

## **Articles of Association**

**of**

**XING AG**

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### **1. Name and place of incorporation of the Company**

1.1. The name of the Company is:

**XING AG**

1.2. The place of incorporation of the Company is Hamburg.

### **2. Purpose of the Company**

2.1. The purpose of the Company is to operate an online service, offer internet-based business referrals and organize informational and professional education events and other internet-based services to the extent such services do not require regulatory approval.

2.2. The Company is entitled to carry out all business transactions it deems appropriate to advance, directly or indirectly, the Company's purpose. To this end, the Company may establish branch offices domestically and abroad, found, acquire, sell or participate in other companies of a similar or related nature and assume the management of or limit itself to the management of its participations in such companies. It may transfer all or parts of its business to affiliates.

### **3. Financial year**

The Company's financial year is the calendar year. The period from July 1, 2006 until December 31, 2006 is a short financial period.

### **4. Notices and Information**

4.1. The Company's notices are only published in the electronic Federal Gazette for the Federal Republic of Germany.

4.2. The Company may transmit information to holders of admitted securities also via data telecommunication in line with statutory regulations.

### **5. Share capital**

5.1. The Company's share capital amounts to

€ 5,271,773.00.

- 5.2. The Company's share capital consists of 5,271,773 shares with no par value.
- 5.3. The management board is authorized until October 31, 2011, with the approval of the supervisory board, to increase the share capital by up to € 1,925,850.00 in total, either in the full amount, or in partial amounts on one or several occasions, by issuing up to 1,925,850 new registered no par value shares against cash contributions or contributions in kind (Authorized Capital 2006).

In case of capital increases against cash contributions the shareholders have a subscription right. The management board is empowered to exclude shareholders' subscription rights, with the consent of the supervisory board, for fractional amounts and to the extent necessary to grant the holders or creditors of convertible bonds or option bonds of the Company or its domestic or foreign subsidiaries a subscription right such as they would be entitled to if they exercised their conversion or option rights or following fulfillment of the conversion obligation. Further, the management board is empowered to exclude shareholders' subscription rights, with the consent of the supervisory board, if the issued price of the new shares is not substantially lower than the stock market price, according to Section 203 para. 1 and 2, Section 186 para. 3 sentence 4 of the German Stock Corporation Act (*Aktiengesetz*), of the existing shares of the same class and carrying the same rights at the time the offering value is finally set by the management board, and the shares issued in accordance with Section 186 para. 3 sentence 4 of the German Stock Corporation Act do not exceed in total 10 % of the share capital at the time of registration of the authorization or - if this value is less - at the time of issue of the new shares. This limitation also applies to shares which are sold or issued on the basis of other authorizations in direct or analogous application of Section 186 para. 3 sentence 4 of the German Stock Corporation Act subject to an exclusion of subscription rights.

No subscription rights exist in the event of a capital increase against contributions in kind, in particular in connection with acquisitions of businesses, equity interests in business or other assets.

The management board is authorized to determine the further terms and conditions of the share rights and of the issuance of the shares, subject to the consent of the supervisory board.

The supervisory board is authorized to amend the articles of association either in accordance with the implementation of the increase in the share capital or if the authorization period expires.

- 5.4. The Company's share capital is contingently increased by € 288,822.00 through the issue of up to 288,822 registered no-par shares (Contingent Capital I 2006). The Contingent Capital I 2006 serves to ensure that subscription rights can be exercised for stock options to be issued by the Company between November 3, 2006 and October 31, 2011 as part of the 2006 Stock Option Plan based on the authorizing resolution of the shareholders' meeting of November 3, 2006. The contingent capital increase will only be implemented to the extent that stock options are issued and the holders of these stock options exercise their option rights and the Company does not make available treasury shares or a cash payment in order to satisfy the stock options. The shares from the contingent capital will be issued at the exercise price determined in accordance with letter c) (e) of item 6 of the agenda of the general shareholders' meeting of November 3, 2006. The new shares participate, from the beginning of the financial year, in the profits of the year for which, at the time they are issued, no resolution of the shareholders' meeting concerning the use of the net retained earnings has yet been resolved.

The supervisory board is authorized to amend section 5.1. to section 5.5. of the Articles of Association to reflect the issue of such new shares.

