the legal entity, that the entire share capital of Nemetschek AG in the amount existing at the Time of Conversion and with the proportional amount attributable to the individual no-par-value shares of the share capital will become the share capital of Nemetschek SE.

In Clause 3.2 of the conversion plan, the amount of share capital is stated at the time of documentation of the conversion plan in Section 5 (1) of the articles of association of Nemetschek AG with the proportional amount attributable to the individual no-par-value shares. In accordance with the aforementioned principle in Clause 3.1 of the conversion plan, this share capital will basically become the share capital of Nemetschek SE.

However, under item 6 of the agenda, it will be proposed to the shareholders' meeting of Nemetschek AG being held on 20 May 2015 to increase the share capital of the Company from EUR 9,625,000.00 by EUR 28,875,000.00 to EUR 38,500,000.00 from Company funds by converting a partial amount of EUR 28,875,000.00 of the capital reserve in the Company's annual financial statement as of 31 December 2014 into share capital and issuing 28,875,000 new no-par-value bearer shares to the Company's shareholders (hereinafter also referred to as the "**Share Split**"). Insofar as the shareholders' meeting follows this resolution proposal and the resolution already comes into effect prior to the Time of Conversion, this increased share capital of Nemetschek AG of EUR 38,500,000.00 will become the share capital of Nemetschek SE at the time of the conversion coming into effect. This is already taken into account in the articles of association of Nemetschek SE that are attached to the conversion plan.

In Clause 3.3 of the conversion plan, the Supervisory Board of Nemetschek SE is authorised to make any changes to the version of the articles of association of Nemetschek SE that are attached to the conversion plan prior to registration of the conversion. This particularly includes those cases where the actual share capital of Nemetschek AG at the Time of Conversion and the share capital specified in the articles of association of Nemetschek SE attached to the conversion plan diverge. Such a case would arise e.g. if the Share Split has not yet become effective at the Time of Conversion.

#### 6.1.4 Authorisation to Acquire and Use Treasury Shares (Clause 4 of the Conversion Plan)

According to Clause 4.1 of the conversion plan, the authorisation resolved by the shareholders' meeting of Nemetschek AG on 20 May 2014 to acquire and use treasury shares with the possible exclusion of the subscription right until 19 May 2019, provided that the conversion of Nemetschek AG into Nemetschek SE has taken place by this date and the authorisations have not previously been cancelled (please refer to the next paragraph), will continue to exist for the Executive Board of Nemetschek SE.

Clause 4.2 of the conversion plan takes account of the circumstance that the shareholders' meeting of Nemetschek AG being held on 20 May 2015, under Item 7 of the agenda, will receive a proposal for an authorisation to acquire and use treasury shares until 20 May 2020 with a possible exclusion of the subscription right. This authorisation to acquire and use treasury shares shall replace the authorisation to acquire and use treasury shares resolved by the shareholders' meeting of Nemetschek AG dated 20 May 2014 and will repeal this, provided that no use has been made of it. Insofar as the shareholders' meeting follows this resolution proposal, this authorisation to acquire and use treasury shares will also continue to apply for the Executive Board of Nemetschek SE, while the authorisation to acquire and use treasury shares shown in Clause 4.1 of the conversion plan will lapse, provided that no use has yet been made of it.

#### 6.1.5 Cash Compensation Offer (Clause 5 of the Conversion Plan)

Clause 5 of the conversion plan clarifies that no offer will be made to shareholders who object to the conversion to acquire their shares in exchange for cash compensation, as the law does not envisage such an offer.

#### 6.1.6 Owners of Special Rights and Owners of Other Securities (Clause 6 of the Conversion Plan)

In accordance with the provision regarding the merger plan with the foundation of the SE by means of a merger pursuant to Art. 20 (1) Sentence 2 letter f) SE Regulation, Clause 6 of the conversion plan contains details about the rights that are granted to those shareholders of Nemetschek AG with special rights and the owners of other securities as shares and the measures proposed for these persons. As Nemetschek AG has not granted any special rights and has not issued any further securities as ordinary shares, neither the granting of rights nor relevant

measures are envisaged for owners of special rights and owners of securities other than shares.

#### 6.1.7 Executive Board (Clause 7 of the Conversion Plan)

Clause 7 of the conversion plan contains details about the Executive Board of Nemetschek SE. Clause 7.1 of the conversion plan clarifies that the offices of all Members of the Executive Board of Nemetschek AG shall end at the time of the entry of the conversion in the commercial register of the Company.

In Clause 7.2 of the conversion plan, it is pointed out as a precaution that, notwithstanding the decision-making responsibility of the future Supervisory Board of Nemetschek SE pursuant to Art. 39 (2) Sentence 1 SE Regulation, it is assumed that the present Members of the Executive Board of Nemetschek AG will also be appointed as Members of the Executive Board of Nemetschek SE. These are Messrs. Patrik Heider, Sean Flaherty and Viktor Várkonyi.

