

ARTICLES OF ASSOCIATION OF VAPIANO SE

I. GENERAL PROVISIONS

1. CORPORATE NAME, PLACE OF REGISTERED OFFICE AND DURATION OF THE COMPANY

1.1 The name of the Company is

VAPIANO SE.

1.2 The Company's registered office is in Cologne, Germany.

1.3 The duration of the Company is unlimited.

2. PURPOSE OF THE COMPANY

2.1 The purpose of the Company is the planning, establishment and operation of catering facilities, in particular restaurants, bistros, cafés and fast food restaurants, the purchase, production and sale of food, the purchase, sale and production of finished food products, the performance of catering services and the development of catering concepts. The purpose of the Company is furthermore the development and implementation of franchise and licensing systems for catering concepts, as well as any other services of the catering sector.

2.2 The Company is entitled to all measures and business transactions which are appropriate to promote the purpose of the Company directly or indirectly. This also includes the establishment of branches and the acquisition and establishment of other enterprises as well as of an interest in other enterprises, in Germany and abroad. The Company can take over the management of such companies and enter into affiliation agreements with them. The Company can transfer its operations to such companies either in full or in part.

3. ANNOUNCEMENTS

3.1 Official announcements by the Company shall be published exclusively in the German Federal Gazette (*Bundesanzeiger*), unless mandatory statutory provisions, in particular Art. 14 SE Regulation, require publication in other media. For statements or information that must be made available to the shareholders by law but are not subject to specific form requirements, posting on the Company's website is sufficient.

3.2 Information to the owners of admitted securities of the Company may also be transmitted using electronic media, to the extent permitted by law.

II. SHARE CAPITAL AND SHARES

4. SHARE CAPITAL

- 4.1 The share capital of the Company shall be EUR 26,063,251.00 (in words: twenty-six million sixty-three thousand two hundred and fifty-one euros) and be divided into 26,063,251.00 (in words: twenty-six million sixty-three thousand two hundred and fifty-one) no-par-value shares.
- 4.2 If new shares are issued, a profit participation which differs from that specified in Section 60 (2) sentence 3 of the German Stock Corporation Act (*AktG*) may be defined.
- 4.3 The Management Board shall be entitled until the end of 29 May 2022 to increase the share capital of the Company, subject to Supervisory Board approval, by issuing new no-par bearer shares (ordinary shares) against cash contributions and/or contributions in kind once or several times by no more than EUR 4,676,861.00 (in words: four million six hundred seventy-six thousand eight hundred sixty-one euros) altogether. Shareholders shall in principle be offered subscription rights. Pursuant to Section 186 (5) of the German Stock Corporation Act (*AktG*), the new shares may be taken over by a credit institution or an enterprise as defined in Section 53 (1) sentence 1 of the German Banking Act (*KWG*) or Section 53b (1) sentence 1 or (7) of the German Banking Act (*KWG*), with the obligation to offer them to the shareholders for subscription (indirect subscription right). However, the Management Board is authorised, subject to Supervisory Board approval, to fully or partially exclude shareholders' subscription rights:
- (a) if the new shares are issued according to Section 186 (3) sentence 4 of the German Stock Corporation Act (*AktG*) against contribution in cash at an issue price which is not significantly below the stock exchange price of the Company's shares already listed, and the shares issued under exclusion of the subscription rights in accordance with Section 186 (3) sentence 4 of the German Stock Corporation Act (*AktG*) in aggregate do not exceed 10% of the share capital at the time this authorisation is registered with the commercial register, or, if lower, at the respective time when the authorisation is exercised. Shares issued for servicing bonds with conversion or option rights or an obligation to convert shall count towards this limitation if such bonds were issued during the term of this authorisation with the shareholders' subscription rights being excluded in accordance with Section 186 (3) sentence 4 of the German Stock Corporation Act (*AktG*). Further, the number of treasury shares sold shall count towards this 10% limit if the sale occurs during the term of this authorisation with the shareholders' subscription rights being excluded in accordance with Section 186 (3) sentence 4 of the German Stock Corporation Act (*AktG*);
 - (b) in case of capital increases against contributions in kind, in particular to be able to offer the new shares to third parties for the purpose of acquiring companies, parts of companies or interests in companies as well as licensing or industrial property rights;