- 5.5. The Company's share capital is contingently increased by a total of € 1,540,680.00 through the issue of, in total, up to 1,540,680 new registered no-par shares (Contingent Capital II 2006). The Contingent Capital II 2006 serves exclusively to ensure that new shares can be granted by the Company or by affiliated companies in which the Company has a direct or indirect majority participation to holders of conversion or option rights, pursuant to the authorizing resolution of the general shareholders' meeting on November 3, 2006 under item 7 letter (a) of the agenda.

The shares will be issued at the respective conversion or option price to be determined in accordance with the above-mentioned authorization resolution. The contingent capital increase will only be implemented to the extent that the holders of conversion or option rights exercise their conversion or option rights or fulfill their conversion obligations from such rights. The shares, provided they are in existence by the beginning of the shareholders' meeting, participate in profits from the preceding financial year; otherwise, they participate from the beginning of the current financial year.

The supervisory board is authorized to amend section 5.1. to section 5.5. of the Articles of Association to reflect the issue of such new shares.

5.6. By a decision of the shareholders' meeting held on May 21, 2008, the management board has been authorized until May 20, 2013, to increase, with approval of the supervisory board, the Company's share capital by issuing on one or several occasions up to 675,000 new registered no par value shares against cash contributions and/or contributions in kind in the amount of up to € 675,000.00, (Authorized Capital 2008). In case of capital increases against cash contributions the shareholders have a subscription right. The new shares may also be subscribed to by one or several financial institutions as specified by the management board, and subject to the obligation to offer the new shares to the shareholders (indirect subscription right). The management board is however authorized with the consent of the supervisory board, to exclude the shareholders' subscription right:

- (i) to offset fractional amounts;
- (ii) if the shares are issued against contributions in kind, in particular in connection with acquisitions of or the merger with companies or parts of companies or the acquisition of participations of companies;
- (iii) if the shares of the Company are issued against cash contributions and the issue price of each share is not substantially lower than the stock market price of the existing listed shares of the same class at the time of issue. However, in this case, the subscription right can only be excluded when the number of shares issued as such together
  - with the number of treasury shares, which are issued during the course of this authorization under exclusion of the subscription right consistent with Section 186 para. 3 sentence 4 of the German Stock Corporation Act, and
  - with the number of shares, which may result from the exercise of option and/or conversion rights or by fulfilling conversion obligations resulting from options and/or convertible bonds and/or participation rights, which are being issued during the authorized period under exclusion of the subscription right according to Section 186 para. 3 sentence 4 of the German Stock Corporation Act, as well as
  - with the number of shares, which are issued from the Authorized Capital 2008 under exclusion of the subscription right according to Section 186 para. 3 sentence 4 of the German Stock Corporation Act,

does not exceed 10% of the share capital, neither at the time when this authorization comes into effect nor at the time the shares are issued.

The management board is authorized to determine the further terms and conditions of the shares, details to the capital increases, as well as the conditions of the issuance of the shares, in particular the issue price, subject to the consent of the supervisory board.

The supervisory board is authorized to amend the articles of association according to the exercise of the authorized capital or after the authorization period expired.

- 5.7. The Company's share capital is contingently increased by € 231,348.00 through the issue of up to 231,348 registered no-par value shares (Contingent Capital 2008). The Contingent Capital 2008 serves to ensure that subscription rights can be exercised for stock options to be issued by the Company as part of the 2008 Stock Option Plan authorized by the shareholders' meeting of May 21, 2008. The contingent capital increase will only be implemented to the extent that stock options are issued and the holders of these stock options exercise their option rights and the Company does not make available treasury shares or a cash payment in order to satisfy the stock options. The shares from the Contingent Capital 2008 will be issued at the exercise price determined in accordance with letter c) (5) of item 7 of the agenda of the shareholders' meeting of May 21, 2008. The new shares participate in the profits from the beginning of the financial year in which they are issued.

## **6. Shares, shareholders' register**

- 6.1. The management board, with the approval of the supervisory board, determines the type of the share certificates. A shareholder's right to individual or multiple share certificates is excluded unless certification is required according to the rules of the stock exchange where the shares are admitted to trading. The Company is entitled to issue share certificates representing individual or multiple shares if it is reimbursed for its costs.
- 6.2. The shares are registered shares. This also applies to new shares, unless the general shareholders' meeting resolves otherwise. The Company keeps a shareholders' register in which the registered shares are entered, stating the shareholder's name, date of birth and address and the number of shares or the share numbers. For legal persons and business partnerships with legal capacity, the registered office is entered instead of the date of birth. Shareholders may demand that the Company disclose to them any data relating to them that has been entered in the shareholders' register.
- 6.3. In the event of a capital increase, the participation in profits of new shares may be determined notwithstanding § 60 German Stock Corporation Act (Aktiengesetz).

