

Draft of the Articles  
and Memorandum  
of Association

- English translation -

This is the translation of the German original version of the Articles and Memorandum of Association ('Satzung')

Please note that the following draft of the amendment of Thiel's Articles and Memorandum of Association has to be approved by the Extraordinary Annual General Meeting which will take place on April 09, 2008 and will then have to be validated by a notary public.

Thiel Logistik A.G.  
Board of Directors

# **Company Name – Registered Office - Duration – Company Purpose**

## **Article 1**

The name of the stock company (Société Anonyme) is Logwin AG.

## **Article 2**

The Company has its registered office in Grevenmacher. If extraordinary political, economic or social events jeopardise the business activities at the Company's registered office or between the registered office and persons abroad, then the registered office may be temporarily relocated abroad until such time as normal conditions are fully restored. Such temporary measures will have no effect, however, on the nationality of the Company, which will remain a Luxembourg company. Any such temporary relocation of the registered office must be disclosed to third parties by those Company's governing bodies, which are best suited under the given circumstances to make this disclosure.

## **Article 3**

The Company is formed for an unlimited duration.

## **Article 4**

The purpose of the Company is the acquisition of participating interests – in whichever form – in domestic and foreign companies, which are engaged primarily in the business of logistics, information technology, health care and all business areas which support these Company purposes, and the administration, management and disposal of such participating interests, and the execution of all other forms of investment. The Company may acquire any and all types of securities and cash investments, whether through capital contribution, subscription, call options or purchase, and may otherwise sell such securities and investments, and the Company may also administer, monitor and support these forms of investments. The Company may participate in the formation and management of business and industrial operations, may issue bonds, may grant

the companies in which it holds interests any type of assistance, loan, advance or security, and may issue promissory notes or other forms of debt acknowledgement.

In addition, the Company may enter into any and all transactions in connection with the purchase and sale, management and leasing of developed or undeveloped real property and other operational equipment of whatever nature. The Company may engage in any transactions, which involve personal or real property and which are of a financial, industrial or commercial nature, if such transactions are directly or indirectly related to its company purposes.

## **Share Capital - Shares**

### **Article 5**

**1 |** The Company's registered (subscribed) capital equals EUR 139,343,733.75 ("One hundred and thirty-nine million, three hundred and forty-three thousand, seven hundred and thirty-three euros and seventy-five cents"), and is divided into 111,474,987 ("One hundred and eleven million, four hundred and seventy-four thousand, nine hundred and eighty-seven") no par shares, all of which are fully paid up.

**2 |** In addition to the subscribed capital in paragraph 1 of this article, the Company has authorised capital totalling EUR 50,375,000 ("Fifty million, three hundred thousand euros"), which is divided into 40,300,000 ("Forty million, three hundred thousand") no par shares.

**3 |** The Board of Directors is authorised until 31 March 2011 to increase the Company's registered capital by issuing one or more occasions new bearer shares in an amount up to EUR 50,000,000 ("Fifty million euros"), divided into 40,000,000 ("forty million") no par shares (either with or without an issue premium ["prime d'émission"]), in exchange for cash and/or non-cash capital contributions (Authorised Capital 2006/I).

Shareholders have no pre-emptive rights on capital increa-

ses made in exchange for non-cash capital contributions. The provisions of paragraph 6 apply with respect to capital increases made in exchange for cash contributions.

**4 |** The Board of Directors is authorised until 31 March 2011 to increase the Company’s registered capital by issuing, on one or more occasions, new bearer shares in an amount up to EUR 375,000 (“Three hundred and seventy-five thousand euros”), divided into 300,000 (“Three hundred thousand”) no par shares (either with or without an issue premium [“prime d’émission”]), in exchange for cash capital contributions (Authorised Capital 2006/II). The new shares issued from Authorised Capital 2006/II are reserved for issuance to members of the Board of Directors, the management bodies and employees of the Company and its related group companies.

**5 |** The Board of Directors is further authorised to stipulate the content of rights under the shares and the terms and conditions of the share issue.