- (c) for fractional amounts;
- (d) for the purpose of granting subscription rights to holders of conversion or option rights relating to bonds which are issued by the Company or its subordinated group companies; and
- (e) for up to 508,354 new no-par shares (corresponds to 2.5 % of the share capital on 30 May 2017), if the new shares are issued to (current or former) employees or board members of the Company or affiliates of the Company. If, at the time of the new shares being issued, 2.5% of the share capital corresponds to a smaller number of shares than 508,354, this authorisation shall be limited to new no-par shares representing no more than 2.5% of the share capital at the time of the new shares being issued. The employment relationship or board membership must exist in each case at the time they are offered, granted or transferred. The Supervisory Board resolves on the exclusion of the subscription rights when issuing new shares to members of the Management Board. The employee shares can also be issued with the intermediation of one or several bank(s) or financial services institution(s), one or several companies operating according to Section 53 (1) sentence 1 or Section 53b (1) sentence 1 or (7) of the German Banking Act (*KWG*), or a group or consortium of banks, financial services institutions and/or such companies or other third parties. Where permitted by law, shares may also be issued to employees of the Company or affiliated companies in such a way that the contribution to be paid in return is covered by a part of the net profit that the Management Board and the Supervisory Board may allocate to other revenue reserves under Section 58 (2) of the German Stock Corporation Act (*AktG*).

Issuing the new shares under exclusion of the subscription rights is only permissible, if and to the extent that shares issued from authorised capital since 30 May 2017 under exclusion of the subscription rights represent less than 23 % of the share capital existing at the time when the authorisation resolution is adopted or, if this value is less, at the time when the new shares are issued. This limit of 23% is further reduced by the pro-rata amount of share capital to which option or conversion rights respectively option or conversion obligations from bonds with warrants, convertible bonds, participation rights and/or participating bonds or combinations of these instruments relate, which were issued since 30 May 2017 under exclusion of the subscription rights.

The Management Board is authorised, subject to consent of the Supervisory Board, to determine the further details concerning the conduction of capital increases, especially the content of the rights attached to the shares and the general conditions of the share issue.

The Supervisory Board is authorised to adapt the wording of the Articles of Association upon utilisation of the Authorised Capital 2017 or upon expiry of the authorisation period for the utilisation of the Authorised Capital 2017.

- 4.4 The share capital of the Company has been conditionally increased by EUR 4,676,861.00 (in words: four million six hundred seventy-six thousand eight hundred sixty-one euros), divided into 4,676,861 (in words: four million six hundred seventy-six thousand eight

hundred sixty-one) new no-par value bearer shares (*Conditional Capital 2017*). The conditional capital increase shall only be implemented to the extent to which

- (a) the holders or creditors of bonds with warrants, convertible bonds, profit participation rights and/or participating bonds or combinations of these instruments with option or conversion rights issued or guaranteed by the Company, or companies in which it directly or indirectly holds a majority interest until the end of 29 May 2022, on the basis of the authorisation resolution granted by the Annual General Meeting of 30 May 2017 make use of their option or conversion rights or
- (b) those obligated as a result of bonds with warrants, convertible bonds, profit participation rights and/or participating bonds or combinations of these instruments issued or guaranteed by the Company or companies in which it directly or indirectly holds a majority interest until the end of 29 May 2022, on the basis of the authorisation resolution granted by the Annual General Meeting of 30 May 2017, fulfil their conversion or option obligations or shares are tendered (*angedient*)

and other forms of fulfilment are not used.

The new shares shall participate in the profits starting at the beginning of the financial year during which they are created as a result of the exercise of option and conversion rights or the fulfilment of option or conversion obligations. The Management Board is authorised, with consent of the Supervisory Board, to determine any other details concerning the implementation of the conditional capital increase. The Supervisory Board is authorised to adapt the wording of the Articles of Association according to the respective utilisation of the conditional capital as well as after expiry of all option or conversion periods.

5. **SHARES**

- 5.1 All shares are bearer shares.
- 5.2 If a resolution to increase the Company's capital does not stipulate whether the new shares should be bearer shares or registered shares, they shall be bearer shares.
- 5.3 The form and content of the share certificates are determined by the Management Board, with the consent of the Supervisory Board. The Company may issue certificates for individual shares (single share certificates) or issue multiple share certificates evidencing several shares (global certificates). To the extent permitted by law, shareholders are not entitled to demand the issuance of individual share certificates or any certificated evidence of their holdings, unless certification is required under the rules applicable at a stock exchange where the shares are admitted. This paragraph applies by analogy to interim certificates, dividend coupons, renewal coupons, debentures, interest coupons and other securities issued by the Company.