#### 6.1.8 Supervisory Board (Clause 8 of the Conversion Plan)

Clause 8.1 of the conversion plan clarifies that the offices of all Members of the Supervisory Board of Nemetschek AG shall end at the time of the entry of the conversion in the commercial register of the Company.

Clause 8.2 of the conversion plan states that with Nemetschek SE, as previously with Nemetschek AG, a Supervisory Board will be formed, which is comprised of three members, who are all elected by the shareholders' meeting. In addition to this, it is clarified that for the appointment of the first Supervisory Board of Nemetschek SE, the option of Art. 40 (2) Sentence 2 SE Regulation will be exercised and the appointment of the Members of the first Supervisory Board will take place by the articles of association of Nemetschek SE.

In Clause 8.3 of the conversion plan, it is stated that the persons named will be appointed as Members of the first Supervisory Board of Nemetschek SE, pursuant to Section 10 (3) of the articles of association of Nemetschek SE. For reasons of legal precaution, it is furthermore pointed out in Clause 8.3 of the conversion plan that notwithstanding the decision-making responsibilities of the Supervisory Board of Nemetschek SE, the present Chairman of the Supervisory Board of Nemetschek AG, Mr. Kurt Dobitsch, is anticipated to be elected as the Chairman of the Supervisory Board of Nemetschek SE and the present Deputy Chairman of the Supervisory Board of Nemetschek AG, Professor Georg Nemetschek, is anticipated to be elected as the Deputy Chairman of the Supervisory Board of Nemetschek SE.

#### 6.1.9 Special Benefits (Clause 9 of the Conversion Plan)

Clause 9 of the conversion plan, based on the specifications for the merger plan with the foundation of the SE by means of a merger (Art. 20 (1) Sentence 2 letter g) SE Regulation), contains a provision regarding special benefits. Special benefits in this sense are benefits that are granted to the conversion auditor within the

context of the conversion, who issues the certificate pursuant to Art. 37 (6) SE Regulation, the Executive Board or the Supervisory Board of Nemetschek AG.

Clause 9.1 clarifies that no special benefits will be granted to the court-appointed Expert, who has audited and certified, pursuant to Art. 37 (6) SE Regulation.

In Clause 9.2, it is clarified that special benefits will also not be granted to Members of the Executive Board or Supervisory Board of Nemetschek AG. For reasons of legal precaution, Clause 9.2 contains the information that the Executive Board Members of Nemetschek AG are anticipated to be appointed as Members of the Executive Board of Nemetschek SE. Also for reasons of legal precaution, Clause 9.2 of the conversion plan points out that pursuant to Art. 40 (2) Sentence 2 SE Regulation, the present Members of the Supervisory Board of Nemetschek AG are also anticipated to be appointed as the first Members of the Supervisory Board of Nemetschek SE, through the articles of association of Nemetschek SE. As a precaution, it is also pointed out that the present Chairman of the Supervisory Board of Nemetschek AG is anticipated to be elected as the Chairman of the Supervisory Board of Nemetschek SE.

#### 6.1.10 Details Regarding the Procedure for the Regulation of the Participation of Employees in Nemetschek SE (Clause 10 of the Conversion Plan)

Clause 10 of the conversion plan contains details regarding the participation of the employees in the procedure to be carried out in Nemetschek SE. The participation by employees in a SE is primarily based on an agreement that is concluded between the employees and the management of the Company. The employees are represented by the bVG, which has been appointed by them or their representatives. In the event that no agreement is made, the statutory fallback provision of the SEBG applies to the participation of employees in a SE with its registered office in Germany.

All statements in the conversion plan and in this conversion report are made from an ex-ante perspective. The constitutional meeting of the bVG can only be convened by the Executive Board of Nemetschek AG once its members have been appointed by the employees, but no later than after the end of ten weeks following the initiation of the process for electing the members of the bVG. In consideration of this period and the convocation period, the negotiations with the bVG will be able to start by no later than mid-June 2015.

##### a) Basic Principles (Clause 10.1 of the Conversion Plan)

In Clause 10.1 of the conversion plan, the basic principles of the process for the regulation of employee participation in Nemetschek SE and the associated key terms are explained.

##### b) Initiation of the Negotiation Procedure (Clause 10.2 of the conversion plan)

Clause 10.2 of the conversion plan explains the initiation of the procedure for the regulation of employee participation according to the SEBG.

For this, the legally envisaged notification of the employees and the affected employee representatives by the Executive Board of Nemetschek AG is necessary, together with the request to form the bVG. The information to be provided to the employees/employee representatives in this context is listed in detail in Clause 10.2 of the conversion plan.