## **7. The management board**

- 7.1. The management board consists of one or more persons. The supervisory board determines the number of members of the management board. The supervisory board may decide that the management board consists of a single member even if the share capital exceeds € 3,000,000.00. The supervisory board may appoint a Chairman of the management board and a Deputy Chairman of the management board.
- 7.2. The supervisory board issues and amends, by unanimous resolution, internal rules of procedure for the management board.
- 7.3. Resolutions of the management board are passed by a simple majority of votes, unless the law requires a unanimous vote.

## **8. Representation of the Company, management**

- 8.1. If only one management board member is appointed, that member represents the Company alone. If several management board members are appointed, the Company is represented by two management board members or by one management board member acting jointly with an authorized signatory (*Prokurist*). The supervisory board may grant one, several or all management board members the right to represent the Company alone. The supervisory board may permit all, or indi-

vidual management board members and authorized signatories empowered to represent the Company when acting jointly with a management board member, generally or in individual cases to conduct legal transactions both on behalf of the Company and as representatives for a third party (Section 181, second alternative of the German Civil Code (*Bürgerliches Gesetzbuch*). § 112 German Stock Corporation Act (*Aktiengesetz*) continues to apply.

- 8.2. The management board manages the Company in accordance with the law, the Articles of Association and the internal rules of procedure issued pursuant to section 7.2.
- 8.3. The supervisory board must stipulate, in the internal rules of procedure of the management board, that certain transactions or types of transaction require its approval.
- 8.4. The supervisory board may at any time make other transactions dependent on its approval. It may grant revocable advance approval for a certain group of transactions in general or in the event that the individual transaction meets certain conditions.

## **9. The supervisory board**

- 9.1. The supervisory board consists of three members. The members of the supervisory board are elected by the general shareholders' meeting.
- 9.2. Substitute members may be elected for the supervisory board members who, in a sequence stipulated in their election, take the place of prematurely retiring supervisory board members. One person may be appointed substitute member for several supervisory board members.
- 9.3. The term of office of the supervisory board members ends at the end of the general shareholders' meeting that formally approves the actions of the supervisory board member concerned for the fourth financial year following the commencement of the member's term of office. The financial year in which the term of office commences is not counted. The general shareholders' meeting may stipulate a shorter term of office.
- 9.4. The members of the supervisory board may resign from their offices with four weeks' prior written notice by means of a written declaration addressed to the management board. If there is an important reason for doing so, the member may resign without notice. The management board will notify the chairman of the supervisory board immediately.
- 9.5. If a supervisory board member is elected to replace a prematurely retiring member when no substitute member is available, the newly elected member remains in office for the remainder of the term of office of the retiring member. Only the chairman or - if the chairman is prevented from doing so - the chairman's deputy is authorized to accept declarations on behalf of the supervisory board.

## **10. Chairman and deputy**

- 10.1. The supervisory board elects a chairman and a deputy chairman from among its members for the term of office stipulated in 9.3 of these Articles of Association. The election takes place under the chairmanship of the oldest member of the supervisory board present following the general shareholders' meeting at which the supervisory board members have been appointed, in a meeting held without being specially convened. The same applies, accordingly, in the event of appointment by a court. If the chairman or their deputy retire, then a re-election must be held immediately for the remainder of their term of office.
- 10.2. The deputy has the rights and obligations of the chairman of the supervisory board when the latter is prevented from performing the chairman's duties.

## **11. Resolutions by the supervisory board**

- 11.1. The supervisory board makes its decisions by resolution. The chairman summons the meetings upon 14 days' written notice delivered by mail, fax or e-mail and decides on the form of the meeting. In urgent cases, the meeting may also be convened orally or by telephone, with the period of notice being reduced appropriately. The invitation must include the items on the agenda and any proposals for resolutions as well as the place and time of the meeting. Outside of the meetings, resolutions may be passed by oral voting, by telephone or in writing, as well as by fax or e-mail or other usual means of telecommunication, if the chairman of the supervisory board stipulates this in the individual case. The members of the supervisory board do not have a right to object to this. The supervisory board has a quorum if all members participate in a resolution. A member also participates in the resolution by abstaining from voting.
- 11.2. Unless otherwise stipulated by law or in these Articles of Association, resolutions of the supervisory board require a simple majority of the votes cast. In case of a tie, the Chairman's vote decides.
- 11.3. A record of the deliberations and resolutions of the supervisory board is to be drawn up, as proof, but not as a prerequisite for effectiveness. It must be signed by the chairman of the meeting or by the deputy chairman.

