

# **ARTICLES OF ASSOCIATION**

**of**

**ADLER Real Estate Aktiengesellschaft**

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## I. General provisions

### Sect. 1 Company name, registered office and duration

The stock corporation existing under the name

**"ADLER Real Estate Aktiengesellschaft"**

has its registered office in Berlin. Its duration is indefinite without any limit.

### Sect. 2 Purpose of enterprise

1. The purpose of the company is the buying and selling as well as the holding, management and utilization of property, land and equivalent rights and their preparation, planning, development and construction; in addition, the purpose of the company is the assumption of property-related service, such as building supervision and property management.
2. The company is also entitled to found companies, acquire holdings, conclude inter-company agreements, form joint ventures, set up branches in Germany and abroad and pursue any relevant activities which are suitable for promoting the company.

### Sect. 3 Announcements

Company announcements shall be published only in the *Bundesanzeiger* [German Federal Gazette], unless otherwise stipulated by law in the individual case. Voluntary announcements may also be made only on the company's website.

## II. Share capital, shares

### III.

#### Sect. 4 Amount and division of share capital

1. The company's share capital is EUR 71,063,622.00. It is divided into 71,063,622 individual share certificates.
  
2. The Management Board is authorized to increase the company's share capital, with the approval of the Supervisory Board, by up to EUR 12,500,000.00 by issuing up to 12,500,000 new no-par value bearer shares in return for cash contributions and/or contributions in kind on one or several occasions up to and including 9 May 2022 (Authorized Capital 2017/I). In principle, the shareholders are to be granted a right of subscription. The statutory subscription right may also be granted in such a way that the new shares are acquired by a bank consortium, subject to the obligation to offer them to the shareholders for subscription indirectly within the meaning of Sect. 186 (5) *AktG*. However, subject to the approval of the Supervisory Board, the Management Board is authorized to exclude shareholders' statutory rights of subscription in the following cases:
  - i. insofar as this is required to eliminate fractions arising as a result of the subscription ratio;
  
  - ii. if the capital increase is in return for cash contributions and the pro rata amount of the share capital attributable to the new shares for which the subscription right is excluded does not exceed a total of 10 % of the share capital, neither at the date this authorization takes effect nor - if this amount is lower - at the time it is exercised. In doing so, the issue price of the new shares may not be substantially lower than the stock exchange price of already listed shares of the same class carrying the same rights at the time the issue price is finally determined within the meaning of Sect. 203 (1) and (2) and Section 186 (3)(4) *AktG*.

Shares that are, or shall be, issued for the purpose of satisfying bonds that are issued with conversion rights or option rights shall be counted toward this maximum 10% limit of the share capital, provided these bonds are issued during the term of the authorized capital in analogous application of Sect. 186 (3)(4) *AktG*, subject to the exclusion of the subscription right. Furthermore, the company's own shares that are sold during the term of the authorized capital, subject to the exclusion of shareholders' subscription rights, shall be counted pursuant to Sect. 71 (1)(8)(5) and Sect. 186 (3)(4) *AktG* toward this maximum 10 % limit of the share capital;

- iii. for capital increases against contributions in kind for the granting of shares for the purpose of acquiring companies, parts of companies or interests in companies, as well as other assets;
- iv. as far as necessary, in order to grant the holders of conversion rights or option rights or corresponding obligations arising from the convertible or warrant bonds issued by the company to compensate for dilution of subscription rights to new shares of the company in a scope equivalent to that to which they would be entitled as shareholders after exercising the option or conversion rights or after fulfilling the conversion obligation.

The Management Board shall be authorized, with the consent of the Supervisory Board, to determine further details of the capital increase. The Supervisory Board shall be authorized to adjust the Articles of Association according to the respective utilization of the authorized capital.

- 3. The Management Board is authorized to increase the company's share capital, with the approval of the Supervisory Board, by up to EUR 13,300,000.00 by issuing up to 13,300,000 new no-par value bearer shares in return for cash contributions and/or contributions in kind on one or several occasions up to and including 21 May 2020. In principle, the shareholders are to be granted a right of subscription.