III. THE MANAGEMENT BOARD

6. COMPOSITION, APPOINTMENT, DISMISSAL AND TERM OF OFFICE

- 6.1 The Management Board consists of at least two persons.
- 6.2 The number of Management Board members is determined by the Supervisory Board. The members of the Management Board are appointed and dismissed by the Supervisory Board. The Supervisory Board furthermore decides on the employment contracts for members of the Management Board. The Supervisory Board can appoint a member of the Management Board to be Chairman of the Management Board and a second member to be deputy chairman.
- 6.3 The term of office of the Management Board is determined by the Supervisory Board upon appointment. The Supervisory Board appoints the members of the Management Board for a period of not more than five years. A repeated appointment or extension of the period of office is permissible, in each case for a period of not more than five years.

7. LEGAL REPRESENTATION OF THE COMPANY

- 7.1 The Company shall be represented by two members of the Management Board jointly, or by one member of the Management Board jointly together with an authorised representative (*Prokurist*).
- 7.2 The Supervisory Board can award one, several or all members of the Management Board sole power of representation.
- 7.3 The Supervisory Board can give one, several or all members of the Management Board either generally or in a particular instance the authority to represent the Company in undertaking legal transactions with it as representative of a third party.

8. RULES OF PROCEDURE, MANAGEMENT AND ADOPTION OF RESOLUTIONS

- 8.1 The Supervisory Board issues Rules of Procedure for the Management Board. The Rules of Procedure for the Management Board stipulate the transactions that the Management Board may only undertake with the consent of the Supervisory Board. The Supervisory Board may also determine that other types of transactions are subject to its approval. In both cases, it can extend the approval requirement to transactions of subsidiaries and affiliated companies of the Company. The Supervisory Board may grant revocable consent in advance to a certain group or a certain type of transactions in general.
- 8.2 The Management Board manages the Company's business in accordance with the law, the Articles of Association, the Rules of Procedure established by the Supervisory Board,

the restrictions established otherwise by the Supervisory Board and those restrictions resulting from a resolution of the General Meeting according to Section 119 (2) of the German Stock Corporation Act (*AktG*).

IV. THE SUPERVISORY BOARD

9. DUTIES AND RIGHTS OF THE SUPERVISORY BOARD

- 9.1 The Supervisory Board shall have all duties and rights which are assigned to it by law, the Articles of Association or otherwise, in particular by rules of procedure which the Supervisory Board establishes for itself. The Supervisory Board shall also have the right to convene the General Meeting.
- 9.2 The Supervisory Board shall be entitled to make amendments to the Articles of Association concerning only the wording.
- 9.3 The Supervisory Board shall, at any time, have the right to supervise the entire management of the Management Board and hence to inspect and audit all books and records, as well as the assets of the Company.
- 9.4 The Management Board shall regularly report to the Supervisory Board to the extent provided by law. Furthermore, the Supervisory Board may request a report on matters of the Company, on its legal and business relations with affiliated companies as well as on business transactions within those companies which may materially affect the situation of the Company.

10. COMPOSITION AND TERM OF OFFICE OF THE SUPERVISORY BOARD

- 10.1 The Supervisory Board consists of six members.
- 10.2 The members of the Supervisory Board are elected by the General Meeting. At the same time as ordinary Supervisory Board members are elected, substitute members may be elected for one or more Supervisory Board members. They shall become members of the Supervisory Board in the order laid down when the election takes place in the event that Supervisory Board members whom they have been appointed to replace, resign from the Supervisory Board before their term of office ends.
- 10.3 The election under point 10.2 shall be for the period until the end of the General Meeting which approves the actions of the Supervisory Board (*Entlastung*) for the fourth year after commencement of their term of office; the financial year in which the term of office begins is not counted. The General Meeting may stipulate a shorter term of office. A re-election is possible.
- 10.4 If, pursuant to point 10.2 sentence 1, a member of the Supervisory Board is elected in place of a member who retires prematurely from the board, his or her term of office shall

run for the remaining term of office of the retiring member, unless stipulated otherwise by the General Meeting. If a substitute member replaces the retiring member, then his or her term of office expires – if a new election for the retiring member takes place pursuant to point 10.2 sent. 1 at the next or next-but-one General Meeting after such resignation – at the conclusion of such General Meeting, otherwise it expires upon expiry of the term of office of the retiring member.