## **12. Remuneration**

- 12.1. The members of the supervisory board obtain a remuneration of € 2,000 per meeting day for their participation in each supervisory board meeting. The members of committees of the supervisory board additionally obtain a remuneration of € 1,000 per day for the participation in each committee meeting.
- 12.2. The chairman of the supervisory board receives aberrant § 12.1 first sentence a remuneration of twice the amount of the remuneration for the participation in a supervisory board meeting. The chairman of a committee receives aberrant §12.1 (2) a remuneration of three times the amount of the remuneration for the participation in a committee meeting. The total remuneration of a supervisory board member for the participation in supervisory board and committee meetings must not exceed € 75,000 per financial year each. For the chairman of the supervisory board or a committee the total remuneration may not exceed twice this amount per financial year.
- 12.3. The members of the supervisory board will be reimbursed for their cash expenses. The Company will reimburse the members of the supervisory board for any VAT incurred on their remuneration and expenses if the supervisory board member in question provides the Company with an invoice which entitles the Company to receive an input tax deduction.
- 12.4. The remuneration is payable following the end of a financial year on the day after the general shareholders' meeting at which the actions of the members of the supervisory board are formally approved.
- 12.5. A supervisory board member elected or retiring during a current financial year will be granted the annual remuneration on a pro rata basis.
- 12.6. The Company is authorized to take out financial loss insurance (D & O insurance) for members of the supervisory board also, in an appropriate amount, covering the statutory liability resulting from the supervisory board membership, or to include the supervisory board members in such an insurance policy which the Company takes out in favour of its executive bodies and/or members thereof.
- 12.7. The general shareholders' meeting will determine other compensation or benefits in the nature of compensation to be granted to the members of the supervisory board by resolution.

### **13. Ordinary general shareholders' meeting**

The ordinary general shareholders' meeting passes resolutions, in particular, on

- the use of the net retained earnings;
- the approval of the actions of the management board;
- the approval of the actions of the supervisory board;
- the appointment of the auditor.

### **14. Convening of and participation in the general shareholders' meeting, voting rights**

- 14.1. The general shareholders' meeting is held at the location of the Company's registered head office or at the location of a German stock exchange. It is convened by the management board or, in the cases stipulated by law, by the supervisory board.
- 14.2. The general shareholders' meeting is to be convened at least thirty days before the day by the end of which the shareholders must register to participate in the meeting in accordance with section 14.3.
- 14.3. Only those shareholders are entitled to participate in the general shareholders' meeting and to exercise their voting rights who have registered prior to the general shareholders' meeting in writing, by fax or e-mail or by other means of communication specified by the management board in the invitation to the general shareholders' meeting and who are entered in the shareholders' register. The registration must be received by the Company, at the address stated for this purpose in the invitation, no later than the end of the seventh day prior to the general shareholders' meeting.
- 14.4. Time limits which are to be calculated backwards from the general shareholders' meeting must be counted backwards from the day of the general shareholders' meeting; the day of the meeting is not itself counted; if the counting ends on a Sunday, a public holiday recognized by law at the Company's registered office, or a Saturday, then the previous working day marks the end of the time limit instead. The management board may specify a later time limit for the registration in the invitation to the general shareholders' meeting in question.
- 14.5. Each non-par share entitles the holder to one vote.
- 14.6. Voting rights can also be exercised by an authorized proxy. The authorization must be given in writing. Authorizations which the shareholder sends to the Company or to a proxy nominated by the Company may also be granted by electronic means to be specified in more detail by the Company. The details concerning the grant of authorization will be provided together with the invitation to the general shareholders' meeting. The exercise of the authorization by the Company-appointed proxy is impossible if it is not based on an individual instruction.