Pursuant to Section 4 SEBG, the negotiation procedure in the case of the foundation of the SE by means of conversion begins by the management of the company being converted – here: the Executive Board of Nemetschek AG – informing the responsible employee representatives of the company being converted, its subsidiaries and operations in the Member States about the planned conversion into a SE and requesting them in writing to form the bVG. Insofar as no employee representatives exist, the notification and request shall take place towards the employees, pursuant to Section 4 (2) Sentence 2 SEBG.

The notification must take place no later than immediately following the disclosure of the conversion plan. However, the Executive Board can already inform the employees/affected employee representatives at an earlier time. The Executive Board of Nemetschek AG already informed the employee representatives/employees in the Nemetschek Group in Germany and in the Member States, in which the Nemetschek Group employs staff at the time of notification (these are: Hungary, Austria, Slovakia, Czech Republic, France, Belgium, Norway, Italy, United Kingdom, Netherlands and Spain) about the intended conversion of Nemetschek AG into the legal form of the SE and requested the formation of the bVG with a letter dated 9 March 2015.

c) Formation and Composition of the bVG (Clause 10.3 of the Conversion Plan)

Clause 10.3 of the conversion plan explains the formation and composition of the bVG in detail on the basis of the SEBG provisions.

d) Negotiation Procedure (Clause 10.4 of the Conversion Plan)

Clause 10.4 of the conversion plan explains the time frame for the negotiation procedure, as well as the subject matter of the negotiations. Furthermore, in Clause 10.4.1 of the conversion plan, it is stated which provisions need to be included in an agreement about the employee participation in Nemetschek SE.

In Clause 10.4.2 of the conversion plan, the consequences of not taking up or breaking off negotiations by the bVG are described in further detail. Clause 10.4.3 of the conversion plan finally describes how the employee participation in Nemetschek SE would be structured, for example, if an agreement on employee participation was not concluded due to the uneventful expiring of the negotiation period. In such a case, the statutory fallback provision of Sections 22 et seq. SEBG (SE works council) and Sections 34 et seq. SEBG (co-determination) apply.

In view of the non-co-determined Supervisory Board of Nemetschek AG, for Nemetschek SE, the statutory fallback provision would result in the Supervisory Board of Nemetschek SE also remaining free from co-determination and the Members of the Supervisory Board therefore exclusively being determined by the shareholders. With regard to safeguarding the right to notification and hearing of the employees of Nemetschek SE, the statutory fallback provisions would result in the required formation of a SE works council. Such a SE works council would be responsible for matters relating to the SE itself, one of its subsidiaries or one of its operations in another Member State, or which go beyond the authorities of the responsible bodies at the level of the individual Member State (Section 27 SEBG). The SE works council must be notified and heard on an annual basis regarding the development of the business situation and the prospects of the SE. In addition to this, it must be notified and heard about unusual circumstances (Sections 28, 29 SEBG). The composition of the SE works council and the appointment of its members would basically take place according to the provisions regarding the appointment of the members of the bVG.

In the case of the statutory fallback provision applying, the management of the SE, the Executive Board of Nemetschek SE, would need to examine every two years whether changes in the SE, its subsidiaries and operations, particularly the numbers of employees, make a change necessary to the composition of the SE works council. Furthermore, in the case of the statutory fallback provision, four years after its implementation, the SE works council would need to pass a resolution on whether negotiations should be taken up regarding an agreement on the participation of employees in the SE or whether the existing provision should continue to apply. Insofar as the resolution states that negotiation should take place regarding an agreement on employee participation, the SE works council shall take the place of the bVG for these negotiations. The aim of the agreement is to conclude an agreement about the employee participation. If the conclusion of an agreement again does not take place, the fallback provision will continue to apply.

Clause 10.4.4 of the conversion plan finally states who must bear the costs of the negotiation procedure and the formation of the bVG.

#### 6.1.11 Other Ramifications of the Conversion for the Employees and their Representatives (Clause 11 of the Conversion Plan)

Clause 11 of the conversion plan explains the other ramifications of the conversion of Nemetschek AG into a SE for the employees and their representatives. Clauses 11.1 to 11.3 of the conversion plan clarify that the existing employment and work contracts shall remain unchanged, that the valid company agreements and other collective bargaining agreement employment law provisions shall apply unchanged to the employees of Nemetschek SE on the basis of the respective agreements and that for existing employee representatives in the countries in the subsidiaries and operations of the Nemetschek Group, the conversion shall not result in any changes. Clause 11.4 of the conversion plan furthermore states that

no measures are envisaged or planned due to the conversion, which would have ramifications for the situation of the employees.

#### 6.1.12 Financial Statement Auditor (Clause 12 of the Conversion Plan)

Clause 12 of the conversion plan envisages the appointment of Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft, Munich, as the financial statement auditor and consolidated financial statement auditor of Nemetschek SE for its first financial year after the conversion comes into effect.

### 6.2 Explanation of the Articles of Association of Nemetschek SE

When the conversion comes into effect, Nemetschek AG will change its legal form to a SE. The previous articles of association of Nemetschek AG will be replaced by new articles of association of Nemetschek SE. These articles of association are an integral part of the conversion plan, which the shareholders' meeting must approve.