The statutory subscription right may also be granted in such a way that the new shares are acquired by one or more credit institutions or companies of equal standing in accordance with Sect. 186 (5) *AktG*, subject to the obligation to offer them to the company's shareholders for subscription indirectly within the meaning of Sect. 186 (5) *AktG*. Subject to the approval of the Supervisory Board, the Management Board is authorized to exclude shareholders' statutory subscription rights in the following cases:

(i) for fractional amounts;

(ii) if the capital increase is in return for cash contributions and the pro rata amount of the share capital attributable to the new shares for which the subscription right is excluded does not exceed a total of 10% of the share capital, neither at the date this authorization takes effect nor at the time it is exercised, and the issue price of the new shares is not substantially lower than the stock exchange price of already listed shares of the same class carrying the same rights at the time the issue price is finally determined within the meaning of Sect. 203 (1) and (2) and Sect. 186 (3)(4) *AktG*; shares that are, or shall be, issued for the purpose of satisfying bonds that are issued with conversion rights or option rights shall be counted toward this maximum 10% limit of the share capital, provided these bonds are issued in analogous application of Sect. 186 (3)(4) *AktG*, subject to the exclusion of subscription rights; furthermore, the company's own shares that are sold during the term of the authorized capital, subject to the exclusion of shareholders' subscription rights, pursuant to Sect. 71 (1)(8)(5) and Sect. 186 (3)(4) *AktG*, shall be counted toward this maximum 10% limit of the share capital;

(iii) for capital increases against contributions in kind for the granting of shares for the purpose of acquiring companies, parts of companies or interests in companies as well as other assets, including, but not limited to, property portfolios;

(iv) as far as necessary, in order to grant the holders of option rights or conversion rights or obligations a subscription right to new shares in a scope equivalent to that to which they would be entitled as shareholders after exercising the option or conversion rights or after fulfilling the conversion obligation.

The Management Board shall be authorized, with the consent of the Supervisory Board, to determine further details of the capital increase. The Supervisory Board shall be authorized to adjust the Articles of Association according to the respective utilization of the authorized capital.

4. The company's share capital shall be contingently increased by up to EUR 1,500,000.00 by issuing up to 1,500,000 new no-par value shares (**Contingent Capital 2012**). The contingent capital increase shall be used exclusively to grant shares to holders of option bonds and/or convertible bonds that are issued in line with the authorization granted by the Shareholders' General Meeting on 28 June 2012 and ending on 27 June 2017, as amended by the authorization of the Shareholders' General Meeting of 15 October 2013. The contingent capital increase shall also be used, in accordance with the terms and conditions for warrant and convertible bonds, to issue shares to holders of option bonds and convertible bonds that are subject to option or conversion obligations. The contingent capital increase shall only be implemented to the extent that the holders of option bonds and/or convertible bonds exercise their option and conversion rights or the holders of option bonds and/or convertible bonds who are obliged to exercise an option or conversion fulfil their obligation to exercise an option or conversion, provided the option or conversion rights are not serviced by granting treasury shares and no other forms of fulfillment are used to service these rights. The new shares shall be entitled to dividend as of the beginning of the financial year in which they are issued for all financial years for which the Shareholders' General Meeting has not yet adopted a resolution on the appropriation of profits.
5. The company's share capital shall be contingently increased by up to EUR 12,000,000.00 by issuing up to 12,000,000 new no-par value shares (**Contingent Capital 2015/1**). The contingent capital increase shall be used exclusively to grant shares to holders of option bonds and/or convertible bonds that are issued in line with the authorization granted by the Shareholders' General Meeting on 22 May 2015 and ending on 21 May 2020, as amended by the authorization of the Shareholders' General Meeting of 9 June 2016. The contingent capital increase shall also be used, in accordance with the terms and conditions for option and convertible bonds, to issue shares to holders of option bonds and convertible bonds that are subject to

option or conversion obligations.