**6 |** With respect to the new shares issued pursuant to paragraphs (3) and (4), the statutory pre-emptive right has been excluded pursuant to a resolution adopted by the General Shareholders’ Meeting, and the shareholders hereby expressly and irrevocably state that they hereby waive all pre-emptive rights and grant their irrevocable consent to the issue of any shares related thereto, thereby allowing the aforementioned rights to be exercised. With respect to new shares issued under paragraph (3), the issue price may not be significantly below the stock market price.

**7 |** The General Shareholders’ Meeting may resolve to increase or decrease the registered capital and the Authorised Capital 2006/I – 2006/II. The voting at the General Shareholders’ Meeting is subject to the same terms and conditions as those applicable for adopting amendments to the Articles and Memorandum of Association. In the event that there is a capital increase from the Company’s own funds, the Authorised Capital 2006/II will increase in the same proportion as the registered capital.

**8** | The Company may repurchase its own shares in accordance with the provisions of the law.

**9** | In the event of capital increases, the dividend rights under the new shares may be different than the dividend rights under the previously issued shares.

## **Article 6**

**1** | The Company's shares are issued as bearer shares or registered shares. Bearer shares exist only as global certificates, deposited with a central depository. The shareholders have no right to demand that individual shares be certificated or issued.

**2** | Each shareholder may demand the conversion of shares into registered shares pursuant to Article 43 of the Act of August 10, 1915.

After the shares have been converted into registered shares, these shares may no longer be traded on the Frankfurt stock exchange. If a shareholder who holds registered shares wishes to trade these shares on the Frankfurt stock exchange, then it is first necessary to convert the shares back into bearer shares. These costs must be borne by the shareholder.

## **Article 7**

If a share is held by two or more persons, then such persons may exercise the rights under the share only through a joint representative.

# **Management - Supervision**

## **Article 8**

**1** | The Company shall be managed by a Board of Directors, which is composed of at least three members who need not be shareholders. The members of the Board of Directors are appointed by the General Shareholders' Meeting for a term of office that cannot exceed six years.

They may be removed by the General Shareholders' Meeting at any time. Each member of the Board of Directors may be reappointed repeatedly.

**2 |** The Board of Directors has any and all powers to approve all administrative and management actions in the interests of the Company. To carry out the Company's daily managerial affairs, the Board of Directors shall appoint an executive committee (referred to hereinafter as the "Executive Committee"), which will be made up of at least two persons. If no Executive Committee is appointed, then the Board of Directors is obliged to carry out the Company's day-to-day business affairs.

**3 |** If the members of the Board of Directors are also members of the Executive Committee, then the appointment requires the prior approval of the General Shareholders' Meeting. Any such members of the Board of Directors are also referred to as "executive members of the Board of Directors".

**4 |** The Board of Directors shall appoint from amongst its members a chairman and a deputy chairman. In the absence of the chairman, the deputy chairman or, if necessary, a member designated by the Board of Directors, shall perform the chairman's tasks.

The chairman of the Board of Directors is authorised to schedule and conduct meetings with the Executive Committee or individual members of the Executive Committee at any time.

**5 |** The Board of Directors may form committees, specifically an Audit Committee and an Appointments and Remuneration Committee, which will be entrusted with specific duties and which may also be composed of persons who are not members of the Board of Directors. The Board of Directors shall determine the composition of each committee. Provided they are not executive members of the Board of Directors, the chairman of the Board of Directors and his deputy are automatic members of the

Audit Committee. Furthermore, the chairman of the Board of Directors, provided he is not an executive member of the Board of Directors, is an automatic member of the Appointments and Remuneration Committee.

**6 |** The Board of Directors has the power to stipulate the specific tasks of the Executive Committee and the individual committees. It also approves the procedures, which will be used in the Executive Committee and the individual committees.

**7 |** If a member of the Board of Directors (including the executive members of the Board of Directors) resigns or otherwise leaves his or her position before the end of his or her term of office, then the remaining members may fill the vacant office on an interim basis in accordance with the provisions of the law. The final election will be conducted by the shareholders at the next General Shareholders' Meeting.

## **Article 9**

**(1)** Meetings of the Board of Directors should be convened at least two times each calendar year, but additional meetings may be held as required in the interests of the Company.