The existing draft articles of association for Nemetschek SE are based on the existing articles of association of Nemetschek AG. Many provisions of the present articles of association of Nemetschek AG (version dated 2 June 2014) can essentially be transferred to the articles of association of the future Nemetschek SE, as at their core, the material provisions of the SE Regulation and the SEAG for the articles of association of Nemetschek SE correspond to the articles of association applicable to a German stock corporation. Furthermore, the articles of association of Nemetschek SE are structured in a way that the legal situation existing in Nemetschek AG can essentially be continued in Nemetschek SE.

The draft articles of association for Nemetschek SE are explained below, whereby changes compared to the presently valid articles of association of Nemetschek AG (version dated 2 June 2014) will be mainly dealt with in detail.

#### 6.2.1 Company Name and Registered Office (Section 1 of the Articles of Association)

Section 1 (1) of the articles of association of Nemetschek SE specifies the company name to be used by the Company. The name of Nemetschek Aktiengesellschaft will be changed to "Nemetschek SE". The change of the legal form abbreviation is prescribed by Art. 11 (1) SE Regulation.

The registered office of the Company, which is specified in Section 1 (2) of the articles of association of Nemetschek SE, is Munich, as with Nemetschek AG.

#### 6.2.2 Purpose of the Company (Section 2 of the Articles of Association)

Pursuant to Section 2 of its articles of association, the purpose of Nemetschek SE corresponds to the present purpose of Nemetschek AG, stated in Section 2 of the articles of association of Nemetschek AG.

### 6.2.3 Financial Year (Section 3 of the Articles of Association)

Pursuant to Section 3 of the articles of association of Nemetschek SE, the Company's financial year is the calendar year; this provision corresponds word-for-word to the provision in Section 3 of the articles of association of Nemetschek AG.

### 6.2.4 Announcements and Information (Section 4 of the Articles of Association)

The provisions regarding announcements of the Company and information for the owners of admitted securities in Section 4 of the articles of association of Nemetschek SE correspond fully with those in Section 4 of the articles of association of Nemetschek AG. According to this, unless stipulated otherwise by law, announcements of the Company are disclosed in the Federal Gazette for the Federal Republic of Germany, while information for the owners of admitted securities of the Company can also be sent electronically.

### 6.2.5 Amount and Denomination of the Share Capital, No-Par-Value Shares (Section 5 of the Articles of Association)

#### a) Share Capital Figure and Contribution (Section 5 (1) of the Articles of Association)

In Section 5 (1) of the articles of association of Nemetschek SE, the share capital of the Company is regulated in the amount of EUR 38,500,000.00 and its division into 38,500,000 no-par-value shares. As already described in detail under Clause 6.1.3 of this report, the Share Split has already been taken into account, as will be proposed to the shareholders' meeting of Nemetschek AG being held on 20 May 2015 under Item 6 of the agenda. Insofar as the Share Split has not yet come into effect at the time of the conversion taking effect, the Supervisory Board is authorised, pursuant to Clause 3.3 of the conversion plan, to adapt the version of the articles of association of Nemetschek SE accordingly.

#### b) Contribution of the Share Capital (Section 5 (2) of the Articles of Association)

In Section 5 (2) of the articles of association of Nemetschek SE, in accordance with the foundation provisions of the German Stock Corporation Act, it is first stated that the share capital of Nemetschek SE is contributed through the identity-preserving conversion of Nemetschek AG into Nemetschek SE.

Furthermore, also in accordance with the foundation provisions of the German Stock Corporation Act and in accordance with the articles of association of Nemetschek AG, it is stated that the original share capital of Nemetschek AG in the amount of DM 5,000,000.00 has been contributed through the form-changing conversion of Nemetschek GmbH (formerly Nemetschek Programmsystem GmbH) and that the share capital of Ne-

metschek Programmsystem GmbH in the amount of DM 900,000.00 has been contributed in a non-cash form.

#### 6.2.6 Bearer Shares, Share Certificates (Section 6 of the Articles of Association)

The provisions in Section 6 (1) to (3) of the articles of association of Nemetschek SE correspond word-for-word with the provisions in Section 6 (1) to (3) of the articles of association of Nemetschek AG. The shares of Nemetschek SE, as well as the shares of Nemetschek AG, are bearer shares.

The provisions contained in Section 6 (4) and (5) of the articles of association of Nemetschek AG regarding the authorised capital were limited until 28 July 2008 and therefore no longer have any legal effect. Therefore, the provisions were not transferred to the articles of association of Nemetschek SE. Therefore, the articles of association of Nemetschek SE deviate (formally) from the articles of association of Nemetschek AG in this regard.