The contingent capital increase shall only be implemented to the extent that the holders of option bonds and/or convertible bonds exercise their option and conversion rights or the holders of option bonds and/or convertible bonds who are obliged to exercise an option or conversion fulfil their obligation to exercise an option or conversion, provided the option or conversion rights are not serviced by granting treasury shares and no other forms of fulfillment are used to service these rights. The new shares shall be entitled to dividend as of the beginning of the financial year in which they are issued for all financial years for which the Shareholders' General Meeting has not yet adopted a resolution on the appropriation of profits.

6. The company's share capital shall be contingently increased by up to EUR 13,000,000.00 by issuing up to 13,000,000 new no-par value shares (**Contingent Capital 2015/2**). The contingent capital increase shall be used exclusively to grant shares to holders of mandatory convertible bonds that are issued against contributions in kind in accordance with the resolution of the Shareholders' General Meeting on 15 October 2015 under agenda item 1.

The issue of new shares from the contingent capital shall be effected to holders of mandatory convertible bonds against contributions in kind, consisting of any and all shares in MountainPeak Trading Limited, with registered office in Dositheou 42 (Strovolos), 2028 Nikosia, Cyprus, registered in the Cypriot Register of Companies under Number HE342519, as well as two shareholder loans in the nominal amount totalling EUR 165.07 million, which have been acquired by Longway Trading Limited, with registered office in Trident Chambers, Road Town, Tortola, British Virgin Islands, registered in the Register of Companies of the British Virgin Islands under Number 1864978 ("Longway"), as non-cash capital contributor. In return, the company shall grant Longway a mixture of cash benefits and payments in kind, consisting of a cash payment totalling EUR 71.5 million and the mandatory convertible bonds with a nominal value of EUR 175.0 million. The mandatory convertible bonds shall be issued, on the instructions of Longway, to Topnumber Consultants Limited, Nikosia, Cyprus, registered in the Cypriot Register of Companies under Number HE341959, an affiliated



company of Longway.

The contingent capital increase shall only be implemented to the extent that the holders of mandatory convertible bonds exercise their conversion rights or fulfil their conversion obligation. The new shares shall be entitled to dividend as of the beginning of the financial year in which they are issued.

The Management Board shall be authorized to determine further details of a contingent capital increase.

### **Sect. 5 Shares**

1. The shares are issued to the bearer.
2. Instead of share certificates for one share, the company can issue certificates for more than one share (multiple share certificates). The shareholders' right to have their ownership of shares evidenced by certificates shall be precluded.
3. Where the capital is to be increased, the profit-sharing rights of the new shares may be determined in a manner deviating from Sect. 60 *AktG*.

## **I. Company's organisation**

### **Sect. 6 Company's executive bodies**

The company's executive bodies are:

- a) the Management Board
- b) the Supervisory Board
- c) the Shareholders' General Meeting

**a) Management Board**

**Sect. 7 Composition**

The Management Board shall comprise one or more persons. The Supervisory Board shall determine the number of members of the Management Board to be appointed by it.

**Sect. 8 Company representation**

The company will be represented by two members of the Management Board or by one member of the Management Board together with an authorized signatory. If the Management Board consists of just one person, then this person is authorized to represent the company alone. The Supervisory Board can authorize individual board members to represent the company alone. The Supervisory Board may also lift the restrictions set out in Sect. 181 (2.) Alt. *BGB*.

**Sect. 9 Management by the Management Board**

The Management Board shall conduct the business of the company in accordance with the law, the Articles of Association and the rules of procedure which the Supervisory Board shall resolve upon.

**b) Supervisory Board**

**Sect. 10 Composition, election and term of office**

1. The Supervisory Board shall consist of three members.
2. The election of the Supervisory Board members shall, unless the Shareholders' General Meeting resolves otherwise, occur until the end of the Shareholders' General Meeting which decides on the Supervisory Board members' discharge of duties in respect of the fourth financial year after the beginning of their term of office. This shall not include the financial year in which their term of office starts.