### **15. Chairing of the general shareholders' meeting**

- 15.1. The general shareholders' meeting is chaired by the chairman of the supervisory board, the deputy chairman or another supervisory board member chosen by the supervisory board. In the event that no member of the supervisory board takes the chair, then the certifying notary opens the general shareholders' meeting and arrange for the chairman to be elected by the meeting.
- 15.2. The chairman of the meeting specifies the type and form of voting. The chairman also determines the order in which the items on the agenda are discussed; the order may depart from the invitation. The chairman may also determine the order of speaking. The chairman may limit the shareholders' rights to speak and ask questions to a reasonable amount of time. In particular, the chairman may, at the beginning of the general shareholders' meeting or during the course of the

meeting, set a time limit for the entire general shareholders' meeting, for individual items on the agenda or for the individual speakers or persons raising questions.

- 15.3. If this has been announced in the invitation to the general shareholders' meeting, the chairman of the meeting may permit the transmission of the general shareholders' meeting in pictures and sound - also via electronic media - in a manner to be specified by him in more detail. The transmission may also be in a form to which the public has unlimited access.

## **16. Passing of resolutions**

Unless a different majority is prescribed by law or the other provisions of these articles of association, the general shareholders' meeting passes resolutions with a simple majority of the votes cast. Insofar as the Stock Corporation Act requires, in addition, 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 the law stipulates a larger capital majority. Abstentions do not count as votes.

## **17. Annual financial statements, ordinary general shareholders' meeting, use of profits**

- 17.1. During the first three months of the financial year, the management board shall prepare the annual financial statements, the group financial statements and - where required by law - the respective management reports for the previous financial year and submit these to the auditor for inspection. Following receipt of the auditor's report, the annual financial statements, the group financial statements, the management reports and the auditor's report are to be submitted to the supervisory board. At the same time, the management board shall submit to the supervisory board the proposal which it intends to submit to the general shareholders' meeting concerning the use of the net retained earnings. The supervisory board shall examine the annual financial statements, the group financial statements, the management reports and the proposal for the use of the net retained earnings and report in writing to the general shareholders' meeting on its conclusions. It shall submit its report to the management board within one month of receipt of the documents. At the end of the report, the supervisory board shall declare whether it approves the annual financial statements and group financial statements drawn up by the management board. If the supervisory board approves the annual financial statements following its inspection, they are adopted.
- 17.2. After receiving the supervisory board's report on the result of its inspection, the management board shall immediately convene the ordinary general shareholders' meeting, which is required to take place within the first eight months of each financial year. It passes resolutions on the appointment of the auditor, the approval of the actions of the management board and of the supervisory board as well as on the use of the net retained earnings.
- 17.3. The management board and supervisory board are authorized, upon adoption of the annual financial statements, to transfer to other revenue reserves part or all of the annual net income remaining after deduction of the amounts to be transferred to the legal reserves and any loss carried forward. No more than half of the annual net income may be transferred to other revenue reserves if such other revenue reserves would exceed half of the share capital after so doing.
- 17.4. The general shareholders' meeting passes a resolution on the use of the net retained earnings shown in the adopted annual financial statements. They may stipulate a use other than that provided for in Section 58 para. 3 (1) German Stock Corporation Act (Aktiengesetz). Instead of, or as well as a cash distribution, the general shareholders' meeting may also resolve a distribution in kind. At the end of a financial year, the management board may, with the approval of the supervisory board, pay out to the shareholders an advance on the anticipated net retained earnings pursuant to Section 59 German Stock Corporation Act (Aktiengesetz).

**18. Amendment of the formulation of these Articles of Association**

The supervisory board is authorized to resolve amendments to these Articles of Association which solely relate to their wording. The same applies to the amendment of the Articles of Association as a result of a change in the share capital.

**19. Foundation costs, costs of change of legal form and raising of the share capital**

- 19.1. The Company was formed from a limited liability company named OPEN Business Club GmbH by conversion of its legal form. OPEN Business Club GmbH has borne its foundation costs (notary's fees and commercial register fees, costs of announcement and advice on foundation) up to the amount of € 2,500.00.
- 19.2. The share capital was provided, in the amount of € 52,050.00, through the change of legal form of OPEN Business Club GmbH in accordance with the resolution regarding the change of legal form of July 19, 2006. The share capital of the Company originally corresponded to the share capital of OPEN Business Club GmbH., the shareholders of the Company participated in the share capital of the Company in the same proportion as in the share capital of OPEN Business Club GmbH at the time of conversion.
- 19.3. The Company bears the costs of the change of legal form estimated to amount to a total of € 20,000.00, but limited to amount by which the value of the Company's assets at the time the change of legal form comes into effect exceeds the amount of the share capital after deduction of liabilities and reserves.

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