- 10.5 Each member of the Supervisory Board may resign from office with a 4-week notice period to the end of a month, by written notification addressed to the Chairman of the Supervisory Board or to the Management Board. The right to resign from office for good cause remains unaffected. The Chairman of the Supervisory Board may agree to a shorter period of notice or to waiving the notice period.

11. CHAIR AND RULES OF PROCEDURE OF THE SUPERVISORY BOARD

- 11.1 The Supervisory Board shall elect from among its members a chairman and a deputy. The election shall be carried out in a meeting not requiring a separate convening, to be held subsequent to the General Meeting which appointed the Supervisory Board members to be elected by the General Meeting, and chaired by the oldest member of the Supervisory Board in terms of age. The term of office of the Chairman of the Supervisory Board and his/her deputy corresponds with their term of office as members of the Supervisory Board, if no shorter term of office is determined by the Supervisory Board at the election of the Chairman of the Supervisory Board and his/her deputy. In case the Chairman of the Supervisory Board or his/her deputy retire from office prior to the end of their term of office, the Supervisory Board shall elect a successor immediately to serve the remaining term of the retired member.
- 11.2 In case the Chairman of the Supervisory Board is prevented from exercising his/her powers and functions, his/her deputy shall exercise them instead, unless otherwise prescribed by law, the Articles of Association or the Rules of Procedure.
- 11.3 The Supervisory Board can vote the Chairman of the Supervisory Board or his/her deputy out of office by a 2/3 (in words: two-third) majority of the casted votes and elect a new Chairman of the Supervisory Board or deputy in accordance with point 11.1. A resolution on the dismissal of the Chairman of the Supervisory Board or his/her deputy for good cause is passed by a simple majority.
- 11.4 The Supervisory Board is entitled to establish Rules of Procedure for itself.

12. CONVOCATION AND PREPARATION OF MEETINGS OF THE SUPERVISORY BOARD

- 12.1 The Supervisory Board shall meet at least every three months and hold at least four meetings per calendar year. In addition, the provisions of Section 110 of the German Stock Corporation Act (*AktG*) are applicable.

- 12.2 The meetings of the Supervisory Board shall be convened in text form by the Chairman of the Supervisory Board or, in case of him being prevented, by his/her deputy, with a notice period of at least 14 days. When calculating the period, the day of sending the invitation and the day of the meeting shall not be counted. In urgent cases this period may be shortened and the meeting called verbally, by phone, telefax, telegraph or email. The Chairman of the Supervisory Board determines the place of the meeting.
- 12.3 The invitation shall include the place, day, time and the individual items of the agenda. Notice sent by email shall be sufficient. Any documents for preparation have to be supplied to the members of the Supervisory Board generally at least one week before the meeting. Proposed resolutions must be supplied to them in time to allow Supervisory Board members absent in the meeting to use their right to cast their vote in writing.
- 12.4 Resolutions on items or proposals which are not on the agenda or have not been communicated to the members of the Supervisory Board in due form, may only be permitted, if none of the Supervisory Board members present in the meeting objects and absent Supervisory Board members are given the opportunity of objecting to the resolution subsequently within a reasonable period to be determined by the chairman; the resolution will only take effect when the absent Supervisory Board members have not objected to the resolution within the stipulated period.
- 12.5 The Management Board may participate in the meetings of the Supervisory Board and its committees in an advisory capacity, if invited by the Supervisory Board or committee to do so. The Supervisory Board may at any time hold meetings without the presence of the Management Board.
- 12.6 For the performance of its duties, the Supervisory Board may, at its professional discretion, use the services of auditors, legal advisors and other external or internal consultants. The Supervisory Board may decide that these or persons providing information shall be admitted to meetings of the Supervisory Board for discussion of individual items. Each member of the Supervisory Board shall be given the opportunity to voice possible concerns. The costs of involving the mentioned persons shall be borne by the Company.
- 12.7 If a member of the Supervisory Board took part in less than half of the meetings of the Supervisory Board in a financial year, the Supervisory Board has to note this in the report to the General Meeting, stating the mentioned reasons.

13. **RESOLUTIONS OF THE SUPERVISORY BOARD**

- 13.1 The Chairman of the Supervisory Board or, in case of him being prevented, his/her deputy may postpone a convened meeting before it has started.
- 13.2 A quorum of the Supervisory Board is present, if all members are invited under the last address/ telefax number/ email address supplied and at least half of its members participate in the resolution. Members also participate in the resolution if they abstain from voting.