**2 |** Each member of the Board of Directors may call on the chairman to convene a meeting of the Board of Directors. If the chairman of the Board of Directors does not thereupon convene a meeting of the Board of Directors within three days, then two members of the Board of Directors are authorised to convene a meeting. A meeting is deemed to be in compliance with the law even in the absence of a written invitation, provided that all members of the Board of Directors are present or represented.

**3 |** The Board of Directors has the authority to issue binding resolutions (i.e., constitutes a quorum), only if a majority of its members are present or represented. Members of the Board of Directors, who are unable to attend the meeting, may provide written authorisation to another



member of the Board of Directors to vote on their behalf. One member of the Board of Directors can represent more than one other member of the Board of Directors.

**4 |** A resolution passed by the Board of Directors is required on all fundamental decisions or on decisions having material financial significance for the Company or for another enterprise in which the Company holds a participating interest, unless the management rules of procedure [Geschäftsordnung] delegate this decision to a committee.

The Board of Directors shall set forth in the management rules of procedure a list of the Executive Committee transactions requiring the approval of the Board of Directors, where such transactions reflect decisions having material financial significance for the Company or for another enterprise in which the Company holds a participating interest.

**5 |** Minutes must be kept as a record of the meetings and resolutions of the Board of Directors. They must be signed by the person who chairs the meeting and the person responsible for taking the minutes. The minutes shall be approved by the Board of Directors at the start of its next Board of Directors meeting. Copies or excerpts shall be signed by the chairman or two members of the Board of Directors.

## **Article 10**

**1 |** Decisions of the Board of Directors are taken by a simple majority of the votes cast. In case of a split vote, the chairman shall cast the deciding vote.

**2 |** In urgent cases, a written decision approved and signed by all members of the Board of Directors has the same legal validity as decisions approved at a meeting of the Board of Directors. To this end, signatures may be placed on a single document or on multiple copies of an identical resolution, and may be confirmed by letter, telefax, telegram or telex.

## **Article 11**

**1 |** The Company's day-to-day business affairs are managed by the Executive Committee under the supervision of the Board of Directors. The Board of Directors shall decide on the signatory powers of the members of the Executive Committee.

**2 |** Furthermore, the Board of Directors shall decide on the signatory powers of the members of the Board of Directors and/or any additional authorised agents in accordance with the powers of attorney granted to them.

**3 |** In addition, the Company will be legally obligated by virtue of a joint signature from two members of the Board of Directors, whereby one such signature must come from the chairman, the deputy chairman or a non-executive member of the Board of Directors.

## **Article 12**

**1 |** A member of the Board of Directors who has interests conflicting with those of the Company in a given matter awaiting the approval of the Board of Directors is obliged to promptly notify the Board of Directors of this situation and endeavour to have the conflict of interest entered in the minutes. The member of the Board of Directors shall not participate or vote on the resolution of the Board of Directors, to the extent that the conflict of interest is related to the matter which is the subject matter of the resolution.

**2 |** Before the next General Shareholders' Meeting votes on a matter, the Board of Directors must report on any conflicts of interest that have arisen and on how they were handled.

**3 |** In the event that a member of the Board of Directors must abstain from voting because of a conflict of interest, resolutions approved by a simple majority of the other members of the Board of Directors at such a meeting will be deemed legally valid.

## **Article 13**

The Company's business activities will be subject to review by one or more auditors appointed by the General Shareholders' Meeting, which shall also determine the duration of their appointment. Auditors ending their term of office may be reelected in accordance with the provisions of the law.

## **Article 14**

**1 |** Shareholders will be entitled to attend and vote at the General Shareholders' Meeting, only if they have registered in writing (either in German, English or French) prior to the General Shareholders' Meeting and have proven to the Company that they have the right to attend the meeting. The registration must be received by the Company at the address listed in the invitation at least seven (7) days prior to the General Shareholders' Meeting.

**2 |** The shareholders must prove that they have the right to attend in the General Shareholders' Meeting and to exercise their voting rights. This proof must be provided by having the custodian bank submit written evidence in German, English or French regarding the shareholding. This written evidence must show that the shares will be held in blocked accounts until the day following the General Shareholders' Meeting. The evidence must be received by the Company at the address communicated in the invitation at least five (5) days before the date of the General Shareholders' Meeting.