3. Where a member who has been elected by the Shareholders' General Meeting resigns from the Supervisory Board, the next Shareholders' General Meeting may elect a replacement for this member. The term of office of this newly elected member covers the remaining period that the member who has resigned would still have had to serve. The same applies where an elected person refuses to accept the mandate that he or she has been offered.

### **Sect. 11 Resignation from office**

Any member of the Supervisory Board may withdraw from office by a written declaration, to be addressed to the chairperson of the Supervisory Board, with a notice period of one month.

### **Sect. 12 Chairperson and deputy**

1. Right after the Shareholders' General Meeting where at least one member of the Supervisory Board has been elected, a Supervisory Board Meeting shall be held. A formal invitation is not necessary in this case. At this meeting, the Supervisory Board shall elect from among its members a chairperson and a deputy chairperson. The term of office of the chairperson and the deputy shall correspond to their term as members of the Supervisory Board, unless a shorter term is decided at the election.
2. If the chairperson or his/her deputy resigns prematurely from office, then the Supervisory Board shall immediately hold a new election, covering the resigned person's remaining term of office. Sect. 11 of the Articles of Association shall apply, *mutatis mutandis*, to a withdrawal from office by the chairperson or his or her deputy.
3. The tasks of the chairperson and the deputy shall be determined in the rules of procedure for the Supervisory Board.

### **Sect. 13 Convocation and resolutions by the Supervisory Board**

1. The Supervisory Board decides by resolution. Resolutions of the Supervisory Board shall usually be taken at meetings. A meeting where some or all members of the Supervisory Board are attending by way of video conference shall be deemed a regular meeting. Meetings of the Supervisory Board should take place once per quarter and must take place twice per half of the calendar year.
2. The chairperson or, in case of incapacity or impediment, the deputy, calls the meetings of the Supervisory Board and determines in what form the meetings shall take place. The further details, such as the form and content of the convocation, the period of notice associated with a convocation or any possible reduction in this, shall be regulated in the rules of procedure for the Supervisory Board.
3. The Supervisory Board, upon the initiative of the chairperson, or of the deputy in case of incapacity or impediment of the chairperson, and as further determined in the rules of procedure of the Supervisory Board, may also take resolutions by way of suitable media, and may especially take votes orally, by telephone, in writing, by fax or by electronic media (particularly by e-mail), or resolutions may be taken during a telephone conference. Such resolutions shall be formulated by the chairperson in writing and shall be sent to all members without delay.
4. The Supervisory Board has a quorum if at least half of the members of which the Supervisory Board is intended to consist of by law or by the Articles of Association take part in the resolution, at least, however, three members. A member who decides to abstain from voting is nevertheless deemed to take part in the resolution for purposes of quorum as regards the quorum of the Supervisory Board. Absent members may participate in a resolution by having their written votes submitted by another member. A vote submitted by fax or by electronic media (especially e-mail) is deemed a written vote.

5. Unless mandatory law provides otherwise, resolutions by the Supervisory Board are taken by simple majority of the votes cast. An abstention is not deemed a vote cast. If votes are tied, the chairperson shall have the decisive vote.
6. The chairperson is authorised to issue the required declarations of intent to execute the resolutions taken by the Supervisory Board and also to accept declarations of intent on behalf of the Supervisory Board. In case of incapacity or impediment of the chairperson, his or her deputy shall assume these powers.

#### **Sect. 14 Rules of procedure and committees**

1. The Supervisory Board shall give itself rules of procedure, subject to mandatory legal provisions and the provisions of these Articles of Association.
2. The Supervisory Board may create committees from among its members. To the extent permitted by law, such committees may be delegated the responsibility for exercising the Supervisory Board's powers of decision. Composition, powers and procedures to be followed within the committees shall be determined by the Supervisory Board in their rules of procedure. Where the Supervisory Board does not make such determinations, Sect. 13 shall apply accordingly to the procedures of committees.