- 13.3 The meetings are chaired by the Chairman of the Supervisory Board or, in case of him being prevented, his/her deputy. The chairperson determines the order in which the items on the agenda are dealt with as well as the way and order of the voting.
- 13.4 Resolutions of the Supervisory Board are passed by a simple majority, unless otherwise provided by law or these Articles of Association. Abstentions are not included in the count, i.e. neither counted as yes vote nor as no vote. This also goes for elections.
- 13.5 If a vote results in a tie in the votes, another debate and another vote shall take place, unless the Supervisory Board decides to postpone the vote. When voting anew on the same matter, the Chairman of the Supervisory Board has two votes if the result is once again a tie.
- 13.6 Resolutions of the Supervisory Board are generally passed in actual meetings, which the members of the Supervisory Board attend personally and where absent members of the Supervisory Board have another member of the Supervisory Board submit their written votes; if the Chairman of the Supervisory Board does not determine anything to the contrary in the invitation due to particular circumstances of a specific case, Supervisory Board members may be permitted to join the meeting by phone and cast their vote that way. Resolutions may also be passed outside meetings by casting votes in writing, by telefax, telephone or other similar forms (in particular by email or in the form of a video conference), if the Chairman of the Supervisory Board orders this in the invitation. Resolutions passed under this paragraph are recorded in writing by the chairman and supplied to all members. As for the rest, the above provisions apply by analogy.
- 13.7 The invalidity of a given resolution passed by the Supervisory Board may only be asserted by taking the appropriate legal action within one month of the resolution having become known.
- 13.8 Minutes must be kept of the meetings and resolutions of the Supervisory Board. These must be signed by the Chairman of the Supervisory Board in office at the time the resolution is adopted and supplied to all members of the Supervisory Board. The minutes have to include the place and date of the meeting, its participants, the items on the agenda, the main content of the negotiations and resolutions of the Supervisory Board.
- 13.9 Declarations of intent of the Supervisory Board and its committees are made by the Chairman of the Supervisory Board on behalf of the Supervisory Board, respectively by the committee chairman (if not the same person as the Chairman of the Supervisory Board) on behalf of the committee or, in case of them being prevented, by their deputy. Declarations addressed to the Supervisory Board are to be received by the Chairman of the Supervisory Board or, in case of him being prevented, by his/her deputy. Declarations addressed to a committee are to be received by the committee chairman (if not the same person as the Chairman of the Supervisory Board) or, in case of him being prevented, by his/her deputy.

14. COMMITTEES OF THE SUPERVISORY BOARD

- 14.1 The Supervisory Board can transfer individual duties to committees to be formed from among its members or individual Supervisory Board members, unless legal provisions stipulate otherwise. The power to make decisions can also be conferred on the committees.
- 14.2 The Supervisory Board and its committees can invite experts and persons providing information to their meetings to give advice on individual items.

15. COMPENSATION OF SUPERVISORY BOARD MEMBERS, RIGHT TO INFORMATION

- 15.1 The General Meeting resolves on the compensation of the members of the Supervisory Board and its committees. The compensation also includes the assumption of costs of liability insurance (so-called D&O insurance), which is taken out by the Company for the members of the Supervisory Board. The insurance policy is concluded with an adequate insurance amount. The insurance can provide for a deductible to be borne by the Supervisory Board members themselves in the amount of 10% of the respective damage, which is limited to one and a half of the fixed annual remuneration of the respective Supervisory Board member for all cases of damage occurring within one insurance year. The costs of this insurance are borne by the Company.
- 15.2 The members of the Supervisory Board are reimbursed all expenses of exercising their supervisory function as well as the value added tax incurred on their remuneration and expenses. The members of the Supervisory Board are entitled to an advance of the defence costs arising from criminal investigations and proceedings related to their work as Supervisory Board member, including the fee of the lawyers (chosen freely by the Supervisory Board member) which is customary for large international law firms or appropriate specialised law firms.
- 15.3 In addition to legal claims, the members of the Supervisory Board shall – after resigning from office until the expiry of the limitation period of Sections 116, 93 (6) of the German Stock Corporation Act (*AktG*) – have inspection and copying rights with respect to the documents of the Company relating to their work on the Supervisory Board, especially with respect to resolutions and minutes of the Supervisory Board, if criminal, administrative or civil law proceedings against them are pending or imminent due to their former role as Supervisory Board member.