#### 6.2.7 Organisational Constitution, Bodies (Section 7 of the Articles of Association)

Section 7 of the articles of association of Nemetschek SE has been newly introduced in comparison to the articles of association of Nemetschek AG. The provision states that the organisational constitution of Nemetschek SE follows the two-tier system and the bodies of the Company are accordingly the management body (in Nemetschek SE, the "**Executive Board**"), the supervisory body (in Nemetschek SE, the "**Supervisory Board**") and the shareholders' meeting. In terms of content, this organisational constitution corresponds to the organisational constitution of Nemetschek AG.

#### 6.2.8 Composition and Management of the Executive Board (Section 8 of the Articles of Association)

Section 8 (1) of the articles of association of Nemetschek SE corresponds word-for-word with the provision in Section 7 (1) of the articles of association of Nemetschek AG, according to which the Executive Board is comprised of one or several persons.

Section 8 (2) of the articles of association of Nemetschek SE is identical in wording with the regulations of Section 7 (2) of the articles of association of Nemetschek AG, according to which the Members of the Executive Board are able to be appointed for a maximum term of five years. The newly added supplement, according to which reappointments are permitted, corresponds to the current legal situation for Nemetschek AG (Section 84 (1) Sentence 2 AktG) and only serves as clarification.

Sentences 1 and 2 of Section 8 (3) of the articles of association of Nemetschek SE correspond word-for-word with the provisions in Section 7 (3) Sentences 1 and 2 of the articles of association of Nemetschek AG. Sentence 3, according to which the Supervisory Board must determine that specific types of transactions can only be conducted with its consent has been deleted, as Art. 48 (1) SE Regulation requires a list of transactions requiring consent in the articles of associa-

tion of the SE. Such a – non-exhaustive – list was newly added in Section 8 (4) of the articles of association of Nemetschek SE. However, according to Section 19 SEAG, the Supervisory Board will have the option in future to specify additional transactions requiring content; however it is not obligated to do so. This principle was added for clarification in Section 8 (4) last sentence of the articles of association of Nemetschek SE.

Section 8 (5) of the articles of association of Nemetschek SE, according to which resolutions of the Executive Board are passed with a simple majority of votes and in case of a tie, the Chairman has the casting vote, corresponds word-for-word with the provision in Section 7 (4) of the articles of association of Nemetschek AG.

For clarification, Section 8 (6) of the articles of association of Nemetschek SE contains the basic principle from Section 119 (2) AktG, according to which the shareholders' meeting can only decide on matters regarding management, if requested to do so by the Executive Board. In contrast to the articles of association of Nemetschek AG (Section 7 (5) Sentence 2), according to which the Executive Board was obligated to bring about the shareholders' meetings decision in the case of the Supervisory Board refusing its consent to a management measure (Section 111 (4) Sentence 3 AktG), the articles of association of Nemetschek SE contain no such obligation. Instead, in Section 8 (6), the articles of association of Nemetschek SE, leave the choice to the Executive Board to decide whether to bring about the decision of the shareholders' meeting, as also legally envisaged in Section 111 (4) Sentence 2 AktG. The obligation of the Executive Board to bring about the decision of the shareholders' meeting in the case of serious interventions in shareholders' rights has been transferred word-for-word to the articles of association of Nemetschek SE.

#### 6.2.9 Representation of the SE (Section 9 of the Articles of Association)

Section 9 of the articles of association of Nemetschek SE corresponds to the wording of Section 8 of the articles of association of Nemetschek AG, except for an editorial adaptation in Section 9 (2). According to this, as long as only one Executive Board Member is appointed, Nemetschek SE will be legally represented by him and if several Executive Board Members are appointed, it will be legally represented by two Executive Board Members or by one Executive Board Member together with an authorised officer. The Supervisory Board may grant individual Members of the Executive Board single representation authority and exemptions from the restrictions of Section 181 Alt. 2 BGB.

#### 6.2.10 Composition and Term of Office of the Supervisory Board (Section 10 of the Articles of Association)

Section 10 of the articles of association of Nemetschek SE contains provisions regarding the composition and term of office of the Supervisory Board. Due to specific provisions for the SE, there are deviations in several points in comparison to the provisions in Section 9 of the articles of association of Nemetschek AG.

The provision in Section 10 (1) of the articles of association of Nemetschek SE corresponds word-for-word with the provision in Section 9 (1) of the articles of association of Nemetschek AG. According to this, the Supervisory Board of Nemetschek SE is comprised of three Members and can provide itself with by-laws.