**3 |** Admission tickets and voting ballots will be distributed to the persons entitled to attend.

**4 |** The voting may be conducted by an authorised agent (proxy). Powers of attorney, which the shareholders send to the Company or a proxy appointed by it, may be granted electronically in a manner to be more specifically defined by the Company. Details concerning the granting of such powers of attorney will be disclosed in the invitation to the General Shareholders' Meeting.

## **Article 15**

The annual General Shareholders' Meeting shall be held at the registered office of the Company or at another location in Luxembourg specified in the invitation on the second Wednesday of the month of April at 10:00 a.m.

If this day is a public holiday, then the General Shareholders' Meeting shall take place at the same time on the next complete business day.

## **Article 16**

**1 |** The annual General Shareholders' Meeting shall acknowledge the reports of the Board of Directors and the auditors, and shall adopt resolutions approving the annual accounts of the Company and the Group, the amount of the dividend payment, the ratification of the actions taken by members of the Board of Directors, and any other proposals that were validly submitted to it for resolution.

**2 |** Each share gives the shareholder the right to cast one vote.

**3 |** Each shareholder has the right to demand that the voting be conducted in secret.

## **Article 17**

The General Shareholders' Meeting may at any time amend the Company's Articles and Memorandum of Association, subject to statutory requirements as to voting and quorum.

## **Article 18**

**1 |** The Board of Directors is responsible for calling ordinary and extraordinary General Shareholders' Meetings and for disclosing the meeting agenda in the relevant invitation.

**2 |** The Board of Directors must call a General Shareholders' Meeting, if a written request for such a meeting is submitted to the Board of Directors by shareholders representing at least one-fifth of the subscribed share capital and such request also includes an agenda for the meeting.

## **Article 19**

**1 |** The General Shareholders' Meeting shall be presided over by the chairman of the Board of Directors or, in his absence, by another member of the Board of Directors as designated by the Board of Directors.

**2 |** The General Shareholders' Meeting shall from its midst elect two vote counters and a secretary, who will complete the administrative bureau for the General Shareholders' Meeting.

**3 |** The chairman of the meeting may approve the audiovisual transmission of the General Shareholders' Meeting using electronic media in a manner to be more specifically determined by him, provided that such measures are announced in the invitation of the General Shareholders' Meeting.

**4 |** The chairman of the meeting shall determine the voting procedure. He may decide on a sequence of agenda items which is different than the sequence stipulated in the invitation. The chairman of the Board of Directors may place a reasonable durational limit on the question and discussion rights of the shareholders.

## **Article 20**

**1 |** The minutes of the General Shareholders' Meetings shall be signed by the members of the administrative bureau for the General Shareholders' Meeting.

**2 |** Excerpts from the minutes of the General Shareholders' Meeting shall be signed by the chairman of the Board of Directors or by another member of the Board of Directors.

## **Article 21**

The Company's fiscal year shall be the calendar year.

## **Article 22**

**1 |** Within three calendar months after the close of the fiscal year, the Board of Directors shall prepare the annual

accounts and the consolidated annual accounts in accordance with the provisions of the law.

**2 |** No later than one month before the annual General Shareholders' Meeting, the Board of Directors shall present for inspection to the account auditors all documents related to the annual accounts and the consolidated annual accounts together with its report and other documents required by law, whereupon the auditors will present their report.

**3 |** The annual accounts and the consolidated annual accounts, the reports of the Board of Directors and the auditors, and all documents required by law will be made available for inspection by the shareholders during normal office hours at the Company's registered office 15 days before the scheduled date of the annual General Shareholders' Meeting.

### **Article 23**

**1 |** Dividends will be paid in accordance with the provisions of the law.

**2 |** The Board of Directors is authorised to pay preliminary dividends in accordance with the provisions of the law.

## **General Provisions**

### **Article 24**

For all matters which are not stipulated in the present Articles and Memorandum of Association, the provisions of the Act of 10 August 1915 (as amended) apply.



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You can find additional information about the company and  
the Annual General Shareholders' Meeting at  
[www.thiel-logistik.com](http://www.thiel-logistik.com).