V. THE GENERAL MEETING

16. PLACE AND CONVOCATION OF THE GENERAL MEETING

- 16.1 The General Meeting shall be held at the place of the Company's registered office, at the seat of a German stock exchange or a city in Germany with more than 500,000 inhabitants. The place of the General Meeting must be stated in the invitation.

- 16.2 The General Meeting shall be convened by the Management Board or the Supervisory Board. If the General Meeting is convened by the Supervisory Board, the following provisions apply analogously for the Supervisory Board, however with no approval of the Management Board being required in the cases of point 17.4 and point 17.5. The legal rights of other bodies and persons to convene the General Meeting remains unaffected.
- 16.3 Unless the law provides for a different notice period, the General Meeting shall be convened at least thirty days prior to the day by the end of which the shareholders must register for the General Meeting, via an announcement in the electronic German Federal Gazette. When calculating the period, the day the meeting is convened and the day by which the shareholders must register for the General Meeting are not counted.
- 16.4 In accordance with statutory provisions, electronic means of communication suffice for the transmission of convening notices under Section 125 (2) sentence 1 and Section 128 (1) sentence 1 of the German Stock Corporation Act (*AktG*). The Management Board is entitled to send notices also in paper form.
- 16.5 The Management Board shall be authorised to allow the video or audio broadcasting of parts or all of the General Meeting via electronic and other media. This has to be pointed out in the announcement of the General Meeting.

17. PARTICIPATION OF SHAREHOLDERS AND EXERCISING OF VOTING RIGHTS

- 17.1 Stockholders wishing to participate in the General Meeting and exercise their voting rights must register for the General Meeting in writing or text form [Section 126 b of the German Civil Code (*BGB*)] in German or English and proof their authorisation to participate in the General Meeting and to exercise their voting rights. For this purpose, proof of ownership of their shares in the form of a statement in writing or text form [Section 126 b of the German Civil Code (*BGB*)], in German or English by the custodian bank shall suffice. The proof of share ownership must relate to the beginning of the twenty-first day prior to the date of the General Meeting. The registration and the proof of share ownership must reach the Company at the address specified in the convening notice at least six days before the General Meeting. When calculating the period, the day of the General Meeting and the day of the receipt of the registration and proof of share ownership are not counted. The convening notice may define a shorter period, measured in days.
- 17.2 Each share shall grant one vote at the General Meeting.
- 17.3 Voting rights may be exercised by a proxy. The granting of the proxy, its revocation and the provision of evidence of the authorisation towards the Company must be made in writing [Section 126b of the German Civil Code (*BGB*)]. The convening notice may stipulate a simplification. Section 135 *AktG* remains unaffected. If a shareholder authorises more than one person, the Company may deny entrance to one or more of these persons.
- 17.4 The Management Board may, with the approval of the Supervisory Board, allow shareholders to cast their votes without attending the General Meeting, in writing or by

means of electronic communication (postal vote). The Management Board shall determine the details of the procedure, to be notified when the General Meeting is announced.

- 17.5 Moreover, the Management Board may, with the approval of the Supervisory Board, provide for shareholders to participate in the General Meeting without the need to be present at the venue and without a proxy and to exercise some or all of their rights fully or partially by means of electronic communication (electronic participation). The Management Board may determine provisions concerning the scope and the procedure of the participation and exercising of rights under sentence 1.

18. **CHAIR OF GENERAL MEETINGS**

- 18.1 The Annual General Meetings are chaired by the Chairman of the Supervisory Board or by another member of the Supervisory Board designated by him. If neither the Chairman of the Supervisory Board nor the other Supervisory Board member designated by him takes the chair, another person selected by the Supervisory Board shall take the chair.

- 18.2 The chairman shall chair the proceedings and regulate the progress of the General Meeting. He may have recourse to the aid of assistants in doing so, especially in the enforcement of the rules of the meeting. He shall determine the order of items to be discussed as well as the order and form of voting, and may, to the extent permitted by law, decide on the bundling of factually related resolution proposals into a single voting item. The chairman may, to the extent permitted by law, impose a reasonable time limit on the right of shareholders to speak and ask questions. He is explicitly entitled to define, at the beginning of the General Meeting or while it is proceeding, a reasonable time limit for the entire General Meeting, the discussion of individual items on the agenda and for individual questions and speeches. Furthermore, the chairman can prematurely close the list of requests to speak and order the end of the debate, if this is necessary in order to ensure a proper execution of the General Meeting.