Pursuant to Section 10 (2) of the articles of association of Nemetschek SE, the appointment of the Supervisory Board Members of Nemetschek SE takes place by the end of the ordinary shareholders' meeting that resolves the discharge for the fourth financial year after the term of office commenced. The financial year in which the term of office begins is not included in the calculation of the term of office. The term of office ends six years after commencing the office at the latest. A multiple appointment is permitted. In terms of content, the provision essentially corresponds to the provision applicable to Nemetschek AG pursuant to Section 9 (2) of its articles of association, which, in turn, essentially corresponds word-for-word with the wording of Section 102 AktG, whereas Section 9 (2) of the articles of association of Nemetschek AG clarifies that the shareholders' meeting may resolve a shorter time period for the Members that it elects or for the full Supervisory Board. Pursuant to Art. 46 (1) SE Regulation, in the articles of association of Nemetschek SE, the term of office for the Supervisory Board Members must be explicitly stipulated, as the members of the bodies of a SE are appointed for a time period that is specified in the articles of association, which must not exceed six years. The newly added maximum term of the mandate ensures that according to Art. 46 (1) SE Regulation, the maximum admissible term of office of six years must not be exceeded.

Through Section 10 (3) of the articles of association of Nemetschek SE, the Members of the first Supervisory Board of Nemetschek SE are appointed. This is explicitly permitted by Art. 40 (2) Sentence 2 SE Regulation. The appointment of the Members of the first Supervisory Board takes place for the period until the conclusion of the shareholders' meeting that resolves the discharge for the first full or short financial year of Nemetschek SE, which may not exceed three years.

The provisions in Section 10 (4) to (6) of the articles of association of Nemetschek SE correspond word-for-word with the provisions in Section 9 (3) to (5) of the articles of association of Nemetschek AG. They regulate the election and term of office of substitute members, resigning from office by Supervisory Board Members and the possibility of Supervisory Board Members authorising third parties in the case of their absence pursuant to Section 109 (3) AktG.

#### 6.2.11 Declarations of Intent of the Supervisory Board (Section 11 of the Articles of Association)

Section 11 of the articles of association of Nemetschek SE has the same wording as Section 10 of the articles of association of Nemetschek AG and regulates the issuance of declarations of consent of the Supervisory Board, as well as the representation of the Supervisory Board towards third parties.

#### 6.2.12 Chairman of the Supervisory Board and Deputies (Section 12 of the Articles of Association)

Section 12 of the articles of association of Nemetschek SE corresponds word-for-word with Section 11 of the articles of association of Nemetschek AG. According to this, the Supervisory Board elects a Chairman and a Deputy from among its Members. If the Chairman or his Deputy resigns prematurely from office during the term of office, the Supervisory Board must immediately conduct a by-election for the remaining term of office of the Supervisory Board Member who has resigned.

#### 6.2.13 Convening and Resolutions of the Supervisory Board (Section 13 of the Articles of Association)

Section 13 of the articles of association of Nemetschek SE corresponds to the wording of Section 12 of the articles of association of Nemetschek AG, except for a few editorial changes. It contains detailed provisions regarding convening, quorum and resolutions of the Supervisory Board.

#### 6.2.14 Version Changes (Section 14 of the Articles of Association)

According to Section 14 of the articles of association of Nemetschek SE, the Supervisory Board is authorised to make version changes to the articles of association. This provision was also transferred word-for-word from Section 13 of the articles of association for Nemetschek AG.

#### 6.2.15 Remuneration of the Supervisory Board (Section 15 of the Articles of Association)

With the exception of Section 15 (2) and an editorial change in Section 15 (3) Section 15 of the articles of association for Nemetschek SE regarding the remuneration of Supervisory Board Members corresponds to the wording of Section 14 of the articles of association for Nemetschek AG. The amendment of Section 15 (2) of the articles of association for Nemetschek AG, to be proposed to the shareholders' meeting of Nemetschek AG to be held on 20 May 2015, during the course of the Share Split under Item 6 of the agenda, has already been taken into account.

#### 6.2.16 Convening the Shareholders' Meeting (Section 16 of the Articles of Association)

The provisions in Section 16 of the articles of association of Nemetschek SE regarding the venue and convening of the shareholders' meeting correspond word-for-word to the provisions in Section 15 of the articles of association of Nemetschek AG. According to this, the shareholders' meeting of Nemetschek SE will also be held at the registered office or at the domicile of a German stock exchange and will be convened by the Executive Board or, in the legally envisaged cases, by the Supervisory Board.

#### 6.2.17 Right to Participate and Voting Right in the Shareholders' Meeting (Section 17 of the Articles of Association)

Section 17 of the articles of association of Nemetschek SE has the same wording as Section 16 of the articles of association of Nemetschek AG. It regulates the registration for the shareholders' meeting, the right to participate and the voting right in the shareholders' meeting. Shareholders are only permitted to participate in the shareholders' meeting and exercise their voting right, who have registered for the shareholders' meeting in accordance with the legal provisions and have provided the Company with evidence of their share ownership based on the legal reference date in German or English language, in text form. In the shareholders' meeting, each no-par-value share grants one vote, which can also be exercised by a proxy in accordance with the legal provisions. The Executive Board can also allow votes to be cast in written form or by way of electronic communication, without participating in the shareholders' meeting.