#### **Sect. 15 Transactions requiring approval**

Within the framework of mandatory legal provisions as well as the provisions of these Articles of Association, the Supervisory Board shall issue rules of procedure to the Management Board. These rules of procedure must define that certain types of transactions, especially

- a) those which fundamentally change the assets, financial position or profits of the company or the exposure of the company with regard to risk, as well as
- b) the foundation, dissolution, purchase and sale of participations in companies, the carrying out of development projects as well as construction activities in excess of a certain limit, to be defined by the Supervisory Board in the rules of procedure, shall require the consent of the Supervisory Board.

### **Sect. 16 Powers of the Supervisory Board**

The Supervisory Board is empowered to resolve upon changes and amendments to the Articles of Association as long as such changes relate only to the wording.

### **Sect. 17 Remuneration of the Supervisory Board**

1. Every member of the Supervisory Board shall receive, along with reimbursement of expenses incurred, remuneration. The Shareholders' General Meeting shall resolve upon the amount of that remuneration. The Shareholders' General Meeting shall resolve for the first time for the business year ending on 31 December 2016, the amount of the remuneration of the Supervisory Board. This remuneration may be paid in quarterly instalments.
2. Furthermore, the company shall pay the insurance premiums for the liability insurance which insures the activity of the members of its Supervisory Board.
3. Where the remuneration and the reimbursement of expenses is subject to VAT, the company shall reimburse the VAT to the member, provided the member of the Supervisory Board is able to issue a separate invoice for that.

### **c) The Shareholders' General Meeting**

#### **Sect. 18 Venue**

The Shareholders' General Meeting of the company shall take place at the headquarters of the company, at a location in Germany where there is a stock exchange, or at the headquarters of German group companies.

The person or persons issuing the convocation for the Shareholders' General Meeting shall also decide about the venue of the meeting.

### **Sect. 19 Convocation**

1. The Shareholders' General Meeting is called by the Management Board or by the Supervisory Board. The Shareholders' General Meeting must be called within the statutory time period.
2. Transmission of messages by banks according to Sect. 125 (1) *AktG* is restricted to electronic communication. The same applies, provided that the prerequisites of Sect. 30 b (3) *WpHG* [Securities Trading Act] are fulfilled, to the transmission of messages by the company pursuant to Sect. 125 (2) *AktG*. The Management Board is entitled to send messages in paper form as well; however, there is no entitlement to receive such a paper communication.

### **Sect. 20 Participation in the Shareholders' General Meeting**

1. Shareholders who register before the Shareholders' General Meeting and prove their ownership of shares are entitled to participate in the Shareholders' General Meeting and to exercise their right to vote. The registration and the proof of ownership of shares must reach the company at the address communicated for this purpose in the convocation within the statutory deadline.
2. The entitlement according to Par. 1 must be proven by a special proof provided by the custodian institute in text form and in the German or English language, demonstrating ownership of the shares. The proof of ownership is to refer to the legally defined time period.

### **Sect. 21 Chairing of the Shareholders' General Meeting, participation of Supervisory Board members**

1. The members of the Management Board and the Supervisory Board must, if at all possible, take part in the Shareholders' General Meeting in person.



Where a Supervisory Board member cannot be present at the site of the Shareholders' General Meeting because he or she has an important reason to be abroad at that time, that member may take part in the Shareholders' General Meeting by way of audiovisual transmission.

2. The chairperson of the Supervisory Board, another member of the Supervisory Board determined by the Supervisory Board, or a third person determined by the Supervisory Board, shall chair the Shareholders' General Meeting. A member of the Management Board or the certifying notary may not be elected to chair the meeting.
3. The chairperson of the meeting may determine that points at issue shall be treated in a different order than that stipulated in the official agenda. The chairperson also determines in which manner the votes shall be taken.
4. The chairperson may limit the time allocated to shareholders for speaking and asking questions within reason. The chairperson is in particular entitled, at the beginning of the Shareholders' General Meeting or during its course, to decide upon a reasonable timeframe for the whole conduct of the Shareholders' General Meeting, or for individual points on the agenda, or for individual requests to speak or ask questions.