19. **PASSING OF RESOLUTIONS**

- 19.1 Resolutions of the General Meeting shall be passed by a simple majority of the votes cast, unless a larger majority is prescribed by these Articles of Association or mandatory legal provisions. In those cases where the law also requires a majority of the share capital represented at the time the resolution is passed, a simple majority of the share capital represented is sufficient, unless a larger majority is prescribed by mandatory statutory law.
- 19.2 Resolutions of the General Meeting on the amendment of the Articles of Association are passed by a simple majority of the votes cast, provided that at least half of the share capital is represented at the General Meeting. This does not apply with regard to an alteration of the corporate purpose, a resolution on the transfer of the registered office to

another member state as well as in cases where a larger majority of the subscribed capital is required by mandatory statutory law.

- 19.3 If, in elections with two or more election candidates, none of the candidates obtains an absolute majority in the first round of voting, then a second round shall be held between the two candidates who have won most votes. In the second round, the relative majority of votes shall suffice. If the votes are equal, the result is decided by lot drawn by the chairman of the meeting.

VI. FINANCIAL REPORTING AND APPROPRIATION OF EARNINGS

20. FINANCIAL YEAR, FINANCIAL REPORTING AND APPROPRIATION OF EARNINGS

21. The financial year corresponds to the calendar year.

21.1 The Management Board shall prepare the annual financial statements and the management report as well as the consolidated financial statements and the group management report for the past financial year within the statutory time period [Section 264 of the German Commercial Code (HGB)] and submit them to the Supervisory Board. At the same time, the Management Board has to submit to the Supervisory Board the proposal that it intends to put before the General Meeting concerning the appropriation of the balance sheet profit.

21.2 The Supervisory Board shall examine the annual financial statements, the management report, the proposal for the appropriation of the balance sheet profit, the consolidated financial statements and the group management report. It must report in writing to the General Meeting on the results of its examination and also comment on the results of the audit of the annual financial statements and the consolidated financial statements by the auditor/ group auditor. It must provide the Management Board with its report within one month after receiving the documentation. If the Supervisory Board approves the annual financial statements following its examination, they are adopted, unless the Management Board and the Supervisory Board resolve to have the Annual General Meeting adopt the annual financial statements.

21.3 After having received the report of the Supervisory Board on the findings of its examination, the Management Board shall convene the Annual General Meeting, which must take place within the first six months of each financial year. The Annual General Meeting decides on the approval of the actions of the Management Board and the Supervisory Board (*Entlastung*), the appropriation of the balance sheet profit, the appointment of the auditor, and on the adoption of the annual financial statements in those cases provided for by the law.

21.4 If the Management Board and the Supervisory Board adopt the annual financial statements, they are authorised to allocate the annual net profit remaining after deduction of the amounts to be allocated to the statutory reserve and any loss carried forward, in

whole or in part, to other revenue reserves. Allocating a larger part than half of the annual net profit shall not be permitted if other revenue reserves exceed half of the share capital or would do so following allocation.

- 21.5 According to Section 59 (1) of the German Stock Corporation Act (*AktG*), the Management Board is authorised, subject to consent of the Supervisory Board, to pay a dividend advance on the expected net profits to shareholders after the end of the financial year.
- 21.6 Instead of or in addition to a cash distribution, the General Meeting may also resolve a distribution in kind.

VII. FINAL PROVISIONS

22. SEVERABILITY CLAUSE

If individual provisions of these Articles of Association are or become wholly or partially invalid, or if an omission is discovered in these Articles of Association, this shall not affect the validity of the remaining provisions of these Articles of Association. The shareholders are obliged to agree upon a provision replacing the ineffective or missing provision, which they would reasonably have agreed on, if they had been aware that it was invalid or missing at the time of conclusion of these Articles of Association.

23. PLACE OF JURISDICTION

The sole place of jurisdiction for all disputes between shareholders and the Company, shall be the location of the Company's registered office, unless otherwise prescribed by mandatory statutory provisions. The same applies to disputes between shareholders on the one hand and creditors and/or debtors of financial instruments relating to Company shares, on the other hand. The sole place of jurisdiction for all disputes including claims for damages based on incorrect, misleading or omitted public capital market information, shall be the location of the Company's registered office, unless otherwise prescribed by mandatory statutory provisions. Foreign courts shall have no jurisdiction with respect to such disputes.