#### 6.2.18 Chairman of the Shareholders' Meeting (Section 18 of the Articles of Association)

Section 18 of the articles of association of Nemetschek SE corresponds word-for-word with the provisions in Section 17 of the articles of association of Nemetschek AG and regulates the chairing of the shareholders' meeting. According to this, the Chairman of the Supervisory Board chairs the meeting and in the event of his absence, his Deputy or another Supervisory Board Member determined by the Supervisory Board. The Chairman manages the meetings, determines the sequence in which the items of the agenda are handled, decides on the form of the voting and can set a time limit for the right of shareholders to speak and ask questions. The Chairman may specifically already set the time frame for the meeting procedure, the comments on the individual agenda items and the individual right to speak and ask questions adequately.

#### 6.2.19 Resolutions and Elections (Section 19 of the Articles of Association)

Section 19 of the articles of association of Nemetschek SE contains the provisions on resolutions and elections in the shareholders' meeting of Nemetschek SE. Section 19 (1) of the articles of association of Nemetschek SE corresponds word-for-word with the provision in Section 18 (1) Sentence 1 of the articles of association of Nemetschek AG. Section 19 (1) Sentence 2 of the articles of association of Nemetschek SE has been newly inserted and contains an additional SE-specific provision regarding majority requirements, which fulfil the specifications of Art. 59 (1) and (2) SE Regulation in conjunction with Section 51 SEAG. According to this, unless it is opposed by mandatory legal provisions, resolutions regarding a change to the articles of association require a two-thirds majority of the votes cast, or, provided that at least half of the share capital is represented, a simple majority of the votes cast.

Paragraphs (2) and (3) of the articles of association of Nemetschek SE correspond word-for-word with Section 18 (2) and (3) of the articles of association of Nemetschek AG. According to this, a motion is deemed as being rejected in the case of a tied vote, except for elections. Furthermore, for elections where a sim-

ple majority is not achieved in the first round of voting, a second ballot will be held between the persons with the highest number of votes.

#### 6.2.20 Ordinary Shareholders' Meeting (Section 20 of the Articles of Association)

Section 20 (1) of the articles of association of Nemetschek SE states that the ordinary shareholders' meeting must be held within the first six months after the end of the financial year. This corresponds to the specifications in Art. 54 (1) SE Regulation and deviates from the provision in Section 19 of the articles of association of Nemetschek AG and corresponding to Section 175 Sentence 2 AktG, according to which the ordinary shareholders' meeting is held within the first eight months of each financial year. The provision in Section 20 (2) of the articles of association of Nemetschek SE has the same wording as Section 19 (2) of the articles of association of Nemetschek AG.

#### 6.2.21 Annual Report, Annual Financial Statements (Section 21 of the Articles of Association)

Section 21 (1) of the articles of association of Nemetschek SE has been adapted slightly in comparison to Section 20 (1) of the articles of association of Nemetschek AG, in that the annual financial statement and, if necessary, the management report, must now be drawn up and presented in accordance with the legal provisions, while Section 20 (1) of the articles of association of Nemetschek AG refers concretely to the legal provisions of Sections 242 et seq. HGB, instead of the general reference. The change is purely for clarification and has no ramifications in terms of content. Paragraphs (2) and (3) of Section 21 of the articles of association of Nemetschek SE correspond word-for-word with Paragraphs (2) and (3) of Section 20 of the articles of association of Nemetschek AG and regulate the auditing of the annual financial statement, the management report of the Executive Board and the proposal for the appropriation of distributable profit by the Supervisory Board to the shareholders' meeting, as well as the approval of the annual financial statement by the Supervisory Board. Furthermore, the obligation to immediately convene an ordinary shareholders' meeting and provide for inspection by the shareholders, the annual financial statement, the management report of the Executive Board, the report of the Supervisory Board and proposal for the appropriation of distributable profit by the Executive Board in the business premises of the Company, are regulated in further detail.

#### 6.2.22 Appropriation of Distributable Profit (Section 22 of the Articles of Association)

The provision in Section 21 of the articles of association of Nemetschek AG was transferred unchanged to Section 22 of the articles of association of Nemetschek SE. According to this, the distributable profit resulting from the annual financial statement after depreciation and amortization, value-adjustments, provisions and reserves, is distributed to the shareholders, unless the shareholders' meeting resolves different use, whereas the shareholders' meeting may also resolve a non-cash distribution. Furthermore, after the end of a financial year, the Executive Board, with the consent of the Supervisory Board, can distribute an advance dividend to the shareholders pursuant to Section 59 AktG. Furthermore, the Executive Board and Supervisory Board are authorised, upon approving the annual fi-

nancial statement, to allocate up to half of the annual surplus to other revenue reserves, provided that the other revenue reserves do not exceed half of the share capital or would exceed this amount after the allocation.