#### **Sect. 22 Resolutions and majority**

1. Resolutions at the General Meeting are taken by simple majority of the votes cast, unless compulsory provisions of the Stock Companies Act determine otherwise. In cases where the law requires a majority of the capital, the simple majority of the share capital represented at the resolution shall suffice, if this is legally admissible.
2. If a simple majority is not accomplished in the first poll by the Shareholders' General Meeting, a more restricted election takes place between the two people to whom the highest number of votes have accrued. Where the votes are tied, the decision shall be made by drawing lots.

### **Sect. 23 Voting rights**

Each no-par value bearer share entitles to one vote at the Shareholders' General Meeting.

### **Sect. 24 Powers of attorney, audiovisual transmission of the Shareholders' General Meeting, Information transfer**

1. Shareholders may, subject to statutory requirements, choose to be represented by authorised representatives, in particular by voting proxies named by the company. The issuing of the power of attorney, revocation of same, and the proof of the representation towards the company must be made in the form statutorily required.
2. The Management Board may determine that, subject to statutory requirements, the Shareholders' General Meeting or parts thereof may be transmitted audiovisually, using means of telecommunication, and that shareholders may give instructions regarding the voting to their duly empowered proxies, appointed by the company, in an electronic manner. Details of the procedure shall be communicated in the convocation of the Shareholders' General Meeting.
3. The company has the right to transmit information to the shareholders by way of data transmission.

## **IV. Annual accounts and appropriation of profits**

### **Sect. 25 Financial year**

The financial year is the calendar year.

**Sect. 26 Annual accounts, appropriation of profits, distribution of profits**

1. The Management Board must, during the first three months of the financial year, compile the annual accounts and the situation report for the previous financial year, and present these to the Supervisory Board with a proposal of how to use the profits realised. As soon as the audit report by the auditor of the annual accounts has been received, the Management Board must transmit same.
2. The Supervisory Board must examine the annual accounts and the proposal for distributing profits and must communicate the results of this examination in writing to the Shareholders' General Meeting. The Supervisory Board must submit its report to the Management Board within one month after it has received the documents. If, after examination, the Supervisory Board approves the annual accounts, these are thereby adopted.
3. If the Shareholders' General Meeting adopts the annual accounts, it may appropriate amounts up to half of annual net profits to other retained earnings.
4. If the Management Board and the Supervisory Board adopt the annual accounts, the amount of the annual net profit may be appropriated to other retained earnings, at their discretion, as long as these other retained earnings do not exceed half of the share capital, or would exceed it after the profits have been so appropriated.
5. In calculating the part of annual net profits that is to be appropriated to other retained earnings according to Par. 3 and 4, allocations to the legal reserve and losses carried forward must first be deducted.
6. The Shareholders' General Meeting shall resolve on the use of the net profit that has been determined from the adopted annual accounts. The Shareholders' General Meeting may resolve a different use than distribution among the shareholders or the use provided by Sect. 58 (3)( 1) AktG.

7. When a financial year has ended, the Management Board may issue an interim or partial dividend to the shareholders, pursuant to Sect. 59 *AktG*, with the consent of the Supervisory Board.
8. Where the capital is to be increased, the resolution to increase the capital may determine a distribution of profits that is different from Sect. 60 *AktG*.
9. Instead of a distribution of dividends in cash, the Shareholders' General Meeting may resolve to use the net profits by way of a non-cash distribution, provided such non-cash values to be distributed are traded on a market in the meaning of Sect. 3 (2) *AktG*.
10. The above paragraphs apply, if there are no mandatory rules to the contrary, *mutatis mutandis* also for *the* Group Consolidated Annual Accounts and a Group Situation Report to be compiled by the company, if the preparation of such accounts and reports is prescribed by law for the company in its quality as parent company (Sect. 290 (1) and (2) *HGB* [German Commercial Code]).

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