#### 6.2.23 Conversion Costs (Section 23 of the Articles of Association)

Section 23 (1) of the articles of association of Nemetschek SE corresponds with Section 22 of the articles of association of Nemetschek AG in terms of content. However, it is clarified that it involves the cost of the form-changing conversion of the Company into a stock corporation, in order to establish a clear demarcation to the costs for the conversion of the Company into a SE regulated in (2).

The newly added Section 23 (2) of the articles of association of Nemetschek SE, in accordance with the foundation provisions of the German Stock Corporation Act, stipulates that the costs of the conversion of the Company into a SE, i.e. specifically the costs of the procedure regarding the participation of employees, the notary and court costs, the publication costs, taxes, auditing and advisory costs will be borne by the Company in the net amount of up to EUR 1 million.

#### 6.2.24 Special Benefits (Section 24 of the Articles of Association)

Section 24 has been newly added to the articles of association of Nemetschek SE. For reasons of legal precaution, the provision points out that notwithstanding the decision-making responsibilities of the Supervisory Board of Nemetschek SE, it is assumed that the present incumbent Members of the Executive Board of Nemetschek AG will be appointed as Executive Board Members of Nemetschek SE. The Members of the Executive Board of Nemetschek AG are Messrs. Patrik Heider, Sean Flaherty and Viktor Várkonyi. Furthermore, it is stated that the presently incumbent Members of the Supervisory Board of Nemetschek AG are intended to be appointed as Members of the Supervisory Board of Nemetschek SE.

### 7. Accounting and Tax Effects of the Conversion

The conversion of Nemetschek AG into Nemetschek SE is subject to the principle of legal and economic identity of the legal entity, i.e. a company is neither being unwound nor is a new legal entity being founded (cf. Art. 37 (2) SE Regulation). With regard to the preparation of and any other stipulations relating to the annual financial statements and the management report as well as the consolidated financial statements and the group management report, the provisions applicable to a German stock corporation apply (cf. above under Clause 4.6). The conversion does not have any accounting effects.

Nemetschek AG assumes that the conversion of Nemetschek AG into Nemetschek SE with its registered office in Germany will be tax-neutral under German tax law. Future dividend payments of the Company, as well as transfers of Company shares have, in principle, the same taxation consequences for the shareholders of the Company, for the purposes of German income taxation, as dividend payments and transfers prior to the conversion, unless there is a change

of the applicable laws or of the factual circumstances. The conversion of Nemetschek AG into Nemetschek SE should not trigger any significant German capital investment tax, sales tax or stamp duty.

It is recommended that the Company's shareholders consult their tax advisors with regard to potential tax-relevant circumstances in their individual cases. According to the present legal situation, the Company will be subject to the same tax regulations after the conversion into a SE as a German stock corporation.

## **8. Securities and Stock Exchange Trading**

The conversion of Nemetschek AG into Nemetschek SE has no significant impact on the shares of the Company or their listing.

When the conversion comes into effect, the shareholders of Nemetschek AG will become shareholders of Nemetschek SE, with the same ownership ratio. As already with Nemetschek AG prior to the conversion, the shares of Nemetschek SE will be no-par-value bearer shares with a computed portion of EUR 1.00 each of the Company's share capital. The share certificates that are issued in the name of Nemetschek AG will be exchanged for share certificates issued in the name of Nemetschek SE after the conversion comes into effect. The shares of Nemetschek SE will be securitised in global certificates, as the shares of Nemetschek already are.

The shares of Nemetschek AG have been admitted for trading on the Frankfurt Stock Exchange in the regulated market since March 2009 with additional post-admission obligations (Prime Standard). In addition to this, the shares of Nemetschek AG are traded in Germany in XETRA trading and on the Berlin, Düsseldorf, Hamburg, Hannover, Munich and Stuttgart stock exchanges. Moreover, the shares of Nemetschek AG are traded on the Swiss stock exchange SIX. Since September 2013, the Nemetschek AG share has been listed in the TecDAX index of Deutsche Börse.

The conversion has no impact on the stock exchange trading of the shares. The shareholders of the Company can therefore also continue to trade their (then) Nemetschek SE shares on any stock exchange after the conversion of Nemetschek AG into Nemetschek SE, on which the shares of Nemetschek AG were listed prior to the conversion. The conversion also has no ramifications for the inclusion of the Company's shares in the share indices. There is specifically no new stock exchange admission of the shares of Nemetschek SE required, as the conversion is taking place while maintaining the legal and economic identity of the Company (cf. Art. 7 and 30 (2) SE Regulation). However, due to the change of name of the Company from Nemetschek Aktiengesellschaft to Nemetschek SE, the listing must be changed. The changes associated with the conversion, particularly the amendment of the articles of association, will be notified by the Company pursuant to Section 30c WpHG to the Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht - BaFin*) and the relevant approval authorities.

Munich, 2 April 2015

Nemetschek Aktiengesellschaft  
Executive Board